RESOLUTION NO. R-14-38

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

WHEREAS, the City of Coffeyville, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of Coffeyville, 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 the approximate principal amount of $4,500,000 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 commercial hotel facility (the "Project") to be located in the Issuer and to be leased by the Issuer to Niel Hotel, Inc., a Kansas limited liability company, (the "Tenant").

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF COFFEYVILLE, 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 the approximate principal amount of $4,500,000 (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 Bond Agreement, Guaranty Agreement, Lease 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 Community National Bank & Trust, Coffeyville, 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 City and the City 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 Court 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 *Second* 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 seven (7) years commencing with the year following the year in which the Bonds are issued, provided proper application is made therefor. 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 Court 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.

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. . 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 Court of Tax Appeals pursuant to the Act.

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

ADOPTED by the governing body of the City of Coffeyville, Kansas on May 27, 2014.

_____
James Falkner, Mayor

Attest:

_____
Cindy Price, City 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 May 27, 2014, as the same appears of record in my office.

DATED: May 27, 2014.

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Cindy Price, City Clerk