



Legislation Text

File #: 46851, **Version:** 1

Fiscal Note

Sufficient Federal HOME, HOME Match and/or CDBG funds are available for allocation to this project within the CDD's Housing Development Reserve Fund, which was authorized as part of the City's 2017 Adopted Operating Budget. Approval of this resolution will have no impact on the City budget.

Title

Authorizing the Mayor and City Clerk to execute a loan agreement including up to \$400,000 in HOME Funds, in addition to a previous \$530,000 award made in 2015 from Affordable Housing Funds (AHF), to Movin' Out, Inc. and Mirus Partners, Inc., or an affiliate LLC for the Madison on Broadway affordable rental housing development.

Body

Movin' Out, Inc. (MOI) is seeking \$400,000 in HOME funds from the CDD's Housing Development Reserve Funds for the proposed Madison on Broadway development at 2230 Broadway on Madison's south side. If awarded, these funds would supplement the existing commitment of \$530,000 in 2015 Affordable Housing Funds (AHF) towards this project.

MOI and its co-developer Mirus Partners (together, the "Developer") have assembled \$10.6 million dollars in financing commitments to develop 48 units of affordable rental housing utilizing WHEDA Section 42 Tax Credits. The project, as proposed in 2015, included 36 units of rental housing above a first floor neighborhood center space and 12 townhouse units on the site of the existing neighborhood center. At the time the 2015 AHF award was offered, it was anticipated that tax increment financing could be utilized to finance a portion of the project, which also included redevelopment of the neighborhood center. Subsequently, it was determined that this financing strategy was not permissible creating a need to redesign the project. Simultaneously, the tax credit market experienced a downward adjustment, which yielded reduced funding for the project. Meanwhile, construction costs have continued to rise sharply. Cumulatively, these events have created a \$400,000 financing gap which the developers are seeking to address with HOME funds.

ACTION

WHEREAS, the Common Council adopted Resolution No. RES-15-00904 at its meeting on December 1, 2015 authorizing the allocation of up to \$3 million in Affordable Housing Funds to support the creation of approximately 160 units of affordable rental housing in Madison by offering financial assistance to Madison on Broadway and two other projects; and

WHEREAS, the Common Council adopted Resolution No. 17-00056 at its meeting on January 17, 2017 which specifically articulated the terms and financial awards of AHF funds and authorized the Mayor and City Clerk to execute a loan agreement with the Developer; and

WHEREAS, despite the Developer's success in securing Section 42 tax credits and multiple other sources needed to finance the Madison on Broadway project, subsequent events delayed the project's progress, raised its cost and created a need for additional funding; and

WHEREAS, the Developer has applied for \$400,000 in HOME funds to address the need for additional funds for the development of the Madison on Broadway which is a 48-unit affordable rental housing development with 40 units affordable to households with incomes at or below 60% of CMI with an additional 8 units

affordable to households with incomes less than 80% CMI; and

WHEREAS, CDD staff and the CDBG Committee have evaluated this request and find that offering additional funds would further the goals expressed in the City of Madison's 2015-2019 Five-Year Consolidated Plan, which guides the City's use of U.S. Department of Housing and Urban Development funds; and

WHEREAS, the Mayor and City Clerk, through the Common Council's adoption of Resolution No. 17-00056, were previously authorized to execute a loan agreement with Movin' Out, Inc. and Mirus Partners, Inc., or an affiliate LLC utilizing \$530,000 in Affordable Housing Funds for the Madison on Broadway affordable rental housing development.

NOW, THEREFORE BE IT RESOLVED that the authorization for the Mayor and City Clerk to execute a loan agreement is expanded to include up to an additional \$400,000 in HOME funds to support the Madison on Broadway affordable housing development as described below:

- Form of Loan
 - The assistance 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 developer shall apply the proceeds of the Loan to the expense of acquiring the property and/or constructing the project, including at least the specified number of total units and units to be designated as affordable housing, for rent to income-eligible households as described above; and
 - The disbursement of City funds continues to remain contingent upon the developer demonstrating that it has secured financing sufficient to complete the project, including LIHTC's; it has received, from the City, all necessary land use and permit approvals; and it has satisfied any other City requirements including provision of documentation and written commitment to the required period of affordability for HOME funds; and
 - The HOME loan will be secured by a subordinate mortgage, note, and Land Use Restriction Agreement; and
 - The loan agreement will be in full force and effect until the expiration of the period of affordability as required by the HOME funds.
- 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 agrees to provide evidence of property insurance annually by February 10th or before expiration of existing policy.

BE IT FINALLY RESOLVED, that the Mayor and City Clerk are hereby authorized to execute, deliver, accept, publish, file and record any and all other documents, instruments, notes and records and take such other

actions as shall be necessary or desirable to accomplish the intent of this resolution in a form approved by the City Attorney, and to comply with and perform the obligations of the City hereunder.