



Legislation Text

File #: R13153, **Version:** 0

R13153

Original

The Chair

Resolution approving the Housing Authority of the City Milwaukee to take all action necessary in connection with the rehabilitation RAD (Rental Assistance Demonstration program) conversion of Becher Court, including serving as Guarantor for all loans related thereto and as Developer for Becher Court

WHEREAS, the Housing Authority of the City of Milwaukee (the "**Authority**") is currently the owner of a 120-unit public housing development located at 1802 W. Becher Street, Milwaukee, Wisconsin, known as Becher Court ("**Becher Court**" 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 Becher Court, 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 Becher Court and approved the submission of a Financing Plan Proposal to HUD for the Becher Court RAD Conversion;

WHEREAS, Becher Court LLC, a Wisconsin limited liability company ("**Becher Court LLC**") was formed pursuant to Articles of Organization, filed September 10, 2019 with the State of Wisconsin Department of Financial Institutions, as amended on September 12, 2019 (collectively the "**Becher Court LLC Articles**"), and attached hereto as Exhibit A;

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

WHEREAS, Becher Court Development LLC, a Wisconsin limited liability company ("**Becher Court Development**") was formed to be the LLC Owner Managing Member of Becher Court LLC, pursuant to Articles of Organization, filed September 10, 2019 with the State of Wisconsin Department of Financial Institutions, as amended on September 12, 2019 (the "**Becher Court Development Articles**"), and attached hereto as Exhibit B; and

WHEREAS, the Authority is the sole member and managing member ("**Managing Member**") of Becher Court Development, pursuant to that certain Operating Agreement for Becher Court Development LLC, effective September 10, 2019 (the "**Becher Court Development Operating Agreement**");

WHEREAS, Becher Court Development is the sole member and managing member of Becher Court LLC pursuant to that certain Operating Agreement for Becher Court LLC, effective September 10, 2019 (the "**Becher Court Operating Agreement**");

WHEREAS, pursuant to a Ground Lease between the Authority, as lessor, and Becher Court LLC, as lessee (the "**Ground Lease**"), Becher Court LLC shall acquire a leasehold interest (the "**Leasehold Interest**") in the land on which the Project is located, as more particularly described on Exhibit C attached hereto (the "**Land**"), and a fee interest in the Project and any improvements thereto, situated thereon, as part of the RAD Conversion. The Leasehold Interest and Project shall collectively be referred to herein as 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, Becher Court 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, Becher Court LLC shall receive a loan from WHEDA in the approximate principal amount of One Million Six Hundred Thousand Dollars and no/100 (\$1,600,000.00) 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, Becher Court LLC has secured or is attempting to secure a loan from PNC Bank, National Association (“**PNC**”), in the approximate principal amount of Four Million Four Hundred Thirty-Six Thousand Three Hundred Thirty-Five Dollars and no/100 (\$4,436,335.00) or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**PNC Loan**”);

WHEREAS, in connection with the rehabilitation of the Project, Becher Court LLC shall receive a federal funds/non-federal funds construction/permanent loan from the Authority in the principal approximate amount of Two Million One Hundred Ninety-One Thousand Fifty Dollars and no/100 (\$2,191,050.00), 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 Nine Hundred Thirty Thousand Dollars and no/100 (\$3,573,000.00), or such other amount as deemed acceptable by the Secretary-Executive Director of the Authority (the “**Authority Acquisition Loan**” and, collectively with the Authority Federal Funds Loan, the “**Authority Loans**”);

WHEREAS, in connection with the rehabilitation of the Project, pursuant to the letter of intent dated January 6, 2020 and any amendments thereto (the “**Letter of Intent**”), issued by PNC in the manner and pursuant to the terms and conditions described in the Letter of Intent, an equity fund sponsored by PNC or an affiliate will invest as investor member of Becher Court LLC (the “**Investor Member**”) and PNC or an affiliate will invest as special investor member of Becher Court LLC (the “**Special Investor Member**”); and

WHEREAS, in connection with the rehabilitation of the Project, Becher Court Development, the Investor Member and the Special Investor Member desire to enter into an Amended and Restated Operating Agreement for Becher Court 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 Becher Court LLC, the Investor Member has required that the Authority guarantee certain obligations of Becher Court LLC and Becher Court Development (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 Becher Court LLC; and

WHEREAS, to induce PNC 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 Becher Court LLC as owner of Becher Court is hereby confirmed and authorized; and be it

FURTHER RESOLVED, that the Authority's formation of Becher Court Development as managing member of Becher Court LLC is hereby confirmed and authorized; and be it

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

FURTHER RESOLVED, that the Authority in its own capacity, as applicable, and as Managing Member of Becher Court Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents transferring the Property to Becher Court LLC, including, but not limited to, the Ground Lease and Bill of Sale, 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 in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court 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 Declarations of Trust, Management Agreement, and 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 in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court Development is hereby authorized, empowered, and directed to enter into, execute, and deliver any and all documents in connection with the PNC Loan, including, but not limited to the Loan Agreement, Mortgage, Note and any guaranty (the “**PNC 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 in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court 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, the Land Use Restriction Agreements and any guaranty (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 in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court 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, one or more Loan Agreements, 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 in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court 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 Becher Court 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 Becher Court 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 Becher Court 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 PNC all due diligence materials specified in PNCs closing checklist, as the same may be modified and supplemented by PNC for the Project or otherwise requested by PNC in connection with its investment in Becher Court 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, PNC Loan Documents, WHEDA Loan Documents, and Authority Loan Documents in its individual capacity and in its capacity as Managing Member of Becher Court 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 Becher Court Development, as deemed necessary or desirable by the Secretary-Executive Director of the Authority in connection with the Project; 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.

Exhibits:

1. Exhibit A - Becher Court LLC Articles
2. Exhibit B - Becher Court Development LLC Articles
3. Exhibit C - Leasehold Interest Legal Description

Housing Management, May 8, 2020