

ORDINANCE NO. 051128

Authorizing the Director of Finance to fund the construction of a Mexican Customs Facility under a Master Lease Purchase Agreement and/or Ground Lease Agreement with a municipal leasing institution in an amount not to exceed \$2,500,000.00; estimating and appropriating revenues in the amount of \$2,500,000.00 in the Equipment Lease Capital Acquisition Fund; stating the City's intention regarding the source of repayment for the draw; designating requisitioning authority; declaring the intent of the City to reimburse itself from the lease purchase proceeds for certain expenditures; setting forth the City's commitment to provide paving work on the project site; and authorizing a Cooperative Agreement with Kansas City Smartport, Inc. for the development and operation of the customs facility.

WHEREAS, Resolution No. 050990, adopted August 11, 2005, directed the City Manager to develop a plan of finance to support the construction of an inland Mexican customs facility in the West Bottoms area; and

WHEREAS, the City owns the real property located on the east side of Liberty Street between 14th and 15th Streets; and Kansas City SmartPort, Inc. ("SmartPort") has requested City support in constructing, equipping, and acquiring the Customs Facility on a portion of that site (the "Project Site"); and

WHEREAS, SmartPort, in promoting Kansas City as a strategic hub for trade between the U.S. and Mexico, has secured the support of both Mexican and U.S. Customs officials for the construction of a customs facility (the "Customs Facility") in Kansas City; and

WHEREAS, the construction of such a facility offers great economic benefit to Kansas City; and

WHEREAS, the City may contribute land, services and construction moneys and seek state, federal, local and private contributions, as well, each benefiting from the unique business opportunities that will result from the facility; and

WHEREAS, the City expects to incur capital expenditures not to exceed \$2,500,000.00 for the Customs Facility; and

WHEREAS, the City's Master Lease Purchase Agreement with Banc of America Leasing & Capital, LLC, expired on April 30, 2005; and

WHEREAS, the City is in the process of selecting a new leasing company to provide funds for the Customs Facility under a Master Lease Purchase Agreement;
NOW, THEREFORE

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

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Section 1. That the Director of Finance is authorized to fund the construction of the Customs Facility through a draw upon the Master Lease Purchase Agreement in an approximate principal amount not to exceed \$2,500,000.00 with a leasing company, selected through an RFP process, subject to the approval of the City Council, and is further authorized to execute, deliver and file in the name of the City any and all documents and agreements necessary to complete such transactions.

Section 2. That the revenue in the following account of the Equipment Lease Capital Acquisition Fund is hereby estimated in the following amount:

AL-3230-120000-830000 Reimbursement from Bank or Lease Co. \$2,500,000.00

Section 3. That the sum of \$ 2,500,000.00 is hereby appropriated from the Unappropriated Fund Balance of the Equipment Lease Capital Acquisition Fund to the following account of the Equipment Lease Capital Acquisition Fund:

AL-3230-647410-E Mexican Customs Facility \$2,500,000.00

Section 4. That the sum of \$45,000 is hereby appropriated from the Unappropriated Fund Balance of Fund No. 3090, the Capital Improvement Fund, to the following account:

06-3090-129600-G Interest Expense \$45,000.00

Section 5. The City intends to use its Capital Improvements Sales Tax as the primary financial resource to repay any indebtedness incurred for construction of the Customs Facility within the five-year term. In the event of non-renewal of the Capital Improvements Sales Tax during the term of any indebtedness approved to provide funds for construction of the Customs Facility, the City will dedicate other general municipal resources generally budgeted for capital improvements to repay such debt

Section 6. That the Director of Finance is hereby authorized to close project accounts upon project completion and return the unspent portion of the appropriation to the fund balance from which it came.

Section 7. That the City Manager is hereby designated as requisitioning authority for Account No. AL-3230-647410-E and that the Director of Finance is hereby designated as requisitioning authority for Account No. 06-3090-129600-G.

Section 8. That the City declares its intent to reimburse itself for certain expenditures made within 60 days prior to or on and after the date of this ordinance with respect to the Customs Facility with the proceeds of the lease purchase expected to be drawn upon the Master Lease Purchase Agreement. The maximum principal amount expected to be financed under the lease purchase is \$2,500,000.00.

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Section 9. The City shall provide additional support in the form of paving work in an amount not to exceed \$600,000.00 for the project under its current paving contract, and the Director of Public Works is authorized and directed to take all necessary action to fulfill this obligation in accordance with the development/construction schedule set forth in the cooperative agreement with SmartPort authorized in Section 10 of this ordinance.

Section 10. That the City hereby authorizes the execution of a cooperative agreement with Kansas City SmartPort, Inc. in connection with the development and operation of the Customs Facility. The cooperative agreement, which is approved in substantial form as that on file in the office of the City Manager, will contain a 50-year sublease of the Project Site to SmartPort, with an option to renew for an additional 50 years, and a provision for repayment in full of the City's principal and interest on the \$2,500,000.00 draw on its master lease purchase at an interest rate of 4% no later than 15 years from the date of the first draw.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Wanda Gunter
Acting Director of Finance

Approved as to form and legality:

Heather A. Brown
Assistant City Attorney