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1. **CALL TO ORDER**
  2. **BEGIN LIVE STREAMED SESSION – 7:00 P. M.**
  3. **PLEDGE OF ALLEGIANCE**
  4. **SPECIAL BUSINESS**

- A. Consider motion to adopt a resolution appointing and reappointing members to the Persons with Disabilities Advisory Board.

**Staff Contact:** Liz Ruback

Action needed: Consider a motion to approve or deny Resolution No. 24-1023.

5. **CONSENT AGENDA**

The items listed below are considered to be routine by the City Council and may be approved in one motion. These may include items that have been reviewed by the City Council in a prior planning session. There will be no separate discussion unless a council member requests that an item be removed from the consent agenda and considered separately.

- A. Consideration of approval of the City Council meeting minutes of June 4, 2024.  
**Staff Contact:** Eric Strimple
- B. Consideration of renewal license(s) as recommended by the City Clerk.  
**Staff Contact:** Eric Strimple
- C. Consideration of Resolution No. 24-1024 calling for a public hearing to levy assessments to collect unpaid city expenditures for mowing of weeds and removal of debris.  
**Staff Contact:** Brenda Swearingian
- D. Consideration of a Business Expense Statement for the City Manager Michael Wilkes to attend a League of Kansas Municipalities meeting on June 6.  
**Staff Contact:** Cathy Marks

- E.** Request for the acceptance of the dedication of land for public easements for a final plat of Bach Homes, Second Plat (FP24-0014), containing one (1) lot and five (5) tracts on approximately 12.63 acres, located southwest of W. 127th Street and N. Mur-Len Road. Planning Commission approved the plat 8 to 0.  
**Staff Contact:** Jamie Robichaud and Nathan Jurey
- F.** Request for the acceptance of the dedication of land for public easements for a final plat of Executive Plaza, Third Plat (FP24-0015), containing one (1) lot and one (1) tract on approximately 3.68 acres, located northeast of W. 151st Street and S. Pflumm Road. Planning Commission approved the plat 8 to 0.  
**Staff Contact:** Jamie Robichaud and Jessica Schuller
- G.** Request for the acceptance of the dedication of land for public easements for a final plat of Asbury Centre, Third Plat (FP24-0017), containing two (2) lots and one (1) tract on approximately 3.75 acres, located southwest of W. 158th Street and S. Hunter Street. Planning Commission approved the plat 8 to 0.  
**Staff Contact:** Jamie Robichaud and Andrea Fair
- H.** Consideration of Consent Calendar.  
**Staff Contact:** Mary Jaeger and Nate Baldwin
- I.** Consideration of an Agreement with Johnson County for construction of the Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project, PN 2-C-016-22..  
**Staff Contact:** Mary Jaeger and Nate Baldwin
- J.** Consideration of an Agreement with Johnson County for a Preliminary Project Study for the Cedar Lake Dam Restoration Project, 2-C-021-23.  
**Staff Contact:** Mary Jaeger and Nate Baldwin
- K.** Consideration of reimbursement agreement with Water District No. 1 of Johnson County for watermain installation associated with the SE Pressure Zone Interconnect Project, PN 5-C-019-22.  
**Staff Contact:** Mary Jaeger and Nate Baldwin
- L.** Consideration of Supplemental Agreement No. 1 with Affinis Corp. for design of the South Hamilton Circle Improvement Project, PN 3-R-001-24.  
**Staff Contact:** Mary Jaeger and Nate Baldwin
- M.** Consideration of expenditure authority and award of contract to RSC Communications Inc. for vehicle GPS services.  
**Staff Contact:** Mike Sirna, Barrett Baumgartner and John Page

- N.** Consideration of award of contract to Professional Turf Products, L.P. for the purchase of one (1) Toro Groundsmaster 4300 for the Park Maintenance Division of Quality of Life.  
**Staff Contact:** Mike Sirna, John Brockus and John Page
- O.** Consideration of award of contract to KC Bobcat for the purchase of one (1) Model 2550XP Stump Grinder for the Parks Maintenance Division of Quality of Life.  
**Staff Contact:** Mike Sirna, John Brockus and John Page
- P.** Consideration of approval of MOU with Johnson County for Community Development Block Grant (CDBG) and HOME Funds (2025-2027), Letter of Intent to Defer Metropolitan City Status, and MOU Amendments for 2016-2024.  
**Staff Contact:** Mike Sirna and Emily Diehl
- Q.** Consideration of approval of professional service agreement with Health Partnership Clinic in support of Mobile Integrated Health Program  
**Staff Contact:** Jeff DeGraffenreid and John Page

## 6. NEW BUSINESS

- A.** Consideration of Resolution No. 24-1025 authorizing the issuance and delivery of the principal amount of the General Obligation Temporary Notes, Series 2024-A.  
**Staff Contact:** Jamie Robichaud, Briana Burrichter and John Page
- Action needed: Consider a motion to approve or deny Resolution No. 24-1025.
- B.** Consideration of Resolution No. 24-1026 and Ordinance No. 24-23 authorizing the issuance and delivery of the General Obligation Improvement Bonds, Series 2024A.  
**Staff Contact:** Jamie Robichaud, Briana Burrichter and John Page
- Action needed: Consider a motion to approve or deny Resolution No. 24-1026.
- Action needed: Consider a motion to approve or deny Ordinance No. 24-23.

- C. Consideration of Resolution No. 24-1027 and Ordinance No. 24-24 authorizing the issuance, delivery, form and details of Water and Sewer System Improvement Revenue Bonds, Series 2024.

**Staff Contact:** Jamie Robichaud, Briana Burrichter and John Page

Action needed: Consider a motion to approve or deny Resolution No. 24-1027.

Action needed: Consider a motion to approve or deny Ordinance No. 24-24.

- D. Consideration of Resolution No. 24-1028 and Ordinance No. 24-25 authorizing the issuance, delivery, form and details of Stormwater System Improvement Revenue Bonds, Series 2024.

**Staff Contact:** Jamie Robichaud, Briana Burrichter and John Page

Action needed: Consider a motion to approve or deny Resolution No. 24-1028.

Action needed: Consider a motion to approve or deny Ordinance No. 24-25.

## 7. NEW CITY COUNCIL BUSINESS

## 8. END OF LIVE STREAMED SESSION

## 9. GENERAL ISSUES AND CONCERNS OF CITIZENS

Persons wanting to speak regarding a general concern must sign up prior to the beginning of the City Council meeting. A person may sign up by notifying the City Clerk by calling 913-971-8521, or emailing CCO@Olatheks.gov by 5:00 PM or in person at City Hall until 30 minutes prior to the start of the meeting. The Council has allocated up to 3 minutes per speaker, and up to 30 minutes total for this portion of the meeting.

## 10. CONVENE FOR PLANNING SESSION

If report items are present, they have been prepared for informational purposes and will be accepted as presented. There will be no separate discussion unless a Councilmember requests that a report be removed and considered separately.

### A. DISCUSSION ITEMS

1. Discussion regarding proposed revisions to the Debt Management and Fiscal Policy. (20 min)

**Staff Contact:** Jamie Robichaud and Briana Burrichter

2. Discussion of the Fire Station No. 9 project, PN 6-C-013-23. (20 min)  
**Staff Contact:** Jeff DeGraffenreid, Mary Jaeger and Jeff Blakeman
3. Legal Focus Area Update. (20 min)  
**Staff Contact:** Ron Shaver

## 11. ADDITIONAL ITEMS

## 12. ADJOURNMENT

The City of Olathe offers public meeting accommodations. Olathe City Hall is wheelchair accessible. Assistive listening devices as well as iPads with closed captioning are available at each meeting. To request an ASL interpreter, or other accommodations, please contact the City Clerk's office at 913-971-8521. Two (2) business days notice is required to ensure availability.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** City Manager's Office

**STAFF CONTACT:** Liz Ruback

**SUBJECT:** Consider motion to adopt a resolution appointing and reappointing members to the Persons with Disabilities Advisory Board.

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**TITLE:**

Consider motion to adopt a resolution appointing and reappointing members to the Persons with Disabilities Advisory Board.

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**SUMMARY:**

The attached resolution, appointing and reappointing members to the Persons with Disabilities Advisory Board, is submitted for consideration by the City Council. The following individuals are recommended for appointment and reappointment:

Member	Initial Appointment	Current Term
Morgan Davis	new	6/24-6/27
Chris Osborn	2/13	6/24-6/27
Katie Cecil	6/20	6/24-6/27
Jennifer Kucinski	1/19	6/24-6/27

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**FINANCIAL IMPACT:**

N/A

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**ACTION NEEDED:**

Consider motion to adopt a resolution appointing and reappointing members to the Persons with Disabilities Advisory Board.

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**ATTACHMENT(S):**

6-18-24 PDAB appointments and reappointments resolution

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**RESOLUTION NO. 24-1023**

**A RESOLUTION REAPPOINTING MEMBERS TO THE PERSONS WITH DISABILITIES ADVISORY BOARD.**

**WHEREAS**, the Persons With Disabilities Advisory Board was created by Ordinance No. 85-30; and

**WHEREAS**, the Board consists of twelve (12) to fourteen (14) members appointed for three (3) year staggered terms; and

**WHEREAS**, current members and terms of the Board are as follows:

Member	Initial Appointment	Current Term
Chris Osborn	2/13	9/16 – 6/23
Jennifer Kucinski	1/19	1/19 – 6/23
Katie Cecil	6/20	6/20 – 6/23
Mark Gash	10/04	1/21 – 1/24
Ray Ramirez	6/13	1/21 – 1/24
Kim Washington	6/17	1/21 – 1/24
Amanda Honaker	1/21	1/21 – 1/24
Michelle Brown	6/06	12/23-12/26
Mark Cameron	6/06	12/23-12/26
Claire Reagan	5/19	12/23-12/26
Steven Wise	12/23	12/23-12/26
Holly Palacio	12/23	12/23-12/26; and

**WHEREAS**, the terms have expired for Chris Osborn, Jennifer Kucinski and Katie Cecil; and

**WHEREAS**, the Governing Body finds that it is appropriate to reappoint Chris Osborn, Jennifer Kucinski and Katie Cecil to additional terms and to appoint Morgan Davis to a new term.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:**

**SECTION ONE:** That appointments be made so that membership is comprised as follows:

Member	Initial Appointment	Current Term
Morgan Davis	6/24	6/24-6/27
Chris Osborn	2/13	6/24-6/27
Jennifer Kucinski	1/19	6/24-6/27

Katie Cecil                      6/20                                      6/24-6/27

**RESOLUTION NO. 24-1023**

Mark Gash	10/04	1/21 – 1/24
Ray Ramirez	6/13	1/21 – 1/24
Kim Washington	6/17	1/21 – 1/24
Amanda Honaker	1/21	1/21 – 1/24
Michelle Brown	6/06	12/23-12/26
Mark Cameron	6/06	12/23-12/26
Claire Reagan	5/19	12/23-12/26
Steven Wise	12/23	12/23-12/26
Holly Palacio	12/23	12/23-12/26

**SECTION TWO:** This Resolution shall take effect immediately.

**ADOPTED** by the Governing Body this 18th day of June 2024.

**SIGNED** by the Mayor this 18th day of June 2024.

\_\_\_\_\_  
Mayor

**ATTEST:**

(SEAL)

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Exceptional Services

**STAFF CONTACT:** Eric Strimple

**SUBJECT:** Consideration of approval of the City Council meeting minutes of June 4, 2024.

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**TITLE:**

Consideration of approval of the City Council meeting minutes of June 4, 2024.

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**SUMMARY:**

Attached are the City Council meeting minutes of June 4, 2024, for Council consideration of approval.

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**FINANCIAL IMPACT:**

None

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**ACTION NEEDED:**

Approval of the City Council meeting minutes of June 4, 2024.

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**ATTACHMENT(S):**

- A. 06-04-2024 Council Minutes



**1. CALL TO ORDER**

**Present:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex  
**Absent:** Felter

**2. EXECUTIVE SESSION**

Consideration of motion to recess into an executive session to discuss the following items:

- A. Preliminary discussion regarding the acquisition of real property in northwest Olathe pursuant to the exception provided in K.S.A. 75-4319(b)(6).

Executive Session item B. was considered first.

Motion by Vogt, seconded by Gilmore, to recess into an executive session Preliminary discussion regarding the acquisition of real property in northwest Olathe pursuant to the exception provided in K.S.A. 75-4319(b)(6) for 15 minutes, returning to council chambers at 6:55 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, and Schoonover  
**Absent:** Felter  
**Abstain:** Vakas, and Essex

The council returned to council chambers at 6:55 PM. Mayor Bacon noted that the council would return to executive session to continue discussing this item after the meeting, due to time restraints.

Continued from the beginning of the meeting:

Motion by Vogt, seconded by Gilmore, to recess into an executive session Preliminary discussion regarding the acquisition of real property in northwest Olathe pursuant to the exception provided in K.S.A. 75-4319(b)(6) for 20 minutes, returning to council chambers at 9:08 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex  
**Absent:** Felter

Mayor Bacon, and Councilmembers Vogt, Gilmore, and Essex reconvened in council chambers. Mayor Bacon stated more time was needed on the item.

Motion by Vogt, seconded by Gilmore, to recess into an executive session Preliminary discussion regarding the acquisition of real property in northwest Olathe pursuant to the exception provided in K.S.A. 75-4319(b)(6) for 30 minutes, returning to council chambers at 9:40 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, and Essex

**Absent:** Felter

**Abstain:** Schoonover, and Vakas

Mayor Bacon, and Councilmembers Vogt, Schoonover, and Essex reconvened in council chambers. Mayor Bacon stated more time was needed on the item.

Motion by Vogt, seconded by Essex, to recess into an executive session Preliminary discussion regarding the acquisition of real property in northwest Olathe pursuant to the exception provided in K.S.A. 75-4319(b)(6) for 10 minutes, returning to council chambers at 9:51 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Schoonover, and Essex

**Absent:** Felter

**Abstain:** Gilmore, and Vakas

- B.** Discuss data relating to financial affairs or trade secrets of corporations, pursuant to the exception provided in K.S.A. 75-4319(b)(4).

Motion by Vogt, seconded by Gilmore, to recess into an executive session to discuss data relating to financial affairs or trade secrets of corporations, pursuant to the exception in K.S.A. 75-4319(b)(4) for 8 minutes, returning to council chambers at 6:39 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

- C.** Personnel matters of non-elected personnel pursuant to the exception provided in K.S.A.75-4319(b)(1) regarding the City Auditor Position.

This item was considered at the end of the meeting due to time restraints.

Motion by Vogt, seconded by Gilmore, to recess into an executive session to discuss personnel matters of non-elected personnel pursuant to the exception provided in K.S.A. 75-4319(b)(1) regarding the City Auditor position, for 15 minutes, returning to council chambers at 10:07 PM. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, and Essex

**Absent:** Felter

**Abstain:** Schoonover, and Vakas

### **3. RECONVENE FROM EXECUTIVE SESSION**

Mayor Bacon noted that Councilmember Felter joined all executive session discussions by phone.

Motion by Vogt, seconded by Gilmore, on item 2.A, to authorize staff to proceed with the strategies discussed with and directed by the governing body. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

Motion by Vogt, seconded by Gilmore, on item 2.B, to authorize staff to proceed with the strategies discussed with and directed by the governing body. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

Councilmember Vogt stated on item 2.C, no motion is needed because no action needs to be taken.

### **4. BEGIN LIVE STREAMED SESSION – 7:00 P. M.**

### **5. PLEDGE OF ALLEGIANCE**

### **6. SPECIAL BUSINESS**

#### **A. Proclamation declaring June 19, 2024 as Juneteenth**

Mayor Bacon read and presented the proclamation to Terry Loudermill, member of the Citizens Police Advisory Council.

Mr. Loudermill thanked the mayor and council for the recognition and spoke about the importance of Juneteenth.

### **7. PUBLIC HEARINGS**

Persons wanting to speak regarding a public hearing is asked to sign up prior to the beginning of the City Council meeting. A person may sign up by notifying the City Clerk by calling 913-971-8521 or emailing CCO@Olatheks.gov by 5:00 PM or in person at City Hall no later than 30 minutes prior to the start of the meeting. Each speaker is allowed up to 5 minutes to address the City Council.

- A.** Public hearing and consideration of Resolution No. 24-1021 on a request by Safari Belting Systems, LLC for industrial revenue bonds and tax phase-in of a single series project for the construction of a 75,000 square foot manufacturing, assembly, and distribution facility on two parcels totaling 12-acres located at 607 W. Old 56 Highway. Mayor Bacon opened the public hearing.

Financial Strategy and Procurement Manager, John Page, provided a presentation to the council.

No public comments were heard.

Motion by Vogt, seconded by Gilmore, to close the public hearing. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

Motion by Vogt, seconded by Gilmore, to approve Resolution No. 24-1021, as presented. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

## **8. CONSENT AGENDA**

The items listed below are considered to be routine by the City Council and may be approved in one motion. These may include items that have been reviewed by the City Council in a prior planning session. There will be no separate discussion unless a council member requests that an item be removed from the consent agenda and considered separately.

### **Approval of the Consent Agenda**

Motion by Vogt, seconded by Gilmore, to approve the Consent Agenda. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

- A.** Consideration of approval of the City Council meeting minutes of May 21, 2024.  
approved.
- B.** Consideration of new license(s) as recommended by the City Clerk.  
approved.
- C.** Consideration of Business Expense Statements for City Manager

Micheal Wilkes, Mayor Bacon and Councilmembers Essex, Vakas and Schoonover for their visit to Washington, DC.

approved.

**D.** Consideration of Consent Calendar.

approved.

**E.** Consideration of Agreement No. 72-24 with the Kansas Department of Transportation (KDOT) for funding the construction of Quivira Road, 143rd to 151st, Improvements Project, PN 3-C-011-24.

approved.

**F.** Consideration of a Professional Services Agreement with TREKK Design Group, LLC for design of the West Cedar Creek Sewer Interceptor Project, PN 1-C-011-24.

approved.

**G.** Consideration of an Agreement with Crossland Heavy Contractors, Inc. for pre-construction phase services associated with the West Cedar Creek Sewer Interceptor Project, 1-C-011-24.

approved.

**H.** Consideration of a Professional Services Agreement with TREKK Design Group, LLC for the Stormwater CCTV Inspection Project, PN 2-R-002-24.

approved.

**I.** Consideration of an agreement with Project Advocates, LLC for project management services.

approved.

**J.** Consideration of an agreement with Benson Method, LLC for project management services.

approved.

**9. NEW BUSINESS**

**A.** Consideration of Resolution No. 24-1022 authorizing a survey and description of land or interest to be condemned for the South Hamilton Circle Improvement Project, PN 3-R-001-24, and South Hamilton Waterline Rehabilitation Project, PN 5-R-001-24.

Motion by Vogt, seconded by Gilmore, to approve Resolution No. 24-1022. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

**B.** Consideration of Ordinance No. 24-19 approving an engineer's survey and authorizing the acquisition of land for the South Hamilton Circle

Improvement Project, PN 3-R-001-24, and South Hamilton Waterline Rehabilitation Project, PN 5-R-001-24.

Motion by Vogt, seconded by Gilmore, to approve Ordinance No. 24-19, as presented. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

- C. Consideration of Ordinance No. 24-20 amending Section 10.01.030 of the Olathe Municipal Code (the Olathe Traffic Ordinance) pertaining to sentencing procedures for a third conviction of driving under the influence.

Motion by Vogt, seconded by Gilmore, to approve Ordinance No. 24-20, as presented. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

- D. Consideration of Ordinance No. 24-21 (RZ24-0007), requesting approval of a rezoning from the RP-1 (Planned Single-Family), CP-1 (Planned Retail Business), and the CP-O (Planned Office) Districts to the C-1 (Neighborhood Center) District and a preliminary site development plan for Primrose School of Olathe on approximately 3.74 acres; located southwest of W. 158th Street and S. Hunter Street. Planning Commission recommended approval 8 to 0.

Andrea Fair, Planner II, provided a presentation to the council.

Councilmember Vogt asked if the waivers were approved as part of the Planning Commission vote on the item. Ms. Fair said, yes. Ms. Vogt also asked questions regarding the restrictions on the property to see if a drive thru coffee shop was still considered fast food. Ms. Fair stated that a drive thru coffee shop is still considered fast food.

Mayor Bacon asked if citizens were aware of the protest petition option, and none was received. Ms. Fair stated, yes.

Motion by Vogt, seconded by Gilmore, to approve Ordinance No. 24-21 pertaining to RZ24-0007, as presented. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

- E. Consideration of Ordinance No. 24-22 (RZ24-0009), requesting approval of a rezoning from the from the R-1 (Single-Family) and the CP-3 (Planned Community/Corridor Business) Districts to the C-1

(Neighborhood Center) District and a preliminary site development plan for Olathe Family Dental on approximately 0.74 acres; located at 355 S. Parker Street. Planning Commission recommended approval 8 to 0.

Andrea Fair, Planner II, provided a presentation to the council.

Motion by Vogt, seconded by Gilmore, to approve Ordinance No. 24-22 pertaining to RZ24-0009, as presented. The motion carried by the following vote:

**Yes:** Bacon, Vogt, Gilmore, Schoonover, Vakas, and Essex

**Absent:** Felter

## **10. NEW CITY COUNCIL BUSINESS**

Councilmember Essex mentioned K-State Olathe will be having a ribbon cutting for their new Student Success Center.

Councilmember Schoonover mentioned that June is Gun Violence Awareness Month and encouraged citizens to reach out to the Olathe Police Department to get gun locks. He also mentioned that June is Pride Month and noted that the city would not be issuing a proclamation but he wanted to recognize the LGBTQ community in Olathe. Mr. Schoonover added his appreciation for the LGBTQ community and noted, no matter who you are, Olathe can be home.

Councilmember Vakas mentioned he was the keynote speaker at the Memorial Day ceremony at Veterans Memorial Park and thanked Parks and Recreation for their support, along with thanking the American Legion Post #153, who organized the event. Mr. Vakas also mentioned that June is Pride month and feels all are welcome in the community and noted there is strength in the diversity of Olathe, including the LGBTQ community.

Councilmember Vogt stated Olathe is a community for all and noted the city has taken steps for this, including the passing of the Non-Discrimination Ordinance. Ms. Vogt also noted that the Comprehensive Plan is being updated and that it is important to get all citizens involved.

Mayor Bacon stated there are over 92 events in downtown Olathe this summer, including the Kickin' it with the Cops program that kicks off this week with fishing. He also stated he felt Olathe was an inclusive and diverse city, even without a proclamation being issued.

## **11. END OF LIVE STREAMED SESSION**

## 12. GENERAL ISSUES AND CONCERNS OF CITIZENS

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Kate Guimbellot, an Olathe resident, spoke about the lack of a Pride Month proclamation and the message it is sending to the LGBTQ community in Olathe.

Bridgette Moore, an Olathe resident, spoke about all the cities that issue pride proclamations in Johnson County and noted the need to recognize Pride Month in Olathe.

## 13. CONVENE FOR PLANNING SESSION

If report items are present, they have been prepared for informational purposes and will be accepted as presented. There will be no separate discussion unless a Councilmember requests that a report be removed and considered separately.

### A. REPORTS

1. Report on the annual mowing of weeds and removal of debris to levy assessments.  
Report Accepted

### B. DISCUSSION ITEMS

1. Discussion on BNSF Emporia Subdivision (West Tracks) Grade Separation Options.  
City Engineer, Nate Baldwin, provided a presentation to the council.

Councilmember Gilmore asked what the clearance is on the Spruce Street underpass. Mr. Baldwin stated 11'4".

Councilmember Schoonover asked if discussions have occurred with BNSF on changing the train schedule. Mr. Schoonover also asked clarifying questions on alternative #2. Mr. Baldwin provided answers to the questions.

Councilmember Vakas stated Spruce and Santa Fe Streets are the two main crossings that need to be looked at pending

the receipt of funds.

Councilmember Gilmore asked if the city had a sense of wait times compared to other cities. Mr. Baldwin stated the wait times were completed by city staff so comparable data is not available.

Councilmember Essex asked if quiet zones are still being looked at for the Dennis Street crossing area. Mr. Baldwin stated yes.

Councilmember Vogt stated that she is impressed that the railroad is willing to partner with the city to examine alternatives. She also asked if BNSF has looked at the options presented. Mr. Baldwin stated they have not.

Mayor Bacon would be interested in seeing options of raising the rail some to allow for lowering the street less to help lessen the road grade percentage.

**2. Police Department Focus Area update.**

Mike Butaud, Police Chief, provided a presentation to the council.

Mayor Bacon stated he is impressed with the statistics.

Councilmember Schoonover likes the ACT program and asked about the funding. Chief Butaud stated that it is all grant-funded.

Councilmember Essex stated there is a lot to celebrate and asked what the average tenure of our police officers was. Chief Butaud stated he could get the data.

Councilmember Gilmore thanked Chief Butaud and the police for all they do. He also asked when the ACT program started. Chief Butaud stated it was 2019.

Councilmember Vogt thanked Chief Butaud for his leadership

and asked if the responders in the ACT program were social workers. Chief Butaud stated, yes.

#### **14. ADDITIONAL ITEMS**

Councilmember Schoonover thanked the city for the fishing derby. He also stated he would like to have a discussion about the lighting at 119th Street Bridge for causes and look at a policy to help with the process.

Mayor Bacon asked for the PowerPoint on the train crossing grades.

#### **15. ADJOURNMENT**

The meeting adjourned at 10:12 PM.

Eric Strimple  
Assistant City Clerk



# City of Olathe

## COUNCIL AGENDA ITEM

**MEETING DATE:** 6/18/2024

**FOCUS AREA:** Exceptional Services

**STAFF CONTACT:** Eric Strimple

**SUBJECT:** Consideration of renewal license(s) as recommended by the City Clerk.

**TITLE:**

Consideration of renewal license(s) as recommended by the City Clerk.

**SUMMARY:**

The application(s) for the following business(es) meets the necessary requirements for the issuance of licenses.

The application(s) are available for review in the City Clerk’s Office.

**Renewal Cereal Malt Beverage License(s)**

El Taco Meindo (Off Premise)	24-0021	401 S Parker St
El Taco Meindo (On Premise)	24-0022	401 S Parker St

**Renewal Drinking Establishment License(s)**

Mi Ranchito	24-0102	14154 W 119 <sup>th</sup> St
Johnny’s Italian Steakhouse	24-0142	12080 S Strang Line Rd

**Renewal Caterer License(s)**

Johnny’s Italian Steakhouse	24-0141	12080 S Strang Line Rd
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**FINANCIAL IMPACT:**

The applicant(s) have paid the license fees in accordance with the Olathe Municipal Code.

**ACTION NEEDED:**

Approve the application(s) for issuance of a license as part of the consent agenda.

**ATTACHMENT(S):**

None



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Exceptional Services

**STAFF CONTACT:** Brenda Swearingian

**SUBJECT:** Consideration of Resolution No. 24-1024 calling for a public hearing to levy assessments to collect unpaid city expenditures for mowing of weeds and removal of debris.

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**ITEM DESCRIPTION:**

Consideration of Resolution No. 24-1024 calling for a public hearing to levy assessments to collect unpaid city expenditures for mowing of weeds and removal of debris.

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**SUMMARY:**

The attached resolution calls for a public hearing to levy assessments against lots, pieces and parcels of land located in the City of Olathe, Kansas, to collect unpaid city expenditures for the mowing of weeds and removal of debris.

The city has provided the services necessary for the upkeep of property as indicated on the attached resolution. The owners have been sent proper invoices and notices and the accounts have not been paid.

Approval of this resolution will set the public hearing for July 16, 2024. The Council will be provided an assessment ordinance for consideration on August 6, 2024. The ordinance will be to consider levying assessments to collect the costs and expenses incurred by the city for mowing of weeds and removal of debris in accordance with Sections 6.06.130 and 6.09.120 of the Olathe Municipal Code.

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**FINANCIAL IMPACT:**

These proceedings address the collection of expenses for properties, which currently total \$34,880.25.

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**ACTION NEEDED:**

Approve Resolution No. 24-1024 setting a public hearing for July 16, 2024

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**ATTACHMENT(S):**

A. Resolution No. 24-1024

RESOLUTION NO. 24-1024

A RESOLUTION CALLING FOR A PUBLIC HEARING TO CONSIDER THE LEVYING OF ASSESSMENTS AGAINST LOTS, PIECES AND PARCELS OF LAND LOCATED IN THE CITY OF OLATHE, KANSAS, TO COLLECT UNPAID CITY EXPENDITURES FOR THE MOWING OF WEEDS AND REMOVAL OF DEBRIS.

WHEREAS, the city of Olathe, Kansas, pursuant to Chapters 6.06 and 6.09 of the Olathe Municipal Code, did cause debris to be removed and/or weeds to be mowed on the property below; and

WHEREAS, the city caused to be kept an accurate record of the costs and expenses incurred by the city in removal of said debris and/or weed mowing of said weeds; and

WHEREAS, statements of the cost and expenses incurred by the city were sent to the record owners of said property described below; and

WHEREAS, said property owners have failed to pay such statements within thirty (30) days after such statements were sent; and

WHEREAS, Sections 6.06.130 and 6.09.120 of the Olathe Municipal Code authorize the city to levy a special service assessment upon the lots, pieces and parcels of property upon which said debris was removed and/or said weeds were mowed in order to collect the costs and expenses incurred by the city.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: That a public hearing to consider the levying of assessments on the following described property in order to collect unpaid city expenditures to remove debris and/or mow weeds shall be held on the 16th day of July 2024, at 7:00 p.m. in the Council Chamber of the Olathe City Hall, 100 E. Santa Fe, Olathe, Kansas:

<b>OWNER</b>	<b>LEGAL DESCRIPTION</b>	<b>COST</b>
KC POWER & LIGHT PO BOX 418679 KANSAS CITY, KS 64141	DF231312-2003 12-13-23 BG SW CR N 1/2 SW1/4 N 1299.31' TO NW CR E 2651.95'S 1312.6' W 2655.83' TO BG EX .38 AC EX 2.269 AC EX 5.607 AC& EX 1.79 AC 69.954 ACS M/L OLC 61B	\$ 125.00
PEUGH, HAROLD 1510 W SANTA FE ST OLATHE, KS 66061	DF231327-4010 27-13-23 BG 433' E SW CR SW1/4SE1/4 E 361.96' N 150' NW 365.37' S 200' TO BG EX .552 AC .902 ACS M/L OLC 219C	\$ 125.00

<p>TRI STAR DEVELOPMENT COMPANY LLC 16073 S BRADLEY DR OLATHE, KS 66062</p>	<p>DF231328-2002 28-13-23 BG SW CR E 1/2 SW1/4 N 680' NE TO A PT 1050' N &amp; 420' E SW CR SE TO A PT 700' N&amp; 830' E SW CR SE TO A PT 350'N &amp; 370' W SE CR E 1/2 SW1/4 S350' W TO BG EX 2 TRS PLATTED 1.92026 AC &amp; 2.31641 AC &amp; EX 13.47733 AC 1.286 ACS M/L OLC 228 1</p>	<p>\$ 250.00</p>
<p>WEDGE, RICHARD 475 S MAIN ST VINITA, OK 74301</p>	<p>DF231336-1002 36-13-23 BG CTR/L CEDAR ST 305' E W/L SW1/4 NW1/4 E 240.45' TO CRK NLY 60' NE 107'NW 100' NE 50.1' TO N/L SW1/4 NW1/4 W 195.4' S 297' TO BG 1.79 ACS EX S 25' IN ST OLC- 0343</p>	<p>\$ 500.00</p>
<p>FALLAHIAN, NASSI 9105 W 126TH TER OVERLAND PARK, KS 66213</p>	<p>DF231412-2020 12-14-23 3 AC W OF C/L OF RR IN S 1/2 S 1/2 SW1/4 EX .03 ACIN HWY &amp; EX .263 AC IN ST 2.707 ACS M/L OLC 475</p>	<p>\$ 125.00</p>
<p>CUNNINGHAM, STEPHEN 14608 GRANT ST OVERLAND PARK, KS 66221</p>	<p>DF231412-2029 12-14-23 W 198' E 396' S 1/2 S 1/2 SW1/4 EX .136 AC IN ST 2.864 ACS M/L OLC 475 1B</p>	<p>\$ 125.00</p>
<p>CF OLATHE LLC 1345 AVENUE OF AMERICAS 46TH FLOOR NEW YORK, NY 10105</p>	<p>DF241319-3010 19-13-24 PT NE1/4 EX S 446.82' LYG O/S ICMB CONT AREA BEING PT N &amp; W OF LN DESC AS BG 300' W C/L KC RD ON S/L NE1/4 N 446.8' W 176.5' N 660' E TO PT 2170' E W/L NE 820' TO PT 350' W E/L 1/4 E 350' TO E/L EX PT IN ST EX 22.184 AC EX 3.595 AC EX .2012 AC EX .062 AC EX 14.144 AC EX 1.410 AC PLATTED EX .104 AC IN ST EX .141 AC IN ST EX .545 AC IN ST &amp; EX .104 AC IN ST (PROJECT AREA 3) 61.7686 ACS M/L</p>	<p>\$1,000.00</p>
<p>JL GROUP HOLDINGS I, LLC 3000 EXECUTIVE PKWY 515 SAN RAMON, CA 94583</p>	<p>DF241330-4009 30-13-24 BG 64' N &amp; 1298.87' W SE CR SE1/4 N 150' E 174.13' S 150' W 173' TO BG EX .088 AC .51 ACS M/L OLC 621 1A</p>	<p>\$1,062.50</p>
<p>ALEXRAY PROPERTIES, LLC 1740 E HAROLD ST OLATHE, KS 66061</p>	<p>DP00080000 0001 ALEXANDER SQUARE LT 1 ( REFER TO LEASED IMPROVEMENT DL00080000 0001 ) OLC 582 7 1</p>	<p>\$ 205.00</p>

VINCANT, JESSICA 1720 S LINDENWOOD OLATHE, KS 66062	DP00500001 0001 ARROWHEAD LT 1 BLK 1 EX BG SW CR N 30' SE TO S/L 30' E SW CR W TO POB OLC 670 5 1 1	\$ 125.00
JACOBSON-CAMPBELL EXCAVATION INC 8349 MONTICELLO RD SHAWNEE, KS 66227	DP00760000 0T0A ASBURY CENTRE TRACT A OLC 469 A	\$ 937.50
127 LAND INVESTORS, LLC 4622 PENNSYLVANIA AVE KANSAS CITY, MO 64112	DP04080000 0001 BLACK BOB COMMONS LT 1 OLC 608A 12 1	\$ 187.50
BLACKBOB INVESTORS LLC 13790 S BLACK BOB RD OLATHE, KS 66062	DP04270000 0030 BLACKBOB MARKETPLACE II FOURTHPLAT LT 30 OLC 642E 10 22 28 30	\$ 125.00
GREENWOOD PLAZA 3715 SW 29TH ST 200 TOPEKA, KS 66614	DP04440000 0TA-3 BLOOM SENIOR LIVING 1ST PLAT TRACT A-3	\$ 250.00
HAHN, BRIAN 17518 W 112TH ST OLATHE, KS 66061	DP05200000 0194 BRITTANY HILLS 5TH PLAT LT 194 OLC 573 1 194	\$ 125.00
BRITTANY DEVELOPMENT 12553 S HAGAN LN OLATHE, KS 66062	DP05400000 0T0A BRITTANY PLACE TRACT A OLC 375 1A TA	\$1,875.00
HPA BORROWER 2017 1 LLC 120 S RIVERSIDE PLZ STE 2000 CHICAGO, IL 60606	DP05400001 0017 BRITTANY PLACE LT 17 BLK 1 OLC 375 1A 1 17	\$ 250.00
MCBRIDE, STEVEN 956 E NEW LONDON ST OLATHE, KS 66061	DP05500000 0369 BRITTANY YESTERYEAR 9TH PLAT LT 369 OLC 166 369	\$ 125.00
ALTO ASSET COMPANY 5 LLC 5001 PLAZA ON THE LAKE STE 200 AUSTIN, TX 78746	DP08200002 0001 BRYN VISTA PARK NO. 2 LT 1 BLK 2 OLC 172 2 1	\$ 125.00
CONNOLLY, JESSICA 540 E 126TH ST OLATHE, KS 66061	DP08200004 0012 BRYN VISTA PARK NO. 2 LT 12 BLK 4 OLC 172 4 12	\$ 125.00
DEMARKUS, PAUL 2221 S OCHELTREE ST OLATHE, KS 66061	DP11100000 0002 SECOND RESURVEY OF CARNES ADDITION LT 2 OLC 4202 3	\$ 870.50

MENDOZA, EXMER 1303 HIDDEN VALLEY DR HOUSTON, TX 77088	DP13540000 0003 CHESTNUT MEADOWS, Lot 3	\$ 125.00
HARVEST LLC 16310 S CENTRAL ST OLATHE, KS 66062	DP13800000 0045 CLIFTVIEW WEST LT 45 OLC 221A 1 45	\$ 125.00
MORRIS, SCOTT 212 S MONTCLAIRE DR OLATHE, KS 66061	DP14600010 0006 CONCORD SQUARE NO. 2 LT 6 BLK 10 OLC 298 10 6	\$ 625.00
INDURI, SATHVIK 14515 W 146TH CT OLATHE, KS 66061	DP14830004 0047 COPPER CREEK 9TH PLAT LT 47 BLK 4 OLC 260 1B 4 47	\$ 300.00
JOWELL, AARON 16459 S RIPLEY ST OLATHE, KS 66062	DP15700000 0036 COUNTRY ESTATES OF CEDAR RIDGE PARK FIRST PLAT LT 36 OLC 692 6 36	\$ 300.00
2011 E SANTA FE DE LLC PO BOX 1610 COCKEYSVILLE, MD 21030	DP16300000 0T0F CROSSROADS SHOPPING CENTER TR F EX PT REPLATTED OLC 633 F	\$ 258.00
AXIOM-KING'S LP 815 WOODSWEATHER RD KANSAS CITY, KS 64105	DP16300000 0T0H CROSSROADS SHOPPING CENTER TR H EX W 155' OLC 633 H	\$ 375.00
BCORE MF PFLUMM KS LLC 345 PARK AVE NEW YORK, NY 10154	DP16480000 0001 DAVIS DEVELOPMENT APARTMENTS OLATHE, Lot 1, EX BG NE CR S 14.67' NW 33.05' E 29.68' TO POB IN ST	\$ 750.00
AXIOM-WINDSOR LLC 7357 HOLLIDAY DR STE 200 KANSAS CITY, KS 66106	DP23600000 0T0C ENGLISH GARDENS PLANNED UNIT DEVELOPMENT LOTS 1-42 AND TRACTS A-D TRACT C OLC 197 2A C	\$3,200.00
MILLS, JAMES 420 N LOGAN ST OLATHE, KS 66061	DP24000000 0151A FAIRVIEW N 20' OF LOT 151 & S 40' OF LOT 152 OLC 3915 1	\$ 125.00
DONAHUE, JOE PO BOX 3720 OLATHE, KS 66063	DP24000000 0189A FAIRVIEW W 25' LT 189 OLC 3938A	\$ 375.00
WILLIAMSON, ANDY 723 YOEKE ST TONGANOXIE, KS 66086	DP24000000 0196 FAIRVIEW LT 196 EX N 81.48' OLC 3946	\$ 375.00

DOLE, SAMUEL & JUDITH 309 N CLINTON ST OLATHE, KS 66061	DP24000000 0217A FAIRVIEW N 66.67' OF E 137.84' OF LT 217 OLC 3967 1	\$ 125.00
MEL LATORRE PROPERTIES I, LLC 7450 MUSTANG RD NE PIEDMONT, OK 73078	DP24100000 0001 FAIRVIEW HILLS LOT 1 OLC-0733 0001	\$ 642.50
127 LAND INVESTORS, LLC 4622 PENNSYLVANIA AVE KANSAS CITY, MO 64112	DP24850000 0002 FAMILY VIDEO ADDITION LT 2	\$ 187.50
KAH VI Llc 2701 W LAWRENCE AVE STE A SPRINGFIELD, IL 62704	DP24850000 0003 FAMILY VIDEO ADDITION LT 3	\$ 250.00
RODRIGUEZ, ALFREDO 9400 BRADSHAW ST LENEXA, KS 66215	DP27100000 0018 FREDRICKSON'S SECOND ADDITION LT 18 OLC 4387	\$ 267.50
SOUTH PROPS LLC 1013 N JAN-MAR DR OALTHE, KS 66061	DP28100006 0029 RESURVEY & RESUBDIVISION OF LOTS 4-20 BLOCK 6 GAS LIGHT ACRES LT 29 BLK 6 OLC 622B 6 29	\$ 125.00
LONGMAN, JUDITH 30330 W 135TH ST OLATHE, KS 66061	DP29000000 000B GOVERNORS COURT NORTH CERT OF SURVEY OF PT LT 1 AS REC IN BK1074 P 727 TRACT B OLC 301 1A 1A B	\$ 125.00
RANNFELDT, MICHELE 1012 S CLAIRBORNE RD OLATHE, KS 66061	DP30000003 0021 HAVENCROFT LOT 21 BLK 3 OLC-	\$ 125.00
POTTS, BOBBI 1611 E WILLOW DR OLATHE, KS 66062	DP30000008 0001L HAVENCROFT PT LT 1 BLK 8 BG NECR TR C SW 154.29' NW ALG SWLY/L TR C 53.24' NE 151.13' SELY ALG CUR LF 40.11' TO POB OLC	\$ 205.00
SWEENEY, CHARLES 1802 E CEDAR ST OLATHE, KS 66062	DP30000018 0001 HAVENCROFT PT LT 1 BLK 18 BG 43.32' E NW CR E 51.68' S 197.86' SWLY CUR RT 33.30' W 10.18' N 200.62' TO POB & S 1/2 OF VAC LOULA ST OLC 634 18 1	\$ 125.00
HARPER, JOSEPH 3912 S 284TH ST AUBURN, WA 98001	DP36600000 0036 INDIAN CREEK RIDGE LT 36 EX BG40.49' S NE CR S 39.51' W 120.07' N 40.07' E 120.08' TO BG OLC 609A 1 36	\$ 125.00

SFR II BORROWER 2021-3 LLC 120 S RIDVERSIDE PLAZA ST 2000 CHICAGO, IL 60606	DP37880000 0006 LACKMAN PARK PLACE LT 6 OLC 274 6	\$ 500.00
PIKUL, PAMELA 308 S MAHAFFIE ST OLATHE, KS 66061	DP39250000 0T0H LAKESHORE MEADOWS 2ND PLAT TRACT H OLC 271 H	\$ 437.50
1Ch410-333 LLC 6100 NEIMAN RD STE 205 SHAWNEE, KS 66203	DP41360000 0001A LONE ELM SENIOR APARTMENTS, PT Lot 1 BG NLY CR S 168.09 W 180.06 NE 74.85 NELY CUR RT 188.67 E 3.60 TO POB	\$ 125.00
JMS ASSETS LLC 629 S MONTCLAIRE DR OLATHE, KS 66061	DP47200000 0096 MONTCLAIRE LOT 96 OLC 330 96	\$ 125.00
SUBRAMANIAM, KARTHIK 13004 W 138TH ST OVERLAND PARK, KS 66221	DP50000000 0013 NONEMAKER ADDITION LT 13 EX S 10' OLC 4455F 13A	\$ 125.00
HUFF INVESTMENTS LLC 16017 KING ST OVERLAND PARK, KS 66221	DP50400012 0008 NORTH RIDGE SUBDIVISION FOURTHPLAT LT 8 BLK 12 OLC 582 8 12 8	\$ 125.00
HUFF INVESTMENTS LLC 16017 KING ST OVERLAND PARK, KS 66221	DP50400012 0010 NORTH RIDGE SUBDIVISION FOURTHPLAT LT 10 BLK 12 OLC 582 8 12 10	\$ 125.00
MILDENHALL, GEOFF 11401 S HUNTER DR OLATHE, KS 66061	DP50700002 0001 NORTHWOOD TRAILS LT 1 BLK 2 OLC 66A 2 1	\$ 800.00
HUGGINS, ROGER 617 N WATER ST OLATHE, KS 66061	DP52000002 0011 OLATHE LT 11 BLK 2 OLC 27	\$ 500.00
MCCLANAHAN, LUCILLE 631 N WILLIE ST OLATHE, KS 66061	DP52000006 0001A OLATHE S 1/2 LTS 1 & 2 BLK 6 & N 1/2 VAC ALLEY ADJ ON S OLC 104	\$ 125.00
ALAN INVESTMENTS III LLC 120 S CENTRAL AVE CLAYTON, MO 63105	DP52000018 0001 OLATHE LT 1 & E 26' LT 2 BLK 18 OLC 318	\$ 767.50

GENESIS INVESTMENT GROUP INC 1529 E SPRUCE ST A OLATHE, KS 66061	DP52000023 0001A OLATHE S 69' LTS 1 & 2 EX W 5.5' LT 2 & ALL VAC ALLEY ADJ BLK 23 OLC 432A	\$ 125.00
DIAZ, PATRICIA 21013 W 116TH TER OLATHE, KS 66061	DP52000039 0029 OLATHE LTS 29 & 30 BLK 39 OLC 880	\$ 125.00
BOUCHARD, SONIA 226 S CHESTNUT ST OLATHE, KS 66061	DP52000063 0015B OLATHE N 47' W 20' LT 15 & N 47' LT 16 BLK 63 OLC 1548	\$3,142.50
AZA AMAZE PROPERTIES LLC 829 NW DONOVAN RD #110 LEE'S SUMMIT, MO 64086	DP52000077 0001A OLATHE S 50' LTS 1 & 2 & S 50' E 15' LT 3 BLK 77 OLC 1800	\$ 125.00
BROWNLEE, LOREN 413 S CHERRY ST OLATHE, KS 66061	DP52000077 0011 OLATHE LT 11 & N 20' LT 12 BLK 77 OLC 1819	\$ 125.00
DEL REAL, JUAN 812 S EDGEMERE DR OLATHE, KS 66061	DP54020000 0002 OLATHE KANSAS FRATERNAL ORDER OF POLICE LODGE 44, PT LT 2 BG NE CR S 60.01' W 49.11' SW 90.81' N 102.01' E 129.82' TO POB	\$ 250.00
ENVISION CONSTRUCTION, INC 2298 W FOREST DR OLATHE, KS 66061	DP54020000 0002A OLATHE KANSAS FRATERNAL ORDER OF POLICE LODGE 44, PT LT 2 BG 60.01' S NE CR S 7.48' CUR LF 44.39' SW 155.88' NWLY CUR RT 8.62' N 76.18' NE 90.81' E 49.11' TO POB	\$ 125.00
AT OLATHE OUTLOT 5 LLC 2701 E CAMELBACK STE 150 PHOENIX, AZ 85016	DP54190000 0005 OLATHE POINTE FIRST PLAT LT 5 OLC 103 5	\$ 187.50
ARCITERRA OLATHE POINTE 2701 E CAMELBACK RD 220 PHOENIX, AZ 85016	DP54190000 0T0A OLATHE POINTE FIRST PLAT TRACT A OLC 103 A	\$ 125.00
A L & L SERVICES INC 44 W CONCORD KANSAS CITY, MO 64112	DP54300000 0003 OLATHE STATE BANK ADDITION LT 3 OLC 620 2 33 3	\$ 125.00

PARK SIDE BUSINESS CENTER PO BOX 100 OLATHE, KS 66051	DP56250000 0T0B PARKSIDE BUSINESS CENTER FIRST PLAT TRACT B OLC 628 5 B	\$ 375.00
BROOKS, NATHANIEL 1512 E 151ST TER OLATHE, KS 66062	DP56500006 0003 PARKWOOD ACRES LT 3 BLK 6 OLC 672 2 6 3	\$ 125.00
KELLY, BRUCE 719 N SUMAC ST OLATHE, KS 66061	DP57600019 0003 PERSIMMON HILL VII LT 3 BLK 19 OLC 225 19 3	\$ 150.00
CORONADO CHAVIRA, ELENA 1032 S BROCKWAY ST OLATHE, KS 66061	DP60200000 0010 PROVENCE VILLAGE LOT 10 OLC- 0010	\$1,500.00
ATTWOOD, AKIKO 12370 S PARKER TERR OLATHE, KS 66061	DP60660003 0006 REPLAT OF HUNTER'S CREEK FIRST PLAT LT 6 BLK 3 OLC 159 3 6	\$ 125.00
OLIVE LLC 5940 LEAVENWORTH KANSAS CITY, KS 66104	DP60930000 0001 REGAN PLAZA LT 1 OLC 297B 1 1	\$ 125.00
MCDONALDS USA, LLC PO BOX 182571 COLUMBUS, OH 43218	DP62700000 0003A RIDGEVIEW - 119 LT 3 & PT LT 4 BG NE CR LT 3 S 222.17' W CUR LF 216.41' N 48.95' W 15' N 156.12' TO N/L LT 4 E 230.08' TO POB OLC 581 6 3A	\$ 125.00
SINGH, GURDIT 1259 N LUCY MONTGOMER WAY OLATHE, KS 66061	DP62800003 0022 RIDGEVIEW IV LT 22 BLK 3 OLC 582 3 3 16 22	\$ 125.00
LAKEVIEW RESIDENCES KC LLC 509 MT HOLYOKE AVE PACIFIC PALISADES, CA 90272	DP63000002 0002 RIDGEVIEW ADDITION TO THE CITY OF OLATHE KANSAS BLOCKS 1 TO 4 INCLUSIVE LT 2 BLK 2 OLC 2639 12	\$ 125.00
MEL LATORRE PROPERTIES I, LLC 7450 MUSTANG RD NE PIEDMONT, OK 73078	DP63000003 000C1 RIDGEVIEW ADDITION TO THE CITY OF OLATHE KANSAS BLOCKS 1 TO 4 INCLUSIVE N 80' W 85' E 295' LT C BLK 3 OLC 2639 26	\$ 455.00
LAKEVIEW RESIDENCES KC LLC 509 MT HOLYOKE AVE PACIFIC PALISADES, CA 90272	DP63000004 0001 RIDGEVIEW ADDITION TO THE CITY OF OLATHE KANSAS BLOCKS 1 TO 4 INCLUSIVE LT 1 BLK 4 OLC 2639 27	\$ 375.00

LAKEVIEW RESIDENCES KC LLC 509 MT HOLYOKE AVE PACIFIC PALISADES, CA 90272	DP63000004 0008 RIDGEVIEW ADDITION TO THE CITY OF OLATHE KANSAS BLOCKS 1 TO 4 INCLUSIVE LT 8 BLK 4 OLC 2639 34	\$ 125.00
LAKEVIEW RESIDENCES KC LLC 509 MT HOLYOKE AVE PACIFIC PALISADES, CA 90272	DP63000004 0011 RIDGEVIEW ADDITION TO THE CITY OF OLATHE KANSAS BLOCKS 1 TO 4 INCLUSIVE LT 11 BLK 4 OLC 2639 37	\$ 125.00
RODRIGUEZ, NEGRETE 713 S WINDSOR RD OLATHE, KS 66061	DP63500013 0009 RIDGEVIEW SOUTH BLOCKS 8 TO 13 INCLUSIVE LT 9 BLK 13 OLC 339 202	\$ 218.75
SINGH, DALSHER 13323 W 129TH ST OVERLAND PARK, KS 66213	DP64060000 0002 ROBBEN INDUSTRIAL PARK LT 2 OLC 471E 4 2	\$ 187.50
STAR LABS, INC 15672 S BLACKFOOT ST OLATHE, KS 66062	DP64060000 0012 ROBBEN INDUSTRIAL PARK LT 12 OLC 471E 4 12	\$ 125.00
ADAIR, CHRISTOPHER 1250 WOODFIELD DR EUGENE, OR 97401	DP65100000 0110 ROLLING RIDGE SOUTH LOT 110 OLC-0301 0110	\$ 250.00
MCCONNAUGHEY, MIRANDA 908 S SHERIDAN RD OLATHE, KS 66061	DP65100000 0191 ROLLING RIDGE SOUTH LOT 191 OLC-0301 0191	\$ 125.00
MCCOY, THOMAS 305 N MAHAFFIE ST OLATHE, KS 66061	DP68000003 0012 SANTA FE HEIGHTS LOT 12 BLK 3 OLC-3581	\$ 375.00
LAMERS, PHYLLIS 2000 E 151ST TER OLATHE, KS 66062	DP68500004 0001 SCARBOROUGH LT 1 BLK 4 OLC 674 4 1	\$ 375.00
GREENING, ANITA 2109 E 144TH TER OLATHE, KS 66062	DP69300000 0314 SHERIDAN BRIDGE LT 314 OLC 664 314	\$ 875.00
OLATHE BEHAVIORAL HEALTH HOLDCO LLC 8901 E MOUNTAIN VIEW RD SCOTTSDALE, AZ 85258	DP71610000 0029A SOUTHPARK PHASE II BG SW CR LT 29 N 842.48' NE CUR RT 266.93' E 262.69' TO NE CR S 1011.16' TO S/L LT 29 W 432.60' TO POB	\$ 848.00
HOLLEY, BRANDON 8324 ACUFF LN LENEXA, KS 66215	DP72200000 0010D STEVENSON PLACE BG 100' W SE CR LT 10 N 150' X W 50' & E 90' W 97.5' S 230' ALL IN LT 10 OLC 3384A	\$ 312.50

NEW HORIZON REAL ESTATE DEV KS LLP- MOW 3405 ANNAPOLIS LN PLYMOUTH, MN 55447	DP72830000 0026 SUNNYBROOK BUSINESS PARK 2ND PLAT, Lot 26	\$ 125.00
FROST, WILLIAM 16432 W 139TH ST OLATHE, KS 66062	DP74500000 0007 TOMAHAWK TRAILS LT 7 OLC 652 3 7	\$ 250.00
FKH SFR PROPCO D LP 1850 PARKWAY PL STE 900 MARIETTA, GA 30067	DP75500000 0073 TWO TRAILS LT 73 OLC 176A 73	\$ 312.50
COMMERCIAL FEDERAL MORTGAGE CORP 2120 S 72ND ST OMAHA, NE 68124	DP77970000 0T0B WHEATLAND ESTATES 1ST PLAT TRACT B OLC 198 B	\$ 250.00
PARETA, RAJESH 12289 S MULLEN RD OLATHE, KS 66062	DP78950000 0010 WOODLAND ACRES TRACT 10 EX E 10' W 30' IN RD & BRITTANY YESTERYEAR 8TH PLAT PT LT 329 BG NW CR E 76.47' S 15' W 74.87' NW 16.16' TO POB & PT LT 330 BG NW CR E 148.50' SE 16.16' W 133.25' NW 24.67' TO POB	\$ 187.50
BEYER, JOSHUA 12110 S HAGAN ST OLATHE, KS 66062	DP82500000 0073 WYNCROFT LOTS 56-118 LT 73 OLC 96 1 73	\$ 125.00

SECTION TWO: That a notice of such public hearing, substantially in the form described below shall be published once in the official city newspaper at least ten (10) days prior to the public hearing and shall also be mailed to each property owner of record of the property described above:

"NOTICE OF PUBLIC HEARING

A public hearing to consider levying assessments on the following described lots, pieces and parcels of land in order to collect unpaid city expenditures for the removal of debris and/or mowing of weeds shall be held in the Council Chamber of the Olathe City Hall, 100 E. Santa Fe, Olathe, Kansas, at 7:00 p.m., on the 16<sup>th</sup> day of July 2024.

(Description of Property)

Written or oral objections will be considered at such meeting.

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City Clerk

(Seal)

ADOPTED by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

SIGNED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** City Manager's Office

**STAFF CONTACT:** Cathy Marks

**SUBJECT:** Consideration of a Business Expense Statement for the City Manager Michael Wilkes to attend a League of Kansas Municipalities meeting.

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**TITLE:**

Consideration of a Business Expense Statement for the City Manager Michael Wilkes to attend a League of Kansas Municipalities meeting on June 6.

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**SUMMARY:**

Expense statements are presented for council review and approval in accordance with Administrative Guidelines F-01, which requires that all travel expenses for the City Manager and Councilmembers be placed on the Council agenda for approval.

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**FINANCIAL IMPACT:**

Funding is included in the 2024 budget.

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**ACTION NEEDED:**

Consider approval of the attached Business Expense Statement

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**ATTACHMENT(S):**

Michael BES LKM June 6

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# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy, Community Development

**STAFF CONTACT:** Nathan Jurey, Senior Planner

**SUBJECT:** FP24-0014: Final Plat for Bach Homes, Second Plat; Applicant: Shon Rindlisbacher, Montage Apartments at Mur-Len, LLC

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**TITLE:**

Request for the acceptance of the dedication of land for public easements for a final plat of Bach Homes, Second Plat (FP24-0014), containing one (1) lot and five (5) tracts on approximately 12.63 acres, located southwest of W. 127<sup>th</sup> Street and N. Mur-Len Road. Planning Commission approved the plat 8 to 0.

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**SUMMARY:**

This is a request to accept the dedication of land for public easements for the final plat of Bach Homes, Second Plat. This plat establishes one (1) lot and five (5) tracts for the Bach Homes development, which is a mixed-use development that received approval of a zoning amendment in January 2024 (RZ23-0010) and final development plan approval in April 2024 (PAR24-0002).

This plat will dedicate water, sanitary sewer, and drainage easements to serve the development. No additional street right-of-way is being dedicated with this plat.

The plat is not subject to excise taxes as it is a replat of previously platted property.

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**FINANCIAL IMPACT:**

None

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**ACTION NEEDED:**

1. Accept the dedication of land for public easements for the final plat of Bach Homes, Second Plat (FP24-0014) (majority vote of the Councilmembers present required)
  2. Reject the dedication of land for public easements and return the plat to Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to accept the dedication (majority vote of the Councilmembers present required).
- 

**ATTACHMENT(S):**

- A. Planning Commission Packet
  - B. Planning Commission Minutes
-



## STAFF REPORT

Planning Commission Meeting: June 10, 2024

<b>Application:</b>	<b>FP24-0014: Final Plat for Bach Homes, Second Plat</b>
<b>Location:</b>	Southwest of W. 127 <sup>th</sup> Street and N. Mur-Len Road
<b>Owner:</b>	Shon Rindlisbacher, Montage Apartments at Mur-Len, LLC
<b>Applicants:</b>	Shaun Athey and Alex Dahl, Bach Land and Development, LLC
<b>Engineer/Architects:</b>	Ben Ellis and Brad Sonner, Olsson, Inc.
<b>Staff Contact:</b>	Luke Bertram; Planner I

<b>Site Area:</b>	<u>12.63± acres</u>	<b>Proposed Use:</b>	<u>Mixed-Use Development</u>
<b>Lots:</b>	<u>1</u>	<b>Existing Zoning:</b>	<u>PD (Planned) District</u>
<b>Tracts:</b>	<u>5</u>		

### 1. Introduction

The following item is a request for a final plat for Bach Homes, Second Plat. This is a partial replat of Bach Homes, First Plat, which was recorded in 2021 (FP20-0025). This plat will establish new tracts, revise existing tracts, and add new public and private easements. The overall Bach Homes mixed-use development was rezoned to the PD (Planned) District in 2018 (RZ18-0012), with zoning amendments and revised preliminary development plans last approved in January 2024 (RZ23-0010). The preliminary development plan included 404 dwelling units on this subject property and this final plat complies with the approved plans.

### 2. Plat Review

- a. **Lots/Tracts** – This plat includes one lot and five common tracts on 12.63± acres. Lot 6 is the main property and replaces the existing Lot 2 from the previous plat (Bach Homes, First Plat). Tracts D, E, F and G are new Stormwater Detention/BMP tracts that replace the existing stormwater Tracts A and B. Tract H provides shared access for the development and replaces the existing Tract C. All five tracts associated with this plat are to be owned and maintained by the owner of Lot 6.
- b. **Streets/Right-of-Way** – Tract H provides shared private access to W. 127<sup>th</sup> Street, S. Mur-Len Road, and W. Northview Street/W. 129<sup>th</sup> Street. No new public street right-of-way is being dedicated with this plat.

- c. **Public Utilities** – This site is located within the City of Olathe water and sanitary sewer service areas. There are existing utility easements (U/E), water easements (W/E), electric (E/E) and sanitary sewer easements (SS/E). The plat dedicates new water, sanitary sewer, and drainage easements needed to serve this development.
- d. **Stormwater** – The plat has four separate Stormwater Detention/BMP tracts that will be accessed by newly dedicated detention access easements. The site will comply with Title 17 requirements for stormwater detention and water quality.



*Aerial view of subject property outline in yellow.*

### 3. Staff Recommendation

- A. Staff recommends approval of FP24-0014 with no stipulations.

# Final Plat Bach Homes, Second Plat

A replat of Lot 2, Tract A & Tract B of Bach Homes, First Plat, a subdivision in the City of Olathe, Johnson County, Kansas, lying in the Northeast Quarter of Section 30, Township 13 South, Range 24 East

Prepared For:  
Bach Homes  
11650 State Street, #300  
Droper, Utah 84020

Property Owner:  
Montage Apartments at Mur-Len, LLC  
11650 State Street, #300  
Droper, Utah 84020

Prepared By:  
Olsson  
7301 W. 133rd Street, Suite 200  
Overland Park, Kansas 66213  
Telephone (913) 381-1170

**Property Description**  
All of Lot 2, Tract A & Tract B of Bach Homes, First Plat, a subdivision in the City of Olathe, Johnson County, Kansas, all lying in the Northeast Quarter of Section 30, Township 13 South, Range 24 East, containing 550,282 Square Feet or 12.6327 Acres, more or less, including 12.6327 Acres of Replanted Area.

**Dedication**  
The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision shall hereafter be known as "Bach Homes, Second Plat."

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, electrical, poles, wires, drainage facilities, ducts and cables, and similar utility facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E", "Storm Drainage Easement" or "D/E", "Water Main Easement" or "W/E" is hereby granted to the City of Olathe, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

An easement or license to lay, construct, alter, repair, replace and operate one or more sewer lines and all appurtenances convenient for the collection of sanitary sewage, together with the right of ingress and egress, over and through those areas designated as "Sanitary Sewer Easement" or "S/E" is hereby granted to the City of Olathe, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

An easement giving the perpetual right of access, ingress, and egress over and across these areas outlined and designated on this plat as "Detention Access Easement" or "DA/E" is hereby granted to the City of Olathe, Kansas and other governmental entities as may be authorized by state law to use such easement for said purposes.

In accordance with KSA 12-512b, all rights, obligations, reservations, easements, or interest not shown on this plat shall be vacated so to use and as to title, upon filing and recording of this plat. The proprietors, successors, and assigns, of property shown on this plat hereby assent and agree, jointly and severally, to indemnify the City of Olathe, Kansas, of any expense incident to the relocation of any existing utility improvements heretofore installed and required to be relocated in accordance with proposed improvements described in this plat.

The undersigned proprietor of said property shown on this plat does hereby dedicate those portions of the streets and roadways shown, together with all other parcels and parts of land indicated on this plat, not heretofore dedicated, as streets, terraces, roads, drives, lanes, avenues, courts, places, etc., for public use as public ways or thoroughfares; subject to the right hereby reserved to the present owner and his successors and assigns for the location, construction and maintenance of conduits, water, gas and sewer pipes, poles and wires under, over and along said roadways.

The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been absolved except that same person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

**Consent to Levy**  
The undersigned proprietor of the above described tract of land hereby consents and agrees that the Board of County Commissioners of Johnson County, Kansas, and the City of Olathe, Johnson County, Kansas, shall have the power to release such land proposed to be dedicated for public use and thoroughfares, or parts thereof, for public use, from the lien and effect of any special assessments, and that the amount of the unpaid special assessment on such land dedicated shall become and remain a lien on the remainder of this land fronting or abutting on such dedicated public way or thoroughfare.

Notice: This site includes Stormwater Treatment Facilities, as defined and regulated in the Olathe Municipal Code. Restrictions on the use or alteration of the said Facilities may apply. This property is also subject to the obligations and requirements of the Stormwater Treatment Facility Maintenance Agreement approved by the City.

Tracts D, E, F and G are intended to be Stormwater Detention and BMP tracts, and are to be owned and maintained by the owner of Lot 2.

Tract H is intended to be a Private Access tract, for the benefit of Lots 1, 3, 4 and 5 of Bach Homes, First Plat, along with Lot 6 of this Plat, and is to be owned and maintained by the owner of Lot 6. Said Tract is also intended to be used as a Detention Access Easement.

**Execution**  
IN TESTIMONY WHEREOF, the undersigned proprietor has hereunto subscribed his name.

OWNER - Montage Apartments at Mur-Len, LLC a Utah limited liability company

By: \_\_\_\_\_ Printed Name & Title

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

Be it remembered, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me, a notary public in and for said county and state, came \_\_\_\_\_ Manager of Montage Apartments at Mur-Len, LLC, a Utah limited liability company, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said owner, and he duly acknowledged the execution of the same to be the free act and deed of said owner.

In witness hereof, I have hereunto subscribed my name and affixed my notarial seal this day and year last above written.

Notary: \_\_\_\_\_ My appointment expires: \_\_\_\_\_

**Certification**  
This is to certify that on February 23, 2024, this field survey was completed on the ground by me or under my direct supervision and that said survey meets or exceeds the "Kansas Minimum Standards" for Boundary Surveys pursuant to K.A.R. 86-12-1.

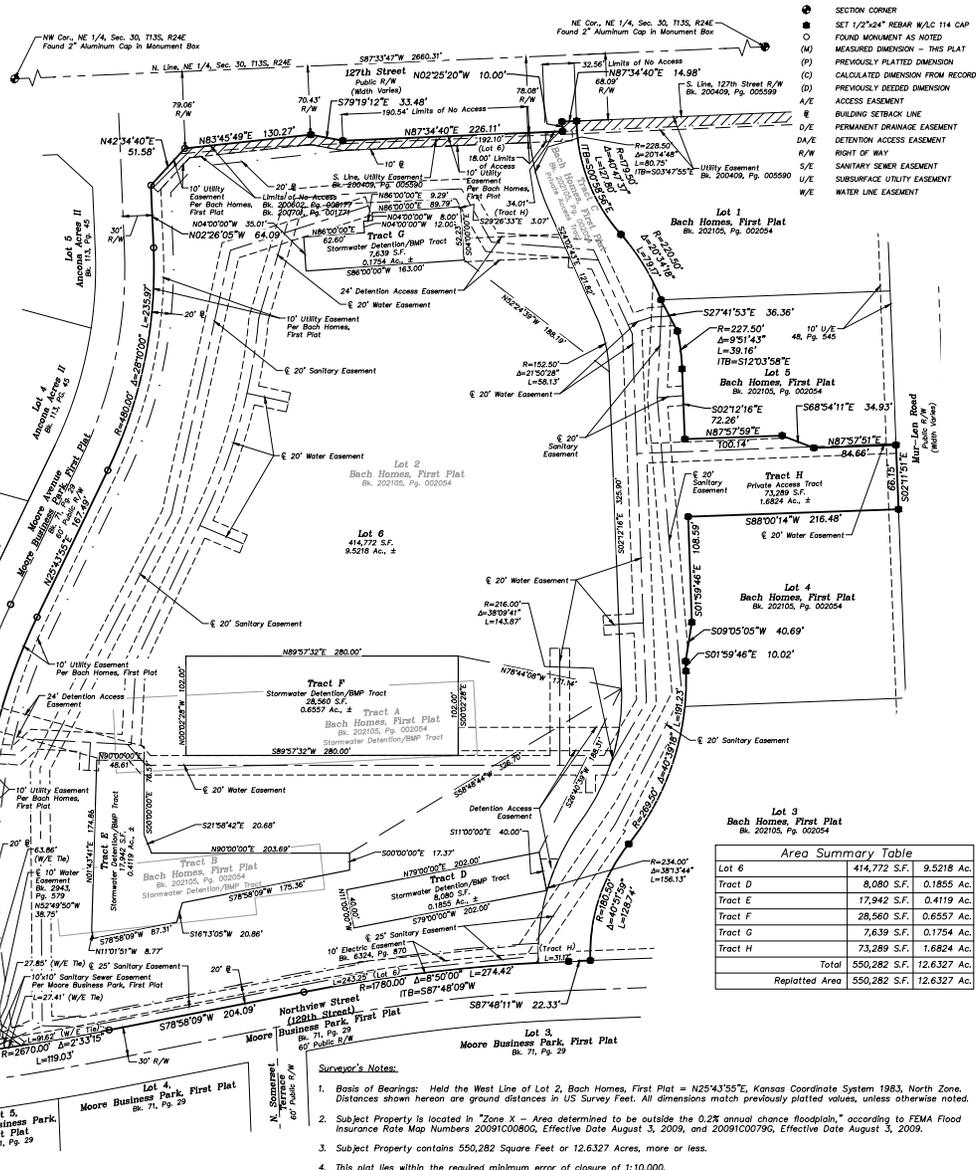
APPROVED BY: The Planning Commission of the City of Olathe, Johnson County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Chairman Wayne Janner

APPROVED BY: The Governing Body of the City of Olathe, Johnson County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

John W. Bacon, Mayor

ATTEST: Brenda D. Swearingin, City Clerk



Area Summary Table		
Lot 6	414,772 S.F.	9.5218 Ac.
Tract D	8,080 S.F.	0.1855 Ac.
Tract E	17,942 S.F.	0.4119 Ac.
Tract F	28,560 S.F.	0.6557 Ac.
Tract G	28,560 S.F.	0.1754 Ac.
Tract H	7,639 S.F.	1.6824 Ac.
Total	550,282 S.F.	12.6327 Ac.
Replanted Area		

- Surveyor's Notes:**
- Basis of Bearings: Held the West Line of Lot 2, Bach Homes, First Plat = N25°43'55"E, Kansas Coordinate System 1983, North Zone. Distances shown hereon are ground distances in U.S. Survey Feet. All dimensions match previously platted values, unless otherwise noted.
  - Subject Property is located in "Zone X - Area determined to be outside the 0.2% annual chance floodplain," according to FEMA Flood Insurance Rate Map Numbers 20910C00800, Effective Date August 3, 2009, and 20910C00790, Effective Date August 3, 2009.
  - Subject Property contains 550,282 Square Feet or 12.6327 Acres, more or less.
  - This plat lies within the required minimum error of closure of 1:10,000.
  - Sectional information shown hereon is shown for general location purposes only, and is not a part of this Plat's Theory of Location.
  - Location of easements may be subject to change, as needed, due to field work, but only prior to recording.



REV.	DATE	DESCRIPTION
1	2/23/24	ISSUE FOR RECORD
2	2/23/24	REVISIONS

Final Plat  
Bach Homes, Second Plat  
A replat of Lot 2 & Tracts A & B of Bach Homes, First Plat, a subdivision in the Northeast Quarter of Section 30, Township 13 South, Range 24 East  
Olathe, Johnson County, Kansas

drawn by: \_\_\_\_\_  
checked by: \_\_\_\_\_  
approved by: \_\_\_\_\_  
DATE: \_\_\_\_\_

SHEET  
1 of 1



## MINUTES

### Planning Commission Meeting: June 10, 2024

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<b>Application:</b>	<b><u>FP24-0014:</u></b> Request for approval of a final plat for Bach Homes, Second Plat, containing one (1) lot and five (5) tracts on approximately 12.63 acres, located southwest of W. 127th Street and N. Mur-Len Road.
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A motion to approve FP24-0014 was made by **Commissioner Creighton** and seconded by **Commissioner Chapman**. The motion passed with a vote of 8 to 0 with no stipulations.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy, Community Development

**STAFF CONTACT:** Jessica Schuller, Senior Planner

**SUBJECT:** FP24-0015: Final Plat for Executive Plaza, Third Plat; Applicant: Robert Meurer, White Co.

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**TITLE:**

Request for the acceptance of the dedication of land for public easements for a final plat of Executive Plaza, Third Plat (FP24-0015), containing one (1) lot and one (1) tract on approximately 3.68 acres, located northeast of W. 151st Street and S. Pflumm Road. Planning Commission approved the plat 8 to 0.

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**SUMMARY:**

This is a request to accept the dedication of land for public easements for the final plat of Executive Plaza, Third Plat. The final plat establishes lot lines for 1 (one) lot and 1 (one) tract. Lot 1 is proposed for the construction of a 28,300 square foot vehicle painting and body shop, B Street Collision Center, as approved with a rezoning to the C-3 (Regional Center) District in 2024 with RZ23-0008 (Ord. 24-11). This final plat is consistent with the approved preliminary development plan.

Tract A is dedicated as an access (A/E) and utility easement (U/E) along Haskins Street, a private drive.

The plat is subject to a street excise tax of \$0.215 per square foot of land and a traffic signal excise tax of \$0.0576 per square foot of land area.

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**FINANCIAL IMPACT:**

None

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**ACTION NEEDED:**

1. Accept the dedication of land for public easements for the final plat of Executive Plaza, Third Plat (FP24-0015) (majority vote of the Councilmembers present required).
  2. Reject the dedication of land for public easements and return the plat to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to accept the dedication (majority vote of the Councilmembers present required).
- 

**ATTACHMENT(S):**

- A. Planning Commission Packet
  - B. Planning Commission Minutes
-



## STAFF REPORT

Planning Commission Meeting: June 10, 2024

<b>Application</b>	<b>FP24-0015: Final Plat for Executive Plaza, Third Plat</b>
<b>Location</b>	Northeast of W. 151 <sup>st</sup> Street and S. Pflumm Road
<b>Owner</b>	George Gilchrist, Pflumm 151, LLC
<b>Applicant/Engineer</b>	Jeffrey T. Skidmore, Schlagel and Associates
<b>Staff Contact</b>	Jessica Schuller, AICP, Planner II

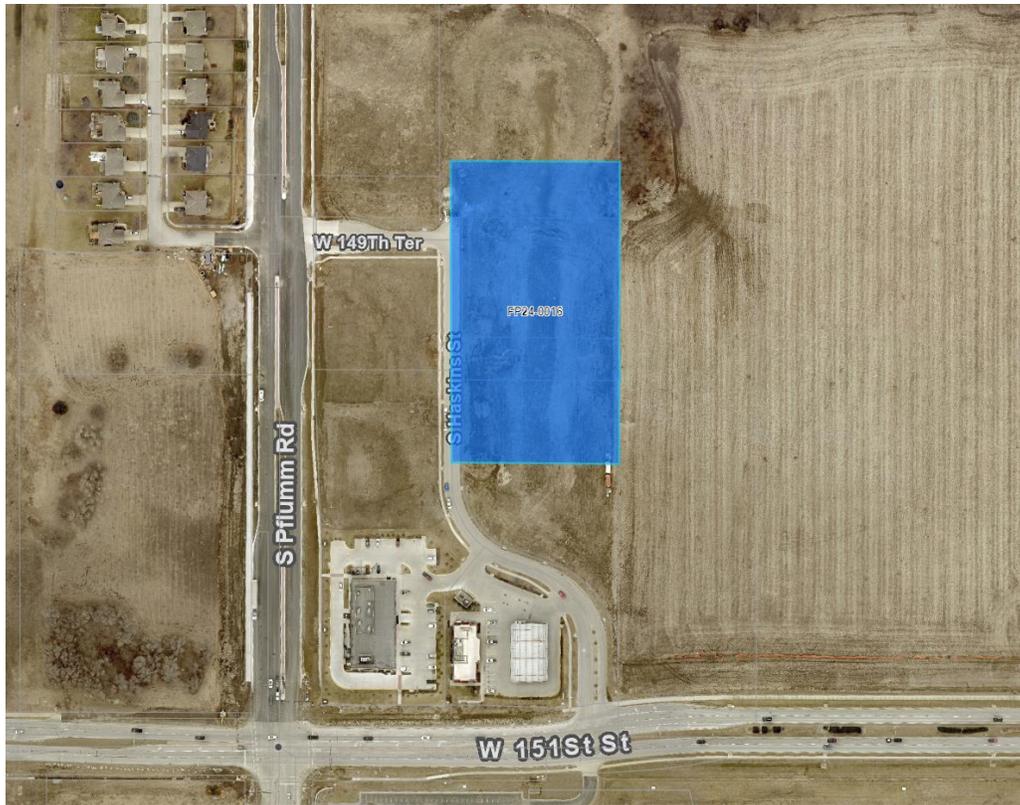
<b>Site Area:</b>	<u>3.68 ± acres</u>	<b>Proposed Use:</b>	<u>Vehicle Painting and Body Shop</u>
<b>Lots:</b>	<u>1</u>	<b>Existing Zoning:</b>	<u>C-3 (Regional Center)</u>
<b>Tracts:</b>	<u>1</u>	<b>Existing Plat:</b>	<u>Executive Plaza, First Plat / Unplatted</u>

### 1. Introduction

The following application is a request for a final plat of Executive Plaza, Third Plat. This is a partial replat of Executive Plaza, First Plat, which was recorded in 2017 (FP16-0048). This final plat will establish lot lines and dedicate public easements for one (1) lot and one (1) tract. Lot 1 is proposed for the construction of a 28,300 square foot vehicle painting and body shop, B Street Collision Center, as approved with a rezoning to the C-3 (Regional Center) District in 2024 with RZ23-0008 (Ord. 24-11). This final plat is consistent with the approved preliminary development plan.

### 2. Plat Review

- a. **Lots/Tracts** – The plat will reestablish lot lines for one (1) lot and one (1) tract for the development of a Vehicle Painting and Body Shop. Tract A is dedicated as an access (A/E) and utility easement (U/E) along Haskins Street, a private drive.
- b. **Public Utilities** – The property is served by City of Olathe water and Johnson County Wastewater. New utility easements (U/E) are dedicated along property lines.
- c. **Streets/Right-of-Way** – The site will be accessed from driveways along Haskins Street, and is subject to the existing private restrictions governing the joint use and maintenance of this private street. No new right-of-way is being dedicated with this final plat.
- d. **Stormwater/Detention** – An existing regional detention basin is located directly north of the subject property and will serve the proposed development. As such, no onsite stormwater treatment facilities are required.



*Aerial view of subject property in blue.*

### **3. Staff Recommendation**

Staff recommends approval of final plat for Executive Plaza, Third Plat (FP24-0015) with no stipulations.

# FINAL PLAT OF EXECUTIVE PLAZA, THIRD PLAT

**A REPLAT OF PART OF TRACT 'A' AND PART OF TRACT 'B', EXECUTIVE PLAZA, FIRST PLAT AND PART OF THE UNPLATTED SW 1/4 OF SEC. 3-14-24, IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS**



**DESCRIPTION:**

Part of the Southwest One-Quarter of the Southwest One-Quarter of Section 3, Township 14 South, Range 24 East, in the City of Olathe, and Part of Tract 'A' and Part of Tract 'B', EXECUTIVE PLAZA FIRST PLAT, a subdivision in the City of Olathe all in Johnson County, Kansas, and altogether being more particularly described as follows:

Commencing at the Southwest corner of the Southwest One-Quarter of said Section 3, thence along the West line of the said Southwest One-Quarter, North 01 degrees 57 minutes 45 seconds West, a distance of 900.00 feet, thence North 88 degrees 10 minutes 34 seconds East a distance of 304.31 feet to a corner point of said Tract 'A', said corner being the Point of Beginning, thence along a line 20.00 feet East and parallel with the West line of said Tract 'B' and the Southerly extension thereof, North 02 degrees 10 minutes 46 seconds West a distance of 139.35 feet; thence North 88 degrees 28 minutes 59 seconds East a distance of 300.73 feet to a point on the East line of said Tract 'B', thence along said East line and the Southerly extension thereof, South 01 degrees 55 minutes 25 seconds East a distance of 534.97 feet to the Northeast corner of Lot 1, EXECUTIVE PLAZA SECOND PLAT, a subdivision in the City of Olathe, thence along the North line of said Lot 1 and the Westerly extension thereof, South 88 degrees 26 minutes 59 seconds West a distance of 295.35 feet to a point on the West line of said Tract 'A', EXECUTIVE PLAZA FIRST PLAT; thence along the West line of said Tract 'A', North 02 degrees 10 minutes 46 seconds West a distance of 395.64 feet to the Point of Beginning and containing 3.979 acres or more or less.

**EXECUTION:**

IN TESTIMONY WHEREOF, George G. Gilchrist, Owner of PFLUMM 151, L.L.C., has caused this instrument to be executed, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PFLUMM 151, L.L.C.

By: George G. Gilchrist, Owner

**ACKNOWLEDGMENT:**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State came George G. Gilchrist, Owner of PFLUMM 151, L.L.C., a Limited Liability Company, organized under the laws of the State of Kansas, with its principal place of business in the County of Johnson, State of Kansas, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said company, and such person duly acknowledged the execution of same to be the act and deed of said company.

Notary Public

My Commission Expires \_\_\_\_\_

**DEDICATIONS:**

The undersigned proprietor of the described tract of land has caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision shall hereafter be known as "EXECUTIVE PLAZA, THIRD PLAT".

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, electrical, sewer pipes, poles, wires, drainage facilities, ducts and cables, and similar utility facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "UE", is hereby granted to the City of Olathe, Kansas, and other governmental entities as may be authorized by state law to use such easement for said purposes.

The undersigned proprietor of said property shown on this plat hereby certifies that all prior existing easement rights on land to be dedicated for public use and public ways and thoroughfares running to any person, utility or corporation have been absolved except that same person, utility or corporation shall retain whatever easement rights they would have as if located in a public street.

A perpetual easement of access over, under, across and upon the areas designated as "Access Easement" or "AE" is hereby reserved to all owners and occupants of property, their guests and invitees, subject to the provisions of the Declarations.

Tract 'A' is hereby dedicated as a "Utility Easement" and "Access Easement".

Based on fieldwork and final engineering design, the exact location of easements are subject to change prior to the plat recording.

**LEGEND:**

- FOUND 1/2" REBAR WITH KSL5 54 CAP UNLESS OTHERWISE NOTED
- FOUND MONUMENT AS NOTED
- SET 1/2" REBAR W/LS-54 CAP UNLESS OTHERWISE NOTED
- EXISTING LOT AND PROPERTY LINES
- EXISTING PLAT AND RAW LINES
- AE - ACCESS EASEMENT
- BL - BUILDING LINE
- DE - DRAINAGE EASEMENT
- R/W - RIGHT-OF-WAY
- S/E - SANITARY SEWER EASEMENT
- UE - UTILITY EASEMENT

**AREA**

LOT 1	14,9540.04 (SF), 3.4330 ACRES
TRACT 'A'	10,699.92 (SF), 0.2446 ACRES
Remainder of TRACT 'B'	95,102.13 (SF), 2.1832 ACRES

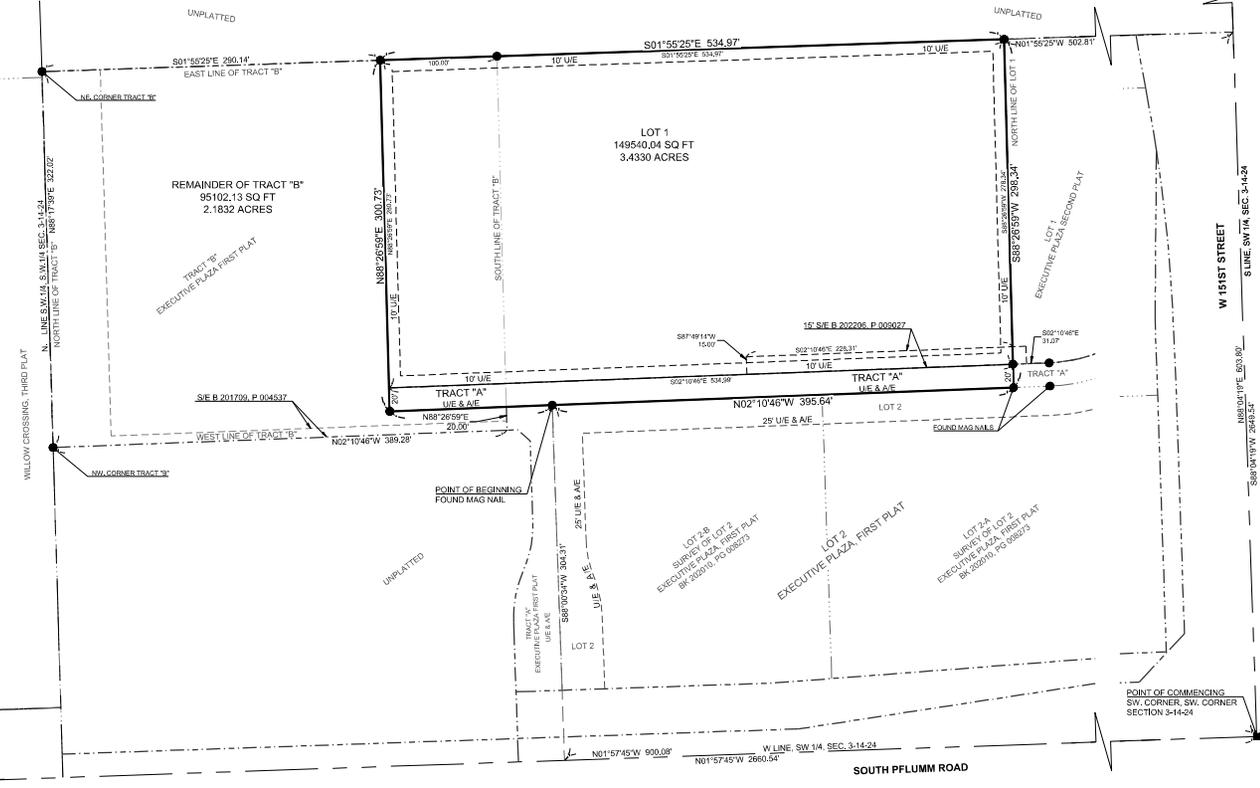
**SURVEYORS NOTES:**

- Basis of bearings is the Final Plat of EXECUTIVE PLAZA, FIRST PLAT, Recorded in book 201709 at page 004537, Johnson County, Kansas.
- FLOOD NOTE: This Property lies within Zone X, defined as areas determined to be outside the 0.2% annual chance floodplain as shown on the Flood Insurance Rate Map 20091000966, panel 98 of 161, Prepared by the Federal Emergency Management Agency, revised August 3, 2009. Property information shown herein (recorded descriptions, easements, etc.) was provided by First American Title Company, Commitment No. NCS-1191924-KCTY, Dated October 27, 2022.

I HEREBY CERTIFY THIS PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION BASED ON A FIELD SURVEY PERFORMED IN MARCH, 2024. THE DETAILS SHOWN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.



Aaron T. Reuter - Land Surveyor  
KSP 15-1429



**RESTRICTIONS:**

All landscaping and related materials that are planted or constructed within the adjacent Street right-of-way shall be maintained by the Property Owners and the Developer, or their authorized representatives thereof.

"EXECUTIVE PLAZA, THIRD PLAT" is located in close proximity of the Johnson County Executive Airport. Aircraft, including business jets, operating from the airport, should be expected to overfly, be visible from, and be heard from the property on a regular basis. Certain restrictions have been placed on the development and the use of property within the Airport Interest Area of the Airport Overlay District area, which are in addition to the restrictions, contained in the other requirements of the regulations. All development on this property shall comply with the requirements of the Airport Commission and the FAA. The FAA must review and approve all structures to be erected on the property.

Tract 'A' will be owned and maintained by the Property Owners and their successors and assignee, and is subject to the covenants and restrictions and is reserved to be replatted in the future when the area to the North and/or East of this property is developed.

The use of all Lots and Tracts of land in this subdivision shall hereafter be subject to the covenants and restrictions which are to be recorded in the Office of the Register of Deeds of Johnson County, Kansas, as provided above, and which shall hereby become a part of the dedication of this plat as though set forth herein.

The use of all lots, units and properties in this subdivision shall hereafter be subject to the Declarations, including any cross parking and cross access easements contained therein, which instruments are to be recorded in the Office of the Register of Deeds of Johnson County, Kansas, as provided above, and which shall hereby become a part of the dedication of this plat as though set forth herein.

**CONSENT TO LEVY:**

The undersigned proprietor of the above described tract of land hereby agrees and consents that the Board of County Commissioners of Johnson County, Kansas, and the City of Olathe, Johnson County, Kansas, shall have the power to release such land proposed to be dedicated for public ways and thoroughfares, or parts thereof, for public use, from the lien and effect of any special assessments, and that the amount of unpaid special assessments on such land so dedicated, shall become and remain a lien on the remainder of this land fronting or abutting on said dedicated public way or thoroughfare.

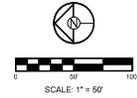
**APPROVALS:**

APPROVED BY the Planning Commission of the City of Olathe, Johnson County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Wayne Jenner, Chairman

APPROVED BY the Governing Body of the City of Olathe, Johnson County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

John Bacon, Mayor  
Brenda Swearingin, City Clerk



**BASIS OF BEARINGS:**

NAD 83, KANSAS, NORTH ZONE  
WEST LINE, SW 1/4, SEC. 3-14-24  
BEARINGS N 01° 57' 45" W

**SCHLAGEL**  
ENGINEERS PLANNERS SURVEYORS LANDSCAPE ARCHITECTS

11400 West 107th Street • Lenexa, Kansas 66215  
Ph: (913) 692-1154 • Fax: (913) 692-4600 • WWW.SCHLAGELARCHITECTS.COM  
Kansas State Certificate of Authority #C209 #1402 #LS-654

DATE	4-11-2024	FINAL PLAT OF EXECUTIVE PLAZA THIRD PLAT
DRAWN BY	AR	
CHECKED BY	SCH	
PROJ. NO.	23-182	SHEET NO. 1

REV: 5-3-2024, CITY STAFF COMMENTS



## MINUTES

### Planning Commission Meeting: June 10, 2024

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<b>Application:</b>	<b><u>FP24-0015:</u></b> Request for approval of a final plat for Executive Plaza, Third Plat, containing one (1) lot and one (1) tract on approximately 3.68 acres, located northeast of W. 151st Street and S. Pflumm Road.
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A motion to approve FP24-0015 was made by **Commissioner Creighton** and seconded by **Commissioner Chapman**. The motion passed with a vote of 8 to 0 with no stipulations.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy, Community Development

**STAFF CONTACT:** Andrea Fair, Planner II

**SUBJECT:** FP24-0017: Final Plat for Asbury Centre, Third Plat; Applicant: Haidan O'Keefe, Olsson

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**TITLE:**

Request for the acceptance of the dedication of land for public easements for a final plat of Asbury Centre, Third Plat (FP24-0017), containing two (2) lots and one (1) tract on approximately 3.75 acres, located southwest of W. 158th Street and S. Hunter Street. Planning Commission approved the plat 8 to 0.

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**SUMMARY:**

This is a request to accept the dedication of land for public easements for the final plat of Asbury Centre, Third Plat. The final plat reestablishes lot lines for two (2) lots and one (1) tract to accommodate future development of the existing commercial center located at the southwest corner of W. 158<sup>th</sup> Street and S. Hunter Street. An associated rezoning and preliminary site development plan (RZ24-0007) was recently approved in June 2024. Lot 1A is proposed for the construction of a 13,545 square foot building for Primrose School. A future phase for Lot 2A includes a conceptual 10,800 square foot general commercial building.

This plat will dedicate new 40-foot Access (A/E) Easement as a shared driveway to both lots.

The plat is not subject to excise taxes as it is a replat of previously platted property.

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**FINANCIAL IMPACT:**

None

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**ACTION NEEDED:**

1. Accept the dedication of land for public easements for the final plat of Asbury Centre, Third Plat (FP24-0017) (majority vote of the Councilmembers present required).
  2. Reject the dedication of land for public easements and return the plat to the Planning Commission for further consideration with a statement specifying the basis for the Governing Body's failure to accept the dedication (majority vote of the Councilmembers present required).
- 

**ATTACHMENT(S):**

- A. Planning Commission Packet
  - B. Planning Commission Minutes
-



## STAFF REPORT

Planning Commission Meeting: June 10, 2024

<b>Application:</b>	<b>FP24-0017: Final Plat of Asbury Centre, Third Plat</b>
<b>Location:</b>	Southwest of W. 158 <sup>th</sup> Street and S. Hunter Street
<b>Owner:</b>	Timothy Anschutz, Spark Properties Group, LLC
<b>Engineer/Applicant:</b>	Luke Moore; Olsson
<b>Staff Contact:</b>	Andrea Fair, AICP, Planner II

<b>Site Area:</b>	<u>3.75 ± acres</u>	<b>Proposed Use:</b>	<u>Day Care/Neighborhood Commercial</u>
<b>Lots:</b>	<u>2</u>	<b>Existing Zoning:</b>	<u>C-1 (Neighborhood Center)</u>
<b>Tracts:</b>	<u>1</u>	<b>Plat:</b>	<u>Asbury Centre</u>

### 1. Introduction

The following application is for the final plat of Asbury Centre, Third Plat, which will establish lot lines and dedicate public easements for two (2) lots and one (1) tract to accommodate future development of the existing commercial center located at the southwest corner of W. 158<sup>th</sup> Street and S. Hunter Street.

The property was rezoned to the C-1 (Neighborhood Center) District (RZ24-0007) on June 4, 2024, and the final plat is consistent with the approved preliminary site development plan and preliminary plat associated with this rezoning. Lot 1A is proposed for the construction of a 13,545 square foot building for Primrose School, as permitted in the C-1 (District. A future phase for Lot 2A includes a conceptual 10,800 square foot general commercial building, and revised preliminary development plans are required for this lot prior to development.

### 2. Plat Review

- a. **Lots/Tracts** – The replat will reestablish lot lines for two (2) lots and one (1) tract for the development of a day care and future commercial building.
- b. **Streets/Right-of-Way** – Site access to Lots 1A and 2A is provided from S. Hunter Street and limits of no access are established along the western and northern plat boundaries (Brentwood Street and 158<sup>th</sup> Street respectively). A 40-foot Access (A/E) Easement is being dedicated in the southeast corner of Lot 2A as a shared driveway to both lots.
- A. **Public Utilities** – The property is in City of Olathe sewer and WaterOne service areas. Existing sanitary sewer and water mains are in the northeast corner of the site. All other

easements are previously platted, and no new Utility (U/E) Easements are being dedicated with this plat.

- c. **Stormwater/Detention** – The proposed development will be served by one (1) on-site bioretention area located within Lot 1A, which is being dedicated as Tract C and which will be owned and maintained by the owners of Lot 1A. The site will comply with Title 17 requirements for stormwater detention and water quality.



*Aerial view of subject property outline in yellow.*

### 3. Staff Recommendation

- A. Staff recommends approval of FP24-0017, the final plat of Asbury Centre, Third Plat with no stipulations.





## MINUTES

### Planning Commission Meeting: June 10, 2024

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<b>Application:</b>	<b><u>FP24-0017:</u></b> Request for approval of a final plat for Asbury Centre, Third Plat, containing two (2) lots and one (1) tract on approximately 3.75 acres, located southwest of W. 158th Street and S. Hunter Street.
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A motion to approve FP24-0017 was made by **Commissioner Creighton** and seconded by **Commissioner Chapman**. The motion passed with a vote of 8 to 0 with no stipulations.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Infrastructure (Engineering)  
**STAFF CONTACT:** Mary Jaeger / Nate Baldwin  
**SUBJECT:** Consideration of Consent Calendar

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**TITLE:**  
Consideration of Consent Calendar.

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**SUMMARY:**  
Consent Calendar consists of Project Completion Certificates, Change Orders, and Final Pay Estimates for Infrastructure (Engineering) projects.

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**FINANCIAL IMPACT:**  
N/A

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**ACTION NEEDED:**  
Approve Consent Calendar for June 18, 2024.

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**ATTACHMENT(S):**  
A. Consent Calendar  
B. Change Orders

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**ISSUE:** Consent Calendar for: June 18, 2024

**FOCUS AREA:** Infrastructure (Engineering)

**SUMMARY:**

**1) PROJECT COMPLETION CERTIFICATES**

- a) Sunnybrook Business Park – 3-D-096-22 – Storm Sewers
- b) Black Bob Road Arterial Mill and Over – 3-P-001-23 – Storm Sewers, Street, Street Lights

**2) CHANGE ORDERS**

- a) Black Bob Road Arterial Mill and Over – 3-P-001-23

**3) FINAL PAYMENT TO CONTRACTORS**

- a) Black Bob Road Arterial Mill and Over – 3-P-001-23

Final Payment	\$	180,988.89
Paid to Date	\$	4,068,115.07
Original Contract Amount	\$	4,283,938.76
Total Change Orders	\$	(34,834.80)
Change Order 1: \$ 0.00 (7/12/2023)		
Change Order 2: \$ 0.00 (8/10/2023)		
Change Order 3: \$ 18,381.50 (9/6/2023)		
Change Order 4: \$ 41,957.75 (9/6/2023)		
Change Order 5: \$ 22,761.25 (10/15/2023)		
Change Order 6: \$ 40,049.86 (10/27/2023)		
Change Order 7: -\$ 7.50 (11/29/2023)		
Change Order 8: -\$ 90.50 (3/4/2024)		
Change Order 9 FINAL: -\$157,886.16 (6/18/2024)		

Final Contract Amount	\$	4,249,103.96
Contractor – Freeman Concrete Construction, LLC		

Submitted by: Mary Jaeger, Director / Nate Baldwin, City Engineer



CHANGE ORDER NO: 9 - FINAL  
 CITY PROJECT NO. 3-P-001-23  
 CONTRACT DATE: March 21, 2023  
 CONTRACTOR: Freeman Concrete Construction LLC  
 ENGINEER: Olsson, Inc.

PROJECT NAME: Black Bob Road Arterial Mill and Overlay  
 ENCUMBRANCE NO. 701549/SCON-100229

ITEM#	DESCRIPTION	Original QTY	REVISED QTY	UNIT	ORIGINAL UNIT		REVISED UNIT		TOTAL
					PRICE	PRICE	PRICE	PRICE	
4*****	Remove Existing Type "B" Concrete Curb & Gutter	7,729	8,311	LF	\$15.57	N/A			\$9,061.74
5*****	Remove Existing Type "C" Concrete Curb & Gutter	130	176	LF	\$15.57	N/A			\$716.22
7*****	Remove Existing Type "E" Concrete Curb & Gutter	6,629	6,227	LF	\$15.57	N/A			(\$6,259.14)
9*****	Remove Existing Concrete Pavement	155	200	SY	\$48.90	N/A			\$2,200.50
10*****	Remove Existing 4' Concrete Sidewalk	49	76	LF	\$15.56	N/A			\$420.12
11*****	Remove Existing 5' Concrete Sidewalk	463	907	LF	\$15.57	N/A			\$6,913.08
12*****	Remove Existing 8' Shared Use Path	1,513	1,524	LF	\$15.57	N/A			\$171.27
13*****	Remove Type I Sidewalk Ramp	15	14	EA	\$517.50	N/A			(\$517.50)
15*****	Remove Existing Concrete Median Nose	6	7	EA	\$862.50	N/A			\$862.50
20*****	2" Milling	76,231	73,946	SY	\$1.85	N/A			(\$4,227.25)
21*****	4" Depth Base Repair	4,983	2,368	SY	\$52.50	N/A			(\$137,287.50)
22*****	6" Depth Crack Repair	1,704	1,306	SY	\$110.00	N/A			(\$43,780.00)
23*****	Install 2" Asphaltic Concrete Surface (Modified Superpave)	8,778	8,393.81	Tons	\$92.00	N/A			(\$35,345.48)
26*****	Install Concrete Street Patch (KCMMB 4K)	155	260	SY	\$73.60	N/A			\$7,728.00
30*****	Install Type "B" Concrete Curb & Gutter	8,380	8,687	LF	\$21.16	N/A			\$6,496.12
31*****	Install Type "C" Concrete Curb & Gutter	130	176	LF	\$34.69	N/A			\$1,595.74
32*****	Install Type "E" Concrete Curb & Gutter	6,630	6,227	LF	\$21.00	N/A			(\$8,463.00)
34*****	Install Concrete Median Nose	6	7	EA	\$1,667.50	N/A			\$1,667.50
36*****	Install Brick Median Pavers	1,803	1,807	SY	\$158.48	N/A			\$633.92
37*****	install 4' Concrete Sidewalk	40	76	LF	\$39.33	N/A			\$1,415.88
38*****	Install 5' Concrete Sidewalk	495	907	LF	\$46.51	N/A			\$19,162.12
39*****	Install 8' Concrete Shared Use Path	1,224	1,524	LF	\$32.96	N/A			\$9,888.00
44*****	Sodding	1,613	3,006	SY	\$7.50	N/A			\$10,447.50
47*****	Remove Existing Curb Inlet Top	3	2	EA	\$1,667.50	N/A			(\$1,667.50)
48*****	Install Curb Inlet Top	3	2	EA	\$2,012.50	N/A			(\$2,012.50)
63*****	Pavement Marking 4" Solid Yellow Line (HPS 8 270 IES)	1,215	1,020	LF	\$2.00	N/A			(\$390.00)
64*****	Pavement Marking 6" White Lane Line (HPS 8 270 IES)	8,460	8,305	LF	\$2.25	N/A			(\$348.75)
65*****	Pavement Marking 6" Broken White Lane Line (HPS 8 270 IES)	4,700	4,425	LF	\$2.25	N/A			(\$618.75)
67*****	Pavement Marking 6" Dotted White Extension Line (HPS 8 270 IES)	320	120	LF	\$2.25	N/A			(\$450.00)
96*****	Remove 7" Dirt and Replace with 7" Concrete	0	1	LS	N/A	\$1,600.00			\$1,600.00
97*****	Remove and Replace Ramp	0	1	LS	N/A	\$2,500.00			\$2,500.00

DOCUMENTS SUPPORTING THIS CHANGE ORDER ARE TO BE ATTACHED

The Original Contract Sum	\$4,283,938.76
Net change by Previous Change Orders	\$123,052.36
The Contract Sum Prior to This Change Order Was	\$4,406,991.12
The Contract Sum Shall be <del>(Unchanged)</del> <del>(Increased)</del> <b>Decreased</b> by This Change Order.....	(\$157,887.16)
The New Contract Sum With All Approved Change Orders Will Be.....	\$4,249,103.96
Original Contract Time.....	N/A days
The Contract time Will Be <b>(Unchanged)</b> By.....	N/A days
The Contract Time With All Approved Change Orders is.....	N/A days
The Day of Substantial Completion as of the Date of This Change Order Therefore is.....	N/A

RECOMMENDED  
 City of Olathe Public Works  
 Project Manager Leslie Donnelly

APPROVED  
 Freeman Concrete Construction LLC  
 Contractor

By: Leslie E Donnelly  
 Date: 06/11/2024

By: [Signature]  
 Date: 6.11.24

APPROVED  
 CITY OF OLATHE, CITY ENGINEER  
 By: Nate Baldwin  
 Date: 6/11/2024  
 Nate Baldwin

By: \_\_\_\_\_  
 City Clerk

AGREEMENT TO THIS \_\_\_\_\_ day of \_\_\_\_\_ 2024



# City of Olathe

## COUNCIL AGENDA ITEM

**MEETING DATE:** 6/18/2024

**FOCUS AREA:** Infrastructure (Engineering)

**STAFF CONTACT:** Mary Jaeger / Nate Baldwin

**SUBJECT:** Agreement with Johnson County for construction of the Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project, PN 2-C-016-22.

**TITLE:**

Consideration of an Agreement with Johnson County for construction of the Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project, PN 2-C-016-22.

**SUMMARY:**

This project will address street and structure flooding caused by Indian Creek along Lindenwood Drive, in the vicinity of Jamestown Drive to Arrowhead Drive. Flooding at Pawnee Drive, which currently serves as an access point to Heritage Elementary School, is within the project area and will also be addressed.

The project will include culvert replacement with a bridge, channel improvements, storm sewer improvements, and street reconstruction with raised elevations. The project will reduce the risk of flooding for five (5) homes identified within the 100-year FEMA floodplain and minimize overtopping of Lindenwood Drive, Pawnee Drive, Mohawk Drive, Cherokee Lane, Jamestown Drive and three cul-de-sacs along Lindenwood Drive. No home buyouts are included with this project.

This project was chosen to be funded by Johnson County’s Stormwater Management Advisory Council (SMAC) program in the amount of \$2,307,500 (50% of a maximum \$4,615,000) for the design and construction of the project. On April 2, 2024, the City approved a construction agreement with Pyramid Contractors, Inc., for construction of this project. In order for the City to accept County funding for construction, the City must approve this construction agreement with the Johnson County SMAC program. The County has agreed to include additional funds in the construction agreement, raising reimbursable levels to \$2,538,250 (50% of a maximum \$5,076,500), as construction costs have increased since the project was funded.

Construction of this project started in May 2024, with construction completion anticipated for Spring 2025.

**FINANCIAL IMPACT:**

Funding for the Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project, as approved in the 2024-2028 Capital Improvement Plan, includes:

Revenue Bonds	\$3,470,000
Olathe Stormwater Fund	\$1,172,500
<u>Johnson County SMAC Program</u>	<u>\$2,307,500</u>

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**MEETING DATE: 6/18/2024**

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**Total**

**\$6,950,000**

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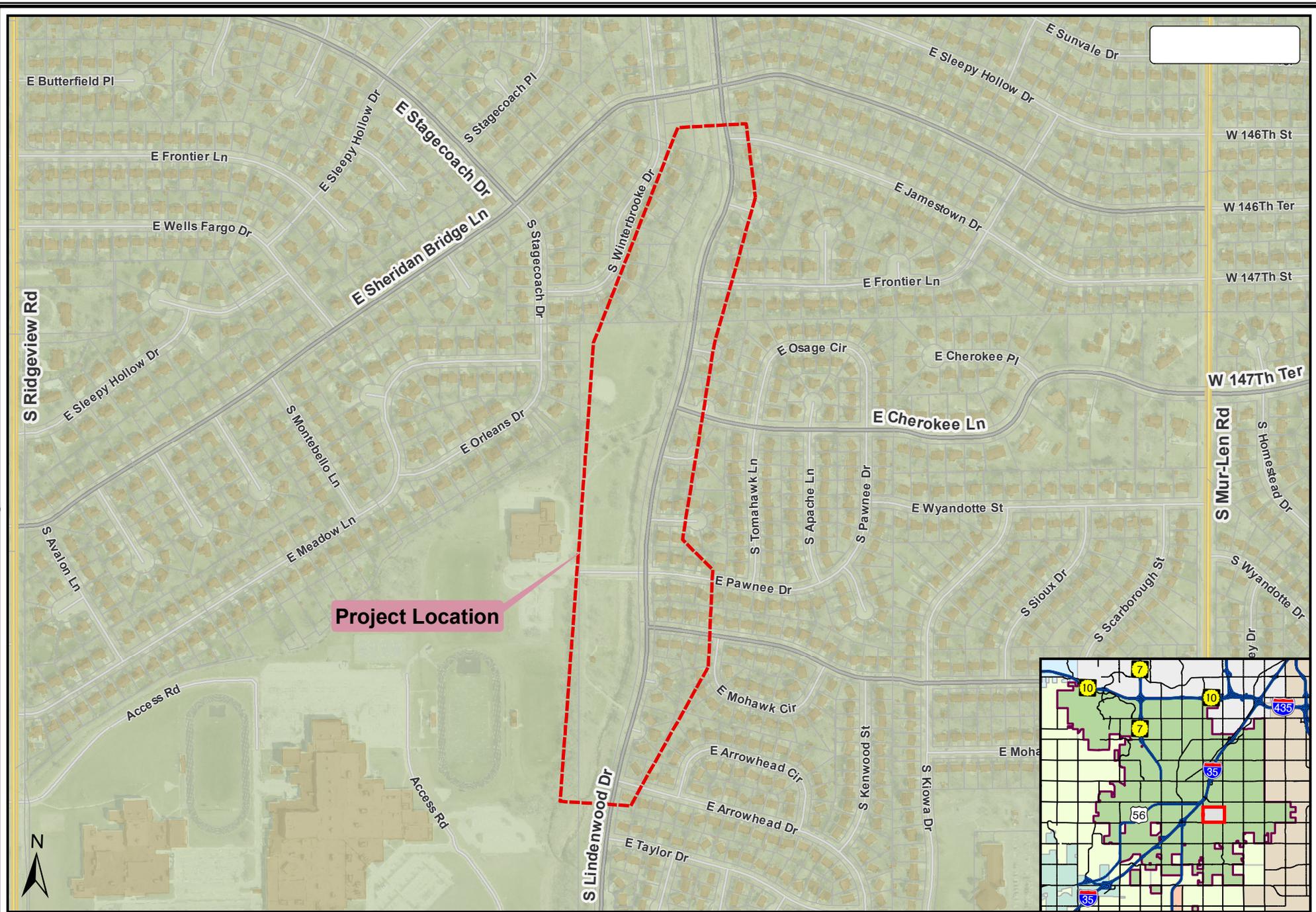
**ACTION NEEDED:**

Approval of an Agreement with Johnson County for construction of the Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project, PN 2-C-016-22.

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**ATTACHMENT(S):**

- A. Project Location Map
- B. Project Fact Sheet
- C. Agreement

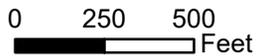


**Project Location**

**Indian Creek - Lindenwood, Jamestown to Arrowhead, Stormwater Improvement Project**

**PN 2-C-016-22**

**Project Location Map**





**Project Fact Sheet**  
**Indian Creek – Lindenwood,**  
**Jamestown to Arrowhead,**  
**Stormwater Improvement Project**  
**2-C-016-22**  
**June 18, 2024**

**Project Manager:** Nate Baldwin / Neil Meredith

**Description:** The project will include culvert replacement with a bridge, channel improvements, storm sewer improvements, and street reconstruction with raised elevations. The project will reduce the risk of flooding for five (5) homes identified within the 100-year FEMA floodplain and minimize overtopping of Lindenwood Drive, Pawnee Drive, Mohawk Drive, Cherokee Lane, Jamestown Drive and three cul-de-sacs along Lindenwood Drive.

**Justification:** This project will address street and structure flooding caused by Indian Creek along Lindenwood Drive, in the vicinity of Jamestown Drive to Arrowhead Drive. Flooding at Pawnee Drive, which currently serves as the singular access point to Heritage Elementary School, is within the project area and will also be addressed.

**Comments:** This project has received Johnson County SMAC Program funds which will provide for 50% of design and construction up to a maximum of \$2,538,250, which was increased with the latest agreement up from \$2,307,500.

<b>Schedule:</b>	<b>Item</b>	<b>Date</b>
Design:	RFQ	10/08/2021
	Consultant Selection	01/18/2022
Land Acquisition		Fall 2023 – Ongoing
Utility Relocation		Fall 2023 – Ongoing
Construction:	Bid Award	Spring 2024 – Estimate
	Completion	Spring 2025 – Estimate
<b>Council Actions:</b>	<b>Date</b>	<b>Amount</b>
Approved in CIP	2022-2026	\$6,210,000
Project Authorization (Revenue Bond)	01/04/2022	N/A
Professional Services Agreement	01/18/2022	\$700,560
SMAC Agreement (Design)	03/01/2022	\$350,280
Atmos Energy Corporation	10/17/2023	\$112,021.60
Approved in CIP	2024-2028	\$6,950,000
Accept Bid/Award Contract	04/02/2024	\$5,614,252.65
SMAC Agreement (Construction)	06/18/2024	\$5,076,500
<b>Funding Sources:</b>	<b>Amount</b>	<b>CIP Year</b>
Revenue Bonds	\$3,470,000	2022, 2023, and 2024
Stormwater Funds	\$1,172,500	2022, 2023, and 2024
SMAC Funds	\$2,307,500	2022, 2023, and 2024
<b>Expenditures:</b>	<b>Budget</b>	<b>Amount to Date</b>
Design	\$ 750,000	\$ 605,000

Land Acquisition	\$ 120,000	\$ 115,000
Utilities	\$ 90,000	\$ 89,500
Construction	\$5,665,000	\$ 231,500
Staff Time	\$ 120,000	\$ 75,500
Inspection	\$ 45,000	\$ 0
<u>Contingency</u>	<u>\$ 160,000</u>	<u>\$ 0</u>
<b>Total</b>	<b>\$6,950,000</b>	<b>\$1,116,500</b>

**Agreement between  
Johnson County and the City of Olathe  
For Construction of a Stormwater Management Project known as  
Lindenwood Stormwater Improvements  
IC-09-056**

This agreement is entered into by and between the Board of County Commissioners of Johnson County, Kansas (the "County") and the City of Olathe (the "City") pursuant to K.S.A. 12-2908.

**Recitals**

1. Pursuant to K.S.A. 19-3311, by Resolution No. 38-90, the County has established a county-wide retailer's sales tax for the purpose of providing funds for stormwater management projects, and by Resolution No. 76-90, created a Stormwater Management Advisory Council to identify and recommend projects for inclusion in the Stormwater Management Program.
2. The County has established a Stormwater Management and Flood Control Fund for the purpose of funding Stormwater Management Program projects.
3. The County, by Resolution No. 66-92, as modified by Resolution No. 034-94, adopted the Johnson County Stormwater Management Policy and the Administrative Procedures for the Johnson County Stormwater Management Program ("Policy and Procedures") to promote interlocal cooperation between the County and the participating municipalities in stormwater management activities.
4. The County has established a Five-Year Preliminary Plan consisting of a list of proposed stormwater management projects that meet the established criteria for funding from the Stormwater Management and Flood Control Fund. The County, upon the recommendation of the Stormwater Management Advisory Council, has selected certain projects from the Five-Year Preliminary Plan to be included in the County's Project Priority List which contemplates the timely design and construction of those selected projects.
5. In accordance with the Policy and Procedures, the City has requested that the County participate in the funding for the construction of the stormwater management project identified as Lindenwood Stormwater Improvements (the "Project"), which Project is on the County's Project Priority List, and the County is willing to provide such funding upon the terms and conditions set forth in this agreement

## Agreement

In and for the consideration of the mutual covenants contained in this agreement and the mutual benefits to be derived from the Project, the City and the County agree as follows:

1. **Policy and Procedures.** The City acknowledges receipt of the Policy and Procedures. The City and County agree that the Project shall be undertaken, constructed, and administered in accordance with the terms and provisions of the Policy and Procedures provided, however, in the event a conflict exists between any provision of the Policy and Procedures and any provision of this agreement, the terms and conditions of this agreement shall control.
  
2. **Estimated Project Cost.** The parties acknowledge and agree that this agreement obligates the parties to proceed with the construction phase of the Project. For budget and accounting purposes, the total project cost including the design engineering, estimated construction engineering and construction costs of the construction phase of the Project is Five Million Seventy Six Thousand Five Hundred Dollars (\$5,076,500) based upon engineering and design assumptions which the construction contract bid prices and construction inspection contract prices may or may not confirm.
  
3. **Option to Terminate.** Upon receiving construction bids for the Project, the City shall determine the total engineering and construction costs for the construction phase of the Project based upon contract bid amounts. Within seven days of the construction contract bid date, the City shall notify the County, in writing, of the total engineering and construction costs for the construction phase of the Project. In the event total estimated construction engineering and construction costs for the construction phase of the Project exceed the Stormwater Management Program's estimated construction phase cost of the Project, the City and the County each shall have the option of terminating this agreement as set forth in this Paragraph.

The City agrees to notify the County whether it desires to terminate this agreement within thirty days following the bid date of the contract. Within thirty days after the City gives its notice of intent to terminate this agreement to the County, the County may, at its option, elect to contribute additional funds to the Project in an amount sufficient to cover any and all additional expenditures over and above the design and estimated construction cost of Five Million Seventy Six Thousand Five Hundred Dollars (\$5,076,500) in which event this agreement shall not terminate but shall continue in full force and effect except that the County's obligation for Project costs shall be increased accordingly.

Should the total engineering and construction costs for the construction phase of the Project exceed the amount of this agreement, the County agrees to either:

- a. Notify the City of the County's intent to terminate this agreement and re-prioritize the Project within thirty days of the receipt of the notification of total engineering and construction costs for the construction phase of the Project, or;
- b. Authorize the City to proceed with the construction of the Project.

Within thirty days after the County gives its notice of intent to terminate this agreement to the City, the City may, at its option, elect to contribute additional funds to the Project in an amount sufficient to cover any and all additional expenditures over and above the amount of this agreement in which event this agreement shall not terminate but shall continue in full force and effect except that the City's obligation for the Project costs shall be increased accordingly.

Within sixty days from the date of the termination of this agreement as provided in this Paragraph, the City shall provide the County with a final accounting of Project costs and the County's share of such costs whereupon the County shall reimburse the City subject to the limitations set forth in the Policy and Procedures and in this agreement.

Upon the termination of this agreement as provided in this Paragraph, the Project shall be re-prioritized according to the Policy and Procedures.

4. **Project Construction.** The City agrees to select a responsible and qualified contractor or contractors to undertake and complete the construction of the Project according to the Final Plans and Specifications ("Project Contractor"). The parties agree that it shall be the City's obligation to comply with and, to extent reasonably practical, to require the Project Contractor comply with, all applicable laws and regulations governing public contracts, including all applicable non-discrimination laws and regulations.
5. **Administration of Project.** It is acknowledged and agreed that the City shall enter into all contracts relating to the Project in its own name and not as the agent of the County. The City agrees to be solely responsible for the administration of all construction and other contracts for the Project. Any contract disputes shall be resolved by the City at the City's sole cost and expense.

The City shall be responsible for requiring adequate performance and payment bonds for the Project from the Project Contractor. The City shall discharge and satisfy any mechanic's or materialman's lien that encumbers the Project and the costs thereof shall not be considered a reimbursable cost under this agreement. Notwithstanding the foregoing,

costs and expenses, including reasonable attorneys' fees, incurred by the City to enforce a contract of indemnity under a performance or payment bond shall be reimbursable, subject to any limitations on reimbursement set forth in the Policy and Procedures or this agreement.

The City shall require adequate indemnity covenants and evidence of insurance from contractors and engineering service providers for loss or damage to life or property arising out of the contractor's or engineering service provider's negligent acts or omissions. The required insurance coverage and limits shall be established by the City but shall not, in any event, be less than \$2,000,000 on a per occurrence basis for general liability coverage for the general contractor and \$1,000,000 professional liability coverage for engineering service providers. The City may, in the exercise of its reasonable judgment, permit any insurance policy required by this agreement to contain a reasonable and customary deductible or co-insurance provision.

The City shall submit to the Finance Director, upon execution of this agreement, a monthly projection of cash flow expenditures for the Project, in substantially the form set out in Exhibit B attached hereto.

6. **County Contribution Toward Project Costs.** The County shall reimburse the City from the Stormwater Management and Flood Control Fund for expenditures made by the City for the Project as follows:

Not more than once each calendar month, the City shall submit to the County a request for payment, invoice, or statement satisfactory in form and content to the County Stormwater Engineer detailing total Project costs and expenses, in line-item detail, for the preceding calendar month ("Payment Request") and for year-to-date.

The City's Payment Request shall list, by category, those particular expenditures that are reimbursable according to the Policy and Procedures. The City represents and warrants that each Payment Request shall seek reimbursement for only those expenditures that the City determines, in good faith, to be reimbursable by the County. The County Stormwater Engineer may require the City to supplement the Payment Request as needed to satisfy the County Stormwater Engineer, at his discretion, that the Payment Request accurately reflects properly reimbursable costs and expenses.

The County agrees to make payment to the City within thirty days following the County Stormwater Engineer's approval and acceptance of a properly documented Payment Request in an amount equal to fifty percent (50%) of the Payment Request.

Within sixty days from the date of the completion of the Project, the City shall provide the County with a final accounting of Project costs and the County's share of such costs, whereupon the County shall make a final reimbursement to the City as provided in this agreement. For purposes of this agreement, the Project shall be deemed complete on the earliest date upon which any of the following events occur:

- a. The City notifies the County that the Project is complete, subject to usual and customary "punch list" items.
- b. The Project architect or construction engineer issues to the City a certificate of substantial completion for the Project.
- c. The date the County Stormwater Engineer certifies, in good faith, that the Project is substantially complete following an inspection of the Project by the County Stormwater Engineer who shall be accompanied by a City representative.

7. **Limitation of Liability.** The City shall, and hereby agrees to, insert as a special provision of its contract with the Project Contractor chosen to undertake the Project construction as contemplated by this Agreement the following paragraphs:

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

8. ***Only if the City has proposed a Project design that contemplates a deviation from the American Public Works Association (APWA) specifications contained in Section 5600 Storm Drainage Systems and Facilities, shall the following provisions apply:***

- a. The City represents that it has determined that APWA Section 5600 specifications are not feasible, are impractical, or cannot be met without an expenditure of funds that, in the City's opinion, significantly exceeds the anticipated Project benefit.
- b. The City represents that, based upon its own analysis, the APWA Section 5600 specifications are not feasible, are impractical, or cannot be met without an expenditure of funds that significantly exceeds the anticipated Project benefit.
- c. The City acknowledges and agrees that the costs of "flood proofing" any structure within the Project area shall not be a reimbursable expense under the Stormwater Management Program but shall be borne solely by the City. "Flood proofing," for purposes of this section, means any method by which a structure's windows, doors, or other openings are covered or sealed in an effort to prevent flood water entering the structure through such openings.
- d. The City acknowledges that it has, in its sole and absolute discretion, determined to deviate from APWA Section 5600 specifications by approving a Project design that may result in seven inches or more of water flooding over a street or roadway during a 100 year storm event. The City hereby represents that:
- e. The City has concluded that the relevant APWA Section 5600 specifications are not feasible, are impractical, or cannot be met without an expenditure of funds that, in the City's opinion, significantly exceeds the anticipated benefit.
- f. The City agrees to and shall develop an emergency plan to protect life and property at the anticipated flooded crossing point during a 100-year storm or other high-water event.
- g. The City represents that it has endeavored to advise its citizens in and near the Project area of the City's proposed deviation from APWA Section 5600 specifications and its alternative plans to protect life and

property at the flooded crossing point during a 100 year storm or other high-water event.

- h. The City agrees to and shall take appropriate measures to protect the public at low-water crossings, which are allowed to exist as part of the City's Project.
- i. The City acknowledges that it is deviating from the APWA Section 5600 specifications upon its discretion based upon its own investigation, analysis, and risk assessment and without reliance upon SMAC or the Board of County Commissioners, or their respective employees or agents. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act the City expressly agrees to and shall hold SMAC and the Board of County Commissioners, and their respective employees and agents, harmless from any property loss, property damage, personal injury, or death arising out of the construction of the Project.

The City also agrees that notwithstanding any assistance, advice, technical consulting, or engineering services provided by SMAC or the Board of County Commissioners, or the failure to provide any such assistance, advice, technical consulting, or engineering services, the City shall bear the sole and absolute responsibility for the Project's design, construction, maintenance, and repair.

- 9. **Notice Addresses.** Any notice required or permitted by this agreement shall be deemed properly given upon deposit in the U.S. mail, postage prepaid and addressed as follows:

**If to the County:**

Ms. Heather Schmidt  
Stormwater Program Manager  
Johnson County Public Works  
1800 W. Old Highway 56  
Olathe, KS 66061

**If to the City:**

Rob Beilfuss  
Stormwater Manager  
City of Olathe  
1385 S. Robinson  
Olathe, KS 66061

In addition, any notice required or permitted by this agreement may be sent by telecopier or hand delivered and shall be deemed properly given upon actual receipt by the addressee.

10. **Effective Date.** Regardless of the date(s) the parties execute the agreement, the effective date of this agreement shall be \_\_\_\_\_ provided the agreement has been fully executed by both parties.

**Board of County Commissioners of  
Johnson County, Kansas**

**City of Olathe**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
John Bacon, Mayor

Attest:

Attest:

\_\_\_\_\_  
Lynda Sader  
Deputy County Clerk

\_\_\_\_\_  
City Clerk

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Scott Abbott  
Assistant County Counselor

\_\_\_\_\_  
City Attorney



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Infrastructure (Engineering)

**STAFF CONTACT:** Mary Jaeger / Nate Baldwin

**SUBJECT:** Agreement with Johnson County for a Preliminary Project Study for potential water quality improvements as a part of the Cedar Lake Dam Restoration Project, 2-C-021-23.

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**TITLE:**

Consideration of an Agreement with Johnson County for a Preliminary Project Study for the Cedar Lake Dam Restoration Project, 2-C-021-23.

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**SUMMARY:**

State regulations for high hazard dams require regular dam inspections and maintenance for both spillways and dams. The Cedar Lake Dam is classified as a high hazard dam and falls under State Regulation.

To comply with State requirements, the spillway and dam of Cedar Lake must be improved. This project will remove and replace the existing spillway, and the dam embankment will be raised a minimum of three (3') feet to meet current State requirements.

On February 20, 2024, Council approved a Supplemental Agreement with Olsson, Inc. for additional design services. The Supplemental Agreement No. 1 was to provide additional engineering services including bathymetric survey and sediment sample collection. This data was to be used to identify possible water quality improvements and dredging options that may occur with construction of the dam improvements. The City hoped to use the data to be better prepared to apply for additional Johnson County Stormwater Management Advisory Council (SMAC) funds for potential water quality improvements to Cedar Lake.

Staff have since met with Johnson County SMAC and the Cedar Creek Watershed Committee. They have agreed to allow the City to move forward with preparation of a Preliminary Project Study to identify options for water quality improvements to Cedar Lake. In order for the City to accept County funding for the Study, the City must approve this agreement with the Johnson County SMAC program. The County will reimburse the City in the amount of \$57,262.50 (75% of a maximum \$76,350) for this study.

The Cedar Lake Dam Restoration project is currently under design and tentatively scheduled to begin construction in early 2025.

Any potential water quality improvements would depend on the results of the study, and funding availability from both the City and Johnson County SMAC.

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**FINANCIAL IMPACT:**

Funding for the Cedar Lake Dam Restoration Project, as approved in the 2024-2028 Capital

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**MEETING DATE: 6/18/2024**

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Improvement Plan, includes:

Federal HUD	\$ 750,000
Revenue Bonds	\$ 2,144,140
Johnson County SMAC	\$ 1,675,360
<u>Stormwater Fund</u>	<u>\$ 730,500</u>
<b>Total</b>	<b>\$ 5,300,000</b>

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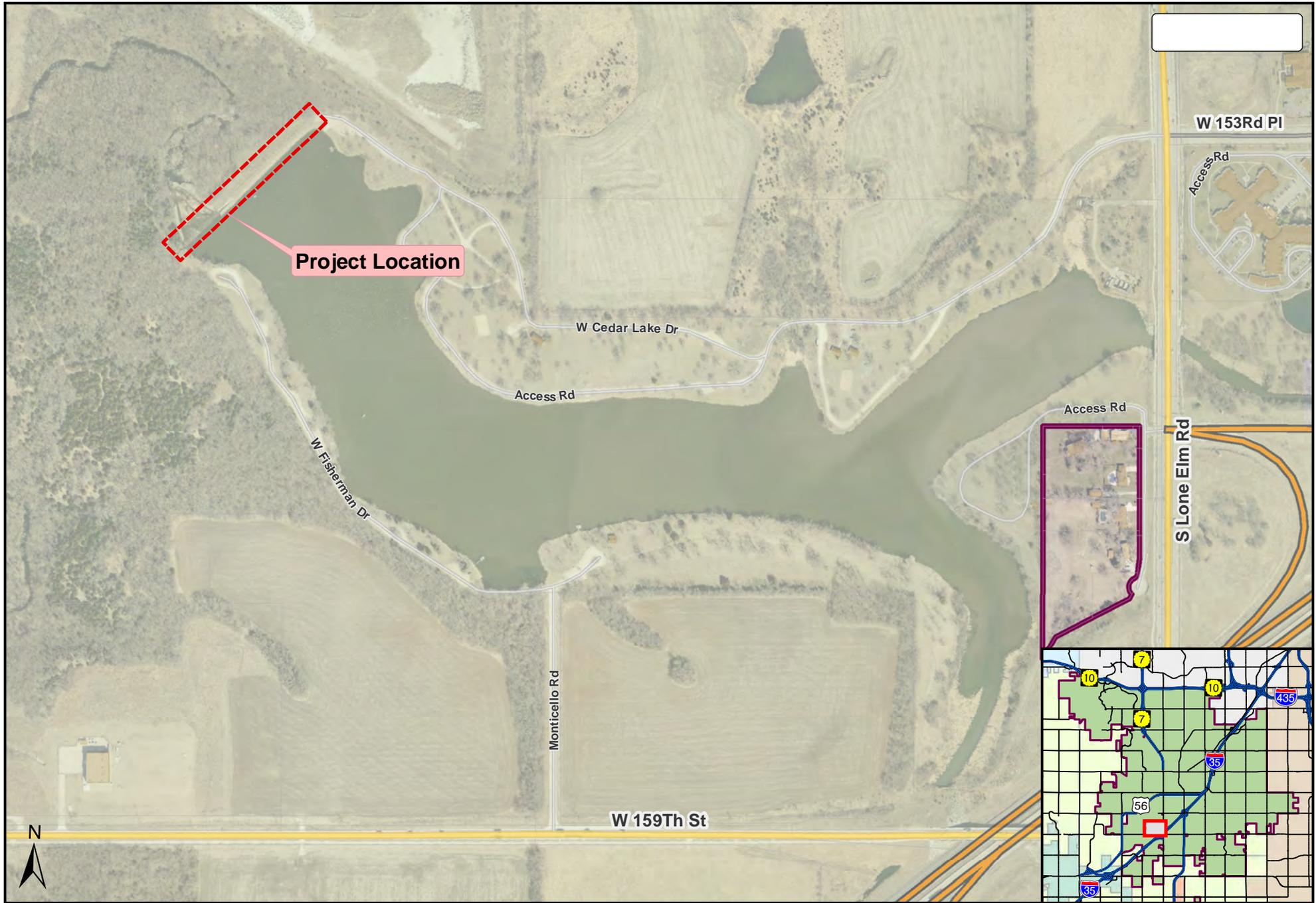
**ACTION NEEDED:**

Approval of an Agreement with Johnson County for a Preliminary Project Study for the Cedar Lake Dam Restoration Project, 2-C-021-23.

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**ATTACHMENT(S):**

- A. Project Location Map
- B. Project Fact Sheet
- C. Agreement



**Cedar Lake Dam Restoration  
PN 2-C-021-23  
Project Location Map**





**Project Fact Sheet**  
**Cedar Lake Dam Restoration**  
**PN 2-C-021-23**  
**June 18, 2024**

**Project Manager:** Nate Baldwin / Neil Meredith

**Description:** Lake improvements will include spillway replacement and dam restoration. The existing spillway will be removed and replaced in place. The dam will be raised three feet to meet current State freeboard requirements.

**Justification:** Lakes and ponds are vital part of the City's stormwater infrastructure. Failure to maintain related infrastructure could result in dam failure and downstream flooding. Additionally, Olathe's high hazard dams are regulated by the Kansas Division of Water Resources. State regulations for high hazard dams require regular dam inspections and maintenance for spillways and dams. Cedar Lake is classified as a high hazard dam and falls under State regulation. The spillway must be replaced, and the dam embankment raised 3 feet to meet current State requirements.

<b>Schedule:</b>	<b>Item</b>	<b>Date</b>
Design:	Consultant Selection	03/07/2023
Land Acquisition:		Summer 2024 – estimate
Construction:	Bid Award	Winter 2024 – estimate
	Completion	Fall 2025 – estimate
<b>Council Actions:</b>		
	<b>Date</b>	<b>Amount</b>
Approved in CIP	2023-2027	\$ 4,660,000
Professional Services Agreement	03/07/2023	\$ 830,380
Approved in CIP	2024-2028	\$ 5,300,000
Supplemental Agreement #01	02/20/2024	\$ 53,620
PPS Agreement (SMAC)	06/18/2024	\$ 76,350
Land Acquisition		
Accept Bid/Award Contract		
Construction Agreement (SMAC)		
<b>Funding Sources:</b>		
	<b>Amount</b>	<b>CIP Year</b>
Johnson County SMAC	\$ 1,675,360	2025
Federal HUD	\$ 750,000	2023, 2024
Revenue Bonds	\$ 2,144,140	2024, 2025
Stormwater Fund	\$ 730,500	2024, 2025
<b>Expenditures:</b>		
	<b>Budget</b>	<b>Amount to Date</b>
Design	\$ 885,000	\$170,000
Land Acquisition	\$ 50,000	\$ 0
Staff	\$ 100,000	\$ 21,500
Inspection	\$ 50,000	\$ 0
Construction	\$3,915,000	\$ 0
Contingency	\$ 300,000	\$ 0
<b>Total</b>	<b>\$5,300,000</b>	<b>\$191,500</b>

**Agreement between  
Johnson County and the City of Olathe  
For a Preliminary Project Study of a Stormwater Management Project  
known as Water Quality Improvements Study at Cedar Lake  
CC-09-600**

This agreement is entered into by and between the Board of County Commissioners of Johnson County, Kansas (the "County") and the City of Olathe (the "City") pursuant to K.S.A. 12-2908.

**Recitals**

1. Pursuant to K.S.A. 19-3311, by Resolution No. 38-90, the County has established a countywide retailer's sales tax for the purpose of providing funds for stormwater management projects, and by Resolution No 76-90, created a Stormwater Management Advisory Council to identify and recommend projects for inclusion in the Stormwater Management Program.
2. The County has established a Stormwater Management and Flood Control Fund for the purpose of funding Stormwater Management Program projects.
3. The County, by Resolution No. 66-92, as modified by Resolution No 034-94, adopted the Johnson County Stormwater Management Policy and the Administrative Procedures for the Johnson County Stormwater Management Program ("Policy and Procedures") to promote interlocal cooperation between the County and the participating municipalities in stormwater management activities.
4. In accordance with the Policy and Procedures, the City has requested that the County participate in the funding for the preliminary project study ("Preliminary Study") for the stormwater management project identified as Water Quality Improvements Study at Cedar Lake (the "Project"), which meets the minimum requirements, and the County is willing to provide such funding upon the terms and conditions set forth in this agreement.

## **Agreement**

In and for the consideration of the mutual covenants contained in this agreement and the mutual benefits to be derived from the Project, the City and the County agree as follows:

1. **Policy and Procedures.** The City acknowledges receipt of the Policy and Procedures. The City and County agree that the Preliminary Study shall be undertaken in accordance with the terms and provisions of the Policy and Procedures provided, however, in the event a conflict exists between any provision of the Policy and Procedures and any provision of this agreement, the terms and conditions of this agreement shall control.
2. **Preliminary Project Study.** The City shall provide the Stormwater Management Program Manager, or his/her designee (“Manager”) with a Preliminary Study that satisfies the requirements set forth in the Policy and Procedures. The Preliminary Study shall be performed by qualified engineering or science professionals or by qualified City personnel, or both, subject to the provisions of this agreement and the Policy and Procedures. In general, the Preliminary Study shall define the proposed scope of the Project, analyze the impact of the Project on upstream and downstream property, suggest alternative solutions or approaches to stormwater control, and must establish a preliminary estimate for design and construction costs. The costs and expenses incurred by the City in connection with the Preliminary Study shall be reimbursable, subject to the limitations on reimbursement contained in the Policy and Procedures and in this agreement.
3. **Estimated Cost of Preliminary Study.** The parties acknowledge and agree that the City has established an estimated total cost for the Preliminary Study of Seventy Six Thousand Three Hundred Fifty Dollars (\$76,350) based upon City staff's estimates and assumptions.
4. **Notice to Affected Municipalities.** The City shall convene a Watershed Organization meeting as defined in the Policy and Procedures and shall inform members of the nature and scope of the Project. The City shall notify the County of any objection to the Project that is received by the City from a member of the watershed organization. The City agrees that it shall provide the completed Preliminary Study to the Watershed Organization for review and approval prior to submitting the Preliminary Study to the County.
5. **Administration.** It is acknowledged and agreed that the City shall enter into all contracts relating to the Preliminary Study in its own name and not as the agent of the County. The City agrees to be solely responsible for the administration of all contracts for the Preliminary Study. Any contract disputes shall be resolved by the City at the City's sole cost and expense.

The City shall require adequate indemnity covenants and evidence of insurance from engineering service providers for loss or damage to life or property arising out of the engineering service provider's negligent acts or omissions. The required insurance coverage and limits shall be established by the City but shall not, in any event, be less than \$1,000,000 professional liability coverage for engineering service providers. The City may, in the exercise of its reasonable judgment, permit any insurance policy required by this agreement to contain a reasonable and customary deductible or co-insurance provision.

6. **County Contribution Toward Costs.** The County shall reimburse the City from the Stormwater Management and Flood Control Fund for expenditures made by the City for the Preliminary Study as follows:

Not more than once each calendar month, the City may submit to the County a request for payment, invoice, or statement satisfactory in form and content to the Manager detailing total Preliminary Study costs and expenses, in line-item detail, for the preceding calendar month ("Payment Request") and for year-to-date.

The City's Payment Request shall list, by category, those particular expenditures that are reimbursable according to the Policy and Procedures, The City represents and warrants that each Payment Request shall seek reimbursement for only those expenditures that the City determines, in good faith, to be reimbursable by the County. The Manager may require the City to supplement the Payment Request as needed to satisfy the Manager, at his/her discretion, that the Payment Request accurately reflects properly reimbursable costs and expenses.

The County agrees to make payment to the City within thirty days following the Manager's approval and acceptance of a properly documented Payment Request in an amount equal to seventy five percent (75%) of the Payment Request.

7. **Notice Addresses.** Any notice required or permitted by this agreement shall be deemed properly given upon deposit in the U.S. mail, postage prepaid and addressed as follows:

**If to the County:**

Heather Schmidt  
Stormwater Program Manager  
Johnson County Public Works  
1800 W. Old Highway 56  
Olathe, KS 66061

**If to the City:**

Rob Beilfuss  
Stormwater Manager  
City of Olathe  
1385 S. Robinson  
Olathe, KS 66061

8. **Effective Date.** Regardless of the date(s) the parties execute the agreement, the effective date of this agreement shall be \_\_\_\_\_ provided the agreement has been fully executed by both parties.

**Board of County Commissioners of  
Johnson County, Kansas**

**City of Olathe**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
John Bacon, Mayor

Attest:

Attest:

\_\_\_\_\_  
Lynda Sader  
Deputy County Clerk

\_\_\_\_\_  
City Clerk

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Scott Abbott  
Assistant County Counselor

\_\_\_\_\_  
City Attorney



# City of Olathe

## COUNCIL AGENDA ITEM

**MEETING DATE:** 6/18/2024

**FOCUS AREA:** Infrastructure (Engineering)

**STAFF CONTACT:** Mary Jaeger / Nate Baldwin

**SUBJECT:** Consideration of Agreement with Water District No. 1 of Johnson County for installation of watermains along Pflumm Road in conjunction with finalization of Wholesale Water Purchase Agreement from 1996.

**TITLE:**

Consideration of reimbursement agreement with Water District No. 1 of Johnson County for watermain installation associated with the SE Pressure Zone Interconnect Project, PN 5-C-019-22.

**SUMMARY:**

On August 13, 1996, the City of Olathe and Water District No. 1 of Johnson County (WaterOne) entered into a Wholesale Water Purchase Agreement. This Agreement included the City selling wholesale water to WaterOne and had provisions for the transfer of specific existing facilities. All provisions of this Agreement have been completed or terminated by mutual understanding except for several watermains along Pflumm Road near 159<sup>th</sup> Street.

Per Article VIII of the 1996 Agreement, “the City shall bear all costs to disconnect or modify District piping and all work associated with these modifications shall be performed by the District.”

The City has worked with WaterOne to facilitate the disconnection and modification necessary for the transfer of watermains and water service territory. The Reimbursement Agreement will utilize the WaterOne’s price agreement with Ron Weers Construction. Work will include the installation of 625 LF of 8-inch watermains, metering vault for emergency interconnection and associated appurtenances. This contract agreement is \$95,492.80.

Work is anticipated to be completed by Fall 2024.

**FINANCIAL IMPACT:**

Funding for the SE Pressure Zone Interconnect Project, includes:

<u>Water/Sewer Fund</u>	<u>\$100,000</u>
<b>Total:</b>	<b>\$100,000</b>

**ACTION NEEDED:**

Approval of reimbursement agreement with Water District No. 1 of Johnson County for watermain installation associated with the SE Pressure Zone Interconnect Project, PN 5-C-019-22.

**ATTACHMENT(S):**

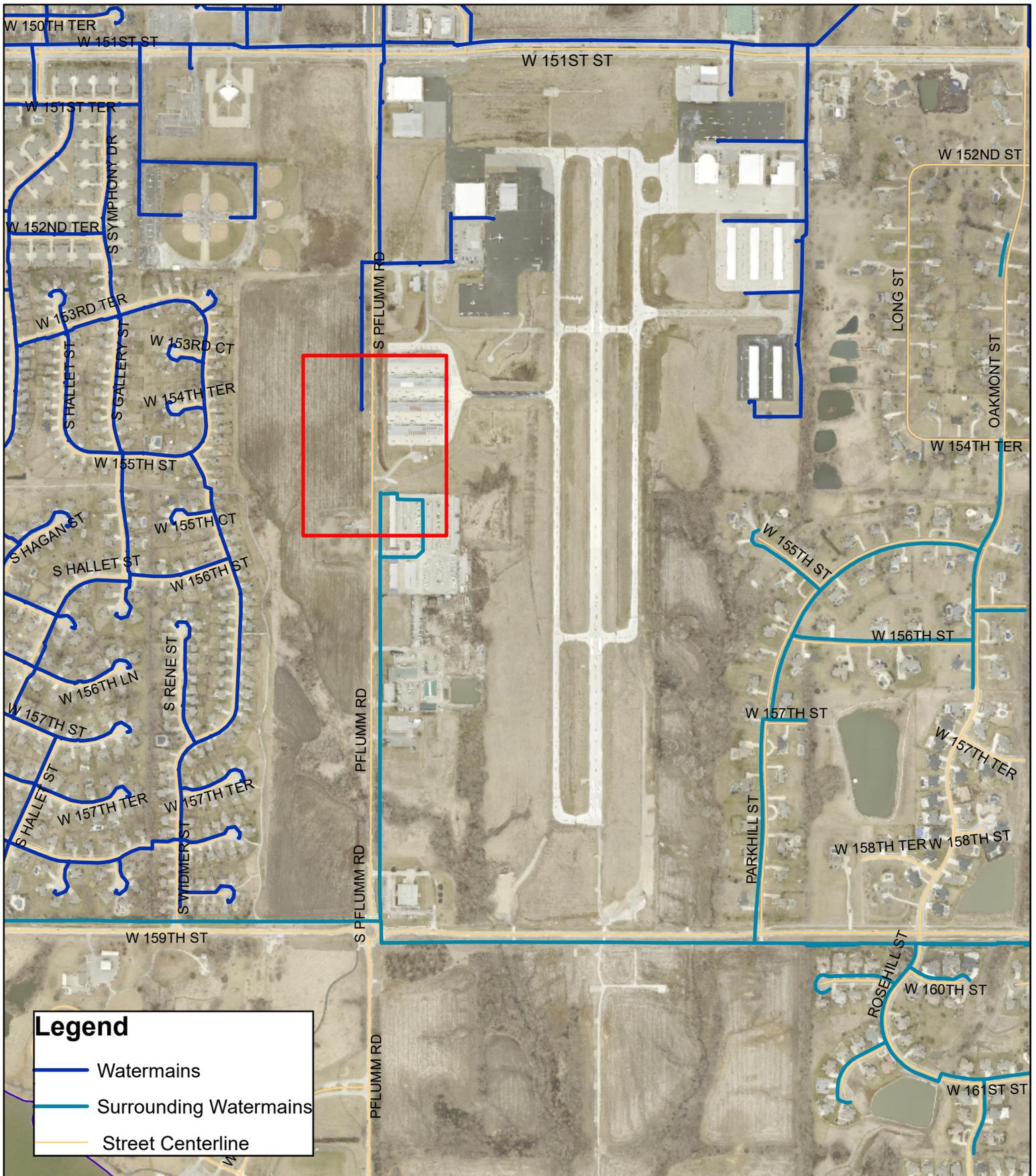
- A. Project Location Map
- B. Memorandum of Understanding

C. Reimbursement Agreement

# Project Location Map

## SE Pressure Zone Interconnect

### PN 5-C-019-22



**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN  
THE CITY OF OLATHE AND WATERONE  
TO TRANSFER WATER MAINS**

**PURPOSE**

- a. The purpose of this Memorandum of Understanding (MOU) between the City of Olathe (the City) and Water District No. 1 of Johnson County (WaterOne), hereinafter collectively referred to as the “Parties,” is to effect the transfer of water mains from WaterOne to the City.
- b. Per the Agreement, referenced below, WaterOne has agreed to transfer to the City the water mains that are identified and described in Exhibit A.
- c. This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise among or against any of the Parties.

**1. PARTIES**

- a. This (MOU) is entered into by the City and WaterOne.
- b. Sabrina Parker is the person the City has designated as responsible for administering this MOU and is the point of contact for City and has the authority to enter this MOU on behalf of the City.
- c. Josh Vincent is the person WaterOne designated as responsible for administering this MOU and is the point of contact for WaterOne. Shaun Pietig, General Manager, has the authority to enter into this MOU on behalf of WaterOne.

**2. BACKGROUND INFORMATION**

- a. The City of Olathe and Water District No. 1 of Johnson County entered into a Wholesale Water Purchase Agreement (the Agreement) on August 13, 1996.
- b. In the Agreement the City of Olathe was referred to as the “City” and Water District No. 1 of Johnson County was referred to as the “District.”
- c. The Agreement was for a term of ten (10) years and the City and the District had the right to extend the Agreement past the term of ten (10) years.
- d. The Agreement allowed the City to transfer its water mains to the District in order to temporarily serve customers within the City’s service territory.

### **3. EFFECT OF THIS AGREEMENT**

- a. This MOU will finalize all the City and WaterOne obligations for the water mains and temporary services that were referenced in the Agreement.
- b. The City transferred its water mains to WaterOne prior to 2006
- c. The City has no further financial obligation to WaterOne regarding its water mains referenced in the Agreement.
- d. WaterOne's financial obligation for maintenance and upkeep of its water mains referenced in the Agreement will end upon the City's receipt of easements for WaterOne's water mains.
- e. WaterOne is responsible for the disconnection and reconnection of WaterOne's water mains to the City. The City will coordinate with WaterOne regarding the disconnection and reconnection of WaterOne's water mains.
- f. The City will reimburse WaterOne up to Ninety-Five Thousand Four Hundred Ninety-Two Dollars and Eighty Cents (\$95,492.80) for the installation of six hundred and twenty-five (625) linear feet (LF) of eight (8) inch water main to connect WaterOne's water mains referenced in the Agreement to the City's distribution system.
- g. The City and WaterOne have no further obligations under the Agreement after the disconnection and reconnection of WaterOne's water mains to the City.
- h. This MOU does not constitute an agreement for any party to assume or waive any liability or claim under any applicable law.
- i. If any provision of this MOU is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this MOU will be unaffected and will continue to be valid and enforceable.
- j. Interpretation of this MOU and disputes arising out of or related to this MOU will be subject to and governed by the laws of the State of Kansas. Jurisdiction and venue for any suit arising out of or related to this MOU will be in the District Court of Johnson County, Kansas.

**4. EFFECTIVE DATE**

This MOU is effective when executed by all the Parties.

\_\_\_\_\_  
Mayor  
City of Olathe

Date

\_\_\_\_\_  
Shaun Pietig  
General Manager  
WaterOne

Date

MC-24011 Pflumm Rd 151<sup>st</sup> - 159<sup>th</sup> St.

**REIMBURSEMENT AGREEMENT**

The City of Olathe hereinafter called the **Petitioner**, agrees to pay the sum of **Ninety Five Thousand Four Hundred Ninety Two and 80/100 Dollars (\$95,492.80)** to Water District Number No. 1 of Johnson County, Kansas, hereinafter called **WaterOne**, said sum to cover the estimated cost to **Install 625 feet of 8" PVC to connect the recently installed 8" main by Olathe near 15334 S Pflumm Rd to the existing 12" near 15525 S Pflumm Rd., install a meter vault to accept a 6" in-line meter near 159<sup>th</sup> Street, changeover 2 service lines from an existing 2 1/2" main to and existing 12" main and to the new 8" mian, and retire the existing 2 1/2" main.** Rock excavation, if required, will increase costs for the project.

After receipt of the amount stated above, **WaterOne** will proceed to schedule and complete the work. If, after the completion of the work and determination of the entire actual cost thereof, including overhead costs, it shall occur that said actual cost is less than the estimated cost stated above, **WaterOne** will repay the **Petitioner** the difference between the actual costs and the estimated costs. If the actual cost thereof is greater than the estimated cost, the **Petitioner** shall forthwith pay to **WaterOne** the difference between the actual cost and the estimated cost.

**WaterOne** shall have and retain full and complete ownership and title to said water facilities and shall have the right to perform maintenance to it at any time; additionally, **WaterOne** shall assume no liability or responsibility whatsoever for the portion of water facilities, if any, that are to be abandoned.

This **Agreement** is subject and subordinate to all applicable Rules and Regulations of **WaterOne**.

**The City of Olathe**

\_\_\_\_\_  
**Mayor**

\_\_\_\_\_  
**Date**

**Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_**  
**WATER DISTRICT NO. 1 OF JOHNSON COUNTY (KANSAS)**

**By:** \_\_\_\_\_  
**Shaun Pietig**  
**General Manager**

\*\*\* R E C A P of Planned Amounts

Date: 04/04/2024  
Time: 13:27:54  
Page: 6

Project Definition : MC-24011      Project Description: City Olathe Pflumm Road Extension

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	Planned Contract	Planned(WD)
Total for Orders	81,897.77	0.00
Admin.Fee	4,913.87	0.00
Subtotal	86,811.64	0.00
Contingency 10%.....	8,681.16	0.00
Total Planned on WBS elements	0.00	0.00
Total Estimate.....	95,492.80	0.00

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**\* \* \* D E T A I L**

Date: 04/04/2024  
 Time: 13:27:54  
 Page: 2

Project :MC-24011 City Olathe Pflumm Road Extension

Work Order: 9068686 Description: 8" PVC 159TH ST & PFLUMM RD WBS Element: MC-24011.011 Type: Contract

Number	Description	Planned Qty.	Unit	Planned Price	Planned Gross	Act. Qty.	Act. Price	Act. Gross
11031	1" X 1" CORP.STOP (AWWA X C) 300 PSI	1.000	EA	67.98	67.98	0.000	0.00	0.00
10549	12" X 13" SWIVEL ANCHOR COUPLING	2.000	EA	609.53	1,219.06	0.000	0.00	0.00
10275	12" X 8" REDUCER MJ	1.000	EA	196.20	196.20	0.000	0.00	0.00
10017	12" X 90 DEGREE BEND MJ	1.000	EA	425.17	425.17	0.000	0.00	0.00
14032	3M 4" Extended Range 5' Blue Ball Mar	40.000	EA	10.57	422.80	0.000	0.00	0.00
13001	8" C900 RJ DR18 PC235 INT. REST. LOK	625.000	FT	20.49	12,806.25	0.000	0.00	0.00
10838	8" CCS-905 X 8" CASING SPACER F/16" C	8.000	PAA	48.22	385.76	0.000	0.00	0.00
12991	8" Cam-Lock Gland F/PVC, DIP Size(w/k	17.000	EA	72.23	1,227.91	0.000	0.00	0.00
10474	8" GATE VALVE, RW, MJ	1.000	EA	846.33	846.33	0.000	0.00	0.00
10548	8" X 13" SWIVEL ANCHOR COUPLING	1.000	EA	411.17	411.17	0.000	0.00	0.00
10012	8" X 45 DEGREE BEND MJ	4.000	EA	172.97	691.88	0.000	0.00	0.00
10327	8" X 7 1/2" SOLID SLEEVE MJ	1.000	EA	150.61	150.61	0.000	0.00	0.00
10013	8" X 90 DEGREE BEND MJ	3.000	EA	207.04	621.12	0.000	0.00	0.00
14131	8"x 1" T3 Wide Range Saddle 8.54-9.44	1.000	EA	156.24	156.24	0.000	0.00	0.00
12650	Open-Cut/HDD 12ga Tracer Wire (1245)	1.000	ROL	112.89	112.89	0.000	0.00	0.00

\* SUBTOTAL FOR Material 19,741.37 0.00

	1/2" Clean Rock	146.000	TON	25.06	3,658.76	0.000	0.00	0.00
	12-Inch BEND/REDUCER/OFFSET/INSTALLAT	2.000	EA	417.61	835.22	0.000	0.00	0.00
	16-Inch Encased Bore*	50.000	FT	240.42	12,021.00	0.000	0.00	0.00
	8-Inch BEND/REDUCER/OFFSET/INSTALLATI	7.000	EA	389.76	2,728.32	0.000	0.00	0.00
	8-inch PVC Pipe	652.000	FT	12.25	7,987.00	0.000	0.00	0.00
	8-inch Valve	1.000	EA	556.81	556.81	0.000	0.00	0.00
	Mobilization	2.000	EA	2,115.87	4,231.74	0.000	0.00	0.00
	Sod Restoration	1.000	AU	4,000.00	4,000.00	0.000	0.00	0.00
	Spoil Removal & Disposal	77.000	YD3	14.20	1,093.40	0.000	0.00	0.00
	Tie-In	2.000	EA	751.69	1,503.38	0.000	0.00	0.00

\* SUBTOTAL FOR Services 38,615.63 0.00

	Overhead 3	0.000		0.00	6,706.33	0.000	0.00	0.00
	Overhead 7	0.000		0.00	1,085.78	0.000	0.00	0.00

\* SUBTOTAL FOR Overheads 7,792.11 0.00

\*\* SUBTOTAL FOR 9068686 8" PVC 159TH ST & PFLUMM RD 66,149.11 0.00

**\*\*\* D E T A I L**

Date: 04/04/2024  
 Time: 13:27:54  
 Page: 3

Project :MC-24011 City Olathe Pflumm Road Extension

Work Order: 9068692 Description: C/O 15540 Pflumm Rd (cont) WBS Element: MC-24011.011 Type: Contract

Number	Description	Planned Qty.	Unit	Planned Price	Planned Gross	Act. Qty.	Act. Price	Act. Gross
	C&M Foreman	4.000	HR	47.66	190.64	0.000	0.00	0.00
	Distribution Tech	12.000	HR	29.15	349.80	0.000	0.00	0.00
* SUBTOTAL FOR Labor					540.44			0.00
	drill in service	110.000	FT	15.00	1,650.00	0.000	0.00	0.00
	service materials	1.000	AU	350.00	350.00	0.000	0.00	0.00
* SUBTOTAL FOR Services					2,000.00			0.00
	Overhead 1	0.000		0.00	409.54	0.000	0.00	0.00
	Overhead 3	0.000		0.00	300.32	0.000	0.00	0.00
	Overhead 8	0.000		0.00	121.52	0.000	0.00	0.00
* SUBTOTAL FOR Overheads					831.38			0.00
** SUBTOTAL FOR 9068692 C/O 15540 Pflumm Rd (cont)					3,371.82			0.00

**\*\*\* D E T A I L**

Date: 04/04/2024  
 Time: 13:27:54  
 Page: 4

Project :MC-24011 City Olathe Pflumm Road Extension

Work Order: 9068693 Description: C/O 15475 Pflumm Rd (cont) WBS Element: MC-24011.011 Type: Contract

Number	Description	Planned Qty.	Unit	Planned Price	Planned Gross	Act. Qty.	Act. Price	Act. Gross
	C&M Foreman	4.000	HR	47.66	190.64	0.000	0.00	0.00
	Distribution Tech	12.000	HR	29.15	349.80	0.000	0.00	0.00
* SUBTOTAL FOR Labor					540.44			0.00
	changeover materials	1.000	AU	250.00	250.00	0.000	0.00	0.00
* SUBTOTAL FOR Services					250.00			0.00
	Overhead 1	0.000		0.00	409.54	0.000	0.00	0.00
	Overhead 3	0.000		0.00	102.89	0.000	0.00	0.00
	Overhead 8	0.000		0.00	121.52	0.000	0.00	0.00
* SUBTOTAL FOR Overheads					633.95			0.00
** SUBTOTAL FOR 9068693 C/O 15475 Pflumm Rd (cont)					1,424.39			0.00

**\* \* \* D E T A I L**

Date: 04/04/2024  
 Time: 13:27:54  
 Page: 5

Project :MC-24011 City Olathe Pflumm Road Extension

Work Order: 9068695 Description: Meter Vault 159th & Pflumm (cont) WBS Element: MC-24011.011 Type: Contract

Number	Description	Planned Qty.	Unit	Planned Price	Planned Gross	Act. Qty.	Act. Price	Act. Gross
	C&M Foreman	16.000	HR	47.66	762.56	0.000	0.00	0.00
	Distribution Tech	64.000	HR	29.15	1,865.60	0.000	0.00	0.00
* SUBTOTAL FOR Labor					2,628.16			0.00
14960	8" Hymax Grip x Flange Adapter	2.000	EA	394.91	789.82	0.000	0.00	0.00
* SUBTOTAL FOR Material					789.82			0.00
	Pre-Cast Concrete Vault and Lid	1.000	EA	4,000.00	4,000.00	0.000	0.00	0.00
* SUBTOTAL FOR Services					4,000.00			0.00
	Overhead 1	0.000		0.00	1,991.59	0.000	0.00	0.00
	Overhead 3	0.000		0.00	908.47	0.000	0.00	0.00
	Overhead 7	0.000		0.00	43.44	0.000	0.00	0.00
	Overhead 8	0.000		0.00	590.97	0.000	0.00	0.00
* SUBTOTAL FOR Overheads					3,534.47			0.00
** SUBTOTAL FOR 9068695 Meter Vault 159th & Pflumm (cont)					10,952.45			0.00
** Total all Orders.....					81,897.77			0.00

\*\*\* R E C A P of Actual Amounts

Date: 04/04/2024  
Time: 13:27:54  
Page: 7

Project Definition : MC-24011                      Project Description: City Olathe Pflumm Road Extension

Document #	Description	Detail Amount	Actual Gross Contract	Actual Gross(WD)
	Labor Total.....		222.88	0.00
	SubTotal		222.88	0.00
	Overheads Total.....		194.02	0.00
MC-24011.002	Total..... Design Eng.		416.90	0.00
	Total Charges all WBS elements		416.90	0.00
	Actual Total from Orders		0.00	0.00
	Total from Orders and WBS Elements		416.90	0.00
	Project Grand total:	416.90		



# City of Olathe

## COUNCIL AGENDA ITEM

**MEETING DATE:** 6/18/2024

**FOCUS AREA:** Infrastructure (Engineering)

**STAFF CONTACT:** Mary Jaeger / Nate Baldwin

**SUBJECT:** Supplemental Agreement No. 1 with Affinis Corp. for design of the South Hamilton Circle Improvement Project, PN 3-R-001-24.

**TITLE:**

Consideration of Supplemental Agreement No. 1 with Affinis Corp. for design of the South Hamilton Circle Improvement Project, PN 3-R-001-24.

**SUMMARY:**

The project is to perform a full depth asphalt pavement and subgrade replacement, replacement of curb and gutters, installation of sidewalk, driveway approaches, streetlight installation, and stormwater improvements. The project also includes select waterline replacement. The project limits are Hamilton Circle from Harrison Street to Old 56 Highway.

The original Professional Services Agreement with Affinis Corp. was approved by City Council on June 21, 2023. This Supplemental Agreement No. 2 provides engineering services necessary for modifying the project to be constructed in two phases, additional design services for KDOT permitting, signal modifications at Old 56 Highway, and final design of Phase 2 of the project.

The total fee for all services provided in Supplemental Agreement No. 3 is \$97,885. This will raise the total fee for all services provided under the agreement from \$497,900 to \$595,785.

Construction of Phase 1 (Harrison Street to east of the railroad) is tentatively scheduled to begin in Summer 2024 and construction of Phase 2 (railroad to Old 56 Highway) is tentatively scheduled to begin in Spring 2025.

**FINANCIAL IMPACT:**

Design of this project is funded from the City of Olathe’s 2024 Street Reconstruction Program authorized on March 7, 2023. Authorized revenue for the 2024 Street Reconstruction Program includes:

<u>General Obligation Bonds</u>	<u>\$ 4,000,000</u>
Total	\$ 4,000,000

**ACTION NEEDED:**

Approval of Supplemental Agreement No. 1 with Affinis Corp. for design of the South Hamilton Circle Improvement Project, PN 3-R-001-24.

**ATTACHMENT(S):**

- A. Project Location Map

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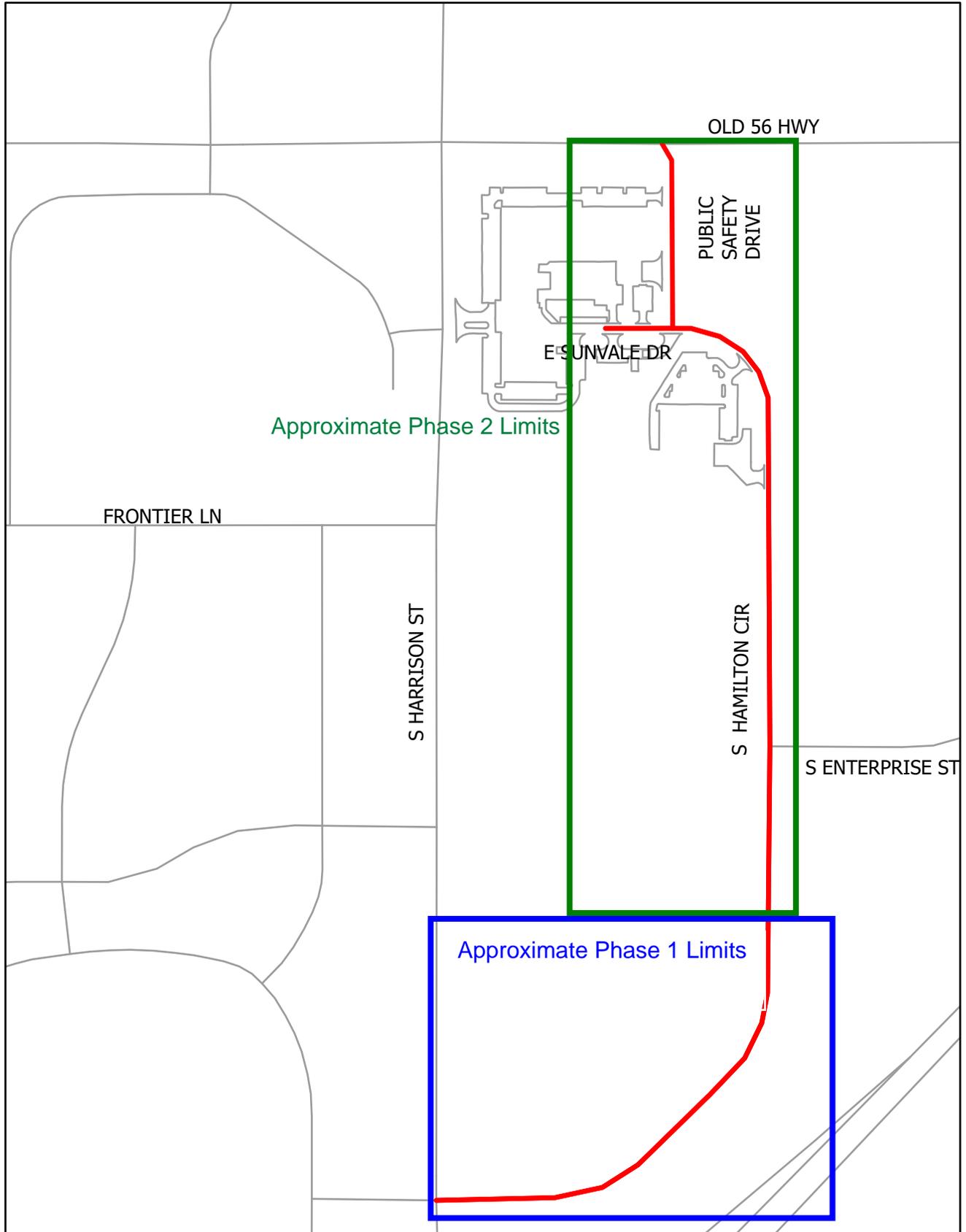
**MEETING DATE:** 6/18/2024

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- B. Project Fact Sheet
- C. Supplemental Agreement No. 1



South Hamilton Circle Improvements Project,  
PN 3-R-001-24  
South Hamilton Circle Waterline Rehabilitation Project,  
5-R-001-24  
Project Location Map





**Project Fact Sheet**  
**South Hamilton Circle Improvement Project**  
**PN 3-R-001-24**  
**South Hamilton Waterline Rehabilitation Project**  
**PN 5-R-001-24**  
**June 18, 2024**

**Project Manager:** Nate Baldwin / Leslie Donnelly

**Description:** The South Hamilton Circle Improvement Project and South Hamilton Waterline Rehabilitation Project will include full depth asphalt pavement and subgrade replacement, replacement of concrete curb and gutters, installation of sidewalk, driveway approaches, streetlight installation, and stormwater improvements. The project will also include select waterline improvements.

**Justification:** The South Hamilton Circle Improvement Project provides for full reconstruction of Hamilton Circle from Harrison Street to Old 56 Highway, which has deteriorated to a condition beyond preventative maintenance provided by a Street Preservation Program project.

<b>Schedule:</b>	<b>Item</b>	<b>Date</b>
Design:	RFQ	3/10/2023
	Consultant Selection	04/13/2023
Utility Relocation:		Spring 2024
Construction: Phase 1	Bid Award	04/02/2024
	Completion	Fall 2024 – Estimate
Construction: Phase 2	Bid Award	Spring 2025 - Estimate
	Completion	Fall 2025 – Estimate
<b>Council Actions:</b>		
	<b>Date</b>	<b>Amount</b>
Approved in CIP (Street Reconstruction Program)	2024-2028	\$20,000,000
Approved in CIP (Water/Sewer)	2025	\$3,611,300
Project Authorization (2024 Street Reconstruction Program)	03/07/2023	\$4,000,000
Professional Service Agreement	06/21/2023	\$497,900
Project Authorization (Water/Sewer)	01/09/2024	\$3,611,300
Project Authorization (2025 Street Reconstruction Program)	01/23/2024	\$4,000,000
Accept Bid/Award Contract (Phase 1)	04/02/2024	\$2,610,841.50
Supplemental Agreement No.1	06/18/2024	\$97,885.00
Accept Bid/Award Contract (Phase 2)		
<b>Funding Sources (Phase 1):</b>		
	<b>Amount</b>	<b>CIP Year</b>
2023 Street Reconstruction Program	\$ 480,000	2023
2024 Street Reconstruction Program	\$2,317,340	2024
Revenue Bonds	\$ 658,660	2023/2024
<b>Expenditures (Phase 1):</b>		
	<b>Budget</b>	<b>Amount to Date</b>
Design	\$ 596,000	\$ 453,699
Staff	\$ 70,000	\$ 14,298

Construction	\$2,620,000	\$ 0
Land Acquisition	\$ 50,000	\$ 34,030
Railroad Crossing / Sidewalk	\$ 68,000	\$ 0
Other Project Costs	\$ 17,000	\$ 226
Contingency	\$ 35,000	\$ 0
<b>Total</b>	<b>\$3,456,000</b>	<b>\$ 502,253</b>

**SUPPLEMENTAL AGREEMENT NO. 1  
FOR PROFESSIONAL SERVICES  
City of Olathe, Kansas**

This Supplemental Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Olathe (“City”) and Affinis Corp (“Consultant”) (collectively, the “Parties”).

WHEREAS, the City and Consultant have previously entered into an Agreement, dated June 21, 2023 (“the Agreement”), for PN 3-R-001-24, South Hamilton Circle Improvement Project and PN 5-R-001-24, South Hamilton Circle Waterline Rehabilitation Project (“Project”); and

WHEREAS, Section II.B.2 of the Agreement provides that Consultant will provide, with City’s concurrence, services in addition to those listed in the Agreement when such services are requested or authorized in writing by the City; and

WHEREAS, this Supplemental Agreement between the Parties is to provide two separate bid packages to split the project, develop utility relocation plans, traffic signal plans for Old 56 Highway, and KDOT permitting for the Project as outlined in **Exhibit A** of this Supplemental Agreement, attached hereto and incorporated herein by reference; and

WHEREAS, the City is desirous of entering into this Supplemental Agreement to pay the Consultant for additional services rendered to the City related to the Project; and

WHEREAS, the City is authorized and empowered to contract with the Consultant for the necessary additional services in this Supplemental Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

- A. The Agreement is hereby amended as follows: The scope of services now includes Exhibit A of this Supplemental Agreement.
- B. The total fee for the additional professional services provided pursuant to this Supplemental Agreement is Ninety-seven thousand, eight hundred eighty-five and 00/100 dollars (\$97,885.00), which raises the total fee for all services provided under the Agreement from Four hundred ninety-seven thousand, nine hundred and 00/100 dollars (\$497,900.00) to five hundred, ninety-five thousand, seven hundred eighty-five and 00/100 dollars (\$595,785.00).

IN ALL OTHER RESPECTS, the terms and conditions of the Agreement will remain in full force and effect, except as specifically modified by any prior written Supplemental Agreement approved by the Parties and by this Supplemental Agreement, including all policies of insurance which will cover the work authorized by this Supplemental Agreement.

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be executed as of the day and year first above written.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
John Bacon  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney or Deputy/Assistant City Attorney

AFFINIS CORP

By:   
Kristen Leathers-Gratton, PE  
President  
8900 Indian Creek Parkway, Suite 450  
Overland Park, Kansas 66210

**Supplement 1**  
**Exhibit A:**  
**Basic Services and Other Matters**

The scope includes additional services performed to split the South Hamilton Circle Improvements into two separate bid packages to accommodate availability of City funding. It also includes the development of utility relocation plans, traffic signal modification plans for Old 56 Highway, and the efforts associated with obtaining the permit to work within KDOT right-of-way.

The work tasks will be performed by Affinis Corp (“Consultant”) for the City of Olathe, Kansas.

**TASK I. FINAL DESIGN – PHASE 1**

**1.01. Utility Relocation Plans**

- A. Developed color-coded utility plans to be included in the bid documents. Plans note abandonments, adjustments, and relocations to take place ahead of, during, and following construction.

**1.02. Adjust Project Limits for Two Bid Packages**

- A. Completed cost estimates and exhibits for options to split project into two phases (2024 and 2025 construction years) due to funding constraints.
- B. Base file modifications and file structure revision to create two plan sets.
- C. Geometric revisions to accommodate temporary tie-in between construction phases.
- D. Revised plan set for selected Phase I project limits. Includes effort beyond that in the original scope to revise plan set for reduced project limits. Sheets impacted include –
- Cover Sheet, Keymap, and Typical Sections
  - Street Plan & Profile, and Cross Sections
  - Storm Sewer Plan & Profile, Drainage Area Map, and Calculations
  - Erosion Control Plan
  - Street Lighting Plan, Circuit Diagram, and Bill of Materials
  - Pavement Marking & Signing Plan, and Summary of Quantities
  - Traffic Control Plan

**1.03. Permitting**

- A. Prepare the necessary plans and permit application to complete work within KDOT right-of-way at the S. Harrison (K-7) intersection.
- B. Coordinate with KDOT staff on acceptable ramp configurations and pedestrian crossing alignments.

## **TASK II. FINAL DESIGN – PHASE 2**

### **2.01. Data Collection**

- A. Field data collection for the project limits to supplement existing survey including any new construction within the right-of-way limits.
- B. Survey of traffic signal at Public Safety and Old 56 Highway.
- C. Processing of data and incorporating updated data collection into the basemap for design purposes.

### **2.02. Utility Relocation and Coordination**

- A. Additional utility coordination due to phasing of improvements.
  - 1. Schedule and attend three (3) utility coordination meetings. These include one (1) joint coordination meeting following the final plan submittal for Phase 2. There will also be up to two (2) one-on-one meetings, scheduled as needed.
  - 2. Correspondence with the Utilities on project related items via phone and email. Assume one (1) hour per week for 12 weeks.
- B. Development of color-coded utility plans to be included in the bid documents. Plans note abandonments, adjustments, and relocations to take place ahead of, during, and following construction.

### **2.03. Prepare Details Plans and Specifications**

- A. Create new sheets and revise existing sheets for Phase 2 plan set. Sheets include –
  - Cover Sheet, Keymap, and Typical Sections
  - Street Plan & Profile, and Cross Sections
  - Storm Sewer Plan & Profile, Drainage Area Map, and Calculations
  - Erosion Control Plan
  - Street Lighting Plan, Circuit Diagram, and Bill of Materials
  - Pavement Marking & Signing Plan, and Summary of Quantities
  - Traffic Control Plan
  - Standard & Special Details
- B. Traffic signal modifications at Old 56 Hwy for Public Safety Drive reconfiguration.

### **2.04. Permitting**

- A. Prepare the necessary plans and applications for permit submission to and approval of NPDES through KDHE.

**2.05.** The Consultant shall provide the schedule of values (bid form), measurement and payment section, and special conditions. The City will prepare the project manual.

**2.06.** Perform final plan quantity takeoffs and develop quantity summary tables.

**2.07.** Perform quality assurance review.

**2.08.** Stormwater Pollution Prevention Plan (SWPPP), including erosion and sediment control plans. SWPPP shall conform to KDHE requirements. Provide 2 copies of SWPPP manual to the City at time of bidding.

**2.09.** Prepare a detailed opinion of probable cost.

- 2.10. Submit final plans and OPCC to City for review.
- 2.11. Address final plan review comments and prepare bid documents.
- 2.12. Submit bid documents to City in reproducible format.
- 2.13. Furnish up to 8 copies of detailed plans and specifications. These shall include half-size plan sets (11" x 17"). These Contract Documents are to be used for the Contractor's execution and City's distribution.
- 2.14. Meet with City as necessary during preparation of detailed plans. One (1) meeting with three (3) people for two (2) hours with meeting minutes prepared and distributed.
- 2.15. Public Information.
  - A. Prepare for and attend two (2) public meetings to explain the project to property owners and key stakeholders, and to receive public comments at a time and place arranged by the City. The meetings will be held prior to construction start. One (1) of the public meetings shall be held virtually.
    - 1. The City will prepare and mail information letters for public meetings.
    - 2. Prepare exhibits appropriate for each meeting. Exhibits will include construction plans and overall project map illustrating the improvements and takings.
    - 3. Have persons available to explain the proposed work and to answer questions. Two (2) people for two (2) hour meetings along with setup time is budgeted.

**TASK III. BIDDING – PHASE 2**

- 3.01. Respond to bidder's requests for information during the bidding process.
- 3.02. Prepare written addenda to the bidding documents as required and or requested.
- 3.03. Arrange for, attend, and prepare meeting minutes for a pre-construction conference with City representatives, the successful bidder, and utility companies.

**TASK IV. CONSTRUCTION SERVICES – PHASE 2**

- 4.01. Be available for discussion and consultation during the construction phase, but construction observation will be the responsibility of the City.
- 4.02. Review shop drawings. (Included in original scope of services.)
- 4.03. Prepare minor plan revisions as necessitated by conditions encountered in the field during construction, except for traffic control plans.
- 4.04. Prepare final record drawings which reflect:
  - A. All change orders.
  - B. Minor design changes.
  - C. Changes made in the field by City representatives and are marked on the construction plan set.
- 4.05. Submit updated CAD drawing files and PDF of the revised sheets.

**4.06.** Attend construction progress meetings as directed by the City. Two (2) meetings with one (1) person for two (2) hours are budgeted.

**Completion time:** Task 1 has been completed for Phase 1 outside of the original scope of services. The Consulting Engineer hereby agrees to complete all the additional work necessary to and including final plans (Task 2) by **November 1, 2024**. All tasks are to be done by **December 31, 2025**

**EXHIBIT B - SCOPE OF SERVICES AND PROJECT FEE ESTIMATE (SUPPLEMENTAL)**

City of Olathe  
South Hamilton Circle Improvements (P.N. 3-R-001-24)

5/24/2024 SRS/JLF/TLD

Item of Work	Job Titles											TOT LABOR COSTS	REIMB. EXPENSES	SUB CONS EXPENSES	TOTAL MHS	
	PROJECT MANAGER II \$250	PROJECT MANAGER I \$230	ENGINEER I \$170	INTERN ENG II \$145	DESIGN TECH II \$200	UTILITY COORD \$130	CADD TECH I \$110	LAND SURVEY II \$165	SURVEY CREW II \$130	SURVEY CREW I \$110	ADMIN SUPPORT I \$100					
<b>TASK 1. Final Design - Phase 1</b>																
<b>1.01. Utility Relocation Plans</b>																
A. Developed color-coded utility plans to be included in bid documents.	2	4		16		6	8						5,400			36
<b>1.02. Adjust Project Limits for Two Bid Packages</b>																
A. Complete cost estimates and exhibits for phased options.	2	4		16	4								4,540			26
B. Base file modifications and file structure revisions.	2	2		8	8								3,720			20
C. Geometric revisions for phase break.		2		8	4								2,420			14
D. Revised plan set for Phase 1.													0			0
<b>1.03. Permitting</b>																
A. Prepare plans and application to complete work within KDOT right-of-way.		6		4							1		2,060			11
B. Coordinate with KDOT staff on ramp configurations and pedestrian crossings.	2	4		4	4								2,800			14
<b>SUBTOTAL FINAL DESIGN - PHASE 1</b>	<b>8</b>	<b>22</b>	<b>0</b>	<b>56</b>	<b>20</b>	<b>6</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>		<b>\$20,940</b>	<b>\$0</b>	<b>\$0</b>	<b>121</b>
<b>TASK 2. Final Design - Phase 2</b>																
<b>2.01. Data Collection</b>																
A. Supplement field data collection.		2					8	4	8	8			3,920	150		30
B. Survey of traffic signal at Old 56 Hwy.																
C. Process data and update basemap.																
<b>2.02. Utility Relocation and Coordination</b>																
A. Additional utility coordination due to phasing of improvements.																
1. Schedule and attend three (1) utility coordination meetings.		1		2		3							910	50		6
2. Correspondence with the Utilities on project related items via phone and email. Assumes one (1) hour per week for 12 weeks.		2		2		8							1,790			12
B. Development of color-coded utility plans to be included in bid documents.		4		12		8	8						4,580			32
<b>2.03. Prepare Detailed Plans and Specifications</b>																
A. Create new sheets and revise existing sheets for Phase 2 plan set.	4	8	8	24	8		16						11,040			68
B. Traffic signal modifications for Public Safety reconfiguration.		8	16	16			24						9,520	50		64
<b>2.04. Permitting</b>																
A. Prepare the necessary plans and applications for permit submission to and approval of NPDES through KDHE.		2		4			2				2		1,460	60		10
<b>2.05. Provide schedule of values (bid form), measurement and payment section and special conditions.</b>																
		4	8		4						2		3,280			18
<b>2.06. Perform final quantity takeoffs and develop summary tables.</b>																
		2	4	6	6								3,210			18
<b>2.07. Perform quality assurance review.</b>																
	4	4		8			8						3,960			24
<b>2.08. Stormwater Pollution Prevention Plan (SWPPP).</b>																
		2		4			2						1,260			8
<b>2.09. Prepare a detailed opinion of probable cost.</b>																
		2		6									1,330			8
<b>2.10. Submit final plans and OPCC to City for review.</b>																
				2	2								690			4
<b>2.11. Address final plan review comments and prepare bid documents.</b>																
	2	4	2	16	8		16						7,440			48
<b>2.12. Submit bid documents to City in reproducible format.</b>																
				1	2								545			3
<b>2.13. Furnish up to 4 copies of detailed plans and specifications. These shall include half-size plan sets (11" x 17"). These Contract Documents are to be used for the Contractor's execution and City's distribution.</b>																
				4	2		2						1,200	250		8
<b>2.14. Meet with City as necessary during preparation of detailed plans. One (1) meeting with three (3) people for two (2) hours with meeting minutes prepared and distributed.</b>																
	2	4		4									2,000	50		10
<b>2.15. Public Information</b>																
A. Prepare for and attend two (2) public meetings to explain the project to residents of the project area, and to receive public comments at a time and place arranged for by the City.																
1. The City will prepare and mail information letters for public meetings.																
2. Prepare all necessary exhibits, documents and plans.		4		6			8				2		2,870	100		20
3. Have persons available to explain the proposed work and to answer questions. Two (1) people for two (2) hour meetings along with setup time is budgeted.	2			6									1,370	50		8
<b>SUBTOTAL FINAL DESIGN- PHASE 2</b>	<b>14</b>	<b>53</b>	<b>38</b>	<b>123</b>	<b>32</b>	<b>19</b>	<b>94</b>	<b>4</b>	<b>8</b>	<b>8</b>	<b>6</b>		<b>\$62,375</b>	<b>\$760</b>	<b>\$0</b>	<b>399</b>

**EXHIBIT B - SCOPE OF SERVICES AND PROJECT FEE ESTIMATE (SUPPLEMENTAL)**

City of Olathe  
South Hamilton Circle Improvements (P.N. 3-R-001-24)

5/24/2024 SRS/JLF/TLD

Item of Work	Job Titles											TOT LABOR COSTS	REIMB. EXPENSES	SUB CONS EXPENSES	TOTAL MHS
	PROJECT MANAGER II \$250	PROJECT MANAGER I \$230	ENGINEER I \$170	INTERN ENG II \$145	DESIGN TECH II \$200	UTILITY COORD \$130	CADD TECH I \$110	LAND SURVEY II \$165	SURVEY CREW II \$130	SURVEY CREW I \$110	ADMIN SUPPORT I \$100				
<b>TASK 3. Bidding - Phase 2</b>															
3.01. Respond to bidder's requests for information during the bidding process.	4	4	2		2							2,660			12
3.02. Prepare written addenda to the bidding documents as required and or requested. (Included in original scope of service.)												0			0
3.03. Arrange for, attend, and prepare meeting minutes for a pre-construction conference with City representatives, the successful bidder, and utility companies.		4		6		4						2,310	50		14
<b>SUBTOTAL BIDDING - PHASE 2</b>	<b>4</b>	<b>8</b>	<b>2</b>	<b>6</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$4,970</b>	<b>\$50</b>	<b>\$0</b>	<b>26</b>
<b>TASK 4. Construction Services - Phase 2</b>															
4.01. Be available for discussion and consultation during the construction phase, but construction observation will be the responsibility of the City.	4	4	4	4	4	2						4,240			22
4.02. Review shop drawings. (Included in original scope of service.)															
4.03. Prepare minor plan revisions as necessitated by conditions encountered in the field during construction, with the exception of traffic control plans. (Included in original scope of service.)												0			0
4.04. Prepare one set of final record drawings which reflect: a) All change orders, b) Minor design changes, c) Changes made in the field by City representatives and which are clearly marked on the construction plan set.		2	2	8	4		8					3,640			24
4.05. Submit updated CAD drawing files and PDF of the revised sheets. (Included in original scope of service.)												0			0
4.06. Attend construction progress meetings as directed by the City. Two (2) meetings with one (1) person for two (2) hours are budgeted.		2			2							860	50		4
<b>SUBTOTAL CONSTRUCTION SERVICES - PHASE 2</b>	<b>4</b>	<b>8</b>	<b>6</b>	<b>12</b>	<b>10</b>	<b>2</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$8,740</b>	<b>\$50</b>	<b>\$0</b>	<b>50</b>
<b>TOTAL</b>	<b>30</b>	<b>91</b>	<b>46</b>	<b>197</b>	<b>64</b>	<b>31</b>	<b>110</b>	<b>4</b>	<b>8</b>	<b>8</b>	<b>7</b>	<b>\$97,025</b>	<b>\$860</b>	<b>\$0</b>	<b>596</b>
<b>GRAND TOTAL</b>															<b>\$97,885</b>



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Mike Sirna/Barrett Baumgartner/John Page

**SUBJECT:** Consideration of expenditure authority and award of contract to RSC Communications Inc. for vehicle GPS services.

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**TITLE:**

Consideration of expenditure authority and award of contract to RSC Communications Inc. for vehicle GPS services.

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**SUMMARY:**

GoTrack (RSC Communications) has been providing automated vehicle location (AVL) services to the City of Olathe since 2010. Previously, these devices allowed for the monitoring of vehicle location and other fleet information for vehicles assigned to the Infrastructure Focus Area. The City incorporated AVL on all vehicles in our fleet, excluding Police and Fire, into this contract. This system allows for real-time inventory management as well as provide data used to update such things as the City's website's snow maps during snow events. The City Council last approved this contract on April 20, 2021 for a two-year service contract for an estimated expenditure total of \$316,680. That contract has since expired in 2023.

On May 1, 2024, staff received an invoice for \$98,820 for the usage of GoTrack for 357 City vehicles. Due to the timeliness of getting this paid without losing service, staff had to pay this without City Council authority. City Council is being asked to retroactively provide expenditure authority as the contract had expired and the renewal was missed due to turnover of staff.

Besides the approval of expenditure authority, City staff are also recommending an approval of a one-year contract with an option to renew for one-year.

---

**FINANCIAL IMPACT:**

One-time expenditure of \$98,820 out of multiple City funds. This is also the expected one-year costs with this contract.

---

**ACTION NEEDED:**

Approval of expenditure authority and contract with RSC Communications Inc.

---

**ATTACHMENT(S):**

- A. Contract
  - B. Invoice
-

## CITY OF OLATHE PRICE AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and RSC Communications Inc, hereinafter "Vendor" (each individually a "Party" and collectively, the "Parties"). City needs GPS units and data plans, and contracts with Vendor to supply the goods or services described in **Exhibit A**, as needed and as requested by City.

**1. PRICE AGREEMENT, ORDERS, AND TERM.** City agrees to pay Vendor at the prices listed in **Exhibit A** to supply the goods or services described in **Exhibit A**, as needed and as requested by City. City will have no financial obligation under this Agreement until an order has been placed. Any order placed under this Agreement remains subject to any applicable procurement policies of City, including approval by the appropriate authority based on the dollar amount of the order. Any order placed pursuant to this Agreement is subject to all terms and provisions of this Agreement. This contract will be a one (1)-year contract with the option to renew for up to one (1) additional one (1)-year periods upon the written agreement of both parties.

**2. ADDITIONAL SERVICES.** Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

**3. BILLING.** Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses. City agrees to pay Vendor within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.

**4. PAYMENT.** If City becomes credibly informed that any representations of Vendor provided in its billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future due to Vendor until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction.

**5. STANDARD OF CARE.** Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's negligence.

**6. TERMINATION FOR CONVENIENCE.** City may terminate this Agreement for convenience by providing fifteen (15) days' written notice to Vendor. City will compensate Vendor for all work completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

**7. TERMINATION FOR LACK OF FUNDS.** If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of work to be provided by Vendor under this Agreement, City may terminate or reduce the amount of work to be provided by Vendor under this Agreement. In such event, City will notify Vendor in writing at least thirty (30) days in advance of such termination or reduction of work for lack of funds.

**8. DISPUTE RESOLUTION.** The Parties agree that disputes regarding the work will first be

addressed by negotiations between the Parties. If negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

**9. SUBCONTRACTING.** Vendor may not subcontract or assign any of the work to be performed under this Agreement without first obtaining the written approval of City. Unless stated in the written approval to an assignment, no assignment will release or discharge Vendor from any obligation under this Agreement. Any person or entity providing subcontracted work under this Agreement must comply with **Section 11 (Insurance)**.

**10. OWNERSHIP OF DOCUMENTS.** All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

**11. INSURANCE.** Vendor and any subcontractor will maintain for the term of this Agreement insurance as provided in **Exhibit B**.

**12. INDEMNIFICATION AND HOLD HARMLESS.** For purposes of this Agreement, Vendor agrees to indemnify, defend, and hold harmless City, its officers, appointees, employees, and agents from any and all loss, damage, liability or expense, of any nature whatsoever caused or incurred as a result of the negligence or other actionable fault of Vendor, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. Vendor is not required hereunder to defend City, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence. City does not indemnify Vendor.

**13. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT OR NEGLIGENT PERFORMANCE.** Any attempt to limit liability for breach of contract or negligent performance to the amount of the payment to Vendor by City is void. Any attempt to limit Vendor's liability to City for consequential, exemplary, or punitive damages, or any other measure of damages permitted by law, in any action against Vendor for breach of contract is void.

**14. KANSAS ACT AGAINST DISCRIMINATION.** *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");

- c. if Vendor fails to comply with the way Vendor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;
- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the contracting agency; and
- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

**15. ENTIRE AGREEMENT.** This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to by both Parties.

**16. NO THIRD-PARTY BENEFICIARIES.** Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

**17. INDEPENDENT CONTRACTOR STATUS.** Vendor is an independent contractor and not an agent or employee of City.

**18. COMPLIANCE WITH LAWS.** Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

**19. FORCE MAJEURE CLAUSE.** Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**20. APPLICABLE LAW, JURISDICTION, VENUE.** Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

**21. SEVERABILITY.** If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

**22. ORDER OF PRECEDENCE.** If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto, the terms and provisions of this Agreement, excluding exhibits, shall control.

*[The remainder of this page is intentionally left blank.]*

The Parties hereto have caused this Agreement to be executed this \_\_\_\_ day of

\_\_\_\_\_ 20\_\_.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
Mayor

ATTEST:

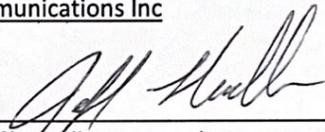
\_\_\_\_\_  
City Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney or Deputy/Assistant City Attorney

RSC Communications Inc

By:   
Jeff Needles, General Manager  
1324 NW Main St  
Lee's Summit, MO 64086

**Exhibit A**  
**Vendor's Proposal**

New Equipment with a 12-month data plan is \$259.95 (\$59.95 for the device; \$200 for 12 months of data)

New Equipment with a 24-month data plan is \$424 (\$25 for the device; \$399 for 24 months of data)

Replacement devices are \$99.99 (new device still assumes leftover airtime from device it is replacing)

12-month data plans are \$200.00

## Exhibit B

### CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

**A. Insurance.** Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

**Limits:** Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

**Limits:** All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

**Limits:** \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

**Limits:** Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this

Agreement and for a period of three (3) years after the termination of this Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

**Limits:** Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

**B. Exposure Limits.** Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.

**C. Costs.** Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.

**D. Verification of Coverage**

1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

**E. Cancellation.** No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.

**F. Subcontractor's Insurance:** If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.



1324 NW Main St.  
 Lee's Summit, MO 64086  
 USA

Voice: (816) 313-8255  
 Fax: (816) 554-2081



# INVOICE

Invoice Number: 110752  
 Invoice Date: May 1, 2024  
 Page: 1

*Duplicate*

Bill To:
City of Olathe PW Tracy Jarrett PO Box 768 Olathe, KS 66051

Ship to:
City of Olathe Public Works Tracy Jarrett 1385 S. Robinson Olathe, KS 66061 USA

Customer ID	Customer PO	Payment Terms	
7609PRO		Prepaid	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	None		5/1/24

Quantity	Item	Description	Unit Price	Amount
357.00	111-12 Mo. Data Plan	12 Month unlimited GoTrack GPS Data Plan	200.00	71,400.00
357.00		12 Month Open API Data (30 sec reporting inc)	60.00	21,420.00

Subtotal	92,820.00
Sales Tax	
Total Invoice Amount	92,820.00
Payment/Credit Applied	
<b>TOTAL</b>	<b>92,820.00</b>

Check/Credit Memo No:

All balances over 30 days will be charged a 1 1/2% per month finance charge.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Quality of Life

**STAFF CONTACT:** Mike Sirna/John Brockus/John Page

**SUBJECT:** Consideration of award of contract to Professional Turf Products, L.P. for the purchase of one (1) Toro Groundsmaster 4300 for the Park Maintenance Division of Quality of Life.

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**TITLE:**

Consideration of award of contract to Professional Turf Products, L.P. for the purchase of one (1) Toro Groundsmaster 4300 for the Park Maintenance Division of Quality of Life.

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**SUMMARY:**

Professional Turf Products, L.P., a Lenexa vendor, submitted a quote based on OMNIA Partners Contract 201725 for the purchase of a Toro Groundsmaster 4300. OMNIA is a national competitive bidding cooperative. This replaces the current unit, which is a 2014 model.

This unit is used for the mowing and maintenance of City athletic fields. The mower will be primarily stationed at Lone Elm Park, 20921 W 157<sup>th</sup> St.

Staff recommends award of contract to Professional Turf Products, L.P.

The mower is being replaced as part of the regular equipment replacement cycle and is fully amortized. The lease fees paid into the VEF fully recover the replacement cost.

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**FINANCIAL IMPACT:**

\$83,870.36 to be paid from the Vehicle Equipment Replacement Fund.

---

**ACTION NEEDED:**

Award of contract to Professional Turf Products, L.P.

---

**ATTACHMENT(S):**

A. Contract

---

## CITY OF OLATHE PRICE AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and Professional Turf Products, L.P. needs mowing equipment, and contracts with Vendor to supply the goods or services described in **Exhibit A**, as needed and as requested by City.

**1. PRICE AGREEMENT, ORDERS, AND TERM.** City agrees to pay Vendor at the prices listed in **Exhibit A** to supply the goods or services described in **Exhibit A**, as needed and as requested by City. City will have no financial obligation under this Agreement until an order has been placed. Any order placed under this Agreement remains subject to any applicable procurement policies of City, including approval by the appropriate authority based on the dollar amount of the order. Any order placed pursuant to this Agreement is subject to all terms and provisions of this Agreement.

**2. COOPERATIVE PROCUREMENT.** This Agreement is being made based on the cooperative procurement allowed under 2077025 ("Procurement Contract") between Vendor and OMNIA Partners Cooperative. All terms and provisions of the Procurement Contract are incorporated by reference into this Agreement, to the extent such terms and conditions do not conflict with the terms and provisions of this Agreement. To the extent the terms and provisions of the Procurement Contract conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement will control.

**3. ADDITIONAL SERVICES.** Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

**4. BILLING.** Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses. City agrees to pay Vendor within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.

**5. PAYMENT.** If City becomes credibly informed that any representations of Vendor provided in its billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future due to Vendor until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction.

**6. STANDARD OF CARE.** Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's negligence.

**7. TERMINATION FOR CONVENIENCE.** City may terminate this Agreement for convenience by providing fifteen (15) days' written notice to Vendor. City will compensate Vendor for all work completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.

**8. TERMINATION FOR LACK OF FUNDS.** If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of work to be provided by

Vendor under this Agreement, City may terminate or reduce the amount of work to be provided by Vendor under this Agreement. In such event, City will notify Vendor in writing at least thirty (30) days in advance of such termination or reduction of work for lack of funds.

**9. DISPUTE RESOLUTION.** The Parties agree that disputes regarding the work will first be addressed by negotiations between the Parties. If negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

**10. SUBCONTRACTING.** Vendor may not subcontract or assign any of the work to be performed under this Agreement without first obtaining the written approval of City. Unless stated in the written approval to an assignment, no assignment will release or discharge Vendor from any obligation under this Agreement. Any person or entity providing subcontracted work under this Agreement must comply with **Section 11 (Insurance)**.

**11. OWNERSHIP OF DOCUMENTS.** All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

**12. INSURANCE.** Vendor and any subcontractor will maintain for the term of this Agreement insurance as provided in **Exhibit B**.

**13. INDEMNIFICATION AND HOLD HARMLESS.** For purposes of this Agreement, Vendor agrees to indemnify, defend, and hold harmless City, its officers, appointees, employees, and agents from any and all loss, damage, liability or expense, of any nature whatsoever caused or incurred as a result of the negligence or other actionable fault of Vendor, its affiliates, subsidiaries, employees, agents, assignees, and subcontractors and their respective employees and agents. Vendor is not required hereunder to defend City, its officers, appointees, employees, or agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence. City does not indemnify Vendor.

**14. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT OR NEGLIGENT PERFORMANCE.** Any attempt to limit liability for breach of contract or negligent performance to the amount of the payment to Vendor by City is void. Any attempt to limit Vendor's liability to City for consequential, exemplary, or punitive damages, or any other measure of damages permitted by law, in any action against Vendor for breach of contract is void.

**15. KANSAS ACT AGAINST DISCRIMINATION.** *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color,

sex, disability, national origin, or ancestry;

- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
- c. if Vendor fails to comply with the way Vendor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;
- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the contracting agency; and
- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

**16. ENTIRE AGREEMENT.** This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to by both Parties.

**17. NO THIRD-PARTY BENEFICIARIES.** Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

**18. INDEPENDENT CONTRACTOR STATUS.** Vendor is an independent contractor and not an agent or employee of City.

**19. COMPLIANCE WITH LAWS.** Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

**20. FORCE MAJEURE CLAUSE.** Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**21. APPLICABLE LAW, JURISDICTION, VENUE.** Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

**22. SEVERABILITY.** If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

**23. ORDER OF PRECEDENCE.** If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto, the terms and provisions of this Agreement, excluding exhibits, shall control.

*[The remainder of this page is intentionally left blank.]*

The Parties hereto have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
Mayor

ATTEST:

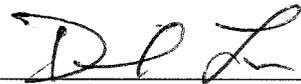
\_\_\_\_\_  
City Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney or Deputy/Assistant City Attorney

Professional Turf Products, L.P.

By:  \_\_\_\_\_

Print Name and Title

David Lau, CFO

\_\_\_\_\_  
10935 Eicher Drive  
Lenexa, KS 66219

**Exhibit A**  
**Vendor's Proposal**



Professional Turf Products, L.P.  
 10935 Eicher Dr.  
 Lenexa, Kansas 66219  
 Mark Newton, CGCS  
 (913) 449-8238  
 newtonm@proturf.com



Ship To	City of Olathe - Parks & Rec	Date:	1/22/2024
Bill To	OMNIA Partners Cooperative - No Credit Cards Accepted	Tax Rate	
Contact	Josh Frandsen	Destination	Included
Address	1908 W. Ironwood Street	Trade-In	
	Olathe, KS 66061	Finance	
Phone	(913) 971-9717	Account Type	Contract - OMNIA
Email	jfrandsen@olatheks.org	QMS: ID	Q133895
Comments:	City of Mesa - OMNIA Partners Contract #2017025; City of Olathe Participating Agency #2591689. Applicable Property and Sales Tax Not Included. Quote inclusive of equipment setup and delivery to Olathe, KS address identified.		

**Proposal**

Qty	Model #	Description		Selling Price
1	30879	Groundsmaster 4300	\$	82,270.19
1	30669	Universal Sunshade, White	\$	822.82
1	03667	Seat Suspension, Air Ride	\$	777.35
		<b>Groundsmaster 4300</b>	<b>\$</b>	<b>83,870.36</b>

<b>SubTotal</b>	\$	<b>83,870.36</b>
<b>Destination Tax (Estimated)</b>	\$	<b>Included</b>
<b>TOTAL</b>	\$	<b>83,870.36</b>

**Comments:**

For all New Equipment, Demo units may be available for up to 20% savings.  
 For all New Equipment, Refurbished units may be available for up to 40% savings.  
 Due to unexpected issues with much of our supply chain, we are experiencing longer lead times than we have seen in the past. We are doing everything we can to get products to you as quickly as possible.

**Terms & Conditions:**

- Prices & Finance Rates are subject to change at any time. Monthly Payments are Estimates based on Prices & Rates when quoted.
- Due to the volatility of inflation, rising transportation costs, and supply shortages, some orders may incur additional cost increases that are beyond the control of PTP and the vendors we represent. These pricing adjustments may be made from the time the order is entered through equipment delivery. Any adjustments will be communicated to customers with orders in the system with a new sale price as they occur.
- Order cancellations are subject to fees up to 10% of the original order value.
- Equipment delivery time is estimated once credit is approved & documents are executed & is contingent on Manufacturer availability.
- Payments by Credit Card are subject to convenience fee.
- Used and Demo equipment is in high demand and availability is subject to change.
  - Upon firm customer commitment to purchase & credit is approved, said equipment availability will be determined.
  - In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
  - PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
- "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

**Returns Policy:**

- All returns & Canceled PO's are subject to restocking, refurbishing, usage, and shipping fees.
- All returns must be able to be sold as new.
- Items missing parts are non returnable.

**Payment:**

- Terms are net 10 unless prior arrangements have been made.
- Quoted prices are subject to credit approval.
  - PTP will work with third party financial institutions to secure leases when requested to do so.
  - When using third party financiers, documentation fees & advance payments may be required.
  - For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
  - PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
- There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
- By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default. This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Exhibit B

**CITY OF OLATHE INSURANCE REQUIREMENTS**

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

**A. Insurance.** Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

**Limits:** Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

**Limits:** All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

**Limits:** \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

**Limits:** Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this Agreement and for a period of three (3) years after the termination of this

Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

**Limits:** Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

- B. Exposure Limits.** Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.
- C. Costs.** Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.
- D. Verification of Coverage**
1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
  2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
  3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
  4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.
- E. Cancellation.** No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.
- F. Subcontractor's Insurance:** If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.





# Additional Insured – Automatic – Owners, Lessees Or Contractors

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

Policy No. GLO348655022

Effective Date: 4 / 1 / 2024

This endorsement modifies insurance provided under the:

## **Commercial General Liability Coverage Part**

**A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1) Your ongoing operations, with respect to Paragraph 1.a. above; or
  - (2) "Your work", with respect to Paragraph 1.b. above,
- which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

- (a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a)** Your ongoing operations, with respect to Paragraph **2.a.** above; or
- (b)** "Your work" and included in the "products-completed operations hazard", with respect to Paragraph **2.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **2.**, insurance afforded to such additional insured:

- (i)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

**3.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **3.**, insurance afforded to such additional insured:

- (a)** Only applies to the extent permitted by law;
- (b)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

**4.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **4.**, insurance afforded to such additional insured:

- (1)** Only applies to the extent permitted by law;
- (2)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3)** Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (4)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

- B.** Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- C.** Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section **IV – Commercial General Liability Conditions**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

- D.** Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **IV – Commercial General Liability Conditions**:

**Primary and Noncontributory insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **4.b.** of the **Other Insurance** Condition under Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E.** This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F.** Solely with respect to the insurance afforded to an additional insured under Paragraph **A.3.** or Paragraph **A.4.** of this endorsement, the following is added to Section **III – Limits Of Insurance**:

**Additional Insured – Automatic – Owners, Lessees Or Contractors Limit**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
2. Available under the applicable Limits of Insurance shown in the Declarations,  
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.



# General Liability Extended Coverages

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

Policy No. GLO348655022

Effective Date: 4 / 1 / 2024

This endorsement modifies insurance provided under the:

## **Commercial General Liability Coverage Part**

The following changes apply to this Coverage Part.

### **A. Fellow Employee And Incidental Medical Malpractice Coverage**

Paragraph **2.a.(1)** of Section II – **Who Is An Insured** is replaced by the following:

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture) or to your members (if you are a limited liability company);
- (b) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(1)(a)** above; or
- (c) Arising out of his or her providing or failing to provide professional health care services, except any "bodily injury" or "personal and advertising injury" arising out of:
  - (1) Medical or paramedical services to persons performed by any physician, dentist, nurse, emergency medical technician, paramedic or other licensed medical care person employed by you to provide such services; or
  - (2) Emergency cardiopulmonary resuscitation (CPR) or first aid services performed by any other employee of yours who is not a licensed medical professional.

### **B. Additional Insureds– Lessees Of Premises**

- 1. Section II – **Who Is An Insured** is amended to include as an additional insured any person or organization who leases or rents a part of the premises you own or manage who you are required to add as an additional insured on this policy under a written contract or written agreement, but only with respect to liability arising out of your ownership, maintenance or repair of that part of the premises which is not reserved for the exclusive use or occupancy of such person or organization or any other tenant or lessee.

However, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law;

- b. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
  - c. Ends when the person or organization ceases to lease or rent premises from you.
2. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – Limits Of Insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the written contract or written agreement referenced in Subparagraph B.1. above (of this endorsement); or
- b. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This Paragraph B. shall not increase the applicable Limits of Insurance shown in the Declarations.

### C. Additional Insured – Vendors

1. The following change applies if this Coverage Part provides insurance to you for "bodily injury" and "property damage" included in the "products-completed operations hazard":

Section II – Who Is An Insured is amended to include as an additional insured any person or organization (referred to throughout this Paragraph C. as vendor) who you have agreed in a written contract or written agreement, prior to loss, to name as an additional insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

However, the insurance afforded to such vendor:

- a. Only applies to the extent permitted by law; and
  - b. Will not be broader than that which you are required by the written contract or written agreement to provide for such vendor.
2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
- a. The insurance afforded the vendor does not apply to:
    - (1) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - (2) Any express warranty unauthorized by you;
    - (3) Any physical or chemical change in the product made intentionally by the vendor;
    - (4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
    - (5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
    - (6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
    - (7) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
    - (8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
      - (a) The exceptions contained in Subparagraphs (4) or (6) above; or

(b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

b. This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

c. This insurance does not apply to any of "your products" for which coverage is excluded under this Coverage Part.

3. With respect to the insurance afforded to these vendors under this Paragraph C., the following is added to Section III – **Limits Of Insurance**:

The most we will pay on behalf of the vendor is the amount of insurance:

a. Required by the written contract or written agreement referenced in Subparagraph C.1. above (of this endorsement); or

b. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This Paragraph C. shall not increase the applicable Limits of Insurance shown in the Declarations.

#### **D. Damage to Premises Rented or Occupied by You**

1. The last paragraph under Paragraph 2. **Exclusions** of Section I – **Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; vandalism; weight of snow, ice or sleet; leakage from fire extinguishing equipment, including sprinklers; or accidental discharge or leakage of water or steam from any part of a system or appliance containing water or steam to premises while rented to you or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Section III – **Limits Of Insurance**.

2. Paragraph 6. of Section III – **Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you, or in the case of damage by one or more covered perils to any one premises, while rented to you or temporarily occupied by you with permission of the owner.

#### **E. Limited Contractual Liability Coverage – Personal and Advertising Injury**

1. Exclusion e. of Section I – **Coverage B – Personal And Advertising Injury Liability** is replaced by the following:

##### **2. Exclusions**

This insurance does not apply to:

##### **e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement.

This exclusion does not apply to:

(1) Liability for damages that the insured would have in the absence of the contract or agreement; or

(2) Liability for "personal and advertising injury" if:

(a) The "personal and advertising injury" arises out of the offenses of false arrest, detention or imprisonment;

(b) The liability pertains to your business and is assumed in a written contract or written agreement in which you assume the tort liability of another. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; and

- (c) The "personal and advertising injury" occurs subsequent to the execution of the written contract or written agreement.

Solely for purposes of liability so assumed in such written contract or written agreement, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "personal and advertising injury" described in Paragraph (a) above, provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same written contract or written agreement; and
- (ii) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

2. Paragraph 2.d. of Section I – **Supplementary Payments – Coverages A and B** is replaced by the following:

d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee.

3. The following is added to the paragraph directly following Paragraph 2.f. of Section I – **Supplementary Payments – Coverages A and B**:

Notwithstanding the provisions of Paragraph 2.e.(2) of Section I – **Coverage B – Personal And Advertising Injury Liability**, such payments will not be deemed to be damages for "personal and advertising injury" and will not reduce the limits of insurance.

**F. Medical Payments – Increased Reporting Period**

Paragraph 1.a. of Section I – **Coverage C – Medical Payments** is replaced by the following:

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within three years of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

**G. Supplementary Payments**

The following changes apply to **Supplementary Payments – Coverages A and B**:

Paragraphs 1.b. and 1.d. are replaced by the following:

- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

**H. Broadened Property Damage**

**1. Elevator Property Damage**

- a. The following is added to Exclusion j. of Section I – **Coverage A – Bodily Injury And Property Damage Liability**:

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising out of the use of an elevator at premises you own, rent or occupy.

- b. The following is added to Section **III – Limits Of Insurance**:

Subject to Paragraphs **2.**, **3.** and **5.** above, the most we will pay under Coverage **A** for damages because of "property damage" to property loaned to you or personal property in the care, custody or control of the insured arising out of the use of an elevator at premises you own, rent or occupy is \$25,000 any one "occurrence".

## **2. Property Damage To Borrowed Equipment**

- a. The following is added to Exclusion **j.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**:

Paragraph **(4)** of this exclusion does not apply to "property damage" to equipment you borrow from others at a jobsite.

- b. The following is added to Section **III – Limits Of Insurance**:

Subject to Paragraphs **2.**, **3.** and **5.** above, the most we will pay under Coverage **A** for damages because of "property damage" to equipment you borrow from others at a jobsite is \$25,000 any one "occurrence".

## **I. Expected or Intended Injury or Damage**

Exclusion **a.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

### **a. Expected Or Intended Injury Or Damage**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

## **J. Definition – Bodily Injury**

The "bodily injury" definition under the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death sustained by a person which results from that bodily injury, sickness or disease.

## **K. Insured Status – Amateur Athletic Participants**

Section **II – Who Is An Insured** is amended to include as an insured any person you sponsor while participating in amateur athletic activities. However, no such person is an insured for:

- a. "Bodily injury" to:

- (1) Your "employee", "volunteer worker" or any person you sponsor while participating in such amateur athletic activities; or
- (2) You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company) while participating in such amateur athletic activities; or

- b. "Property damage" to property owned by, occupied or used by, rented to, in the care, custody or control of, or over which the physical control is being exercised for any purpose by:

- (1) Your "employee", "volunteer worker" or any person you sponsor; or
- (2) You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

## **L. Aircraft, Auto Or Watercraft**

Exclusion **g.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

### **g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused

the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
- (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

#### M. Definitions – Leased Worker, Temporary Worker and Labor Leasing Firm

1. The "leased worker" and "temporary worker" definitions under the **Definitions** Section are replaced by the following:

"Leased worker" means a person leased to you by a "labor leasing firm" under a written agreement between you and the "labor leasing firm", to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

"Temporary worker" means a person who is furnished to you to support or supplement your work force during "employee" absences, temporary skill shortages, upturns or downturns in business or to meet seasonal or short-term workload conditions. "Temporary worker" does not include a "leased worker".

2. The following definition is added to the **Definitions** Section:

"Labor leasing firm" means any person or organization who hires out workers to others, including any:

- a. Employment agency, contractor or services;
- b. Professional employer organization; or
- c. Temporary help service.

#### N. Definitions – Your Product and Your Work

The "your product" and "your work" definitions under the **Definitions** Section are replaced by the following:

"Your product":

- a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance, use, handling, maintenance, operation or safety of "your product"; and
  - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

"Your work":

- a. Means:
  - (1) Work, services or operations performed by you or on your behalf; and
  - (2) Materials, parts or equipment furnished in connection with such work, services or operations.
- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance, use, handling, maintenance, operation or safety of "your work"; and
  - (2) The providing of or failure to provide warnings or instructions.

**O. Duties in the Event of Occurrence, Offense, Claim or Suit Condition**

The following paragraphs are added to Paragraph **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section **IV – Commercial General Liability Conditions**:

Notice of an "occurrence" or of an offense which may result in a claim under this insurance or notice of a claim or "suit" shall be given to us as soon as practicable after knowledge of the "occurrence", offense, claim or "suit" has been reported to any insured listed under Paragraph **1.** of Section **II – Who Is An Insured** or an "employee" authorized by you to give or receive such notice. Knowledge by other "employees" of an "occurrence", offense, claim or "suit" does not imply that you also have such knowledge.

In the event that an insured reports an "occurrence" to the workers compensation carrier of the Named Insured and this "occurrence" later develops into a General Liability claim, covered by this Coverage Part, the insured's failure to report such "occurrence" to us at the time of the "occurrence" shall not be deemed to be a violation of this condition. You must, however, give us notice as soon as practicable after being made aware that the particular claim is a General Liability rather than a Workers Compensation claim.

**P. Other Insurance Condition**

Paragraphs **4.a.** and **4.b.(1)** of the Other Insurance Condition of Section **IV – Commercial General Liability Conditions** are replaced by the following:

**4. Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below. However, this insurance is also primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

Other insurance includes any type of self insurance or other mechanism by which an insured arranges for funding of its legal liabilities.

**b. Excess Insurance**

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
- (i) That is property insurance, Builder's Risk, Installation Risk or similar coverage for "your work";
  - (ii) That is property insurance purchased by you (including any deductible or self insurance portion thereof) to cover premises rented to you or temporarily occupied by you with permission of the owner;
  - (iii) That is insurance purchased by you (including any deductible or self insurance portion thereof) to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;
  - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**; or
  - (v) That is property insurance (including any deductible or self insurance portion thereof) purchased by you to cover damage to:
    - i Equipment you borrow from others at a jobsite; or
    - ii Property loaned to you or personal property in the care, custody or control of the insured arising out of the use of an elevator at premises you own, rent or occupy.
- (b) Any other primary insurance (including any deductible or self insurance portion thereof) available to the insured covering liability for damages arising out of the premises, operations, products, work or services for which the insured has been granted additional insured status either by policy provision or attachment of any endorsement. Other primary insurance includes any type of self insurance or other mechanism by which an insured arranges for funding of its legal liabilities.
- (c) Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

**Q. Unintentional Failure to Disclose All Hazards**

Condition **6. Representations** of Section **IV – Commercial General Liability Conditions** is replaced by the following:

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Coverage will continue to apply if you unintentionally:

- i. Fail to disclose all hazards existing at the inception of this policy; or
- ii. Make an error, omission or improper description of premises or other statement of information stated in this policy.

You must notify us in writing as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to inception of this Coverage Part.

**R. Transfer Of Rights Of Recovery Against Others To Us / Waiver of Right of Subrogation**

Condition **8. Transfer Of Rights Of Recovery Against Others To Us** of Section **IV – Commercial General Liability Conditions** is renamed and replaced by the following:

**8. Transfer Of Rights Of Recovery Against Others To Us / Waiver of Right of Subrogation**

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. If the insured waives its right to recover payments for injury or damage from another person or organization in a written contract executed prior to a loss, we waive any right of recovery we may have against such person or organization because of any payment we have made under this Coverage Part. The written contract will be considered executed when the insured's performance begins or when it is signed, whichever happens first. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.

**S. Liberalization Condition**

The following condition is added to Section **IV – Commercial General Liability Conditions**:

**Liberalization Clause**

If we revise this Coverage Part to broaden coverage without an additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in the state shown in the mailing address of your policy.

All other terms, conditions, provisions and exclusions of this policy remain the same.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

Any person or organization as required in a written contract or a written agreement with the insured that additional insured status be provided for that person or organization under this policy for the maintenance, operation or use of equipment being leased to you.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

**C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable limits of insurance;
- whichever is less.

This endorsement shall not increase the applicable limits of insurance.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Quality of Life

**STAFF CONTACT:** Mike Sirna/John Brockus/John Page

**SUBJECT:** Consideration of award of contract to KC Bobcat for the purchase of one (1) Model 2550XP Stump Grinder for the Parks Maintenance Division of Quality of Life.

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**TITLE:**

Consideration of award of contract to KC Bobcat for the purchase of one (1) Model 2550XP Stump Grinder for the Parks Maintenance Division of Quality of Life.

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**SUMMARY:**

KC Bobcat, an Olathe vendor, submitted a quote based on the Sourcewell Cooperative contract 05119-BAN, for a Model 2550XP Stump Grinder. Sourcewell is a national competitive bidding cooperative. This replaces the current stump grinder, which has reached the end of its useful life.

The Forestry Department of the Park Maintenance Division of Quality of Life will utilize this stump grinder for daily maintenance of trees in city parks, public buildings, and trails. This equipment will be stationed at the Park Operations facility.

Staff recommends award of contract to KC Bobcat.

The stump grinder is being replaced as part of the regular equipment replacement cycle and is fully amortized. The lease fees paid into the VEF fully cover the replacement cost.

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**FINANCIAL IMPACT:**

\$61,271.60 to be paid from the Vehicle Equipment Replacement Fund.

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**ACTION NEEDED:**

Award of contract to KC Bobcat

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**ATTACHMENT(S):**

- A. Quote



# K.C. Bobcat

**KC Bobcat**  
 1450 SE US 40 Highway  
 Blue Springs, MO 64014  
 USA  
 816-229-4006 (Phone)  
 816-229-7631 (Fax)  
[www.kcbobcat.com](http://www.kcbobcat.com)

## QUOTATION

Quote #	Quote Created	Last Updated	Salesperson
158233	July 12, 2023 08:17 AM by KC Bobcat	February 5, 2024 12:36 PM by KC Bobcat	David Payne

CUSTOMER:	BILL TO:	SHIP TO:
CITY OF OLATHE 1908 W. IRONWOOD ST. OLATHE, KANSAS 66051 USA 913-971-9725 (Phone) JARED DORAN (Contact) <a href="mailto:jdorn@olatheks.org">jdorn@olatheks.org</a>	KC Bobcat 1220 S HAMILTON CR OLATHE, KS 66061 United States 9132082033 (Phone) 816-229-7631 (Fax) Dave Payne (Contact) <a href="mailto:dpayne@kcbobcat.com">dpayne@kcbobcat.com</a>	KC Bobcat 1220 S HAMILTON CR OLATHE, KS 66061 United States 9132082033 (Phone) 816-229-7631 (Fax) Dave Payne (Contact) <a href="mailto:dpayne@kcbobcat.com">dpayne@kcbobcat.com</a>

## MODEL 2550XP SELF-PROPELLED STUMP GRINDER

Qty	Part #	Description
1	MODEL-2550	Model 2550XP - Self-Propelled Stump Grinder

## STANDARD EQUIPMENT

Qty	Part #	Description
1	STANDARD	8.5 gallon steel fuel tank with lockable filler cap, aluminum sight gauge and magnetic drain plug
1	STANDARD	8.5 gallon steel hydraulic tank with lockable filler cap, glass sight gauge mounted to side of tank and magnetic drain plug
1	STANDARD	600 PSI Gauge
1	STANDARD	3000 PSI Gauge
1	STANDARD	6000 PSI Gauge
1	STANDARD	Hydrostatic unit (Cutterwheel is driven by a heavy-duty hydraulic motor and is engaged via a hydraulic pump) (NO belts or bearings to maintain)
1	STANDARD	(4) hydraulic motors for drive system (2 with brakes and 2 without)
1	STANDARD	Four wheel drive
1	STANDARD	(6) 8.5 x 10, 4 ply tires mounted on 5-bolt white rims (dual rims can be removed via a single bolt)
1	STANDARD	Plastic battery compartment with 800 CCA Interstate battery
1	STANDARD	Murphy 485 panel with tach / hour meter (Tier 4 final and gas engines)
1	STANDARD	Rubber debris chip curtains
1	STANDARD	Weather resistant manual container
1	STANDARD	Self contained live hydraulic system
1	STANDARD	(1) weatherproof machine manual (includes safety, operation and parts sections) also (1) engine and clutch manual is included if applicable
1	STANDARD	Spanish & English combination safety decals
1	STANDARD	5 section control valves
1	STANDARD	Variable swing / travel speed
1	STANDARD	Hydraulic oil cooler

## PAINT

Qty	Part #	Description
1	OPTION-203-5000-68	Special Imron Industrial Paint (please specify paint color and number) - 2550 Specified: save a tree green

## ENGINE

Qty	Part #	Description
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1 990-RC1571-153 Kohler 49 horsepower diesel engine - Tier 4 FINAL (No Enclosure) (Includes 3 year / 2,000 hour engine warranty)

### CONTROL SYSTEM AND ENGINE INSTALLATION

Qty	Part #	Description
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1 203-6000-00 Kohler 49 diesel package

### STUMP GRINDER CONTROL

Qty	Part #	Description
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1 OPTION-203-5000-25 Unit to be controlled via radio remote control with tether back-up (Remote will control cutter wheel and machine drive functions, also included on remote is engine e-stop)

### STUMP GRINDER CUTTER WHEELS

Qty	Part #	Description
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1 OPTION-203-5000-45 21" diameter x 1 1/4" thick New Revolution cutter wheel with 24 carbide teeth (features carbide infused wear strips on perimeter of wheel & side pockets)

### ADD-ON OPTIONS

#### Engine Related Options

Qty	Part #	Description
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1 OPTION-001-5000- Super sweep (regulates swing when engine drops below a pre-set RPM) (Units w/ remote control)

#### Hose Protection

Qty	Part #	Description
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1 OPTION-203-5000- 2550 (remote) hose protection

#### Stump Grinder Options

Qty	Part #	Description
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1 OPTION-203-5000- All Foam Filled Tires

1 ~~OPTION-203-5000-~~ 35" Wide hydraulically operated grading blade (Remote Units Only)

#### Tools

Qty	Part #	Description
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1 001-5000-00 Stump Grinder tool kit (Includes ratchet and sockets to change teeth and remove dual wheel bolt)

### CUSTOMER TOTALS

Total Unit Price:		<b>\$ 67695.00</b>
Customer Discount:	12.0000 %	<b>-\$ 8123.40</b>
Dealer Preparation/Delivery:		<b>\$ 500.00</b>
Customer Net Unit Price:		<b>\$ 60071.60</b>
Freight/Shipping:		<b>\$ 1200.00</b>
Customer Total:		<b>\$ 61271.60</b>

### COMMENTS

Comment By KC Bobcat on 02/05/2024 12:31 PM

SOURCEWELL/CITY OF OLATHE KS #2365

Comment By KC Bobcat on 02/05/2024 12:35 PM

BANDIT INDUSTRIES # 050119-BAN

### SIGNATURE

The Buyer, whose name and address appears above, agrees to purchase from the Seller, whose name and address appears above, the above equipment at the prices stated and upon the terms and conditions of this agreement.

X  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## TERMS AND CONDITIONS

1. Buyer agrees to grant Bandit Industries, Inc., a security interest in the equipment covered by this order unit said equipment is paid in full.
2. This is a shipment contract and the goods shall be delivered F.O.B. Bandit Industries, Inc., Remus, Michigan. The risk of loss of the goods shall pass to the buyer as the goods are tendered to the carrier.
3. In the event Buyer defaults in the payment of any amounts due hereunder immediately due and payable without notice or demand, and shall have all of the remedies of a secured party under the Uniform Commercial Code and any other applicable laws. Upon repossession of the equipment by Seller, any notices required to be given by Seller to Buyer with respect to the sale or other disposition. In the event of a default, Buyer agrees upon Seller's request to make the equipment available to the Seller at such place as Seller may designate.
4. The Buyer agrees to keep the above described property insured against loss or damage by fire, wind, theft and accident by an insurance company or companies is to be payable to the Seller as its interest may appear, and the policies to be delivered to and retained by the Seller until the purchase price is paid in full. Such insurance coverage shall begin when Seller tenders the goods to the carrier.
5. Any tax other governmental charge upon the production, sales, or shipment of the goods sold hereunder, now imposed, or hereafter becoming effective during the term of this agreement, shall be added to the price herein provided, and shall be paid by the Buyer to the Seller.
6. This shall become a binding contract and effective as of the date when, but not before, either:
  - (a) It has been accepted by the Seller at its executive office, or
  - (b) The equipment has been delivered to the Buyer with or without acceptance in writing. Notice of acceptance is hereby waived by the Purchaser. The Purchaser acknowledges receipt of a true and complete copy of its sales agreement.
7. Seller shall not be responsible for failure to ship according to the terms and conditions of this contract, where such failure is caused by any fires, strikes, labor difficulties, failure of carriers to furnish facilities or acts of carriers, or other causes beyond the control of Seller: Provided that when such failure does not exist Seller shall perform this contract within a reasonable time.
8. There are no understandings, agreements, or representations, express or implied including any recording, merchantability, or fitness for a particular purpose, not specified herein, respecting this contract or the equipment hereunder. The contract and warranty are intended by the parties as a final expression of their agreement and are intended as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any terms used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement the definition contained in the Code is to control.
9. No agent, employee or representative of the Seller has any authority to bind the Seller to any affirmation, representation or warranty concerning the goods sold under this agreement, and unless an affirmation, representation or warranty made by an agent, employee or representative is specifically included with this written agreement, it has not formed a part of the basis of this bargain and shall not in any way be enforceable by the Buyer.
10. This agreement can not be modified or rescinded only by a writing signed by both of the parties or their duty authorized agents.
11. This agreement shall be governed by the Uniform Commercial Code. Whenever the term "Uniform Commercial Code" is used, it shall be construed as meaning the Uniform code as adopted by the State of Michigan as effective and in force on the date of this agreement.
12. The counterpart of this contract held by the Seller shall be considered the original and shall be the binding agreement in case of a variance in any particular between in and the signed copy.



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Quality of Life

**STAFF CONTACT:** Mike Sirna/Emily Diehl

**SUBJECT:** Consideration of approval of MOU with Johnson County for Community Development Block Grant (CDBG) and HOME Funds (2025-2027), Letter of Intent to Defer Metropolitan City Status, and MOU Amendments for 2016-2024.

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**TITLE:**

Consideration of approval of MOU with Johnson County for Community Development Block Grant (CDBG) and HOME Funds (2025-2027), Letter of Intent to Defer Metropolitan City Status, and MOU Amendments for 2016-2024.

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**SUMMARY:**

Since 1986, the City of Olathe has partnered with Johnson County to qualify for Urban County Status under the Community Development Block Grant (CDBG) program of the Housing and Community Development Act of 1974, and the HOME program authorized by Title II of the Cranston-Gonzales National Affordable Housing Act of 1990.

Through the Memorandum of Understanding (Attachment #1), the County and City of Olathe agree to benefit low-income persons by addressing community revitalization needs and housing assistance activities. CDBG funds may also be used to benefit programs that are in the best interest of public health, safety, and welfare of our citizens.

The three-year agreement outlines program administration and funding allocation for Olathe. The City benefits and follows these stipulations:

**Benefits:**

1. Olathe receives 41% of the adjusted County's CDBG funds and 23% of County's HOME funds.
2. Johnson County prepares the Consolidated Plan and CAPER report for the U.S. Department of Housing and Urban Development.

**Restrictions:**

1. Olathe cannot apply for HUD's Small Cities or State CDBG programs or become eligible for CDBG or HOME funds as a Metropolitan Entitlement City while partnering with the urban county.
2. Agreements renew automatically every three years unless the City provides written notice to opt out. The City cannot withdraw unless the County does not receive a grant for any given year.

Olathe must submit a letter (Attachment #2) to the U.S. Department of Housing and Urban Development and Johnson County to defer its metropolitan city status and be included in the urban county for Federal Fiscal Years 2025-2027.

Amendments to the MOUs for 2016-2018, 2019-2021, and 2022-2024 (Attachment #3) are submitted

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**MEETING DATE:** 6/18/2024

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for approval. These amendments:

- Add affordable housing support as an eligible HOME activity.
  - Clarify that Olathe defers authority for HOME projects to Johnson County.
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**FINANCIAL IMPACT:**

Approximately \$640,000 from CDBG and HOME are invested in the City of Olathe annually.

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**ACTION NEEDED:**

Approval of the Memorandum of Understanding with Johnson County for FY 2025-2027, Letter of Intent to defer Metropolitan City status, and amendments for 2015-2024.

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**ATTACHMENT(S):**

- A. 2025-2027 Memorandum of Understanding
- B. Letter of Intent
- C. Prior Year MOU Amendments

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, entered the date of last signature below (the “Effective Date”), is by and between the Board of County Commissioners of Johnson County, Kansas, a body corporate and political subdivision of the State of Kansas (“County”) and the City of Olathe, Kansas (“City”) (collectively, the “Parties”).

### Recitals

- A. The COUNTY and CITY have determined under a Cooperation Agreement first executed in 2003, as amended in 2015, that it is in the best interests of the public health, safety, and welfare to cooperate in undertaking community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing and fund such activities from annual Community Development Block Grant (CDBG) authorized by Title 1 of the Housing and Community Development Act of 1974 and HOME Investment Partnerships (HOME) authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (ACT). The Cooperation Agreement, as amended, is attached hereto as **Exhibit A** and is incorporated by reference as if fully set forth herein;
- B. Under the Cooperation Agreement and in furtherance thereof, the CITY deferred its status as a Metropolitan City and elected to be included in the Urban County for the purposes of the COUNTY’s CDBG Program and thereby automatically participates in the COUNTY’s HOME Program for Federal Fiscal Years 2025, 2026, 2027;
- C. To the extent that federal funds are available for the COUNTY’s CDBG Program and the COUNTY’s HOME program during the aforesaid Federal Fiscal Years, the COUNTY agrees to allocate CDBG and HOME funds for projects within the

CITY, provided the projects meet all the federal requirements of the CDBG and HOME Programs as may be established by the U.S. Department of Housing and Urban Development (HUD) and operate according to the Policies and Procedures of the Johnson County CDBG Program and the Johnson County HOME Consortium; and

- D. The COUNTY and CITY desire to reduce to writing their understanding as to the method for determining the amount of the annual subgrants to the CITY from the COUNTY's annual CDBG grant and the Johnson County HOME Consortium's annual HOME grant for the aforesaid Fiscal Years.

The Parties understand and mutually agree as follows:

**ARTICLE I**  
**Purpose and Scope of Services**

**1.0. Purpose and Scope of Service**

The Parties incorporate the Recitals as if fully set forth herein. The Parties wish to cooperate in undertaking community renewal and lower income housing activities, specifically urban renewal, and publicly assisted housing for the CDBG and HOME programs. The Parties' goal is to ensure the funds allocated as the CITY's subgrant will only be used for CDBG and HOME qualifying projects and activities in the CITY and will be spent in a timely manner on eligible activities. The purpose of this Agreement is to set out the goals and responsibilities of the Parties in furtherance of that goal.

**ARTICLE II**  
**Term**

**2.0. Term.**

The term of this MOU shall be for Federal Fiscal Years 2025, 2026, and 2027.

**ARTICLE III**  
**Compensation**

**3.0. Compensation**

**3.1.** Total compensation. The Parties shall not exchange funds. Instead, this MOU sets forth the method for determining the CDBG and HOME Program Subgrant.

**3.2.** Method for Determining the CDBG Subgrant. The County and City agree that in Federal Fiscal Years 2025, 2026, and 2027, the Adjusted CDBG Grant Amount, upon which the CITY's subgrant is based, will be determined by:

3.2.1. Subtracting a maximum of 20% from the COUNTY's annual CDBG grant, plus program income, for program administration and planning per 24 CFR 570.200(g).

3.2.2. The amount remaining after this deduction from the COUNTY's annual CDBG grant is the Adjusted CDBG Grant Amount.

**3.3.** Method for Determining the HOME Program Subgrant. The County and City agree that in Federal Fiscal Years 2025, 2026, and 2027, the Adjusted HOME Grant Amount, upon which the CITY's subgrant is based, will be determined by:

3.3.1. Subtracting a maximum of 10% from the COUNTY's annual HOME grant for program administration and planning per 24 CFR 92.207 and 20%, plus program income, for Community Housing Development Organizations per 24 CFR 92.300.

3.3.2. The amount remaining after this deduction from the COUNTY's annual HOME grant is the Adjusted HOME Grant Amount.

**ARTICLE IV**  
**Responsibilities**

**4.0. Responsibilities**

**4.1. The County's Responsibilities**

- 4.1.1. The COUNTY, for the duration of the Cooperation Agreement and to the extent that federal funding for the CDBG Program is made available, agrees to subgrant to the CITY from the Adjusted CDBG Grant Amount for Federal Fiscal Years 2025, 2026, 2027, an annual subgrant based upon the CITY's percentage of the Johnson County population, according to the 2010 U.S. Census Bureau population data as published by the U.S. Census Bureau and excluding populations in the Cities of Overland Park and Shawnee.
- 4.1.2. Upon the COUNTY's execution of HUD's Consolidated Plan Grant Agreement, the COUNTY will notify the CITY in writing of the amount of the CITY's CDBG and HOME subgrant and the basis on which the amount was determined.
- 4.1.3. Once the COUNTY allocates all funding for a fiscal year they will notify the CITY. The notification will be for all Olathe projects and include detailed documentation of the following: description of the project and individuals/interests/community served, the project address, the scope of work, and cost per project.
- 4.1.4. During the first quarter of each calendar year, the COUNTY will submit a letter to the CITY outlining the COUNTY's anticipated HOME match requests for the next calendar year.
- 4.1.5. The COUNTY agrees to provide regular updates to the CITY on the status of all HOME funds, including commitment, obligation, and expenditure for all activities, and all the total and status of remaining

unobligated and unexpended funds for all open HOME grant years and proposed HDL projects.

#### **4.2. The City's Responsibilities**

4.2.1. The CITY acknowledges and agrees that, pursuant to 24 CFR 570.501(b), the CITY shall be subject to the same requirements applicable to all cities included in the urban county including but not limited to:

4.2.1.1. Using the COUNTY's CDBG Application, and adhering to the COUNTY's Application schedule and to dates supplied by the COUNTY in order to assure compliance with the COUNTY's Citizen Participation Plan and the requirements of the U.S. Department of Housing and Urban Development (HUD) for the submission of the Consolidated Plan and/or Annual Action Plan; and

4.2.1.2. Using all forms, supplied by the COUNTY, for CDBG activities in the CITY; and

4.2.1.3. Providing the COUNTY with a list of the CITY's proposed awards and one complete copy of each application by the date specified by the COUNTY.

4.2.2. The CITY agrees to carry out its CDBG assisted activities in a timely manner as is required of the COUNTY at 24 CFR 570.902.

4.2.3. Subject to Kansas Cash Basis Law, the CITY agrees to match the amount of the CITY's HOME subgrant by Twenty-five Percent (25%), as required at 24 CFR 92. 218(a), unless the COUNTY has been granted a reduction of its HOME match liability due to a Presidential Disaster Declaration. The CITY may match additional HOME funds should other participating jurisdictions fail to fully expend or commit the HOME funds available to them in a given Federal Fiscal Year. The COUNTY will monitor all expenditures

and commitments of HOME funds to ensure that HOME funds are utilized according to Program Regulations. Upon the receipt of the notification and all information set forth in Article IV, the CITY will provide the match payment for that fiscal year.

4.2.3.1. However, if the COUNTY's funds are recaptured by the Office of Housing and Urban Development, the CITY will not provide a match for those years.

4.2.4. The CITY certifies that in all matters relating to the CDBG and HOME Programs it will follow the COUNTY'S Citizen Participation Plan approved by HUD.

## ARTICLE V **Special Terms**

### **5.0. Special Terms**

**5.1. Eligible CDBG Activities.** The COUNTY agrees to approve the CITY's proposed CDBG projects provided they meet all federal requirements of the CDBG Program as may be established by HUD and remain in compliance with the COUNTY's CDBG Program Policies and Procedures.

**5.2. Population Percentage.** The COUNTY and CITY agree that, according to the Census 2010 data as published by the U.S. Census Bureau, the CITY's percentage of the Johnson County population, excluding Overland Park and Shawnee is 41% for CDBG.

**5.3. Use of Funds.** Funds allocated as the CITY's subgrant will only be used for CDBG eligible projects and activities within the corporate limits of Olathe, Kansas and serving the Olathe community.

**5.4. Eligible HOME Activities.** Eligible activities are provided in the Consolidated Plan and Action Plan. Currently there are two eligible activities: Single family homeowner Rehabilitation (Rehab) and the Housing Development Loan (HDL) program. The CITY agrees to defer approval of Rehab and HDL program applications to the COUNTY.

- 5.5. Population Percentage.** The COUNTY and CITY agree that, according to the Census 2010 data as published by the U.S. Census Bureau, the CITY's percentage of the Johnson County population, including Overland Park and Shawnee is 23% for HOME.
- 5.6. Use of Funds.** Funds allocated as the CITY's subgrant will only be used for HOME qualifying projects and activities within the corporate limits of Olathe, Kansas and serving the Olathe community.

**ARTICLE VI**  
**General Terms**

**6.0. General Terms**

- 6.1. Amendments.** This Agreement may be amended by supplemental writing signed by both Parties.
- 6.2. Choice of Law.** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action arising in connection with this Agreement will be brought in the district court of Johnson County, Kansas.
- 6.3. Compliance with Laws.** The CITY and COUNTY shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Agreement.
- 6.4. Counterparts and Electronic Delivery.** This Agreement may be executed in one or more counterparts, each of which will for all purposes be deemed an original and all of which will constitute the same agreement. All such counterparts shall be deemed an original, shall be construed together, and shall constitute one and the same instrument. Signatures to this Agreement transmitted by any electronic means intended to preserve the original graphic and pictorial appearance of this Agreement shall have the same effect as physical delivery of the paper document bearing original signature.

**6.5. Entire Agreement.** This Agreement, which consists of this Agreement, which consists of 8 pages and the Exhibit A – The Cooperation Agreement as amended, which consists of 13 pages, expresses the complete understanding of the Parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings.

**6.6. Termination.** The Parties may not terminate this agreement. The Parties have agreed in the Cooperation Agreement that neither party shall withdraw during the three-year period between Federal Fiscal Year 2025 and 2027.

IN WITNESS WHEREOF, The COUNTY and the CITY have caused this Agreement to be executed in triplicate by their respective authorized representatives.

**JOHNSON COUNTY BOARD OF COUNTY COMMISSIONERS**

**THE CITY OF OLATHE**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
John Bacon, Mayor  
Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Lynda Sader, Deputy County Clerk

\_\_\_\_\_  
[City Clerk]

APPROVED AS TO FORM

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant County Counselor

\_\_\_\_\_  
[City Attorney]



June 18, 2024

Office of Community Planning & Development  
Kansas City Regional Office  
Attn: Dominique Waters  
400 State Ave, Ste 200  
Kansas City, KS 66101

Ms. Waters,

This letter is to advise HUD and Johnson County of the City of Olathe's intent to defer its classification as a metropolitan city for the purposes of the CDBG and HOME programs. The City elects to continue our participation as part of Johnson County's qualification as an urban county for Federal Fiscal Years 2025-2027. This is the same relationship the City has had with Johnson County for these programs since 1986.

The Olathe City Council approved the Memorandum of Understanding with the Board of County Commissioners of Johnson County, Kansas for the Fiscal Years 2025-2027 at their June 18, 2024 council meeting.

If you had additional questions, please contact the City of Olathe Grants Coordinator, Emily Diehl, at [ediehl@olatheks.org](mailto:ediehl@olatheks.org) or 913-971-8628.

Sincerely,

John Bacon, Mayor  
City of Olathe

CC: Johnson County Planning Community Development

**AMENDMENT #1 TO HOME MEMORANDUM OF UNDERSTANDING – JOHNSON  
COUNTY HOME CONSORTIUM DATED JUNE 25, 2015**

THIS FIRST AMENDMENT to the Memorandum of Understanding – Johnson County HOME Consortium dated June 25, 2015 (“MOU”) for Federal Fiscal Years 2016-2018, entered the date of last signature below (the “Effective Date”), is by and between the Board of County Commissioners of Johnson County, Kansas, a body corporate and political subdivision of the State of Kansas (“County”) and the City of Olathe, Kansas (“City”) (collectively, the “Parties”).

**RECITALS**

- A.** Johnson County, as Lead Entity for the Johnson County HOME Consortium, has subgranted HOME to the City of Olathe via the MOU.
- B.** Affordable housing support has been identified as a new eligible activity for HOME funds.
- C.** The Parties wish to amend their MOU to retroactively add affordable housing support as an eligible activity and to clarify that the City is deferring the authority to decide which projects are approved to the County.

In consideration of the above, the Parties agree to amend the MOU as follows:

1.0 The MOU is amended to add a new section I.D., which shall be and read as follows:

**D. Eligible Activities.** There are two eligible activities for HOME funds: Single family homeowner rehabilitation (“Rehab”) and the Housing Development Loan (“HDL”) program. The City agrees to defer approval of Rehab and HDL program applications to the County.

2.0 All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

The Parties have caused their duly authorized representatives to execute the above and foregoing Amendment to the MOU on the date of last signature below.

THE REST OF PAGE INTENTIONALLY LEFT BLANK

**BOARD OF COUNTY COMMISSIONERS OF  
JOHNSON COUNTY KANSAS**

**CITY OF OLATHE**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
Printed Name:  
Title: Mayor

Date: \_\_\_\_\_  
ATTEST:

Date: \_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Lynda Sader, Deputy County Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
APPROVED AS TO FORM

\_\_\_\_\_  
Betsey Lasister, Ass't County Counselor

**AMENDEMENT #1 TO HOME MEMORANDUM OF UNDERSTANDING – JOHNSON  
COUNTY HOME CONSORTIUM DATED JUNE 14, 2018**

THIS AMENDMENT to the Memorandum of Understanding – Johnson County HOME Consortium Memorandum dated June 14, 2018 for Federal Fiscal Years 2019-2021 (“MOU”), entered the date of last signature below (the “Effective Date”), is by and between the Board of County Commissioners of Johnson County, Kansas, a body corporate and political subdivision of the State of Kansas (“County”) and the City of Olathe, Kansas (“City”) (collectively, the “Parties”).

**RECITALS**

- A.** Johnson County, as Lead Entity for the Johnson County HOME Consortium, has subgranted HOME to the City of Olathe via the MOU.
- B.** Affordable housing support has been identified as a new eligible activity for HOME funds.
- C.** The Parties wish to amend their MOU to retroactively add affordable housing support as an eligible activity and to clarify that the City is deferring the authority to decide which projects are approved to the County.

In consideration of the above, the Parties agree to amend the MOU as follows:

1.0 The MOU is amended to add a new section I.D., which shall be and read as follows:

**D. Eligible Activities.** There are two eligible activities for HOME funds: Single family homeowner rehabilitation (“Rehab”) and the Housing Development Loan (“HDL”) program. The City agrees to defer approval of Rehab and HDL program applications to the County.

2.0 All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

The Parties have caused their duly authorized representatives to execute the above and foregoing Amendment to the MOU on the date of last signature below.

THE REST OF PAGE INTENTIONALLY LEFT BLANK

**BOARD OF COUNTY COMMISSIONERS OF  
JOHNSON COUNTY KANSAS**

**CITY OF OLATHE**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
Printed Name:  
Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Lynda Sader, Deputy County Clerk

\_\_\_\_\_  
APPROVED AS TO FORM

APPROVED AS TO FORM

\_\_\_\_\_  
Betsey Lasister, Assistant County  
Counselor

\_\_\_\_\_

**AMENDEMENT #1 TO HOME MEMORANDUM OF UNDERSTANDING – JOHNSON  
COUNTY HOME CONSORTIUM FILED JUNE 24, 2021**

THIS AMENDMENT to the Memorandum of Understanding – Johnson County HOME Consortium Memorandum filed June 24, 2021 for Federal Fiscal Years 2022-2024 (“MOU”), entered the date of last signature below (the “Effective Date”), is by and between the Board of County Commissioners of Johnson County, Kansas, a body corporate and political subdivision of the State of Kansas (“County”) and the City of Olathe, Kansas (“City”) (collectively, the “Parties”)

**RECITALS**

- A. Johnson County, as Lead Entity for the Johnson County HOME Consortium, has subgranted HOME to the City of Olathe via the MOU.
- B. Affordable housing support has been identified as a new eligible activity for HOME funds.
- C. The Parties wish to amend their MOU to retroactively add affordable housing support as an eligible activity and to clarify that the City is deferring the authority to decide which projects are approved to the County.

In consideration of the above, the Parties agree to amend the MOU as follows:

1.0 The MOU is amended to add a new section I.D., which shall be and read as follows:

**D. Eligible Activities.** There are two eligible activities for HOME funds: Single family homeowner rehabilitation (“Rehab”) and the Housing Development Loan (“HDL”) program. The City agrees to defer approval of Rehab and HDL program applications to the County.

2.0 All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

The Parties have caused their duly authorized representatives to execute the above and foregoing Amendment to the MOU on the date of last signature below.

THE REST OF PAGE INTENTIONALLY LEFT BLANK

**BOARD OF COUNTY COMMISSIONERS OF  
JOHNSON COUNTY KANSAS**

**CITY OF OLATHE**

\_\_\_\_\_  
Mike Kelly, Chairman

\_\_\_\_\_  
Printed Name:  
Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_  
Lynda Sader, Deputy County Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
APPROVED AS TO FORM

\_\_\_\_\_  
Betsey Lasister, Assistant County  
Counselor



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Fire

**STAFF CONTACT:** Kristine Martin/Jeff DeGraffenried/John Page

**SUBJECT:** Consideration of approval of professional service agreement with Health Partnership Clinic in support of Mobile Integrated Health Program.

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**TITLE:**

Consideration of approval of professional service agreement with Health Partnership Clinic in support of Mobile Integrated Health Program

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**SUMMARY:**

Since 2014, the Olathe Fire Department's Mobile Integrated Health (MIH) program has been connecting community members in need with the right care at the right time. In 2015, the City entered into a professional services agreement with Health Partnership Clinic (the only federally-qualified health center in Olathe) to provide a nurse practitioner for the MIH program. The nurse practitioner is teamed with a firefighter/paramedic to perform medical assessments, determine needs and barriers to care, and help connect the patients with the appropriate care solutions in the community.

Having staff support from Health Partnership Clinic allows the MIH team to have a direct connection to the clinic and its integrated resources like laboratory testing, behavioral health care, etc. This agreement expands on previous agreements to allow the City to contract with the Clinic to provide additional staff positions. As the MIH program grows, there is a need for additional nurse practitioner support as well as an addiction counselor to support substance use disorder treatment.

The City's payments under this agreement are contingent on receiving sufficient funding to cover the cost of the services. The Olathe Health Foundation will continue to make annual charitable donations to the City through 2027 in support of the MIH Program. Additionally, a grant through the FY23 Federal Community Project Funding supports the program's costs. The program is also proposing use of City Opioid Settlement Funds to support an emphasis on behavioral health and substance use treatment.

Staff recommends approval of this agreement which would last through December 31, 2028.

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**FINANCIAL IMPACT:**

None. Funds paid to Health Partnership Clinic are provided from charitable contribution made to the City from Olathe Medical Center, Inc. and through a FY23 Community Project Funding grant administered by HSRA.

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**ACTION NEEDED:**

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**MEETING DATE:** 6/18/2024

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Award of contract to Health Partnership Clinic in support of Mobile Integrated Health Program for the Olathe Fire Department.

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**ATTACHMENT(S):**

A. Contract

## **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and **Health Partnership Clinic, Inc.**, hereinafter "Consultant" (collectively, the "Parties").

For the past several years, City received a charitable contribution from Olathe Medical Center, Inc. for the sole purpose of supporting City's Mobile Integrated Health ("MIH") Program (described in **Exhibit A**). Furthermore, in 2024, Olathe Medical Center, Inc., committed to making the same type of annual charitable contribution to City each year from 2024 through 2028 provided City maintains the MIH Program in existence. The City also anticipates receiving federal grant funds and other funding sources to support the MIH program. The funds received will be used to pay for the Professional Services under this Agreement for the initial term and, if renewed, the renewal terms. City's payment to Consultant for the Professional Services is contingent upon receipt of sufficient funds from these sources to pay for the Professional Services.

City is in need of certain Professional Services in the field of primary healthcare services to assist with the Olathe Fire Department's MIH Program ("Project").

Consultant has expertise in said field as described in **Exhibit B (Scope of Services)** attached hereto and incorporated by reference.

City contracts with Consultant for the performing of Professional Services in connection with the Project as described herein, in consideration of these premises and of the mutual covenants herein set forth. By executing this Agreement, Consultant represents to City that Consultant is qualified to perform the work on this Project and is licensed to practice said services by all public entities having jurisdiction over Consultant and the Project.

### **SECTION I - DEFINITIONS**

As used in this Agreement, the following terms will have the following meanings unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words will have a meaning parallel thereto.

"Additional Services" means services in addition to those listed in **Exhibit B**.

"City" means the City of Olathe, Kansas, a municipal corporation duly organized under the laws of the State of Kansas, its employees, appointees, and officers.

"Consultant" means the company or individual identified above, herein, and its affiliates, subsidiaries, employees, agents, and assigns.

"Professional Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services

required of Consultant under this Agreement including any Additional Services.

## **SECTION II - COMPENSATION**

### **A. FEES & EXPENSES**

1. **Total Fee:** Subject to the receipt by City of sufficient charitable contribution funds from Olathe Medical Center, Inc., grant funds or other sources to pay for the Professional Services, City agrees to pay Consultant for Professional Services pursuant to the attached fee schedule (**Exhibit C**), and City will not pay the Consultant the monthly amount designated for a MIH Program position when that MIH Program position is vacant (**Exhibit C**). All bills will be submitted to City monthly as provided herein.

### **B. SERVICES BEYOND THE SCOPE OF SERVICES – intentionally omitted**

### **C. BILLING & PAYMENT**

1. **Billing:** Consultant will invoice City monthly for services. City agrees to pay Consultant within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.
2. **City's Right to Withhold Payment:** In the event City becomes credibly informed that any representations of Consultant provided in its monthly billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consultant until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact will be made known to Consultant immediately. Consultant will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City will be paid to Consultant in accordance with the contract payment procedures.
3. **Healthcare Service Billing:** Consultant shall retain any and all remuneration received from patients and third-party payors for services provided to Consultant's patients by Consultant.
4. **Records and Audits:** Records of compensation for services between the Parties must be maintained in accordance with generally recognized accounting principles and must be made available for inspection and/or audit at mutually convenient times and at the sole cost of the requesting party for a period of three (3) years from the Effective Date.

### **D. TERM**

Subject to the Termination provisions in this Agreement, the term of this Agreement is from June 1, 2024 through December 31, 2028. This Agreement will terminate on December 31, 2028.

### **SECTION III - RESPONSIBILITIES OF CONSULTANT**

Consultant will perform the Professional Services as described in **Exhibit B**.

#### **A. GENERAL DUTIES AND RESPONSIBILITIES**

1. **Personnel:** Consultant will assign only qualified personnel to perform the services required by the Agreement. Consultant will advise City of the identity of all professional personnel providing Professional Services under this Agreement.
2. **Subcontracting or Assignment of Services:** Consultant may not subcontract or assign any of the Professional Services to be performed under this Agreement without first obtaining the written approval of City. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement.
3. **Standard of Care:** Consultant will exercise the same degree of care, skill, and diligence in the performance of the Professional Services as is ordinarily possessed and exercised by a professional under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the Professional Services necessary to correct errors and omissions which are caused by Consultant's negligence.

### **SECTION IV - CITY OF OLATHE'S RESPONSIBILITIES**

#### **A. COMMUNICATION**

City will provide to Consultant information and criteria regarding City's requirements for the Professional Services; examine and timely respond to Consultant's submissions; and give written notice to Consultant, who will respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

#### **B. DUTIES**

City will perform the various duties and services which are outlined and designated in **Exhibit B** as City's responsibility.

#### **C. PROGRAM AND BUDGET**

City will provide all relevant information reasonably required for Consultant to perform its obligations herein, including but not limited to City's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary criteria for the Professional Services.

## SECTION V - GENERAL PROVISIONS

### **A. TERMINATION**

1. Notice: Each Party reserves the right to terminate this Agreement for convenience and without cause or default on the part of other Party, by providing sixty (60) days' written notice of such termination to the other Party.

Address for Notice:

Jeff DeGraffenreid, Fire Chief  
Olathe Fire Department  
1225 S. Hamilton Circle  
Olathe, KS 66061  
P: 913/971-7900  
F: 913/971-7982

Amy Falk; HPC CEO  
407 S. Clairborne Rd., Ste. 104  
Olathe, KS 66062  
P: 913/433-7583  
F: 913/393-9934

2. Compensation: City will compensate Consultant for all Professional Services completed before the date of Consultant's receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.
3. Termination for Lack of Funds: If, for whatever reason, adequate funding is not made available to City to support or justify continuation of the level of Professional Services to be provided by Consultant under this Agreement, City may terminate or reduce the amount of Professional Services to be provided by Consultant under this Agreement. In such event, City will notify Consultant in writing at least thirty (30) days in advance of such termination or reduction of Professional Services for lack of funds.

### **B. DISPUTE RESOLUTION**

City and Consultant agree that disputes relative to the Professional Services will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests; and provided further that no dispute will be submitted to arbitration without both Parties' express written consent.

### C. OWNERSHIP OF CONSULTANT DOCUMENTS

Any reports, documents, information and data prepared or created by or on behalf of Consultant or City in the course of performance of this Agreement, shall be and remain the sole property of the originating party.

### D. INSURANCE

1. General: Except as provided in this Section, Consultant will maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts as required in **Exhibit D (City of Olathe Insurance Requirements)**. Professional Liability may be written on a "claims made" basis. Consultant will provide certificates of insurance and renewals thereof on forms acceptable to City (**Exhibit E – Certificate of Insurance**). Consultant is required to promptly notify City of a material change or cancellation of any policy listed on the Certificate. Consultant is not required to maintain cyber liability insurance. Consultant is required to meet the reasonable cyber security requirements requested by City, including but not limited to mandatory training regarding cyber threats and best practices.
2. Subcontractor's Insurance: If a part of the Professional Services under this Agreement is to be sublet, Consultant will either (a) cover all subcontractors in its insurance policies, or (b) require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss in the minimum amounts designated herein. If Consultant selects option (b), then Consultant agrees to provide the City's Risk Manager a certificate of insurance acceptable to the Risk Manager at least seven (7) days prior to allowing the subcontractor to perform any Professional Services. Consultant agrees that any subcontractor providing Professional Services without providing a certificate of insurance acceptable to the City's Risk Manager will immediately cease all services under this Agreement and will assume all financial risk associated with such failure thereto.

### E. INDEMNITY

1. Loss: For purposes of indemnification requirements, the term "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with the performance of this Agreement.
2. Mutual Indemnification and Hold Harmless: For purposes of this Agreement, Consultant agrees to indemnify, defend and hold harmless City and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness,

negligence, or other actionable fault of Consultant or its subcontractors. For purposes of this Agreement, City agrees to indemnify and hold harmless Consultant and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness, negligence, or other actionable fault of City.

3. Comparative Fault & Contributory Negligence: It is a specific element of consideration of this Agreement that the indemnity in Section V.D.2 will apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of City or any Third Party and, further notwithstanding any theory of law including, but not limited to, a characterization of City's or any Third Party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that Consultant's obligation hereunder will not include amounts attributable to the fault or negligence of City or any Third Party for whom Consultant is not responsible.
4. Damage Limitations: The indemnification obligation contained in this Agreement will not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for Consultant or its subcontractors, by the minimum insurance required by this Agreement, nor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
5. Negligence by the City: Consultant is not required hereunder to defend City or its agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence.

**F. AFFIRMATIVE ACTION/OTHER LAWS**

1. Kansas Act Against Discrimination: During the performance of this Agreement, Consultant agrees that:
  - a. Consultant will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, gender, disability, national origin, ancestry, or age;
  - b. in all solicitations or advertisements for employees, Consultant will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
  - c. if Consultant fails to comply with the way Consultant reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by City without penalty;
  - d. if Consultant is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Consultant

will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and

- e. Consultant will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- 2. Exceptions to Applicability: The provisions of this Section will not apply to a contract entered into by City with Consultant if (a) Consultant employs fewer than four (4) employees during the term of such contract; or (b) Consultant's contract with City totals Ten Thousand Dollars (\$10,000) or less in aggregate.
- 3. Kansas Age Discrimination in Employment Act: Consultant further agrees and acknowledges that it will abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to the Professional Services and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

**G. ENTIRE AGREEMENT**

This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

**H. APPLICABLE LAW, JURISDICTION, AND VENUE**

Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

**I. NO THIRD-PARTY BENEFICIARIES**

Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

**J. INDEPENDENT CONTRACTOR**

Consultant is an independent contractor and not an agent or employee of City.

**K. COVENANT AGAINST CONTINGENT FEES – intentionally omitted**

**L. NO SOLICITATION TO HIRE CITY EMPLOYEES**

1. No Solicitation to Hire: Except as otherwise provided in this section, during the term of this Agreement and for one year after the Agreement's expiration or termination, Consultant must not solicit to hire and then hire, or solicit to contract with and then contract with, any of the City's current employees involved with the oversight or implementation of this Agreement.
2. No Restriction on City Employees: The foregoing restrictions shall not prevent City employees from affirmatively seeking employment elsewhere.
3. Liquidated Damages: The Parties agree that in the event of a breach of this provision that damages would be uncertain and difficult to accurately estimate. Therefore, if Consultant breaches this provision, Consultant agrees to pay City liquidated damages to the City equal to the annual salary of the applicable employee hired by or contracting with Consultant.

**M. COMPLIANCE WITH LAWS**

Consultant will abide by all applicable federal, state and local laws, ordinances and regulations applicable to the performance of Professional Services at the time the Professional Services are performed. Consultant will secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of the obligations under this Agreement and, upon request, will provide City a copy of its certificate of good standing to conduct business in the State of Kansas with this Agreement (**Exhibit F**).

**N. FORCE MAJEURE CLAUSE**

Neither party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed party must notify the other party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the agreement.

**O. TITLES, SUBHEADS AND CAPITALIZATION**

Titles and subheadings as used herein are provided only as a matter of convenience and

will have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals has no legal bearing on the interpretation of such terms.

**P. SEVERABILITY CLAUSE**

If any provision of this Agreement is determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

**Q. AMBIGUITY CLAUSE AND HIERARCHY OF INTERPRETATION**

If any ambiguity, inconsistency or conflict arises in the interpretation of this Agreement, the same will be resolved by reference first to the terms and conditions of this Agreement, and any exhibits attached hereto or incorporated by reference as noted below. In the event of any conflict or inconsistency between this Agreement and its exhibits, the following hierarchy of interpretation will apply:

1. This Agreement;
2. Scope of Services (Exhibit B);

**R. HEALTHCARE SERVICES RELATED PROVISIONS**

1. Document Production: If the services provided under this Agreement have an aggregate value or cost of ten thousand dollars (\$10,000) or more over a twelve (12)-month period, parties shall, until the expiration of four (4) years after the furnishing of such services, make available upon written request by the Secretary of Health and Human Services or upon the written request of the Comptroller General of the United States, or by any of the Secretary's or Comptroller General's duly authorized representatives, this Agreement, and the books, documents, and records related thereto that are necessary to verify the nature and extent of the cost of the services provided under this Agreement.
2. Whistleblower Protections: This Agreement and HPC employees working on this Agreement will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. §4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
3. Privacy: Each Party agrees to maintain the security and privacy of any individually identifiable patient health information ("PHI") transmitted electronically for the purpose of a "covered transaction," regardless of whether it is received from or created for the other Party, in accordance with the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009, and the privacy, security, and breach notification regulations promulgated pursuant

thereto, including amendments and regulations which may become effective during the term of this Agreement ("HIPAA"). For the purpose of this section, "covered transaction" has the meaning established by HIPAA and its implementing regulations, including The Privacy Rule. Neither party will use or disclose such PHI, other than as expressly permitted by this Agreement or as required by law. The parties may, however, use PHI for purposes of managing their internal business processes relating to their functions under this Agreement. The Parties further agree to use appropriate safeguards to prevent the unauthorized use or disclosure of such PHI as required by HIPAA and, upon reasonable request, provide each other or the Secretary of the United States Department of Health and Human Services with information regarding their respective security and privacy practices. In the event one Party uses or discloses any PHI without proper consent or authorization, or the privacy or security of such PHI is otherwise compromised, that party shall immediately report to the other the unauthorized use or disclosure or compromise and the remedial action proposed or taken with respect to mitigating any harm related to such use or disclosure to the extent practicable. Further, such Party will cooperate in providing notice to affected individuals, as may be required under state and federal breach notification laws. Each Party also agrees to keep a record of all disclosures of PHI consistent with HIPAA requirements and allow patients to access such record of their PHI disclosures and copy their PHI in that Party's possession. Upon termination of this Agreement, each Party shall return or destroy any PHI received from or created for the other Party in accordance with HIPAA. If the return or destruction of such PHI is not feasible, each Party agrees to extend the protections of this Agreement to such information and limit further use of the PHI to those purposes that make the return or destruction of the PHI not feasible. Consistent with this Section, the Parties will require that their subcontractors or agents maintain the security and privacy of any PHI received from the other Party in accordance with the terms of this Agreement and applicable state and federal laws and regulations. The Parties agree to take such action as may be necessary, from time to time, to amend this Agreement as necessary for the Parties to comply with HIPAA. Whether or not expressly stated herein, this Section shall be construed to encompass all requirements of 45 CFR Part 160 and Part 164, as modified and amended January 25, 2013 and effective March 26, 2013, which amends, implements and incorporates provisions from the Health Information Technology and Economic Clinical Health Act. Any ambiguity in the terms of this Section shall be resolved in favor of a meaning that permits the Parties to comply with HIPAA.

***[The remainder of this page is intentionally left blank.]***

**S. EXECUTION OF CONTRACT**

The parties hereto have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
John Bacon, Mayor  
City of Olathe

ATTEST:

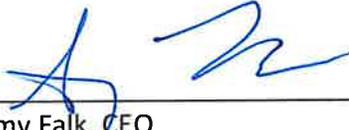
\_\_\_\_\_  
City Clerk

(SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy City Attorney

**Health Partnership Clinic, Inc.**

By:   
\_\_\_\_\_  
Amy Falk, CEO  
407 S. Clairborne Rd, Suite 104  
Olathe, KS 66062  
(913) 433-7583

**TABLE OF CONTENTS  
OF EXHIBITS**

<b>Exhibit A</b>	<b>Description of Mobile Integrated Health Program</b>
<b>Exhibit B</b>	<b>Scope of Services</b>
<b>Exhibit C</b>	<b>Fee/Rate Schedule</b>
<b>Exhibit D</b>	<b>City of Olathe Insurance Requirements</b>
<b>Exhibit E</b>	<b>Certificate of Insurance</b>
<b>Exhibit F</b>	<b>Certificate of Good Standing to Conduct Business in Kansas</b>

**EXHIBIT A**  
**Description of Mobile Integrated Health Program**

**Mobile Integrated Healthcare (MIH) Program Description**

The Olathe Fire Department's Mobile Integrated Health (MIH) Program has been serving the community since July 2014. In that time, the program has developed core services focused on patient care, care coordination and prevention activities. The primary focus of the program has been on providing the right care or resources to help improve health outcomes in Olathe and developing relationships in the community to be able to do that most effectively.

The MIH program is designed to meet the needs of the underserved in Olathe. There are many individuals in the community who experience what they describe as an "emergency" that may not require a traditional "lights and sirens" response. One of the goals of the MIH program is to decrease these non-emergent 9-1-1 calls. If the MIH can help get the patient connected to care, the patient will be less likely to call 9-1-1. Fire and medical resources will be kept available for those with truly emergent situations.

**How the Program Works**

The MIH program uses an integrated approach to help the patient navigate resources to the most appropriate level of care, from hospital, clinic, or even remaining at home. Currently, the MIH program consists of a team with a firefighter/paramedic and nurse practitioner. The MIH unit is in service during the week and staffed at times that best meet the needs of patients. The nurse practitioner is a bilingual provider to ensure effective communication with Spanish-speaking community members.

**Program Growth**

In 2024, the MIH program is expected to grow with additional investment from the City, the federal government and charitable contributions. An additional team (firefighter paramedic and Nurse Practitioner) will be placed in service to follow-up on patients who refuse treatment during emergency incidents; require firefighter support after a fall; or those who are referred from hospitals or social service agencies. The new team will be in a new ambulance-type vehicle that is customized to provide patient privacy and more clinical services in the field.

Additionally, as funds permit, the MIH Program expects to build specific capacity to support patients with substance abuse/overdose issues in Olathe. This is expected to include hiring a Community Health Worker and working with Health Partnership Clinic to provide an addiction counselor to support to the community as a dedicated member of the MIH Program.

**Leveraging Community Partnerships and City Investment**

The City of Olathe has made a significant financial investment in the MIH program through dedicated personnel, vehicles, and equipment. The program's funding comes partially from the City's General Fund and is not reliant solely on grant funds. The City expects to increase its investment in the MIH program in 2024 by using City Opioid Settlement Funds to support the behavioral health/substance abuse emphasis.

The City has a strong history of sustaining innovative programs that support its citizens. The Olathe Fire Department recognizes the program's goals align with the initiatives of community partners. The Health Partnership Clinic employs the Nurse Practitioner (NP) for the MIH program allowing for strong coordination between the MIH unit in the field with the clinic where many patients will receive services. This NP position is funded through the charitable contribution by Olathe Medical Center, Inc. The additional staff positions for the second MIH team and MIH support will be funded by a combination of other funding sources.

**EXHIBIT B**  
**SCOPE OF SERVICES**

The Olathe Fire Department ("OFD") will:

- a. warrant day-to-day non-clinical supervision shall be provided by the MIH Captain Paramedic or next highest ranking OFD staff assigned to the MIH unit during the time in which HPC staff are operating in support of OFD paramedics, not to include supervision required for the maintenance of any individual's clinician license as required by the applicable regulatory board;
- b. make available appropriate space, furnishing, and supplies necessary for the provision of primary healthcare services, the cost of which shall be shared according to **Exhibit C**;
- c. provide input into selection of providers during hiring process;
- d. submit information on employee performance as it pertains to MIH program;
- e. assist in obtaining necessary intake information and documentation, including but not limited to, release of information, privacy and security notice acknowledgement, and the financial assistance application;
- f. include HPC staff in relevant staff trainings and meetings, including advisement regarding pertinent policies and procedures; and
- g. maintain protected health information, as required by state and federal law.

Health Partnership Clinic, Inc. ("HPC") will:

- a. maintain its status as a Federally Qualified Health Center (FQHC) under federal law, and notify OFD immediately if its status changes;
- b. warrant the HPC staff maintain licenses, certifications, and related supervision, as required by applicable law or regulatory body, necessary to deliver all services contemplated by this Agreement;
- c. render primary health care services through the OFD infrastructure by way of dedicated HPC nurse practitioners who spend individually no fewer than thirty-six (36) hours each week in the field and four (4) hours of clinic time at HPC related to MIH program;
- d. render behavioral health services through the OFD infrastructure by way of a dedicated HPC mental health counselor who spends individually no fewer than thirty-six (36) hours each week in the field and four (4) hours of clinic time at HPC in direct support of the MIH program;
- e. if a primary provider is unable to be in field for extended period, HPC will work to provide another provider to fill role as feasible with intent of continuous support to MIH program. This temporary provider does not have to have the same level of certification as the primary provider.
- f. submit schedule modifications in writing to be mutually agreed upon by the parties at least seventy-two (72) hours in advance of the modification;
- g. notify OFD no fewer than twenty-four (24) hours in advance in the event of an unplanned cancellation of scheduled service provision hours;
- h. provide and maintain a portable computing device and secure mobile internet access for HPC staff to access the HPC electronic health record software and related

resources;

- i. allow access to OFD MIH team members to HPC electronic health record as appropriate;
- j. maintain protected health information, as required by state and federal law; and
- k. convey aggregate data, assist with report preparation for funding entities and otherwise participate in on-going collaborative efforts for the MIH program.

**EXHIBIT C  
FEE & RATE SCHEDULE**

**PROFESSIONAL SERVICES AGREEMENT  
FOR MOBILE INTEGRATED HEALTHCARE**

**NURSE PRACTITIONER SERVICES (ONE YEAR PERIOD):** The fee below represents estimated cost of 1.0 FTE nurse practitioner position in 2024. HPC will bill the OFD based on the actual cost of the specific employee not to exceed \$165,000 per year.

Personnel Costs (salary, work comp, CME, credentialing, etc.)	\$135,725
Electronic Medical Record Costs	\$8,033
Malpractice Insurance	\$2,750
Technology	\$2,550
Supplies	\$5,400
Supervision/Oversight	\$10,823
<b>Total Cost for 1.0 FTE</b>	<b>\$165,281</b>

The following table provides the total “not to exceed” cost allowed for each potential renewal period. This is based on midrange experience and includes a 3% increase each year.

Potential Renewal Year	Total Cost Not to Exceed:
2025	\$169,000
2026	\$172,000
2027	\$176,000
2028	\$180,000

**ADDICTION COUNSELOR SERVICES (ONE YEAR PERIOD):** The fee below represents estimated cost of 1.0 FTE Licensed Masters Addiction Counselor (or similarly qualified) position in 2024. HPC will bill the OFD based on the actual cost of the specific employee not to exceed \$126,000 per year.

Personnel Costs (salary, work comp, CME, credentialing, etc.)	\$90,814
Electronic Medical Record Costs	\$8,033
Malpractice Insurance	\$2,750
Technology	\$2,550
Supplies	N/A
Supervision/Oversight	\$4,037
One-time recruitment fee	\$17,500
<b>Total Cost for 1.0 FTE</b>	<b>\$125,683</b>

The following table provides the total “not to exceed” cost allowed for each potential renewal period. This is based on midrange experience and includes a 3% increase each year.

Potential Renewal Year	Total Cost Not to Exceed:
2025	\$128,000
2026	\$131,000
2027	\$133,000
2028	\$136,000

**BILLING:** HPC will invoice OFD monthly for one-twelfth of the annual fees listed above for each active staff position supporting MIH program. If a position is vacant for a portion of the month, a pro-rated fee will be charged based on days filled during the month. Initial new provider credentialing and recruitment fee will be reimbursed in initial year of employment only.

In accordance with Section V.G. of this Agreement, this Exhibit C: Fee & Rate Schedule may be modified or amended in writing mutually agreed to and accepted by both Parties to this Agreement.

HPC agrees to maintain records of receipts and expenditures relating to the MIH program. All financial and other records relating to the Project shall be made available, upon request, at HPC’s regular place of business for audit by City personnel, or its designated representative, at any time during the term of this Agreement and for a period of one year following the expiration or termination of the Agreement. The City shall give reasonable notice to HPC when an audit is to occur, and shall inform HPC of all material audit findings. Any material discrepancies disclosed by the audit, if not corrected to the City’s satisfaction within a reasonable period of time, shall be a ground for termination under Section V.A. of this Agreement.

## EXHIBIT D

### CITY OF OLATHE INSURANCE REQUIREMENTS

**A. Insurance.** Consultant agrees to secure and maintain throughout the duration of this Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

**Limits:** Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Automobile Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

**Limits:** Any Auto; OR All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000  
Notwithstanding the foregoing, if Consultant does not own any automobiles, then Consultant must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Consultant against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

**Limits:** \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability: Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

**Limits:** Each Claim: \$1,000,000; General Aggregate: \$1,000,000

5. Cyber Insurance: If Consultant will have access to the City's network or City's data, Consultant must maintain throughout the duration of this Agreement and for a period of three (3) years after the termination of this Agreement. Coverage must

include: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

**Limits:** Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000

6. **Medical Malpractice:** Consultant is a Federally Qualified Health Center (FQHC) under federal law and claims against Consultant are governed by the Federal Tort Claims Act (FTCA). Consultant shall provide proof of FTCA coverage by providing a copy of its Notice of Deeming Action (NDA) along with written confirmation that all individuals providing services under this Agreement are Covered Individuals. Additionally, Consultant shall maintain FTCA Wrap (Gap) Coverage, including sexual abuse and molestation, with minimum limits to be \$1,000,000 each claim / annual aggregate.
- B. Exposure Limits.** The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of Consultant nor has City assessed the risk that may be applicable to Consultant. Consultant must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Consultant's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Consultant.
- C. Costs.** The cost of insurance will be included in the Consultant's bid or proposal and must be at Consultant's expense. Any and all deductibles or self-insurance in the above described coverages will be the responsibility and at the sole risk of the Consultant.
- D. Verification of Coverage**
1. Consultant must provide a certificate of insurance on ISO form or equivalent, listing the City as the certificate holder, and additional insured endorsements for the requested coverages.
  2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
  3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
  4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments"

section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

- E. Cancellation.** No required coverage may be suspended, voided, or canceled, except after Consultant has provided thirty (30) days' advance written notice to the City.
- F. Subconsultant's Insurance:** If a part of this Agreement is to be sublet, Consultant must either cover all subconsultants under its insurance policies; OR require each subconsultant not so covered to meet the standards stated herein.

**EXHIBIT E**  
**Certificate of Insurance**

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

Table with 2 main columns: PRODUCER (Haas & Wilkerson Insurance) and CONTACT NAME (Stephanie Beggs, CISR). Includes insurer details and a table of Insurer(s) Affording Coverage (ACE Property & Casualty Ins Co., Previsor Insurance Company, Columbia Casualty Company, Great Northern Insurance Company).

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERSIST, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Main table listing insurance coverages: A COMMERCIAL GENERAL LIABILITY (D52770658), D AUTOMOBILE LIABILITY (73604285), A UMBRELLA LIAB (D52770683), B WORKERS COMPENSATION AND EMPLOYERS' LIABILITY (PRV301410200), and C Professional (HMA4032351047). Includes policy numbers, effective/expiration dates, and limits.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) City of Olathe is included as an Additional Insured with respects to the General Liability and Auto Liability when required by written contract.

Table with 2 columns: CERTIFICATE HOLDER (City of Olathe Kansas) and CANCELLATION (Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Includes signature of authorized representative).

**EXHIBIT F**  
**Certificate of Good Standing to Conduct Business in Kansas**

STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE  
CERTIFICATE OF GOOD STANDING

I, SCOTT SCHWAB, Kansas Secretary of State, certify that the records of this office reveal the following:

Business ID: 1826809

Business Name: HEALTH PARTNERSHIP CLINIC, INC.

Type: Domestic Not For-Profit Corporation

Jurisdiction: Kansas

was filed in this office on February 21, 1992, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



In testimony whereof:  
I affix my official certification seal.  
Done at the City of Topeka,  
on this day May 24, 2024.

A handwritten signature in cursive script that reads "Scott Schwab". The signature is written in black ink and is positioned above the printed name of the Secretary of State.

SCOTT SCHWAB  
KANSAS SECRETARY OF STATE



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Jamie Robichaud/Briana Burrichter/John Page

**SUBJECT:** Consideration of Resolution No. 24-1025 authorizing the issuance and delivery of the principal amount of the General Obligation Temporary Notes, Series 2024-A

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**TITLE:**

Consideration of Resolution No. 24-1025 authorizing the issuance and delivery of the principal amount of the General Obligation Temporary Notes, Series 2024-A.

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**SUMMARY:**

As approved by the City Council on May 21, 2024, bids will be received by the City on June 18, 2024, from prospective buyers of the General Obligation Temporary Notes, Series 2024-A. Accordingly, the best bid rates will be provided at the City Council meeting.

The temporary notes will be used to provide project funding in the approximate amount of \$108,022,294. Temporary Note Series 2024-A provides funding for 20 capital improvement projects and has a maturity of August 1, 2025.

The City's bond counsel, Gilmore & Bell, has prepared Resolution No. 24-1025 that sets the forms and details of, and services to authorize the issuance delivery of Temporary Notes Series 2024-A.

A draft copy of the above-mentioned resolution is attached. The final version of this document will be available once the bids have been received and the best bids have been determined.

Standard and Poor's Corporation has assigned the City a rating of SP-1+ for short-term financing.

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**FINANCIAL IMPACT:**

The amount of Series 2024-A Notes is approximately \$108,022,294.

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**ACTION NEEDED:**

Approval of Resolution No. 24-1025 to authorize issuance and delivery of the principal amount of General Obligation Temporary Notes, Series 2024-A.

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**ATTACHMENT(S):**

A: Draft Note Resolution

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**GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2024-A**

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- A. Excerpt of Minutes of Meeting approving sale, approving Note Resolution
  - B. Note Resolution
-

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF OLATHE, KANSAS  
HELD ON JUNE 18, 2024**

The governing body met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present: \_\_\_\_\_.

Absent: \_\_\_\_\_.

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*  
(Other Proceedings)

The Chief Financial Officer reported that pursuant to the Notice of Sale, bids for the purchase of General Obligation Temporary Notes, Series 2024-A, dated July 16, 2024, of the City had been received. A tabulation of said bids is set forth as *Exhibit A* hereto.

The governing body reviewed and considered the bids and it was found and determined that the bid of [Name of Purchaser], [Purchaser City, State], was the best bid for the Notes, a copy of which is attached hereto as *Exhibit B*.

There was presented a Resolution entitled:

**A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2024-A, OF THE CITY OF OLATHE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

Councilmember \_\_\_\_\_ moved that said Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the governing body, the vote being as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 24- 1025 and was signed by the Mayor and attested by the Clerk.

\* \* \* \* \*

On motion duly made, seconded and carried, the meeting thereupon adjourned.

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Olathe, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

---

City Clerk

***EXHIBIT A***  
**(BID TABULATION)**

***EXHIBIT B***

**(BID OF PURCHASER)**

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**RESOLUTION NO. 24-1025**

**OF**

**THE CITY OF OLATHE, KANSAS**

**ADOPTED**

**JUNE 18, 2024**

**GENERAL OBLIGATION TEMPORARY NOTES  
SERIES 2024-A**

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**RESOLUTION**

**TABLE OF CONTENTS**

**ARTICLE I**

**DEFINITIONS**

Section 101. Definitions of Words and Terms..... 2

**ARTICLE II**

**AUTHORIZATION AND DETAILS OF THE NOTES**

Section 201. Authorization of the Notes..... 9  
Section 202. Description of the Notes. .... 9  
Section 203. Designation of Paying Agent and Note Registrar. .... 10  
Section 204. Method and Place of Payment of the Notes. .... 10  
Section 205. Payments Due on Saturdays, Sundays and Holidays. .... 11  
Section 206. Registration, Transfer and Exchange of Notes..... 11  
Section 207. Execution, Registration, Authentication and Delivery of Notes. .... 12  
Section 208. Mutilated, Lost, Stolen or Destroyed Notes..... 12  
Section 209. Cancellation and Destruction of Notes Upon Payment..... 13  
Section 210. Book-Entry Notes; Securities Depository..... 13  
Section 211. Nonpresentment of Notes..... 14  
Section 212. Preliminary and Final Official Statement. .... 14  
Section 213. Sale of the Notes. .... 14

**ARTICLE III**

**REDEMPTION OF NOTES**

Section 301. No Redemption of Notes..... 15

**ARTICLE IV**

**SECURITY FOR NOTES**

Section 401. Security for the Notes. .... 15  
Section 402. Levy and Collection of Annual Tax..... 15

**ARTICLE V**

**ESTABLISHMENT OF FUNDS AND ACCOUNTS**

**DEPOSIT AND APPLICATION OF NOTE PROCEEDS**

Section 501. Creation of Funds and Accounts..... 15  
Section 502. Deposit of Note Proceeds..... 16  
Section 503. Application of Moneys in the Improvement Fund. .... 16  
Section 504. Substitution of Improvements; Reallocation of Proceeds..... 16  
Section 505. Application of Moneys in Debt Service Account. .... 16

Section 506. Application of Moneys in the Rebate Fund. ....	17
Section 507. Deposits and Investment of Moneys. ....	17

**ARTICLE VI**

**DEFAULT AND REMEDIES**

Section 601. Remedies. ....	17
Section 602. Limitation on Rights of Owners. ....	18
Section 603. Remedies Cumulative. ....	18

**ARTICLE VII**

**DEFEASANCE**

Section 701. Defeasance. ....	18
-------------------------------	----

**ARTICLE VIII**

**TAX COVENANTS**

Section 801. General Covenants. ....	19
Section 802. Survival of Covenants. ....	19

**ARTICLE IX**

**CONTINUING DISCLOSURE REQUIREMENTS**

Section 901. Disclosure Requirements. ....	19
Section 902. Failure to Comply with Continuing Disclosure Requirements. ....	19

**ARTICLE X**

**MISCELLANEOUS PROVISIONS**

Section 1001. Annual Audit. ....	20
Section 1002. Amendments. ....	20
Section 1003. Notices, Consents and Other Instruments by Owners. ....	21
Section 1004. Notices. ....	21
Section 1005. Electronic Transactions. ....	22
Section 1006. Further Authority. ....	22
Section 1007. Severability. ....	22
Section 1008. Governing Law. ....	22
Section 1009. Effective Date. ....	22

**EXHIBIT A – FORM OF NOTES**

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**RESOLUTION NO. 24-1025**

**A RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2024-A, OF THE CITY OF OLATHE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX, IF NECESSARY, FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID NOTES AS THEY BECOME DUE; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

**WHEREAS**, the City of Olathe (the “Issuer”) is a city of the first class and political subdivision, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, pursuant to the provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the Issuer has caused the following improvements (collectively, the “Improvements”) to be made in the City, to-wit:

<u>Project Number</u>	<u>Project Name</u>	<u>Authorizing Ord./Res.</u>	<u>Authority</u>	<u>Amount*</u>
3-G-010-24	135th Street Retaining Wall	24-1006	Charter Ord. No. 74	\$2,020,000.00
3-C-041-23	Black Bob Road, 153rd Terrace to 159th Street	23-1022	K.S.A. 12-685 <i>et seq.</i>	4,311,613.33
3-C-011-24	Quivira Road, 143rd to 151st, Improvements	24-1009	K.S.A. 12-685 <i>et seq.</i>	3,997,313.25
6-C-007-23	Animal Shelter	23-1027	Charter Ord. No. 74	399,833.33
6-C-016-19	City Hall Environmental Systems Renovation & Roof	22-1046	Charter Ord. No. 74	2,571,451.39
6-C-013-23	Fire Station #9	23-1072	Charter Ord. No. 74	10,495,822.50
6-C-010-23	Parking Garage Repair and Protection	23-1014	Charter Ord. No. 74	699,708.33
6-C-038-24	Facility Renovations and Improvements	23-1068	Charter Ord. No. 74	3,270,000.00
7-C-041-22	Future Fire Station Land Procurement	22-1013	Charter Ord. No. 74	682,109.71
3-C-114-20	Pflumm Road, 143rd to 151st Improvements	20-1016	K.S.A. 12-685 <i>et seq.</i>	9,466,813.15
6-C-016-24	Fire Station No. 1 Replacement	23-1073	Charter Ord. No. 74	2,890,000.00
3-C-025-18	Santa Fe, Ridgeview to Mur-Len, Preliminary Eng.	24-1014	K.S.A. 12-685 <i>et seq.</i>	28,738,689.28
6-C-017-23	Police Firing Range	23-1066	Charter Ord. No. 74	2,940,000.00
3-B-065-21	Clare Road, 106th Terrace to College	21-1038	K.S.A. 12-6a01 <i>et seq.</i>	6,671,052.34
3-C-110-20	135th and Pflumm Geometric Improvements	20-1026	K.S.A. 12-685 <i>et seq.</i>	1,161,624.15
3-C-008-22	Black Bob Road, 159 <sup>th</sup> to 167 <sup>th</sup> , Improvements	22-1018	K.S.A. 12-685 <i>et seq.</i>	1,500,000.00
6-C-031-24	Modernization of Fire Stations (2024)	24-1016	Charter Ord. No. 74	1,050,000.00
3-C-024-21	119 <sup>th</sup> Street, Woodland to Northgate Improvements	24-1011	K.S.A. 12-685 <i>et seq.</i>	22,593,695.36
3-B-085-22	Hedge Lane, 167 <sup>th</sup> to 171 <sup>st</sup>	22-1073	K.S.A. 12-6a01 <i>et seq.</i>	2,354,283.54
3-C-038-23	BNSF East Track Quiet Zone Engineering	23-1023	K.S.A. 12-685 <i>et seq.</i>	208,284.56
	<b>Total:</b>			<b><u>\$108,022,294.24</u></b>

; and

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

*\*Improvement costs and costs of temporary financing to be financed with proceeds of the Notes; excludes Costs of Issuance.*

**WHEREAS**, it is necessary for the Issuer to provide cash funds (from time to time) to meet its obligations incurred in constructing the Improvements prior to the completion thereof and the issuance of the Issuer’s general obligation bonds, and it is desirable and in the interest of the Issuer that such funds be raised by the issuance of temporary notes of the Issuer pursuant to the Act; and

**WHEREAS**, the Issuer has previously issued the following temporary notes to temporarily finance a portion of the costs of the Improvements (the “Existing Notes”):

<u>Series</u>	<u>Dated Date</u>	<u>Maturity Date</u>	<u>Original Amount</u>	<u>Outstanding Amount</u>
2023-A	July 18, 2023	August 1, 2024	\$72,140,000	\$72,140,000

**WHEREAS**, all aspects of the Improvements will not be completed prior to the maturity date of the Existing Notes and it is necessary for the Issuer to provide cash funds to meet its obligations on a portion of the Existing Notes by the issuance of additional temporary notes of the Issuer pursuant to the Act; and

**WHEREAS**, the Issuer proposes to issue its temporary notes to pay a portion of the costs of the Improvements and to retire a portion of the Existing Notes; and

**WHEREAS**, the governing body of the Issuer has advertised the sale of the Notes and at a meeting held on this date awarded the sale of such Notes to the best bidder; and

**WHEREAS**, the governing body of the Issuer hereby finds and determines that it is necessary for the Issuer to authorize the issuance and delivery of the Notes in the principal amount of \$[Principal Amount] to pay a portion of the costs of the Improvements and refund a portion of the Existing Notes.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:**

## ARTICLE I

### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following words and terms as used in this Note Resolution 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, specifically including K.S.A. 10-123, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 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.

**“Authorized Denomination”** means \$5,000 or any integral multiples thereof.

**“Beneficial Owner”** of the Notes includes any Owner of the Notes and any other Person who, directly or indirectly has the investment power with respect to any of the Notes.

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

**“Bond Counsel”** means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

**“Business Day”** means a day other than a Saturday, Sunday or holiday on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

**“Cede & Co.”** means Cede & Co., as nominee of DTC.

**“Chief Financial Officer”** means the Chief Financial Officer, or in the Chief Financial Officer’s absence, the duly appointed and/or elected Acting Chief Financial Officer of the Issuer.

**“City”** means the City of Olathe, Kansas.

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

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

**“Costs of Issuance”** means all costs of issuing the Notes, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, and all expenses incurred in connection with receiving ratings on the Notes.

**“Dated Date”** means July 16, 2024.

**“Debt Service Account”** means the Debt Service Account for General Obligation Temporary Notes, Series 2024-A (within the Bond and Interest Fund) created pursuant to **Section 501** hereof.

**“Debt Service Requirements”** means the aggregate principal payments and interest payments on the Notes for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

**“Defaulted Interest”** means interest on any Note which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody's or Standard & Poor's that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

**“Derivative”** means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

**“Disclosure Undertaking”** means the Continuing Disclosure Undertaking, dated as of the Dated Date, relating to certain obligations contained in the SEC Rule.

**“DTC”** means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

**“DTC Representation Letter”** means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

**“Event of Default”** means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Notes shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Notes shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Notes or in this Note Resolution (other than the covenants relating to continuing disclosure requirements) on the part of the Issuer to be performed, and

such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Notes then Outstanding.

**“Federal Tax Certificate”** means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

**“Financeable Costs”** means the amount of expenditure for an Improvement which has been duly authorized by action of the governing body of the Issuer to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

**“Fiscal Year”** means the twelve month period ending on December 31.

**“Funds and Accounts”** means funds and accounts created by or referred to in *Section 501* hereof.

**“Improvement Fund”** means the Improvement Fund for General Obligation Temporary Notes, Series 2024-A created by *Section 501* hereof.

**“Improvements”** means the improvements referred to in the preamble to this Note Resolution and any Substitute Improvements.

**“Independent Accountant”** means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Note Resolution.

**“Interest Payment Date”** means the Maturity of the Note.

**“Issue Date”** means the date when the Issuer delivers the Notes to the Purchaser in exchange for the Purchase Price.

**“Issuer”** means the City and any successors or assigns.

**“Maturity”** when used with respect to any Note means the date on which the principal of such Note becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

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

**“Moody’s”** means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

**“Note Payment Date”** means any date on which principal of or interest on any Note is payable.

**“Note Register”** means the books for the registration, transfer and exchange of Notes kept at the office of the Note Registrar.

**“Note Registrar”** means the Treasurer of the City of Olathe, Kansas and its successors and assigns.

**“Note Resolution”** means this resolution relating to the Notes.

**“Notes”** means the General Obligation Temporary Notes, Series 2024-A, authorized and issued by the Issuer pursuant to this Note Resolution.

**“Notice Address”** means with respect to the following entities:

(a) To the Issuer at:

City Hall  
100 East Santa Fe  
Olathe, Kansas 66061  
Attention: City Clerk  
Email: [cco@olatheks.org](mailto:cco@olatheks.org)

(b) To the Paying Agent at:

City Hall  
100 East Santa Fe  
Olathe, Kansas 66061  
Attention: City Treasurer  
Email: [CAYoung@olatheks.org](mailto:CAYoung@olatheks.org)

(c) To the Purchaser:

[\_\_\_\_\_] ]  
[\_\_\_\_\_] ]  
[\_\_\_\_\_] ]

(d) To the Rating Agency(ies):

S&P Global Ratings, a division of S&P Global Inc.  
55 Water Street, 38th Floor  
New York, New York 10004

**“Notice Representative”** means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Note Registrar and Paying Agent, the Treasurer.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

**“Official Statement”** means the Issuer’s Official Statement relating to the Notes.

**“Outstanding”** means, when used with reference to the Notes, as of a particular date of determination, all Notes theretofore authenticated and delivered, except the following Notes:

- (a) Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Notes deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered hereunder.

**“Owner”** when used with respect to any Note means the Person in whose name such Note is registered on the Note Register. Whenever consent of the Owners is required pursuant to the terms of this Note Resolution, and the Owner of the Notes, as set forth on the Note Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Notes.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Paying Agent”** means the Treasurer of the City of Olathe, Kansas and any successors and assigns.

**“Permitted Investments”** shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

**“Person”** means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**“Purchase Price”** means the principal amount of the Notes plus accrued interest to the date of delivery, plus a [net] reoffering premium of \$[\_\_\_], less an underwriting discount of \$[\_\_\_].

**“Purchaser”** means [Name of Purchaser], [Purchaser City, State], the original purchaser of the Notes, and any successors and assigns.

**“Rating Agency”** means any company, agency or entity that provides financial ratings for the Notes.

**“Rebate Fund”** means the Rebate Fund for General Obligation Temporary Notes, Series 2024-A created pursuant to *Section 501* hereof.

**“Record Dates”** for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

**“Redemption Date”** when used with respect to any Note to be redeemed means the date fixed for the redemption of such Note pursuant to the terms of this Note Resolution.

**“Redemption Price”** when used with respect to any Note to be redeemed means the price at which such Note is to be redeemed pursuant to the terms of this Note Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Refunded Notes”** means a portion of the Series 2023-A Notes maturing on August 1, 2024 in the aggregate principal amount of \$72,140,000.

**“Refunded Notes Paying Agent”** means the paying agent for the Refunded Notes as designated in the Refunded Notes Resolution, and any successor or successors at the time acting as paying agent of the Refunded Notes.

**“Refunded Notes Redemption Date”** means August 1, 2024.

**“Refunded Notes Resolution”** means the resolution which authorized the Refunded Notes.

**“Replacement Notes”** means Notes issued to the Beneficial Owners of the Notes in accordance with *Article II* hereof.

**“SEC Rule”** means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

**“Securities Depository”** means, initially, DTC, and its successors and assigns.

**“Series 2023-A Notes”** means the City’s General Obligation Temporary Notes, Series 2023-A, dated July 18, 2023.

**“Special Record Date”** means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

**“Standard & Poor’s” or “S&P”** means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor’s shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

**“State”** means the state of Kansas.

**“State Treasurer”** means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“**Stated Maturity**” when used with respect to any Note or any installment of interest thereon means the date specified in such Note and this Note Resolution as the fixed date on which the principal of such Note or such installment of interest is due and payable.

“**Substitute Improvements**” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

“**Treasurer**” means the duly appointed and/or elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

## ARTICLE II

### AUTHORIZATION AND DETAILS OF THE NOTES

**Section 201. Authorization of the Notes.** There shall be issued and hereby are authorized and directed to be issued the General Obligation Temporary Notes, Series 2024-A, of the Issuer in the principal amount of \$[Principal Amount], for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; (b) pay Costs of Issuance; and (c) refund a portion of the Existing Notes.

**Section 202. Description of the Notes.** The Notes shall consist of fully registered notes in Authorized Denominations, and shall be numbered in such manner as the Note Registrar shall determine. All of the Notes shall be dated as of the Dated Date, shall become due in the amounts on the Stated Maturity, without option of prior redemption and payment, and shall bear interest at the rates per annum as follows:

<b>Stated Maturity</b>	<b>Principal</b>	<b>Annual Rate</b>
<b><u>August 1</u></b>	<b><u>Amount</u></b>	<b><u>of Interest</u></b>
2025	\$(Principal Amount]	[ ]%

The Notes shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Section 204* hereof.

Each of the Notes, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as *EXHIBIT A* or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

**Section 203. Designation of Paying Agent and Note Registrar.** The Treasurer of the City of Olathe, Kansas, is hereby designated as the Paying Agent for the payment of principal of and interest on the Note and Note Registrar with respect to the registration, transfer and exchange of Notes.

The Issuer will at all times maintain a Paying Agent and Note Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Note Registrar by (a) filing with the Paying Agent or Note Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Note Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Note Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Note Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Note Registrar.

Every Paying Agent or Note Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

**Section 204. Method and Place of Payment of the Notes.** The principal of, or Redemption Price, if any, and interest on the Notes shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of and interest on each Note shall be paid at Maturity to the Person in whose name such Note is registered on the Note Register at the Maturity thereof, upon presentation and surrender of such Note at the principal office of the Paying Agent. Such amounts shall be paid to the Owner of such Note as shown on the Note Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Note Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of a payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Notes, by electronic transfer to such Owner upon written notice given to the Note Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Note shall cease to be payable to the Owner of such Note on the relevant Record Date and shall be payable to the Owner in whose name such Note is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first class mail, postage prepaid, to each Owner of a Note entitled to such notice at the address of such Owner as it appears on the Note Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Notes and at least annually shall forward a copy or summary of such records to the Issuer.

**Section 205. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Note Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Note Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Note Payment Date, and no interest shall accrue for the period after such Note Payment Date.

**Section 206. Registration, Transfer and Exchange of Notes.** The Issuer covenants that, as long as any of the Notes remain Outstanding, it will cause the Note Register to be kept at the office of the Note Registrar as herein provided. Each Note when issued shall be registered in the name of the Owner thereof on the Note Register.

Notes may be transferred and exchanged only on the Note Register as provided in this Section. Upon surrender of any Note at the principal office of the Note Registrar, the Note Registrar shall transfer or exchange such Note for a new Note or Notes in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Note that was presented for transfer or exchange.

Notes presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Note Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Notes is exercised, the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of this Note Resolution. The Issuer shall pay the fees and expenses of the Note Registrar for the registration, transfer and exchange of Notes provided for by this Note Resolution and the cost of printing a reasonable supply of registered note blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Note Registrar, are the responsibility of the Owners of the Notes. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Notes.

The Issuer and the Note Registrar shall not be required to register the transfer or exchange of any Note during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to *Article II* hereof.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Note is registered on the Note Register as the absolute Owner of such Note, whether such Note is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Note and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Note Registrar, the Note Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Notes then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Note Registrar.

**Section 207. Execution, Registration, Authentication and Delivery of Notes.** Each of the Notes, including any Notes issued in exchange or as substitutions for the Notes initially delivered, shall be executed for and on behalf of the Issuer by the manual, electronic or facsimile signature of the Mayor, attested by the manual, electronic or facsimile signature of the Clerk and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Notes in the manner herein specified, and to cause the Notes to be registered in the office of the Clerk, which registration shall be evidenced by the manual, electronic or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Notes shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual, electronic or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. The Notes shall be countersigned by the manual, electronic or facsimile signature of the Clerk and the seal of the Issuer shall be affixed or imprinted adjacent thereto following registration of the Notes by the Treasurer of the State of Kansas. In case any officer whose signature appears on any Notes ceases to be such officer before the delivery of such Notes, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Note may be signed by such persons who at the actual time of the execution of such Note are the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Notes as herein specified, and when duly executed, to deliver the Notes to the Note Registrar for authentication.

The Notes shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *EXHIBIT A* hereof, which shall be manually executed by an authorized officer or employee of the Note Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Notes that may be issued hereunder at any one time. No Note shall be entitled to any security or benefit under this Note Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Note Registrar. Such executed certificate of authentication upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Note Resolution. Upon authentication, the Note Registrar shall deliver the Notes to the Purchaser upon instructions of the Issuer or its representative.

**Section 208. Mutilated, Lost, Stolen or Destroyed Notes.** If (a) any mutilated Note is surrendered to the Note Registrar or the Note Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Note, and (b) there is delivered to the Issuer and the Note Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Note Registrar that such Note has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Note Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Issuer, in its discretion, may pay such Note instead of issuing a new Note.

Upon the issuance of any new Note under this Section, the Issuer may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Note issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Note Resolution equally and ratably with all other Outstanding Notes.

**Section 209. Cancellation and Destruction of Notes Upon Payment.** All Notes that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Notes so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

**Section 210. Book-Entry Notes; Securities Depository.** The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Notes shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Notes, except in the event the Note Registrar issues Replacement Notes as provided in this Section. It is anticipated that during the term of the Notes, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Notes to the Participants until and unless the Note Registrar authenticates and delivers Replacement Notes to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Notes being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Notes; or

(b) if the Note Registrar receives written notice from Participants having interests in not less than 50% of the Notes Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Notes being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Notes, then the Note Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Note Registrar shall register in the name of and authenticate and deliver Replacement Notes to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Note Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Note. Upon the issuance of Replacement Notes, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Note Registrar, to the extent applicable with respect to such Replacement Notes. If the Securities Depository resigns and the Issuer, the Note Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Note Registrar shall authenticate and cause delivery of Replacement Notes to Owners, as provided herein. The Note Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Notes. The cost of printing, registration, authentication, and delivery of Replacement Notes shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Note Registrar receives written evidence satisfactory to the Note Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Note Registrar upon its receipt of a Note or Notes for cancellation shall cause the delivery of Notes to the successor Securities Depository in appropriate denominations and form as provided herein.

**Section 211. Nonpresentment of Notes.** If any Note is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Note have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Note shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Note, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Note Resolution or on, or with respect to, said Note. If any Note is not presented for payment within four (4) years following the date when such Note becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Note, and such Note shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 212. Preliminary and Final Official Statement.** For the purpose of enabling the Purchaser to comply with the requirements of Section (b)(1) of the SEC Rule, the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be “final” as of its date, except for the omission of such information as is permitted by Section (b)(1) of the SEC Rule, and the appropriate officers of the Issuer are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirements of the SEC Rule.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Chief Financial Officer is hereby authorized to execute the final Official Statement as so supplemented, amended and completed, and the use and public distribution of the final Official Statement by the Purchaser in connection with the reoffering of the Notes is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Notes sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 213. Sale of the Notes.** The sale of the Notes to the Purchaser is hereby ratified and confirmed. Delivery of the Notes shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Note Resolution), upon payment of the Purchase Price.

## ARTICLE III

### REDEMPTION OF NOTES

**Section 301. No Redemption of Notes.** The Notes shall not be subject to optional redemption and payment prior to their Stated Maturity.

## ARTICLE IV

### SECURITY FOR NOTES

**Section 401. Security for the Notes.** The Notes shall be general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of certain public improvements, in part from the proceeds of general obligation bonds of the Issuer, 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 Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes as the same become due.

**Section 402. Levy and Collection of Annual Tax.** The governing body of the Issuer shall annually make provision for the payment of principal of, premium, if any, and interest on the Notes as the same become due, if necessary, by levying and collecting the necessary taxes and/or assessments upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes and/or assessments referred to above shall be extended upon the tax rolls and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes and/or assessments shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be deposited in the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Notes as and when the same become due, and the fees and expenses of the Paying Agent.

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

## ARTICLE V

### ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF NOTE PROCEEDS

**Section 501. Creation of Funds and Accounts.** Simultaneously with the issuance of the Notes, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Temporary Notes, Series 2024-A.
- (b) Debt Service Account for General Obligation Temporary Notes, Series 2024-A.
- (c) Rebate Fund for General Obligation Temporary Notes, Series 2024-A.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Note Resolution so long as the Notes are Outstanding.

**Section 502. Deposit of Note Proceeds.** The net proceeds received from the sale of the Notes shall be deposited simultaneously with the delivery of the Notes in the Improvement Fund.

**Section 503. Application of Moneys in the Improvement Fund.** Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the governing body of the Issuer and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the governing body of the Issuer; (b) retiring the Refunded Notes; (c) paying Costs of Issuance; and (d) transferring any amounts to the Rebate Fund required by this *Article V* or the Federal Tax Certificate. Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

**Section 504. Substitution of Improvements; Reallocation of Proceeds.**

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Notes provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the governing body of the Issuer in accordance with the laws of the State; (2) a resolution or ordinance authorizing the use of the proceeds of the Notes to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the governing body of the Issuer pursuant to this Section; (3) the Attorney General of the State has approved the amendment made by such resolution or ordinance to the transcript of proceedings for the Notes to include the Substitute Improvements; and (4) the use of the proceeds of the Notes to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Notes under State or federal law.

(b) The Issuer may reallocate expenditure of Note proceeds among all Improvements financed by the Notes; provided the following conditions are met: (1) the reallocation is approved by the governing body of the Issuer; (2) the reallocation shall not cause the proceeds of the Notes allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Notes under State or federal law.

**Section 505. Application of Moneys in Debt Service Account.** All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Notes as and when the same become due and the usual and customary fees and expenses of the Note Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Notes and the fees and expenses of the Note Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent, if other than the Issuer, in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Note Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Notes are no longer entitled to enforce payment of the Notes or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Note Resolution and shall be held by the Paying Agent for the benefit of the Owners of the Notes entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the indebtedness for which the Notes were issued shall be transferred and paid into the Bond and Interest Fund.

**Section 506. Application of Moneys in the Rebate Fund.**

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Notes shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) of the Code in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Notes and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Note Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Notes.

**Section 507. Deposits and Investment of Moneys.** Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Note Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may be credited to the Debt Service Account.

**ARTICLE VI**

**DEFAULT AND REMEDIES**

**Section 601. Remedies.** The provisions of the Note Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Notes. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal

amount of the Notes at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Notes similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Note Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Notes.

**Section 602. Limitation on Rights of Owners.** The covenants and agreements of the Issuer contained herein and in the Notes shall be for the equal benefit, protection, and security of the Owners of any or all of the Notes, all of which Notes shall be of equal rank and without preference or priority of one Note over any other Note in the application of the funds herein pledged to the payment of the principal of and the interest on the Notes, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Note Resolution. No one or more Owners secured hereby shall have any right in any manner whatever 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 Outstanding Notes.

**Section 603. Remedies Cumulative.** No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Note shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Notes by this Note Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Notes shall, subject to any determination in such action or proceeding or applicable law of the State, be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

## ARTICLE VII

### DEFEASANCE

**Section 701. Defeasance.** When any or all of the Notes, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Note Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Notes or scheduled interest payments thereon so paid and discharged. Notes, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been

paid and discharged within the meaning of this Note Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Notes or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Notes and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Notes, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Notes, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Note Resolution.

## ARTICLE VIII

### TAX COVENANTS

**Section 801. General Covenants.** The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor, Chief Financial Officer and Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

**Section 802. Survival of Covenants.** The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Notes pursuant to *Article VII* hereof or any other provision of this Note Resolution until such time as is set forth in the Federal Tax Certificate.

## ARTICLE IX

### CONTINUING DISCLOSURE REQUIREMENTS

**Section 901. Disclosure Requirements.** The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

**Section 902. Failure to Comply with Continuing Disclosure Requirements.** In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or

agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section.

## ARTICLE X

### MISCELLANEOUS PROVISIONS

**Section 1001. Annual Audit.** Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Notes, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the governing body of the Issuer shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Note Resolution, the Issuer shall promptly cure such deficiency.

**Section 1002. Amendments.** The rights and duties of the Issuer and the Owners, and the terms and provisions of the Notes or of this Note Resolution, may be amended or modified at any time in any respect by resolution or ordinance of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Notes then Outstanding, such consent to be evidenced by an instrument or instruments executed by such 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 Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Note;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Note;
- (c) permit preference or priority of any Note over any other Note; or
- (d) reduce the percentage in principal amount of Notes required for the written consent to any modification or alteration of the provisions of this Note Resolution.

Any provision of the Notes or of this Note Resolution may, however, be amended or modified by resolution or ordinance duly adopted by the governing body of the Issuer at any time in any legal respect with the written consent of the Owners of all of the Notes at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Note Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Notes among Improvements, to provide for Substitute Improvements, to conform this Note Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Notes or of this Note Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the governing body of the Issuer amending or supplementing the provisions of this Note Resolution and shall be deemed to be a part of this Note Resolution. A certified copy of every such amendatory or supplemental resolution or ordinance, if any, and a certified copy of this Note Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Note or a prospective purchaser or owner of any Note authorized by this Note Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or ordinance or of this Note Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution or ordinance of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Notes then Outstanding. It shall not be necessary to note on any of the Outstanding Notes any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Notes or this Note Resolution which affects the duties or obligations of the Paying Agent under this Note Resolution.

**Section 1003. Notices, Consents and Other Instruments by Owners.** Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Notes, if made in the following manner, shall be sufficient for any of the purposes of this Note Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Notes, the amount or amounts, numbers and other identification of Notes, and the date of holding the same shall be proved by the Note Register.

In determining whether the Owners of the requisite principal amount of Notes Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Note Resolution, Notes owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Note Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Notes so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer.

**Section 1004. Notices.** Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Note Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly delivered by prepaid overnight delivery service or mailed by registered or certified mail, postage prepaid; or (b) communicated via electronic mail, with confirmation of receipt by delivery receipt, read receipt or otherwise. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent

and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by (a) delivery service or mail as aforesaid shall be deemed duly given as of the date they are so provided to the delivery service or mailed, respectively, and (b) electronic mail as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

**Section 1005. Electronic Transactions.** The transactions described in this Note Resolution may be conducted, and documents related to the Notes may be sent, received, executed, and stored, by electronic means or transmissions. Copies, telecopies, electronic files and other reproductions of original executed documents (or documents executed by electronic means or transmissions) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 1006. Further Authority.** The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Note Resolution and to make ministerial 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 1007. Severability.** If any section or other part of this Note Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Note Resolution.

**Section 1008. Governing Law.** This Note Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1009. Effective Date.** This Note Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

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**ADOPTED** by the governing body of the Issuer on June 18, 2024.

(SEAL)

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Mayor

ATTEST:

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City Clerk

**EXHIBIT A  
(FORM OF NOTES)**

**REGISTERED  
NUMBER \_\_\_\_\_**

**REGISTERED  
\$**

**Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.**

**UNITED STATES OF AMERICA  
STATE OF KANSAS  
COUNTY OF JOHNSON  
CITY OF OLATHE  
GENERAL OBLIGATION TEMPORARY NOTE  
SERIES 2024-A**

<b>Interest Rate:</b>	<b>Maturity Date: August 1, 2025</b>	<b>Dated Date: July 16, 2024</b>	<b>CUSIP:</b>
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**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**KNOW ALL PERSONS BY THESE PRESENTS:** That the City of Olathe, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable at maturity on August 1, 2025 (the “Interest Payment Date”), until the Principal Amount has been paid.

**Method and Place of Payment.** The principal or redemption price and interest thereon of this Note shall be paid at maturity to the person in whose name this Note is registered at the maturity date thereof, upon presentation and surrender of this Note at the principal office of the Treasurer of the City of Olathe, Kansas Olathe, Kansas (the “Paying Agent” and “Note Registrar”). Such amounts shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the

Note Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of a payment to Cede & Co. by electronic transfer to such Owner upon written notice given to the Note Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Notes shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Note Resolution.

**Definitions.** Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Note Resolution.

**Authorization of Notes.** This Note is one of an authorized series of Notes of the Issuer designated “General Obligation Temporary Notes, Series 2024-A,” aggregating the principal amount of \$[Principal Amount] (the “Notes”) issued for the purposes set forth in the Resolution of the Issuer authorizing the issuance of the Notes (the “Note Resolution”). The Notes are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, specifically including K.S.A. 10-123, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 of the City, and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

**General Obligations.** The Notes constitute general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of certain public improvements, in part from the proceeds of general obligation bonds of the Issuer, 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 Issuer. The full faith, credit and resources of the Issuer are hereby pledged for the payment of the principal of and interest on this Note and the issue of which it is a part as the same respectively become due.

**Redemption Prior to Maturity.** The Notes are **not** subject to redemption prior to maturity.

**Book-Entry System.** The Notes are being issued by means of a book-entry system with no physical distribution of note certificates to be made except as provided in the Note Resolution. One Note certificate with respect to each date on which the Notes are stated to mature or with respect to each form of Notes, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Notes by the Securities Depository’s participants, beneficial ownership of the Notes in Authorized Denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Note Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Note, as the owner of this Note for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Note, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Notes by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Note Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Note, notwithstanding the provision hereinabove contained,

payments of principal of, redemption premium, if any, and interest on this Note shall be made in accordance with existing arrangements among the Issuer, the Note Registrar and the Securities Depository.

**Transfer and Exchange.** EXCEPT AS OTHERWISE PROVIDED IN THE NOTE RESOLUTION, THIS GLOBAL NOTE MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Note may be transferred or exchanged, as provided in the Note Resolution, only on the Note Register kept for that purpose at the principal office of the Note Registrar, upon surrender of this Note together with a written instrument of transfer or authorization for exchange satisfactory to the Note Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Note or Notes in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Note Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Notes and the cost of a reasonable supply of note blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Note is registered on the Note Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Notes are issued in fully registered form in Authorized Denominations.

**Authentication.** This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Note Registrar.

**IT IS HEREBY DECLARED AND CERTIFIED** that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Note have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of notes, does not exceed any constitutional or statutory limitation.

**IN WITNESS WHEREOF**, the Issuer has caused this Note to be executed by the manual, electronic or facsimile signature of its Mayor and attested by the manual, electronic or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

**CITY OF OLATHE, KANSAS**

[(Facsimile Seal)]

By: \_\_\_\_\_ (manual or facsimile)  
Mayor

ATTEST:

By: \_\_\_\_\_ (manual or facsimile)  
City Clerk

This General Obligation Temporary Note shall not be negotiable unless and until countersigned below following registration by the Treasurer of the State of Kansas.

(Facsimile Seal)

\_\_\_\_\_ (manual or facsimile)  
City Clerk

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**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Note is one of a series of General Obligation Temporary Notes, Series 2024-A, of the City of Olathe, Kansas, described in the within-mentioned Note Resolution.

Registration Date: \_\_\_\_\_

City Treasurer, Olathe, Kansas,  
as Note Registrar and Paying Agent

By: \_\_\_\_\_

Registration Number: \_\_\_\_\_

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**CERTIFICATE OF CLERK**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF JOHNSON        )

The undersigned, Clerk of the City of Olathe, Kansas, does hereby certify that the within Note has been duly registered in my office according to law as of July 16, 2024.

WITNESS my hand and official seal.

(Facsimile Seal)

\_\_\_\_\_  
(facsimile)  
City Clerk

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**CERTIFICATE OF STATE TREASURER**

OFFICE OF THE TREASURER, STATE OF KANSAS

STEVEN JOHNSON, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Note has been filed in the office of the State Treasurer, and that this Note was registered in such office according to law on \_\_\_\_\_.

WITNESS my hand and official seal.

(Seal)

By: \_\_\_\_\_  
Treasurer of the State of Kansas

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**NOTE ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

\_\_\_\_\_  
(Name and Address)

\_\_\_\_\_  
(Social Security or Taxpayer Identification No.)

the Note to which this assignment is affixed in the outstanding principal amount of \$ \_\_\_\_\_, standing in the name of the undersigned on the books of the Note Registrar. The undersigned do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ as agent to transfer said Note on the books of said Note Registrar with full power of substitution in the premises.

Dated \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or  
Taxpayer Identification No.

\_\_\_\_\_  
Signature (Sign here exactly as name(s)  
appear on the face of Certificate)

Signature guarantee:

By \_\_\_\_\_

---

**LEGAL OPINION**

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Notes:

**GILMORE & BELL, P.C.**  
Attorneys at Law  
2405 Grand Boulevard  
Suite 1100  
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)

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# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Jamie Robichaud/Briana Burrichter/John Page

**SUBJECT:** Consideration of Resolution No. 24-1026 and Ordinance No.24-23 authorizing the issuance and delivery of the General Obligation Improvement Bonds, Series 2024A.

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**TITLE:**

Consideration of Resolution No. 24-1026 and Ordinance No. 24-23 authorizing the issuance and delivery of the General Obligation Improvement Bonds, Series 2024A.

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**SUMMARY:**

As approved by the City Council on May 21, 2024, bids will be received by the City on June 18, 2024 from prospective buyers of the General Obligation Improvement Bonds, Series 2024A. Accordingly, the best bid rates will be provided at the City Council meeting.

Series 2024A will be used to fund 9 projects in the approximate amount of \$48,845,722. Series 2024A includes 10-year and 20-year debt structured for level annual debt service.

In addition to the bid approval required above, the City's bond counsel, Gilmore & Bell, has prepared Ordinance No. 24-23 which services to authorize the issuance and delivery of the bonds, and provides for the levy and collection of annual tax for the payment of the principal and interest for Bond Series 2024A. Resolution No. 24-1026 sets the form and details of and authorizes the delivery of Bond Series 2024A.

Draft copies of the above-mentioned ordinance and resolution are attached. The final versions of these documents will be available at the City Council meeting once the bids have been received and the final bid has been determined.

Standard and Poor's Corporation has reaffirmed the City's general obligation rating of AA+.

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**FINANCIAL IMPACT:**

The amount of Series 2024A Bonds is approximately \$48,845,722.

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**ACTION NEEDED:**

Approval of Resolution No. 24-1026 to authorize the sale of General Obligation Bonds, Series 2024A, and approval of Ordinance No. 24-23 to authorize issuance of General Obligation Bonds, Series 2024A.

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**ATTACHMENT(S):**

A: Draft Bond Ordinance and Resolution

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**SERIES 2024A BOND ORDINANCE AND RESOLUTION**

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Ordinance Summary for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF OLATHE, KANSAS  
HELD ON JUNE 18, 2024**

The governing body met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present: \_\_\_\_\_.

Absent: \_\_\_\_\_.

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

The Chief Financial Officer reported that pursuant to the Notice of Sale, bids for the purchase of General Obligation Improvement Bonds, Series 2024A, dated July 16, 2024, of the City had been received. A tabulation of said bids is set forth as **EXHIBIT A** hereto.

The governing body reviewed and considered the bids and it was found and determined that the bid of [Name of Purchaser, City, State], was the best bid for the Bonds, a copy of which is attached hereto as **EXHIBIT B**.

There was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2024A, OF THE CITY OF OLATHE, 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.**

Councilmember \_\_\_\_\_ moved that said Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 24-23 was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

Thereupon, there was presented a Resolution entitled:

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2024A, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-23 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

Councilmember \_\_\_\_\_ moved that said Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the governing body, the vote being as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 24-1026 and was signed by the Mayor and attested by the Clerk.

\*\*\*\*\*

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Olathe, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

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City Clerk

***EXHIBIT A***  
**(BID TABULATION)**

***EXHIBIT B***  
**(BID OF PURCHASER)**

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**ORDINANCE NO. 24-23**

**OF**

**THE CITY OF OLATHE, KANSAS**

**PASSED**

**JUNE 18, 2024**

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**GENERAL OBLIGATION IMPROVEMENT BONDS  
SERIES 2024A**

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**ORDINANCE NO. 24-23**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2024A, OF THE CITY OF OLATHE, 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 Olathe, Kansas (the “City”) is a city of the first class and political subdivision, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, pursuant to K.S.A. 10-101 to 10-125, inclusive, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, 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 (collectively, the “Improvements”) to be made in the City, to-wit:

<u>Project Number</u>	<u>Project Name</u>	<u>Authorizing Ord./Res.</u>	<u>Authority</u>	<u>Amount*</u>
3-C-108-22	135th and Greenwood Geometric Improvements	22-1011	K.S.A. 12-685 <i>et seq.</i>	\$853,121.59
3-B-099-21	Bluestem, 107th Terrace and Cedar Creek Parkway	21-1039	K.S.A. 12-6a01 <i>et seq.</i>	1,101,620.53
6-C-010-20	Police Building Expansion-Phase II	23-1019	Charter Ord. No. 74	29,603,119.64
3-B-027-19	Cedar Creek Parkway South of College	20-1013	K.S.A. 12-6a01 <i>et seq.</i>	6,419,113.81
3-B-036-22	Monticello Road	22-1092	K.S.A. 12-6a01 <i>et seq.</i>	2,787,440.59
3-TS-000-24	Traffic Signals	24-1007	Charter Ord. No. 74	500,000.00
3-R-000-25	Street Reconstruction Program	24-1005	Charter Ord. No. 74	4,000,000.00
3-C-058-19	Ridgeview, 143rd to 151st, Improvements	19-1009	K.S.A. 12-685 <i>et seq.</i>	3,140,772.33
3-C-016-22	167th & 169 Highway Overpass Improvements Project	22-1037	K.S.A. 12-685 <i>et seq.</i>	<u>440,533.60</u>
	<b>Total:</b>			<b>\$48,845,722.09</b>

; and

**WHEREAS**, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay a portion of 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 hereby awards the sale of such Bonds to the best bidder.

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

\*Improvement and temporary financing costs to be financed with proceeds of the Bonds; excludes Costs of Issuance.

**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.*, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 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 Improvement Bonds, Series 2024A, dated July 16, 2024, authorized by this Ordinance.

**“City”** means the City of Olathe, 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.

**“Improvements”** means the improvements referred to in the preamble to this Ordinance and any Substitute Improvements.

**“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, Mayor Pro Tem or Acting Mayor of the City.

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

**“Refunded Notes”** means a portion of the Series 2023-A Notes maturing on August 1, 2024 in the aggregate principal amount of \$72,140,000.

**“Series 2023-A Notes”** means the City’s General Obligation Temporary Notes, Series 2023-A, dated July 18, 2023.

**“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 Improvement Bonds, Series 2024A, of the City in the principal amount of \$[Principal Amount], for the purpose of providing funds to: (a) pay the costs of the Improvements; (b) pay the costs of issuance of the Bonds; and (c) retire a portion of 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 certain public 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 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 for the Bonds. 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 of the Ordinance or a summary thereof in the official City newspaper.

[Balance of page intentionally left blank]

**PASSED** by the governing body of the City on June 18, 2024 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

(PUBLISHED IN THE *LEGAL RECORD* ON JUNE 25, 2024)

**SUMMARY OF ORDINANCE NO. 24-23**

On June 18, 2024, the governing body of the City of Olathe, Kansas passed an ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2024A, OF THE CITY OF OLATHE, 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.**

The Series 2024A Bonds approved by the Ordinance are being issued in the principal amount stated therein to finance certain internal improvements in the City, and constitute general obligations of the City payable as to both principal and interest, to the extent necessary, 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. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 East Santa Fe. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notices>.

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

DATED: June 18, 2024.

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City Attorney

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**RESOLUTION NO. 24-1026**

**OF**

**THE CITY OF OLATHE, KANSAS**

**ADOPTED**

**JUNE 18, 2024**

**GENERAL OBLIGATION IMPROVEMENT BONDS  
SERIES 2024A**

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**TABLE OF CONTENTS**

**ARTICLE I**

**DEFINITIONS**

Section 101. Definitions of Words and Terms..... 1

**ARTICLE II**

**AUTHORIZATION AND DETAILS OF THE BONDS**

Section 201. Authorization of the Bonds..... 8  
Section 202. Description of the Bonds..... 8  
Section 203. Designation of Paying Agent and Bond Registrar..... 9  
Section 204. Method and Place of Payment of the Bonds..... 10  
Section 205. Payments Due on Saturdays, Sundays and Holidays..... 10  
Section 206. Registration, Transfer and Exchange of Bonds..... 10  
Section 207. Execution, Registration, Authentication and Delivery of Bonds..... 11  
Section 208. Mutilated, Lost, Stolen or Destroyed Bonds..... 12  
Section 209. Cancellation and Destruction of Bonds Upon Payment..... 12  
Section 210. Book-Entry Bonds; Securities Depository..... 12  
Section 211. Nonpresentment of Bonds..... 14  
Section 212. Preliminary and Final Official Statement..... 14  
Section 213. Sale of the Bonds..... 14

**ARTICLE III**

**REDEMPTION OF BONDS**

Section 301. Redemption by Issuer..... 15  
Section 302. Selection of Bonds to be Redeemed..... 16  
Section 303. Notice and Effect of Call for Redemption..... 16

**ARTICLE IV**

**SECURITY FOR BONDS**

Section 401. Security for the Bonds..... 18  
Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account..... 18

**ARTICLE V**

**ESTABLISHMENT OF FUNDS AND ACCOUNTS**

**DEPOSIT AND APPLICATION OF BOND PROCEEDS**

Section 501. Creation of Funds and Accounts..... 19  
Section 502. Deposit of Bond Proceeds..... 19  
Section 503. Application of Moneys in the Improvement Fund..... 19  
Section 504. Substitution of Improvements; Reallocation of Proceeds..... 19  
Section 505. Application of Moneys in Debt Service Account..... 20

Section 506.	Application of Moneys in the Rebate Fund. ....	20
Section 507.	Deposits and Investment of Moneys. ....	21

**ARTICLE VI**

**DEFAULT AND REMEDIES**

Section 601.	Remedies. ....	21
Section 602.	Limitation on Rights of Owners. ....	21
Section 603.	Remedies Cumulative. ....	22

**ARTICLE VII**

**DEFEASANCE**

Section 701.	Defeasance. ....	22
--------------	------------------	----

**ARTICLE VIII**

**TAX COVENANTS**

Section 801.	General Covenants. ....	23
Section 802.	Survival of Covenants. ....	23

**ARTICLE IX**

**CONTINUING DISCLOSURE REQUIREMENTS**

Section 901.	Disclosure Requirements. ....	23
Section 902.	Failure to Comply with Continuing Disclosure Requirements. ....	23

**ARTICLE X**

**MISCELLANEOUS PROVISIONS**

Section 1001.	Annual Audit. ....	23
Section 1002.	Amendments. ....	24
Section 1003.	Notices, Consents and Other Instruments by Owners. ....	25
Section 1004.	Notices. ....	25
Section 1005.	Electronic Transactions. ....	25
Section 1006.	Further Authority. ....	26
Section 1007.	Severability. ....	26
Section 1008.	Governing Law. ....	26
Section 1009.	Effective Date. ....	26

<b>EXHIBIT A – FORM OF BONDS</b> .....	<b>A-1</b>
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## RESOLUTION NO. 24-1026

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2024A, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-23 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

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**WHEREAS**, the City of Olathe, Kansas (the “Issuer”) has passed the Ordinance authorizing the issuance of the Bonds; and

**WHEREAS**, the Ordinance authorized the governing body of the Issuer to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds; and

**WHEREAS**, the Issuer is a city of the first class and political subdivision, duly created, organized and existing under the Constitution and laws of the State.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:**

### ARTICLE I

#### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution 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.*, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 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.

“**Authorized Denomination**” means \$5,000 or any integral multiples thereof.

“**Beneficial Owner**” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

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

“**Bond Counsel**” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“**Bond Payment Date**” means any date on which principal of or interest on any Bond is payable.

“**Bond Register**” means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

“**Bond Registrar**” means the Treasurer of the State of Kansas, Topeka, Kansas, and any successors and assigns.

“**Bond Resolution**” means this resolution relating to the Bonds.

“**Bonds**” or “**Bond**” means the General Obligation Improvement Bonds, Series 2024A, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

“**Business Day**” means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“**Cede & Co.**” means Cede & Co., as nominee of DTC and any successor nominee of DTC.

“**Chief Financial Officer**” means acting Chief Financial Officer, or in the Chief Financial Officer’s absence, the duly appointed and/or elected Acting Chief Financial Officer of the Issuer.

“**City**” means the City of Olathe, Kansas.

“**Clerk**” means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

“**Costs of Issuance**” means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

“**Dated Date**” means July 16, 2024.

“**Debt Service Account**” means the Debt Service Account for General Obligation Improvement Bonds, Series 2024A created within the Bond and Interest Fund pursuant to *Section 501* hereof.

“**Debt Service Requirements**” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise

set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

**“Defaulted Interest”** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody’s or Standard & Poor’s that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

**“Derivative”** means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

**“Disclosure Undertaking”** means the Continuing Disclosure Undertaking, dated as of the Dated Date, relating to certain obligations contained in the SEC Rule.

**“DTC”** means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

**“DTC Representation Letter”** means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

**“Event of Default”** means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

**“Federal Tax Certificate”** means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

**“Financeable Costs”** means the amount of expenditure for an Improvement which has been duly authorized by action of the governing body of the Issuer to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

**“Fiscal Year”** means the twelve month period ending on December 31.

**“Funds and Accounts”** means funds and accounts created pursuant to or referred to in *Section 501* hereof.

**“Improvement Fund”** means the Improvement Fund for General Obligation Improvement Bonds, Series 2024A created pursuant to *Section 501* hereof.

**“Improvements”** means the improvements referred to in the preamble to the Ordinance and any Substitute Improvements.

**“Independent Accountant”** means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

**“Interest Payment Date(s)”** means the Stated Maturity of an installment of interest on any Bond which shall be April 1 and October 1 of each year, commencing October 1, 2024.

**“Issue Date”** means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

**“Issuer”** means the City and any successors or assigns.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

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

**“Moody’s”** means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

**“Notice Address”** means with respect to the following entities:

(a) To the Issuer at:

City Hall  
100 East Santa Fe  
Olathe, Kansas 66061  
Attention: City Clerk  
Email: [cco@olatheks.org](mailto:cco@olatheks.org)

(b) To the Paying Agent at:

State Treasurer of the State of Kansas  
Landon Office Building  
900 Southwest Jackson, Suite 201  
Topeka, Kansas 66612-1235  
Email: [fiscal@treasurer.ks.gov](mailto:fiscal@treasurer.ks.gov)

(c) To the Purchaser:

[Purchaser Name  
Purchaser Address  
City, State]

(d) To the Rating Agency(ies):

S&P Global Ratings, a division of S&P Global Inc.  
55 Water Street, 38th Floor  
New York, New York 10004

or such other address as is furnished in writing to the other parties referenced herein.

**“Notice Representative”** means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.

(d) With respect to any Rating Agency, any Vice President thereof.

**“Official Statement”** means the Issuer’s Official Statement relating to the Bonds.

**“Ordinance”** means Ordinance No. 24-[\_\_] of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

**“Outstanding”** means, when used with reference to the Bonds, as of a particular date of determination, all Bonds theretofore authenticated and delivered, except the following Bonds:

(a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

**“Owner”** when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Paying Agent”** means the State Treasurer, and any successors and assigns.

**“Permitted Investments”** shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“**Person**” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“**Purchase Price**” means the principal amount of the Bonds plus accrued interest to the date of delivery, plus a [net] reoffering premium of \$[\_\_\_\_\_.\_\_], less an underwriting discount of \$[\_\_\_\_\_.\_\_].

“**Purchaser**” means [Name of Purchaser, City, State], the original purchaser of the Bonds, and any successor and assigns.

“**Rating Agency**” means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

“**Rebate Fund**” means the Rebate Fund for General Obligation Improvement Bonds, Series 2024A created pursuant to *Section 501* hereof.

“**Record Dates**” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“**Redemption Date**” means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

“**Redemption Price**” means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“**Refunded Notes**” means a portion of the Series 2023-A Notes maturing on August 1, 2024 in the aggregate principal amount of \$72,140,000.

“**Refunded Notes Paying Agent**” means the paying agent for the Refunded Notes as designated in the Refunded Notes Resolution, and any successor or successors at the time acting as paying agent of the Refunded Notes.

“**Refunded Notes Redemption Date**” means August 1, 2024.

“**Refunded Notes Resolution**” means the resolution which authorized the Refunded Notes.

“**Replacement Bonds**” means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

“**SEC Rule**” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“**Securities Depository**” means, initially, DTC, and its successors and assigns.

“**Series 2023-A Notes**” means the City’s General Obligation Temporary Notes, Series 2023-A, dated July 18, 2023.

“**Special Record Date**” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“**Standard & Poor’s**” or “**S&P**” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor’s shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“**State**” means the state of Kansas.

“**State Treasurer**” means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“**Stated Maturity**” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“**Substitute Improvements**” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

[“**20\_\_ Term Bonds**” means the Bonds scheduled to mature in the year 20\_\_ .

“**Term Bonds**” means the 20\_\_ Term Bonds.]

“**Treasurer**” means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

## **ARTICLE II AUTHORIZATION AND DETAILS OF THE BONDS**

**Section 201. Authorization of the Bonds.** The Bonds have been previously authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[Principal Amount], for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; (b) pay Costs of Issuance; and (c) retire a portion of the Refunded Notes.

**Section 202. Description of the Bonds.** The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof, and shall bear interest at the rates per annum as follows:

**SERIAL BONDS**

<u>Stated Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2025	\$	%	2035	\$	%
2026			2036		
2027			2037		
2028			2038		
2029			2039		
2030			2040		
2031			2041		
2032			2042		
2033			2043		
2034			2044		

**[TERM BONDS**

<u>Stated Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
20__	\$	%]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in **Section 204** hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as **EXHIBIT A** or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

**Section 203. Designation of Paying Agent and Bond Registrar.** The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

**Section 204. Method and Place of Payment of the Bonds.** The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

**Section 205. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

**Section 206. Registration, Transfer and Exchange of Bonds.** The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer

or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

**Section 207. Execution, Registration, Authentication and Delivery of Bonds.** Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual, electronic or facsimile signature of the Mayor, attested by the manual, electronic or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual, electronic or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual, electronic or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such

Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *EXHIBIT A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

**Section 208. Mutilated, Lost, Stolen or Destroyed Bonds.** If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

**Section 209. Cancellation and Destruction of Bonds Upon Payment.** All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

**Section 210. Book-Entry Bonds; Securities Depository.** The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will

make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

**Section 211. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 212. Preliminary and Final Official Statement.** The Preliminary Official Statement dated on or about June 11, 2024, is hereby ratified and approved. For the purpose of enabling the Purchaser to comply with the requirements of Section (b)(1) of the SEC Rule, the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be “final” as of its date, except for the omission of such information as is permitted by Section (b)(1) of the SEC Rule, and the appropriate officers of the Issuer are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of the SEC Rule.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Chief Financial Officer hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 213. Sale of the Bonds.** The sale of the Bonds to the Purchaser is hereby approved and confirmed. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

**ARTICLE III**

**REDEMPTION OF BONDS**

**Section 301. Redemption by Issuer.**

**Optional Redemption.** At the option of the Issuer, Bonds maturing on October 1, 2033, and thereafter, will be subject to redemption and payment prior to their Stated Maturity on October 1, 2032, and thereafter, as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest to the Redemption Date.

\*\*\*[ **Mandatory Redemption.** [(a) [ ] Term Bonds.] The [ ] Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on October 1 in each year, the following principal amounts of such [ ] Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$	

\*

\_\_\_\_\_  
\*Final Maturity

[ (b) [ ] Term Bonds. The [ ] Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on October 1 in each year, the following principal amounts of such [ ] Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$	

[ ]\*

\_\_\_\_\_  
\*Final Maturity]

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section

for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]\*\*\*

### **Section 302. Selection of Bonds to be Redeemed.**

Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, 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 such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

**Section 303. Notice and Effect of Call for Redemption.** In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. [The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.]

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its

intention to call and pay said Bonds to the Bond Registrar and the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any

portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

## ARTICLE IV

### SECURITY FOR BONDS

**Section 401. Security for the Bonds.** The Bonds shall be general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of certain public 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 Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account.** The governing body of the Issuer shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes and/or assessments upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes and/or assessments referred to above 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 other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes and/or assessments shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

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 Issuer and to reimburse said general funds for money so expended when said taxes are collected.

## ARTICLE V

### ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds and Accounts.** Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Improvement Bonds, Series 2024A.
- (b) Debt Service Account for General Obligation Improvement Bonds, Series 2024A (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Improvement Bonds, Series 2024A.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

**Section 502. Deposit of Bond Proceeds.** The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest, if any, received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Improvement Fund.

**Section 503. Application of Moneys in the Improvement Fund.** Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the governing body of the Issuer and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the governing body of the Issuer; (b) paying interest on the Bonds during construction of the Improvements; (c) paying Costs of Issuance; (d) transferring any amounts to the Rebate Fund required by this *Article V*; and (e) retiring a portion of the Refunded Notes.

Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

### **Section 504. Substitution of Improvements; Reallocation of Proceeds.**

- (a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Bonds provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the governing body of the Issuer in accordance with the laws of the State; (2)

a resolution or ordinance authorizing the use of the proceeds of the Bonds to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the governing body of the Issuer pursuant to this Section; (3) the Attorney General of the State has approved the amendment made by such resolution or ordinance to the transcript of proceedings for the Bonds to include the Substitute Improvements; and (4) the use of the proceeds of the Bonds to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Bond proceeds among all Improvements financed by the Bonds; provided the following conditions are met: (1) the reallocation is approved by the governing body of the Issuer; (2) the reallocation shall not cause the proceeds of the Bonds allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Bonds under State or federal law.

**Section 505. Application of Moneys in Debt Service Account.** All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

**Section 506. Application of Moneys in the Rebate Fund.**

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

**Section 507. Deposits and Investment of Moneys.** Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, be credited to the Debt Service Account.

## ARTICLE VI

### DEFAULT AND REMEDIES

**Section 601. Remedies.** The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

**Section 602. Limitation on Rights of Owners.** The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever 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 Outstanding Bonds.

**Section 603. Remedies Cumulative.** No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall, subject to any determination in such action or proceeding or applicable law of the State, be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

## ARTICLE VII

### DEFEASANCE

**Section 701. Defeasance.** When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company 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 money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

**ARTICLE VIII**  
**TAX COVENANTS**

**Section 801. General Covenants.** The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor, Clerk and Chief Financial Officer are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

**Section 802. Survival of Covenants.** The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

**ARTICLE IX**  
**CONTINUING DISCLOSURE REQUIREMENTS**

**Section 901. Disclosure Requirements.** The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

**Section 902. Failure to Comply with Continuing Disclosure Requirements.** In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

**ARTICLE X**  
**MISCELLANEOUS PROVISIONS**

**Section 1001. Annual Audit.** Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the

examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the governing body of the Issuer shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

**Section 1002. Amendments.** The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by ordinance or resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such 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 Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by ordinance or resolution duly adopted by the governing body of the Issuer at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Bonds among Improvements, to provide for Substitute Improvements, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the governing body of the Issuer amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the ordinance or resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of

the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

**Section 1003. Notices, Consents and Other Instruments by Owners.** Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

**Section 1004. Notices.** Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly delivered by prepaid overnight delivery service or mailed by registered or certified mail, postage prepaid; or (b) communicated via electronic mail, with confirmation of receipt by delivery receipt, read receipt or otherwise. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by (a) delivery service or mail as aforesaid shall be deemed duly given as of the date they are so provided to the delivery service or mailed, respectively, and (b) electronic mail as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

**Section 1005. Electronic Transactions.** The transactions described in this Bond Resolution may be conducted, and documents related to the Bonds may be sent, received, executed, and stored, by electronic means or transmissions. Copies, telecopies, electronic files and other reproductions of original executed documents (or documents executed by electronic means or transmissions) shall be deemed to be authentic

and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 1006. Further Authority.** The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial 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 1007. Severability.** If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

**Section 1008. Governing Law.** This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1009. Effective Date.** This Bond Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

**ADOPTED** by the governing body of the Issuer on June 18, 2024.

(SEAL)

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Mayor

ATTEST:

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City Clerk

**EXHIBIT A  
(FORM OF BONDS)**

REGISTERED  
NUMBER \_\_

REGISTERED  
\$

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**UNITED STATES OF AMERICA  
STATE OF KANSAS  
COUNTY OF JOHNSON  
CITY OF OLATHE  
GENERAL OBLIGATION IMPROVEMENT BOND  
SERIES 2024A**

Interest  
Rate:

Maturity  
Date:

Dated  
Date: July 16, 2024

CUSIP:

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**KNOW ALL PERSONS BY THESE PRESENTS:** That the City of Olathe, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, unless called for redemption prior to the Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on April 1 and October 1 of each year, commencing October 1, 2024 (the “Interest Payment Dates”), until the Principal Amount has been paid.

**Method and Place of Payment.** The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Bond Registrar at the close of business on the Record Date(s)

for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

**Definitions.** Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

**Authorization of Bonds.** This Bond is one of an authorized series of Bonds of the Issuer designated “General Obligation Improvement Bonds, Series 2024A,” aggregating the principal amount of \$[Principal Amount] (the “Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (collectively, the “Bond Resolution”). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, K.S.A. 12-685 *et seq.*, K.S.A. 12-6a01 *et seq.*, Charter Ordinance No. 74 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

**General Obligations.** The Bonds constitute general obligations of the Issuer payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of certain public 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 Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

**Redemption Prior to Maturity.** The Bonds are subject to redemption prior to maturity, as set forth in the Bond Resolution.

**Book-Entry System.** The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository’s participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial

owners. The Issuer and the Bond Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

**Transfer and Exchange.** EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

**Authentication.** This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

**IT IS HEREBY DECLARED AND CERTIFIED** that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation.

**IN WITNESS WHEREOF**, the Issuer has caused this Bond to be executed by the manual, electronic, or facsimile signature of its Mayor, and attested by the manual, electronic, or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

**CITY OF OLATHE, KANSAS**

[(Facsimile Seal)]

By: \_\_\_\_\_ (facsimile)  
Mayor

ATTEST:

By: \_\_\_\_\_ (facsimile)  
City Clerk

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**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Bond is one of a series of General Obligation Improvement Bonds, Series 2024A, of the City of Olathe, Kansas, described in the within-mentioned Bond Resolution.

Registration Date: \_\_\_\_\_

Treasurer of the State of Kansas,  
Topeka, Kansas  
as Bond Registrar and Paying Agent

By: \_\_\_\_\_

Registration Number: \_\_\_\_\_

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**CERTIFICATE OF CLERK**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF JOHNSON        )

The undersigned, Clerk of the City of Olathe, Kansas, does hereby certify that the within Bond has been duly registered in my office according to law as of July 16, 2024.

WITNESS my hand and official seal.

(Facsimile Seal)

By: \_\_\_\_\_ (facsimile)  
City Clerk

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**CERTIFICATE OF STATE TREASURER**

OFFICE OF THE TREASURER, STATE OF KANSAS

STEVEN JOHNSON, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Bond has been filed in the office of the State Treasurer, and that this Bond was registered in such office according to law on \_\_\_\_\_.

WITNESS my hand and official seal.

(Facsimile Seal)

By: \_\_\_\_\_  
Treasurer of the State of Kansas

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**BOND ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

\_\_\_\_\_  
(Name and Address)

\_\_\_\_\_  
(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$\_\_\_\_\_, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or  
Taxpayer Identification No.

\_\_\_\_\_  
Signature (Sign here exactly as name(s)  
appear on the face of Certificate)

Signature guarantee:

By \_\_\_\_\_

---

**LEGAL OPINION**

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Bonds:

**GILMORE & BELL, P.C.**  
2405 Grand Boulevard  
Suite 1100  
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Jamie Robichaud/Briana Burrichter/John Page

**SUBJECT:** Consideration of Resolution No. 24-1027 and Ordinance No. 24-24 authorizing the issuance, delivery, form and details of Water and Sewer System Improvement Revenue Bonds, Series 2024.

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**TITLE:**

Consideration of Resolution No. 24-1027 and Ordinance No. 24-24 authorizing the issuance, delivery, form and details of Water and Sewer System Improvement Revenue Bonds, Series 2024.

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**SUMMARY:**

As approved by the City Council on May 21, 2024, bids will be received by the City on June 12, 2024, from prospective buyers of the Water and Sewer System Revenue Bonds, Series 2024. Accordingly, the best bid rates will be provided at the City Council meeting.

In addition to the best bid approval required above, the city's bond counsel, Gilmore & Bell, has prepared Ordinance No. 24-24 authorizing the issuance of the bonds. They have also prepared Resolution No. 24-1027 prescribing the form and details of and authorizing the delivery of the Water and Sewer System Revenue Bonds, Series 2024.

Draft copies of the above-mentioned ordinance and resolution are attached. The final version of these documents will be presented at the City Council meeting once the bids have been received and the best bid has been determined.

The City has applied for a rating from Standard and Poor's Corporation. Revenue bonds are rated separately from general obligation bonds because the source of repayment for the bonds comes from Water and Sewer operations rather than the full faith and credit of the City. Standard and Poor's affirmed the City's AA rating.

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**FINANCIAL IMPACT:**

The amount of Water and Sewer System Revenue Bonds, Series 2024 is approximately \$16,295,000.

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**ACTION NEEDED:**

Approval of Ordinance No. 24-24 and Resolution No. 24-1027 to prescribe the form and details of and authorize delivery of the Water and Sewer System Revenue Bonds, Series 2024.

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**ATTACHMENT(S):**

A: Draft Bond Ordinance and Resolution

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**WATER AND SEWER SYSTEM IMPROVEMENT  
REVENUE BONDS  
SERIES 2024**

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Summary Bond Ordinance for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING**

**OF THE GOVERNING BODY OF  
THE CITY OF OLATHE, KANSAS  
HELD ON JUNE 18, 2024**

The governing body met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present: \_\_\_\_\_.

\_\_\_\_\_.

Absent: \_\_\_\_\_.

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

The City Clerk reported that pursuant to the Notice of Bond Sale duly given, bids for the purchase of Water and Sewer System Improvement Revenue Bonds, Series 2024, dated July 10, 2024 (the “Series 2024 Bonds”), of the City of Olathe, Kansas had been received. A tabulation of said bids is set forth as **EXHIBIT A** hereto.

The governing body reviewed and considered the bids and it was found and determined that the bid of [Name of Purchaser], [Purchaser City, State], was the best bid for the Series 2024 Bonds, a copy of which is attached hereto as **EXHIBIT B**.

There was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$[PRINCIPAL AMOUNT] PRINCIPAL AMOUNT OF WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

Councilmember \_\_\_\_\_ moved that said Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 24-24 and was signed by the Mayor and attested by the City Clerk, and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

There was presented a Resolution entitled:

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-24 OF THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

Councilmember \_\_\_\_\_ moved that said Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the governing body, the vote being as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 24-1027 and was signed by the Mayor and attested by the City Clerk.

\*\*\*\*\*

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Olathe, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

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City Clerk

***EXHIBIT A***  
***BID TABULATION***

***EXHIBIT B***  
***BID OF PURCHASER***

**ORDINANCE NO. 24-24**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$[PRINCIPAL AMOUNT] PRINCIPAL AMOUNT OF WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Olathe, Kansas (the “City”), is a city of the first class duly created, organized and existing under the Constitution and laws of the State of Kansas; and

**WHEREAS**, the City is authorized under the provisions of the Act (as herein defined), to issue and sell revenue bonds for the purpose of paying all or part of the cost of making alterations, repairs, extensions, enlargements and improvements to the System (as herein defined), provided that the principal of and interest on such revenue bonds shall be payable solely from the Net Revenues (as herein defined) derived by the City from the operation of the System; and

**WHEREAS**, the City has pursuant to Resolution No. 24-1002 declared its intention under the Act to acquire, construct, reconstruct, alter, repair, improve, extend or enlarge the System (collectively, the “Project”) and to issue water and sewer system revenue bonds in an amount not to exceed \$48,516,890; notice of such intention was published one time in the official City newspaper and no sufficient written protest thereto was filed with the City Clerk within 15 days after said publication date as set forth in the Act; and

**WHEREAS**, none of the revenue bonds authorized by Resolution No. 24-1002 have been issued and the City proposes to issue \$[PRINCIPAL AMOUNT] of water and sewer system revenue bonds so authorized to pay the costs of the Project and related bond reserves and financing costs; and

**WHEREAS**, the governing body of the City has caused plans and specifications for the Project and an estimate of the costs thereof to be made and the same are hereby accepted and approved and shall be placed on file in the office of the City Clerk; and

**WHEREAS**, the City has no bonds or other obligations outstanding payable from the Net Revenues of the System, except the following:

<u>Series of Bonds</u>	<u>Dated</u>	<u>Amount Issued</u>	<u>Amount Outstanding*</u>
Water and Sewer System Revenue Bonds, Series 2012	December 18, 2012	\$9,585,000	\$4,340,000
Water and Sewer System Revenue Bonds, Series 2015	October 1, 2015	\$18,895,000	\$11,955,000
Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017	April 4, 2017	\$11,340,000	\$7,650,000

Water and Sewer System Revenue Bonds, Series 2018	April 3, 2018	\$11,580,000	\$9,035,000
Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019	April 18, 2019	\$16,360,000	\$13,000,000
Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020	June 4, 2020	\$13,335,000	\$9,655,000
Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2021	May 20, 2021	\$35,270,000	\$29,010,000
Water and Sewer System Improvement Revenue Bonds, Series 2022	July 12, 2022	\$11,740,000	\$10,860,000
Water and Sewer System Improvement Revenue Bonds, Series 2023	July 11, 2023	\$5,280,000	\$5,110,000

\* Does not include principal payments due July 1, 2024.

**WHEREAS**, the resolutions authorizing the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2020 Bonds, the Series 2021 Bonds, the Series 2022 Bonds and the Series 2023 Bonds provide that the City may issue additional bonds payable from Net Revenues on a parity with such bonds upon the satisfaction of certain conditions; and

**WHEREAS**, prior to or simultaneously with the issuance of the Series 2024 Bonds, such conditions will be satisfied; and

**WHEREAS**, the City hereby finds and determines that it is necessary to authorize the issuance of the City’s Water and Sewer System Improvement Revenue Bonds, Series 2024 in the principal amount of \$[PRINCIPAL AMOUNT] (the “Series 2024 Bonds”) for the purposes set forth herein.

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

**Section 1. Definitions of Words and Terms.** In addition to the words and terms defined elsewhere in this Ordinance and in the Resolution, the following words and terms as used in this Ordinance shall have the following meanings:

“**Act**” means the Constitution and statutes of the State of Kansas including without limitation K.S.A. 10-101 *et seq.*, specifically including K.S.A. 10-620 *et seq.* and K.S.A. 10-1201 *et seq.*, all as amended and supplemented.

“**Additional Bonds**” means any bonds secured by the Net Revenues of the System hereinafter issued pursuant to Article X of the Resolution.

“**Bonds**” means the Series 2024 Bonds.

“**City**” means the City of Olathe, Kansas.

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

**“Code”** means the Internal Revenue Code of 1986, as amended, together with any regulations applicable thereto or promulgated thereunder by the United States Department of the Treasury.

**“Current Expenses”** means all necessary expenses of operation, maintenance and repair of the System, including, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance, and all other expenses incident to the operation of the System, but shall exclude depreciation and amortization charges, interest paid on revenue bonds of the System, all general administrative expenses of the City not related to the operation of the System, and the payments into the Bond Reserve Account provided for in the Resolution.

**“Gross Revenues”** means all charges, fees, income and revenues (including interest and investment earnings) derived and collected by the City from the operation and ownership of the System including without limitation the System Development Charge collected pursuant to Section 13.26 of the Municipal Code of the City, as amended, and any rate, fee or charge that succeeds to the System Development Charge, and any amounts deposited in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay debt service on revenue bonds of the System, and net proceeds of any business interruption insurance, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

**“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, Mayor Pro Tem or Acting Mayor of the City.

**“Net Revenues”** means Gross Revenues less Current Expenses.

**“Ordinance”** means this ordinance as from time to time amended in accordance with the terms hereof.

**“Original Purchaser”** means [Name of Purchaser], [Purchaser City, State].

**“Parity Bonds”** means the Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2020 Bonds, the Series 2021 Bonds, the Series 2022 Bonds and the Series 2023 Bonds and any bonds hereinafter issued pursuant to Sections 1002 or 1004 of the Resolution and standing on a parity and equality with the Bonds with respect to the payment of principal and interest out of the Net Revenues of the System.

**“Project”** means the acquisition, construction, reconstruction, alteration, repair, improvement, extension, or enlargement of the System described in Resolution No. 24-1002 of the City.

**“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.

**“Series 2012 Bonds”** means the Water and Sewer System Revenue Bonds, Series 2012, authorized by Ordinance No. 12-59 and Resolution No. 12-1076 of the City adopted on December 4, 2012.

“**Series 2015 Bonds**” means the Water and Sewer System Revenue Bonds, Series 2015, authorized by Ordinance No. 15-57 and Resolution No. 15-1078 of the City adopted on September 15, 2015.

“**Series 2017 Bonds**” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017, authorized by Ordinance No. 17-19 and Resolution No. 17-1026 of the City adopted on March 21, 2017.

“**Series 2018 Bonds**” means the Water and Sewer System Revenue Bonds, Series 2018, authorized by Ordinance No. 18-11 and Resolution No. 18-1034 of the City adopted on March 20, 2018.

“**Series 2019 Bonds**” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, authorized by Ordinance No. 19-11 and Resolution No. 19-1027 of the City adopted on April 2, 2019.

“**Series 2020 Bonds**” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020, authorized by Ordinance No. 20-18 and Resolution No. 20-1037 of the City adopted on May 19, 2020.

“**Series 2021 Bonds**” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2021, authorized by Ordinance No. 21-20 and Resolution No. 21-1034 of the City adopted on May 4, 2021.

“**Series 2022 Bonds**” means the Water and Sewer System Improvement Revenue Bonds, Series 2022, authorized by Ordinance No. 22-28 and Resolution No. 22-1047 of the City adopted on June 21, 2022.

“**Series 2023 Bonds**” means the Water and Sewer System Improvement Revenue Bonds, Series 2023, authorized by Ordinance No. 23-16 and Resolution No. 23-1045 of the City adopted on June 20, 2023.

“**Series 2024 Bonds**” means the Water and Sewer System Improvement Revenue Bonds, Series 2024, authorized by this Ordinance.

“**Substitute Project**” means a substitute or additional project of the System authorized in the manner set forth in the Parity Bond Resolution.

“**System**” means the entire waterworks plant and system and sewerage plant and system owned and operated by the City for the production, storage, treatment and distribution of water and for the collection, treatment and disposal of sewage together with all alterations, repairs, extensions, enlargements and improvements thereto hereafter made or acquired by the City.

**Section 2. Authorization of the Bonds.** There shall be issued and are hereby authorized and directed to be issued the Water and Sewer System Improvement Revenue Bonds, Series 2024, of the City in the principal amount of \$[PRINCIPAL AMOUNT] for the purpose of providing funds to (i) pay a portion of the costs of the Project, (ii) fund a debt service reserve fund, and (iii) pay Costs of Issuance of the Bonds.

**Section 3. Security for the Bonds.** The Bonds shall be special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues. The taxing power of the City is not pledged to the payment of the Bonds, either as to principal or interest. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Net Revenues and in all other respects with any Parity Bonds. The Bonds shall not have any priority with respect to the payment of principal or interest from said Net Revenues or otherwise over any Parity Bonds and any Parity Bonds shall not have any priority with respect to the payment of principal or interest from said Net Revenues or otherwise over the Bonds.

**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 Resolution hereinafter adopted by the governing body of the City. The provisions, covenants and agreements set forth in the Resolution are incorporated herein and are deemed a part of this Ordinance as if the Resolution was set out herein in its entirety.

**Section 5. Rate Covenant.** The City will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, including all alterations, repairs, extensions, enlargements and improvements thereto hereafter constructed or acquired by the City, as will produce revenues sufficient to (a) pay the cost of the operation and maintenance of the System; (b) pay the principal of and interest on the Bonds and any Parity Bonds as and when the same become due; (c) enable the City to have in each fiscal year Net Revenues in an amount that will be not less than 110% of the Debt Service Requirements required to be paid by the City in such fiscal year; and (d) provide reasonable and adequate reserves for the payment of the Bonds and the Parity Bonds and the interest thereon and for the protection and benefit of the System of the City as provided in this Ordinance and the Resolution.

**Section 6. Further Authority.** The Mayor, Chief Financial Officer, Treasurer, City 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, including the making of 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.** The Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

**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 and publication (or a summary thereof) in the official newspaper of the City.

[Balance of page intentionally left blank]

**PASSED** by the governing body of the City on June 18, 2024 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(PUBLISHED IN *THE LEGAL RECORD* ON JUNE 25, 2024)

**SUMMARY OF ORDINANCE NO. 24-24**

On June 18, 2024, the governing body of the City of Olathe, Kansas passed an ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$[PRINCIPAL AMOUNT] PRINCIPAL AMOUNT OF WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

The Series 2024 Bonds approved by the Ordinance are being issued to finance certain improvements to the water and sewer system in the City, and constitute special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues derived by the City from the operation of the water and sewer system. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 East Santa Fe. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notices>.

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

DATED: June 18, 2024.

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City Attorney

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**RESOLUTION NO. 24-1027**

**OF THE**

**CITY OF OLATHE, KANSAS**

**ADOPTED JUNE 18, 2024**

**[\$[PRINCIPAL AMOUNT]**

**WATER AND SEWER SYSTEM IMPROVEMENT  
REVENUE BONDS**

**SERIES 2024**

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INDEX

	<u>Page</u>
Title .....	1
Recitals .....	1

**ARTICLE I**

**DEFINITIONS**

Section 101.	Definitions of Words and Terms .....	1
--------------	--------------------------------------	---

**ARTICLE II**

**AUTHORIZATION OF THE BONDS**

Section 201.	Authorization of the Bonds.....	8
Section 202.	Security for the Bonds .....	8
Section 203.	Description of the Bonds .....	8
Section 204.	Designation of Paying Agent and Bond Registrar .....	9
Section 205.	Method and Place of Payment of the Bonds.....	9
Section 206.	Method of Execution and Authentication of the Bonds.....	10
Section 207.	Registration, Transfer and Exchange of Bonds .....	10
Section 208.	Surrender and Cancellation of Bonds .....	11
Section 209.	Mutilated, Lost, Stolen or Destroyed Bonds .....	11
Section 210.	Temporary Bonds .....	11
Section 211.	Execution and Delivery of the Bonds.....	12
Section 212.	Book-Entry Bonds; Securities Depository.....	12

**ARTICLE III**

**REDEMPTION OF THE BONDS**

Section 301.	Redemption of Bonds .....	13
Section 302.	Selection of Bonds to be Redeemed .....	14
Section 303.	Notice of Redemption.....	14
Section 304.	Effect of Call for Redemption .....	15

**ARTICLE IV**

**FORM OF THE BONDS**

Section 401.	Form of the Bonds .....	15
--------------	-------------------------	----

**ARTICLE V**

**ESTABLISHMENT OF FUNDS AND ACCOUNTS**

Section 501.	Creation of Funds and Accounts.....	16
Section 502.	Ratification of Funds and Accounts for Parity Bonds .....	16

**ARTICLE VI**

Section 601.	Disposition of Bond Proceeds .....	16
Section 602.	Application of Monies in the Project Account .....	17
Section 603.	Application of Monies in the Costs of Issuance Account.....	17
Section 604.	Deposits into and Application of Monies in the Rebate Fund .....	17
Section 605.	Nonpresentation of Bonds .....	18

**ARTICLE VII**

**COLLECTION AND APPLICATION OF REVENUES**

Section 701.	Revenue Fund.....	18
Section 702.	Application of Monies in the Revenue Fund.....	18
Section 703.	Deficiency of Payments into Funds and Accounts .....	20
Section 704.	Transfer of Funds to Paying Agent.....	20
Section 705.	Payments Due on Saturdays, Sundays and Holidays.....	21

**ARTICLE VIII**

**DEPOSIT AND INVESTMENT OF MONIES**

Section 801.	Deposits .....	21
Section 802.	Investments.....	21

**ARTICLE IX**

**PARTICULAR COVENANTS OF THE CITY**

Section 901.	Efficient and Economical Operation .....	21
Section 902.	Rate Covenant .....	21
Section 903.	Reasonable Charges for all Services.....	21
Section 904.	Restrictions on Mortgage or Sale of System .....	22
Section 905.	Financial Records and Reports .....	22
Section 906.	Annual Budget.....	22
Section 907.	Annual Audit .....	23
Section 908.	Bondowners' Right of Inspection .....	24
Section 909.	Performance of Duties .....	24
Section 910.	Parity Bond Certification.....	24

**ARTICLE X**

**ADDITIONAL BONDS**

Section 1001.	Prior Lien Bonds.....	24
Section 1002.	Parity Lien Bonds .....	24
Section 1003.	Junior Lien Bonds.....	25
Section 1004.	Refunding Bonds.....	25

**ARTICLE XI**

**DEFAULT AND REMEDIES**

Section 1101.	Contract with Owners.....	26
Section 1102.	Acceleration and Other Remedies .....	26
Section 1103.	Limitation on Remedies.....	26
Section 1104.	Remedies Cumulative.....	27
Section 1105.	No Obligation to Levy Taxes.....	27

**ARTICLE XII**

**DEFEASANCE**

Section 1201.	Defeasance.....	27
---------------	-----------------	----

**ARTICLE XIII**

**AMENDMENTS**

Section 1301.	Amendments.....	28
Section 1302.	Written Evidence of Amendments .....	28

**ARTICLE XIV**

**CONTINUING DISCLOSURE REQUIREMENTS**

Section 1401.	Disclosure Requirements.....	29
Section 1402.	Failure to Comply with Continuing Disclosure Requirements.....	29
Section 1403.	General Tax Covenants.....	29
Section 1404.	Survival of Covenants .....	29

**ARTICLE XV**

**MISCELLANEOUS PROVISIONS**

Section 1501.	Sale of the Bonds.....	29
Section 1502.	Preliminary Official Statement and Official Statement .....	29
Section 1503.	Notices, Consents and Other Instruments by Bondowners.....	30
Section 1504.	Parties Interested Herein; Third Party Beneficiaries .....	30
Section 1505.	Further Authority.....	30

Section 1506. Severability ..... 30  
Section 1507. Governing Law ..... 30  
Section 1508. Inconsistent Provisions ..... 30  
Section 1509. Electronic Transactions..... 31  
Section 1510. Effective Date ..... 31

**Signature and Seal** ..... 1

Exhibit A - Form of Bond

## RESOLUTION NO. 24-1027

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-24 OF THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

**WHEREAS**, the City has passed the Ordinance authorizing the issuance of the Bonds;  
and

**WHEREAS**, the Ordinance recognized that the Governing Body of the City would adopt a resolution prescribing certain details and conditions and making certain covenants with respect to the issuance of the Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:**

### ARTICLE I

#### DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to the words and terms defined elsewhere in the Ordinance and this Resolution, the following words and terms as used in this Resolution shall have the following meanings:

“Act” means the Constitution and statutes of the State of Kansas including without limitation K.S.A. 10-101 *et seq.*, specifically including K.S.A. 10-620 *et seq.* and K.S.A. 10-1201 *et seq.*, all as amended and supplemented.

“Additional Bonds” means any bonds or other obligations secured by the Net Revenues, and hereafter issued pursuant to and in accordance with *Article X* hereof.

“Authorized Investments” shall mean the investments hereinafter described, provided, however, no monies or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the City’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the City is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks or the federal home loan mortgage corporation; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; (l) bonds of any municipality of

the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f); or (m) other investment obligations authorized by the laws of the State, all as may be further restricted or modified by amendments to applicable State law.

“Average Annual Debt Service” means the average of the Debt Service Requirements as computed for the then current and all future fiscal years; provided that the Debt Service Requirements in the final Stated Maturity of any series of Parity Bonds shall be reduced by the value of cash and permitted investments on deposit in the applicable Bond Reserve Account, so long as such Bond Reserve Account is maintained at the applicable Bond Reserve Requirement.

“Bond Counsel” means the firm of Gilmore & Bell, P.C. or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

“Bond Registrar” means the Treasurer of the State of Kansas, and its successors and assigns.

“Bond Reserve Account” means the Bond Reserve Account for Water and Sewer System Improvement Revenue Bonds, Series 2024, created by this Resolution.

“Bond Reserve Requirement” means an amount equal to \$[\_\_\_\_\_].

“Bondowner” means the same as the term Owner.

“Bonds” means the Series 2024 Bonds.

“Business Day” means a day on which financial institutions located in New York, New York or Topeka, Kansas are not required or authorized to remain closed.

“Cede & Co.” means Cede & Co., as nominee name of The Depository Trust Company, New York, New York.

“City” means the City of Olathe, Kansas.

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

“Code” means the Internal Revenue Code of 1986, as amended, together with any regulations applicable thereto or promulgated thereunder by the United States Department of the Treasury.

“Consultant” means the Consulting Engineer, the Independent Accountant, or an independent consultant qualified and having a favorable reputation for skill and experience in financial affairs selected by the City for the purpose of carrying out the duties imposed on the Consultant by the Parity Bond Resolutions.

“Consulting Engineer” means an independent engineer or engineering firm, having a reputation for skill and experience in the construction and operation of public utilities, at the time employed by the City for the purpose of carrying out the duties imposed on the Consulting Engineer by this Resolution.

“Costs of Issuance” means all costs of issuing any series of Bonds, including all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees

and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving financial ratings on any series of Bonds, and any premiums or expenses incurred in obtaining any credit enhancement.

“Costs of Issuance Account” means the Costs of Issuance Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 created pursuant to **Section 501** hereof.

“Current Expenses” means all necessary expenses of operation, maintenance and repair of the System, including, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance, and all other expenses incident to the operation of the System, but shall exclude depreciation and amortization charges, interest paid on revenue bonds of the System, all general administrative expenses of the City not related to the operation of the System, and the payments into the Bond Reserve Account provided for in the Resolution.

“Dated Date” shall mean the Issue Date.

“Debt Service Coverage Ratio” means, for any fiscal year the ratio determined by dividing (i) a numerator equal to the Net Revenues for such fiscal year by (ii) a denominator equal to the Average Annual Debt Service; provided that with respect to Additional Bonds that are proposed to be Parity Bonds, Debt Service Requirements on junior lien bonds issued pursuant to **Section 1003** hereof, or pursuant to any other Parity Bond Resolutions, shall be disregarded.

“Debt Service Requirements” shall mean the required payments of principal, premium, if any, and interest on the Bonds, any Parity Bonds and any Additional Bonds in accordance with the terms and provisions of this Resolution; provided, however, that for purposes of calculating such amounts, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof.

“Defaulted Interest” means any interest on the Bonds which is payable but is not punctually paid on any Interest Payment Date.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“Disclosure Undertaking” means the City’s Continuing Disclosure Undertaking dated as of the Dated Date, relating to certain obligations contained in Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as may be amended from time to time.

“Event of Default” means each of the following occurrences or events:

(a) Payment of the principal of and interest and the redemption premium, if any, on any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise; or

(b) The City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds, in the Ordinance or in this Resolution on the part of the City to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by the owner of any of the Bonds then Outstanding; or

(c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the City to carry on its operation, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of federal bankruptcy law, or under any similar acts which may hereafter be enacted.

“Federal Tax Certificate” means the Federal Tax Certificate (dated as of the Issue Date), as the same may be amended or supplemented in accordance with its terms.

“Governing Body” means the City Council of the City of Olathe or any successor governing body.

“Gross Revenues” means all charges, fees, income and revenues (including interest and investment earnings) derived and collected by the City from the operation and ownership of the System, including, without limitation the System Development Charge collected pursuant to Section 13.26 of the Municipal Code of the City, as amended, and any rate, fee or charge that succeeds to the System Development Charge, any amounts deposited in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay debt service on revenue bonds of the System, and net proceeds of any business interruption insurance, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

“Independent Accountant” means an independent certified accountant or firm of certified accountants at the time employed by the City for the purpose of carrying out the duties imposed on the Independent Accountant by this Resolution.

“Interest Payment Dates” shall mean January 1 and July 1 of each year, commencing January 1, 2025, and ending on the final maturity date of the Bonds, or such other time as the Bonds are paid or provision is made for the payment thereof.

“Issue Date” means the date when the City delivers the Bonds to the Purchaser in exchange for the Purchase Price.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable, whether at the Stated Maturity thereof or call for redemption or otherwise.

“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, Mayor Pro Tem or Acting Mayor of the City.

“Moody’s” means Moody’s Investors Service, its successors and assigns or if such entity shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City, by notice to the Original Purchaser.

“Net Revenues” means Gross Revenues less Current Expenses.

“Operation and Maintenance Account” means the Water and Sewer System Operation and Maintenance Account created by this Resolution.

“Ordinance” means Ordinance No. 24-[\_\_] authorizing the issuance of the Series 2024 Bonds, as from time to time amended in accordance with the terms thereof.

“Original Purchaser” means [Name of Purchaser], [Purchaser City, State].

“Outstanding” shall mean, as of a particular date, all bonds previously issued, authenticated and delivered under the provisions of this Resolution, except:

(a) bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation pursuant to this Resolution;

(b) bonds for the payment or redemption of which monies or investments have been deposited in accordance with *Article XII* of this Resolution; and

(c) bonds in exchange for or in lieu of which other bonds have been authenticated and delivered pursuant to this Resolution.

“Owner” or “Registered Owner” when used with respect to any Bond means the person in whose name such Bond is registered on the Bond Register.

“Parity Bonds” means the Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2020 Bonds, the Series 2021 Bonds, the Series 2022 Bonds, the Series 2023 Bonds and any Additional Bonds hereinafter issued pursuant to *Sections 1002* or *1004* of this Resolution and standing on a parity and equality with the Bonds with respect to the payment of principal and interest out of the Net Revenues of the System.

“Parity Bond Resolutions” means jointly the Series 2012 Resolution, the Series 2015 Resolution, the Series 2017 Resolution, the Series 2018 Resolution, the Series 2019 Resolution, the Series 2020 Resolution, the Series 2021 Resolution, the Series 2022 Resolution, the Series 2023 Resolution, the Ordinance, this Resolution, and the ordinances and resolutions under which any additional Parity Bonds shall be issued.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the Treasurer of the State of Kansas, and its successors and assigns.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

“Principal and Interest Account” means the Principal and Interest Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 created by this Resolution.

“Principal Payment Dates” shall mean July 1 of each year, commencing July 1, 2025, until such time as the aggregate principal amount of the Bonds has been paid or provision is made for the payment thereof, whether at Stated Maturity or Redemption Date.

“Project” means the acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargements of the System described in Resolution No. 24-1002 of the City.

“Project Account” means the Project Account for Water and Sewer System Improvement Revenue Bonds, Series 2024, created by this Resolution.

“Purchase Price” shall mean principal amount of the Series 2024 Bonds, plus a [net] premium of \$[\_\_\_\_\_], less an underwriting discount of \$[\_\_\_\_\_].

“Rebate Fund” means the Rebate Fund for Water and Sewer System Improvement Revenue Bonds, Series 2024, created by this Resolution.

“Record Date” means the fifteenth day of the month (whether or not a business day) next preceding each Interest Payment Date in each year the Bonds are Outstanding.

“Redemption Date” when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Resolution.

“Redemption Price” when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Replacement Bonds” means Bonds issued to the beneficial owners of the Bonds in accordance with **Section 212(b)** hereof.

“Representation Letter” means any Representation Letter from the City and the Paying Agent to the Securities Depository with respect to the Bonds.

“Resolution” means this resolution as from time to time amended in accordance with the terms hereof.

“Revenue Fund” means the Water and Sewer System Revenue Fund referred to in this Resolution.

“S&P” or “Standard & Poor’s” means S&P Global Ratings, a division of S&P Global Inc., New York, New York, its successors and assigns or if such entity shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the City, by notice to the Original Purchaser.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“Series 2012 Bonds” means the Water and Sewer System Revenue Bonds, Series 2012, authorized by the Series 2012 Resolution.

“Series 2015 Bonds” means the Water and Sewer System Revenue Bonds, Series 2015, authorized by the Series 2015 Resolution.

“Series 2017 Bonds” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017, authorized by the Series 2017 Resolution.

“Series 2018 Bonds” means the Water and Sewer System Revenue Bonds, Series 2018, authorized by the Series 2018 Resolution.

“Series 2019 Bonds” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, authorized by the Series 2019 Resolution.

“Series 2020 Bonds” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020, authorized by the Series 2020 Resolution.

“Series 2021 Bonds” means the Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2021, authorized by the Series 2021 Resolution.

“Series 2022 Bonds” means the Water and Sewer System Improvement Revenue Bonds, Series 2022, authorized by the Series 2022 Resolution.

“Series 2023 Bonds” means the Water and Sewer System Improvement Revenue Bonds, Series 2023, authorized by the Series 2023 Resolution.

“Series 2024 Bonds” means the Water and Sewer System Improvement Revenue Bonds, Series 2024, authorized by the Ordinance.

“Series 2012 Resolution” means Ordinance No. 12-59 and Resolution No. 12-1076 of the City passed on December 4, 2012, authorizing the issuance of the Series 2012 Bonds.

“Series 2015 Resolution” means Ordinance No. 15-57 and Resolution No. 15-1078 of the City passed on September 15, 2015, authorizing the issuance of the Series 2015 Bonds.

“Series 2017 Resolution” means Ordinance No. 17-19 and Resolution No. 17-1026 of the City passed on March 21, 2017, authorizing the issuance of the Series 2017 Bonds.

“Series 2018 Resolution” means Ordinance No. 18-11 and Resolution No. 18-1034 of the City passed on March 20, 2018, authorizing the issuance of the Series 2018 Bonds.

“Series 2019 Resolution” means Ordinance No. 19-11 and Resolution No. 19-1027 of the City passed on April 2, 2019, authorizing the issuance of the Series 2019 Bonds.

“Series 2020 Resolution” means Ordinance No. 20-18 and Resolution No. 20-1037 of the City passed on May 19, 2020, authorizing the issuance of the Series 2020 Bonds.

“Series 2021 Resolution” means Ordinance No. 21-20 and Resolution No. 21-1034 of the City passed on May 4, 2021, authorizing the issuance of the Series 2021 Bonds.

“Series 2022 Resolution” means Ordinance No. 22-28 and Resolution No. 22-1047 of the City passed on June 21, 2022, authorizing the issuance of the Series 2022 Bonds.

“Series 2023 Resolution” means Ordinance No. 23-16 and Resolution No. 23-1045 of the City passed on June 20, 2023, authorizing the issuance of the Series 2023 Bonds.

“Special Record Date” means a date fixed by the Bond Registrar for the payment of any Defaulted Interest.

“State” means the State of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Substitute Project” means a substitute or additional project of the System authorized in the manner set forth in the Parity Bond Resolution.

“Surplus Account” means the Water and Sewer System Surplus Account referred to in this Resolution.

“System” means the entire waterworks plant and system and sewerage plant and system owned and operated by the City for the production, storage, treatment and distribution of water and for the collection, treatment and disposal of sewage together with all alterations, repairs, extensions, enlargements and improvements thereto hereafter made or acquired by the City.

“Term Bonds” means any Series 2024 Bond designated as a Term Bond in this Resolution.

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

## ARTICLE II

### **AUTHORIZATION OF THE BONDS**

Section 201. Authorization of the Bonds. There shall be issued and are hereby authorized and directed to be issued the Water and Sewer System Improvement Revenue Bonds, Series 2024, of the City in the principal amount of \$[PRINCIPAL AMOUNT] for the purpose of providing funds to: (a) pay a portion of the costs of the Project; (b) fund a debt service reserve fund; and (c) pay Costs of Issuance of the Bonds.

Section 202. Security for the Bonds. The security for the Bonds shall be as set forth in *Section 3* of the Ordinance.

Section 203. Description of the Bonds. The Bonds shall consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered in such manner as the Bond Registrar shall determine. The Bonds shall be dated their Issue Date, shall become due on the Principal Payment Dates and shall bear interest at the rates per annum as follows:

#### SERIAL BONDS

<u>Maturity</u> <u>July 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity</u> <u>July 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2025			2035		
2026			2036		
2027			2037		
2028			2038		
2029			2039		

2030	2040
2031	2041
2032	2042
2033	2043
2034	2044

**TERM BONDS**

<u>Maturity</u>	<u>Principal</u>	<u>Interest</u>
<u>October 1</u>	<u>Amount</u>	<u>Rate</u>
20__	\$	%]

Interest on the Bonds at the rates aforesaid (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid or duly provided for, shall be payable on the Interest Payment Dates, to the owners thereof whose names appear on the books maintained by the Bond Registrar at the close of business on the Record Dates.

Section 204. Designation of Paying Agent and Bond Registrar. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the City’s Paying Agent and Bond Registrar. The Mayor and City Clerk are hereby authorized and empowered to execute on behalf of the City an agreement with the Paying Agent and Bond Registrar for the Bonds.

The City will at all times maintain a Paying Agent for the performance of the duties hereunder. The City reserves the right to appoint a successor Paying Agent by (1) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of Paying Agent and appointing a successor, and (2) causing notice to be given by first class mail to each Bondowner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of the Paying Agent.

Section 205. Method and Place of Payment of the Bonds. The principal of, premium, if any, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. Payments which become due on Saturdays, Sundays and holidays may be made on the next succeeding Business Day.

The principal of and any premium on the Bonds shall be paid to the Registered Owner of each Bond upon presentation of the Bond at the maturity or Redemption Date to the Paying Agent for cancellation. The interest payable on the Bonds on any Interest Payment Date shall be paid (a) by check or draft mailed by the Paying Agent to the Registered Owner of each Bond at the Registered Owner’s address as it appears on the registration books of the City maintained by the Bond Registrar at the close of business on the Record Date for such interest or (b) in the case of an interest payment to any Registered Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Registered Owner upon written notice given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), address, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed.

Notwithstanding any of the foregoing provisions of this Section to the contrary, any Defaulted Interest shall be payable to the Owners as of the close of business on the Special Record Date. The Special Record Date shall be fixed in the following manner: (1) the City shall notify the Bond Registrar in writing of the amount of Defaulted Interest proposed to be paid on the Bonds and the date of the proposed payment, which

proposed payment date shall be at least thirty (30) days after receipt by the Bond Registrar of such notice from the City; (2) at the same time the City shall deposit with the Paying Agent an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment; and (3) thereupon, the Bond Registrar shall fix a Special Record Date for the payment of such Defaulted Interest which shall not be more than fifteen (15) days nor less than ten (10) days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-class mail postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears in the registration books maintained by the Paying Agent and Bond Registrar not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep in its offices a record of payment of principal of, premium, if any, and interest on all Bonds.

Section 206. Method of Execution and Authentication of the Bonds. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the City Clerk and the seal of the City shall be affixed thereto or imprinted thereon. The Bonds shall be registered in the office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk with the seal of the City affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In the event that any of the aforementioned officers shall cease to hold such offices before the Bonds are issued and delivered, the Bonds may be issued and transferred to other owners as though said officers had not ceased to hold office, and such signatures appearing on the Bonds shall be valid and sufficient for all purposes as if they had remained in office until such issuance or transfer.

The Bonds shall not be valid obligations under the provisions of the Resolution until authenticated by the Bond Registrar or a duly authorized representative of the Bond Registrar by execution of the Certificate of Authentication appearing on each Bond. It shall not be necessary that the same representative of the Bond Registrar execute the Certificate of Authentication on all of the Bonds.

Section 207. Registration, Transfer and Exchange of Bonds. As long as the Bonds remain Outstanding, the City shall cause the books for the registration and transfer of the Bonds as provided in the Resolution to be kept by the Bond Registrar.

Upon presentation of the necessary documents as hereinafter described, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) which was presented for transfer or exchange.

All Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent. In addition, all Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation.

Prior to delivery of the new Bond(s) to the transferee, the Bond Registrar shall register the same in the registration books kept by the Bond Registrar for such purpose and shall authenticate each Bond.

The City shall pay out of the proceeds of the Bonds the fees of the Bond Registrar for registration and transfer of the Bonds and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the owners.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds (i) during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date, (ii) during a period beginning at the opening of business fifteen days preceding a mailing of a notice of redemption for Bonds selected for redemption and ending at the close of business on the date of such mailing, (iii) from and after the establishing of any Special Record Date and the date of payment of any Defaulted Interest, or (iv) selected for redemption in whole or in part.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Resolution and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The City, Bond Registrar and Paying Agent may deem and treat the person in whose name any Bond is registered as the absolute owner thereof, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, redemption premium, if any, and interest on said Bond and for all other purposes, and all such payment so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to the extent of the sum or sums so paid, and neither the City, Bond Registrar and Paying Agent shall be affected by any notice to the contrary.

Section 208. Surrender and Cancellation of Bonds. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Bond Registrar, either at or before maturity, shall be cancelled by the Bond Registrar immediately upon the payment, redemption and surrender thereof to the Bond Registrar and subsequently destroyed in accordance with the customary practices of the Bond Registrar. The Bond Registrar shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the City.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute and the Bond Registrar may authenticate a new Bond of like date, maturity, denomination and interest rate, as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the City or the Bond Registrar, and, in the case of any lost, stolen or destroyed Bond there shall first be furnished to the Bond Registrar and the City evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Bond Registrar. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the City and Bond Registrar may pay the same without surrender thereof. The City and Bond Registrar may charge to the Registered Owner of such Bond their reasonable fees and expenses in connection with replacing any Bond or Bonds mutilated, stolen, lost or destroyed.

Section 210. Temporary Bonds. Until definitive Bonds are prepared, the City may execute, in the same manner as is provided in the Resolution and upon the request of the City, the Bond Registrar shall authenticate and deliver, in lieu of definitive Bonds but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations authorized herein, authorized by the City and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The City at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and upon the cancellation of such surrendered temporary Bonds, the Bond Registrar shall

authenticate and, without charge to the owner thereof, deliver in exchange therefor definitive Bonds of the same aggregate principal amount and maturity as the temporary Bonds surrendered.

If the City shall authorize the issuance of temporary Bonds in more than one denomination, the Registered Owner of any temporary Bond or Bonds may, at such Registered Owner's option, surrender the same to the Bond Registrar in exchange for another temporary Bond or Bonds of like aggregate principal amount and maturity of any other authorized denomination or denominations, and thereupon the City shall execute and the Bond Registrar shall authenticate and, upon payment of any applicable taxes, fees and charges, shall deliver a temporary Bond or Bonds of like aggregate principal amount and maturity in such other authorized denomination or denominations as shall be requested by such owner.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Bond Registrar.

Section 211. Execution and Delivery of the Bonds. The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner hereinbefore specified, and to cause the Bonds to be registered in the offices of the City Clerk and the State Treasurer as provided by law, and, when duly executed and registered, to deliver the Bonds to the Original Purchaser, upon receipt by the City of the Purchase Price.

Section 212. Book-Entry Bonds; Securities Depository.

(a) The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no beneficial owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in subsection (b) hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the beneficial owners as described in subsection (b).

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, or (2) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City, with the consent of the Bond Registrar, may select a successor securities depository in accordance with **Section 212(c)** hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository

resigns and the City, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with *Section 212(c)* hereof, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the beneficial owners of the Bonds. The cost of printing, registration, authentication and delivery of Replacement Bonds shall be paid for by the City.

(c) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

(d) The execution and delivery of any Representation Letter to the Securities Depository by an authorized officer of the City is hereby authorized and approved.

### **ARTICLE III**

#### **REDEMPTION OF THE BONDS**

##### **Section 301. Redemption of Bonds.**

(a) *Optional Redemption.* At the option of the City, Bonds maturing on July 1 in the years 2033, and thereafter, will be subject to redemption and payment prior to maturity on July 1, 2032, and thereafter, as a whole or in part (selection of maturities and the amounts for each maturity of the Bonds to be redeemed to be determined by the City) at any time, at the redemption price of 100% (expressed as a percentage of the principal amount), plus accrued interest to the Redemption Date.

[ (b) *Mandatory Redemption.*

(1) *General.* The Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the City under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the

principal amount thereof on the obligation of the City to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the City, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the City intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the City will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.

(2) [\_\_\_\_] *Term Bonds*. The City shall from the payments specified in **Section 702(b)** hereof which are to be deposited into the Principal and Interest Account redeem on July 1 in each year, the following principal amounts of 20[\_\_\_\_] Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
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\_\_\_\_\_  
\*Final Maturity]

**Section 302. Selection of Bonds to be Redeemed.** The Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Bonds of a Stated Maturity are to be redeemed and paid prior to maturity, such Bonds shall be redeemed in such manner as the Bond Registrar shall determine, 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 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 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 is selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the owner or the owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (i) for payment of the Redemption Price (including the redemption premium, if any, and interest to the Redemption Date) of the \$5,000 unit or units of face value called for redemption; and (ii) for exchange, without charge to the owner thereof, for a new Bond(s) 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 shall fail to present such Bond as aforesaid, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the amount called for redemption.

**Section 303. Notice of Redemption.** In the event the City desires to call the Bonds for optional redemption prior to maturity pursuant to **Section 301**, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. Unless waived by any owner of Bonds to be redeemed, if the City elects to call any Bonds for redemption and payment prior to the maturity thereof, the City shall cause the Bond Registrar to give written notice of its intention to call and pay said Bonds on a specified date, the same being described by maturity, said notice to be mailed by United States first class mail addressed to the owners of said Bonds, each of said notices to be mailed not less than 30 days prior to the Redemption Date. The City shall also give such additional notice as may be required by Kansas law or regulations of the Securities and Exchange Commission in effect as of the date of such notice. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent

for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the City and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.

All official notices of redemption shall be dated and shall state (1) the Redemption Date, (2) the Redemption Price, (3) 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, (4) that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, (5) the place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Paying Agent and (6) the CUSIP numbers of all Bonds being redeemed. The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds which are to be redeemed on that date. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Paying Agent at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be cancelled and destroyed by the Paying Agent and shall not be reissued.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a beneficial owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Section 304. Effect of Call for Redemption. Whenever any Bond is called for redemption and payment as provided in this Article, all interest on such Bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

## **ARTICLE IV**

### **FORM OF THE BONDS**

Section 401. Form of the Bonds. The Bonds shall be printed in accordance with the format required by the Attorney General of the State of Kansas and shall contain information substantially in the form submitted to the Governing Body concurrently with the passage of the Resolution or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 to 10-632, inclusive.

## ARTICLE V

### **ESTABLISHMENT OF FUNDS AND ACCOUNTS**

Section 501. Creation of Funds and Accounts. There are hereby created and ordered to be established and maintained in the treasury of the City the following separate accounts to be known respectively as the:

- (a) Principal and Interest Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 (the “Principal and Interest Account”).
- (b) Bond Reserve Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 (the “Bond Reserve Account”).
- (c) Project Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 (the “Project Account”).
- (d) Rebate Fund for Water and Sewer System Improvement Revenue Bonds, Series 2024 (the “Rebate Fund”).
- (e) Costs of Issuance Account for Water and Sewer System Improvement Revenue Bonds, Series 2024 (the “Cost of Issuance Account”).

The following funds and accounts created and established in the treasury of the City are hereby ratified and confirmed and shall be administered in accordance with the Parity Bond Resolutions so long as the Series 2024 Bonds and any Parity Bonds are Outstanding in accordance with this Resolution:

- (a) Water and Sewer System Revenue Fund (the “Revenue Fund”).
- (b) Water and Sewer System Operation and Maintenance Account (the “Operation and Maintenance Account”).
- (c) Water and Sewer System Surplus Account (the “Surplus Account”).

Section 502. Ratification of Funds and Accounts for Parity Bonds. The separate funds and accounts previously created and established pursuant to the Parity Bond Resolutions shall be maintained and administered by the City solely for the purposes and in the manner as provided in the Parity Bond Resolutions, so long as any of the Parity Bonds remain Outstanding within the meaning of any Parity Bond Resolution.

## ARTICLE VI

### **APPLICATION OF BOND PROCEEDS**

Section 601. Disposition of Bond Proceeds and Other Moneys. The proceeds of the Series 2024 Bonds shall be deposited simultaneously with the delivery of the Series 2024 Bonds as follows:

- (a) In the Principal and Interest Account a sum equal to the accrued interest on the Bonds.

- (b) In the Bond Reserve Account, the Bond Reserve Requirement.
- (c) The sum equal to the amount necessary to pay the estimated costs of issuance into the Costs of Issuance Account.
- (d) The remaining balance of the proceeds derived from the sale of the proceeds of the Series 2024 Bonds shall be deposited in the Project Account.

Section 602. Application of Monies in the Project Account. Monies in the Project Account shall be used for the sole purpose of (a) paying the costs of the Project, in accordance with the plans and specifications therefor prepared for the Project, heretofore approved by the Governing Body of the City and on file in the office of the City Clerk, including any alterations in or amendments to said plans and specifications deemed advisable by the City; (b) making transfers to the Principal and Interest Account to pay interest on the Bonds during construction of the Projects; and (c) transferring any amounts to the Rebate Fund required by *Section 604* hereof.

Withdrawals from the Project Account shall be made only when authorized by the Governing Body of the City and only on duly authorized and executed warrants therefor accompanied by a certificate executed by the Treasurer or his or her designee that such payment is being made for a purpose within the scope of this Resolution and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof.

Upon completion of the Project, any surplus remaining in the Project Account shall be deposited in the Principal and Interest Account.

Section 603. Application of Monies in the Costs of Issuance Account. Monies in the Costs of Issuance Account shall be used to pay the Costs of Issuance. Any funds remaining in the Costs of Issuance Account, after payment of all Costs of Issuance, but not later than January 1, 2025, shall be transferred to the Project Account until completion of the Project and thereafter to the Principal and Interest Account.

Section 604. Deposits into and Application of Monies in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to pay arbitrage rebate to the federal government of the United States of America, and neither the City nor the owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and by the Federal Tax Certificate (which is incorporated herein by reference).

(b) The City shall periodically determine the amount of arbitrage rebate under Section 148 of the Code in accordance with the Federal Tax Certificate, and the City shall make payments to the United States Government at the times and in the amounts determined under the Federal Tax Certificate. Any monies remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any rebatable arbitrage, or provision made therefor, shall be withdrawn and released to the City.

(c) Notwithstanding any other provision of the Resolution, including in particular *Article XII* hereof, the obligation to remit rebatable arbitrage to the United States and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 605. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the City the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## **ARTICLE VII**

### **COLLECTION AND APPLICATION OF REVENUES**

Section 701. Revenue Fund. The City covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain outstanding and unpaid, all of the revenues derived and collected by the City from the operation of the System will be paid and deposited into the Revenue Fund, and that said revenues shall be segregated and kept separate and apart from all other monies, revenues, funds and accounts of the City and shall not be mingled with any other monies, revenues, funds and accounts of the City. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Resolution.

Section 702. Application of Monies in the Revenue Fund. The City covenants and agrees that from and after the delivery of the Bonds and continuing so long as any of the Bonds shall remain Outstanding and unpaid, the City will on the first day of each month administer and allocate all of the monies then held in the Revenue Fund as follows:

(a) Operation and Maintenance Account. An amount equal to the anticipated Current Expenses for the ensuing month shall be deposited into the Operation and Maintenance Account. All Current Expenses of the System shall be paid as bills accrue, and such bills shall be paid by a proper system of vouchers. Such amounts as may be necessary in the opinion of the Governing Body of the City to pay the reasonable and proper Current Expenses of the System for a period of sixty (60) days may be retained and accumulated in the Operation and Maintenance Account before transfers to the other Accounts hereinafter provided for.

(b) Principal and Interest Account. The City shall set aside and transfer monthly from the Revenue Fund to the Principal and Interest Account, beginning on the first said monthly payments, proportionate monthly amounts (less accrued credits to such Account) of the (i) next maturing interest on the Bonds; and (ii) next maturing principal on the Bonds, to the end that at all times one (1) month prior to maturity of interest, principal, or mandatory call requirements, if any, there shall be sufficient monies in the Principal and Interest Account to transmit maturing interest and principal on the Bonds to the Paying Agent for payment when due. All amounts transferred and credited to the Principal and Interest Account shall be used solely and exclusively for the payment of principal of and interest on the Bonds when the same shall become due and payable. In addition thereto, there shall be transferred

to the Principal and Interest Account sufficient sums to pay any fees and expenses of the Bond Registrar and Paying Agent.

The amounts required to be paid and credited to the Principal and Interest Account pursuant to this Section shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service funds established for the payment of principal of and interest on Parity Bonds under the provisions of the Parity Bond Resolutions.

If at any time the monies in the Revenue Fund shall be insufficient to make in full the payments and credits at the time required to be made by the City to the principal and interest accounts established by the City to pay principal of and interest on the Series 2024 Bonds and any Parity Bonds, the available monies in the Revenue Fund shall be divided among such principal and interest accounts in proportion to the respective principal amounts of the Series 2024 Bonds and any Parity Bonds of the City at the time outstanding which are payable from the monies in such principal and interest accounts.

(c) Bond Reserve Account. Simultaneously with the issuance of the Bonds, the City shall provide that the Bond Reserve Account shall contain an amount equal to the Bond Reserve Requirement. Except as hereinafter provided in this Section or as provided in **Section 802** hereof, all amounts paid and credited to the Bond Reserve Account shall be expended and used by the City solely to prevent any default in the payment of interest on or principal of the Series 2024 Bonds if the monies in the Principal and Interest Account are insufficient to pay the interest on or principal of said Bonds as they become due. So long as the Bond Reserve Account aggregates the Bond Reserve Requirement, no further payments into said Account shall be required, but if the City shall ever be required to expend and use a part of the monies in said Account for the purpose herein authorized and such expenditure shall reduce the amount of said Account below the Bond Reserve Requirement or if the value of the investments in the Bond Reserve Account (determined in accordance with **Section 802**) decline so that the amount of said Account is reduced below the Bond Reserve Requirement, the City shall commence equal monthly payments into said Account in amounts sufficient so that said Account shall aggregate the Bond Reserve Requirement in not more than 24 months, said payments into said Account to be made after making all payments and credits required at the time to be made by the City under the provisions of paragraphs (a) and (b) of this Section.

The amounts required to be paid and credited to the Bond Reserve Account pursuant to this Section shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to the bond reserve accounts established for the Parity Bonds under the provisions of the Parity Bond Resolutions.

Monies in the Bond Reserve Account may be used to call the Bonds for redemption and payment prior to their maturity provided all of the Bonds at the time outstanding are called for payment and funds are available to pay the same according to their terms. Monies in the Bond Reserve Account shall be used to pay and retire the last outstanding Bonds unless such Bonds and all interest thereon are otherwise paid.

If at any time the monies in the Revenue Fund shall be insufficient to make in full the payments and credits at the time required to be made by the City to the bond reserve accounts established by the City to protect the payment of the Series 2024 Bonds and Parity Bonds, the available monies in the Revenue Fund shall be divided among such bond reserve accounts in proportion to the respective principal amounts of said Parity Bonds of the City at the time outstanding which are payable from the monies in such bond reserve accounts.

(d) Surplus Account. After all payments and credits required at the time to be made by the City under the provisions of preceding subsections have been made, all monies remaining in the Revenue Fund shall be paid and credited to the Surplus Account. Monies in the Surplus Account may be expended and used for the following purposes as determined by the Governing Body of the City:

(1) Paying the cost of the operation, maintenance and repair of the System to the extent that may be necessary after the application of the monies held in the Revenue Fund under the provisions of this Section;

(2) Paying the cost of, or debt service on obligations incurred to finance the cost of, repairs to or extending, enlarging or improving the System;

(3) Preventing default in, anticipating payments into or increasing the amounts in funds and accounts referred to in preceding subsections, or any one of them, or establishing or increasing the amount of any principal and interest account or bond reserve account created by the City for the payment of any Parity Bonds;

(4) Calling, redeeming and paying prior to maturity, or, at the option of the City, purchasing in the open market at the best price obtainable the Bonds or any Parity Bonds;

(5) To make transfers to the Revenue Fund; or

(6) Subject to the provisions of the Parity Bond Resolutions, any general governmental or municipal purpose of the City.

Section 703. Deficiency of Payments into Funds and Accounts. If at any time the revenues derived by the City from the operation of the System shall be insufficient to make any payment on the date or dates hereinbefore specified, the City will make good the amount of such deficiency by making additional payments or credits out of the first available revenues thereafter received by the City from the operation of the System, such payments and credits being made and applied in the order hereinbefore specified in this Resolution.

If at any time the monies in the Principal and Interest Account and in the Bond Reserve Account are not sufficient to pay the principal of and interest on the Bonds as and when the same become due, then monies in the Surplus Account may and shall be used by the City, to prevent any default in the payment of the principal of and interest on the Bonds.

Section 704. Transfer of Funds to Paying Agent. The Treasurer of the City is hereby authorized and directed to withdraw from the Principal and Interest Account, and, to the extent necessary to prevent a default in the payment of either principal of or interest on the Bonds, from the Bond Reserve Account and the Surplus Account as provided herein, sums sufficient to pay the principal of and interest on the Bonds and the fees of the Bond Registrar and Paying Agent when the same become due, and to forward such sums to the Bond Registrar and Paying Agent prior to dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through lapse of time, or otherwise, the owners of Bonds shall no longer be entitled to enforce payment of their obligations, it shall be the duty of the Paying Agent forthwith to return said funds to the City. All monies deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

Section 705. Payments Due on Saturdays, Sundays and Holidays. In any case where any payment date on the Bonds is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such payment date but may be made on the next succeeding Business Day with the same force and effect as if made on such payment date, and no interest shall accrue for the period after such payment date.

## ARTICLE VIII

### **DEPOSIT AND INVESTMENT OF MONIES**

Section 801. Deposits. Cash monies in each of the funds and accounts created by and referred to in this Resolution shall be deposited in a bank or banks or federal or state chartered savings and loan association with offices located as required by Kansas law, which are members of the Federal Deposit Insurance Corporation, and all such deposits shall be adequately secured by the bank or banks or savings and loan associations holding such deposits in accordance with Kansas law.

Section 802. Investments. Monies held in the funds and accounts herein created, ratified or established in conjunction with the issuance of the Bonds, may be invested by the City in Authorized Investments, or in other investments allowed by Kansas law in accordance with the Federal Tax Certificate in such amounts and maturing at such times as shall reasonably provide for monies to be available when required in said accounts or funds. Interest or earnings on any Authorized Investment held in any fund or account shall accrue to and become a part of such fund or account, except for amounts required to be deposited into the Rebate Fund in accordance with the Federal Tax Certificate, and except that so long as monies in the Bond Reserve Account are equal to or greater than the Bond Reserve Requirement, earnings on investments held in the Bond Reserve Account shall be credited to the Principal and Interest Account. In determining the amount held in any fund or account under the provisions of the Resolution, Authorized Investments shall be valued at their principal par value or at their then market value, whichever is lower.

So long as any of the Parity Bonds remain outstanding and unpaid, any investments made pursuant to this Section shall be subject to any restrictions in the Parity Bond Resolutions with respect to the funds and accounts created by and referred to in the Parity Bond Resolutions.

## ARTICLE IX

### **PARTICULAR COVENANTS OF THE CITY**

The City covenants and agrees with each of the purchasers and owners of any of the Bonds that so long as any of the Bonds remain Outstanding:

Section 901. Efficient and Economical Operation. The City will continuously own and will operate the System in an efficient and economical manner and will keep and maintain the same in good repair and working order.

Section 902. Rate Covenant. The City will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System as provided in *Section 5* of the Ordinance.

Section 903. Reasonable Charges for all Services. None of the facilities or services provided by the System will be furnished to any user (excepting the City itself) without a reasonable charge being made

therefor. In the event that the revenues derived by the City from the System shall at any time be insufficient to pay the reasonable expenses of operation and maintenance of the System and also to pay the Debt Service Requirements of the Bonds and any Parity Bonds as and when the same become due, then the City will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates, fees and charges for all services or other facilities furnished to the City or any of its departments by the System, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the interest on or principal of the Bonds.

Section 904. Restrictions on Mortgage or Sale of System. The City will not sell, lease or otherwise dispose of the System or any material part thereof, or any extension or improvement thereof; provided, however, the City may permanently abandon the use of, or sell at fair market value, or lease any of its System facilities, provided that:

(a) It is in full compliance with all covenants and undertakings in connection with all of its bonds then outstanding and payable from the revenues of the System, or any part thereof;

(b) In the event of sale, it will apply the proceeds to either (i) redemption or outstanding bonds in accordance with the provisions governing repayment of bonds in advance of maturity, or (ii) replacement of the facility so disposed of by another facility the revenues of which shall be incorporated into the System as hereinbefore provided;

(c) It certifies, prior to any abandonment of use, that the facility to be abandoned is no longer economically feasible of producing Net Revenues;

(d) It certifies that the estimated Net Revenues of the remaining System facilities for the next succeeding fiscal year plus the estimated Net Revenues of the facilities, if any, to be added to the System satisfy the rate covenants provided in this Resolution; and

(e) With respect to a lease, the City may lease (1) as lessor, any real or personal property which is unused or unimproved, or which has become obsolete, nonproductive or otherwise unusable to the advantage of the City, or which is being acquired as a part of a lease/purchase financing for the acquisition and/or improvement of such property; and/or (2) as lessee, with an option of the City to purchase, any real or personal property for the extension and improvement of the System. Property being leased as lessor and/or lessee pursuant to this subparagraph (e) shall not be treated as part of the System for purposes of this **Section 904** and may be mortgaged, pledged or otherwise encumbered.

Section 905. Financial Records and Reports. The City will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the City) in which complete and correct entries will be made of all dealings and transactions of or in relation to the System. Such accounts shall show the amount of revenues received from the System, the application of such revenues, and all financial transactions in connection therewith. Said books shall be kept by the City according to generally accepted accounting principles as applicable to the operation of municipal utilities.

Section 906. Annual Budget. Prior to the commencement of each fiscal year, the City will cause to be prepared and filed with the City Clerk a budget setting forth the estimated receipts and expenditures of the System for the next succeeding fiscal year. Said annual budget shall be prepared in accordance with the requirements of the laws of the State of Kansas, and shall contain normal budgetary items, including:

(a) An estimate of the receipts from the System during the next ensuing fiscal year.

(b) A statement of the estimated cost of operating the System during the next ensuing fiscal year.

(c) A statement of any anticipated unusual expenses for the System during the next fiscal year.

(d) A statement of any necessary replacements to the System which may be anticipated during the next fiscal year.

(e) A statement of the amount of principal and interest to be paid on outstanding revenue bonds and general obligation bonds to be paid from revenues of the System during the next fiscal year.

(f) A statement of the total estimated expenditures to be made from the revenues of the System during the next fiscal year.

(g) A statement of the estimated Net Revenues during the next fiscal year.

Section 907. Annual Audit. Annually, promptly after the end of the fiscal year, the City will cause an audit to be made of the System for the preceding fiscal year by an Independent Accountant to be employed for that purpose and paid from the revenues of the System. Said annual audit shall include:

(a) A classified statement of the gross revenues received, the expenditures for operation and maintenance, the net operating revenues and the amount of any capital expenditures made in connection with the System during the previous fiscal year;

(b) A complete balance sheet as of the end of each fiscal year with the amount on hand at the end of such year in each of the funds and accounts created by and referred to in this Resolution;

(c) A statement showing the Net Revenues for such fiscal year;

(d) A statement of all System revenue bonds matured or redeemed and interest paid on bonds during said fiscal year;

(e) A statement of the number of customers served by the System at the beginning and the end of such fiscal year;

(f) A statement showing the amount and character of the insurance carried by the City on the property constituting the System and showing the names of the insurers, the expiration dates of the policies and the premiums thereon; and

(g) Such remarks and recommendations regarding the City's practices and procedures of operating the System and its accounting practices as said accountants may deem appropriate.

Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the City Clerk. Such audits shall at all times during the usual business hours be open to examination and inspection by any taxpayer, any user of the services of the System, any owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer, user or owner.

As soon as possible after the completion of such annual audit, the Governing Body of the City shall review such audit, and if any audit shall disclose that proper provision has not been made for all of the requirements of this Resolution and the law under which the Bonds are issued, the City covenants and agrees that it will promptly cure such deficiency and will promptly (within 60 days) proceed to increase the rates, fees and charges to be charged for the use and services furnished by the System as may be necessary to adequately provide for such requirements.

Section 908. Bondowners' Right of Inspection. The owner or owners of not less than 10% of the principal amount of the Bonds shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto shall be furnished all such information concerning the System and the operation thereof which such may reasonably be requested.

Section 909. Performance of Duties. The City will faithfully and punctually perform all duties and obligations with respect to the operation of the System now or hereafter imposed upon the City by the Constitution and laws of the State of Kansas and by the provisions of this Resolution.

Section 910. Parity Bond Certification. The City hereby represents and covenants that the Series 2024 Bonds directed to be issued by this Resolution are so issued in full compliance with the restrictions and conditions upon which the City may issue Additional Bonds payable out of the revenues derived from the operation of the System and which stand on a parity with the Parity Bonds heretofore issued and Outstanding, as set forth and contained in the Parity Bond Resolutions, and that the Series 2024 Bonds herein directed to be issued are so issued in all respects on a parity and equality with the Parity Bonds heretofore issued and Outstanding.

## ARTICLE X

### **ADDITIONAL BONDS**

Section 1001. Prior Lien Bonds. The City covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, the City will not issue any Bonds or other long term obligations payable out of the revenues of the System or any part thereof which are superior to the Bonds.

Section 1002. Parity Lien Bonds. The City covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, the City will not issue any Additional Bonds or other long-term obligations payable out of the revenues of the System or any part thereof which stand on a parity or equality with the Bonds unless all of the following conditions are met:

(a) The City shall not be in default in the payment of principal of or interest on the Bonds or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in this Resolution.

(b) The City shall certify to *either* of the following:

(i) The Debt Service Coverage Ratio (as determined by the City) for the fiscal year immediately preceding the issuance of Additional Bonds shall have been equal to not less than 1.10, including the Additional Bonds proposed to be issued. In the event that the City has instituted any increase in rates for the use and services of the System and such increase shall not have been in effect during the full fiscal year immediately preceding the issuance of Additional Bonds, the additional Net Revenues which would have resulted from

the operation of the System during said preceding fiscal year had such rate increase been in effect for the entire period, as certified by a Consultant, may be added to the stated Net Revenues.

(ii) The estimated Debt Service Coverage Ratio (as determined by a Consultant), for the fiscal year immediately following the fiscal year in which the project to be financed by the Additional Bonds proposed to be issued is to be in commercial operation, shall be not less than 1.10, including the Additional Bonds proposed to be issued. In the event that the City anticipates additional revenues as a result of an increase in rates and/or expansion or modification of the System by the Additional Bonds or any other obligations, the Consultant may adjust the estimated Net Revenues in determining the Debt Service Coverage Ratio, by adding thereto any estimated increase in Net Revenues resulting from any increase in revenues for the use and services of the System, which, in the opinion of the Consultant, are reasonable based on projected rates and operations of the System for such fiscal year.

(c) The issuance of additional System revenue bonds of equal stature and priority is permitted by the statutes of the State of Kansas.

(d) The ordinance and/or resolution authorizing such additional parity bonds shall contain or provide that the bond reserve account for such additional parity bonds shall be funded in an amount equal to the maximum amount permitted by the Code to be deposited from the proceeds of such additional parity bonds in a debt service reserve fund therefor without being subject to yield restriction under the Code and without causing the interest on such additional bonds to be includable in gross income for federal income tax purposes.

Notwithstanding the foregoing restrictions upon the issuance of Additional Bonds, Additional Bonds may be issued under this Section if it is necessary in the opinion of a Consulting Engineer to repair any damage or loss to the System if the same has been damaged or destroyed by disaster to such extent that it cannot be operated or if it is necessary to keep the System in good operating condition.

Additional revenue bonds of the City issued under the conditions set forth in this Section shall stand on a parity with the Bonds and shall enjoy complete equality of lien on and claim against the revenues of the System with the Bonds, and the City may make equal provision for paying said bonds and the interest thereon out of the Revenue Fund and may likewise provide for the creation of reasonable principal and interest accounts and bond reserve accounts for the payment of such Additional Bonds and the interest thereon out of monies in the Revenue Fund.

Section 1003. Junior Lien Bonds. In addition to the authority to issue Parity Bonds as set forth in the preceding section, the City may issue revenue bonds or other long-term obligations payable out of the revenues of the System or any part thereof which shall be junior and subordinate to the Bonds. If at any time the City shall be in default in paying any interest on or principal of the Bonds or in making any of the transfers required to any of the accounts or funds herein specified, then the City shall make no payment of either principal or interest on such subordinate bonds or other long-term obligations payable out of the revenues of the System or any part thereof until all conditions of default shall be cured.

Section 1004. Refunding Bonds. The City shall have the right to refund any of the Bonds under the provisions of any law then available. Said Bonds or any part thereof may be refunded and the refunding bonds so issued shall enjoy complete equality of pledge and shall be on a parity with any of the Bonds which

are not refunded, if any, upon the revenues of the System without complying with the requirements of *Section 1002*.

## ARTICLE XI

### **DEFAULT AND REMEDIES**

Section 1101. Contract with Owners. The provisions of this Resolution, including the covenants and agreements herein contained, shall constitute a contract between the City and the owners of the Bonds.

Section 1102. Acceleration and Other Remedies. If an Event of Default shall occur and continue for a period of 60 days after written notice specifying such default has been given to the City by the Registered Owner of any Bond then Outstanding, then, at any time thereafter and while such default continues, the Registered Owners of 25% in principal amount of the Bonds then Outstanding, may, by written notice to the City filed in the office of the City Clerk or delivered in person to said City Clerk, declare the principal of all Bonds then Outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said Bonds shall become and be immediately due and payable, anything in this Resolution or the Ordinance or in the Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Outstanding Bonds has been so declared to be due and payable, all arrears of interest upon all of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of principal upon all of said Bonds has been paid in full and all other defaults, if any, by the City under the provisions of this Resolution and the Ordinance and under the provisions of the statutes of the State of Kansas have been cured, then and in every such case the Registered Owners of a majority in principal amount of the Bonds then Outstanding, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

If an Event of Default shall occur and be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding, shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such owner or owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Resolution or by the Constitution and laws of the State of Kansas;
- (b) by suit, action or other proceedings 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 proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the owners of the Bonds.

In case any proceeding taken by any owner on account of any default shall have been discontinued or abandoned for any reason, then and in every such case the City and the owners shall be restored to their former positions and rights hereunder, respectively, and all rights and remedies of the owners shall continue as though no such proceedings had been taken.

Section 1103. Limitation on Remedies. The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection, and security of the owners of any or all of the

Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in the Resolution. No one or more Bondowners secured hereby shall have any right in any manner whatever 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 owners of such Outstanding Bonds.

Section 1104. Remedies Cumulative. No remedy herein conferred on the owners is intended to be exclusive of any other remedy or remedies, and each and every remedy conferred shall be cumulative and shall be in addition to every other remedy given hereunder and under the Act or now or hereafter existing at law or in equity or by statute.

No delay or omission of any owner to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Article to the owners may be exercised from time to time and as often as may be deemed expedient. In case any suit, action or proceedings taken by any Bondowner on account of any default or to enforce any right or exercise any remedy shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such Bondowner, then, and in every such case, the City and the owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Bondowners shall continue as if no such suit, action or other proceedings had been brought or taken.

Section 1105. No Obligation to Levy Taxes. Nothing contained in this Resolution shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

## **ARTICLE XII**

### **DEFEASANCE**

Section 1201. Defeasance. When all of the Bonds shall have been paid and discharged, then the requirements contained in this Resolution and the pledge of revenues made hereunder and all other rights granted hereby shall terminate. Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or a bank located in the State of Kansas and having full trust powers, at or prior to the maturity or Redemption Date of said Bonds, in trust for and irrevocably appropriated thereto, monies (insured at all times by the Federal Deposit Insurance Corporation or collateralized with the following direct obligations of the United States of America) and/or direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury) which, together with the interest to be earned on any such obligations, will be sufficient for the payment of the principal of said Bonds, the redemption premium thereon, if any, and interest accrued to the date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and either notice of such redemption shall have been given or the City shall have given irrevocable instructions to the Bond Registrar to redeem such Bond. Any monies and obligations which at any time shall be deposited with said Paying Agent or other bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank in trust for the respective owners of the Bonds, and such monies shall be and are hereby

irrevocably appropriated to the payment and discharge hereof. All monies deposited with the Paying Agent or other bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

### **ARTICLE XIII**

#### **AMENDMENTS**

Section 1301. Amendments. Except as set forth herein, the provisions of the Bonds authorized by this Resolution and the provisions of this Resolution may be modified or amended at any time by the City with the written consent of the Owners of not less than a majority in aggregate principal amount of the Bonds herein authorized at the time Outstanding; provided, however, that no such modification or amendment shall permit or be construed as permitting: (a) the extension of the maturity of the principal of any of the Bonds issued hereunder, or the extension of the maturity of any interest on the Bonds issued hereunder, or (b) a reduction in the principal amount of the Bonds or the rate of interest thereon, or (c) a reduction in the percentage in principal amount of the Bonds required for the written consent to any modification or alteration of the provisions of this Resolution, or (d) permit preference or priority of any Bonds over any other Bonds without in each instance the prior written consent of 100% of the Owners of Bonds herein authorized at the time Outstanding.

The City may from time to time, without the consent of or notice to any of the owners, provide for amendment to the Bonds or the Resolution, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Resolution or to make any other change not prejudicial to the owners;
- (b) To grant to or confer upon the owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the owners;
- (c) To more precisely identify the Project;
- (d) To conform such Resolution to the Code or future applicable federal law concerning tax-exempt obligations.

Section 1302. Written Evidence of Amendments. Every amendment or modification of a provision of the Bonds or of this Resolution to which the written consent of the owners is given shall be expressed in an ordinance of the City amending or supplementing the provisions of this Resolution and shall be deemed to be a part of this Resolution. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification, if any. Prior to the passage of such ordinance, the City shall receive an opinion from Bond Counsel to the effect that the proposed amendment is in compliance with the requirements of the preceding Section and that the adoption of the ordinance authorizing such amendment will not adversely affect the tax-exempt status of the interest on the Bonds. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Resolution shall always be kept on file in the office of the City Clerk and shall be made available for inspection by the owners of any Bond or prospective purchaser or owners of any Bond authorized by this Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or of this Resolution will be sent by the City Clerk to any such Owner or prospective Owner.

## ARTICLE XIV

### CONTINUING DISCLOSURE REQUIREMENTS AND TAX COVENANTS

Section 1401. Disclosure Requirements. The City hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 1402. Failure to Comply with Continuing Disclosure Requirements. In the event the City fails to comply in a timely manner with its covenants contained in the preceding section, the Original Purchaser and/or any such Beneficial Owner may make demand for such compliance by written notice to the City. In the event the City does not remedy such noncompliance within 10 days of receipt of such written notice, the Original Purchaser or any such Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy as the Original Purchaser and/or any such Beneficial Owner shall deem effectual to protect and enforce any of the duties of the City under such preceding section.

Section 1403. General Tax Covenants. The City covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 2024 Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and City Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the City. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Series 2024 Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

Section 1404. Survival of Covenants. The covenants contained in *Sections 1403* and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Series 2024 Bonds pursuant to *Article XII* hereof or any other provision of this Resolution until such time as is set forth in the Federal Tax Certificate.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

Section 1501. Sale of the Bonds. The sale of the Bonds to the Original Purchaser at the Purchase Price is hereby authorized and approved. The Mayor and City Clerk are hereby authorized to execute the bid form evidencing the bid submitted by the Original Purchaser.

Section 1502. Preliminary Official Statement and Official Statement. The City hereby ratifies and confirms its prior approval of the form and content of the Preliminary Official Statement prepared in the initial offering and sale of the Bonds. The Preliminary Official Statement is “deemed final” by the City except for the omission of certain information as provided in Securities and Exchange Commission Rule 15c2-12. The City hereby approves the form and content of any addenda, supplement, or amendment thereto utilized to prepare a final Official Statement. The Official Statement is “deemed final” by the City in accordance with the provisions of Securities and Exchange Commission Rule 15c2-12. The use of such Official Statement in

the reoffering of the Bonds by the Original Purchaser is hereby approved and authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

Section 1503. Notices, Consents and Other Instruments by Bondowners. Any notice, consent, request, direction, approval, objection or other instrument required by this Resolution to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Resolution, and shall be conclusive in favor of the City, the Bond Registrar and Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Bond Registrar.

Section 1504. Parties Interested Herein; Third Party Beneficiaries. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent and the Owners, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Paying Agent and the Owners.

Section 1505. Further Authority. The officers of the City, including the Mayor, City Clerk and Chief Financial Officer, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution 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 1506. Severability. In case any one or more of the provisions of this Resolution or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, or of the Bonds appertaining thereto, but this Resolution and said Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained herein. In case any covenant, stipulation, obligation or agreement contained in the Bonds or in this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 1507. Governing Law. This Resolution shall be governed exclusively by and constructed in accordance with the applicable laws of the State of Kansas.

Section 1508. Inconsistent Provisions. In case any one or more of the provisions of this Resolution or of the Bonds issued hereunder shall for any reason be inconsistent with the provisions of any Parity

Resolution or any Parity Bonds: (a) the provisions of any Parity Resolution adopted prior to this Resolution shall prevail with respect to Parity Bonds issued prior in time, so long as such Parity Bonds are Outstanding; and (b) the provisions of this Resolution shall prevail with respect to any Parity Resolution adopted subsequent to the Resolution, so long as any Parity Bonds issued under this Resolution are Outstanding.

Section 1509. Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 1510. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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**ADOPTED** by the Governing Body of the City of Olathe, Kansas, on June 18, 2024.

(Seal)

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Mayor

ATTEST:

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City Clerk

**EXHIBIT A**

**(FORM OF BOND)**

**Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the City or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.**

**REGISTERED  
NUMBER \_\_\_\_**

**REGISTERED  
\$**

**UNITED STATES OF AMERICA  
STATE OF KANSAS  
COUNTY OF JOHNSON  
CITY OF OLATHE  
WATER AND SEWER SYSTEM IMPROVEMENT REVENUE BOND  
SERIES 2024**

**Interest  
Rate: \_\_\_\_%**

**Maturity  
Date: July 1, 20\_\_**

**Dated  
Date: July 10, 2024**

**CUSIP:**

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:**

**KNOW ALL PERSONS BY THESE PRESENTS:** That the City of Olathe, in the County of Johnson, State of Kansas (the “City”), for value received, hereby acknowledges itself to be indebted and promises to pay to the registered owner identified above, or registered assigns, but solely from the net revenues derived by the City from the operation of its water and sewer system (the “System”) as hereinafter specified, as of the Record Dates as hereinafter provided on the Maturity Date identified above, the Principal Amount identified above, and in like manner to pay interest on such Principal Amount from the date hereof or the most recent Interest Payment Date to which interest has been paid or duly provided for at the rate of interest per annum set forth above (computed on the basis of a 360-day year of twelve 30-day months), semiannually on January 1 and July 1 of each year, commencing January 1, 2025 (the “Interest Payment Dates”), until the Principal Amount is paid, unless this Bond shall have been previously called for redemption and payment as hereinafter set forth.

The principal of, premium, if any, and interest on this Bond shall be payable in lawful money of the United States of America by the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The principal of and any premium on this Bond shall be payable to the Registered Owner hereof upon presentation of this Bond at the maturity or Redemption Date to the Paying Agent for payment and cancellation. The interest payable on this Bond shall be paid by check or draft mailed by the Paying Agent to the Registered Owner hereof at the address appearing on the registration books of the City maintained

by the Bond Registrar or at such other address provided in writing by the Registered Owner to the Bond Registrar at the close of business on the fifteenth day of the month preceding the Interest Payment Date (the “Record Dates”) or in the case of an interest payment to any registered owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such registered owner upon written notice given to the Paying Agent by such registered owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), address, ABA routing number and account number to which such registered owner wishes to have such transfer directed. Interest not punctually paid will be paid in the manner established in the hereinafter defined Ordinance.

The principal of, premium, if any, and all interest on this Bond and all other Bonds of the Series of which it is part are hereby made a lien on and are secured by a pledge of the revenues derived from the operation of the System, subject to operation and maintenance expense, and are to be paid solely and only from a separate and special fund, known and identified as the Water and Sewer System Revenue Fund, into which there are to be paid from revenues derived from the rates, fees and charges for the use thereof and for all services rendered by and collected by the City from the operation of the System, as the same now exists or may hereafter be altered, repaired, extended, enlarged or improved in accordance with the Ordinance of the City authorizing the Bonds and the Resolution of the City prescribing the form and details of the Bonds (jointly the “Ordinance”). This Bond does not constitute a general obligation of the City, is not payable in any manner from funds raised by taxation, nor does it constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, limitation or restriction. The Bonds stand on a parity and are equally and ratably secured with respect to the payment of principal and interest from the net income and revenues of the System and in all other respect to a series of Water and Sewer System Revenue Bonds, Series 2012, of the City, dated December 18, 2012; a series of Water and Sewer System Revenue Bonds, Series 2015, of the City, dated October 1, 2015; a series of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017, of the City, dated April 4, 2017; a series of Water and Sewer System Revenue Bonds, Series 2018, of the City, dated April 18, 2018; a series of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, of the City, dated April 18, 2019; a series of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2020, of the City, dated June 4, 2020; a series of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2021, dated May 20, 2021; a series of Water and Sewer System Improvement Revenue Bonds, Series 2022, of the City, dated July 12, 2022; and a series of Water and Sewer System Improvement Revenue Bonds, Series 2023, of the City, dated July 11, 2023.

This Bond is one of an authorized series of Bonds of the City designated “Water and Sewer System Improvement Revenue Bonds, Series 2024”, in an aggregate principal amount of \$[PRINCIPAL AMOUNT] (the “Bonds”) issued for the purposes set forth in the Ordinance. The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, specifically including K.S.A. 10-620 *et seq.*, and K.S.A. 10-1201 *et seq.*, all as amended and supplemented, and all other provisions of the laws of the State of Kansas applicable thereto. Terms used herein and not otherwise defined shall have the meaning set forth in the Ordinance.

The Bonds are subject to redemption and payment prior to maturity, as set forth in the Bond Resolution.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the nominee name of the Securities Depository, is being

issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The City, the Bond Registrar and the Paying Agent will recognize the Securities Depository nominee, while the registered owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfers of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfers of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The City, the Bond Registrar and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of and interest on this Bond shall be made in accordance with existing arrangements among the City, the Bond Registrar and the Securities Depository.

**EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.** The Bonds are issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. This Bond may be exchanged at the office of the Bond Registrar for a like aggregate principal amount of Bonds of the same maturity of other authorized denominations upon the terms provided in the Ordinance.

The City hereby covenants with the owner of this Bond to keep and perform all covenants and agreements contained in the Ordinance, and the City will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System of the City as will produce revenues sufficient to pay the cost of operation and maintenance of the System, pay the principal of and interest on the Bonds as and when the same become due, and provide reasonable and adequate reserve funds. Reference is made to the Ordinance for a description of the covenants and agreements made by the City with respect to the collection, segregation and application of the revenues of the System of the City, the nature and extent of the security of the Bonds, the rights, duties and obligations of the City with respect thereto, and the rights of the owners thereof.

Upon certain conditions specified in said Ordinance, the City may issue Additional Bonds for alterations, repair, extensions, enlargements and improvements to the System, which bonds shall be on a parity with Bonds of this Series in stature and priority.

The City and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof for purposes of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

This Bond is transferable by the registered owner hereof in person or by the registered owner's agent duly authorized in writing, at the office of the Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance and upon surrender and cancellation of this Bond.

**IT IS HEREBY DECLARED AND CERTIFIED** that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the City, including this series of bonds, does not exceed any constitutional or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, and its corporate seal to be affixed hereto or imprinted hereon, and this Bond to be dated the Dated Date shown above.

(facsimile seal)

CITY OF OLATHE, KANSAS

ATTEST:

\_\_\_\_\_  
(facsimile)  
Mayor

By \_\_\_\_\_  
(facsimile)  
City Clerk



CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of a series of Water and Sewer System Improvement Revenue Bonds, Series 2024, of the City of Olathe, Kansas, described in the within-mentioned Ordinance.

Registration Date

Office of the State Treasurer,  
Topeka, Kansas,  
as Bond Registrar and Paying Agent

By \_\_\_\_\_

Registration Number: \_\_\_\_\_



=====

BOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

\_\_\_\_\_  
(Name and Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$\_\_\_\_\_, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises. Dated \_\_\_\_\_.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or  
Taxpayer Identification No.

\_\_\_\_\_  
Signature

(Sign here exactly as name(s) appear on the face of Certificate)

Signature guarantee:

By \_\_\_\_\_

=====

=====

CERTIFICATE OF CITY CLERK

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF JOHNSON        )

I, the undersigned, City Clerk of the City of Olathe, Kansas, hereby certify that the within Bond has been duly registered in my office according to law.

WITNESS my hand and official seal as of July 10, 2024.

(Facsimile Seal)

\_\_\_\_\_  
(facsimile)  
City Clerk

=====

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

I, STEVEN JOHNSON, Treasurer of the State of Kansas, do hereby certify that a transcript of the proceedings leading up to the issuance of this Bond has been filed in my office, and that this Bond was registered in my office according to law on July 10, 2024.

WITNESS my hand and official seal.

(Seal)

\_\_\_\_\_  
Treasurer of the State of Kansas

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LEGAL OPINION

I, the undersigned, City Clerk of Olathe, Kansas, hereby certify that the following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Attorneys at Law, Kansas City, Missouri, on the Bond and the series of which it is a part, except that it omits the date of such opinion; that said opinion was manually executed and was dated and issued as of the date of delivery of and payment for the Bonds and is on file in my office.

By (facsimile)  
City Clerk

(PRINTED LEGAL OPINION)

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# City of Olathe

## COUNCIL AGENDA ITEM

---

**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Jamie Robichaud/Briana Burrichter/John Page

**SUBJECT:** Consideration of Resolution No. 24-1028 and Ordinance No. 24-25 authorizing the issuance, delivery, form and details of Stormwater System Improvement Revenue Bonds, Series 2024.

---

**TITLE:**

Consideration of Resolution No. 24-1028 and Ordinance No. 24-25 authorizing the issuance, delivery, form and details of Stormwater System Improvement Revenue Bonds, Series 2024.

---

**SUMMARY:**

As approved by the City Council on May 21, 2024, bids will be received by the City on June 12, 2024, from prospective buyers of the Stormwater System Revenue Bonds, Series 2024. Accordingly, the best bid rates will be provided at the City Council meeting.

In addition to the best bid approval required above, the city's bond counsel, Gilmore & Bell, has prepared Ordinance No. 24-25 authorizing the issuance of the bonds. They have also prepared Resolution No. 24-1028 prescribing the form and details of and authorizing the delivery of the Stormwater System Revenue Bonds, Series 2024.

Draft copies of the above-mentioned ordinance and resolution are attached. The final version of these documents will be presented at the City Council meeting once the bids have been received and the best bid has been determined.

The City has applied for a rating from Standard and Poor's Corporation. Revenue bonds are rated separately from general obligation bonds because the source of repayment for the bonds comes from Stormwater operations rather than the full faith and credit of the City. Standard and Poor's affirmed the City's AA rating.

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**FINANCIAL IMPACT:**

The amount of Stormwater Revenue Bonds, Series 2024 is approximately \$4,675,000.

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**ACTION NEEDED:**

Approval of Ordinance No. 24-25 and Resolution No. 24-1028 to prescribe the form and details of and authorize delivery of the Stormwater System Revenue Bonds, Series 2024.

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**ATTACHMENT(S):**

A: Draft Bond Ordinance and Resolution

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**REVENUE BASIC DOCUMENTS**

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Summary Ordinance for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF OLATHE, KANSAS  
HELD ON JUNE 18, 2024**

The governing body met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Present: \_\_\_\_\_  
\_\_\_\_\_.

Absent: \_\_\_\_\_.

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*  
(Other Proceedings)

The Clerk reported that pursuant to the Notice of Bond Sale duly given, bids for the purchase of Stormwater System Revenue Bonds, Series 2024, dated July 10, 2024 (the “Series 2024 Bonds”), of the City had been received. A tabulation of said bids is set forth as **EXHIBIT A** hereto.

The governing body reviewed and considered the bids and it was found and determined that the bid of [Purchaser], [Purchaser City, State], was the best bid for the Series 2024 Bonds, a copy of which is attached hereto as **EXHIBIT B**.

There was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF  
STORMWATER SYSTEM REVENUE BONDS, SERIES 2024, OF THE CITY OF  
OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS  
TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND  
AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN  
CONNECTION THEREWITH.**

Councilmember \_\_\_\_\_ moved that the Ordinance be passed. The motion was seconded by Councilmember \_\_\_\_\_. The Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared the Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 24-25, was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

There was presented a Resolution entitled:

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF STORMWATER SYSTEM REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-25 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

Councilmember \_\_\_\_\_ moved that the Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. The Resolution was duly read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the vote of the governing body as follows:

Yea: \_\_\_\_\_.

Nay: \_\_\_\_\_.

The Mayor declared the Resolution duly adopted and the Resolution was then duly numbered Resolution No. 24-1028 and was signed by the Mayor and attested by the Clerk.

\*\*\*\*\*

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

**CERTIFICATE**

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Olathe, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

\_\_\_\_\_

Clerk

*EXHIBIT A*  
**BID TABULATION**

***EXHIBIT B***

**BID OF PURCHASER**

---

**ORDINANCE NO. 24-25**

**OF**

**THE CITY OF OLATHE, KANSAS**

**PASSED**

**JUNE 18, 2024**

---

**STORMWATER SYSTEM REVENUE BONDS  
SERIES 2024**

---

**ORDINANCE NO. 24-25**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF STORMWATER SYSTEM REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Olathe, Kansas (the “City”) is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the City is authorized under the provisions of the Act (as defined herein), to issue and sell revenue bonds for the purpose of paying all or part of the cost of the acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of the System (as defined herein), provided that the principal of and interest on such revenue bonds shall be payable solely from the Gross Revenues (as defined herein) derived by the City from the operation of the System; and

**WHEREAS**, the governing body of the City has pursuant to Resolution No. 24-1003 declared its intention under the Act to repair, alter, extend, reconstruct, enlarge or improve the System (the “Project”) at an estimated cost of \$20,026,000 and to issue stormwater system revenue bonds in an amount of not to exceed \$7,886,861; notice of such intention was published one time in the official newspaper of the City and no sufficient written protest thereto was filed with the Clerk within fifteen (15) days after said publication date all as set forth in the Act; and

**WHEREAS**, none of such revenue bonds so authorized have previously been issued, and the City proposes to issue \$[Principal Amount] of the revenue bonds so authorized to pay a portion of the costs of the Project; and

**WHEREAS**, the City has no bonds or other obligations outstanding payable from the Gross Revenues of the System, except the following:

<u>Series of Bonds</u>	<u>Dated</u>	<u>Amount Issued</u>	<u>Amount Outstanding</u>
Stormwater System Revenue Bonds, Series 2019	February 20, 2019	\$3,225,000	\$2,615,000
Stormwater System Revenue Bonds, Series 2022	July 12, 2022	\$3,025,000	\$2,930,000

; and

**WHEREAS**, the resolution authorizing the Series 2019 Bonds provides that the City may issue Additional Bonds payable from Gross Revenues on a parity with such bonds upon the satisfaction of certain conditions; and

**WHEREAS**, prior to or simultaneously with the issuance of the Series 2024 Bonds, such conditions will be satisfied; and

**WHEREAS**, the City hereby finds and determines that it is necessary to authorize the issuance of the City’s Stormwater System Revenue Bonds, Series 2024 in the principal amount of \$[Principal Amount] for the purposes set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, 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. 10-1201 *et seq.*, all as amended and supplemented from time to time.

**“Additional Bonds”** means any bonds secured by the Gross Revenues hereafter issued pursuant to the Bond Resolution.

**“Additional Obligations”** means any leases or other obligations of the Issuer payable from the Gross Revenues, other than the Bonds.

**“Bond Resolution”** means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Series 2024 Bonds and making covenants with respect thereto.

**“Bonds”** means the Series 2019 Bonds, the Series 2022 Bonds, the Series 2024 Bonds, and any Additional Bonds.

**“City”** means the City of Olathe, 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.

**“Fiscal Year”** means the twelve month period ending on December 31.

**“Gross Revenues”** means all charges, fees, income and revenues derived and collected by the City from the Stormwater Management Fee.

**“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.

**“Parity Bonds”** means the Outstanding Series 2019 Bonds, Series 2022 Bonds, Series 2024 Bonds, and any Additional Bonds hereafter issued pursuant to the Bond Resolution and standing on a parity and equality with the Series 2024 Bonds with respect to the lien on the Gross Revenues.

**“Parity Obligations”** means any Additional Obligations hereafter issued or incurred pursuant to the Bond Resolution and standing on a parity and equality with the Parity Bonds with respect to the lien on the Gross Revenues.

**“Parity Resolution”** means collectively the Series 2019 Resolution, the Series 2022 Resolution, the Bond Resolution, and the ordinances and/or resolutions under which any Additional Bonds which constitute Parity Bonds are hereafter issued.

**“Project”** means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions or enlargements of the System described in the Preamble to this Ordinance or any Substitute Project.

**“Revenue Fund”** means the Stormwater System Revenue Fund referred to in the Bond Resolution.

**“Series 2019 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2019, authorized by the Series 2019 Resolution.

**“Series 2019 Resolution”** means Ordinance No. 19-03 and Resolution No. 19-1011 of the Issuer adopted on January 22, 2019.

**“Series 2022 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2022, authorized and issued by the Issuer pursuant to the Series 2022 Resolution.

**“Series 2022 Resolution”** means Ordinance No. 22-29 and Resolution No. 22-1048 of the Issuer adopted on June 21, 2022.

**“Series 2024 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2024, authorized by this Ordinance.

**“State”** means the State of Kansas.

**“Stormwater Management Fee”** means the Stormwater Management Fee collected pursuant to Section 3.70 of the Municipal Code of the City as amended from time to time and any rate, fee or charge that succeeds to the Stormwater Management Fee.

**“Substitute Project”** means a substitute or additional project of the System authorized in the manner set forth in the Bond Resolution.

**“System”** means the entire stormwater management system owned and operated by the City for the management of stormwater, prevention of flooding, and protection of water quality to serve the needs of the City and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

**“System Indebtedness”** means collectively all Bonds and all Additional Obligations.

**Section 2. Authorization of the Series 2024 Bonds.** There shall be issued and are hereby authorized and directed to be issued the Stormwater System Revenue Bonds, Series 2024, of the City in the aggregate principal amount of \$[Principal Amount] for the purpose of providing funds to: (a) pay a portion of the costs of the Project; and (b) pay costs of issuance of the Series 2024 Bonds.

**Section 3. Security for the Series 2024 Bonds.** The Series 2024 Bonds shall be special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Gross Revenues, and the City hereby pledges said Gross Revenues to the payment of the

principal of and interest on the Series 2024 Bonds. The Series 2024 Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Series 2024 Bonds, either as to principal or interest.

The covenants and agreements of the City contained herein and in the Series 2024 Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Series 2024 Bonds, all of which Series 2024 Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Series 2024 Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Series 2024 Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Gross Revenues with any Parity Bonds. The Series 2024 Bonds shall not have any priority with respect to the payment of principal or interest from said Gross Revenues or otherwise over the Parity Bonds; and the Parity Bonds shall not have any priority with respect to the payment of principal or interest from said Gross Revenues or otherwise over the Series 2024 Bonds.

**Section 4. Terms, Details and Conditions of the Series 2024 Bonds.** The Series 2024 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. Rate Covenant.** The City will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, including all repairs, alterations, extensions, reconstructions, enlargements or improvements thereto hereafter constructed or acquired by the City, as will produce Gross Revenues sufficient to pay at least 120% of the Debt Service Requirements on the Bonds in each Fiscal Year, as and when the same become due as provided in the Bond Resolution. The Bond Resolution may establish requirements in excess of the requirements set forth herein.

**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 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 Series 2024 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 of this Ordinance or a summary thereof in the official City newspaper.

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**PASSED** by the governing body of the City on June 18, 2024 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

---

Clerk

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(Published in *The Legal Record* on June 25, 2024)

**SUMMARY OF ORDINANCE NO. 24-25**

On June 18, 2024, the governing body of the City of Olathe, Kansas passed an ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF STORMWATER SYSTEM REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

The Series 2024 Bonds approved by the Ordinance are being issued in the principal amount stated therein to finance certain improvements to the stormwater system of the City, and constitute special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Gross Revenues derived by the City from the operation of the stormwater system. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 100 E. Santa Fe Street, Olathe, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.olatheks.org/government/city-clerk/public-notices>.

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

DATED: June 18, 2024.

---

Ronald Shaver, City Attorney

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**RESOLUTION NO. 24-1028**

**OF**

**THE CITY OF OLATHE, KANSAS**

**ADOPTED**

**JUNE 18, 2024**

**[\$[PRINCIPAL AMOUNT]  
STORMWATER SYSTEM REVENUE BONDS  
SERIES 2024**

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**TABLE OF CONTENTS**

**ARTICLE I**

**DEFINITIONS**

Section 101. Definitions of Words and Terms..... 1

**ARTICLE II**

**AUTHORIZATION AND DETAILS OF THE BONDS**

Section 201. Authorization of the Series 2024 Bonds. .... 13  
Section 202. Description of the Series 2024 Bonds..... 13  
Section 203. Designation of Paying Agent and Bond Registrar..... 13  
Section 204. Method and Place of Payment of the Bonds. .... 14  
Section 205. Registration, Transfer and Exchange of Bonds. .... 15  
Section 206. Execution, Registration, Authentication and Delivery of Bonds..... 15  
Section 207. Mutilated, Lost, Stolen or Destroyed Bonds..... 16  
Section 208. Cancellation and Destruction of Bonds Upon Payment..... 16  
Section 209. Book-Entry Bonds; Securities Depository..... 17  
Section 210. Nonpresentment of Bonds..... 18  
Section 211. Calculation of Debt Service Requirements..... 18  
Section 212. Preliminary and Final Official Statement. .... 20  
Section 213. Sale of the Series 2024 Bonds. .... 20

**ARTICLE III**

**REDEMPTION OF BONDS**

Section 301. Redemption by Issuer. .... 21  
Section 302. Selection of Bonds to be Redeemed. .... 22  
Section 303. Notice and Effect of Call for Redemption. .... 22

**ARTICLE IV**

**SECURITY FOR BONDS**

Section 401. Security for the Bonds. .... 24

**ARTICLE V**

**ESTABLISHMENT OF FUNDS AND ACCOUNTS**

**DEPOSIT AND APPLICATION OF BOND PROCEEDS**

Section 501. Creation of Funds and Accounts..... 25  
Section 502. Deposit of Series 2024 Bond Proceeds..... 26  
Section 503. Application of Moneys in the Project Fund..... 26  
Section 504. Substitute Project; Reallocation of Proceeds..... 26  
Section 505. Application of Moneys in the Rebate Fund..... 26

Section 506.	Application of Moneys in the Costs of Issuance Account.....	27
Section 507.	Application of Moneys in the Debt Service Reserve Fund.....	27

**ARTICLE VI**

**COLLECTION AND APPLICATION OF REVENUES**

Section 601.	Revenue Fund.....	28
Section 602.	Application of Moneys in Funds and Accounts.....	28
Section 603.	Transfer of Funds to Paying Agent.....	30
Section 604.	Payments Due on Saturdays, Sundays and Holidays.....	30

**ARTICLE VII**

**DEPOSIT AND INVESTMENT OF MONEYS**

Section 701.	Deposits and Investment of Moneys.....	31
--------------	--	----

**ARTICLE VIII**

**GENERAL COVENANTS AND PROVISIONS**

Section 801.	Efficient and Economical Operation.....	31
Section 802.	Rate Covenant.....	32
Section 803.	Reasonable Charges for all Services.....	32
Section 804.	Restrictions on Mortgage or Sale of System.....	32
Section 805.	Books, Records and Accounts.....	33
Section 806.	Annual Budget.....	33
Section 807.	Annual Audit.....	33
Section 808.	Right of Inspection.....	33
Section 809.	Performance of Duties and Covenants.....	34
Section 810.	Parity Bond Certification.....	34

**ARTICLE IX**

**ADDITIONAL BONDS AND OBLIGATIONS**

Section 901.	Senior Lien Bonds.....	34
Section 902.	Parity Bonds and Parity Obligations.....	34
Section 903.	Junior Lien Obligations.....	36
Section 904.	Subordinate Lien Bonds.....	36
Section 905.	Refunding Bonds.....	36

**ARTICLE X**

**DEFAULT AND REMEDIES**

Section 1001.	Remedies.....	37
Section 1002.	Limitation on Rights of Owners.....	37
Section 1003.	Remedies Cumulative.....	37
Section 1004.	No Obligation to Levy Taxes.....	38

**ARTICLE XI**

**DEFEASANCE**

Section 1101. Defeasance..... 38

**ARTICLE XII**

**TAX COVENANTS**

Section 1201. General Covenants..... 38  
Section 1202. Survival of Covenants..... 38

**ARTICLE XIII**

**CONTINUING DISCLOSURE REQUIREMENTS**

Section 1301. Disclosure Requirements..... 39  
Section 1302. Failure to Comply with Continuing Disclosure Requirements..... 39

**ARTICLE XIV**

**MISCELLANEOUS PROVISIONS**

Section 1401. Amendments..... 39  
Section 1402. Notices, Consents and Other Instruments by Owners..... 40  
Section 1403. Notices..... 41  
Section 1404. Inconsistent Provisions..... 41  
Section 1405. Electronic Transactions..... 41  
Section 1406. Further Authority..... 41  
Section 1407. Severability..... 41  
Section 1408. Governing Law..... 41  
Section 1409. Effective Date..... 41

*EXHIBIT A* – FORM OF SERIES 2024 BONDS..... A-1

## RESOLUTION NO. 24-1028

**A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF STORMWATER SYSTEM REVENUE BONDS, SERIES 2024, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 24-25 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.**

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**WHEREAS**, the Issuer has passed the Ordinance authorizing the issuance of the Series 2024 Bonds; and

**WHEREAS**, the Ordinance authorized the governing body of the Issuer to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Series 2024 Bonds.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS, AS FOLLOWS:**

### ARTICLE I

#### DEFINITIONS

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution 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. 10-1201 *et seq.*, all as amended and supplemented from time to time.

**“Additional Bonds”** means any bonds secured by the Gross Revenues hereafter issued pursuant to *Article IX* hereof.

**“Additional Obligations”** means any leases or other obligations of the Issuer payable from the Gross Revenues, other than the Bonds.

**“Authorized Denomination”** means \$5,000 or any integral multiples thereof.

**“Balloon Indebtedness”** means Long-Term Indebtedness, 25% or more of the original principal amount of which becomes due (either by maturity or mandatory redemption) during any consecutive twelve-month period, if such principal amount becoming due is not required to be amortized below such percentage by mandatory redemption or prepayment prior to such twelve-month period.

**“Beneficial Owner”** of Bonds includes any Owner of Bonds and any other Person who, directly or indirectly has the investment power with respect to any such Bonds.

**“Bond Counsel”** means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

**“Bond Insurer”** means with respect to Additional Bonds, the entity set forth in the supplemental resolution authorizing such Additional Bonds.

**“Bond Payment Date”** means any date on which principal of or interest on any Bond is payable.

**“Bond Register”** means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

**“Bond Registrar”** means: (a) with respect to the Series 2024 Bonds, the State Treasurer, and its successors and assigns; and (b) with respect to Additional Bonds, the entity designated as Bond Registrar in the supplemental resolution authorizing such Additional Bonds.

**“Bond Resolution”** means this resolution relating to the Series 2024 Bonds and any supplemental resolution authorizing any Additional Bonds.

**“Bonds”** means the Series 2019 Bonds, the Series 2022 Bonds, the Series 2024 Bonds, and any Additional Bonds.

**“Business Day”** means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

**“Cede & Co.”** means Cede & Co., as nominee of DTC and any successor nominee of DTC.

**“City”** means the City of Olathe, Kansas.

**“Clerk”** means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

**“Common Debt Service Reserve Account”** means the Common Debt Service Reserve Account, if any, established within the Debt Service Reserve Fund.

**“Common Debt Service Reserve Requirement”** means the amount, if any, set forth in a Parity Resolution pursuant to which (i) the Common Debt Service Reserve Account is established or (ii) a series Bonds is designated as Covered Bonds.

**“Consultant”** means the Consulting Engineer, the Independent Accountant or a municipal advisor selected by the Issuer for the purpose of carrying out the duties imposed on the Consultant by the Bond Resolution.

**“Consulting Engineer”** means an independent engineer or engineering firm or architect or architectural firm, having a favorable reputation for skill and experience in the construction, financing and operation of public utilities, at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Consulting Engineer by the Bond Resolution.

**“Costs of Issuance”** means all costs of issuing any series of Bonds, including all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving financial ratings on any series of Bonds, and any premiums or expenses incurred in obtaining any credit enhancement.

**“Costs of Issuance Account”** means the Costs of Issuance Account for Stormwater System Revenue Bonds, Series 2024 created pursuant to **Section 501** hereof.

**“Covered Bonds”** means all series of Bonds with respect to which the Issuer has specified pursuant to **Section 507** hereof and the Parity Resolution authorizing such series of Bonds that such series of Bonds will be secured by the Common Debt Service Reserve Account in the Debt Service Reserve Fund.

**“Dated Date”** means July 10, 2024.

**“Debt Service Account”** means the Debt Service Account for Stormwater System Revenue Bonds, Series 2024 created by **Section 501** hereof.

**“Debt Service Coverage Ratio”** means, for any Fiscal Year: (a) with respect to the covenants contained in **Section 802** hereof, the ratio determined by dividing (i) a numerator equal to the Gross Revenues for such Fiscal Year by (ii) a denominator equal to the Debt Service Requirements on all System Indebtedness for such Fiscal Year; and (b) with respect to the covenants contained in **Article IX** hereof, the ratio determined by dividing (i) a numerator equal to the Net Revenues for such Fiscal Year by (ii) a denominator equal to the Maximum Annual Debt Service Requirements on all System Indebtedness; provided that with respect to Additional Bonds that are proposed to be Parity Bonds, Debt Service Requirements on Junior Lien Obligations and Subordinate Lien Bonds shall be disregarded; further provided that with respect to Additional Bonds that are proposed to be Junior Lien Obligations, Debt Service Requirements on Subordinate Lien Bonds shall be disregarded.

**“Debt Service Requirements”** means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the System Indebtedness for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

**“Debt Service Reserve Fund”** means the Debt Service Reserve Fund for Stormwater System Parity Bonds created by **Section 501** hereof.

**“Debt Service Reserve Requirement”** means (a) with respect to the Series 2019 Bonds, \$0.00; (b) with respect to the Series 2022 Bonds, \$0.00; (c) with respect to the Series 2024 Bonds, \$0.00; and (d) with respect to any Parity Bonds, the amount, if any, set forth in the respective Parity Resolution.

**“Defaulted Interest”** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

- (a) Cash; or
- (b) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or
- (c) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:
  - (1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;
  - (2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;
  - (3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;
  - (4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;
  - (5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and
  - (6) such obligations are rated in a rating category by Moody's or Standard & Poor's that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

**“Depreciation and Replacement Account”** means the Stormwater System Depreciation and Replacement Account created by *Section 501* hereof.

**“Derivative”** means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

**“Disclosure Undertaking”** means the Issuer’s Continuing Disclosure Undertaking dated as of the Dated Date, as may be amended and supplemented, relating to certain obligations contained in the SEC Rule.

**“Discount Indebtedness”** means Long-Term Indebtedness that is originally sold at a price (excluding accrued interest, but without deduction of any underwriters’ discount) of less than 75% of the maturity amount including the amount of principal and interest to accrete at maturity of such Long-Term Indebtedness.

**“DTC”** means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

**“Event of Default”** means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise; or

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall for any reason be rendered incapable of fulfilling its obligations hereunder;  
or

(d) Any substantial part of the System shall be destroyed or damaged to the extent of impairing its efficient operation or adversely affecting its Gross Revenues and the Issuer shall not within a reasonable time commence the repair, replacement or reconstruction thereof and proceed thereafter to complete with reasonable dispatch the repair, replacement or reconstruction thereof; or

(e) Final judgment for the payment of money shall be rendered against the Issuer as a result of the ownership, control or operation of the System and any such judgment shall not be discharged within one hundred twenty (120) days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to stay the execution of or levy under such judgment, order, decree or process or the enforcement thereof; or

(f) An order or decree shall be entered, with the consent or acquiescence of the Issuer, appointing a receiver or receivers of the System or any part thereof or of the revenues thereof, or if such order or decree, having been entered without the consent or acquiescence of the Issuer, shall not be vacated or discharged or stayed on appeal within sixty (60) days after the entry thereof; or

(g) Any proceeding shall be instituted, with the consent or acquiescence of the Issuer, for the purpose of effecting a composition between the Issuer and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Gross Revenues; or

(h) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding; or

(i) A monetary default shall have occurred on any System Indebtedness.

**“Expenses”** means all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on System Indebtedness and depreciation and amortization charges during the period of determination), determined in accordance with generally accepted accounting principles, including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, paying agent fees and expenses, annual audits, periodic Consultant’s reports, properly allocated share of charges for insurance, the cost of purchased gas and power, if any, for System

operation, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, short-term obligations incurred and payable within a particular Fiscal Year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, **but shall exclude** all general administrative expenses of the City not related to the operation of the System, transfers into the Debt Service Reserve Fund and Depreciation and Replacement Account provided for in the Bond Resolution, and any capital expenditures related to the System.

**“Federal Tax Certificate”** means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

**“Financeable Costs”** means the amount of expenditure for a Project which has been duly authorized by action of the governing body of the Issuer to be financed by System Indebtedness, less: (a) the amount of any System Indebtedness of the Issuer which is currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

**“Fiscal Year”** means the twelve-month period ending on December 31.

**“Funds and Accounts”** means funds and accounts created pursuant to or referred to in *Section 501* hereof.

**“Gross Revenues”** means all charges, fees, income and revenues derived and collected by the City from the Stormwater Management Fee.

**“Independent Accountant”** means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by the Bond Resolution.

**“Index Rate”** means the rate of interest set forth in *The Bond Buyer* Revenue Bond Index (or, in the event that *The Bond Buyer* does not compile such index or ceases publication, another comparable publication recognized in the municipal bond market) published for the week immediately preceding the date of determination.

**“Insurance Consultant”** means an individual or firm selected by the Issuer qualified to survey risks and to recommend insurance coverage for entities engaged in operations similar to those of the System and having a favorable reputation for skill and experience in making such surveys and recommendations.

**“Insured Bonds”** means any Series of Bonds insured by a Bond Insurer.

**“Interest Payment Date(s)”** means: (a) with respect to the Series 2024 Bonds, the Stated Maturity of an installment of interest on the Series 2024 Bonds which shall be April 1 and October 1 of each year, commencing October 1, 2024; and (b) with respect to Additional Bonds, the Stated Maturity of an installment of interest on such Additional Bonds, as set forth in the supplemental resolution authorizing such Additional Bonds.

**“Interim Indebtedness”** means System Indebtedness having a term not less than one year, and not in excess of five years, incurred or assumed in anticipation of being refinanced or refunded with Long-Term Indebtedness.

**“Issue Date”** means the date when the Issuer delivers any series of Bonds to the Purchaser in exchange for the Purchase Price.

**“Issuer”** means the City and any successors or assigns.

**“Junior Lien Obligations”** means any Additional Bonds or Additional Obligations payable from, and secured by a lien on the Gross Revenues, which lien is junior to that of any Parity Bonds, but senior to that of the Subordinate Lien Bonds.

**“Long-Term Indebtedness”** means System Indebtedness having an original stated maturity or term greater than five years, or renewable or extendible at the option of the City for a period greater than one year from the date of original issuance or incurrence thereof.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

**“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 Issuer.

**“Maximum Annual Debt Service”** means the maximum amount of Debt Service Requirements as computed for the then current or any future Fiscal Year; provided that the Debt Service Requirements in the final Stated Maturity of any series of Parity Bonds shall be reduced by the value of cash and Permitted Investments on deposit in the Debt Service Reserve Fund, so long as the Debt Service Reserve Fund is maintained at the Debt Service Reserve Requirement.

**“Moody's”** means Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody's” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with notice to the Bond Insurer.

**“Net Revenues”** means, for the period of determination, (a) all Gross Revenues, plus all other charges, fees, income and revenues derived and collected by the City from the operation and ownership of the System, investment and rental income, net proceeds from business interruption insurance, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay debt service on System Indebtedness, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets, and excluding any intergovernmental transfers or grants received by the City to be used to pay or reimburse the City for payment of the costs of any capital expenditures related to the System and (b) less all Expenses.

**“Notice Address”** means with respect to the following entities:

- (a) To the Issuer at:

City Hall  
100 E. Santa Fe Street  
Olathe, Kansas 66061  
Attention: City Clerk  
Email: [cco@olatheks.org](mailto:cco@olatheks.org)

- (b) To the Paying Agent at:

**Series 2024 Bonds:**

State Treasurer of the State of Kansas  
Landon Office Building  
900 Southwest Jackson, Suite 201  
Topeka, Kansas 66612-1235  
Email: [fiscal@treasurer.ks.gov](mailto:fiscal@treasurer.ks.gov)

**Additional Bonds:**

The address set forth in the supplemental resolution authorizing such Additional Bonds.

- (c) To the Purchaser:

**Series 2024 Bonds:**

[Purchaser]

\_\_\_\_\_  
[Purchaser City, State] \_\_\_\_\_

**Additional Bonds:**

The address set forth in the supplemental resolution authorizing such Additional Bonds.

- (d) To the Rating Agency(ies):

S&P Global Ratings, a division of S&P Global Inc.  
55 Water Street, 38th Floor  
New York, New York 10004

or such other address as is furnished in writing to the other parties referenced herein.

**“Notice Representative”** means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

**“Official Statement”** means Issuer’s Official Statement relating to the Series 2024 Bonds.

**“Ordinance”** means Ordinance No. 24-[\_\_] of the Issuer authorizing the issuance of the Series 2024 Bonds, as amended from time to time.

**“Outstanding”** means, when used with reference to Bonds, as of a particular date of determination, all Bonds theretofore, authenticated and delivered, except the following Bonds:

(a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation pursuant to the Bond Resolution;

(b) Bonds deemed to be paid in accordance with the provisions of *Section 1101* of the Bond Resolution;

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Bond Resolution; and

(d) Bonds, the principal or interest of which has been paid by the Bond Insurer.

**“Owner”** when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

**“Parity Bonds”** means the Outstanding Series 2019 Bonds, Series 2022 Bonds, Series 2024 Bonds, and any Additional Bonds hereafter issued pursuant to *Section 902* or *Section 905* of the Bond Resolution and standing on a parity and equality with the Series 2024 Bonds with respect to the lien on the Gross Revenues.

**“Parity Obligations”** means any Additional Obligations hereafter issued or incurred pursuant to *Section 902* or *Section 905* of this Bond Resolution and standing on a parity and equality with the Parity Bonds with respect to the lien on the Gross Revenues.

**“Parity Resolution”** means the Series 2019 Resolution, the Series 2022 Resolution, this Bond Resolution, and the ordinances and/or resolutions under which any Additional Bonds which constitute Parity Bonds are hereafter issued.

**“Participants”** means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

**“Paying Agent”** means: (a) with respect to the Series 2024 Bonds, the State Treasurer, and its successors and assigns; and (b) with respect to Additional Bonds, the entity designated as Paying Agent in the supplemental resolution authorizing such Additional Bonds.

**“Permitted Investments”** shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks,

federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's or Standard & Poor's; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f); or (m) other investment obligations authorized by the laws of the State, all as may be further restricted or modified by amendments to applicable State law.

**"Person"** means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**"Project"** shall mean the repairs, alterations, extensions, reconstructions, enlargements or improvements to the System referred to in the preamble to the Ordinance and any Substitute Project.

**"Project Fund"** means the Project Fund for Stormwater System Revenue Bonds, Series 2024, created by *Section 501* hereof.

**"Purchase Price"** means: (a) with respect to the Series 2024 Bonds, the principal amount of the Series 2024 Bonds plus accrued interest to the date of delivery, plus a [net] [premium/discount] of \$[\_\_\_\_\_], less an underwriting discount of \$[\_\_\_\_\_]; and (b) with respect to Additional Bonds, the amount set forth in the supplemental resolution authorizing such Additional Bonds.

**"Purchaser"** means: (a) with respect to the Series 2024 Bonds, [Purchaser], [Purchaser City, State], the original purchaser of the Series 2024 Bonds, and any successor and assigns; and (b) with respect to Additional Bonds, the original purchaser of such Additional Bonds, as set forth in the supplemental resolution authorizing such Additional Bonds.

**"Put Indebtedness"** means Long-Term Indebtedness which is (a) payable or required to be purchased or redeemed from the holder by or on behalf of the underlying obligor, at the option of the holder thereof, prior to its stated maturity date, or (b) payable or required to be purchased or redeemed from the holder by or on behalf of the underlying obligor, other than at the option of the holder, prior to its stated maturity date, other than pursuant to any mandatory sinking fund or other similar fund, or other than by reason of acceleration upon the occurrence of an Event of Default under this Bond Resolution.

**"Rating Agency"** means any company, agency or entity that provides financial ratings for the Bonds.

**"Rebate Fund"** means the Rebate Fund for Stormwater System Revenue Bonds, Series 2024 created pursuant to *Section 501* hereof.

**"Record Dates"** for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

**"Redemption Date"** when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

**“Redemption Price”** when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of the Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Replacement Bonds”** means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 212* hereof.

**“Revenue Fund”** means the Stormwater System Revenue Fund created by *Section 501* hereof.

**“SEC Rule”** means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

**“Securities Depository”** means, initially, DTC, and its successors and assigns.

**“Series 2019 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2019, authorized by Ordinance No. 19-03 and Resolution No. 19-1011 of the Issuer adopted on January 22, 2019.

**“Series 2019 Resolution”** means Ordinance No. 19-03 and Resolution No. 19-1011 of the Issuer adopted on January 22, 2019.

**“Series 2022 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2022, authorized and issued by the Issuer pursuant to the Series 2022 Resolution.

**“Series 2022 Resolution”** means Ordinance No. 22-29 and Resolution No. 22-1048 of the Issuer adopted on June 21, 2022.

**“Series 2024 Bonds”** means the Issuer’s Stormwater System Revenue Bonds, Series 2024, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

**“Series 2024 Term Bonds”** means any Series 2024 Bond designated as a Term Bond in this Resolution.

**“Series Debt Service Reserve Account”** means one or more Series Debt Service Reserve Account, if any, established within the Debt Service Reserve Fund.

**“Series Debt Service Reserve Requirement”** means the amount, if any, set forth in a Parity Resolution pursuant to which a Series Debt Service Reserve Account is established.

**“Short-Term Indebtedness”** means System Indebtedness having an original maturity less than or equal to one year from the date of original incurrence thereof, and not renewable or extendible at the option of the City for a term greater than one year beyond the date of original issuance.

**“Special Record Date”** means the date fixed by the Paying Agent pursuant to *Section 207* hereof for the payment of Defaulted Interest.

**“Standard & Poor’s”** means S&P Global Ratings, a division of S&P Global Inc., New York, New York, a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of

a securities rating agency, “Standard & Poor's” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer with notice to the Bond Insurer.

“**State**” means the state of Kansas.

“**State Treasurer**” means the duly elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“**Stated Maturity**” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“**Stormwater Management Fee**” means the Stormwater Management Fee collected pursuant to Section 3.70 of the Municipal Code of the City as amended from time to time and any rate, fee or charge that succeeds to the Stormwater Management Fee.

“**Subordinate Lien Bonds**” means any Additional Bonds or Additional Obligations payable from the Gross Revenues on a subordinate lien basis to any Parity Bonds and Junior Lien Obligations, and which may constitute general obligations of the Issuer.

“**Substitute Project**” means a substitute or additional project of the System authorized in the manner set forth in *Section 504* of this Bond Resolution.

“**System**” means the entire stormwater management system owned and operated by the City for the management of stormwater, prevention of flooding, and protection of water quality to serve the needs of the City and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

“**System Indebtedness**” means collectively the Bonds and any Additional Obligations which are payable out of, or secured by an interest in, the Gross Revenues.

“**Term Bonds**” means any Bonds designated as Term Bonds in this Bond Resolution or in any supplemental resolution authorizing the issuance of Additional Bonds.

“**Treasurer**” means the duly appointed and/or elected Treasurer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the City.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations.

“**Variable Rate Indebtedness**” means any System Indebtedness which provides for interest to be payable thereon at a rate per annum that may vary from time to time over the term thereof in accordance with procedures provided in the instrument creating such System Indebtedness.

**ARTICLE II**

**AUTHORIZATION AND DETAILS OF THE BONDS**

**Section 201. Authorization of the Series 2024 Bonds.** The Series 2024 Bonds have been authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[Principal Amount], for the purpose of providing funds to: (a) pay a portion of the costs of the Project; and (b) pay Costs of Issuance.

**Section 202. Description of the Series 2024 Bonds.** The Series 2024 Bonds shall consist of fully registered bonds in Authorized Denominations and shall be numbered in such manner as the Bond Registrar shall determine. All of the Series 2024 Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, and subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof and shall bear interest at the rates per annum as follows:

**SERIAL BONDS**

<u>Stated Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>October 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2025	\$	%	2035	\$	%
2026			2036		
2027			2037		
2028			2038		
2029			2039		
2030			2040		
2031			2041		
2032			2042		
2033			2043		
2034			2044		

**[TERM BONDS**

<u>Maturity</u>	<u>Principal</u>	<u>Interest</u>
<u>October 1</u>	<u>Amount</u>	<u>Rate</u>
20__	\$	%]

The Series 2024 Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Section 208* hereof. The Series 2024 Bonds shall be issued as Book-Entry-Only Bonds and administered in accordance with the provisions of *Section 212* hereof.

Each of the Series 2024 Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as *Exhibit A* or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

**Section 203. Designation of Paying Agent and Bond Registrar.** The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Series 2024 Bonds and Bond Registrar with respect to the registration, transfer and exchange of the Series 2024 Bonds. The Mayor

of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Series 2024 Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

**Section 204. Method and Place of Payment of the Bonds.** The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner or (b) in the case of an interest payment to any Owner of \$1,000,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

**Section 205. Registration, Transfer and Exchange of Bonds.** The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Section 303* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to *Section 208* hereof.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

**Section 206. Execution, Registration, Authentication and Delivery of Bonds.** Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual, electronic or facsimile signature of the Mayor,

attested by the manual, electronic or facsimile signature of the Clerk and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual, electronic or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual, electronic or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Paying Agent for authentication.

The Series 2024 Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *Exhibit A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Series 2024 Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Series 2024 Bond shall be conclusive evidence that such Series 2024 Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Series 2024 Bond to the Purchaser upon instructions of the Issuer or its representative.

**Section 207. Mutilated, Lost, Stolen or Destroyed Bonds.** If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

**Section 208. Cancellation and Destruction of Bonds Upon Payment.** All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof

to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

**Section 209. Book-Entry Bonds; Securities Depository.** Any series of Bonds may be issued as Book-Entry-Only Bonds. If so, such series of Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, or (b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

**Section 210. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

**Section 211. Calculation of Debt Service Requirements.**

(a) ***Debt Service Requirements on Balloon, Put, Short-Term and Interim Indebtedness.***

(1) The principal of Balloon Indebtedness, Put Indebtedness or Short-Term Indebtedness being treated as Long-Term Indebtedness under **Section 902** hereof, or Interim Indebtedness shall be deemed due and payable at its Stated Maturity; provided, however, that at the election of the Issuer for the purpose of any computation of Debt Service Requirements, whether historical or projected, the principal deemed payable on Balloon Indebtedness, Put Indebtedness or Short-Term Indebtedness being treated as Long-Term Indebtedness under **Section 902** hereof, or Interim Indebtedness, shall be deemed to be payable as set forth below:

(A) If the Issuer has obtained a binding commitment of a bank or other financial institution (whose senior debt obligations, or the senior debt obligations of the holding company of which such bank or financial institution is the principal subsidiary, are then rated "A" or better by any Rating Agency) to refinance such Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness, or a portion thereof, including without limitation, a letter of credit or a line of credit, the Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness, or portion thereof to be refinanced, may be deemed to be payable in accordance with the terms of the refinancing arrangement;

(B) If the Issuer has entered into a binding agreement providing for the deposit by the Issuer with a bank or other financial institution (whose senior debt obligations, or the senior debt obligations of the holding company of which such bank or financial institution is the principal subsidiary, are then rated "A" or better by any Rating Agency), in trust (herein called a "Special Redemption Fund") of amounts, less investment earnings realized and retained in the Special Redemption Fund, equal in aggregate to the principal amount of such Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness, or a portion thereof, when due from the sums so deposited and investment earnings realized thereon, then the principal amount of the Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness, or portion thereof, may be deemed to be payable in accordance with the terms of such agreement;

(C) If the Issuer has entered into arrangements or agreements with respect to the principal amount of such Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness, other than those referred to in subsections (A) and (B) above, which

a Consultant in a certificate filed with the Issuer determines, taking into account the interests of the Owners of System Indebtedness, provides adequate assurances that the Issuer will be able to meet the Debt Service Requirements due on such Indebtedness, the Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness may be deemed to be payable in accordance with the terms of such arrangement or agreement; or

(D) Such Balloon Indebtedness, Put Indebtedness or Short-Term Indebtedness may be deemed to be System Indebtedness which, at the date of its original incurrence, was payable over a term not to exceed twenty (20) years in equal annual installments of principal and interest at the Index Rate.

A Consultant shall deliver to the Issuer a certificate stating that it is reasonable to assume that installment obligations of such term of the Issuer can be incurred and stating the interest rate then applicable to installment obligations of such term of comparable quality. Interim Indebtedness may be deemed to be Indebtedness which, at the date of its original incurrence, would meet the conditions specified in the statement of the Consultant as required in *Section 902*; provided that the Consultant shall for each annual period that the Debt Service Requirement is computed, provide a supplemental statement that at such period, the certifications contained in the statement are reasonable.

(2) Interest that is payable prior to the Stated Maturity of any Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness shall be taken into account for such appropriate period in computation of Debt Service Requirements. Interest payable at maturity or early redemption on Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness may either be amortized over the anticipated maturity or such longer period as is permitted under *Section 902* or *Section 214(a)(1)(D)* or may be treated as principal payable on the principal maturity date of such Balloon Indebtedness, Put Indebtedness, Short-Term Indebtedness or Interim Indebtedness.

(3) In measuring compliance with the applicable tests hereunder in connection with incurring Put Indebtedness and generally for purposes of determining the Debt Service Requirements relating thereto, Put Indebtedness shall be deemed to mature based upon the actual amortization requirements for the Put Indebtedness, only to the extent that the Issuer has a commitment to refinance such Put Indebtedness.

(b) ***Debt Service Requirements on Discount Indebtedness.*** At the election of the Issuer for the purpose of any computation of Debt Service Requirements, whether historical or projected, the principal and interest deemed payable on Discount Indebtedness shall be deemed to be payable as set forth below:

(1) If the Issuer has obtained a binding commitment of a bank or other financial institution (whose senior debt obligations, or the senior debt obligations of the holding company of which such bank or financial institution is the principal subsidiary, are then rated “A” or better by any Rating Agency) to refinance such Discount Indebtedness, or a portion thereof, including without limitation, a letter of credit or a line of credit, the Discount Indebtedness, or portion thereof to be refinanced, may be deemed to be payable in accordance with the terms of the refinancing arrangement;

(2) If the Issuer has entered into a binding agreement providing for the deposit with a bank or other financial institution (whose senior debt obligations, or the senior debt obligations of the holding company of which such bank or financial institution is the principal subsidiary, are then rated “A” or better by any Rating Agency), in trust (herein called a “Special Redemption Fund”) of

amounts, less investment earnings realized and retained in the Special Redemption Fund, equal in aggregate to the principal amount of such Discount Indebtedness, or a portion thereof, and providing for the payment of such principal amount when due from the sums so deposited, and investment earnings realized thereon, then the Discount Indebtedness, or portion thereof, may be deemed to be payable in accordance with the terms of such agreement;

(3) If the Issuer has entered into arrangements or agreements with respect to the principal amount of such Discount Indebtedness, other than those referred to in subsections (1) and (2) above, which a Consultant in a certificate filed with the Issuer determines, taking into account the interests of the holders of System Indebtedness, provides adequate assurances that the Issuer will be able to meet the Debt Service Requirements due on such Indebtedness, the Discount Indebtedness may be deemed to be payable in accordance with the terms of such arrangement or agreement; or

(4) As of any time the maturity amount represented by Discount Indebtedness shall be deemed to be the accreted value of such Indebtedness computed on the basis of a constant yield to maturity.

(c) ***Debt Service Requirements on Variable Rate Indebtedness.*** When calculating interest requirements on Variable Rate Indebtedness which bears a variable rate of interest for periods as to which the rate of interest has not been determined, the rate of interest on Outstanding Variable Rate Indebtedness shall be the average annual rate of interest which was payable on such Variable Rate Indebtedness during the twelve (12) months immediately preceding the date as of which the calculation is made; and the rate of interest on Variable Rate Indebtedness to be incurred (or incurred less than twelve (12) months preceding such date) shall be the average annual rate of interest which would have been payable on such Variable Rate Indebtedness had it been outstanding for a period of twelve (12) months immediately preceding the date as of which the calculation is made, as evidenced in a certificate of a Consultant, delivered to the Issuer.

**Section 212. Preliminary and Final Official Statement.** The Preliminary Official Statement dated June 4, 2024, is hereby ratified and approved.

The final Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor or chief financial officer are hereby authorized to execute the final Official Statement as so supplemented, amended and completed, and the use and public distribution of the final Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 213. Sale of the Series 2024 Bonds.** The sale of the Series 2024 Bonds to the Purchaser is hereby ratified and confirmed. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Series 2024 Bonds shall be made to the Purchaser as soon as practicable after the adoption of this Bond Resolution, upon payment of the Purchase Price.

## ARTICLE III

### REDEMPTION OF BONDS

**Section 301. Redemption by Issuer.** The Bonds shall be subject to redemption and payment prior to their Stated Maturity, as follows:

(a) ***Optional Redemption.***

(1) *Series 2024 Bonds.* At the option of the Issuer, Series 2024 Bonds maturing on October 1, in the years 2033 and thereafter will be subject to redemption and payment prior to their Stated Maturity on October 1, 2032, and thereafter as a whole or in part (selection of maturities and the amount of Series 2024 Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest thereon to the Redemption Date.

(2) *Additional Bonds.* Additional Bonds are subject to redemption and payment prior to Stated Maturity in accordance with the provisions of the supplemental resolution authorizing the issuance of such Additional Bonds.

(b) ***Mandatory Redemption.***

(1) *General.* The Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.

(2) *[The Series 2024 Term Bonds.* The Issuer shall from the payments specified in **Section 602** hereof which are to be deposited into the Debt Service Account redeem on October 1 in each year, the following principal amounts of Series 2024 Term Bonds:

**Principal  
Amount**  
\$

**Year**  
20\_\_  
20\_\_  
20\_\_\*

\*Final Maturity

(3)] *Additional Bonds.* Additional Bonds designated as Term Bonds shall be subject to mandatory redemption in accordance with the provisions of the supplemental resolution authorizing such Additional Bonds.

**Section 302. Selection of Bonds to be Redeemed.** Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, 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 such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

**Section 303. Notice and Effect of Call for Redemption.** In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of any series of Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

- (a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2)

the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

## ARTICLE IV

### SECURITY FOR BONDS

**Section 401. Security for the Bonds.** The Bonds shall be special obligations of the Issuer payable solely from, and secured as to the payment of principal and interest by a pledge of, the Gross Revenues, and the Issuer hereby pledges said Gross Revenues to the payment of the principal of and interest on the Bonds. The Bonds shall not be or constitute a general obligation of the Issuer, nor shall they constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the Issuer is not pledged to the payment of the Bonds, either as to principal or interest.

The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Gross Revenues and in all other respects with any Parity Bonds and Parity Obligations. The Bonds shall not have any priority with respect to the payment of principal or interest from said income and revenues or otherwise over the Parity Bonds and Parity Obligations and the Parity Bonds and Parity Obligations shall not have any priority with respect to the payment of principal or interest from said income and revenues or otherwise over the Bonds.

## ARTICLE V

### ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

**Section 501. Creation of Funds and Accounts.** Simultaneously with the issuance of the Series 2024 Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Project Fund for Stormwater System Revenue Bonds, Series 2024.
- (b) Debt Service Account for Stormwater System Revenue Bonds, Series 2024.
- (c) Costs of Issuance Account for Stormwater System Revenue Bonds, Series 2024.
- (d) Rebate Fund for Stormwater System Revenue Bonds, Series 2024.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Series 2024 Bonds are Outstanding.

The following funds and accounts created and established in the treasury of the Issuer are hereby ratified and confirmed and shall be administered in accordance with the Parity Resolution so long as the Series 2024 Bonds and any Parity Bonds are Outstanding in accordance with the Parity Resolution:

- (e) Stormwater System Revenue Fund.
- (f) Debt Service Reserve Fund.
- (g) Stormwater System Depreciation and Replacement Account.
- (h) Stormwater System Operation and Maintenance Account.
- (i) Project Fund for Stormwater System Revenue Bonds, Series 2019.
- (j) Debt Service Account for Stormwater System Revenue Bonds, Series 2019.
- (k) Costs of Issuance Account for Stormwater System Revenue Bonds, Series 2019.
- (l) Rebate Fund for Stormwater System Revenue Bonds, Series 2019.
- (m) Project Fund for Stormwater System Revenue Bonds, Series 2022.
- (n) Debt Service Account for Stormwater System Revenue Bonds, Series 2022.
- (o) Costs of Issuance Account for Stormwater System Revenue Bonds, Series 2022.
- (p) Rebate Fund for Stormwater System Revenue Bonds, Series 2022.

The separate funds and accounts previously created and established pursuant to the Parity Resolutions shall be maintained and administered by the Issuer solely for the purposes and in the manner as provided in

the Parity Resolutions, so long as any of the Parity Bonds remain Outstanding within the meaning of any Parity Resolution.

**Section 502. Deposit of Series 2024 Bond Proceeds.** The net proceeds received from the sale of the Series 2024 Bonds shall be deposited simultaneously with the delivery of the Series 2024 Bonds as follows:

(a) All accrued interest received from the sale of the Series 2024 Bonds shall be deposited in the Debt Service Account.

(b) \$[ ] shall be deposited in the Costs of Issuance Account.

(c) The remaining balance of the proceeds derived from the sale of the Series 2024 Bonds in the amount of \$[ ] shall be deposited in the Project Fund.

**Section 503. Application of Moneys in the Project Fund.** Moneys in the Project Fund shall be used for the sole purpose of: (a) paying the costs of the Project, in accordance with the plans and specifications therefor prepared by the Issuer, approved by the governing body of the Issuer and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable by the Issuer and approved by the governing body of the Issuer; (b) paying interest on the Series 2024 Bonds during construction of the Project; and (c) transferring any amounts to the Rebate Fund required by *Section 505* hereof.

Upon completion of the Project, any surplus remaining in the Project Fund shall be deposited in the Debt Service Account.

**Section 504. Substitute Project; Reallocation of Proceeds.**

(a) The Issuer may elect for any reason to substitute or add other System improvements to be financed with proceeds of the Series 2024 Bonds provided the following conditions are met: (1) the Substitute Project and the issuance of Bonds to pay the cost of the Substitute Project has been duly authorized by the governing body of the Issuer in accordance with the laws of the State; (2) a resolution or ordinance authorizing the use of the proceeds of the Series 2024 Bonds to pay the Financeable Costs of the Substitute Project has been duly adopted by the governing body of the Issuer pursuant to this Section, (3) the Attorney General of the State has approved the amendment made by such resolution or ordinance to the transcript of proceedings for the Series 2024 Bonds to include the Substitute Project; and (4) the use of the proceeds of the Series 2024 Bonds to pay the Financeable Cost of the Substitute Project will not adversely affect the tax-exempt status of the Series 2024 Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Series 2024 Bond proceeds among all Projects financed by the Series 2024 Bonds; provided the following conditions are met: (1) the reallocation is approved by the governing body of the Issuer; (2) the reallocation shall not cause the proceeds of the Series 2024 Bonds allocated to any Project to exceed the Financeable Costs of the Project; and (3) the reallocation will not adversely affect the tax-exempt status of the Series 2024 Bonds under State or federal law.

**Section 505. Application of Moneys in the Rebate Fund.**

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Series

2024 Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the rebatable arbitrage, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Series 2024 Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Revenue Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article XI* hereof, the obligation to pay rebatable arbitrage to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Series 2024 Bonds.

**Section 506. Application of Moneys in the Costs of Issuance Account.** Moneys in the Costs of Issuance Account shall be used by the Issuer to pay the Costs of Issuance. Any funds remaining in the Costs of Issuance Account, after payment of all Costs of Issuance, but not later than the later of 30 days prior to the first Stated Maturity of principal or one year after the date of issuance of the Series 2024 Bonds, shall be transferred to the Project Fund until completion of the Project and thereafter to the Debt Service Account.

**Section 507. Application of Moneys in the Debt Service Reserve Fund.**

(a) Any series of Parity Bonds may be, but is not required to be, secured by the Debt Service Reserve Fund or an account thereof. The City may, in the future pursuant to the terms of a Parity Resolution, establish a Common Debt Service Reserve Account within the Debt Service Reserve Fund which shall be funded to secure the Covered Bonds in an amount equal to the Common Debt Service Reserve Requirement. If the City determines that a series of Parity Bonds will not be secured by the Common Debt Service Reserve Account, the City may, in the future pursuant to the terms of a Parity Resolution, establish a Series Debt Service Reserve Account within the Debt Service Reserve Fund and establish a related Series Debt Service Reserve Requirement. The Series Debt Service Reserve Account may be established for the benefit of one or more series of Parity Bonds as set forth in the Parity Resolution. Amounts held in an account of the Debt Service Reserve Fund shall be applied only to prevent deficiencies in the payments of principal of and interest on the related series of Bonds which have a claim on such account. All amounts paid and credited to any account within the Debt Service Reserve Fund shall be expended and used by the Issuer solely to prevent any default in the payment of interest on or principal of the applicable series of Parity Bonds on any Maturity date or Interest Payment Date if the moneys in the respective debt service accounts are insufficient to pay the Debt Service Requirements of said Parity Bonds as they become due.

(b) So long as each account established within the Debt Service Reserve Fund aggregates the applicable Debt Service Reserve Requirement, no further payments into said account shall be required, but if the Issuer is ever required to expend and use a part of the moneys in said account and such expenditure reduces the amount of the applicable account within the Debt Service Reserve Fund below the applicable Debt Service Reserve Requirement, or if the valuation of any account within the Debt Service Reserve Fund as provided in *Section 701(b)* establishes that the value of such account is less than 90% of the amount of the applicable Debt Service Reserve Requirement, the Issuer shall transfer all available Gross Revenues after providing for the transfers set forth in *Section 602(a) and (b)* into the applicable account within the Debt Service Reserve Fund until such account shall again aggregate the applicable Debt Service Reserve Requirement.

(c) Moneys in accounts within the Debt Service Reserve Fund may be used to call the applicable series of Parity Bonds for redemption and payment prior to their Stated Maturity or may be used to pay and retire the applicable series of Parity Bonds and interest thereon; provided that after such redemption or payment there shall remain in the applicable account within Debt Service Reserve Fund an amount equal to the applicable Debt Service Reserve Requirement.

(d) Any amounts in any account within the Debt Service Reserve Fund in excess of the applicable Debt Service Reserve Requirement on any valuation date shall be transferred to the Debt Service Account and used to pay the principal of and interest on the series of Parity Bonds to which such account is related.

## ARTICLE VI

### COLLECTION AND APPLICATION OF REVENUES

**Section 601. Revenue Fund.** The Issuer covenants and agrees that from and after the delivery of the Series 2024 Bonds and continuing as long as any of the Bonds remain Outstanding hereunder, all of the Gross Revenues shall as and when received be paid and deposited into the Revenue Fund. Said Gross Revenues shall be segregated and kept separate and apart from all other moneys, revenues, Funds and Accounts of the Issuer and shall not be commingled with any other moneys, revenues, Funds and Accounts of the Issuer. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in the Parity Resolution, except as may be modified by the provisions of the Parity Resolution.

**Section 602. Application of Moneys in Funds and Accounts.** The Issuer covenants and agrees that from and after the delivery of the Series 2024 Bonds and continuing so long as any of the Bonds shall remain Outstanding, it will on the first day of each month administer and allocate all of the moneys then held in the Revenue Fund as set forth below.

The following transfers shall be made on a parity of lien basis with the transfers and requirements of the Parity Resolutions.

(a) **Debt Service Account.** There shall first be paid and credited monthly to the Debt Service Account, to the extent necessary to meet on each Bond Payment Date, the payment of all interest on and principal of the Series 2024 Bonds, the following sums:

(1) Beginning with the first of said monthly deposits and continuing on the first day of each month thereafter, an equal pro rata portion of the amount of interest becoming due on the Series 2024 Bonds on October 1, 2022; and thereafter, beginning on October 1, 2022, and continuing on the first day of each month thereafter so long as any of the Series 2024 Bonds remain Outstanding an amount not less than 1/6 equal pro rata portion of the amount of interest that will become due on the Series 2024 Bonds on the next succeeding Interest Payment Date; and

(2) Beginning with the first of said monthly deposits and continuing on the first day of each month thereafter, so long as any of the Series 2024 Bonds remain Outstanding, an amount not less than 1/12 equal pro rata portion of the amount of principal that will become due on the Series 2024 Bonds on the next succeeding Maturity date.

The amounts required to be paid and credited to the Debt Service Account pursuant to this Section shall be made at the same time and on a parity with the amounts at the time required to be paid and credited

to the debt service accounts established for the payment of the Debt Service Requirements on Parity Bonds and Parity Obligations under the provisions of the Parity Resolution(s).

Any amounts deposited in the Debt Service Account in accordance with **Section 502(a)** hereof shall be credited against the Issuer's payment obligations as set forth in subsection (a)(1) of this Section.

All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the Debt Service Requirements of the Series 2024 Bonds as and when the same become due at Maturity and on each Interest Payment Date.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Account and to the debt service accounts established to pay the principal of and interest on any Parity Bonds or Parity Obligations, the available moneys in the Revenue Fund shall be divided among such debt service accounts in proportion to the respective principal amounts of said series of Bonds at the time Outstanding which are payable from the moneys in said debt service accounts.

(b) **Operation and Maintenance.** There shall next be paid and credited from month to month as a charge against the Revenue Fund, the Expenses as the same become due and payable.

(c) **Debt Service Reserve Fund.** There shall next be paid and credited monthly to the Debt Service Reserve Fund, an amount sufficient to fund the applicable accounts within the Debt Service Reserve Fund to their Debt Service Reserve Requirement, as set forth in **Section 507(b)**.

(d) **Debt Service Accounts – Junior Lien Obligations.** There shall next be paid and credited monthly to the debt service account(s) for any Junior Lien Obligations, to the extent necessary to meet on each Bond Payment Date an amount equal to the payment of all interest on and principal of any Junior Lien Obligations. The amounts required to be paid and credited to the debt service account(s) for any Junior Lien Obligations shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to other debt service accounts established for the payment of the Debt Service Requirements on any Junior Lien Obligations.

(e) **Debt Service Accounts – Subordinate Lien Bonds.** There shall next be paid and credited monthly to the debt service account(s) for any Subordinate Lien Bonds, to the extent necessary to meet on each Bond Payment Date an amount equal to the payment of all interest on and principal of any Subordinate Lien Bonds. The amounts required to be paid and credited to the debt service account(s) for any Subordinate Lien Bonds shall be made at the same time and on a parity with the amounts at the time required to be paid and credited to other debt service accounts established for the payment of the Debt Service Requirements on any Subordinate Lien Bonds.

(f) **Depreciation and Replacement Account.** After all payments and credits required at the time to be made under the provisions of the preceding subsections have been made, there shall next be paid and credited to the Depreciation and Replacement Account an amount determined by the governing body of the City. Except as hereinafter provided, moneys in the Depreciation and Replacement Account shall be expended and used by the Issuer, if no other funds are available therefor, solely for the purpose of making emergency replacements and repairs in and to the System as may be necessary to keep the System in good repair and working order and to assure the continued effective and efficient operation thereof.

(g) **Surplus Moneys.** After all payments and credits required at the time to be made under the provisions of the preceding subsections have been made, all moneys remaining in the Revenue Fund may be expended and used for the following purposes as determined by the governing body of the Issuer:

- (1) Paying the cost of the operation, maintenance and repair of the System to the extent that may be necessary after the application of the moneys held in the Operation and Maintenance Account under the provisions of paragraph (a) of this Section;
- (2) Paying the cost of extending, enlarging or improving the System;
- (3) Preventing default in, anticipating payments into or increasing the amounts in the Debt Service Account, any debt service account for Parity Bonds or Parity Obligations, the Debt Service Reserve Fund or the Depreciation and Replacement Account referred to in this Section, or any one of them, or establishing or increasing the amount of any debt service account or debt service reserve account created by the Issuer for the payment of any Parity Bonds or Parity Obligations;
- (4) Calling, redeeming and paying prior to Stated Maturity, or, at the option of the Issuer, purchasing in the open market at the best price obtainable not exceeding the redemption price (if any bonds are callable), any Bonds, including principal, interest and redemption premium, if any; or
- (5) Any other lawful purpose in connection with the operation of the System and benefiting the System.
- (6) To make transfers to the Revenue Fund.
- (7) To make lawful transfers to any fund of the Issuer.

So long as any of the Bonds remain Outstanding, no moneys derived from the operation of the System shall be diverted to any other purpose.

(h) ***Deficiency of Payments into Funds and Accounts.*** If at any time the Gross Revenues are insufficient to make any payment on the date or dates hereinbefore specified, the Issuer will make good the amount of such deficiency by making additional payments or credits out of the first available Gross Revenues, such payments and credits being made and applied in the order specified in this Section.

**Section 603. Transfer of Funds to Paying Agent.** The Treasurer of the Issuer is hereby authorized and directed to withdraw from the Debt Service Account, and, to the extent necessary to prevent a default in the payment of either principal of or interest on the Bonds, from the Debt Service Reserve Fund and the Depreciation and Replacement Account as provided in ***Section 602*** hereof, sums sufficient to pay the principal of and interest on the Bonds as and when the same become due on any Bond Payment Date, and to forward such sums to the Paying Agent in a manner which ensures the Paying Agent will have available funds in such amounts on or before the Business Day immediately preceding each Bond Payment Date. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution.

**Section 604. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

## ARTICLE VII

### DEPOSIT AND INVESTMENT OF MONEYS

#### Section 701. Deposits and Investment of Moneys.

(a) Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States : (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

(b) Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate, in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account. All earnings on investments held in the Debt Service Reserve Fund shall accrue to and become a part of the Debt Service Reserve Fund until the amount on deposit in the Debt Service Reserve Fund shall aggregate the Debt Service Reserve Requirement; thereafter, all such earnings shall be credited to the Debt Service Account and any debt service account for Parity Bonds or Parity Obligations on a pro rata basis. All earnings on investments held in the Depreciation and Replacement Account shall accrue to and become a part of the Depreciation and Replacement Account or the Revenue Fund, as directed by the governing body of the City.

In determining the amount held in any Fund or Account under any of the provisions of this Bond Resolution, Permitted Investments shall be valued at the lower of the cost or the market value thereof. Such valuation shall be made as of the final Stated Maturity of principal of any Fiscal Year that the Bonds remain Outstanding and may be made in conjunction with redemption of any Bonds. If and when the amount held in any Fund or Account shall be in excess of the amount required by the provisions of this Bond Resolution, the Issuer shall direct that such excess be paid and credited to the Revenue Fund.

(c) So long as any of the Parity Bonds remain Outstanding, any investments made pursuant to this Section shall be subject to any restrictions in the Parity Resolution with respect to the Funds and Accounts created by and referred to in the Parity Resolution.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

The Issuer covenants and agrees with each of the Owners of any of the Bonds that so long as any of the Bonds remain Outstanding and unpaid it will comply with each of the following covenants:

**Section 801. Efficient and Economical Operation.** The Issuer will continuously own and will operate the System as a revenue producing facility in an efficient and economical manner and will keep and maintain the same in good repair and working order.

**Section 802. Rate Covenant.**

(a) The Issuer, in accordance with and subject to applicable legal requirements, will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the System as will produce Gross Revenues sufficient to (1) enable the Issuer to have in each Fiscal Year, a Debt Service Coverage Ratio of not less than **1.20** on all Parity Bonds and Parity Obligations at the time Outstanding; (2) pay the Expenses; (3) enable the Issuer to have in each Fiscal Year, a Debt Service Coverage Ratio of not less than **1.00** on any Junior Lien Obligations and Subordinate Lien Bonds at the time Outstanding; and (4) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the System as provided in this Bond Resolution. To the extent the Issuer has made or will make interfund transfers to the Revenue Fund or has made or will make transfers from other Issuer funds and accounts directly to the Paying Agent, or there are other credits to the revenue of the System, for the purpose of paying all or a portion of the Debt Service Requirement on any Subordinate Lien Bonds that constitute general obligations of the Issuer, such transfers shall constitute Gross Revenues for purposes of this *Section 802(a)*.

(b) The Issuer will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The Issuer will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Gross Revenues and other available funds will be sufficient to cover the obligations under this Section and otherwise under the provisions of this Bond Resolution.

**Section 803. Reasonable Charges for all Services.** None of the facilities or services provided by the System will be furnished to any user (excepting the Issuer itself) without a reasonable charge being made therefor. If the Gross Revenues derived from the System are at any time insufficient to pay the reasonable Expenses and also to pay the Debt Service Requirements of the Bonds and Additional Obligations as and when the same become due, then the Issuer will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates and charges for all services or other facilities furnished to the Issuer or any of its departments by the System, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the Debt Service Requirements of the Bonds and Additional Obligations.

**Section 804. Restrictions on Mortgage or Sale of System.** The Issuer will not mortgage, pledge or otherwise encumber the System or any part thereof, nor will it sell, lease or otherwise dispose of the System or any material part thereof; provided, however, the Issuer may:

(a) sell at fair market value any portion of the System which has been replaced by other similar property of at least equal value, or which ceases to be necessary for the efficient operation of the System, and in the event of sale, the Issuer will apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing repayment of Bonds in advance of Stated Maturity, or (2) replacement of the property so disposed of by other property the revenues of which shall be incorporated into the System as hereinbefore provided;

(b) cease to operate, abandon or otherwise dispose of any property which has become obsolete, nonproductive or otherwise unusable to the advantage of the Issuer;

(c) sell, lease or convey all or substantially all of the System to another entity or enter into a management contract with another entity if:

(1) The transferee entity is a political subdivision organized and existing under the laws of the State, or instrumentality thereof, or an organization described in Code § 501(c)(3), and expressly assumes in writing the due and punctual payment of the principal of and premium, if any, and interest on all outstanding System Indebtedness according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Bond Resolution;

(2) If there remains unpaid any System Indebtedness which bears interest that is not includable in gross income under the Code, the Issuer receives an opinion of Bond Counsel, in form and substance satisfactory to the Issuer, to the effect that under then existing law the consummation of such sale, lease or conveyance, whether or not contemplated on any date of the delivery of such System Indebtedness, would not cause the interest payable on such System Indebtedness to become includable in gross income under the Code;

(3) The Issuer receives a certificate of the Consultant which demonstrates and certifies that immediately upon such sale or conveyance the transferee entity will not, as a result thereof, be in default in the performance or observance of any covenant or agreement to be performed or observed by it under this Bond Resolution; and

(4) The Issuer receives an opinion of Bond Counsel, in form and substance satisfactory to the Issuer, as conclusive evidence that any such sale, lease or conveyance, and any such assumption, is permitted by law and complies with the provisions of this Section.

**Section 805. Books, Records and Accounts.** The Issuer will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the Issuer) in which complete and correct entries will be made of all dealings and transactions of or in relation to the System. Such accounts shall show the amount of Gross Revenues received from the System, the application of such funds, and all financial transactions in connection therewith. Said books shall be kept by the Issuer according to standard accounting practices as applicable to the operation of municipal utilities.

**Section 806. Annual Budget.** Prior to the commencement of each Fiscal Year, the Issuer will cause to be prepared and filed with the Clerk a budget setting forth the estimated receipts and expenditures of the System for the next succeeding Fiscal Year. Said annual budget shall be prepared in accordance with the requirements of the laws of the State.

**Section 807. Annual Audit.** Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements System for the preceding Fiscal Year by an Independent Accountant to be employed for that purpose and paid from the Gross Revenues. Said annual audit shall cover in reasonable detail the operation of the System during such Fiscal Year.

As soon as possible after the completion of the annual audit, the governing body of the Issuer shall review the report of such audit, and if the audit report discloses that proper provision has not been made for all of the requirements of this Bond Resolution and the Act, the Issuer will promptly cure such deficiency and will promptly proceed to modify the rates and charges to be charged for the use and services furnished by the System or take such other action as may be necessary to adequately provide for such requirements.

**Section 808. Right of Inspection.** The Owner or Owners of 10% of the principal amount of the Bonds then Outstanding shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto, and shall be furnished all such information concerning the System and the operation thereof which the Purchaser or such Owner or Owners may reasonably request.

**Section 809. Performance of Duties and Covenants.** The Issuer will faithfully and punctually perform all duties, covenants and obligations with respect to the operation of the System now or hereafter imposed upon the Issuer by the Constitution and laws of the State and by the provisions of this Bond Resolution.

**Section 810. Parity Bond Certification.** The Issuer hereby represents and covenants that the Series 2024 Bonds directed to be issued by this Bond Resolution are so issued in full compliance with the restrictions and conditions upon which the Issuer may issue Additional Bonds payable out of the Revenues derived from the operation of the System and which stand on a parity with the Parity Bonds issued and Outstanding, as set forth and contained in the Parity Resolution, and that the Series 2024 Bonds herein directed to be issued are so issued in all respects on a parity and equality with the Parity Bonds issued and Outstanding.

## ARTICLE IX

### ADDITIONAL BONDS AND OBLIGATIONS

**Section 901. Senior Lien Bonds.** The Issuer covenants and agrees that so long as any of the Parity Bonds remain Outstanding, the Issuer will not issue any System Indebtedness payable out of the Gross Revenues which are superior to the Parity Bonds with respect to the lien on the Gross Revenues.

**Section 902. Parity Bonds and Parity Obligations.** The Issuer covenants and agrees that it will not issue any System Indebtedness which stands on a parity or equality of lien against the Gross Revenues with the Parity Bonds unless the following conditions are met:

(a) The Issuer shall not be in default in the payment of principal of or interest on any Parity Bonds or Parity Obligations at the time Outstanding or in making any payment at the time required to be made into the respective Funds and Accounts created by and referred to in this Bond Resolution or any Parity Resolution (unless such System Indebtedness is being issued to provide funds to cure such default) nor shall any other Event of Default have occurred and be continuing;

(b) The Issuer shall deliver the following:

(1) **Long-Term Indebtedness.** A certificate signed by the Issuer evidencing *either* of the following:

(i) The Debt Service Coverage Ratio for the Fiscal Year immediately preceding the issuance of such System Indebtedness, as reflected by information provided by the Independent Accountant, shall be not less than **1.60**, including the System Indebtedness proposed to be issued. In the event that the Issuer has instituted any increase in rates for the use and services of the System and such increase shall not have been in effect during the full Fiscal Year immediately preceding the issuance of such proposed System Indebtedness, the additional Net Revenues which would have resulted from the operation of the System during said preceding Fiscal Year had such rate increase been in effect for the entire period may be added to the stated Net Revenues for the calculation of the Debt Service Coverage Ratio, provided that such estimated additional Net Revenues shall be determined by a Consultant; or

(ii) The estimated Debt Service Coverage Ratio (as determined by a Consultant), for the Fiscal Year immediately following the Fiscal Year in which the project,

the cost of which is being financed by such System Indebtedness, is to be in commercial operation, shall be not less than **1.60**, including the System Indebtedness proposed to be issued. In the event that the Issuer anticipates additional Gross Revenues or other credits to the revenues of the System as a result of expansion or modification of the System by such System Indebtedness, the Issuer may adjust the estimated Net Revenues in determining the Debt Service Coverage Ratio, by adding thereto any estimated increase in Net Revenues resulting from any increase in Gross Revenues or other credits to the revenues of the System, which, in the opinion of the Consultant, are reasonable based on projected operations of the System for such Fiscal Year.

(2) **Short-Term Indebtedness.** A certificate signed by the Issuer evidencing any *one* of the following:

(i) The principal amount of all Outstanding Short-Term Indebtedness does not exceed 15% of the Gross Revenues for the most recently ended Fiscal Year for which financial information is available from the Independent Accountant;

(ii) The Short-Term Indebtedness could be incurred under **subsection (b)(1)** hereof assuming it was Long-Term Indebtedness; or

(iii) There is delivered to the Issuer a certificate of a Consultant to the effect that it is such Consultant's opinion that it is reasonable to assume that the Issuer will be able to refinance such Short-Term Indebtedness prior to its Stated Maturity in compliance with the provisions of this Section and the conditions described in **subsection (b)(1)** are met with respect to such Short-Term Indebtedness when it is assumed that such Short-Term Indebtedness is Long-Term Indebtedness maturing over 20 years (or such shorter period as such Consultant indicates is reasonable to assume in such statement) from the date of issuance of the Short-Term Indebtedness and bears interest on the unpaid principal balance at the Index Rate and is payable on a level annual debt service basis over a 20-year period (or such shorter period as such Consultant indicates is reasonable to assume in such statement).

(3) **Interim Indebtedness.** A certificate signed by the Issuer evidencing *either* of the following:

(i) The Interim Indebtedness could be incurred under **subsection (b)(1)** hereof assuming it was Long-Term Indebtedness; or

(ii) There is delivered to the Issuer a certificate of a Consultant to the effect that it is such Consultant's opinion that it is reasonable to assume that the Issuer will be able to refinance such Interim Indebtedness prior to its Stated Maturity in compliance with the provisions of this Section and the conditions described in **subsection (b)(1)** are met with respect to such Interim Indebtedness when it is assumed that such Interim Indebtedness is Long-Term Indebtedness maturing over 20 years (or such shorter period as such Consultant indicates is reasonable to assume in such statement) from the date of issuance of the Interim Indebtedness and bears interest on the unpaid principal balance at the Index Rate and is payable on a level annual debt service basis over a 20-year period (or such shorter period as such Consultant indicates is reasonable to assume in such statement).

(c) When the issuance of System Indebtedness of equal stature and priority is permitted by the statutes of the State.

(d) The ordinance and/or resolution authorizing such System Indebtedness shall contain or provide for substantially the same terms, conditions, covenants and procedures as established in this Bond Resolution.

Notwithstanding the foregoing restrictions, additional System Indebtedness may be issued under this Section if it is necessary: (1) in the opinion of the Consulting Engineer to do so to repair the System if damaged or destroyed by disaster to such extent necessary to keep it in good operating condition; or (2) in the opinion of the Issuer's legal counsel to remedy any deficiency of the System relating to environmental pollution matters or to comply with the requirements of any governmental agency having jurisdiction over the Issuer with respect thereto.

Additional System Indebtedness issued under the conditions set forth in this Section shall stand on a parity with the Parity Bonds and Parity Obligations and shall enjoy complete equality or lien on and claim against the Gross Revenues, and the Issuer may make equal provision for paying the Debt Service Requirements on such System Indebtedness out of the Revenue Fund and may likewise provide for the creation of reasonable debt service accounts and debt service reserve accounts for the payment of the Debt Service Requirements on such System Indebtedness and the interest thereon out of moneys in the Revenue Fund.

**Section 903. Junior Lien Obligations.** Nothing in this Article shall prohibit or restrict the right of the Issuer to issue Junior Lien Obligations for any lawful purpose in connection with the operation of and benefiting the System and to provide that the Debt Service Requirements on such Junior Lien Obligations shall be payable out of the Gross Revenues, provided at the time of the issuance of such Junior Lien Obligations the Issuer is not in default in the performance of any covenant or agreement contained in the Bond Resolution (unless such System Indebtedness shall be issued to cure such default and shall be junior and subordinate to the Parity Bonds and Parity Obligations) so that if at any time the Issuer shall be in default in paying either interest on or principal of the Parity Bonds or Parity Obligations, or of the Issuer is in default in making debt service, operation and maintenance or debt service reserve deposits or payments required to be made by it under the Bond Resolution, the Issuer shall make no payments of either principal of or interest on said Junior Lien Obligations until said default or defaults be cured.

**Section 904. Subordinate Lien Bonds.** Nothing in this Article shall prohibit or restrict the right of the Issuer to issue Subordinate Lien Bonds for any lawful purpose in connection with the operation of and benefiting the System and to provide that the Debt Service Requirements on such Subordinate Lien Bonds shall be payable out of the Gross Revenues, provided at the time of the issuance of such Subordinate Lien Bonds the Issuer is not in default in the performance of any covenant or agreement contained in the Bond Resolution (unless such System Indebtedness shall be issued to cure such default and shall be junior and subordinate to the Parity Bonds, Parity Obligations and Junior Lien Obligations) so that if at any time the Issuer shall be in default in paying either interest on or principal of the Parity Bonds, Parity Obligations and Junior Lien Bonds, or of the Issuer is in default in making debt service, operation and maintenance or debt service reserve deposits or payments required to be made by it under the Bond Resolution, the Issuer shall make no payments of either principal of or interest on said Subordinate Lien Bonds until said default or defaults be cured. Such Subordinate Lien Bonds may also constitute general obligations of the Issuer.

**Section 905. Refunding Bonds.** The Issuer shall have the right, without complying with the provisions of *Section 902* hereof, to issue Refunding Bonds for the purpose of refunding any of the System Indebtedness under the provisions of any law then available, and the Refunding Bonds so issued shall enjoy complete equality of pledge as did the System Indebtedness that was refunded.

## ARTICLE X

### DEFAULT AND REMEDIES

**Section 1001. Remedies.** The provisions of this Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

The Issuer hereby directs the Paying Agent to notify the Owners and Bond Insurer of any Event of Default of which it has actual notice.

**Section 1002. Limitation on Rights of Owners.** The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds of any series shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the Funds and Accounts herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever 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 Owners of such Outstanding Bonds.

**Section 1003. Remedies Cumulative.** No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall, subject to any determination in such action or proceeding or applicable law of the State, be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

**Section 1004. No Obligation to Levy Taxes.** Nothing contained in this Bond Resolution shall be construed as imposing on the Issuer any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

## ARTICLE XI

### DEFEASANCE

**Section 1101. Defeasance.** When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Gross Revenues hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until: (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with **Section 303** of this Bond Resolution. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company 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 money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

## ARTICLE XII

### TAX COVENANTS

**Section 1201. General Covenants.** The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 2024 Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Series 2024 Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

**Section 1202. Survival of Covenants.** The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Series 2024 Bonds

pursuant to *Article XI* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

### ARTICLE XIII

#### CONTINUING DISCLOSURE REQUIREMENTS

**Section 1301. Disclosure Requirements.** The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

**Section 1302. Failure to Comply with Continuing Disclosure Requirements.** In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section.

### ARTICLE XIV

#### MISCELLANEOUS PROVISIONS

**Section 1401. Amendments.** The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond;
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution; or
- (e) permit the creation of a lien on the Gross Revenues prior or equal to the lien of the Parity Bonds or Additional Obligations.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by resolution or ordinance duly adopted by the governing body of the Issuer at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Project, to reallocate proceeds of the Bonds among Project, to provide for Substitute Project, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution or ordinance adopted by the governing body of the Issuer amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental resolution or ordinance, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or ordinance of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution or ordinance of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

**Section 1402. Notices, Consents and Other Instruments by Owners.** Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been

pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

**Section 1403. Notices.** Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly delivered by prepaid overnight delivery service or mailed by registered or certified mail, postage prepaid; or (b) communicated via electronic mail, with confirmation of receipt by delivery receipt, read receipt or otherwise. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by (a) delivery service or mail as aforesaid shall be deemed duly given as of the date they are so provided to the delivery service or mailed, respectively, and (b) electronic mail as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

**Section 1404. Inconsistent Provisions.** In case any one or more of the provisions of this Bond Resolution or of the Bonds issued hereunder shall for any reason be inconsistent with the provisions of any Parity Resolution or any Parity Bonds: (a) the provisions of any Parity Resolution adopted prior to this Bond Resolution shall prevail with respect to Parity Bonds issued prior in time, so long as such Parity Bonds are Outstanding; and (b) the provisions of this Bond Resolution shall prevail with respect to any Parity Resolution adopted subsequent to the Bond Resolution, so long as any Parity Bonds issued under this Bond Resolution are Outstanding.

**Section 1405. Electronic Transactions.** The transactions described in this Bond Resolution may be conducted, and documents related to the Series 2024 Bonds may be sent, received, executed, and stored, by electronic means or transmissions. Copies, telecopies, electronic files and other reproductions of original executed documents (or documents executed by electronic means or transmissions) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 1406. Further Authority.** The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial 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 1407. Severability.** If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

**Section 1408. Governing Law.** This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

**Section 1409. Effective Date.** This Bond Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

**ADOPTED** by the governing body of the Issuer on June 18, 2024.

(SEAL)

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Mayor

ATTEST:

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Clerk

**EXHIBIT A**  
**(FORM OF SERIES 2024 BONDS)**

**REGISTERED**  
**NUMBER** \_\_\_\_\_

**REGISTERED**  
**\$**\_\_\_\_\_

**Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.**

**UNITED STATES OF AMERICA**  
**STATE OF KANSAS**  
**COUNTY OF JOHNSON**  
**CITY OF OLATHE**  
**STORMWATER SYSTEM REVENUE BOND**  
**SERIES 2024**

**Interest**  
**Rate:**

**Maturity**  
**Date:**

**Dated**  
**Date: July 10, 2024**

**CUSIP:**

**REGISTERED OWNER:** \_\_\_\_\_

**PRINCIPAL AMOUNT:** \_\_\_\_\_

**KNOW ALL PERSONS BY THESE PRESENTS:** That the City of Olathe, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, unless called for redemption prior to said Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on April 1 and October 1 of each year, commencing October 1, 2022 (the “Interest Payment Dates”), until the Principal Amount has been paid.

**Method and Place of Payment.** The principal or redemption price of this Series 2024 Bond shall be paid at maturity or upon earlier redemption to the person in whose name this Series 2024 Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Series 2024 Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Series 2024 Bond on any Interest Payment Date shall be paid to the person in whose name this Series 2024 Bond is registered on the registration books maintained by the Bond Registrar at the close of business on the Record Date(s) for such interest, which shall be the

15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner or, (b) in the case of an interest payment to any Registered Owner of \$1,000,000 or more in aggregate principal amount of Series 2024 Bonds, by electronic transfer to such Registered Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal or redemption price of and interest on the Series 2024 Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

**Definitions.** Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

**Authorization of Series 2024 Bonds.** This Series 2024 Bond is one of an authorized series of bonds of the Issuer designated “Stormwater System Revenue Bonds, Series 2024,” aggregating the principal amount of \$[Principal Amount] (the “Series 2024 Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Series 2024 Bonds and the Resolution of the Issuer prescribing the form and details of the Series 2024 Bonds (collectively, the “Bond Resolution”). The Series 2024 Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 *et seq.*, K.S.A. 10-620 *et seq.*, and K.S.A. 10-1201 *et seq.*, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

**Special Obligations.** The Series 2024 Bonds are special obligations of the Issuer payable solely from, and secured as to the payment of principal and interest by a pledge of, the Gross Revenues, and the taxing power of the Issuer is not pledged to the payment of the Series 2024 Bonds either as to principal or interest. The Series 2024 Bonds shall not be or constitute a general obligation of the Issuer, nor shall they constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision, limitation or restriction. The Series 2024 Bonds stand on a parity and are equally and ratably secured with respect to the payment of principal and interest from the Gross Revenues and in all other respect to a series of (a) Stormwater System Revenue Bonds, Series 2019, of the Issuer, dated February 10, 2019 and (b) Stormwater System Revenue Bonds, Series 2022, of the Issuer, dated July 12, 2022. ***Under the conditions set forth in the Bond Resolution, the Issuer has the right to issue additional System Indebtedness payable from the same source and secured by the Gross Revenues on a parity with said Gross Revenues; provided, however, that such additional System Indebtedness may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Bond Resolution.***

**Redemption Prior to Maturity.** The Series 2024 Bonds are subject to redemption prior to maturity as set forth in the Bond Resolution.

**Book-Entry System.** The Series 2024 Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One certificate with respect to each date on which the Series 2024 Bonds are stated to mature or with respect to each form of Series 2024 Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Series 2024 Bonds by the Securities Depository’s participants, beneficial ownership of the Series 2024 Bonds in Authorized Denominations being evidenced

in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Series 2024 Bond, as the owner of this Series 2024 Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Series 2024 Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to Beneficial Owners of the Series 2024 Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such Beneficial Owners. The Issuer and the Bond Registrar will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the Owner of this Series 2024 Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Series 2024 Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

**Transfer and Exchange.** EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Series 2024 Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Series 2024 Bond together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Series 2024 Bond or Series 2024 Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Series 2024 Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Series 2024 Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Series 2024 Bonds are issued in fully registered form in Authorized Denominations.

**Authentication.** This Series 2024 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

**IT IS HEREBY DECLARED AND CERTIFIED** that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Series 2024 Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation, and that provision has been duly made for the collection and segregation of the Gross Revenues of the Stormwater System (the "System") and for the application of the same as provided in the hereinafter defined Bond Resolution.

**IN WITNESS WHEREOF**, the Issuer has caused this Series 2024 Bond to be executed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

**CITY OF OLATHE, KANSAS**

(Facsimile Seal)

\_\_\_\_\_  
(facsimile)  
Mayor

ATTEST:

By \_\_\_\_\_  
(facsimile)  
Clerk

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**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This Series 2024 Bond is one of a series of Stormwater System Revenue Bonds, Series 2024, of the City of Olathe, Kansas, described in the within-mentioned Bond Resolution.

Registration Date: \_\_\_\_\_

Office of the State Treasurer,  
Topeka, Kansas,  
as Bond Registrar and Paying Agent

By \_\_\_\_\_

Registration Number: \_\_\_\_\_

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**BOND ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

\_\_\_\_\_  
(Name and Address)

\_\_\_\_\_  
(Social Security or Taxpayer Identification No.)

the Series 2024 Bond to which this assignment is affixed in the outstanding principal amount of \$ \_\_\_\_\_, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint \_\_\_\_\_ as agent to transfer said Series 2024 Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Social Security or  
Taxpayer Identification No.

\_\_\_\_\_  
Signature (Sign here exactly as name(s)  
appear on the face of Certificate)

Signature guarantee:

By \_\_\_\_\_

\_\_\_\_\_





# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Economy

**STAFF CONTACT:** Jamie Robichaud/Briana Burrichter

**SUBJECT:** Discussion regarding proposed revisions to the Debt Management and Fiscal Policy.

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**TITLE:**

Discussion regarding proposed revisions to the Debt Management and Fiscal Policy.

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**SUMMARY:**

During the Spring 2024 Budget Priorities discussion Council requested staff review and update the Debt Management and Fiscal Policy ideally prior to 2025 budget discussions. Key elements suggested for review were debt performance measures as well as outlining fund balance targets for all funds. Staff has worked closely with our city's financial advisor in the review of the policy as well as considering the organizations current practices and government best practice. Therefore, the proposed revisions serve to align the City's formal policy with established goals and actual practice.

The attached proposed new policy is accompanied by the red-line version to highlight the changes. In conjunction with our Financial Advisors we will review and discuss these changes with Council on June 18<sup>th</sup>. Per the direction of the City Council after reviewing the revisions, the revised policy will be scheduled for formal adoption at the July 2<sup>nd</sup> City Council Meeting.

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**FINANCIAL IMPACT:**

Rating Agencies look favorably on management practices that include formal periodic update that clarify and formalize accepted practices of the organization.

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**ACTION NEEDED:**

Discuss the proposed policy revisions. Per direction of Council the formal adoption will be scheduled for July 2<sup>nd</sup>, 2024.

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**ATTACHMENT(S):**

- A: Proposed revised version of Debt Management and Fiscal Policy
- B: Red-line version of proposed Debt Management and Fiscal Policy

**F-1**

<b>CITY OF OLATHE</b>	Policy No.: F-1
<b>COUNCIL POLICY STATEMENT</b>	Date Issued: XX-XX-24
General Scope: Finance	Effective Date: XX-XX-24
Specific Subject: Debt Management and Fiscal Policy	Cancellation Date: Until Repealed
	Supersedes No.: Listed Below

Purpose:

To set forth the general public policy objectives of the city as relates to debt and fiscal management.

Statement of Policy:

The statement of policy is hereby incorporated with Resolution No. 20-1063. Previous debt management and fiscal policy was incorporated by Resolution Nos. 20-1063, 10-1073, 01-1115, 99-1002 and 89-1213.

RESOLUTION NO. 24-xxxx

A RESOLUTION ADOPTING A DEBT MANAGEMENT AND FISCAL POLICY FOR THE CITY OF OLATHE; AND REPEALING RESOLUTION NO. 20-1063.

WHEREAS, the City of Olathe ("City") has an important responsibility to its taxpayers to carefully account for public funds, to manage municipal finances wisely and to plan the adequate funding of services and improvements; and

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WHEREAS, the financing of capital improvements by the City must be structured by ability to pay in order to maintain fiscal stability; and

WHEREAS, the Governing Body of the City has determined that there is a necessity to establish debt management policy and guidelines to provide the structure of continuing fiscal stability, reduce financial risk and maintain adequate contingency assets for present and future requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The Governing Body of the City hereby adopts the debt management and fiscal policy as set forth following.

“DEBT MANAGEMENT AND FISCAL POLICIES”

A. General Policies

1. The City will conduct its debt management functions in a manner designed to maintain or enhance its existing general obligation credit ratings at AA+ or better and utility revenue bond credit ratings at AA or better.

2. Debt issuance will be utilized by the City only in those cases where public policy, equity and efficient use of limited resources favor debt over cash financing. Decision criteria considered may include, but not be limited to, the following:

(a) Debt shall be used to finance capital projects with a life expectancy of 10 years or greater.

(b) Debt shall be issued in such a way so that the term of the financing is shorter than the useful life of the asset.

B. Capital Improvements Program

1. A capital improvements program shall be prepared, submitted to, and approved by the Council.

2. The capital improvements program shall consist of a 5-year or longer priority listing of capital projects, accompanied by a financing plan. The financing plan should indicate the funding sources for each project (i.e., cash, debt, grants). The financing plan shall be in

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accordance with the debt management policies contained herein.

3. It is the intent of these policies that authorized projects must be part of an adopted capital improvements program.

C. Management

1. It shall be the responsibility of the city manager or designee to maintain all necessary files associated with the issuance of City debt.

2. The city manager or designee shall submit for Council consideration a fiscal impact statement prior to any Council action to authorize a project involving the issuance of debt. The fiscal impact statement shall contain, at a minimum:

(a) An estimate of the debt service levy (net of the impacts of self-supporting revenues) to be required at the time of long-term debt issuance.

(b) A calculation showing the impact of this additional levy to the existing debt service levy at that time; and any projected user fee rate increases in the case of revenue bond financing.

3. Equipment replacement funds shall be established and funded annually to plan for and ensure that adequate funds are available to replace essential equipment on a timely basis.

D. Debt Issuance Purposes and Revenue Sources

1. Benefit district debt shall be issued in conformance with the City's benefit district policy (Policy PI-5). The following provisions shall apply:

(a) Bonds may be secured by the full faith and credit pledge of the City, but assessment payments shall be adequate to pay 100 percent of debt service unless otherwise stipulated by the creation document.

(b) Benefit district project costs shall include all construction, engineering, financing, legal and administrative costs of the program.

(c) Assessments for benefit district improvements will include a maximum of 5% of the total cost of the improvement to reimburse the City for services rendered by the City in

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the administration and supervision of the improvement by its general officers. See K.S.A. 12-6a01(d). Such reimbursement will be charged in accordance with the following schedule:

<b>Project Cost</b>		
	5.0% Up to	\$ 100,000
\$ 5,000 Plus	4.0% Over	\$ 100,000
\$11,000 Plus	3.0% Over	\$ 250,000
\$18,500 Plus	2.0% Over	\$ 500,000
\$28,500 Plus	1.5% Over	\$1,000,000
\$51,000 Plus	1.0% Over	\$2,500,000

(d) Outstanding bonds will be retired when sufficient revenues are accumulated, provided that bonds have either reached their call date or a refunding escrow can be structured without material economic loss.

(e) Debt will not be issued by the City to finance projects for any entities with the authority to issue tax exempt bonds, though exceptions may be considered to finance public infrastructure for the benefit of connectivity to public schools. U.S.D. 233 is exempted from this policy.

2. Capital improvements shall be financed in accordance with the capital improvements program. Funds shall be available for the financing of general improvements in accordance with the following:

(a) To the extent funds described in paragraph F.2.(a) are in excess of that required by the City's general fund operating budget, the excess amount shall first be used to fully fund the operating capital general fund reserve to the level required in paragraph F.2.(f) by these policies and then used for cash financing of capital improvements.

(b) It shall be a goal of the City to finance at least a portion of the city-at-large capital improvement budget with cash financing.

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(c) Debt service payments on non-benefit district general obligation bonds, not abated by other revenues, shall be paid from the debt service property tax levy.

(d) It is the City's practice to issue temporary notes for project expenditures anticipated to occur less than one year from the time of note issuance. Temporary note issuances will be planned to correspond with an annual long-term bond issuance, with a closing date designed to allow for all outstanding temporary notes from the prior year to be repaid on their due date each year. Long-term bonds will typically be issued for completed projects or portions of projects.

3. Debt issued for water, sewer, stormwater and other purposes for which operating and capital needs are supported by user fees shall be in the form of revenue bonds secured by the appropriate user fees and other utility revenues. User fees shall be adequate to support operating requirements and revenue bond covenants for each purpose.

4. Advance refunding or prepayment of outstanding debt may occur when the possibility of interest cost reduction exists, or the City wishes to restructure its debt service and/or amend its contractual bond requirements.

5. The City may be asked to issue revenue-only bonds relating to economic development. These bonds normally take the form of tax increment financing (TIF), transportation development district (TDD) or community improvement district (CID) bonds. The Governing Body has approved separate, detailed policies for each of these forms of economic development bonds and will comply with such policies.

E. Debt Issuance Limits, Debt Structure and Repayment Schedules

1. The City shall use the following limits to guide annual debt issuance and the development of the five-year capital improvement plan:

(a) The City's goal will be to not exceed 60% of its statutory debt limit.

(b) Amortization of general obligation debt in total, less temporary notes, will be structured to retire a target of 80%, with a minimum of 70%, of the City's indebtedness within ten (10) years.

(c) The City's direct debt, which includes general obligation bonds, notes and special

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obligation bonds, will have a maximum targeted limit of 3% of total market value.

2. Debt structure shall be designed in accordance with the following, unless the City's financial advisor or bond counsel recommends an alternative approach:

(a) Issue tax-exempt debt when feasible. Taxable debt may be issued under the following criteria:

- It is required by IRS regulation; or
- Advantageous tax-rebated bond products are available under Federal or state law; or
- It is in the City's best interest to issue taxable debt to mitigate its risk of non-repayment; or
- The cost of taxable debt would not materially increase the City's cost of borrowing.

(b) General obligation debt should only use fixed rate obligations. Fixed rate obligations should generally be used for revenue bonds, certificates of participation, and special obligation bonds, unless variable rate debt provides for reduced interest costs over a multi-year period, after accounting for the additional costs and risk associated with such obligations, and significant flexibility in redeeming the bonds. If variable rate obligations are issued, the City shall budget debt service obligations at then-current fixed rate levels along with other cash reserves to ensure against interest rate increases and to further mitigate periods of prolonged high short-term interest rates.

(c) Debt should be marketed on a competitive bid basis, if feasible. A negotiated sale may be undertaken upon the recommendation of the City's financial advisor if one or more of the following conditions exist: (1) the issue lacks sufficient credit quality; (2) the principal amount is extremely large or small; (3) the issue appeals to a relatively narrow investor base; (4) the bonds are issued under a new legal authority; (5) sufficient bidder participation is in question; or (6) the market is experiencing extreme volatility.

(d) Optional prepayment provisions should generally be included in each bond issuance.

(e) Derivative transactions are prohibited unless specifically approved by the City's Governing Body.

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3. Repayment schedules should be designed to be less than the useful life of the asset and generally be in accordance with the following:

(a) Ten (10) years for most general obligation public improvement debt. The City's goal is to structure debt with declining debt service payments over the life of the debt portfolio as a whole, taking into consideration the forecasted revenues for the Debt Service Fund. The City should maintain a constant or declining debt service levy demand annually based upon existing and forecasted debt issuance. Utility revenue debt will generally be structured in a similar way, providing for a constant or increasing debt service coverage profile, when possible, except that repayment terms may be for a longer period of time due to the longer asset life of utility infrastructure improvements.

(b) Ten (10) years for most benefit district debt. Debt will be structured as set forth in Section 3.a.

(c) Ten (10) to twenty (20) years for capital improvements of citywide significance and where justified by the magnitude of the project.

(d) On an overall basis, it is the goal of the City that all general obligation debt, less temporary notes, be structured to retire at least eighty (80) percent of the City's indebtedness within ten (10) years, with a minimum of seventy (70) percent retiring within ten (10) years.

(e) The City shall ensure that it fully complies with all state and federal regulatory compliance, including post-issuance compliance related to continuing disclosure, maintenance of records, testing of ongoing compliance and arbitrage rebate.

(f) The City understands the importance of high credit quality to reducing its costs of debt issuance, and the City will maintain ongoing communications with the rating agencies, keeping them apprised of information central to the credit rating determination.

F. Fund Balance Reserves

1. The maintenance of adequate reserves is essential to meet cash flow requirements, provide flexibility for revenue and expenditure volatility, fund capital and equipment replacement, be

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prepared for unanticipated expenses, as well as maintain compliance with debt covenants. Reserves are a significant factor considered in evaluating and assigning credit ratings by the bond rating agencies, and keeping adequate reserves ensure that the City is able to issue debt at a responsible interest rate.

2. In order to meet potentially unanticipated needs, it shall be the goal of the City to maintain the following reserves:

- (a) General Fund. A minimum fund balance in the General Fund of 30% of annual revenues. Reserves in excess of 30% may be maintained to plan for future operational costs or utilized for one-time expenditures at the discretion of the City Council. Median data published by one of the rating agencies suggest fund balance levels of at least 40% of annual expenditures for those at or aspiring to receive a credit rating of AAA.
  - (b) Enterprise Fund. All enterprise funds should maintain a ninety (90) day reserve (measured against average daily operating expenses), as well as all reserves required by revenue bond indentures to remain in complete compliance with bond issue covenants.
  - (c) Debt Service Fund. The Debt Service Fund should reserve at least 10% of the annual principal and interest and capital improvement lease payments, with a target of 20%.
  - (d) Library Fund. The Library Fund is a property-tax supported fund and should maintain a minimum reserve of 15% of annual revenues,
  - (e) Internal Service Funds. Internal service funds, with the exception of the Risk Management Fund, should have a target reserve balance of 10% to 20% of annual expenditures.
  - (f) Risk Management Fund. The Risk Management fund will be reviewed on an annual basis and align with funding levels approved by the City Manager, after review of recommendations from the City Attorney, Human Resources Officer, and City Treasurer in cooperation with City's respective consultants.
  - (g) Capital Improvement Fund. A Capital Improvement Fund reserve will be reviewed in the annual capital improvement projects budget process as a source of cash funding capital projects or providing matching funds for grant-funded projects. The target reserve for the Capital Improvement Fund is 1% of the five-year average annual total project cost.
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(h) Other Governmental Funds. All other governmental funds target reserve is 10% to 20% of annual expenditures.

3. The Governing Body may approve the use of budgeted reserves in the case of emergency events, unanticipated expenditure requirements, revenue fluctuations within a fiscal year, or to take advantage of an extraordinary opportunity.

4. The City desires to establish a fund balance classification policy consistent with the needs of the City, and in a manner consistent with governmental accounting standards. The following classifications serve to enhance the usefulness of fund balance information:

(a) Non-spendable: assets legally or contractually required to be maintained or are not in spendable form. Such constraint is binding until the legal requirement is repealed or the amounts become spendable.

(b) Restricted: assets with externally imposed constraints, such as those mandated by creditors, grantors and contributors, or applicable governmental laws and/or regulations. Such constraints are binding unless modified or rescinded by the applicable external body or applicable governmental laws, and/or regulations.

(c) Committed: assets with a purpose formally imposed by resolution by the Governing Body of the City, binding unless modified or rescinded by the Governing Body.

(d) Assigned: assets constrained by the expressed written intent of the City Council, City Manager, City Treasurer, or designee. Encumbrances shall be considered as assigned, unless they specifically meet the requirements to be committed or restricted.

(e) Unassigned: all amounts not included in other fund balance classifications. The General Fund shall be the only fund to report positive unassigned fund balance. All other governmental funds may report negative unassigned fund balance.

5. For unrestricted fund balance, committed amounts should be reduced first, followed by assigned amounts, followed by unassigned amounts.

6. Compliance with Sections F.4. and F.5. will be reviewed in conjunction with the annual budget process.

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SECTION TWO: Resolution No. 20-1063 is hereby repealed.

SECTION THREE: This Resolution shall take effect

immediately.

ADOPTED by the Governing Body this \_\_\_ day of \_\_\_, 2024.

SIGNED by the Mayor this \_\_\_ day of \_\_\_, 2024..

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City

Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

Disclaimer: The City Clerk’s Office has the official version of the Olathe City Council Policies. Users should contact the City Clerk’s Office for resolutions passed subsequent to the resolution cited here.

City Website: [www.olatheks.org](http://www.olatheks.org)

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**F-1**

<b>CITY OF OLATHE</b>	Policy No.: F-1
<b>COUNCIL POLICY STATEMENT</b>	Date Issued: XX-XX-24
General Scope: Finance	Effective Date: XX-XX-24
Specific Subject: Debt Management and Fiscal Policy	Cancellation Date: Until Repealed
	Supersedes No.: Listed Below

Purpose:

To set forth the general public policy objectives of the city as relates to debt and fiscal management.

Statement of Policy:

The statement of policy is hereby incorporated with Resolution No. 20-1063. Previous debt management and fiscal policy was incorporated by Resolution Nos. 20-1063, 10-1073, 01-1115, 99-1002 and 89-1213.

RESOLUTION NO. 24-xxxx

A RESOLUTION ADOPTING A DEBT MANAGEMENT AND FISCAL POLICY FOR THE CITY OF OLATHE; AND REPEALING RESOLUTION NO. 20-1063.

WHEREAS, the City of Olathe ("City") has an important responsibility to its taxpayers to carefully account for public funds, to manage municipal finances wisely and to plan the adequate funding of services and improvements; and

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WHEREAS, the financing of capital improvements by the City must be structured by ability to pay in order to maintain fiscal stability; and

WHEREAS, the Governing Body of the City has determined that there is a necessity to establish debt management policy and guidelines to provide the structure of continuing fiscal stability, reduce financial risk and maintain adequate contingency assets for present and future requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: The Governing Body of the City hereby adopts the debt management and fiscal policy as set forth following.

“DEBT MANAGEMENT AND FISCAL POLICIES”

A. General Policies

1. The City will conduct its debt management functions in a manner designed to maintain or enhance its existing general obligation [credit ratings at AA+ or better](#) and utility revenue bond credit ratings. ~~It is the City's ultimate goal to achieve a Triple A rating from credit rating agencies for general obligation debt.~~ [at AA or better.](#)

2. Debt issuance will be utilized by the City only in those cases where public policy, equity and efficient use of limited resources favor debt over ~~contemporary~~ cash financing. Decision criteria considered ~~shall~~ may include, but not be limited to, the following:

~~(a) Debt shall be self-supporting whenever possible. Self-supporting is the use of revenue bonds, special assessments, or other capital improvement charges rather than general property taxes.~~

~~(b) (a)~~ Debt shall be ~~primarily~~ used to finance capital projects with a ~~relatively long~~ life expectancy, ~~i.e., ten (of 10)~~ years or greater.

~~(b) (b)~~ Debt shall be issued in such a way so that the term of the financing ~~does not materially exceed~~ [is shorter than](#) the useful life of the asset.

B. Capital Improvements Program

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1. A capital improvements program shall be prepared, submitted to, and approved by the Council.
  2. The capital improvements program shall consist of a ~~10~~5-year or longer priority listing of ~~long-term~~ capital projects, accompanied by a financing plan ~~which finances all projects in the first 5 years of the plan, noting current revenue or debt.~~ The financing plan should indicate the funding, and if the debt funded, by the appropriate repayment revenue sources, sources for each project (i.e., cash, debt, grants). The financing plan shall be in accordance with the debt management policies contained herein.
  3. It is the intent of these policies that authorized projects must be part of an adopted capital improvements program.

C. Management

1. It shall be the responsibility of the city manager ~~and his/her staff~~ or designee to maintain all necessary files associated with the issuance of City debt.
2. The city manager or designee shall submit for Council consideration a fiscal impact statement prior to any Council action to authorize a project involving the issuance of debt. The fiscal impact statement shall contain, at a minimum: ~~an~~
  - (a) An estimate of the debt service levy (net of the impacts of self-supporting revenues) to be required at the time of long-term debt issuance ~~and a~~;
  - (b) A calculation showing the impact of this additional levy to the existing debt service levy at that time. ~~The fiscal impact statement shall provide information on;~~ and any projected user fee rate increases in the case of revenue bond financing.
3. ~~A municipal equipment fund.~~ Equipment replacement funds shall be established and funded annually to plan for and ensure that adequate funds are available to ~~purchase replacement~~ replace essential equipment on a timely basis. ~~This program is designated to stabilize budgeting for major equipment purchases and to fund that part of the City's capital budget related to equipment purchases.~~

D. Debt Issuance Purposes and Revenue Sources

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1. Benefit district debt shall be issued in conformance with the City's ~~policies on~~ benefit district ~~creation and financing~~ policy (Policy PI-5). The following provisions shall apply:

(a) Bonds may be secured by the full faith and credit pledge of the City, but assessment payments shall be adequate to pay 100 percent of debt service unless otherwise stipulated by the creation document.

(b) Benefit district project costs shall include all construction, engineering, financing, legal and administrative costs of the program.

(c) Assessments for benefit district improvements will include a maximum of 5% of the total cost of the improvement to reimburse the City for services rendered by the City in the administration and supervision of the improvement by its general officers. ~~See K.S.A. 12-6a01(d). Reimbursement~~ See K.S.A. 12-6a01(d). Such reimbursement will be charged in accordance with the following schedule:

<b>Project Cost</b>		
	5.0% Up to	\$ 100,000
\$ 5,000 Plus	4.0% Over	\$ 100,000
\$11,000 Plus	3.0% Over	\$ 250,000
\$18,500 Plus	2.0% Over	\$ 500,000
\$28,500 Plus	1.5% Over	\$1,000,000
\$51,000 Plus	1.0% Over	\$2,500,000

(d) Outstanding bonds will be retired when sufficient revenues are accumulated ~~and~~, provided ~~associated that~~ bonds have either reached their call date or ~~where~~ a refunding escrow can be structured without material economic loss.

(e) Debt will not be issued by the City to finance projects for ~~the any~~ entities ~~that~~ have with the authority to issue tax-~~free~~ exempt bonds, though exceptions may be considered to finance public infrastructure for ~~those purposes, the benefit of~~ connectivity to public schools. U.S.D. 233 is exempted from this policy.

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2. ~~General capital~~Capital improvements shall be financed in accordance with the capital improvements program. Funds shall be available for the financing of general improvements in accordance with the following:

(a) To the extent funds described in paragraph F.2.(a) are in excess of that required by the City's general fund operating budget, the excess amount shall first be used to fully fund the operating capital general fund reserve to the level required in paragraph F.2.(f) by these policies and then used for pay-as-you-go cash financing of ~~general~~ capital improvements.

(b) It shall be a goal of the City to finance at least a portion of the city-at-large capital improvement budget with pay-as-you-go cash financing ~~with current resources~~.

(c) Debt service payments on non-benefit district general obligation bonds, not abated by other revenues, shall be paid from the debt service property tax levy.

~~(d) It is the City's goal to maintain and fund a Capital Project Reserve (CPR) Fund in order to fund the initial design or costs of projects, so that the City is in a position to have shovel-ready projects when opportunities arise to obtain grant funding.~~

(d) ~~(e)~~ It is the City's practice to issue temporary notes for project expenditures anticipated to occur less than one year from the time of note issuance. Temporary note issuances will be planned to correspond with an annual long-term bond issuance, with a closing date designed to allow for all outstanding temporary notes from the prior year to be repaid on their due date each year. Long-term bonds will typically be issued for completed projects or portions of projects.

3. Debt issued for water, sewer, stormwater and other purposes for which operating and capital needs are supported by user fees shall be in the form of revenue bonds secured by the appropriate user fees and other utility revenues. User fees shall be adequate to support operating requirements and revenue bond covenants for each purpose, ~~i.e., water user fees support only water and sewer user fees support only sewer~~.

4. ~~Refunding's~~ Advance refunding or prepayment of outstanding debt may occur when the possibility of interest cost reduction exists, or the City wishes to restructure its debt service and/or amend its contractual bond requirements.

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5. The City may be asked to issue revenue-only bonds relating to economic development. These bonds normally take the form of tax increment financing (TIF), transportation development district (TDD) or community improvement district (CID) bonds. The Governing Body has approved separate, detailed policies for each of these forms of economic development bonds [and will comply with such policies](#).

E. Debt Issuance Limits, Debt Structure and Repayment Schedules

1. The City shall use the following limits to guide [annual debt](#) issuance [and the development of debt](#) ~~the five-year capital improvement plan~~:

(a) The City's goal will be to not exceed ~~seventy (70) percent~~ [60%](#) of its statutory debt limit.

~~(b) Performance measure for the debt management process will be defined and monitored~~

[\(b\) Amortization of general obligation debt in total, less temporary notes, will be structured to retire a target of 80%, with a minimum of 70%, of the City's indebtedness within ten \(10\) years.](#)

[\(c\) The City's direct debt, which includes general obligation bonds, notes and special obligation bonds, will have a maximum targeted limit of 3% of total market value.](#)

2. Debt structure shall be designed in accordance with the following, unless the City's financial advisor or bond counsel recommends an alternative approach:

(a) Issue tax-exempt debt when feasible. Taxable debt may be issued ~~if~~ [under the following criteria](#):

• ~~It is~~ required by IRS regulation; ~~or if advantageous~~

• [Advantageous](#) tax-rebated bond products are available under Federal or state law; ~~or if it~~

• [It](#) is in the City's best interest to issue taxable debt to mitigate its risk of non-repayment; ~~or if the~~

• [The](#) cost of taxable debt would not materially increase the City's cost of borrowing.

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(b) General obligation debt should only use fixed rate obligations. ~~Fixed rate obligations only for general obligation debt.~~ Fixed rate obligations should generally be used for revenue bonds, certificates of participation, and special obligation bonds, unless variable rate debt provides for reduced interest costs over a multi-year period, after accounting for the additional costs and risk associated with such obligations, and significant flexibility in redeeming the bonds. If variable rate obligations are issued, the City shall budget debt service obligations at then-current fixed rate levels ~~to in part~~ along with other cash reserves to ensure against interest rate increases, ~~along with other cash reserves~~ and to further mitigate periods of prolonged high short-term interest rates.

(c) Debt should be marketed on a competitive bid basis, if feasible. A negotiated sale may be undertaken upon the recommendation of the City's financial advisor if one or more of the following conditions exist: (1) the issue lacks sufficient credit quality; (2) the principal amount is extremely large or small; (3) the issue ~~to appeal~~ appeals to a relatively narrow investor base; (4) the bonds are issued under a new legal authority; (5) sufficient bidder ~~in~~ participation is in question; or (6) the market is experiencing extreme volatility.

(d) Optional prepayment provisions should generally be included in each bond issuance.

(e) Derivative transactions are prohibited unless specifically approved by the City's Governing Body.

3. Repayment schedules ~~shall~~ should be designed to ~~relate to be less than~~ the useful life of the asset and generally be in accordance with the following:

(a) Ten (10) years for most general obligation public improvement debt. The City's goal is to structure debt with declining debt service payments over the life of the debt portfolio as a whole, taking into consideration the forecasted revenues for the Debt Service Fund, ~~thus permitting the~~ The City ~~to~~ should maintain a constant or declining debt service levy demand annually based upon ~~then~~ existing and forecasted ~~future~~ debt issuance. Utility revenue debt will generally be structured in a similar way, providing for a constant or increasing debt service coverage profile, when possible, except that repayment terms may be for a longer period of time due to the ~~long-lived nature~~ longer

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asset life of utility infrastructure improvements.

(b) Ten (10) years for most benefit district debt. Debt will be structured as set forth in Section 3.a.

(c) Ten (10) to twenty (20) years for capital improvements of citywide significance and where justified by the magnitude of the project.

(d) On an overall basis, it is the intention goal of the City that all general obligation debt, less temporary notes, be structured to retire at least eighty (80) percent of the City's indebtedness within ten (10) years, with a minimum of seventy (70) percent retiring within ten (10) years.

(e) The City shall insure ensure that it fully complies with all state and federal regulatory compliance, including post-issuance compliance related to continuing disclosure, maintenance of records, testing of ongoing compliance and arbitrage rebate.

(f) The City understands the importance of high credit quality to reducing its costs of debt issuance. ~~To that end,~~ and the City will maintain ongoing communications with the rating agencies, keeping them apprised of information central to the credit rating determination.

#### F. Fund Balance Reserves

1. The maintenance of adequate ~~operating~~ reserves is essential to ~~the financial strength and meet cash flow requirements, provide~~ flexibility ~~of the City as a whole. They are an integral part of the financial structure of the City~~ for revenue and expenditure volatility, fund capital and ~~help make it possible for the city to issue~~ equipment replacement, be prepared for unanticipated expenses, as well as maintain compliance with debt covenants. Reserves are a significant factor considered in evaluating and assigning credit ratings by the bond rating agencies, ~~and keeping adequate reserves ensure that the City is able to issue debt at a~~ responsible interest rate.

2. In order to meet potentially unanticipated ~~need's~~ needs, it shall be the goal of the City to maintain the following reserves:

(a) ~~It shall be the goal of the City to maintain a~~ General Fund. A minimum fund balance

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in the ~~general fund of 15% of revenues, with an annual target~~ General Fund of 30% of ~~revenues. Rating agencies prefer~~ annual revenues. Reserves in excess of 30% may be maintained to plan for future operational costs or utilized for one-time expenditures at the discretion of the City Council Median data published by one of the rating agencies suggest fund balance levels ~~at or near 30%~~ of ~~revenues for entities~~ at least 40% of annual expenditures for those at or aspiring to ~~Triple A statue. This minimum fund balance calculation includes and is cumulative with the provisions of section F.2.~~ receive a credit rating of AAA.

(b) ~~A sixty (60)~~ Enterprise Fund. All enterprise funds should maintain a ninety (90) day reserve (measured against average daily operating expenses), ~~in enterprise funds,~~ as well as all reserves required by revenue bond indentures to remain in complete compliance with bond issue covenants.

(c) ~~An annual cash basis and contingency~~ Debt Service Fund. The Debt Service Fund should reserve ~~in the debt service fund of~~ at least 10% of the annual principal and interest and capital improvement lease payments, with a target of 20%. ~~This includes beginning debt service fund cash, current year.~~

(d) Library Fund. The Library Fund is a property-tax supported fund and should maintain a minimum reserve of 15% of annual revenues, ~~transfers, and general fund revenues dedicated toward certificates of participation, public building commission leases, etc., divided by current liabilities.~~

(e) Internal Service Funds. Internal service funds, with the exception of ~~general obligation debt plus payment obligations~~ the Risk Management Fund, should have a target reserve balance of 10% to 20% of annual expenditures.

(f) Risk Management Fund. The Risk Management fund will be reviewed on ~~certificates of participation, public building commission leases, etc.~~ an annual basis and align with funding levels approved by the City Manager, after review of recommendations from the City Attorney, Human Resources Officer, and City Treasurer in cooperation with City's respective consultants.

(g) ~~3-~~ Capital Improvement Fund. A Capital Improvement Fund reserve will be reviewed in the annual capital improvement projects budget process as a source of cash funding

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capital projects or providing matching funds for grant-funded projects. The target reserve for the Capital Improvement Fund is 1% of the five-year average annual total project cost.

(h) Other Governmental Funds. All other governmental funds target reserve is 10% to 20% of annual expenditures.

3. The Governing Body may approve the use of budgeted reserves in the case of emergency events, ~~or conditions that result in~~ unanticipated expenditure requirements ~~or~~, revenue fluctuations within a fiscal year, or to take advantage of an extraordinary opportunity.

4. The City desires to establish a fund balance classification policy consistent with the needs of the City, and in a manner consistent with governmental accounting standards. The following classifications serve to enhance the usefulness of fund balance information:

(a) Non-spendable: assets legally or contractually required to be maintained or are not in spendable form. Such constraint is binding until the legal requirement is repealed or the amounts become spendable.

(b) Restricted: assets with externally imposed constraints, such as those mandated by creditors, grantors and contributors, or applicable governmental laws and/or regulations. Such ~~constraint is~~ constraints are binding unless modified or rescinded by the applicable external body or applicable governmental laws, and/or regulations.

(c) Committed: assets with a purpose formally imposed by resolution by the Governing Body of the City, binding unless modified or rescinded by the Governing Body.

(d) Assigned: assets constrained by the expressed written intent of the City Council, City Manager, ~~Director of Resources Management~~ City Treasurer, or designee.

Encumbrances shall be considered as assigned, unless they specifically meet the requirements to be committed or restricted.

(e) Unassigned: all amounts not included in other fund balance classifications. The ~~general fund~~ General Fund shall be the only fund to report positive unassigned fund balance. All other governmental funds may report negative unassigned fund balance.

5. For unrestricted fund balance, committed amounts should be reduced first, followed by assigned amounts, followed by unassigned amounts.

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6. Compliance with Sections F.4. and F.5. will be reviewed in conjunction with the annual budget process.

SECTION TWO: Resolution No. 20-1063 is hereby repealed.

SECTION THREE: This Resolution shall take effect immediately.

ADOPTED by the Governing Body this \_\_\_ day of \_\_\_, 2024.

SIGNED by the Mayor this \_\_\_ day of \_\_\_, 2024..

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City

Clerk

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

\_\_\_\_\_  
\_\_\_\_\_

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Disclaimer: The City Clerk's Office has the official version of the Olathe City Council Policies. Users should contact the City Clerk's Office for resolutions passed subsequent to the resolution cited here.

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# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 6/18/2024

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**FOCUS AREA:** Infrastructure (Facilities Management), Fire

**STAFF CONTACT:** Mary Jaeger / Jeff DeGraffenreid / Jeff Blakeman

**SUBJECT:** This presentation and discussion will provide Council with an update on the planning and design for the Fire Station No. 9 project.

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**TITLE:**

Discussion of the Fire Station No. 9 project, PN 6-C-013-23.

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**SUMMARY:**

The Fire Station No. 9 project has been approved in the 2023 CIP and the 2024 CIP. This project is for a new single company fire station to be constructed on City owned property on the north side of College Boulevard approximately 1,500 feet west of Woodland Road.

Agreements with Finkle + Williams for the design of the project and with JE Dunn Construction for construction management services were approved on November 21, 2023. Upon the award of contract to Finkle + Williams, staff immediately began working with Finkle + Williams on the initial space programming, the building and site planning, and the massing and aesthetics for the fire station.

Tonight, City staff and representatives with Finkle + Williams will lead a presentation on the current status of the project design. This presentation will provide Council with an overview of the process leading to the development of the concept design for the fire station, and will focus discussion on the building massing, building elevations, and suggested materials proposed for the exterior of the fire station.

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**FINANCIAL IMPACT:**

Funding for the Fire Station No. 9 project, as approved in the 2024-2028 Capital Improvement Plan, is \$14,450,000 of General Obligation Bonds.

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**ACTION NEEDED:**

Staff requests the City Council provide feedback and direction related to the current design proposed for Fire Station No. 9.

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**ATTACHMENT(S):**

- A. Project Location Map
  - B. Project Fact Sheet
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**Project Location Map  
Fire Station No. 9  
Project No. 6-C-013-23**





**Project Fact Sheet**  
**Fire Station No. 9**  
**6-C-013-23**  
**June 18, 2024**

**Project Manager:** Zach Hardy / Jeff Blakeman

**Description:** This project is for the planning, design, construction and equipping of a new single-company fire station on City owned property.

**Justification:** This fire station is needed to address the lack of equitable first due coverage for citizens in and near the Woodland Road Corridor planning area.

<b>Schedule:</b>	<b>Item</b>	<b>Date</b>
	Funding Authorization	April 4, 2023
	Funding Authorization	Nov. 21, 2023
	Contract Award - Design	Nov. 21, 2023
	Contract Award – Const. Mgr. Agmt. (Preconst.)	Nov. 21, 2023
	Design	Q4 2023–Q3 2024
	Bidding	Aug. – Oct. 2024
	Contract Award – Construction GMP	Est. Q4, 2024
	Construction Start	Est. Q4, 2024
	Construction Completion	Est. Q4, 2025

<b>Council Actions:</b>	<b>Date</b>	<b>Amount</b>
Report on Funding	03-21-2023	N/A
Funding Authorization	04-04-2023	\$990,000
Funding Authorization	11-21-2023	\$14,450,000
Award of Design Contract	11-21-2023	\$1,005,600
Award of Const. Mgr. Agmt. (Preconstruction)	11-21-2023	\$79,000
Design Review	06-18-2024	N/A

<b>Funding Sources:</b>	<b>Amount</b>	<b>CIP Year</b>
General Obligation Bonds	\$ 990,000	2023
General Obligation Bonds	\$ 13,460,000	2024

## Attachment B

<b>Expenditures:</b>	<b>Budget</b>	<b>Amount to Date</b>
Staff Costs	\$ 120,000	\$ 28,800
Geotechnical	\$ 6,000	\$ 5,935
Design	\$ 1,005,600	\$ 208,465
Preconstruction Services	\$ 79,000	\$ 0
Construction	\$ 10,000,000	\$ 0
Utilities	\$ 200,000	\$ 0
Testing, Special Inspections	\$ 50,000	\$ 0
FFE	\$ 1,610,000	\$ 0
Art	\$ 100,000	\$ 0
Contingency	\$ 1,279,400	\$ 1,000
<b>Total</b>	<b>\$ 14,450,000</b>	<b>\$ 244,400</b>