

Gilmore & Bell, P.C.  
11/24/1997

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ORDINANCE NO. 501

OF

THE CITY OF WATHENA, KANSAS

PASSED

DECEMBER 2, 1997

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\$100,000  
GENERAL OBLIGATION BONDS  
SERIES 1997

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ORDINANCE NO. 501

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$100,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, SERIES 1997, OF THE CITY OF WATHENA, 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 is a city of the third class, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, pursuant to Article 12, Section 5 of the Kansas Constitution, K.S.A. 12-101, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the City has authorized the acquisition of real property to be transferred to an industrial prospect for the purpose of inducing economic development in the City (the "Project"); and

**WHEREAS**, all legal requirements pertaining to the Project have been complied with, and the governing body of the City now finds and determines that the total cost of the Project and related expenses are at least \$124,000, and there is \$24,000 available in the City Treasury to pay part of said cost, leaving \$100,000 to be paid for by the issuance of general obligation bonds; and

**WHEREAS**, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Project; and

**WHEREAS**, the City has not issued any of the general obligation bonds so authorized; and

**WHEREAS**, the governing body of the City hereby 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 \$100,000 to pay a portion of the costs of the Project.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA, 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 following meaning:

"Act" means the Constitution and statutes of the State, including Article 12, Section 5 of the Kansas Constitution, K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.* and K.S.A. 12-101, as amended and supplemented, and Home Rule Ordinance No. 500 of the City.

"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 of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

"**Bonds**" means the Issuer's General Obligation Bonds, Series 1997, in the aggregate principal amount of \$100,000, and dated December 15, 1997, authorized by this Ordinance.

"**City**" means the City of Wathena, Kansas.

"**Clerk**" means the duly appointed and acting Clerk of the Issuer or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk.

"**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.

"**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.

"**Project**" means the land acquisition referred to in the preamble to this Ordinance.

"**State**" means the State of Kansas.

**Section 2. Authorization of the Bonds.** There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 1997, of the City in the principal amount of \$100,000, for the purpose of providing funds to pay a portion of the costs of the Project.

**Section 3. Security for the Bonds.** 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 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 a resolution hereinafter 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 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 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 Bond and Interest Fund.

If at any time said taxes 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 are collected.

**Section 6. Tax Covenants.** The City covenants and agrees that (a) it will comply with all applicable provisions of the Code, including *Sections 103 and 141 through 150*, necessary to maintain the exclusion from federal gross income of the interest on the Bonds; and (b) it will not use or permit the use of any proceeds of Bonds or any other funds of the City, nor take or permit any other action, or fail to take any action, which would adversely affect the exclusion from federal gross income of the interest on the Bonds. Specifically, the City covenants and agrees that (a) the payment of principal and interest on the Bonds will not be directly or indirectly (i) secured by any interest in the Project, which is to be for a private business use or payments in respect of the project or (ii) to be derived from payments (whether or not to the City) in respect of property, or borrowed money, used or to be used for a private business use; and (b) the proceeds of the Bonds will not be used (directly or indirectly) to make or finance loans to persons other than governmental units. The City will also adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with other applicable future law, 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.

**Section 7. 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, 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.

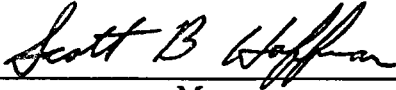
**Section 8. Governing Law.** The Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

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

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**PASSED** by the governing body of the City on December 2, 1997 and signed and **APPROVED** and **SIGNED** by the Mayor.

(SEAL)

  
\_\_\_\_\_  
Mayor

ATTEST:

  
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Clerk