

(Published in the *Colby Free Press*, March 24, 2023)

**NOTICE OF PUBLIC HEARING  
AND OF  
ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS**

Public notice is hereby given that the City Council of the City of Colby, Kansas (the "Issuer"), will conduct a public hearing on April 4, 2023 at 5:30 p.m., or as soon thereafter as may be heard, at the Council Chambers at City Hall, 585 N. Franklin Avenue, Colby, Kansas, in regard to the issuance by the Issuer of its Taxable Industrial Revenue Bonds (WWS Hotel Project), in a principal amount not to exceed \$10,000,000 (the "Bonds") and in regard to an exemption from ad valorem taxation of property constructed or purchased with the proceeds of such Bonds. The Bonds are proposed to be issued by the Issuer under authority of K.S.A. 12-1740 *et seq.*, as amended, to pay the costs of the acquisition, construction, furnishing and equipping of a hotel facility to be located at 2255 S. Range Avenue in the City. The Issuer further intends to lease such facility to WWS, Inc., a Kansas corporation (the "Tenant"). The governing body of the Issuer will not pass an ordinance authorizing the issuance of such revenue bonds until the public hearing has been concluded.

Notice is further given, in accordance with K.S.A. 12-1744e, that the Issuer intends to issue the Bonds and lease the facility to the Tenant as set out above.

A copy of this Notice, together with a copy of the inducement resolution of the Issuer to be considered for adoption on April 4, 2023, indicating the intent of the governing body of the Issuer to issue such Bonds and a report analyzing the costs and benefits of such property tax exemption are on file in the office of the Clerk, or will be as soon as completed, and available for public inspection during normal business hours.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place above specified.

Dated: March 24, 2023

CITY OF COLBY, KANSAS

Joni L. Ketchum, Clerk

**RESOLUTION NO. 1194**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF COLBY, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF A HOTEL FACILITY TO BE LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS**

**WHEREAS**, the City of Colby, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of Colby, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

**WHEREAS**, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in a principal amount not to exceed \$10,000,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquisition, construction, furnishing and equipping of a hotel facility (the "Project") to be located in the Issuer and to be leased by the Issuer to WWS, Inc., a Kansas corporation, (the "Tenant").

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF COLBY, KANSAS:**

Section 1. **Public Purpose.** The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

Section 2. **Authorization to Acquire Project; Intent to Issue Bonds.** The Issuer is hereby authorized to proceed with the acquisition, construction, furnishing and equipping of the Project and to issue its revenue bonds, in one or more series, in a principal amount not to exceed \$10,000,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

Section 3. **Conditions to Issuance of Bonds.** The issuance of the Bonds is subject to: (a) the passage of an ordinance authorizing the issuance of the Bonds; (b) the successful negotiation of a Trust Indenture, Site Lease, Project Lease, Bond Purchase Agreement or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined, which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the Issuer, the Tenant and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; (f) the commitment to and payment by the Tenant or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the Issuer and the Issuer Attorney; (ii)

any underwriting or placement fees and expenses; (iii) all legal fees and expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals; and (g) the satisfactory negotiation of an agreement with the Tenant relating to the payment or exemption of all or a portion of property taxes assessed against the Project after issuance of the Bonds.

Section 4. **Property Tax Exemption and Payment in Lieu of Taxes.** The Issuer hereby determines that pursuant to the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project, to the extent purchased or constructed with the proceeds of the Bonds, should be exempt from payment of ad valorem property taxes for ten years commencing with the year following the year in which the Bonds are issued, provided proper application is made therefor; provided no exemption may be granted from the ad valorem property tax levied: (a) by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto; and (b) for the uses restricted pursuant to the provisions of K.S.A. 79-201a, *Second* and *Twenty-Fourth*. In making such 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. The Tenant is responsible for preparing such application and providing the same to the Issuer for its review and submission to the State Board of Tax Appeals. The Issuer reserves the right to negotiate a payment in lieu of taxes so exempted, to be made by the Tenant.

Section 5. **Sales Tax Exemption.** The Governing Body hereby determines that pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the Bonds are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. In the event that the Bonds are not issued for any reason, the Tenant will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted hereunder.

Section 6. **Reliance by Tenant; Limited Liability of Issuer.** It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

Section 7. **Further Action.** The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) cooperate with the Tenant in filing an application for a sales tax exemption certificate with the Kansas Department of Revenue with respect to Bond-financed property; and (b) execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act.

Section 8. **Effective Date.** This resolution shall become effective upon adoption by the Governing Body.

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**ADOPTED** by the governing body of the City of Colby, Kansas on April 4, 2023.

[SEAL]

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Mayor

Attest:

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Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on April 4, 2023, as the same appears of record in my office.

DATED: April 4, 2023.

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Clerk

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF COLBY, KANSAS  
HELD ON APRIL 4, 2023**

The governing body met in regular session at the usual meeting place in the City on April 4, 2023, 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)

Among other business, in accordance with a notice published on March 24, 2023, in the *Colby Free Press*, a public hearing was held by the governing body relating to the proposed issuance of Taxable Industrial Revenue Bonds (WWS Hotel Project) in a principal amount not to exceed \$10,000,000 (the "Bonds") and regarding an exemption from ad valorem taxation of property constructed or purchased with the proceeds of such Bonds. All interested persons were afforded an opportunity to present their views on the issuance of the Bonds, the location and nature of the Project to be financed with the proceeds of the Bonds and the exemption from ad valorem taxation. Thereupon, the public hearing was closed.

Thereupon, there was presented a Resolution entitled:

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF COLBY,  
KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE  
INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE  
ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF A  
HOTEL FACILITY TO BE LOCATED IN THE CITY; AND AUTHORIZING  
EXECUTION OF RELATED DOCUMENTS**

Thereupon, Councilmember \_\_\_\_\_ moved that the Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. The Resolution was duly read and considered, and upon being put, the motion for the adoption of the Resolution was carried by the vote of the governing body, the vote being as follows:

Aye: \_\_\_\_\_.

Nay: \_\_\_\_\_.

Thereupon, the Mayor declared the Resolution duly adopted and the Resolution was then duly numbered Resolution No. \_\_\_\_\_ and was signed by the Mayor and attested by the Clerk.

\* \* \* \* \*

(Other Proceedings)

On motion duly made, seconded and carried, the meeting hereupon adjourned.

**CERTIFICATE**

I hereby 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]

\_\_\_\_\_  
Clerk



**AFFIDAVIT OF MAILING AND PUBLICATION**

I, the undersigned, of lawful age, upon oath or affirmation, hereby declare under the penalties of perjury:

1. I am the duly appointed and acting Clerk of the City of Colby, Kansas, and I was the duly appointed and acting Clerk at all times referred to in this affidavit.

2. On March \_\_\_\_, 2023, I mailed a letter and attached Notice of Public Hearing addressed as follows:

Board of Education  
Unified School District No. 315  
600 W. 3<sup>rd</sup> Street  
Colby, Kansas 67701

County Clerk  
Board of County Commissioners  
Thomas County Courthouse  
300 N. Court  
Colby, Kansas 67701

The foregoing items were mailed by first-class mail with adequate postage. Each envelope was endorsed with the return address of my office. Copies of the letter and notice mailed are attached to this affidavit.

3. Neither package was returned undelivered.

4. The Notice of Public Hearing mailed as stated above was published once in the *Colby Free Press*, the official City newspaper, on March 24, 2023, which date was at least seven days prior to the date the public hearing was held. A true copy of the affidavit of publication of the Notice of Hearing is attached to this affidavit.

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Joni L. Ketchum, Clerk

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF THOMAS        )

Subscribed and sworn or affirmed before me this \_\_\_\_day of March, 2023.

[SEAL]

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Typed or Printed Name of Notary Public

My Appointment Expires:

\_\_\_\_\_