

ORDINANCE NO. 11-02

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$1,495,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011, OF THE CITY OF GALENA, KANSAS, FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND ALL OF THE CITY'S OUTSTANDING SEWER UTILITY SYSTEM REVENUE BONDS, SERIES 1992-B, DATED SEPTEMBER 23, 1992; AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO.

WHEREAS, the City of Galena, Kansas (the "Issuer" or "City"), is a municipal subdivision, body corporate and politic duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the City is authorized under the provisions of the Act, to issue and sell general obligation bonds and revenue bonds for the purpose of paying all or part of the costs of constructing and of making alterations, repairs, reconstructions, extensions, enlargements and improvements to the City and the City-owned sewer utility system and refunding said bonds with General Obligation Bonds; and

WHEREAS, the City passed and adopted Resolution No. 11-09, and published it in *The Sentinel-Times* on March 30 and April 6, 2011, giving notice of the City's intent to refund and pay its Sewer Utility System Revenue Bonds, Series 1992-B, dated September 23, 1992, and Sewer Utility System Improvement Revenue Bonds, Series 2001, dated April 25, 2001, in accordance with K.S.A. 10-1201 *et seq.*, by the issuance and sale of general obligation refunding bonds in an amount of not to exceed \$1,790,000; and

WHEREAS, no petition requesting an election on the proposition of the City issuing and selling general obligation bonds to refund and pay all of the outstanding Series 1992-B Bonds and Series 2001 Bonds was filed with the City Clerk within twenty (20) days after the last publication of Resolution No. 11-09; and

WHEREAS, the City hereby finds and determines that it is desirable and in the best interests of the City to authorize the issuance of the Bonds for the purpose of refunding the City's Sewer Utility System Revenue Bonds, Series 1992-B, dated September 23, 1992, in the outstanding principal amount of \$1,415,400 (the Series 1992-B Bonds the "Existing Bonds"); and

WHEREAS, the total cost to the City on the general obligation bonds amounts to less than the remaining interest cost to the City on the outstanding Series 1992-B Bonds being refunded; the anticipated revenues from the sewer system are expected to be sufficient to retire the Bonds; and the refunding is necessary to accomplish a comprehensive and orderly financing plan for the Sewer Utility System; and

WHEREAS, the general obligation bonds to be issued to pay the costs to refund the Series 1992-B Bonds do not exceed the aggregate amount of the principal amount of the Series 1992-B Bonds or interest being refunded, the amount of any interest which has accrued or will accrue to the date of payment of the Series 1992-B Bonds being refunded or redemption premium, expenses for issuance; and

WHEREAS, the Act authorizes the issuance of refunding bonds, a portion of the proceeds of which may be used to refund the Existing Bonds.

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

Section 1. Definitions of Words and Terms. In addition to the words and terms defined elsewhere in this Authorizing Ordinance and in the Resolution, the following words and terms as used in this Authorizing Ordinance shall have the following meanings:

"Act" shall mean the constitution and statutes of the State of Kansas, including K.S.A. 10-1201 *et seq.*, K.S.A. 10-427 and 10-427a and K.S.A. 10-620 *et seq.*, as amended and supplemented.

"Authorizing Ordinance" means this Ordinance No. 11-02.

"Bonds" means the City's General Obligation Refunding Bonds, Series 2011, dated May 24 2011, in the aggregate principal amount of \$1,495,000 authorized and issued pursuant to this Ordinance.

"City Clerk" means the City Clerk of the City of Galena, Kansas.

"Code" means the Internal Revenue Code of 1986, as amended, together with any regulations applicable thereto or promulgated thereunder by the United States Department of the Treasury.

"Existing Bonds" means the City's outstanding Series 1992-B Bonds.

"Issuer" or "City" means the City of Galena, Kansas.

"Mayor" shall mean the duly elected Mayor or, in the Mayor's absence, the duly appointed Deputy Mayor of the City.

"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.

"Series 1992-B Bonds" means the Issuer's Sewer Utility System Revenue Bonds, Series 1992-B, dated September 23, 1992, in the outstanding principal amount of \$1,415,400.

Section 2. Authorization of the Bonds. There shall be issued and are hereby authorized and directed to be issued the General Obligation Refunding Bonds, Series 2011, of the City in the principal amount of \$1,495,000 for the purpose of providing funds to pay the costs to refund the Existing Bonds in accordance with the Act.

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 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 Resolution hereinafter adopted by the governing body of the City.

Section 5. Tax Covenants. The City covenants and agrees that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds under Section 103 of the Code. The City covenants and agrees that it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purpose for which the Bonds are issued as hereinbefore set forth, and that it will not directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City, or take or omit to take any action that would cause the Bonds to be "arbitrage

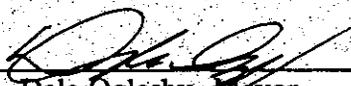
bonds" within the meaning of Section 148(a) of the Code. To that end, the City will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds. In the event that at any time the City is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on the investment of any moneys held by the City under the Resolution, the City shall take such action as may be necessary.

Section 6. Further Authority. The Mayor, City 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 issue the Bonds, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein authorized which they may approve.

Section 7. Qualified Tax-Exempt Obligations. The Bonds are designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

ADOPTED by the governing body of the City on May 2nd, 2011.

(SEAL)



Dale Oglesby, Mayor

ATTEST:



Deborah Kitch, City Clerk