

(Ordinance Summary published in The Butler County Times-Gazette on November 28, 2015 and the full text of the Ordinance made available at www.andoverks.com for a minimum of one (1) week from the date of publication.)

ORDINANCE NO. 1607

AN ORDINANCE CONSENTING TO THE REDEMPTION OF THE CITY OF ANDOVER, KANSAS, TAXABLE MULTIFAMILY HOUSING REVENUE BONDS, SERIES A, 2013 (ANDOVER APARTMENTS, LLC); CONSENTING TO THE FILING OF A MULTIFAMILY MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING AGAINST A LEASEHOLD INTEREST IN THE PROJECT; AND AUTHORIZING THE EXECUTION OF AN ESTOPPEL AGREEMENT IN CONNECTION THEREWITH.

WHEREAS, the City of Andover, Kansas (the "City") has previously issued its Taxable Multifamily Housing Revenue Bonds, Series A, 2013 (Andover Apartments, LLC) dated March 7, 2013, in the aggregate advanced principal amount of \$16,360,549.24 (the "Series A, 2013 Bonds") and its Subordinated Taxable Multifamily Housing Revenue Bonds, Series B, 2013 (Andover Apartments, LLC) dated March 7, 2013, in the aggregate advanced principal amount of \$5,500,000 (the "Series B, 2013 Bonds"), all for the purpose of paying the costs of purchasing, acquiring, constructing, furnishing and equipping an apartment facility (the "Project"); and

WHEREAS, the Series A, 2013 Bonds were purchased by Emprise Bank, Wichita, Kansas and Series B, 2013 Bonds were purchased by Andover Apartments, LLC (the "Tenant"); and

WHEREAS, in connection with the Series A, 2013 Bonds and Series B, 2014 Bonds, the City executed and delivered a Lease Agreement, dated as of March 7, 2013 (the "Lease") for the purpose of leasing the Project (as defined therein) to the Tenant in consideration for payments of Basic Rent, Additional Rent and other charges provided for therein; and

WHEREAS, the Lease has been assigned by the City to Emprise Bank, Wichita, Kansas, as Trustee (the "Trustee"), excepting only such rights which are capable of being exercised or performed by the City; and

WHEREAS, the Tenant desires, and has provided notice to the City of its intent, to redeem and retire the outstanding Series A, 2013 Bonds (the "Redeemed Bonds") prior to their maturity from the proceeds of a loan (the "Loan") from Grandbridge Real Estate Capital LLC (the "Bank") on or about December 10, 2015, or as soon thereafter as practicable (the "Redemption Date"); and

WHEREAS, to secure the Loan, the Tenant desires to execute and Bank desires to file a certain Multifamily Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture

Filing (the “Mortgage”) on the Tenant’s leasehold estate in the Project represented by the Lease; and

WHEREAS, the Bank desires the City execute and deliver a certain Estoppel Agreement (the “Estoppel Agreement”) making certain agreements regarding, and modifications to, the Lease.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in and Lease.

Section 2. Authorization and Consent to Redemption. The governing body of the City hereby declares its desire and consent to the early redemption of the Redeemed Bonds on the Redemption Date, in accordance with the instructions from the Tenant (which shall also be deemed the City’s instructions to the Trustee).

Section 3. Consent to the Mortgage. The City hereby consents, without recourse, to the filing of the Mortgage (defined above) upon the leasehold estate represented by the Lease; provided the City shall be in no manner obligated with respect to any obligations or provision of said Mortgage and the City’s consent and execution of any acknowledgement or other document related to said Mortgage shall not result in any obligation of or liability to the City deriving from or in any way related to the Mortgage.

Section 4. Authorization of Estoppel Agreement. The City is hereby authorized to enter into the Estoppel Agreement (as defined above), which Estoppel Agreement makes certain agreements regarding, and modifications to, the Lease.

Section 5. Execution of Related Agreements and Documents. The Mayor is hereby authorized and directed to execute and deliver the Estoppel Agreement for and on behalf of and as the act and deed of the Issuer in substantially the form as it is presented today with such minor corrections or amendments thereto as the Mayor shall approve (after consultation with the Bond Counsel), which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of the call and redemption of the Redeemed Bonds, the Mortgage, and the Estoppel Agreement, and this Ordinance. The City Clerk or any Deputy City Clerk of the City is hereby authorized and directed to attest the execution of the Estoppel Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of to the call and redemption of the Redeemed Bonds, the Mortgage, and the Estoppel Agreement, and this Ordinance.

Section 6. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the call and redemption of the Redeemed Bonds, the Mortgage, and the Estoppel

Agreement, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 7. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City, approval by the Mayor and either (a) publication once in the official newspaper of the City, or (b) publication of a summary hereof certified as legally accurate and sufficient by the City Attorney.

[Remainder of Page Intentionally Left Blank]

PASSED, ADOPTED AND APPROVED by the Governing Body of the City of Andover, Kansas this 24th day of November, 2015.

CITY OF ANDOVER, KANSAS

[seal]

By _____
Ben Lawrence, Mayor

ATTEST:

By _____
Susan C. Renner, City Clerk

(Ordinance Summary published in The Butler County Times-Gazette on November 28, 2015 and the full text of the Ordinance made available at www.andoverks.com for a minimum of one (1) week from the date of publication.)

Ordinance No. 1607 Summary

On November 24, 2015, the City of Andover, Kansas adopted Ordinance No. 1607 consenting to the redemption of the City's Taxable Multifamily Housing Revenue Bonds, Series A, 2013 (Andover Apartments, LLC); consenting to the filing of a Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing against a leasehold interest in the Project; and authorizing the execution of an Estoppel Agreement in connection therewith. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 1609 E. Central or at www.andoverks.com. This summary is certified legally accurate and sufficient by the Andover City Attorney pursuant to K.S.A. 12-3001, *et seq.*

SUMMARY CERTIFIED:

City Attorney