Gilmore & Bell, P.C.
04/21/2025

RESOLUTION NO. 25-05

A RESOLUTION AUTHORIZING ELK 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 IMPROVEMENTS; 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.*, Elk 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 the installation of certain HVAC and lighting improvements and related controls to be installed at the County Courthouse and all improvements appurtenant thereto (collectively the "Improvements"), and has found and determined that the Improvements are in the public interest, but does not have sufficient moneys on hand legally available to purchase the Improvements 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 Farmers Bank and Trust, Great Bend, Kansas (the "Lessor"), pursuant to which the County will lease the Improvements on a year-to-year basis from the Lessor with an option to purchase the Lessor's interest in the Improvements, 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 an Escrow Agreement (the "Escrow Agreement" and together with the Agreement, the "County Documents") with the escrow agent named therein, pursuant to which the proceeds of the Agreement will be held in trust by the Escrow Agent pending their use to pay the costs of the Improvements, a form of which has been submitted to the governing body for review.

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

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

(a) The County is hereby authorized to acquire, equip, construct and install the Improvements at an estimated cost of $788,526.

(b) The County Documents and the related certificates and agreements 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 Improvements 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 from proceeds of the Agreement for expenditures related to the Improvements made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

Section 4. Further Authority. The officials of the County, including the Chairperson, the County Clerk, 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 Improvements.

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 Elk County, Kansas, on April 28, 2025.

Doug Hendricks, Chairman
Commissioner District 2

Perry Russell,
Commissioner District 1

(SEAL)

Jake Liebau
Commissioner District 3 1

ATTEST:

Kerry Harrod
County Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 25-05 of Elk County, Kansas, as the same appears of record in my office.

DATED: April 28, 2025.

Kerry Harrod
County Clerk