

ORDINANCE NO. 3277

AN ORDINANCE OF THE CITY OF ABILENE, KANSAS, AUTHORIZING ISSUANCE OF THE CITY'S (I) GENERAL OBLIGATION BONDS, SERIES 2015-A, IN THE PRINCIPAL AMOUNT OF \$245,000, TO FINANCE CERTAIN CAPITAL IMPROVEMENTS IN THE CITY, AND (II) GENERAL OBLIGATION REFUNDING BONDS, SERIES 2015-B TO REFUND AND REDEEM CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AUTHORIZING OTHER DOCUMENTS AND ACTIONS AND MAKING OTHER COVENANTS RELATING TO THE BONDS.

WHEREAS, the governing body of the City of Abilene, Kansas (the "City"), under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented (the "Special Assessment Act"), adopted Resolution No. 061013-2, as amended by Resolution No. 030915-2, which authorizes the construction and installation of street, drainage, water system and related improvements (the "Project"), which Project benefited various identified real properties; and

WHEREAS, the final total costs of the Project have been determined by the governing body and such final costs and amount of special assessments levied and pre-paid in cash are as follows:

<u>Improvement</u>	<u>Final Cost</u>	<u>Paid by</u> <u>City-At-Large</u>	<u>Assessments</u> <u>to Properties</u> <u>Benefiting</u> <u>from</u> <u>Improvements</u>	<u>Amount of</u> <u>Special</u> <u>Assessments</u> <u>Paid in Cash</u>
"Project" defined herein	\$375,000.00	\$48,721.08	\$326,278.98	\$76,810.02

WHEREAS, the City is authorized by the Special Assessment Act and K.S.A. 10-101 to 10-125, inclusive, as supplemented and amended (the "Bond Act"), to issue its general obligation bonds for the purpose of providing financing for the combined otherwise unpaid costs of the Project,; and

WHEREAS, pursuant to the Bond Act and K.S.A. 10-417 *et seq.*, (the "Refunding Act") and in order to achieve interest cost savings and provide a more orderly plan of finance for the City, the City is authorized to issue its general obligation refunding bonds to refund in advance of their maturity the City's General Obligation Bonds, Series 2008 maturing on or after September 1, 2017 (the "Refunded Bonds"); and

WHEREAS, the governing body determines it necessary to authorize issuance of such general obligation bonds to provide funds for the purposes here described; and to specify the terms, details, form and conditions of the general obligation bonds.

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

SECTION 1. Authorization of the Bonds. Pursuant to the Special Assessment Act and the Bond Act, the City's General Obligation Bonds, Series 2015-A, in the total principal amount of \$245,000 (the "2015-A Bonds") are authorized to be issued for the purpose of providing funds to pay a portion of the costs of the Project. Pursuant to the Bond Act and the Refunding Act, the City's General Obligation Refunding Bonds, Series 2015-B, in the total principal amount of \$1,365,000 (the "2015-B Bonds") are authorized to be issued for the purpose of refunding and redeeming a portion of the Refunded Bonds (as defined above). Proceeds of the Series 2015-A Bonds and the Series 2015-B Bonds (collectively, the "Bonds") are also authorized to be pay costs of issuing the Bonds.

SECTION 2. Security for the Bonds. The Bonds are general obligations of the City, payable as to principal and interest in part from special assessments levied upon property specially benefited by certain improvements, and if not so paid, from ad valorem taxes that 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 Bonds are payable as to principal and interest from ad valorem taxes that 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 pledged to secure the payment of the principal of and the interest on the Bonds as the same become due and payable.

SECTION 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, mature and be payable at such times, and in such forms, be subject to redemption and payment prior to maturity, and be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements contained in a resolution adopted by the governing body of the City (the "Resolution") concurrently with this Ordinance.

SECTION 4. Designation of Paying Agent and Bond Registrar; Issuer/Agent Agreement. Pursuant to K.S.A. 10-620 *et seq.*, the governing body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds and designates and appoints the Treasurer of the State of Kansas, Topeka, Kansas, as the Bond Registrar and Paying Agent for the bonds (the "Paying Agent"). The terms, conditions and provisions under which the Paying Agent will perform its duties are set forth in an Agreement between Issuer and Agent dated as of August 13, 2015 (the "Issuer/Agent Agreement"). The Issuer/Agent Agreement, in substantially the form presented to the governing body with this Ordinance, is approved and the Mayor and City Clerk are authorized to execute and deliver the Issuer/Agent Agreement for and on behalf 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 and/or assessments upon all of the taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments 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.

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

SECTION 6. Tax Covenants. The governing body of the City covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not use or permit the use of the proceeds of the Bonds in a manner which, if such use had been reasonably expected on the date of issuance and delivery of the Bonds, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the "Code"); and that it will comply with all applicable requirements of Section 148 of the Code and the applicable rules and regulations of the United States Treasury Department promulgated under the Code. The governing body further covenants to take all such action in its power as may be required from time to time in order to assure the continued tax-exempt status of the interest on the Bonds, and to comply with all provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department issued thereunder.

SECTION 7. Designation as Qualified Tax-Exempt Obligations. The governing body of the City designates the Bonds as "qualified tax-exempt obligations" as defined in Section 265(b) (3) of the Code.

SECTION 8. Further Authority. The City and its officers, agents and employees are authorized and directed to, take such actions, expend such moneys and execute such other documents, certificates and instruments as are necessary or desirable to carry out and comply with this Ordinance and give effect to the transactions contemplated and authorized herein, including final certificates required to be included in the official Transcript of Proceedings evidencing authorization and issuance of the Bonds, all without further action by the governing body.

SECTION 9. Severability. If any section, paragraph, clause or provision of this Ordinance is, for any reason, held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any remaining provisions of this Ordinance.

SECTION 10. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

SECTION 11. Effective Date. This Ordinance shall be in force and take effect from and after its adoption and approval and its publication one time in the City's official newspaper.

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ADOPTED AND APPROVED by the governing body of the City of Abilene, Kansas on July 27, 2015.

CITY OF ABILENE, KANSAS

[seal]



ATTEST:

By *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor

By *Penny Soukup*
Penny Soukup, City Clerk