

**CITY OF LEXINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 18-13

AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF A MULTIFAMILY HOUSING REVENUE NOTE RELATING TO THE LEXINGTON APARTMENTS PROJECT PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE NOTE AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS, AND REMEDIES WITH RESPECT TO THE NOTE; AND GRANTING APPROVAL FOR CERTAIN OTHER ACTIONS WITH RESPECT THERETO

WHEREAS, the City of Lexington, Minnesota (the “City”), is a municipal corporation duly organized and existing under the Constitution and laws of the State of Minnesota; and

WHEREAS, pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Act”), the City is authorized to carry out the public purposes described in the Act by issuing revenue bonds or other obligations to finance or refinance multifamily housing developments located within the City and, as a condition to the issuance of such revenue bonds, adopt a housing program providing the information required by Section 462C.03, subdivision 1a, of the Act; and

WHEREAS, in the issuance of the City’s revenue bonds and in the making of a loan to finance a multifamily housing development, the City may exercise, within its corporate limits, any of the powers that the Minnesota Housing Finance Agency may exercise under Minnesota Statutes, Chapter 462A, as amended, without limitation under the provisions of Minnesota Statutes, Chapter 475, as amended; and

WHEREAS, Lexington Leased Housing Associates I, LLLP, a Minnesota limited liability limited partnership (the “Borrower”), has requested that the City issue its Multifamily Housing Revenue Note (Lexington Apartments Project) Series 2018 (the “Note”), in one or more series, issued in an aggregate amount not to exceed \$22,000,000 to finance the acquisition, construction, and equipping of an approximately 180-unit multifamily rental housing development and functionally related facilities to be located on the northwest corner of the intersection of Lovell Road NE and Lexington Avenue NE in the City (the “Project”); and

WHEREAS, on November 16, 2017, the City Council of the City (the “City Council”) adopted Resolution No. 17-22 (the “Initial Resolution”) which constitutes a reimbursement resolution and an official intent of the City to reimburse expenditures with respect to the Project from the proceeds of tax-exempt revenue bonds in accordance with the provisions of Treasury Regulations, Section 1.150-2; and

WHEREAS, on December 21, 2017, the City Council adopted Resolution No. 17-33 (the “Preliminary Resolution”) under the terms of which the City: (i) granted preliminary approval to the issuance of multifamily housing revenue obligations under the terms of the Act to finance the

Project; (ii) authorized the submission of an application to the Minnesota Department of Management and Budget (“MMB”) for an allocation of bonding authority under Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”), in a principal amount not to exceed \$22,000,000; and (iii) acknowledged the preparation of a housing program in accordance with the requirements of the Act; and

WHEREAS, the City received a certificate of allocation from Minnesota Management and Budget allocating volume cap bonding authority to the City in the amount of \$22,000,000 for the issuance of the Note; and

WHEREAS, the City has prepared a housing program (the “Housing Program”) to authorize the issuance by the City of revenue bonds in the maximum principal amount of \$22,000,000 to finance the acquisition, construction, and equipping of the Project; and

WHEREAS, a notice of public hearing (the “Public Notice”) was published in accordance with the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), with respect to: (i) the required public hearing under the Code; (ii) the required public hearing under Section 462C.04, subdivision 2, of the Act; (iii) the Housing Program; and (iv) approval of the issuance of the Note; and

WHEREAS, the Public Notice was published at least 15 days before the regularly scheduled meeting of the City Council, and on March 1, 2018, the City Council conducted a public hearing at which a reasonable opportunity was provided for interested individuals to express their views, both orally and in writing, and following such public hearing on March 1, 2018, the City Council adopted Resolution No. 18-11 approving the Housing Program; and

WHEREAS, the Borrower has requested that the City issue, sell, and deliver the Note, in an original aggregate principal amount not to exceed \$22,000,000; and

WHEREAS, sufficient details of the Note and other aspects of the financing have been agreed to that this final bond resolution should be adopted on this date accepting a proposal for issuance of the Note.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEXINGTON, MINNESOTA, AS FOLLOWS:

SECTION 1. LEGAL AUTHORIZATION AND FINDINGS.

1.1 Findings. The City hereby finds, determines and declares as follows:

(a) The issuance and sale of the Note by the City, pursuant to the Act, is in the best interest of the City, and the City hereby determines to issue the Note and to sell the Note to Bridgewater Bank, a Minnesota banking corporation, or another bank selected by the Borrower (the “Purchaser”). The City will loan the proceeds of the Note (the “Loan”) to the Borrower in order to finance the Project.

(b) Pursuant to a Loan Agreement (the “Loan Agreement”) to be entered into between the City and the Borrower, the City will loan to the Borrower the proceeds of the

Note as set forth therein and the Borrower will agree to repay the Loan in specified amounts and at specified times sufficient to pay in full when due the principal of, premium, if any, and interest on the Note. In addition, the Loan Agreement contains provisions relating to the construction, maintenance, and operation of the Project, indemnification, insurance, and other agreements and covenants which are required or permitted by the Act and which the City and the Borrower deem necessary or desirable for the financing of the Project.

(c) Pursuant to a Pledge Agreement between the City and the Purchaser (the "Pledge Agreement"), the City will pledge and grant a security interest in all of its rights, title, and interest in the Loan Agreement to the Purchaser (except for certain rights of indemnification and to reimbursement for certain costs and expenses).

(d) The proceeds of the Note will be disbursed pursuant to a Disbursing Agreement (the "Disbursing Agreement") by and between the Borrower and the Purchaser.

(e) Certain rental and occupancy requirements of federal and state law are set forth in a Regulatory Agreement (the "Regulatory Agreement") by and between the City, the Borrower, and the Purchaser.

(f) The Note will be a special, limited obligation of the City. No holder of the Note shall ever have the right to compel any exercise of the taxing power of the City to pay the Note or the interest thereon, nor to enforce payment thereof against any property of the City. The Note and the interest thereon: (i) shall be payable solely from the revenues pledged therefor under the Loan Agreement; (ii) shall not constitute a debt of the City within the meaning of any constitutional, charter, or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Loan Agreement, which will be assigned to the Purchaser under the Pledge Agreement; and (v) shall not constitute a general or moral obligation of the City.

(g) It is desirable, feasible and consistent with the objects and purposes of the Act to issue the Note for the purpose of financing the costs of the Project.

(h) The Project constitutes a "qualified residential rental project" within the meaning of Section 142(d) of the Code, and a "multifamily housing development" authorized by the Act, and furthers the purposes of the Act.

(i) The purpose of the Project is, and the effect thereof will be, to promote the public welfare by the acquisition and construction of a facility for use as a multifamily housing development designed primarily for occupancy by persons of low and moderate income.

(j) The Act authorizes (i) the acquisition and construction of the Project, (ii) the issuance and sale of the Note, (iii) the execution and delivery by the City of the Loan Agreement, Regulatory Agreement, and Pledge Agreement (the "City Agreements"), (iv) the performance of all covenants and agreements of the City contained in the City Agreements and any other documents reasonably necessary to effectuate the intent of this

resolution, and (v) the performance of all other acts and things required under the constitution and laws of the State of Minnesota to make the City Agreements and the Note valid and binding special, limited obligations of the City in accordance with its terms.

(k) It is desirable that the Borrower be authorized, subject to the terms and conditions set forth in the Loan Agreement, which terms and conditions the City determines, based on representations of the Borrower, to be necessary, desirable, and proper, to complete the acquisition, construction, and installation of the Project by such means as shall be available to the Borrower and in the manner determined by the Borrower, and with or without advertisement for bids as required for the acquisition and installation of municipal facilities.

(l) 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 Note when due, and the Loan Agreement also provides 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 and payable during the term of the Loan Agreement.

(m) There is no litigation pending or, to the actual knowledge of the City, threatened against the City questioning the City's execution or delivery of the Note or the City Agreements or questioning the due organization of the City, or the powers or authority of the City to issue the Note and undertake the transactions contemplated hereby.

(n) The execution, delivery, and performance of the City's obligations under the Note and the City Agreements do not and will not violate any order against the City of any court or other agency of government, or any indenture, agreement, or other instrument to which the City is a party or by which it or any of its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

(o) The City hereby finds, determines, and declares, based on representations of the Borrower, that it is in the public interest of the residents of the City that the Project be undertaken in order to further the public purpose by providing multifamily housing developments for low or moderate income residents of the City and otherwise further the purposes and policies of the Act.

1.2 Authorization and Ratification of Project. The City has heretofore and does hereby authorize the Borrower, in accordance with the provisions of the Act and subject to the terms and conditions imposed by the Purchaser, to provide for the acquisition and construction of the Project by such means as shall be available to the Borrower and in the manner determined by the Borrower, and without advertisement for bids as may be required for the construction and acquisition of other municipal facilities; and the City hereby ratifies, affirms, and approves all actions heretofore taken by the Borrower consistent with and in anticipation of such authority.

SECTION 2. THE NOTE.

2.1 Authorized Maximum Amount and Form of Note and Interest Rate. The Note is hereby approved and shall be issued pursuant to this Resolution in substantially the form on file with the City with such appropriate variations, omissions, and insertions as are necessary and appropriate and are permitted or required by this Resolution, and in accordance with the further provisions thereof; and the principal amount of the Note that may be outstanding hereunder is expressly limited to \$22,000,000, unless a duplicate Note is issued pursuant to Section 2.6. The actual amount of the Note shall be determined by the agreement of the Purchaser and the Borrower and any of the officers specified in Section 2.3 prior to the issuance of the Note. The Note will bear interest at the rates, mature in the years and amounts and be subject to redemption on the dates determined by the Borrower and the Purchaser and set forth in the Note executed by the Authorized Officers. The sale of the Note to the Purchaser at a purchase price equal to its stated amount is hereby accepted.

2.2 The Note. The Note shall be dated as of the date of delivery to the Purchaser, shall be payable at the time and in the manner and shall be subject to such other terms and conditions as are set forth therein.

2.3 Execution of Note. The Note shall be executed on behalf of the City by the Mayor and the City Administrator (the "Authorized Officers"). In case any Authorized Officer whose signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such signatory had remained in office until delivery. In the event of the absence or disability of the Authorized Officer, such officers of the City as, in the opinion of the City Attorney, may act in their behalf, shall without further act or authorization of the City execute and deliver the Note.

2.4 Disposition of Note Proceeds. Upon delivery of the Note to the Purchaser, the Purchaser shall, on behalf of the City, disburse the purchase price thereof for payment of Project Costs in accordance with the terms of a Disbursing Agreement or the Purchaser shall advance the proceeds of the Note to the Borrower, on behalf of the City, pursuant to the terms of a Disbursing Agreement.

2.5 Registration of Transfer. The City will cause to be kept at the office of the City Administrator of the City a Note Register in which, subject to such reasonable regulations as it may prescribe, the City shall provide for the registration of transfers of ownership of the Note. The Note shall be initially registered in the name of the Purchaser and shall be transferable upon the Note Register for such Note by the holder thereof in person or by its agent duly authorized in writing, upon surrender of such Note together with a written instrument of transfer satisfactory to the City Administrator, duly executed by the then holder thereof or its duly authorized agent. The City may require, as a precondition to any transfer, that the transferee provide evidence satisfactory to the City that the transferee is a financial institution or other accredited investor under the securities laws. The following form of assignment shall be sufficient for said purpose.

For value received _____ hereby sells, assigns, and transfers unto
_____ the attached Note of the City of Lexington, Minnesota, and
does hereby irrevocably constitute and appoint _____ attorney to

transfer said Note on the books of said City, with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Sections 2.5 and 2.8 of the Resolution authorizing the issuance of the Note.

Dated: _____

Registered Owner

Upon such transfer the City Administrator shall note the date of registration and the name and address of the successor holder in the Note Register and in the registration blank appearing on the Note.

2.6 Mutilated, Lost or Destroyed Note. In case the Note shall become mutilated or be destroyed or lost, the City shall, if not then prohibited by law, cause to be executed and delivered a new Note of like outstanding principal amount, number and tenor in exchange and substitution for and upon cancellation of such mutilated Note, or in lieu of and in substitution for such Note destroyed or lost, upon the payment by the registered holder thereof of the reasonable expenses and charges of the City in connection therewith, and in the case of a Note destroyed or lost, the filing with the City of evidence satisfactory to the City with indemnity satisfactory to it. If the mutilated, destroyed or lost Note has already matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Note prior to payment.

2.7 Ownership of Note. The City may deem and treat the person in whose name the Note is last registered in the Note Register and by notation on the Note, whether or not such Note shall be overdue, as the absolute owner of such Note for the purpose of receiving payment of or on account of the Principal Balance, redemption price or interest and for all other purposes whatsoever, and the City shall not be affected by any notice to the contrary.

2.8 Limitation on Note Transfers. The Note has been issued without registration under state or other securities laws, pursuant to an exemption for such issuance; and accordingly the Note may not be assigned or transferred in whole or part, nor may a participation interest in the Note be given pursuant to any participation agreement, except to a financial institution or other accredited investor and as an exempt security or as an exempt transaction and in principal amounts of at least \$100,000.

SECTION 3. MISCELLANEOUS.

3.1 Severability. If any provision of this Resolution shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions contained herein invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or paragraphs contained in this Resolution shall not affect the remaining portions of this Resolution or any part thereof.

3.2 Authentication of Transcript. The officers of the City are directed to furnish to Bond Counsel certified copies of this Resolution and all documents referred to herein, and affidavits or certificates as to all other matters which are reasonably necessary to evidence the validity of the Note. All such certified copies, certificates, and affidavits, including any heretofore furnished, shall constitute recitals of the City as to the correctness of all statements contained therein.

3.3 Authorization to Execute Agreements. The forms of the proposed City Agreements are hereby approved in substantially the forms on file with the City, together with 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 prior to the execution of the documents, and the Authorized Officers are authorized to execute the Note and the City Agreements in the name of and on behalf of the City, together with such other documents as Bond Counsel considers appropriate in connection with the issuance of the Note (collectively, the "Financing Documents"). In the event of the absence or disability of any of the Authorized Officers, such officers of the City as, in the opinion of the City Attorney for the City, may act in their behalf shall without further act or authorization of the City Council of the City do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any instrument by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof.

3.4 Program. The City has established a governmental program of acquiring purpose investments for qualified residential rental projects. The governmental program is one in which the following requirements of §1.148-1(b) of the federal regulations relating to tax-exempt obligations shall be met:

- (a) the program involves the origination or acquisition of purpose investments;
- (b) at least 95% of the cost of the purpose investments acquired under the program represents one or more loans to a substantial number of persons representing the general public, states or political subdivisions, 501(c)(3) organizations, persons who provide housing and related facilities, or any combination of the foregoing;
- (c) at least 95% of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, to pay or reimburse anticipated future losses directly related to the program, to finance additional purpose investments for the same general purposes of the program, or to redeem and retire governmental obligations at the next earliest possible date of redemption;
- (d) the program documents prohibit any obligor on a purpose investment financed by the program or any related party to that obligor from purchasing bonds of an issue that finances the program in an amount related to the amount of the purpose investment acquired from that obligor; and

(e) the City shall not waive the right to treat the investment as a program investment.

3.5 Costs; Indemnification by Borrower. The Borrower has agreed and it is hereby determined that any and all costs incurred by the City in connection with the financing and refinancing of the Project whether or not the Project is carried to completion will be paid by the Borrower. In addition, on or prior to the date of issuance of the Note, the Borrower will pay the City an administrative fee as provided in the Loan Agreement in connection with the issuance of the Note which will also constitute payment of the City's administrative fee with respect to a tax exempt financing issued to refund the Note. It is understood and agreed that the Borrower shall indemnify the City against all liabilities, losses, damages, costs, and expenses (including attorney's fees and expenses incurred by the City) arising with respect to the Project or the Note, as further provided for and agreed to by and between the Borrower and the City in the Loan Agreement.

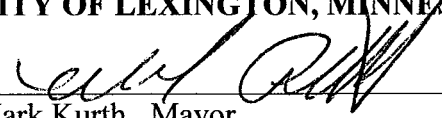
3.6 Headings; Terms. Paragraph headings in this resolution are for convenience of reference only and are not a part hereof, and shall not limit or define the meaning of any provision hereof. Capitalized terms used, but not defined, herein shall have the meanings given them in, or pursuant to, the Loan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

SECTION 4. EFFECTIVE DATE.

This resolution shall be in full force and effect from and after its passage.


Adopted by the City Council of the City of Lexington, Minnesota, on April 19, 2018.

CITY OF LEXINGTON, MINNESOTA



Mark Kurth, Mayor

Attest:



Bill Petracek, City Administrator

STATE OF MINNESOTA
COUNTY OF ANOKA
CITY OF LEXINGTON

I, the undersigned, being the duly qualified and acting Administrator of the City of Lexington, Minnesota, DO HEREBY CERTIFY that I have compared the attached and foregoing extract of minutes with the original thereof on file in my office, and that the same is a full, true and complete transcript of the minutes of a meeting of the City Council of said City, duly called and held on the date therein indicated, insofar as such minutes related to a resolution approving issuance of a multifamily housing revenue note for the Lexington Apartments Project.

WITNESS my hand this 20 day of April, 2018.



City Administrator