

(Published in *The Butler County Times-Gazette* on July 29, 2017)

ORDINANCE NO. 1645

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS, APPROVING THE ISSUANCE OF \$1,150,000 AGGREGATE PRINCIPAL AMOUNT OF THE ANDOVER PUBLIC BUILDING COMMISSION, TAXABLE REVENUE BONDS, SERIES A, 2017 FOR THE PURPOSE OF PROVIDING FUNDS TO ACQUIRE, CONSTRUCT, FURNISH AND EQUIP A MUNICIPAL AMPHITHEATER AND RELATED APPURTENANCES; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF AN EIGHTH SUPPLEMENTAL LEASE BY AND BETWEEN THE PUBLIC BUILDING COMMISSION AND THE CITY; AND AUTHORIZING THE EXECUTION OF CERTAIN AGREEMENTS AND SUPPORTING DOCUMENTS.

WHEREAS, the Andover Public Building Commission (the “Commission”) is a public building commission established under K.S.A. 12-1757, *et seq.*, as amended by and as chartered from with substitute and additional provisions under Charter Ordinance No. 15 (collectively, the “Act”) of the City of Andover, Kansas (the “City”); and

WHEREAS, pursuant to the Act, the Commission is authorized to issue revenue bonds for the purpose of providing funds to acquire, construct, equip, and furnish buildings or other facilities maintained and operated for the affairs and activities of the City and retire any bonds issued for their acquisition; and

WHEREAS, the City has previously leased certain Land and the previously existing improvements to the Commission under and pursuant to a certain Site Lease and Subordination Agreement, dated as of November 15, 2001 (the “2001 Site Lease”), as supplemented and amended by (i) a First Supplemental Site Lease and Subordination Agreement, dated as of October 15, 2003, (ii) a Second Supplemental Site Lease and Subordination Agreement, dated as of March 15, 2006, (iii) a Third Supplemental Site Lease and Subordination Agreement, dated as of August 1, 2010, and (iv) a Fourth Supplemental Site Lease and Subordination Agreement, dated as of December 15, 2015, all by and between the City, as lessor, and the Commission, as lessee; and

WHEREAS, the Commission has heretofore issued its revenue bonds in numerous series for park and recreational facilities and city hall facilities which (together with the aforementioned Land and previously existing improvements) are leased back to the City pursuant to a Lease Agreement, dated as of November 15, 2001 (the “2001 Lease”), as supplemented and amended by (i) a First Supplemental Lease Agreement, dated as of October 15, 2003, (ii) a Second Supplemental Lease Agreement, dated as of July 15, 2004, (iii) a Third Supplemental Lease Agreement, dated as of March 15, 2006, (iv) a Fourth Supplemental Lease Agreement, dated as of August 1, 2010, (v) a Fifth Supplemental Lease Agreement, dated as of August 15, 2011, (vi) a Sixth Supplemental Lease Agreement, dated as of November 1, 2011, and (vi) a Seventh Supplemental Lease Agreement, dated as of December 15, 2015; and

WHEREAS, the City desires the Commission issue its Taxable Revenue Bonds, Series A, 2017 in the aggregate principal amount of \$1,150,000 (the “Series 2017 Bonds”) for the purpose of (i) acquiring, constructing, furnishing and equipping a municipal amphitheater and related appurtenances (the “2017 Project”) and (ii) paying certain costs of issuance of the Series 2017 Bonds; and

WHEREAS, in connection with the issuance of the Series 2017 Bonds, the City desires to lease the 2017 Project from the Commission pursuant to an Eighth Supplemental Lease Agreement, dated as of August 15, 2017 (the “Eighth Supplemental Lease Agreement”), supplementing and amending the 2001 Lease, as previously supplemented and amended; and

WHEREAS, the City finds and determines that it is necessary and desirable in connection with the issuance of the Series 2017 Bonds to enter into the Eighth Supplemental Lease, with the Commission pursuant to which the City shall to lease the 2017 Project in consideration of payments of Eighth Supplemental Basic Rent, Additional Rent and other charges provided for therein.

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

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the 2001 Lease, as amended and supplemented, including the Seventh Supplemental Lease herein authorized.

Section 2. Approval of the Series 2017 Bonds. The governing body of the City hereby approves the issuance of the Series 2017 Bonds by the Commission.

Section 3. Authorization of the Eighth Supplemental Lease. The City is hereby authorized to enter into and deliver the Eighth Supplemental Lease (as defined above).

Section 4. Authorization of Continuing Disclosure Undertaking. The City is authorized to enter into and deliver the Continuing Disclosure Undertaking, dated as of August 15, 2017 (the “Continuing Disclosure Undertaking”), by and between the Commission and the City.

Section 5. Execution of Documents. The Mayor is hereby authorized and directed to execute and deliver the Eighth Supplemental Lease and the Continuing Disclosure Undertaking, for and on behalf of and as the act and deed of the City, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk, or any deputy thereof or assistant thereto, is hereby authorized and directed to attest the execution of the Eighth Supplemental Lease and the Continuing Disclosure Undertaking, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Eighth Supplemental Lease, all as necessary to carry out and give effect to the transactions contemplated hereby and thereby.

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

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PASSED AND APPROVED by the governing body of the City of Andover, Kansas this 25th day of July, 2017.

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 said City on July 25, 2017, at 7:00 p.m., with the Mayor Ben Lawrence presiding, and the following members of the governing body present:

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

and the following members absent:

Troy Tabor

Among other business, there came on for consideration an Ordinance entitled:

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS, APPROVING THE ISSUANCE OF \$1,150,000 AGGREGATE PRINCIPAL AMOUNT OF THE ANDOVER PUBLIC BUILDING COMMISSION, TAXABLE REVENUE BONDS, SERIES A, 2017 FOR THE PURPOSE OF PROVIDING FUNDS TO ACQUIRE, CONSTRUCT, FURNISH AND EQUIP A MUNICIPAL AMPHITHEATER AND RELATED APPURTENANCES; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF AN EIGHTH SUPPLEMENTAL LEASE BY AND BETWEEN THE PUBLIC BUILDING COMMISSION AND THE CITY; AND AUTHORIZING THE EXECUTION OF CERTAIN AGREEMENTS AND SUPPORTING DOCUMENTS.

Thereupon, the Ordinance was considered and discussed; and on motion of Estes, seconded by Nelson, the Ordinance was adopted by the majority of all members present.

Thereupon, the Ordinance was given No. 1645 and was directed to be signed by the Mayor and attested by the City Clerk and was directed to be published once in the official newspaper of the City of Andover, Kansas as 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 July 25, 2017 meeting of the Governing Body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk