

ORDINANCE NO. S-3095

OF

THE CITY OF JUNCTION CITY, KANSAS

PASSED

JULY 11, 2011

**GENERAL OBLIGATION
REFUNDING BONDS**

SERIES 2011A

**GENERAL OBLIGATION
WATER AND SEWER SYSTEM
REFUNDING BONDS**

SERIES 2011B

**TAXABLE GENERAL
OBLIGATION
REFUNDING BONDS**

SERIES 2011C

ORDINANCE NO. S-3095

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011A, GENERAL OBLIGATION WATER AND SEWER SYSTEM REFUNDING BONDS, SERIES 2011B AND TAXABLE GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011C, OF THE CITY OF JUNCTION CITY, 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 Junction City, 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, the City has heretofore issued and has outstanding the 2011A Refunded Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation refunding bonds of the City for the purpose of refunding the 2011A Refunded Bonds and the interest accruing on such bonds on September 1, 2011 and September 15, 2011; and

WHEREAS, in order to restructure the debt payments on the 2011A Refunded Bonds to provide budget relief in 2011 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 to refund the 2011A Refunded Bonds and associated interest; and

WHEREAS, the City has heretofore issued and has outstanding the 2011B Refunded Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue general obligation water and sewer system refunding bonds of the City for the purpose of refunding the 2011B Refunded Bonds and the interest accruing on such bonds on September 1, 2011; and

WHEREAS, in order to restructure the debt payments on the 2011B Refunded Bonds to provide budget relief in 2011 and to provide an orderly plan of finance for the City and its water and sewer system, it has become desirable and in the best interest of the City and its inhabitants to refund the 2011B Refunded Bonds and associated interest; and

WHEREAS, the City has heretofore issued and has outstanding the 2011C Refunded Bonds and is authorized by K.S.A. 10-427 *et seq.* to issue taxable general obligation refunding bonds of the City for the purpose of refunding the 2011C Refunded Bonds and the interest accruing on such bonds on September 1, 2011; and

WHEREAS, in order to restructure the debt payments on the 2011C Refunded Bonds to provide budget relief in 2011 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 to refund the 2011C Refunded Bonds and associated interest.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, 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 and statutes of the State of Kansas including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, and K.S.A. 10-620 *et seq.*, as amended and supplemented.

“Additional Bonds” means any bonds secured by the Revenues hereafter issued pursuant to the System Bond Resolution.

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

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

“Bonds” means, collectively, the: (a) Series 2011A Bonds; (b) Series 2011B Bonds; and (c) Series 2011C Bonds; authorized and issued by the Issuer pursuant to the Bond Resolution.

“City” means the City of Junction City, 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.

“Expenses” means all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on System Revenue Bonds and depreciation and amortization charges during the period of determination), determined in accordance with generally accepted accounting principles, including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, paying agent fees and expenses, annual audits, periodic Consultant's reports, properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, for System operation, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, short-term obligations incurred and payable within a particular Fiscal Year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, but shall exclude all general administrative expenses of the Issuer not related to the operation of the System and transfers into any debt service reserve account established for Parity Bonds, as provided for in the System Bond Resolution.

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

“Net Revenues” means, for the period of determination, all Revenues less all Expenses.

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

“Refunded Bonds” means, collectively, the: (a) 2011A Refunded Bonds; (b) 2011B Refunded Bonds; and (c) 2011C Refunded Bonds.

“Revenues” means all income and revenues derived and collected by the City from the operation and ownership of the System, including investment and rental income, net proceeds from business interruption insurance, transfers of Net Revenues derived in a prior Fiscal Year and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay interest on System Indebtedness, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

“Series 2011A Bonds” means the General Obligation Refunding Bonds, Series 2011A, authorized and issued by the Issuer pursuant to this Ordinance and the Bond Resolution.

“Series 2011B Bonds” means the General Obligation Water and Sewer System Refunding Bonds, Series 2011B, authorized and issued by the Issuer pursuant to this Ordinance and the Bond Resolution.

“Series 2011C Bonds” means the Taxable General Obligation Refunding Bonds, Series 2011C, authorized and issued by the Issuer pursuant to this Ordinance and the Bond Resolution.

“Series DK Bonds” means the Issuer's General Obligation Improvement Bonds, Series DK, dated November 15, 2001.

“Series DL Bonds” means the Issuer's General Obligation Bonds, Series DN, dated October 1, 2003.

“Series DN Bonds” means the Issuer's General Obligation Bonds, Series DN, dated July 15, 2004.

“Series DO Bonds” means the Issuer's Taxable General Obligation Bonds, Series DO, dated July 15, 2005.

“Series DP Bonds” means the Issuer's General Obligation Refunding and Improvement Bonds, Series DP, dated May 15, 2007.

“Series DQ Bonds” means the Issuer's General Obligation Bonds, Series DQ, dated May 15, 2008.

“Series DR Bonds” means the Issuer's Taxable General Obligation Bonds, Series DR, dated May 15, 2008.

“Series DS Bonds” means the Issuer's General Obligation Bonds, Series DS, dated September 15, 2008.

“**Series DT Bonds**” means the Issuer's General Obligation Bonds, Series DT, dated October 29, 2008.

“**Series DU Bonds**” means the Issuer's General Obligation Bonds, Series DU, dated May 15, 2009.

“**Series DV Bonds**” means the Issuer's General Obligation Water and Sewer System Refunding Bonds, Series DV, dated May 15, 2009.

“**Series DW Bonds**” means the Issuer's General Obligation Refunding and Improvement Bonds, Series DW, dated May 15, 2010.

“**Subordinate Lien Bonds**” means the Series 2010B Bonds, the Series DV Bonds and any Additional Bonds or Additional Obligations payable from the Revenues on a subordinate lien basis to any Parity Bonds and Junior Lien Obligations, and which constitute general obligations of the Issuer.

“**State**” means the State of Kansas.

“**System**” means the entire combined waterworks plant and system and sewerage plant and system owned and operated by the City for the production, storage, treatment and distribution of water, and for the collection, treatment and disposal of sewage, to serve the needs of the City and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

“**System Bond Resolution**” means collectively the Resolution authorizing the Series DV Bonds and any supplemental resolutions of the Issuer that authorize the issuance of any System Indebtedness.

“**2011A Refunded Bonds,**” means, collectively, the following series of the Issuer’s general obligation bonds:

| <i>Series</i> | <i>Dated Date</i> | <i>Year</i> | <i>Amount</i> |
|---------------|--------------------|-------------|---------------|
| DK | November 15, 2001 | 2011 | \$ 185,000 |
| DL | October 1, 2003 | 2011 | 250,000 |
| DN | July 15, 2004 | 2011 | 220,000 |
| DP | May 15, 2007 | 2011 | 1,070,000 |
| DQ | May 15, 2008 | 2011 | 30,000 |
| DS | September 15, 2008 | 2011 | 13,729 |
| DT | October 29, 2008 | 2011 | 48,144 |
| DU | May 15, 2009 | 2011 | 1,220,000 |
| DW | May 15, 2010 | 2011 | 290,000 |

“**2011B Refunded Bonds**” means the Series DV Bonds maturing in the year 2011 in the principal amount of \$705,000.

“**2011C Refunded Bonds**”, means, collectively, the following series of the Issuer’s taxable general obligation bonds:

| <i>Series</i> | <i>Dated Date</i> | <i>Year</i> | <i>Amount</i> |
|---------------|-------------------|-------------|---------------|
| DO | July 15, 2005 | 2011 | \$245,000 |
| DR | May 15, 2008 | 2011 | 315,000 |

Section 2. Authorization of and Security for the Series 2011A Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Refunding Bonds, Series 2011A, of the City in the principal amount of \$3,835,000, for the purpose of providing funds to: (a) refund the 2011A Refunded Bonds and interest due on September 1 and September 15, 2011 on the Series DK, DL, DN, DP, DQ, DS, DT, DU and DW Bonds; and (b) pay costs of issuance of the Series 2011A Bonds. The Series 2011 A Bonds shall be general obligations of the City payable as to both principal and interest in part from special assessments levied upon the property benefited by the construction of the improvements financed by the 2011A Refunded Bonds, and if not so paid, 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 balance of the principal and interest on the Bonds is payable 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 3. Authorization of and Security for the Series 2011B Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Water and Sewer System Refunding Bonds, Series 2011B, of the City in the principal amount of \$825,000, for the purpose of providing funds to: (a) refund the 2011B Refunded Bonds and interest due on September 1, 2011 on the Series DV Bonds; and (b) pay costs of issuance of the Series 2011B Bonds. The Series 2011B Bonds shall be general obligations of the City payable from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues, and the City hereby pledges said Net Revenues to the payment of the principal of and interest on the Series 2011B Bonds. The City shall establish sufficient rates, fees and charges for use of the System to provide for payment of the Expenses and the repayment on the Series 2011B Bonds. If said Net Revenues are not sufficient to provide for the payment of the principal of and interest on the Series 2011B Bonds, the City shall levy taxes as set forth in **Section 6** hereof. The Series 2011B Bonds shall constitute Subordinate Lien Bonds. Pursuant to the terms of the System Bond Resolution, the City will reserve the right to issue Additional Bonds which are prior in lien on said Net Revenues to the lien of the Subordinate Lien Bonds upon the satisfaction of certain terms and conditions set forth in the System Bond Resolution.

Section 4. Authorization of and Security for the Series 2011C Bonds. There shall be issued and hereby are authorized and directed to be issued the Taxable General Obligation Refunding Bonds, Series 2011C, of the City in the principal amount of \$410,000, for the purpose of providing funds to: (a) refund the 2011C Refunded Bonds and interest due on September 1, 2011 on the Series DO and DR Bonds; and (b) pay costs of issuance of the Series 2011C Bonds. The Series 2011C 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.

Section 5. 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 6. Levy and Collection of Annual Tax. The governing body of the City shall annually to the extent necessary 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 and/or assessments upon all of the taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments 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 and/or assessments shall be deposited in the Bond and Interest Fund.

If at any time said taxes and/or assessments 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 and/or assessments are collected.

Section 7. 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 8. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 9. 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.

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PASSED by the governing body of the City on July 11, 2011 and signed by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

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CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on July 11, 2011; that the record of the final vote on its passage is found on page ____ of journal ____; and that it was published in *The Daily Union* on July 12, 2011.

DATED: July 12, 2011.

Clerk

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