

(Published in *THE BELLE PLAINE NEWS* on November 12, 2015)

ORDINANCE NO. 1649

AN ORDINANCE AUTHORIZING THE CITY OF BELLE PLAINE, KANSAS, TO ENTER INTO A LEASE PURCHASE TRANSACTION, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF ACQUIRING TWO NEW LAWN MOWERS; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the constitution and statutes of the State of Kansas, particularly Article 12, Section 5 of the Kansas Constitution and K.S.A. 12-101 *et seq.*, the City of Belle Plaine, Kansas (the "City") 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.* (Kansas Cash Basis Law) 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 City has immediate need for acquisition of two new lawn mowers (the "Improvements") to further its governmental and public purposes as contemplated by law, but does not have sufficient moneys on hand legally available to purchase the Project (as defined herein) for its use; and

WHEREAS, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the City to enter into an annually renewable Lease Purchase Agreement (the "Lease") with The Valley State Bank, Belle Plaine, Kansas (the "Bank"), pursuant to which the City will lease the Project on a year-to-year basis from the Bank, with an option to purchase the Bank's interest in the Project, a form of which has been submitted to the governing body for review.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BELLE PLAINE, KANSAS, AS FOLLOWS:

Section 1. Authorization and Approval of Lease.

(a) The Lease is 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 Mayor, the Mayor's execution of the Lease to be conclusive evidence of such approval.

(b) The obligation of the City to pay Basic Rent Payments (as defined in the Lease) under the Lease is subject to annual appropriation and shall constitute a current expense of the City and shall not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning

the creation of indebtedness or liability by the City, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease shall be construed so as to give effect to such intent.

(c) The Mayor is hereby authorized and directed to execute and deliver the Lease on behalf of and as the act and deed of the City. The Clerk is hereby authorized to affix the City's seal to the Lease and attest said seal.

Section 2. Further Authority. The City shall, and the officials and agents of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Lease, the other documents authorized or approved hereby and the Project.

Section 3. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body, execution by the Mayor and publication in the official City newspaper.

PASSED by the governing body of the City of Belle Plaine, Kansas, this 5th day of November, 2015 and **APPROVED** and **SIGNED** by the Mayor.

Richard Penn - Mayor

(SEAL)

ATTEST:

Katherine Terry - Clerk