



## Legislation Text

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**File #:** RES 13-481, **Version:** 1

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### Resolution Authorizing a HOME Loan and the Issuance and Sale of Senior Housing and Health Care Revenue Bonds (Episcopal Homes Project) District 13, Ward 4

(a) WHEREAS, Minnesota Statutes, Chapter 462C (the “Act”), confers upon cities, or housing and redevelopment authorities authorized by ordinance to exercise on behalf of a city the powers conferred by the Act, which include the power to issue revenue bonds to finance a program for the purposes of planning, administering, making or purchasing loans with respect to one or more combination multifamily housing and health care developments within the boundaries of the city; and

(b) WHEREAS, Episcopal Homes on University Avenue, LLC and The Terrace at Iris Park, LLC, both Minnesota nonprofit limited liability companies (collectively the “Borrowers”) the sole member of each of which is Episcopal Homes of Minnesota, a Minnesota nonprofit corporation, have requested that the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “HRA”) issue its housing and health care revenue bonds to provide financing, in whole or in part, for a Project (as defined below); and

(c) WHEREAS, the proposal for the financing of the Project by the issuance of the revenue bonds is described and set forth in a Housing Program (the “Housing Program”); a public hearing on the Housing Program and Project was held by the City Council of the City of Saint Paul, Minnesota (the “City”) on March 20, 2013, following duly published notice, and following the public hearing, the City Council approved the Housing Program; and

(d) WHEREAS, the Borrowers have also requested a HOME Loan in the amount of \$500,000 to finance a portion of the costs of the Project (the “HOME Loan”); and

(e) WHEREAS, the revenue bonds will be issued in one or more series in an aggregate principal amount not to exceed \$30,000,000, and will include a pledge of, among other things, revenues of the Project (the “Bonds”); and

(f) WHEREAS, the Borrowers have requested that the HRA issue the Bonds pursuant to a Trust Indenture between the HRA and Wells Fargo Bank, National Association (the “Trustee”), dated on or after April 1, 2013 (the “Indenture”); and

(g) WHEREAS, the HRA, the Borrowers, and Dougherty & Company LLC (the “Underwriter”) have agreed upon sufficient details of the Bonds and to enable the HRA to adopt this final bond resolution (the “Resolution”) on this date.

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, as follows:

1. Proposal for Issuance of Bonds. For the purpose of providing funds to (i) finance the acquisition, construction and equipping of an expansion to the existing housing and health care campus consisting of an approximately 64-unit catered living facility to be located at 502 Lynnhurst Ave. East, an approximately 60-unit skilled nursing facility to be located at 1860 University Ave. West in the City, and facilities for related amenities including but not limited to a therapy pool, fitness center, library, hair salon, gift shop, café, coffee shop and onsite daycare (ii) to pay costs of issuance and other costs related to the issuance

of the bonds; and (iii) to fund certain reserves (collectively, the "Project") there is hereby authorized the issuance, sale and delivery of the Bonds in an aggregate principal amount not to exceed \$30,000,000, the proceeds of which, together with funds provided by the Borrowers, shall be used to finance the Project. The Bonds shall be special, limited obligations of the HRA payable solely from the funds pledged therein. The Bonds are not to be payable from nor charged upon any funds of the HRA or the City other than the revenues pledged to their payment, nor is the HRA or the City subject to any liability thereon; no holders of the Bonds shall ever have the right to compel any exercise of the taxing power of the HRA or the City to pay any of the principal of, premium, if any, or interest on the Bonds; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the HRA, or the City, and each Bond shall recite that the Bonds, including interest thereon, are payable solely from the revenues pledged to the payment thereof and that no Bond shall constitute a debt of the HRA or the City within the meaning of any constitutional or statutory limitation. The Bonds shall contain a recital that they are issued pursuant to the Act and such recital shall be conclusive evidence of the validity and regularity of the issuance thereof.

2. Bond Structure. Pursuant to a Loan Agreement, to be dated on or after April 1, 2013, the HRA will loan the proceeds of Bonds to the Borrowers to finance the Project (the "Loan Agreement"). The payments to be made by the Borrowers under the Loan Agreement are fixed so as to produce revenue sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. When executed, the right, title and interest of the HRA in, to and under, among other things, the Loan Agreement (except as therein provided) will be assigned to the Trustee pursuant to the Indenture between the HRA and the Trustee. It is further proposed that the Borrowers will execute a Combination Mortgage, Security Agreement and Fixture Financing Statement and Assignment of Leases and Rents in favor of the Trustee as security for payment of the Bonds (the "Mortgage"). The Bonds will be further secured by a Guaranty Agreement by and between the Trustee and certain affiliates of the Borrowers (the "Guaranty"). The Bonds will be purchased by the Underwriter pursuant to a Bond Purchase Agreement among the HRA, the Underwriter and the Borrowers (the "Bond Purchase Agreement"). The Bonds shall be in denominations of \$100,000 in such principal amounts, shall bear interest at the rates, shall be numbered, shall be dated, shall mature, shall be subject to redemption prior to maturity, and shall be in such form and have such other details and provisions as may be prescribed in the Indenture as executed in accordance with Sections 7 and 9 hereof.

3. Forms of Documents Submitted. Pursuant to the preliminary approval of this Board, forms of the following documents have been submitted to the Board for approval:

- (a) the Bond Purchase Agreement;
- (b) the Loan Agreement;
- (c) the Mortgage;
- (d) the Guaranty; and
- (e) the Indenture.

4. Findings. It is hereby found, determined and declared that:

- (a) the Project furthers the policies of the Act;
- (b) the Project promotes the public welfare by providing necessary multifamily rental housing and health care facilities, so that adequate multifamily rental housing and health care facilities are available to residents of the City at a reasonable cost;
- (c) the Act authorizes the acquisition, construction and installation of the facilities and

equipment to be financed by the Bonds, the issuance and sale of the Bonds, the execution and delivery by the HRA of the Bond Purchase Agreement, and the Loan Agreement, (collectively, the "Financing Documents"), the performance of all covenants and agreements of the HRA contained in the Financing Documents, and the performance of all other acts and things required under the constitution and laws of the State of Minnesota to make the Financing Documents and Bonds valid and binding obligations of the HRA in accordance with their terms;

(d) it is desirable that the Bonds be issued by the HRA upon the terms set forth in the Indenture;

(e) the payments under the Loan Agreement are fixed to produce revenue sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Bonds issued under the Indenture when due, and the Loan Agreement and Indenture also provide that the Borrowers are required to pay all expenses of the operation and maintenance of the facilities to be financed by the Bonds, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and any taxes and special assessments levied upon or with respect to the premises of said facilities and payable during the term of the Loan Agreement and Indenture;

(f) as provided therein and in the Loan Agreement and Indenture, the Bonds are not to be payable from or charged upon any funds other than the revenue pledged to the payment thereof; neither the HRA nor the City is subject to any liability thereon; no holder of any Bond shall ever have the right to compel any exercise by the HRA or the City of any taxing powers to pay any of the Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the HRA or the City, except the interests of the HRA in the Loan Agreement which has been assigned to the Trustee under the Indenture; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the HRA except the interests of the HRA in the Loan Agreement which has been assigned to the Trustee under the Indenture; the Bonds shall recite that the Bonds do not constitute or give rise to a pecuniary liability or moral obligation of the HRA, the City, the State of Minnesota or any political subdivision, and that the Bonds, including interest thereon, are payable solely from the revenues pledged to the payment thereof; and the Bonds shall not constitute a debt of the HRA or the City within the meaning of any constitutional or statutory limitation.

5. Approval of Forms; Execution. Subject to the approval of the Saint Paul City Attorney, and the provisions of Sections 12 and 13 hereof, the forms of the Financing Documents and exhibits thereto and all other documents listed in Section 3 hereof are approved substantially in the form submitted. Subject to the provisions of Section 12 hereof, the Financing Documents, in substantially the forms submitted, are directed to be executed in the name and on behalf of the HRA by the Chair or Commissioner and Executive Director of the HRA and by the Director, Office of Financial Services of the City; provided that the Bond Purchase Agreement may be executed on behalf of the HRA solely by the Executive Director of the HRA. Subject to the provisions of Section 12 hereof, the Bonds are to be in executed the name of and on behalf of the HRA by the Chair or Commissioner, Executive Director and by the Director, Office of Financial Services of the City, and are to be delivered to the Trustee for authentication and delivery to the Underwriter or the Purchaser. Any other HRA documents and certificates necessary to the transaction described above may be executed by one or more appropriate officers of the HRA, including but not limited to the Executive Director. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein and in the Loan Agreement and Indenture.

6. Official Statement. The HRA hereby consents to the preparation and distribution of the Official Statement for the Bonds; provided that it is understood that the HRA has relied upon the Borrowers and the Underwriter and legal counsel retained by them to assure the accuracy and completeness of the information set forth in the Official Statement and that therefore the HRA has not made, and will not make, any

representations or warranties with respect to the information contained therein, except under the headings “The Issuer” and “Litigation” but only with respect to the HRA. The drafts of the Official Statement on file with the HRA are hereby designated as “near final” offering memoranda for purposes of Rule 15-c2-12 of the Securities Exchange Commission.

7. Issuance. The HRA shall proceed forthwith to issue the Bonds, in the forms and upon the terms set forth in the Indenture and this Resolution, if and to the extent the HRA officers determine to proceed with the Project which determination shall be deemed made upon execution of the Financing Documents by the HRA officers. The Bonds shall be payable or prepayable at such time or times, shall bear interest at such rates and shall be subject to such other terms and conditions as set forth therein which the Underwriter, the Borrowers and the HRA shall agree to, which agreement shall be deemed to have been made upon execution and delivery of the Bonds by the HRA officers. The HRA officers are authorized and directed to execute and deliver the Bonds as prescribed in the Indenture and this Resolution.

8. Records and Certificates. The Officials and other officers of the HRA are authorized and directed to prepare and furnish to the Underwriter certified copies of all proceedings and records of the HRA and the City relating to the Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Bonds as such facts appear from the books and records in the officers’ custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the HRA as to the truth of all statements contained therein.

9. Approval of HOME Loan; Execution of Documents. The Board of Commissioners hereby approves the HOME Loan in connection with the Project. Upon receipt of an executed HOME loan agreement, promissory note, mortgage, declaration and any other documentation required by and subject to the approval of the Saint Paul City Attorney (the “HOME Documents”), the Chair or Commissioner and Executive Director of the HRA and by the Director, Office of Financial Services of the City are authorized and directed to execute the HOME Documents, in the name and on behalf of the HRA. Any other HRA documents and certificates necessary to the transaction described above may be executed by one or more appropriate officers of the HRA, including but not limited to the Executive Director. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein and in the HOME Documents.

10. Changes in Forms Approved; Absent and Disabled Officers. The approval hereby given to the various documents referred to above 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 the Saint Paul City Attorney to the HRA, the appropriate HRA staff person or by the officers authorized herein to execute or accept, as the case may be, said documents prior to their execution; and said officers or staff members are hereby authorized to approve said changes on behalf of the HRA. The execution of any instrument by the appropriate officer or officers of the HRA 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 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 member of the Board or any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of the Saint Paul City Attorney, may act in their behalf.

11. Future Amendments. The authority to approve, execute and deliver future amendments to Financing Documents and the HOME Documents entered into by the HRA in connection with the issuance of the Bonds or the HOME Loan and consents required under the financing documents is hereby delegated to the Executive Director and Director, Office of Financial Services, subject to the following conditions: (a) such amendments or consents do not require the consent of the respective holders of the Bonds or such consent has been obtained; (b) such amendments or consents to not materially adversely affect the interests of the

HRA; (c) such amendments or consents do not contravene or violate any policy of the HRA, and (d) such amendments or consents are acceptable in form and substance to the counsel retained by the HRA to review such amendments. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this Resolution. The execution of any instrument by the Executive Director and Director, Office of Financial Services shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the absence of the Executive Director or Director, Office of Financial Services, any instrument authorized by this paragraph to be executed and delivered may be executed by the officer of the HRA or the City of Saint Paul authorized to act in their place and stead.

12. Indemnification by Borrowers. It is understood and agreed that the Borrowers shall indemnify the HRA against all liabilities, losses, damages, costs and expenses (including attorney's fees and expenses incurred by the HRA) arising with respect to the Project, the HOME Loan or the Bonds, as provided for and agreed to by and between the Borrowers and the HRA in the Loan Agreement.

13. Memorandum of Understanding. The execution by the Executive Director of the HRA of a Memorandum of Understanding with the Borrowers is hereby authorized and ratified.

14. Headings; Terms. Paragraph headings in this Resolution are for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture and Loan Agreement.

**NOW THEREFORE BE IT ALSO RESOLVED** by the Board of Commissioners of the Housing and Redevelopment Authority that the 2013 Budget be amended as shown in Attachment A.