

ORDINANCE NO. 49-810

OF

THE CITY OF WICHITA, KANSAS

PASSED

AUGUST 12, 2014

**GENERAL OBLIGATION SALES TAX BONDS
SERIES 2014**

ORDINANCE NO. 49-810

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SALES TAX BONDS, SERIES 2014, OF THE CITY OF WICHITA, KANSAS; PLEDGING CERTAIN SALES TAX REVENUES TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE NOT PAID FROM SALES TAX REVENUES; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

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

WHEREAS, Sedgwick County, Kansas (the “County”) pursuant to the authority of K.S.A. 12-187 *et seq.* (the “Act”), imposes a one percent (1%) retailers' sales tax within the County (the “Sales Tax”); and

WHEREAS, pursuant to the Act, the City is the recipient of funds derived from the Sales Tax and is authorized pursuant to K.S.A. 12-195b to issue general obligation bonds secured by a pledge of the Sales Tax, provided certain procedural requirements contained in the Act are satisfied and the City obtains a comprehensive feasibility study showing that the City’s revenues from the Sales Tax will be sufficient to retire such bonds; and

WHEREAS, pursuant to the Act, the City Council (the “Governing Body”) of the City has heretofore passed Ordinance No. 41-815 pledging one-half of the City’s receipts from the Sales Tax for the purpose of financing the costs of road, highway and bridge projects in the City and related right-of-way acquisition (collectively, the “Improvements”); and

WHEREAS, the City is authorized under the laws of the State of Kansas to issue general obligation bonds to construct the Improvements; and

WHEREAS, the Governing Body has heretofore adopted Resolution No. 14-151 declaring it necessary to issue sales tax/general obligation bonds for the purpose of paying \$90,000,000 of the costs of the Improvements (the “Projects”) and related interest and financing costs, said sales tax/general obligation bonds to be general obligations of the City to be paid and secured by a pledge of fifty percent (50%) of City’s revenues from the Sales Tax, and, if not so paid, from ad valorem taxes which may be levied by the City for such purpose without limit as to rate or amount; and

WHEREAS, Resolution No. 14-151 was published in *The Wichita Eagle*, the official newspaper of the City on June 6, 2014 and June 13, 2014 and no sufficient protest was filed against the Projects or the sales tax/general obligation bonds in accordance with the provisions of the Act; and

WHEREAS, none of such sales tax/general obligation bonds heretofore authorized have been issued and the City proposes to issue a portion of the sales tax/general obligation bonds so authorized to pay a portion of the costs of the Projects and related interest and financing costs; and

WHEREAS, the City does not have outstanding any Bonds other than the Outstanding Parity Bonds (as said terms are hereinafter defined); and

WHEREAS, the City may issue Additional Bonds which constitute Parity Bonds (as said terms are hereinafter defined) upon the satisfaction of certain conditions; and

WHEREAS, prior to or simultaneously with the issuance of the sales tax/general obligations authorized herein, such conditions will be satisfied; and

WHEREAS, the Governing Body has advertised the sale of such sales tax/general obligation bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such sales tax/general obligation bonds to the best bidder.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, 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, particularly Article 12, Section 5 thereof, and statutes of the State of Kansas including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, and K.S.A. 12-187 *et seq.*, all as amended and supplemented.

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

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

“Bond Resolution” means collectively: (a) the Outstanding Parity Bond Resolutions; (b) the Series 2014 Bond Resolution; and (c) any ordinance and/or resolution approved by the Governing Body authorizing the issuance of any series of Additional Bonds, as amended from time to time.

“Bonds” means collectively: (a) the Outstanding Parity Bonds; (b) the Series 2014 Bonds; and (c) any Additional Bonds.

“City” means the City of Wichita, Kansas.

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

“Director of Finance” means the duly appointed and acting Director of Finance of the Issuer or, in the Director of Finance's absence (or in the event of a vacancy in such office) any Deputy, Assistant or Acting Director of Finance or Finance Manager of the Issuer.

“Governing Body” means the duly elected and/or appointed and acting persons comprising the City Council of the City.

“Gross Sales Tax Revenues” all revenues received by the Issuer from the collection of the Sales Tax, before any payments, disbursements or expenditures made therefrom.

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

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

“Ordinance” means this Ordinance authorizing the issuance of the Series 2014 Bonds.

“Outstanding Parity Bonds” means the Outstanding Series 2007 Bonds, Series 2009A Bonds, Series 2010A Bonds, Series 2011A Bonds, Series 2011B Bonds, Series 2012D Bonds and Series 2012E Bonds.

“Parity Bonds” means, collectively: (a) the Outstanding Parity Bonds; (b) the Series 2014 Bonds; and (c) any Additional Bonds hereafter issued or incurred pursuant to the Bond Resolution and standing on a parity and equality with the Bonds described in (a) and (b) hereof with respect to the Pledged Revenues.

“Pledged Revenues” means: (a) the Revenues; and (b) investment earnings on such Revenues (except any investment earnings required to be rebated to the United States).

“Projects” means the road, highway and bridge projects in the City and related right-of-way acquisition, referred to in the preamble to is Ordinance and any Substitute Projects.

“Revenues” means 50% of the Gross Sales Tax Revenues.

“Sales Tax” means the one percent (1%) county-wide retailers' sales tax imposed by Sedgwick County, Kansas pursuant to the Act and an election held in 1985.

“Series 2007 Bonds” means the General Obligation Sales Tax Bonds, Series 2007, dated October 1, 2007, authorized and issued by the Issuer in the original principal amount of \$40,500,000.

“Series 2009A Bonds” means the General Obligation Sales Tax Refunding Bonds, Series 2009A, dated April 1, 2009, authorized and issued by the Issuer in the original principal amount of \$28,385,000.

“Series 2010A Bonds” means the General Obligation Sales Tax Refunding Bonds, Series 2010A, dated September 15, 2010, authorized and issued by the Issuer in the original principal amount of \$21,420,000.

“Series 2011A Bonds” means the General Obligation Sales Tax Bonds, Series 2011A, dated October 1, 2011, authorized and issued by the Issuer in the original principal amount of \$8,755,000.

“Series 2011B Bonds” means the General Obligation Sales Tax Refunding Bonds, Series 2011B, dated October 1, 2011, authorized and issued by the Issuer in the original principal amount of \$16,240,000.

“Series 2012D Bonds” means the General Obligation Sales Tax Bonds, Series 2012D, dated November 1, 2012, authorized and issued by the Issuer in the original principal amount of \$18,540,000.

“Series 2012E Bonds” means the General Obligation Sales Tax Refunding Bonds, Series 2012E, dated November 1, 2012, authorized and issued by the Issuer in the original principal amount of \$22,865,000.

“Series 2014 Bonds” means the General Obligation Sales Tax Bonds, Series 2014, authorized and issued by the Issuer pursuant to this Ordinance and the Series 2014 Bond Resolution.

“Series 2014 Bond Resolution” means collectively, the Ordinance and the resolution adopted by the Governing Body authorizing the issuance of the Series 2014 Bonds, as amended from time to time.

“Substitute Projects” means the substitute or additional projects of the Issuer described in the Series 2014 Bond Resolution.

Section 2. Authorization of the Series 2014 Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Sales Tax Bonds, Series 2014, of the City in the principal amount of \$72,635,000*, for the purpose of providing funds to: (a) pay a portion of the costs of the Projects; and (b) pay costs of issuance of the Series 2014 Bonds.

Section 3. Security for the Series 2014 Bonds. The Series 2014 Bonds shall be general obligations of the City payable as to principal of, premium, if any, and interest by a pledge of the Pledged Revenues and if not so paid from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Pledge of Pledged Revenues; Covenants re Sales Tax. The City hereby pledges the Pledged Revenues to the payment of the principal of, premium, if any, and interest on the Series 2014 Bonds. The covenants and agreements of the City contained herein and in the Series 2014 Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Series 2014 Bonds, all of which Series 2014 Bonds shall be of equal rank and without preference or priority of one Series 2014 Bond over any other Series 2014 Bond in the application of the funds herein pledged to the payment of the principal of, premium, if any, and interest on the Series 2014 Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Series 2014 Bonds shall stand on a parity of lien and shall be equally and ratably secured with respect to the payment of the principal of, premium, if any, and interest from the Pledged Revenues with any Parity Bonds. The Series 2014 Bonds shall not have any priority with respect to the payment of principal of, premium, if any, and interest from said Pledged Revenues or otherwise over the Parity Bonds; and the Parity Bonds shall not have any priority with respect to the payment of principal of, premium, if any, and interest from said Pledged Revenues or otherwise over the Series 2014 Bonds.

The City hereby covenants that, to the extent of its control, it will cause the Sales Tax to be maintained and collected as provided by the Act in order to generate the Pledged Revenues sufficient to pay the principal of, premium, if any, and interest on the Bonds, as and when the same shall become due and payable. The City hereby further covenants that it will take no action of any kind which would in any manner impair or delay the collection of the Sales Tax or which might otherwise adversely affect the Pledged Revenues, and in the event any litigation, claim or proceeding shall be commenced in any form or tribunal under which the Sales Tax may be challenged or the pledge of the Pledged Revenues pursuant to this Ordinance or the Bond Resolution, or which in any other way may adversely affect the collection of the Pledged Revenues by the City sufficient to pay the principal of, premium, if any, or interest on the Bonds, the City shall take all action necessary to contest such litigation or proceeding to the extent the

City has standing to contest such litigation or proceedings and is otherwise permitted by law to take such action.

Section 5. Levy and Collection of Annual Tax. The Governing Body shall annually, to the extent necessary, after applying the Pledged Revenues pledged herein, make provision for the payment of principal of, premium, if any, and interest on the Series 2014 Bonds as the same become due by levying and collecting the necessary taxes upon all of the 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 the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of, premium, if any, and interest on the Series 2014 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 Bond and Interest Fund and appropriate various accounts therein.

If at any time said taxes are not collected in time to pay the principal of or interest on the Series 2014 Bonds when due, the 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. Terms, Details and Conditions of the Series 2014 Bonds. The Series 2014 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 Bond Resolution hereafter adopted by the Governing Body.

Section 7. Further Authority. The Mayor, City Manager, Director of Finance, City 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, 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 8. Governing Law. This Ordinance and the Series 2014 Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 9. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing body and publication in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED by the City Council of the City of Wichita, Kansas, on August 12, 2014.

(SEAL)

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Sharon L. Dickgrafe,
Interim Director of Law and City Attorney

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]