



## Legislation Text

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### Fiscal Note

The proposed resolution approves the award of up to \$11,295,000 from the Affordable Housing Fund (Munis program 17110) to five affordable housing development projects. The Community Development Division (CDD) 2024 Capital Budget (Munis project 14938) includes \$20.0 million in funding to support these projects in addition to carryforward funds from the 2023 affordable housing project (Munis project 14776). No additional City appropriation required.

### Title

Awarding up to \$11,295,000 from the Affordable Housing Fund to support five affordable housing development projects, selected through a City Request for Proposals (RFP) process, that will support construction of approximately 375 units of new rental housing in Madison, 300 of which will be affordable, and authorizing the Mayor and City Clerk to execute loan agreements with the developers of those projects (Districts 11, District 13 and District 19).

### Body

#### BACKGROUND

The City of Madison's 2024 Executive Capital Budget, scheduled for adoption in November 2023, proposes to increase the City's commitment to the Affordable Housing Fund (AHF) to \$20,000,000 in 2024. The recommended awards described in this resolution draw from funds authorized for 2024, as well as uncommitted funds carried over from 2023. The Common Council established the AHF in the 2015 Capital Budget to help increase and/or preserve the supply of affordable rental housing. The City's primary strategy in deploying AHF is to leverage other resources, most notably federal Low-Income Housing Tax Credits (LIHTCs), to help achieve the goal of significantly increasing the supply of new affordable rental units.

For purposes of this initiative, affordable rental housing is defined as that which is reserved for households with incomes at or below 60% of the County Median Income (CMI), and with rents restricted at levels deemed affordable to households at those income levels. Initially, the receipt of AHF funds required developers to commit to a 30-year period of affordability; however, since 2020, the required commitment is 40 years. Furthermore, since 2022, applicants willing to commit to permanent affordability through a recorded Land Use Restriction Agreement (LURA) are eligible for more favorable loan terms.

In Wisconsin, LIHTCs are administered by the Wisconsin Housing and Economic Development Authority (WHEDA). WHEDA allocates credits annually through a competitive statewide process. The review criteria that WHEDA employs favors development proposals that demonstrate significant leveraging of other financial resources.

In determining how to allocate City AHF assistance, CDD conducts its own competitive Request for Proposals (RFP) process. That process is scheduled to coincide with WHEDA's cycle such that City funds are awarded in time to benefit developers seeking tax credits from WHEDA. WHEDA's next application deadline is January 26, 2024. Most of the funds allocated to support these developments are unlikely to be drawn until 2024. However, in order for the City's financial commitments to be recognized in WHEDA's funding process, those funds must be authorized in the City's 2024 budget.

This resolution is intended to authorize the commitment of City funds for project proposals selected in this year's RFP process. It is also intended to authorize the Mayor and City Clerk to execute the corresponding loan agreements and other documents necessary to proceed with the approved financial commitments. All

commitments of City funds are contingent upon developers securing tax credits and other needed financing, and satisfying all City land use and other requirements.

## ACTION

WHEREAS, as part of ongoing efforts to advance the City's objective of expanding the supply of affordable rental housing, and using City-administered resources in concert with federal Low-Income Housing Tax Credits, the Community Development Division issued a Request for Proposals (RFP) in July 2023 seeking tax credit-eligible development proposals; and,

WHEREAS, in response to the RFP, the City received five proposals seeking assistance for the following development projects:

1. Neighborhood House Apartments, submitted by Neighborhood House Community Center, Inc. in partnership with Alexander Company, Inc.
2. Ellis Potter Apartments, submitted by Horizon Development Group, Inc. in partnership with JW Realty & Investments, Inc.
3. University Park Commons II, submitted by JT Klein in partnership with DA Development and Lutheran Social Services of Wisconsin and Upper Michigan, Inc.
4. Yellowstone Apartments, submitted by MSP Real Estate, Inc.
5. Merchant Place Apartments, submitted by Northpointe Development II Corporation in partnership with Selassie Development; and,

WHEREAS, a review team, comprised of staff from the City's Community Development, Economic Development, and Planning Divisions evaluated proposals based on criteria set forth in the RFP that addressed issues such as the number and mix of housing units; project locations with respect to nearby amenities such as public transit, especially the current Metro transit network, schools, retail and employment opportunities, etc.; financial viability; gap financing needed; per-unit subsidy requested; incorporation of energy efficiency, renewable energy and other sustainability features; development team experience; likelihood of the developer securing needed land use approvals; conformance with updated Tenant Selection Plan Standards; and anticipated scores in WHEDA's LIHTC application process; and,

WHEREAS, in addition to this review, the CDD staff team also evaluated each proposal for its consistency with the goals and requirements set forth in the City's 2020-2024 Five-Year Consolidated Plan, formally adopted by the Common Council on February 25, 2020, which guides the use of U.S. Department of Housing and Urban Development funds; and,

WHEREAS, based on these reviews, the staff team concluded that the five projects were sufficiently responsive to the City's criteria, in position to proceed and, with City financial support, well-positioned to secure WHEDA LIHTCs; and,

WHEREAS, the CDD staff team formulated the following recommendations that seek to allocate \$11,295,000 in City AHF funds to support the following five development proposals to construct approximately 375 units of rental housing, 300 of which will be maintained as affordable (210 for at least 40 years and 90 which will remain permanently affordable):

- Up to \$1,985,000 to Neighborhood House Community Center, Inc. in partnership with Alexander Company, for Neighborhood House Apartments (60 total units/36 affordable)
- Up to \$1,900,000 to Horizon Development Group, Inc., in partnership with JW Realty & Investments, Inc. for Ellis Potter Apartments (65 total units/55 affordable)
- Up to \$2,120,000 to JT Klein, in partnership with DA Development and Lutheran Social Services of Wisconsin and Upper Michigan, Inc., for University Park Commons II (68 total units/53 affordable)
- Up to \$2,040,000 to MSP Real Estate, Inc. for Yellowstone Apartments (60 total units/51 affordable)

• Up to \$3,250,000 to Northpointe Development II Corporation, in partnership with Selassie Development, for Merchant Place Apartments (124 total units/90 affordable); and,

WHEREAS, on November 2, 2023 the CDBG Committee reviewed and approved staff recommendations as described above; and,

WHEREAS, as development proposals proceed through final design stages and WHEDA's application process, developers may need to make minor project adjustments, including to the number and mix of housing units, if such changes will improve prospects for success in WHEDA's application process or are necessary to comply with land use requirements; and,

WHEREAS, the receipt of financial assistance from other funding sources subsequent to adoption of this resolution, including City Tax Increment Financing (TIF), may be used to reduce the financial contribution to the project from AHF, so that AHF funds remain available to support other projects; and,

WHEREAS, upon securing federal LIHTCs from WHEDA, the developers of these projects, via an affiliate LLC, will be prepared to execute loan agreements and related loan documents with the City.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the Common Council approve the recommended funding commitments as outlined below and authorize the issuance of letters of funding commitments for the identified proposals no later than January 26, 2024, or the deadline for the WHEDA tax credit applications, whichever is sooner; and,

BE IT FURTHER RESOLVED, that the Council authorizes CDD staff to approve minor alterations to development projects, including to the number and mix of housing units, if such changes are deemed necessary to improve prospects for securing LIHTCs and/or comply with City land use requirements, but staff may not increase the level of City financial assistance without Council approval; and,

BE IT STILL FURTHER RESOLVED, that the Council authorizes the Mayor and City Clerk to execute, for these five developments, loan agreements utilizing CDD-administered funds as described below and reflecting any minor adjustments approved by CDD staff or caused by the application of TIF, HOME or other City-administered resources:

#### Developers, Projects and Loan Amounts

- Up to \$1,985,000 to Neighborhood House Community Center, Inc. and Alexander Company, or an affiliate LLC, for Neighborhood House Apartments, a 60-unit rental housing development with 36 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI
- Up to \$1,900,000 to Horizon Development Group, Inc., or an affiliate LLC, for Ellis Potter Apartments, a 65-unit rental housing development with 55 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI
- Up to \$2,120,000 to JT Klein and DA Development, or an affiliate LLC, for University Park Commons II, a 68-unit rental housing development with 53 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI
- Up to \$2,040,000 to MSP Real Estate, Inc., or an affiliate LLC, for Yellowstone Apartments, a 60-unit rental housing development with 51 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI
- Up to \$3,250,000 to Northpointe Development II Corporation and Selassie Development, or an affiliate LLC, for Merchant Place Apartments, a 124 unit rental housing development with 90 units with rents affordable to households with incomes at or below 30%, 50%, or 60% CMI

#### Form of Loans

- The City financial 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 loan with shared appreciation, payable upon sale, transfer, or change in the use of the property, unless a waiver of shared appreciation is granted in exchange for a commitment to permanent affordability through a recorded LURA; and

- The AHF loan will be secured by a subordinate mortgage, note(s), and LURA securing a minimum period of affordability of 40 years unless a waiver of shared appreciation is granted in exchange for a commitment to permanent affordability through a recorded LURA; 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 designated as affordable housing, with restricted rents and for income-eligible households as specified for each; and
- The loan agreement will remain 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 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; and (3) satisfied any other City requirements, including, but not limited to, providing acceptable documentation related to a Tenant Selection Plan and Affirmative Marketing Plan consistent with the Standards published in the RFP; and,

BE IT FINALLY RESOLVED, that the Council authorizes the Mayor and City Clerk 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.