



## Legislation Details (With Text)

**File #:** 03543      **Version:** 4      **Name:** AMENDED SUBSTITUTE - Authorizing a development agreement to fund a \$3,000,000 TIF Loan to University Square, LLC to assist in the develop. the University Sq. retail/commercial redevelopment proj to be located in a proposed boundary amendment to TID #32.

**Type:** Resolution      **Status:** Passed

**File created:** 4/25/2006      **In control:** BOARD OF ESTIMATES (ended 4/2017)

**On agenda:** 5/16/2006      **Final action:** 5/16/2006

**Enactment date:** 5/19/2006      **Enactment #:** RES-06-00471

**Title:** AMENDED 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).

**Sponsors:** David J. Cieslewicz, Austin W. King

**Indexes:**

**Code sections:**

**Attachments:** 1. 03543 AMENDMENT.pdf, 2. 03543 Registration Stmt.pdf

Date	Ver.	Action By	Action	Result
5/16/2006	4	COMMON COUNCIL	Adopt With Amendment(s)	Pass
5/15/2006	3	Community and Economic Development Unit	Fiscal Note Required / Approval	
5/15/2006	3	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	
5/8/2006	2	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
5/3/2006		COMMON COUNCIL	Refer	
5/3/2006	2	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office (AFTER CC INTRO)	
5/2/2006	1	COMMON COUNCIL	Refer	
5/2/2006	2	BOARD OF ESTIMATES (ended 4/2017)	Fiscal Note Required / Approval	
4/26/2006	1	Finance Dept/Approval Group	Fiscal Note Pending	
4/26/2006	1	Community and Economic Development Unit	Referred for Introduction	
4/25/2006	1	Community and Economic Development Unit	Fiscal Note Required / Approval	

### Fiscal Note

This resolution would authorize a \$3,000,000 TIF loan, payable in 2008 2007, 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 \$3,000,000 loan to the developer during ~~2008~~ 2007, and the loan is contingent upon the Council's authorization of funding in the ~~2008~~ 2007 budget. It is likely that the City would finance this payment with general obligation debt authorized in that year's capital budget. Therefore, this resolution has no impact on the current year budget.

**Title**

AMENDED 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, \$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~~ 2007 and thereby would require authorization in the City of Madison ~~2008~~ 2007 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 2007 Capital Budget Authorization. Funding of the TIF Loan is anticipated for 2008 2007. 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 Revenue.

6. Method of Payment and Guaranty. The City's expenditure in providing the TIF Loan shall be repaid by Developer through tax increments generated by the Project and/or cash payments by Developer. Developer shall guaranty the City's receipt of increment revenue.

7. Security. The TIF Loan shall be evidenced by a Note to the City of Madison in the amount of the TIF Loan bearing zero percent (0%) interest ("Note"). Developer shall execute a second mortgage in favor of the City of Madison securing payment of the TIF Loan and equity participation payment ("Mortgage"). The City shall agree to execute a subordination of mortgage in a form approved by the City Attorney. An individual principal of the Developer shall execute a personal guaranty guaranteeing payment of the TIF Loan and equity participation payment.

8. Equity Participation Payment. In addition to all other payments required to be made by Developer to the City, Developer shall pay the City Three Million Dollars (\$3,000,000) on the day of sale or transfer of the Retail Unit and Retail Parking Unit, including improvements thereon or on July 1, 2030, whichever occurs first. ("Equity Participation").

9. Satisfaction. The Mortgage shall be satisfied and the Note cancelled upon full payment of the TIF Loan and equity participation payment.

10. Affirmative Action MGO 3.58 (9). Developer and its contractors/subcontractors shall comply with all applicable provisions of the Madison General Ordinance (MGO) 3.58 (9), concerning contract compliance requirements. Prior to commencing construction, Developer shall contact the City's Affirmative Action Division to assure that Developer is in compliance with the aforementioned requirements. Developer shall assist and actively cooperate with the Affirmative Action Division in obtaining the compliance of contractors and subcontractors with such

applicable provisions of the Madison General Ordinance. Developer shall allow maximum feasible opportunity to minority/disadvantaged women business enterprises to compete for any contracts entered into pursuant to the contract.

11. Prevailing and Living Wage (MGO 4.20 & 4.23). Developer shall comply with Madison General Ordinances 4.20 and 4.23 that require Developer to provide a living wage and a prevailing wage.
12. Accessibility (MGO 3.72). Developer shall submit a written assurance of compliance with Madison General Ordinance 3.72.
13. Equal Opportunity and Fair Housing. Developer shall comply with all applicable local, state and federal provisions concerning Equal Opportunity and Fair Housing.
14. Material Changes. Any material changes to the size, use or ownership of the Project or Property that is stated in the TIF Application dated March 1, 2006 and its attachments and amendments submitted to the City as of the date of introduction of a resolution to the Common Council to approve this TIF Loan, shall subject this TIF Loan commitment to reconsideration by the City, or if the loan has been made to immediate repayment of the TIF Loan by Developer.
15. Project Completion. Developer shall guarantee that the construction of the Retail Unit and Retail Parking Unit will be completed by December 31, 2008.
16. Property Insurance. Prior to funding, evidence shall be provided that a property insurance policy of the proper type and amount of coverage to protect the City's participation has been obtained. The policy shall name the City of Madison as an additional insured.
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.

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.