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**ORDINANCE NO. 3794**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF OSAWATOMIE, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS STATE TREASURER FOR THE PURPOSE OF OBTAINING A LOAN PURSUANT TO THE CITY UTILITY LOW-INTEREST LOAN PROGRAM TO FINANCE EXTRAORDINARY ELECTRIC COSTS INCURRED DURING THE EXTREME WINTER WEATHER EVENT OF FEBRUARY 2021; 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 LOAN AGREEMENT.**

**WHEREAS**, on March 3, 2021, Governor Laura Kelly signed into law House Substitute for Senate Bill 88, establishing the City Utility Low-Interest Loan Program and authorizing the State Treasurer to distribute up to \$100 million in loans for the purpose of providing loans to cities for extraordinary electric costs incurred during the extreme winter weather event of February 2021 (the “Act”); and

**WHEREAS**, the City of **OSAWATOMIE**, Kansas (the “City”) has previously adopted Resolution No. 852 authorizing the City to make application to the State Treasurer for a loan pursuant to the City Utility Low-Interest Loan Program (the “Loan”); and

**WHEREAS**, the governing body of the City hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement such loan agreement.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:**

**Section 1. Authorization of Loan Agreement.** The City is hereby authorized to accept the Loan and to enter into a Loan Agreement with the State of Kansas acting by and through the State Treasurer (the “Loan Agreement”) to finance the extraordinary electric costs incurred during the extreme winter weather event of February 2021 (the “Extraordinary Costs”).

The Loan shall be in the amount of not to exceed \$700,000.

The interest rate on the loan shall be 2% below the market rate as provided in K.S.A. 75-4237, and amendments thereto, and shall be recalculated on the first business day of January of each year using the market rate then in effect. The minimum interest rate shall be 0.25% if the market rate is below 2.25%.

The Loan shall be repaid over a term of not to exceed 10 years. The City has requested semi-annual repayment dates.

The Mayor and Clerk are hereby authorized to execute the Loan Agreement, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

**Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan.** The City hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the

City shall impose and collect such rates, fees and charges for the use and services furnished by or through its Electric utility (the "System"), including all improvements and additions thereto hereafter constructed or acquired by the City as will provide revenues 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, (c) pay all other amounts due at any time under the Loan Agreement and (d) pay the principal of and interest on all other outstanding bonds or indebtedness of the System; provided, however, no lien or other security interest is granted by the City to the State on the System revenues pursuant to the Loan. If the City receives any federal monies related to the extreme winter weather event of February 2021, the first priority for expenditure of such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be the payment of any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program as provided in Section 4(b) of the legislation creating the loan program. If the City receives any recoveries as a result of settlement or litigation or other refunds of Extraordinary Costs paid by the City that relate to the extreme winter weather event of February 2021, such amounts (or any similar amounts received by the State of Kansas for the benefit of the City) will be used to pay any outstanding balance of the loan made to the City under the City Utility Low-Interest Loan Program.

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

**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 the Ordinance, 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.** The Ordinance and 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 Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication (or publication of a summary thereof) in the official City newspaper.

**PASSED** by the governing body of the City on March 11, 2021 and signed and **APPROVED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

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City Clerk