



Legislation Text

File #: 81377, Version: 2

Fiscal Note

The proposed resolution authorizes the execution of a Purchase and Sale Agreement between the City and Eminent Development Corporation for the property located at 1202 S Park St. The Adopted 2022 Capital Budget contains funds authorized for a Youth Centered Housing Development totaling \$2,000,000 (Munis project #13776). This project is funded by the City's allocation of Coronavirus State and Local Fiscal Recovery Funds (SLFRF) authorized by the American Rescue Plan Act (ARPA) of 2021.

Title

SUBSTITUTE - Authorizing the negotiation and execution of a Purchase and Sale Agreement between Eminent Development Corporation and/or an affiliate LLC ("Developer") and the City of Madison for the Developer's acquisition of the property located at 1202 S. Park Street for youth-centered housing development (the "Project"), and authorizing execution of a loan agreement for up to \$2.0 million of American Rescue Plan Act funds allocated by the Common Council for the Project. (District 13)

Body

WHEREAS, on December 5, 2017, the Common Council adopted RES-17-00928 (File I.D. 49685) to acquire 1202 S. Park Street (the "Property") to expand housing development opportunities, specifically for populations experiencing or at risk of homelessness; and,

WHEREAS, the City's 2022 Adopted Capital Budget directed the Community Development Division ("CDD") to pursue a youth-centered housing development, with units set aside for youth aging out of the foster care system and at risk of homelessness; and,

WHEREAS, pursuant to a Request for Proposals process administered by CDD during mid-2023, the Common Council adopted RES-23-00657 (File I.D. 80111) on October 17, 2023, approving the selection of JW Realty and Investments, Inc., or an affiliate LLC, subsequently identified as Eminent Development Corporation, as the selected developer (the "Developer") to undertake a youth-centered housing development (the "Project") on the Property, and authorizing negotiation of a Purchase and Sale Agreement between the City and Developer; and,

WHEREAS, City Office of Real Estate Services and CDD staff have drafted the Purchase and Sale Agreement ("Agreement") attached hereto as Exhibit - Agreement - v2 Substitute, to formalize the terms and conditions of the sale of the Property, as legally described in the Agreement, to the Buyer for consideration of One Dollar (\$1.00), in support of the mixed income Project with an objective to create a set-aside of permanent housing units for youth who are exiting the foster care system; and,

WHEREAS, closing on the sale of the Property under the terms of said Agreement is contingent upon the execution and recording of a Loan Agreement with Buyer for American Rescue Plan Act funding in an amount of up to Two Million Dollars (\$2,000,000.00), as allocated to the Project in the City's adopted 2022 Capital Budget by the Common Council, with such funds provided in exchange for a recorded land use restriction upon the Property with no expiration and enforced in perpetuity, and upon other conditions provided herein.

NOW, THEREFORE, BE IT RESOLVED that the City's Common Council hereby authorizes the City's execution of the Agreement subject to materially, though not exclusively, the terms and conditions found in the Agreement; and,

BE IT FURTHER RESOLVED that the Common Council hereby authorizes the preparation and execution of a Loan Agreement with Buyer for the aforementioned American Rescue Plan Act funds supporting Project development, upon the following terms:

Form of Loan

- The assistance be a 0% interest, long-term deferred loan 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, constructing and/or rehabilitating the property which includes no fewer than 43 units to be used as affordable housing for income eligible households as specified above.
- The disbursement of City funds continues to remain contingent upon project developer demonstrating that it has secured financing sufficient to complete the project, including Low Income Housing Tax Credits (LIHTCs); that it has received from the City all necessary land use and permit approvals; and that it has satisfied any other City requirements or documentation; and
- The Loan will be secured by a subordinate mortgage, note and Land Use Restriction Agreement; and

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
- Provide evidence of property insurance as required by the Mortgage containing a standard loss payee endorsement identifying the City as mortgagee. Developer agrees to provide evidence of property insurance annually by February 10th or before expiration of current policy.; and,

BE IT STILL FURTHER RESOLVED, that the Council authorizes CDD staff to approve minor alterations to the proposed project, 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 committed without Council approval; and,

BE IT STILL FURTHER RESOLVED, that the Council authorizes the Mayor and City Clerk to execute a purchase and sale agreement for the sale of the Property on substantially the same terms as the attached Exhibit - Agreement - v2 Substitute; and,

BE IT STILL FURTHER RESOLVED, that the execution of a Purchase and Sale Agreement, 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,

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.