

ORDINANCE NO. 1018

AN ORDINANCE AUTHORIZING THE ISSUANCE AND DELIVERY OF \$3,760,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 2019, OF THE CITY OF EDWARDSVILLE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE BONDS AS THEY BECOME DUE; AUTHORIZING SUCH BONDS TO BE ISSUED TO PAY THE COST OF CERTAIN IMPROVEMENTS; AND AMENDING RESOLUTIONS NO. 2019-08 AND NO. 2019-09 OF THE CITY.

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

WHEREAS, pursuant to K.S.A. 12-617 and 12-618, as amended and supplemented, the City has previously authorized and issued its General Obligation Temporary Notes, Series 2016, dated May 12, 2016, in the original principal amount of \$1,215,000 (the “Existing Notes”), for the purpose of providing interim financing for construction of certain sewer system improvements within the City;

WHEREAS, pursuant to K.S.A. 12-685 *et seq.* and K.S.A. 12-1736 *et seq.*, all as amended and supplemented, and proceedings duly taken by the City, including this Ordinance, the City has authorized the issuance of general obligation bonds to finance the following improvements (items (a) through (d) below, the “Main Trafficway Improvements,” items (e) and (f) below, the “Public Building Improvements,” and collectively, the “Improvements”):

(a) the reconstruction of 4th Street from K-32 Highway to Newton Street alley, including all other appurtenant work;

(b) preliminary engineering and right-of-way acquisition for 98th Street from Kansas Avenue north to the City limits, including all other appurtenant work;

(c) improvements to the intersection of Riverview Avenue and 110th Street and to 110th Street from Riverview Avenue to Speaker Road, including all other appurtenant work;

(d) certain storm drainage improvements to and along 94th Street, 98th Street, 102nd Street, Kansas Avenue, Riverview Avenue, and Woodend Road within the City limits, and Edge Hill Drive from 102nd Street to 104th Street, including all other appurtenant work;

(e) demolition of certain buildings and improvements owned by the City and design and site planning for new public buildings, all in connection with the Towne Center project; and

(f) acquisition of certain land to be used for a public works facility;

WHEREAS, the Governing Body of the City finds and determines that it is necessary to increase the amount of general obligation bonds authorized to be issued to finance the Main Trafficway Improvements and Public Building Improvements, respectively, as further described in this Ordinance;

WHEREAS, all legal requirements pertaining to the Improvements have been complied with, and the Governing Body of the City now finds and determines that the total cost of the Improvements (including issuance costs of the Bonds) and related expenses, as amended by this Ordinance, are at least \$2,820,000;

WHEREAS, the Governing Body of the City finds and determines that it is necessary for the City to authorize the issuance and delivery of its general obligation bonds in the principal amount of \$3,760,000 to pay, along with other available funds of the City, the costs of the Improvements, the costs of issuance of the Bonds, and the costs of redeeming the Existing Notes; and

WHEREAS, the Governing Body of the City has advertised the sale of its general obligation bonds and, at a meeting held in the City on this date, has or will award the sale of such bonds to the lowest bidder;

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

Section 1. Definitions of Words and Terms.

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

“Bonds” means the City’s General Obligation Bonds, Series 2019, authorized by this Ordinance in the aggregate principal amount of \$3,760,000, and dated July 15, 2019.

“City” means the City of Edwardsville, Kansas.

“City Clerk” means the appointed and acting City Clerk or, in the City Clerk’s absence, the appointed acting City Clerk of the City.

“City Treasurer” means the appointed and acting City Treasurer or, in the City Treasurer’s absence, the appointed acting City Treasurer of the City.

“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.

“Existing Notes” means the existing temporary notes of the City referred to in the recitals to this Ordinance.

“**Improvements**” means the improvements referred to in the recitals to this Ordinance or any Substitute Improvements, as defined in the Resolution.

“**Main Trafficway Improvements**” means the main trafficway improvements referred to in the recitals to this Ordinance.

“**Mayor**” means the elected and acting Mayor of the City or, in the Mayor’s absence, the appointed acting Mayor of the City.

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

“**Public Building Improvements**” means the public building improvements referred to in the recitals to this Ordinance.

“**Resolution**” means the Resolution of the City containing the terms and details of the Bonds.

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

Section 2. Amendments to Resolutions No. 2019-08 and No. 2019-09. Resolution No. 2019-08 of the City, adopted on June 3, 2019, and which authorized the Public Building Improvements, is hereby amended by replacing all references therein to the amount of \$940,000 with the amount of \$1,005,000 instead. Resolution No. 2019-09 of the City, adopted on June 3, 2019, and which authorized the Main Trafficway Improvements, is hereby amended by replacing all references therein to the amount of \$1,700,000 with the amount of \$1,815,000 instead.

Section 3. Authorization of and Security for the Bonds. There shall be issued and are authorized and directed to be issued the General Obligation Bonds, Series 2019, of the City in the principal amount of \$3,760,000 for the purpose of providing funds, along with other available funds of the City, to pay the costs of the Improvements, including payment of the costs of issuance, and to pay the costs of redeeming the Existing Notes.

The Bonds shall be general obligations of the City payable as to both principal and interest 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 irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. 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 form, shall be subject to redemption and payment prior to maturity and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Resolution adopted by the Governing Body of the City.

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 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 the general ad valorem taxes of the City are levied and collected, and the proceeds derived from the taxes and/or assessments shall be deposited in the Bond and Interest Fund.

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

Section 6. Tax Covenants. The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; (2) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds; (3) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Bonds are issued; (4) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to take any action, that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Bond to be a "private activity bond" as described in the Code.

Section 7. Further Authority; Prior Action. The Mayor, City Manager, Finance Manager, Assistant City Manager/City Clerk and other City officials are 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 this Ordinance and to make alterations, changes or additions in the agreements, statements, instruments and other documents 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. All prior action of City officials, City staff, the City's bond counsel, and the City's municipal advisor to authorize the

Improvements and the sale of the Bonds, including all action taken at the June 3, 2019 City Council meeting (as amended by this Ordinance), is hereby ratified and approved.

Section 8. Governing Law. This Ordinance and the 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 and publication as required by law.

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EDWARDSVILLE, KANSAS ON THIS 24TH DAY OF JUNE, 2019



ATTEST

John McTaggart, Mayor

Zachary Daniel, Assistant City Manager/City Clerk