

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF MCPHERSON, KANSAS
HELD ON OCTOBER 3, 2016**

The governing body met in regular session at the usual meeting place in the City of McPherson, Kansas on October 3, 2016, at 8:30 a.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 September 13, 2016, in *The McPherson Sentinel*, a public hearing was held by the governing body relating to the proposed issuance of Health Care Facility Refunding and Improvement Revenue Bonds (The Cedars, Inc.) in the principal amount not to exceed \$24,000,000 (the "Bonds"). All interested persons were afforded an opportunity to present their views on the issuance of the Bonds and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented a Resolution entitled:

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS DETERMINING THE ADVISABILITY OF ISSUING HEALTH CARE FACILITY REFUNDING AND IMPROVEMENT REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING REVENUE BONDS ORIGINALLY ISSUED FOR THE PURPOSES OF FINANCING IMPROVEMENTS TO A SENIOR RESIDENTIAL FACILITY AND FINANCING THE RENOVATION OF EXISTING FACILITIES AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SENIOR RESIDENTIAL FACILITY LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

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

Aye: _____.

Nay: _____.

Thereupon, the Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. 2016-16 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 McPherson, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

Clerk

RESOLUTION NO. 2016-16

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS DETERMINING THE ADVISABILITY OF ISSUING HEALTH CARE FACILITY REFUNDING AND IMPROVEMENT REVENUE BONDS FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING REVENUE BONDS ORIGINALLY ISSUED FOR THE PURPOSES OF FINANCING IMPROVEMENTS TO A SENIOR RESIDENTIAL FACILITY AND FINANCING THE RENOVATION OF EXISTING FACILITIES AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS TO THE SENIOR RESIDENTIAL FACILITY LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

WHEREAS, the City of McPherson, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of McPherson, 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 has heretofore issued the following revenue bonds (collectively, the "Outstanding Bonds") for construction of improvements to the residential facility owned and operated by The Cedars, Inc., a Kansas not-for-profit corporation (the "Tenant"):

- Health Care Facilities Refunding and Improvement Revenue Bonds, Series 2002, in the outstanding principal amount of \$1,255,000;
- Long-Term Care Facility Revenue Bonds, Series 2005, in the outstanding principal amount of \$2,971,797.62;
- Assisted Living Facilities Refunding Revenue Bonds, Series 2008, in the outstanding principal amount of \$4,530,000;

and

WHEREAS, pursuant to the Act and K.S.A. 10-116a, the Issuer is authorized to issue bonds to refinance the debt represented by the Outstanding Bonds and to provide funds to pay the costs of renovating existing health center spaces to provide an approximate 12-bed assisted living licensed and dedicated memory care wing, constructing renovations to existing Cedar houses and therapy space, acquiring and constructing an approximate 26-unit building for senior independent living apartments, and acquiring and installing furnishings and fixtures in the buildings (the "Project") and the Tenant has requested that the Issuer issue refunding and improvement revenue bonds for such purposes; and

WHEREAS, 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 \$24,000,000 be authorized and issued, in one or more series, pursuant to the Act to provide funds to refund the Outstanding Bonds and to pay the costs of the Project.

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

Section 1. **Public Purpose.** The governing body of the Issuer hereby finds and determines that the refinancing of the debt represented by the Outstanding Bonds and 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 Call Outstanding Bonds for Redemption and Acquire Project; Intent to Issue Bonds.** The Issuer is hereby authorized to notify the Trustee and Bond Registrar for the Outstanding Bonds at least 45 days prior to the redemption date to call such bonds for redemption on such permitted redemption date as the Tenant shall request in writing (the "Redemption Date"); to proceed with the acquisition and construction of the Project, and to issue its revenue bonds pursuant to the Act, in one or more series, in the principal amount not to exceed \$24,000,000 (the "Bonds"), 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 each series of the Bonds; (b) the successful negotiation of a Trust Indenture, Bond Purchase Agreement, Lease and other legal documents necessary to accomplish the issuance of each series 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 Central Bank of the Midwest, Lawrence, Kansas (the "Purchaser"), 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; and (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.

Section 4. **Payment in Lieu of Taxes.** 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.

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, and as provided by §1.150-2 of the U.S. Treasury Regulations. 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. **Execution and Delivery of Bond Purchase Agreement.** At such time as the Tenant has demonstrated compliance with the provisions of this Resolution, the Mayor and City Clerk are authorized to execute a bond purchase agreement with the Purchaser and the Tenant for the sale of the Bonds in a form satisfactory to the City Attorney and Bond Counsel.

Section 8. **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 9. **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 McPherson, Kansas on October 3, 2016.

[SEAL]

Mayor

Attest:

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 October 3, 2016, as the same appears of record in my office.

DATED: October 3, 2016.

Clerk