

ORDINANCE NO. 3232

**OF THE
CITY OF MCPHERSON, KANSAS**

**AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED \$14,800,000
SENIOR HOUSING REVENUE BONDS
SERIES 2016B AND SERIES 2016C
(THE CEDARS, INC.)**

(Summary Published in *The McPherson Sentinel*, December 2, 2016)

ORDINANCE NO. 3232

AN ORDINANCE AUTHORIZING THE CITY OF MCPHERSON, KANSAS TO ISSUE ITS SENIOR HOUSING REVENUE BONDS, SERIES 2016B AND SERIES 2016C (THE CEDARS, INC.) FOR THE PURPOSE OF PAYING THE COSTS OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND RENOVATION OF AN EXISTING SENIOR HOUSING FACILITY AND THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF ADDITIONAL UNITS ADJACENT TO THE EXISTING SENIOR HOUSING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

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

A. The City of McPherson, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip certain 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 such facilities, and to issue revenue bonds for the purpose of paying the costs of such facilities.

B. Pursuant to Ordinance No. 3229 of the Issuer adopted on October 24, 2016 and a Trust Indenture dated as of November 1, 2016 (the "Original Indenture") between the Issuer and Commerce Bank, Kansas City, Missouri (the "Trustee") the Issuer has previously issued its Senior Housing Refunding Revenue Bonds, Series 2016A (The Cedars, Inc.), dated November 1, 2016 (the "Original Bonds"), in the original principal amount not to exceed \$8,200,000, of which \$8,200,000 remains outstanding (the "Outstanding Bonds"), issued for the purpose of providing funds to refund certain outstanding revenue bonds previously issued for the senior housing facility (the "Original Project").

C. The Original Project was leased to The Cedars, Inc., a Kansas corporation (the "Tenant"), pursuant to the provisions of a certain Lease dated as of November 1, 2016 between the Issuer and the Tenant (the "Original Lease").

D. 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 Senior Housing Revenue Bonds, Series 2016B and Series 2016C (The Cedars, Inc.) dated December 7, 2016 in the aggregate principal amount not to exceed \$14,800,000 (the "Series 2016B and Series 2016C Bonds"), for the purpose of the acquisition, construction and renovation of the Original Project and the acquisition, construction and equipping of additional units adjacent to the Original Project (collectively, the "Project Additions"), as more fully described in the Supplemental Indenture and in the Supplemental Lease hereinafter authorized.

E. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2016B and Series 2016C Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) Supplemental Trust Indenture No. 1 dated as of December 7, 2016 with the Trustee (the "Supplemental Indenture"), amending and supplementing the Original Indenture (as supplemented and amended, the "Indenture"), prescribing the terms and conditions of issuing and securing the Series 2016B and Series 2016C Bonds;

(ii) Supplemental Lease No. 1 dated as of December 7, 2016 (the "Supplemental Lease") with the Tenant, amending and supplementing the Original Lease (as supplemented and amended, the "Lease"), under which the Issuer will extend, improve and further equip the Original Project and continue to lease the Project to the Tenant in consideration of Basic Rent and other payments;

(iii) a Bond Purchase Agreement (the "Bond Purchase Agreement") providing for the sale of the Series 2016B and Series 2016C Bonds by the Issuer to Central Bank of the Midwest, Lawrence, Kansas (the "Purchaser"); and

(iv) a Tax Compliance Agreement among the Issuer, the Tenant and the Trustee.

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

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

Section 2. **Authority to Cause the Project Additions to be Acquired, Constructed and Equipped.** The City shall cause the Project Additions to be acquired, constructed and equipped in the manner and as more particularly described in the Supplemental Indenture and the Supplemental Lease hereinafter authorized.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series 2016B and Series 2016C Bonds, to be designated " City of McPherson Kansas Senior Housing Revenue Bonds, Series 2016B and Series 2016C (The Cedars, Inc.)" in the aggregate principal amount not to exceed \$14,800,000, for the purpose of providing funds to pay the costs of the acquisition, construction, renovation and equipping of the Project Additions. The Series 2016B and Series 2016C Bonds will be in such principal amount, will be dated and bear interest, will mature and be payable at such times, will be in such 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 2016B and Series 2016C Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Indenture, including revenues derived from the Lease of the Project. The Series 2016B and Series 2016C 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 Supplemental Indenture.** The Issuer is hereby authorized to enter into the Supplemental 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 2016B and Series 2016C Bonds on the terms and conditions in the Indenture.

Section 5. **Authorization of Supplemental Lease.** The Issuer is authorized to enter into the Supplemental Lease with the Tenant in the form approved in this Ordinance. The Issuer shall cause the Project Additions to be acquired and leased by the Issuer to the Tenant pursuant to and in accordance with the provisions of the Lease.

Section 6. **Approval of Form of Guaranty Agreement.** The form of Guaranty Agreement, dated as of December 7, 2016, pursuant to which the guarantor named therein guarantees to the Trustee, for the benefit of the owners of the Series 2016B and Series 2016C Bonds, the full and prompt payment of the Series 2016B and Series 2016C Bonds and interest thereon, is hereby approved.

Section 7. **Authorization of Bond Purchase Agreement.** The Issuer is authorized to sell the Series 2016B and Series 2016C 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 2016B and Series 2016C 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 passage of this Ordinance, with such 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 2016B and Series 2016C Bonds, the Bond Documents and such 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. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project, including the Project Additions, and the net rentals generated under the Lease to the payment of the Series 2016B and Series 2016C Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series 2016B and Series 2016C Bonds are paid or deemed to have been paid under the Indenture.

Section 10. **Authority To Correct Errors, Etc.** 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 said instruments or to the provisions of this Ordinance.

Section 11. **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 2016B and Series 2016C Bonds and the Bond Documents.

Section 12. **Effective Date.** This Ordinance shall take effect after its 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 November 28, 2016 and **SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

City Clerk

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CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 3232 of the City of McPherson, 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 such Ordinance is on file in my office.

[SEAL]

City Clerk

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF MCPHERSON, KANSAS
HELD ON NOVEMBER 28, 2016**

The governing body of the City of McPherson, Kansas met in regular session at the usual meeting place in the City, at 8:30 a.m., the following members being present and participating, to-wit: Mayor Brown, Commissioner Wiens, Commissioner Moore

Absent: None

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

* * * * *

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF MCPHERSON, KANSAS TO ISSUE ITS SENIOR HOUSING REVENUE BONDS, SERIES 2016B AND SERIES 2016C (THE CEDARS, INC.) FOR THE PURPOSE OF PAYING THE COSTS OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND RENOVATION OF AN EXISTING SENIOR HOUSING FACILITY AND THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF ADDITIONAL UNITS ADJACENT TO THE EXISTING SENIOR HOUSING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

Thereupon, Commissioner Wiens moved that said Ordinance be passed. The motion was seconded by Commissioner Moore. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye: Three

Nay: None

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No 3232 and was signed by the Mayor and the signature attested by the City Clerk.

* * * * *

(Other Proceedings)

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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 McPherson, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

City Clerk

(Published in *The McPherson Sentinel* on December 2, 2016)

SUMMARY OF ORDINANCE NO. 3232

On November 28, 2016, the governing body of the City of McPherson, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF MCPHERSON, KANSAS TO ISSUE ITS SENIOR HOUSING REVENUE BONDS, SERIES 2016B AND SERIES 2016C (THE CEDARS, INC.) FOR THE PURPOSE OF PAYING THE COSTS OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND RENOVATION OF AN EXISTING SENIOR HOUSING FACILITY AND THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF ADDITIONAL UNITS ADJACENT TO THE EXISTING SENIOR HOUSING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Ordinance authorizes the Issuer to issue its Senior Housing Revenue Bonds, Series 2016B and Series 2016C (The Cedars, Inc.) in the aggregate principal amount not to exceed \$14,800,000 (the "Series 2016B and Series 2016C Bonds"), for the purpose of paying the costs of the acquire, construct and renovate of a senior housing facility (the "Project"), as more fully described in the Indenture and in the Lease authorized by the Ordinance. The Project will be leased by the Issuer to The Cedars, Inc., a Kansas corporation.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 400 E. Kansas Avenue, McPherson, Kansas. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.mcpcity.com.

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

DATED: _____, 20__.

City Attorney