



## Legislation Text

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**File #:** RES 19-1337, **Version:** 1

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Resolution approving and authorizing the execution of assignment and subordination documents for the Parkway Gardens Project, 1145 Hudson Road, District 4, Ward 7

WHEREAS, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA") has heretofore created the Bridgecreek Senior Place Housing Project (the "Project Area") and adopted a Housing Development and Redevelopment Plan therefor pursuant to Minnesota Statutes, Sections 469.001 to 469.047 (the "HRA Act") to provide for, among other things, the decent, safe and sanitary housing facilities within the City of Saint Paul (the "City");

WHEREAS, the HRA has heretofore issued its Subordinate Multifamily Revenue Bonds (Tax Increment Collateralized - Bridgecreek Senior Place, Limited Partnership Project), Series 2004B in the amount of \$2,600,000 (the "2004B Bonds") to provide financing for a 160 unit multifamily residential housing project located in the City known as the "Parkway Gardens Apartments" (the "Project");

WHEREAS, the HRA has heretofore (i) entered into a Development Agreement dated as of April 23, 2003, as amended pursuant to that certain First Amendment to Development Agreement dated as of June 1, 2004 (the "Development Agreement") by and among the HRA, the City and Bridgecreek Senior Place, Limited Partnership, a Minnesota limited partnership (the "Developer") and (ii) issued its Tax Increment Revenue Note of 2004 (Bridgecreek Senior Place Project) dated as of June 1, 2004, to the Developer ("TIF Note") which has been assigned as collateral for the payment of the 2004B Bonds;

WHEREAS, the HRA has heretofore made a loan, currently outstanding in the amount of \$364,967 (the "HRA Loan"), to the Developer, as successor to Parkway Place Housing, L.L.C. and BridgeCreek Senior Place, LLC ("BC LLC"), as evidenced by that certain Second Amended and Restated Promissory Note dated as of June 30, 2004 (the "Promissory Note"), and secured by that certain Amended and Restated Assignment, Assumption, and Amendment of Note and Mortgage and Termination of Loan Agreement made by and among BC LLC, the Developer, and the HRA, dated June 1, 2004 and recorded with the Ramsey County Registrar of Titles on May 23, 2005 as Document No. 1916613;

WHEREAS, in connection with the acquisition of the Project by Tilden Fundamental (Parkway Gardens) Holdings, LLC, a Delaware limited liability company (the "Assignee") from the Developer and the financing thereof with the proceeds of a loan to Assignee in an original principal amount of approximately \$9,800,000 (the "Senior Loan") pursuant to that certain Multifamily Loan and Security Agreement, between Assignee and Berkeley Point Capital LLC, d/b/a Newmark Knight Frank, a Delaware limited liability company (the "Senior Lender") (as amended, restated, replaced, supplemented or otherwise modified from time to time, the "Senior Loan Agreement"), the Developer and Assignee have requested that the HRA consent to the assignment, assumption, amendment and subordination of various documents related to the 2004B Bonds, the Development Agreement, and the HRA Loan;

WHEREAS, there have been prepared (i) an Assignment, Assumption and Modification Agreement with Respect to Housing Regulatory Agreement among the HRA, U.S. Bank Trust National Association (the "Trustee"), the Developer, and the Assignee, (ii) an Assignment and Assumption Agreement with Respect to Declaration of Land Use Restrictive Covenants for Housing Tax Credits among Minneapolis/Saint Paul Housing Finance Board (the "Board"), the Developer, and the Assignee, (iii) an Assignment and Assumption Agreement with Respect to Development Agreement among the HRA, the City, the Developer, and the Assignee (the "Development Agreement Assignment"), (iv) an Assignment and Assumption Agreement with

Respect to Subordinate Loan Documents and Modifications to Subordinate Indenture of Trust among the HRA, the Trustee, the Developer, and the Assignee, and (v) an Assignment and Assumption Agreement with Respect to HRA Loan Documents among the HRA, the Developer, and the Assignee, copies of which are on file with the Executive Director of the HRA (collectively, the "Assignment and Assumption Agreements");

WHEREAS, there have been prepared (i) a Subordination Agreement (Conventional) by and among the Senior Lender, the Trustee, the HRA and the Assignee, (the "Bond Subordination") and (ii) a Subordination Agreement (Affordable) by and among the Senior Lender, the HRA and the Assignee, copies of which are on file with the Executive Director of the HRA (collectively, the "Subordination Agreements");

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

Section 1. The HRA hereby approves the Assignment and Assumption Agreements and the Subordination Agreements, and any subordinations or consents necessary in connection with the Developer's financing (collectively, the "Assignment and Subordination Documents") in substantially the form submitted, and the Chair or Commissioner, Executive Director and Director, Office of Financial Services are hereby authorized and directed to execute, on behalf of the HRA, the Assignment and Subordination Documents and such other documents as the Saint Paul City Attorney to the HRA considers appropriate in connection with sale of the Project, provided, however that the HRA's approval of the Development Agreement Assignment and the Bond Subordination are contingent on the approval of the subordination of the 2004B Bonds to the Senior Loan by a majority of the holders of the 2004B Bonds.

Section 2. The approval hereby given to the Assignment and Subordination 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 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.

Section 3. The authority to approve, execute and deliver future amendments to the Assignment Documents entered into by the HRA and consents required under the Assignment Documents is hereby delegated to the Executive Director of the HRA, subject to the following conditions: (a) such amendments or consents do not materially adversely affect the interests of the HRA; (b) such amendments or consents do not contravene or violate any policy of the HRA, and (c) 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 of the HRA shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the absence of the Executive Director of the HRA, any instrument authorized by this paragraph to be executed and delivered may be executed by the officer of the HRA authorized to act in his or her place and stead.