

(Published in Downs News and Times on May 7, 2015)

ORDINANCE NO. 957

AN ORDINANCE AUTHORIZING THE EXECUTION OF THE THIRD AMENDMENT TO THE LOAN AGREEMENT BETWEEN DOWNS, 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 WATER POLLUTION CONTROL REVOLVING FUND FOR THE PURPOSE OF FINANCING A WASTEWATER TREATMENT 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 THIRD AMENDMENT TO THE LOAN AGREEMENT.

WHEREAS, the Federal Water Quality Act of 1987 (the "Federal Act") established revolving fund program for public wastewater treatment systems to assist 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 Water Pollution Control Revolving Fund Act, K.S.A. 65-3321 through 65-3329, inclusive (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Water Pollution Control Revolving 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 wastewater treatment 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, Downs, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a wastewater collection, pumping, and treatment system (the "System"); and

WHEREAS, the System is a public Wastewater Treatment Works, 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 an amendment to the loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

The project consists of construction of a pump station, force main, and a three cell discharging wastewater treatment lagoon. The project also includes construction of the West Side Utility Improvements gravity sanitary sewer line – Sewer Alignment B(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. 28-16-110 to 28-16-138 (the "Regulations") applicable thereto necessary to qualify for an amendment to the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for a loan in amount of not to exceed One Million Four Hundred Forty-Four Thousand Four Hundred Thirty Two Dollars Thirty Nine Cents [\$1,444,432.39](the "Loan") in order to finance the Project; and

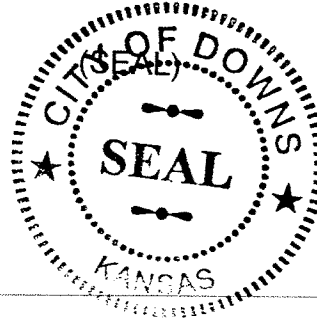
WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Third Amendment to the Loan and to enter into a Third Amendment to the Loan Agreement and certain other documents relating thereto, and to take certain actions required in order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

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

Section 4. Governing Law. The Ordinance and the Third Amendment to 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 passage by the governing body of the City and publication in the official City newspaper.

PASSED by the governing body of the City on May 4, 2015
SIGNED by the Mayor on May 4, 2015 .





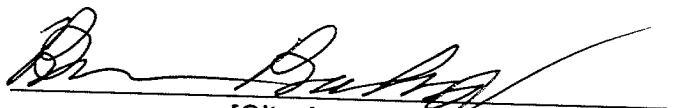
Jennifer Brush, Mayor

ATTEST:



Vickie Oviatt, City Clerk

[APPROVED AS TO FORM ONLY.]



[City Attorney]