

TRIPLETT WOOLF GARRETSON, L.L.C.

RESOLUTION 2018-3

OF THE

CITY OF GARNETT, KANSAS

RELATING TO THE REDEMPTION OF
AND EXERCISE OF
OPTION TO PURCHASE

\$925,000

CITY OF GARNETT, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES A, 2005
(GARNETT HOSPITALITY, L.L.C.)

\$350,838.20

CITY OF GARNETT, KANSAS
SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS
SERIES B, 2005
(GARNETT HOSPITALITY, L.L.C.)

DATED MAY 22, 2018

RESOLUTION 2018-3

A RESOLUTION OF THE CITY OF GARNETT, KANSAS APPROVING THE SALE OF A CERTAIN PROJECT FINANCED WITH THE PROCEEDS OF REVENUE BONDS OF THE CITY; APPROVING THE CALL AND EARLY REDEMPTION OF SAID REVENUE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF (1) A SPECIAL WARRANTY DEED, (2) A BILL OF SALE, (3) A TERMINATION AND RELEASE OF LEASE, AND (4) A SATISFACTION, DISCHARGE AND RELEASE OF INDENTURE.

WHEREAS, the City of Garnett, Kansas is a municipal corporation organized under the laws of the State of Kansas (the “Issuer”); and

WHEREAS, the Issuer is authorized pursuant to K.S.A. 12-1740 *et seq.* to issue its revenue bonds for the purpose of paying all or any portion of the cost of purchasing, acquiring, constructing and equipping facilities for commercial, hospital and recreational purposes and to enter into leases with any person, firm or corporation for such facilities; and

WHEREAS, the Issuer has previously issued its Taxable Industrial Revenue Bonds, Series A, 2005 (Garnett Hospitality, L.L.C.) (the “Series A, 2005 Bonds”) in the original aggregate principal amount of \$925,000.00 and Subordinated Taxable Industrial Revenue Bonds, Series B, 2005 (Garnett Hospitality, L.L.C.) (the “Series B, 2005 Bonds”) in the original aggregate principal amount of \$350,838.20, for the purpose of paying the costs of purchasing, acquiring, constructing, furnishing and equipping a motel, storage unit and recreational vehicle parking facility located in the City of Garnett, Kansas (the “Project”) and paying certain costs of issuance in connection with the Bonds; and

WHEREAS, the Project is leased by the Issuer to Garnett Hospitality, L.L.C., a Kansas limited liability company (the “Tenant”), pursuant to a certain Lease Agreement, dated as of October 1, 2005, (the “Lease”); and

WHEREAS, the Series A, 2005 Bonds and Series B, 2005 Bonds (collectively the “Bonds”) are payable from the Trust Estate created pursuant to a certain Trust Indenture, dated as of October 1, 2005, (the “Indenture”) by and between the Issuer and Central National Bank, Junction City, Kansas, as Trustee (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 Lease; and

WHEREAS, the payment of the principal of and interest on the Bonds is guaranteed by the Tenant pursuant to the terms of a certain Guaranty Agreement dated as of October 1, 2005; and

WHEREAS, Section 15.1 of the Lease provides for the purchase of the Project by the Tenant upon the proper exercise of the Tenant's option to purchase and the payment (pursuant to Section 15.2) to the Trustee of the full amount necessary and incidental to the retirement and defeasance of the Bonds, plus the payment to the Issuer of \$100; and

WHEREAS, Sections 302(B) and Section 302(C) of the Indenture provide that the Bonds may be called for redemption prior to maturity at the option of the Issuer, upon instructions from the Tenant, at a redemption price set forth therein; and

WHEREAS, the Tenant has provided notice of its election to purchase the Project and has instructed the Issuer to redeem the Bonds on or about June 5, 2018 (the "Closing Date"); and

WHEREAS, on the Closing Date, Garnett Hospitality, L.L.C., as Owner of 100% of the Series B, 2005 Bonds, will surrender the Series B, 2005 Bonds to the Trustee in full satisfaction of payment of the principal of, interest on, and premium, if any, due and payable on the Series B, 2005 Bonds at redemption; and

WHEREAS, the Issuer finds it necessary to consent to the early redemption of the Bonds and authorize the execution and delivery of (1) a Special Warranty Deed, (2) Bill of Sale, (3) Termination and Release of Lease, and (4) Satisfaction, Release and Discharge of Indenture in connection with the exercise by the Tenant of its option to purchase the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF GARNETT, 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 Lease and Indenture.

Section 2. Sale of the Project. The Issuer is hereby authorized to convey the Project to the Tenant upon (1) sufficient moneys having been deposited with the Trustee so as to completely defease and pay the Bonds in accordance with the terms of the Indenture, the sufficiency of which amount is to be acknowledged by the Trustee in writing, and/or surrender of the Bonds in satisfaction of the payment of all principal of, interest on, and premium, if any, due and payable at redemption, and (2) receipt by the Issuer of the \$100 to which it is entitled pursuant to Section 15.2 of the Lease.

Section 3. Authorization and Consent to Redemption. The governing body of the Issuer hereby declares its desire and consent to the early redemption of the Bonds on the Closing Date, or as soon thereafter as practicable, in accordance with the instructions from the Tenant (which shall also be deemed the Issuer's instructions to the Trustee). Issuer acknowledges proper notice of the Tenant's instructions to redeem the Bonds or otherwise waives any additional notice requirements under the Indenture.

Section 4. Authorization of Special Warranty Deed. The Issuer is hereby authorized to execute and deliver its Special Warranty Deed (the "Special Warranty Deed") for the real property portions of the Project to the Tenant, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the deed before the governing body on this date.

Section 5. Authorization of Bill of Sale. The Issuer is hereby authorized to execute and deliver its Bill of Sale (the "Bill of Sale") for the personal property portions of the Project to the Tenant, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Bill of Sale before the governing body on this date.

Section 6. Authorization of Termination and Release of Lease. The Issuer is hereby authorized to execute and deliver a Termination and Release of Lease (the "Lease Termination") by and between the Tenant, the Issuer and the Trustee, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Lease Termination before the governing body on this date.

Section 7. Authorization of Satisfaction, Release and Discharge of Indenture. The Issuer is hereby authorized to execute and deliver a Satisfaction, Release and Discharge of Indenture (the "Indenture Release") by and between the Issuer and the Trustee, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Indenture Release before the governing body on this date.

Section 8. Execution of Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such minor corrections or amendments thereto as the Mayor of the governing body of the Issuer 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 Resolution, including specifically any applicable UCC Termination Statements. The City Clerk or any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the

execution of the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release, on behalf of the Issuer and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 9. Delivery of Documents. The Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release shall be delivered by the Mayor, City Clerk or other appropriate staff member of the Issuer concurrently upon the satisfaction of the requirements set forth in the Lease and in Section 2 of this Resolution. Prior escrow delivery of the aforesaid documents may be made to Bond Counsel or upon the establishment of proper escrow arrangements for escrow of the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release with a licensed title company having offices within Anderson County, Kansas, which title company expressly agrees to release such documents only upon written evidence of the satisfaction of the requirements of the Lease, Indenture and Section 2 of this Resolution.

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 Resolution and to carry out, comply with and perform the duties of the Issuer with respect to the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release and the early redemption, satisfaction and discharge of the Bonds, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 11. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

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PASSED, ADOPTED AND APPROVED by the governing body of the City of Garnett, Kansas this 22nd day of May, 2018.

CITY OF GARNETT, KANSAS

[seal]

Jody M. Cole, Mayor

ATTEST:

Nancy L. Hermreck, Interim City Clerk