

**City of Arkansas City**  
**Board of City Commissioners**  
Agenda

ORIGINAL

Special Call Meeting  
Friday, December 27, 2013 @ Noon  
City Commission Room, City Building – 118 W. Central – Arkansas City, Ks

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**I. Routine Business**

1. Roll Call
2. Pledge of Allegiance

**II. New Business**


1. Hold a Public Hearing and Consider Resolution determining the advisability of issuing Taxable Industrial Revenue Bonds for the purpose of financing the acquisition, construction, renovation, and equipping of a portion of a Beef Processing Facility in Arkansas City. (Voice Vote)

**Adjourn**



# Item for City Commission Action

## Section II Item 1

<b>Date</b> 12/27/2013	<b><u>Citizen/Agency Contact</u></b>	<b><u>Department/Division</u></b> City Manager	<b><u>Staff Contact</u></b> Nick Hernandez
<b>Details</b>	Hold a Public Hearing and Consider Resolution determining the advisability of issuing Taxable Industrial Revenue Bonds for the purpose of financing the acquisition, construction, renovation, and equipping of a portion of a Beef Processing Facility in Arkansas City. (Voice Vote)		
<b><u>Description</u></b> Creekstone is requesting the City determine the advisability of issuing Taxable IRB's in the amount of \$66,000,000.00. This is one of the options available to Creekstone and could be issued, in one or more series, to provide funds to pay for the cost of expanding and renovating.  The issuance of the bonds will be subject to passage of an Ordinance authorizing the Bonds.			
<b><u>Commission Options</u></b> Hold the Public Hearing. Then consider: 1. Approve the Resolution 2. Disapprove the Resolution 3. Table for further review.  Recommended by Staff <u>1</u> Advisory Board _____			
<b><u>Fiscal Impact:</u></b>  Amount:  Fund:                      Department:                      Expense Code: <input type="checkbox"/> Included in budget <input type="checkbox"/> Grant <input type="checkbox"/> Bonds <input type="checkbox"/> Other (explain) <input type="checkbox"/>			
<b><u>Approved for Agenda by:</u></b>	 SIGNATURE		

**RESOLUTION NO. 2013-12-**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS DETERMINING THE ADVISABILITY OF ISSUING TAXABLE INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUISITION, CONSTRUCTION, RENOVATION AND EQUIPPING OF A PORTION OF A BEEF PROCESSING FACILITY LOCATED IN ARKANSAS CITY.**

**WHEREAS**, the City of Arkansas City, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of Arkansas City, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

**WHEREAS**, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in the principal amount of not to exceed \$66,000,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquisition, construction, renovation and equipping of a portion of a beef processing facility (the "Project") located in the Issuer and to be leased by the Issuer to Creekstone Farms Premium Beef, LLC, a Delaware limited liability company, or assigns (the "Tenant").

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:**

**Section 1. Public Purpose.** The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

**Section 2. Authorization to Acquire Project; Intent to Issue Bonds.** The Issuer is hereby authorized to proceed with the acquisition, construction, renovation and equipping of the Project and to issue its revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$66,000,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

**Section 3. Conditions to Issuance of Bonds.** The issuance of the Bonds is subject to: (a) the passage of an ordinance authorizing the issuance of the Bonds; (b) the successful negotiation of a Bond Agreement, Trust Indenture, Guaranty Agreement, Lease or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the Issuer, the Tenant and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and (f) the commitment to and payment of all expenses of the Issuer, any underwriting or placement agent fees and expenses and all legal fees and expenses of Bond Counsel and the Issuer's counsel relating to the issuance of the Bonds by the Purchaser, and all fees of the Kansas Court of Tax Appeals.

**Section 4. Property Tax Exemption and Payment in Lieu of Taxes.** The Issuer hereby determines that pursuant to the provisions of K.S.A. 79-201a *Second* the Project, to the extent purchased or constructed with the proceeds of the Bonds, should be exempt from payment of ad valorem property taxes for ten years commencing with the year following the year in which the Bonds are issued, provided proper application is made therefor. In making such determination the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d. The Tenant is responsible for preparing such application and providing the same to the Issuer for its review and submission to the State Court of Tax Appeals. The exemption from ad valorem property taxation referenced herein shall not apply to the value of the land on which the Project is constructed and to any portion of the Tenant's beef processing facility not financed with the proceeds of the Bonds.

**Section 5. Reliance by Tenant; Limited Liability of Issuer.** It is contemplated that in order to expedite the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted, and as provided by §1.150-2 of the U.S. Treasury Regulations. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

**Section 6. Further Action.** The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including preparation of the cost benefit study required by the Act, and the execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Court of Tax Appeals pursuant to the Act.

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**ADOPTED** by the governing body of the City of Arkansas City, Kansas on December 27, 2013.

[SEAL]

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Jay Warren, Mayor

Attest:

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Lesley Shook, City Clerk

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on December 27, 2013, as the same appears of record in my office.

DATED: December 27, 2013.

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Lesley Shook, City Clerk