ORDINANCE NO. 19-11

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF
$16,360,000 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 $1,525,956.34 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 $8,432,016.90 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 $4,787,026.76 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:

<table>
<thead>
<tr>
<th>Series of Bonds</th>
<th>Dated</th>
<th>Amount Issued</th>
<th>Amount Outstanding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water and Sewer System Revenue Bonds, Series 2009</td>
<td>February 1, 2009</td>
<td>$3,110,000</td>
<td>$1,925,000</td>
</tr>
<tr>
<td>Taxable Water and Sewer System Revenue Bonds, Series 2010-A (Build America Bonds – Direct Pay)</td>
<td>February 23, 2010</td>
<td>$6,540,000</td>
<td>$4,115,000</td>
</tr>
<tr>
<td>Taxable Water and Sewer System Revenue Bonds, Series 2010-B (Build America Bonds – Direct Pay)</td>
<td>May 27, 2010</td>
<td>$8,050,000</td>
<td>$6,120,000</td>
</tr>
<tr>
<td>Taxable Water and Sewer System Revenue Bonds, Series 2010-C (Build America Bonds – Direct Pay)</td>
<td>December 28, 2010</td>
<td>$36,280,000</td>
<td>$28,640,000</td>
</tr>
<tr>
<td>Water and Sewer System Revenue Bonds, Series 2012</td>
<td>December 18, 2012</td>
<td>$9,585,000</td>
<td>$7,030,000</td>
</tr>
<tr>
<td>Water and Sewer System Revenue Bonds, Series 2015</td>
<td>October 1, 2015</td>
<td>$18,895,000</td>
<td>$16,710,000</td>
</tr>
<tr>
<td>Water and Sewer System Improvement and Refunding Revenue Bonds, Series 2017</td>
<td>April 4, 2017</td>
<td>$11,340,000</td>
<td>$10,765,000</td>
</tr>
<tr>
<td>Water and Sewer System Revenue Bonds, Series 2018</td>
<td>April 3, 2018</td>
<td>$11,580,000</td>
<td>$11,580,000</td>
</tr>
</tbody>
</table>

* 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 $16,360,000 (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:


“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.


“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 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 $16,360,000 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.
PASSED by the governing body of the City on April 2, 2019 and APPROVED AND SIGNED by the Mayor.

(SEAL)

ATTEST:

City Clerk

(Signature Page to Bond Ordinance)
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 $16,360,000 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 $16,360,000, 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
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
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: Copeland, Randall, McCoy, Vogt, Bacon, Campbell and Brownlee.

Absent: None.

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 Robert W. Baird & Co. Incorporated, Red Bank, New Jersey, 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 $16,360,000 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 Randall moved that said Ordinance be passed. The motion was seconded by Councilmember Bacon. 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: Copeland, Randall, McCoy, Vogt, Bacon, Campbell and Brownlee.

Nay: None.

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 Randall moved that said Resolution be adopted. The motion was seconded by Councilmember Bacon. 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: Copeland, Randall, McCoy, Vugt, Bacon, Campbell and Brownlee.

Nay: [Blank]

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)

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]
On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Olathe, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Clerk

City Clerk
EXHIBIT B
BID OF PURCHASER
STATE OF KANSAS
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of THE GARDNER NEWS, a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Johnson County, Kansas and that said newspaper is a bi-weekly published at least weekly, 52 times a year; has been published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office in Gardner, Kansas in said county as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive week(s).

The first publication thereof being made as aforesaid: April 10, 2019

Publications being made on the following:

[Signature]

EDITOR

SUBSCRIBED AND SIGNED TO ME THIS 4/10/2019 9:44

NOTARY PUBLIC

MY COMMISSION EXPIRES

COST

ADDITIONAL COPIES

IN THE DISTRICT COURT OF JOHNSON, COUNTY KANSAS

The within Proof Of Publication approved

-------------------------------------------------------------------JUDGE

Published in The Gardner News on April 10, 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 $16,360,000 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 $16,360,000, 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.

/\ Ron R. Shaver
Ronald R. Shaver, City Attorney