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ORDINANCE NO. 1731

AN ORDINANCE OF THE CITY OF NEODESHA, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2020, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$7,000,000, FOR THE PURPOSE OF FINANCING THE COSTS OF ACQUIRING AND CONSTRUCTING IMPROVEMENTS TO THE CITY'S WATER SYSTEM AND SEWER SYSTEM; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the governing body of the City of Neodesha, Kansas (the "City"), pursuant to Ordinance No. 1622, as amended by Ordinance No. 1704 and Ordinance No. 1705, has previously (i) determined it necessary and advisable to acquire, construct, replace and install improvements to the City's water system including water line improvements, plant intake structures and improvements to the water treatment plant, together with all necessary appurtenances therefor and thereto; repair the Fall River dam; upgrade the existing Little Bear elevated storage tank; construct a new 200,000 gallon elevated water storage tank; replace existing motors with Variable Frequency Drive (VFD); and upgrade the SCADA computer system that monitors and runs the water treatment plant (the "Water Project"), (ii) determined it necessary and advisable to acquire and install sanitary sewer lines, extensions and lift stations for the City's wastewater treatment facilities (the "Sewer Project"), and (iii) declared its intention to issue general obligation bonds of the City in order to pay a portion of the costs thereof, pursuant to K.S.A. 65-162a *et seq.*, as amended and supplemented (the "Water Act") and K.S.A. 12-617 *et seq.*, as amended and supplemented (the "Sewer Act"); and

WHEREAS, the governing body of the City has authorized the payment of the costs of the Water Project and Sewer Project (collectively, the "Project") in part from (i) proceeds of the City's general obligation bonds, which general obligation bonds will evidence the obligation of the City to repay Federal Aid from the United States of America acting through Rural Development United States Department of Agriculture, its successor and assigns (the "Federal Agency") in amount not to exceed \$7,000,000, and (ii) the proceeds of an Emergency Community Water Assistance Grant made through Rural Development United States Department of Agriculture, in the amount of \$1,000,000; and

WHEREAS, the governing body determines it necessary and appropriate to authorize and provide for the issuance of such general obligation bonds for the purpose of providing the necessary funds for the purposes described; and to specify the terms, details, form and conditions of the general obligation bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:

SECTION 1. Authorization of the Bonds. General Obligation Bonds, Series 2020, of the City in the total principal amount of Seven Million Dollars (\$7,000,000) (the “Bonds”) are authorized to be issued for the purpose of providing funds to pay a portion of the costs of acquiring, constructing and installing the Project described above. The Bonds shall be issued pursuant to the Water Act and Sewer Act (both as described above) in the manner and in conformance with K.S.A. 10-101 *et seq.* (the “Bond Act”).

The City shall sell and the United States of America acting through Rural Development, United States Department of Agriculture, its successor and assigns, shall purchase the Bonds for a price equal to the principal amount of the Bonds, plus accrued interest from the dated date of the Bonds to the date the Bonds are issued, if any. The Bonds shall evidence the City’s obligation to repay the Federal Aid to the Federal Agency.

SECTION 2. Security for the Bonds. The Bonds are general obligations of the City. The full faith, credit and resources of the City are pledged to secure the payment of the principal of and the interest on the Bonds as the same severally become due and payable. The governing body of the City covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same become due and payable by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City, in such amounts as are necessary to provide for such annual payment.

SECTION 3. 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 maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution hereinafter adopted by the governing body of the City (the “Resolution”).

SECTION 4. Designation of Paying Agent and Bond Registrar; Issuer/Agent Agreement. Pursuant to K.S.A. 10-620 *et seq.*, the governing body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds and designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas, as the Bond Registrar and Paying Agent for the bonds (the “Paying Agent”). The terms, conditions and provisions under which the Paying Agent will perform its duties are set forth in an Agreement between Issuer and Agent, dated as of September 28, 2020 (the “Issuer/Agent Agreement”). The form and text of the Issuer/Agent Agreement are approved and accepted by the governing body, and all of the covenants, duties and responsibilities therein to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and City Clerk are authorized to execute and deliver the Issuer/Agent Agreement for and on behalf of the City. The Issuer/Agent Agreement is incorporated in and made a part of this Ordinance as though fully set forth at this place; provided however, the inclusion of the Issuer/Agent Agreement in the publication of this Ordinance shall not be required.

SECTION 5. Levy and Collection of Annual Tax. The governing body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the

Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Series 2020 Principal and Interest Account as defined in the Resolution.

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

SECTION 6. Tax Covenants. The governing body of the City covenants that so long as any of the Bonds remain outstanding and unpaid, no use will be made of the proceeds thereof which, if such use had been reasonably expected on the date of issuance and delivery, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”); and that it will comply with all applicable requirements of Section 148 of the Code and the Rules and Regulations of the United States Treasury Department thereunder for so long as any of the Bonds remain outstanding and unpaid. The governing body further covenants to take all such action in its power as may be required from time to time in order to ensure the continued tax-exempt status of the interest on the Bonds, and to comply with all provisions of the Code, as the same be amended, and any applicable Rules and Regulations of the United States Treasury Department thereunder.

SECTION 7. Designation as Qualified Tax-Exempt Obligations. The governing body of the City designates the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code.

SECTION 8. Further Authority. The City and its officers, agents and employees are authorized and directed to, take such actions, expend such moneys and execute such other documents, certificates and instruments as may be necessary or desirable in order to carry out and comply with this Ordinance and to give effect to the transactions contemplated hereby, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all without further action by the governing body.

SECTION 9. Severability. If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

SECTION 10. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

SECTION 11. Effective Date. This Ordinance shall be in force and take effect from and after its adoption and approval and its publication one time in the City's official newspaper.

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ADOPTED AND APPROVED by the governing body of the City of Neodesha, Kansas
on September 9, 2020.

CITY OF NEODESHA, KANSAS

[seal]

By /s/ Devin Johnson
Devin Johnson, Mayor

ATTEST:

By /s/ Stephanie Fyfe
Stephanie Fyfe, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Neodesha, Kansas met in special session, at the usual meeting place in said City on September 9, 2020 at 2:00 p.m., with the Mayor Devin Johnson presiding, and the following members of the governing body present:

Commissioner J.D. Moffatt
Commissioner Tom Nichol

and the following members absent:

n/a

Thereupon, there was presented to the governing body an Ordinance entitled:

AN ORDINANCE OF THE CITY OF NEODESHA, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2020, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$7,000,000, FOR THE PURPOSE OF FINANCING THE COSTS OF ACQUIRING AND CONSTRUCTING IMPROVEMENTS TO THE CITY'S WATER SYSTEM AND SEWER SYSTEM; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Thereupon, the Ordinance was considered and discussed, and upon the motion of Commissioner Nichol, seconded by Commissioner Moffatt, the Ordinance was adopted by a majority vote of the governing body, it was given No. 1731 and was directed to be signed by the Mayor and attested by the City Clerk; and the City Clerk was directed to publish the Ordinance one time in the City's official newspaper as required by law and as provided therein.

Thereupon, and among other business, there was presented to the governing body a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2020, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$7,000,000, OF THE CITY OF NEODESHA, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 1731 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, the Resolution was considered and discussed; and on motion of Commissioner Moffatt, seconded by Commissioner Nichol, the Resolution was adopted by a majority vote of all members present.

Thereupon, the Resolution having been adopted by a majority vote of the members of the governing body, it was given No. 20-11 and was directed to be signed by the Mayor and attested by the City Clerk.
