ORDINANCE NO. 2607

AN ORDINANCE INTRODUCED BY MAYOR JOAN WAGNON AUTHORIZING THE CITY OF TOPEKA, KANSAS, TO ISSUE MULTIFAMILY HOUSING REFUNDING REVENUE BONDS, SERIES 2000 (FLEMING COURT APARTMENTS PROJECT), IN THE PRINCIPAL AMOUNT OF $3,880,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF REFUNDING THE CITY'S MULTIFAMILY HOUSING REVENUE REFUNDING BONDS, SERIES 1991A (FLEMING COURT APARTMENTS PROJECT); AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH SECURITY BANK OF KANSAS CITY AS TRUSTEE; AUTHORIZING THE CITY TO ENTER INTO A LEASE AGREEMENT WITH HICKOK MASTER LIMITED PARTNERSHIP; AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

WHEREAS, the City of Topeka, Kansas (the "City"), is authorized and empowered pursuant to the provisions of K.S.A. 10-116a and K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, purchase and construct certain facilities (as defined in the Act) for the stated statutory purposes, for any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of such facilities and to refund such revenue bonds; and

WHEREAS, the City has heretofore found and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue its Multifamily Housing Refunding Revenue Bonds, Series 2000 (Fleming Court Apartments Project) (the "Bonds"), in the principal amount of $3,880,000, to be issued for the purpose of refunding the City's Multifamily Housing Revenue Refunding Bonds, Series 1991A (Fleming Court Apartments Project) (the "Refunded Bonds"), heretofore issued by the City for the purpose of refunding the City's Multifamily Housing Revenue Bonds, Series 1985 (Cottonwood Associates, Limited Partnership Project) previously issued for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing and installing a project in the City consisting of a commercial apartment facility, including real estate, buildings and improvements located at 1000 - 1108 Fleming Court in the City (the "Project"), and that the City lease the Project to Hickok Master Limited Partnership, a Kansas limited partnership duly authorized to do business in the State of Kansas (the "Lessee"); and
WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF TOPEKA, KANSAS, AS FOLLOWS:

Section 1. Authorization for the Issuance of Refunding Bonds. The City is hereby authorized to provide for the issuance of the Bonds for the purpose of refunding the Refunded Bonds, all in the manner and as more particularly described in the herein-defined Indenture and Lease.

Section 2. Authorization of and Security for the Bonds. The City is hereby authorized to issue and sell the Bonds for the purpose of providing funds, together with other moneys of the Lessee, to pay the cost of refunding the Refunded Bonds. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such dates, shall mature at such times, shall be in such denominations, shall bear interest at such rates, shall be in such forms, shall be subject to redemption, purchase and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the City from the Project, and the Project and the net earnings derived by the City from the Project shall be pledged and assigned to the herein-defined Trustee as security for payment of the Bonds as provided in the Indenture.

Section 3. Authorization of Documents. The City is hereby authorized to enter into or approve the following documents, in substantially the forms presented to and reviewed by the City Council at this meeting (copies of which documents shall be filed in the records of the City), with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture (the "Indenture"), by and between the City and Security Bank of Kansas City, as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge the Project and assign the rents, revenues and receipts received pursuant to the hereinafter defined Lease to the Trustee for the benefit of and security of the holders of the Bonds upon the terms and conditions as set forth in said form of Indenture; and

(b) Lease Agreement (the "Lease"), by and between the City and the Lessee under which the City will agree to use the proceeds derived from the sale of the Bonds for the purpose of refunding the Refunded Bonds and to lease the Project to the Lessee, and the Lessee will agree to make payments in amounts sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same become due;
Section 5. Execution of the Bonds and Documents. The Mayor is hereby authorized and directed to execute the Bonds by her manual or facsimile signature and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor is hereby authorized and directed to execute and deliver the Indenture, the Lease, the Third Amendment, the Bond Purchase Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the Bonds, the Indenture, the Lease, the Third Amendment, the Bond Purchase Agreement and such other documents, certificates and instruments.

Section 6. Official Statement. The City hereby authorizes the distribution and use of the Official Statement relating to the Bonds by the Underwriters.

Section 7. Further Authority. The City shall, and the officials and agents of the City and McDowell, Rice, Smith & Gaar, a Professional Corporation, the City’s Bond Counsel, are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds, the Indenture, the Lease, the Third Amendment and the Bond Purchase Agreement.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and its publication in the official newspaper of the City.
THIS ORDINANCE is hereby passed this 5th day of December, 2000, by the Council of the City of Topeka, Kansas.

CITY OF TOPEKA, KANSAS

By: [Signature]
Joan Wagon, Mayor

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Chris L. Walkin
City Clerk

[Stamp: Approved as to Form & Legality, City Attorneys' Office, Dec. 1, 2000]