



Legislation Text

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Fiscal Note

The proposed resolution terminates the TIF Loan to a Stone House Development affiliate for the Madison Mark Project located at 132 E Wilson Street and defers an \$875,000 Equity Participation Payment to 2035. Stone House Development is refinancing the Project and requests the Equity Participation Payment be deferred in exchange for maintaining Affordable Units for 15 years. The TIF Loan has otherwise been repaid and all obligations outside of the Equity Participation Payment have been satisfied. The City will enter into a new land use restriction agreement with Stone House Development, which will remain in effect until 2035 and will require the Project to maintain the same affordability provisions as currently exist and require the Equity Participation Payment to be made in 2035. The Project is located in TID #25, which will close in 2022; this resolution will not affect that closing.

Title

Authorizing the Deferral of an \$875,000 Equity Participation Payment for the Madison Mark Project in Execution of a Land Use Restriction Agreement to Maintain Affordable Units for an Additional Fifteen Years.

Body

WHEREAS, in 2002, by RES 02-59984 (File #32913) Common Council authorized a One Million Dollar (\$1,000,000) TIF Loan (the "TIF Loan") to King Street Apartments, LLC, an affiliate of Stone House Development (the "Developer"), for the project known as Madison Mark located at 132 E. Wilson St. in Madison (the "Project"); and,

WHEREAS, in accordance with policy at the time, the TIF Loan contained an equity participation payment of Eight Hundred Seventy Five Thousand Dollars (\$875,000) (the "Equity Participation Payment"); and,

WHEREAS, the TIF Loan also contained an affordability provision requiring that the project contain fifty-seven (57) affordable units, (the "Affordable Units") in accordance with Section 42 tax credit requirements, for a period of 15 years from the date of certificate of occupancy ("COO"); and,

WHEREAS, the Developer now seeks to refinance the Project, and requests that the Equity Participation Payment be deferred in order to assist in the refinancing in exchange for maintaining the Affordable Units for a period of fifteen (15) additional years, terminating in 2035; and,

WHEREAS, the TIF Loan has otherwise been repaid through the creation of tax increment, and its obligations, with the exception of the Equity Participation Payment, have been satisfied; and,

WHEREAS, the Project is located in TID #25 which will close in 2022, or earlier, in accordance with State statute, and this resolution will not affect that closing,

NOW, THEREFORE, BE IT RESOLVED, that the TIF Loan shall be terminated, and mortgage and note released; and,

BE IT FURTHER RESOLVED, that the City shall enter into a new land use restriction agreement (LURA) on substantially the following terms and conditions:

1. Term: the LURA shall remain in effect until 2035.
2. Affordability Provisions: The Project shall maintain the same affordability provisions as currently exist on the property including, without limitation, the following number of affordable units

- a. 12 units at 40% area median income (AMI)
 - b. 12 units at 50% AMI
 - c. 33 units at 60% AMI
3. Subordination: the LURA shall be subordinated to private financing if necessary.
4. The Equity Participation Payment shall made in 2035.
5. Guaranty: a principal or principals of the Developer shall execute a personal guaranty, which shall not be subordinated, in the amount of the Equity Participation Payment.
6. Penalty: In addition to any other rights to enforce the provisions of the LURA, in the event the Developer fails to comply with the terms of the LURA, the Developer shall be charged 5% interest on the amount of the Equity Participation Payment, compounded annually from the date of violation until termination of the LURA in 2035; and,

BE IT FINALLY RESOLVED, that the Common Council hereby authorize the Mayor and City Clerk to enter into agreements and record documents to accomplish the purposes of this resolution in a form to be approved by the City Attorney.