

ORDINANCE NO.1634

OF

THE

CITY OF ANDOVER, KANSAS

AUTHORIZING AMENDMENTS TO:

NOT TO EXCEED \$2,320,000
CITY OF ANDOVER, KANSAS
TAXABLE HEALTH CARE FACILITY REVENUE BONDS
SERIES A, 2016
(ANDOVER FAMILY MEDICINE, INC.)

NOT TO EXCEED \$545,882
SUBORDINATED TAXABLE HEALTH CARE FACILITY REVENUE BONDS
SERIES B, 2016
(ANDOVER FAMILY MEDICINE)

(Published in *The Butler County Times-Gazette* on February 18, 2017)

ORDINANCE NO. 1634

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO TRUST INDENTURE BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE AND A FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE CITY AND LMLZ, LLC; CONSENTING TO A FIRST AMENDMENT TO MORTGAGE OF LEASEHOLD; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

WHEREAS, the City of Andover, Kansas (the “Issuer”) has previously authorized and issued its Taxable Health Care Facility Revenue Bonds, Series A, 2016 (Andover Family Medicine), in the original aggregate principal amount of not to exceed \$2,320,000 (the “Series A, 2016 Bonds”) and Subordinated Taxable Health Care Facility Revenue Bonds, Series B, 2016 (Andover Family Medicine), in the original aggregate principal amount of not to exceed \$545,882 (the “Series B, 2016 Bonds”), for the purpose of paying the costs of purchasing, acquiring, constructing, furnishing, and equipping a medical office facility (the “Project”), and paying costs of issuance of the Series A, 2016 Bonds and Series B, 2016 Bonds (collectively, the “2016 Bonds”); and

WHEREAS, the Issuer has acquired title to the Project and is leasing the Project to LMLZ, LLC (the “Tenant”), pursuant to the Lease Agreement, dated as of February 1, 2016 (the “2016 Lease”), by and between the Issuer and Tenant; and

WHEREAS, the 2016 Bonds are payable from the Trust Estate created pursuant to a Trust Indenture, dated as of February 1, 2016 (the “2016 Indenture”), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas (the “Trustee”), which Trust Estate includes a pledge of the Project and revenue received from the fees charged and Basic Rent received pursuant to the 2016 Lease; and

WHEREAS, Section 1102 of the 2016 Indenture provides that the 2016 Indenture may be amended with the consent of the Owners of 100% of the Outstanding 2016 Bonds and Section 25.1 of the 2016 Lease and Section 1105 of the 2016 Indenture provides that the 2016 Lease may be amended with the consent of the Owners of 51% of the Outstanding Priority Bonds (as defined in the 2016 Indenture); and

WHEREAS, the Tenant and Bank SNB (collectively, the “Bondowners”), as owners of 100% of the Outstanding 2016 Bonds, desire to amend the 2016 Indenture and 2016 Lease to add certain real property (the “Additional Land”) to the Project and Trust Estate, simultaneous with the closing of the purchase of the Additional Land by the Tenant (the “Closing Date”), and to amend certain payment terms of the 2016 Bonds; and

WHEREAS, the Issuer, the Tenant, and the Bondowners desire and have consented to (1) amend the 2016 Indenture and the 2016 Lease in order to add certain real estate to the Project, (2) the Tenant's conveyance of the Additional Land to the Issuer, (3) authorize the execution and delivery of (i) a First Amendment to Indenture (as hereinafter defined), (ii) a First Amendment to Lease (as hereinafter defined), and (iii) of necessary documents, in connection with the forgoing, and (4) consent to and execute a First Amendment to Mortgage of Leasehold (as hereinafter defined).

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 herein and in the 2016 Indenture and 2016 Lease.

Section 2. Authorization of First Amendment to Indenture. The Issuer is hereby authorized to execute and deliver the First Amendment to Trust Indenture, dated as of the Closing Date (the "First Amendment to Indenture"), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas (the "Trustee"), in substantially the form as presented and now before the governing body of the Issuer, under which the Additional Land will be added to the Project and the Trust Estate and certain payment terms of the 2016 Bonds will be amended.

Section 3. Authorization of First Amendment to Lease. The Issuer is hereby authorized to execute and deliver the First Amendment to Lease Agreement, dated as of the Closing Date (the "First Amendment to Lease"), by and between the Issuer and the Tenant, in substantially the form as presented and now before the governing body of the Issuer, under which the Additional Land will be added to the Project.

Section 4. Authorization of First Amendment to Mortgage of Leasehold. The Issuer consents to and is hereby authorized to execute and deliver, solely as an accommodation, the First Amendment to Mortgage of Leasehold, dated as of the Closing Date (the "First Amendment to Mortgage of Leasehold"), by the Tenant in favor of Bank SNB, in substantially the same form as the presented and before the governing body on this date.

Section 5. Execution of the Documents. The Mayor is hereby authorized and directed to execute any replacement 2016 Bond certificates necessitated by the First Amendment to Trust Indenture and to deliver the same to the Trustee for authentication and for an on behalf of the Issuer. The City Clerk is hereby authorized and directed to attest to the execution of such 2016 Bonds. The Mayor, or President of the Council, is hereby authorized and directed to execute and deliver the First Amendment to Indenture, First Amendment to Lease, and First Amendment of Mortgage of Leasehold (the "Issuer Documents") for and on behalf of and as the act and deed of the Issuer in substantially the form as it is presented today with such minor corrections or amendments thereto as the Mayor or President of the Council shall approve (after consultation with counsel) which approval shall be evidenced by his 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 is hereby authorized and directed to attest the execution of 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 7. Pledge of the Additional Land. The Issuer hereby pledges the Additional Land, as part of the Project, and the net earnings therefrom to the payment of the 2016 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2016 Bonds and any Additional Bonds issued under the Indenture shall be deemed to have been paid within the meaning of the 2016 Indenture.

Section 8. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action 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 Issuer Documents, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby, including, but not limited to, a notice of the First Amendment to Lease, an assignment of First Amendment of Lease, an amended information statement to be filed with the Kansas Board of Tax Appeals, and a UCC-3 Financing Statement Amendment.

Section 9. 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.

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PASSED, ADOPTED AND APPROVED by the Governing Body of the City of Andover, Kansas this 14th day of February, 2017.

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 February 14, 2017 at 7:00 p.m., with President of the City Council Kris Estes presiding, and the following members of the governing body present:

Troy Tabor, Sheri Geisler, Clark Nelson, and Caroline Hale.

and the following members absent:

Mayor Ben Lawrence, Council Member Phil White

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

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO TRUST INDENTURE BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE AND A FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE CITY AND LMLZ, LLC; CONSENTING TO A FIRST AMENDMENT TO MORTGAGE OF LEASEHOLD; AND AUTHORIZING THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

After discussion, upon motion by Geisler, seconded by Tabor, the Ordinance was adopted by a majority of the members of the governing body.

A majority of the members having voted in favor of the adoption of said Ordinance, it was designated Ordinance No. 1634 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 law 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 February 14, 2017 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk