

(Published in The Topeka Metro News on August 21, 2017.)

## ORDINANCE NO. 20079

**AN ORDINANCE INTRODUCED BY INTERIM CITY MANAGER DOUG GERBER AUTHORIZING THE ISSUANCE OF \$17,975,000 AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY REVENUE BONDS, SERIES 2017-A, OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. 10-1201 ET SEQ., AND ALL AMENDMENTS THERETO.**

**WHEREAS**, pursuant to K.S.A. 10-1201 et seq., as amended, (the "Act") the governing body of the **City of Topeka, Shawnee County, Kansas**, (the "City") has authorized by its Ordinances Nos. 19882, 19884, and 19885, all published as required by law, and its Resolutions Nos. 8625, 8626, 8673, 8742, 8755 and 8756, which ordinances and resolutions were adopted by two-thirds vote of the members thereof, expressed its intent to improve the City's stormwater, wastewater and water supply systems (collectively, the "System") by making certain stormwater collection, sanitary sewer and water distribution improvements together with all things necessary and incidental thereto (the "Improvements") and authorizing that notice of the City's intention to make the Improvements and finance the costs thereof be given in accordance with the requirements of the Act; and

**WHEREAS**, pursuant to the Act, the City did cause to be published in its official newspaper, a paper of general circulation in the City, its Notices of Intention to complete the Improvements and finance the cost thereof by issuing revenue bonds of the City, in the maximum principal amount of \$22,795,950, to pay all or part of the cost of the Improvements incurred or to be incurred by the City in connection with the Improvements; and

**WHEREAS**, a sufficient protest against the making of the Improvements and the issuance of revenue bonds of the City in the maximum principal amount of \$22,795,950 to pay the cost thereof was not received by the City Clerk within fifteen (15) days of the date of the publication of the City's Notice(s) of Intention; and

**WHEREAS**, it is necessary at this time that the City proceed forthwith to sell and deliver its Combined Utility Revenue Bonds, Series 2017-A, in the principal sum of \$17,975,000 (the "Bonds"), for the purpose of (1) providing funds to permanently finance the costs of making the Improvements (i.e., \$17,464,086.33); (2) funding, to the extent required, a debt service reserve fund for the Bonds and (3) paying the costs of issuing the Bonds, under the authority of K.S.A. 10-1201 et seq. and Article 1 of Chapter 10, Kansas Statutes Annotated, all as amended; and

**WHEREAS**, the City on September 22, 2010, issued its (1) Taxable Combined Utility Improvement Revenue Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-A in the amount of \$985,000, (the "Series 2010-A Bonds"), (2) Taxable Combined Utility

Improvement Revenue Bonds (Recovery Zone Economic Development Bonds) Series 2010-B in the amount of \$9,155,000, (the “Series 2010-B Bonds”) and (3) Taxable Combined Utility Improvement Revenue Bonds, Series 2010-C in the amount of \$85,000 (the “Series 2010-C Bonds”); and

**WHEREAS**, the City on September 29, 2011, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2011-A in the amount of \$18,900,000 (the “Series 2011-A Bonds”) which, in part, currently refunded the Series 2004-A Bonds maturing on August 1, 2014, through and including, August 1, 2021, the August 1, 2023 term bond and \$1,770,000 of the August 1, 2029 term bond subject to mandatory redemption and payment on August 1, 2024; and

**WHEREAS**, the City on June 12, 2012, issued its Combined Utility Refunding Revenue Bonds, Series 2012-A in the amount of \$22,045,000 (the “Series 2012-A Bonds”) which currently refunded on June 13, 2012, the outstanding Series 2004-A Bonds maturing on and after August 1, 2013; and

**WHEREAS**, the City on May 21, 2013, issued its Combined Utility Refunding Revenue Bonds, Series 2013-A in the amount of \$35,985,000 (the “Series 2013-A Bonds”) which (1) currently refunded the August 1, 2013, maturity of the Series 2005-A Bonds, Series 2006-B Bonds, and Series 2012-A Bonds and (2) advanced refunded all of the remaining outstanding Series 2006-A Bonds on August 1, 2014; and

**WHEREAS**, the City on December 23, 2014, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A in the amount of \$45,510,000 (the “Series 2014-A Bonds”) which (1) currently refunded all of the remaining outstanding Series 2006-B Bonds on December 24, 2014, (2) advanced refunded all of the remaining outstanding Series 2005-A Bonds on August 1, 2015, and (3) advance refunded a portion of the Series 2007-B Bonds, allocable on a pro-rata basis to construction and current refunding purposes maturing on August 1, 2027, August 1, 2029, and August 1, 2037, (i.e., \$4,730,000); and

**WHEREAS**, the City on September 6, 2016, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2016-A in the amount of \$24,945,000 (the “Series 2016-A Bonds”) which (1) provided funds to permanently finance the costs of making the Improvements; (2) currently refunded the outstanding balance of the Series 2007-B Bonds maturing on August 1, 2027, August 1, 2029, and August 1, 2037, on September 7, 2016; (3) funded, to the extent required, a debt service reserve fund for the Series 2016-A Bonds and (4) paid the costs of issuing the Series 2016-A Bonds; and

**WHEREAS**, the City on September 6, 2016, issued its Taxable Combined Utility Refunding Revenue Bonds, Series 2016-B in the amount of \$1,745,000 (the “Series 2016-B Bonds”) which (1) currently refunded the outstanding balance of the City’s Series 2007-C Bonds maturing on August 1, 2025, (i.e., \$1,690,000) on September 7, 2016; (2) funded, to the extent required, a debt service reserve fund for the Series 2016-B Bonds; and (3) paid the costs of issuing the Series 2016-B Bonds; and

91       **WHEREAS**, the Bonds are parity obligations of the City's System and, as such shall  
92 have equal lien status with the outstanding Series 2010-A Bonds, the Series 2010-B Bonds, the  
93 Series 2010-C Bonds, the Series 2011-A Bonds, the Series 2012-A Bonds, the Series 2013-A  
94 Bonds, the Series 2014-A Bonds, the Series 2016-A Bonds and the Series 2016-B Bonds; and  
95

96       **WHEREAS**, the City has authorized certain loans in the outstanding amount of  
97 \$43,511,030 from the Kansas Department of Health and Environment revolving fund loan  
98 program (the "Permitted Loans") and pledged the revenues from the System to the payment of  
99 such Permitted Loans and any additional loans which would constitute Permitted Loans under  
100 the Resolution hereinafter provided for; and  
101

102       **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is superior  
103 to the lien of the City's outstanding Series 2010-A Bonds, Series 2010-B Bonds, Series 2010-C  
104 Bonds, Series 2011-A Bonds, Series 2012-A Bonds, Series 2013-A Bonds, Series 2014-A  
105 Bonds, Series 2016-A Bonds, Series 2016-B Bonds and the Bonds hereby authorized and  
106 directed to be issued.  
107

108       **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
109 **TOPEKA, SHAWNEE COUNTY, KANSAS:**  
110

111       **Section 1.** That there is hereby authorized and directed to be issued Combined Utility  
112 Revenue Bonds, Series 2017-A, of the City in the aggregate principal amount of \$17,975,000 for  
113 the purposes of providing funds to (1) permanently finance the costs of making the  
114 Improvements; (2) fund, to the extent required, a debt service reserve fund for the Bonds; and (3)  
115 pay the costs of issuing the Bonds, as provided by Article 1 of Chapter 10, Kansas Statutes  
116 Annotated, and Article 12 of Chapter 10 of the Kansas Statutes Annotated, all as amended. The  
117 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such  
118 form, shall be subject to redemption and payment prior to the maturity thereof and shall be  
119 issued in the manner prescribed and subject to the provisions, covenants and agreements set forth  
120 in a resolution of the Governing Body of the City adopted the same date as the date of the  
121 passage and approval of this Ordinance (the "Resolution").  
122

123       **Section 2.** That the Mayor and City Clerk are hereby authorized to prepare and execute  
124 the Bonds and when so executed, the Bonds shall be registered as required by law and the  
125 Governing Body shall annually make provisions for the payment of the principal of, redemption  
126 premium, if any, and interest on the Bonds as the same shall become due from the revenues  
127 derived by the City from the rates, fees or charges collected by the City from the operation of the  
128 System, including all improvements, extensions and enlargements thereto hereafter constructed  
129 or acquired by the City and not from any other fund or source. The Bonds shall constitute a lien  
130 upon the revenues produced from the System of the City.  
131

132       **Section 3.** That the City shall, and the officers, agents and employees of the City are  
133 hereby authorized and directed to, take such action and execute such other documents,  
134 certificates and instruments as may be necessary or desirable to carry out and comply with the  
135 provisions of this Ordinance and to carry out, comply with and perform the duties of the City

136 with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the  
137 transaction contemplated hereby and thereby.  
138

139 **Section 4.** That if any portion or provision of this Ordinance or the Bonds shall for any  
140 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion  
141 or provisions shall not affect any of the remaining provisions of this Ordinance or the Bonds, but  
142 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid  
143 provision had not been contained herein.  
144

145 **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance  
146 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.  
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148 **Section 6.** That this Ordinance shall take effect and be in force from and after its passage  
149 and publication in the official City newspaper.  
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151 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)  
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Passed and approved by the governing body of the City of Topeka, Kansas, this 15th day of August, 2017.

CITY OF TOPEKA, KANSAS

ATTEST:

Larry E. Wolgast, Mayor

Brenda Younger, City Clerk

(SEAL)

**I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 20079 adopted and approved by the City Council on August 15, 2017.

Brenda Younger, City Clerk