



Legislation Text

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Fiscal Note

This resolution would authorize the expenditure of \$150,000 in the 2014 Capital Budget. The proposed project is located within the boundaries of Tax Incremental District (TID) 35 that currently demonstrates a positive balance of excess tax increment sufficient to fund the Supplemental TIF Loan to Borrower. The Supplemental TIF Loan would be funded from \$500,000 authorized in the 2014 Capital Budget as Small Cap TIF Loans for the purpose of stabilizing housing in the area (see the 2014 capital budget of the Planning and Community and Economic Development agency, Project No. 30, "TID 35 - Todd Drive/West Beltline," Acc't No. 823501) thus requiring an amendment to the 2014 Capital Budget. The City's loan would be funded from excess tax increment revenue that has accrued in the TID. The TIF Loan represents approximately 3% of repaid tax increments generated by Borrower from the Arbor Gate Project. The Arbor Gate project initially received 47% of the present value of tax incremental revenues, such that the Supplemental TIF Loan would increase total TIF assistance to 50%. In addition, the TIF Loan is contingent upon the Project and Child Care Project attracting at least \$150,000 of charitable donations and grants to pay the balance of construction cost.

Title

Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$150,000 Tax Incremental Finance Loan to Arbor Gate Development, LLC to assist in the development of 7,800 square foot child care facility at 2821 Todd Drive in TID #35 (Todd Drive) to be operated by Dane County Parent Council, Inc. and amending capital project No. 30 ("Tid 35 - Todd Drive/West Beltline") of the Planning and Community and Economic Development agency.

Body

WHEREAS, the City of Madison has, by adoption on July 5, 2005 of RES-05-00580 File ID Number 01262, created the boundary and project plan for Tax Incremental District (TID) #35; and

WHEREAS the intent and purpose of the Project Plan, among other things, is to eliminate blighting conditions and attract and retain businesses and employment in the West Beltline Frontage Road - Todd Drive area; and

WHEREAS, in 2007, the City of Madison ("City") disbursed a \$2,700,000 TIF Loan to Arbor Gate Development, LLC ("Borrower"), to construct a 200,000 square foot retail/commercial building and associated parking (the "Arbor Gate Project"); and

WHEREAS, the Arbor Gate Project is currently generating additional tax increment that may pay for additional public works and improvements to the West Beltline Frontage Road - Todd Drive area, is retaining the existing employers in said area and stimulating new employment, these outcomes being consistent with said intent and purposes of the Project Plan and City of Madison TIF Policy; and

WHEREAS, the purpose of this resolution is to outline the principal terms and conditions of a supplemental TIF Loan ("Supplemental TIF Loan") to be made by the City to Borrower to renovate property owned by Borrower and located at 2821 Todd Drive (the "Property"), and within the TID #35 (Todd Drive) boundary; and

WHEREAS, Borrower shall renovate and lease said Property to Dane County Parent Council, Inc. ("Tenant") to continue Tenant's operation of the Head Start child care program to low- and moderate-income and disadvantaged households (the "Child Care Project"); and

WHEREAS, a financing gap of \$150,000 is attributable to insufficient equity being generated by the lower rent required by Tenant to operate an affordable child care facility for low- and moderate-income and disadvantaged households; and

WHEREAS, City staff has conducted an analysis (See Attached Report) of the Project and has determined the gap to be \$150,000 and that, but for TIF assistance, the Project could not occur; and

WHEREAS, said Supplemental TIF Loan represents approximately 3% of the present value of the estimated tax incremental revenues generated by the Arbor Gate Project; and

WHEREAS, the Arbor Gate Project received 47% of the present value of tax incremental revenues generated by said project, such that the Supplemental TIF Loan to the Child Care Project would in aggregate total 50% of the present value of estimated tax incremental revenues; and

WHEREAS said TIF assistance is also contingent upon Borrower and Tenant receiving \$150,000 of charitable donations and grants to complete the construction of the Child Care Project; and

WHEREAS, the TIF Loan becomes a grant when tax increment received from the Child Care Project, the Arbor Gate Project and/or Developer out-of-pocket payments are sufficient to repay the TIF Loan estimated to occur in approximately six (6) years; 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 TIF Loan proceeds to be made available to the Child Care Project require authorization in the 2014 Capital Budget.

NOW, THEREFORE, BE IT RESOLVED that the City hereby finds and determines that the Child Care Project is consistent with the public purposes, plans and objectives set forth in the District Project Plan and that the City's loan to Borrower demonstrates the City's efforts to provide a full range of child care services to low- and moderate-income and disadvantaged households, eliminate blight and stimulate planned commercial redevelopment, thereby making more likely an accomplishment of the public purpose objectives set forth in TIF Law and City TIF Policy.

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

1. The Project. Borrower agrees at a minimum the Child Care Project will include:
 - a. Construction of interior and exterior building improvements located at the Property comprising approximately 7,800 square feet that facilitates its use as a child care facility.
2. Form of Assistance. TIF Loan assistance shall be provided in the form of a zero percent interest (0%) Supplemental TIF loan disbursed at closing from the City to Borrower, in the amount of One Hundred Fifty Thousand Dollars (\$150,000). Said Supplemental TIF Loan shall partially finance Borrower's development of the Child Care Project and shall become a grant when tax increment recovered from the Arbor Gate Project and the Child Care Project and/or cash payments by Borrower and its personal guarantor are sufficient to repay the Supplemental TIF Loan and the City's associated borrowing costs, if any.
3. 2014 Capital Budget Amendment. Funding of the Supplemental TIF Loan is contingent upon an amendment to the 2014 City of Madison Capital Budget.
4. Evidence of Lease and Borrower Equity. Prior to the Supplemental TIF Loan closing, Borrower shall provide an executed lease in a form acceptable to the City between Borrower and Tenant, with primary terms of not less than 10 years and Tenant occupying not less than 7,800 square feet of the Project for the sole purpose of operating the Head Start child care program. Borrower shall also provide evidence to the City that not less than \$150,000 of Borrower equity shall be made available for investment in the Child Care Project, including but not limited to a cash contribution from Borrower, charitable contributions, grants and other non-TIF sources that are not loans to the Child Care Project or Tenant ("Borrower Equity"). Such evidence shall include the Borrower's bank statement, receipts of pre-paid construction expenditures or other TIF-eligible expenses paid by Borrower, written grant commitments to Borrower or Tenant, and evidence of charitable contributions to Tenant.
5. Method of Payment and Tax Increment Guaranty. The City's expenditure in providing the Supplemental TIF Loan shall be repaid by Borrower through tax increments generated by the Arbor Gate Project site and the Property and/or cash payments by Borrower and its personal guarantor. Borrower and its personal guarantor shall guaranty the City's receipt of increment revenue. The allocation of TIF credits between the Arbor Gate TIF Loan obligation and the Supplemental TIF Loan obligation shall be made in the sole discretion of the City.

6. Security. The Supplemental TIF Loan shall be evidenced by a Note from Borrower to the City in the amount of the TIF Loan bearing zero percent (0%) interest ("Note"). Borrower shall execute a mortgage on the Property in favor of the City securing payment of the Supplemental TIF Loan ("Mortgage"). The Loan Agreement between the City and Borrower concerning the TIF Loan to the Arbor Gate Project shall be amended to include the Supplemental TIF Loan terms and conditions. The City shall agree to execute a subordination of mortgage in a form approved by the City Attorney. Bradley L. Hutter shall execute a personal guaranty guaranteeing payment of the Supplemental TIF Loan.
7. Sale to Tax Exempt Entity - PILOT Payment. Borrower shall be prohibited from selling or transferring the Property prior to the Borrower's repayment of the Supplemental TIF Loan. If Borrower sells or transfers the Property to a tax-exempt entity ("Buyer"), whereupon such ownership renders the Property as tax-exempt, Buyer shall pay the City an annual payment in lieu of taxes (PILOT) in the amount of property tax last levied as of the date of sale to Buyer, frozen, through 2032. The City shall share said PILOT in proportion with the overlying taxing jurisdictions. Buyer shall execute a PILOT Agreement and a mortgage in favor of the City in the amount of the PILOT payments ("Buyer's Mortgage") at the time of Buyer's acquisition of the Property. The Buyer's Mortgage and PILOT Agreement shall be released and terminated by the City upon the receipt by the City of the required PILOT payments.
8. Satisfaction. The Mortgage shall be satisfied and the Note cancelled upon full payment of the Supplemental TIF Loan.
9. Changes of Ownership in Borrower or Tenant. Any material changes to the ownership of the Borrower than as stated in the TIF Loan Application dated March 5, 2014 and its attachments and amendments submitted to the City ("TIF Application"), shall require prior written notification of and approval by the City. Any such changes made without prior notification and approval of the City shall subject this Supplemental TIF Loan commitment to reconsideration by the City, or if the loan has been made, to immediate repayment of the Supplemental TIF Loan by Borrower.
10. Affirmative Action MGO 39.02 (9). Borrower and its contractors/subcontractors shall comply with all applicable provisions of the Madison General Ordinance (MGO) 39.02 (9), concerning contract compliance requirements. Prior to commencing construction, Borrower shall contact the City's Affirmative Action Division to assure that Borrower is in compliance with the aforementioned requirements. Borrower 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 small business enterprises to compete for any contracts entered into pursuant to the contract.
11. Living Wage (MGO 4.20). Borrower shall comply with Madison General Ordinance 4.20 that requires Borrower to provide a living wage.
12. Accessibility (MGO 39.05). Borrower shall submit a written assurance of compliance with Madison General Ordinance 39.05.
13. Equal Opportunity and Equal Benefits. Borrower shall comply with all applicable local, state and federal provisions concerning Equal Opportunity. Borrower shall also comply with the City's equal benefits ordinance, at 39.07, Madison General Ordinances.
14. Material Changes. Any material changes to the size, use or ownership of the Child Care Project or Property that is stated in the TIF Application as of the date of introduction of a resolution to the Common Council to approve this Supplemental TIF Loan, shall subject this Supplemental TIF Loan commitment to reconsideration by the City, or if the loan has been made, to immediate repayment of the Supplemental TIF Loan by Borrower.
15. Project Completion. Borrower shall guarantee that the construction of the Child Care Project shall be completed by December 31, 2014. Project completion shall be evidenced by the issuance of a certificate of occupancy for not less than 7,800 SF of the Child Care Project.
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 as an additional insured.

17. Title Insurance. At least fifteen (15) days prior to closing, Borrower 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 in the amount of the Supplemental TIF Loan.
18. Environmental Assessment. Borrower shall provide the City an environmental assessment of the site which is acceptable to staff.
19. Automatic Expiration. The Supplemental TIF Loan to Borrower shall be null and void in the event that Borrower does not commence construction on the Child Care Project, as evidenced by issuance of construction permits, by May 31, 2014.

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.