

(Published in the *Phillips County Review* on August 17, 2011)

**ORDINANCE NO. 1371**

**AN ORDINANCE AUTHORIZING THE CITY OF PHILLIPSBURG, KANSAS TO ENTER INTO A BASE LEASE WITH THE CITY OF PHILLIPSBURG, KANSAS PUBLIC BUILDING COMMISSION WHEREBY THE CITY WILL LEASE TO THE PUBLIC BUILDING COMMISSION CERTAIN PROPERTY, ENTER INTO A LEASE WITH SAID PUBLIC BUILDING COMMISSION WHEREBY THE CITY WILL LEASE FROM THE PUBLIC BUILDING COMMISSION CERTAIN PROPERTY, INCLUDING THE SWIMMING POOL FACILITY LOCATED THEREON; APPROVING THE FORM OF SAID LEASES; AND AUTHORIZING THE EXECUTION THEREOF AND CERTAIN RELATED DOCUMENTS.**

**WHEREAS**, the governing body of the City of Phillipsburg, Kansas (the "City") has heretofore declared it advisable to acquire, construct, furnish and equip a swimming pool facility located in Phillipsburg, Kansas (the "Improvements"); and

**WHEREAS**, under the authority of K.S.A. 12-1757 *et seq.* and Charter Ordinance No. 10 of the City (the "Act"), the City has heretofore created the City of Phillipsburg, Kansas Public Building Commission, a municipal corporation of the State of Kansas (the "PBC"); and

**WHEREAS**, the PBC has the power and authority under the Act to issue revenue bonds to provide funds for the purpose of paying all or a portion of the costs of the Improvements; and

**WHEREAS**, the governing body has deemed it advisable to request that the PBC provide for the financing of the Improvements through the issuance of revenue bonds; and

**WHEREAS**, pursuant to Resolution No. PBC11-02, the PBC has deemed it advisable to provide for the financing of the Improvements by the issuance of revenue bonds in an amount of not to exceed \$3,070,000; and

**WHEREAS**, for purposes of financing the costs of construction and equipping of the Improvements, the City hereby determines that it is in the best interest of the City that the City transfer by Base Lease (the "Base Lease") to the PBC certain real property (the "Land"), and with the PBC enter into a Lease (the "Lease"), to provide for the construction of the Improvements and the leasing of the Land and the Improvements (the "Project") by the PBC to the City; and

**WHEREAS**, the Lease shall provide sufficient funds to finance an issue of PBC revenue bonds in an amount of \$3,070,000 which shall have a maturity term ending in 2031 (the "Bonds"); and

**WHEREAS**, the City finds and determines that it is necessary and advisable to approve the financial terms of the Bonds, as set forth in the Bond Purchase Agreement, by and among the City, the PBC and Stifel Nicolaus & Company, Inc. presented herewith (the "Bond Purchase Agreement").

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

**SECTION 1.** The City hereby finds and determines, pursuant to the Act, that (i) leasing the Land to the PBC by Base Lease; (ii) acquiring, constructing, furnishing and equipping the Improvements; (iii) leasing the Project from the PBC under the terms and provisions set forth in the Lease; and (iv) the issuance of the Bonds by the PBC, with terms as set forth in the Bond Purchase Agreement, to finance a portion of the costs of the Improvements, are necessary, convenient and in furtherance of the governmental purposes of the City.

**SECTION 2.** The Base Lease, Lease and the Bond Purchase Agreement in substantially the form presented to this meeting of the governing body, are in all material respects approved, authorized and confirmed. The Mayor and the City Clerk are hereby authorized and directed to affix their signatures and the seal of the City to the Base Lease, Lease and Bond Purchase Agreement, for and on behalf of the City, with such changes therein as the City Attorney may deem necessary or appropriate.

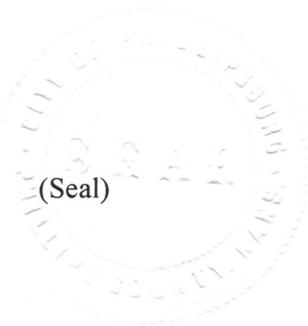
**SECTION 3.** The Mayor and City Clerk are hereby authorized to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the intent of this Ordinance.

**SECTION 4.** All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the City or the officials of the City, directed toward the acquisition, construction and equipping of the Project, the transferring of the Land to the PBC or the leasing of the Project from the PBC, are hereby ratified, approved and confirmed.

**SECTION 5.** This Ordinance shall be effective from and its adoption by the governing body of the City.

**PASSED** by the Governing Body of the City of Phillipsburg, Kansas, on August 15, 2011 and **APPROVED** and **SIGNED** by the Mayor.

**CITY OF PHILLIPSBURG, KANSAS**



(Seal)

*Fred E. Robinson*  
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Mayor

ATTEST:

*Brenda J. Chauce*  
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City Clerk