



## Legislation Text

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**File #: 04242, Version: 1**

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### **Fiscal Note**

This resolution would authorize an additional \$195,000 TIF loan to Monroe Street Neighbors, LLC ("Developer") for the construction of a plaza in conjunction with the Monroe Commons development project. This loan, along with the \$2,322,000 of TIF assistance originally provided to the developer, would be repaid through incremental taxes generated by the project and represents approximately 54% of the present value of all incremental taxes anticipated from the Project throughout the maximum 27-year life of the TID. This funding level constitutes an exception to the 50% policy established by Common Council.

Sufficient funding is authorized in the 2006 Capital Budget (P\$D Project #24, Unspecified TIF Districts) to provide the initial capitalization for this loan, financed with taxable general obligation borrowing. While it is anticipated that the incremental taxes generated by the Project will be sufficient to repay the loan, the Developer is required to guarantee a minimum payment if sufficient future tax increment is not available. The Developer is also obligated to return a 50% share of any surplus net proceeds, upon the receipt of a final audit of the project cost and sales records. The increment guarantee and equity participation payment are secured by a subordinated mortgage on the property.

### **Title**

Authorizing the Mayor and City Clerk to execute a development agreement to fund a Tax Incremental Finance Loan not to exceed \$195,000 to Monroe Neighbors, LLC to assist in the construction of a Plaza adjacent to the Monroe Commons project located at 1864 Monroe Street in Tax Incremental Finance District No. 33 (Monroe-Harrison).

### **Body**

WHEREAS, the City of Madison has, by adoption on September 21, 2004 of Resolution Number 61,922, ID Number 36,582, creating Tax Incremental District (TID) #33, approved a Project Plan for said district; and

WHEREAS said Project Plan, among other things, provides for planned economic, commercial, housing and mixed-use development in order to maintain the area, formerly occupied by Ken Kopps' grocery and an adjacent City of Madison Parking lot, as a healthy, vibrant center and the center of community activities; and

WHEREAS, Monroe Neighbors, LLC ("Developer") proposed in 2005 to construct 53 condominium units including 3 affordable units, a 12,000 square foot grocery and 129 parking stalls, at an estimated total development cost of approximately \$22,922,000 ("the Project"); and

WHEREAS on March 22, 2005 the Common Council adopted Resolution No. 05-00237 authorizing \$2,322,000 of TIF assistance to be provided toward constructing the grocery element of the Project, located at 1802 and 1854 Monroe Street, formerly occupied by the Ken Kopps' grocery store and an adjacent City of Madison parking lot (the "Property"); and

WHEREAS in 2005, the estimated cost of constructing a landscaped plaza adjacent to the Project and fronting the entrance to the grocery ("the Plaza") was not quantifiable at that time due to ongoing discussions with the City of Madison concerning its design; and

WHEREAS construction of the Project is currently underway anticipating an October, 2006 opening of the grocery element of the Project; and

WHEREAS, Developer received a cost estimate for construction of the Plaza, not to exceed \$195,000, thereby increasing the estimated Project cost from \$22,922,000 to \$23,117,000 and the gap, requiring \$195,000 of additional TIF assistance; and

WHEREAS, in conformance to City of Madison TIF Policy, said TIF assistance bridges a funding gap caused by the cost of constructing a Plaza adjacent to the Project. and

WHEREAS, City staff has amended its March 22, 2005 analysis (See Attached Report) of the Project to include the additional \$195,000 expenditure and has determined that, but for TIF assistance, the construction of the Plaza could not occur; and

WHEREAS, in conformance to TIF Policy, \$195,000 of additional TIF assistance represents approximately 4% of the present value of the estimated tax incremental revenues generated by the Project, thus increasing the total TIF assistance from 50% to 54%; and

WHEREAS, an exception to the TIF Policy is required wherein no more than 50% of the present value of tax increments generated by a project may be provided to that project as assistance; 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 has provided sufficient authorization within the 2006 Capital Budget; and

NOW, THEREFORE, BE IT RESOLVED that the City hereby finds and determines that construction of the Plaza is consistent with the public purposes, plans and objectives set forth in the TID #33 Project Plan and the City's funding of the Project costs would enhance the Project, thereby making more likely an accomplishment of the public purpose objectives set forth in the TIF Project Plan, the TIF Law and City TIF Policy.

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

1. The Plaza. Developer agrees to develop or cause to develop:
  - a. A Plaza adjacent to the Project.
2. Form of Assistance. TIF assistance shall be provided in the form of a zero interest (0%) end loan ("TIF Loan") from the City to Developer, upon completion of the construction of the Plaza, in the amount of One Hundred Ninety Five Thousand Dollars (\$195,000) to finance construction of the Plaza.
3. Method of Payment. The City's expenditure in providing the TIF Loan shall be repaid by tax increments generated by the Project and guaranteed by the Developer and secured by a subordinated mortgage on the Property from Developer and MC Commercial, LLC in a form acceptable to the City.
4. End Loan - Distribution of Proceeds. The proceeds of the TIF Loan shall be distributed to the Developer as an end loan upon completion of construction of the Plaza. The TIF Loan shall be evidenced by a Note to the City of Madison bearing 0% interest. Developer shall execute a mortgage in favor of the City of Madison.
5. Satisfaction. The Mortgage shall be satisfied and the Note cancelled upon full payment of the Loan.
6. Affirmative Action (MGO 3.58 (9)). Developer and its contractors/subcontractors must 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 Department to assure that the 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.
7. 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.
8. Accessibility (MGO 3.72). Developer agrees to meet applicable accessibility accommodations for the Plaza as required by Madison General Ordinance 3.72.

9. Plaza Completion. Developer must guarantee that the construction of the Plaza will be completed by December 31, 2006. Developer shall guaranty the City's receipt of increment revenue to repay the Loan.
10. 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.
11. 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.

BE IT STILL FURTHER RESOLVED that the City of Madison finds it necessary and appropriate to make exception to TIF Policy requiring that no more than 50% of the present value of tax increments generated by a project be provided to the project as assistance.

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.