

ORDINANCE NO.3625

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF SALES TAX REFUNDING REVENUE BONDS, SERIES 2016, OF THE CITY OF DODGE CITY, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S OUTSTANDING SALES TAX REVENUE BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Dodge City, Kansas (the "City") is a city of the first class duly created, organized and existing under the Constitution and laws of the State of Kansas; and

WHEREAS, pursuant to Resolution No. 97-11, adopted by the governing body of the City on April 28, 1997, and K.S.A. 12-187 *et seq.*, as amended (the "Act"), a special election was duly held in the City on June 10, 1997, on the question of whether to implement a special City-wide retailers' sales tax at a rate of one-half percent (0.5%) (the "City Sales Tax"); the collection of one-quarter percent (1/4%) of which will commence on October 1, 1997 and the remaining one-quarter percent (1/4%) of which will commence on January 1, 2000 upon the expiration of the City's 1994 Sales Tax, in order to jointly finance, in conjunction with Ford County, Kansas (the "County"), the construction, equipping and operation of certain public projects, including installing air conditioning in the Civic Center, constructing an outdoor motor sports complex, constructing field sports facilities, constructing and equipping a special events center and other public projects (collectively the "Projects") and authorizing the issuance of revenue bonds of the City payable from and secured by the proceeds of the City Sales Tax, and it was found and determined that more than a majority of the qualified electors of the City voting on the question had voted in favor of the implementation of the City Sales Tax for the purpose aforesaid and the issuance of such revenue bonds; and

WHEREAS, pursuant to Resolution No. 1997-12 and the Act, a special election was also duly held in the County on June 10, 1997, on the question of whether to implement a special County-wide retailers' sales tax at a rate of one-half percent (0.5%) (the "County Sales Tax"); the collection of one-quarter percent (1/4%) of which will commence on October 1, 1997 and the remaining one-quarter percent (1/4%) of which will commence on upon the expiration of the County's 1991 Sales Tax, in order to finance, in conjunction with the City, the construction, equipping and operation of the Projects and authorizing the issuance of revenue bonds of the County payable from and secured by the proceeds of the County Sales Tax to be retained by the County, and it was found and determined that more than a majority of the qualified electors of the County voting on the question had voted in favor of the implementation of the County Sales Tax for the purpose aforesaid and the issuance of such revenue bonds; and

WHEREAS, pursuant to Resolution No. 97-11, the governing body of the City declared an intent, in order to finance a portion of the costs of the Project, to issue sales tax revenue bonds secured by the City's share of the County Sales Tax, a notice of such intent was duly published in accordance with the provisions of the Act and no sufficient protest was filed against the issuance of such revenue bonds within the time period prescribed in the Act; and

WHEREAS, the City and the County have entered into an Interlocal Cooperation Agreement, dated July 21, 1997 (the "Cooperation Agreement") whereby the City and County agree to: (a) jointly fund the construction, equipping and operation of the Projects; (b) deposit the proceeds to be derived by the City and County from the City Sales Tax and the County Sales Tax into a separate fund to be established and

maintained by the City; (c) create a Project Review and Advisory Committee (the "Project Committee") to oversee the location, construction and operation of the Projects; (d) permit the County to assign its rights to issue revenue bonds against its portion of the County Sales Tax to the City; and (e) authorize the City, upon recommendation of the Project Committee, to issue sales tax revenue bonds secured by the City Sales Tax, the City's portion of the County Sales Tax and the County's portion of the County Sales Tax (collectively the "Sales Tax"); and

WHEREAS, pursuant to such authority the City has heretofore issued and has outstanding its: (a) Sales Tax Revenue Bonds, Series 2009 (the "Series 2009 Bonds"), in the original principal amount of \$40,300,000, to finance a portion of the costs of the Projects; and (b) Sales Tax Revenue Bonds, Series 2015, in the original principal amount of \$9,840,000, to finance a portion of the costs of the Projects; and

WHEREAS, the City heretofore issued and has Outstanding the Refunded Bonds and is authorized by K.S.A. 10-116a and K.S.A. 12-187 *et seq.* to issue refunding revenue bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Bonds, to reduce debt service requirements of the City for certain years, to restructure the debt payments on the Refunded Bonds and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City to refund the Refunded Bonds; and

WHEREAS, the City has not heretofore issued and does not have Outstanding any bonds or other obligations payable from the revenues derived by the Issuer from the Sales Tax other than the Series 2009 Bonds and the Series 2015 Bonds; and

WHEREAS, the City hereby finds and determines that it is necessary to authorize the issuance of the Series 2016 Bonds in the principal amount of \$32,435,000 for the purpose of paying all or a portion of the costs to refund the Refunded Bonds and related financing costs and reserves.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

"Act" means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-116a, K.S.A. 10-620 *et seq.* and K.S.A. 12-187 *et seq.*, all as amended and supplemented from time to time.

"Additional Bonds" means any bonds secured by the Revenues hereafter issued pursuant to the Bond Resolution.

"Additional Obligations" means any leases or other obligations of the Issuer payable from the Revenues, other than the Bonds.

“Bond Resolution” means collectively the 2009 Bond Resolution, the 2015 Supplemental Resolution, the 2016 Supplemental Resolution and any supplemental resolution authorizing any Additional Bonds.

“Bonds” means collectively the Series 2009 Bonds, Series 2015 Bonds, Series 2016 Bonds, and any Additional Bonds.

“City” means the City of Dodge City, Kansas.

“City Sales Tax” means the one-half percent (0.5%) retailers’ sales tax collected within the boundaries of the City, authorized under the Act by the special election held on June 10, 1997, and implemented by Resolution No. 97-16 of the City.

“Clerk” means the duly appointed and acting Clerk of the Issuer or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

“Cooperation Agreement” means the Dodge City-Ford County Interlocal Cooperation Agreement, dated as of July 21, 1997.

“County” means Ford County, Kansas.

“County Sales Tax” means the one-half percent (0.5%) retailers’ sales tax collected within the boundaries of the County, authorized under the Act by the special election held on June 10, 1997, and implemented by Resolution No. 97-28 of the County.

“Debt Service Reserve Account” means the Debt Service Reserve Account for Parity Bonds created by the Bond Resolution.

“Fiscal Year” means the twelve month period ending on December 31.

“Mayor” means the duly elected and acting Mayor or, in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“1991 Sales Tax” means the one-quarter percent (1/4%) retailers' sales tax imposed within the boundaries of the County, which was authorized by an election held on April 2, 1991.

“1994 Sales Tax” means the one-quarter percent (1/4%) retailers' sales tax imposed within the boundaries of the City, which was authorized by an election held on August 24, 1993.

“Net Revenues” means, for the period of determination, all Revenues less all Expenses.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“Parity Bonds” means the Outstanding Series 2009 Bonds, Series 2015 Bonds, Series 2016 Bonds and any Additional Bonds hereafter issued or incurred pursuant to the Bond Resolution and standing on a parity and equality with the Series 2009 Bonds, Series 2015 Bonds and Series 2016 Bonds with respect to the Revenues.

“Parity Obligations” means any Additional Obligations hereafter issued or incurred pursuant to the Bond Resolution and standing on a parity and equality with the Parity Bonds with respect to the lien on the Net Revenues.

“Parity Resolution” means the Bond Resolution and the ordinances and/or resolutions under which any Additional Bonds which constitute Parity Bonds are hereafter issued.

“Project” means the construction, equipping and operation of the operation of certain public projects, including installing air conditioning in the Issuer’s Civic Center, constructing an outdoor motor sports complex, constructing field sports facilities, constructing and equipping a special events center, constructing and equipping a new regional outdoor aquatic facility, and other public projects.

“Project Committee” means the Project Review and Advisory Committee established by the Cooperation Agreement.

“Refunded Bonds” means the Series 2009 Bonds maturing in the years 2020 to 2034, inclusive, in the aggregate principal amount of \$31,940,000.

“Refunded Bonds Resolution” means the ordinance and resolution which authorized the Refunded Bonds.

“Revenues” means all revenues received by the City pursuant to the Cooperation Agreement from the implementation and collection of the Sales Tax.

“Sales Tax” means collectively the City Sales Tax and the County Sales Tax.

“Series 2009 Bonds” means the City's Sales Tax Revenue Bonds, Series 2009, authorized and issued by the Issuer pursuant to the 2009 Bond Resolution.

“Series 2015 Bonds” means the City's Sales Tax Revenue Bonds, Series 2015, authorized and issued by the Issuer pursuant to the 2015 Supplemental Resolution.

“Series 2016 Bonds” means the City's Sales Tax Refunding Revenue Bonds, Series 2016, authorized and issued by the Issuer pursuant to the Ordinance and the 2016 Supplemental Resolution.

“State” means the State of Kansas.

“2009 Bond Resolution” means Resolution No. 2009-09 of the City, which authorized the issuance of the Series 2009 Bonds and Additional Bonds.

“2015 Supplemental Resolution” means Resolution No. 2015-03 of the City, which amends and supplements the 2009 Bond Resolution and authorized the issuance of the Series 2015 Bonds.

“2016 Supplemental Resolution” means Resolution No. 2016-[__] of the City, which amends and supplements the 2009 Bond Resolution and authorizes the issuance of the Series 2016 Bonds.

Section 2. Authorization of the Series 2016 Bonds. There shall be issued and are hereby authorized and directed to be issued the Sales Tax Refunding Revenue Bonds, Series 2016, of the City in the aggregate principal amount of \$32,435,000 for the purpose of providing a portion of the funds to: (a) refund the Refunded Bonds and (b) pay costs of issuance of the Series 2016 Bonds.

Section 3. Security for the Bonds. The Bonds shall be special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Revenues, and the City hereby pledges said Revenues to the payment of the principal of and interest on the Bonds. The general taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest. The Bonds shall not be or constitute a general obligation of the State, the County or the City nor shall they constitute an indebtedness of the State or the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

The covenants and agreements of the City contained herein and in the Series 2016 Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Series 2016 Bonds, all of which Series 2016 Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Series 2016 Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Series 2016 Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Revenues with any Parity Bonds or Parity Obligations. The Series 2016 Bonds shall not have any priority with respect to the payment of principal or interest from said Revenues or otherwise over the Parity Bonds or Parity Obligations; and the Parity Bonds and Parity Obligations shall not have any priority with respect to the payment of principal or interest from said Revenues or otherwise over the Series 2016 Bonds.

Section 4. Terms, Details and Conditions of the Series 2016 Bonds. The Series 2016 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the 2016 Supplemental Resolution.

Section 5. Further Authority. The Mayor, Director of Finance/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 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 6. Governing Law. This Ordinance and the Series 2016 Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 7. 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 in the official City newspaper.

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PASSED by the governing body of the City on March 7, 2016 and signed by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

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