

(Published in *The Herington Times* on January 11, 2017)

ORDINANCE NO. 1797

AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS, DECLARING IT NECESSARY TO MAKE CERTAIN WATER SYSTEM IMPROVEMENTS TO; AUTHORIZING AND DIRECTING THE ACQUISITION AND CONSTRUCTION OF SAID IMPROVEMENTS 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, IF NECESSARY.

WHEREAS, the governing body of the City of Herington, 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 and rehabilitate the Water System, including particularly the acquisition, construction and installation of a water treatment plant, together with all necessary appurtenances therefor and thereto (the “Project”); and

WHEREAS, the City intends to pay for construction of the Project with the proceeds of a certain Kansas Department of Health and Environment Loan (the “KDHE Loan”), a portion of which is forgivable upon conclusion of construction; 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, if necessary, provide for the issuance of temporary improvement notes from time to time as funds are needed for the orderly construction of the Project.

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

Section 1. Authorization of Project. 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. Payment of Project Costs. 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 Three Million Five Hundred Thousand Dollars (\$3,500,000), which estimate does not include the expenses of financing the Project. The Project is intended to be paid from (i) loan forgiveness in the approximate principal amount of \$1,000,000 of the KDHE Loan (as defined above) used for temporary financing of the Project and (ii) the proceeds of the City's general obligation to be issued by the City in an estimated amount of \$2,500,000.

Section 3. General Obligation Bonds. It is hereby further authorized, ordered and directed that the long-term costs of acquiring, constructing and installing the Project shall be paid from the proceeds of the City's general obligation bonds to be issued by the City in an amount which shall not exceed \$2,500,000. The City shall continue to seek and review the best possible methods of permanent financing as it proceeds with the Project. It is anticipated that such bonds shall be sold to The United States Department of Agriculture acting through the Rural Utilities Services, United States Department of Agriculture, its successor and assigns and shall evidence the City's obligation to repay a like amount to be received from said agency.

Section 4. Temporary Notes. If necessary in the event of any failure of the KDHE Loan process, 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. Reimbursement. The obligations authorized by this Ordinance are authorized to reimburse expenditures made by the City 60 days before the date of this Ordinance and thereafter, as provided in United States Treasury Regulation § 1.150-2.

Section 6. 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.

[Remainder of Page Intentionally Left Blank]

EXCERPT OF MINUTES

The City Council of the City of Herington, Kansas met in regular session, at the usual meeting place in said City on January 2, 2018, at 6:00 p.m., with the Mayor Kat Souza presiding, and the following members of the governing body present: Commissioner Mark Hager, Commissioner Michelle Stanford, Commissioner Dave Jones, and Commissioner Sarah Nistler

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 HERINGTON, KANSAS, DECLARING IT NECESSARY TO MAKE CERTAIN WATER SYSTEM IMPROVEMENTS TO; AUTHORIZING AND DIRECTING THE ACQUISITION AND CONSTRUCTION OF SAID IMPROVEMENTS 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, IF NECESSARY.

After discussion, upon motion by Commissioner Stanford, seconded by Commissioner Jones, 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. 1797 and was ordered to be executed by the Mayor and by the City Clerk.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the January 2, 2018 regular meeting of the governing body of the City of Herington, Kansas.

[seal]



Brenda Wildman, City Clerk

PASSED, ADOPTED AND APPROVED by the governing body of the City of Herington,
Kansas on January 2, 2018.

CITY OF HERINGTON, KANSAS

[seal]

By Kat Souza
Kat Souza, Mayor

ATTEST:

By Brenda Wildman
Brenda Wildman, City Clerk