

RESOLUTION NO. 2023-005

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES A, 2023, IN THE PRINCIPAL AMOUNT OF \$7,570,000, OF THE CITY OF PAOLA, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 3198 OF THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the governing body of the City of Paola, Kansas (the "City"), has adopted Ordinance No. 3198 (the "Bond Ordinance") authorizing the issuance of the City's General Obligation Bonds, Series A, 2023 (the "Bonds") for the purpose of providing funds to (i) pay a portion of the costs of the Project (as defined in the Bond Ordinance), (ii) refund and redeem the City's General Obligation Temporary Notes, Series 2022 (the "2022 Notes"), (iii) refund a portion of the interest for the 2014 Bonds (as defined in the Bond Ordinance) and (iv) pay the costs of issuing the Bonds; and

WHEREAS, the Bond Ordinance authorized the governing body of the City to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds.

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

SECTION 1. Authority for Bonds; Security. In the Bond Ordinance the City has authorized the issuance of the Bonds for the purposes described in the Bond Ordinance. Payment of the Bonds is secured as described in the Bond Ordinance. The Bond Ordinance and this Resolution shall be read and construed together in all matters relating to the Bonds.

SECTION 2. Details of Bonds; Payment of Principal and Interest. The Bonds shall be issued in the total principal amount of \$7,570,000.00, shall be designated "City of Paola, Kansas, General Obligation Bonds, Series A, 2023"; and shall be dated March 1, 2023 (the "Dated Date"). The Bonds shall mature on September 1 (the "Principal Payment Date") in each of the years and in the principal amounts and shall bear interest at the respective rates per annum (computed on the basis of a 360-day year of twelve 30-day months), as follows:

Maturity Schedule
SERIAL BONDS

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
09/01/2023	\$455,000.00	5.00%
09/01/2024	320,000.00	5.00%
09/01/2025	355,000.00	5.00%

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
09/01/2026	385,000.00	5.00%
09/01/2027	420,000.00	5.00%
09/01/2028	455,000.00	5.00%
09/01/2029	495,000.00	5.00%
09/01/2030	535,000.00	5.00%
09/01/2031	580,000.00	4.00%
09/01/2032	620,000.00	4.00%
09/01/2033	665,000.00	5.00%
09/01/2034	715,000.00	4.00%
09/01/2035	760,000.00	4.00%
09/01/2036	810,000.00	4.00%

Subject to the book-entry provisions of Section 6 of this Resolution, the Bonds shall be issued as fully registered certificated bonds without coupons in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of Bonds maturing on the respective Principal Payment Date; and the Bonds shall be numbered in such manner as the Bond Registrar (hereinafter defined) shall determine.

The principal amount of the Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent (as defined in the Bond Ordinance) upon the presentation of the Bonds for payment and cancellation at the Paying Agent's principal office in the City of Topeka, Kansas. The interest on the Bonds shall be payable in lawful money of the United States of America to the owners of the Bonds (the "Owners") as of the Record Date (hereinafter defined), by check or draft of the Paying Agent mailed to the Owners at their addresses as shown on the Registration Books, at such other address as an Owner has furnished in writing to the Bond Registrar, or, in the case of an interest payment to an Owner that is a securities depository, or an owner of \$500,000 or more aggregate principal amount of the Bonds, by electronic transfer, upon written notice given to the Paying Agent by that Owner, not less than 15 days before the Record Date for such payment, containing the electronic transfer instructions, including the bank address, ABA routing number and account number where the wire transfer should be directed.

The interest on the Bonds shall be payable semiannually on March 1 and September 1 of each year (the "Interest Payment Dates"), commencing September 1, 2023, to the Owners of the Bonds as shown on the Registration Books as of the fifteenth (15th) day of the month prior to the Interest Payment Date (the "Record Date"). The Bonds shall bear interest from the Interest Payment Date immediately preceding their effective authentication date, unless such effective authentication date shall be an Interest Payment Date in which case the Bonds shall bear interest from such Interest Payment Date, or unless the effective authentication date shall be prior to the first Interest Payment Date, in which case the Bonds shall bear interest from the Dated Date. The effective date of authentication shall be set forth on each Bond, such date to be the date of authentication by the Bond Registrar.

If a Principal Payment Date or an Interest Payment Date (collectively a "Payment Date") occurs on a date which is 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 normally scheduled to be closed, then the payment of such principal, premium or interest may be made 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 the scheduled Payment Date.

While the Bonds are in book-entry form the Paying Agent (defined in the Bond Ordinance and this Resolution) shall make payments directly to DTC or its nominee, as the registered owner, for the principal of and the interest on the Bonds; and DTC will remit such principal and interest to its Direct Participants for distribution to the Beneficial Owners, all as defined and in the manner set forth in the following Section 6 and as governed by the terms of the Letter of Representation described in Section 6.

SECTION 3. Redemption of Bonds.

(A) Optional Redemption. At the option of the City, the Bonds maturing September 1, 2031, and thereafter, may be called for redemption and payment prior to their respective maturities, on September 1, 2030, or thereafter, as a whole or in part at any time, as determined by the City, at a redemption price equal to the principal amount, plus accrued interest to the date of redemption, without premium.

(B) Selection of Bonds to be Redeemed. The Bonds shall be redeemed only in face amounts of \$5,000 or integral multiples thereof. If the City elects to call for redemption less than all of the Bonds at the time outstanding, the Bonds shall be redeemed in such manner as the City shall determine, with Bonds of less than a full maturity to be selected by lot in units of \$5,000; and the City shall, in the case of Bonds registered in denominations greater than \$5,000, treat each \$5,000 of face value of a Bond so registered as though it were a separate Bond in the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any fully registered Bond certificate is selected for redemption, then the Owner of such Bond shall forthwith present and surrender such Bond to the Paying Agent for payment of the redemption price of the \$5,000 unit or units of face value called for redemption, and for exchange, without charge to the Owner thereof for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond of a denomination greater than \$5,000 shall fail to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of the principal amount thereof called for redemption (and to that extent only).

(C) Notice of Redemption. The City shall give notice of any call for redemption and payment in writing to the Paying Agent not less than forty-five (45) days prior to the redemption date; and the Paying Agent shall give notice of such call for redemption and payment in writing mailed via United States first class mail to the Owners of the Bonds so called not less than thirty (30) days prior to the redemption date, unless any Owner has waived such written notice of redemption. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State of Kansas which are in effect as of the date of giving any such notice. All notices of redemption given under the

provisions of this Section shall state (i) the redemption date, (ii) the redemption price, (iii) if less than all Outstanding Bonds are to be redeemed, the identification (and in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed, (iv) that on the redemption date the principal amount, and premium, if any, will become due and payable upon each such Bond or portion thereof which has been selected for redemption, and that the interest thereon shall cease to accrue from and after the redemption date, (v) any conditions required prior to redemption and payment, and (vi) that the Bonds so selected for redemption are to be surrendered to or at the principal office of the Paying Agent for payment. The failure of any Owner of the Bonds to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

At the option of the City, a notice of optional redemption may be made conditional upon moneys being on deposit with the Paying Agent on or prior to the redemption date in an amount sufficient to pay the redemption price on the redemption date. If the notice is conditional and moneys are not received, the notice shall be of no force and effect, the Paying Agent shall not redeem such Bonds and the Paying Agent shall give notice, in the same manner that notice of redemption was given, that moneys were not received, and Bonds will not be redeemed.

For as long as the Securities Depository (defined in Section 6) is making book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this subsection to the Securities Depository. It is expected the Securities Depository will, in turn, notify its Participants and that its Participants, in turn, will notify or cause to notification of the Beneficial Owners of the Bonds. A failure on the part of the Securities Depository or a Participant, or a failure on the part of a nominee of a Beneficial Owner of Bond (having received notice of a redemption from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bonds so affected, shall not affect the validity of the redemption of such Bond.

(D) Deposit of Moneys for and Payment of Redemption Price. On or prior to the redemption date, the City shall deposit with the Paying Agent sufficient funds to pay the redemption price, together with all unpaid and accrued interest thereon to the redemption date, of all Bonds or portions thereof selected for redemption on the redemption date. Upon the surrender by the Owners of Bonds selected for redemption, the Paying Agent shall pay the redemption price therefor to the Owners. If one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption and surrendered and paid, then the Paying Agent shall prepare and furnish to the Owner thereof a new Bond or Bonds of the same maturity and in the amount of the unredeemed portion of such Bond as provided above. All Bonds selected, called and surrendered for redemption shall be canceled by the Paying Agent and shall not be reissued.

(E) Effect of Call for Redemption. Whenever any Bond, or one or more of the \$5,000 units of face value represented by any Bond, has been selected for redemption and payment as provided in this Section, all interest on such Bond, or such one or more of the \$5,000 units of face value represented by any such Bond, shall cease from and after the redemption date, provided funds are then available for its payment at the price hereinbefore specified.

SECTION 4. Designation of Paying Agent and Bond Registrar. In the Bond Ordinance the City has designated the State Treasurer of Kansas, Topeka, Kansas as the Bond Registrar and Paying Agent for the Bonds pursuant to the Issuer/Agent Agreement for the Bonds and the Bond Act (each as defined in the Bond Ordinance).

In the event that the Bonds should be issued and delivered in certificated form at any time after the initial delivery of the Bonds, the Paying Agent shall maintain Registration Books for the ownership of the Bonds on behalf of the City; and the Paying Agent will make payment for the Bonds directly to the registered owners of the Bonds as shown by said Registration Books in the manner set forth in Section 2 hereof.

SECTION 5. Ownership; Transfers and Exchanges; Mutilated, Lost, Stolen or Destroyed Bonds. Pursuant to the Issuer/Agent Agreement, the Bond Registrar shall maintain books for the recording of the initial registration and any subsequent transfers of the ownership of the Bonds (the "Registration Books"), and the person(s) in whose name any Bond is 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 such Bond 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 Bond, including the interest thereon, to the extent of the sum or sums so paid.

The provisions, terms, conditions and requirements for the transfer and exchange of the Bonds, and for the replacement of a mutilated, lost, stolen or destroyed Bond are fully set forth in the Issuer/Agent Agreement. Replacement bonds delivered upon any transfer or exchange made in compliance with the provisions, terms, conditions and requirements set forth in the Issuer/Agent Agreement shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the pledges made in this Resolution and the Bond Ordinance and shall be entitled to all of the security and benefits hereof to the same extent as the bonds surrendered.

SECTION 6. Book-Entry-Only Bonds. The Bonds 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 for each maturity 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 Bonds maturing on the respective Principal Payment Dates as authorized herein. Notwithstanding anything in this Resolution to the contrary, so long as the Bonds remain in book-entry-only form the manner of payment of the principal of and the interest on the Bonds to DTC, and other matters relating to the distribution of the Bonds in book-entry-only form through DTC, shall be governed by the provisions of this Section 6 and a Letter of Representations from the City to DTC (the "Letter of Representations"), which the Mayor or City Clerk is hereby authorized to execute and deliver on behalf of the City.

One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total principal amount of the Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York; and such certificates will be immobilized in its custody. Purchases of the Bonds in denominations permitted by Section 2 hereof must be made

by or through Direct Participants of DTC (as defined in the Letter of Representations), which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (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 Bonds 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 Bond 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 the Bond Registrar receives written notice from Participants having interest in not less than 50% of the Bonds 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 Bonds being issued to any Registered Owner other than Cede & Co., is no longer in the best interest of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the registered owners of such determination or such notice, and the Bond Registrar shall register in the name of and authenticate and deliver replacement Bonds 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 Bonds"). If issued in certificated form, the certificates representing the Bonds shall be numbered in such manner as the Bond Registrar shall determine.

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

SECTION 7. Execution and Authentication. The Bonds shall be executed for and on behalf of the City by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk, and shall have affixed or imprinted thereon a facsimile of the City's official seal. The Bonds shall be registered in the Office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk on a Certificate of Registration which shall be printed on the bonds, attested by a facsimile of the City's official seal imprinted opposite said signature. The Bonds shall be registered by the State Treasurer in the municipal bond register in their office, which registration shall be evidenced by their manual or facsimile signature on a Certificate of State Treasurer which shall be printed on the reverse of the Bonds, and which shall be attested by a facsimile of their official seal imprinted opposite their signature. In case any officer of the City or of the State whose signature shall appear on the Bonds shall cease to be such officer before the actual delivery of the Bonds, 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 bond shall be valid or obligatory for any purpose unless and until the Certificate of Authentication thereon is duly executed by the Bond Registrar, and such duly executed Certificate on any Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Bond Registrar's Certificate of Authentication on any Bond shall be deemed to be duly executed by it when manually signed by an authorized officer or signatory thereof; and it shall not be necessary that the same officer or signatory of the Bond Registrar manually sign such Certificate on all Bonds issued under this Resolution.

SECTION 8. Non-presentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at maturity, the Paying Agent shall repay to the City the funds therefore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

SECTION 9. Payment of Costs. The City shall pay out of the proceeds of the Bonds all costs incurred in connection with the issuance, transfer, exchange, registration, redemption and payment of the bonds except (a) the reasonable fees and expenses of replacing a Bond or Bonds 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 Bonds.

SECTION 10. Form of Bonds. The Bonds issued under this Resolution shall be evidenced by printed certificates in the form required by the laws of the State of Kansas, and shall contain recitals as required by the Constitution and Laws of the State of Kansas, including a recital that the Bonds are issued in the manner prescribed by the Bond Act, and pursuant to the authority of the Public Building Act, the Drainage Act, the Home Rule Amendment, and the Refunding Act, for the purpose of (i) pay a portion of the costs of the Project (as defined in the Bond Ordinance, (ii) refund and redeem the City's General Obligation Temporary Notes, Series 2022 (the "2022 Notes"), (iii) refund a portion of the interest for the 2014 Bonds (as defined in the Bond Ordinance) and (iv) pay the costs of issuing the Bonds.

The governing body authorizes and directs Triplett Woolf Garretson, LLC, the City's Bond Counsel, to prepare the form and text of the certificates for the Bonds, and to cause the same to be printed as the definitive bond certificates for the Bonds.

SECTION 11. Creation and Ratification of Accounts. Simultaneously with the issuance and delivery of the Bonds, the following accounts for the Bonds are created or ratified in the City's treasury:

General Obligation Bonds, Series A, 2023 Principal and Interest Account (the "Series A, 2023 Principal and Interest Account"); and

General Obligation Bonds, Series A, 2023 Project Fund (the "Project Fund").

The Series A, 2023 Principal and Interest Account shall be administered and maintained for the purpose of depositing moneys from the issuance, sale and delivery of the Bonds which represent accrued interest and premium, if any, and for the subsequent payment and retirement of the Bonds, whether upon an Interest Payment Date, Principal Payment Date or upon the redemption thereof prior to maturity, and for no other purpose. The Series A, 2023 Principal and Interest Account may be created as a subaccount of the City's Bond and Interest Fund.

Moneys in the Project Fund shall be used for the purposes of (a) paying the costs of the Project, according to plans and specifications approved by the City's governing body, (b) refunding and redeeming the City's General Obligation Temporary Notes, Series 2022, on March 15, 2023 (the "2022 Notes"), (c) refunding a \$5,000 portion of the interest on the Series 2014 Bonds (defined in the Ordinance) due on March 1, 2023, by transferring \$5,000 from the Project Fund to the principal and interest account for the Series 2014 Bonds, and (d) paying Costs of Issuance of the Bonds. Costs of Issuance includes any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to underwriting fees and expenses, underwriting discount, bond and other printing expenses, rating agency fees, any premiums or expenses incurred in obtaining the Municipal Bond Insurance Policy for the Bonds (described in Section 20), and expenses of City's Counsel and Bond Counsel.

The City authorizes and directs that, upon the completion and final payment of the costs of the Project, Costs of Issuance of the Bonds, and retirement of the 2022 Notes from the Project

Fund, any moneys remaining in the Project Funds shall be transferred to and deposited in the Series A, 2023 Principal and Interest Account for the Bonds created by this Section.

SECTION 12. Sale and Delivery of Bonds; Disposition of Proceeds. The Mayor and City Clerk are authorized and directed to prepare and execute the Bonds in the form and manner specified in this resolution, including a reasonable inventory quantity of bond certificates for transfer, exchange, and replacement in accordance with the provisions hereof; and when executed the Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided.

The Mayor or acting Mayor is authorized to enter into the Bond Purchase Agreement (the "Bond Purchase Agreement") between the City and Raymond James & Associates, Inc., Leawood, Kansas (the "Underwriter"), in substantially the form submitted to the governing body with this Resolution, with such changes therein as are approved by the Mayor, with such officer's signature being conclusive evidence of approval.

The Bonds having been sold as provided by law, they shall be delivered to the Underwriter through the clearing facilities of DTC, upon receipt by the City of the full purchase price therefor as specified in the Bond Purchase Agreement.

The proceeds from the sale of the Bonds shall be deposited into the Treasury of the City for the credit of and shall be applied, together with other monies of the City, as follows:

(A) The amount of the proceeds representing accrued interest on the Bonds, if any, shall be credited to and deposited in the Series A, 2023 Principal and Interest Account; and any said accrued interest will be used toward the payment of the first maturing interest on the Bonds; and

(B) \$8,083,217.80 of the proceeds shall be immediately credited to and deposited in the Project Fund for the direct payment or reimbursement to the City of the costs and expenses of the Project, including Costs of Issuance of the Bonds, retirement of the 2022 Notes (along with \$203,741.21 representing unspent proceeds of the 2022 Notes), and refunding \$5,000 of interest on the Series 2014 Bonds, as described in Section 11 hereof. Costs of Issuance authorized to be paid from bond proceeds on the delivery date of the Bonds is the premium for the Municipal Bond Insurance Policy of \$19,430.30.

SECTION 13. Resolution Constitutes Contract; Remedies of Owners. The provisions of this Resolution, and all of its covenants and agreements, shall constitute a contract between the City and the Owners, and the Owners of not less than ten percent (10%) of the Bonds at the time Outstanding shall have the right, for the equal benefit and protection of all Owners similarly situated:

(A) By mandamus or other suit, action or proceeding at law or in equity to enforce his or their 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;

(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 Owners.

SECTION 14. Limitation on Actions by Owners; Remedies Cumulative; Delay or Omission Not Waiver. No one or more of the Owners secured by this Resolution, shall have any right in any manner whatsoever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all of the Owners. Nothing in this Resolution or in the Bonds shall affect or impair the obligations of the City to pay at the date of maturity thereof or on any prepayment date established therefor, the principal of and the interest on the Bonds to the respective Owners thereof or affect or impair the right of action of any Owners to enforce payment of the Bonds held by them, or to reduce to judgment their claim against the City for the payment of the principal amount of and the interest on the Bonds without reference to or consent of any other Owners. No remedy herein conferred upon the Owners 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 hereunder or now or hereafter existing at law or in equity or by statute and may be exercised without regard to any other remedy however given. No delay or omission of any Owners to exercise any right, power or remedy accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or be construed as an acquiescence in default, and every right, power and remedy given by this Resolution to the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient. In case any proceeding taken by any Owners on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owners, then in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as though no such proceedings had been taken.

SECTION 15. 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 herein which may be inconsistent with any other provision herein 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 hereinafter defined) or future applicable Federal laws concerning tax-exempt obligations. 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 an ordinance of the City with the consent of the Owners of not less than seventy-five percent (75%) in principal amount of the bonds then outstanding, such consent to be evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk; provided that, the following

modifications or alterations shall require the written consent of one hundred percent (100%) of the Owners of the then outstanding Bonds:

- (A) Extending the maturity of any payment of principal or interest due upon the Bonds, or
- (B) Effecting a reduction in the amount which the City is required to pay by way of principal or interest on the Bonds, or
- (C) Permitting a preference or priority of any Bond or Bonds over any other Bond or Bonds, or
- (D) Reducing the percentage of the principal amount of the then outstanding Bonds for which the written consent of the Owners is required for any modification or alteration of the provisions of this Resolution.

Any and all modifications made as provided above shall not become effective until a copy of the ordinance of the City authorizing the modifications, duly certified and published, and proof of consent to such modification by the required percentage of Owners, is filed with the City Clerk. It shall not be necessary to note on any of the outstanding Bonds any reference to such amendment or modification.

SECTION 16. Defeasance. When the principal of and the interest on the Bonds shall have been paid and discharged, then the requirements contained herein, and all other rights granted by this Resolution shall cease and terminate. The Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or with a bank located in the State of Kansas and having full trust powers, at or prior to the maturity or date of redemption, as the case may be, of the Bonds, in trust for and irrevocably appropriated thereto, moneys and/or Government Securities consisting of direct obligations of, or obligations payment of the principal of and interest on which are guaranteed by, the United States of America, which together with the interest to be earned on such Government Securities, will be sufficient for the payment of the principal amount of and the interest on the Bonds, to the date of maturity or redemption, as the case may be, or if default in such payment shall have accrued on such date, then to the date of the tender of such payments; provided that, if such payment and discharge is to be made on a redemption date that notice of such redemption has been duly and properly given as provided by this Resolution and that all of the other terms and provisions of this Resolution relative to the call for and the redemption and payment of the Bonds shall have been satisfied. Any moneys which at any time shall be deposited with the Paying Agent or such Kansas bank by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or interest thereon, shall be and are hereby assigned, transferred, and set over to the Paying Agent or such Kansas bank in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys so deposited with the Paying Agent, or such Kansas bank shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution.

SECTION 17. Surrender and Cancellation of Bonds. Whenever any outstanding Bond shall be delivered to the Bond Registrar after payment of the principal amount of and the interest represented thereof or for replacement pursuant to this Resolution, such Bond shall be canceled and destroyed by the Bond Registrar and counterparts of a Certificate of Destruction describing such Bonds so destroyed and evidencing such destruction shall be furnished by the Bond Registrar to the City.

SECTION 18. Tax Covenants. The governing body of the City covenants that so long as any of the Bonds remain outstanding and unpaid, it will not use or permit the use of the proceeds thereof in a manner which, if such use had been reasonably expected on the date of issuance and delivery, would have caused the Bonds to be "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 rules and regulations of the United States Treasury Department relating to the applicable provisions of the Code for so long as any of the Bonds remain outstanding and unpaid. The governing body further covenants to take all such action in its power as may be required from time to time in order to ensure the continued tax-exempt status of the interest on the Bonds, 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 19. Designation as Qualified Tax-Exempt Obligations. The governing body of the City has designated the Bonds as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code in the Bond Ordinance.

SECTION 20. Municipal Bond Insurance. Notwithstanding any provision in this Resolution to the contrary, as long as the Policy described in this Section is in effect, the terms of this Section 20 shall apply to the Bonds.

(A) Definitions. The following definitions apply to this Section 20:

- (i) "BAM" shall mean Build America Mutual Assurance Company, or any successor thereto.
- (ii) "Policy" shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Bonds when due.
- (iii) "Security Documents" shall mean the Bond Ordinance, this Resolution, the Bonds, and/or any additional or supplemental document executed in connection with the Bonds.

(B) Notice and Other Information to be given to BAM. The City will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Undertaking, (ii) to the Bond Registrar and Paying Agent under this Resolution, and (iii) to the Owners of the Bonds under the Security Documents. The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27th Floor, New York, NY

10281, Attention: Surveillance, Re: Policy No. 2020B0946, Telephone: (212) 235-2500, Telecopier: (212) 962-1710, Email: notices@buildamerica.com. In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 962-1710 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

(C) Amendments, Supplements and Consents.

- (i) *Consents and Amendments.* Wherever any Security Document requires the consent of Owners, BAM's consent shall also be required. In addition, any amendment, supplement or modification to the Security Documents that adversely affect the rights or interests of BAM shall be subject to the prior written consent of BAM.
- (ii) *Control Rights of BAM Upon Default.* Anything in any Security Document to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole Owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners of the Bonds or the trustee, paying agent, registrar, or similar agent (the "Agent") for the benefit of such holders under any Security Document. The Agent may not waive any default or event of default or accelerate the Bonds without BAM's written consent.

(D) BAM As Third-Party Beneficiary. BAM is explicitly recognized as and shall be deemed to be a third-party beneficiary of the Security Documents and may enforce any right, remedy or claim conferred, given or granted thereunder.

(E) Policy Payments.

- (i) In the event that principal and/or interest due on the Bonds shall be paid by BAM pursuant to the Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the City to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners including, without limitation, any rights that such owners may have in respect of securities law violations arising from the offer and sale of the Bonds.
- (ii) Notwithstanding anything to the contrary, the City and the Agent shall agree for the benefit of BAM that: (A) They recognize that to the extent BAM makes payments directly or indirectly (e.g., by paying through the Agent), on account of principal of or interest on the Bonds, BAM will be

subrogated to the rights of such Owners to receive the amount of such principal and interest from the City, with interest thereon, as provided and solely from the sources stated in the Security Document and the Bonds; and (B) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon, but only from the sources and in the manner provided in the Security Documents and the Bonds for the payment of principal of and interest on the Bonds to Owners, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

(iii) *Special Provisions for BAM Default:* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in Section 20 (c)(ii) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Bonds for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph (iii), "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

SECTION 21. Other Documents. The Mayor and City Clerk are authorized and directed to prepare and execute any and all supporting documents and certificates required in the issuance of the Bonds, including any applicable notice of redemption of the 2022 Notes, the Bond Purchase Agreement and including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds all without further action by the governing body.

SECTION 22. Further Authority. The City shall, and the officers, agents, and employees thereof, are authorized and directed to, take such actions, expend such moneys, and execute such

other documents, certificates and instruments as may be necessary or desirable in order to carry out and comply with the provisions of this Resolution and to give effect to the transactions contemplated hereby.

SECTION 23. Severability. If any section, paragraph, clause, or provision of this Resolution is, for any reason, held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any remaining provisions of this Resolution.

SECTION 24. Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval.

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ADOPTED AND APPROVED by the governing body of the City of Paola, Kansas on February 14, 2023.

CITY OF PAOLA, KANSAS



By Leigh House
Leigh House, Mayor

ATTEST:

By Stephanie Marler
Stephanie Marler, City Clerk