



City of Madison

City of Madison
Madison, WI 53703
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Master

File Number: 14591

File ID: 14591	File Type: Resolution	Status: Passed
Version: 1	Reference:	Controlling Body: BOARD OF ESTIMATES
File Name: Walgreen Settlement Resolution, years 2003 and 2004		File Created Date : 04/29/2009
		Final Action: 05/19/2009

Title: Authorizing payment of the judgment entered on April 13, 2009 by the court in Walgreen Company v. City of Madison, Case No. 2004 CV 1564 relating to refund of real property taxes for tax years 2003 and 2004 which provides for the refund of taxes and interest in the amount of \$247,790.55 from City resources and amending the 2009 operating budget to reduce estimated General Fund revenues by \$59,595.02 to recognize the City's share of the tax refund and to appropriate \$76,592.43 from Contingent Reserve to fund related interest costs.

Notes:

Sponsors: David J. Cieslewicz

Enactment Date: 05/21/2009

Attachments:

Enactment Number: RES-09-00480

Author: Larry O'Brien, Assistant City Attorney

Hearing Date:

Entered by: phustad@cityofmadison.com

Published Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Attorney's Office	04/29/2009	Referred for Introduction				
	Action Text:		This Resolution was Referred for Introduction				
	Notes:		Board of Estimates				
1	COMMON COUNCIL	05/05/2009	Referred	BOARD OF ESTIMATES		05/11/2009	
	Action Text:		This Resolution was Referred to the BOARD OF ESTIMATES				
	Notes:						
1	BOARD OF ESTIMATES	05/11/2009	RECOMMEND TO COUNCIL TO ADOPT (15 VOTES REQUIRED) - REPORT OF OFFICER				Pass
	Action Text:		A motion was made by Bruer, seconded by Clear, to RECOMMEND TO COUNCIL TO ADOPT (15 VOTES REQUIRED) - REPORT OF OFFICER. The motion passed by voice vote/other.				
	Notes:						
1	COMMON COUNCIL	05/19/2009	Adopt				Pass

Action Text: A motion was made by Ald. Bruer, seconded by Ald. Verveer, to Adopt. The motion passed by the following vote:

Notes:

Ayes: 20 Bridget R. Maniaci; Lauren Cnare; Michael E. Verveer; Shiva Bidar-Sielaff; Marsha A. Rummel; Steve King; Bryon A. Eagon; Paul E. Skidmore; Brian L. Solomon; Chris Schmidt; Satya V. Rhodes-Conway; Julia S. Kerr; Tim Bruer; Larry Palm; Judy Compton; Joseph R. Clausius; Michael Schumacher; Mark Clear; Thuy Pham-Remmele and Jed Sanborn

Non Voting: 1 David J. Cieslewicz

Text of Legislative File 14591

Fiscal Note

This resolution authorizes the City, pursuant to the recent judgment in Walgreen Company v. City of Madison, to make a payment of \$247,790.55 to Walgreen as full refund of tax overpayments originally made to all taxing jurisdictions for two Walgreen properties for tax years 2003 and 2004. Of that amount, \$171,198.12 represents the tax overpayment as determined by the court, and \$76,592.43 represents related interest charges. The City's share of the tax overpayments, estimated to be \$59,595.02, will result in reduced 2009 General Fund revenues. The remaining \$111,603.10 of tax overpayments will be recognized as a receivable from the other taxing jurisdictions and is expected to be repaid to the City during 2010, in accordance with Wisconsin Department of Revenue procedures governing such property tax adjustments. By state statute, all of the interest associated with such property tax adjustments is the responsibility of the municipality which assesses the property. Therefore, the full \$76,592.43 of interest expense associated with this tax adjustment must be paid by the City, resulting in increased General Fund expenses.

Sufficient funds are available in the General Fund Balance to cover the City's \$59,595.02 portion of the returned taxes, and sufficient funds are available in Contingent Reserve to pay the \$76,592.43 of interest expense. This resolution amends the 2009 Operating Budget by the sum of these two amounts, or \$136,187.45. Neither the reduction of budgeted General Fund Revenues or the appropriation from Contingent Reserve impacts the City's eligibility under the state Expenditure Restraint Program.

The result of this adverse judgment was related to two Walgreen stores for tax years 2003 and 2004 and will likely impact the settlement of other outstanding tax overpayment claims for the same stores in tax years 2005 - 2008 as well as future assessment methods applied to other Walgreen stores and other similar properties.

Title

Authorizing payment of the judgment entered on April 13, 2009 by the court in Walgreen Company v. City of Madison, Case No. 2004 CV 1564 relating to refund of real property taxes for tax years 2003 and 2004 which provides for the refund of taxes and interest in the amount of \$247,790.55 from City resources and amending the 2009 operating budget to reduce estimated General Fund revenues by \$59,595.02 to recognize the City's share of the tax refund and to appropriate \$76,592.43 from Contingent Reserve to fund related interest costs.

Body

The City of Madison and the Walgreen Company have been in litigation for several years relating to the appropriate valuation of two of Walgreen's Madison stores. Although the City prevailed initially in the circuit court and in the Court of Appeals, the Supreme Court reversed the Court of Appeals and remanded the case to the circuit court for a determination of the lawful value of the two stores. On April 13, 2009, the court entered judgment in favor of Walgreen and directed the refund of taxes plus interest as noted above. The City Attorney

determined that further appeal would not be productive.

The cases for subsequent tax years were stayed and will be controlled by the Supreme Court's decision as to assessment methodology and ultimate valuation. The parties are in negotiations for those years, which will result in additional refunds and interest payments in amounts yet to be determined. In addition, it is likely that resolution of valuation methodology will be applied to other of Walgreen stores in the City, which will reduce future tax revenues to the City.

WHEREAS, the City of Madison and Walgreen Company have been in litigation over the appropriate valuation methods and values of two of Walgreen's Madison stores for a number of years, which resulted in a final judgment adverse to the City for tax years 2003 and 2004 as outlined above; and

WHEREAS, the City Attorney, the City Assessor, and the City Comptroller recommend approval of this Resolution;

NOW, THEREFORE BE IT RESOLVED:

1. That the Common Council authorizes the payment of \$247,790.55 from City resources to be paid to Walgreen Company in full settlement of the judgment described herein, with the City to file for such reimbursement as may be available from overlapping tax jurisdictions pursuant to Department of Revenue procedures.
2. That the 2009 Operating Budget be amended to reduce General Fund revenues by \$59,595.02 to recognize the City's share of the tax refund and to appropriate \$76,592.43 from Contingent Reserve to fund related interest costs.

Editor's Note: There are outstanding cases for tax years 2006, 2007 and 2008, which will be controlled by the substance of the judgment and which will require settlement with additional payments. In addition, Walgreen will likely seek to have others of its Madison stores valued according to the decision in the future, which will result in a further decrease of tax revenues.

DRAFTER'S ANALYSIS: This resolution authorizes payment in compliance with the court's decision in the *Walgreen* case and directs City staff to pursue reimbursement from overlapping tax jurisdictions according to the Wisconsin Department of Revenue procedures.