

Ordinance No. 2434 Summary

On December 21, 2017, the City of De Soto, Kansas, adopted Ordinance No. 2434, amending Chapter I of the City Code to include new Article 14, setting forth the City's Debt Management Policy.

A complete copy of this ordinance is available at www.desotoks.us or at City Hall, 32905 West 84th Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

ORDINANCE NO. 2434

AN ORDINANCE AMENDING CHAPTER I OF THE CITY CODE TO INCLUDE NEW ARTICLE 14, SETTING FORTH THE CITY'S DEBT MANAGEMENT POLICY

WHEREAS, city staff and the governing body have been putting together a capital improvements plan to proactively address infrastructure within the city; and

WHEREAS, in moving forward with such capital improvements, the city will need to consider issuance of debt; and

WHEREAS, city staff and the governing body believe it is prudent that the city include within the City Code the city's debt management policy.

NOW THEREFORE, BE IT ORDAINED by the Governing Body of the City of De Soto, Kansas:

Section 1. The Governing Body hereby amends Chapter I of the City Code to include new Article 14, which will contain the City of De Soto's Debt Management Policy and will read as follows:

ARTICLE 14. DEBT MANAGEMENT POLICY.

1-1401. Purpose.

To employ best practices in its financial management, the city has adopted a debt management policy to guide its structuring, issuance and management of debt. The purpose of the policy is to guide the city's general practices related to debt. It is intended to be a framework for decisions, a guide for current and future city governing bodies, and staff members. A single policy cannot, however, envision every possible debt-related issue that will occur in the future. As such, this article is not intended to prevent the city from taking important action in a timely manner.

For the city's routine debt issuance, this article should provide significant guidance in the use, security/pledge types, duration and structuring, sale methods, ratings and credit enhancement, and subsequent management, of the city's debt and other related matters. Two major sections make up this article: (1) the **Policy Framework**, providing specific guidance in all facets of debt management through short, specific policy statements; and (2) the **Policy Guidelines**, providing a broader, more philosophical discussion of the city's approach to debt and debt management, including a discussion of the legal basis for the city's debt issuance.

Policy Framework

1-1402. Use of debt.

- a. Long-term debt will not be used to finance current operations or to capitalize regular expenses.
- b. Long-term debt will be used only for capital projects with a minimum five-year useful life that cannot be financed from current revenue sources in a reasonable manner.
- c. Long-term debt will be used to provide for intergenerational equity considerations, ensuring that the costs of long-lived assets will be borne equitably by both the asset's users today and years into the future.
- d. The City may use short-term debt obligations, in conjunction with subsequent long-term issuance, to improve cash-flow, reduce interest costs and improve capital planning.
- e. The City will generally seek to finance fewer, larger transactions, grouping projects together to reduce the costs of bond issuance and to improve investor interest in the City's debt.

1-1403. Types of debt. The following types or combination of financings may be considered under the following circumstances:

- a. **General Obligation Bonds (G.O. Bonds)** - General Obligation Bonds (G.O. Bonds) – The capital item is used for a public facility or equipment that is a general public good (e.g. streets and municipal buildings or structures). Generally, G.O. Bonds are only used for major General Fund projects. It is expected the G.O. Bonds will be the City's predominant type of debt used for its Capital Improvements Program ("CIP").
- b. **Revenue Bonds** – This type of financing security may be considered when revenues associated with a municipal utility or other type of revenue producing system or project make the creation of a revenue credit economically viable. It is not expected that revenue bonds will be used at this time.
- c. **Special Obligation Bonds (S.O. Bonds)** – S.O. Bonds, which do not carry a general obligation pledge but instead carry a promise to appropriate for debt service each year, may be considered when the issuance of G.O. Bonds is not possible or is undesirable. It is not expected that S.O. bonds will be used at this time.
- d. **Special Assessments** – May be used for a capital item that benefits only certain property owners. Owners of benefitted property pay the special assessments after the improvement is completed and its cost is known. Therefore, special assessments are not a method of capital financing, but rather a method of eventually paying for the improvements for which they are levied. Additionally, may be used when other sources of funds are needed to finance the improvements for which the assessments are later levied.

1-1404. Debt Issuance Limits and Considerations. The City's outstanding indebtedness will not exceed 75 percent of the limit imposed by Kansas law, specifically K.S.A. 10-308. This will ensure the City has sufficient cushion to create indebtedness above that threshold during a time of

crisis. In addition to statutory limits imposed by the State of Kansas, the City will limit and structure future debt obligations and its financial position to accommodate for the following:

- a. Total outstanding principal of debt as a percentage of total market value should not exceed 4 percent. Because the City amortizes principal each year and has seen growth in market values, it is projected that this ratio will improve over time even while issuing new debt.
- b. Annual debt service as a percentage of total governmental fund expenditures should not exceed 30 percent. This constraint can be managed by strategically amortizing new debt around existing obligations. The City will work with its financial advisor to accomplish this goal.
- c. Available fund balances to support general operating expenditures should equal at least 30 percent of annual expenditures. Current balances are significantly over 30 percent and, though this is not a debt metric, this constraint is a key to maintaining the City's underlying credit strength, especially in consideration of further debt issuance.

1-1405. Capital programming. The city will annually prepare a sound multi-year CIP. It will include a schedule of pay-as-you-go ("PAYGO") financed projects and anticipated debt issuance. The City's financial advisor will maintain a comprehensive profile of the City's indebtedness and the City will use this profile to inform its CIP decision-making. The impact of the city's CIP decisions will, upon the city's request, be modeled by the city's financial advisor.

1-1406. City Credit Ratings. The City will seek credit ratings from at least one major rating agency prior to its sale of debt, if such rating will economically benefit the transaction. The City will manage its overall finances and its debt in such a way to maintain a bond rating in the highest two categories (without respect to modifier) and will work with its financial advisor to better understand its credit profile in light of the rating agency methodologies.

1-1407. Bank Qualification. The City will endeavor when at all possible to issue its bonds as "bank qualified", generally meaning that it enters into less than \$10 million in tax-exempt borrowings in a calendar year. Bank qualified bonds are very attractive to local and regional banks and present a significant economic advantage over non-bank qualified bonds.

1-1408. Credit Enhancement. The City will use credit enhancement for its bonds only where a cost-benefit analysis shows it to be economically advantageous.

1-1409. Structure of Debt.

- a. The life of long-term debt will be matched with, or shorter than, the useful life of the underlying assets financed. Generally, the City will not consider debt structures with a final maturity more than 30 years from the date of issuance.
- b. The City will work with its financial advisor to structure amortization of new bonds in light of existing debt and the City's credit profile.
- c. The City will structure bonds with capitalized interest only to the extent the asset financed will be generating revenues directly applied to the retirement of the bonds, and such asset is not immediately available to produce revenue (i.e., during its construction).
- d. The City generally will structure its fixed-rate bond transactions to include optional

redemption provisions, unless the selective use of non-callable debt produces economic benefits greater than the flexibility provided by redemption features. Where feasible and economically advantageous, the City will attempt to structure its bonds with shorter-than-standard optional redemptions to improve future flexibility and refunding opportunities.

- e. The City generally will reject financing structures that provide up-front savings or cash payments except where the nature of the project demands it or where the savings or cash can be used to further the City's sound financial management or aid in its CIP.

1-1410. Refunding issues. The City generally will structure refundings to provide level savings over the life of the refunding bonds and will attempt to structure the refunding debt in the same footprint as the refunded debt (e.g., similar repayment schedule and final maturity). In order to structure its debt in accordance with this Debt Management Policy and to meet current and future operating and capital budget demands, the City may pursue a transaction to restructure its debt profile. To the extent possible, the City will use present value savings inherent in refunding opportunities to achieve the restructuring. The City generally will consider refunding opportunities to the extent the following targets can be achieved:

- a. **Current refunding, fixed-rate:** 3 percent present value savings of refunded principal.
- b. **Advance refunding, fixed-rate:** 5 percent present value savings of refunded principal with strong maturity-by-maturity refunding efficiency.

1-1411. Use of Variable Rate Bonds, Swaps and Derivatives.

- a. The City generally will pursue traditional, fixed-rate bond structures if feasible.
- b. The City will use variable rate bonds only as part of a comprehensive asset/liability management program and will limit its outstanding, variable rate bonds to levels consistent with the anticipated amount of cash on hand able to produce investment income that can be used as a direct offset to rising rates on the variable rate bonds.
- c. The City will not use derivatives or swaps as a component of its debt management.

1-1412. Transaction Professionals and Underwriting Team. The City generally will appoint a finance team to provide continuity from year-to-year. In order to prevent real or perceived conflicts of interest, the City's financial advisor may not serve as underwriter on any City bond issue during its tenure as financial advisor and for two years thereafter. With the exception of economic development finance transactions, the City generally will employ competitive sales for its bond issues.

1-1413. Bond Proceeds Reinvestment. The City will seek to lower its cost of borrowing through the prudent reinvestment of bond proceeds, including construction funds, debt service funds, and debt service reserve funds at the highest safe yield, subject to the restrictions of K.S.A. 10-131. Bond proceeds reinvestment activities will be bid in accordance with IRS regulations, with the guidance of bond counsel. Compensation for brokers will be paid within IRS safe-harbor guidelines. City staff members will work with engineers and construction managers to develop realistic projections of construction draws to ensure maximum yield on the investment of construction fund proceeds.

1-1414. Secondary Market Disclosure. The City will comply with all secondary market disclosure requirements and will rely on the advice of bond counsel in its disclosure of covenant non-attainment or material events.

1-1415. Financial Reporting Compliance. The City will produce and post annual audited financial statements in accordance with its Continuing Disclosure Agreements on existing debt.

Policy Guidelines

1-1416. Purpose. The remaining sections of this article describe the legal basis for the City's issuance of debt, the practical restrictions on its debt issuance and some of the philosophical underpinnings of the specific items in the **Policy Framework** above.

1-1417. Legal framework for debt issuance. Kansas state law proscribes the City's authority to issue and repay debt. K.S.A. 10-101 to 10-125, *inclusive*, (General Bond Law), K.S.A. 10-301 *et seq.* (Limitations on Debt), K.S.A. 10-427 *et seq.* (Refunding Bonds), K.S.A. 10-116a, 10-1201 *et seq.* (Revenue Bonds), and K.S.A. 12-6a01 *et seq.* (Special Assessments) all provide the general statutory framework for debt issuance and may be amended or supplemented from time to time. The federal Internal Revenue Code also provides certain restrictions that apply to the City's debt and the City will work with its appropriate finance team members to insure compliance.

1-1418. Key requirements and limitations. The following key requirements and limitations apply to the city's debt:

- a. The limit of total general indebtedness to 30 percent of assessed valuation (include motor vehicle valuation).
- b. The requirement for competitive sales on new money general obligation bonds.
- c. The limit on final maturity of general obligation bonds to 30 payments occurring no more than 32 years after the date of issuance. Special assessment bonds are limited to 20 and 22 years.
- d. The limit on final maturity of revenue bonds to occur within 40 years of issuance.
- e. The requirement that bonds issued may only be in amounts equal to or less than the actual cost and expense of the underlying public improvement(s).
- f. The requirement of review and approval, prior to issuance, by the Attorney General's office of the transcript of proceedings for each bond and temporary note transaction.
- g. The ability to issue temporary notes for any project that carries the governing body's authorization to be financed in whole or in part by bonds.
- h. The ability to invest bond proceeds in a broader range of investment types than the City's regular idle cash (*see* K.S.A. 10-131).
- i. The ability to issue bonds to refund already outstanding bonds with the limitation that the final maturity on the refunding bonds must be within 31 years of the date of issuance (*see* K.S.A. 10-429).
- j. With some exceptions for planning expenses, the City must have adopted a reimbursement resolution at least 60 days prior to any expenditure for which the City plans to finance with tax-exempt bonds or note proceeds.

1-1419. Debt Limits and Revenue Coverage. Kansas law imposes a limitation on the amount of General Obligation bonded indebtedness, generally equivalent to 30 percent of a city's assessed value (including motor vehicles [*see* K.S.A. 10-308, 10-309 and 10-310]), and reduced by bonds issued for sanitary or storm sewers, for any municipal utility, and for some types of street infrastructure. The limit also excludes refunding bonds (*see* K.S.A. 10-427a). The City has self-imposed additional limits as described in the Debt Limits Issuance Limits and Considerations section above. These additional parameters have been designed in conjunction with the City's financial advisor to protect the City's credit profile and rating. For any revenue debt, the City's debt limits will be further restricted by the debt service coverage tests within its master indenture or bond resolution.

1-1420. Capital Planning and Sources of Funding. The City will use a multi-year capital planning process to determine which projects will be undertaken by the City, in which order of priority, and with which sources of funding. Debt financing will not be considered appropriate for any recurring purpose such as current operating and regular maintenance expenditures. The City will use debt financing for one-time capital improvement projects under the following circumstances:

- a. when the project is included in the CIP;
- b. when the project involves acquisition of capital equipment that can't be purchased outright without causing an unacceptable spike in the property tax rate;
- c. when the project is the result of growth-related activities within the community that require unanticipated infrastructure improvements;
- d. when there are designated revenues sufficient to service a debt, whether from project revenues, other specified and reserved resources, or infrastructure cost-sharing revenues;
- e. when a project is mandated by state or federal government and current revenues or fund balances are insufficient to pay project costs;
- f. when a project is immediately required to meet or relieve capacity needs and existing fund balances are insufficient to pay project costs; and/or,
- g. when the life of the project or asset financed is five years or longer.

1-1421. Pay-as-you go financing. The city will use PAYGO financing in the following circumstances:

- a. When the project can be adequately funded from available current revenues and fund balances;
- b. when the project can be completed in an acceptable timeframe given the available revenues;
- c. when additional debt levels could adversely impact the City's bond rating; and/or,
- d. when additional debt issuance in a year would cause the City to be unable to issue bank qualified bonds (and when that issuance cannot be scheduled on the calendar to avoid such an impact).

The City will also explore other sources of funding including but not limited to grants, gifts, draws on fund balance and capital reserves.

1-1422. Debt Issuance Practices. In issuing debt, the city will adhere to the following best practices:

- a. Through its work with the City, the financial advisor will recommend a plan

- of finance that accomplishes the business goals of the transaction at issue, while working within the City's long-term goals for its aggregate debt portfolio.
- b. With the possible exception of economic development-related bond transactions where a negotiated sale would likely result in the best execution, the City will use competitive sales for its bond and note transactions. In negotiated sales, the City will work with its financial advisor to develop an underwriting team that maximizes distribution of the bonds, including providing a priority for retail buyers if appropriate.
 - e. The City will work closely with its financial advisor to structure its Notice of Sale for competitive transactions to provide the strongest marketing opportunity for the bonds with the most advantageous terms for the City. Generally, the City will look to minimize any negative impact from bids containing premium callable bonds and will structure aggressive optional redemption provisions.
 - f. Recognizing the opportunity to reduce its overall cost of borrowing, the City will pursue investment opportunities for the reinvestment of its bond proceeds. Specifically, the City will look to reinvest construction funds, debt service reserve funds, and may consider investment of its debt service (principal and interest) funds.
 - g. In its reinvestment activities, the City will look first to the safest and most flexible investment tools. The City will consider laddered portfolios of authorized investments (certificates of deposit and Treasury securities, for instance), forward delivery agreements, guaranteed investment contracts and other permitted structured investment products. The City will seek the highest safe yield without limiting its flexibility to make appropriate draw and to transfer the investment to refunding bonds. The City will bid structured investment products in accordance with IRS regulations and the guidance of bond counsel and will compensate its brokers within the safe-harbor regulations of current IRS regulations.
 - h. The City desires to use a conservative approach to the structuring of its debt and will look to accepted best-practices to inform its approach, working with its financial advisor to develop structures that take into account existing obligations. To maximize budgetary consistency, the City will generally structure its overall debt portfolio to produce debt service payments that decline incrementally or remain approximately even in each year to the extent possible, resulting in a roughly level property tax mill levy for debt service when both anticipated growth in assessed value and future borrowing needs are taken into account.
 - i. The City recognizes that future tax- and rate-payers should play a role in the financing of system assets that will be used by those future tax- and rate-payers ("intergenerational equity"). As such, the City is comfortable structuring its debt to be repaid over the reasonable life of the assets being financed. The City, however, typically will not consider debt structures that shift disproportionate financial responsibilities to those future tax- or rate-payers.
 - j. In recognition of its conservative approach to managing its debt, the City will look first to traditional, fixed-rate bond structures to meet its financing needs. The City will use variable-rate debt only as part of a comprehensive asset/liability management program and only to the extent it uses its idle cash as a natural hedge for the variable-rate bonds.

- k. The City will use specific thresholds to guide when it will pursue refunding opportunities. Refunding structures that do not meet these minimum thresholds generally will not be pursued absent justification to the contrary.
- l. In order to minimize its transaction-related costs, the City will seek to aggregate projects into fewer, larger transactions (one to two per year). This practice should also serve to reduce the administrative burden on the City of administering debt transactions and to improve investors' interest in the City's bonds and notes.
- m. The City recognizes the importance of its continuing, secondary-market disclosure practices and makes every effort to ensure its filings are made timely and complete. The City may consider the use of a dissemination agent to assist in this purpose.
- n. The City recognizes its obligations to account for potential arbitrage rebate exposure and retains professionals to provide these calculations and certifications as required by the appropriate transaction documents.
- o. The City strives to meet all bond covenants and complies fully with the requirements that it disclose covenant non-attainment or material events. The City relies on the advice of its bond counsel to guide its disclosure activities if any questions arise.
- p. The City will not use derivatives or swaps as a component of its debt management to avoid the inherent associated risks.

Section 2. Effective Date. This Ordinance shall take effect upon its adoption by the City Council, approval by the Mayor and publication in the City's official newspaper.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS
AND APPROVED BY THE MAYOR ON THE 21st DAY OF DECEMBER, 2017.

(seal)

TIMOTHY J. MANIEZ, Mayor

ATTEST:

LANA MCPHERSON, MMC
City Clerk

APPROVED AS TO FORM:

PATRICK G. REAVEY, City Attorney