



AGENDA ITEM SUMMARY FORM

PROPOSED MEETING DATE: February 21, 2024
PREPARED BY: Scott Moore, City Manager
DEPARTMENT: Administration

AGENDA ITEM DESCRIPTION:

Consideration, discussion, and possible action on a resolution approving and authorizing the General Manager to negotiate and execute various agreements and acknowledgements as beneficial, desired, or required to bring the W2 Manor Apartments project (the "Project") to financial close, with such agreements and acknowledgements to include, without limitation or qualification, a Ground Lease Recognition Agreement along with other agreements and acknowledgements that pertain to the design, construction, financing, conveyance of interests in real property, establishment of housing affordability requirements, and the confirming and securing of certain tax exemptions with respect to the Project.

BACKGROUND/SUMMARY:

On October 2nd, the Board authorized the negotiation and execution of several agreements relating to the development of the W2 Manor Apartments project. These are the: Company Agreement, Lease Agreement, and Regulatory Agreement.

It is anticipated that W2 will close on the financing of the project at the end of this month and that construction will commence shortly thereafter.

For W2 to complete its financing of the project, the lenders will need documentation of the PFC's commitment to and role in the transaction. Some of these documents are listed below.

The resolution specifies that each agreement must be to achieve the objectives outlined in the Letter of Intent (attached) which states the essential terms of the project. The resolution further specifies that it does not grant any authority for purposes other than achieving these objectives.

This resolution provides that the authority to be granted will be conclusive authority to sign the agreements.

DOCUMENTS TO BE NEGOTIATED AND EXECUTED (GENERALLY)

These are most, if not all, of the outstanding documents but the resolution is broadly worded in case there are others that are related to this.

The overall structure of the project is:

- W2 conveys the land to MHPFC, MHPFC leases the land back to W2, who develops and operates the apartments. This structure established the basis for the tax exemption of the property. The relation between W2 and the MHPFC, for the most part, is covered in the Company Agreement approved in October.
- MHPFC has since, as authorized in October, created a Limited Liability Company to “stand in the shoes” of MHPFC for the purpose of that agreement. This structure is an additional way of limiting MHPFC’s liability. However, liability has been effectively limited by the terms of the Company Agreement.
- MHPFC, or an LLC of MHPFC, will serve as the General Contractor for the project. This is to establish a sales tax exemption for the materials and supplies that go into the construction of the project.
- The MHPFC’s obligations and risks in this role are all assigned to W2 with no recourse to the MHPFC through a construction subcontract.

FEES TO MHPFC

After financial close, W2 conveys certain funds to the MHPFC :

- \$100,000 for structuring fees
- Approximately \$396,000 as a development fee
- Once the property has reached rent stabilization, W2 will pay to MHPFC:
 - Approximately \$260,000 (20% of the sales tax savings) and
 - Annually an amount equal the portion of ad valorem tax that the City would have received if it were collecting its share of tax attributable from the property.

LIST OF DOCUMENTS

The documents which will need to be negotiated and executed by the General Manager, in addition to those authorized October 2, 2023 are:

- Memorandum of Ground Lease
- Ground lease recognition agreement
- Construction Contract
- Contractor’s consent
- Assignment of construction contract
- Contracting subcontract

This list is not exhaustive as there may be one or more ancillary documents. However, these do represent the essential documents for the MHPFC’s part of the transaction.

LEGAL REVIEW:	Yes, Gregory Miller, Bond Counsel
FISCAL IMPACT:	See- Fees to MHPFC above
PRESENTATION:	No
ATTACHMENTS:	Yes

- Resolution No. 2024-MHPFC03

STAFF RECOMMENDATION:

Staff recommends approval of Resolution No. 2024-MHPFC03 authorizing the negotiation and execution of certain agreements to bring the W2 Manor Apartments project to financial close.