

(Published in [Official County Newspaper] on December 17, 2015)

**RESOLUTION NO. 2015-034**

**A RESOLUTION AUTHORIZING THE EXECUTION OF THE THIRD AMENDMENT TO THE LOAN AGREEMENT BETWEEN JEFFERSON COUNTY SEWER DISTRICT NO. 2, 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 WASTEWATER TREATMENT 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 THIRD AMENDMENT TO THE LOAN AGREEMENT.**

**WHEREAS**, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment 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 wastewater treatment 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**, Jefferson County Sewer District No. 2, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection, pumping, and treatment 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, submitted an Application to KDHE to obtain an amendment to the loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

The project will construct a new three cell discharging wastewater treatment lagoon, new pumping station and force main, standby power generator and appurtenances. The existing activated sludge wastewater treatment facility will be abandoned. Replace the sewage pumping station serving the sewer district. (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 a loan in amount of not to exceed Six Hundred Eleven Thousand Five Hundred Fifty Nine Dollars [\$611,559.00] (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 Third Amendment to the Loan and to enter into a Third Amendment to the Loan Agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Third Amendment to the Loan Agreement.

**THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE JEFFERSON COUNTY SEWER DISTRICT NO. 2, KANSAS:**

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

Amendment to the Loan Agreement, with an effective date of November 23, 2015 with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Third Amendment to the Loan Agreement") to finance the Project Costs (as defined in the Third Amendment to the Loan Agreement). The Chair and Clerk are hereby authorized to execute the Third 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 Chair and the Attorney, the Chair's execution of the Third Amendment to the 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 impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues or 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 on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, 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 the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

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

**Section 3. Further Authority.** The Chair, Clerk and other County Sewer District 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 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.** The Resolution and the Third 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 County Sewer District and publication in the official County Sewer District newspaper.

**PASSED** by the governing body of the County Sewer District on December 14, 2015 and signed and **APPROVED** by the Chair  
/s/Richard Malm, Chairman /s/ Lynn Luck /s/ Wayne Ledbetter  
ATTEST: /s/ Linda M. Buttron, County Clerk  
APPROVED AS TO FORM ONLY  
Josh Ney, County Counselor

**For  
Information  
Only**