



Legislation Text

File #: RES PH 20-148, **Version:** 1

Resolution approving the issuance by the Fergus Falls Housing and Redevelopment Authority of conduit Multifamily Housing Revenue Bonds on behalf of Schuett Otter Tail LP using, in part, recycled bonding authority from the Millberry Apartments Project, 778 Berry Street, District 12, Ward 4

RECITALS

WHEREAS, 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

WHEREAS, Schuett Otter Tail LP, a Minnesota limited partnership (collectively with an affiliated entity, the “Borrower”), desires to finance the acquisition, rehabilitation, and equipping of a 100-unit multifamily housing development known as River Bend Apartments located at 222 North Whitford Street, Fergus Falls, Minnesota (the “River Bend Apartments”), and a 30-unit multifamily housing development known as Kaleva Apartments located at 205 Walker Avenue North, New York Mills, Minnesota (the “Kaleva Apartments,” and together with the River Bend Apartments, the “Project”); and

WHEREAS, the Borrower will be the initial owner and operator of the Project, and the Project will preserve federally subsidized housing; and

WHEREAS, in order to better leverage public funding by recycling bonding authority as permitted by Section 146(i)(6) of the Internal Revenue Code of 1986, as amended (the “Code”), the Borrower has proposed that the Fergus Falls Housing and Redevelopment Authority (the “Issuer”) undertake a housing finance program (the “Housing Program”) to finance the Project pursuant to the Act through the issuance by Issuer of housing revenue bonds in one or more series in an estimated principal amount not to exceed \$12,606,000 (the “Bonds”); and

WHEREAS, the Bonds will be payable solely from revenues of the Borrower, and will not be a general or moral obligation of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “HRA”) or the City of Saint Paul (the “City”), 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

WHEREAS, Section 146(i)(6) of the Code permits the reuse of bonding authority for affordable housing projects and treats the reuse as a refunding for tax purposes if: (i) the “refunding” occurs within four (4) years after the original bonds were issued, (ii) the “refunding” bonds are issued within six (6) months after the principal payment of the original bonds, and (iii) the “refunding” bonds mature within thirty-four (34) years of the original issue date and the Borrower has represented to the HRA that the Bonds will meet the requirements of Section 146(i)(6) of the Code with respect to the reuse of bonding authority from the HRA’s Multifamily Housing Revenue Bonds (Millberry Apartments Project), Series 2018A (the “Original Bonds”); and

WHEREAS, Section 147(f) of the Code requires that an applicable elected representative of each governmental unit in which facilities to be financed by the Bonds are located and the issuer of the Bonds must approve the issuance of the Bonds following a public hearing; and

WHEREAS, 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 the Issuer was held on this date following duly published notice, at which time all persons who desired to speak were heard; and

WHEREAS, the HRA has been designated, by ordinance, to exercise, on behalf of the City the powers conferred by Minnesota Statutes, Section 462C.01 to 462C.081; and

WHEREAS, there has been presented to the Board of the HRA the form of a Cooperative Agreement anticipated to be executed upon issuance of the Bonds between the HRA and the Issuer (the "Cooperative Agreement"); and

WHEREAS, the Borrower's proposal calls for the Issuer 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 HRA incident to the issuance of the Bonds; and

WHEREAS, the City desires to facilitate the preservation and rehabilitation of affordable multifamily housing facilities within Minnesota and the efficient use of limited resources available for funding affordable housing; and the Project will assist the City in achieving these objectives; and

WHEREAS, no public official of 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 Board of Commissioners of the HRA, as follows:

1. Upon payment of the applicable fees charged by the HRA, the HRA hereby consents to and approves the issuance of the Bonds by the Issuer to finance the Project using, in part, recycled bonding authority from the Original Bonds in an amount of up to \$2,606,000.
2. The Cooperative Agreement is approved in substantially the form submitted. The HRA hereby authorizes and directs the Chair of the HRA (or any Commissioner), the Executive Director of the HRA, and the Director of the Office of Financial Services of the City to execute and deliver the Cooperative Agreement and any other necessary documents, agreements and instruments approved by the City Attorney's Office in connection with the issuance of the Bonds.
3. In no event shall the Bonds ever be payable from or charged upon any funds of the HRA or City; nor shall the HRA or City be subject to any liability thereon; no owners of the Bonds shall ever have the right to compel the exercise of the taxing power of the HRA or City to pay any of the Bonds or the interest thereon, nor to enforce payment thereof against any property of the HRA or City; the Bonds shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the HRA or City; and the Bonds do not constitute an indebtedness of the HRA or City within the meaning of any constitutional or statutory limitation. The HRA's Executive Director, staff and legal counsel are authorized and directed to take all necessary action to implement this Resolution.
4. The Borrower has agreed and it is hereby determined that any and all costs incurred by the City or 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 the Issuer issues the Bonds.

5. 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.