

(First published in the Western Butler County Times, July 15th, 1971)

ORDINANCE NO. 160

AN ORDINANCE PROVIDING, AUTHORIZING, AND EMPOWERING THE ISSUANCE OF REFUNDING BONDS OF THE CITY OF ANDOVER, KANSAS, WHICH BONDS ARE ISSUED TO TAKE UP AND REFUND A CERTAIN OUTSTANDING JUDGMENT AGAINST SAID CITY IN THE EVENT THAT THE VERDICT AND JUDGMENTS OF THE DISTRICT COURT OF BUTLER COUNTY, KANSAS, IS AFFIRMED IN THE SUPREME COURT OF THE STATE OF KANSAS, AND FOR THE PAYMENT OF ATTENDANT COSTS, AND FOR MATURED INTEREST ON SAID JUDGMENT IN THE EVENT THAT THE MANDATE OF THE SUPREME COURT OF THE STATE OF KANSAS AFFIRMS THE VERDICT AND JUDGMENT OF THE DISTRICT COURT OF BUTLER COUNTY, KANSAS

WHEREAS, on the 18 day of January, 1971, a judgment was obtained in the District Court in and for Butler County, Kansas, in a certain action entitled, Harold Rickard, et al, vs. the City of Andover, Kansas, Case No. 29156, by said Harold Rickard against the said City of Andover, Kansas, in the amount of \$19,060.00, and in addition, it is estimated that costs in the District Court of Butler County, Kansas, will accrue to approximately \$250.00; and,

WHEREAS, the said City of Andover, Kansas, has perfected an appeal to the Supreme Court of the State of Kansas from said verdict and judgment; and,

WHEREAS, A decision and mandate of the Supreme Court of the State of Kansas may be rendered prior to the time that said City has an opportunity to budget for some calendar year following the calendar year of 1972 for the payment of the same; and,

WHEREAS, Should the said opinion and mandate of the Supreme Court affirm the verdict and judgment of the District Court of Butler County, Kansas, then and in that event the said City of Andover, Kansas, must have on hand sufficient funds to pay said judgment and attendant costs; and,

WHEREAS, In the prosecution of said appeal certain costs for transcripts, briefs and abstracts have accrued to said City during the process of said appeal, and certain attorney fees and expert witness fees have accrued to date and are due and payable, and certain additional costs ~~will~~ accrued for the purchase of a Stay of Execution Bond, all in the additional amount of \$7,190.00; and,

WHEREAS, It is therefore necessary for said municipality to issue its refunding bonds in the amount of \$27,500.00 for the purposes aforesaid.

NOW THEREFORE:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS:

Section 1. That it is hereby deemed and declared necessary that the City of Andover, Kansas, issue its refunding bonds in the principal amount of \$27,500.00 for the purpose of taking up and refunding a certain judgment and verdict rendered by the District Court of Butler County, Kansas, against the said City, which judgment and verdict is now on appeal to the Supreme Court of the State of Kansas, and if and when the said judgment should become final it shall be necessary for said City to retire the same together with certain costs accrued in connection therewith as recited in the preamble of this ordinance, and that it is necessary in order to provide the funds for the taking up and refunding of said indebtedness there shall be issued and the Mayor ^{or in his absence the President of the Council} and the City Clerk of said City are hereby authorized to execute and issue refunding bonds of the City of Andover, Kansas, Series "A", 1971, in the principal amount of \$27,500.00, which refunding bonds shall be dated July 1, 1971, and shall bear interest at the rate of $4\frac{1}{2}\%$ per annum.

Section 2. That the said Series "A" 1971, Refunding Bonds shall be in substantially the following form and all provisions and covenants therein contained shall be constructively a part of this enabling ordinance:

No. _____

\$ _____

UNITED STATES OF AMERICA

STATE OF KANSAS

COUNTY OF BUTLER

CITY OF ANDOVER

SERIES "A" 1971 REFUNDING BOND

KNOW ALL MEN BY THESE PRESENTS:

That the City of Andover, in the County of Butler, State of Kansas, for value received hereby promises to pay to the bearer the sum of \$ _____ in lawful money of the United States of America on the 1st day of July, 19____, with interest thereon from the date hereof at the rate of 4 $\frac{1}{2}$ % ~~per~~ annum, payable semi-annually on January 1 and July 1 of each year after the date hereof until the said principal sum shall have been paid, upon presentation and surrender of the interest coupons hereto attached bearing the facsimile signatures of the Mayor and City Clerk of the City of Andover, Kansas, as said coupons become due serially, both principal and interest on this bond being payable at the office of the State Treasurer in the City of Topeka, Kansas.

This Bond is one of a series of Twenty-eight (28) bonds of like date and tenor excepting naturity date and excepting the principal amount, and aggregating the principal amount of \$27,500.00, issued by the City of Andover, Kansas, for the taking up and refunding a judgment and attendant costs established against the aforesaid municipality, should the Supreme Court of the State of Kansas ultimately affirm a certain verdict and judgment rendered in the District Court of Butler County, Kansas; and these refunding bonds are issued by the authority of and in full compliance with the provisions, restrictions, and limitations of Ordinance No. 160 of said City and the Constitution and the laws of the State of Kansas, and more specifically, K.S.A. 10-427, as amended, and all other provisions of the laws of the State of Kansas applicable thereto, and this bond and all interest thereon are to be paid by the City of Andover, Kansas, as a general obligation of said City at large and the full faith, credit and resources of said city are pledged to the payment thereof and the interest thereon, and the Mayor and Governing Body shall make provisions for the payment thereof by levying an annual tax on all of the taxable property in the City of Andover, Kansas, sufficient to pay the installments of principal and interest on all of said bonds as the same severally mature and become payable.

IN WITNESS WHEREOF, I, Mayor of Andover, Kansas, do hereby certify that the foregoing is a true and correct copy of the original of said bond as the same appears from the records of said City.

The said City of Andover, Kansas, specifically reserves the right to call and redeem any bond prior to maturity on any interest paying date commencing with July 1, 1972, by publishing notice in the official city paper at least 30 days in advance of such interest paying date on which redemption is intended, to call and redeem such bonds or any part thereof at the office of the State Treasurer in

Topeka, Kansas, providing however, that any bond so redeemed shall have interest paid upon it to the date of redemption, plus a premium for such call and redemption of ~~one~~ ^{one} % (1%) of the principal amount of bond called and redeemed, and in all events should the holder of such bond called and redeemed fail to surrender the same to the said State Treasurer by the said redemption date, then and in that event the interest thereon shall cease.

(e) IT IS HEREBY CERTIFIED, DECLARED AND RECITED that all acts, conditions and things required to be done and to exist precedent to and in the issuance of this bond has been properly done and performed and do exist in due and regular form and manner as required by the constitution and laws of the State of Kansas, and that the total indebtedness, including the indebtedness created by this bond, of the City of Andover, Kansas does not exceed any statutory or constitutional limitation.

IN WITNESS WHEREOF the City of Andover, Kansas, by its Governing Body has caused and ordered this bond to be signed by its Mayor and its corporate seal hereto affixed, attested by its City Clerk and the coupons hereto attached to be signed with facsimile signatures of said officers and this bond to be dated July 1, 1971.

Mayor

Attest:

City Clerk

(SEAL)

(Form of Coupons)
No. _____ on the 1 day of _____, 19____ the _____
City of Andover, Kansas will pay bearer, _____)
_____ dollars and _____ Cents in law-)
ful money of the United States of America, at the)
office of State Treasurer, Topeka, Kansas, the)
same being semi-annual interest on its Series "A")
1971 Refunding Bonds dated July 1, 1971.)

_____, 19____
CITY OF ANDOVER, KANSAS
\$ _____

Mayor

STATE OF KANSAS)
) ss:
COUNTY OF BUTLER)

I, the undersigned, City Clerk of the City of Andover, Kansas, hereby certify that the within Series "A" 1971 Refunding Bond of the City of Andover, Kansas, has been duly registered in my office according to law.

WITNESS my hand and official seal this _____ day of July, 1971.

City Clerk

(Seal)

OFFICE OF THE AUDITOR OF THE STATE OF KANSAS:

I, _____, auditor of the State of Kansas, do hereby certify that a transcript of the proceedings leading up to the issuance of this bond has been filed in my office, and that this bond and the coupons attached thereto were registered in my office according to law this _____ day of _____, 19____.

WITNESS my hand and official seal.

Auditor of the State of Kansas

(Seal)

Section 3. That the said Refunding Bond authorized by Sections 1 and 2 of this ordinance shall be dated July 1, 1971, and shall be in the denominations of \$1,000.00 each, excepting Bond No. 1 which shall be in the denomination of \$500.00, and shall be numbered 1 thru 28 inclusive, and all of the said bonds shall bear interest at the rate of $4\frac{1}{2}\%$ per annum, all interest to be payable semi-annually on the first day of January and July of each year commencing on the 1 day of ^{January}~~July~~, 1972, until the principal amount shall have been paid, and said bonds shall mature serially in the following manner:

<u>Bonds Numbered</u>	<u>Amount</u>	<u>Maturity Date</u>
1	\$ 500.00	July 1, 1972
2, 3, 4, 5, and 6	1,000.00	July 1, 1972
7, 8, 9, 10 and 11	1,000.00	July 1, 1973
12, 13, 14, 15, and 16	1,000.00	July 1, 1974
17, 18, 19, 20, 21 and 22	1,000.00	July 1, 1975
23, 24, 25, 26, 27, and 28	1,000.00	July 1, 1976

Section 4. The said City of Andover, Kansas, specifically reserves the right to call and redeem any portion of said bond issued under the authority of this ordinance in the manner provided in the form of bond set out hereinabove, and such provisions as set out hereinabove are hereby constructively a part of this section of this ordinance as fully as if set out herein.

The above ordinance duly passed and adopted by the Governing Body of the City of Andover, Kansas, this 10th day of July, 1971.

Eugene Milla
Mayor

ATTEST

(seal)

Patricia M. Stuecker
City Clerk