

**WATER AND SEWER SYSTEM IMPROVEMENT
AND REFUNDING REVENUE BONDS
SERIES 2019**

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Bond Resolution
- D. Summary Bond Ordinance for Publication

EXCERPT OF MINUTES OF A MEETING

**OF THE GOVERNING BODY OF
THE CITY OF OLATHE, KANSAS
HELD ON APRIL 2, 2019**

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 heretofore duly given, bids for the purchase of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, dated April 18, 2019 (the "Series 2019 Bonds"), of the City of Olathe, Kansas had been received. A tabulation of said bids is set forth as *EXHIBIT A* hereto.

Thereupon, the governing body reviewed and considered the bids and it was found and determined that the bid of [_____, _____, _____], was the best bid for the Series 2019 Bonds, a copy of which is attached hereto as *EXHIBIT B*.

Thereupon, 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 AND REFUNDING REVENUE BONDS, SERIES 2019, 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.

Thereupon, 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: _____.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 19-11 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.

Thereupon, 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 AND REFUNDING REVENUE BONDS, SERIES 2019, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 19-11 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.

Thereupon, 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: _____.

Thereupon, the Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 19-1027 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)

City Clerk

EXHIBIT A
BID TABULATION

EXHIBIT B
BID OF PURCHASER

ORDINANCE NO. 19-11

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$[PRINCIPAL AMOUNT] PRINCIPAL AMOUNT OF WATER AND SEWER SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2019, 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. 15-1053 declared its intention under the Act to repair, alter, extend, reconstruct, enlarge or improve the System as described in Section 1 thereof (“Project A”) at an estimated cost of \$55,456,070 and to issue water and sewer system revenue bonds in an amount not to exceed \$66,500,000; 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, \$33,695,601.58 of the revenue bonds authorized by Resolution No. 15-1053 have been issued, consisting of the Series 2015 Bonds, the Series 2017 Bonds, and a portion of the Series 2018 Bonds, and the City proposes to issue an additional \$[_____] of water and sewer system revenue bonds so authorized to pay a portion of the costs of Project A and related bond reserves and financing costs; and

WHEREAS, the City has pursuant to Resolution No. 17-1093 (as ratified by Resolution No. 18-1018) declared its intention under the Act to repair, alter, extend, reconstruct, enlarge or improve the System as described in Section 1 thereof (“Project B”) at an estimated cost of \$20,947,244 and to issue water and sewer system revenue bonds in an amount not to exceed \$25,200,000; 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, \$6,659,398.42 of the revenue bonds authorized by Resolution No. 17-1093 (as ratified by Resolution No. 18-1018) have been issued, consisting of a portion of the Series 2018 Bonds, and the City proposes to issue an additional \$[_____] of water and sewer system revenue bonds so authorized to pay a portion of the costs of Project B and related bond reserves and financing costs; and

WHEREAS, the City has pursuant to Resolution No. 19-1013 declared its intention under the Act to repair, alter, extend, reconstruct, enlarge or improve the System as described in Section 1 thereof (“Project C;” and, together with Project A and Project B, the “Project”) at an estimated cost of \$32,000,000 and to issue water and sewer system revenue bonds in an amount not to exceed \$32,000,000; 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. 19-1013 have been issued and the City proposes to issue \$[_____] of water and sewer system revenue bonds so authorized to pay the costs of Project C 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 previously issued and has Outstanding the Refunded Bonds (as defined herein) and is authorized by K.S.A. 10-116a to issue refunding revenue bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Bonds and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and the System to refund the Refunded Bonds; 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 2009	February 1, 2009	\$3,110,000	*\$1,925,000
Taxable Water and Sewer System Revenue Bonds, Series 2010-A (Build America Bonds – Direct Pay)	February 23, 2010	\$6,540,000	\$4,115,000
Taxable Water and Sewer System Revenue Bonds, Series 2010-B (Build America Bonds – Direct Pay)	May 27, 2010	\$8,050,000	\$6,120,000
Taxable Water and Sewer System Revenue Bonds, Series 2010-C (Build America Bonds – Direct Pay)	December 28, 2010	\$36,280,000	\$28,640,000
Water and Sewer System Revenue Bonds, Series 2012	December 18, 2012	\$9,585,000	\$7,030,000
Water and Sewer System Revenue Bonds, Series 2015	October 1, 2015	\$18,895,000	\$16,710,000
Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017	April 4, 2017	\$11,340,000	\$10,765,000
Water and Sewer System Revenue Bonds, Series 2018	April 3, 2018	\$11,580,000	\$11,580,000

* All Outstanding Series 2009 Bonds will be defeased and no longer payable from the Net Revenues of the System upon issuance of the Series 2019 Bonds.

WHEREAS, the resolutions authorizing the Series 2010-A Bonds, the Series 2010-B Bonds, the Series 2010-C Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds and the Series 2018 Bonds provide that the City may issue additional bonds payable from Net Revenues on a parity with the Series 2010-A Bonds, 2010-B Bonds, the Series 2010-C Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, and the Series 2018 Bonds upon the satisfaction of certain conditions; and

WHEREAS, prior to or simultaneously with the issuance of the Series 2019 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 and Refunding Revenue Bonds, Series 2019 in the principal amount of \$[PRINCIPAL AMOUNT] (the "Series 2019 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. 10-116a, 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.

"BAB Interest Subsidy Payments" means payments to be received by the City from the U.S. Department of the Treasury under Code §§ 54AA(g) and 6431 in connection with the payments of interest on the Bonds.

"Bonds" means the Series 2019 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, BAB Interest Subsidy Payments 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 [_____, _____, _____].

“Parity Bonds” means the Bonds, the Series 2010-A Bonds, the Series 2010-B Bonds, the Series 2010-C Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 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, collectively, Project A, Project B and Project C or any Substitute Project.

“Project A” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 15-1053 of the City.

“Project B” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 17-1093 (as ratified by Resolution No. 18-1018) of the City.

“Project C” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 19-1013 of the City.

“Refunded Bonds” means the Series 2009 Bonds maturing in the years 2019 to 2029, inclusive, in the aggregate principal amount of \$1,925,000.

“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 2009 Bonds” means the Water and Sewer System Revenue Bonds, Series 2009 authorized by Ordinance No. 09-08 and Resolution No. 09-1009 of the City adopted on January 20, 2009.

“Series 2010-A Bonds” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-A (Build America Bonds – Direct Pay) authorized by Ordinance No. 10-10 and Resolution No. 10-1007 of the City adopted on January 26, 2010.

“**Series 2010-B Bonds**” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-B (Build America Bonds – Direct Pay) authorized by Ordinance No. 10-35 and Resolution No. 10-1039 of the City adopted on May 4, 2010.

“**Series 2010-C Bonds**” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-C (Build America Bonds – Direct Pay), authorized by Ordinance No. 10-81 and Resolution No. 10-1085 of the City adopted on December 7, 2010.

“**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 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 and Refunding Revenue Bonds, Series 2019, 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) refund the Refunded Bonds, (iii) fund a debt service reserve fund, and (iv) 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, Director of Resource Management, 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.

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PASSED by the governing body of the City on April 2, 2019 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

City Clerk

RESOLUTION NO. 19-1027

OF THE

CITY OF OLATHE, KANSAS

ADOPTED APRIL 2, 2019

[\$[PRINCIPAL AMOUNT]

**WATER AND SEWER SYSTEM IMPROVEMENT
AND REFUNDING REVENUE BONDS**

SERIES 2019

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Exhibit A - Form of Bond

RESOLUTION NO. 19-1027

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF WATER AND SEWER SYSTEM IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2019, OF THE CITY OF OLATHE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 19-11 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. 10-116a, 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.

“BAB Interest Subsidy Payments” means payments to be received by the City from the U.S. Department of the Treasury under Code §§ 54AA(g) and 6431 in connection with the payments of interest on the 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 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 and Refunding Revenue Bonds, Series 2019, created by this Resolution.

“Bond Reserve Requirement” means an amount equal to \$[_____].

“Bondowner” means the same as the term Owner.

“Bonds” means the Series 2019 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 and Refunding Revenue Bonds, Series 2019 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.

“Escrow Agent” means UMB Bank, N.A., Kansas City, Missouri, and its successors and assigns.

“Escrow Agreement” means the Escrow Trust Agreement, dated as of the Dated Date, between the City and the Escrow Agent.

“Escrow Fund” means the Escrow Fund for Refunded Bonds created herein.

“Escrowed Securities” means the direct, noncallable obligations of the United States of America, as described in the Escrow Agreement.

“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, BAB Interest Subsidy Payments 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 July 1, 2019, 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. 19-11 authorizing the issuance of the Series 2019 Bonds, as from time to time amended in accordance with the terms thereof.

“Original Purchaser” means [_____, _____, _____].

“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 2010-A Bonds, the Series 2010-B Bonds, the Series 2010-C Bonds, the Series 2012 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 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 2010-A Resolution, the Series 2010-B Resolution, the Series 2010-C Resolution, the Series 2012 Resolution, the Series 2015 Resolution, the Series 2017 Resolution, the Series 2018 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 and Refunding Revenue Bonds, Series 2019 created by this Resolution.

“Principal Payment Dates” shall mean July 1 of each year, commencing July 1, 2019, 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, collectively, Project A, Project B and Project C or any Substitute Project.

“Project A” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 15-1053 of the City.

“Project B” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 17-1093 (as ratified by Resolution No. 18-1018) of the City.

“Project C” means the acquisition, construction, reconstruction, alterations, repair, improvements, extensions, or enlargements of the System described in Resolution No. 19-1013 of the City.

“Project Account” means the Project Account for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, created by this Resolution.

“Purchase Price” shall mean principal amount of the Series 2019 Bonds[, plus a net premium of \$_____, less an underwriting discount of \$_____].

“Rebate Fund” means the Rebate Fund for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, 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.

“Refunded Bonds” means the Series 2009 Bonds maturing in the years 2019 to 2029, inclusive, in the aggregate principal amount of \$1,925,000.

“Refunded Bonds Paying Agent” means the paying agent for the Refunded Bonds as designated in the Refunded Bonds Resolution, and any successor or successors at the time acting as paying agent of the Refunded Bonds.

“Refunded Bonds Redemption Date” means July 1, 2019.

“Refunded Bonds Resolution” means the ordinance and the resolution which authorized the Refunded Bonds.

“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 2009 Bond Reserve Account” means the Bond Reserve Account for the Series 2009 Bonds established by Resolution No. 09-1009 of the City.

“Series 2009 Bonds” means the Water and Sewer System Revenue Bonds, Series 2009 authorized by the Series 2009 Resolution.

“Series 2010-A Bonds” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-A (Build America Bonds – Direct Pay), authorized by the Series 2010-A Resolution.

“Series 2010-B Bonds” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-B (Build America Bonds – Direct Pay), authorized by the Series 2010-B Resolution.

“Series 2010-C Bonds” means the Taxable Water and Sewer System Revenue Bonds, Series 2010-C (Build America Bonds – Direct Pay) authorized by the Series 2010-C Resolution.

“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 Ordinance.

“Series 2009 Resolution” means Resolution No. 09-1009 and Ordinance No. 09-08 of the City passed on January 20, 2009, authorizing the issuance of the Series 2009 Bonds.

“Series 2010-A Resolution” means Ordinance No. 10-10 and Resolution No. 10-1007 of the City passed on January 26, 2010, authorizing the issuance of the Series 2010-A Bonds.

“Series 2010-B Resolution” means Ordinance No. 10-35 and Resolution No. 10-1039 of the City passed on May 4, 2010, authorizing the issuance of the Series 2010-B Bonds.

“Series 2010-C Resolution” means Ordinance No. 10-81 and Resolution No. 10-1085 of the City passed on December 7, 2010, authorizing the issuance of the Series 2010-C Bonds.

“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.

“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 2019 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 and Refunding Revenue Bonds, Series 2019, 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) refund the Refunded Bonds; (c) fund a debt service reserve fund; and (d) 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>
2019	\$ _____	_____ %	2030	\$ _____	_____ %
2020	_____	_____	2031	_____	_____
2021	_____	_____	2032	_____	_____
2022	_____	_____	2033	_____	_____
2023	_____	_____	2034	_____	_____
2024	_____	_____	2035	_____	_____
2025	_____	_____	2036	_____	_____
2026	_____	_____	2037	_____	_____
2027	_____	_____	2038	_____	_____
2028	_____	_____	2039	_____	_____
2029	_____	_____			

***[TERM BONDS

<u>Maturity</u> <u>July 1</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
20__	\$ _____	_____ %
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.

Section 213. Authorization of Escrow Agreement. The City is hereby authorized to enter into the Escrow Agreement, and the Mayor and Clerk are hereby authorized and directed to execute the Escrow Agreement with such changes therein as such officials may deem appropriate, for and on behalf of and as the act and deed of the City. The Escrow Agent is hereby authorized to carry out, on behalf of the City, the duties, terms and provisions of the Escrow Agreement, and the Escrow Agent, the Purchaser and Bond Counsel are authorized to take all necessary actions for the subscription and purchase of the Escrowed Securities described therein, including the subscription for United States Treasury Securities - State and Local Government Series.

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 2028, and thereafter, will be subject to redemption and payment prior to maturity on July 1, 2027, 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) *20__ 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</u> <u>Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__*

*Final Maturity

(3) *20__ 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</u> <u>Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__*

*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 and Refunding Revenue Bonds, Series 2019 (the “Principal and Interest Account”).
- (b) Bond Reserve Account for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019 (the “Bond Reserve Account”).
- (c) Project Account for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019 (the “Project Account”).
- (d) Rebate Fund for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019 (the “Rebate Fund”).
- (e) Costs of Issuance Account for Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019 (the “Cost of Issuance Account”).

In addition to the Funds and Accounts described above, the Escrow Agreement establishes the Escrow Fund to be held and administered by the Escrow Agent in accordance with the provisions of the Escrow Agreement.

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 2019 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 AND OTHER MONEYS

Section 601. Disposition of Bond Proceeds and Other Moneys. The proceeds of the Series 2019 Bonds and certain other moneys shall be deposited simultaneously with the delivery of the Series 2019 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 sum of \$[_____] from the proceeds of the Series 2019 Bonds, together with \$239,706.00 provided by the City from the Series 2009 Bond Reserve Account, shall be transferred to the Escrow Agent and deposited in the Escrow Fund and applied in accordance with the Escrow Agreement.
- (e) The remaining balance of the proceeds derived from the sale of the Series 2019 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 Moneys in the Escrow Fund. Under the Escrow Agreement, the Escrow Agent will apply moneys in the Escrow Fund to purchase the Escrowed Securities and to establish an initial cash balance in accordance with the Escrow Agreement. The cash and Escrowed Securities held in the Escrow Fund will be applied by the Escrow Agent solely in the manner authorized by the Escrow Agreement. All money deposited with the Escrow Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in the Escrow Agreement.

Section 604. 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 June 1, 2019, shall be transferred to the Project Account until completion of the Project and thereafter to the Principal and Interest Account.

Section 605. 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 606. 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 2019 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 2019 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 2019 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 2019 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, other than the Escrow Fund, 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 2019 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 2019 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) When 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 of 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 2019 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 2019 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 2019 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 Director of Resource Management, 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.

ADOPTED by the Governing Body of the City of Olathe, Kansas, on April 2, 2019.

(Seal)

Mayor

ATTEST:

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 AND REFUNDING REVENUE BOND
SERIES 2019**

**Interest
Rate: ____%**

**Maturity
Date: July 1, 20__**

**Dated
Date: April 18, 2019**

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 July 1, 2019 (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 Taxable Water and Sewer System Revenue Bonds, Series 2010-A (Build America Bonds – Direct Pay), of the City, dated February 23, 2010; a series of Taxable Water and Sewer System Revenue Bonds, Series 2010-B (Build America Bonds – Direct Pay), of the City, dated May 27, 2010; a series of Taxable Water and Sewer System Revenue Bonds, Series 2010-C (Build America Bonds – Direct Pay), of the City, dated December 28, 2010; 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; and a series of Water and Sewer System Revenue Bonds, Series 2018, of the City, dated April 18, 2018.

This Bond is one of an authorized series of Bonds of the City designated “Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019”, 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. 10-116a, 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

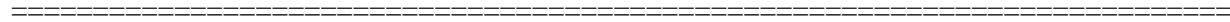
This Bond is one of a series of Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2019, of the City of Olathe, Kansas, described in the within-mentioned Ordinance.

Registration Date

Office of the State Treasurer,
Topeka, Kansas,
as Bond Registrar and Paying Agent

By _____

Registration Number: _____



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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 _____

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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 _____, 2019.

(Facsimile Seal)

(facsimile)
City Clerk

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CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

I, JAKE LATURNER, 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 _____.

WITNESS my hand and official seal.

(Seal)

Treasurer of the State of Kansas

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)

(Published in *The Gardner News* on April __, 2019)

SUMMARY OF ORDINANCE NO. 19-11

On April 2, 2019, 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 AND REFUNDING REVENUE BONDS, SERIES 2019, 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 2019 Bonds approved by the Ordinance are being issued in the principal amount of \$[PRINCIPAL AMOUNT], to finance certain improvements to the water and sewer system of the City and refund certain outstanding water and sewer system revenue bonds of the City. The Series 2019 Bonds 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 <https://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: April 2, 2019.

Ronald R. Shaver, City Attorney