ORDINANCE NO. 17872

AN ORDINANCE INTRODUCED BY MAYOR HARRY FELKER
AUTHORIZING THE CITY OF TOPEKA, KANSAS, TO ISSUE ITS
HOUSING AND HEALTH CARE REVENUE BONDS, SERIES 2002,
(BREWSTER PLACE PROJECT) IN THE AGGREGATE PRINCIPAL
AMOUNT OF $2,225,000 FOR THE PURPOSE OF FINANCING THE
COSTS OF CONSTRUCTING, EQUIPPING AND IMPROVING
CERTAIN RESIDENTIAL AND HEALTH CARE FACILITIES
LOCATED ON THE BREWSTER PLACE CAMPUS IN THE CITY;
AUTHORIZING THE EXECUTION OF A SECOND SUPPLEMENTAL
INDENTURE BY AND BETWEEN THE CITY AND COMMERCE BANK
& TRUST, TOPEKA, KANSAS, AS TRUSTEE; AUTHORIZING THE
EXECUTION OF A SECOND SUPPLEMENTAL LEASE BY AND
BETWEEN THE CITY AND THE CONGREGATIONAL HOME, A
KANSAS NOT-FOR-PROFIT CORPORATION; AND AUTHORIZING
AND APPROVING CERTAIN ADDITIONAL DOCUMENTS AND
ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

WHEREAS, the City of Topeka, Kansas, (the "City" or the "Issuer") is authorized by
K.S.A. 12-1740 to 12-1749a, inclusive, as amended, (the "Act") to acquire, construct and
improve and equip certain facilities (as defined in the Act) for commercial, hospital, industrial
and manufacturing purposes, and to enter into leases and lease-purchase agreements with any
persons, firm or corporation for said facilities, and to issue revenue bonds for the purpose of
paying the costs of any such facilities; and

WHEREAS, pursuant to the Act, the governing body of the City (the "City Council")
duly adopted June 8, 1999, and published as required by law, its Ordinance No. 17386 (the
"1999 Ordinance") which authorized the City to, among other things, issue its City of Topeka,
Kansas, Health Care Facilities Revenue Bonds, Series 1999A, (Brewster Place Project) and
Taxable Health Care Facilities Revenue Bonds, Series 1999B, (Brewster Place Project) in the
aggregate principal amount of $10,485,000 (collectively the "Series 1999 Bonds") to finance
among other things the cost of acquiring certain land and rehabilitating, remodeling,
constructing, furnishing and equipping certain assisted living and health care facilities thereon
(the "1999 Facility") and lease the same to The Congregational Home, a Kansas not-for profit
 corporation (the "Tenant") pursuant to a Lease Agreement dated as of June 1, 1999 (the "1999
Lease"); and

WHEREAS, pursuant to both the Act and the 1999 Ordinance, the City as the Issuer of
the Series 1999 Bonds entered into a Trust Indenture dated as of June 1, 1999, (the "1999
Indenture") by and between the Issuer and Commerce Bank & Trust, Topeka, Kansas, as
Trustee, (the "Trustee") relating to the issuance by the Issuer of the Series 1999 Bonds; and
WHEREAS, pursuant to Section 203 of the 1999 Indenture, bonds in addition to the Series 1999 Bonds may be issued under and equally and ratably secured by the 1999 Indenture to, among other things, provide funds to pay the costs of completing an Additional Facility as such term is defined in the 1999 Indenture; and

WHEREAS, any bonds issued in addition to the Series 1999 Bonds shall, subject to the terms and conditions of Section 203 of the 1999 Indenture, qualify to be on a parity with the Series 1999 Bonds and any Additional Bonds outstanding at any time and from time to time; and

WHEREAS, pursuant to the Act, the governing body of the City Council duly adopted November 7, 2000, and published as required by law, its Ordinance No. 17590 (the "2000 Ordinance") which authorized the City to, among other things, issue its City of Topeka, Kansas, Health Care Facilities Revenue Bonds, Series 2000, (Brewster Place Project) in the aggregate principal amount of $2,100,000 (the "Series 2000 Bonds") to finance among other things the cost of acquiring certain land and rehabilitating, remodeling, constructing, furnishing and equipping certain assisted living and health care facilities thereon (the "2000 Facility") and lease the same to the Tenant pursuant to a First Supplemental Lease Agreement dated as of November 1, 2000 (the "First Supplemental Lease"); and

WHEREAS, pursuant to both the Act and the 2000 Ordinance, the City as the Issuer of the Series 2000 Bonds entered into a First Supplemental Indenture dated as of November 1, 2000, (the "First Supplemental Indenture") by and between the Issuer and the Trustee relating to the issuance by the Issuer of the Series 2000 Bonds; and

WHEREAS, the Tenant has by means of a certificate signed by an authorized Tenant representative (the Corporation Representative under the 1999 Indenture), the receipt of which is hereby acknowledged, certified that the conditions precedent to the issuance of the Series 2002 Bonds (as set out in both Section 203(d) of the 1999 Indenture and Section 6.1 of the 1999 Lease) have been met; and

WHEREAS, pursuant to public notice published in The Metro News on June 28, 2002, a public hearing was held by the City Council on July 16, 2002, in accordance with the requirements of law, to consider the issuance by the City of the Series 2002 Bonds; and

WHEREAS, the City Council has heretofore and does hereby 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 Issuer issue its Housing and Health Care Revenue Bonds, Series 2002, (Brewster Place Project) dated August 15, 2002, in the aggregate principal amount of $2,225,000 (the "Series 2002 Bonds") for the purpose of providing funds to finance the costs of the Additional Facility and associated costs (the "Project") to be leased by the Issuer to the Tenant, as hereinafter provided; and

WHEREAS, the Series 2002 Bonds shall be payable solely and only from certain fees, rentals, revenues and other amounts derived by the City under the 1999 Lease as amended and supplemented by the First Supplemental Lease Agreement dated as of November 1, 2000, and the Second Supplemental Lease Agreement dated as of August 15, 2002 (the "Second
Supplemental Lease," together with the 1999 Lease and the 2000 Lease, the "Lease") and in the
1999 Indenture as amended and supplemented by the First Supplemental Indenture dated as of
November 1, 2000, and the Second Supplemental Indenture dated as of August 15, 2002 (the
"Second Supplemental Indenture," together with the 1999 Indenture and the 2000 Indenture, the
"Indenture") hereinafter authorized, and, under certain circumstances, from the proceeds of
insurance and condemnation awards; and

WHEREAS, the City further finds and determines that it is necessary and desirable in
connection with the issuance of the Series 2002 Bonds to execute and deliver the Second
Supplemental Indenture with Commerce Bank & Trust, Topeka, Kansas, as Trustee, for the
purpose of issuing and securing the Series 2002 Bonds as provided therein; to enter into the
Second Supplemental Lease, between the City, as Landlord, and the Tenant for the purpose of
leasing the Project to the Tenant in consideration for payments of Basic Rent, Additional Rent
and other charges provided for therein to provide for the payment of the Series 2002 Bonds; and
to execute such other documents and agreements in connection with the issuance of the Series
2002 Bonds as hereinafter provided;

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

Section 1. Authorization of the Bonds. In order to obtain funds to be used for the
purposes aforesaid, the Issuer is hereby authorized to issue the Series 2002 Bonds in the aggreg-
ate principal amount of $2,225,000 (the "Bonds") which shall be issued under and secured by
and shall have the terms and provisions set forth in the Indenture, and the signatures of the
officers of the Issuer executing such Indenture and the hereinafter referred to Bond Purchase
Agreement shall constitute conclusive evidence of their approval and the Issuer's approval
thereof. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile
signature of the Mayor and attested by the manual or facsimile signature of its City Clerk and
shall have the corporate seal of the Issuer affixed thereto or imprinted thereon.

Section 2. Limited Obligations. The Bonds shall be special limited obligations of the
Issuer payable solely from the sources and in the manner as provided in the Indenture, and shall
be secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust
Estate (as defined in the Indenture) to the Trustee (as herein defined) and in favor of the
registered owners of the Bonds, as provided in the Indenture. The Bonds and interest thereon
shall not in any respect be a general obligation of the Issuer and shall not be payable in any
manner from taxation and shall not constitute a pledge of the full faith and credit of the Issuer,
but shall be payable solely from the funds provided for in the Lease and the Indenture. The
issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer to levy
any form of taxation therefor or to make any appropriation for their payment. The Issuer shall
not in any event be liable for the payment of the principal of, redemption premium, if any, or
interest on the Bonds or for the performance of any pledge, obligation or agreement of any kind
whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge,
obligation or agreement may impose any liability, pecuniary or otherwise, upon the Issuer any
charge upon its general credit or against its taxing power.
Section 3. Authorization and Approval of Documents. The following documents (the "Issuer Documents") are hereby approved in substantially the forms presented to the City Council at this meeting with such changes therein as shall be approved by the officer of the Issuer executing such documents, such officer's signature thereon being conclusive evidence of such officer's approval and the Issuer's approval thereof:

(a) Second Supplemental Indenture between the Issuer and Commerce Bank & Trust, Topeka, Kansas, (the "Trustee"), providing for the issuance thereunder of the Bonds and setting forth the terms and provisions applicable to the Bonds, including a pledge and assignment by the Issuer of the Trust Estate to the Trustee for the benefit and security of the registered owners of the Bonds upon the terms and conditions as set forth in the Indenture.

(b) Second Supplemental Lease between the Tenant and the Issuer under which the Issuer will lease the Facility to the Tenant in consideration of payments which will be sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds upon the terms and conditions as set forth in the Lease.

(c) Bond Purchase Agreement (the "Purchase Agreement"), among the Issuer, the Tenant and Davidson Securities, a division of Gold Capital Management, Inc., Wichita, Kansas, (the "Underwriter"), regarding the sale of the Bonds.

Section 4. Execution of Bonds and Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Bonds by 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 Issuer in the manner provided in the Indenture. The Mayor of the Issuer is hereby authorized and directed to execute and deliver the Issuer Documents for and on behalf of and as the act and deed of the Issuer. The Clerk or Deputy Clerk of the Issuer is hereby authorized and directed to attest to the Bonds by manual or facsimile signature, to such of the Issuer Documents, and to such other documents, certificates and instruments, as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 5. Preliminary Official Statement. The Preliminary Official Statement respecting the Bonds, in substantially the form presented to the City Council of the Issuer at this meeting with such changes and additions thereto as are necessary to conform to and describe the transaction, is hereby authorized and approved. The Mayor of the Issuer is hereby authorized and directed to deem the information in the Preliminary Official Statement respecting the Issuer to be final as of its date for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission. The usage by the Underwriters of the Preliminary Official Statement in connection with the sale of the Bonds is hereby authorized and approved. The final Official Statement respecting the Bonds, in substantially the form of the Preliminary Official Statement with such changes therein or amendments or supplements thereto as shall be approved by the representative of the Issuer executing said final Official Statement, said representative's execution thereof on behalf of the Issuer to be conclusive evidence of said representative's approval thereof, and the public distribution of the same by the Underwriter are hereby approved. The Issuer has not participated in the preparation of the Preliminary Official Statement or the final Official Statement and has not verified the accuracy of the information therein, other than
as to the information respecting the Issuer. Accordingly, such approval does not constitute
approval by the Issuer of such information or a representation by the Issuer as to the
completeness or accuracy of the information contained therein.

Section 6. Further Authority. The Issuer shall, and the officers, agents and employees of
the Issuer are hereby authorized and directed to, take such further action, and execute such other
documents, certificates and instruments, including, without limitation, any security documents,
arbitrage certificate, closing certificates and tax forms, 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 Issuer with respect to the Bonds and the Issuer Documents.

Section 7. Repeal of Conflicting Ordinances. All prior ordinances of the Issuer or any
parts thereof in conflict with any or all of the foregoing ordinances are hereby repealed to the
extent of such conflict.

Section 8. Severability. If any section, paragraph, clause or provision of this Ordinance
shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of
such section, paragraph, clause or provision shall not affect any remaining provisions of this
Ordinance.

Section 9. Effective Date. This Ordinance shall take effect and be in full force
immediately after its adoption by the Issuer and publication once in the official newspaper of the
City.

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PASSED and approved by the City Council this 13th day of August, 2002.

CITY OF TOPEKA, KANSAS

ATTEST:

Harry Selker, Mayor

Iris E. Walker, City Clerk

I, IRIS E. WALKER, City Clerk of the City of Topeka, Shawnee County, Kansas, do hereby certify that the above and foregoing is a true and correct copy of Ordinance No. _____ adopted and approved by the City Council on August 13, 2002.

Iris E. Walker, City Clerk

APPROVED AS TO FORM & LEGALITY

AUG 14 2002

CITY ATTORNEY'S OFFICE