File #: 06811, **Version:** 2

Fiscal Note

This ordinance amendment substantially expands the eligible uses of the Affordable Housing Trust Fund to include operating expenses of non-profit developers, downpayment assistance, rental rehabilitation and other uses. The amendment also eliminates virtually all of the existing restrictions on how rapidly available Affordable Housing Trust Fund resources may be spent when the fund's balance exceeds $1,000,000. The fund currently has a balance of approximately $4,000,000 that would become available for immediate budgetary appropriation by the Common Council.

Title

SUBSTITUTE - Amending Section 4.22 of the Madison General Ordinances to update language and terms in the Affordable Housing Trust Fund ordinance.

Body

DRAFTER'S ANALYSIS: This ordinance updates language and terms in the Affordable Housing Trust Fund ordinance.

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The Common Council of the City of Madison do hereby ordain as follows:

4.22 THE MADISON AFFORDABLE HOUSING TRUST FUND

(1) Purpose and Intent.

There is hereby created and established for the City of Madison a fund to be known and denominated as the Madison Affordable Housing Trust Fund. The Trust Fund shall be a permanent endowment and continually renewable source of revenue to meet, in part, the housing needs of ~~the~~ ~~L~~low ~~I~~income ~~and Very Low Income~~ households of the City. The Trust Fund is to provide loans and grants to for-profit and non-profit housing developers for the acquisition, capital and soft costs necessary for the creation of new Affordable rental and owner-occupied housing. Preference shall be given to those projects that ensure that the Assisted Units remain Affordable for the longer period possible. Projects funded by the Trust Fund shall be disbursed throughout the City so no single neighborhood experiences a disproportionate concentration of housing units for ~~L~~low ~~I~~income ~~and Very Low Income~~ households.

(2) Definitions.

In this section:

(a) "Affordable" means a housing unit that has an Affordable Housing Cost.

(b) "Affordable Housing Cost" means an amount satisfied by:

1. for owner-occupied housing, a housing payment inclusive of loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a ~~Low Income or Very Low Income~~ household, whose gross household income adjusted for family size is at or below 80% of Area Median Income, to purchase a home~~,~~ while paying no more than thirty (30%) of their gross household income, or no more than thirty-three (33%) of their gross household income for homes meeting a performance standard of energy conservation equal to 115% of the performance required by state building codes; and,
2. for rental or cooperative housing, a housing payment, inclusive of a reasonable allowance for heating, which allows a ~~Very Low Income~~ household, whose gross household income adjusted for family size is at or below 50% of Area Median Income, to rent a unit~~,~~ while paying no more than thirty (30%) of their gross household income.

(c) "Area Median Income" means the median income for the greater Madison area adjusted for family size, as published by the United States Department of Housing and Urban Development.

(d) "Assisted Unit" means a housing unit that is Affordable because of assistance from the Trust Fund.

(e) "Commission" means the City of Madison Community Development Block Grant Commission created pursuant to Sec. ~~3.70~~33.15, M.G.O.

(f) "Contingent Fund" means the fund created pursuant to Sec. 4.03, MGO.

(g) "Grants Supervisor" means the City's Community Development Grant Supervisor, or his or her designee.

~~(h) "Low Income" means gross household income adjusted for family size that is at or below eighty percent (80%) of Area Median Income, but more than fifty percent (50%) of Area Median Income.~~

(~~i~~h) "Recipient" means any for-profit or non-profit housing developer that receives funds in the form of a loan or a grant from the Trust Fund Account. A Recipient may be an individual, partnership, joint venture, limited liability company or partnership, association or corporation.

(~~j~~i) "Tax Incremental Financing Equity Participation Payment" means an equity payment received by the City from a developer pursuant to a TIF Development Agreement in which the tax incremental district has been dissolved.

(~~k~~j) "Trust Fund" means the Madison Affordable Housing Trust Fund.

~~(l) "Very Low Income" means gross household income adjusted for family size that is at or below fifty percent (50%) of Area Median Income.~~

(3) Trust Fund Account; Sources of Trust Fund Moneys.

(a) There is also hereby established a Madison Affordable Housing Trust Fund Account, to be maintained by the City Comptroller. All funds received by the City on behalf of the Trust Fund shall be deposited in the Trust Fund Account. Principal and interest from loan repayments, and all other income from Trust Fund activities, shall be deposited in the Trust Fund Account. All funds in the Trust Fund Account shall earn interest at least at the same rate as pooled investments managed by the City Treasurer. All interest earnings from the Trust Fund Account shall be reinvested and dedicated to the Trust Fund Account.

(b) The Trust Fund shall consist of funds derived from the following:

1. Private cash contributions designated for the Trust Fund;
2. Payments in lieu of participation in current or future affordable housing programs other than payments made to the Inclusionary Zoning Special Revenue Fund;
3. Matching funds from a federal affordable housing trust fund;
4. Principal and interest from Trust Fund loan repayments and all other income from Trust Fund activities.

(c) The Trust Fund ~~may~~shall consist of funds derived from, but not limited to the following, subject to ~~prior~~ appropriation by the Common Council, upon notification from the Comptroller that funds are available.

1. Residual Contingent Reserve funds;
2. Amounts from the Operating Budget equivalent to City fees collected from dedicated uses related to housing, such as reinspection fees;
3. Tax Incremental Financing Equity Participation Payments;
4. Proceeds from the sale or use of surplus City land;
5. Any other appropriations as determined from time to time by legislative action of the Common Council.

(4) Trust Fund Distributions.

(a) The Trust Fund is to function as a~~n endowment~~ trust fund to fund loans and grants in accordance with this Section. The Trust Fund program shall be administered by the

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Grants Supervisor. No disbursements may be made from the Trust Fund Account without the prior recommendation of the Commission and authorization by the Common Council. ~~Unless authorized by a vote of the Common Council, for any year that the Trust Fund Account balance is less than $10 million,~~ ~~t~~The total disbursements from the Trust Fund Account for any one project shall be limited to ~~twenty-five percent (25 %)~~ one-half of all monies in~~revenue sources deposited into~~ the Trust Fund Account. ~~in the previous fiscal year, except loan repayments.~~ No disbursements may be made from the Trust Fund Account when its balance is less than $1 million. ~~For any year that the Trust Fund Account is greater than $10 million, the total disbursements from the Trust Fund Account shall be limited to:~~

~~1. The total interest accrued on the Trust Fund Account from the previous fiscal year, plus~~

~~2. Any unexpended amount from the allowable disbursements from the previous fiscal year.~~

(b) Disbursements from the Trust Fund Account shall be made as loans or grants to assist Recipients in the creation of Assisted Units. Recipients may use the funds to pay for: capital costs, including but not limited to the actual costs of rehabilitating or constructing Assisted Units; preserving affordable units; demolishing or converting existing non-residential buildings to create new Assisted Units; real property acquisition costs; rental rehabilitation; accessibility modifications; modifications for health, safety and energy conservation purposes; and professional service costs, including but not limited to, those costs incurred for architectural, engineering, planning and legal services which are attributable to the creation of Assisted Units.

(c) Trust Fund moneys may ~~not~~ be used for operating expenses of ~~any program, or supporting services such as childcare or any other social program~~ a Recipient that are attributable to an Assisted Unit, including administration of funds for Assisted Units.

(d) At least 60% of the funds eligible for disbursement annually shall be used to create Assisted Units for ~~Very Low Income~~ households whose gross household income is at or below 50% of Area Median Income.

(e) Rental Assisted Units shall be available only to households whose gross income, adjusted for family size, is at or below fifty percent (50%) of Area Median Income.

(f) Owner-occupied Assisted Units shall be available only to households ~~who are Low Income or Very Low Income~~ whose gross household income is at or below 80% of Area Median Income.

(g) The Commission shall periodically review the terms of assistance, and structure these terms to encourage the longest period of affordability possible.

(h) Loans or grants from the Trust Fund shall be used to develop Assisted Units within a project. The Trust Fund may assist up to one hundred percent (100%) of the units within a building or development of one (1) to nine (9) total units, up to fifty percent (50%) of the units within a building or development of ten (10) to fifteen (15) units, and up to twenty-five percent (25%) of the units within a building or development of sixteen (16) or more units.

(i) Assisted Units shall be distributed throughout the building or development so as to avoid a disproportionate concentration in any one area.

(j) The Commission shall give preference to projects not located in any Tax Incremental District whose project expenditure period has not expired.

(k) Notwithstanding the stated purpose in subsection (1) herein to create the Fund as a continually renewable source of revenue, the Commission may, in its discretion, recommend that disbursements from the Trust Fund Account may be made as grants at any time that the Trust Fund Account balance exceeds $10 million.

(l) At least fifty percent (50%) of funds available in any calendar year shall be reserved for commitments to nonprofit corporations until October 1st, after which these reserved

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funds may be disbursed to any Recipient or carried over to the following year. Exceptions to this provision may be approved by the Common Council.

(m) A recipient may receive up to $25,000 as a loan or grant for each Assisted Unit created by a disbursement from the Trust Fund. For each Assisted Unit created and made affordable either to rental households whose gross income is below 30% of Area Median Income or to owner-occupied households whose gross income is at or below 50% of Area Median Income, the Recipient may receive up to an additional $15,000 from the Trust Fund.

(5) Commission's Powers and Responsibilities.

(a) The Commission shall have the following powers and duties as regards the Trust Fund:

1. Recommend policies, goals and objectives for the Trust Fund program to the Mayor and the Common Council;
2. Review project funding requests and recommend to the Mayor and the Common Council all disbursements from the Trust Fund;
3. Investigate and recommend to the Mayor and Common Council additional sources of money for deposit to the Trust Fund Account; and
4. Publish and distribute requests for proposals and notices of funding availability.

(b) All projects considered for funding will be reviewed prior to Commission action by the CDBG staff, and the Grants Supervisor shall submit to the Commission comments and recommendations.

(c) The Commission shall within ninety (90) days following the close of each fiscal year prepare and submit an annual report to the Common Council on the activities undertaken with funds from the Trust Fund. The report shall specify the number and types of units assisted, the amount loaned per Assisted Unit, the amount of state, federal and private funds leveraged, the geographic distribution of Assisted Units and a summary of statistical data relative to the incomes of assisted households, including their monthly rent or mortgage payments, and the sales prices of owner-occupied Assisted Units.

(6) Term of Affordability.

(a) The minimum term of affordability for any Assisted Unit shall be thirty (30) years. The Commission shall give preference to those projects that ensure that the Assisted Units remain Affordable for the longer period possible.

(b) Assisted Units shall be deed restricted to ensure long term affordability.

(c) In those cases where an Assisted Unit is sold or transferred, or where an Assisted Unit is no longer Affordable, the initial Recipient of assistance from the Trust Fund shall be obligated to repay to the City the original loan amount, plus a pro-rated percentage of the appreciated value of the Assisted Unit as determined by the Commission. If an Assisted Unit has remained Affordable for more than fifty (50) years, the Commission may waive the obligation of the Recipient to pay the pro-rated appreciated value.

(7) Building Standards.

The Commission shall encourage a set of building standards or initial improvements that lead to lower, long-term utility costs for occupants of Assisted Units. The specific set of these standards and improvements shall include the following:

(a) Compliance with such health and safety standards such as direct vent hot water units when individual hot water heating units are provided within the Assisted Unit;

(b) Protection from radon gas;

(c) A passive solar-slab ventilation system when sub-grade areas are exposed during construction or rehabilitation; and

(d) Within the Assisted Unit, features that help achieve a performance standard of energy conservation equal to 115% of the performance required by state building codes.

(8) Accessibility.

The Commission shall establish a program-wide goal of helping to create at least one (1)

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accessible unit out of every five (5) it assists. An accessible unit shall have accessible features as defined by the applicable sections of Wisconsin Administrative Code Chapters COMM 61-65, and include one curb-less shower and a step-free entry into the Assisted Unit.

(9) Section 8 Participants.

No Recipient may refuse to lease or otherwise make unavailable any rental Assisted Units solely because an applicant for housing is a direct recipient of a federal, state or local governmental housing subsidy."