

ORDINANCE NO. 1024

AN ORDINANCE AUTHORIZING THE CITY OF EDWARDSVILLE, KANSAS, TO ISSUE ITS TAXABLE SPECIAL OBLIGATION TRANSIENT GUEST TAX REVENUE BONDS, SERIES 2019 (VILLAGE SOUTH PROJECT), IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$11,500,000 FOR THE PURPOSE OF PAYING CERTAIN COSTS FOR CONSTRUCTING A HOTEL AND EVENT CENTER WITHIN THE CITY; AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND REPEALING ORDINANCE NO. 1012 OF THE CITY (VILLAGE SOUTH AT EDWARDSVILLE).

WHEREAS, pursuant to Article 12, Section 5 of the Constitution of the State of Kansas, Charter Ordinance No. 2018-1 of the City of Edwardsville, Kansas (the “City”), passed on April 23, 2018, and Ordinance No. 1007 of the City, passed on August 27, 2018 (collectively, the “TGT Charter Authority”), the City levies and collects a transient guest tax within the City (the “Transient Guest Tax” or “TGT”);

WHEREAS, the City has been requested by Compass Commodity Group III, LLC, a Texas limited liability company (the “Developer”), to use the Transient Guest Tax to finance a portion of the costs to construct a hotel with a national flag containing approximately 241 rooms, an event center, bar, and restaurant, and ancillary retail, which is anticipated to be a Hard Rock Hotel or comparable (the “Hotel”), generally located within the Village South project in the City;

WHEREAS, the City has entered into that certain Amended and Restated Development Agreement for Project Areas One, Two, and Three Village South at Edwardsville TIF District and CID dated as of November 1, 2018, as amended by that certain First Amendment to Amended and Restated Development Agreement dated as of August 26, 2019 (as amended, the “Development Agreement”), with the Developer relating to the development and financing of certain improvements, including financing certain costs of the Hotel with the Transient Guest Tax;

WHEREAS, the Developer is assigning a portion of its rights and obligations under the Development Agreement with respect to the Transient Guest Tax financing to One10 Hotel HRKC LLC, a Delaware limited liability company (the “Owner”), pursuant to that certain Partial Assignment and Assumption of Development Agreement dated on or after the date hereof;

WHEREAS, the Governing Body of the City hereby finds and determines that it is necessary and desirable to issue its taxable special obligation transient guest tax revenue bonds (the “Bonds,” as further described herein) pursuant to the TGT Charter Authority and this Ordinance to finance certain costs of the Hotel;

WHEREAS, pursuant to Resolution No. 2018-22 adopted by the Governing Body of the City on August 27, 2018, the City identified Dougherty & Company LLC, as underwriter of the Bonds (the “Underwriter”), to offer the Bonds for sale; and

WHEREAS, in connection with the issuance of the Bonds, the Governing Body of the City further finds and determines that it is necessary and desirable to execute and deliver certain documents as described herein;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDWARDSVILLE, KANSAS AS FOLLOWS:

Section 1. Finding regarding Economic Development. The Governing Body hereby finds and determines that using the Transient Guest Tax to finance certain costs of the Hotel, including certain costs identified in the Development Agreement and the Indenture (defined below), each as amended from time to time, will promote economic development within the City and is consistent with the purpose of the Transient Guest Tax as described in the TGT Charter Authority.

Section 2. Approval of Preliminary Official Statement. The City hereby approves the Preliminary Official Statement for the Bonds, in substantially the form now on file in the office of the Assistant City Manager/City Clerk. The Mayor is hereby authorized to approve, execute and deliver a Final Official Statement with respect to the Bonds.

Section 3. Authorization of the Bonds. Subject to the conditions to issuance of the Bonds set forth in the Development Agreement, the City is hereby authorized and directed to issue the Bonds in the principal amount of not to exceed \$11,500,000, the proceeds of which shall be used to: (a) pay a portion of the costs for constructing the Hotel within the City; (b) pay certain costs of issuance related to the Bonds; (c) fund capitalized interest on the Bonds; and (d) fund a debt service reserve for the Bonds. The Bonds shall be identified as the “City of Edwardsville, Kansas, Taxable Special Obligation Transient Guest Tax Revenue Bonds, Series 2019 (Village South Project),” shall bear interest at the rates and shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Trust Indenture dated on or after October 1, 2019 (the “Indenture”), between the City and Commerce Bank, Kansas City, Missouri, as trustee (the “Trustee”).

Section 4. Security for the Bonds. The Bonds shall be special limited obligations of the City payable solely from the trust estate established under the Indenture, including (i) all moneys and securities held by the Trustee under the Indenture, (ii) Transient Guest Tax attributable to the Hotel, and (iii) other moneys or securities pledged, assigned or transferred as security under the Indenture. The Bonds do not constitute a debt for which the full faith and credit of the City, the State of Kansas, or any other political subdivision thereof are pledged, nor do the Bonds constitute a debt of the City, the State of Kansas, or any other political subdivision thereof for the purposes of any constitutional or statutory debt limitation.

Section 5. Execution of Bonds and Bond Documents. The Mayor or acting Mayor of the City is hereby authorized and directed to execute the Bonds and deliver them to the Trustee for authentication on behalf of, and as the act and deed of the City, in the manner provided in the Indenture. The Mayor or acting Mayor is further authorized and directed to execute and deliver the following documents on behalf of, and as the act and deed of the City, in substantially the

forms on file in the office of the Assistant City Manager/City Clerk, with such corrections or amendments thereto as the Mayor or acting Mayor may approve, which approval shall be evidenced by his execution thereof, and to execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance and the following documents (the “Bond Documents”):

(a) Indenture, under which the City shall pledge to the Trustee, for the benefit of the owners of the Bonds, the trust estate as described in the Indenture, under the terms and conditions set forth in the Indenture;

(b) Bond Purchase Agreement among the City, the Underwriter and the Owner or its assigns relating to the sale and purchase of the Bonds; and

(c) City’s Continuing Disclosure Agreement dated on or after October 1, 2019, between the City and Commerce Bank, Kansas City, Missouri, as dissemination agent (the “Dissemination Agent”), whereby the City agrees to disclose or cause the Dissemination Agent to disclose certain information relating to the Bonds and the security for the Bonds.

The Assistant City Manager/City Clerk or the acting City Clerk of the City is hereby authorized and directed to attest the execution of the Bonds and the Bond Documents and execute or attest such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the City’s official seal.

Section 6. Further Authority. The officials, officers, agents and employees of the City, including Kutak Rock LLP, the City’s Bond Counsel, and Baker Tilly Municipal Advisors, LLC, the City’s Municipal Advisor, 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 the provisions of this Ordinance and to carry out and perform the duties of the City with respect to the Bonds and the Bond Documents as necessary to give effect to the transactions contemplated in this Ordinance and in the Bond Documents.

Section 7. Repeal of Ordinance No. 1012. Ordinance No. 1012 of the City, passed on November 1, 2018, is hereby repealed in its entirety.

Section 8. Effective Date. This Ordinance shall take effect from and after its final passage by the Governing Body of the City, signature by the Mayor, and publication as required by law.

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PASSED AND APPROVED by the Governing Body of the City of Edwardsville, Kansas this 26th day of August, 2019.



(SEAL)

ATTEST:



John McTaggart
Mayor



Zachary Daniel
Assistant City Manager/City Clerk