

**ORDINANCE NO. 1159**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF PRINCIPAL AMOUNT OF SALES TAX REVENUE BONDS, SERIES 2016-A, OF THE CITY OF HORTON, KANSAS; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

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

**WHEREAS**, the City is authorized under the provisions of the Act, to issue and sell revenue bonds for the purpose of paying all or part of the cost of public facilities or improvements of the City for which the City is authorized pursuant to the Constitution or laws of the State to issue general obligation bonds and to pledge revenues received from a City retailers’ sales tax for the payment thereof; and

**WHEREAS**, pursuant to Resolution No. 2016-003 and the Act, a special election was duly held in the City on August 2, 2016 on the question of whether to issue Sales Tax Revenue Bonds of the City in the amount of not to exceed \$1,805,000 for the purpose of financing swimming pool improvements and associated financing costs (the “Project”), 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 issuance of said sales tax revenue bonds for the purpose aforesaid; and

**WHEREAS**, none of such revenue bonds so authorized have heretofore been issued and the City proposes to issue \$1,765,000 of the sales tax revenue bonds so authorized to pay the costs of the Project; and

**WHEREAS**, the governing body of the City has caused or will cause plans and specifications for the Project and an estimate of the cost thereof to be made, accepted and approved and placed on file in the office of the Clerk; and

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HORTON, 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. 10-620 *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 the resolution to be adopted by the governing body of the City prescribing the terms and details of the Series 2016-A Bonds and making covenants with respect thereto.

**“Bonds”** means the Series 2016-A Bonds and any Additional Bonds.

**“City”** means the City of Horton, 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.

**“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.

**“Indebtedness”** means collectively the Bonds and any Additional Obligations which are payable out of, or secured by an interest in, the Revenues.

**“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.

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

**“Parity Bonds”** means the Outstanding Series 2016-A Bonds, ad any Additional Bonds hereafter issued pursuant to the Bond Resolution and standing on a parity and equality with the Series 2016-A Bonds with respect to the lien on 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 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 swimming pool improvements described in the Preamble to this Ordinance or any Substitute Project.

**“Revenue Fund”** means the Sales Tax Revenue Fund referred to in the Bond Resolution.

**“Revenues”** means all revenues received by the City pursuant to the collection of the Sales Tax.

**“Sales Tax”** means 1% Citywide Retailers Sales Tax, authorized pursuant to the special election duly held in the City on August 2, 2016, the imposition of which commences on January 1, 2017 and which shall expire 20 years after its commencement.

**“Series 2016-A Bonds”** means the Issuer's Sales Tax Revenue Bonds, Series 2016-A, authorized by this Ordinance.

**“State”** means the State of Kansas.

**“Substitute Project”** means a substitute or additional project of the authorized in the manner set forth in the Bond Resolution.

**Section 2. Authorization of the Series 2016-A Bonds.** There shall be issued and are hereby authorized and directed to be issued the Sales Tax Revenue Bonds, Series 2016-A, of the City in the aggregate principal amount of \$1,765,000 for the purpose of providing funds to: (a) pay the costs of the Project; (b) pay costs of issuance of the Series 2016-A Bonds; and (c) make a deposit to the Debt Service Reserve Account.

**Section 3. Security for the Series 2016-A Bonds.** The Series 2016-A 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 Series 2016-A Bonds. The Series 2016-A Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Series 2016-A Bonds, either as to principal or interest.

The covenants and agreements of the City contained herein and in the Series 2016-A Bonds shall be for the equal benefit, protection and security of the legal owners of any or all of the Series 2016-A Bonds, all of which Series 2016-A 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-A 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-A 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. The Series 2016-A Bonds shall not have any priority with respect to the payment of principal or interest from said Revenues or otherwise over the Parity Bonds; and the Parity Bonds shall not have any priority with respect to the payment of principal or interest from said Revenues or otherwise over the Series 2016-A Bonds.

**Section 4. Terms, Details and Conditions of the Series 2016-A Bonds.** The Series 2016-A 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 of the City.

**Section 5. Further Authority.** The Mayor, 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-A 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, approval by the Mayor and publication in the official City newspaper.

**PASSED** by the governing body of the City on October 17, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

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Mayor

ATTEST:

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Clerk