

ORDINANCE NO. 52-023

**OF THE
CITY OF WICHITA, KANSAS**

**AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED \$1,450,000
INDUSTRIAL REVENUE BONDS
SERIES I, 2023
(J. R. CUSTOM METAL PRODUCTS PROJECT)**

(Published in *The Wichita Eagle*, January 20, 2023)

ORDINANCE NO. 52-023

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS, SERIES I, 2023 (J. R. CUSTOM METAL PRODUCTS PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF AN ADDITION TO A MANUFACTURING FACILITY; AND AUTHORIZING OTHER RELATED DOCUMENTS AND ACTIONS.

THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS HAS FOUND AND DETERMINED:

A. The City of Wichita, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for the facilities, and to issue revenue bonds for the purpose of paying the costs of the facilities.

B. The Issuer's governing body has determined 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 Industrial Revenue Bonds, Series I, 2023 (J. R. Custom Metal Products Project) in the aggregate principal amount not to exceed \$1,450,000 (the "Series I, 2023 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of an addition to a manufacturing facility (the "Project"), as more fully described in the Second Supplemental Trust Indenture and in the Second Supplemental Lease authorized in this Ordinance, for lease to Hijos, LLC, a Kansas limited liability company (the "Tenant") and for further sublease to J. R. Custom Metal Products, Inc., a Kansas corporation.

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series I, 2023 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) Second Supplemental Trust Indenture with UMB Bank, n.a., Kansas City, Missouri, as Trustee (the "Trustee"), amending a Trust Indenture, dated December 1, 2012, and a First Supplemental Trust Indenture dated June 1, 2016 (collectively, the "Indenture"), prescribing the terms and conditions of issuing and securing the Series I, 2023 Bonds;

(ii) a Second Supplemental Lease amending a Lease, dated December 1, 2012, and a First Supplemental Lease dated June 1, 2016 (collectively, the "Lease"), with the Tenant under which the Tenant will continue to lease an interest in the Land from the Issuer;

(iii) a Tax Compliance Agreement among the Issuer, the Tenant and the Trustee; and

(iv) an Agreement for Payment in Lieu of Taxes (the "PILOT") with the Tenant, under which the Tenant will make payments in lieu of taxes for each year after issuance of the Series I, 2023 Bonds that the Project is exempt from ad valorem taxation.

D. The Issuer's governing body has found that under the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project purchased or constructed with the proceeds of the Series I, 2023 Bonds is eligible for exemption from ad valorem property taxes for up to 10 years, commencing in the calendar year following the

calendar year in which the Bonds are issued, if proper application is made, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Issuer's governing body has further found that the Project should be exempt from ad valorem property taxes for a period of 10 years, subject to a payment in lieu of taxes for each year of the exemption, as more particularly described in the PILOT. Prior to making this determination, the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of the exemption required by K.S.A. 12-1749d.

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

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Indenture and the Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed.** The Issuer is authorized to lease the Land and cause the Project to be acquired, constructed and equipped in the manner described in the Indenture and the Lease.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series I, 2023 Bonds, to be designated "City of Wichita, Kansas Industrial Revenue Bonds, Series I, 2023 (J. R. Custom Metal Products Project)" in the aggregate principal amount not to exceed \$1,450,000, for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of an addition of the Project. The Series I, 2023 Bonds will be in the principal amount, will be dated and bear interest, will mature and be payable at the times, will be in the forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Indenture. The Series I, 2023 Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Indenture, including revenues derived from the Lease. The Series I, 2023 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Indenture.** The Issuer is authorized to enter into the Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Indenture to the Trustee for the benefit of the owners of the Series I, 2023 Bonds on the terms and conditions in the Indenture.

Section 5. **Lease of the Project.** The Issuer will lease an interest in the Land and acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Lease in the form approved in this Ordinance. The proposed sublease of the Project to J. R. Custom Metal Products, Inc., a Kansas corporation (the "Subtenant") is approved by the Issuer.

Section 6. **Approval of the Guaranty Agreement.** The form of the Guaranty Agreement among the Tenant and the other guarantor(s) named, and the Trustee, for the benefit of the owners of the Series I, 2023 Bonds is approved.

Section 7. **Authorization of Bond Purchase Agreement.** The Issuer is authorized to sell the Series I, 2023 Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 8. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series I, 2023 Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Indenture. The Mayor, or member of the Issuer's

governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence, is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to final passage of this Ordinance, with the corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series I, 2023 Bonds, the Bond Documents and the other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 9. **Property Tax Exemption; Payment in Lieu of Taxes.** The Project will be exempt from ad valorem property taxes for 10 years, commencing in the calendar year after the calendar year in which the Series I, 2023 Bonds are issued, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Tenant will prepare the application for exemption and submit it to the Issuer for its review. After its review, the Issuer will submit the application for exemption to the State Board of Tax Appeals. The Issuer is authorized to enter into the PILOT in substantially the form presented for review prior to final passage of this Ordinance.

Section 10. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project and the net rentals generated under the Lease to the payment of the Series I, 2023 Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series I, 2023 Bonds are paid or deemed to have been paid under the Indenture.

Section 11. **Authority To Correct Errors and Omissions.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of the instruments or to the provisions of this Ordinance.

Section 12. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series I, 2023 Bonds and the Bond Documents.

Section 13. **Effective Date.** This Ordinance shall take effect after its final passage by the governing body of the Issuer, signature by the Mayor and publication once in the Issuer's official newspaper.

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PASSED by the governing body of the Issuer on January 17, 2023.

(SEAL)

Brandon J. Whipple, Mayor

ATTEST:

Jamie Buster, City Clerk

APPROVED AS TO FORM ONLY.

Jennifer Magaña, Director of Law and
City Attorney

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CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 52-023 of the City of Wichita, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this Ordinance, and that the signed original of the Ordinance is on file in my office.

[SEAL]

City Clerk

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON JANUARY 10, 2023**

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the city, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Thereupon, there was presented for first reading on the governing body's consent agenda an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS, SERIES I, 2023 (J. R. CUSTOM METAL PRODUCTS PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF AN ADDITION TO A MANUFACTURING FACILITY; AND AUTHORIZING OTHER RELATED DOCUMENTS AND ACTIONS.

Thereupon, Councilmember _____ moved that the consent agenda be passed. The motion was seconded by Councilmember _____. The motion that the consent agenda be passed, including approval upon first reading of the Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

* * * * *

(Other Proceedings)

* * * * *

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of the proceedings are on file in my office.

[SEAL]

City Clerk

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WICHITA, KANSAS
HELD ON JANUARY 17, 2023**

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the city, at 9:00 a.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

(Other Proceedings)

Thereupon, there was presented for second reading on the governing body's consent agenda an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS, SERIES I, 2023 (J. R. CUSTOM METAL PRODUCTS PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF AN ADDITION TO A MANUFACTURING FACILITY; AND AUTHORIZING OTHER RELATED DOCUMENTS AND ACTIONS.

Thereupon, Councilmember _____ moved that the consent agenda be passed. The motion was seconded by Councilmember _____. The motion that the consent agenda be passed, including final passage of the Ordinance, was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Ordinance was then duly numbered Ordinance No. 52-023, was signed by the Mayor and attested by the Clerk, and the Ordinance was directed to be published one time in the official newspaper of the City.

(Other Proceedings)

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of the proceedings are on file in my office.

[SEAL]

City Clerk

(Published in *The Wichita Eagle* on January 20, 2023)

SUMMARY OF ORDINANCE NO. 52-023

On January 17, 2023, the governing body of the City of Wichita, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS INDUSTRIAL REVENUE BONDS, SERIES I, 2023 (J. R. CUSTOM METAL PRODUCTS PROJECT) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF AN ADDITION TO A MANUFACTURING FACILITY; AND AUTHORIZING OTHER RELATED DOCUMENTS AND ACTIONS.

The Ordinance authorizes the Issuer to issue its Industrial Revenue Bonds, Series I, 2023 (J. R. Custom Metal Products Project) in the aggregate principal amount not to exceed \$1,450,000 (the "Series I, 2023 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of an addition to a manufacturing facility (the "Project"), as more fully described in the Indenture and the Lease authorized by the Ordinance. The Project will be leased by the Issuer to Hijos, LLC, a Kansas limited liability company. In connection with the issuance of the Series I, 2023 Bonds, the Issuer approves a 10-year exemption from ad valorem property taxes for the Project, subject to payments in lieu of taxes.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 13th Floor, City Hall, 455 North Main, Wichita, Kansas 67202-1679. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <https://www.wichita.gov/CityClerk/Pages/Ordinances.aspx>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: January 17, 2023.

City Attorney