

RESOLUTION NO. 8027

A RESOLUTION INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. CONCERNING TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B1997 (PAYLESS SHOESOURCE, INC. PROJECT) AUTHORIZING THE CITY OF TOPEKA, KANSAS, TO CONVEY TITLE OF THE FACILITY TO PAYLESS SHOESOURCE WORLDWIDE, INC.

WHEREAS, the City of Topeka, Kansas, (the "City") has pursuant to both K.S.A. 12-1740 to 12-1749a, both inclusive, as amended, (the "Act") and its Ordinance No. 17130 passed and approved June 27, 1997, and published as required by law, as amended by Ordinance No. 17160 of the City passed, approved and published as required by law, (collectively, the "Ordinance") issued its Taxable Industrial Revenue Bonds, Series B1997 (Payless ShoeSource, Inc. Project) dated August 1, 1997, in the aggregate principal amount of \$13,731,000 (the "Bonds"); and

WHEREAS, the proceeds of the Bonds financed the acquisition, improvement and equipping of certain equipment, machinery, fixtures and improvements to be used for commercial purposes (the "Facility") which was leased to Payless ShoeSource, Inc., a Missouri corporation, the predecessor in interest to Payless ShoeSource Worldwide, Inc., a Kansas corporation, (the "Tenant") pursuant to the terms and conditions of a Lease Agreement dated as of August 1, 1997, (the "Lease") by and between the City as landlord thereunder and the Tenant, all pursuant to the Ordinance; and

WHEREAS, pursuant to the terms and conditions of a Trust Indenture dated as of August 1, 1997, (the "Indenture") securing the Bonds, the City appointed UMB Bank N.A., Kansas City, Missouri, and now Wichita, Kansas, as trustee in connection with the Bonds (the "Trustee"); and

WHEREAS, the Trustee has certified to the City that all of the outstanding Bonds have been paid and delivered to the Trustee for cancellation and that in accordance with the Indenture all of the outstanding Bonds have been so cancelled and, as such, are in accordance with Sections 1301 and 1302 of the Indenture deemed paid and discharged and the pledge of the Facility and

the revenues under the Indenture and all other rights granted thereby have ceased and are of no further force and/or effect; and

WHEREAS, the lien of the Bonds having been paid and discharged, the Tenant has notified the City that it wishes to exercise its option to purchase the Facility and, in notifying the City of its wish to exercise its option pursuant to the Lease, that the City transfer its interest in the Facility to Tenant's successor-in-interest, Payless ShoeSource Worldwide, Inc., a Kansas corporation, ("Payless") in accordance with the terms and conditions of Article XVII of the Lease, specifically Sections 17.1, 17.2 and 17.3 thereof; and

WHEREAS, the City is authorized to waive its rights under the Lease to any prior notice from the Tenant regarding the closing date of the transfer of its interest in the Facility to the Tenant; and

WHEREAS, the Trustee having advised the City that the Tenant has both fully satisfied the Lease and that it has tendered the full purchase price thereunder for the Facility, the City is willing to execute and deliver to Payless its Bill of Sale conveying title (as described therein) to the Facility to Payless.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, AS FOLLOWS:

Section 1. That the Mayor is hereby authorized to execute (and the City Clerk or Deputy City Clerk are hereby authorized to both attest any such signature and seal) such deed, bill of sale, instruments and any other documents necessary to convey and transfer title of the Facility to Payless in accordance with Article XVII of the Lease.

Section 2. That this Resolution shall be of force and effect immediately upon its adoption and approval.

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ADOPTED by the Council of the City of Topeka, Kansas, this 8th day of January, 2008.

CITY OF TOPEKA, KANSAS

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk

(SEAL)

I, BRENDA YOUNGER, City Clerk of the City of Topeka, Shawnee County, Kansas, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 8027 adopted and approved by the City Council on January 8, 2008.

(SEAL)

Brenda Younger, City Clerk