

**EDGERTON CITY COUNCIL  
SPECIAL MEETING AGENDA  
CITY HALL  
404 EAST NELSON STREET  
DECEMBER 1, 2022  
7:00 PM**

**Call to Order**

1. **Roll Call** \_\_\_\_ Roberts \_\_\_\_ Longanecker \_\_\_\_ Lewis \_\_\_\_ Beem \_\_\_\_ Lebakken
2. **Welcome**
3. **Pledge of Allegiance**

**Consent Agenda** *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Confirm Request for a Special Meeting of the Edgerton City Council

**Business Requiring Action**

5. **CONSIDER APPROVAL OF THE MAYOR'S RECOMMENDATION OF THE APPOINTMENT OF BILL MALLOY TO THE EDGERTON CITY COUNCIL**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

**Regular Agenda**

6. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
7. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

**Business Requiring Action**

8. **CONSIDER APPROVAL OF THE MAYOR'S RECOMMENDATION OF JORDYN MUELLER TO THE EDGERTON PLANNING COMMISSION FOR A TERM ENDING IN SEPTEMBER 2024**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

9. **PUBLIC HEARING REGARDNG RESOLUTION NO. 10-27-22A - CANCELLED**

**THIS RESOLUTION PROVIDED THAT THE CITY IS CONSIDERING  
ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT AND  
ADOPTING A PLAN FOR DEVELOPMENT OF HOUSING AND PUBLIC**

**FACILITIES; ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING  
(DWYER FARMS RURAL HOUSING INCENTIVE DISTRICT)**

10. **CONSIDER ORDINANCE NO. 2126 AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS (ELHC CY, LLC PROJECT) SERIES 2022, FOR THE PURPOSE OF FINANCING THE COST OF A COMMERCIAL PROJECT.**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

11. **CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B(2)) UNDER THE ATTORNEY/CLIENT EXCEPTION TO INCLUDE ECONOMIC DEVELOPMENT COUNSEL, CITY ADMINISTRATOR AND PUBLIC WORKS DIRECTOR TO DISCUSS CONTRACT NEGOTIATIONS.**

Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

12. **Adjourn** Motion: \_\_\_\_\_ Second: \_\_\_\_\_ Vote: \_\_\_\_\_

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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**Council Meeting Date:** December 1, 2022

**Agenda Item:** Bond Ordinance

**Subject:** ELHC CY, LLC Project

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#### Summary:

The City approved Resolution No. 03-10-22A on March 10, 2022, evidencing the intent of the City to issue not to exceed \$26 million of industrial revenue bonds for the benefit of ELHC CY, LLC for the construction and equipping of an approximately 10,000 sq. ft. commercial building and a storage container lot to be located at the northwest corner of Waverly Road and 187<sup>th</sup> Street in Edgerton, Kansas. The developer has commenced work on the project and is requesting that the bonds now be issued.

No ad valorem property tax abatement will be granted for this project at any time. The bonds are being issued so that the project is eligible for a sales tax exemption certificate to be used for construction materials and personal property.

#### Ordinance:

The Ordinance authorizes the City to issue up to \$26,000,000 of industrial revenue bonds for the project. This bond issue is commonly referred to as a “buy your own bonds bond issue.” ELHC CY, LLC will be both the lessee on the project and the owner of the bonds. When the bonds are issued, ELHC CY, LLC will lease the project site to the City. The City will then sublease the project back to ELHC CY, LLC. ELHC CY, LLC will be obligated to purchase the project at the conclusion of the bond issue in approximately two years.

The bonds will be limited obligations of the City. This means that the City has to make payments on the bonds to ELHC CY, LLC as the owner of the bonds only to the extent the City receives payments from ELHC CY, LLC pursuant to the lease. If lease payments are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City’s debt limit.

The Ordinance authorizes the City to enter into the following documents:

- (a) Trust Indenture which contains the terms governing the Bonds and contains the form of the Bonds;
- (b) Base Lease Agreement whereby the City leases the project site from ELHC CY, LLC;
- (c) Lease Agreement whereby the City will lease the project to ELHC CY, LLC for approximately two years; and
- (d) Bond Purchase Agreement whereby ELHC CY, LLC agrees to acquire the Bonds.

**ORDINANCE NO. 2126**

**AN ORDINANCE AUTHORIZING BOND DOCUMENTS AND THE  
ISSUANCE OF THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS  
(ELHC CY, LLC PROJECT) SERIES 2022, FOR THE PURPOSE OF  
FINANCING THE COST OF A COMMERCIAL PROJECT.**

**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 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 Taxable Industrial Revenue Bonds (ELHC CY, LLC Project) Series 2022, in an aggregate maximum principal amount not to exceed \$26,000,000, for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 10,000 sq. ft. commercial building and a container storage lot (the "Project") to be located at the northwest corner of Waverly Road and 187<sup>th</sup> Street in Edgerton, Kansas, and that the City lease the Project to ELHC CY, LLC, a Kansas limited liability company (the "Company"); and

**WHEREAS**, the governing body of the City further finds and determines that it is necessary and desirable in connection with the issuance of these 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 GOVERNING BODY OF THE  
CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of the Project.** The City is hereby authorized to provide for the acquisition, purchase, construction, installation, rehabilitation and equipping of the Project, all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

**Section 2. Authorization of and Security for the Bonds.** The City is hereby authorized to issue and sell its Taxable Industrial Revenue Bonds (ELHC CY, LLC Project) Series 2022, in an aggregate maximum principal amount not to exceed \$26,000,000 (the "Bonds"), for the purpose of providing funds to pay the cost of the Project. The Bonds shall be issued and secured pursuant to the herein authorized 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 hereafter defined Indenture. The Bonds 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 hereafter defined Trustee as security for payment of the Bonds as provided in the Indenture.

**Section 3. 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) Trust Indenture dated the date set forth therein (the "Indenture"), between the City and BOKF, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge the Project and assign the rents, revenues and receipts received pursuant to the hereafter defined Lease to the Trustee for the benefit of and security of the holder of the Bonds upon the terms and conditions as set forth in said form of Indenture;

(b) Base Lease Agreement dated the date set forth therein (the "Base Lease"), between the Company and the City, under which the City will lease the project site from the Company;

(c) Lease Agreement dated the date set forth therein (the "Lease"), between the City and the Company, under which the City will agree to use the proceeds derived from the sale of the Bonds for the purpose of acquiring, purchasing, constructing, installing and equipping the Project and to sublease the Project to the Company, and the Company will agree to make payments in amounts sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same become due; and

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

**Section 4. Execution of Bond and Documents.** The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the 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 Indenture. The Mayor of the City is hereby authorized and directed to execute the Indenture, the Base Lease, the 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 Bonds, the Indenture, the Base Lease, the Lease, the Bond Purchase Agreement and such other documents, certificates and instruments as may be necessary.

**Section 5. 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 Bonds, the Indenture, the Base Lease, the Lease and the Bond Purchase Agreement.

**Section 6. 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 1<sup>st</sup> day of December, 2022.

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Donald Roberts, Mayor

[SEAL]

ATTEST:

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Alexandria Clower, City Clerk

Approved as to form:

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Scott W. Anderson, Bond Counsel