



## Legislation Text

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**File #:** 68340, **Version:** 2

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### Fiscal Note

The proposed resolution authorizes awarding an additional \$500,000 in affordable housing development loans to Movin' Out, Inc. to allow their Red Caboose housing development to proceed on schedule. The proposed \$500,000 will be funded by the estimated \$2.19 million of remaining budget authority not yet committed to specific housing projects within the Affordable Housing-Development Projects capital program. No additional City appropriation is required with adoption of this resolution.

### Title

**SUBSTITUTE:** Approving the allocation of up to \$500,000 of additional Affordable Housing Funds to Movin' Out Inc.'s Red Caboose housing development and authorizing the Mayor and City Clerk to amend the City's contract with Movin' Out Inc. to reflect that change.

### Body

Background:

The City of Madison's approved 2022 Capital Budget reflects new and carry-over funding authority for the Affordable Housing Fund (AHF), to support affordable housing developments.

In 2019, the Common Council adopted RES-19-00724 (Legistar File #57594), which authorized up to \$1,025,000 (\$125,000 of City Affordable Housing Fund (AHF) funds and \$900,000 of federal HOME funds) to Movin' Out, Inc., or an affiliate LLC, for Red Caboose Apartments. The proposal will create 38 total units of new rental housing of which 32 would be affordable, designated for households with incomes at or below 30%, 50% or 60% of County Median Income. In addition to creating more affordable housing units, the development will provide space for Red Caboose Child Care Center, an established, City-accredited child care provider. With this City support, the developer, a local non-profit organization, was successful in securing WHEDA-administered Low Income Housing Tax Credits, and other financing. However, rising construction costs and other factors have made it difficult for the real estate closing to be completed in 2021 and meet construction deadlines that accompany WHEDA's Low Income Housing Tax Credits the next year. The provision of additional City support will allow the development to proceed on schedule. In return, Movin' Out Inc. has agreed to make permanent the Period of Affordability (POA) for the housing units. Previously, the POA was to expire after 30 years.

This resolution seeks to authorize additional Affordable Housing Funds and a change in terms for the Period of Affordability for the project proposal, as described above. It also seeks authorization for the Mayor and City Clerk to execute loan agreements and other documents necessary to proceed with that commitment.

Action:

WHEREAS, on October 15, 2019, the Common Council adopted RES-19-00724 (Legistar File #57594) awarding \$125,000 in AHF and \$900,000 of HOME funds to Movin' Out Inc. to support the affordable rental housing portion of the proposed Movin' Out Red Caboose Apartments development; and,

WHEREAS, Movin' Out Inc., the non-profit Developer, remains committed to the construction of 38 units of rental housing, of which 32 will be income- and rent-restricted for households with incomes at or below 30%, 50%, or 60% of the County Median Income; and,

WHEREAS, in return for the offer of an additional \$500,000 of AHF funds, Movin' Out Inc. will make permanent the period of affordability of the housing units, to be secured through a permanent period of affordability and Land Use Restriction Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Common Council authorize an additional \$500,000 of AHF funds to Movin' Out Inc. or an affiliate LLC in support of Red Caboose Apartments, bringing the total AHF loan to \$625,000.,, and extension of the Land Use Restriction Agreement to ensure permanent affordability; and,

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute a loan agreement, utilizing CDD-administered funds, for the affordable housing project as described below and reflecting any minor adjustments approved by CDD staff or caused by the application of other resources:

- Form of Loans
  - The AHF assistance will be provided in the form of a loan, 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 a 0% interest, long-term deferred loans with shared appreciation, payable upon sale, transfer, or change in the use of the property; and
  - The AHF loan will be secured by a subordinate mortgage, note, and Land Use Restriction Agreement securing a permanent period of affordability; and
  - The HOME 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 HOME loan will be secured by a subordinate mortgage combined with the AHF assistance, note, and HOME Land Use Restriction Agreement; 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 agreement will be in full force and effect until the loan is repaid or at the expiration of the respective periods 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; and,

BE IT STILL FURTHER RESOLVED, that the execution of a loan agreement and disbursement of City funds will be made contingent upon the Developer demonstrating that it has (1) secured financing sufficient to complete the project, including WHEDA LIHTC financing; (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 in a form approved by the City Attorney.