

(Published in *The Butler County Times-Gazette* and
at www.andoverks.com on July 29, 2023)

ORDINANCE NO. 1875

AN ORDINANCE OF THE CITY OF ANDOVER, KANSAS AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, SERIES A, 2023, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$3,220,000, FOR THE PURPOSE OF 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. 20-08 on March 31, 2020 and published April 11, 2020 (the "Tuscany Addition Phase 3 Authorizing Resolution"), which authorizes the construction and installation of Tuscany Phase 3 Water Improvements, Tuscany Phase 3 Sewer Improvements, Tuscany Phase 3 Paving Improvements and Tuscany Phase 3 Storm Water Drain Improvements (collectively, the "Tuscany Addition Phase 3 Improvements"), which Tuscany Addition Phase 3 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. 21-11, on May 11, 2021 and published May 22, 2021, as later amended by Resolution No. 21-22 duly adopted August 10, 2021 and published August 21, 2021 (collectively the "Cornerstone Eleventh Addition Authorizing Resolution"), which authorizes the construction and installation of Cornerstone Eleventh Water Improvements, Cornerstone Eleventh Sewer Improvements, Cornerstone Eleventh Paving Improvements and Cornerstone Eleventh Drainage Improvements (collectively, the "Cornerstone Eleventh Addition Improvements"), which Cornerstone Eleventh Addition 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. 21-28 duly adopted October 12, 2021 and published October 23, 2021 (the "Hodges 6th Subdivision Authorizing Resolution"), which authorizes the construction and installation of Hodges Sixth Subdivision Water Improvements, Hodges Sixth Subdivision Sewer Improvements, Hodges Sixth Subdivision Paving Improvements, and Hodges Sixth Subdivision Storm Water Improvements (collectively, the "Hodges 6th Subdivision Improvements"), which Hodges 6th Subdivision 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. 21-30 duly adopted November 9, 2021 and published November 20, 2021 (the "Hodges 7th Subdivision Authorizing Resolution"), which authorizes the

construction and installation of Hodges Seventh Subdivision Water Improvements, Hodges Seventh Subdivision Sewer Improvements, and Hodges Seventh Subdivision Storm Water Improvements (collectively, the "Hodges 7th Subdivision Improvements"), which Hodges 7th Subdivision Improvements benefited various identified real properties; and

WHEREAS, the final total costs of Tuscany Addition Phase 3 Improvements, Cornerstone Eleventh Addition Improvements, Hodges 6th Subdivision Improvements and Hodges 7th Subdivision Improvements 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>
Tuscany Phase 3 Water Improvements	\$62,700.00	25.00%	75.00%	\$0.00
Tuscany Phase 3 Sewer Improvements	\$126,500.00	25.00%	75.00%	\$0.00
Tuscany Phase 3 Paving Improvements	\$404,800.00	25.00%	75.00%	\$0.00
Tuscany Phase 3 Storm Water Drain Improvements	\$244,200.00	25.00%	75.00%	\$0.00
Cornerstone Eleventh Water Improvements	\$124,000.00	25.00%	75.00%	\$0.00
Cornerstone Eleventh Sewer Improvements	\$340,400.00	25.00%	75.00%	\$0.00
Cornerstone Eleventh Paving Improvements	\$617,900.00	25.00%	75.00%	\$59,318.40
Cornerstone Eleventh Drainage Improvements	\$318,700.00	0.00%	100.00%	\$0.00
Hodges Sixth Subdivision Water Improvements	\$132,900.00	0.00%	100.00%	\$0.00
Hodges Sixth Subdivision Sewer Improvements	\$355,700.00	0.00%	100.00%	\$0.00
Hodges Sixth Subdivision Paving Improvements	\$347,400.00	0.00%	100.00%	\$0.00
Hodges Sixth Subdivision Storm Water Improvements	\$591,600.00	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>
Hodges Subdivision Improvements	Seventh Water	\$48,300.00	0.00%	100.00%	\$0.00
Hodges Subdivision Improvements	Seventh Sewer	\$78,000.00	0.00%	100.00%	\$0.00
Hodges Subdivision Storm Water Improvements	Seventh	\$56,700.00	0.00%	100.00%	\$0.00

WHEREAS, the City is authorized by the Special Assessment 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 combined otherwise unpaid costs of the Tuscany Phase 3 Water Improvements, Tuscany Phase 3 Sewer Improvements, Tuscany Phase 3 Paving Improvements, Tuscany Phase 3 Storm Water Drain Improvements, Cornerstone Eleventh Water Improvements, Cornerstone Eleventh Sewer Improvements, Cornerstone Eleventh Paving Improvements, Cornerstone Eleventh Drainage Improvements, Hodges Sixth Subdivision Water Improvements, Hodges Sixth Subdivision Sewer Improvements, Hodges Sixth Subdivision Paving Improvements, Hodges Sixth Subdivision Storm Water Improvements, Hodges Seventh Subdivision Water Improvements, Hodges Seventh Subdivision Sewer Improvements, and Hodges Seventh Subdivision Storm Water Improvements (collectively, the "Project"), and is required to sell such general obligation bonds at public sale if the principal amount thereof exceeds \$2,000,000; and

WHEREAS, the governing body has, pursuant to the Bond Act and by Resolution No. 23-16 adopted May 9, 2023, 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 Bonds, Series A, 2023, of the City of Andover, Kansas (the "City") in the total principal amount of Three Million Two Hundred Twenty Thousand Dollars (\$3,220,000.00) (the "Bonds") are authorized to be issued for

the purpose of providing funds to pay a portion of the costs of the improvements described above (the "Project").

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 of the City 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 August 1, 2023 (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 or any Deputy 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, 2023 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 June 21, 2023 and the use of the final Official Statement in the reoffering of the Bonds by TD Securities (USA) LLC, New York, New York, as Original Purchaser, is approved and authorized; and the Mayor is authorized to execute and the City Clerk or any deputy 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.

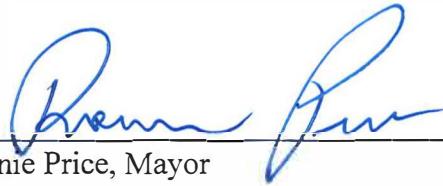
SECTION 11. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

ADOPTED AND APPROVED by the governing body of the City of Andover, Kansas on the 11th day of July, 2023.



ATTEST:

CITY OF ANDOVER, KANSAS

By 
Ronnie Price, Mayor

By 
Lance A. Onstott, Deputy City Clerk