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FINAL (revised)
090513

ORDINANCE NO. HR-4

A HOME RULE ORDINANCE AUTHORIZING THE CITY OF PITTSBURG, KANSAS, (THE "CITY") TO ISSUE AND SELL GENERAL OBLIGATION BONDS OF THE CITY FOR THE PURPOSE OF PROVIDING FUNDS TO REFINANCE AND PREPAY CERTAIN LEASE AND LOAN OBLIGATIONS OF THE CITY, TOGETHER WITH THE PAYMENT OF THE COSTS THEREOF; AUTHORIZING THE EXECUTION OF ALL NECESSARY AND RELATED DOCUMENTS PERTAINING THERETO, ALL PURSUANT TO ARTICLE 12, SECTION 5, OF THE CONSTITUTION OF THE STATE OF KANSAS AND K.S.A. 12-101, AS AMENDED.

WHEREAS, pursuant to Article 12, Section 5, of the Constitution of the State of Kansas, (the "Constitution") cities of the State of Kansas (the "State") are empowered to determine their local affairs and government, including the levying of taxes, excises, fees, charges and other exactions, except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by an enactment of the legislature of the State applicable uniformly to all cities of the same class; and

WHEREAS, the City of Pittsburg, Kansas, (the "City") is, in accordance with such power and authority granted it by the Constitution, authorized pursuant to K.S.A. 12-101, as amended, and other specific grants of statutory authority to contract for and incur obligations to finance capital improvement projects to serve the City and its citizens and residents; and

WHEREAS, such obligations as incurred by the City to finance capital improvement projects may take the form of general or limited obligation bonds, which, once issued, may be refunded by the City pursuant to K.S.A. 10-427 et seq., as amended, in the case of general obligation bonds, or K.S.A. 10-116a in the case of revenue or limited obligation bonds; leases; or loan obligations other than bonds; and while bonds may be refunded pursuant to the statutory authority hereinbefore referenced, no such statutory authority presently authorizes or prohibits the City from issuing general obligation bonds of the City to refinance or prepay its lease or loan obligations which do not constitute bonds; and

WHEREAS, the City is authorized under the provisions of K.S.A. 75-37,125 (the "Act") to enter into contracts and/or lease-purchase agreements to finance certain "energy conservation measures" which the Act defines to mean energy studies, audits, improvements or equipment all of which is designed to provide energy and operational cost savings at least equivalent to the amount expended on such measures; and

WHEREAS, in accordance with the terms and conditions of the Act, the City did enter into a Master Lease/Purchase Agreement dated as of November 13, 2007, with Banc of America Public Capital Corp., a Kansas corporation, (the "Lessor") (the "Lease/Purchase Agreement") pursuant to which the City undertook certain energy conservation measures the total cost of which are \$1,826,933.00 (the "Project"); and

WHEREAS, in accordance with the requirements of the Act, the aggregate revenue benefits of the Project undertaken by the City to improve its facilities and instrumentalities will exceed the costs thereof; and

WHEREAS, the Project undertaken to improve facilities and instrumentalities of the City are of a revenue producing character as the financial benefits and savings therefrom to the City will in accordance with the Act exceed the costs thereof; and

WHEREAS, the City's obligations under the Lease/Purchase Agreement finally mature April 1, 2023, and are subject to prepayment by the City on any rental payment date as specified in the Lease/Purchase Agreement including October 1, 2013, upon at least thirty (30) days prior written notice to the Lessor; and

WHEREAS, the refinancing and prepayment of any amount payable by the City under the Lease/Purchase Agreement is not limited or prohibited by the Constitution, K.S.A. 12-101, as amended, or the Act; and

WHEREAS, the governing body of the City (the "Commission") hereby finds that there is presently no Kansas statutory authority either authorizing or prohibiting the City's refinancing and/or prepaying and paying the costs of refinancing and/or prepaying the Lease/Purchase Agreement with the proceeds of general obligation bonds of the City; and

WHEREAS, the Commission hereby finds that the authority to issue general obligation bonds of the City to refinance and/or prepay and pay the costs of refinancing and/or prepaying the Lease/Purchase Agreement and to permanently finance the Project as authorized pursuant to this ordinance (the "Ordinance") is not contrary to any act of the Kansas legislature; accordingly, said authority shall become effective upon passage of this Ordinance and its publication in the official City newspaper; and

WHEREAS, the Commission deems it necessary to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance.

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

Section 1. That it is in the best interest of the City, financially beneficial to the City and a valid public purpose of the City, to authorize the Commission to issue and sell its general obligation bonds of the City for the purpose of refinancing and prepaying and paying the costs of refinancing and prepaying the Lease/Purchase Agreement, permanently financing the Project, and to authorize and direct the Commission, officers, agents and employees of the City to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance pursuant to the Act.

Section 2. That the City is hereby authorized to issue and sell its general obligation bonds as authorized pursuant to this Ordinance to refinance and/or prepay and pay the costs of refinancing and/or prepaying the Lease/Purchase Agreement.

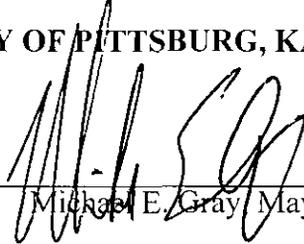
Section 3. That the bonds herein provided for shall constitute a general obligation of the City and shall be issued in accordance with and pursuant to the authority granted hereby and K.S.A. 10-101 to 10-125, inclusive, all as amended.

Section 4. The Commission, officers, agents and employees of the City are authorized to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance.

Section 5. This Ordinance shall be effective upon publication in the official newspaper of the City.

PASSED AND APPROVED by the governing body of the City of Pittsburg, Kansas, this 28th day of May, 2013.

CITY OF PITTSBURG, KANSAS



Michael E. Gray Mayor

ATTEST:



Tammy Nagel, City Clerk

