

(Published in the *Wichita Eagle* on December 13, 2013)

**ORDINANCE NO. 49-617**

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$40,200,000 FOR THE PURPOSE OF PROVIDING FUNDS TO FINANCE THE INSTALLATION OF IMPROVEMENTS TO CERTAIN EXISTING AVIATION MANUFACTURING AND FLIGHT TESTING FACILITIES AS WELL AS TO FINANCE THE ACQUISITION OF CERTAIN MACHINERY AND EQUIPMENT FOR SUCH FACILITIES LOCATED IN THE CITY OF WICHITA, KANSAS; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A TWENTY-THIRD SUPPLEMENTAL TRUST INDENTURE BY AND BETWEEN THE CITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., ST. LOUIS, MISSOURI (THE "TRUSTEE"), AS TRUSTEE WITH RESPECT TO THE BONDS; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A TWENTY-THIRD SUPPLEMENTAL LEASE BY AND BETWEEN CESSNA AIRCRAFT COMPANY AND THE CITY; AUTHORIZING THE EXECUTION OF BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY AND CESSNA AIRCRAFT COMPANY, AS PURCHASER OF THE BONDS; AND AUTHORIZING EXECUTION OF A BILL OF SALE, TERMINATION AND RELEASE OF THIRTEENTH SUPPLEMENTAL LEASE AND CANCELLATION, DISCHARGE AND RELEASE OF THIRTEENTH SUPPLEMENTAL TRUST INDENTURE.

**WHEREAS**, the City of Wichita, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, purchase, construct, install and equip certain improvements and additions (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any persons, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities and to refund such revenue bonds previously issued; and

**WHEREAS**, pursuant to the Act and multiple letters of intent, the Issuer's Governing Body has heretofore expressed its intent to issue Taxable Industrial Revenue Bonds (Cessna Aircraft Company for the purpose of paying the cost of constructing, installing and equipping an expansion and improvements to existing aviation manufacturing facilities (the "Project")); and

**WHEREAS**, pursuant to various ordinances of the Issuer, the Issuer has heretofore authorized the issuance of twenty-two series of such taxable industrial revenue bonds, in the original aggregate principal amount of \$1,222,482,000, for the purpose of constructing, equipping and installing portions of the Project; and

**WHEREAS**, pursuant to the Act and a Letter of Intent dated September 13, 2013, the Issuer has expressed its intent to issue additional taxable industrial revenue bonds in the original aggregate principal

amount of not to exceed \$513,600,000 for the purpose of constructing, equipping and installing portions of the Project; and

**WHEREAS**, in connection with the issuance of such taxable industrial revenue bonds, the Issuer has heretofore authorized (i) the execution and delivery of a Trust Indenture dated as of December 20, 1991, as supplemented and amended from time to time in accordance with the provisions thereof and together with the herein authorized and defined Twenty-Third Supplemental Indenture (collectively, the "Indenture") with The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri (as successor to INTRUST Bank, N.A., Wichita, Kansas), as trustee (the "Trustee"), for the purpose of issuing and securing such taxable industrial revenue bonds (as more particularly defined therein, the "Bonds") and (ii) the execution and delivery of a Lease Agreement dated as of December 20, 1991, as supplemented and amended from time to time in accordance with the provisions thereof and together with the herein authorized and defined Twenty-Third Supplemental Lease (collectively, the "Lease"), by and between the Issuer, as lessor, and Cessna Aircraft Company, a Kansas corporation (the "Company"), as lessee, under which the proceeds of the Bonds were used to pay a portion of the costs of the Project; 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 a twenty-third series of its taxable industrial revenue bonds to be designated "City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series XII, 2013 (Cessna Aircraft Company)" in the original aggregate principal amount not to exceed \$40,200,000 (the "Series 2013 Bonds"), for the purpose of acquiring, constructing, installing the improvements to certain existing aviation manufacturing facilities, as well as to acquire certain machinery and equipment for the Project (the "Series 2013 Additions"); and

**WHEREAS**, the Series 2013 Bonds are more fully described in the Twenty-Third Supplemental Indenture and the Twenty-Third Supplemental Lease hereinafter authorized; and

**WHEREAS**, the Series 2013 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 of the Issuer, nor shall any Series 2013 Bond or the interest thereon be a charge against the general credit or taxing powers of the Issuer; and

**WHEREAS**, the Series 2013 Bonds are not general obligations of the Issuer and are payable solely from certain fees, rentals, revenues and other amounts derived by the Issuer pursuant to the Lease, as the same may be further amended and supplemented and, under certain circumstances, from the proceeds of the Series 2013 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 the Series 2013 Bonds (i) to execute and deliver a Twenty-Third Supplemental Trust Indenture (the "Twenty-Third Supplemental Indenture"), for the purpose of issuing and securing the Series 2013 Bonds as provided therein; and (ii) to enter into a Twenty-Third Supplemental Lease (the "Twenty-Third Supplemental Lease"), pursuant to which the Issuer shall cause the Series 2013 Additions to be leased to the Company in consideration of payments of Series 2013 Supplemental Basic Rent, Series 2013 Supplemental Additional Rent and other charges provided for therein; and

**WHEREAS**, the Series 2013 Bonds shall be equally and ratably secured and on a parity with the outstanding Bonds and any Additional Bonds (as such term is defined in the Indenture) subject to any partial redemption or release of pledged property permitted by the Lease or Indenture;

**WHEREAS**, the Issuer has heretofore issued its Taxable Industrial Revenue Bonds Series XI, 2003 ("the Series 2003 Bonds") pursuant to a Thirteenth Supplemental Indenture and Thirteenth Supplemental Lease each dated as of December 19, 2003; and

**WHEREAS**, the Trustee has certified that the Series 2003 Bonds have been surrendered by the registered owner thereof for cancellation on January 1, 2014; and

**WHEREAS**, the Company desires to exercise its option to purchase that portion of the Project financed with the Series 2003 Bonds (the "Series 2003 Additions"); and

**WHEREAS**, the City hereby determines to waive the notice provisions of the Lease with respect to the Company's exercise of its option to purchase the Series 2003 Additions and finds and determines it necessary and desirable to execute a Bill of Sale conveying such Series 2003 Additions to the Company on or after January 1, 2014.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, 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.

**Section 2. Authority to Cause the Series 2013 Additions to be Constructed, Installed and Equipped.** The governing body of the Issuer hereby declares that the Series 2013 Additions, if in being, would promote the welfare of the City of Wichita, Kansas, and the Issuer is hereby authorized to cause the Series 2013 Additions to be constructed, installed and equipped all in the manner and as more particularly described in the Twenty-Third Supplemental Indenture and in the Twenty-Third Supplemental Lease hereinafter authorized.

**Section 3. Authorization of and Security for the Series 2013 Bonds.** There is hereby authorized and directed to be issued a series of the Issuer's taxable industrial revenue bonds in an original aggregate principal amount not to exceed \$40,200,000 for the purpose of installing the improvements to certain existing aviation manufacturing and flight testing facilities and additions, as well as acquiring certain machinery and equipment to the existing facilities located in the City of Wichita, Kansas, such series of such taxable industrial revenue bonds to be designated "City of Wichita, Kansas, Taxable Industrial Revenue Bonds, Series XII, 2013 (Cessna Aircraft Company)." The Series 2013 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 2013 Bonds shall be equally and ratably secured and on a parity with the outstanding Bonds and any Additional Bonds, subject to any partial redemption or release of pledged property permitted by the Lease or Indenture. The Series 2013 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 Series 2013 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 2013 Bonds shall be secured under the provisions of the Indenture and are authorized hereby.

**Section 4. Authorization of Twenty-Third Supplemental Indenture.** The Issuer is hereby authorized to enter into the Twenty-Third Supplemental Trust Indenture (the "Twenty-Third Supplemental Indenture"), by and between the Issuer and the Trustee, under which the Issuer shall pledge

and assign to the Trustee, for the benefit of the holders of the Bonds, the Trust Estate referenced herein, all upon the terms and conditions set forth in the Indenture.

**Section 5. Lease of the Series 2013 Additions.** The Issuer shall cause the Series 2013 Additions to be leased by the Issuer to the Company pursuant to and in accordance with the provisions of the Twenty-Third Supplemental Lease (the "Twenty-Third Supplemental Lease"), by and between the Issuer and the Company.

**Section 6. Authorization of Bond Purchase Agreement.** The Series 2013 Bonds shall be sold and delivered to the Cessna Aircraft Company, upon the terms and subject to the provisions of the Bond Purchase Agreement herein authorized (the "Bond Purchase Agreement"), by and between the Issuer and Cessna Aircraft Company, as purchaser.

**Section 7. Authorization of Release Documents.** The City is hereby authorized to execute a Bill of Sale conveying the Series 2003 Additions from the City to the Company, a Termination of Thirteenth Supplemental Lease and Cancellation, Discharge and Release of Thirteenth Supplemental Trust Indenture (collectively, the "Release Documents") and to deliver such Release Documents upon receipt of Certification by the Trustee that no Series 2003 Bonds remain outstanding and upon receipt from the Company of the other consideration required under the Lease, and performance by the Company of all conditions precedent to exercise of its purchase option under the Lease..

**Section 8. Execution of Series 2013 Bonds and Agreements.** The Mayor of the Issuer is hereby authorized and directed to execute the Series 2013 Bonds and deliver the 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 Vice Mayor is hereby further authorized and directed to execute and deliver the Twenty-Third Supplemental Indenture, the Twenty-Third Supplemental Lease, the Bond Purchase Agreement and the Release Documents for and on behalf of and as the act and deed of the Issuer with such minor corrections or amendments thereto as the Mayor or Vice Mayor shall approve (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 and any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the execution of the Series 2013 Bonds, the Twenty-Third Supplemental Indenture, the Twenty-Third Supplemental Lease, the Bond Purchase Agreement, the Release 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 9. Pledge of the Project.** The Issuer hereby pledges the Series 2013 Additions and the net revenues therefrom to the payment of the outstanding Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the Series 2013 Bonds shall be deemed to have been paid within the meaning of the Indenture, as the same may be amended.

**Section 10. 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 Series 2013 Bonds, the Twenty-Third Supplemental Indenture, the Twenty-Third Supplemental Lease and the Bond Purchase Agreement all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

**Section 11. Effective Date.** This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City of Wichita, Kansas and publication once in the official newspaper of the Issuer.

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**PASSED** by the Governing Body of the City of Wichita, Kansas, on December 10, 2013.

CITY OF WICHITA, KANSAS

(Seal)

By \_\_\_\_\_  
Carl Brewer, Mayor

Attest:

By \_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney