

Extract of Minutes of a Meeting of the  
City Council of the  
City of Falcon Heights, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Falcon Heights, Minnesota, was duly held at the City Hall, or by electronic means as permitted by law, in said City on Wednesday, the 12<sup>th</sup> day of May, 2021, at 7:00 p.m.

The following members were present: **Gustafson, Andrews and Leehy**

and the following were absent: **Miazga and Wehyee**

Council Member Leehy introduced the following resolution and moved its adoption:

**RESOLUTION NO. 21-19**

**CITY OF FALCON HEIGHTS, MINNESOTA**

**APPROVING ISSUANCE AND SALE OF  
MULTIFAMILY HOUSING REVENUE REFUNDING NOTE  
(AMBER UNION PROJECT), SERIES 2021  
PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C**

WHEREAS,

A. The City of Falcon Heights, Minnesota (the "Issuer") 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 Falcon Heights, Minnesota (the "City") through the issuance of revenue obligations; and

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

C. The Issuer has received a proposal from Buhl GTA, LP, a Minnesota limited partnership (the "Borrower"), that the Issuer undertake a program to finance and refinance the Project hereinafter described through the issuance of its revenue obligations in the aggregate principal amount not to exceed \$28,000,000 to finance and refinance the acquisition and rehabilitation of an approximately 125-unit multifamily housing facility and related facilities for low- and moderate-income households, located at 1667 Snelling

Avenue, in the City (the "Project"). The Project will be owned and operated by the Borrower; and

D. A public hearing on the Project and the housing finance program was previously held on November 13, 2019, after notice was published in the official newspaper of the Issuer 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, following the public hearing, the housing finance program was approved that same date; and

E. Pursuant to Section 462C.04 of the Act, the Issuer made timely submission of the housing finance program to the Metropolitan Council for its review and comment, and the Issuer received favorable comment from the Metropolitan Council on such program; and

F. The City has previously issued its \$3,622,377 Multifamily Housing Revenue Note, Series 2019 (Amber Union Apartments Project) (the "Prior Note") with respect to the Project; and

G. No public official of the Issuer 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 Falcon Heights, Minnesota as follows:

1. The Borrower has proposed that the Issuer issue and sell its Multifamily Housing Revenue Refunding Notes (Amber Union Project), Series 2021 (the "Note") in an amount not to exceed \$28,000,000 to finance the costs of the Project, including the refunding of the Prior Notes, in accordance with this Resolution and a Loan Agreement (the "Loan Agreement") between the Issuer and the Borrower, which will be assigned to Bridgewater Investment Management, Inc., a Minnesota corporation (the "Lender") pursuant to an Assignment of Loan Agreement (the "Loan Agreement Assignment").

2. Pursuant to the terms of the Loan Agreement, anticipated to be dated as of a date in June, 2021, the Issuer will loan the proceeds of the Notes (the "Mortgage Loan") to the Borrower to refund the Prior Note and finance the Project. The Borrower has agreed, pursuant to an Amended and Restated Regulatory Agreement anticipated to be dated as of a date in June, 2021, by and between the Issuer, the Borrower, and the Lender (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.

3. The Borrower and related parties will provide collateral and guaranties to secure the Note.

4. The Note will be purchased pursuant to the terms and conditions of a Loan Purchase Agreement between the Lender and the Borrower (the "Loan Purchase Agreement").

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

- (a) Loan Agreement;
- (b) Loan Agreement Assignment;
- (c) Regulatory Agreement;
- (d) Note; and
- (e) Loan Purchase Agreement

The documents listed in (a) through (e) are hereafter referred to as the "Loan Documents."

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

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

(b) it is desirable that the Note be issued by the Issuer upon the terms set forth in this Resolution and the Loan Purchase Agreement;

(c) the basic 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 Notes issued hereunder 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 premises and payable during the term of the Loan Agreement;

(d) under the provisions of Minnesota Statutes, Chapter 462C and as provided in the 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 Issuer is not subject to any liability thereon; no holder of the Note shall ever have the right to compel any exercise by the Issuer of its taxing powers to pay the Note or the interest or premiums thereon, or to enforce payment thereof against any property of the Issuer except the interests of the Issuer in the Loan Agreement which have been assigned to the Lender under the Loan Agreement Assignment; the Note shall not constitute a charge, lien, or encumbrance, legal or equitable upon any property of the Issuer except the interests of the Issuer in the Loan Agreement which have been assigned to the Lender under the

Loan Agreement Assignment; 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 Notes, including interest thereon, is payable solely from the revenues pledged to the payment thereof; and, the Note shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

7. (a) The Issuer will cause to be kept at the office of the City Administrator a Note Register in which, subject to such reasonable regulations as it may prescribe, the Issuer shall provide for the registration of transfers of ownership of the Note. The Note shall be initially registered in the name of the Lender and shall be transferable upon the Note Register by the Lender in person or by its agent duly authorized in writing, upon surrender of the Note together with a written instrument of transfer satisfactory to the City Administrator, duly executed by the Lender or its duly authorized agent. The following form of assignment shall be sufficient for said purpose.

For value received \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within Note of the City of Falcon Heights, Minnesota, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer said Note on the books of said Issuer with full power of substitution in the premises. The undersigned certifies that the transfer is made in accordance with the provisions of Section 7(d) 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 new Lender in the applicable Note Register and in the registration blank appearing on the Note.

(b) In case a Note issued hereunder shall become mutilated or be destroyed or lost, the Issuer 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 Lender's paying the reasonable expenses and charges of the Issuer in connection therewith, and in the case of a Note destroyed or lost, the filing with the Issuer of evidence satisfactory to the Issuer 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.

(c) The Issuer may deem and treat the person in whose name a 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 Issuer shall not be affected by any notice to the contrary.

(d) The Note will be issued to either (a) a "qualified institutional buyer" as defined in Rule 144A promulgated under the 1933 Act, that purchases it for its own account or for the account of a qualified institutional buyer, or (b) an "accredited investor" as defined in Regulation D promulgated under the 1933 Act, that purchases for its own account and 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 in part, nor may a participation interest in the Note be given pursuant to any participation agreement, except to another "qualified institutional buyer" or "accredited investor" in accordance with an applicable exemption from such registration requirements and with full and accurate disclosure of all material facts to the prospective purchaser(s) or transferee(s) and in a single denomination equal to the entire outstanding principal balance thereof and in accordance with Section 7(a) hereof.

(e) Subject to the provisions of Section 7(d), the Issuer shall, at the request and expense of the Lender, issue a new Note, in aggregate outstanding principal amount equal to that of the Note surrendered, and of like tenor except as to number, principal amount, and the amount of the periodic installments payable thereunder, and registered in the name of the Lender or such transferee as may be designated by the Lender.

8. The forms of the Loan Documents and exhibits thereto are approved substantially in the form submitted. The Loan Documents, in substantially the forms submitted, are directed to be executed in the name and on behalf of the Issuer by the Mayor and City Administrator. Any other documents and certificates necessary to the transaction described above shall be executed by the appropriate Issuer 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 Loan Documents.

9. The Issuer shall proceed forthwith to issue the Note, in the form and upon the terms set forth in the Loan Purchase Agreement and at a variable rate. The Note will be purchased on substantially the terms set forth in the Loan Purchase Agreement, this Resolution, and the Loan Agreement which have been submitted to the Issuer in connection with this Resolution. The Mayor and City Administrator are authorized and directed to prepare and execute the Notes as prescribed herein and to deliver it to the Lender.

10. The Mayor and City Administrator and other officers of the Issuer are authorized and directed to prepare and furnish to the Lender certified copies of all proceedings and records of the Issuer 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 Issuer as to the truth of all statements contained herein.

11. 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 Issuer officials authorized herein to execute said documents prior to their execution; and said Issuer officials are hereby authorized to approve said changes on behalf of the Issuer. 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.

12. The approval hereby given to the Loan Documents and the various other documents referred to in paragraph 8 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 Issuer 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 Loan Documents and with the issuance and sale of the Note and approved by Bond Counsel, the City Attorney and Issuer officials authorized herein to execute said documents prior to their execution; and said City Attorney and Issuer officials are hereby authorized to approve said changes or additional documents, agreements or certificates on behalf of the Issuer. The execution of any instrument by the appropriate officer or officers of the Issuer 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.

Adopted by the City Council of the City of Falcon Heights, Minnesota, this 12th day of May, 2021.

  
Randall C. Gustafson  
Mayor

ATTEST:

  
City Administrator

After full discussion thereof and upon vote being taken thereon, the following voted in favor thereof: **Lechy, Gustafson and Andrews**

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

STATE OF MINNESOTA    )  
                                  )  
COUNTY OF RAMSEY    )

I, the undersigned, being the duly qualified and acting City Administrator of the City of Falcon Heights, 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 relate to giving approval on a proposed multifamily housing revenue note issue.

WITNESS my hand this 13 day of May, 2021.

  
City Administrator