

RESOLUTION NO. 18-28

APPROVING A HOUSING PROGRAM TO FINANCE A MULTIFAMILY HOUSING PROJECT AND APPROVING ISSUANCE AND SALE OF MULTIFAMILY HOUSING REVENUE REFUNDING NOTE (LANDINGS OF LEXINGTON PROJECT), SERIES 2018 PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C

WHEREAS,

A. The City of Lexington, Minnesota (the "Governmental Lender") is authorized pursuant to Minnesota Statutes, Chapter 462C, as amended (the "Act"), to finance or refinance the making or purchasing of loans with respect to multifamily housing developments within the boundaries of the City of Lexington, Minnesota (the "City") through the issuance of revenue obligations;

B. Pursuant to the Act, the full faith and credit of the Governmental Lender will not be pledged to the payment of the principal of, premium, if any, and interest on the Note (as defined below);

C. The Governmental Lender has previously received a proposal from Lexington Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the "Borrower"), that the Governmental Lender issue its revenue obligations to refund and redeem the outstanding principal balance of its \$22,000,000 Multifamily Housing Revenue Note (Lexington Apartments Project), Series 2018 (the "Prior Note") which was used to provide short-term financing for the acquisition, construction, and equipping of an approximately 180-unit multifamily housing facility and related facilities located at the northwest corner of the intersection of Lovell Avenue NE and Lexington Avenue NE in the City of Lexington, Minnesota (the "City") (the "Project");

D. By Resolution No. 18-19 adopted on September 6, 2018 (the "Initial Resolution"), the City Council previously approved the issuance of revenue obligations in an amount not to exceed \$22,000,000 to refund the Prior Note;

E. In accordance with Minnesota Statutes, Sections 462C.01(2) and 462C.04, subd. 2, the Governmental Lender previously held a public hearing on March 1, 2018 on and approved a housing program and the issuance of revenue obligations of the Governmental Lender to finance the Project;

F. The Governmental Lender has received a request from the Borrower to increase the principal amount of the revenue obligations approved by the Initial Resolution from \$22,000,000 to \$30,000,000 to finance additional costs of the Project, which request necessitates holding another public hearing, amending and restating the housing program, and approving the increased principal amount of the proposed revenue obligations;

G. A public hearing on the Project and the amended and restated housing finance program was held this same date, after notice was published in the official newspaper of the City not less than 15 days in advance of said public hearing, and materials were made available for public inspection at the City Hall, all as required by the Act and

Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), at which public hearing all those appearing who desired to speak were heard and written comments were accepted; and

H. Pursuant to Section 462C.04 of the Act, the City made timely submission of the amended and restated housing finance program to the Metropolitan Council for its review and comment, and the City has heretofore received favorable comment from the Metropolitan Council on such program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Lexington, Minnesota as follows:

1. The amended and restated housing program in substantially the form attached hereto as Exhibit A is hereby approved.

2. The Borrower has proposed that the Governmental Lender amend and restate the Initial Resolution and issue and sell its Multifamily Housing Revenue Refunding Note (Landings of Lexington Project), Series 2018, which may be in one or more series and either as notes or bonds (the "Note") in an amount not to exceed \$30,000,000 to finance the costs of the Project, in accordance with a Funding Loan Agreement anticipated to be dated as of November 1, 2018 (the "Funding Loan Agreement") between the Governmental Lender, U.S. Bank National Association (the "Fiscal Agent"), and TCF Investments Management, Inc. (the "Initial Funding Lender").

3. Pursuant to the terms of a Project Loan Agreement anticipated to be dated as of November 1, 2018 (the "Project Loan Agreement"), executed by the Governmental Lender, the Borrower, and the Fiscal Agent, the Governmental Lender will loan the proceeds of the Note to the Borrower to finance the Project. The Borrower has agreed, pursuant to an Amended and Restated Regulatory Agreement anticipated to be dated as of November 1, 2018, by and among the Governmental Lender, the Borrower and the Fiscal Agent (the "Regulatory Agreement") to operate the Project as a "residential rental project" under Section 142(d) of the Internal Revenue Code of 1986, as amended.

4. The Note will be secured by, among other things, a Multifamily Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing (the "Mortgage") and a separate Assignment of Leases and Rents (the "Assignment of Leases"), each anticipated to be dated as of November 1, 2018 and executed by the Borrower in favor of the Governmental Lender, and both assigned by the Governmental Lender to the Fiscal Agent pursuant to an Assignment of Mortgage, Security Agreement and Fixture Financing Statement and Assignment of Leases and Rents dated as of November 1, 2018 (the "Assignment of Mortgage"). The Borrower and related parties will also provide additional collateral and guaranties to secure the Note.

As additional security the Borrower will grant a Collateral Assignment of Tax Increment Financing and Tax Increments anticipated to be dated as of November 1, 2018 in favor of the Fiscal Agent, assigning the Borrower's interest in that certain TIF Note issued by the Governmental Lender, as referenced therein (the "Assignment of TIF Note").

5. Forms of the following documents have been submitted to the City Council:

- (a) Funding Loan Agreement;
- (b) Project Loan Agreement;
- (c) Regulatory Agreement; and
- (d) Assignment of Mortgage.

The foregoing documents are hereafter referred to as the "Note Documents."

6. It is hereby found, determined, declared, and ratified that:

(a) the issuance and sale of the Note, the execution and delivery by the Governmental Lender of the Note Documents and the performance of all covenants and agreements of the Governmental Lender contained in the Note Documents and of all other acts and things required under the constitution and laws of the State of Minnesota to make the Note Documents and the Note valid and binding obligations of the Governmental Lender in accordance with their terms, are authorized by the Act;

(b) it is desirable that the Note be issued by the Governmental Lender upon the terms set forth in the Funding Loan Agreement;

(c) the basic payments under the Project Loan Agreement are fixed to produce revenue sufficient to provide for the prompt payment of principal of, premium, if any, and interest on the Note issued under the Funding Loan Agreement when due, and the Funding Loan Agreement, Mortgage, Assignment of Leases, and Project Loan Agreement also provide that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the Project premises and payable during the term of the Funding Loan Agreement and Project Loan Agreement;

(d) under the provisions of Minnesota Statutes, Chapter 462C and as provided in the Funding Loan Agreement and Project Loan Agreement, the Note is not to be payable from or charged upon any funds other than the revenue pledged to the payment thereof; the Governmental Lender is not subject to any liability thereon; no holder of the Note shall ever have the right to compel any exercise by the Governmental Lender of its taxing powers to pay the Note or the interest or premiums thereon, or to enforce payment thereof against any property of the Governmental Lender except the interests of the Governmental Lender in the Project Loan Agreement which have been assigned to the Fiscal Agent under the Funding Loan Agreement; the Note shall not constitute a charge, lien, or encumbrance, legal or equitable upon any property of the Governmental Lender except the interests of the Governmental Lender in the Project Loan Agreement which have been assigned to the Fiscal Agent under the Funding Loan Agreement; the Note shall recite that the Note is issued without moral obligation on the part of the state or its political subdivisions, and that the Note, including interest thereon, is payable solely from the revenues pledged to the payment thereof; and, the Note shall not constitute a debt of the Governmental Lender within the meaning of any constitutional or statutory limitation.

7. The forms of the Note Documents and exhibits thereto are approved substantially in the form submitted. The Note Documents, in substantially the forms submitted, are directed to be executed in the name on behalf of the Governmental Lender by the Mayor and City Administrator. Any other documents and certificates necessary to the transaction described above shall be executed by the appropriate Governmental Lender officers. Copies of all of the documents necessary to the transaction herein described shall be delivered, filed and recorded as provided herein and in the Note Documents.

8. The Governmental Lender shall proceed forthwith to issue the Note, in the form and upon the terms set forth in the Funding Loan Agreement and at a net interest rate not to exceed 6.0% per annum. The Note will be purchased on substantially the terms set forth in the Funding Loan Agreement and the Project Loan Agreement which have been submitted to the Governmental Lender in connection with this Resolution. The Mayor and City Administrator are authorized and directed to prepare and execute the Note as prescribed in the Funding Loan Agreement and to deliver them to the Fiscal Agent for authentication and delivery to the original purchasers.

9. The Mayor and City Administrator and other officers of the Governmental Lender are authorized and directed to prepare and furnish to the Initial Funding Lender certified copies of all proceedings and records of the Governmental Lender relating to the Note, and such other affidavits and certificates as may be required to show the facts relating to the legality of the Note 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 Governmental Lender as to the truth of all statements contained herein.

10. 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 City Attorney and the Governmental Lender officials authorized herein to execute said documents prior to their execution; and said Governmental Lender officials are hereby authorized to approve said changes on behalf of the Governmental Lender. The execution of any instrument by the appropriate official or officials herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

11. The approval hereby given to the Note Documents and the various other documents referred to in paragraph 5 above includes approval of (a) 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 Bond Counsel, the City Attorney and the Governmental Lender officials authorized herein to execute said documents prior to their execution and (b) such additional documents, agreements or certificates as may be necessary and appropriate in connection with the Note Documents and with the issuance and sale of the Note and approved by Bond Counsel, the City Attorney and Governmental Lender officials authorized herein to execute said documents prior to their execution; and said City Attorney and Governmental Lender officials are hereby authorized to approve said changes or additional documents, agreements or certificates on behalf of the Governmental Lender. The execution of any instrument by the appropriate officer or officers of the Governmental Lender herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms

thereof and hereof. In the absence (or inability) of the Mayor or the City Administrator, any of the documents authorized by this resolution to be executed by them may be executed by the Acting Mayor or the Acting City Administrator.

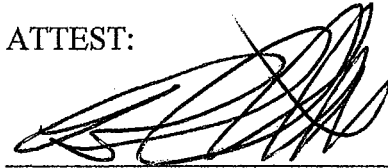
12. In accordance with the Development Agreement anticipated to be dated as of November 1, 2018 between the Governmental Lender and the Borrower, the Governmental Lender hereby ratifies its consent to the grant and delivery by the Borrower of the Assignment of TIF Note to the Fiscal Agent.

Adopted by the City Council of the City of Lexington, Minnesota this 1st day of November, 2018.



Mark Kurth, Mayor

ATTEST:



Bill Petracek, City Administrator

EXHIBIT A

AMENDED AND RESTATED MULTI-FAMILY RENTAL HOUSING PROGRAM OF THE CITY OF LEXINGTON, MINNESOTA FOR LEXINGTON APARTMENTS PROJECT

November 1, 2018

Proposal; Authority. The City of Lexington, Minnesota (the "City"), at the request of the Borrower (defined below), proposes to issue revenue bonds, in one or more series, to assist in financing the acquisition and construction of a multi-family rental housing project described herein (this "Program") pursuant to applicable authority conferred upon the City by the laws of the State of Minnesota, including without limitation Minnesota Statutes, Chapter 462C, as the same may be amended from time to time (collectively, the "Act").

Purposes. In creating this Program, the City is acting in furtherance of its findings that the preservation of the quality of life in the City is in part dependent upon the maintenance and provision of adequate, decent, safe, sanitary, and affordable housing stock; that accomplishing the goals of this Program is a public purpose and will benefit the residents of the City; that the need exists within the City to provide in a timely fashion additional affordable rental housing to and for the benefit of persons of low and moderate income and their families residing and expected to reside within the City; that there exist or are expected to exist persons and families within the City who are and will be able to benefit from and are in need of the Program; that the Program is necessary in view of the limited resources that may be available to such persons relative to the expenses involved in accomplishing the type of objectives outlined in this Program in the absence of one or more of the forms of assistance described herein or otherwise available pursuant to the Act; and that the City hereby finds that such forms of assistance are often necessary for the benefit of such persons, families, and goals and that, furthermore, the successful implementation of the objectives of the kind described in this Program has been found to provide impetus for the development of other housing in the City, as well as the general development of the City, by other persons who are not the beneficiaries of such governmentally sponsored or assisted activities.

Rental Housing Purposes. More particularly, the City finds that there exists a need for affordable multi-family rental housing for qualifying individuals and families, which need is not being filled by private enterprise alone due to a variety of factors, including that the cost of new construction of multi-family rental units may in many cases prove economically unfeasible, given the high costs of construction and prevailing area rental levels, and that therefore appropriate levels of public assistance may be helpful and necessary in bridging that gap.

General Description of the Program. This Program consists of the financing of the acquisition and construction of an approximately 180-unit multi-family rental housing facility (the "Project"). The initial owner of the Project pursuant to the financing will be Lexington Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership, with Lexington

Leased Housing Associates I, LLC, a Minnesota limited liability company as the general partner (the "Borrower").

Location. This Program is limited to the Project. The Project is located at the northwest corner of Lovell Road NE and Lexington Avenue NE in Lexington, Minnesota.

Units. The Project is currently anticipated to consist of the following units:

<u>Units</u>	<u>Square Footage</u>	<u>Estimated Initial Rents</u>
30 – 1-bedroom	723	\$984
98 – 2-bedroom	1,050	\$1,178
52 – 3-bedroom	1,260	\$1,358

Revenue Bonds. The amount of revenue bonds required to finance this Program will not exceed \$30,000,000. The City preliminarily intends to finance the Program by issuing bonds, in one or more series. The proceeds will finance the acquisition and construction of the Project and pay costs of issuing the bonds. The revenue bonds are expected to be issued in 2018, subject to final Council approval in its sole and absolute discretion.

Monitoring. The City expects to enter into suitable agreements with the Borrower, the purchaser of the bonds and/or others respecting the monitoring or implementation by participants to ensure that the Project will be consistent with this housing Program and its objectives, which for this purpose means providing affordable rental housing.

Meeting Needs; Methods. The Program will meet the need for rental housing for persons and families of low and moderate incomes by providing units at an affordable rent. The City believes that this Program will help meet the identified needs under this Program. The specific methods anticipated to be used include the issuance of revenue bonds under the Act to provide feasible financing for various aspects of the Program so undertaken.

Authorization. The Program is undertaken pursuant to Minnesota Statutes, Section 462C.05, Subdivision 4, for units affordable to persons and families of low and moderate income.

Limits on Gross Income. In connection with the issuance of the Bonds, the Borrower will be required to agree to limit the gross income of occupants of the Project in accordance with the requirements of Minnesota Statutes, Chapter 462C, and with the requirements relating to tax-exempt bonds for qualified residential rental projects.

Adopted and approved on November 1, 2018, by the City Council of the City of Lexington, Minnesota.

