

Passed: June 13, 2017

Published: June 21, 2017

ORDINANCE NO. 2319

**AN ORDINANCE APPROVING AN AGREEMENT REGARDING THE REASSESSMENT OF CERTAIN SPECIAL ASSESSMENTS LEVIED BY ORDINANCE NOS. 1831, 1929, 1955, 1983 AND 2010 OF THE CITY OF DERBY, KANSAS TO PAY THE COSTS OF CERTAIN INTERNAL IMPROVEMENTS IN THE OAKS, AN ADDITION TO DERBY, SEDGWICK COUNTY, KANSAS.**

**WHEREAS**, the governing body of the City of Derby, Kansas (the "City"), pursuant to K.S.A. 12-6a01 et seq. (the "Act") and Resolution Nos. 51-2003, 61-2003, 64-2003, 67-2003, 71-2003, 07-2008, 23-2008, 46-2008, 73-2008 and 74-2008 of the City has heretofore authorized certain internal improvements known as follows to be constructed within the City (the "Improvements"):

- Street Improvements-Phase XIA/The Oaks Addition;
- Sanitary Sewer Improvements-Phase XIB/The Oaks Addition;
- Water Main Improvements-Rock Road-Phase XV/The Oaks and Unplatted Tract 'A';
- Water Main Improvements-Phase XIA/The Oaks Addition;
- Sidewalk Improvements-Rock Road-Phase XV/The Oaks and Unplatted Tract 'A';
- Street Improvements-Center Left Turn Lane-Rock Road-Phase XV/The Oaks Addition;
- Traffic Signalization Improvements-Tall Tree and Rock Road/Derby Marketplace Second and The Oaks Additions;
- Street Improvements-Accel/Decel Lane-Rock Road-Phase XV/The Oaks Addition;
- Sidewalk Improvements-Phase XIA/The Oaks Addition; and
- Storm Water Sewer Improvements-Phase XI/The Oaks.

**WHEREAS**, the governing body of the City, pursuant to Ordinance Nos. 1831, 1929, 1955, 1983 and 2010 of the City, has levied and assessed a portion of the costs of the Improvements against the following property benefitted by such Improvements (the "Original Lot"):

**Lot 2, Block C, The Oaks, an Addition to Derby, Sedgwick County, Kansas EXCEPT that part described as follows: Beginning at the NW corner of Lot 1 in said Block C, thence S00°29'09"W along the west line of said Lot 1, 194.94 feet; thence N89°30'51"W, 339.97 feet to a point on the west line of said Lot 2; thence N01°06'26"W along the west line of said Lot 2, 187.48 feet to the NW corner of said Lot 2; thence N88°53'32"E along the north line of said Lot 2, 270.78 feet to a deflection corner in said north line; thence S89°30'51"E along the north line of said Lot 2, 74.51 feet to the point of beginning; and**

**WHEREAS**, the Original Lot has been adjusted by way of a boundary shift into Tract 'A' and Tract 'B' (the "Adjusted Lots"), more particularly described as:

**Tract 'A'** That part of Lot 3, Block C, The Oaks, an Addition to Derby, Sedgwick County, Kansas described as follows: Beginning at the most easterly corner common to said Lot 3 and Lot 4 in said Block C; thence N89°30'51"W along the north line of said Lot 4, 242.78 feet; thence N13°07'45"W, 51.84 feet; thence N00°29'09"E, 264.61 feet to a point on the north line of said Lot 3; thence S89°30'51"E along said north line, 256.77 feet to the northeast corner of said Lot 3; thence S00°29'09"W along the east line of said Lot 3, 303.11 feet to a deflection corner in said east line; thence S09°01'00"W along the east line of said Lot 3, 12.02 feet to the point of beginning. TOGETHER with part of Lot 2, Block C, The Oaks, an Addition to Derby, Sedgwick County, Kansas described as follows: Beginning at the southeast corner of said Lot 2; thence N89°30'51"W along the south line of said Lot 2, 256.77 feet; thence N00°29'09"E, 8.08 feet; thence S89°30'51"E parallel with said south line of said Lot 2, 256.77 feet to a point on the east line of said Lot 2; thence S00°29'09"W along said east line, 8.08 feet to the point of beginning.

**Tract 'B'** Lot 2, Block C, The Oaks, an Addition to Derby, Sedgwick County, Kansas EXCEPT that part described as follows: Beginning at the NW corner of Lot 1 in said Block C, thence S00°29'09"W along the west line of said Lot 1, 194.94 feet; thence N89°30'51"W, 339.97 feet to a point on the west line of said Lot 2; thence N01°06'26"W along the west line of said Lot 2, 187.48 feet to the NW corner of said Lot 2; thence N88°53'32"E along the north line of said Lot 2, 270.78 feet to a deflection corner in said north line; thence S89°30'51"E along the north line of said Lot 2, 74.51 feet to the point of beginning; and EXCEPT that part of Lot 2, in said Block C, described as follows: Beginning at the southeast corner of said Lot 2; thence N89°30'51"W along the south line of said Lot 2, 256.77 feet; thence N00°29'09"E, 8.08 feet; thence S89°30'51"E parallel with said south line of said Lot 2, 256.77 feet to a point on the east line of said Lot 2; thence S00°29'09"W along said east line, 8.08 feet to the point of beginning.

**WHEREAS**, the City has received an Agreement proposing modification and re-spread of the assessments levied and assessed against the Original Lot to conform to the Adjusted Lots; and

**WHEREAS**, the governing body hereby finds and determines that said Agreement has been executed by all the owners of record of the Original Lot and the Adjusted Lots, being all the owners of record liable for the reassessment herein; and

**WHEREAS**, the governing body finds and determines that it is necessary and advisable to re-assess the amounts levied against the Adjusted Lots to conform to the boundary shift thereof.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:**


**Section 1.** The aggregate assessments for the payment of the costs of the Improvements currently levied against the Original Lot are hereby levied and assessed against the Adjusted Lots as follows:

- Tract 'A' shall pay 67/10,000 of the total cost originally assessed against the Original Lot described above.
- Tract 'B' shall pay 9,933/10,000 of the total cost originally assessed against the Original Lot described above.

**Section 2.** The Mayor or other authorized signatory is hereby authorized and directed to execute and deliver the Agreement proposing the re-spread on behalf of the City in substantially the form presented for review prior to passage of this ordinance, and such other documents, certificates and instruments as may be necessary or desirable to carry out the purposes and intents of this ordinance. The City Clerk is hereby authorized and directed to attest the execution of the Agreement and such other documents, certificates, and instruments as may be necessary or desirable to carry out the intent of this ordinance under the City's corporate seal.

**Section 3.** This ordinance shall take effect and be in force and effect from and after its passage, approval and publication once in the City's official newspaper. A copy of this ordinance shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.


**PASSED BY THE CITY COUNCIL** this 13<sup>th</sup> day of June, 2017, and **SIGNED** by the Mayor.

  
\_\_\_\_\_  
Randy White, Mayor

Attest:

  
\_\_\_\_\_  
Karen Friend, City Clerk

Approved as to form:

  
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Jacqueline R. Butler, City Attorney