

ORDINANCE NO. 2968

AN ORDINANCE OF THE CITY OF PAOLA, KANSAS, AUTHORIZING THE EXECUTION OF A LEASE PURCHASE AGREEMENT BY THE CITY TO PROVIDE FOR THE ACQUISITION OF CERTAIN EQUIPMENT FOR THE PUBLIC WORKS DEPARTMENT

WHEREAS, the governing body of the city of Paola, Kansas (the “City”), according to K.S.A. 12-101 *et seq.* and K.S.A. 10-1116, has found it necessary to enter into a Lease Purchase Agreement to pay the costs of acquiring a (1) 1999 Vac-Con Combination Sewer Cleaner, (2) 2005 Hamm 3205 54” Vibratory Packer, and (3) 1979 John Deere 570A Road Grader for use by the City (the “Equipment”), as more fully described in the Lease Purchase Agreement authorized by this Ordinance.

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

SECTION 1. Authorization of Lease Purchase Agreement. The Lease Purchase Agreement, in substantially the form presented to the governing body on this date is authorized and approved with such additions, revisions or corrections as may be approved by the Mayor and City Clerk. Their approval of any such changes shall be evidenced by their execution of the Lease Purchase Agreement.

SECTION 2. Execution of Lease Purchase Agreement. The Mayor and the City Clerk are authorized and directed to execute the Lease Purchase Agreement on behalf of the City and to execute any ancillary certificates or documents necessary to accomplish the purposes of this Ordinance and the Lease Purchase Agreement.

SECTION 3. Rental Payments. The Rental Payments required by the Lease Purchase Agreement shall be made from funds budgeted and appropriated for that purpose during the City’s current budget year and other funds lawfully available to the City for such purpose, in accordance with the Lease Purchase Agreement, and as provided by law, and shall not be paid from any other moneys or sources (except to the extent paid from moneys attributable to proceeds from insurance policies, condemnation awards or awards resulting from defaults under certain circumstances).

SECTION 4. Non-Arbitrage Covenant. The City hereby covenants that so long as any of the Rental Payments remain outstanding and unpaid under the Lease Purchase Agreement, it will not make or permit use made of the proceeds from the Lease Purchase Agreement which, if such use had been reasonably expected on the date of execution and delivery, would have caused the Rental Payments to constitute “arbitrage bonds” within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”); and that it will comply with all applicable requirements of Section 148 of the Code and the applicable rules and regulations of

the United States Treasury Department for so long as any of the Rental Payments under the Lease Purchase Agreement remain outstanding and unpaid. The City hereby further covenants to take all such action in its power as may be required from time to time in order to assure the continued exclusion from gross income for the purpose of Federal income taxation of the interest component on the Rental Payments, 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 under the Code.

SECTION 5. Effective Date. This Ordinance shall be in force and take effect from and after its adoption and approval and its publication one time in the City's official newspaper.

ADOPTED AND APPROVED by the governing body of the City of Paola, Kansas on February 26, 2008.

CITY OF PAOLA, KANSAS

[seal]

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

ATTEST:

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