

(Published in *The Hillsboro Star Journal* on October 13, 2021)

ORDINANCE NO. 1336

AN ORDINANCE OF THE CITY OF HILLSBORO, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION REFUNDING BONDS, SERIES A, 2021, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$957,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Hillsboro, Kansas (the "City") has previously issued its General Obligation Bonds, Series A, 2007 (the "2007 Bonds"), in the original principal amount of \$78,358, of which \$15,000 remains outstanding; and

WHEREAS, the City has previously issued its General Obligation Tax Increment Bonds, Series A, 2011 (the "Series A, 2011 Bonds"), in the original principal amount of \$345,000, of which \$115,000 remains outstanding; and

WHEREAS, the City has previously issued its General Obligation Bonds, Series B, 2011 (the "Series B, 2011 Bonds"), in the original principal amount of \$1,600,000, of which \$805,000 remains outstanding; and

WHEREAS, the City finds and determines it is necessary and appropriate to issue certain general obligation refunding bonds pursuant to K.S.A. 10-427 *et seq.*, K.S.A. 10-116a, and K.S.A. 12-1770 *et seq.*, all as amended (collectively, the "Refunding Act"), for the purpose of currently refunding the City's outstanding 2007 Bonds, Series A, 2011 Bonds and the Series B, 2011 Bonds (collectively, the "Refunded Bonds"); and

WHEREAS, the City is authorized by the K.S.A. 10-101 to 10-125, inclusive, as supplemented and amended (the "Bond Act"), to issue, sell and deliver its general obligation bonds for the purpose of refunding and redeeming the Refunded Bonds and is not required to sell such general obligation bonds at public sale; and

WHEREAS, the governing body has, pursuant to the Bond Act and Refunding Act and by Resolution No. 2021-07, adopted September 7, 2021, authorized the offering for sale of general obligation bonds of the City; and

WHEREAS, the governing body determines it necessary and appropriate to authorize and provide for the issuance of such general obligation bonds for the purpose of providing the necessary funds for the purposes described; and to specify the terms, details, form and conditions of the general obligation bonds.

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

SECTION 1. Authorization of the Bonds. General Obligation Refunding Bonds, Series A, 2021, of the Hillsboro, Kansas (the "City") in the total principal amount of Nine Hundred Fifty-Seven Thousand Dollars (\$957,000.00) (the "Bonds") are authorized to be issued for the purpose of providing funds to refund and redeem the Refunded Bonds (as defined above) and pay a portion of the costs of issuing the Bonds.

SECTION 2. Security for the Bonds. The Bonds are general obligations of the City payable as to both principal and interest from in part from (i) certain property tax increments allocated to and paid into a special fund of the City as provided by, and calculated under, the Tax Increment Act and the Resolution (defined below) (the "Tax Increment") received by the City, (ii) from special assessment taxes upon the properties liable therefor, and/or (iii) by levying the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City, in such amounts as are necessary to provide for such annual payment. The Tax Increment, special assessment taxes, and the full faith, credit and resources of the City are pledged to secure the payment of the principal of and the interest on the Bonds as the same severally become due and payable. The governing body of the City covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same become due and payable by collecting the Tax Increment and/or special assessments, or, in the event the Tax Increment or special assessment taxes are insufficient for such payment, by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City, in such amounts as are necessary to provide for such annual payment.

SECTION 3. Terms, Details and Conditions of the Bonds. The 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 maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution hereafter adopted by the governing body of the City (the "Resolution").

SECTION 4. Designation of Paying Agent and Bond Registrar; Issuer/Agent Agreement. Pursuant to K.S.A. 10-620 *et seq.*, the governing body of the City elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds and designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas, as the Bond Registrar and Paying Agent for the Bonds (the "Paying Agent"). The terms, conditions and provisions under which the Paying Agent will perform its duties are set forth in an Agreement between Issuer and Paying Agent dated as of October 28, 2021 (the "Issuer/Agent Agreement"). The form and text of the Issuer/Agent Agreement are approved and accepted by the governing body, and all of the covenants, duties and responsibilities therein to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and City Clerk are authorized to execute and deliver the Issuer/Agent Agreement for and on behalf of the City. The Issuer/Agent Agreement is incorporated in and made a part of this Ordinance as though fully set forth at this place; provided however, the inclusion of the Issuer/Agent Agreement in the publication of this Ordinance shall not be required.

SECTION 5. Levy and Collection of Annual Tax and Collection of Tax Increments. The governing body of the City shall annually make provision for a portion of the payment of principal of, premium, if any, and interest on the Bonds as the same become due by collecting from the special fund established under K.S.A. 12-1770 *et seq.* containing the Tax Increment allocated thereto.

The proceeds received from the Tax Increment shall be deposited into a special fund of the City, as provided by the Tax Increment Act and thereafter applied to purposes prescribed by the Tax Increment Act, including, as necessary, deposits to the Series A, 2021 Principal and Interest Account.

The governing body of the City shall annually make provision for the remaining portion of the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes and/or assessments upon all of the taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as other general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said general ad valorem taxes and/or assessments shall be deposited in the Series A, 2021 Principal and Interest Account, as defined in the Resolution.

If at any time said taxes and/or assessments and/or Tax Increment are not collected in time to pay the principal of or interest on the Bonds when due, the City Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes and/or assessments and/or property tax increments are collected.

SECTION 6. Tax Covenants. The governing body of the City covenants that so long as any of the Bonds remain outstanding and unpaid, no use will be made of the proceeds thereof which, if such use had been reasonably expected on the date of issuance and delivery, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the "Code"); and that it will comply with all applicable requirements of Section 148 of the Code and the Rules and Regulations of the United States Treasury Department thereunder for so long as any of the Bonds remain outstanding and unpaid. The governing body further covenants to take all such action in its power as may be required from time to time in order to ensure the continued tax-exempt status of the interest on the Bonds, and to comply with all provisions of the Code, as the same be amended, and any applicable Rules and Regulations of the United States Treasury Department thereunder.

SECTION 7. Designation as Qualified Tax-Exempt Obligations. The Bonds shall be deemed designated, or to the extent not so deemed, are hereby designated as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code.

SECTION 8. Further Authority. The City and its officers, agents and employees are authorized and directed to, take such actions, expend such moneys and execute such other documents, certificates and instruments as may be necessary or desirable in order to carry out and comply with this Ordinance and to give effect to the transactions contemplated hereby, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all without further action by the governing body.

SECTION 9. Severability. If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

SECTION 10. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

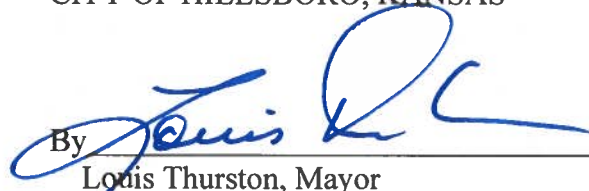
SECTION 11. Effective Date. This Ordinance shall be in force and take effect from and after its adoption and approval and its publication one time in the City's official newspaper.

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ADOPTED AND APPROVED by the governing body of the City of Hillsboro, Kansas on the 5th day of October, 2021.



CITY OF HILLSBORO, KANSAS

By 
Louis Thurston, Mayor

By 
Danielle Bartel, City Clerk