

Finance
9-18-17

17-0951

COMMON COUNCIL OF
CITY OF MANITOWOC, WISCONSIN

RESOLUTION NO. 17-0951

RESOLUTION AUTHORIZING AMENDMENTS TO
\$3,000,000 CITY OF MANITOWOC, WISCONSIN
MIDWESTERN DISASTER AREA REVENUE BONDS,
SERIES 2012 (BAILEIGH INDUSTRIAL, INC. PROJECT)
ISSUED ON JUNE 27, 2012

WHEREAS, the City of Manitowoc, Wisconsin (the "Issuer") entered into a Bond Agreement dated as of June 1, 2012 (the "Bond Agreement") by and among the Issuer, Hennessey Development LLC, a Wisconsin limited liability company (the "Borrower"), Bank First National, as original purchaser (the "Original Purchaser"), and Bank First National, as trustee (the "Trustee"), relating to the issuance of \$3,000,000 City of Manitowoc, Wisconsin Midwestern Disaster Area Revenue Bonds, Series 2012 (Baileigh Industrial, Inc. Project) (the "Bonds"); and

WHEREAS, the Issuer loaned the proceeds of the Bonds to the Borrower for the purpose of financing a project on behalf of the Borrower consisting of the (i) acquisition of approximately 5 acres of land currently comprising a portion of Lot 6, in Block 1, Manitowoc I-43 Industrial Park Subdivision No. 2, located immediately northwest and adjacent to the Borrower's existing facility on Dufek Drive in the City of Manitowoc, Wisconsin, (ii) construction of an approximately 45,000 square foot addition to an existing approximately 35,000 square foot distribution facility located at 1625 Dufek Drive in the City of Manitowoc, Wisconsin (the "Facility") owned by the Borrower and operated by Baileigh Industrial, Inc., a Wisconsin corporation, which is a machinery distributor, (iii) acquisition and installation of non-movable equipment at the Facility, (iv) renovation and improvements to the Facility and (v) payment of certain professional costs and costs of issuance; and

WHEREAS, the Borrower and the Original Purchaser wish to amend the interest rate provisions of the Bonds pursuant to a First Amendment to Bond Agreement (the "Amendment"), and to give effect to such modification, the Borrower and the Original Purchaser have requested the Issuer to amend the Bonds (as amended, the "Amended Bonds"); and

WHEREAS, it is a requirement of the Bond Agreement that any such amendment of the Bond Agreement be approved by the Issuer.

NOW THEREFORE, BE IT RESOLVED by the governing body of the Issuer as follows:

Section 1. Findings and Determinations.

It is hereby found and determined that under the provisions of Section 66.1103 of the Wisconsin Statutes, the Amended Bonds shall remain limited obligations of the Issuer, and the

Amended Bonds do not constitute an indebtedness of the Issuer within the meaning of any state constitutional or statutory provision, and do not constitute nor give rise to a charge against its general credit or taxing powers or a pecuniary liability of the Issuer.

Section 2. Approvals and Authorizations.

2.01. There is hereby approved the amendment by the Issuer of its Midwestern Disaster Area Revenue Bonds, Series 2012 (Baileigh Industrial, Inc. Project), as set forth in the Amendment.

2.02. The Amendment is hereby approved. The Mayor and the City Clerk are hereby authorized and directed in the name and on behalf of the Issuer to execute the Amendment, to which the Issuer is a party, and either one of them or both of them are authorized and directed to execute the such other documents, agreements, instruments or certificates as are deemed necessary or desirable by the Issuer's counsel and bond counsel, including the IRS Form 8038.

2.03. The Issuer shall proceed to amend the Bonds, which Amended Bonds shall be in the form and upon the terms set forth in the Amendment, which terms are for this purpose incorporated in this resolution and made a part hereof. The Mayor and the City Clerk are authorized and directed to execute and seal the Amended Bonds as prescribed in the Amendment and to deliver them to the Trustee for authentication and delivery to the Original Purchaser.

2.04. The Mayor, the City Clerk and other officers of the Issuer are authorized to prepare and furnish to the Trustee and bond counsel certified copies of all proceedings and records of the Issuer relating to the Amended Bonds, and such other affidavits and certificates as may be required by the Trustee and bond counsel to show the facts relating to the legality and marketability of the Amended Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them.

2.05. The approval hereby given to the various documents referred to in this resolution includes the approval of such additional details therein as may be necessary and appropriate for their completion and such modifications thereto, deletions therefrom and additions thereto as may be approved by the Issuer's counsel and bond counsel. The execution of any document by the appropriate officer or officers of the Issuer herein authorized shall be conclusive evidence of the approval by the Issuer of such document in accordance with the terms hereof.

2.06. The Amended Bonds shall be limited obligations of the Issuer payable by it solely from revenues and income derived by or for the account of the Issuer from or for the account of the Borrower pursuant to the Bond Agreement. As security for the payment of the principal of, premium, if any, and interest on the Amended Bonds, the Issuer has pledged and assigned to the Trustee all of its right, title and interest in and to the trust estate described in the Bond Agreement.

Adopted: September 18, 2017

CITY OF MANITOWOC, WISCONSIN

By: _____
Justin M. Nickels, Mayor

Attest: _____
Deborah A. Neuser, City Clerk

SEP 18 2017

Introduced _____

Adopted _____

Approved _____
