

(Published in the *Columbus Daily Advocate* on April 6, 2007.)

ORDINANCE NO. 1210

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF COLUMBUS, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS TRANSPORTATION REVOLVING FUND TO FINANCE A QUALIFIED TRANSPORTATION PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

WHEREAS, K.S.A. 75-5063 *et seq.* (the "Act") authorizes the Secretary of Transportation (the "Secretary") of the State of Kansas (the "State") to establish a transportation revolving fund to provide assistance to governmental units for Transportation Projects; and

WHEREAS, in accordance with the Act, the Secretary has established within the State treasury, the Kansas Transportation Revolving Fund (the "Fund"); and

WHEREAS, in accordance with the Act, the Secretary has promulgated administrative regulations K.A.R. 36-40-1 *et seq.* (the "Regulations") for implementation of the Fund; and

WHEREAS, the Secretary and the Kansas Development Finance Authority (the "Authority") have entered or will enter into a Master Pledge Agreement, as the same may be amended and supplemented from time to time (the "Pledge Agreement") pursuant to which KDOT agrees to enter into loan agreements with governmental units for the financing of Costs of certain transportation projects as defined in the Act, and to pledge the loan repayments received pursuant to such loan agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905 and the Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to enhance the Fund's ability to provide financial assistance to governmental units under the Act; and

WHEREAS, The City of Columbus, Kansas (the "Borrower"), is a Governmental Unit as said term is defined in the Act; and

WHEREAS, pursuant to the Act, the Borrower has submitted an application to KDOT to obtain a loan from the Fund to finance the costs of a Transportation Project described particularly in that certain loan agreement between the Borrower and KDOT to be dated April 2, 2007, in substantially that form as submitted to the Governing Body this date (the "Loan Agreement"), as TRF Project No. TR 0054 (the "Project"); and

WHEREAS, the Project is a Qualified Project as said term is defined in the Act; and

WHEREAS, the Borrower has taken all steps necessary and has complied with the provisions of the Act and the Regulations necessary to qualify for the loan; and

WHEREAS, KDOT has informed the Borrower that it has been approved for a loan in amount of not to exceed \$484,600 (the "Loan") in order to finance all or a portion of the Project Costs;

WHEREAS, the governing body of the Borrower hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into the Loan Agreement and to complete and execute certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement; and

WHEREAS, the Borrower agrees it will not use any portion of the loan proceeds including any investment earnings on such proceeds directly or indirectly in a manner that would meet the "private activity bond" tests within the meaning of Code § 141.

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

Section 1. Authorization of Loan Agreement. The Borrower is hereby authorized to accept the Loan and to enter into the Loan Agreement, with an effective date of April 2, 2007, with the State of Kansas acting by and through the Kansas Department of Transportation to finance the Project Costs (as defined in the Loan Agreement). The Mayor of the City, (the "Mayor") and City Clerk are hereby authorized to execute the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the Borrower's legal counsel, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Act, the Borrower hereby establishes a dedicated source of revenue for repayment of the Loan, which dedicated source is described as follows: the City of Columbus, Kansas, Special Street Fund. In addition thereto, the Borrower shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Borrower to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement. In accordance with the Act, the obligations under the Loan and the Loan Agreement shall constitute "bonds" for purposes of K.S.A. 10-1116 and K.S.A. 79-5028, and not be included within any limitation on the bonded indebtedness of the Borrower.

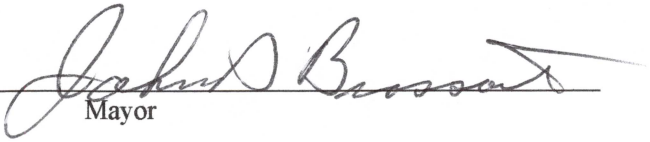
Section 3. Further Authority. The Mayor, City Clerk and other officials and legal counsel of the Borrower are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. This Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body and publication in the official city newspaper.

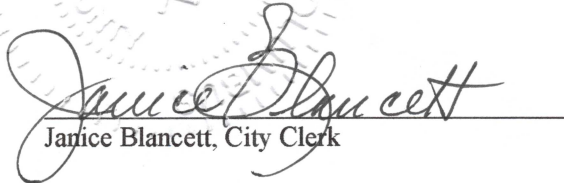
PASSED by the governing body of the City of Columbus, Kansas on April 2, 2007, and approved by the Mayor.

(SEAL)



Mayor

ATTEST:



Janice Blancett, City Clerk

APPROVED AS TO FORM.



Barbara Wright, City Legal Counsel