

ORDINANCE NO. 763

AN ORDINANCE DETERMINING THE ADVISABILITY OF FINANCING THE ACQUISITION OF A VARIABLE FREQUENCY DRIVE FOR THE IRRIGATION SYSTEM AT CEDAR HILLS GOLF COURSE, WASHINGTON, KANSAS, FOR USE BY THE CITY AND APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE PURCHASE AGREEMENT, WHEREBY THE CITY SHALL LEASE SAID EQUIPMENT UPON TERMS AND CONDITIONS SET FORTH THEREIN.

WHEREAS, The Governing Body of the City of Washington, Kansas, (the “City”) has considered the need of the City and its residents to acquire a variable frequency drive for the irrigation system at Cedar Hills Golf Course for use by the City (the “Equipment”), and have found and determined that the acquisition of the Equipment is in the public interest; and

WHEREAS, the City Council has considered various means of financing the acquisition of the Equipment, and has found and determined that it would be in the public interest to acquire the Equipment through the execution and delivery of a Lease Purchase Agreement; and

WHEREAS, pursuant to Article 12, Section 5 of the Constitution of the State of Kansas, K.S.A. 12-101 and K.S.A. 10-1116b and 10-1116c, the City has legal authority to authorize the acquisition of the Equipment through the execution and delivery of a lease Purchase Agreement as hereinafter described; and

WHEREAS, it has been determined to be in the public interest and in the exercise of the City’s governmental powers and purposes for the City to enter into a Lease Purchase Agreement, dated as of October 18, 2012, (the “Lease”), whereby the city shall lease the Equipment described herein from the Bank of Palmer, Palmer, Kansas, (the “Bank”) for lease rental payments according to the payment schedule attached to the Lease; and

WHEREAS, it has been determined that the City has authority to enter into the Lease without publishing notice of its intent to do so pursuant to K.S.A. 10-1116c because of the nature of the property to be leased and the rentals to be paid.

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

SECTION 1. The Governing Body hereby determines that a need exists for the Equipment and deems it advisable for the City to negotiate a contract for the acquisition of the equipment in an amount not to exceed \$20,000.00 and to enter into a Lease Purchase Agreement to provide for a portion of the costs of acquiring the Equipment in an amount not to exceed \$20,000.00.

SECTION 2. It is hereby deemed necessary that the City enter into a Lease Purchase Agreement to provide for the acquisition of the Equipment and related financing costs.

SECTION 3. The Lease between the Bank, as Lessor and the City, as Lessee, is hereby authorized and approved in the form as presented this date to the Governing Body of the City and the Mayor and City Clerk are hereby authorized to execute the Lease on behalf of the City.

SECTION 4. The Mayor and City Clerk are hereby authorized to execute such ancillary certificates and documents as are necessary to accomplish the purposes set forth herein and the Lessee.

SECTION 5. It is understood and intended that the obligation of the City to pay rental payments under the Lease shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of applicable constitutional and statutory debt limitations, nor shall any obligation created thereby constitute a pledge of the general tax revenues, funds or moneys of the City. The City is obligated only to pay Base Rental Payments under the Lease as may lawfully be made from (i) funds budgeted and appropriated for that purpose during the City's current budget year or (ii) funds made available from any lawfully operated revenue producing source, specifically including, but not limited to, the City's Electric Utility System, as provided by K.S.A. 10-1116b, as amended.

SECTION 6. This Ordinance shall constitute a Declaration of Official Intent under applicable U.S. Treasury Regulations. The passage of this Ordinance is consistent with the budgetary and financial circumstances of the City. This Ordinance shall be placed in the official records of the City within a reasonable period of time after its adoption by the City Commission. This Section shall be deemed satisfied if (i) this Ordinance is made available for public inspection at the office of the City Clerk beginning thirty (30) days after its adoption and continuing until the execution and delivery of the Lease Purchase Agreement, or (ii) the City complies with any request for a copy of it pursuant to the Kansas Open Records Act K.S.A. 45-216 et seq., as amended.

SECTION 7. The City will comply with the applicable provisions of the Internal Revenue Code of 1986 relating to the exclusion from gross income for federal income tax purposes for the interest payable pursuant to the Lease and will take such action as may be necessary to comply with said Code to preserve the tax-exempt status of the interest component of rental payments under the Lease to the extent any such actions can be taken by the Governing Body of the City. The Lease is hereby designated as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code of 1986. The City hereby represents that the reasonable anticipated amount of qualified tax-exempt obligations (other than private activity bonds) which will be issued by the City during the current calendar year does not exceed \$10,000,000.

SECTION 8. This Ordinance shall be in full force and effect from after its passage and approval and publication once in the official city newspaper.

PASSED by the Governing Body of the City of Washington, Kansas, and approved by the Mayor October 16, 2012.

SEAL

Ryan Kern, Council President

ATTEST:

Denise M. Powell, City Clerk