ORDINANCE NO. 17773

AN ORDINANCE INTRODUCED BY MAYOR HARRY FELKER AUTHORIZING THE ISSUANCE OF $25,365,000 AGGREGATE PRINCIPAL AMOUNT OF WATER AND WATER POLLUTION CONTROL UTILITY REVENUE BONDS, SERIES 2001-A, OF THE CITY OF TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. ARTICLE 12 OF CHAPTER 10 AND 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") by its Ordinances Nos. 17428, 17509, 17756 and 17757 adopted by two-thirds vote of the members thereof, and published as required by law, expressed its intent to improve the City's wastewater and water supply systems (collectively, the "System") by making certain wastewater collection and water treatment plant and distribution system 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 $32,979,550, 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 $32,979,550 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 of Intention; and

WHEREAS, it is necessary at this time that the City proceed forthwith to sell and deliver its Water and Water Pollution Control Utility Revenue Bonds, Series 2001-A, in the principal sum of $25,365,000 (the "Series 2001-A Bonds") for the purpose of providing funds to pay that portion of the costs of making the Improvements and issuing the Bonds; and

WHEREAS, the City on June 30, 1998, issued its Water and Water Pollution Control Utility Refunding Revenue Bonds, Series 1998A in the amount of $11,315,000 (the "Series 1998A") and its Water and Water Pollution Control Utility Revenue Bonds, Series 1998B in the amount of $31,440,000 (the "Series 1998B"); and
WHEREAS, The Series 2001A Bonds are parity obligations of the City’s System and, as such shall have equal lien status with the Series 1998A Bonds and Series 1998B Bonds.

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

Section 1. That for the purposes of providing funds to pay the costs of making the Improvements and issuing the Bonds as aforesaid, there is hereby authorized and directed to be issued Water and Water Pollution Control Utility Revenue Bonds of the City in the aggregate principal amount of Twenty-five Million Three Hundred Sixty-five Thousand Dollars ($25,365,000) (the "Bonds") as provided by the Act. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity thereof and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution of the Governing Body of the City adopted the same date as the date of the passage and approval of this Ordinance (the "Resolution").

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

Section 3. That the City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

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

Section 5. That the Bonds shall be issued and sold to the purchaser thereof in accordance with both its bid for the purchase thereof and the terms and conditions of this Ordinance.

Section 6. That this Ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.
Passed by the Governing Body and approved by the Council of the City of Topeka, Kansas, this 11th day of December, 2001.

CITY OF TOPEKA, KANSAS

ATTEST:

Harry Felker, Mayor

IRIS E. WALKER, 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. 17773 adopted and approved by the City Council on December 11, 2001.

Iris E. Walker, City Clerk