

ORDINANCE NO. 3534

**OF THE
CITY OF FORT SCOTT, KANSAS**

**AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED \$5,900,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2018
(PRICE CHOPPER PROJECT)**

(Published in *The Fort Scott Tribune*, June 9, 2018)

ORDINANCE NO. 3534

AN ORDINANCE AUTHORIZING THE CITY OF FORT SCOTT, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2018 (PRICE CHOPPER PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A COMMERCIAL FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

THE GOVERNING BODY OF THE CITY OF FORT SCOTT, KANSAS HAS FOUND AND DETERMINED:

A. The City of Fort Scott, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities.

B. The Issuer's governing body has determined 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, Series 2018 (Price Chopper Project) dated as of the Issue Date of the Bonds in the aggregate principal amount not to exceed \$5,900,000 (the "Series 2018 Bonds"), for the purpose of paying the costs of the acquisition, construction, renovation and equipping of a certain commercial facility (the "Project") as more fully described in the Trust Indenture and in the Lease authorized in this Ordinance, for lease to Super Market Developers, Inc., a Missouri corporation (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2018 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) a Trust Indenture dated as of the Issue Date of the Bonds (the "Indenture"), with UMB, n.a., Kansas City, Missouri, as Trustee (the "Trustee"), prescribing the terms and conditions of issuing and securing the Series 2018 Bonds;

(ii) a Lease dated as of the Issue Date of the Bonds (the "Lease"), with the Tenant, under which the Issuer will acquire, construct and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments; and

(iii) a Bond Purchase Agreement (the "Bond Purchase Agreement") providing for the sale of the Series 2018 Bonds by the Issuer to the Tenant (the "Purchaser").

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FORT SCOTT, KANSAS:

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Indenture and the Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed.** The Issuer is authorized to cause the Project to be acquired, constructed and equipped in the manner described in the Indenture and the Lease.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series 2018 Bonds, to be designated "City of Fort Scott Kansas Taxable Industrial Revenue Bonds, Series 2018 (Price Chopper Project)" in the aggregate principal amount not to exceed \$5,900,000, for the purpose of providing funds to pay the costs of the acquisition, construction, renovation and equipping of the Project. The Series 2018 Bonds will be in such principal amount, will be dated and bear interest, will mature and be payable at such times, will be in such forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Indenture. The Series 2018 Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Indenture, including revenues derived from the Lease of the Project. The Series 2018 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Indenture.** The Issuer is authorized to enter into the Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Indenture to the Trustee for the benefit of the owners of the Series 2018 Bonds on the terms and conditions in the Indenture.

Section 5. **Lease of the Project.** The Issuer will acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Lease in the form approved in this Ordinance.

Section 6. **Authorization of Bond Purchase Agreement.** The Issuer is authorized to sell the Series 2018 Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 7. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series 2018 Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Indenture. The Mayor or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to passage of this Ordinance, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series 2018 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 8. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project and the net rentals generated under the Lease to the payment of the Series 2018 Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series 2018 Bonds are paid or deemed to have been paid under the Indenture.

Section 9. **Authority To Correct Errors, Etc.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct

errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 10. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series 2018 Bonds and the Bond Documents.

Section 11. **Effective Date.** This Ordinance shall take effect after its passage by the governing body of the Issuer, signature by the Mayor and publication once in the Issuer's official newspaper.

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PASSED by the governing body of the Issuer on June 5, 2018 and **APPROVED AND SIGNED** by the Mayor.



Janne Mitchell

Mayor

Deane K. Clay

City Clerk

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CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 3534 of the City of Fort Scott, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.





City Clerk

(Published in *The Fort Scott Tribune* on June 9, 2018)

SUMMARY OF ORDINANCE NO. 3534

On June 5, 2018, the governing body of the City of Fort Scott, Kansas passed an ordinance entitled:

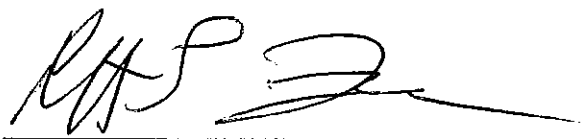
AN ORDINANCE AUTHORIZING THE CITY OF FORT SCOTT, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2018 (PRICE CHOPPER PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A COMMERCIAL FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Ordinance authorizes the Issuer to issue its Taxable Industrial Revenue Bonds, Series 2018 (Price Chopper Project) in the aggregate principal amount not to exceed \$5,900,000 (the "Series 2018 Bonds"), for the purpose of paying the costs of the acquisition, construction, renovation and equipping of a commercial facility (the "Project"), as more fully described in the Indenture and in the Lease authorized by the Ordinance. The Project will be leased by the Issuer to Super Market Developers, Inc., a Missouri corporation.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 123 S. Main, Fort Scott, Kansas 66701. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <https://www.fscity.org/>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: June 5, 2018.



City Attorney