

(Published in *The Legal Record* on December 17, 2019)

ORDINANCE NO. 1006

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF WESTWOOD, KANSAS OF NOT TO EXCEED \$11,000,000 AGGREGATE PRINCIPAL AMOUNT OF TAXABLE INDUSTRIAL REVENUE BONDS (WOODSIDE VILLAGE NORTH PROJECT), SERIES 2020, TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT AND EQUIP A PROJECT FOR WOODSIDE REDEVELOPMENT, LLC AND WOODSIDE VILLAGE NORTH, LLC, AND AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

WHEREAS, the City of Westwood, Kansas (the “Issuer”) is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, pursuant to the Act, the Issuer has previously issued on September 19, 2014, its \$9,000,000 Taxable Industrial Revenue Bonds (Woodside Village North Project), Series 2014 (the “Series 2014 Bonds”), for the purpose of (a) paying the costs of constructing, renovating, furnishing and equipping a multi-use residential and retail project located at 4715 Rainbow Boulevard (the “Project”) for Woodside Redevelopment, LLC and Woodside Village North, LLC, each a Kansas limited liability company (together, the “Company”), and (b) paying certain costs of issuance; and

WHEREAS, the costs of the Project have increased, and the governing body of the Issuer finds and determines 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 (Woodside Village North Project), Series 2020 (the “Bonds”), in an aggregate principal amount not to exceed \$11,000,000, for the purpose of (a) constructing, renovating, furnishing and equipping the Project and (b) paying certain costs of issuance, all as further described in the hereinafter referred to Indenture and Lease Agreement; and

WHEREAS, the governing body of the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the Issuer execute and deliver certain documents and that the Issuer take certain other actions as herein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WESTWOOD, KANSAS, AS FOLLOWS:

Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of the Project. The Issuer is hereby authorized to provide for the acquisition, purchase, construction, installation, furnishing, and equipping of the Project, all in the manner and as more particularly described in the Indenture and Lease Agreement.

Section 2. Authorization of the Bonds. The Issuer is hereby authorized to issue the Bonds in the aggregate principal amount of not to exceed \$11,000,000, which shall be issued under and secured by and shall have the terms and provisions set forth in the Indenture. The Bonds shall bear interest at an interest rate not to exceed 2.00% per annum, and shall mature in principal installments with a final maturity date or dates not later than July 31, 2020, and shall have such redemption provisions, including premiums, and other terms

as set forth in the Fifth Supplemental Indenture (as hereinafter defined). The final terms of the Bonds shall be specified in the Fifth Supplemental Indenture, and the signatures of the officers of the Issuer executing such Fifth Supplemental Indenture shall constitute conclusive evidence of their approval and the Issuer's approval thereof.

Section 3. Limited Obligations. The Bonds shall be limited obligations of the Issuer, payable solely from the sources and in the manner as provided in the Indenture. The Bonds and interest thereon shall not be deemed to constitute a debt or liability of the Issuer, the State of Kansas (the "State") or of any political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any political subdivision thereof, but shall be payable solely from the funds provided for in the Lease Agreement and the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the Issuer or any charge upon its general credit or against its taxing power.

Section 4. Authorization and Approval of Documents. The following documents are hereby approved in substantially the forms presented to and reviewed by the Issuer (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), and the Issuer is hereby authorized to execute and deliver each of such documents (the "Issuer Documents") with such changes therein (including the dated date thereof) as shall be approved by the officials of the Issuer executing such documents, such officials' signatures thereon being conclusive evidence of their approval and the Issuer's approval thereof:

- (a) Fifth Supplemental Bond Trust Indenture (the "Fifth Supplemental Indenture"), which supplements and amends the Bond Trust Indenture dated as of September 1, 2014, as amended (collectively, the "Indenture"), each between the Issuer and UMB Bank, N.A. (the "Trustee");
- (b) Fifth Amendment of Base Lease Agreement which supplements and amends the Base Lease Agreement dated as of September 1, 2014, as amended, each between the Company, as lessor, and the Issuer, as lessee;
- (c) Fifth Amendment of Lease Agreement which supplements and amends the Lease Agreement dated as of September 1, 2014, as amended (collectively, the "Lease Agreement"), each between the Issuer, as lessor, and the Company, as lessee; and
- (d) a Bond Purchase Agreement with respect to the Bonds, among the Issuer, the Company, and the Company in its capacity as purchaser.

Section 5. Execution of Bonds and Documents. The Mayor (or, in the Mayor's absence, the acting Mayor) of the Issuer is hereby authorized and directed to execute the Bonds by manual or facsimile signature and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor (or, in the Mayor's absence, the acting Mayor) of the Issuer is hereby authorized and directed to execute and deliver the Issuer Documents for and on behalf of and as the act and deed of the Issuer. The City Clerk of the Issuer is hereby authorized and directed to attest, by manual or facsimile signature, to the Bonds, the Issuer Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Further Authority. The Issuer shall, and the officials, agents and employees of the Issuer are hereby authorized and directed to, take such further action, and execute such other documents, certificates

and instruments, including, without limitation, any credit enhancement and security documents, closing certificates and tax forms, as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the Issuer with respect to the Bonds and the Issuer Documents.

Section 7. Effective Date. This Ordinance shall take effect and be in force from and after its passage by the governing body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official Issuer newspaper.

PASSED by the governing body of the Issuer on December 12, 2019, and **APPROVED AND SIGNED** by the Mayor.



ATTEST:

A blue ink signature that appears to read "F-L-S" followed by a horizontal line.

Frederick L. Sherman, City Clerk

A black ink signature that appears to read "John M. Yé" followed by a horizontal line.

John M. Yé, Mayor

APPROVED AS TO FORM:

A black ink signature that appears to read "Ryan B. Denk" followed by a horizontal line.

Ryan B. Denk, City Attorney