

RESOLUTION NO. 2022-08

A RESOLUTION AUTHORIZING SEWARD COUNTY, KANSAS, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING, EQUIPPING AND INSTALLING CERTAIN EQUIPMENT; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the constitution and statutes of the State of Kansas, particularly K.S.A. 19-101 *et seq.*, Seward County, Kansas (the "County") is empowered to enter into certain leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

WHEREAS, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of K.S.A. 10-1101 *et seq.* shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from: (a) funds budgeted and appropriated for that purpose during such municipality's current budget year, or (b) funds made available from any lawfully operated revenue producing source; and

WHEREAS, the County has immediate need for acquiring, equipping and installing a Caterpillar Model 930 MHL Wheel Loader (Serial #OF5K02173) (the "Equipment") to further its governmental and public purposes as contemplated by law, but does not have sufficient moneys on hand legally available to purchase the Equipment for its use; and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the County to enter into an annually renewable lease purchase agreement (the "Agreement") with Equity Bank (the "Lender"), pursuant to which the County will lease the Equipment on a year-to-year basis from the Lender with an option to purchase the Lender's interest in the Equipment, a form of which has been submitted to the governing body for review; and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the County to enter into related certificates and agreements.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEWARD COUNTY, KANSAS:

Section 1. Authorization of the Equipment and Approval of the County Documents.

(a) The County is hereby authorized to acquire the Equipment at an estimated cost of \$146,084.00.

(b) The Agreement, and the related certificates and agreements (collectively the "County Documents") are hereby approved in substantially the form submitted to and reviewed by the governing body on the date hereof, with such changes therein as shall be approved by the Chairperson, the Chairperson's execution of the County Documents to be conclusive evidence of such approval.

(c) The obligation of the County to pay rental payments under the Agreement is subject to annual appropriation and shall constitute a current expense of the County and shall not in any way be

construed to be an indebtedness or liability of the County in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the County, nor shall anything contained in the Agreement constitute a pledge of the general tax revenues, funds or moneys of the County, and all provisions of the Agreement shall be construed so as to give effect to such intent.

(d) The Chairperson or Vice Chairperson is hereby authorized and directed to execute and deliver the County Documents on behalf of and as the act and deed of the County. The County Clerk is hereby authorized to affix the County's seal to the County Documents and attest said seal.

Section 2. No Publication Required. The Equipment consist of the acquisition of equipment by the County. Therefore, publication is not required under the provisions of K.S.A. 10-1116c.

Section 3. Reimbursement. The County may reimburse itself for all or a portion of expenditures relate to the Equipment, to the extent permitted by law, with the proceeds of the Agreement or other tax-exempt obligations to be delivered by the County, pursuant to the declaration of intent contained in Resolution No. 11-08-21 of the County.

Section 4. Further Authority. The officials of the County, including the Chairperson, the County Clerk, the County Administrator, and Gilmore & Bell, P.C., the County's special tax counsel, are hereby authorized and directed to take actions, expend funds and draft and execute documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the County with respect to the County Documents, the other documents authorized or approved hereby, and the Equipment.

The transactions described in this Resolution may be conducted, and documents related to the Agreement may be sent, received, executed, and stored, by electronic means or transmissions. Copies, telecopies, electronic files and other reproductions of original executed documents (or documents executed by electronic means or transmissions) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

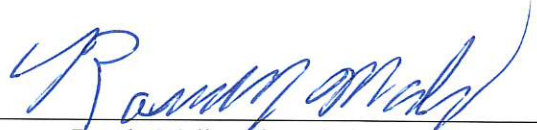
Section 5. Effective Date. This Resolution shall be in full force and effect from and after its adoption.

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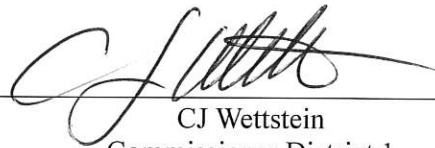
ADOPTED by the Board of County Commissioners of Seward County, Kansas, on July 5, 2022.



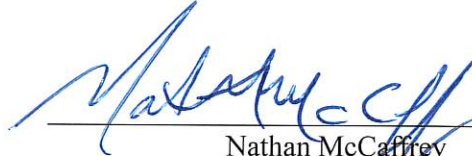
Ada J. Linenbroker, Chairperson
Commissioner District 2



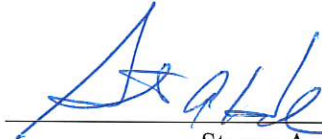
Randy Malin, Vice Chairperson
Commissioner District 3



CJ Wettstein
Commissioner District 1



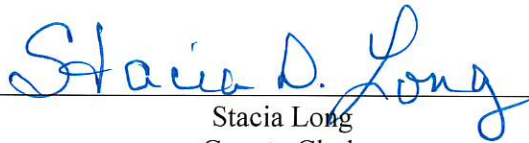
Nathan McCaffrey
Commissioner District 4



Steven A. Helm
Commissioner District 5

(SEAL)

ATTEST:



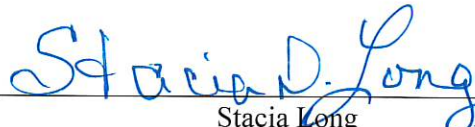
Stacia Long
County Clerk



CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 2022-08 of Seward County, Kansas, as the same appears of record in my office.

DATED: July 5, 2022.



Stacia Long
County Clerk

