

Gilmore & Bell, P.C.  
April 7, 2016

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**ORDINANCE NO. 16-4672**

**OF**

**THE CITY OF CHERRYVALE, KANSAS**

**PASSED**

**APRIL 18, 2016**

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

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(PUBLISHED IN THE *MONTGOMERY COUNTY CHRONICLE* ON APRIL 21, 2016)

**ORDINANCE NO. 16-4672**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2016, OF THE CITY OF CHERRYVALE, 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 Cherryvale, 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 K.S.A. 65-163d through 65-163u, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, 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>Project Description</u>	<u>Ord./Res. No.</u>	<u>Authority (K.S.A.)</u>	<u>Amount</u>
Public Water Supply System Improvements	16-4	65-163d through 65-163u	\$714,711.02
<b>Total:</b>			<b>\$714,711.02</b>

; and

**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 and related expenses are at least \$714,711.02; and

**WHEREAS**, the Governing Body is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Improvements; and

**WHEREAS**, none of such general obligation bonds heretofore authorized have been issued and the City proposes to issue \$570,000 of its general obligation bonds 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 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; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRYVALE, 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. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, and K.S.A. 65-163d through 65-163u, all as amended and supplemented from time to time.

**“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, dated May 24, 2016, authorized by this Ordinance.

**“City”** means the City of Cherryvale, 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 collectively: (a) the Series 2003 Bonds maturing in the years 2016 to 2043, inclusive, in the aggregate principal amount of \$1,313,672.68; and (b) the Series 2007 Bonds maturing in the years 2017 to 2047, inclusive, in the aggregate principal amount of \$1,322,036.84.

**“Series 2003 Bonds”** means the City's General Obligation Sewer Utility System Bonds, Series 2003, dated September 23, 2003.

**“Series 2007 Bonds”** means the City's General Obligation Bonds, Series 2007, dated May 7, 2007.

**“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, of the City in the principal amount of \$3,265,000, for the purpose of providing funds to: (a) refund the Refunded Bonds; (b) pay costs of issuance of the Bonds; and (c) pay the costs of the Improvements.

**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 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 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. 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 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 April 18, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

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John Wright, Mayor

ATTEST:

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Hillary Lawrence, City Clerk

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