# Legislation Details (With Text)

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| **File #:** | 63901 | **Version:** | 1 | **Name:** | Authorizing an amendment to RES-20-00144 that awarded a loan of up to $1,800,000 from the Affordable Housing Fund to support an 150-unit affordable rental housing development at 1402 S. Park St., proposed by Rule Enterprises LLC and Movin' Out, Inc., to d |
| **Type:** | Resolution | | | **Status:** | Passed |
| **File created:** | 1/26/2021 | | | **In control:** | Community Development Division |
| **On agenda:** | 2/23/2021 | | | **Final action:** | 2/23/2021 |
| **Enactment date:** | 3/3/2021 | | | **Enactment #:** | RES-21-00149 |

**Title:** Authorizing an amendment to RES-20-00144 that awarded a loan of up to $1,800,000 from the Affordable Housing Fund to support an 150-unit affordable rental housing development at 1402 S. Park St., proposed by Rule Enterprises LLC and Movin' Out, Inc., to decrease the loaned funds to up to $300,000 and restructure of the allocation of funds from the Affordable Housing Fund for this development.

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**Indexes:**

**Code sections:**

**Attachments:** 1. FILE ID 63900, 2. Fourteen02 Park Street Updated Proforma & E-mail Memo Jan 26 2021.pdf, 3. TO Restructure Memo to CDBG Committee 020421.pdf, 4. Registrants Report - Public Comments CDBG 2-4-21.pdf

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 2/23/2021 | 1 | COMMON COUNCIL | Adopt Unanimously | Pass |
| 2/8/2021 | 1 | FINANCE COMMITTEE | RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER | Pass |
| 2/4/2021 | 1 | COMMUNITY DEVELOPMENT BLOCK GRANT COMMITTEE | Return to Lead with the Recommendation for Approval | Pass |
| 2/3/2021 | 1 | FINANCE COMMITTEE | Refer | |
| 2/2/2021 | 1 | COMMON COUNCIL | Refer | Pass |
| 1/27/2021 | 1 | Community Development Division | Referred for Introduction | |

## Fiscal Note

The proposed resolution amends the loan agreement between the City of Madison and Rule Enterprises, LLC and Movin' Out, Inc (collectively, the "Developer"), adopted by RES-20-00144 (File ID 59334), and authorizes the Affordable Housing Fund to repay $1.1 million, used for the original purchase of 1402 S. Park St., to Tax Increment District (TID) 42. The $1.1 million from the Affordable Housing Fund will funded by the original $1.8 million awarded to this development and, in turn, donate the property to the Developer. The loan to the Developer will be reduced to $300,000, resulting in a $400,000 cost reduction from the original agreement and positioning the Developer to secure Affordable Housing Program (AHP) federal financing. No additional City appropriation is required with adoption of the proposed resolution.

## Title

Authorizing an amendment to RES-20-00144 that awarded a loan of up to $1,800,000 from the Affordable Housing Fund to support an 150-unit affordable rental housing development at 1402 S. Park St., proposed by

Rule Enterprises LLC and Movin' Out, Inc., to decrease the loaned funds to up to $300,000 and restructure of the allocation of funds from the Affordable Housing Fund for this development.

## Body

The Adopted 2021 Capital Budget contains, within funds authorized for the Affordable Housing Fund (AHF), an amount of $1,800,000 previously approved from AHF to support the affordable rental housing development proposed by Rule Enterprises, LLC and Movin' Out, Inc. at 1402 S. Park Street. This resolution, alters the structure of that support and reduces the overall commitment of AHF funds to the project.

**Background**

The City of Madison's approved 2021 Capital Budget reflects new and carry-over funding authority for the Affordable Housing Fund (AHF), to support affordable housing development.

Early in 2019, the Common Council authorized the release of a Request for Proposals (RFP) to solicit development proposals for the redevelopment of the Truman Olson site at 1402 S. Park St. with the following primary objectives: 1) Preserve food access in the area by constructing a grocery store; 2) Complete the connection of Cedar Street; and 3) Meet the relevant planning and zoning requirements. Later in 2019, the Council selected Rule Enterprises, LLC to acquire and undertake the redevelopment and assigned a staff team to negotiate project details. In addition to the grocery store, Rule's proposal included the development of affordable rental housing utilizing AHF and Low-Income Housing Tax Credit (LIHTC) financing.

Rule Enterprises, LLC proceeded to partner with non-profit affordable housing developer Movin' Out, Inc. On February 25, 2020, the Common Council adopted a resolution (RES-20-00144) awarding $1,800,000 in AHF loans to support the housing portion of the proposed development, which included: 100% of the housing units income- and rent-restricted to households with incomes at or below 80% of the County Median Income (CMI). Sixty-four (64) of the units are to be rented to households with incomes at or below 50% of the CMI and thirty (30) to households with incomes at or below 30% of the CMI. More specifically, AHF funds will ensure that ninety-four (94) units are reserved for households with incomes at or below 50% of the CMI for a period of at least 30 years. In April of 2020, WHEDA awarded LIHTC to the development as proposed.

As is the case with most affordable housing developments, this developer anticipated needing to secure additional financing. One source of such financing is the Affordable Housing Program (AHP) offered through Federal Home Loan Bank branches. Upon analyzing its competitiveness for AHP funds, the developers concluded that their prospects were improved if the land on which the development is to occur were donated to the development rather than purchased. In March 2020, the developers contacted City staff to explore potential modifications to the structure of City financial support. The staff team negotiated, and now seeks Council approval for, a revised financial support arrangement.

Staff are prepared to utilize approximately $1.1 million of the $1.8 million of AHF funds awarded to this development to acquire the property from Tax Increment District (TID) 42 at the City's original purchase price, and donate it to the development. The loan to the developer would be reduced to $300,000. The restructured support package represents a $400,000 reduction from that previously authorized by the Council and it positioned the developer to secure AHP financing. In exchange for the donation of the at 1402 S. Park St. (the "Property"), the Developer agreed to provide a permanent land use restriction to

maintain affordability for the housing units.

This resolution seeks to authorize a change in the structure of the AHF, to the developer and in the amount specified, for the project proposal as described. It also seeks authorization for the Mayor and City Clerk to execute loan agreements and other documents necessary to proceed with that commitment.

*ACTION*

WHEREAS, on December 3, 2019, the Common Council adopted Resolution RES-19-00819 approving the selection of Rule Enterprises, LLC to acquire and undertake the redevelopment of the Property; granting exclusive rights to the developer to negotiate the purchase of the Property; and,

WHEREAS, on February 25, 2020, the Common Council adopted a resolution (RES-20-00144) awarding $1,800,000 in AHF to support the affordable rental housing portion of the proposed development, and

WHEREAS, the Developer continues to propose the construction of 150 units of rental housing, all of which will be income- and rent-restricted for households with incomes at or below 80% of the CMI, including 94 City -assisted units, 64 of which would be income- and rent-restricted for households with incomes at or below 50% of the CMI, and 30 of which would be income- and rent-restricted for households with incomes at or below 30% of the CMI; and,

WHEREAS, City Staff have negotiated, and are separately seeking approval for, a Development Agreement between Rule Enterprises, LLC, in partnership with Movin' Out, Inc. (jointly, the "Developer") and the City of Madison to undertake the redevelopment of the Property as described in Legistar File 63900; and,

WHEREAS, for consideration of donation of the land, the Developer shall extend the period of affordability of the housing units, to be secured through a permanent Land Use Restriction Agreement, in addition to the 30-year Land Use Restriction Agreement that accompanies the award of AHF; and

WHEREAS, the funds drawn from TID 42 originally used to purchase the land for this development will be repaid to the TID from the Affordable Housing Fund; and

WHEREAS, to reflect the remaining element of the alteration to the City's AHF commitment to this project, staff recommend that the Council affirm the reduced Loan to the Developer, in the amount up to $300,000 to support the proposed development; and,

WHEREAS, upon securing WHEDA financing, the Developer, or 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 amends RES-20-00144 to include a donation of land upon which the development will occur and a loan of up to $300,000 of City AHF funds.

BE IT FURTHER RESOLVED, that the Council reaffirms CDD staff authority to approve minor alterations to the development, including to the number and mix of housing units, if such changes are deemed necessary to improve affordability provided by the development and/or comply with City land use requirements, but

may not adjust the level of City financial assistance without further Council approval.

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

- Developer, Project and Loan Amount
  - Up to $300,000 from AHF to the Developer, or an affiliate LLC, for the 150-unit rental housing redevelopment on the Property with at least 64 units affordable to households with incomes at or below 50% of the CMI and at least 30 more affordable to households with incomes at or below 30% of the CMI.

- Form of Loan
  - The AHF assistance will be provided in the form of a loan, amortized over 30 years and payable over 16 years, contingent upon available cash flow, , 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 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 period 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 the Developer demonstrating that it has (1) secured financing sufficient to complete the project, including WHEDA LIHTC financing; (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 in a form approved by the City Attorney.