AH ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF ELECTRIC SYSTEM REVENUE BONDS OF THE CITY OF WATHENA, KANSAS, IN THE PRINCIPAL SUM OF \$105,000.00, FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF REPAIRS, ALTERATIONS, ENLARGEMENTS, EXTENSIONS AND IMPROVEMENTS TO ITS ELECTRIC SYSTEM IN THE TOTAL AMOUNT OF \$137,183.17; PRESCRIBING THE FORM AND DETAILS OF SUCH REVENUE BONDS; AND PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUES OF SAID ELECTRIC SYSTEM.

MHEREAS, the governing body of the City of Wathena, Kansas, declared its intention to repair, alter, enlarge, extend and improve the city's electric system by Resolution adopted July 23, 1973, at a total estimated cost of \$137,183.17, a portion thereof to be paid by the issuance of revenue bonds in the amount of not to exceed \$105,000.00 and the balance of such cost to be paid from cash on hand; and notice of such intention was published in the official city newspaper on July 26, 1973 and no written protest thereto was filed with the City Clerk within fifteen (15) days after such publication; and it is now necessary to issue electric system revenue bonds of the City in the amount of \$105,000.00 to pay a portion of the cost of such repairs, alterations, enlargements, extensions and improvements.

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

SECTION 1. All of the repairs, alterations, extensions, enlargements and improvements as set out in the resolution of July 23, 1973, are hereby authorized and ordered to be made, and revenue honds in the amount of \$105,000.00 shall be issued to pay for a portion of the cost of the same, the balance of the cost to be paid from cash on hand.

SECTION 2. That there are hereby authorized and directed

to be issued negotiable Electric System Revenue Bonds of the City of Wathena, Kansas in the aggregate principal amount of \$105,000.00 as provided by K.S.A. 10-1201 et seq., as amended, for the purpose of providing funds to pay a portion of the cost of making the repairs, alterations, enlargements, extensions and improvements of the City's Electric System as set forth in the said Resolution and in the notice published by the governing body of the City of Wathena, Kansas, on July, 26, 1973, such bonds and the interest thereon to be paid by the City of Wathena, Kansas, solely from the revenue derived from the operation of its said Electric System, and the rates, fees and charges collected for the use thereof or service therefrom, and not from any other fund or source.

SECTION 3. Said Electric System Revenue Bonds shall be dated August 1, 1973, shall be designed Series A, 1973, shall be in denomination of \$5,000.00 each, shall be numbered from 1 to 21, inclusive, and shall mature and bear interest as set forth in the following schedule, to wit:

Bond Numbers				Amount	Interest <u>Per Annum</u>	Maturity <u>Date</u>		
1				\$ 5,000.00	4-3/4%	August 1, 1974		
2	and	3		10,000.00	4-3/4%	August 1, 1975		
4	and	5		10,000.00	5%	August 1, 1976		
6	and	7		10,000.00	5%	August 1, 1977		
8	and	9		10,000.00	5%	August 1, 1978		
10	and	11		10,000.00	5 <b>-1/</b> 4%	August 1, 1979		
12	and	13		10,000.00	5-1/1%	August 1, 1980		
14	and	15		10,000.00	5-1/4%	August 1, 1981		
16	to	18,	Incl.	15,000.00	5-1/2%	August 1, 1982		
19	to	21,	Incl.	15,000.00	5-1/2%	August 1, 1983		

Interest shall be payable on said bonds February 1, 1974, and semiannually thereafter on the first day of August and February in each year until the principal sum shall have been paid.

Said bonds shall be signed by the signature of the Mayor,

have the corporate seal of the City affixed thereon, and be attested by the signature of the City Clerk. Said bonds shall be registered by the City Clerk in his office and by the State Auditor of the State of Kansas as required by law. The interest coupons shall bear lithographed facsimile signatures of the Mayor and City Clerk. When executed by the signatures of the Mayor and City Clerk and registered as herein authorized, said bonds shall import absolute verity and shall be conclusive in favor of all persons purchasing said bonds of the fact that all conditions percedent have been had and performed and exist in due and proper form to authorize the issuance thereof.

SECTION 4. Each of said bonds and interest coupons, and the certificates attached thereto, shall be in substantially the following form:

## UNITED STATES OF AMERICA STATE OF KANSAS

CITY OF WATHENA

## ELECTRIC SYSTEM REVENUE BOND Series A, 1973

KNOW ALL MEN BY THESE PRESENTS: That the City of Wathena in the County of Doniphan and State of Kansas, is indebted to and promises to pay to the bearer the sum of

## FIVE THOUSAND DOLLARS

in lawful money of the United States of America on the first day of
August, 19 , with interest thereon at the rate of
percent (%) per annum payable February 1, 1974
and thereafter semiannually on the first days of August and February
of each year, upon the presentation and delivery of proper coupons
hereto annexed signed with the lithographed signatures of the Mayor
and Clerk of said City. Both principal and interest on this bond are
payable solely out of the Electric Fund hereinafter referred to at
the office of the State Treasurer in the City of Topeka, Kansas.

THIS BOND is one of a series of twenty-one (21) bonds, numbered from one (1) to twenty-one (21), inclusive, aggregating One Hundred Five Thousand Dollars (\$105,000.00) of like tenor and effect, except as to number, interest rate and maturity date, issued by the City of Wathena, Kansas, for the purpose of providing funds to pay a portion of the cost of making repairs, alterations, enlargements, extensions and improvements of the City's electric system, and is issued under authority of and in conformity with the provisions, restrictions and limitations of the Constitution and Laws of the State of Kansas, including K.S.A. 10-1201, et seq., and all acts amendatory, supplementary and complementary thereto. All terms and conditions of security for and payment of bonds of this issue are subject to the provisions of Ordinance No. 305 of the City of Wathena, Kansas under which these bonds are issued.

The principal and interest of this bond and all other bonds of said issue are hereby made a lien on the revenues produced from said electric utility and are to be paid solely and only from a separate and special fund identified as the Electric Fund, into which there are to be paid from revenues derived from the rates, fees and charges for the use thereof and for all services rendered by said electric system collected by said City from the operation of said system as the same now exists or may hereafter be improved and extended, sums sufficient to make said payments when due and providing for the reserve funds and other conditions specified in Ordinance No. 305, subject only to payment of reasonable operation and maintenance expenses. This bond and the issue of which it forms a part shall not in any respect constitute a general obligation of said City.

The City covenants that it will fix, maintain and collect an aggregate of rates, fees and charges for the use of said system sufficient to pay the cost of reasonable operation and maintenance of said system, and to create and maintain the funds and accounts for payment of this issue as provided for in Ordinance No. 305; and that the city will in all other respects faithfully comply with all

the provisions of K.S.A. 10-1201, et seq., and all acts amendatory, supplementary and complementary thereto, and the said Ordinance under which this bond is issued.

This bond and all other bonds of said issue are negotiable and shall in the hands of bona fide holders have all the qualities of negotiable instruments under the laws of the State of Kansas. This bond and all other bonds of said issue have been duly registered in the office of the Auditor of the State of Kansas, in accordance with the forms of registery certificates on the back hereof.

Upon certain conditions specified in said Ordinance No. 305, the City may issue additional bonds for Electric System extensions, enlargements and improvements, which bonds shall be co-equal with bonds of this issue in stature and priority.

IT IS HEREBY CERTIFIED and recited that all acts, conditions and things required to be done and to exist precedent to and in the issuance of this bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and Laws of the State of Kansas.

IN WITNESS WHEREOF, the said City of Wathena in the County of Doniphan, State of Kansas, by its governing body has caused this bond to be signed by the signature of its Mayor, its corporate seal to be hereto affixed and attested by the signature of its City Clerk, and the interest coupons hereto attached to be executed with the facsimile signatures of said Mayor and City Clerk, and this bond to be dated the first day of August, 1973.

ATTEST:

CITY CLERK

No. On the first day of, the City of Mathena, Doniphan County, Kansas, will pay to bearer out of the Electric Fund the sum of	City of Mathena, Kansas, Electric System Revenue Bond Series A, 1973		
(facsimile) Mayor			
Attest: (facsimile)	) ) ) )		
City Clerk	, ) ) 		
(Form of registration certificate for City Cle  STATE OF KANSAS )	y of Wathena, Kansas,		
C	ITY CLERK		
(Form of certificate for State Auditor)  OFFICE OF THE AUDITOR OF THE STATE OF KANSAS:			
I, CLAY E. HEDRICK, Auditor of the S hereby certify that a transcript of the procee the issuance of this bond has been filed in my and the coupons attached hereto were registere to law this	dings leading up to office and this bond		
WITNESS my hand and official seal.			
By Auditor of the Assistant Auditor of State -6-	State of Kansas		

SECTION 5. All accrued interest received on sale of the bonds shall upon receipt be immediately deposited in the ELECTRIC SYSTEM PRINCIPAL AND INTEREST ACCOUNT bereinafter created by this Ordinance. The full cash proceeds of all the bonds authorized herein, except such accrued interest, shall be deposited by the City of Wathena, Kansas, immediately on their receipt in the treasury of said City in a special fund to be designated as ELECTRIC SYSTEM COMSTRUCTION FUMD. sometimes hereinafter called the CONSTRUCTION FUND, which shall be used solely for the purpose of paying the cost of the repairs, alterations, enlargements, extensions and improvements to the Electric System as heretofore authorized and approved by the governing body... Withdrawals from the CONSTRUCTION FUND shall be made only on duly authorized and executed warrant accompanied by a certificate executed by the City's consulting engineers that such payment is being made for a purpose within the scope of such repairs, alterations, enlargements, extensions and improvements authorized by this Ordinance and that the amount of such payment represents only the contract price or reasonable value of the property, labor, materials, service or obligation for which the warrant is issued. All monies remaining in said CONSTRUCTION FUND after the completion of all of such work approved by the governing body shall be transferred immediately thereafter to the ELECTRIC SYSTEM PRINCIPAL AND INTEREST ACCOUNT hereinafter in this ordinance created, provided for and described.

The City of Wathena, Kansas, covenants with each of the purchasers and owners of the Electric System Revenue Bonds, Series A, 1973, herein authorized that, so long as any of said bonds remain outstanding and unpaid the City will make no use of the proceeds of said bonds which, if such use had been reasonably expected on the date of issuance of said bonds, would have caused said bonds to be arbitrage bonds within the meaning of Section 103(d) of the Internal

Revenue Code of 1954, as amended, and the City will comply with all applicable requirements of said Section 103(d) and the rules and regulations of the United States Treasury Department thereunder.

SECTION 6. From and after the adoption of this Ordinance, all income and revenues derived in any manner from the operation of the City's Electric System as such system now exists or as it may be extended, improved and enlarged, shall be paid into the Treasury of the City of Wathena, Kansas, and placed in a special fund described and known as the ELECTRIC FUND which shall hereafter be referred to as THE FUND. Such revenue so placed in THE FUND shall be used and distributed solely and entirely as follows:

- A. The cost of maintenance and operation of the Electric System shall be paid currently from THE FUND as bills accrue, and such bills shall be paid by a proper system of vouchers. Such amounts as may be necessary in the opinion of the governing body to pay the reasonable and proper expenses of operation and maintenance of the Electric System for a period of sixty (60) days may be retained and accumulated in THE FUND before transfers to the other accounts hereinafter provided for.
- B. Upon adoption of this Ordinance, there shall be created in the Treasury of the City an account to be designated as the ELECTRIC SYSTEM PRINCIPAL AND INTEREST ACCOUNT ACCOUNT NO. 1, hereinafter called the PRINCIPAL AND INTEREST ACCOUNT. After providing for the funds necessary for the payment of maintenance and operation of the Electric System the City shall set aside and transfer monthly from THE FUND to said PRINCIPAL AND INTEREST ACCOUNT, beginning as of August 1, 1973, an amount equal to one-sixth (1/6) of the next maturing interest, and, in addition, beginning as of August 1, 1973, an amount equal to one-twelth (1/12) of the next maturing principal

on all outstanding bonds of this issue, to the end that at all times one month prior to maturity of interest and principal there shall be sufficient monies in said PRINCIPAL AND INTEREST ACCOUNT to transmit maturing interest and principal to the State Treasurer for payment when due. Amounts in the PRINCIPAL AND INTEREST ACCOUNT from accrued interest received on sale of the Bonds or from excess money in the CONSTRUCTION FUND or from other sources, shall be used in determining the amount of such monthly transfers. All amounts transferred and credited to the said PRINCIPAL AND INTEREST ACCOUNT shall be used solely and exclusively for the payment of principal and interest on bonds of this issue when the same shall become due and payable and for no other purpose.

C. Upon adoption of this Oridnance, there shall be created in the Treasury of the City an account to be designated ELECTRIC SYSTEM BOND RESERVE ACCOUNT - ACCOUNT NO. 2, hereinafter called the BOND RESERVE ACCOUNT. Upon adoption of this Ordinance the City shall cause to be transferred to and deposited in the BOND RESERVE ACCOUNT the sum of \$15,000.00, from cash funds on hand and available for such purpose. All accumulations in the BOND RESERVE ACCOUNT shall be used solely and exclusively for the payment of principal and interest of bonds of this issue, for which funds might not otherwise be available or to pay a like amount of final maturing bonds of this issue. No monies in said BOND RESERVE ACCOUNT shall be used to call bonds of this issue for redemption and payment unless and until the total accumulations of this Account, together with other funds on hand available to call bonds for redemption and payment, shall pay all outstanding bonds of this issue. Should the City expend any portion of this DOND RESERVE ACCOUNT and thereby reduce it below \$15,000.00, except to retire all outstanding bonds, the City shall, after providing for the transfers set out above in subsections A and B, deposit all

monies remaining in THE FUMD in said BOND RESERVE ACCOUNT until said BOND RESERVE ACCOUNT shall have again attained an accumulation of \$15,000.00.

- D. After providing for the funds and transfers set forth and described in subsections A, B and C of this Section, all monies remaining in THE FUHD may be used to pay the cost of operation, maintenance and repair of the Electric System, to make payments into or increase the amounts of the Accounts set out in subsections B and C above to cover potential deficiencies or to anticipate future requirements in said Accounts, to pay the cost of improving, extending or enlarging the Electric System, to pay and redeem prior to maturity, or to purchase bonds of this issue or other outstanding indebtedness of the System, at the fair market price not to exceed the redemption price thereof. Should the monies remaining in THE FUND not be required for any of the foregoing purposes, then not to exceed one-half of the monies so remaining in THE FUND during any fiscal year may be used during the succeeding fiscal year for other general lawful City purposes.
- E. Should there be at any time insufficient monies in all of the funds and accounts above described in subsections Λ, Β, C and D to pay any deficiencies in principal or interest payments required by the terms of any bonds of this issue, then such principal and interest shall be payable out of the first available revenues received thereafter by the City from the operation of its Electric System after providing only for immediately necessary operation and maintenance of the System.
- F. All of the Accounts created and described in subsections
  B and C above (Accounts 1 and 2) shall be considered to be part of
  THE FUND and are pledged to the payment of the bonds herein authorized.

SECTION 7. Monies held in the CONSTRUCTION FUND, in the DOMD RESERVE ACCOUNT, and in THE FUMD may be invested by the City in bonds or other direct obligations of the United States Government becoming due within ten years from date of purchase. Motwithstanding such authority, no investment shall be made for a period extending longer than to the date when the monies invested may reasonably be needed for the purposes for which each repective account was created. All income from investments shall accrue to and become a part of the account or fund which is the source of the investment. In determining the amount held in any fund or account under any of the provisions of this Ordinance, bonds or other direct obligations of the United States Government shall be valued at the then market value thereof. If and when the amount held in any fund or account shall be in excess of the amount required by the provisions of this Ordinance, the City may direct that such excess be paid into THE FUND if the City determines that other accounts and funds are current and adequate.

SECTION 8. The City covenants and agrees that it shall never issue additional revenue bonds for Electric System extensions, enlargements and improvements which shall be superior to the bonds of this issue in lien, stature or priority. The City may issue additional revenue bonds for Electric System extensions, enlargements and improvements, which bonds shall be co-equal with bonds of this issue in lien, stature and priority only under the following conditions:

- A. When the issuance of additional Electric System Revenue Bonds of equal stature and priority is permitted by the Statures of the State of Kansas.
- B. When all accounts designated in Section 6 above are being maintained in the full amounts specified and when the City

shall be in full compliance with all of the other details, conditions and requirements of this Ordinance.

- C. When the net income of the Electric System for the preceeding year, after the payment of operation and maintenance expenses of the System, shall equal not less than 125% of an amount determined as the average annual principal and interest requirement of all currently outstanding indebtedness of the System and all contemplated new indebtedness of the System; provided that, should electric service rate increases have been established during the preceeding year, the estimated amount of income resulting from such service rate increases, but not reflected in incomes during such year, may be employed in determining the net income available during the test year, but certification of such estimated additional income resulting from such rate increases shall be made by a firm of independent consulting engineers qualified by experience and recognition to perform such certification.
- D. When the ordinance authorizing such additional bonds shall require that the BOND RESERVE ACCOUNT herein created shall be increased so that the total anticipated maximum amount in such reserve will bear the same proportion to the total of all electric system revenue indebtedness outstanding and contemplated as the maximum amount in said BOND RESERVE ACCOUNT required by the provisions of this Ordinance bears to the principal amount of this issue.

SECTION 9. While any of the bonds herein authorized remain outstanding, the rates, fees and charges for the use of the services rendered by said Electric System shall be reasonable and just and subject to the conditions and limitations in this Ordinance provided; and it is hereby covenanted and agreed that such rates, fees and charges, after payment of costs of operating and maintaining the

Electric System, shall be sufficient to comply with the conditions of this Ordinance and the terms of said bonds and provide adequate bond reserves and depreciation funds; and no services or facilities afforded by the Electric System shall be furnished without a reasonable charge being made therefor, except that so long as all of the requirements and conditions of this Ordinance are being met and provided for, electric service may be furnished without charge to city buildings and facilities.

SECTION 10. The City hereby covenants and agrees that it will faithfully and punctually perform all duties with respect to said Electric System required by the Consititution and laws of Kansas, by the applicable rate ordinances and by this Ordinance, including the fixing and collecting of rates, fees and charges for the use of the System and depositing the same in the special funds created by this Ordinance as above specified; and the City covenants and binds itself not to sell, mortgage, lease or rent or in anywise dispose of said Electric System or any substantial part thereof until the principal of and interest upon all bonds herein authorized shall have been paid in full, or unless and until provisions shall have been made for the payment of the full amount of such principal and interest on all bonds then remaining outstanding and unpaid; and the City will continuously maintain the System in good repair and working order and operate said utility in a businesslike and efficient manner.

SECTION 11. The City of Wathena, Kansas, hereby covenants and agrees that so long as any of the bonds herein authorized remain outstanding and unpaid said City will not issue any additional bonds or other obligations payable out of the revenues of its Electric System unless at such time all of the covenants of this Ordinance are being fully complied with and all bonds issued hereunder are in good standing

and not in default. Any such additional utility system revenue bonds shall be junior and subordinate to the bonds of this issue, so that if at any time the City shall be in default in paying any interest and principal on bonds of this issue or in making any of the transfers required to any of the accounts or funds as herein specified, then the City shall make no payment of either principal or of interest on such subordinate bonds until all conditions of default shall be cured. The provisions of this Section shall not be construed to affect or contradict the right of the City to issue parity bonds as provided in Section 8.

SECTION 12. The City will carry and maintain such reasonable amount of all risk insurance on all properties and all operations of the Electric System as would be carried by a privately owned utility with similar property and performing similar functions, insofar as the properties are of an insurable nature; and in the event of loss or damage the City will use the proceeds of such insurance to reconstruct or replace the property damaged or destroyed, or if such reconstruction or replacement be unnecessary then such proceeds shall be used in redeeming or paying off outstanding revenue bonds in accordance with the call provisions above set out. The City also will carry such liability insurance in such amounts as would normally be carried by a private corporation engaged in a similar type of business.

SECTION 13. As long as any of the bonds herein authorized are outstanding the City shall keep proper separate books of record and accounts in which complete and correct entries shall be made showing all revenues collected for services by said utility and all sums expended in the operation thereof and all sums deposited in the accounts above mentioned and all disbursements; transfers and transactions relating to said utility and shall annually cause an audit to

be made by a qualified accountant of the operation thereof, which audit shall be open to public inspection; and the City shall also prepare an annual budget in its customary form estimating anticipated expenditures and income and containing a statement relative to the amounts of insurance being carried and to be carried. If the audit or budget shall disclose that proper provision has not been made for carrying out and complying with all the requirements herein set forth, then the City shall within sixty (60) days proceed to cause to be charged and collected rates, fees and charges which will provide adequate funds to meet all such requirements. Copies of the audit and budget shall be filed in the office of the City Clerk and duplicate copies thereof shall be mailed promptly to Municipal Securities, Inc., Wichita, Kansas. The books and accounts shall be kept in accordance with standard accounting procedures and the audit shall include the following information:

- A. A classified statement of the gross revenues received, the expenditures for operation and maintenance, the expenditures for all other purposes, the net operating revenues and the amount of any capital expenditures made from such revenue during the year.
- B. A complete balance sheet of the fiscal year's operations, particularly indicating the amount of funds set aside for the accounts hereinabove provided.
- C. A statement showing all bonds which have been called, purchased, matured or paid during the year and a statement of all interest paid during the year.
- D. A statement of the number of customers served at the end of the year.
  - E. A statement of the gross amount of insurance carried

on the properties showing the names of the insurers, the expiration dates of the policies and the premium thereon.

F. A statement by the auditor of any recommendations suggested as to any financial procedures and accounting practices employed by the City.

Such audit shall be completed within six (6) months after the completion of the City's fiscal year.

The budget shall contain normal budgetary items, including:

- A. An estimate of the reciepts during the next ensuing fiscal year.
- B. A statement of the estimated cost of operating the system.
- C. A statement of any anticipated unusual expenses during the next fiscal year.
- D. A statement of any necessary replacements which may be anticipated during the next fiscal year.
- E. A statement of the amount of principal and interest to be paid on outstanding revenue bonds and general obligation bonds to be paid from revenues during the next fiscal year.
- F. A statement of the total estimated expenditures to be made from the revenues during the next fiscal year.

SECTION 14. The City will cause the Superintendent of its Electric System or an independent Consulting Engineer to make a bi-annual examination and report on the condition and operation of the City's Electric System, such report to include recommendations

as to any changes in such operation deemed desirable. Such report shall also make references to any unusual or extraordinary items of maintenance and repair and any extensions or improvements that may be needed in the ensuing year. A copy of such report will be filed in the office of the City Clerk and duplicate copies thereof shall be mailed promptly to Municipal Securities, Inc., Wichita, Kansas.

SECTION 15. The holder of any bond of this issue or his duly authorized attorney, accountant or investment counselor shall have the right at all reasonable times to inspect the Electric System or any part thereof and any records, accounts or data relating thereto.

SECTION 16. The City covenants that in the construction, reconstruction, repair, maintenance and operation of the Electric System, it will perform all duties and obligations relative to such System as are now or may be hereafter imposed by the Constitution and Laws of the State of Kansas and the provisions of this Ordinance.

SECTION 17. This Ordinance and all of the provisions hereof shall constitute a contract between the City of Wathena, Kansas, and each of the holders of the bonds issued under this Ordinance and any such holder of any one or more of such bonds may by suit, action, mandamus, injunction or other proceeding, either at law or in equity, enforce and compel performance of all duties, obligations and conditions determined and required by this Ordinance.

SECTION 18. The Mayor and City Clerk are hereby authorized and directed to prepare and execute in the manner hereinabove specified the Electric System Revenue Bonds of the City herein authorized, and to cause said bonds to be registered, to deliver said bonds to Municipal

Securities,	inc.,	Michita,	Kansas,	the	purchasers	thereof	on	payment
of the purch	nase p	rice.						

	SECTION	! 19. Th	nis Ordinand	e shall	take effect	and be in	force
from and	after it	s passag	ge, approval	and pub	lication on	ce in the	
official	city par	er.					
	PASSED	AND APPR	ROVED	Λ	ugust 21		. 1973.
ATTEST:							MAYOR

CITY CLERK