

RESOLUTION NO. 1092

A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING EXECUTION OF AN ESCROW TRUST AGREEMENT RESPECTING THE APPLICATION OF CERTAIN PROPERTY TAX REVENUES AND SALES TAX REVENUES RECEIVED BY THE CITY OF COLBY, KANSAS, AND THE CITY'S GENERAL OBLIGATION TAX INCREMENT FINANCING BONDS, SERIES 2011-1.

WHEREAS, the City of Colby, Kansas (the "City") is a city of the second class, duly created, organized and existing under the Constitution and laws of the State of Kansas (the "State"); and

WHEREAS, the City desired to promote, stimulate and develop the general and economic welfare of the City and the State and to assist in the development and redevelopment of eligible areas within the City, thereby promoting the general welfare of the citizens of the State and the City, by acquiring property and providing for the development and redevelopment thereof and the financing relating thereto; and

WHEREAS, pursuant to the provisions of K.S.A. 12-1770 *et seq.*, as amended (the "Act"), the City is authorized to establish redevelopment districts within eligible areas of the City, as said terms are defined in the Act, to approve redevelopment district plans for the completion of redevelopment projects within such redevelopment project areas, and to finance all or a portion of redevelopment project costs from tax increment revenues and various fees collected within such redevelopment district, revenues derived from redevelopment projects, revenues derived from local sales taxes, other revenues described in the Act, or a combination thereof or from the proceeds of full faith and credit tax increment bonds of the City or special obligation tax increment bonds of the City payable from such described revenues; and

WHEREAS, pursuant to the Act and Ordinance No. 1453 passed on November 18, 2008, the governing body of the City (the "Governing Body") created a redevelopment district within the City, the boundaries of which were expanded by Ordinance No. 1476 passed on July 20, 2010 (said redevelopment district, as expanded, herein referred to as the "Redevelopment District"); and

WHEREAS, in consultation with the City's planning commission, the City prepared a proposed redevelopment project plan for development of the Redevelopment District, and a public hearing on such proposed redevelopment project plan was held on September 21, 2010, after duly published, delivered and mailed notice in accordance with the provisions of the Act; and

WHEREAS, following the conclusion of the public hearing, the Governing Body passed Ordinance No. 1482 approving the proposed redevelopment project plan (the "Project Plan"), and after the expiration of the protest period provided for in the Act, the City, pursuant to Ordinance No. 1487 and Resolution No. 1028 (collectively the "Bond Resolution") and the Act, issued its General Obligation Tax Increment Financing Bonds, Series 2011-1, in the original principal amount of \$1,130,000 (the "Series 2011 Bonds") to pay the costs of the Project Plan (the "Redevelopment Project Costs"); and

WHEREAS, the Bond Resolution provides that subsequent to completion of construction of the Project Plan, provision shall be made for the payment of the Series 2011 Bonds when there are sufficient moneys in the Funds and Accounts created in the Bond Resolution to provide for the payment thereof, at or prior to maturity, in accordance with the provisions of the Bond Resolution; and

WHEREAS, in order to expedite the repayment of the Series 2011 Bonds at the earliest practical and legal opportunity, the Governing Body desires to establish an escrow account pursuant to the terms of an escrow trust agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLBY, KANSAS:

SECTION 1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Bond Resolution.

SECTION 2. Authorization of Escrow Trust Agreement. The City is hereby authorized to enter into an Escrow Trust Agreement, dated as of April 1, 2016 (the “Escrow Agreement”) with the escrow agent named therein (the “Escrow Agent”) to provide for the defeasance and redemption of the outstanding Series 2011 Bonds in accordance therewith. The form of the Escrow Agreement presented to the Governing Body this date is hereby approved, and the Mayor and Clerk are hereby authorized to execute the Escrow Agreement in substantially such form, with changes or modifications thereto as may be approved by the Mayor and the City Attorney; the execution by the Mayor of the Escrow Agreement shall evidence any such approval.

SECTION 3. Transfer of Funds to Escrow Agent. The Finance Director is hereby authorized and instructed to transfer to the Escrow Agent from funds held pursuant to the Bond Resolution, the amounts set forth in *Section 5* of the Escrow Agreement.

SECTION 4. Severability. In case any one or more of the provisions of this Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, but this Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein. In case any covenant, stipulation, obligation or agreement contained in this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

SECTION 5. Further Authority. The officers of the City, including the Mayor, the Finance Director, and the Clerk, are hereby authorized and directed to: (a) execute 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 (b) make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which may be approved by the City Attorney, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION 6. Governing Law. This Resolution shall be governed exclusively by and constructed in accordance with the applicable laws of the State.

SECTION 7. 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 the City of Colby, Kansas on March 1, 2016.

(SEAL)

Mayor

ATTEST:

Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 1092 of the City adopted by the Governing Body on March 1, 2016, as the same appears of record in my office.

DATED: March 1, 2016.

Clerk

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