



## Legislation Text

---

**File #:** 57594, **Version:** 1

---

### Fiscal Note

The proposed resolution authorizes awarding \$4.125 million in loans for three proposed affordable housing developments. The \$4.125 million is split between the Community Development Division's Affordable Housing-Development Projects capital program and HOME program. Collectively, these projects will contribute to the development of approximately 200 units of affordable rental housing. The resolution proposes the following allocation of funds:

- Up to \$1,400,000 million of Affordable Housing funds to Age Better, Inc. and Gorman & Company, LLC or an affiliate LLC for Elderberry Place Apartments
- Up to \$1,700,000 million of Affordable Housing funds to MSP Real Estate, Inc., or an affiliate LLC for 1212 Huxley Street Apartments
- Up to \$1,025,000 (\$125,000 of Affordable Housing funds and \$900,000 of HOME funds) to Movin' Out, Inc., or an affiliate LLC for Red Caboose Apartments

The 2019 Adopted Operating Budget includes \$2.1 million in federal HOME Investment Partnership funds and the Affordable Housing-Development Projects capital program available balance is approximately \$6.2 million. The proposed developments will also seek federal Low-Income Housing Tax Credits allocated by the Wisconsin Housing and Economic Development Authority (WHEDA). No additional City appropriation is required with the authorization of the proposed loans.

### Title

Awarding up to \$3.225 million from the Affordable Housing Fund and \$900,000 in Federal HOME funds to support three affordable housing development projects, selected through a City Request for Proposals (RFP) process, that will construct approximately 200 units of affordable rental housing in Madison, and authorizing the Mayor and City Clerk to execute loan agreements with the developers of those projects.

### Body

#### Background

The City of Madison's 2020 Executive Capital Budget is expected to increase the City's commitment to the Affordable Housing Fund by \$500,000, to an annual level of \$5 million. The AHF was first authorized in the 2015 Capital Budget to help increase and/or preserve the supply of affordable rental housing. For purposes of this initiative, affordable rental housing is defined as that which is reserved, for at least 30 years, for households with incomes at or below 60% of the county median income and with rents restricted at levels affordable to households at those respective income levels. The City's primary strategy in deploying AHF is to leverage other resources, most notably federal Low-Income Housing Tax Credits (LIHTCs), to help achieve the goal of adding approximately 200 new affordable rental units per year.

In Wisconsin, LIHTCs are administered by the Wisconsin Housing and Economic Development Authority (WHEDA). WHEDA allocates credits annually through a competitive statewide process. The review criteria that WHEDA employs favors development proposals that demonstrate significant local financial participation and/or leveraging of other financial resources.

In choosing how to allocate City AHF assistance, the Community Development Division conducts its own competitive Request for Proposals (RFP) process. That process is scheduled to coincide with WHEDA's

cycle so that City funds can be awarded in time to benefit developers seeking tax credits from WHEDA. WHEDA's next application deadline is expected in mid-December 2019.

Funds the Council approves to support these developments are unlikely to be drawn until 2021. However, in order for financial leverage points to be awarded under WHEDA's scoring process, the funds must actually be budgeted in 2020, not merely planned for.

This resolution is intended to authorize the commitment of City funds, to the developers and in the amounts specified, for project proposals selected in this year's RFP process. It is also intended to authorize the Mayor and City Clerk to execute loan agreements and other documents necessary to proceed with financial commitments to these projects.

### *ACTION*

WHEREAS, in order to advance the City's objective of expanding the supply of affordable rental housing called for in the 2020 Executive Capital Budget, and using City-administered resources in concert with federal Low-Income Housing Tax Credits, the Community Development Division issued a Request for Proposals (RFP) in May 2019 seeking tax credit-eligible development proposals; and,

WHEREAS, the RFP anticipated drawing on both City AHF funds and federal HOME Investment Partnership (HOME) funds to support such developments, contingent upon their inclusion in the City's Adopted 2020 Budget; and,

WHEREAS, in response to the RFP, the City received applications seeking assistance for the following four development proposals:

- Elderberry Place Apartments, submitted by Age Better, Inc. and Gorman & Company, LLC;
- 1212 Huxley Street Apartments, submitted MSP Real Estate, Inc.;
- Red Caboose Apartments, submitted by Movin' Out, Inc.;
- TSA Mifflin Street Apartments, submitted by The Salvation Army; and,

WHEREAS, a review team, comprised of staff from the City's Community Development, Economic Development, and Planning Divisions evaluated proposals based on criteria that addressed issues such as the number and mix of housing units; project location with respect to nearby amenities such as public transit, schools, retail and employment opportunities, etc.; financial viability; gap financing needed; per-unit subsidy requested; development team experience; likelihood of the developer securing needed land use approvals; and anticipated score in WHEDA's LIHTC application process; and,

WHEREAS, based on this review, the staff team concluded that the identified three projects were sufficiently responsive to the City's criteria and, with City financial support, could compete successfully for WHEDA LIHTCs; and,

WHEREAS, in addition to this review, the CDD staff team also evaluated each proposal for its consistency with the goals and requirements set forth in the City's 2015-2019 Five-Year Consolidated Plan, formally

adopted by the Common Council on December 3, 2014, which guides the use of U.S. Department of Housing and Urban Development funds; and,

WHEREAS, the CDD staff team determined that offering support from federal HOME funds to one of the proposed developments would be an appropriate use of that resource and meet the requirements and further the goals set forth in the 2015-2019 Five-Year Consolidated Plan; and

WHEREAS, based on these reviews, the CDD staff team formulated recommendations that seek to allocate \$3,225,000 in City AHF funds and \$900,000 in Federal HOME funds to support the following three development proposals to construct 236 units of housing, 199 of which will be maintained as affordable for at least 30 years:

- 1212 Huxley Street Apartments (111 total units/94 affordable) - \$1,700,000 from AHF;
- Elderberry Place Apartments (87 total units/73 affordable) - \$1,400,000 from AHF;
- Red Caboose Apartments (38 total units/32 affordable) - \$125,000 from AHF and \$900,000 from HOME; and

WHEREAS, due to the complex nature of TSA's proposed campus redevelopment, of which the Mifflin Street Apartments is but one component, the CDD staff team determined that the potential commitment of AHF to the housing proposal would best be considered under a separate resolution; and,

WHEREAS, as development projects proceed through final design stages and WHEDA's application process, developers may need to make minor project adjustments, including to the number and mix of housing units, if such changes will improve prospects for success in WHEDA's application process and/or comply with land use requirements; and,

WHEREAS, the receipt of financial assistance from other funding sources, including City Tax Increment Financing (TIF), subsequent to adoption of this resolution, may be used to reduce the financial contribution to the project derived from AHF assistance, so that AHF funds remain available to support other projects; and,

WHEREAS, upon securing federal LIHTCs from WHEDA, the developers of these projects, via an affiliate LLC, will be prepared to execute a loan agreement and related loan documents with the City.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Common Council hereby authorize the issuance of letters of funding commitments, no later than December 14, 2019, or the deadline for the WHEDA tax credit applications, whichever is sooner, of up to \$1.7 million to support the proposed 1212 Huxley Street Apartments, up to \$1.4 million to support the proposed Elderberry Place Apartments, and up to \$1,025,000 to support the proposed Red Caboose Apartments; and,

BE IT FURTHER RESOLVED, that CDD staff is authorized to approve minor alterations to development projects, including to the number and mix of housing units, if such changes are deemed necessary to improve prospects for securing federal LIHTCs and/or comply with City land use requirements, but may not adjust the level of City financial assistance without Council approval; and,

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute loan agreements, utilizing CDD-administered funds, for the three affordable housing projects as described below and reflecting any minor adjustments approved by CDD staff or caused by the application of TIF, HOME or other resources:

- Developers, Projects and Loan Amounts
  - Up to \$1.7 million (from AHF) - MSP Real Estate, Inc., or an affiliate LLC for 1212 Huxley Street Apartments: a 111-unit rental housing redevelopment with 94 units affordable to households with incomes at or below 30%, 50%, or 60% of the County Median Income (CMI); and
  - Up to \$1.4 million (from AHF) - Age Better, Inc. and Gorman & Company, LLC, or an affiliate LLC for Elderberry Place Apartments: a 87-unit rental housing development with 73 units affordable to households with incomes at or below 30%, 50% or 60% of CMI; and
  - Up to \$1.025 million (\$125,000 from AHF and \$900,000 from HOME) - Movin' Out, Inc., or an affiliate LLC for Red Caboose Apartments, a 38-unit rental housing development with 32 units affordable to households with incomes at or below 30%, 50% or 60% of CMI.
  
- Form of Loans
  - The AHF assistance will be provided in the form of a loan, up to 50% of which will be amortized over 30 years and payable over 16 years, contingent upon available cash flow, and at least 50% of which will be a 0% interest, long-term deferred loans with shared appreciation, payable upon sale, transfer, or change in the use of the property; and
  - The AHF loan will be secured by a subordinate mortgage, note, and Land Use Restriction Agreement securing a 30-year period of affordability; and
  - The HOME assistance, where applicable, will be provided in the form of a 0% long-term deferred loan with shared appreciation, payable upon sale, transfer, or change in the use of the property; and
  - The HOME loan will be secured by a subordinate mortgage combined with the AHF assistance, note, and HOME Land Use Restriction Agreement; and
  - The developer shall apply the proceeds of the Loan to the expense of acquiring the property and/or constructing the project, including at least the total number of units and units to be used as affordable housing, for rent to income-eligible households as specified above; and
  - The loan agreement will be in full force and effect until the loan is repaid or at the expiration of the respective periods of affordability, whichever is later.
  
- Assignment
  - The loan shall not be assigned without permission of the City except for an assignment to an affiliate entity of the developer prior to loan closing.
  
- Closing

- Prior to closing, the developer must submit to the City a standard ALTA commitment for a loan policy of title insurance in the amount of the Loan for such Property, which will be subject only to municipal and zoning ordinances and agreements entered under them, recorded easements for the distribution of utility and municipal services, mortgages, security agreements, assignments of leases and rents, regulatory and land use restriction agreements and an extended use commitment pursuant to Section 42 of the Internal Revenue Code, recorded building and use restrictions and covenants, taxes levied in the year of closing, and any other encumbrances acceptable to the City; and
- Prior to closing, the developer must provide evidence of property insurance as required by the Mortgage, containing a standard loss payee endorsement identifying the City as mortgagee. Developer also agrees to provide evidence of property insurance annually by February 10th or before expiration of existing policy; and,

BE IT STILL FURTHER RESOLVED, that the execution of a loan agreement and disbursement of City funds will be made contingent upon each project developer demonstrating that it has (1) secured financing sufficient to complete the project, including WHEDA LIHTCs; (2) received from the City all necessary land use and permit approvals; (3) satisfied any other City requirements; and (4) provided any other City-requested documentation; and,

BE IT FINALLY RESOLVED, that the Mayor and City Clerk are hereby authorized to execute, deliver, publish, file and record such other documents, instruments, notices and records, and take such other actions as shall be deemed necessary or desirable to accomplish the purpose of this Resolution, and to comply with and perform the obligations of the City hereunder.