

TRIPLETT WOOLF GARRETSON, LLC

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ORDINANCE NO. 180-2023-048

OF THE

CITY OF HESSTON, KANSAS

AUTHORIZING THE ISSUANCE OF

\$10,945,000  
CITY OF HESSTON, KANSAS  
TAXABLE INDUSTRIAL REVENUE BONDS  
SERIES 2023  
(AGCO CORPORATION)

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(Published in *The Harvey County Now* on December 14, 2023)

ORDINANCE NO. 180-2023-048

AN ORDINANCE AUTHORIZING THE CITY OF HESSTON, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023 (AGCO CORPORATION), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$10,945,000 FOR THE PURPOSES OF PURCHASING, ACQUIRING, CONSTRUCTING, EQUIPPING AND INSTALLING CERTAIN IMPROVEMENTS AND ADDITIONS TO AN EXISTING MANUFACTURING AND COMMERCIAL FACILITY (THE “2023 ADDITIONS”) AND PAYING CERTAIN COSTS OF ISSUANCE; AUTHORIZING THE EXECUTION OF A TWENTY-SECOND SUPPLEMENTAL TRUST INDENTURE BY AND BETWEEN THE CITY AND U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, ATLANTA, GEORGIA (SUCCESSOR IN INTEREST TO U.S. BANK NATIONAL ASSOCIATION), AS TRUSTEE; AUTHORIZING THE CITY TO LEASE THE 2023 ADDITIONS TO AGCO CORPORATION; AUTHORIZING EXECUTION OF A TWENTY-SECOND SUPPLEMENTAL LEASE AGREEMENT BETWEEN THE CITY AND AGCO CORPORATION; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY AND AGCO CORPORATION, AS TENANT AND PURCHASER OF THE SERIES 2023 BONDS; AND APPROVING THE EXERCISE OF THE OPTION TO PURCHASE CERTAIN RELATED IMPROVEMENTS AND EQUIPMENT PURCHASED WITH THE PROCEEDS OF THE CITY OF HESSTON TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2012 (AGCO CORPORATION); AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Hesston, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, construct and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any persons, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

WHEREAS, the Issuer has previously issued an initial series of its Taxable Industrial Revenue Bonds designated “City of Hesston, Kansas, Taxable Industrial Revenue Bonds, Series 2001 (Hay and Forage Industries)” in the aggregate principal amount of \$22,605,000 (the “2001 Bonds”) for the purpose of purchasing, acquiring, constructing and equipping improvements and additions to existing manufacturing and commercial facilities located in the City of Hesston, Kansas (the “2001 Project”); and

WHEREAS, the Issuer has leased the 2001 Project to AGCO Corporation, a Delaware corporation (the “Tenant”), as successor in interest to Hay & Forage Industries, a Kansas general partnership, pursuant to a Lease Agreement, dated as of October 1, 2001 (the “2001 Lease”); and

WHEREAS, the Issuer has previously issued twenty-one (21) additional series of its taxable industrial revenue bonds in an aggregate principal amount of \$225,710,000 for the purpose of purchasing, acquiring, constructing and equipping improvements and additions to the 2001 Project; and

WHEREAS, the trustee services for the following bonds has transferred to U.S. Bank Trust Company, National Association, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in the City of Atlanta, Georgia (successor in interest to U.S. Bank National Association), and the Owner of 100% of the following bonds has appointed U.S. Bank Trust Company, National Association, Atlanta, Georgia (successor in interest to U.S. Bank National Association) as successor trustee (the "Trustee"):

- (i) \$37,295,000 Taxable Industrial Revenue Bonds, Series 2012 (AGCO Corporation);
  - (ii) \$15,935,000 Taxable Industrial Revenue Bonds, Series 2013 (AGCO Corporation);
  - (iii) \$6,955,000 Taxable Industrial Revenue Bonds, Series 2018 (AGCO Corporation);
  - (iv) \$5,045,000 Taxable Industrial Revenue Bonds, Series 2019 (AGCO Corporation);
  - (v) \$5,310,000 Taxable Industrial Revenue Bonds, Series 2020 (AGCO Corporation);
  - (vi) \$4,510,000 Taxable Industrial Revenue Bonds, Series 2021 (AGCO Corporation);
  - (vii) \$5,845,000 Taxable Industrial Revenue Bonds, Series 2022 (AGCO Corporation);
- and

WHEREAS, the Issuer has heretofore and does hereby find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its taxable industrial revenue bonds in a single series in the aggregate principal amount of \$10,945,000 (the "2023 Bonds") for the purpose of providing funds to purchase, acquire, construct and equip additional improvements to the 2001 Project (the "2023 Additions") (the 2001 Project together with all subsequent additions, including the 2023 Additions, being collectively referred to herein as the "Project"), said Project to be leased by the Issuer to the Tenant; and

WHEREAS, the 2023 Bonds and the interest thereon shall not constitute an indebtedness of the Issuer within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability of the Issuer, nor shall any 2023 Bond or the interest thereon be a charge against the general credit or taxing powers of the Issuer; and

WHEREAS, the 2023 Bonds are not general obligations of the Issuer and are payable solely from certain fees, rentals, revenues and other amounts derived by the Issuer from the Project and, under certain circumstances, from the proceeds of the 2023 Bonds and insurance and condemnation awards; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the 2023 Bonds (1) to execute and deliver a Twenty-Second Supplemental Trust Indenture, dated as of December 15, 2023 (the "Twenty-Second Supplemental Indenture"), by and between the Issuer and the Trustee, with respect to the 2023 Bonds, which further supplements and amends a certain Trust Indenture, dated as of October 1, 2001 (the "2001

Indenture”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A. (formerly The Bank of New York Trust Company, N.A., as successor trustee to INTRUST Bank, N.A., Wichita, Kansas) (the 2001 Indenture, as supplemented from time to time in accordance with the provisions thereof, herein referred to as the “Indenture”); and (2) to enter into a Twenty-Second Supplemental Lease Agreement, dated as of December 15, 2023 (the “Twenty-Second Supplemental Lease”), which further supplements and amends a certain Lease Agreement, dated as of October 1, 2001 (the “2001 Lease”), by and between the Issuer, as landlord, and the Tenant, pursuant to which the Issuer shall cause the Project to be leased to the Tenant in consideration of payments of Basic Rent, Additional Rent and other charges provided for therein (the 2001 Lease as supplemented from time to time in accordance with the provisions thereof hereinafter referred to as the “Lease”); and

WHEREAS, in addition to the 2001 Bonds, 2002 Bonds, 2003 Bonds, 2004 Bonds, 2005 Bonds, 2006 Bonds, 2007 Bonds, 2008 Bonds, 2009 Bonds, 2010 Bonds and 2011 Bonds (as such terms are defined in the Indenture), the Trustee, as successor trustee to MFUG Union Bank, N.A. (formerly known as Union Bank of California, N.A.), has certified that the 2012 Bonds (as such term is defined in the Indenture) are no longer Outstanding under the Indenture; and

WHEREAS, the Tenant desires to exercise its option to purchase the 2012 Additions financed with the 2012 Bonds; and

WHEREAS, the City hereby determines to waive the notice provisions of the Lease with respect to the Tenant’s exercise of its option to purchase the 2012 Additions and finds and determines it necessary and desirable to execute a Bill of Sale conveying such 2012 Additions to the Tenant.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HESSTON, KANSAS, AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture and the Lease.

Section 2. Authority to Cause the 2023 Additions to be Acquired, Constructed and Equipped. The governing body of the Issuer hereby declares that the 2023 Additions (as defined above), if in being, would promote the welfare of Hesston, Kansas, and the Issuer is hereby authorized to cause the 2023 Additions to be purchased, acquired, constructed and equipped all in the manner and as more particularly described in the Indenture and in the Lease hereinafter authorized.

Section 3. Authorization of and Security for the Bonds. There is hereby authorized and directed to be issued a series of revenue bonds to be designated the “City of Hesston, Kansas, Taxable Industrial Revenue Bonds, Series 2023 (AGCO Corporation)”, in the aggregate principal amount of \$10,945,000 for the purpose of financing the costs of purchasing, acquiring, constructing, equipping, and installing the 2023 Additions and paying certain costs of issuance.

The 2023 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 in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Twenty-Second Supplemental Indenture (as defined above). The 2023 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Twenty-Second Supplemental Lease (as defined above), or otherwise in connection with the Project. The 2023 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues. The 2023 Bonds shall be secured under the provisions of the Twenty-Second Supplemental Indenture and are authorized thereby.

Section 4. Authorization of Twenty-Second Supplemental Indenture. The Issuer is hereby authorized to enter into the Twenty-Second Supplemental Indenture, under which the Issuer shall pledge and assign to the Trustee, for the benefit of the holders of the Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

Section 5. Lease of the 2023 Additions. The Issuer shall lease the Project, including the 2023 Additions, to the Tenant pursuant to and in accordance with the provisions of, and is hereby authorized to enter into the Twenty-Second Supplemental Lease.

Section 6. Authorization of Bond Purchase Agreement. The 2023 Bonds shall be sold and delivered to AGCO Corporation, a Delaware corporation (the "Purchaser"), upon the terms and subject to the provisions of the Bond Purchase Agreement, dated as of December 15, 2023 (the "Bond Purchase Agreement"), by and between the Issuer and the Purchaser.

Section 7. Authorization of Release Documents. The Issuer is hereby authorized to execute a Bill of Sale conveying the 2012 Additions from the Issuer to the Tenant, a Partial Release of Supplemental Lease Agreement and Partial Discharge of Supplemental Indenture (collectively, the "Release Documents") and to deliver such Release Documents upon receipt of Certification by the Trustee, that no 2012 Bonds remain outstanding and upon performance by the Tenant of all conditions precedent to exercise of its purchase option under the Lease.

Section 8. Execution of 2023 Bonds and Related Agreements and Documents. The Mayor of the governing body of the Issuer is hereby authorized and directed to execute the 2023 Bonds and deliver same to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor is authorized and directed to execute and deliver the Twenty-Second Supplemental Indenture, the Twenty-Second Supplemental Lease, the Bond Purchase Agreement, and the Release Documents for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such minor corrections or amendments thereto as the Mayor shall approve (after consultation with the Bond Counsel), which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance (including a Direct Pay Agreement). The City Clerk of the Issuer is hereby authorized and directed to attest the execution of the 2023 Bonds, the Twenty-Second Supplemental Indenture, the Twenty-Second Supplemental Lease, the Bond

Purchase Agreement, Release Documents, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

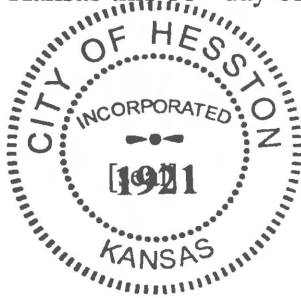
Section 9. Pledge of the Project. The Issuer hereby pledges the Project (including the 2023 Additions) and the net earnings therefrom to the payment of the Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the Bonds shall be deemed to have been paid within the meaning of the Indenture, as the same may be amended, subject to the provisions of Section 705 of the Twenty-Second Supplemental Indenture.

Section 10. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2023 Bonds, the Twenty-Second Supplemental Indenture, the Twenty-Second Supplemental Lease, the Bond Purchase Agreement, and the Release Documents all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 11. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City of Hesston, Kansas and publication once in the official newspaper of the Issuer.

*[Remainder of Page Intentionally Left Blank]*

PASSED, ADOPTED and APPROVED by the governing body of the City of Hesston,  
Kansas this 11<sup>th</sup> day of December, 2023.



CITY OF HESSTON, KANSAS

  
\_\_\_\_\_  
David K. Kauffman, Mayor

ATTEST:

  
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Jason Thrasher, City Clerk