

ORDINANCE NO. S-11-12

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2011-A, OF THE CITY OF COFFEYVILLE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Coffeyville, Kansas (the “City”) is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to the statutes and resolution referenced below, the City has heretofore authorized certain internal improvements described as follows (the “Improvements”):

<u>Description</u>	<u>Res No.</u>	<u>Authority (K.S.A.)</u>	<u>Amount</u>
Electric, Water, Wastewater and Street Improvements	R-08-133	12-6a01 <i>et seq.</i>	\$3,807,475.60

; and

WHEREAS, all legal requirements pertaining to the Improvements have been complied with, and the governing body of the City now finds and determines that the total cost of the Improvements (including interest on interim financing of the City and issuance costs of the Bonds) and related expenses are at least \$3,810,373.78, with \$190,373.78 of said cost to be paid by the owners of the property within the City benefited by the Improvements and the balance of said cost to be paid by the City at large, and that the owners of the property benefited by the Improvements have paid \$190,373.78 in cash into the City Treasury on account of the Improvements, leaving \$3,620,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Improvements; and

WHEREAS, pursuant to Article 12, Section 5 of the Kansas Constitution and the statutes and resolution referenced below (collectively with Resolution No. R-08-133, the “Authorizations”) the City has heretofore authorized certain internal improvements described as follows (the “Projects”):

<u>Description</u>	<u>Res No.</u>	<u>Authority (K.S.A.)</u>	<u>Amount*</u>
Water System Improvements – Rehab and repair existing 190,000 gallon elevated water storage tank, recirculating pump, 9,500 linear feet of 8” waterline and all related appurtenances	R-11-91	12-101 <i>et seq.</i> / 65-163d <i>et seq.</i>	\$ 497,240.00
Water System Improvements – Upgrade and rehab existing water treatment plant	R-11-91	12-101 <i>et seq.</i> / 65-163d <i>et seq.</i>	2,504,000.00
Water System Improvements – Purchase and install	R-11-91	12-101 <i>et seq.</i> / 	<u>625,500.00</u>

approximately 400 linear feet of 12” PVC pipe
and 5,800 linear feet of 8” PVC pipe and all
related appurtenances

65-163d *et seq.*

Total:

\$3,626,740.00

* Plus associated costs of issuance and interim financing

; and

WHEREAS, the City has arranged for financing of a portion of the Improvements and the Projects by the execution of various loan agreements described as follows (collectively, the “Loans”):

<u>Obligation</u>	<u>Series/ Loan No.</u>	<u>Dated Date</u>	<u>Maturity Date</u>	<u>Original Amount</u>	<u>Outstanding Amount</u>	<u>Redemption Date</u> ¹
KDHE – KPWSLF	2026	02/26/01	02/01/23	\$ 497,240	\$ 277,757.24	12/01/11
KDHE – KPWSLF	2250	09/10/00	02/01/23	1,560,300 ²	1,615,179.40	12/01/11
KDHE – KPWSLF	2267	08/15/03	08/01/25	625,500	353,630.03	12/01/11
KDOT – TRF	0100	07/14/09	08/01/29	1,014,000	975,546.08	12/01/11

¹ Or as soon thereafter as possible

² Original loan agreement amended to increase loan amount to \$2,443,456.33

; and

WHEREAS, in order to restructure debt payments and to provide an orderly plan of finance for the City, it has become desirable and in the best interest of the City and its inhabitants for the City to issue its general obligation bonds in order to permanently finance the costs of such Projects and to retire the Loans, and

WHEREAS, Article 12, § 5 of the Constitution of the State of Kansas (the “Home Rule Amendment”): (a) empowers cities to determine their local affairs and government; and (b) provides that such power and authority granted thereby to cities: (1) shall be liberally construed for the purpose of giving to cities the largest measure of self-government and (2) shall be exercised by ordinance, subject only to: (i) enactments of the Kansas legislature of statewide concern applicable uniformly to all cities, (ii) other enactments of the legislature applicable uniformly to all cities, (iii) enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other action and (iv) enactments of the legislature prescribing limits of indebtedness; and

WHEREAS, the Kansas Supreme Court has considered the Home Rule Amendment and determined that: (a) home rule legislation should be permitted to stand unless an actual conflict exists between the home rule legislation and a state legislative enactment, or unless the legislature has clearly preempted the field so as to preclude municipal action; and (b) legislative intent to reserve to the state exclusive jurisdiction to regulate an area must be clearly manifested by statute before it can be held that the state has withdrawn from the cities the power to regulate in the field (*McCarthy v. City of Leawood*, 257 Kan. 566 (1995); *Junction City v. Lee*, 216 Kan. 495 (1975)); and

WHEREAS, the Authorizations authorize the City to issue general obligation bonds to finance the Improvements and the Projects, but neither authorize nor prohibits the issuance of general obligation bonds to prepay and retire the Loans incurred under such enactments; and

WHEREAS, the governing body of the City now further finds and determines that: (a) there are no enactments of the Kansas legislature of statewide concern applicable uniformly to all cities or

applicable to the City relating to the issuance of general obligation bonds to prepay and retire loans incurred under the Authorizations; (b) no conflict would exist between a City ordinance authorizing the issuance of general obligation bonds to prepay and retire the Loans; and (c) the legislature has not clearly preempted, or clearly manifested its intent to preempt, the field of municipal finance so as to preclude a City ordinance authorizing the issuance of general obligation bonds to prepay and retire the Loans; and

WHEREAS, the City is a city within the meaning of the Home Rule Amendment; and

WHEREAS, the City proposes to issue its general obligation bonds to retire the Loans and pay a portion of the costs of the Improvements and the Projects not funded by the Loans; and

WHEREAS, none of such general obligation bonds heretofore authorized have been issued and the City proposes to issue \$5,900,000 of its general obligation bonds to pay a portion of the costs of the Improvements and the Projects and to retire the Loans; and

WHEREAS, the governing body of the City has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF COFFEYVILLE, KANSAS, AS FOLLOWS:

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution, particularly Article 12, Section 5 thereof, and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, K.S.A. 12-101 *et seq.*, K.S.A. 12-6a01 *et seq.* and K.S.A. 65-163d *et seq.*, all as amended and supplemented from time to time.

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

“Bond Resolution” means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City's General Obligation Bonds, Series 2011-A, dated November 1, 2011, authorized by this Ordinance.

“City” means the City of Coffeyville, Kansas.

“Clerk” means the duly appointed and acting Clerk of the City or, in the Clerk's absence, the duly appointed Deputy Clerk or Acting Clerk.

“Improvements” means the improvements referred to in the preamble to this Ordinance and any Substitute Improvements.

“KDHE” means the Kansas Department of Health and Environment.

“KDOT” means the Kansas Department of Transportation.

“Loans” means collectively: (a) the KDHE Loan KPWSLF 2026 between the Issuer and KDHE dated February 26, 2001, maturing February 1, 2023, in the aggregate outstanding principal amount of \$277,757.24; (b) the KDHE Loan KPWSLF 2250 between the Issuer and KDHE dated September 10, 2000, maturing February 1, 2023, in the aggregate outstanding principal amount of \$1,615,179.40; (c) the KDHE Loan KPWSLF 2267 between the Issuer and KDHE dated August 15, 2003, maturing August 1, 2025, in the aggregate outstanding principal amount of \$353,630.03; and (d) the KDOT Loan TRF 0100 between the Issuer and KDOT dated July 14, 2009, maturing August 1, 2029, in the aggregate outstanding principal amount of \$975,546.08.

“Mayor” means the duly elected and acting Mayor of the City or, in the Mayor's absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“Projects” means the projects referred to in the preamble to this Ordinance and any Substitute Improvements.

“Refunded Notes” means the Series 2008-1 Notes maturing on November 1, 2011, in the aggregate principal amount of \$2,930,000.

“Refunded Obligations” means collectively the Refunded Notes and the Loans.

“Series 2008-1 Notes” means the City's General Obligation Temporary Notes, Series 2008-1, dated November 15, 2008.

“State” means the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Bonds, Series 2011-A, of the City in the principal amount of \$5,900,000, for the purpose of providing funds to: (a) pay costs of issuance of the Bonds; (b) retire the Refunded Notes; and (c) refund the Refunded Obligations.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the governing body of the City.

Section 5. Levy and Collection of Annual Tax. The governing body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same

become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. 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 October 11, 2011 and signed by the Mayor.

Pam Jones, Mayor

Cindy Price, Clerk