

RESOLUTION NO. 2006-010

A RESOLUTION AUTHORIZING ISSUANCE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2006-B OF THE CITY OF PAOLA, KANSAS, IN THE PRINCIPAL AMOUNT OF \$2,700,000 FOR THE TEMPORARY FINANCING OF A PORTION OF THE COSTS OF CONSTRUCTION OF CERTAIN IMPROVEMENTS IN THE CITY; AND ESTABLISHING THE TERMS AND CONDITIONS OF THE TEMPORARY NOTES.

WHEREAS, pursuant to K.S.A. 65-163d through 65-163u and K.S.A. 12-6a01 *et seq.* (the “Act”) the City of Paola, Kansas (the “City”) has authorized the following:

(A) the operation, construction and maintenance of joint public water supply system with the City of Louisburg, Kansas and the City has authorized payment of a portion of the preliminary costs of the acquisition and construction of the necessary public water supply system improvements estimated at \$2,000,000 and described in Ordinance No. 2931, and

(B) street and sanitary sewer improvements in Rockwood III Subdivision, as authorized by Resolution No. 2005-010 (jointly, the “Project”); and

WHEREAS, pursuant to K.S.A. 10-123, the governing body of the City is authorized to issue temporary notes from time to time as funds are needed for orderly construction of such improvements and in anticipation of the issuance of general obligation bonds; and

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

SECTION 1. Authority for the Notes; Security. The City’s General Obligation Temporary Notes, Series 2006-B in the principal amount of \$2,700,000 (the “Notes”) are authorized and directed to be issued.

The Notes shall be general obligations of the City payable as to both principal and interest from the proceeds of the City’s general obligation bonds issued to permanently finance the Project, from current revenues of the City lawfully available for such purposes, from special assessments levied against certain property in the City benefiting from certain improvements, and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby pledged to secure the payment of the principal of and interest on the Notes as and when the same become due and payable in accordance with their terms.

The governing body covenants to make provision for the payment of the principal of and the interest on the Notes by issuing general obligation bonds of the City for the Project and/or applying any current revenues of the City available for such purpose.

SECTION 2. Details of the Notes; Payment of Principal and Interest. The Notes shall be issued in the principal amount of \$2,700,000, designated “City of Paola, Kansas, General Obligation Temporary Notes, Series 2006-B”, dated November 15, 2006 (“Dated Date”), and shall mature December 15, 2007 (“Maturity Date”), or on an earlier date if the City elects to prepay the Notes, as authorized by this Resolution (“Redemption Date”).

The Notes shall be fully registered certificated securities, numbered as the Note Registrar determines, and issued in the denomination of \$5,000 or integral multiples thereof. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of twelve 30-day months) at the rate of 4.10% per annum, payable on the Maturity Date or on the Redemption Date authorized by this Resolution (the “Interest Payment Date”).

Interest shall be paid in lawful money of the United States of America, by check or draft of the Paying Agent (designated in Section 4 of this Resolution), addressed to the Owners of the Notes as shown on the Registration Books of the Paying Agent as of the fifteenth (15th) day of the month prior to the Interest Payment Date (the “Record Date”), at such other address as is furnished to the Paying Agent in writing by an Owner, or, in the case of payment to an Owner that is a securities depository, by electronic transfer to such Owner upon written notice given to the Paying Agent by such Owner, not less than 15 days before the Record Date for such interest, containing the electronic transfer instructions, including the bank address (which shall be in the continental United States) and appropriate routing instructions. The Notes shall bear interest from the Dated Date.

The principal amount of the Notes shall be payable to the registered owner in lawful money of the United States of America by check or draft of the Paying Agent upon the presentation of the Notes for payment and cancellation at the Paying Agent’s principal office in Topeka, Kansas.

If an Interest Payment Date, Redemption Date or Maturity Date is on a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the legislature of the State of Kansas and on which the Paying Agent is not open in the normal course of its operations, then the payment of principal, premium or interest may be paid on the next succeeding business day with the same force and effect as if made on the scheduled payment date, and no interest shall accrue for the period after such scheduled payment date.

SECTION 3. Redemption of Notes in Advance of Maturity. The Notes may be prepaid and redeemed by the City, in whole or in part, on March 1, 2007 or any time thereafter, by the payment of the principal amount called for prepayment and redemption, plus the accrued and unpaid interest on such amount to the Redemption Date. If the City elects to prepay the Notes, the City will give written notice to the Treasurer of the State of Kansas and the Paying Agent not less than forty-five (45) days prior to the selected Redemption Date. The City shall also give or direct the Paying Agent to give written notice of such redemption to the Owners of the Notes by depositing such notice addressed to the Owners in the United States first class mail not less than 30 days before the selected Redemption Date. The City shall also give such additional notice of its election to prepay the Notes as may be required by the laws of the State of Kansas in effect at the time notice is given, including K.S.A. 10-129, to the extent applicable. Upon giving notice

as described above and upon payment in full on the Redemption Date of the principal amount of and all accrued and unpaid interest to such date, interest of the Notes or portion of the Notes redeemed shall cease to accrue from and after the Redemption Date and the Notes (or portion of the Notes) shall no longer be entitled to the protection, benefits and security of this Resolution.

The Notes shall be redeemed in the principal amount of \$5,000 or any integral multiple thereof. If less than all of the Notes outstanding are to be redeemed and prepaid, then Notes of less than a full maturity shall be selected by lot in units of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of value represented by any Note is to be prepaid and redeemed, then upon receiving notice, the Owner of the Note or the Owner's authorized agent shall present the Note to the Note Registrar (as defined by this Resolution) for payment of the principal of and interest on \$5,000 units to be prepaid, and for exchange, without charge to the Owner for a new Note in the principal amount of the unredeemed portion of the Note.

Notwithstanding the preceding paragraph, in the event of a partial redemption of the Notes, an Owner of the Notes that is a securities depository, may, at its option, in lieu of surrendering the Note, make an appropriate notation on the Note certificate indicating the date and amounts of the prepaid principal amount of the Notes, except for the Maturity Date of the Notes, when the Note certificates shall be presented to the City before payment.

SECTION 4. Designation of Paying Agent and Note Registrar; Agreement, Initial Registration as Book-Entry Securities. Pursuant to K.S.A. 10-620 *et seq.*, the governing body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes and appoints the Treasurer of the State of Kansas, Topeka, Kansas, as the Note Registrar and Paying Agent for the Notes (the "Paying Agent" or "Note Registrar"). The duties of the Note Registrar and Paying Agent for the Notes are contained in an "Agreement between Issuer and Agent", dated as of November 15, 2006 (the "Agreement"). The Agreement is hereby approved and accepted by the governing body on behalf of the City and the Mayor and City Clerk are hereby authorized to execute and deliver the Agreement. The Agreement is incorporated here by this reference.

The Notes shall be initially distributed in book-entry-only form through The Depository Trust Company, New York, New York ("DTC"), by depositing with DTC one certificate in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Notes as authorized by this Resolution. Notwithstanding anything in this Resolution to the contrary, so long as the Notes remain in book-entry-only form the manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the provisions of this Section and a Letter of Representations (the "Letter of Representations") from the City to DTC, previously executed and delivered on behalf of the City.

One certificate registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Notes will be delivered to DTC in New York, New York; and such certificate will be immobilized in its custody. Purchases of the Notes in denominations authorized by this Resolution must be made by or through Direct Participants of DTC (as defined

in the Letter of Representation), which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to Beneficial Owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

In the event (a) the City determines (i) that DTC is unable to properly discharge its responsibilities, or (ii) that DTC is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (iii) that the continuation of a book-entry system to the exclusion of any Notes being issued to any owner other than Cede & Co. is no longer in the bests interest of the Beneficial Owners of the Notes; or (b) the Note Registrar receives written notice from Participants having interest in not less than 50% of the Notes outstanding, as shown on the records of DTC (and certified to such effect by DTC), that the continuation of a book-entry only system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co., is no longer in the bests interest of the Beneficial Owners of the Notes, then the Note Registrar shall notify the registered owners of such determination or such notice, and the Note Registrar shall register in the name of and authenticate and deliver replacement Notes to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption ("Replacement Notes"); provided, that in the case of a determination under (a)(i) or (a)(ii) of this paragraph, the City, with the consent of the Note Registrar, may select a successor securities depository in accordance with the provisions hereof to effect book-entry transfers. If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Note Registrar shall determine.

All references to DTC herein shall relate to the period of time when DTC has possession of at least one Note. Upon the issuance of Replacement Notes, all references herein to obligations imposed upon or to be performed by DTC shall be deemed to be imposed upon and performed by the Note Registrar, to the extent applicable with respect to such Replacement Notes. If DTC resigns and the City, the Note Registrar or the Owners are unable to locate a qualified successor of the securities depository, then the Note Registrar shall authenticate and cause delivery of Replacement Notes to Owners, as provided herein. The Note Registrar may rely on information from DTC and its Participants as to the names of the Beneficial Owners of the Notes. The cost of printing, registration, authentication, and delivery of Replacement Notes shall be paid for by the City.

In the event DTC resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor securities

depository provided the Note Registrar receives written evidence satisfactory to the Note Registrar with respect to the ability of the successor securities depository to discharge its responsibilities. Any such successor securities depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Note Registrar upon its receipt of a Note or Notes for cancellation shall cause the delivery of the Notes to the successor securities depository in appropriate denominations and form as provided in this Resolution.

While the Notes are in book-entry form the Paying Agent shall make payment directly to DTC or its nominee, as the registered owner, for the principal of and the interest on the Notes; and DTC will remit such principal and interest to its Direct Participants for distribution to the Beneficial Owners.

In the event that the Notes should be issued and delivered in certificated form at any time after the initial delivery of the Notes, the Paying Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City; and the Paying Agent will make payment for the Notes directly to the registered owners of the Notes as shown by said Registration Books as provided by this Resolution and the Agreement.

SECTION 5. Form of Notes. The Notes shall be in the usual and customary form and shall contain recitals as required by law, including a recital that they are issued under the authority of K.S.A. 10-123. The Notes shall also recite that they are issued for the purpose of temporarily financing the costs of constructing the Project under K.S.A. 65-163d through 65-163u and K.S.A. 12-6a01 *et seq.*, as amended and supplemented, and that they are subject to redemption prior to maturity under the terms of this Resolution. The City's Bond Counsel, Triplett, Woolf & Garretson, LLC, is authorized and directed to prepare the form and text of the certificates for the Notes, and to cause the same to be printed as the definitive certificates for the Notes.

SECTION 6. Registration of Ownership, Transfer and Exchange of Certificated Notes. Pursuant to the Agreement, and subject to the requirements of Section 4, the Note Registrar shall maintain books for the recording of the initial registration and any subsequent transfers of the ownership of the Notes (the "Registration Books;") and the person(s) in whose name any Notes are registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Notes shall be made only to or upon the order of the Owner or his duly authorized agent. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Notes, including the interest thereon, to the extent of the sum or sums so paid.

The provisions, terms and conditions and requirements for the transfer and exchange of the Notes and for the replacement of a mutilated, lost, stolen or destroyed Note are described by the Agreement. Replacement certificates delivered upon any transfer or exchange made in compliance with the Agreement shall be valid obligations of the City, evidencing the same debt as the certificated Note surrendered, shall be secured by the pledges made in this Resolution and

shall be entitled to all of the security and benefits of this Resolution to the same extent as the certificated Note surrendered.

SECTION 7. Execution of the Notes. The Notes shall be executed by the manual signature of the Mayor, shall have the City's official seal impressed thereon, and shall be attested by the manual signature of the City Clerk; and when so executed, the Notes shall be registered in the office of the City Clerk and in the Office of the Treasurer of the State of Kansas as required by law. After registration in the Office of the State Treasurer, the Notes shall be countersigned by the manual signature of the City Clerk, attested by the City's official seal. In case any officer of the City or of the State whose signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Notes shall be valid or obligatory for any purpose unless and until the Certificate of Authentication on the Note is duly executed by the Note Registrar, and a properly executed Certificate of Authentication on any Note shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication on any Note shall be deemed properly executed by the Note Registrar when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Note Registrar manually sign the Certificate of Authentication on all of the Notes issued under this Resolution.

SECTION 8. Payment of Costs. The City shall pay out of the proceeds of the Notes all costs incurred in connection with the issuance, transfer, exchange, registration, redemption and payment of the Notes except (a) the reasonable fees and expenses of replacing a Note or Notes which have been mutilated, stolen, lost or destroyed, or (b) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Notes.

SECTION 9. Creation of Funds and Accounts, Disposition of Proceeds. The following funds and accounts are created by the City in connection with the Notes:

- (A) Project Fund (the "2006-B Project Fund"); and
- (B) Principal and Interest Account (the "2006-B Notes Principal and Interest Account").

The proceeds from the sale of the Notes shall be deposited into the Treasury of the City for the credit of the funds and accounts created by this Section 9, and shall be applied as follows:

- (C) Accrued interest on the Notes, premium, if any, shall be deposited in the 2006-B Notes Principal and Interest Account; and
- (D) \$2,700,000 of the proceeds of the Notes shall be deposited in the 2006-B Project Fund.

The 2006-B Project Fund and 2006-B Notes Principal and Interest Account shall be administered and maintained for the purpose of depositing moneys received in connection with the issuance, sale and delivery of the Notes. Amounts deposited in the 2006-B Notes Principal and Interest Account and shall be applied to the payment of principal of, or interest on the Notes as the same may become due, on the Maturity Date or upon an earlier Redemption Date. The 2006-B Notes Principal and Interest Account may be created as a sub-account of the City's Bond and Interest Fund. Any moneys or investments remaining in the 2006-B Notes Principal and Interest Account after retirement of the indebtedness represented by the Notes shall be transferred to the City's Bond and Interest Fund.

Moneys in the 2006-B Project Fund shall be used to pay the costs associated with the Project and including costs of issuing the Notes and retiring a portion of the City's General Obligation Temporary Notes, Series 2005. Any moneys remaining in the 2006-B Project Fund after completion of the Project shall be deposited in the 2006-B Notes Principal and Interest Account and applied to pay principal of or interest on the Notes.

Moneys held in the funds and accounts created by this Resolution may be invested by the City in investments permitted by State law, in amounts and maturing at times that reasonably provide for moneys to be available when required in such funds or accounts. All interest earnings on such investment shall accrue to and become part of the fund or account.

SECTION 10. Delivery of Notes. The Mayor and City Clerk are authorized and directed to prepare and execute the Note in the form directed by this Resolution, including a reasonable inventory quantity of Note certificates for transfer, exchange and replacement, and to cause the registration and countersignature of the Notes, as required by this Resolution. The Notes have been sold to [Original Purchaser] [City, State], (the "Original Purchaser"), and shall be delivered to the Original Purchaser upon receipt by the City of the full purchase price of the Notes.

SECTION 11. Sale of the Notes. The Notes shall be sold to the Original Purchaser, at a price equal to the principal amount of the Notes, plus accrued interest from the Dated Date to the date of delivery of the Notes, if any and any premium paid by the Original Purchaser. If requested by the Original Purchaser, the Mayor and City Clerk are authorized to execute a Purchase Agreement on behalf of the City with the Original Purchaser, such Purchase Agreement to be in such final form as may be agreed upon by the governing body and the Original Purchaser.

SECTION 12. Resolution Constitutes Contract, Remedies of Owner. The provisions of this Resolution, and all of the covenants and agreements of the City contained here, shall constitute a contract between the City and the holders of the Notes (the "Owner"), and the Owner shall have the right:

(A) By mandamus or other suit, action or proceeding at law or in equity to enforce its rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of this Resolution or by the Constitution and laws of the State of Kansas as related to the Notes,

(B) By suit, action or other proceeding in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust, and

(C) By suit, action or other proceeding in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owner.

SECTION 13. Limitation on Actions by Owner; Remedies Cumulative; Delay or Omission Not Waiver. An Owner secured by this Resolution shall have no right in any manner whatsoever to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of the Owners of any or all of the Notes then outstanding. Nothing in this Resolution or in the Notes shall affect or impair the obligations of the City to pay the principal of and the interest on the Notes to the Owner thereof on the Maturity Date or any Redemption Date, or affect or impair the right of action of the Owner to enforce payment of the Notes held by it, or to reduce to judgment its claim against the City for payment of the principal and interest on the Notes. No remedy conferred by this Resolution upon an Owner is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given here or now or subsequently existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy, however given. No delay or omission of the Owner to exercise any right or power accruing as an acquiescence therein, and every right, power and remedy given by this Resolution to the Owner, may be exercised from time to time and as often as may be deemed expedient. In case any proceeding taken by the Owner on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owner shall be restored to its former position and right hereunder, and all rights remedies, powers and duties of the Owner shall continue as though no such proceedings had been taken.

SECTION 14. Amendments. The City may, without the consent of the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision which may be inconsistent with any other provision, or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security, or (iii) to more precisely identify the Project or (iv) to conform this Resolution to the Code (as defined in Section 16) or future applicable Federal laws concerning tax-exempt obligations like the Notes. The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City, consented to by 100% of the Owners as evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, which is filed with the City Clerk. The following modifications and amendments shall require written consent of 100% of the Owners:

(A) Extension of the Maturity of any payment of principal or interest due on the Notes, or

(B) A reduction in the amount which the City is required to pay by way of principal or interest on the Notes.

Amendments or modifications of the Notes not described in the preceding paragraph may be made by the City with the written consent of the Owners of not less than two-thirds of the principal amount of the Notes then outstanding.

Any and all amendments or modifications described by this Section shall be effective upon adoption of a resolution of the City authorizing such amendment or modifications. It shall not be necessary to note on any outstanding Notes a reference to such modification or amendment. A certified copy of any such resolution shall be filed with the City Clerk and made available for inspection by the Owners or any prospective purchaser of a Note.

SECTION 15. Tax Covenants. The governing body of the City hereby covenants that so long as the Notes remain outstanding and unpaid, it will not make or permit the use of the Note proceeds in a manner which, if such use had been reasonably expected on the date of the Notes were issued and delivered, would cause Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”). The City will comply with all applicable requirements of Section 148 of the Code and rules and regulations of the United States Treasury Department issued thereunder for so long as the Notes remain outstanding and unpaid. The governing body hereby further covenants to take all such action in its power as may be required from time to time in order to assure that interest on the Notes remains excluded from gross income for purposes of federal income taxation, and to comply with all provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department.

SECTION 16. Qualified Tax-Exempt Obligations. The governing body of the City hereby designates the Notes as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code.

SECTION 17. Preliminary Official Statement and Official Statement. The City ratifies and confirms its earlier approval of the form and content of the Preliminary Official Statement describing the Notes and dated November 2, 2006. The Preliminary Official Statement is “deemed final” by the City except for the omission of certain information as described in Securities and Exchange Commission Rule 15c2-12 (the “Rule”). The City approves the form and content of any addenda, supplement, or amendment of the Preliminary Official Statement used to prepare the final Official Statement. The final Official Statement is “deemed final” by the City in accord with the Rule. The use of the final Official Statement in reoffering the Notes by the Original Purchaser is approved and authorized and the Mayor or City Clerk are authorized to execute a certificate regarding the adequacy and accuracy of the information contained in the Preliminary Official Statement and the final Official Statement.

SECTION 18. Continuing Disclosure. The City covenants and agrees to provide continuing disclosure with respect to the Notes as required by the Rule and as set forth in the

Continuing Disclosure Undertaking attached to the Official Statement as Appendix C which is incorporated here by this reference.

SECTION 19. Severability. If any provision of the Resolution shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 20. Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the governing body of the City of Paola, Kansas on November 14, 2006.

CITY OF PAOLA, KANSAS

[seal]

By \_\_\_\_\_  
Artie Stuteville, Mayor

ATTEST:

By \_\_\_\_\_  
Daniel G. Droste, City Clerk