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RESOLUTION NO. 2004-15

A RESOLUTION AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN JEFFERSON COUNTY, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND FOR THE PURPOSE OF FINANCING A PUBLIC WATER SUPPLY 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, the Safe Drinking Water Act Amendments of 1996 [PL 104-182] to the Safe Drinking Water Act (the "Federal Act") established the Drinking Water Loan Fund to assist public water supply systems in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and **WHEREAS**, by passage of the Kansas Public Water Supply Loan Act, K.S.A. 65-163d *et seq.*, as amended (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Public Water Supply Loan Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Pledge Agreement (the "Pledge Agreement") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public water supply projects (the "Projects") and to pledge the Loan Repayments (as defined in the Pledge Agreement) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, JEFFERSON COUNTY, Kansas (the "Municipality") is a **municipality** as said term is defined in the Loan Act which operates a water system (the "System"); and

WHEREAS, the System is a Public Water Supply System, as said term is defined in the Loan Act; and

WHEREAS, the **Municipality** has, pursuant to the Loan Act, submitted an Application to KDHE to obtain a loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following: The project will construct a new three cell discharging wastewater treatment lagoon, new pumping station and force main, standby power generator and appurtenances. The existing activated sludge wastewater treatment facility will be abandoned (the "Project"); and

WHEREAS, the **Municipality** has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-15-50 through 28-15-65 (the "Regulations") applicable thereto necessary to qualify for the loan; and

WHEREAS, KDHE has informed the **Municipality** that it has been approved for a loan in amount of not to exceed Three Hundred Forty Seven Thousand Dollars (\$347,000) in order to finance the Project; and

WHEREAS, the governing body of the **Municipality** hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF JEFFERSON COUNTY, KANSAS:

Section 1. Authorization of Loan Agreement. The **Municipality** is hereby authorized to accept the Loan and to enter into a certain Loan Agreement, with an effective date of June 14, 2004, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Chair and 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 Chair and the County Counselor's legal counsel, the Chair'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 Loan Act, the **Municipality** hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the **Municipality** shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the **Municipality** as will provide System Revenues (as defined in the Loan Agreement) sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, (c) pay all other amounts due at any time under the Loan Agreement; provided, however, no lien or other security interest is granted by the Municipality to KDHE on the System Revenues under this Agreement. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality 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 Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan agreement.

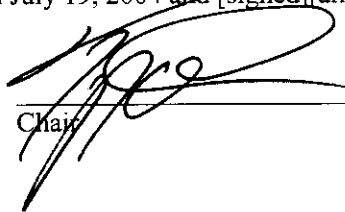
In accordance with the Loan Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the **Municipality**.

Section 3. Further Authority. The Chair, Clerk and other County officials and legal counsel 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 the **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. The **Resolution** and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

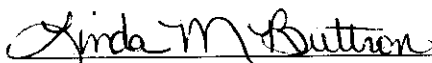
Section 5. Effective Date. This **Resolution** shall take effect and be in full force from and after its passage by the governing body of the County and publication in the official County newspaper.

PASSED by the governing body of the County on July 19, 2004 and [signed][and **APPROVED**] by the Chair.
(SEAL)



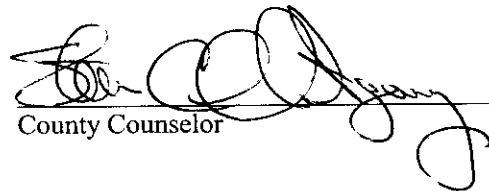
Chair

ATTEST:


Clerk



APPROVED AS TO FORM ONLY.


County Counselor

Publication notice

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
JEFFERSON COUNTY, KANSAS
HELD ON JULY 19, 2004**

The Governing Body of the County met in regular session at the usual meeting place in the County, at 9:00 a.m., the following members being present and participating, to-wit:

Absent: none

The Chair 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 JEFFERSON COUNTY, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND FOR THE PURPOSE OF FINANCING A PUBLIC WATER SUPPLY 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 Oliver moved that said **Resolution** be passed. The motion was seconded by Commissioner Luck. Said **Resolution** was duly read and considered, and upon being put, the motion for the passage of said **Resolution** was carried by the vote of the Governing Body, the vote being as follows:
Yes: Oliver, Luck & Grollmes
No: none

Thereupon, the Chair declared said **Resolution** duly passed and the **Resolution** was then duly numbered **Resolution No2004-15** and was signed and approved by the Chair and attested by the Clerk. The Clerk was directed to publish the **Resolution** one time in the official newspaper of the County.

(Other Proceedings)

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

Clerk

Ginda M. Buttrick
Jefferson County Clerk

