

**CITY OF WESTWOOD HILLS, KANSAS
RESOLUTION NO. 2018-4**

A RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE LOAN AGREEMENT BETWEEN CITY OF WESTWOOD HILLS, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT, FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A STORMWATER SEWER AND DRAINAGE SYSTEM REPAIR PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE FIRST AMENDMENT TO THE LOAN AGREEMENT.

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established a revolving fund program for public water quality systems to assist in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Pledge Agreement (the "Pledge Agreement") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public water quality projects (the "Projects") and to pledge the Loan Repayments (as defined in the Pledge Agreement) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the

EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, Westwood Hills, Kansas (the "Municipality") is a municipality, as said term is defined in the Loan Act, which operates a stormwater sewer and drainage collection system (the "System"); and

WHEREAS, the System is a public Wastewater Treatment Works, as said term is defined in the Loan Act; and

WHEREAS, the Municipality has, pursuant to the Loan Act, obtained a loan from KDHE from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

The project will provide storm sewer restoration and repair (the "Project"); and

WHEREAS, after receipt of bids from various contractors for completion of the Project, at a Special Meeting held on June 25, 2018, the governing body of the Municipality has authorized submission of a request to KDHE to increase the amount of the loan from the Revolving Fund in order to finance the increased costs of the Project; and

WHEREAS, the Municipality has, pursuant to the Loan Act, submitted a request to KDHE to increase the amount of the loan from the Revolving Fund in order to finance the increased costs of the Project; and

WHEREAS, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for an amendment to the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for an increase in the loan in an amount not to exceed Three Hundred Fifty-Seven Thousand Three Hundred Nineteen Dollars and Fifty-Two cents [\$357,319.52] (the "Loan") in order to finance the Project; and

WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the First Amendment to the Loan and to enter into a First Amendment to the Loan Agreement, and certain other documents relating thereto, and to take certain actions required in order to implement the First Amendment to the Loan Agreement.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD HILLS, KANSAS:

Section 1. Authorization of the First Amendment to the Loan Agreement. The Municipality is hereby authorized to accept the Loan amendment and to enter into a certain First

Amendment to the Loan Agreement, with an effective date of July 3, 2018, with the State of Kansas, acting by and through the Kansas Department of Health and Environment, (the "First Amendment to the Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the First Amendment to the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the City Attorney, the Mayor's execution of the First Amendment to Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce amounts which are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE in the System Revenues.


In accordance with the Loan Act, the obligations under the Loan, the Loan Agreement, and the First Amendment to the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.


Section 3. Further Authority. The Mayor, 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 this Resolution and 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 4. Governing Law. This Resolution, the Loan Agreement, and the First Amendment to the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.


Section 5. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the governing body of the City.

PASSED by the governing body of the City on July 17, 2018, and signed and APPROVED by the Mayor.


Paula L. Schwach, Mayor


Beth O'Bryan, City Clerk

Approved as to form only:


James R. Orr, City Attorney

