

ORDINANCE NO. 2301

OF

THE CITY OF DERBY, KANSAS

PASSED

NOVEMBER 22, 2016

**GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2016-A**

ORDINANCE NO. 2301

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2016-A, OF THE CITY OF DERBY, KANSAS; 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; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Derby, 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, pursuant to the laws of the State of Kansas applicable thereto, the City Council of the City (the “Governing Body”) has authorized the following improvements (the “Improvements”) to be made in the City, to-wit:

<u>Description</u>	<u>Ord./Res. No.</u>	<u>Authority (K.S.A.)</u>	<u>Amount</u>
<i>The Oaks, The Oaks 2nd & The Oaks 3rd:</i>			
Water Line	Res. 12-2014	12-6a01 <i>et seq.</i>	\$ 243,803.34
Street	Res. 22-2014	12-6a01 <i>et seq.</i>	1,232,754.10
<i>The Oaks:</i>			
Sanitary Sewer -Revised Phase 9	Res. 05-2014	12-6a01 <i>et seq.</i>	234,606.74
Water Line-Revised Phase 9	Res. 15-2014	12-6a01 <i>et seq.</i>	156,308.99
Street-Revised Phase 9	Res. 25-2014	12-6a01 <i>et seq.</i>	826,718.35
<i>Courtyards at the Oaks:</i>			
Mass Grading	Res. 45-2014	12-6a01 <i>et seq.</i>	126,929.83
Sanitary Sewer-Phase 1	Res. 36-2014	12-6a01 <i>et seq.</i>	98,413.95
Streets and Sidewalks-Phase 1	Res. 38-2014	12-6a01 <i>et seq.</i>	392,653.82
Water Distribution-Phase 1	Res. 37-2014	12-6a01 <i>et seq.</i>	74,282.63
<i>Ridge Point Commercial Addition:</i>			
Sanitary Sewer	Res. 50-2014	12-6a01 <i>et seq.</i>	11,169.20
Sidewalk (E side of Buckner)	Res. 55-2014	12-6a01 <i>et seq.</i>	18,762.66
Acel/Decel Lane	Res. 60-2014	12-6a01 <i>et seq.</i>	197,679.35
Right Turn Lane	Res. 61-2014	12-6a01 <i>et seq.</i>	147,870.47
Sidewalk (S side of Patriot Avenue)	Res. 62-2014	12-6a01 <i>et seq.</i>	43,572.72
<i>Hamilton Estates:</i>			
Sanitary Sewer	Res. 22-2015	12-6a01 <i>et seq.</i>	67,476.24
Water Line	Res. 23-2015	12-6a01 <i>et seq.</i>	28,727.49
<i>The Oaks Commercial 3rd:</i>			
Sanitary Sewer	Res. 6-2015	12-6a01 <i>et seq.</i>	57,641.85
Water Line	Res. 7-2015	12-6a01 <i>et seq.</i>	50,969.67
Storm Water Sewer	Res. 8-2015	12-6a01 <i>et seq.</i>	88,648.65
<i>The Oaks:</i>			
Storm Water Sewer	Res. 3-2015	12-6a01 <i>et seq.</i>	279,983.13
<i>Courtyards at the Oaks:</i>			
Water Distribution, Phase 2	Res. 40-2014	12-6a01 <i>et seq.</i>	46,938.71
Sanitary Sewer, Phase 2	Res. 39-2014	12-6a01 <i>et seq.</i>	83,491.85
Streets and Sidewalks, Phase 2	Res. 41-2014	12-6a01 <i>et seq.</i>	<u>218,209.72</u>
Total			<u>\$4,727,613.46</u>

WHEREAS, all legal requirements pertaining to the Improvements have been complied with, and the Governing Body now finds and determines that the total cost of the Improvements (including interest on temporary notes of the City and issuance costs of the general obligation bonds) and related expenses are at least \$4,727,613.46, with a portion of said cost to be paid by the owners of the property within the City benefited by the Improvements and with the balance of said cost to be paid by the City at large, and the owners of the property benefited by the Improvements have paid \$158,966.27 in cash into the City Treasury on account of the Improvements, leaving \$4,570,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the Governing Body is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements, and none of such general obligation bonds previously authorized have been issued and the City proposes to issue \$4,485,000 of its general obligation bonds, together with premium thereon, to pay a portion of the costs of the Improvements; and

WHEREAS, the City heretofore issued and has outstanding the Refunded Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation refunding bonds of the City for the purpose of refunding the Refunded Bonds; and

WHEREAS, in order to achieve interest cost savings through early redemption of the Refunded Bonds, reduce debt service requirements of the City for certain years, restructure the debt payments on the Refunded Bonds and provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants to refund the Refunded Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DERBY, 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 of Kansas including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, and K.S.A. 12-6a01 *et seq.*, as amended and supplemented.

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

“Bond Resolution” means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City's General Obligation Refunding and Improvement Bonds, Series 2016-A, dated December 20, 2016, authorized by this Ordinance.

“City” means the City of Derby, 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.

“Governing Body” means the City Council of the City.

“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 Bonds.

“Refunded Bonds” means the Series 2008-B Bonds maturing in the years 2019 to 2020, inclusive, in the aggregate principal amount of \$1,305,000.

“Refunded Notes” means the Series 2014-1 Notes in the aggregate principal amount of \$3,810,000.

“Series 2008-B Bonds” means the Issuer's General Obligation Bonds, Series 2008-B, dated December 1, 2008.

“Series 2014-1 Notes” means the Issuer's Taxable General Obligation Temporary Notes, Series 2014-1, dated December 15, 2014.

“State” means the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Refunding and Improvement Bonds, Series 2016-A, of the City in the principal amount of \$5,760,000, for the purpose of providing funds to: (a) pay a portion of the costs of the Improvements; (b) pay costs of issuance of the Bonds; (c) retire the Refunded Notes; and (d) refund the Refunded Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of the Improvements and improvements originally financed by the Refunded Bonds 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 balance of the principal and interest on the Bonds is payable 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. 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 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 5. Levy and Collection of Annual Tax. The Governing Body 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, 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 and/or assessments shall be deposited in the Bond and Interest Fund.

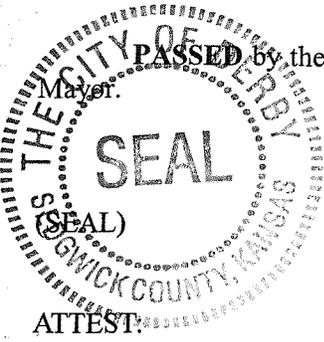
If at any time said taxes and/or assessments are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended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

Section 6. Further Authority. The Mayor, Director of Finance, 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 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official City newspaper.

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PASSED by the City Council on November 22, 2016 and APPROVED AND SIGNED by the Mayor.

Randy White

Mayor

Karen Friend

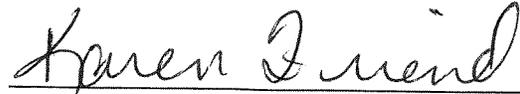
Clerk

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CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on November 22, 2016; that the record of the final vote on its passage is found on page ____ of journal ____; and that the Ordinance or a summary thereof was published in *The Derby Informer* on November 30, 2016.

DATED: November 30, 2016.


Clerk

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(PUBLISHED IN *THE DERBY INFORMER* ON NOVEMBER 30, 2016)

SUMMARY OF ORDINANCE NO. 2301

On November 22, 2016, the governing body of the City of Derby, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2016-A, OF THE CITY OF DERBY, KANSAS; 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; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

The Series 2016-A Bonds approved by the Ordinance are being issued in the principal amount of \$5,760,000 to finance certain internal improvements in the City and to refund previously issued general obligation bonds of the City, and constitute general obligations of the City payable as to both principal and interest, to the extent necessary, 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. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 611 N. Mulberry, Derby, Kansas 67037. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.derbyweb.com.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: November 22, 2016.



City Attorney