

ORDINANCE NO. 1570

**OF THE
CITY OF COLBY, KANSAS**

**AUTHORIZING THE ISSUANCE OF
\$1,000,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2016
(WOOFER CONSTRUCTION & IRRIGATION, INC.)**

(Summary of Ordinance Published in *The Colby Free Press*, November 21, 2016)

ORDINANCE NO. 1570

AN ORDINANCE AUTHORIZING THE CITY OF COLBY, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (WOOFER CONSTRUCTION & IRRIGATION, INC.) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A WAREHOUSE AND FABRICATION FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

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

A. The City of Colby, 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 2016 (Woofter Construction & Irrigation, Inc.) dated as of the Issue Date of the Bonds in the aggregate principal amount of \$1,000,000 (the "Series 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of a certain warehouse and fabrication facility (the "Project") as more fully described in the Bond Agreement and in the Lease authorized in this Ordinance, for lease to Woofter Construction & Irrigation, Inc., a Kansas corporation (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2016 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 Peoples State Bank, Colby, Kansas (the "Bank") prescribing the terms and conditions of issuing and securing the Series 2016 Bonds;

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

(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.

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 Series 2016 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 COLBY, 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 and constructed 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 Series 2016 Bonds, to be designated "City of Colby Kansas Taxable Industrial Revenue Bonds, Series 2016 (Woofter Construction & Irrigation, Inc.)" in the aggregate principal amount of \$1,000,000, for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of the Project. The Series 2016 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 Bond Agreement. The Series 2016 Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the Lease of the Project. The Series 2016 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. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series 2016 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 Series 2016 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 7. **Property Tax Exemption.** The Project will be exempt from ad valorem property taxes for ten (10) years, commencing in the calendar year after the calendar year in which the Series 2016 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 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 2016 Bonds in accordance with K.S.A.

12-1744. The lien created by the pledge will be discharged when all of the Series 2016 Bonds are paid or deemed to have been paid in accordance with the terms of the Bond Agreement.

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 2016 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 November 15, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

City Clerk

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CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 1570 of the City of Colby, 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]

City Clerk

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF COLBY, KANSAS
HELD ON NOVEMBER 15, 2016**

The governing body of the City of Colby, Kansas met in regular session at the usual meeting place in the City, at 5:30 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Thereupon, there was presented for passage an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF COLBY, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (WOOFER CONSTRUCTION & IRRIGATION, INC.) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A WAREHOUSE AND FABRICATION FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No 1570 and was signed by the Mayor and the signature attested by the City Clerk.

* * * * *

(Other Proceedings)

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CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Colby, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

City Clerk

(Published in *The Colby Free Press* on November 21, 2016)

SUMMARY OF ORDINANCE NO. 1570

On November 15, 2016, the governing body of the City of Colby, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF COLBY, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (WOOFER CONSTRUCTION & IRRIGATION, INC.) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A WAREHOUSE AND FABRICATION FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Ordinance authorizes the Issuer to issue its Taxable Industrial Revenue Bonds, Series 2016 (Woofter Construction & Irrigation, Inc.) in the aggregate principal amount not to exceed \$1,000,000 (the "Series 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of a warehouse and fabrication facility (the "Project"), as more fully described in the Bond Agreement and in the Lease authorized by the Ordinance. The Project will be leased by the Issuer to Woofter Construction & Irrigation, Inc., a Kansas corporation. In connection with the issuance of the Series 2016 Bonds, the Issuer approves a ten (10) year exemption from ad valorem property taxes for the Project.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 585 N. Franklin, Colby, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://www.cityofcolby.com/>.

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

DATED: November 15, 2016.

City Attorney