



ORDINANCE NO. 2021-003

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE LEASE AGREEMENTS BETWEEN THE CITY OF ANTHONY, NEW MEXICO AND C.N. WIRE CORPORATION ENTERED INTO IN CONNECTION WITH THE CITY OF ANTHONY, NEW MEXICO TAXABLE INDUSTRIAL REVENUE BONDS (C.N. WIRE CORPORATION PROJECT) SERIES 2014A, SERIES 2014B AND SERIES 2014C.

WHEREAS, the City of Anthony, New Mexico (the “City”) is authorized under the Industrial Revenue Bond Act, NMSA 1978, §§ 3-32-1 to -16 (the “Act”), to acquire certain projects and issue its industrial revenue bonds in payment therefor;

WHEREAS, C.N. Wire Corp. (the “Company”) previously presented to the City a proposal (the “Proposal”) relating to the issuance of a taxable industrial revenue bond and the development and equipping of a copper wire manufacturing facility located in Doña Ana County, New Mexico and within fifteen (15) miles of the corporate limits of the City of Anthony, New Mexico (the “Project Site”), and its related supporting equipment and improvements (the “IRB Transaction”);

WHEREAS, In connection with the Proposal, on August 14, 2014, the City adopted Ordinance No. 2014-05 (the “Ordinance”) pursuant to which the City authorized, among other things, (i) the issuance of its Taxable Industrial Revenue Bond (C.N. Wire Corporation Project), Series 2014A, the Series 2014B Bond and the Series 2014C Bond, in the principal amount not to exceed \$100,000,000 (collectively, the “Bond”), and (ii) the execution and delivery of that certain Series 2014A Lease Agreement, Series 2014B Lease Agreement and Series 2014C Lease Agreement between the City and the Company (collectively, the “Lease”);

WHEREAS, among other things, the Ordinance authorized the Mayor and the Mayor Pro-Tem to execute, authenticate and deliver such certifications, instruments, documents, letters and

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other agreements, including security agreements and subordination agreements, and to do such other acts and things, either prior to or after the date of delivery of the Bonds, as are necessary or appropriate to consummate the transactions contemplated by the Bond Documents;

WHEREAS, pursuant to Section 6.7 of the Lease, Company is required to maintain 195 full-time equivalent employees on each Job Target Date, as set forth in the annual report to the City and in the event the number of full-time equivalent employees on each Job Target Date falls below 195, the City may require the Company to pay to the City a performance claw back according to the Applicable Percentage of the total abated taxes on the Series 2014A Project Property, the Series 2014B Project Property, Series 2014C Project Property (collectively the “Project Property”) for the calendar year ending on the Job Target Date.

WHEREAS, at the time that Company entered into the IRB Transaction, Company projected a base job number of 195 full-time equivalent, however, subsequent to the closing of the IRB Transaction, market factors have caused the Company to require less than 195 full-time equivalent employees.

WHEREAS, pursuant to an in accordance with the form of Amendment to Lease Agreement and Waiver and Waiver attached hereto (the “Amendment”), the Company has requested that the City waive the application of 6.7 of the Lease relating to periods prior to the date of the Amendment relating to the requirement that Company maintain a total number of 195 full-time equivalent employees on each Job Target Date;

WHEREAS, the City desires to enter into this Amendment to amend and update Section 6.7 of the Lease to require a total of 130 full-time equivalent employees on each Job Target Date



NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE CITY OF ANTHONY, NEW MEXICO:

Section 1. APPROVAL OF AMENDMENT TO LEASE. The City hereby approves and adopts the Amendment to IRB Lease Agreement, substantially in the form attached hereto as Exhibit A (the “**Lease Amendment**”).

Section 2. AUTHORIZATION. Each of the Mayor or Mayor Pro-Tem of the City is further authorized to execute, authenticate and deliver the Lease Amendment on behalf of the City and such certifications, instruments, documents, letters and other agreements as may be required in connection therewith.

Section 3. GENERAL SUMMARY FOR PUBLICATION. Pursuant to the general laws of the State, the title and a general summary of the subject matter contained in this Bond Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

City of Anthony, New Mexico

Notice of Adoption of Ordinance

Notice is hereby given of the title and of a general summary of the subject matter contained in Ordinance No. 2021-003 duly adopted and approved by the Governing Body of the City of Anthony, New Mexico, on November 4, 2021. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the City Clerk, City Hall, 820 Highway 478, Anthony, New Mexico 88021.



The title of the Ordinance is:

CITY OF ANTHONY, NEW MEXICO

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(End of Form of Summary for Publication)



PASSED, APPROVED AND ADOPTED THIS 04TH DAY OF NOVEMBER 2021.


Diana M. Trujillo, Mayor



{SEAL}

ATTEST:


Esther Motongo, CMC - City Clerk

ROLL CALL VOTE:

~~Mayor Pro Tem, Fernie Herrera~~ YES NO

Trustee Gloria Gameros YES NO

Trustee Elva Flores YES NO

Trustee Javier Silva YES NO

ABSENT





