

ORDINANCE NO. 47-926

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS AUTHORIZING THE ISSUANCE OF ITS GENERAL OBLIGATION BONDS TO PAY CERTAIN COSTS INCURRED IN CONNECTION WITH THE OLD TOWN WARREN THEATRE, L.L.C. PROJECT; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TEMPORARY IMPROVEMENT NOTES OF THE CITY FROM TIME TO TIME AS FUNDS ARE NEEDED FOR SUCH PURPOSE.

WHEREAS, Article 12, Section 5 of the Kansas Constitution empowers cities to determine their local affairs and government; and

WHEREAS, the City of Wichita, Kansas (the "City") desires to promote, stimulate and develop the general economic welfare and prosperity of the City and its environs, to provide for commercial development and employment opportunities for its citizens and for the citizens of Sedgwick County, Kansas, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, the Governing Body of the City has found and determined that it is necessary and desirable, and in the interest and for the general economic welfare of the City and its inhabitants, that the City provide for the refinancing and construction loan for the Old Town Warren Theatre in the City of Wichita; and

WHEREAS, the Governing Body of the City hereby finds and determines that in connection with the Old Town Warren Theatre, L.L.C., it is necessary and desirable and in the interest and for the general economic welfare of the City and its inhabitants, that the City provide a loan to refinance outstanding indebtedness and finance construction of improvements to the Old Town Warren Theatre in the City of Wichita; and

WHEREAS, under the authority of Article 12, Section 5 of the Kansas Constitution, the Governing Body of the City hereby further finds and determines that it is necessary and desirable and in the interest and for the general economic welfare of the City and its inhabitants, that general obligation bonds of the City in an amount not to exceed \$6,000,000, exclusive of the cost of interest on borrowed money (the "Bonds") be authorized and issued for the purpose of paying the costs incurred by the Old Town Warren Theatre for the purposes set forth above, said Bonds to be issued in accordance with the provisions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The Governing Body hereby finds and determines that it is necessary and desirable to authorize the issuance of general obligation bonds under the authority of Article 12, Section 5 of the Kansas Constitution in an amount not to exceed \$6,000,000, exclusive of the costs of

interest on borrowed money, for the purpose of providing a loan to refinance outstanding indebtedness and to construct improvements to the Old Town Warren Theatre in the City of Wichita (collectively, the "Project"). Such Bonds shall be sold and delivered in accordance with the provisions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

SECTION 2. It is hereby further authorized, ordered and directed that in order to temporarily finance the costs of the Project prior to the completion thereof and until issuance of the Bonds as hereinbefore provided, there shall be issued temporary improvement notes (the "Notes"), the aggregate amount of which shall not exceed the sum of \$6,000,000 exclusive of the costs of interest on borrowed money, such Notes to be issued from time to time upon subsequent ordinance of the City which shall provide and set forth the details of the Notes, including the fixing of the dates, terms, denominations, interest rates and maturity dates thereof. Such Notes shall be issued and provision shall be made therefore as funds are needed and required for the orderly completion of the Project. Any Notes issued under the authority of this Section shall be issued under and will contain a recital that they are issued under the authority of K.S.A. 10-123, as amended and supplemented, and Article 12, Section 5 of the Kansas Constitution, and shall contain all other usual and required recitals and covenants and be in the form required therefore by said K.S.A. 10-123, as amended and supplemented; and said Notes may be issued in combination with any other temporary notes being issued by the City as shall be determined by the Governing Body at the time of such issuance to be in the City's best interests.

SECTION 3. Execution of Documents. The Governing Body hereby approves and the Mayor of the City is hereby authorized and directed to execute the Loan Agreement between the City and American Luxury Cinemas, Inc., Old Town Movies, LLC, LNS Investments of Kansas, Inc. DBC, LLC and Old Town Warren Theatre, LLC, Promissory Note, Mortgage and Security Agreement and Guaranty Agreements in substantially the forms presented to the Governing Body with such additional minor corrections thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof, and City Staff shall deliver said documents for and on behalf of and as the act and deed of the City.

SECTION 4. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action as necessary to carry out and give effect to the transactions contemplated by this Ordinance, the Loan Agreement, Promissory Note, Mortgage and Security Agreement and Guaranty Agreements, and such other documents as are contemplated thereby in connection with the financing, refinancing or construction of the subject improvements.

SECTION 5. This Ordinance shall take effect and be in force from and after its passage and publication one time in the official City paper.

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PASSED AND APPROVED by the governing body of the City of Wichita, Kansas this 8th day of July, 2008.

Carl Brewer, Mayor

Attest:

Karen Sublett, City Clerk
(Seal)

Approved as to Form:

Gary E. Rebenstorf, Director of Law