

PLEASE FILL OUT A SEPARATE FORM FOR EACH AMENDMENT YOU PROPOSE

AMENDMENT FORM

COUNCIL MEETING DATE: 5-16-06

ID#: 03543

AGENDA ITEM #: 58

ALDER PROPOSING AMENDMENT: Ald. Long

I MOVE THE FOLLOWING AMENDMENT(S):

See attached - Amendment was to SUBSTITUTE
(not 2nd substitute). Version 4
should become an Amended Substitute

INDICATE WHERE THE AMENDMENT SHOULD BE ADDED WITHIN THE FILE (NOTE THE SPECIFIC PARAGRAPH & WHERE THE AMENDMENT SHOULD BE ADDED WITHIN THAT PARAGRAPH):



City of Madison

Legislative File Number 03543 (version 3)

1st Amendment

Title

SECOND SUBSTITUTE - Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$3,000,000 Tax Incremental Finance Loan to University Square, LLC and its assigns to assist in the development of the University Square retail/commercial redevelopment project located on Lake Street between Johnson Street and University Avenue to be located in a proposed boundary amendment to TID #32 (Upper State Street).

Body

WHEREAS, the City of Madison has, by adoption on July 1, 2003 of Resolution Number 60,678, ID Number 33,974, created the boundary and project plan for Tax Incremental District (TID) #32; and

WHEREAS, an amendment to said TID boundary and project plan is anticipated for consideration by the City of Madison Common Council, Joint Review Board of overlying taxing jurisdictions during 2006, such consideration to be completed prior to September 30, 2006; and

WHEREAS the intent and purpose of the Project Plan, among other things, is stated as 1) financing of public works and improvements and 2) stimulating planned commercial, affordable housing and mixed-use development; and

WHEREAS, the Project would generate additional tax increment that would pay for additional public works and improvements to the State Street Corridor and would stimulate a large-scale retail redevelopment project, both outcomes being consistent with said intent and purposes of the Project Plan; and

WHEREAS, toward those objectives, the City of Madison has already made significant infrastructure and streetscape improvements to the State Street Corridor with TIF funds; and

WHEREAS, University Square, LLC ("Developer") has proposed to construct no less than 140,000 gross square feet of retail space and no less than 258 parking stalls, at an estimated development cost of approximately \$42,241,000 ("Project") on property generally located at Lake Street between University Avenue and Johnson Street ("Property"); and

WHEREAS, in conformance to City of Madison TIF Policy, \$3,000,000 gap is attributable to the cost of excavation to accommodate the construction of no less than 258 stalls of underground parking in the Project; and

WHEREAS, City staff has conducted an analysis (See Attached Report) of the Project and has determined the gap to be \$3,000,000 and that, but for TIF assistance, the Project could not occur; and

~~WHEREAS, by providing this TIF assistance with conditions, the City desires to enhance new retail development while protecting the character and maintaining the stability of existing commercial and retail business within TID 32; and~~

WHEREAS, \$3,000,000 of said TIF assistance represents approximately 47% of the present value of the estimated tax incremental revenues generated by the Project is consistent with TIF Policy that no more than

50% be made available to a project; and

WHEREAS, the TIF Loan becomes a grant when tax increment received from the Project and/or Developer out-of-pocket payments are sufficient to repay the TIF Loan; and

WHEREAS, in addition to any other powers conferred by law, the City may exercise any power necessary and convenient to carry out the purpose of the TIF law, including the power to cause project plans to be prepared, to approve such plans, and to implement the provisions that effectuate the purpose of such plans; and

WHEREAS, the City of Madison anticipates state certification of the amendment to the boundary and project plan for TID #32 amendment no later than June 30, 2007 and TIF funds may be released only upon the City's receipt of state certification of the amendment to the boundary and Project Plan for TID #32; and

WHEREAS, funding of the loan proceeds to this project is anticipated in 2008 and thereby would require authorization in the City of Madison 2008 Capital Budget; and

NOW, THEREFORE, BE IT RESOLVED that the City hereby finds and determines that the Project is consistent with the public purposes, plans and objectives set forth in the TID #32 Project Plan and that the City's loan to Developer demonstrates the potential to finance additional public works and improvements in the existing TID and amended boundary and stimulate planned commercial redevelopment in TID #32, thereby making more likely an accomplishment of the public purpose objectives set forth in the Project Plan and its amendment, the TIF Law and City TIF Policy.

BE IT FURTHER RESOLVED that funding is subject to the following conditions:

1. The Project. Developer agrees to develop:
 - a. Not less than 140,000 gross square feet of retail or other use allowed by the zoning text.
 - b. No fewer than 258 parking stalls allocated for employees, visitors and customers of the retail or other use allowed by the zoning text.

It is anticipated that the Property will become subject to a condominium form of ownership and that the commercial and retail space will be described as "Retail Unit" and the 258 parking stalls will be described as "Retail Parking Unit".

2. Form of Assistance. TIF assistance shall be provided in the form of a zero interest (0%) loan at closing from the City to Developer, in the amount of Three Million Dollars (\$3,000,000) ("TIF Loan") to partially finance Developer's development of the Project. Said TIF Loan becomes a grant when tax increment recovered from the Project and/or cash payments by Developer are sufficient to repay the TIF Loan and the City's associated borrowing costs.
3. 2008 Capital Budget Authorization. Funding of the TIF Loan is anticipated for 2008. The TIF Loan is contingent upon funding being authorized in the ~~2008~~ ²⁰⁰⁷ City of Madison Capital Budget.
4. Evidence of Lease. Developer shall provide an executed lease or leases in a form acceptable to the City by December 31, 2007, with retail tenants, with primary terms of not less than 5 years and such retail tenants occupying not less than 70,000 square feet of the Project (approximately 50% of leaseable area).
5. Evidence of TID #32 Certification of Boundary and Plan Amendment. The City shall make TIF funds available no sooner than the date the City receives evidence of the base value certification of a Boundary and Project Plan amendment to TID #32 from the State of Wisconsin Department of

17. Title Insurance. At least fifteen (15) prior to closing, Developer shall provide a commitment for a title insurance policy of the proper type and amount of coverage to the City. The City shall receive a lender's policy.
18. Environmental Assessment. Developer shall provide the City an environmental assessment of the site which is acceptable to staff.
19. Land Use Approval Contingency The terms and conditions of this TIF assistance are contingent upon approval and recording of the GDP/SIP for the Project as described in the March 1, 2006 TIF Application and amendments including no less than 140,000 gross square feet of commercial and 258 parking stalls.
20. Condominium Documents. Developer shall submit to the City copies of the recorded condominium plat, declaration of condominium, bylaws, adopted rules and all exhibits and amendments thereto at least fifteen (15) days prior to closing of the TIF Loan.
21. Assignment and Assumption of Loan Documents. Subject to prior Common Council approval, Developer may transfer the Retail Unit and Retail Parking Unit to a Rice family trust and assign its obligations and responsibilities under the Note, Mortgage, and City Loan Agreement to such a trust without triggering payment of the equity payment under the sale or transfer clause of Section 8 herein.

~~22. Retail Size Limitation. No single retail business establishment located in the Project shall exceed 35,000 net square feet of interior space, excluding spaces exclusively utilized for warehousing and storage of goods or products to be sold on the premises. If Developer leases or otherwise transfers such interior space of over 35,000 net square feet to any single retail business establishment, the TIF loan shall be due and payable upon demand.~~

40 ~~35,000~~ net square feet. *The developer may request to approve refactors in effect of this sq ftage.*

BE IT STILL FURTHER RESOLVED that the TIF Loan to the Developer is hereby approved and that the Mayor and City Clerk are hereby authorized to execute a development agreement and other documents as may be necessary to effectuate the transaction, all of which are subject to the approval of the City Attorney.

Fiscal Note

This resolution would authorize a \$3,000,000 TIF loan, payable in ²⁰⁰⁷~~2006~~, to University Square, LLC for the construction of a project located on Lake Street and bounded by University Avenue and Johnson Street. It is expected that this loan would be repaid through incremental taxes generated from the project and represents approximately 47% of all incremental taxes anticipated from the project through the remaining 27 year life of TIF District #32.

The proposed project is not located within the current boundaries of the TIF district. An amendment to the current district boundary to incorporate this property must be approved by the Common Council, the Joint Review Board and the State Department of Revenue before project costs would be eligible for TIF reimbursement. Therefore, the proposed resolution provides that no City loan disbursement would occur prior to DOR certification of the amended district boundary.

Based on the proposed agreement, the City would disburse the \$3,00,000 loan to the developer during ²⁰⁰⁷~~2006~~, and the loan is contingent upon the Council's authorization of funding in the ~~2006~~ budget. It is likely that the City would finance this payment with general obligation debt authorized in that year's capital budget

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~~22. Retail Size Limitation. No single retail business establishment located in the Project shall exceed 40,000 net square feet of interior space, excluding spaces exclusively utilized for warehousing and storage of goods or products to be sold on the premises. If Developer leases or otherwise transfers such interior space of over 35,000 net square feet to any single retail business establishment, the TIF loan shall be due and payable upon demand.~~

The developer may request CC approval, refer back in effect of this 5g floor.

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