



Legislation Text

File #: RES 21-787, **Version:** 1

Reciting a proposal for a Housing Finance Program for a multifamily rental housing development, approving the project and the program pursuant to Minnesota Statutes, Chapter 462C, authorizing the Housing and Redevelopment Authority to issue conduit multifamily housing revenue obligations and authorizing the preparation of necessary documents and materials in connection with said project and program for the PHS Highland Park Project, located at 822 Woodlawn Avenue, 820 Mount Curve Boulevard and 825 Mount Curve Boulevard (District 15, Ward 3).

(a) Minnesota Statutes, Chapter 462C (the “Act”) confers upon cities, or housing and redevelopment authorities or port authorities authorized by ordinance to exercise on behalf of a city the powers conferred by the Act, 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 multifamily housing developments within the boundaries of the city;

(b) The Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the “HRA”) has been designated, by ordinance, to exercise, on behalf of the City of Saint Paul, Minnesota (the “City”) the powers conferred by Minnesota Statutes, Section 462C.01 to 462C.081; and

(c) The HRA has received a proposal from PHS Highland Park, Inc., a Minnesota nonprofit corporation (or an affiliated entity, the “Borrower”), that the HRA undertake a housing finance program (the “Housing Program”) to finance the Project hereinafter described, pursuant to Minnesota Statutes, Chapter 462C, through the issuance of a tax exempt housing revenue notes in one or more series in an estimated aggregate principal amount not to exceed \$135,000,000 (the “Notes”); and

(d) The Project to be financed by the Notes is the acquisition, construction and equipping of an approximately 300-unit senior multifamily rental housing development consisting of 2 buildings connected via skyway, one building being 4 stories and one building being 5 stories, comprised of independent living, assisted living, memory care and functionally related facilities, with underground and surface parking, to be located at 822 Woodlawn Avenue, 820 Mount Curve Boulevard and 825 Mount Curve Boulevard in the City (the “Project”); and

(e) The Project will be owned and operated by the Borrower, or an affiliated entity; and

(f) The proposal calls for the HRA to loan the proceeds realized upon the issuance and delivery of the Notes to the Borrower pursuant to a loan agreement wherein the Borrower will be obligated to pay all costs and expenses of the HRA and the City incident to the issuance of the Notes; and

(g) The City desires to facilitate the construction and development of multifamily senior housing facilities within the City; and the Project will assist the City in achieving these objectives; and

(h) A public hearing on the Housing Program and the Project was held on this date at a regularly scheduled meeting of the Board of Commissioners of the HRA following duly published notice, at which time a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing; and

(i) No public official of the City 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, as follows:

1. The City hereby approves the multifamily rental housing Project, described above, to be undertaken by the Borrower pursuant to the Borrower's specifications, and approves the Housing Program therefor, pursuant to the Act.

2. On the basis of information available to the City it appears, and the City 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 the City to furnish such financing 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 the City, and to promote more intensive development and use of land within the City.

3. The Project, and the program to finance the Project by the issuance of the Notes, is hereby approved by the City subject to final approval by the HRA, the Borrower and the purchasers of the Notes as to ultimate details of the financing of the Project.

4. Pursuant to Chapter 72, Saint Paul, Minnesota Administrative Code, the City hereby authorizes and directs the HRA to issue the Notes to finance the Project and to implement the Housing Program and to take all actions necessary or desirable in connection therewith, and no further approval or authorization of the City shall be required.

5. The Borrower has agreed and it is hereby determined that any and all costs incurred by the City or the HRA in connection with the financing of the Project whether or not the Project is carried to completion and whether or not approved by HRA will be paid by the Borrower.

6. Kennedy & Graven, Chartered, as bond counsel, and such financial institutions as may be selected by Borrower, with the consent of the HRA, are authorized to assist in the preparation and review of necessary documents relating to the Project and the financing program therefor, to consult with the City Attorney, Borrower and the purchasers of the Notes as to the maturities, interest rates and other terms and provisions of the Notes and as to the covenants and other provisions of the necessary documents and submit such documents to the HRA for final approval.

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

8. In anticipation of the issuance of the Notes 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 Notes, as the Borrower considers necessary, including the use of interim, short-term financing, subject to reimbursement from the

proceeds of the Notes if and when delivered but otherwise without liability on the part of the City or the HRA.

9. The approval granted in this Resolution is subject to the condition that at no time prior to December 31, 2049, shall the Borrower take or permit others under the Borrower's control to take any action to cause the Project or any portion thereof to be no longer subject to real property taxation and prior to such date, the Borrower shall not:

(a) Seek administrative review or judicial review of the applicability of any tax statute relating to the taxation of the Project determined by any tax official to be applicable or raise the inapplicability of any such tax statute as a defense in any proceedings, including delinquent tax proceedings;

(b) Seek administrative review or judicial review of the constitutionality of any tax statute relating to the taxation of the Project determined by any tax official, or raise the unconstitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings;

(c) Seek any tax deferral or abatement, either presently or prospectively authorized under any state or federal law, of the taxation of the Project;

(d) Cause a reduction in the real property taxes paid in respect of the Project through: (i) willful destruction of the Project or any part thereof; or (ii) willful refusal to reconstruct damaged or destroyed property; or

(e) Apply for an exemption from or a deferral of property tax on the Project pursuant to any law, or transfer or permit transfer of the Project to any entity whose ownership or operation of the Project would result in the Project being exempt from real property taxes under State law.

10. The City's PED Director, staff and legal counsel are hereby authorized and directed to take all actions necessary to implement this Resolution.