



Legislation Text

File #: 66631, Version: 1

Fiscal Note

The proposed resolution authorizes forgiving approximately \$479,527 of accrued interest payable to the City from Avalon Madison Harmony Housing LLC in exchange for executing a land use restriction agreement to create thirty-one (31) additional units of affordable housing at the Project until 2036 (the "Original Market Rate Units"). The accrued interest is from a \$1,000,000 TIF loan from TID #29 - Allied Terrace for the construction of a 104-unit multifamily rental housing development known as Avalon Madison Village. The \$1,000,000 in principal will still be payable to the City by October 5, 2022, allowing TID #29 to recover its project costs and ending 2022 with a positive cash balance. No additional City appropriation is required with approval of the proposed resolution.

Title

Authorizing the Forgiveness of Interest Accrued on a Loan to Avalon Madison Village for the Purpose of Creating Thirty-One Units of Affordable Housing.

Body

WHEREAS, in 2005, the City approved a tax incremental financing (TIF) loan to Gorman and Co. for One Million Dollars (\$1,000,000), in the form of a deferred note with interest (the "Note"), for the development of Avalon Madison Village (the "Development"), as approved by RES 05-00086; and

WHEREAS, Avalon Madison Harmony Housing LLC ("Buyer") entered into a Purchase and Sale Agreement for the purchase and sale of a 104-unit multifamily rental housing development known as Avalon Madison Village and located in the City of Madison, Dane County, Wisconsin (the "Project"), seventy-three units of which are restricted for affordable housing related to tax credit financing; and

WHEREAS, Buyer has requested that City forgive the accrued interest on the Note in the amount of \$479,526.94 ("Accrued Interest"), but make payment of \$1,000,000 of principal; and

WHEREAS, in exchange for the forgiveness of the Accrued Interest, Buyer shall executed a land use restriction agreement to create thirty-one (31) additional units of affordable housing at the Project until 2036 (the "Original Market Rate Units").

NOW THEREFORE BE IT RESOLVED, that the Common Council authorizes the execution of a land use restriction agreement materially, though not exclusively, on the following terms and conditions:

1. **Occupancy Restrictions.** As of the Effective Date, Owner shall set aside the Original Market Rate Units for occupancy by Qualifying Tenants. As used in this Declaration, "Qualifying Tenants" means persons or families whose income at the time of initial occupancy does not exceed the applicable percentage of the area median income ("AMI") published by the United States Department of Housing and Urban Development ("HUD") for the area in which the Development is located, as adjusted for family size. All 31 of the Original Market Rate Units shall be set aside for occupancy by Qualifying Tenants at or below 60% of the AMI. Persons or families who occupy the Original market Rate Units on the Effective Date ("Existing Tenants") shall have full right to occupy such units regardless of income; provided, however, the Owner shall cause each Original Market Rate Unit to be rented to Qualifying Tenants after Existing Tenants have vacated such Market Rate Unit.
2. **Rent Restrictions.** The Gross Rent for the Original Market Rate Units shall not exceed 30% of

the income limitation applicable to the Qualifying Tenant(s) of each such unit; provided that the Imputed Income Limitation (as defined in Section 42(g)(2)(C) of the Internal Revenue Code of 1986, as amended (the "Code")) shall apply to all Affordable Units. As used in this Section 1.8, "Gross Rent" means the rental charge for an Affordable Unit including any utility allowance determined by HUD in accordance with Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) ("Section 8"). Gross Rent does not include any subsidy payment under Section 8 or any comparable rental assistance program (with respect to such unit or the tenant(s) thereof), nor does it include any fee for a basis of the low-income status of the tenant(s) of the unit by any governmental program of assistance (or by an organization described in Section 501(c)(3) of the Code and exempt from tax under Section 501(a) of the Code) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services. Gross Rent does not include any rental payment to the owner of a unit if the owner pays an equivalent amount to the Farmers Home Administration under Section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

3. Term of Restrictions. The term of this Declaration and the restrictions imposed hereby shall commence upon the Effective Date; and continue until the earlier to occur of (i) October 30, 2036 and (ii) the sale or transfer of the Development by foreclosure or transfer of title by deed-in-lieu of foreclosure. The Declaration shall be subordinate to any mortgage recorded on the Development.

BE IT FURTHER RESOLVED, that the Mayor and Clerk are authorized to execute and record any documents required to carry out the purposes of this resolution in a form approved by the City Attorney.