

RESOLUTION NO. 06-080

A RESOLUTION AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN FRANKLIN COUNTY, 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, Franklin County, 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 December 20, 2006, in substantially that form as submitted to the Governing Body this date (the "Loan Agreement"), as TRF Project No. TR 0039 (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 \$3,400,000 (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.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF FRANKLIN COUNTY, 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 December 20, 2006, 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 Chairman of the Board of County Commissioners, (the “Chairman”) and County 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 Chairman and the Borrower's legal counsel, the Chairman'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: Franklin County, Kansas, Ad Valorem Taxes. 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 Chairman, 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 Resolution, 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 Resolution 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 Resolution shall take effect and be in full force from and after its adoption by the governing body.

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ADOPTED by the governing body of Franklin County, Kansas, on December 20, 2006,
and signed by the Chairman.

(SEAL)

John E. Taylor, Chairman
Board of County Commissioners

ATTEST:

Shari Perry, County Clerk

APPROVED AS TO FORM ONLY.

Lisa J. Johnson, County Counselor

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
FRANKLIN COUNTY, KANSAS,
HELD ON DECEMBER 20, 2006.**

The Governing Body met in [regular/special] session at the County Commission chambers at _____, the following members being present and participating, to-wit:

Absent:

The Chairman declared that a quorum was present and called the meeting to order.

(Other Proceedings)

Thereupon, there was presented a Resolution entitled:

A RESOLUTION AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN FRANKLIN COUNTY, 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.

Thereupon, Commissioner _____ moved that said Resolution be adopted. The motion was seconded by Commissioner _____. Said document was duly read and considered, and upon being put, the motion for the said adoption of said Resolution was carried by the vote of the Governing Body, the vote being as follows:

Yes: _____.

No: _____.

Thereupon, the Chairman declared said Resolution duly adopted and was then duly numbered No. 06-080, and was signed by the Chairman and attested by the County Clerk

(Other Proceedings)

On motion duly made, seconded and carried, the meeting thereupon adjourned.

(SEAL)

Shari Perry, County Clerk