

BILL NO. 17.025

ORDINANCE NO. 4763

FIRST READING: 10.17.2017

SECOND READING: 11.07.2017

AN ORDINANCE AUTHORIZING THE CITY OF HANNIBAL, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS (GM CEREALS PROPERTIES, INC. PROJECT), SERIES 2017, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$65,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING, EXPANDING, INSTALLING AND EQUIPPING AN INDUSTRIAL DEVELOPMENT PROJECT; APPROVING A PLAN FOR THE PROJECT; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Hannibal, Missouri, a home-rule charter city and political subdivision of the State of Missouri (the "City"), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, office industry, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, the Act requires the City to prepare a plan in connection with any industrial development project undertaken pursuant to the Act; and

WHEREAS, a Plan for an Industrial Development Project (the "Plan") has been prepared in the form of **Exhibit A** attached hereto; and

WHEREAS, notice of the City's consideration of the Plan has been given in the manner required by the Act, and the City Council has fairly and duly considered all comments submitted to the City Council regarding the proposed Plan; and

WHEREAS, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City: (1) approve the Plan pursuant to the Act; (2) issue its Taxable Industrial Revenue Bonds (GM Cereals Properties, Inc. Project), Series 2017, in the maximum principal amount of \$65,000,000 (the "Bonds"), for the purpose of acquiring, constructing, equipping, installing, and expanding of a manufacturing facility on certain real property located at 1 Red Devil Road (the "Project Site"), which consists of (a) acquiring and constructing new improvements and an expansion of existing improvements on the Project Site (the "Project Improvements"), and (b) purchasing, installing and equipping the Project Site and Project Improvements with certain personal property and equipment (the "Project Equipment," and collectively with the Project Improvements, the "Project"), all as more fully described in the Indenture and in the Lease Agreement hereinafter authorized; (3) lease the Project and Project Site to GM Cereals Properties, Inc. (the "Company"); and (4) enter into a Performance Agreement with the Company, under which the Company will make certain payments to the City in consideration of the City issuing the Bonds; and

WHEREAS, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HANNIBAL, MISSOURI, AS FOLLOWS:

SECTION ONE: Approval of the Plan. The City Council hereby approves the Plan for an Industrial Development Project in the form of **Exhibit A**, attached hereto and incorporated herein by reference.

SECTION TWO: Authorization for the Project. The City is hereby authorized to provide for the acquisition, construction, installation and equipping, and expansion of the Project, all in the manner and as more particularly described in the Indenture and the Lease Agreement hereinafter authorized.

SECTION THREE: Authorization of the Bonds. The City is hereby authorized to issue and sell the Bonds as described in the recitals hereto for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the Indenture described below and shall have such terms, provisions, covenants and agreements as are set forth in the Indenture.

SECTION FOUR: Limitation on Liability. The Bonds and the interest thereon shall be limited obligations of the City, payable solely out of certain payments, revenues and receipts derived by the City from the Lease Agreement described below. Such payments, revenues and receipts shall be pledged and assigned to the bond trustee named in the Indenture (the "Trustee") as security for the payment of the Bonds as provided in the Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State of Missouri (the "State") or any political subdivision thereof, and neither the City nor the State shall be liable thereon. The Bonds shall not constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction, and are not payable in any manner by taxation.

SECTION FIVE: Authorization of Documents. The City is hereby authorized to enter into the following documents (collectively, the "City Documents"), in substantially the forms presented to and approved by the City Council and attached to this Ordinance, with such changes therein as shall be approved by the officials of the City executing the documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the "Indenture") between the City and the Trustee, in substantially the form attached hereto as **Exhibit B** and incorporated herein by reference, pursuant to which the Bonds will be issued and the City will pledge the Project and Project Site and assign certain of the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Lease Agreement (the "Lease Agreement") between the City and the Company, in substantially the form attached hereto as **Exhibit C** and incorporated herein by reference, under which the City will lease the Project and Project Site to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

(c) Bond Purchase Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit D** and incorporated herein by reference.

(d) Performance Agreement between the City and the Company, in substantially the form attached hereto as **Exhibit E** and incorporated herein by reference.

(e) Special Warranty Deed from the Company to the City, in substantially the form attached hereto as **Exhibit F** and incorporated herein by reference.

SECTION SIX: Execution of Documents. The Mayor and the City Manager are hereby authorized to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor and the City Manager are hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION SEVEN: Ratification of Prior Actions. All prior actions taken by the City staff and consultants in conjunction with the preparation of the Plan and the City Documents are hereby ratified and confirmed.

SECTION EIGHT: Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor and the City Manager are hereby authorized, through the term of the Lease Agreement, to execute all documents on behalf of the City (including documents pertaining to the transfer of property or the financing or refinancing of the Project by the Company) as may be required to carry out and comply with the intent of this Ordinance, the Indenture and the Lease Agreement. The Mayor and City Manager are further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Bonds, the Indenture, the Lease Agreement or the Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease Agreement or the tax exemption as provided for therein, waive an event of default or materially change the nature of the transaction. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

SECTION NINE: Severability. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid or unconstitutional, the remaining sections of this Ordinance shall remain valid unless otherwise directed by the court.

SECTION TEN: Effective Date. This Ordinance shall take effect and be in full force immediately after its passage by the City Council.

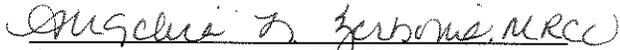
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Adopted this 7th day of November, 2017.

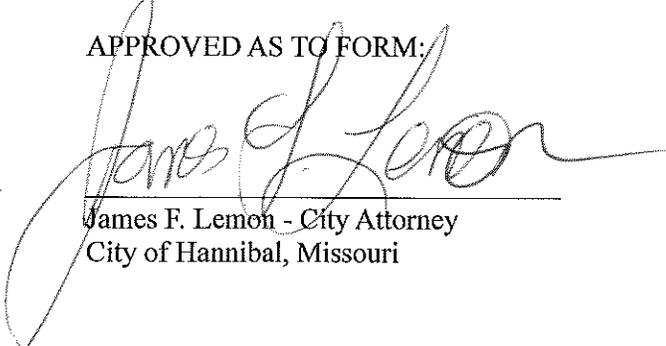
Approved this 7th day of November, 2017.


James R. Hark, Mayor

ATTEST:


Angelica N. Zerbonia, MRCC - City Clerk

APPROVED AS TO FORM:


James F. Lemon - City Attorney
City of Hannibal, Missouri