



## Legislation Text

**File #:** RES PH 22-352, **Version:** 1

Giving host approval to the issuance by the City of Mounds View of conduit Multifamily Housing Revenue Bonds on behalf of Vitas, approving a Joint Powers Agreement and Bond Compliance and Fee Agreement and authorizing the execution of documents relating thereto, all for the Sherman Forbes Project, at 310 7th Street West (District 9, Ward 2).

### RECITALS

(a) Minnesota Statutes, Chapter 462C (the “Act”) confers upon cities the power to issue revenue bonds to finance or refinance a program for the purposes of planning, administering, making or purchasing loans with respect to one or more multifamily housing developments within the boundaries of the city or under a joint powers agreement with the jurisdiction in which the development is located and pursuant to Minnesota Statutes, Section 471.59, as amended. By the terms of a joint powers agreement entered into through action of their governing bodies, two cities may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised; and

(b) Sherman Forbes Housing Partners, LP, a Minnesota limited partnership (or another entity to be formed by or affiliated with Vitus Development IV, LLC, the “Borrower”), proposes to finance the acquisition, renovation, construction and equipping of an existing 104-unit apartment community comprised of six 3-story apartment buildings, related amenities and surface parking all located at 310 7th Street West in Saint Paul, Minnesota (“Saint Paul”) (the “Project”); and

(c) The Borrower will be the owner and operator of the Project; and

(d) In order to proceed with the Project in the next calendar year, the Borrower has proposed that the City of Mounds View, Minnesota (“Mounds View”) undertake a housing finance program (the “Housing Program”) to finance the Project pursuant to the Act through the issuance by Mounds View of conduit housing revenue bonds in one or more series in an estimated principal amount not to exceed \$18,000,000 (the “Bonds”); and

(e) The Bonds will be payable solely from revenues of the Borrower, and will not be a general or moral obligation of Saint Paul, or any other political subdivision of the State of Minnesota, but will be payable solely from revenues of the Borrower, to the extent and in the manner provided in the documents executed in connection with the issuance of the Bonds; and

(f) Pursuant to a resolution adopted November 14, 2022, Mounds View has given preliminary approval to, and has indicated that it is willing to issue, the Bonds to finance the Project; and

(g) Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) requires that an applicable elected representative of each governmental unit in which facilities to be financed by the Bonds are located must approve the issuance of the Bonds following a public hearing; and

(h) Pursuant to the Act, Minnesota Statutes, Sections 471.59 and 471.656, as amended, and Section 147(f) of the Code, a public hearing on the Housing Program, the Project and the proposed issuance of the Bonds by Mounds View was held on this date following duly published notice, at which time all persons

who desired to speak were heard; and

(i) There has been presented to this Council the form of a Joint Powers Agreement anticipated to be executed upon issuance of the Bonds between Saint Paul and Mounds View (the “Joint Powers Agreement”) and a Bond Compliance and Fee Agreement anticipated to be executed upon issuance of the Bonds between Saint Paul and the Borrower (the “Bond Compliance and Fee Agreement”); and

(j) The Borrower’s proposal calls for Mounds View to loan the proceeds realized upon the issuance and delivery of the Bonds to the Borrower pursuant to a loan agreement wherein the Borrower will be obligated to pay all costs and expenses of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “HRA”) and Saint Paul incident to the issuance of the Bonds; and

(k) Saint Paul desires to facilitate the construction of affordable multifamily housing facilities within Saint Paul; and the Project will assist Saint Paul in achieving these objectives; and

(l) No public official of Saint Paul or the HRA has either a direct or indirect financial interest in the Project nor will any public official either directly or indirectly benefit financially from the Project.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Saint Paul, Minnesota (the “Council”), as follows:

1. On the basis of information available to the Council it appears, and the Council hereby finds, that the Project constitutes a multifamily housing development within the meaning of subdivision 5 of Section 462C.02 of the Act; that the availability of the financing under the Act and the willingness of Mounds View to furnish such financing with the consent of Saint Paul will be a substantial inducement to the Borrower to undertake the Project, and that the effect of the Project, if undertaken, will be to provide multifamily rental housing opportunities to residents of Saint Paul, and to promote the construction of housing facilities within Saint Paul.

2. The Joint Powers Agreement and Bond Compliance and Fee Agreement are hereby approved in substantially the forms on file with the Director, Department of Planning and Economic Development.

3. Upon payment of the applicable fees charged by the HRA, and the availability of an allocation of tax-exempt bonding authority for the Bonds, the Council hereby approves the Project and the Housing Program to finance the Project by the issuance of the Bonds and the Council hereby consents to and approves the issuance of the Bonds by Mounds View to finance the Project.

4. Under Section 146 of the Code, the Bonds must receive an allocation of the bonding authority of the State of Minnesota. An application for such an allocation must be made pursuant to the requirements of Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”) and preliminary approval of the issuance of the Bonds by the Council and by Mounds View is sufficient to authorize the submission of an application to the State of Minnesota for an allocation of bonding authority with respect to the Bonds to finance the Project. The Council hereby authorizes Mounds View’s submission of an application to Minnesota Management & Budget for allocation of bonding authority for the Project pursuant to Section 146 of the Code and the Allocation Act in accordance with the requirements of the Allocation Act.

5. The Council hereby authorizes and directs the City’s Mayor or Deputy Mayor; Director, Department of Planning and Economic Development; and Director, Office of Financial Services (the “Authorized Officials”) to execute and deliver the Joint Powers Agreement, Bond Compliance and Fee Agreement and any other necessary documents, agreements and instruments approved by the City Attorney’s Office in connection with the issuance of the Bonds (collectively, the “Financing Documents”). The approval

hereby given to the Financing Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by legal counsel to the City and by the officers authorized herein to execute said documents prior to their execution; and said officers are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval of such document in accordance with the terms hereof. In the event of absence or disability of the Authorized Officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Board by any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of legal counsel to the City, may act in their behalf

6. The Borrower has agreed and it is hereby determined that any and all costs incurred by Saint Paul or the HRA in connection with the financing of the Project will be paid by the Borrower, whether or not the Project is carried to completion and whether or not Mounds View issues the Bonds.

7. Kennedy & Graven, Chartered, acting as bond counsel, is authorized to assist in the preparation and review of necessary documents relating to the Project and the financing program therefor.

8. Nothing in this Resolution or the documents prepared pursuant hereto shall authorize the expenditure of any municipal funds on the Project. The Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property or funds of Saint Paul or the HRA, nor shall Saint Paul or the HRA be subject to any liability thereon. The holders of the Bonds shall never have the right to compel any exercise of the taxing power of Saint Paul or the HRA to pay the outstanding principal on the Bonds or the interest thereon, or to enforce payment thereon against any property of Saint Paul or the HRA. The Bonds shall recite in substance that the Bonds, including the interest thereon, are payable solely from the revenue and proceeds pledged to the payment hereof. The Bonds shall not constitute a debt of Saint Paul or HRA within the meaning of any constitutional or statutory limitation.

9. In anticipation of the issuance of the Bonds to finance all or a portion of the Project, and in order that completion of the Project pursuant to the Borrower's specifications will not be unduly delayed when approved, the Borrower is hereby authorized to make such expenditures and advances toward payment of that portion of the costs of the Project to be financed from the proceeds of the Bonds, as the Borrower considers necessary, including the use of interim, short-term financing, subject to reimbursement from the proceeds of the Bonds if and when delivered but otherwise without liability on the part of Saint Paul or the HRA.

10. The Director, Department of Planning and Economic Development and staff are hereby authorized and directed to take all actions necessary to implement this Resolution.