



Legislation Text

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R13107

Original

The Chair

Resolution approving the Housing Authority of the City of Milwaukee to take all action necessary in connection with the Rehabilitation RAD Conversion of Merrill Park, including serving as Guarantor for all loans related thereto and as developer for Merrill Park

WHEREAS, the Housing Authority of the City of Milwaukee (the “**Authority**”) is currently the owner of a 120-unit public housing located at 222 N. 33rd Street, Milwaukee, Wisconsin, known as Merrill Park (“**Merrill Park**” or the “**Project**”);

WHEREAS, as approved by a duly adopted resolution dated March 15, 2018 (the “**March 2018 Resolution**”) the Authority’s Board of Commissioners (the “**Commissioners**”) approved the conversion of all of the Authority’s public housing developments (each, a “**Public Housing Development**”), including Merrill Park, from public housing operating assistance to RAD Section 8 project based voucher (“**PBV**”) assistance under Section 8(o)(13) of the United States Housing Act of 1937, as amended, under the U.S. Department of Housing and Urban Development (“**HUD**”)’s Rental Assistance Demonstration (RAD) program (the “**RAD Conversion**”);

WHEREAS, the Rental Assistance Demonstration program (“**RAD**”) permits public housing authorities to redevelop public housing and is a key component of HUD’s plan for preserving affordable rental housing, encouraging greater efficiency among HUD programs, and building viable communities;

WHEREAS, pursuant to the March 2018 Resolution, a limited liability company that owns a Public Housing Development (an “**LLC Owner**”) that is subject to a RAD Conversion, shall be managed by a limited liability company, the sole member and managing member of which shall be the Authority (the “**LLC Owner Managing Member**”);

WHEREAS, as approved by a duly adopted resolution of the Commissioners dated November 14, 2018 (the “**November 2018 Resolution**”), the Commissioners confirmed and authorized the creation of an LLC Owner for Merrill Park and approved the submission of a Financing Plan Proposal to HUD for the Merrill Park RAD Conversion;

WHEREAS, Merrill Park LLC, a Wisconsin limited liability company (“**Merrill Park LLC**”) was formed pursuant to Articles of Organization (the “**Articles**”), filed August 12, 2019 with the State of Wisconsin Department of Financial Institutions and attached hereto as Exhibit A;

WHEREAS, Merrill Park LLC was organized for the purpose, among others, of acquiring, rehabilitating, developing, owning and operating Merrill Park;

WHEREAS, Merrill Park Development LLC, a Wisconsin limited liability company (“**Merrill Park Development**”) was formed to be the Managing Member of Merrill Park LLC, pursuant to Articles of Organization (the “**Articles**”), filed August 12, 2019 with the State of Wisconsin Department of Financial Institutions and attached hereto as Exhibit B; and

WHEREAS, the Authority is the sole member and managing member (“**Managing Member**”) of Merrill Park Development, pursuant to that certain Operating Agreement for Merrill Park Development LLC, effective August 12, 2019 (the “**Merrill Park Development Operating Agreement**”);

WHEREAS, Merrill Park Development is the sole member and managing member of Merrill Park LLC pursuant to that certain Operating Agreement for Merrill Park LLC, effective August 12, 2019 (the “**Merrill Park Operating Agreement**”);

WHEREAS, pursuant to a Special Warranty Deed from the Authority, as grantor, and Merrill Park LLC, as grantee (the “**Deed**”), Merrill Park LLC shall acquire a fee interest in the Project, as well as certain real property and other buildings and improvements

situated thereon, as more particularly described on Exhibit C attached hereto (the “**Property**”);

WHEREAS, the Wisconsin Housing and Economic Development Authority (“**WHEDA**”) provides awards of low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code to meet the affordable housing and community development needs of low and moderate income persons;

WHEREAS, pursuant to the November 2018 Resolution the Authority was approved to submit an application for and was awarded low-income housing tax credits for the rehabilitation of the Project;

WHEREAS, in connection with the RAD Conversion, Merrill Park LLC, the Authority and HUD will enter into that certain RAD Conversion Commitment (the “**RCC**”) to be issued prior to closing on the Project;

WHEREAS, in connection with the rehabilitation of the Project, Merrill Park LLC shall receive a loan from WHEDA in the approximate principal amount of One Million Two Hundred Thousand Dollars (\$1,200,000) or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**WHEDA Loan**”);

WHEREAS, in connection with the rehabilitation of the Project, Merrill Park LLC has secured or is attempting to secure a loan from Associated Bank (“**Associated Bank**”) in the approximate principal amount of Six Million Dollars (\$6,000,000) or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**Associated Bank Loan**”);

WHEREAS, in connection with the rehabilitation of the Project, Merrill Park LLC shall receive a federal funds construction/permanent loan from the Authority in an amount not less than Three Million Dollars (\$3,000,000) for construction financing and not less than Two Million Nine Hundred Fifty-Two Thousand Seven Hundred Sixty-Seven Dollars (\$2,952,767) for permanent financing, or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**Authority Federal Funds Loan**”) and an acquisition loan from the Authority in the approximate principal amount of Three Million Six Hundred Ninety Thousand Dollars (\$3,690,000) or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**Authority Land Loan**”) (collectively the “**Authority Loans**”);

WHEREAS, in connection with the rehabilitation of the Project, pursuant to the letter of intent dated July 25, 2019, and any amendments thereto (the “**Letter of Intent**”), issued by RBC Tax Credit Equity, LLC, an Illinois limited liability company (“**RBC**”), in the manner and pursuant to the terms and conditions described in the Letter of Intent, RBC will invest as investor member of Merrill Park (the “**Investor Member**”) and RBC Tax Credit Manager II, Inc., a Delaware corporation will invest as special investor member (the “**Special Investor Member**”); and

WHEREAS, in connection with the rehabilitation of the Project, Merrill Park Development, the Investor Member and the Special Investor Member desire to enter into an Amended and Restated Operating Agreement for Merrill Park LLC (the “**Amended and Restated Operating Agreement**”), and various other agreements, certificates and documents required thereunder or described therein;

WHEREAS, as a condition of investing as a member of Merrill Park LLC, the Investor Member has required that the Authority guarantee certain obligations of Merrill Park LLC (the “**Guaranty**”), and has further required that the Authority enter into certain agreements, instruments and documents in connection therewith and with the admission of the Investor Member into Merrill Park LLC; and

WHEREAS, to induce RBC to invest as Investor Member, the Authority has agreed to act as the developer for the Project under the terms of a development agreement, as amended (the “**Development Agreement**”).

NOW, THEREFORE, BE IT RESOLVED, that Authority’s formation of Merrill Park LLC as owner of Merrill Park is hereby confirmed and authorized; and be it

FURTHER RESOLVED, that the Authority’s formation of Merrill Park Development as Managing Member of Merrill Park LLC is hereby confirmed and authorized; and be it

FURTHER RESOLVED, that the Authority is hereby authorized to serve as Managing Member of Merrill Park Development; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents transferring the Property to Merrill Park LLC, including, but not limited to the Deed to the Property as described herein and to negotiate, enter into, execute and deliver all agreements, instruments, certificates and documents required thereunder or in connection therewith (the “**Acquisition Documents**”), and to perform all of its obligations thereunder, and to consummate the transaction contemplated thereby, and such actions heretofore taken by the Authority as they pertain to the Authority and/or the Authority’s interest in Merrill Park Development are hereby approved and ratified; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver, any and all documents in connection with the RAD Conversion, including, but not limited to, the RCC, RAD PBV Housing Assistance Payments Contract (the "**RAD HAP**"), the RAD Use Agreement, Certification and Assurances, Consolidated Owner's Certification, Release from Declaration of Trust, Management Agreement, Management Plan (the "**RAD Documents**"), and to perform all of its obligations thereunder, and to consummate the transaction contemplated thereby, and such actions heretofore taken by the Authority as they pertain to the Authority and/or the Authority's interest in Merrill Park Development are hereby approved and ratified; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents in connection with the Associated Bank Loan, including, but not limited to the Loan Agreement, Mortgage and Note (the "**Associated Bank Loan Documents**"); and to perform all of its obligations thereunder, and to consummate the transaction contemplated thereby, and such actions heretofore taken by the Authority as they pertain to the Authority and/or the Authority's interest in Merrill Park Development are hereby approved and ratified; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents in connection with the WHEDA Loan, including, but not limited to, the Loan Agreement, Note and the Land Use Restriction Agreements (the "**WHEDA Loan Documents**"); and to perform all of its obligations thereunder, and to consummate the transaction contemplated thereby, and such actions heretofore taken by the Authority as they pertain to the Authority and/or the Authority's interest in Merrill Park Development are hereby approved and ratified; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver, any and all documents in connection with the Authority Loans, including, but not limited to, Loan Agreement, Mortgages and Notes (the "**Authority Loan Documents**"); and to perform all of its obligations thereunder, and to consummate the transaction contemplated thereby, and such actions heretofore taken by the Authority as they pertain to the Authority and/or the Authority's interest in Merrill Park Development are hereby approved and ratified; and be it

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents in connection with the admission of Investor Member and Special Investor Member into Merrill Park LLC including, without limitation, the Development Agreement, the Purchase Option and Right of First Refusal, and the Amended and Restated Operating Agreement continuing the operation of Merrill Park LLC; and be it

FURTHER RESOLVED, that the Authority in its own capacity is hereby authorized, empowered, and directed to enter into, execute, and deliver the Guaranty; and be it

FURTHER RESOLVED, that the Authority in its own capacity and as Managing Member of the Merrill Park Development is hereby authorized, empowered, and directed to enter into, execute, and deliver the Development Agreement; and be it

FURTHER RESOLVED, that the Authority is hereby authorized, empowered, and directed to furnish to RBC all due diligence materials specified in RBC's closing checklist, as the same may be modified and supplemented by RBC for the Project or otherwise requested by RBC in connection with its investment in Merrill Park LLC; and be it

FURTHER RESOLVED, that the Secretary-Executive Director of the Authority, or his designee, is hereby authorized to execute any and all Acquisition Documents, RAD Documents, WHEDA Loan Documents, Associated Bank Loan Documents and Authority Loan Documents as they pertain to the Authority and/or the Authority's interest in Merrill Park Development; and be it

FURTHER RESOLVED, that all acts previously performed, relative to this matter, by the Authority's Board and the Secretary-Executive Director of the Authority, are hereby approved, ratified and confirmed in all respects; and be it

FURTHER RESOLVED, that the Secretary-Executive Director of the Authority or his designee, is hereby authorized, empowered and directed to take any and all such action on behalf of the Authority in its own capacity, as applicable, and as the Managing Member of Merrill Park Development, as deemed necessary or desirable by the Secretary-Executive Director of the Authority in connection with the RAD Conversion; and be it

FURTHER RESOLVED, that the Secretary-Executive Director of the Authority or his designee, is hereby authorized, empowered, and directed to take such further action on behalf of the Authority as they deem necessary to effectuate the foregoing.

[Signature on following page]

These Resolutions are effective as of _____, 2019.

HOUSING AUTHORITY OF THE CITY OF MILWAUKEE,
a Wisconsin public body corporate and politic

By:
Antonio M. Pérez
Secretary and Executive Director

Housing Management, November 4, 2019