

**ORDINANCE NO. HR-5**

**A HOME RULE ORDINANCE AUTHORIZING THE CITY OF PITTSBURG, KANSAS, (THE "CITY") TO ISSUE AND SELL GENERAL OBLIGATION BONDS OF THE CITY FOR THE PURPOSE OF PROVIDING FUNDS TO REFINANCE AND PREPAY CERTAIN LOAN, LEASE, AND/OR LEASE/PURCHASE OBLIGATIONS OF THE CITY, TOGETHER WITH THE PAYMENT OF THE COSTS THEREOF; AUTHORIZING THE EXECUTION OF ALL NECESSARY AND RELATED DOCUMENTS PERTAINING THERETO, ALL PURSUANT TO ARTICLE 12, SECTION 5, OF THE CONSTITUTION OF THE STATE OF KANSAS AND K.S.A. 12-101, AS AMENDED.**

**WHEREAS**, pursuant to Article 12, Section 5, of the Constitution of the State of Kansas, (the "Constitution") cities of the State of Kansas (the "State") are empowered to determine their local affairs and government, including the levying of taxes, excises, fees, charges and other exactions, except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by an enactment of the legislature of the State applicable uniformly to all cities of the same class; and

**WHEREAS**, the City of Pittsburg, Kansas, (the "City") is, in accordance with such power and authority granted it by the Constitution, authorized pursuant to K.S.A. 12-101, as amended, and other specific grants of statutory authority to contract for and incur obligations to finance capital improvement projects to serve the City and its citizens and residents; and

**WHEREAS**, such obligations as incurred by the City to finance capital improvement projects may take the form of general or limited obligation bonds, which, once issued, may be refunded by the City pursuant to K.S.A. 10-427 et seq., as amended, in the case of general obligation bonds, or K.S.A. 10-116a in the case of revenue or limited obligation bonds; leases; or loan obligations other than bonds; and while bonds may be refunded pursuant to the statutory authority hereinbefore referenced, no such statutory authority presently authorizes or prohibits the City from issuing general obligation bonds of the City to refinance or prepay its lease or loan obligations which do not constitute bonds; and

**WHEREAS**, the City has in accordance with the provisions of K.S.A. 65-163d et seq., as amended, received a loan from the State of Kansas acting by and through the Kansas Department of Health and Environment ("KDHE") to finance certain improvements to the City's municipally-owned water treatment plant and system (KPWSLF Project No. 2489) pursuant to a loan agreement effective as of August 13, 2008, as amended, by and between the City and KDHE (the "Public Water Supply System Loan Agreement"); and

**WHEREAS**, the outstanding and unpaid principal balance due and payable by the City to KDHE pursuant to the Public Water Supply System Loan Agreement is \$4,934,888.67 which the City may, in accordance with Section 2.05(b) thereof, prepay upon the City having given sixty (60) days written notice of KDHE of its intent to prepay such loan; and

**WHEREAS**, in order to realize significant present value savings in connection with its debt service obligation under the Public Water Supply System Loan Agreement, the City wishes to prepay and refinance such loan; and

**WHEREAS**, the City has in accordance with the provisions of K.S.A. 65-3321 to 65-3329, inclusive, all as amended, received a loan from the State of Kansas acting by and through KDHE to finance certain improvements to the City's municipally-owned wastewater treatment system (KWPCRF Project No. C20 1527 01) pursuant to a loan agreement effective as of July 3, 2001, as amended, by and between the City and KDHE (the "Wastewater System Loan Agreement"); and

**WHEREAS**, the outstanding and unpaid principal balance due and payable by the City to KDHE pursuant to the Wastewater System Loan Agreement is \$1,900,566.96 which the City may, in accordance with Section 2.05(b) thereof, prepay upon the City having given sixty (60) days written notice to KDHE of its intent to prepay such loan; and

**WHEREAS**, in order to realize significant present value savings in connection with its loan debt service obligation under the Wastewater System Loan Agreement, the City wishes to prepay and refinance such loan; and

**WHEREAS**, the refinancing and prepayment of amounts payable by the City under the Public Water Supply System Loan Agreement and/or the Wastewater System Loan Agreement (Collectively, the "Loan Agreements") is not limited or prohibited by the Constitution, K.S.A. 12-101, K.S.A. 65-163d et seq. or K.S.A. 65-3321 to 65-3329, inclusive, all as amended; and

**WHEREAS**, the governing body of the City (the "Commission") hereby finds that there is presently no Kansas statutory authority either authorizing or prohibiting the City's refinancing and/or prepaying and paying the costs of refinancing and/or prepaying the Loan Agreements with the proceeds of general obligation bonds of the City; and

**WHEREAS**, the Commission hereby finds that the authority to issue general obligation bonds of the City to refinance and/or prepay and pay the costs of refinancing and/or prepaying the Loan Agreements and to permanently finance the improvement projects initially financed by such Loan Agreements as authorized pursuant to this ordinance (the "Ordinance") is not contrary to any act of the Kansas legislature; accordingly, said authority shall become effective upon passage of this Ordinance and its publication in the official City newspaper; and

**WHEREAS**, the Commission deems it necessary to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance.

**NOW, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PITTSBURG, KANSAS:**

**Section 1.** That it is in the best interest of the City, financially beneficial to the City and a valid public purpose of the City, to authorize the Commission to issue and sell its general obligation bonds of the City for the purpose of refinancing and prepaying and paying the costs of refinancing and prepaying the Loan Agreements, permanently financing the improvement projects initially financed by the Loan Agreements, and to authorize and direct the Commission, officers, agents and employees of the City to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance pursuant to the Act.

**Section 2.** That the City is hereby authorized to issue and sell its general obligation bonds as authorized pursuant to this Ordinance to refinance and/or prepay and pay the costs of refinancing and/or prepaying the Loan Agreements and to prepay and/or refinance any lease, lease/purchase agreement, or loan, including revolving loans, made to the City by an agency of

the State of Kansas, the federal government of the United States, or any other lessor or lender, to finance equipment acquisitions or capital improvements by the City.

**Section 3.** That the bonds herein provided for shall constitute a general obligation of the City and shall be issued in accordance with and pursuant to the authority granted hereby and K.S.A. 10-101 to 10-125, inclusive, all as amended.

**Section 4.** The Commission, officers, agents and employees of the City are authorized to take such action and execute such documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance.

**Section 5.** This Ordinance shall be effective upon publication in the official newspaper of the City.

**PASSED AND APPROVED** by the governing body of the City of Pittsburg, Kansas, this 14th day of April, 2015.

**CITY OF PITTSBURG, KANSAS**

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

