

TRIPLETT, WOOLF & GARRETSON, LLC

ORDINANCE NO. 1583

OF THE

CITY OF ANDOVER, KANSAS

AUTHORIZING THE ISSUANCE OF

\$1,960,000

CITY OF ANDOVER, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES A, 2014
(KMC MOB, LLC)

\$490,000

CITY OF ANDOVER, KANSAS
SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS
SERIES B, 2014
(KMC MOB, LLC)

(Published in *The Butler County Times-Gazette*, November _____, 2014)

ORDINANCE NO. 1583

AN ORDINANCE AUTHORIZING THE CITY OF ANDOVER, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2014 (KMC MOB, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,960,000 AND ITS SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2014 (KMC MOB, LLC) IN THE AGGREGATE AMOUNT OF \$490,000 FOR THE PURPOSES OF (1) PAYING THE COSTS OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING A MEDICAL OFFICE FACILITY LOCATED IN THE CITY OF ANDOVER, KANSAS, AND (2) PAYING CERTAIN COSTS OF ISSUANCE; AUTHORIZING THE EXECUTION OF A TRUST INDENTURE BY AND BETWEEN THE CITY AND COMMUNITY NATIONAL BANK & TRUST, WINFIELD, KANSAS, AS TRUSTEE; AUTHORIZING THE CITY TO LEASE THE PROJECT TO KMC MOB, LLC; AUTHORIZING EXECUTION OF A LEASE BETWEEN THE CITY AND KMC MOB, LLC; APPROVING THE FORM OF A GUARANTY AGREEMENT; APPROVING THE FORM OF AN INDIVIDUAL GUARANTY AGREEMENT; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY, KMC MOB, LLC AND COMMUNITY NATIONAL BANK & TRUST, NEWTON, KANSAS, AS PURCHASER OF THE SERIES A, 2014 BONDS; AND AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY AND KANSAS MEDICAL CENTER, L.L.C., AS PURCHASER OF THE SERIES B, 2014 BONDS.

WHEREAS, the City of Andover, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to issue revenue bonds to pay the cost of certain facilities, as such term is defined in the Act, for the purposes set forth in the Act, and to lease and otherwise dispose of such facilities to any person, firm or corporation; and

WHEREAS, the Issuer has heretofore and does hereby find and determine 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 A, 2014 (KMC MOB, LLC), to be dated as of their issuance and delivery, in the aggregate principal amount of \$1,960,000 (the “Series A, 2014 Bonds”) and its Subordinated Taxable Industrial Revenue Bonds, Series B, 2014 (KMC MOB, LLC), to be dated as of their issuance and delivery, in the aggregate principal amount of \$490,000 (the “Series B, 2014 Bonds”), for the purpose of paying the costs of purchasing, acquiring, constructing, furnishing and equipping a medical office facility (collectively the “Project”) and paying certain costs of issuance; and

WHEREAS, the Series A, 2014 Bonds and Series B, 2014 Bonds (collectively, the “2014 Bonds”) and the interest thereon shall not constitute an indebtedness of the Issuer, within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability by the Issuer, nor shall any 2014 Bond or the interest thereon be a charge against the general credit or taxing powers of the Issuer. The 2014 Bonds are not general obligations of the Issuer and are payable solely and only from certain fees, rentals, revenues and other amounts derived by the Issuer pursuant to the Lease and, under certain circumstances, from the proceeds of the 2014 Bonds and insurance and condemnation awards; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of said 2014 Bonds (i) to execute and deliver a Trust Indenture, dated as of December 1, 2014 (the “Indenture”), by and between the Issuer and Community National Bank & Trust, Winfield, Kansas, as Trustee (the “Trustee”), for the purpose of issuing and securing the 2014 Bonds as provided therein; and (ii) execute and deliver a Lease Agreement, dated as of December 1, 2014 (the “Lease”), by and between the Issuer, as landlord, and KMC MOB, LLC, as Tenant (the “Tenant”), for the purpose of leasing the Project to the Tenant in consideration for payments of Basic Rent, Additional Rent and other charges provided for therein; and to execute such other documents and agreements in connection with the issuance of the 2014 Bonds as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture and Lease hereinafter authorized and defined.

Section 2. Authorization to Cause the Project to be Acquired, Constructed, Furnished and Equipped. The governing body of the Issuer hereby declares that the Project, if in being, would promote the welfare of the City of Andover, Kansas, and the Issuer is hereby authorized to provide for the acquisition, construction, furnishing, and equipping of the Project in accordance with the provisions of the Indenture, all as provided herein and the Indenture and Lease hereinafter authorized.

Section 3. Authorization of and Security for the 2014 Bonds. There is hereby authorized and directed to be issued two series of revenue bonds to be designated (i) “City of Andover, Kansas, Taxable Industrial Revenue Bonds, Series A, 2014 (KMC MOB, LLC),” in the aggregate principal amount of \$1,960,000 (the “Series A, 2014 Bonds”) and (ii) “City of Andover, Kansas, Subordinated Taxable Industrial Revenue Bonds, Series B, 2014 (KMC MOB, LLC),” in the aggregate principal amount of \$490,000 (the “Series B, 2014 Bonds”) for the purpose of financing the costs of the Project and paying certain costs of issuance.

The Series A, 2014 Bonds and Series B, 2014 Bonds (collectively, the “2014 Bonds”) shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth

in the Indenture. The Series A, 2014 Bonds shall be on a parity with, and equal in priority to, one another and with any Additional Bonds which may be issued on a like parity within the meaning and pursuant to the terms and provision of the Indenture herein defined. The 2014 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Lease, or otherwise in connection with the Project. The 2014 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues. The Series B, 2014 Bonds shall be subordinated as to security and payment to the Series A, 2014 Bonds. Series A, 2014 Bonds will be given full preference of payment with respect to the principal of, premium, if any, and interest thereon; provided that, so long as the Tenant is not in Default, principal of and interest on the Series B, 2014 Bonds shall be paid concurrently, when applicable and funds are available, with that of the Series A, 2014 Bonds.

Section 4. Authorization of Indenture. The Issuer is hereby authorized to enter into the Indenture (as defined above), under which the Issuer shall pledge and assign to the Trustee, for the benefit of the holders of the 2014 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

Section 5. Lease of Project. The Issuer shall cause the Project to be acquired, purchased, constructed, furnished and equipped and shall lease the Project to the Tenant, pursuant to and in accordance with the terms and provisions of the Lease (as defined above).

Section 6. Approval of the Form of Guaranty Agreement. The form of Guaranty Agreement, dated as of December 1, 2014 (the “Guaranty Agreement”), pursuant to which the Tenant guarantees to the Trustee, for the benefit of the Owners of the 2014 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the 2014 Bonds, is hereby approved.

Section 7. Approval of the Form of Individual Guaranty Agreement. The form of Individual Guaranty Agreement dated as of December 1, 2014, pursuant to which Dr. Badr Idbeis, Dr. Edward J. Wade, Dr. George W. Reader, Dr. Robert Fleming, Dr. Mohamed H. Farhoud, Dr. Daniel R. Alvarez, Dr. Parula P. Raghavan, Dr. Prakash V. Raghavan, Dr. Muhammad A. Khan, and Dr. George F. Zakharia, as Individual Guarantors (collectively, the “Individual Guarantors”), guarantee to the Trustee, for the benefit of the owners of the Series A, 2014 Bonds, the full and prompt payment of the principal all authorized costs and interest of, redemption premium, if any, and interest on the Series A, 2014 Bonds, is hereby approved.

Section 8. Authorization of Bond Purchase Agreements. The Series A, 2014 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of the Bond Purchase Agreement, dated as of December 1, 2014 (the “Series A Bond Purchase Agreement”), by and between the Issuer, the Tenant, and Community National Bank & Trust, Newton, Kansas, as the purchaser of the Series A, 2014 Bonds. The Series B, 2014 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of the Bond Purchase Agreement, dated as of December 1, 2014 (the “Series B Bond Purchase Agreement”), by and between the Issuer, the Tenant and Kansas Medical Center, L.L.C., as purchaser of the Series B,

2014 Bonds.

Section 9. Execution of Series 2014 Bonds and Related Agreements and Documents. The Mayor or the President of the Council is hereby authorized and directed to execute the 2014 Bonds and deliver same 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 President of the Council is authorized and directed to execute and deliver the Indenture, the Lease, the Series A Bond Purchase Agreement and the Series B Bond Purchase Agreement for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such minor corrections or amendments thereto as the Mayor or President of the Council shall approve (after consultation with Bond Counsel), which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the execution of the 2014 Bonds, the Indenture, the Lease, the Series A Bond Purchase Agreement and the Series B Bond Purchase Agreement 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 10. Pledge of the Project. The Issuer hereby pledges the Project and the net earnings therefrom to the payment of the 2014 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2014 Bonds and any Additional Bonds issued under the Indenture shall be deemed to have been paid within the meaning of the Indenture.

Section 11. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2014 Bonds, the Indenture, the Lease, the Series A Bond Purchase Agreement and the Series B Bond Purchase Agreement, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 12. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer and publication once in the official newspaper of the Issuer.

[Remainder of Page Intentionally Left Blank]

PASSED, ADOPTED AND APPROVED by the Governing Body of the City of Andover, Kansas this 25th day of November, 2014.

CITY OF ANDOVER, KANSAS

[seal]

By _____
Ben Lawrence, Mayor

ATTEST:

By _____
Susan C. Renner, City Clerk

EXCERPT OF MINUTES

The Governing Body of the City of Andover, Kansas, met in regular session, at the usual meeting place in said City on November 25, 2014, at 7:00 p.m., with the Mayor Ben Lawrence presiding, and the following members present: Troy Tabor, Sheri Geisler, Clark Nelson, Caroline Hale and Kris Estes.

and the following members absent: Byron Stout IV

Among other business, there came on for consideration and discussion the following:

AN ORDINANCE AUTHORIZING THE CITY OF ANDOVER, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2014 (KMC MOB, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,960,000 AND ITS SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2014 (KMC MOB, LLC) IN THE AGGREGATE AMOUNT OF \$490,000 FOR THE PURPOSES OF (1) PAYING THE COSTS OF PURCHASING, ACQUIRING, CONSTRUCTING, FURNISHING AND EQUIPPING A MEDICAL OFFICE FACILITY LOCATED IN THE CITY OF ANDOVER, KANSAS, AND (2) PAYING CERTAIN COSTS OF ISSUANCE; AUTHORIZING THE EXECUTION OF A TRUST INDENTURE BY AND BETWEEN THE CITY AND COMMUNITY NATIONAL BANK & TRUST, WINFIELD, KANSAS, AS TRUSTEE; AUTHORIZING THE CITY TO LEASE THE PROJECT TO KMC MOB, LLC; AUTHORIZING EXECUTION OF A LEASE BETWEEN THE CITY AND KMC MOB, LLC; APPROVING THE FORM OF A GUARANTY AGREEMENT; APPROVING THE FORM OF AN INDIVIDUAL GUARANTY AGREEMENT; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY, KMC MOB, LLC AND COMMUNITY NATIONAL BANK & TRUST, NEWTON, KANSAS AS PURCHASER OF THE SERIES A, 2014 BONDS; AND AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY AND KANSAS MEDICAL CENTER, L.L.C., AS PURCHASER OF THE SERIES B, 2014 BONDS.

After discussion, upon motion by Council Member Clark Nelson, seconded by Council Member Sheri Geisler, each section of the Ordinance was passed by a majority of the members elect.

A majority of the members having voted in favor of the passage of said Ordinance, it was designated Ordinance No. 1583 and was ordered to be executed by the Mayor and by the City Clerk, and the City Clerk was directed to publish the Ordinance one time in the official city newspaper as required by laws and provided therein.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the November 25, 2014 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk