



Department of Planning and Community & Economic Development

## Community Development Division

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Child Care  
Community Resources  
Community Development Block Grant  
Madison Senior Center

To: CDBG Committee  
From: Julie Spears, Community Development Specialist  
Date: November 20, 2018  
RE: Adding language to the 2018 Affordable Housing Fund Resolution to address the City's Right of First Refusal and Land Use Restriction Agreement on the Property owned by Bayview Foundation, Inc.

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### **Background**

In 2011, the City of Madison and Bayview Foundation, Inc. entered into a 40 year deed restriction granting the City the Right of First Refusal (ROFR) as well as a Land Use Restriction Agreement (LURA) on the property at 601 Bayview to secure the property's long term use for the purposes of low to moderate income rental housing. Prior to 2011, the City held a 40 year Agreement with Bayview deed restricting the property for the same purposes.

At its meeting on November 1, 2018, the CDBG Committee recommended for approval \$2.9M in FY2019 Affordable Housing Funds to Bayview Foundation, Inc. ("Bayview") and Horizon Development Group, Inc. ("Horizon") to support the redevelopment of the property using Low-Income Housing Tax Credits (LIHTCs) administered by the Wisconsin Housing and Economic Development Authority (WHEDA). Bayview's proposed redevelopment will include a total of 130 units of rental housing, 120 of which will be affordable to households earning at or below 60% of the County Median Income (CMI).

The preponderance of units will continue to be operated as low to moderate income rental housing including a new and additional 30 year LURA beginning in 2020. COD staff concur with Bayview and Horizon's determination that the LIHTCs are the best financial mechanism to complete the much needed redevelopment the property and believe that the inclusion of 10 market rate units in the proposed redevelopment is consistent with the intent of the deed restriction entered into between the City of Madison and Bayview.

### **Staff Recommendation**

Incorporate the attached language into the resolution in Legistar File [53633](#) to address the existing deed restrictions while allowing the project to progress as planned.

### **Incorporate the following language to the 2018 AHF Resolution Legistar File 53633:**

WHEREAS, the Bayview Foundation, Inc. ("Bayview") has given the City a Right of First Refusal ("ROFR") on its property which is effective in the event of a sale to an offer or for a non-affordable housing development; and

WHEREAS, the City also has a Land Use Restriction Agreement on Bayview's property for affordable

housing; and

WHEREAS, Bayview will be developing the site with Horizon Development Group, Inc. ("Horizon"), which ownership structure will not cause the ROFR to be effective due to the continued use as affordable housing, and the City will retain its rights under the ROFR in the future; and

WHEREAS Bayview and Horizon have determined that the LIHTCs are the best financial mechanism to complete the much needed redevelopment the property; and

WHEREAS because the preponderance of units will continue to be operated as low and moderate income rental housing and staff believe that the inclusion of 10 market rate units in the proposed redevelopment is consistent with the intent of the deed restriction entered into between the City of Madison and Bayview dated January 26, 2011.