



## Legislation Text

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### Fiscal Note

The 2021 Executive Capital Budget authorizes \$5.77 million of new funding for CDD's Affordable Housing-Development Projects capital program. This program also has remaining budget authority of \$3,600,500 from the 2020 Adopted Capital Budget not yet committed to specific housing projects. The proposed resolution uses this program funding to provide up to \$5.77 million in direct financial support for five proposed affordable housing developments. The proposed developments will also seek to leverage federal Low-Income Housing Tax Credits allocated by the Wisconsin Housing and Economic Development Authority (WHEDA).

The proposed resolution, if adopted, will allocate up to \$5.77 million in City-administered funds for the five projects identified below. Collectively, these projects will contribute to the development of approximately 320 units of new rental housing, about 240 units of which will be affordable. The resolution proposes the following allocation of funds:

- Up to \$1,040,000 to AgeBetter, Inc. and Gorman & Company, LLC for AgeBetter Community Living
- Up to \$1,680,000 to JT Klein Company, Inc. for Westgate Commons
- Up to \$1,200,000 to Madisonian Development, LLC for The Madisonian Apartments
- Up to \$1,350,000 to Northpointe Development, Inc. for Uno's Madison Apartments
- Up to \$500,000 to The Salvation Army, Inc. for The Sheild Apartments

### Title

Awarding up to \$5.77 million from the Affordable Housing Fund to support five affordable housing development projects, selected through a City Request for Proposals (RFP) process, that will support construction of approximately 320 units of new rental housing in Madison, about 240 of which will be affordable, and authorizing the Mayor and City Clerk to execute loan agreements with the developers of those projects.

### Body

#### Background

The City of Madison's 2021 Executive Capital Budget proposes to increase the City's commitment to the Affordable Housing Fund by \$500,000, to \$5.77 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 households with incomes at or below 60% of the County Median Income (CMI) and with rents restricted at levels affordable to households at those respective income levels. A condition of receipt of AHF funds in 2021 is that developers commit to at least a 40 year period of affordability, 10 years longer than in previous years. 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. **Importantly, adoption of this resolution will retain funds to support other, non-tax credit developments, to be identified for Council review in coming months.**

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 December 11, 2020.

Funds the Council approves to support these developments are unlikely to be drawn until 2022. However, in order for financial leverage points to be awarded under WHEDA's scoring process, the funds must be authorized in the 2021 budget.

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 2021 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 June 2020 seeking tax credit-eligible development proposals; and,

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

- AgeBetter Community Living, submitted by Age Better, Inc. and Gorman & Company, LLC;
- Westgate Commons submitted by JT Klein Company, Inc.;
- The Madisonian Apartments submitted by Madisonian Development, LLC;
- Uno's Madison Apartments, Northpointe Development, Inc.;
- Avenue Square Apartments, submitted by Odessa Senior Housing, LLC;
- TSA Mifflin Street Apartments, submitted by The Salvation Army; and
- Zor Shrine Apartments, submitted by Saturday Properties, Inc.

WHEREAS, the Zor Shrine Apartments application was withdrawn from further consideration prior to completion of the review process; 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, especially the adopted East-West Bus Rapid Transit route, schools, retail and employment opportunities, etc.; financial viability; gap financing needed; per-unit subsidy requested; incorporation of energy efficiency, renewable energy and other sustainability features; 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 five 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 2020-2024 Five-Year Consolidated Plan, formally adopted by the Common Council on February 25, 2020, which guides the use of U.S. Department of Housing and Urban Development funds; and,

WHEREAS, based on these reviews, the CDD staff team formulated the following recommendations that seek to allocate \$5,770,000 in City AHF funds to support the following five development proposals to construct 321 units of housing, 242 of which will be maintained as affordable for at least 40 years:

- Up to \$1,040,000 to AgeBetter, Inc. and Gorman & Company, LLC for AgeBetter Community Living (75 total units/63 affordable)
- Up to \$1,680,000 to JT Klein Company, Inc. for Westgate Commons (71 total units/56 affordable)
- Up to \$1,200,000 to Madisonian Development, LLC for The Madisonian Apartments (70 total units/49 affordable)
- Up to \$1,350,000 to Northpointe Development, Inc. for Uno's Madison Apartments (61 total units/37 affordable)
- Up to \$500,000 to The Salvation Army, Inc. for The Sheild Apartments (44 total units/37 affordable)

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 as outlined below, no later than December 11, 2020, or the deadline for the WHEDA tax credit applications, whichever is sooner; 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 five 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 \$1,680,000 to JT Klein Company, Inc., or an affiliate LLC, for Westgate Commons, a 71-unit rental housing development with 56 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI;
  - Up to \$1,200,000 to Madisonian Development, LLC, or an affiliate LLC for The Madisonian Apartments, a 70-unit rental housing development with 49 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI;
  - Up to \$1,040,000 to AgeBetter, Inc. and Gorman & Company, LLC or an affiliate LLC for AgeBetter Community Living, a 75-unit rental housing development with 63 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI;
  - Up to \$500,000 to The Salvation Army, Inc., or an affiliate LLC for The Sheild Apartments, a 44-unit rental housing development with 37 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI;
  - Up to \$1,350,000 to Northpointe Development, Inc. or an affiliate LLC for Uno's Madison Apartments, a 61-unit rental housing development with 37 units with rents affordable to households with incomes at or below 30%, 50%, or 60% 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 40-year period of affordability; 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.