

(Published in *The Butler County Times-Gazette* on October 31, 2015)

ORDINANCE NO. 1604

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES A, 2015, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$6,540,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND FINANCING THE OTHERWISE UNPAID COSTS OF MULTIPLE CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the governing body of the City of Andover, Kansas (the "City"), under the authority of K.S.A. 12-6a01 *et seq.*, as amended and supplemented (the "Special Assessment Act"), has adopted Resolution No. 13-13 on March 26, 2013 and published March 30, 2013 (the "Cornerstone Office Authorizing Resolution"), which authorizes the construction and installation of Cornerstone Office Water Improvements, Cornerstone Office Sewer Improvements, and Cornerstone Office Paving Improvements (collectively, the "Cornerstone Office Improvements"), which Cornerstone Office Improvements benefited various identified real properties; and

WHEREAS, the governing body of the City, under the authority of the Special Assessment Act, has adopted Resolution No. 13-14, on March 26, 2013 and published March 30, 2013, (as amended by Resolution No. 14-27, adopted on October 28, 2014 and published November 1, 2014) (collectively, the "Marketplace Commercial Authorizing Resolution"), which authorizes the construction and installation of Andover Marketplace Commercial Water Improvements, Andover Marketplace Commercial Sewer Improvements and Andover Marketplace Commercial Paving Improvements (collectively, the "Marketplace Commercial Improvements"), which Marketplace Commercial Improvements benefited various identified real properties; and

WHEREAS, the governing body of the City, under the authority of the Special Assessment Act, has adopted Resolution No. 14-22, adopted on September 30, 2014 and published October 4, 2014 (collectively, the "Highlands at Terradyne Authorizing Resolution"), which authorizes the construction and installation of Highlands at Terradyne Water Distribution System Improvements, Highlands at Terradyne Sanitary Sewer Improvements and Highlands at Terradyne Storm Water Drain Improvements (collectively, the "Highlands at Terradyne Improvements"), which Highlands at Terradyne Improvements benefited various identified real properties; and

WHEREAS, the governing body of the City, under the authority of the Special Assessment Act, has adopted Resolution No. 13-26, adopted on September 10, 2013 and published September 14, 2013 (collectively, the "Cornerstone Fourth Authorizing Resolution"), which authorizes the construction and installation of Cornerstone Fourth Addition Water Improvements, Cornerstone Fourth Addition Sewer Improvements and Cornerstone Fourth Addition Paving and Storm Water

Sewer Improvements (collectively, the “Cornerstone Fourth Improvements”), which Cornerstone Fourth Improvements benefited various identified real properties; and

WHEREAS, the governing body of the City, under the authority of the Special Assessment Act, has adopted Resolution No. 13-35 adopted on December 30, 2013 and published January 4, 2014 (collectively, the “Shadow Rock Authorizing Resolution”), which authorizes the construction and installation of Shadow Rock Water Improvements, Shadow Rock Sewer Improvements and Shadow Rock Paving Improvements (collectively, the “Shadow Rock Improvements”), which Shadow Rock Improvements benefited various identified real properties; and

WHEREAS, the final total costs of Cornerstone Office Improvements, Marketplace Commercial Improvements, Highlands at Terradyne Improvements, Cornerstone Fourth Improvements, and the Shadow Rock Improvements (collectively, the “Special Assessment Projects”) have been determined by the governing body and such final costs and amount of special assessments paid in cash are as follows:

<u>Improvement</u>	<u>Final Cost</u>	<u>% Chargeable to City-At-Large</u>	<u>% Chargeable to Properties Benefiting from Improvements</u>	<u>Amount of Special Assessments Paid in Cash</u>
Cornerstone Office Water Improvements	\$43,200.00	0.00%	100.00%	\$0.00
Cornerstone Office Sewer Improvements	\$71,500.00	0.00%	100.00%	\$0.00
Cornerstone Office Paving Improvements	\$301,500.00	0.00%	100.00%	\$0.00
Andover Marketplace Commercial Water Improvements	\$66,700.00	0.00%	100.00%	\$0.00
Andover Marketplace Commercial Sewer Improvements	\$89,600.00	0.00%	100.00%	\$0.00
Andover Marketplace Commercial Paving Improvements	\$345,000.00	0.00%	100.00%	\$0.00
Highlands at Terradyne Water Distribution System Improvements	\$67,900.00	0.00%	100.00%	\$0.00
Highlands at Terradyne Sanitary Sewer Improvements	\$234,500.00	0.00%	100.00%	\$0.00
Highlands at Terradyne Storm Water Drain Improvements	\$180,900.00	0.00%	100.00%	\$0.00

<u>Improvement</u>		<u>Final Cost</u>	<u>% Chargeable to City-At-Large</u>	<u>% Chargeable to Properties Benefiting from Improvements</u>	<u>Amount of Special Assessments Paid in Cash</u>
Cornerstone Fourth Addition Water Improvements		\$75,500.00	0.00%	100.00%	\$2,040.54
Cornerstone Fourth Addition Sewer Improvements		\$240,500.00	0.00%	100.00%	\$6,500.00
Cornerstone Fourth Addition Paving and Storm Water Sewer Improvements		\$482,600.00	0.00%	100.00%	\$13,043.24
Shadow Rock Water Improvements		\$185,600.00	7.54%	92.46%	\$0.00
Shadow Rock Sewer Improvements		\$325,800.00	0.00%	100.00%	\$0.00
Shadow Rock Paving Improvements		\$1,532,500.00	3.73%	96.27%	\$0.00

WHEREAS, the governing body of the City, under the authority K.S.A. 12-1736 to 12-1739, as amended and supplemented (the “Public Building Act”), has adopted Ordinance No. 1595 (the “Public Building Authorizing Ordinance”), which authorizes the remodeling of an existing city fire station (collectively, the “Public Building Project”); and

WHEREAS, the governing body of the City has previously issued its General Obligation Bonds, Series A, 2010 in the total principal amount of \$3,968,000 of which \$2,835,000 currently remains outstanding (the “2010 Bonds”); and

WHEREAS, the governing body of the City, under the authority of K.S.A. 10-427 *et seq.*, as amended and supplemented (the “Refunding Act”), finds and determines it is necessary and appropriate to provide for the refunding and redemption of the 2010 Bonds maturing on or after October 1, 2017 (the “Refunded Bonds”) on or about November 15, 2015; and

WHEREAS, the City is authorized by the Special Assessment Act, the Public Building Act, the Refunding Act and K.S.A. 10-101 to 10-125, inclusive, as supplemented and amended (the “Bond Act”), to issue, sell and deliver its general obligation bonds for the purpose of (i) refunding the Refunded Bonds on November 15, 2015 or as soon thereafter as practicable; (ii) providing financing for the costs of the Public Building Project; (iii) redeeming, paying and canceling the City of Andover, Kansas Temporary Improvement Notes, Series A, 2014, dated November 5, 2014 (the “2014 Notes”) of the City on November 15, 2015 or as soon thereafter as practicable which 2014 Notes were issued to pay the costs of the Cornerstone Fourth Improvements and Shadow Rock Improvements; (iv) providing permanent financing for the Cornerstone Office Improvements, Marketplace Commercial Improvements, and Highlands at

Terradyne Improvements (collectively, together with the Cornerstone Fourth Improvements and Shadow Rock Improvements, the “Special Assessment Projects”); and (v) paying the costs of issuing the Bonds; and

WHEREAS, the governing body has, pursuant to the Bond Act and by Resolution No. 15-19, adopted September 8, 2015, authorized the public sale of general obligation bonds of the City, and notice of the public sale was published, the public sale was held, and the general obligation bonds have been awarded to the best bidder; and

WHEREAS, the governing body determines it necessary and appropriate to authorize and provide for the issuance of such general obligation bonds for the purpose of providing the necessary funds for the purposes 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 ANDOVER, KANSAS:

SECTION 1. Authorization of the Bonds. General Obligation Refunding and Improvement Bonds, Series A, 2015, of the City in the total principal amount of Six Million Five Hundred Forty Thousand Dollars (\$6,540,000.00) (the “Bonds”) are authorized to be issued for the purpose of (i) refunding the Refunded Bonds on November 15, 2015 or as soon thereafter as practicable; (ii) providing financing for the costs of the Public Building Project; (iii) redeeming, paying and canceling the 2014 Notes; (iv) providing permanent financing for the Cornerstone Office Improvements, Marketplace Commercial Improvements, and Highlands at Terradyne Improvements (collectively, together with the Cornerstone Fourth Improvements and Shadow Rock Improvements, the “Special Assessment Projects”); and (v) paying the costs of issuing the Bonds.

SECTION 2. Security for the Bonds. The Bonds are general obligations 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 severally become due and payable. The governing body of the City covenants that it shall annually make provision for the payment of the principal of and the interest on the Bonds as and when the same become due and payable by levying and collecting the necessary special assessment taxes upon the properties liable therefor, and/or by levying and collecting the necessary ad valorem taxes upon all of the taxable tangible property located within the territorial limits of the City, in such amounts as are necessary to provide for such annual payment.

SECTION 3. 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 maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution hereafter adopted by the governing body of the City (the “Resolution”).

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 Paying Agent dated as of November 12, 2015 (the "Issuer/Agent Agreement"). The form and text of the Issuer/Agent Agreement are approved and accepted by the governing body, and all of the covenants, duties and responsibilities therein to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and City Clerk are authorized to execute and deliver the Issuer/Agent Agreement for and on behalf of the City. The Issuer/Agent Agreement is incorporated in and made a part of this Ordinance as though fully set forth at this place; provided however, the inclusion of the Issuer/Agent Agreement in the publication of this Ordinance shall not be required.

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 taxable tangible property within the City in the manner provided by law.

The taxes and/or assessments above referred to 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 other 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. The proceeds derived from said taxes and/or assessments shall be deposited in the Series A, 2015 Principal and Interest Account, as defined in the Resolution.

If at any time said 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 hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes and/or assessments are collected.

SECTION 6. Tax Covenants. The governing body of the City covenants that so long as any of the Bonds remain outstanding and unpaid, no use will be made of the proceeds thereof which, if such use had been reasonably expected on the date of issuance and delivery, 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 Rules and Regulations of the United States Treasury Department thereunder for so long as any of the Bonds remain outstanding and unpaid. The governing body further covenants to take all such action in its power as may be required from time to time in order to ensure 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 thereunder.

SECTION 7. Authorization of Official Statement. The governing body of the City hereby ratifies and confirms its prior approval of the form and content of the "deemed final" Preliminary Official Statement dated October 15, 2015 and the use of the final Official Statement in the

reoffering of the Bonds by Robert W. Baird & Co., Inc., Milwaukee, Wisconsin, as Original Purchaser is approved and authorized; and the Mayor is authorized to execute and the City Clerk to attest the Official Statement on behalf of the City.

SECTION 8. 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 9. 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 may be necessary or desirable in order to carry out and comply with this Ordinance and to give effect to the transactions contemplated hereby, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Bonds, all without further action by the governing body.

SECTION 10. Severability. If any provision of this Ordinance shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

SECTION 11. 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 12. 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.

[Remainder of Page Intentionally Left Blank]

ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on October 27, 2015.

CITY OF ANDOVER, KANSAS

[seal]

By _____
Ben Lawrence, Mayor

ATTEST:

By _____
Susan C. Renner, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Andover, Kansas, met in regular session at the usual meeting place in the City on October 27, 2015, at 7:00 p.m., with the Mayor Ben Lawrence presiding, and the following members of the governing body present:

Troy Tabor, Sheri Geisler, Clark Nelson, Kris Estes, Caroline Hale, and Quentin Coon

and the following members absent:

N/A

Thereupon, pursuant to a Summary Notice of Bond Sale heretofore published as required by law and directed by Resolution No. 15-19, adopted by the governing body on September 8, 2015, the governing body formally acknowledged the receipt prior to the deadline of sealed bids on not to exceed \$6,820,000 principal amount of the City's General Obligation Refunding and Improvement Bonds, Series A, 2015. All bids having been examined, compared and verified, on motion of Council Member Tabor, seconded by Council Member Geisler, it was determined that the Bonds should be awarded to the following bidder:

Robert W. Baird & Co., Inc,
Milwaukee, Wisconsin

whose bid represents the lowest net interest cost to the City. The Mayor and City Clerk were directed to execute and return a copy of the successful bidder's Official Bid Form; and the City Clerk was further directed to return the good faith checks or other deposits of all unsuccessful bidders.

Thereupon, there was presented to the governing body an Ordinance entitled:

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES A, 2015, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$6,540,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND FINANCING THE OTHERWISE UNPAID COSTS OF MULTIPLE CAPITAL IMPROVEMENTS IN THE CITY; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Thereupon, the Ordinance was considered and discussed, and upon the motion of Council Member Tabor, seconded by Council Member Hale, the Ordinance was adopted by a majority vote of the governing body, it was given No. 1604 and was directed to be signed by the Mayor and

attested by the City Clerk; and the City Clerk was directed to publish the Ordinance one time in the City's official newspaper as required by law and as provided therein.

Thereupon, and among other business, there was presented to the governing body a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES A, 2015, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$6,540,000, OF THE CITY OF ANDOVER, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 1604 OF THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Thereupon, the Resolution was considered and discussed; and on motion of Council Member Tabor, seconded by Council Member Hale, the Resolution was adopted by a majority vote of all members present.

Thereupon, the Resolution having been adopted by a majority vote of the members of the governing body present, it was given No. 15-21, and was directed to be signed by the Mayor and attested by the City Clerk.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the October 27, 2015 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk