

(Published in *The Abilene Reflector-Chronicle* on December __, 2012)

ORDINANCE NO. 3223

AN ORDINANCE AUTHORIZING THE CITY OF ABILENE, KANSAS TO MAKE WATER SYSTEM IMPROVEMENTS, IMPROVE THE WASTEWATER TREATMENT PLANT; PREPAY CERTAIN OUTSTANDING LOANS AND AUTHORIZING THE CITY TO ISSUE ITS GENERAL OBLIGATION BONDS IN THE AMOUNT NECESSARY TO PAY COSTS OF SUCH IMPROVEMENTS

WHEREAS, pursuant to K.S.A. 65-162a *et seq.*, and particularly K.S.A. 65-163d through 65-163u (the "Water Act"), the City of Abilene, Kansas (the "City") is a municipality that operates and maintains a public water supply system, as defined in the Water Act, and the City is authorized to acquire, construct, reconstruct, improve, equip, rehabilitate and extend all or any part of the public water supply system; provided such improvement is not related to the diversion or transportation of water acquired through a water transfer, as defined by K.S.A. 82a-1501; and

WHEREAS, the Governing Body of the City finds it necessary to improve the City's public water supply system by acquiring and installing UV disinfection equipment and related facilities for the water treatment plant, all to serve the City's municipal water supply system, and all things necessary and incidental thereto (the "Water System Improvements"); and

WHEREAS, the estimated costs of the Water System Improvements to be financed by the City is \$1,400,000, plus necessary costs of issuing temporary and permanent financing to fund the Water System Improvements; and

WHEREAS, the Water System Improvements are not related to the diversion or transportation of water acquired through a water transfer defined in K.S.A. 82a-1501; and

WHEREAS, it is necessary to pay costs of the Water System Improvements by issuing general obligation bonds of the City; and

WHEREAS, K.S.A. 12-1736 to 12-1739, inclusive, as amended ("Building Act"), authorizes the Governing Body of the City to acquire and construct, make repairs, reconstruct, remodel, replace, make additions to, furnish or equip any public building and to issue general obligation bonds of the City for such purposes; and

WHEREAS, the Governing Body of the City has determined that it is necessary to construct, improve, modify and equip the waste water treatment plant and related structures and facilities in the City to comply with federal, state and local environmental regulations, at an estimated cost of \$701,892 (the "Public Building Improvements"); and

WHEREAS, it is necessary and desirable to pay costs of the Public Building Improvements by issuing general obligations bonds of the City; and

WHEREAS, the City has previously entered into loan agreements with the Kansas Department of Health and Environment to finance the Public Building Improvements and the Water System Improvements (the “Loans”) as follows:

<u>Loan</u>	<u>Original Loan Amount</u>	<u>Estimated Balance Outstanding for Prepayment</u>
A. PWS Loan - Abilene Project# 2001 (Water Facilities)	\$1,400,000.00	\$571,972.25
B. WPC Loan #C20 1480-01 (Waste Water Plant and Related Structures)	\$ 701,892.00	\$235,252.71

WHEREAS, the City has determined it can achieve substantial interest cost savings by issuing general obligation bonds to finance the projects financed by the Loans and prepaying the Loans as permitted by the loan agreements between the City and KDHE; and

WHEREAS, pursuant to Article 12, §5 of the Kansas Constitution (the “Home Rule Amendment”), the City is authorized to determine its local affairs and government except when limited or prohibited by an enactment of the state legislature applicable uniformly to all cities of the same class; and

WHEREAS, no statutory authority exists to limit or prohibit the exercise of the City’s authority under the Home Rule Amendment to authorize issuance of its general obligation bonds to pre-pay the Loans; and

WHEREAS, it is necessary and desirable for the City to issue its general obligation bonds to finance the Water System Improvements, the Public Building Improvements and to prepay the Loans.

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

SECTION 1. The Water System Improvements and the Public Building Improvements (collectively, the “Projects”) are authorized and directed to be completed pursuant to the Water Act and the Building Act (collectively, the “Act”).

SECTION 2. To provide funds to pay costs of the Projects, and as authorized by the Act, the City authorizes the issuance of its general obligation bonds in an aggregate amount of not to exceed \$2,101,892.00, plus necessary costs of issuing temporary and permanent financing.

SECTION 3. Pursuant to the Act and the Home Rule Amendment the City authorizes issuance of its general obligation bonds in an amount necessary to prepay the outstanding balances of the Loans, and pay costs of issuing such bonds. The estimated principal amount of such bonds is \$825,000.00.

SECTION 4. The Mayor and City Clerk are authorized and directed to take such other action, including the execution of documents, as may be necessary to proceed with the intent of this Ordinance. The City Manager is authorized and directed to execute and deliver of a notice to the Kansas Department of Health and Environment, complying with the Loan Agreements, stating the City's intention to prepay the Loans.

SECTION 5. This Ordinance shall be in full force and effect after it is passed and approved by the City Governing Body and published one time in the official City newspaper.

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PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas on December 10, 2012.

CITY OF ABILENE, KANSAS



(SEAL)

ATTEST:

By John F. Ray
John F. Ray, Vice Mayor

By Penny L. Soukup
Penny L. Soukup, City Clerk