

(Published in *The Hillsboro Star Journal* on July 24, 2019)

ORDINANCE NO. 1301

AN ORDINANCE OF THE CITY OF HILLSBORO, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES 2019, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$4,055,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION TEMPORARY NOTES OF THE CITY AND FINANCING THE COSTS OF MULTIPLE CAPITAL IMPROVEMENTS IN 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, K.S.A. 12-685 *et seq.* (the "Main Trafficway Act") authorizes the governing body of the City of Hillsboro, Kansas (the "City") to designate by ordinance, any existing or proposed street or part thereof within the City as a main trafficway. The primary function of a main trafficway is, or will be, the movement of traffic (i) between areas of concentrated activity, or (ii) between such areas within the City and traffic facilities outside the City; and

WHEREAS, K.S.A. 12-686 authorizes the governing body of the City to designate by ordinance certain portions of existing streets as trafficway connections and to connect any street with any of the main trafficways and/or connect any two (2) main trafficways and designate and establish the same as trafficway connections. The primary function of a trafficway connection is, or will be to: (i) provide adequate connections with or between main trafficways or (ii) relieving traffic congestion at certain points on said main trafficways; and

WHEREAS, the City has previously designated Main Street within the corporate limits of the City as a main trafficway, pursuant to Ordinance No. 1066 adopted on April 1, 2003 and published April 10, 2003; and

WHEREAS, the City has previously designated Ash Street within the corporate limits of the City as a main trafficway, pursuant to Ordinance No. 1195 adopted on October 5, 2010 and published April 10, 2010; and

WHEREAS, the City has previously designated (i) Adams Street from Highway 56 to First Street, (ii) First Street from Ash Street to Adams Street, (iii) Industrial Road from Highway 56 to the railroad right-of-way, (iv) "A" Street from Main Street to Washington Street, (v) Eisenhower Street from "C" Street to "A" Street, (vi) "A" Street from Eisenhower Street to Jefferson Street, (vii) Third Street from Ash Street to Adams St., (viii) Commerce Street from Industrial Road to Santa Fe Street, and (viii) "D" Street within the corporate limits of the City as a main trafficway, pursuant to Ordinance No. 1207 adopted on April 5, 2011 and published April 13, 2011; and

WHEREAS, the City has previously designated (i) Wilson Street (from 1st Street to C Street), (ii) First Street (from Adams St. to Wilson St.), (iii) “B” Street (from Lincoln St. to Adams St.), (iv) Grand Avenue within the corporate limits of the City, (v) Adams Street (from B Street to 1st Street), (vi) Washington St. (from 1st Street to 2nd Street), (vii) Lincoln St. (from 1st Street to 3rd Street), (viii) Jefferson Street (from 1st Street to 3rd Street) and (ix) 2nd Street (from Lincoln to Main Street) as a main trafficways, pursuant to Ordinance No. 1282 adopted on September 19, 2017 and the summary of which was published September 27, 2017; and

WHEREAS, the City has previously designated (i) Kennedy St. (from A Street to C Street), (ii) “C” Street (from Adams St. to Kennedy St.) and (iii) 1st Avenue (from Adams St. east to the corporate limits of the City), pursuant to Ordinance No. 1298 adopted on June 18, 2019 and published on June 26, 2019; and

WHEREAS the City previously adopted Ordinance No. 1289, as amended by Ordinance Nos. 1298 and 1299 which authorized the City to (i) repair and replace “B” Street (from Lincoln St. to Adams St.), (ii) repair and resurface “D” Street in its entirety, (iii) repair and replace Grand Avenue in its entirety, (iv) repair and replace Wilson Street (from 1st St. to “C” Street), (v) repair and replace 1st St. (from Adams St. east to the City limits), (vi) repair and replace Washington St. (from 1st St. to 2nd St.), (vii) repair and replace Jefferson St. (from 1st St. to 2nd St.), (viii) repair and replace Lincoln St. (from 1st St. to 2nd St.); (ix) repair and replace Kennedy St. (from “A” St. to “C” Street) and (x) repair and replace “C” Street (from Adams to Kennedy), including any necessary and appurtenant pedestrian ways (collectively, the “Project”), at an estimated cost of \$4,075,000; and

WHEREAS, the City is authorized by the Main Trafficway Act and 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 providing funds to pay the costs of the Project including redeeming the City of Hillsboro, Kansas General Obligation Temporary Notes, Series 2018 (the “Notes”), originally issued to temporarily finance a portion of the Project, and is required to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, the governing body has, pursuant to the Bond Act and by Resolution No. 2019-04, adopted July 2, 2019, authorized the public sale of general obligation bonds of the City, and notice of the public sale was published, the public sale was held, and the general obligation bonds have been awarded to the best bidder; 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 Bonds, Series 2019, of the City in the total principal amount of Four Million Fifty-Five Thousand Dollars (\$4,055,000.00)

(the “Bonds”) are authorized to be issued for the purpose of providing funds to pay the costs of the Project defined above, including redeeming the Notes (as defined above).

SECTION 2. Security for the Bonds. The Bonds are general obligations of the City. 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 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 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 August 1, 2019 (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. The governing body of the City shall annually make provision for 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 upon taxable tangible property within the City in the manner provided by law.

The taxes 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 taxes shall be deposited in the Series 2019 Principal and Interest Account, as defined in the Resolution.

If at any time said taxes 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 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. Authorization of Official Statement; Continuing Disclosure. The governing body of the City hereby ratifies and confirms its prior approval of the form and content of the “deemed final” Preliminary Official Statement dated July 8, 2019 and the use of the final Official Statement in the reoffering of the Bonds by Hutchinson, Shockey, Erley & Co., Chicago, Illinois, as Original Purchaser is approved and authorized; and the Mayor is authorized to execute and the City Clerk to attest the Official Statement on behalf of the City. The City covenants and agrees to provide continuing disclosure as required by Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (17 CFR part 240, §240.15c2-12) and as set forth in the Continuing Disclosure Undertaking submitted to the governing body with this Ordinance. The Mayor is authorized to execute and the City Clerk to attest the Continuing Disclosure Undertaking on behalf of the City.

SECTION 8. Designation as Qualified Tax-Exempt Obligations. The governing body of the City designates the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code.

SECTION 9. 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 10. 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 11. 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 12. 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.

ADOPTED AND APPROVED by the governing body of the City of Hillsboro, Kansas on July 16, 2019.

CITY OF HILLSBORO, KANSAS

[seal]

By /s/Louis Thurston
Louis Thurston, Mayor

ATTEST:

By /s/Janice K. Meisinger
Janice K. Meisinger, City Clerk