

(Published in *The Neodesha Derrick* on November 2, 2023)

ORDINANCE NO. 1800

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS DECLARING IT NECESSARY TO ACQUIRE AND CONSTRUCT CERTAIN IMPROVEMENTS TO, AND OTHERWISE RECONSTRUCT, IMPROVE, EQUIP, REHABILITATE AND EXTEND THE MUNICIPAL WATER SYSTEM IN THE CITY; AUTHORIZING AND DIRECTING THE ACQUISITION AND CONSTRUCTION OF SAID IMPROVEMENTS, AND THE RECONSTRUCTION, IMPROVEMENT, EQUIPPING, REHABILITATION AND EXTENSION OF SAID SYSTEM AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TEMPORARY IMPROVEMENT NOTES FROM TIME TO TIME AS FUNDS ARE NEEDED FOR THE ORDERLY CONSTRUCTION OF SAID IMPROVEMENTS.

WHEREAS, the governing body of the City of Neodesha, Kansas (the “City”) is authorized under the laws of the State of Kansas to own, operate and maintain a municipal water system and the City has previously acquired, constructed and maintains such a municipal water system (the “Water System”); and

WHEREAS, said Water System constitutes a “public water supply system” within the meaning of K.S.A. 65-162a and the governing body of said city hereby finds and determines it necessary and advisable to acquire and construct certain improvements to, and otherwise reconstruct, improve, equip, rehabilitate and extend the Water System, including, but not limited to, the acquisition, construction and installation of water line improvements, and repairs to the southeast abutment of the Neodesha Fall River Dam, together with all necessary appurtenances therefor and thereto (the “Project”); and

WHEREAS, the City is authorized by K.S.A. 65-162a *et seq.*, as amended and supplemented, K.S.A. 10-101 *et seq.*, as amended and supplemented, and K.S.A. 10-123 (collectively, the “Water Act”), to acquire, construct and install the Project; to issue the City’s general obligation bonds for the purpose of paying all or part of any costs thereof and provide for the issuance of temporary improvement notes from time to time as funds are needed for the orderly construction of the Project; and

WHEREAS, the City intends to adopt this ordinance to ensure that its declaration of its intent to reimburse additional expenditures will satisfy the “Official Intent Requirement” described in Treasury Regulations Section 1.150-2.

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

Section 1. It is hereby found and determined to be necessary and advisable to acquire, construct and install the Project (as defined above) in accordance with certain plans and specifications as previously approved by the governing body of the City.

Section 2. It is hereby authorized, ordered and directed that the Project be acquired, constructed and installed, all as hereinbefore described, at a total estimated cost not to exceed One Million Seven Hundred Seventy-Two Thousand Dollars (\$1,772,000), which estimate includes all fees and expenses of financing the Project.

Section 3. It is hereby further authorized, ordered and directed that the costs of acquiring, constructing and installing the Project shall be paid from the proceeds of the City's general obligation bonds (the "Bonds") to be issued by the City in an amount which shall not exceed \$1,772,000. The City shall continue to seek and review the best possible methods of permanent financing as it proceeds with the Project.

Section 4. It is hereby further authorized, ordered and directed that in order to temporarily finance the estimated costs of the Project until the issuance of the general obligation bonds as hereinbefore provided, there shall be issued temporary improvement notes (the "Notes"), such notes to be issued from time to time upon subsequent resolution or resolutions of the City which shall provide and set forth the details of the Notes, including the fixing of the dates, terms, denominations, interest rates and maturity dates. Such Notes shall be issued and provision shall be made therefor as funds are needed and required for the orderly construction of the Project; and the Mayor and City Clerk are hereby authorized, ordered and directed to prepare and execute each of such Notes in accordance with the terms of this Ordinance and the terms of the subsequent resolution or resolutions providing for same; and shall deliver the Notes to persons having claims against the City in connection with the improvements, or may sell the Notes at private or public sale and apply the proceeds therefrom to the payment of the actual costs and expenses of the improvements. Any Notes issued under the authority of this Section shall be issued under and will contain a recital that they are issued under the authority of K.S.A. 10-123 and K.S.A. 65-162a *et seq.*, inclusive, as amended and supplemented, and shall contain all other usual and required recitals and covenants and be in the form required therefor by said K.S.A. 10-123; and said Notes may be issued in combinations with any other temporary notes being issued by the City as shall be determined by the governing body at the time of such issuance to be in the City's best interest.

Section 5. That the City intends that this Ordinance shall serve as any and all necessary declaration pursuant to the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (including Section 1.150-2) of its reasonable and official intent and expectation to pay or otherwise reimburse its costs of purchasing and acquiring the Project from the proceeds of such Notes and/or Bonds.

Section 6. That the City reasonably expects to be reimbursed for such expenditures made prior to the issuance of the Notes and/or Bonds with proceeds of Notes and/or Bonds ultimately issued for the benefit of the City (the "Reimbursement Debt").

Section 7. That the City expects that the Reimbursement Debt will be incurred no later than the later of (i) the date that is eighteen (18) months after the date on which it makes the capital

expenditures of the City intended to be reimbursed with the proceeds of the Reimbursement Debt, or (ii) the date that is eighteen months after the date on which the Project is placed in service but that is no more than three years after the original date of such expenditures; or (iii) such other date that is permitted by law.

Section 8. Effective Date. This Ordinance shall be in full force and take effect from and after its adoption and approval, and its publication one time in the official newspaper of the City.

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PASSED, ADOPTED AND APPROVED by the governing body of the City of Neodesha, Kansas on the 25th day of October, 2023.

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 regular session, at the usual meeting place in said City on October 25, 2023, at 2:00 p.m., with the Mayor Devin Johnson presiding, and the following members of the governing body present:

Mayor Devin Johnson
Commissioner Moffatt
Commissioner Vail-Keller

and the following members absent:

none

Among other business, there came on for consideration and discussion the following:

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS, DECLARING IT NECESSARY TO ACQUIRE AND CONSTRUCT CERTAIN IMPROVEMENTS TO, AND OTHERWISE RECONSTRUCT, IMPROVE, EQUIP, REHABILITATE AND EXTEND THE MUNICIPAL WATER SYSTEM IN THE CITY; AUTHORIZING AND DIRECTING THE ACQUISITION AND CONSTRUCTION OF SAID IMPROVEMENTS, AND THE RECONSTRUCTION, IMPROVEMENT, EQUIPPING, REHABILITATION AND EXTENSION OF SAID SYSTEM AND PROVIDING FOR THE PAYMENT OF THE COSTS THEREOF; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TEMPORARY IMPROVEMENT NOTES FROM TIME TO TIME AS FUNDS ARE NEEDED FOR THE ORDERLY CONSTRUCTION OF SAID IMPROVEMENTS.

After discussion, upon motion by Commissioner Moffatt, seconded by Commissioner Vail-Keller, the Ordinance was passed by a majority of the members elect.

A majority of the members elect having voted in favor of the passage of said Ordinance, it was designated Ordinance No. 1800 and was ordered to be executed by the Mayor and by the City Clerk, and the City Clerk was directed to publish the Ordinance one time in the official city newspaper as required by law and provided herein.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the October 25, 2023 regular meeting of the governing body of the City of Neodesha, Kansas.

[seal]

/s/ Stephanie Fyfe
Stephanie Fyfe, City Clerk