

**CITY OF MINNETONKA, MINNESOTA**

**AMENDED AND RESTATED  
HOUSING PROGRAM FOR A  
MULTIFAMILY HOUSING DEVELOPMENT**

Pursuant to Minnesota Statutes, Chapter 462C, as amended (the “Housing Act”), the City of Minnetonka, Minnesota (the “City”) is authorized to develop and administer programs to finance the acquisition, construction, and equipping of multifamily housing developments under the circumstances and within the limitations set forth in the Housing Act. Section 462C.07 of the Housing Act provides that such programs for multifamily housing developments may be financed by revenue bonds issued by the City.

On April 16, 2018, the City Council of the City approved a housing program (the “Original Housing Program”) providing for the acquisition, construction, and equipping of approximately 220 units of workforce housing to be located at or about 11001 Bren Road East in the City (the “Project”). The Original Housing Program initially contemplated the issuance by the City of one or more series of revenue bonds, as taxable and tax-exempt obligations, in the approximate aggregate principal amount not to exceed \$30,500,000, the proceeds of which were loaned to Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership (the “Borrower”).

The Borrower has requested that the City approve the issuance of additional obligations to finance the acquisition, construction, and equipping of the Project. The Obligations to be issued by the City for the purposes set forth herein shall not exceed \$55,000,000 and will be issued, in one or more series, as both taxable and tax-exempt obligations.

All or a portion of the dwelling units of the Project will be subject to occupancy limits imposed by federal income tax law and regulations such that only persons and families within designated income limits will be permitted to occupy such units.

The City, in establishing this amended and restated housing program for a multifamily housing development (the “Program”), has considered the information contained in the City’s comprehensive plan. The Project will be constructed in accordance with the requirements of Section 462C.05, subdivisions 1 and 2 of the Housing Act.

This Program hereby amends and restates, and replaces in its entirety, the Original Program.

Section A. Definitions. The following terms used in this Program shall have the following meanings, respectively:

“Borrower” shall mean Minnetonka Leased Housing Associates II, LLLP, a Minnesota limited liability limited partnership.

“City” shall mean the City of Minnetonka, Minnesota.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the treasury regulations promulgated thereunder.

“Housing Act” shall mean Minnesota Statutes, Chapter 462C, as currently in effect and as the same may be from time to time amended.

“Housing Unit” shall mean any one of the dwelling units financed with the Obligations, each located in the Project, occupied by one person or family, and containing complete living facilities.

“Land” shall mean the real property upon which the Project is situated.

“Obligations” shall mean the revenue bonds to be issued by the City to finance the Project.

“Program” shall mean this housing program for the financing of the Project pursuant to the Housing Act.

“Project” shall mean the approximately 220 units of workforce housing to be located at or about 11001 Bren Road East in the City to be acquired, constructed, and equipped by the Borrower.

Section B. Program for Financing the Project. It is proposed that the City establish this Program to provide financing for the acquisition, construction, and equipping of the Project at a cost and upon such other terms and conditions as are set forth herein and as may be agreed upon in writing between the City, the initial purchasers of the Obligations, and the Borrower. The City expects to issue the Obligations in one or more series as soon as the terms of the Obligations have been agreed upon by the City, the Borrower, and the initial purchasers of the Obligations. The proceeds of the Obligations will be loaned to the Borrower to finance the acquisition, construction, and equipping of the Project, to fund required reserves, if any, to pay interest on the Obligations during construction of the Project, if needed, and to pay the costs of issuing the Obligations.

It is anticipated that all series of Obligations will have a maturity of approximately forty (40) years or less. It is expected that the Obligations will bear interest at fixed rates, consistent with the market at the time of issuance, or at variable rates.

The City will hire no additional staff for the administration of the Program. Insofar as the City will be contracting with underwriters, legal counsel, bond counsel, trustees, purchasers, and others, all of whom will be reimbursed from bond proceeds and revenues generated by the Program, no administrative costs will be paid from the City’s budget with respect to this Program. The Obligations will not be general obligations of the City but will be issued as conduit revenue obligations of the City to be paid only from loan repayments by the Borrower and revenues generated by the property pledged to the payment thereof, which may include additional security such as additional collateral, insurance or a letter of credit.

Section C. Standards and Requirements Relating to the Financing of the Project Pursuant to the Program. The following standards and requirements shall apply with respect to the operation of the Project by the Borrower pursuant to this Program:

(1) Substantially all of the proceeds of the sale of the Obligations will be applied to the acquisition, construction, and equipping of the Project, the payment of the costs of issuing the Obligations, the financing of interest on the Obligations during the construction of the Project, if needed, and the funding of any required reserves. The proceeds of the Obligations will be made available to the Borrower pursuant to the terms of one or more loan agreements (or other revenue agreements) which will include certain covenants to be made by the Borrower to the City regarding the use of proceeds and the character and use of the Project.

(2) The Project qualifies as a “multifamily housing development” within the meaning of the Housing Act, since it is comprised of an apartment facility, of which the Housing Units are to be rented to persons or families for use as residences.

(3) The Borrower, and any subsequent owner of the Project, will not arbitrarily reject an application from a proposed tenant because of race, color, creed, religion, national origin, sex, marital status, or status with regard to public assistance or disability.

(4) Pursuant to the Regulatory Agreement between the City and the Borrower, forty percent (40%) of the Housing Units will be held for occupancy by seniors with adjusted gross income not in excess of sixty percent (60%) of median family income, adjusted for family size. This set aside will satisfy the low-income occupancy requirements of Section 462C.05, subdivision 2 of the Housing Act.

(5) The Economic Development Authority in and for the City of Minnetonka will also enter into a Declaration of Restrictive Covenants with the Borrower, which requires one hundred percent (100%) of the Housing Units to be held for occupancy by seniors with adjusted gross income not in excess of sixty percent (60%) of median family income, adjusted for family size.

Section D. Evidence of Compliance. The City may require from the Borrower at or before the issuance of the Obligations evidence satisfactory to the City of compliance with the standards and requirements for the financing established by the City, as set forth herein. In connection therewith, the City or its representatives may inspect the relevant books and records of the Borrower in order to confirm such ability, intention and compliance. In addition, the City may periodically require certification from either the Borrower or such other person deemed necessary concerning compliance with various aspects of this Program.

Section E. Issuance of Obligations. To finance the Project the City will by resolution authorize, issue and sell the Obligations, in one or more series, as taxable and tax-exempt obligations, in the approximate aggregate principal amount not to exceed \$55,000,000. The Obligations will be issued pursuant to Section 462C.07, subdivision 1 of the Housing Act, and will be payable primarily from the revenues of the Project and a pledge of the tax increment revenue received by the Borrower pursuant to a pay-as-you-go tax increment revenue note issued by the Economic Development Authority in and for the City of Minnetonka, Minnesota. If the costs of the Project, including capitalized interest, if needed, costs of issuance of the Obligations, and required reserve funds, if any, exceed the principal amount of the Obligations, the Borrower will contribute to or obtain additional financing for the Project the difference between the total costs of the Project and the principal amount of the Obligations available to finance the Project. The costs of the Project may change between the date of preparation of this Program and the date of issuance of the Obligations. The Obligations are expected to be issued in September 2018.

Section F. Severability. The provisions of this Program are severable and if any of its provisions, sentences, clauses or paragraphs shall be held unconstitutional, contrary to statute, exceeding the authority of the City or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section G. Amendment. The City shall not amend this Program, while Obligations authorized hereby are outstanding, to the detriment of the holders of such Obligations.

Section H. State Ceiling.

(1) An application for an allocation of a portion of the annual volume cap for private activity bonds to be issued to provide “qualified residential rental projects,” within the meaning of Sections 142(a)(7) and 142(d) of the Code, has been made to the office of Minnesota Management & Budget, pursuant to Section 146 of the Code and Minnesota Statutes, Chapter 474A, as amended (the “Allocation Act”).

(2) Pursuant to the terms and requirements of the Allocation Act: (i) the Project will meet the requirements of Section 142(d) of the Code regarding the incomes of the occupants of the Project; and (ii) the maximum rent for at least twenty percent (20%) of the Housing Units will not exceed the area fair market rent or exception fair market rents for existing housing, if applicable, as established by the United States Department of Housing and Urban Development.

(3) Prior to the issuance of the Obligations, the Borrower will enter into an agreement with the City (the “Regulatory Agreement”) that specifies the maximum rental rates of twenty percent (20%) of the Housing Units and the income levels of the residents of the Project occupying the income-restricted units. Such rental rates and income levels must be within the limitations established in accordance with the preceding paragraph (2). The Borrower will be required to annually certify to the City over the term of the agreement that the rental rates for the rent-restricted units are within the limitations under the preceding paragraph (2). The City may request individual certification of the income of residents of the income-restricted units of the Project. The office of Minnesota Management & Budget may request from the City a copy of the annual certification prepared by the Borrower. The office of Minnesota Management & Budget may require the City to request individual certification of all residents of the income-restricted units of the Project.

(4) The City will monitor Project compliance with the rental rate and income level requirements established under the preceding paragraph (2). The City may issue an order of noncompliance if the Project is found by the City to be out of compliance with the rental-rate or income-level requirements established under the preceding paragraph (2). The Borrower shall pay a penalty to the City equal to one-half of one percent (0.5%) of the total amount of the tax-exempt Obligations issued under the Housing Act for the Project if the City issues an order of noncompliance. For each additional year the Project is out of compliance, the annual penalty must be increased by one-half of one percent (0.5%) of the principal amount of the tax-exempt Obligations issued under the Housing Act for the Project. The City may waive insubstantial violations.

(5) The City will enter into the Regulatory Agreement with the Borrower with a term of at least fifteen (15) years in order to ensure that the Project satisfies the requirements of this Program, Section 142(d) of the Code, the Housing Act, and the Allocation Act.