



## Legislation Text

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**File #:** 49034, **Version:** 1

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### **Fiscal Note**

The 2018 Executive Capital Budget includes \$4.5 million of new funding for the Affordable Housing Fund. In addition to the newly authorized appropriation anticipated for 2018, \$2.7 million from the 2017 allocation is not committed due to projects that did not receive funding through the WHEDA process. Between the 2017 and 2018 allocations there is \$7.2 million available for projects to participate in the application process for WHEDA Low-Income Tax Credits in their spring 2018 process.

This resolution, if adopted, will allocate funds for the two projects outlined below. Collectively these projects will result in approximately 175 units of affordable rental housing.

- Up to \$1.35 million - Stone House Development, Inc., or an affiliate LLC for Fair Oaks Apartments
- Up to \$3 million - MSP Real Estate, Inc., or an affiliate LLC for The Grove Apartments

### **Title**

Authorizing the allocation of up to \$4.35 Million from the Affordable Housing Fund to support two development projects, selected as part of a City Request for Proposals (RFP) process, that would involve the construction of approximately 175 units of affordable rental housing in Madison, Wisconsin, and authorizing the Mayor and City Clerk to execute loan agreements with the developers of those projects.

### **Body**

#### Background

The City of Madison's 2018 Capital Budget is expected to authorize continuation of the Affordable Housing Fund, at an annual level of \$4.5 million. The AHF was created in 2015 to help increase and/or preserve the supply of affordable rental housing. It seeks to leverage other financing resources, most notably federal Low-Income Housing Tax Credits (LIHTCs), to help achieve the City's goal of adding approximately 150-200 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 highly competitive process. The review criteria that WHEDA employs favors development proposals that demonstrate local financial participation.

In choosing how to allocate City AHF funds, 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 8, 2017.

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

*ACTION*

WHEREAS, in order to carry out the City's objective of expanding the supply of affordable rental housing called for in the 2018 Capital Budget, and using City resources in concert with federal Low-Income Housing Tax Credits, the Community Development Division issued a Request for Proposals (RFP) in May 2017 seeking tax credit-eligible projects; and,

WHEREAS, the RFP anticipated having at least \$3 million in AHF available to support such projects, contingent upon their inclusion in the adopted 2018 Capital Budget; and,

WHEREAS, the Fair Oaks Stone House development, previously approved utilizing 2017 AHF funds through the 2016 RFP process, notified the City in May 2017 that they did not receive LIHTC and that they intended to reapply for funds through the 2017 AHF RFP process and 2018 LIHTC; and,

WHEREAS, in response to the RFP, the City received applications for the following three projects:

- Fair Oaks Apartments, submitted by Stone House Development, Inc.;
- The Grove Apartments, submitted by MSP Real Estate, Inc.;
- Metro Commons, submitted by JT Klein, Inc.; and,

WHEREAS, The Metro Commons application was withdrawn 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, and Community Development Authority, 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; requested per-unit subsidy; 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 two projects were responsive to the City's criteria and, with City financial support, could compete successfully for WHEDA LIHTCs; and,

WHEREAS, the staff team recommends offering up to \$1.35 million for Fair Oaks Apartments and up to \$3 million for The Grove Apartments to support the development of approximately 210 units of housing, about 175 of which will be designated as "affordable" (defined as reserved for households earning not more than 60% of the county median income); and

WHEREAS, the final City financial contribution to each project, not to exceed \$4.35 million in aggregate, and the number and mix of housing units to be required by the developers, may be adjusted for any minor changes deemed necessary by CDD staff and the developer to improve prospects for success in WHEDA's application process; and,

WHEREAS, if a project is subsequently determined to qualify for assistance through Tax Increment Financing (TIF), the CDD may reduce the contribution to the project derived from AHF funds by up to an amount equal to the TIF contribution, so that AHF funds are available to support additional affordable housing 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.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Common Council hereby authorize the City to provide no later than December 8, 2017, a letter of funding commitment of up to \$1.35 million in AHF funds to support the proposed Fair Oaks Apartments and up to \$3 million to support the proposed Grove Apartments developments; and

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute loan agreements, utilizing Affordable Housing Funds, for these two affordable housing projects as described below and reflecting any minor adjustments approved by CDD staff or caused by the application of TIF resources:

- Developers, Projects and Loan Amount
  - Up to \$1.35 million - Stone House Development, Inc., or an affiliate LLC for Fair Oaks Apartments: an 80-unit rental housing development with 68 units affordable to households with incomes at or below 30%, 50% or 60% of the County Median Income (CMI); and
  - Up to \$3 million - MSP Real Estate, Inc., or an affiliate LLC for The Grove Apartments: a 129-unit rental housing development with 109 units affordable to households with incomes at or below 30%, 50% or 60% of CMI; and
- Form of Loans
  - The assistance will be provided in the form of low-cost loans, 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 0% interest, long-term deferred loans payable upon sale or change in 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 total number of units and units to be used as affordable housing, for rent to income-eligible households as specified above; and
  - The loan will be secured by a subordinate mortgage, note, and Land Use Restriction Agreement securing a 30-year period of affordability; 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.

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.

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.