

RESOLUTION NO. 223

**WHEREAS**, the governing body of the City of Columbus, Kansas (the "City") has the authority pursuant to K.S.A. 65-163u et seq., as amended, (the "Act") to issue general obligation bonds of the City for the purpose of paying all or part of any costs and expenses incurred by it in acquiring, constructing, reconstructing, improving, equipping, rehabilitating or extending all or any part of its public water supply system; and

**WHEREAS**, the governing body of the City in order to finance the cost of any such project pursuant to the Act, may, in addition to spending certain other legally available funds in accordance with the Act, issue general obligation bonds of the City without the necessity and expense of an election to consider the question of issuing any such bonds for any such purpose; and

**WHEREAS**, the governing body of the City in order to provide for the health, safety and welfare of the City has approved the construction of an in-ground water storage facility and the acquisition of certain equipment therefor (the "Project") for the treatment and storage of water to serve the residents of the City and customers of the City's public water utility system; and

**WHEREAS**, the governing body of the City has the authority pursuant to the Act to both authorize the acquisition and construction of the Project and the issuance of general obligation bonds of the City to finance the costs thereof; and

**WHEREAS**, the City has made no expenditure in connection with any obligations heretofore incurred or to be incurred by it

in connection with the Project more than sixty (60) days prior to the date of the adoption of this Resolution which Resolution the governing body of the City hereby declares to be the official expression of its intent to reimburse any expenditures made by it in connection with the Project from the proceeds of its general obligation bonds (including temporary notes as hereby authorized) issued to finance the costs of the Project; and

**WHEREAS**, the City has no funds to finance the Project until bonds are issued therefore; and

**WHEREAS**, under K.S.A. 10-123 proper and full authority is conferred upon the City to issue its Temporary Notes for the purpose of financing the Project until bonds can be issued therefore.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF COLUMBUS, KANSAS**, that the Project be constructed and equipped and a site therefor together with certain necessary equipment be acquired at a total estimated cost, including legal and temporary note and bond issuance costs, not exceeding \$446,250 in accordance with the plans and specifications therefor as prepared by the City's consulting engineers, Archer Engineer's, Springfield, Missouri, (the "Project Engineer") pursuant to the Act.

**BE IT FURTHER RESOLVED** that for the purpose of providing funds to pay part of the costs of the Project until Bonds can be issued therefor, the governing body of the City be, and it is hereby, authorized to issue its Temporary Notes Nos. R-1 through

R-11, inclusive, Series 1998, (Water System Project) (the "Notes") in the aggregate principal amount of Two Hundred Seventy-five Thousand Dollars (\$275,000), with each Note being in the denomination of \$25,000, said Notes being dated March 1, 1998, bearing interest at the rate of four and one-half percent (4.50%) per annum and maturing on or before ~~March 1, 2001~~<sup>Nov 1, 2000</sup>, being redeemable and cancelable at the time Bonds are issued in lieu thereof. Interest on the Notes shall be payable in lawful money of the United States of America semiannually on ~~March~~<sup>May</sup> 1 and ~~September~~<sup>November</sup> 1 of each year commencing ~~September~~<sup>May</sup> 1, 1998, until the principal of the Notes has been paid, by check or draft of the City to the registered owners of the Notes appearing on the books maintained by the City as of the preceding ~~February~~<sup>April</sup> 15 and ~~August~~<sup>October</sup> 15. The principal amount of the Notes shall not exceed the lesser of the amount of Bonds to be issued to permanently finance the costs of the Project or the estimate of the cost of the Project as prepared by the Project Engineer and approved by the governing body of the City.

**BE IT FURTHER RESOLVED** that the City may call the Notes in whole or in part at any time before the maturity thereof by serving written notice to that effect on the owners thereof at least thirty (30) days before the date of such redemption and payment and it may so redeem such Note upon payment to the owner thereof of the principal of and interest on the Notes, without premium. No further interest shall accrue on the Note so re-

deemed and paid subsequent to the date of such redemption and payment.

**BE IT FURTHER RESOLVED** that the Note shall contain recitals and be in the form as prescribed by law.

**BE IT FURTHER RESOLVED** that the Note shall be signed by the manual signature of the Mayor and attested by the manual signature of the City Clerk, under the corporate seal of the City and registered in the offices of the City Clerk of the City and the Treasurer of the State of Kansas in the City of Topeka, Kansas.

**BE IT FURTHER RESOLVED** that the City covenants and agrees that no part of the proceeds of the Notes or other proceeds shall be used, at any time, directly or indirectly in a manner which if such use had been reasonably anticipated on the date of the issuance of the Note would have caused the Note to be or become an "Arbitrage Bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the Regulations of the Treasury Department thereunder proposed or in effect at the time of such use applicable to obligations issued on the date of issuance of the Note.

**BE IT FURTHER RESOLVED** that the Notes are hereby designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

**BE IT FURTHER RESOLVED** that the City both reasonably expects and intends to finance the costs of said improvements from the proceeds of its general obligation bonds of the City. The

City does hereby express its official intent to reimburse any such capital expenditures made or obligations incurred by it on or after the date which is 60 days before the date of this Resolution from the proceeds of such bonds in the estimated maximum principal amount of \$446,250. The City will issue such bonds for such purposes and make the reimbursements within eighteen (18) months after the date the expenditure to be reimbursed was paid or, if later, eighteen (18) months after the date on which the property resulting from the expenditure was placed in service. Provided, that, in any event, the City must make the reimbursement allocation within three (3) years after the date the expenditure was paid. This Resolution, as the expression of the governing body's official intent regarding the matters described herein, will be available for public inspection in the City Clerk's office at City Hall during regular business hours of the City.

**BE IT FURTHER RESOLVED** that the City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate attached to the Final Certificate of the City included in the transcript of proceedings regarding the Notes. Notwithstanding any other provision of this Resolution, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default of the City's obligations either under this Resolution or in connection with the Notes; provided, however, any owner of the Notes may take such actions as may be necessary

and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section.


**BE IT FURTHER RESOLVED** that any and all actions heretofore taken by the governing body of the City including, but not limited to, the approval of the Project are hereby ratified and affirmed.

**BE IT FURTHER RESOLVED** that this Resolution shall take effect and be in force from and after its passage and approval.

**IT IS SO RESOLVED.**

**PASSED** and Approved this 16th day of February, 1998.

CITY OF COLUMBUS, KANSAS

  
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Doug Gatewood, Mayor

(SEAL)  
ATTEST:

  
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Gail R. Houser, City Clerk