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ORDINANCE NO. 1649

AN ORDINANCE AMENDING ORDINANCE NO. 1544 (AS PREVIOUSLY AMENDED BY ORDINANCE NO. 1641) OF THE CITY OF ANDOVER, KANSAS.

WHEREAS, on September 8, 2017, three petitions requesting reallocation of certain special assessments (the "Petitions") were filed in the Office of the City Clerk of the City of Andover, Kansas, requesting that the remainder of a portion of the special assessments levied by Ordinance No. 1544 of the City, duly adopted July 30, 2013 and published in the official newspaper of the City on August 3, 2013, as amended by Ordinance No. 1641 adopted July 25, 2017 and published July 29, 2017 (collectively, the "2013 Ordinance") be reallocated; and

WHEREAS, the Petitions were signed by 100% of the owners of the property liable for the special assessments to be reallocated; and

WHEREAS, the 2013 Ordinance previously levied special assessments for the 13th Street and Prairie Creek Road Paving Phase 1 Improvements upon:

UNPLATTED TRACT "U1-A"

That part of the SE ¼ of Sec. 8, Twp. 27-S, R-3-E of the 6th P.M., Butler County, Kansas described as follows: Beginning at the SE corner of said SE ¼; thence westerly along the south line of said SE ¼, 624.81 feet, more or less, to a point 700.00 feet normally distant east of the west line of the SE ¼ of said SE ¼; thence northerly parallel with the west line of the SE ¼ of said SE ¼, 310.01 feet to a point 310.00 feet normally distant north of the south line of said SE ¼; thence easterly parallel with the south line of said SE ¼, 624.35 feet, more or less, to a point on the east line of said SE ¼; thence southerly along the east line of said SE ¼, 310.01 feet to the point of beginning, all being subject to road rights-of-way of record ("Unplatted Tract U1-A") (a portion of former Unplatted Tract U-1).

and

UNPLATTED TRACT "K/1"

That part of the SE ¼ of Sec. 8, Twp. 27-S, R-3-E of the 6th P.M., Butler County, Kansas described as follows: Commencing at the SE corner of said SE ¼; thence northerly along the east line of said SE ¼, 310.01 feet to a point 310.00 feet normally distant north of the south line of said SE ¼, and for a point of beginning; thence continuing northerly along the east line of said SE ¼, 621.22 feet; thence southwesterly with a deflection angle to the left of 123° 19' 07", 746.79 feet, more or less, to a point 700.00 feet normally distant east of the west line of the SE ¼ of said SE ¼; thence southerly parallel with the west line of the SE ¼ of said SE ¼, 205.81

feet to a point 310.00 feet normally distant north of the south line of said SE ¼; thence easterly parallel with the south line of said SE ¼, 624.35 feet, more or less, to the point of beginning, subject to road rights-of-way of record (“Unplatted Tract K/1”).

in order to pay a portion of the costs of constructing certain 13th Street & Prairie Creek Road Paving Phase 1 Improvements; and

WHEREAS, Unplatted Tract U-1A (as defined above) is the remaining portion of Unplatted Tract U-1 (referred to in the 2013 Ordinance) to the extent the same was not platted as the Prairie Creek Addition and said remaining piece being Unplatted Tract U-1A (Unplatted Tract U-1A and Unplatted Tract K/1 are hereinafter known as “Reallocation Area One”); and

WHEREAS, the 2013 Ordinance previously levied special assessments for the Sanitary Sewer Main Improvements upon:

Unplatted Tract U1-A

and

Unplatted Tract K/1

and

UNPLATTED TRACT “K/3”

That part of the SE ¼ of Sec. 8, Twp. 27-S, R-3-E of the 6th P.M., Butler County, Kansas described as follows: Commencing at the SE corner of said SE ¼; thence northerly along the east line of said SE ¼, 310.01 feet to a point 310.00 feet normally distant north of the south line of said SE ¼; thence continuing northerly along the east line of said SE ¼, 621.22 feet for a point of beginning; thence southwesterly with a deflection angle to the left of 123°19’07”, 746.79 feet, more or less, to a point 700.00 feet normally distant east of the west line of the SE ¼ of said SE ¼; thence northerly parallel with the west line of the SE ¼ of said SE ¼, 810.82 feet to a point on the north line of the SE ¼ of said SE ¼; thence easterly along the north line of the SE ¼ of said SE ¼, 622.91 feet to the NE corner of the SE ¼ of said SE ¼; thence southerly along the east line of said SE ¼, 395.74 feet, more or less, to the point of beginning, subject to road rights-of-way of record (“Unplatted Tract K/3”).

(Unplatted Tract U1-A, Unplatted Tract K/1 and Unplatted Tract K/3 are hereinafter known as “Reallocation Area Two”).

WHEREAS, the 2013 Ordinance previously levied special assessments for the Water Main Design Project upon:

UNPLATTED TRACT WATER MAIN DESIGN

The Southeast Quarter of the Southeast Quarter, EXCEPT the west seven hundred (700) feet thereof, in Section 8, Township 27 South, Range 3 East of the Sixth Principal Meridian, Andover, Butler County, Kansas (“Unplatted Tract Water Main Design” or “Reallocation Area Three”).

WHEREAS, the Petitions request, that the special assessments previously levied against (i) Reallocation Area One (collectively, the “Reallocation Area One Special Assessments”) be levied against:

Prairie Creek Addition-Second Phase: Block A, Lots 1 through 10, inclusive;

Prairie Creek Addition-Second Phase: Block B, Lots 1 through 13, inclusive;

(ii) Reallocation Area Two (collectively, the “Reallocation Area Two Special Assessments”) be levied against:

Prairie Creek Addition-Second Phase: Block A, Lots 1 through 24, inclusive;

Prairie Creek Addition-Second Phase: Block B, Lots 1 through 17, inclusive;

and (iii) Reallocation Area Three (collectively, the “Reallocation Area Three Special Assessments”) be levied against:

Prairie Creek Addition-Second Phase: Block A, Lots 1 through 24, inclusive;

Prairie Creek Addition-Second Phase: Block B, Lots 1 through 17, inclusive; and

WHEREAS, the Petitions further state that the owners of 100% of the lots and parcel in the Reallocation Area One, Reallocation Area Two and Reallocation Area Three (collectively, the “Owners”), find the reallocation to be equitable and appropriate under the circumstances and that it will result in the Reallocation Area One Special Assessments, Reallocation Area Two Special Assessments and Reallocation Area Three Special Assessments (collectively, the “Special Assessments”) being apportioned against the property in accordance with the special benefits accruing thereto by reason of the 13th Street and Prairie Creek Road Paving Phase 1 Improvements, Sanitary Sewer Main Improvements and the Water Main Design Project (collectively, the “Improvements”), and that the Owners acknowledge that not all property benefited by the Improvements would be reassessed under the petition for respread, but that the petitions effect only lots/tracts in the Reallocation Area One, Reallocation Area Two and Reallocation Area Three (collectively, the “Reallocation Area”) and is thereby submitted by the owners of 100% of the effected lots/tracts pursuant to revised subsection (c) of K.S.A. 12-6a04; and

WHEREAS, the Owners (i) waived any right they may have to inclusion of other benefited properties (whether owned or not) as part of any improvement district, (ii) waived any formal notice of and the holding of a public hearing by the City for the purpose of considering the reallocation of special assessments, (iii) consented to the levy of the Special Assessments against the Reallocation Area in their entirety by appropriate proceedings of the City of Andover, Kansas

in the amount necessary to pay the remaining unpaid costs of the Improvements and retire the City’s general obligation bonds issued to finance such Improvements; (iv) consented to and requested an amendment of the 2013 Ordinance, as necessary to accomplish such assessment; (v) jointly and severally indemnified and agreed to repay the City for all costs occasioned by this request, consent and waiver (including but not limited to bond counsel fees, this amending ordinance publication costs and all legal, fiscal and administrative fees); (vi) waived all right to any pay-in period after publication of the amending ordinance levying and reallocating such special assessments; (vii) waived the mailing of any notice to the Owners of the Special Assessments, as amended and reallocated, and did this all, and in every instance, without formal or further notice or process to the Owner whatsoever and (viii) acknowledged and agreed that the Special Assessments, to the extent previously levied and/or already certified to the appropriate officials of Butler County for the ensuing tax year shall nonetheless become due and payable by all the properties previously assessed, in accordance with their original terms; and

WHEREAS, the City finds and determines it advisable to amend the 2013 Ordinance.

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

Section 1. *Partial Amendment to Section 1 of Ordinance No. 1544.* The special assessments for sewer and paving that are listed and levied in Section 1 of Ordinance No. 1544 under the heading “*Phase 1 Prairie Creek Addition Improvements*” for Unplatted Tract U1 and Unplatted Tract K/1 (as defined above and originally totaling \$60,331.83 and \$15,193.10, respectively) are hereby amended by deleting the same and replacing them with the following:

PHASE 1 PRAIRIE CREEK ADDITION IMPROVEMENTS

<u>Legal Description</u>	<u>Sewer</u>	<u>Paving</u>
Prairie Creek Addition-Second Phase: Block A, Lots 1 through 10, inclusive	\$370.56 each	\$2,623.12 each
Prairie Creek Addition-Second Phase: Block A, Lots 11 through 24, inclusive	\$370.56 each	N/A
Prairie Creek Addition-Second Phase: Block B, Lots 1 through 13, inclusive	\$370.56 each	\$2,623.12 each
Prairie Creek Addition-Second Phase: Block B, Lots 14 through 17, inclusive	\$370.56 each	N/A

Section 2. *Partial Amendment to Section 1 of Ordinance No. 1544.* The special assessments for water main design improvements that are listed and levied in Section 1 of

Ordinance No. 1544 under the heading “*Water Main Design Improvements*” for Unplatted Tract Water Main Design (as defined above and originally totaling \$15,200.00) is hereby amended by deleting the same and replacing it with the following:

WATER MAIN DESIGN IMPROVEMENTS

<u>Legal Description</u>	<u>Water Main Design</u>
Prairie Creek Addition-Second Phase: Block A, Lots 1 through 24, inclusive	\$370.73 each
Prairie Creek Addition-Second Phase: Block B, Lots 1 through 17, inclusive	\$370.73 each

Section 3. *Special Assessments already Levied or Certified.* Notwithstanding the provisions of this Ordinance, to the extent Special Assessments which are the subject of this Ordinance have been previously paid by the owners or previously certified by the City Clerk to the appropriate officials of Butler County for the ensuing tax year and not timely amended, said Special Assessments shall become due and payable by owners of the properties previously assessed, as certified and in accordance with their original terms.

Section 4. *Amending Ordinance.* This Ordinance supplements and amends Ordinance No. 1544, as previously amended by Ordinance No. 1641 only to the extent necessary to reallocate the Special Assessments for the Reallocation Area (as defined above) and, except to the extent specifically amended hereby, Ordinance No. 1544 shall remain in full force and effect.

Section 5. *Effective Date.* Subject to the provisions of Section 3 hereof, this Ordinance shall take effect and be in full force from and after its adoption by the governing body of City of Andover, Kansas and its publication in the official newspaper of the City.

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PASSED, ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on September 12, 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 at the normal meeting place in the City on September 12, 2017, at 7:00 p.m., with Mayor Ben Lawrence presiding, and the following members of the governing body present:

Troy Tabor, Sheri Geisler, Clark Nelson, Kris Estes, Caroline Hale, and Greg Schneider

and the following members absent:

n/a

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

AN ORDINANCE AMENDING ORDINANCE NO. 1544 (AS PREVIOUSLY AMENDED BY ORDINANCE NO. 1641) OF THE CITY OF ANDOVER, KANSAS.

Thereupon, the Ordinance was considered and discussed; and on motion of Council Member Schneider, seconded by Council Member Geisler, the Ordinance was adopted by a majority vote of all members present.

Thereupon, the Ordinance having been adopted by a majority vote of the members of governing body, it was given No. 1649 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 September 12, 2017 meeting of the governing body of the City of Andover, Kansas.

[seal]

Susan C. Renner, City Clerk