

**ORDINANCE NO. 1036**

**AN ORDINANCE AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT) SERIES 2016, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE REMAINING COST OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL TRUST INDENTURE; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL BASE LEASE AGREEMENT AND A FIRST SUPPLEMENTAL LEASE AGREEMENT; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.**

**WHEREAS**, the City of Edgerton, Kansas (the "City"), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XIV, LLC Project) Series 2015, in an aggregate maximum principal amount not to exceed \$38,000,000 (the "Series 2015 Bonds"), pursuant to a Trust Indenture dated as of December 1, 2015 (the "Original Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"); and

**WHEREAS**, the Series 2015 Bonds were issued for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 822,500 sq. ft. warehouse and distribution facility, to be located at 19400 Montrose Street in Edgerton, Kansas, including land, buildings, structures, improvements, fixtures, machinery and equipment (the "Project"); and

**WHEREAS**, the City leased the Project from ELHC XIV, LLC, a Kansas limited liability company (the "Company"), pursuant to a Base Lease Agreement dated as of December 1, 2015 (the "Original Base Lease"), and the City subleased the Project to the Company pursuant to a Lease Agreement dated as of December 1, 2015 (the "Original Lease"); and

**WHEREAS**, the Company has requested that the City issue additional bonds under the Original Indenture to complete the acquisition, construction and equipping of the Project; and

**WHEREAS**, the governing body of the City has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue its Industrial Revenue Bonds (ELHC XIV, LLC Project) Series 2016, in an aggregate maximum principal amount not to exceed \$25,000,000 (the "Series 2016 Bonds"), for the purpose of completing the acquisition, construction and equipping of the Project; and

**WHEREAS**, the governing body of the City further finds and determines that it is necessary and desirable in connection with the issuance of the Series 2016 Bonds that the City enter into certain agreements, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Authorization of and Security for the Series 2016 Bonds.** The City is hereby authorized to issue and sell the Series 2016 Bonds for the purpose of providing funds to pay the cost of completing the acquisition, construction and equipping of the Project. The Series 2016 Bonds shall be issued and secured pursuant to the herein authorized First Supplemental Indenture and the Original Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Original Indenture and the hereafter defined First Supplemental Indenture. The Series 2016 Bonds shall be issued on a parity with the Series 2015 Bonds and shall be payable solely out of the rents, revenues and receipts derived by the City from the Project, and the Project and the net earnings derived by the City from the Project shall be pledged and assigned to the Trustee as security for payment of the Series 2016 Bonds as provided in the Indenture and on a parity with the Series 2015 Bonds.

**Section 2. Authorization of Documents.** The City is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the Council of the City (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof:

(a) First Supplemental Trust Indenture dated the date set forth therein (the "First Supplemental Indenture"), between the City and the Trustee, which supplements and amends the Original Indenture, pursuant to which the Series 2016 Bonds shall be issued;

(b) First Supplemental Base Lease Agreement dated the date set forth therein (the "First Supplemental Base Lease"), between the Company and the City, which supplements and amends the Original Base Lease;

(c) First Supplemental Lease Agreement dated the date set forth therein (the "First Supplemental Lease"), between the City and the Company, which supplements and amends the Original Lease; and

(d) Series 2016 Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), between the City and the Company, as Purchaser.


**Section 3. Execution of Series 2016 Bonds and Documents.** The Mayor of the City is hereby authorized and directed to execute the Series 2016 Bonds and to deliver the Series 2016 Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Original Indenture, as supplemented by the First Supplemental Indenture. The Mayor of the City is hereby authorized and directed to execute the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease, the Bond Purchase Agreement, and such other documents, certificates

and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Series 2016 Bonds, the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease, the Bond Purchase Agreement, and such other documents, certificates and instruments as may be necessary.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Series 2016 Bonds, the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease and the Bond Purchase Agreement.

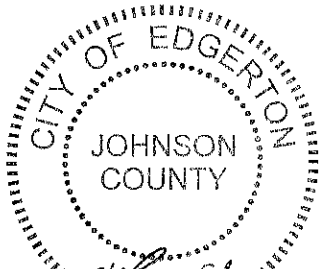
**Section 5. Effective Date.** This Ordinance shall take effect and be in force from and after its passage, approval and publication in summary form in the official City newspaper.


**PASSED** by the Council of the City of Edgerton, Kansas, this 22<sup>nd</sup> day of September, 2016.

  
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Donald Roberts, Mayor

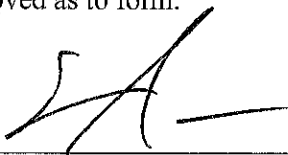
[SEAL]

ATTEST:



  
\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

  
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Scott W. Anderson, Bond Counsel