

GILMORE & BELL, P.C.
May 22, 2017

ORDINANCE NO. 610-17

**OF THE
CITY OF NORTH NEWTON, KANSAS**

**AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED \$5,000,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2017
(NORTH WOODS PLAZA, LLC)**

(Published in the *Newton Now*, June 22, 2017)

ORDINANCE NO. 610-17

AN ORDINANCE AUTHORIZING THE CITY OF NORTH NEWTON, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2017 (NORTH WOODS PLAZA, LLC) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A COMMERCIAL COMPLEX FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

THE GOVERNING BODY OF THE CITY OF NORTH NEWTON, KANSAS HAS FOUND AND DETERMINED:

A. The City of North Newton, 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 2017 (North Woods Plaza, LLC) dated as of the Issue Date of the Bonds in the aggregate principal amount not to exceed \$5,000,000 (the "Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of a certain commercial complex facility (the "Project") as more fully described in the Bond Agreement and in the Lease authorized in this Ordinance, for lease to North Woods Plaza, LLC, a Kansas limited liability company (the "Tenant").

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

(i) a Bond Agreement dated as of the Issue Date of the Bonds (the "Bond Agreement"), among the Issuer, the Tenant and Security Bank of Kansas City, Kansas City, Kansas (the "Bank") prescribing the terms and conditions of issuing and securing the Bonds;

(ii) a Site Lease dated as of the Issue Date of the Bonds (the "Site Lease"), from the Tenant, as lessor, to the Issuer, as lessee;

(iii) 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

(iv) an Administrative Service Fee Agreement (the "Administrative Service Fee Agreement") to be entered into between the Issuer and the Tenant in conjunction with the issuance of the Bonds.

D. The Issuer's governing body has found that under the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project purchased or constructed with the proceeds of the Bonds is eligible for exemption from ad valorem property taxes for up to 10 years, commencing in the calendar year following the calendar year in which the Bonds are issued, if proper application is made. The Issuer's governing body has further found that the Project should be exempt from ad valorem property taxes for a period of 10 years. Prior to making this

determination, the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NORTH NEWTON, KANSAS:

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

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Bonds, to be designated "City of North Newton Kansas Taxable Industrial Revenue Bonds, Series 2017 (North Woods Plaza, LLC)" in the aggregate principal amount not to exceed \$5,000,000, for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of the Project. The Bonds 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 Bond Agreement. The Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the Lease of the Project. The 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 Bond Agreement.** The Issuer is authorized to enter into the Bond Agreement with the Bank and the Tenant in the form approved in this Ordinance. The Issuer will issue and sell the Bonds and provide for payment of the Bonds and interest thereon from the revenues derived by the Issuer under the Lease and other moneys as described in the Bond Agreement, all on the terms and conditions in the Bond Agreement.

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 Administrative Service Fee Agreement.** At or prior to the issuance of the Bonds, the Issuer will enter into the Administrative Service Fee Agreement with the Tenant providing for the payment to the Issuer of an administrative service fee upon the terms and subject to the conditions set forth in such 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 Bonds and deliver them to the Bank for authentication on behalf of the Issuer in the manner provided by the Act and in the Bond Agreement. 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 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. **Property Tax Exemption.** The Project will be exempt from ad valorem property taxes for 10 years, commencing in the calendar year after the calendar year in which Bonds are issued. The Tenant will prepare the application for exemption and submit it to the Issuer for its review. After its review, the Issuer will submit the application for exemption to the State Board of Tax Appeals.

Section 9. **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 Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Bonds are paid or deemed to have been paid in accordance with the terms of the Bond Agreement.

Section 10. **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 11. **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 Bonds and the Bond Documents.

Section 12. **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.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

PASSED by the governing body of the Issuer on June 12, 2017 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)



ATTEST:

Arnold D. Braun
Mayor

Patricia Polding
City Clerk

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 610-17 of the City of North Newton, 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.

[SEAL]



Patricia Redding

City Clerk