



Legislation Text

File #: 03110, Version: 1

**Fiscal Note**

In its present form, this resolution anticipates two separate financing transactions to facilitate a mixed use development in the 800 block of East Washington Avenue. First, it would authorize a \$2,200,000 TIF loan to the developer, Gorman & Co., Inc. to be used for Phase I land acquisition and construction. Based on staff analysis, this loan would fill the \$2,200,000 financing gap needed to complete Phase I of the proposed development and would be repaid through incremental taxes. This loan represents approximately 29% of the present value of all incremental taxes anticipated from the project through the maximum 27 year life of the TIF district, well within the 50% policy established by the Common Council. This \$2,200,000 loan is a TIF eligible expenditure and would be funded with a portion of the \$5,000,000 of taxable general obligation debt authorized in the 2006 Planning and Development Capital Budget, project #24, for unspecified TIF projects. Depending on the timing of this payment to the developer, authorization to internally borrow from other City resources until the next general obligation debt issue may also be required.

This resolution also directs staff to negotiate an additional \$2,000,000 financing transaction related to the proposed development by March 31, 2006. Because the purpose, structure, source of funding and terms of any such additional transaction are undetermined, it is impossible to evaluate the budgetary and fiscal implications at this time.

**Title**

Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$2,200,000 Tax Incremental Financing to the Gorman & Co, Inc. and its assigns plus a \$2,000,000 additional financing instrument to assist in the development of the first phase of a mixed-use redevelopment project located in the 800 Block of East Washington Avenue in TID #36 (Capital Gateway).

**Body**

WHEREAS, said Project Plan, among other things, provides for planned economic, commercial, housing and mixed-use development in order to maintain the 800 block of East Washington Ave area healthy, vibrant element of the East Washington Avenue corridor; and

WHEREAS, Gorman & Company and its assigns ("Developer") has proposed to construct 162 condominium units in the first phase including 25 units that shall be made affordable, at an estimated total development cost of approximately \$42,600,000 in the 800 block of East Washington Avenue ("the Project"); and

WHEREAS, the Project is comprised of several proposed new structures that are forecasted to have an impact on the Project's economic feasibility ("elements"); and

WHEREAS, staff and the Developer have agreed that said development has a projected financing gap of \$4,200,000; and

WHEREAS, \$2,200,000 of TIF assistance ("Financing A") would be provided toward constructing the first phase of the Project, currently occupied by the Don Miller property (the "Property"); and

WHEREAS, \$2,000,000 of TIF assistance ("Financing B") would allow Developer to purchase the land at one time to hold for future development; and

WHEREAS, in conformance to the City of Madison TIF Policy, \_\_\_\_\_ of the \_\_\_\_\_ gap is attributable to \_\_\_\_\_.

WHEREAS, City staff has conducted an analysis (See Attached Report) of the Project and has determined that, but for TIF assistance for Financing A, the Project could not occur; and

WHEREAS, in conformance to TIF Policy, that Financing A represents approximately 35 percent of the present value of

the estimated tax incremental revenues generated by the Project; and

WHEREAS, \$1,100,000 of the loan for Financing A becomes a grant if the Developer sells 81 residential condominium units to owner-occupants by June 30, 2009 and the remaining \$1,100,000 of the loan for financing A becomes a grant if the Developer sells an additional 81 residential condominium units in the Project; 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 amendment to Tax Incremental Finance District (TID) # 36 was submitted to the State of Wisconsin Department of Revenue for certification of base value and increment; 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 #36 Project Plan, 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 or cause to develop:

a. 162 residential condominium units

b. No fewer than 25 residential condominium units made affordable to households at a stipulated percentage of Dane County Median Income (DCMI) as set forth and executed in an Inclusionary Zoning agreement.

2. Form of Assistance. TIF assistance shall be provided in the form of a zero interest (0%) loan ("TIF Loan") at closing from the City to Developer, in the amount of Two Million Two Hundred Thousand Dollars (\$2,200,000) to partially finance Developer's development of the Property.

3. Method of Payment. 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 project completion.

4. Security. The proceeds of the TIF Loan shall be distributed to the Developer at closing. The TIF Loan shall be evidenced by a Note to the City of Madison bearing 0% interest. Developer shall execute a second mortgage in favor of the City of Madison and an individual principal of the Developer shall execute a personal guaranty.

5. Equity Participation Payment.

In the event that the aggregate of actual net unit sales (i.e. gross sales prices less the costs of sale and customary tax and other prorations as shown on the closing statement from each sale) ("Net Sales Proceeds"), as adjusted below, exceeds 100% of the projected sales prices, as adjusted for the cost of sale and closing costs estimated at 5.5% ("Profit Sharing Threshold"), the Developer agrees to return to the City fifty percent (50%) of the Net Sales Proceeds over and above the Profit Sharing Threshold. Additional costs incurred, in the aggregate, over and above the estimated project costs identified in the TIF Application shall be deducted from Net Sales Proceeds prior to applying the Profit Sharing Threshold for the purpose of determining Shared Profits.

In the event there is an aggregate project cost savings from the estimated project costs identified in the TIF Application, said aggregate cost savings shall be added to the Net Sales Proceeds prior to applying the Profit Sharing Threshold for the purpose of determining Shared Profits. The Shared Profits shall be paid to the City at or prior to the closing of the sale of the last remaining unit sold by the Developer.

In the event that a Member of Developer, or a Familial Affiliate of a Member of Developer (as defined below), purchases a unit from Developer at a gross sales price that is less than the projected sales price for that unit as designated in the TIF Application, then the projected sales price rather than the actual sales price for each unit shall be used when calculating Shared Profits under this section. Familial Affiliate of a member of Developer shall mean a Member's spouse, children, parents or siblings.

6. Satisfaction. The Mortgage shall be satisfied and the Note cancelled upon full payment of the TIF Loan and Equity Participation Payment and full compliance with the inclusionary zoning requirements. The City shall execute partial releases for no consideration for individual units at the request of Developer prior to or simultaneously with the closing of each unit.

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

8. Prevailing and Living Wage (MGO 4.20 & 4.23). Developer agrees to comply with Madison General Ordinances 4.20 and 4.23 that require Developer to provide a living wage and a prevailing wage.

9. Accessibility (MGO 3.72). Developer agrees to meet applicable accessibility accommodations for the Project as required by Madison General Ordinance 3.72.

10. Equal Opportunity and Fair Housing. Developer shall comply with all applicable local, state and federal provisions concerning Equal Opportunity and Fair Housing. Material Changes. Any material changes to the size or use of the Project, which is stated in the TIF Application dated May 3, 2005 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, will 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.

11. Project Completion. Developer must guarantee that the construction of the Project will be completed by December 31, 2014.

12. Property Insurance. Prior to funding, evidence must 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.

13. Title Insurance. At funding, Developer must 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.

14. Environmental Assessment. Developer shall provide the City an environmental assessment of the site which is acceptable to staff.

15. Land Use Approval Contingency. The terms and conditions of this TIF assistance are contingent upon approval and recording of the SIP for Phase I of the Project.

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.

BE IT STILL FURTHER RESOLVED that staff is directed to negotiate the terms of the additional \$2,000,000 financing instrument (Financing "B") by March 31, 2006.