

(Published in *The Lincoln Sentinel-Republican*, on July 17, 2008 and July 24, 2008).

**CHARTER RESOLUTION NO. 2008-C01**

**A CHARTER RESOLUTION OF LINCOLN COUNTY, KANSAS EXEMPTING SUCH COUNTY FROM THE PROVISIONS OF K.S.A. 12-1758 AND K.S.A. 12-1767b RELATING TO PUBLIC BUILDING COMMISSIONS AND THE ISSUANCE OF REVENUE BONDS THEREBY AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO.**

**WHEREAS**, K.S.A. 19-101 to 19-101c, inclusive, as amended (the "Act") provide that counties may exercise certain home rule powers, including adopting charter resolutions which exempt such counties from enactments of the Kansas Legislature as long as such powers are not limited as provided in the Act; and

**WHEREAS**, Lincoln County, Kansas (the "County") is a county as defined in the Act, duly created and organized under the laws of the State of Kansas (the "State"); and

**WHEREAS**, K.S.A. 12-1758 and K.S.A. 12-1767b (the "Existing Statutes") are a part of an enactment of the Kansas Legislature (K.S.A. 12-1757 *et. seq.*) relating to public building commissions and the issuance thereby of revenue bonds; and

**WHEREAS**, the Existing Statute are applicable to the County but are not uniformly applicable to all counties within the State; and

**WHEREAS**, the governing body of the County desires, by charter resolution, to exempt the County from the provisions of the Existing Statutes, and to provide substitute and additional provisions therefor in order to provide: (a) additional and alternative methods for financing certain public buildings in the County; and (b) an alternative method of authorizing the issuance of revenue bonds by public building commissions organized by the County; and.

**WHEREAS**, such proposed action is not restricted or limited by the provisions of K.S.A. 19-101a.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, KANSAS AS FOLLOWS:**

**Section 1. Exemption-K.S.A. 12-1758.** The County, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it, the provisions of K.S.A. 12-1758 and does hereby provide the following substitute and additional provisions in place thereof:

(a) The County, by ordinary resolution, may create a public building commission for any one or more of the purposes of acquiring fee simple title or a leasehold interest in one or more sites, and of constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, one or more buildings or other facilities of any kind which are of a revenue producing character, including indoor and outdoor parking, recreational or healthcare facilities, and including any type of equipment in relation to any of the foregoing. Any such sites, buildings, facilities or equipment shall be maintained and

operated for any public purpose by any city, county or school district, by any federal governmental agency or instrumentality, by the State of Kansas or any agency or instrumentality thereof, by any other municipal or quasi-municipal corporation, political subdivision or body politic or agency or instrumentality thereof, or by any non-profit corporation organized under the laws of the State of Kansas.

(b) A public building commission created by the County may acquire fee simple title or a leasehold interest in land and facilities adjacent to or near any educational institution under the supervision and/or control of the state board of regents or may acquire by lease, land and facilities constituting a part of the campus of any such institution. Any public building commission may construct, reconstruct, equip and furnish such facilities on such land and lease such land and facilities to the official governing body of such institution. Any such lease entered into shall pledge the net revenue from such land and facilities to payment of bonds issued to pay costs of such facilities.

**Section 2. Exemption-K.S.A. 12-1767b.** The County, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1767b and does hereby provide substitute and additional provisions in place thereof as follows:

(a) Any revenue bonds proposed to be issued by a public building commission created by the County shall be issued as provided in K.S.A. 10-1201 *et seq.* and amendments thereto, except to the extent that such statutes are in conflict with K.S.A. 12-1757 *et seq.*, as amended by this Charter Resolution. Before any revenue bonds are authorized or issued under the provisions of K.S.A. 12-1757 *et seq.*, as amended by this Charter Resolution, the public building commission shall adopt a resolution specifying the amount of such revenue bonds and the purpose of the issuance thereof.

(b) The resolution adopted by such public building commission shall be published one time in the official County newspaper or in a newspaper having general circulation in a city if the lease is with such city. The resolution shall become effective upon such publication(s). The resolution may provide, and shall provide if the lease is with a city or school district, that if within 30 days after the date of publication of the resolution a petition in opposition to the resolution, signed by not less than 5% of the electors of the County or by not less than 5% of the electors of the city or school district, if the lease is with such entity, is filed with the County election officer, the public building commission shall not have the authority to issue such revenue bonds until such question is submitted to the electors of the entity authorized to protest such resolution at an election called for that purpose or at the next general election.

(c) No construction contract shall be let or approved by a public building commission until after the publication of the resolution adopted pursuant to subsection (a) hereof, or if such resolution contains a provision requiring a provision for protest, upon the expiration of the protest period or a successful election, if required, as provided under subsection (b) hereof.

**Section 3. Severability.** If any provision or section of this Charter Resolution is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Resolution. In such instance, this Charter Resolution shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

**Section 4. Effective Date.** This Charter Resolution shall be published once a week for two consecutive weeks in the official County newspaper, and shall take effect sixty (60) days after final publication, unless a petition signed by a number of electors of the County equal to not less than two percent (2%) of the number of electors who voted at the last preceding November general election or 100 electors, whichever is greater, shall be filed in the office of the County Clerk, demanding that this Charter Resolution be submitted to a vote of the electors of the County, in which event this Charter Resolution shall take effect when approved by a majority of the electors of the County voting at an election held for such a purpose.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**ADOPTED** by the Board of County Commissioners of Lincoln County, Kansas by unanimous vote of the elected members thereof on July 7, 2008.

**BOARD OF COUNTY COMMISSIONERS  
OF LINCOLN COUNTY, KANSAS**


  
\_\_\_\_\_  
Commission Chairman

  
\_\_\_\_\_  
Commission Vice-Chairman

  
\_\_\_\_\_  
Commission Member



**ATTEST:**  
  
\_\_\_\_\_  
County Clerk

**APPROVED AS TO FORM:**  
  
\_\_\_\_\_  
County Counselor