

ORDINANCE NO. 628

AN ORDINANCE AUTHORIZING AND DIRECTING THE ISSUANCE OF ELECTRIC UTILITY SYSTEM REVENUE BONDS, SERIES 2012, OF THE CITY OF WATHENA, KANSAS, IN THE PRINCIPAL SUM OF \$925,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY PART OF THE COSTS OF IMPROVING THE CITY'S ELECTRIC UTILITY SYSTEM, AND DOING ALL THINGS NECESSARY AND INCIDENTAL THERETO, UNDER THE AUTHORITY OF K.S.A. 10-1201 *ET SEQ.*, AS AMENDED AND SUPPLEMENTED.

WHEREAS, pursuant to K.S.A. 10-1201 *et seq.*, as amended (the "Act"), the governing body of the City of Wathena, Kansas, did on September 4, 2012, by two-thirds vote of the members thereof, pass and approve Resolution No. 2012-06, both approving the estimates of the costs of making various improvements to the City's electric utility system (the "System"), including but not limited to constructing and improving the electric distribution system, and doing all things necessary and incidental thereto (the "Improvements") and authorizing that notice of the City's intention to make the Improvements and finance the costs thereof be given in accordance with the requirements of the Act; and

WHEREAS, pursuant to the Act, the City did cause to be published in its official newspaper, a paper of general circulation in the City, its Notice of Intention to complete the Improvements and finance part of the costs thereof by issuing revenue bonds of the City, in the maximum principal amount of \$925,000, to pay the costs of the Improvements incurred or to be incurred by the City in connection with the Improvements (the "Bonds"); and

WHEREAS, a sufficient protest against the making of the Improvements and the issuance of the Bonds of the City in the maximum principal amount of \$925,000 to pay the cost thereof was not received by the City Clerk within fifteen (15) days of the date of the publication of the City's Notice of Intention; and

WHEREAS, the proceeds derived from the sale of the Bonds herein authorized shall be placed in the Project Fund to be established as herein authorized for the purpose of paying part of

the costs of making the Improvements, all as more particularly determined by the City by a subsequent Resolution.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WATHENA, DONIPHAN COUNTY, KANSAS:

Section 1. Authorization of and Security for the Bonds. That for the purpose of providing funds in the principal amount of Nine Hundred Twenty-Five Thousand Dollars (\$925,000) to pay part of the costs of making the Improvements as aforesaid, all of which is hereby authorized and ordered to be done, the issuance of Electric Utility System Revenue Bonds, Series 2012, of the City of Wathena, Doniphan County, Kansas, in the aggregate principal amount of Nine Hundred Twenty-Five Thousand Dollars (\$925,000) dated October 18, 2012 (the "Bonds") is hereby authorized and ordered done pursuant to and in accordance with K.S.A. 10-1201 *et seq.*, and all amendments thereto. The principal of and interest on the Bonds shall be payable solely from the revenues derived by the City from the rates, fees or charges collected by the City from the operation of the Electric Utility System of the City (the "System") together with all other improvements, extensions and enlargements thereto hereafter constructed or acquired by the City and not from any other fund or source. The Bonds shall constitute an equal and parity lien with the City's Electric Utility System Revenue Bonds, Series 2012, dated May 4, 2012, in the aggregate principal amount of \$580,000 upon the revenues produced from the System of the City. The Bonds and the interest thereon shall not be a debt or general obligation of the City, Doniphan County, Kansas, or the State of Kansas, or any municipal corporation thereof, and neither the Bonds, the interest thereon, nor any judgment thereon or with respect thereto, are payable in any manner from tax revenues of any kind or character. The Bonds shall not constitute an indebtedness or a pledge of the faith and credit of the City, Doniphan County, Kansas, the State of Kansas or any municipal corporation thereof within the meaning of any constitutional or statutory limitation or restriction.

Section 2. Resolution of the City of Wathena, Kansas. The form of the Bonds and details of said Bonds, providing for the collection, registration and application of revenues of the System for the purposes authorized by law, including paying the cost of operation and maintenance of said system are to be determined by Resolution of the City and K.S.A. 10-1201 *et seq.*, as amended and supplemented.

Section 3. Arbitrage. That the City covenants and agrees that no part of the proceeds from the Bonds or other proceeds shall be used, at any time, directly or indirectly in a manner which if such use had been reasonably anticipated on the date of the issuance of the Bonds would have caused the Bonds to be or become an "Arbitrage Bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the Regulations of the Treasury Department thereunder proposed or in effect at the time of such use applicable to obligations issued on the date of issuance of the Bonds.

Section 4. Qualified Tax-exempt Obligations. That the Bonds are designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

Section 5. Amendments. That the provisions of this Ordinance may be modified or altered by the City in any respect without the consent of any Bondholder for the purpose of correcting any errors or mistakes or otherwise, except that no modification or alteration shall be permitted which would reduce the security of the Bondholder. It shall not be necessary to note on any Bond any reference to such amendment or modification.

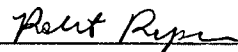
Section 6. Severability. That if any provision of this Ordinance or the Bonds shall, for any reason, be held, or be in fact, inoperative or unenforceable in any particular case, such circumstance shall not render the provision inoperative or unenforceable in any other case or circumstance or render any other provision herein contained inoperative or unenforceable. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections of this Ordinance, or in the Bonds shall not affect the remaining portions of this Ordinance or the Bonds, or any part thereof.

Section 7. Effective Date. That this Ordinance shall take effect and be in full force from and after its adoption and publication by the governing body of the City.

ADOPTED AND APPROVED by the Governing Body of the City of Wathena, Doniphan County, Kansas, this 1st day of October, 2012.

CITY OF WATHENA
DONIPHAN COUNTY, KANSAS

(SEAL)



Robert Ryser, Mayor

ATTEST:



Jim Richardson, City Clerk