



## Legislation Text

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### Fiscal Note

The Capital Revolving Fund (SR59) has a current balance of \$836,000. Current Fund commitments in the form of Facade Improvement Grants total \$104,000, leaving an available Revolving Fund balance of \$732,000. Thus, there are sufficient funds available to support this loan. (It should be noted that the 2006 Planning and Development Adopted Capital Budget includes two projects supported by Capital Revolving Fund loans that may be affected by the approval of this loan: Project #7, "Capital Revolving Fund," provides budget authority for \$600,000 in Capital Revolving Fund loans; project #39, "Facade Improvement Grants," provides budget authority of \$125,000 to be paid from the Capital Revolving Fund. If the Tomotherapy loan is approved, the estimated available CRF proceeds in 2006 will total an estimated \$182,000, which includes \$150,000 in anticipated loan repayments plus an opening 2006 balance of \$32,000. Therefore, approval of the Tomotherapy loan will result in the inability to complete projects as budgeted in the 2006 Adopted Capital budget.)

### Title

Authorizing 1) an amendment to the 2005 Capital Budget to appropriate an additional \$700,000 from the Madison Capital Revolving Fund (MCRF) and 2) the Mayor and City Clerk to execute an agreement to fund a \$700,000 Madison Capital Revolving Fund loan to TomoTherapy, Inc.

### Body

#### PREAMBLE

### ***Madison Capital Revolving Fund***

On May 19, 1987, the Common Council accepted a report by the Madison Capital Revolving Fund Task Force recommending the creation of a Madison Capital Revolving Fund (MCRF). On April 16, 1996, the Common Council designated the Community Development Authority (CDA) as agent of the City of Madison for the operation and administration of the program and accepted the MCRF objectives and criteria as proposed by the CDA. The program was established to make modest sized (\$50,000 to \$250,000) short-term end loans within a specific geographic boundary for the purpose of eliminating blight and creating jobs.

### ***TomoTherapy, Inc.***

TomoTherapy [[www.tomotherapy.com](http://www.tomotherapy.com) <<http://www.tomotherapy.com>>] is a manufacturer of a fully integrated radiotherapy system for the treatment of cancer and is located at 1240 Deming Way in the Old Sauk Trails Business Park. The company is an excellent example of a University research "spin-off" business that Madison wants to encourage and nurture. It began 10 years ago with the work of researchers at the University of Wisconsin-Madison and was established as a company in 1997 by its founders, Professor Thomas Rockwell Mackie, a leading medical physicist, and Paul Weckwerdt, an accomplished mathematician and software engineer. Its investors have included several area venture capital companies.

TomoTherapy's primary product, the Hi-Art system, combines imagery from MRIs with radiation into one state-of-the-art machine that is able to treat most types of cancer. Most oncology facilities throughout the world have a TomoTherapy machine. Company revenue has gone from zero in the first half of 2003 to \$45 million in 2004, and is expected to approach \$90 million by the end of 2005.

Between May of 2002 and early 2005, TomoTherapy's employee base grew from about 50 employees to 171. The company expects that this number will almost double by the end of 2005 reaching 300 employees. Annual payroll is expected to increase from \$11 million at the end of 2004 to \$23 million by the end of 2005. The average salary of the 130 new jobs added in 2005 is approximately \$65,000 per year.

TomoTherapy is part of the region's medical device research and manufacture industry cluster, a segment of the local and

state economy that has been identified as significant opportunity for future growth. This industry sector has a solid base of companies and competitive advantage for development. Within this cluster, TomoTherapy is a customer of more traditional businesses, such as a high-end machine shop that works on components of its machine, and important supplier of products to the growing health care segment of the Madison economy. TomoTherapy offers a range of jobs - clinical physicists, mechanical and electrical engineers, manufacturing technicians and assemblers, customer service personnel and support staff - with good wages and benefits. Hourly wage for many of the new jobs projected to be created ranges from \$17 to \$40.

The continued growth of TomoTherapy, however, is dependent on a major facility expansion, which will enable a doubling of production to meet market demand. The new facility must also meet the special needs of their product's manufacture and testing, e.g., four-foot thick concrete wall bunkers. As a result, the company plans to lease a 60,000 square foot manufacturing facility that will be constructed at 1209-1225 Deming Way, directly across the street from their world headquarters. It will house the manufacturing group and be used primarily for the assembly and testing of the Hi-Art radiotherapy system. This new facility will have open manufacturing space, secure inventory control space, four loading docks for shipping and receiving activities, eight concrete bunkers for the testing of systems, and office space.

The total cost of this expansion project is estimated at \$13 million. Because of the need to locate the new facility adjacent to the company's existing building and because of the additional costs associated with the special manufacturing needs of their product, the company does not have the financial resources to undertake this expansion on its own. They have requested City loan assistance for a portion of the cost and are also seeking State assistance and a loan from Madison Development Corporation (MDC).

Support for TomoTherapy's facility expansion meets many of Madison's goals for economic development:

1. Retention of a major employer in a growing segment of the economy.
2. Support for jobs that offer a good wage and benefits.
3. Leveraging significant private sector investment with a modest investment of public dollars.
4. Strengthening the technology business environment to encourage additional technology business development.

In light of these factors, the City of Madison and CDA propose MCRF financial assistance to facilitate this project:

WHEREAS, TomoTherapy, Inc. ("Borrower"), has proposed to lease 80,000 square feet of space located at 1209-25 and 1240 Deming Way at an estimated total development cost of approximately \$13,000,000 ("Project"); and

WHEREAS, Borrower has requested that the City of Madison provide \$700,000 of MCRF assistance to construct two (2) Hi-Art demonstration radiation therapy units valued at approximately \$5,000,000; and

WHEREAS, M & I Bank has agreed to release two (2) Hi-Art units from its first lien security position for the purposes of securing the MCRF loan; and

WHEREAS, staff has completed its review of the MCRF loan request for financial assistance for the Project and finds that it meets the objectives of the MCRF loan program; and

WHEREAS, the \$700,000 MCRF loan exceeds the \$250,000 maximum loan established in MCRF criteria; and

WHEREAS, the Project is located outside of the geographic boundary established for the MCRF program, and

WHEREAS, the CDA found it necessary and appropriate to make exceptions to the MCRF criteria noted herein to fund this Project toward the objective of creating and retaining jobs and recognizing that without such MCRF assistance, the project could not be built; and

WHEREAS, on October 20, 2005, the CDA approved a MCRF loan to Borrower of \$700,000 at the terms and conditions described herein.

NOW THEREFORE BE IT RESOLVED that a loan in the amount of \$700,000 at 4.0% interest be made to TomoTherapy, Inc., evidenced by a note made to the City of Madison. Terms of the loan would be a maximum of five (5) years and amortized at ten (10) years. Principal and interest shall be paid monthly on the first day of each month. The MCRF will be

secured by a first lien on machinery and equipment to be located at 1209-29 and 1240 Deming Way and a General Business Security Agreement (GBSA), subordinated to M&I Bank, on receivables and inventory.

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

1. The Project. Borrower agrees to lease at least 65,000 square foot new office and manufacturing facility from Gialamas Company at the property located at 1209-29 and 1240 Deming Way. Any material changes to the size or use other than that which is proposed, will subject this loan commitment to reconsideration by the City.
2. Distribution of Proceeds. Proceeds shall be distributed in the form of an end loan, upon the Borrower providing certification that two Hi-Art demonstration radiation therapy units have been constructed and provide the City with the serial numbers of such units upon their completion and evidence of a lease of not less than ten (10) years at the Deming Way property. The Loan shall be evidenced by a Note to the City of Madison.
3. Satisfaction. The Note shall be cancelled upon full payment of the MCRF Loan.
4. Affirmative Action (MGO 3.58 (9)). Borrower 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, Borrower shall contact the City's Affirmative Action Office to assure that the developer is in compliance with the aforementioned requirements. Borrower shall assist and actively cooperate with the Affirmative Action Office in obtaining the compliance of contractors and subcontractors with such applicable provisions of the Madison General Ordinance. Borrower shall allow maximum feasible opportunity to minority / disadvantaged women business enterprises to compete for any contracts entered into pursuant to the contract.
5. Prevailing and Living Wage (MGO 4.20 & 4.23). Borrower agrees to comply with Madison General Ordinances 4.20 and 4.23 that require Borrower to provide a living wage and a prevailing wage.
6. Accessibility (MGO 3.72). Borrower agrees to meet applicable accessibility accommodations for the project as required by Madison General Ordinance 3.72.
7. Equal Opportunity. Borrower shall comply with all applicable local, state and federal provisions concerning Equal Opportunity.
8. Project Completion. Borrower must guarantee that the construction of the units will be completed by December 31, 2006 and provide evidence that financing for such construction has been obtained by the Borrower. The Borrower understands and agrees that the City of Madison, at its option, may cancel this loan commitment if the units are not completed by December 31, 2006.
9. 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 and paid for one full year following commencement of construction. The policy shall name the City of Madison as an additional insured.

BE IT STILL FURTHER RESOLVED that the Common Council finds it necessary and appropriate to approve two exceptions to MCRF criteria concerning 1) exceeding the \$250,000 loan maximum and 2) providing MCRF funds to a project located outside the established MCRF program boundary.

BE IT STILL FURTHER RESOLVED that the MCRF assistance to the Borrower 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 FINALLY RESOLVED that the 2005 Planning and Development Adopted Capital Budget, project #7, "Capital Revolving Fund," (Acc't #SR59) be amended to allow for an additional expenditure of \$700,000 in loan repayment proceeds.