

## ORDINANCE C-48-00

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$14,000,000.00 MULTIFAMILY HOUSING MORTGAGE REVENUE BONDS (THE REGENCY ARMS APARTMENTS PROJECT) SERIES 2000 BY THE CITY OF GROVE CITY, OHIO, THE PROCEEDS OF WHICH SHALL BE LOANED TO REGENCY ARMS APARTMENTS LIMITED PARTNERSHIP, AN OHIO LIMITED PARTNERSHIP, TO FINANCE THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY RESIDENTIAL RENTAL HOUSING FACILITY; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING A FINANCING AGREEMENT AND A TRUST INDENTURE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE SUCH BONDS; AUTHORIZING A BOND PURCHASE AGREEMENT, TAX REGULATORY AGREEMENT, LAND USE RESTRICTION AGREEMENT AND PRELIMINARY AND FINAL OFFICIAL STATEMENT AND AUTHORIZING OTHER DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS

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WHEREAS, the City of Grove City, Ohio (the "Issuer"), by virtue of the laws of the State of Ohio, including Article VIII, Section 16 of the Constitution of Ohio, and Chapter 133.51 of the Ohio Revised Code, is authorized and empowered among other things (a) to make a loan to assist in the financing of the acquisition and rehabilitation of a multifamily residential housing facility to be owned and operated by Regency Arms Apartments Limited Partnership, an Ohio limited partnership (the "Borrower"), (b) to issue and sell its revenue bonds to provide moneys to fund such loans and (c) to enact this ordinance (this "Bond Legislation") and execute and deliver the agreements and instruments hereinafter identified; and

WHEREAS, the Issuer has determined and does hereby confirm that the acquisition and rehabilitation of the Project, as hereinafter defined, will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience, and economic welfare and for the enhancement of the opportunities for safe and sanitary housing and is a public purpose and that the Issuer, by assisting with the financing of the Project through the issuance of revenue bonds in a total aggregate principal amount of not to exceed \$14,000,000 of its Multifamily Housing Mortgage Revenue Bonds (The Regency Arms Apartments Project) Series 2000 (the "Bonds"), will be acting in the manner consistent with and in furtherance of the provisions of Article VIII, Section 16 of the Constitution of the State of Ohio, and the laws of the State of Ohio, particularly Chapter 133.51 of the Ohio Revised Code (the "Act"); and

WHEREAS, proposed forms of the following documents have been presented to the Issuer for approval in connection with the issuance, sale, and delivery of the Bonds:

1. A Trust Indenture by and between the Issuer and Chase Manhattan Trust Company, National Association, Cincinnati, Ohio and its successors in trust, as trustee (the "Trustee"), with respect to the proposed Bonds (the "Indenture");
2. A Financing Agreement (the "Financing Agreement") by and among the Issuer, the Trustee and the Borrower, with respect to the Bonds;

3. A Bond Purchase Agreement (the "Bond Purchase Agreement") with respect to the Bonds by and among the Issuer, the Borrower and U.S. Bancorp Piper Jaffray (the "Underwriter");
4. A Tax Regulatory Agreement (the "Tax Regulatory Agreement") by and among the Issuer, the Borrower and the Trustee;
5. A Land Use Restriction Agreement (the "Land Use Restriction Agreement") by and among the Issuer, the Borrower, and the Trustee;
6. An Assignment and Intercreditor Agreement (the "Assignment") by and among the Issuer, Fannie Mae, the Trustee, ARCS Commerical Mortgage Co., L.P. and acknowledged, accepted and agreed to by the Borrower;
7. A Multifamily Mortgage, Assignment of Rents and Security Agreement (the "Mortgage") by and between the Borrower and the Issuer; and
8. An Official Statement (the "Official Statement") with respect to the Bonds; and

WHEREAS, in accordance with the applicable provisions of the Act, the Issuer proposes to enter into the Indenture, the Financing Agreement, the Tax Regulatory Agreement, the Land Use Restriction Agreement, the Bond Purchase Agreement, the Assignment and the Mortgage (collectively, the "Issuer Documents") in accordance with their respective terms.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

**SECTION 1. Definitions.** All defined terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Indenture.

Any reference herein to the Issuer, or to any officers or members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this Bond Legislation.

**SECTION 2. Determination of Issuer.** Pursuant to the Act, this Issuer hereby finds and determines that the Project to be financed with the proceeds of the Bonds consists of the acquisition and rehabilitation of housing and is consistent with the provisions of the Act and Section 16 of Article VIII, Ohio Constitution and the issuance of the Bonds will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience, and economic welfare and for the enhancement of the opportunities for safe and sanitary housing and is a public purpose.

**SECTION 3. Authorization of Bonds.** It is hereby determined to be necessary to, and the Issuer shall, issue, sell and deliver, as provided herein and pursuant to the authority of the Act, the Bonds for the purpose of acquiring and rehabilitating the Project, including costs incidental thereto and of the financing thereof, all in accordance with the provisions of the Financing Agreement. The maximum amount of all Bonds to be outstanding at any one time is not to exceed \$14,000,000.

**SECTION 4. Terms and Execution of the Bonds.** The Bonds shall be designated, shall be issued in the forms and denominations, shall be numbered, dated and payable as provided in the Indenture. The Bonds shall mature as provided in the Indenture, and have such terms, bear such interest, and be subject to mandatory and optional redemption as provided in the Indenture. This Issuer hereby fixes and establishes the interest rate in effect from time to time on the Bonds in the manner and pursuant to the provisions of the Indenture. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Finance Director and the Mayor, and attested by the Clerk of the City Council, of the Issuer may be impressed or printed on the Bonds. In case any member or officer whose signature or a facsimile thereof shall appear on the Bonds shall cease to be such member or officer before the issuance or delivery of the Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until after that time.

The form of the Bonds submitted to this meeting, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved, and when the same shall be executed on behalf of the Issuer by the appropriate members or officers thereof in the manner contemplated hereby and by the Indenture, shall represent the approved form of Bonds of the Issuer.

**SECTION 5. Sale of the Bonds.** In accordance with a request of the Borrower, that the sale of the Bonds be made upon a negotiated basis, the Bonds are hereby awarded to the Underwriter at the purchase price set forth on, and the terms and conditions described in, the Bond Purchase Agreement. The Finance Director and Mayor are each authorized and directed to make on behalf of the Issuer the necessary arrangements to establish the dates, location, procedures and conditions for the delivery of the Bonds to or at the order of the Underwriter and to take all steps necessary to effect due execution and delivery to or at the order of the Underwriter (or temporary bonds delivered in lieu of definitive Bonds until their preparation and delivery can be effectuated) under the terms of this Bond Legislation, the Bond Purchase Agreement, the Financing Agreement and the Indenture. It is hereby determined that the prices for and the terms of the Bonds, and the sale thereof, all as provided in the aforesaid documents, are in the best interests of the Issuer and consistent with all legal requirements.

**SECTION 6. Arbitrage Provisions.** The Issuer will restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the times the Bonds are delivered to the Underwriter, so that they will not constitute arbitrage bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The Mayor, Finance Director or Clerk of the City Council, is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, consultant or agent of the Issuer, to deliver certificates for inclusion in the transcripts of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to said Section 148 and regulations thereunder.

**SECTION 7. Authorization of Issuer Documents and All Other Documents to be Executed by the Issuer.** In order to better secure the payment of the principal of, premium, if any, and interest on the Bonds as the same shall become due and payable, the Finance Director or the Mayor, acting together or individually, is authorized and directed to execute, acknowledge and deliver in the name and on behalf

of the Issuer, the Issuer Documents in substantially the forms submitted to the Issuer, which are hereby approved, with such changes therein not inconsistent with this Bond Legislation and not substantially adverse to the Issuer as may be permitted by the Act and approved by the officer executing the same on behalf of the Issuer. The approval of such changes by said officer, and that such are not substantially adverse to the Issuer, shall be conclusively evidenced by the execution of such Issuer Documents by such officer.

The Finance Director and the Mayor are each authorized to take any and all actions and to execute such financing statements, assignments, certificates and other instruments that may be necessary or appropriate in the opinion of Peck, Shaffer & Williams LLP, as Bond Counsel, in order to effect the issuance of the Bonds, and the intent of this Bond Legislation. The Clerk of City Council, or other appropriate officer of the Issuer, shall certify a true transcript of all proceedings had with respect to the issuance of the Bonds, along with such information from the records of the Issuer as is necessary to determine the regularity and validity of the issuance of the Bonds.

**SECTION 8. Covenants of Issuer.** In addition to other covenants of the Issuer in this Bond Legislation, the Issuer further covenants and agrees as follows:

(a) Payment of Principal, Premium and Interest. The Issuer will, solely from the sources herein or in the Indenture provided, pay or cause to be paid the principal of, premium, if any, and interest on each and all Bonds on the dates, at the places and in the manner provided herein, in the Indenture and in the Bonds.

(b) Performance of Covenants, Authority and Actions. The Issuer will at all times faithfully observe and perform all agreements, covenants, undertakings, stipulations and provisions contained in the Bonds and the Issuer Documents, and in all proceedings of the Issuer pertaining to the Bonds. The Issuer warrants and covenants that it is, and upon delivery of the Bonds, will be, duly authorized by the laws of the State of Ohio, including particularly and without limitation the Act, to issue the Bonds and to execute the related Issuer Documents and all other documents to be executed by it, to provide for the security for payment of the principal of, premium, if any, and interest on the Bonds in the manner and to the extent herein and in the Indenture set forth; that all actions on its part for the issuance of the Bonds and execution and delivery of the Issuer Documents and all other documents to be executed by it in connection with the issuance of the Bonds, have been or will be duly and effectively taken; and that the Bonds will be valid and enforceable special obligations of the Issuer according to the terms thereof. Each provision of the Bond Legislation, the Issuer Documents and each Bond, and all other documents to be executed by the Issuer in connection with the issuance of the Bonds, is binding upon each officer of the Issuer as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; and each duty of the Issuer and of its officers and employees undertaken pursuant to such proceedings for the Bonds is established as a duty of the Issuer and of each such officer and employee having authority to perform such duty.

**SECTION 9. No Personal Liability.** No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Bond Legislation, or in any Bond, or in the Issuer Documents, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the Issuer, either directly or through the Issuer, or otherwise, for the payment for or to the Issuer or any receiver thereof,

or for or to any holder of any Bond, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of the Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer or any receiver thereof, or for or to the owner or any holder of any Bond, or otherwise, of any sum that may remain due and unpaid upon any Bond, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Issuer Documents and the issuance of the Bonds.

**SECTION 10. No Debt or Tax Pledge.** The Bonds do not constitute an indebtedness or pledge of the faith and credit or taxing powers of the State of Ohio or any political subdivision or agency thereof within the meaning of the Constitution of the State of Ohio. The Bonds shall be payable solely from the revenues and security interests pledged for their payment as provided in the respective Indenture, and neither moneys raised by taxation nor any other general or special revenues of the Issuer shall be obligated or pledged for the payment of principal of, premium (if any) or interest on the Bonds.

**SECTION 11. Severability.** If any section, paragraph or provision of this Bond Legislation shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Bond Legislation.

**SECTION 12. Sunshine Law.** The Issuer hereby finds and determines that all formal actions relative to the adoption of this Bond Legislation were taken in an open meeting of the Issuer, and that all deliberations of the Issuer and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

**SECTION 13. Notice of Issuance.** After the issuance of the Bonds, the Finance Director or the Mayor is hereby authorized to execute, and Peck, Shaffer & Williams LLP is hereby authorized to deliver and file on behalf of the Issuer, the Notice of Issuance of the Bonds to the Director of Development of the State of Ohio.

**SECTION 14. Effective Date.** This Ordinance is hereby declared to be an emergency measure for the health, safety and general welfare insomuch as the immediate issuance of the Bonds to provide for the orderly financing of the improvements to which the Bonds relate is necessary and shall therefore take effect and be in force immediately upon passage.

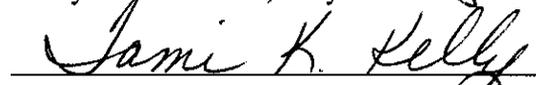
  
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Steven M. Bennett, President of Council

Passed: 6-19-00

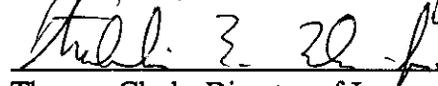
  
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Cheryl L. Grossman, Mayor

Effective: 6-19-00

Attest:

  
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Tami K. Kelly, CMC/AAE, Clerk of Council

I Certify that this ordinance is correct as to form.

  
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Thomas Clark, Director of Law

I certify that there is money in the treasury, or is in the process of collection, to pay the within ordinance.

  
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Robert E. Behlen, Director of Finance