

12-20-22

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF SHELBY, KENTUCKY, AUTHORIZING THE ISSUANCE OF UP TO \$44,000,000.00 PRINCIPAL AMOUNT OF INDUSTRIAL BUILDING REVENUE BONDS, TAXABLE SERIES 2022 (KOETTER PROJECT), IN ONE OR MORE SERIES FOR THE PURPOSE OF FINANCING AN INDUSTRIAL BUILDING PROJECT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF: (i) AN ASSIGNMENT FROM KOETTER SPIRITS, LLC TO BARREL ROLL, LLC (ii) A DEED FROM BARREL ROLL, LLC TO THE COUNTY OF SHELBY, (iii) A LEASE AGREEMENT BETWEEN THE COUNTY AND BARREL ROLL, LLC, (iv) A MORTGAGE, (v) A BOND PURCHASE AGREEMENT, (vi) A LETTER AGREEMENT, AND (vii) ANY AND ALL OTHER RELATED DOCUMENTS; AND TAKING OTHER RELATED AND INCIDENTAL ACTION.

WHEREAS, the County of Shelby, Kentucky ("Issuer"), pursuant to the provisions of the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, (the "Act"), is authorized to issue its revenue bonds and to make the proceeds from the sale thereof available to a company for the purpose of financing industrial building facilities as defined in the Act, such bonds being payable from rental payments made by such company; and under the Act the financing of industrial buildings constitutes a public purpose;

WHEREAS, on August 2, 2022 the Fiscal Court of the Issuer adopted a resolution (the "Inducement Resolution") authorizing industrial building revenue bond financing for the benefit of Koetter Spirits, LLC ("KSL") and affirming the Issuer's agreement to undertake such financing at the appropriate time, subject to compliance with the provisions of the Act;

WHEREAS, KSL has assigned its interest to its affiliate Barrel Roll, LLC (the "Company") and Issuer has consented to such assignment;

WHEREAS, Company proposes that the Issuer, pursuant to the Act, assist the Company in financing the acquisition, construction and installation of warehouses and tangible property therein to be located in Shelby County, Kentucky, for the purpose of establishing industrial buildings for the manufacture and storage of distilled spirits (collectively, the "Project"), which Project and the site thereof are more particularly described in the Lease Agreement hereinafter identified and approved; and the Project qualifies for financing as an "industrial building" within the meaning of the Act; and

WHEREAS, the acquisition, construction and installation of the Project will result in the retention of industry and a substantial number of employment opportunities in the community that would otherwise not be available;

WHEREAS, at the request of the Company the Issuer is prepared to issue its revenue Bonds pursuant to the Act for purposes of financing the acquisition, construction and installation of the Project and paying costs of issuance of the Bond, upon terms which are set forth in the Lease Agreement hereinafter identified and approved;

WHEREAS, pursuant to the provisions of Section 103.230 of the Act, the Company will make a request in writing, addressed to the County Judge/Executive acting on behalf of the Issuer, that the sale of the Bonds hereinafter identified and authorized, to bear interest as set out in the Bond Purchase Agreement hereinafter identified and approved, shall be made upon a negotiated basis; and

WHEREAS, it is necessary and proper in the interests of the health, safety, convenience and general welfare of the citizens, residents and inhabitants of the Issuer and its environs that the Issuer (a) authorize the issuance of the Bonds pursuant to the Act in order to finance, for the benefit of the Company, the acquisition, construction and installation of the Project and to pay certain costs of the issuance of the Bonds, (b) authorize the execution of a Lease Agreement between the Issuer, as lessor, and the Company, as lessee, (c) authorize the execution of a Mortgage and the execution of related documents, (d) authorize the execution of a Bond Purchase Agreement and the execution of related documents, (e) authorize the execution of a Letter Agreement relating to payment of amounts equal to certain ad valorem taxes, and (f) authorize and approve the sale of the Bonds and approve other necessary or related documents and actions.

**BE IT ORDAINED BY THE FISCAL COURT OF SHELBY COUNTY, KENTUCKY,
AS FOLLOWS:**

Section 1. For the purposes set forth in the preamble, which is incorporated as a part hereof, the Issuer, acting by and through the Fiscal Court, hereby:

(A) Confirms and ratifies the Inducement Resolution and the prior discussions and agreements described therein, whereby the Issuer agreed preliminarily to authorize and issue its Bonds for KSL (as assigned to the Company) pursuant to the Act in order to finance the Project;

(B) Accepts from the Company the conveyance of the Project and the sites thereof, subject to the terms and conditions contained in the instruments of conveyance and in the Lease Agreement hereinafter identified and approved;

(C) Authorizes the sale, issuance, execution and delivery of up to \$44,000,000.00 principal amount of Shelby County Industrial Building Revenue Bonds, Taxable Series 2022 (Koetter Project) (the "Bonds"), which shall be issued in substantially the form and subject to the terms and specifications set forth in the Bond Purchase Agreement identified and approved herein, all subject to compliance with the provisions of the Act; and

(D) Authorizes the use of the proceeds of the Bonds, as provided in the Bond Purchase Agreement, Mortgage and Lease Agreement hereinafter identified and approved, to pay the costs

of acquisition, construction and installation of the Project and to pay certain costs of issuance of the Bonds.

Section 2. The County/Judge Executive is hereby authorized, empowered and directed to execute, acknowledge and deliver on behalf of the Issuer, as lessor of the Project, and the Company, as lessee (the "Lease Agreement"), which Lease Agreement is hereby approved, authorized and adopted in substantially the form previously submitted and filed with the Clerk of the Fiscal Court, with such changes therein and completions thereof as the officer executing the same may require or approve on behalf of the Issuer, upon the advice of counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. In order to provide for the security of the Bonds, the County Judge/Executive is hereby authorized, empowered and directed to execute and acknowledge on behalf of the Issuer a Mortgage in favor of the purchaser of the Bonds. The Mortgage is hereby approved, authorized and adopted in substantially the form previously submitted and filed with the Clerk of the Fiscal Court, with such changes and completions as the officer executing the same may require or approve on behalf of the Issuer, upon the advice of counsel, such approval to be conclusively evidenced by the execution and delivery thereof. So that the statutory mortgage lien provided by Section 103.250 of the Act shall not attach to the Project, the Issuer hereby declares its intention and elects to follow the provisions of Section 103.251 of the Act with respect to the imposition of a foreclosable lien on the Project in connection with the security of the Bonds. The Bonds shall be issued no later than one (1) year from the date of adoption of this Ordinance, shall mature as to principal no later than the date which is thirty (30) years from the date of issuance of the Bonds and shall be subject to redemption and shall bear interest payable periodically at a rate approved by the Company, all as provided in the Bond Purchase Agreement hereinafter identified, reference to which is hereby made.

Section 4. With respect to the authorization and sale of the Bonds, and upon the request of the Company, the Issuer approves, and the County Judge/Executive is authorized and directed to execute and deliver on behalf of the Issuer, a Bond Purchase Agreement between the Issuer and the purchaser of the Bonds to be designated by the Company, and as approved by the Company (the "Bond Purchase Agreement"), being in substantially the form submitted herewith, with such changes and completions as the officer executing the same may require or approve on behalf of the Issuer, upon the advice of counsel, such approval to be conclusively evidenced by the execution and delivery thereof. The sale of the Bonds pursuant to the terms of the Bond Purchase Agreement is hereby authorized, approved and directed.

Section 5. The County Judge/Executive is hereby authorized, empowered and directed to execute, acknowledge and deliver on behalf of the Issuer Letter Agreement between the Issuer and the Company relating to payment of amounts equal to certain ad valorem taxes (the "Letter Agreement"), which Letter Agreement is hereby approved, authorized and adopted in substantially the form previously submitted and filed with the Clerk of the Fiscal Court, with such changes therein and completions thereof as the officer executing the same may require or approve on behalf of the Issuer, upon the advice of counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. The County Judge/Executive, the Fiscal Court Clerk, the County Treasurer, the County Attorney and other appropriate officials of Issuer, and each of them, for and on behalf of the Issuer, are hereby authorized, empowered and directed to do and perform any and all things necessary to effect the execution and delivery of the Lease Agreement, the Mortgage, the Bond Purchase Agreement, the Letter Agreement and related documents, the performance of all obligations and the preservation of all rights of the Issuer thereunder, the execution and delivery of the Bonds and the performance from time to time of all other actions of whatever nature necessary to carry out the authority conferred or contemplated by and the purposes of this Ordinance, the Lease Agreement, the Mortgage, the Bond Purchase Agreement, the Letter Agreement and related documents, and further to approve and to execute all papers, documents, certificates or other instruments that may be required for the carrying out and effectuation from time to time of the authority conferred by and the purposes of this Ordinance, the Lease Agreement, the Mortgage, the Bond Purchase Agreement, the Letter Agreement and related documents, or to evidence said authority and purposes.

Section 7. The Bonds and the interest thereon do not represent or constitute an indebtedness of the Issuer or the Commonwealth of Kentucky within the meaning of the Constitution or statutes of the Commonwealth or a pledge of the faith and credit of the Issuer or the Commonwealth. The Issuer shall never be required to pay from its own funds any obligations deriving from the issuance of the Bonds, and the Bonds are declared to be special and limited obligations payable solely and only from the receipts derived under the Lease Agreement and the Mortgage, as provided in the documents herein approved.

Section 8. The provisions of this Ordinance may be supplemented from time to time by resolution of the Fiscal Court.

Section 9. The provisions of this Ordinance are hereby declared to be severable and, if any section or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 10. In the event of any conflict or conflicts between the provisions of this Ordinance and of any prior ordinances, resolutions or parts thereof, the provisions of this Ordinance shall prevail.

Section 11. This Ordinance shall be in full force and effect upon its passage and approval and upon publication of the legal notice required by Section 103.210 of the Act.

(Signatures Appear on the Following Page)

SHELBY COUNTY
O2022 PG578

This Ordinance was given first reading at a duly convened meeting of the Fiscal Court held on 12/06, 2022, and given second reading and adopted at a duly convened meeting of the Fiscal Court held on 12/20, 2022.

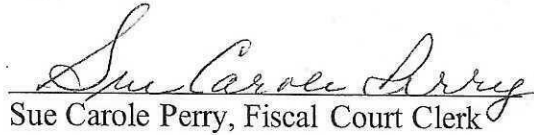


Dan Ison, County Judge/Executive

12-20-22

Date

Approved:




Sue Carole Perry, Fiscal Court Clerk

Dec 20, 2022
Date

Approved as to Form and Legality:

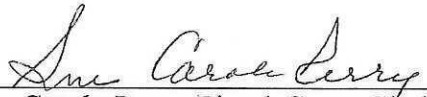
Shelby County Attorney

By: 
Hart Megibben, County Attorney

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the Shelby County Fiscal Court (the "Fiscal Court"), and as such Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly adopted by the Fiscal Court upon second reading at a duly convened meeting held on [DATE], 2022, signed by the County Judge/Executive, approved by me as Clerk and in full force and effect as therein stated, all as shown by the official records of the Fiscal Court in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of December, 2022.



Sue Carole Perry, Fiscal Court Clerk