

(Published in *The Butler County Times-Gazette* on July 18, 2015)

ORDINANCE NO. 1597

AN ORDINANCE AUTHORIZING THE REIMBURSEMENT TO THE CITY'S ELECTRIC FRANCHISEE OF A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION, AND BURIAL OF CERTAIN UNDERGROUND ELECTRIC POWER LINES IN THE CITY OF ANDOVER, KANSAS; AUTHORIZING THE ISSUANCE OF TAXABLE GENERAL OBLIGATION BONDS OF THE CITY IN AN APPROXIMATE AMOUNT OF \$3,900,000 TO REIMBURSE A PORTION OF THE COSTS OF SAID PROJECT; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TEMPORARY NOTES FROM TIME TO TIME AS FUNDS ARE NEEDED FOR THE ORDERLY REIMBURSEMENT OF SAID PROJECT COSTS; ALL PURSUANT TO ARTICLE 12, SECTION 5, OF THE CONSTITUTION OF THE STATE OF KANSAS.

WHEREAS, City of Andover, Kansas (the "City"), is a duly organized city of the second class created and existing under the laws of the state of Kansas; and

WHEREAS, the City does hereby find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City, and integral to the economic development of the City, for the City's electric franchisee to acquire, construct, and bury certain underground electric power lines (the "Project"); and

WHEREAS, the governing body of the City finds it necessary and desirable to: (a) reimburse the City's electric franchisee for a portion of the costs of the Project, (b) to finance a portion of the cost of the Project by issuing general obligation bonds of the City in an approximately amount of \$3,900,000; and

WHEREAS, pursuant to Article 12, § 5 of the Constitution of the state of Kansas (the "Home Rule Amendment"), the City has authority to determine its local affairs and government except when limited or prohibited by an enactment of the state legislature applicable uniformly to all cities of the same class; and

WHEREAS, no statutory authority exists to limit or prohibit the exercise of the City's authority under the Home Rule Amendment to authorize reimbursement of a portion of the costs of the Project and the issuance of general obligation bonds to fund such reimbursement and Project;

WHEREAS, the governing body hereby finds and determines it to be necessary to authorize the reimbursement to the City's electric franchisee for a portion of the costs of acquisition, construction, and burial of the Project and to authorize and provide for the issuance of temporary improvement notes from time to time as funds are needed for the orderly reimbursement of said costs during acquisition, construction, and burial of the Project;

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

SECTION 1. In accordance with the Home Rule Amendment, it is hereby authorized, ordered and directed that the City reimburse the City's electric franchisee for a portion of the costs of the Project, provided such Project is acquired, constructed, and buried in accordance with the plans and specifications and estimates of costs therefor, which are to be approved by City staff.

SECTION 2. It is hereby further authorized, ordered and directed that the portion of the costs of acquiring, constructing, and burying the Project which are to be reimbursed to the City's electric franchisee shall be paid in part from the proceeds of the City's general obligation bonds to be issued by the City in an approximate amount of \$3,900,000.

SECTION 3. It is hereby further authorized, ordered and directed that in the absence of otherwise available funds, in order to temporarily finance the estimated reimbursement of the costs of the Project until the issuance of the general obligation bonds as hereinbefore provided, there may be issued temporary improvement notes (the "Notes"), such notes to be issued from time to time upon subsequent resolution or resolutions of the City which shall provide and set forth the details of the Notes, including the fixing of the dates, terms, denominations, interest rates and maturity dates (not exceeding four years from the date of the notes and redeemable prior to the stated maturity thereof). Such Notes shall be issued and provision shall be made therefor as funds are needed and required for the orderly reimbursement of the costs of the acquisition, construction, and burial of the Project; and the Mayor and City Clerk are hereby authorized, ordered and directed to prepare and execute each of such Notes in accordance with the terms of this Ordinance and the terms of the subsequent resolution or resolutions providing for same; and shall deliver the Notes to persons having claims against the City in connection with the reimbursement of the costs of the Project, or may sell the Notes at private or public sale and apply the proceeds therefrom to the reimbursement to the City's electric franchisee of the actual costs and expenses of the Project. Any Notes issued under the authority of this Section shall be issued under and will contain a recital that they are issued under the authority of K.S.A. 10-123 and the Home Rule Amendment, inclusive, as amended and supplemented, and shall contain all other usual and required recitals and covenants and be in the form required therefor by said K.S.A. 10-123; and said Notes may be issued in combinations with any other temporary notes being issued by the City as shall be determined by the governing body at the time of such issuance to be in the City's best interest.

SECTION 4. This Ordinance shall be in force and take effect from and after its passage, adoption and approval and publication one time in the City's official newspaper.

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PASSED, ADOPTED AND APPROVED by the governing body of the City of Andover,
Kansas on July 14, 2015.

CITY OF ANDOVER, KANSAS

[seal]

Ben Lawrence, Mayor

ATTEST:

Susan C. Renner, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Andover, Kansas met at the normal meeting place in the City on July 14, 2015, at 7:00 p.m., with the Mayor Ben Lawrence presiding, and the following members of the governing body present:

Sheri Geisler, Clark Nelson, Caroline Hale, and Kris Estes

and the following members absent:

Troy Tabor

One Council Member position was vacant due to the death of Byron Stout, IV on June 24, 2015.

Thereupon, and among other business, there was presented to the governing body, an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE REIMBURSEMENT TO THE CITY'S ELECTRIC FRANCHISEE OF A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION, AND BURIAL OF CERTAIN UNDERGROUND ELECTRIC POWER LINES IN THE CITY OF ANDOVER, KANSAS; AUTHORIZING THE ISSUANCE OF TAXABLE GENERAL OBLIGATION BONDS OF THE CITY IN AN APPROXIMATE AMOUNT OF \$3,900,000 TO REIMBURSE A PORTION OF THE COSTS OF SAID PROJECT; AND AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF TEMPORARY NOTES FROM TIME TO TIME AS FUNDS ARE NEEDED FOR THE ORDERLY REIMBURSEMENT OF SAID PROJECT COSTS; ALL PURSUANT TO ARTICLE 12, SECTION 5, OF THE CONSTITUTION OF THE STATE OF KANSAS.

Thereupon, the Ordinance was considered and discussed; and on motion of Council Member Clark Nelson, seconded by Council Member Caroline Hale, the Ordinance was adopted by a majority vote of all members of the governing body.

Thereupon, the Ordinance having been adopted by a majority vote of the members of governing body, it was given No. 1597 and directed to be signed by the Mayor and attested by the City Clerk; and the City Clerk was directed to cause the publication of the Ordinance one time as set forth therein and required by law.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of the Minutes of the proceedings at the July 14, 2015 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk