

(Published in *The Butler County Times-Gazette* on February 13, 2016)

ORDINANCE NO. 1616

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS, AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION REFUNDING AND EQUIPMENT BONDS, SERIES A, 2016, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$9,640,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND FINANCING THE ACQUISITION COSTS OF CERTAIN FIRE-FIGHTING EQUIPMENT; 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 City of Andover, Kansas (the "City"), under the authority of K.S.A. 12-110c, as amended (the "Fire Equipment Act"), has adopted Resolution No. 15-24 on November 24, 2015 and published the same on November 28, 2015 and December 5, 2015, which ordinance authorizes the acquisition of a new fire engine and fire special service vehicle (the "Equipment"); and

WHEREAS, pursuant to the Constitution and the laws of the state of Kansas, including K.S.A. 12-6a01 *et seq.*, K.S.A. 12-617, K.S.A. 12-618 and K.S.A.10-101 *et seq.*, all as amended and supplemented, the governing body of the City has previously issued certain (i) General Obligation Bonds, Series A, 2007, dated September 1, 2007 (the "2007 Bonds") in the original principal amount of \$4,824,000, (ii) General Obligation Bonds, Series B, 2010 dated December 29, 2010 (the "2010 Bonds") in the original principal amount of \$2,908,000 and (iii) General Obligation Bonds, Series A, 2011, dated June 17, 2011 (the "2011 Bonds") in the original principal amount of \$5,958,000; and

WHEREAS, the City finds and determines it is necessary and appropriate to issue (a) certain general obligation refunding bonds pursuant to K.S.A. 10-427 *et seq.*, as amended and supplemented (the "Refunding Act") for the purpose of refunding in advance of their maturity the (i) 2007 Bonds maturing on or after October 1, 2018, (the "Refunded 2007 Bonds") (ii) 2010 Bonds maturing on or after October 1, 2018 (the "Refunded 2010 Bonds") and (iii) \$60,000 of the 2011 Bonds maturing October 1, 2018 and all the 2011 Bonds maturing on or after October 1, 2019 (collectively, the "Refunded 2011 Bonds") and (b) certain general obligation bonds pursuant to the Fire Equipment Act for the purpose of paying the otherwise unpaid costs of the aforesaid Equipment.

WHEREAS, the City is authorized by the Fire Equipment Act and 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 providing financing for the costs of the Equipment and refunding the Refunded 2007 Bonds, the Refunded 2010 Bonds and the

Refunded 2011 Bonds (collectively, the “Refunded Bonds”), and has elected to sell such general obligation bonds at public sale; and

WHEREAS, the governing body has, pursuant to the Bond Act and by Resolution No. 15-27, adopted December 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 Equipment Bonds, Series A, 2016, of the City in the total principal amount of Nine Million Six Hundred Forty Thousand Dollars (\$9,640,000.00) (the “Bonds”) are authorized to be issued for the purpose of providing funds to refund the Refunded Bonds and pay the acquisition costs of the Equipment (all as described above) and pay certain costs of issuance of said 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 March 1, 2016 (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, 2016 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. Escrow Trust Agreement.** The City designates and appoints Security Bank of Kansas City, Kansas City, Kansas, as the Escrow Trustee for the Refunded Bonds (the “Escrow Trustee”). The Escrow Trustee will perform its duties as provided in an Escrow Trust Agreement, dated as of March 1, 2016 (the “Escrow Trust Agreement”). The form and text of the Escrow Trust 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 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 Escrow Trust

Agreement for and on behalf of the City. The entire text of the Escrow Trust 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 Escrow Trust Agreement in the publication of this Ordinance shall not be required.

SECTION 8. 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 January 25, 2016 and the use of the final Official Statement in the reoffering of the Bonds by Raymond James & Associates, Inc., Dallas, Texas, 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 9. 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 10. 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 11. 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 12. 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 13. 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 February 9, 2016.

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 February 9, 2016, 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. 15-27, adopted by the governing body on January 28, 2015, the governing body formally acknowledged the receipt prior to the deadline of sealed bids on not to exceed \$9,820,000 principal amount of the City's General Obligation Refunding and Equipment Bonds, Series A, 2016. All bids having been examined, compared and verified, on motion of Council Member Nelson, seconded by Council Member Tabor, it was determined that the Bonds should be awarded to the following bidder:

Raymond James & Associates, Inc.  
Dallas, Texas

whose bid represents the lowest true 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 (said bid adjusted to \$9,640,000 par amount to account for excess premium included in the bid); 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 EQUIPMENT BONDS, SERIES A, 2016, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$9,640,000, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND FINANCING THE ACQUISITION COSTS OF CERTAIN FIRE-FIGHTING EQUIPMENT; 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 Nelson, seconded by Council Member Geisler, the Ordinance was adopted by a

majority vote of the governing body, it was given No. 1616 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 EQUIPMENT BONDS, SERIES A, 2016, IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF \$9,640,000, OF THE CITY OF ANDOVER, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 1616 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 Nelson, seconded by Council Member Geisler, 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. 16-04, 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 February 9, 2016 meeting of the governing body of the City of Andover, Kansas.

[seal]

\_\_\_\_\_  
Susan C. Renner, City Clerk