

**ORDINANCE NO. 648**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ADOPTING A DEBT MANAGEMENT POLICY; AMENDING SECTION 8.11 OF ARTICLE VIII OF THE CODE OF ORDINANCES IN ITS ENTIRETY; AND PROVIDING SEVERABILITY, OPEN MEETINGS AND EFFECTIVE DATE CLAUSES.**

WHEREAS, the City Council of the City of Kyle, Texas (the "City") desires to amend the Code of Ordinances of the City ("Code") to establish a debt management policy and provide guidelines for issuance and effective management of medium and long term debt of the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:**

**Section 1. Findings.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Adoption of Debt Management Policy.** Section 8.11 of Article VIII of the Code, is hereby amended and replaced in its entirety to read as follows:

**Section 8.11 DEBT ISSUANCE AND MANAGEMENT POLICY**

(a) **Purpose.** The City establishes the following policy concerning the issuance and management of the City's debt. This debt policy, as presented to City Council and the citizens, is established to improve the quality of decisions in relation to the City's financing activities, provide a comprehensive view of the City's long term debt picture and make it easier for decision makers to understand issues concerning debt issuance and management.

(b) **Conditions of Debt Issuance.**

(1) **Community Needs** - Debt should be issued for the purpose of meeting the needs of the community through funding of capital projects and equipment but without constituting an unreasonable burden to taxpayers.

(2) **Qualified Projects** - Long term debt is only to be issued to finance the acquisition and/or construction of capital improvements with an economic or useful life greater than five years and the term of the debt. Additionally, only capital needs identified in the capital improvement program will be considered. Refunding bonds will only be issued if the present value of debt service savings exceeds three percent of the par value of the refunded bonds, unless the refunding is intended for tax rate management purposes. Debt for other purposes, such as acquisition of capital assets, is covered separately in this policy.

(3) **Emergency Purposes** – Debt may be issued in compliance with State law to repair or replace an essential public asset, e.g. wastewater trunk line, that has suffered catastrophic damages, or for other purposes if there is immediate risk to the health and/or general safety of the general population of the City. The issuance of debt under this subsection requires an affirmative vote by a majority of the members of the City Council present and voting, provided not less than four affirmative votes shall be required to authorize the issuance of debt under this subsection.

(c) **Types of Debt**

(1) **General Obligation Bonds**- General Obligation Bonds may only be issued with a majority approval of a popular vote. The use of the proceeds from GO Bonds is limited to the acquisition or improvement of real property and other uses allowed by law and applicable bond ordinances. Libraries, parks and public safety facilities are all types of facilities that can be financed with GO Bonds. To the extent that property tax revenues are used to fund debt service, a separate property tax will be levied.

(2) **Enterprise Revenue Bonds** - Enterprise Revenue Bonds finance facilities for a revenue producing enterprise, and are payable from revenue sources within that enterprise. Municipal Water and Sewer and Solid Waste are examples of revenue producing enterprises within the City.

(3) **Certificates of Obligation (CO's) and Limited Tax Notes (Notes)** - Notes will be used in order to fund capital requirements where the useful life does not exceed seven (7) years as authorized by State law or where expedient issuance is required. Debt service for CO's or Notes may be either from general revenues or backed by a specific revenue stream or streams or by a combination of both. The term of the CO's will not exceed the useful life of the major capital projects funded by the certificate issuances and will generally be limited to no more than twenty years. Unless provided otherwise by State law neither CO's nor Notes require a vote of the citizens of the City.

(4) **Refunding Obligations** - Pursuant to the Government Code and various other financing statutes applicable in particular situations, the City Council is authorized to provide for the issuance of bonds for the purpose of refunding any long term obligation of the City. Absent any significant noneconomic factors (such as tax rate management), a refunding should produce minimum debt service savings (net of reserve fund earnings and other offsets) of at least 3% of the par value of the refunded bonds on a net present value basis, using the refunding issue's True Interest Cost (TIC) as the discount rate, unless the Finance Department determines that a lower savings percentage is acceptable for issues or maturities with short maturity dates.

(5) **Tax Anticipation Notes** - Proceeds from Tax Anticipation Notes are

used to fund projects whose source of payment is future tax revenues. These instruments have a term of one to three years and are for a specific purpose such as temporary financing for capital improvements, cash flow needs and major equipment leasing.

(6) **Tax Increment Financing Bonds (TIF)** - The City may use these bonds to finance capital improvements within the tax increment reinvestment zone. Repayment is from property taxes generated on the incremental increases in tax values within the zone.

(7) **Leases and Lease Purchase** - Financing leases and lease purchase agreements may be used to finance major capital purchases, including infrastructure, fleet, major system upgrades and large equipment purchases. The useful life of the asset should not exceed the term of the lease.

(8) **Assessment Bonds** - Proceeds from Assessment Bonds may be used to finance local public improvements, provided that said improvements benefit the parcels of land to be assessed. Local street lights, landscaping, sidewalks and sanitary sewers are some of the examples of local improvements commonly financed by assessment bonds.

(9) **Other Obligations** - There may be special circumstances when other forms of debt are appropriate and may be evaluated on a case by case basis. Such other forms include, but are not limited to limited tax notes, non-enterprise revenue bonds, bond anticipation notes, grant anticipation notes and judgment or settlement obligation bonds.

**(d) Restrictions on Debt Issuance.**

(1) The City will not use long term debt to finance current operations or normal maintenance.

(2) Derivative products will not be used by the city.

(3) Variable rate debt will not be used to refinance fixed-rate, long term debt.

(4) All debt issuances shall be approved by the City Council.

(5) Before any debt may be issued, the city will perform an analysis of the requirements to determine the impact on future budgets, the sufficiency of revenues to fund the debt service requirements and additional operating costs of the capital asset acquired. The analysis will ensure that debt service payments not tied to a specific revenue source shall be not greater than 40% of budgeted General Fund revenue for the current fiscal year. For calculation purposes, General Fund revenue shall include revenue in both Community Development and Recreation Funds of the City.

Payments on bonds that are tied to a specified revenue stream such as waterworks

bonds or TIF supported bonds are not subject to this 40% limit. This percentage restriction may be waived on a case-by-case basis for emergency purposes.

**(e) Limitations on Outstanding Debt.**

(1) Limitations on the city's outstanding bonded debt include:

(A) The total of gross bonded debt payable from the General Fund of the City (to include principal portion only) will not exceed six (6) percent of the assessed valuation of the City for the same year.

(B) Certificates of obligation payable from the General Fund shall not exceed three (3) percent of the assessed valuation of the City.

(2) These limitations shall not apply to utility-supported or TIF-supported debt and shall be periodically compared with other cities to determine if the city is still within the norm for comparably sized cities.

**(f) Characteristics of Debt Issuance.**

When the City finances capital projects by issuing bonds, it will pay back the bonds in a period not exceeding the expected life of those projects. Other standard terms shall include the following:

(1) Term may be up to 30 years depending on cash flow assumptions, and useful life of asset being financed.

(2) Call provisions will be shortest possible optional call consistent with optimal pricing.

(3) The City will seek to retire at least 25 percent of the total General Fund supported principal outstanding within the next 10 fiscal years.

(4) The City will seek level or declining overall debt repayment schedules and will avoid issuing debt that provides for balloon principal payments reserved at the end of the term of the issue, unless such debt issue is originally intended to be refinanced to produce level or declining overall debt repayment.

(5) The City will avoid variable rate debt due to the potential volatility of such instruments. Therefore, the City will avoid the use of variable rate debt for its general obligation bond issues.

(6) Debt service reserves will be in conformity with bond covenants, if applicable.

(7) Commercial insurance or other credit enhancements to the bond rating shall be considered when cost effective.

(8) Repayment of debt shall be made with revenues derived from the projects that benefitted from the bond issuance when possible.

(9) General Fund reserves shall be maintained at a minimum of ninety (90) days equivalent of the prior year's General Fund operating expenditures. This reserve shall be set aside and accounted for in a separate Fund of the City named Emergency Reserve Fund. All disbursements from the Emergency Reserve Fund must be authorized by the City Council and shall only be for emergency purposes as described in Section 8.11 (b) 3. For calculation purposes, General Fund expenditures shall include expenditures in both Community Development and Recreation Funds of the City and shall exclude any transfers-out. To the extent the City does not meet this stated policy minimum, the Council shall separately approve a plan at the time it approves its next required budget to achieve the required reserve amount within the shortest possible number of years (the "ramp-up period"). In no event will this ramp-up period exceed ten (10) years.

**(g) Review of Debt Policy.** To ensure the City is meeting the expectations of this policy the Strategic Planning & Finance Committee is to review this policy annually, at least three months prior to the beginning of the budget process, and report the findings to Council.

**(h) Debt Issuance Process**

(1) The City will strive continually achieve a higher Standard and Poor's rating. The City will maintain good communications with bond rating agencies about its financial condition and will follow a policy of full disclosure on every financial report and bond prospectus. The City will also comply with all federal tax law provisions, including arbitrage requirements.

(2) The City shall utilize the services of independent financial advisor(s) on debt financing when deemed prudent. Although not required, the City may utilize an RFP selected pool of underwriters for any negotiated bond sale. Bond counsel will be used for each transaction.

(3) The Finance Department shall review each debt issuance transaction on a case by case basis to determine the most appropriate method of sale.

(4) **Competitive Sale.** In a competitive sale, bids for the purchase of the bonds are opened at a specified place and time and are awarded to the underwriter (or syndicate) whose conforming bid represents the lowest true interest cost to the City (TIC). This method is most advantageous when the debt to be issued is less complex, the municipal bond market for high grade credits is stable, and the sale of the City's bonds is assured.

(A) Bond sales shall be cancelable at any time prior to the time bids are to be received.

(B) Upon award to the bidder whose conforming bid represents the lowest true interest cost, the City may restructure the bonds in accordance with the Official Notice of Sale. The City shall reserve the unfettered right to reject all bids or waive bid irregularities.

(5) **Negotiated Sale.** In a negotiated sale, the City chooses the initial buyer of the bonds in advance of the sale date. The initial buyer is usually an investment banking firm, or a syndicate of investment banking firms interested in reoffering the bonds to investors through an underwriting process. This type of sale allows the City to discuss different financing techniques with the underwriter in advance of the sale date. This method is most advantageous when the debt issue is complex, debt structuring flexibility is required (as would be the case in a bond refunding) or the municipal bond market is unstable or uncertain.

(6) **Private Placement** In a private placement, the City may select a private purchaser willing to bid a below market rate. Such placements often allow debt to be issued more efficiently by eliminating the need for bond ratings and other associated issuance costs. Such financing will be analyzed on a case by case basis, depending primarily on rates prevailing in the placement market from time to time.

(7) Professional services used in conjunction with a bond issuance may be obtained using a request for proposal (RFP). If an RFP is used, selection will be based on experience in the type of issuance and municipal bond activities, ability to perform needed services, conflicts of interest, fees and fee structure.

**(i) Permitted Investments of Debt Proceeds**

(1) All investments of debt proceeds shall adhere to the city's investment policy. Accordingly, the investment of proceeds is limited to:

(A) securities guaranteed for both principal and interest by the federal government. All securities held in the City's name prior to the effective date of this Ordinance are exempt until such securities mature and funds become available for reinvestment;

(B) collateralized certificates of deposit from banks whose collateral consists of securities of the United States or secured by a letter of credit from the Federal Home Loan Bank Board that guarantee both principal and interest;

(C) local government investments pools; or

(D) collateralized certificates of deposit from banks secured by a combination of collateral and guarantees as provided in (A) and (B), and/or bonds and debt obligations of the State of Texas and other instruments as authorized by State law

(2) A financial advisor may be used to assist in investing bond proceeds. However, the advisor must be independent of the underwriter or financial advisor involved with the sale of the bonds. Bond proceeds may not be commingled with operating funds.

(3) To ensure adequate liquidity and safety of principal, investment maturities shall precede debt service requirements.

**Section 4. Severability.** If any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

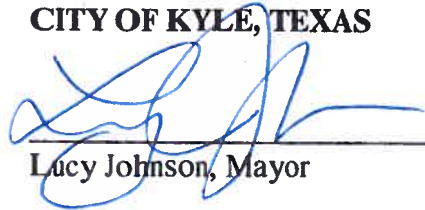
**Section 5. Effective Date.** This Ordinance shall take effect immediately from and after its passage.

**Section 6. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** on this the 15th day of March, 2011.

**PASSED AND FINALLY APPROVED** on this the 5th day of April, 2011.


**CITY OF KYLE, TEXAS**



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Lucy Johnson, Mayor

ATTEST:



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Amelia Sanchez, City Secretary