



## Legislation Text

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### Fiscal Note

The 2017 Adopted Capital Budget authorized \$1.25 million within the Affordable Housing Fund to help finance the creation of 50 units of new affordable rental housing for seniors. The project did not receive funding through the 2017 WHEDA Low-Income Tax Credit process. The Developer plans to resubmit the project for tax credits in the upcoming application cycle; this resolution, if adopted, recommits the previously authorized funds for the project.

### Title

Authorizing the allocation of up to \$1.48 million from the Affordable Housing Fund to support the development of approximately 50 units of affordable senior housing on property located at 7941 Tree Lane and authorizing the Mayor and City Clerk to execute a loan agreement with CommonBond Communities for its development.

### Body

#### BACKGROUND

The City of Madison's 2018 Capital Budget is expected to authorize continuation of the Affordable Housing Fund (AHF), 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.

On June 7, 2016, the Common Council adopted a resolution (RES-16-00433) authorizing the Community Development Authority to purchase property at 7941 Tree Lane and undertake an RFQ process to select a development partner for a mixed-income senior housing project at that site. On August 2, 2016, the Council adopted a second resolution RES-16-00585 selecting CommonBond Communities as the development and property management partner. That process was scheduled to coincide with WHEDA's 2017 tax credit application cycle so that City funds could be awarded in time to benefit CommonBond's application for credits.

This project anticipated the availability of AHF funds to aid the developer in financing the project and in securing 2017 federal LIHTCs. However, WHEDA did not award LIHTCs to CommonBond for the Tree Lane project in the 2017 cycle. CommonBond is now preparing to renew its request for 2018 credits. The application deadline for that cycle is December 8, 2017. The Community Development Division (CDD) is recommending renewed support for CommonBond's application at a funding level up to \$1.48 million. The recommendation for an increased level of financial commitment is believed necessary to respond to rising project costs and the declining value of tax credits, and to improve the project's competitiveness within WHEDA's process.

The project proposes to construct 54 units of rental housing for seniors, 51 of which will be affordable to households with incomes at or below 60% of the county median income (CMI). Provided tax credits are

secured, construction is expected to commence early in 2019 and be completed in 2020.

This resolution is intended to authorize the commitment of City funds, to the developer and in the amount specified, for an affordable rental housing development for seniors described in the RFQ process conducted by the CDA last year. It is also intended to authorize the Mayor and City Clerk to execute loan agreements and other documents necessary to proceed with this project.

## **ACTION**

WHEREAS, on December 2, 2014 the Common Council enacted Resolution No. RES-14-00906 directing the Housing Strategy Committee to develop recommendations for a housing policy promoting transit oriented housing for seniors, a policy that should support safe and affordable housing with access to transit and amenities for older adults; and

WHEREAS, on February 23, 2016 the Common Council accepted the Senior Housing Chapter of the Biennial Housing Report which recommended the creation of a city-led pilot project consisting of an affordable, mixed-income, transit-oriented senior housing development with a strong connection to services and healthcare on an infill site; and

WHEREAS, on June 7, 2016, the Council enacted Resolution No. RES-16-00433 authorizing the Community Development Authority (CDA) to purchase property at 7941 Tree Lane and directing the CDA to conduct a request for qualifications (RFQ) process to select a development partner for an affordable, mixed-income senior housing project at that site; and

WHEREAS, on August 2, 2016 the Common Council enacted Resolution No. RES-16-00585 recommending the selection of CommonBond Communities for the provision of services as specified in the RFQ including the development, financing, and operation of the senior housing development as well as conducting a robust neighborhood engagement process; and

WHEREAS, the RFQ indicated the City would provide financial assistance to support such a project, contingent upon the approval of such funds as part of the City's 2017 Capital Budget and the demonstration of need for City subsidy; and,

WHEREAS, even with the commitment of \$1.25 million in financial assistance from the City, CommonBond Communities was unsuccessful in its bid to secure federal LIHTCs from WHEDA in 2017; and

WHEREAS, CommonBond is committed to renewing its request for tax credits in WHEDA's next application cycle, and has worked with CDD staff to address issues associated with rising project costs, declining tax credit values and the overall competitiveness of the proposed project under WHEDA's scoring criteria; and

WHEREAS, the successful completion of this project addresses 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 LIHTCs; and,

WHEREAS, CDD staff recommends offering up to \$1.48 million in Affordable Housing Funds to support CommonBond's development of approximately 54 units of rental housing, 51 of which will be designated as "affordable" (defined as reserved for households with incomes at or below 60% of CMI); and,

WHEREAS, the final City financial contribution for this project, not to exceed \$1.48 million, and the number

and mix of housing units to be required by the developer, 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, consistent with the terms of the City's AHF program, funds are to be offered in the form of low-cost loans, up to 50% of which will be amortized over 30 years and repayable over 16 years, contingent upon available cash flow, and at least 50% of which will have repayment deferred until a change in use or sale of the property occurs; and,

WHEREAS, upon securing federal LIHTCs from WHEDA, the developer, and/or 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 \$1.48 million in AHF funds to support CommonBond's proposed Senior Housing development at 7941 Tree Lane; and

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute a loan agreement with CommonBond Communities, utilizing Affordable Housing Funds, for a 54-unit rental affordable housing development with 51 units affordable to households with incomes at or below 30%, 50% or 60% of CMI, reflecting any minor adjustments approved by CDD staff:

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- 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 with 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 the 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.