



## Legislation Text

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**File #:** 63111, **Version:** 1

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### **Fiscal Note**

The proposed resolution authorizes an agreement for Payment in Lieu of Taxes (PILOT) for the Royster Corners development. This resolution is an amendment to Council Adopted RES-17-00540 (File ID 47525), which authorized an \$820,000 Tax Incremental Finance Loan to Royster Corners, LLC. No additional City appropriation is required for this amendment.

### **Title**

Amending Resolution 17-00540 Authorizing the Execution of a TIF Loan between the City and Royster Corners, LLC to Permit the Sale of a Condominium Unit to Options in Community Living, Inc., a non-profit, and Enter into a PILOT Agreement.

### **Body**

WHEREAS, Royster Corners, LLC (the "Developer") and the City entered into the Tax Increment Financing Loan Agreement dated April 6, 2018, and recorded with the Office of the Register of Deeds of Dane County, Wisconsin on April 6, 2018, as Document No. 5400365 (the "TIF Agreement"); and

WHEREAS, the TIF Agreement pertains to Unit 102 and Unit 201 in Royster Crossings, a Condominium (collectively, the "Property"); and

WHEREAS, the Developer's obligations under the TIF Agreement are secured by a Mortgage encumbering the Property and granted by the Developer to the City, dated April 6, 2018, and recorded with the Office of the Register of Deeds of Dane County, Wisconsin on April 6, 2018, as Document No. 5400366 (the "TIF Mortgage"), and further supported by a Note given by Developer and a Personal Guaranty (collectively with the TIF Mortgage and the TIF Agreement, the "TIF Documents") given by Developer's principal, Carl Ruedebusch ("Guarantor"); and

WHEREAS, Section 6 of the TIF Agreement requires the Developer to obtain the prior written approval of the City (the "City's Approval") prior to transferring, selling, or conveying all or part of the Property to any entity that is exempt from the general property tax (a "Tax Exempt Entity"); and

WHEREAS, Options in Community Living, Inc. is a not-for-profit Wisconsin corporation ("Options") providing supported living and is anticipated to be exempt from the payment of general property tax pursuant to Section 70.11, Wis. Stats.; and

WHEREAS, Options has entered into a purchase agreement with Developer by which Options will purchase Unit 102 of the Condominium ("Unit 102") in early 2021, and is required to enter into an agreement for the Payment in Lieu of Taxes; and

WHEREAS, Section 6 of the TIF Loan Agreement requires that the PILOT be set at the amount of property tax last levied on the property to be conveyed as of the date of conveyance.

NOW THEREFORE BE IT RESOLVED, that the Common Council authorizes the Mayor and Clerk to execute an agreement for a Payment in Lieu of Taxes (PILOT), and an amendment to the TIF Documents materially, but not exclusively, on the following terms and conditions:

1. Section 6 of the TIF Agreement is hereby amended to provide that a PILOT Agreement shall provide for payments in lieu of taxes to the City through the date on which Developer has repaid

the Loan in full rather than through 2040.

2. Payments received by the City from Options under the Options PILOT Agreement shall constitute and be applied to the Guaranteed Tax Increment under the TIF Agreement (credited as both actual tax increment and as excess tax increment, as applicable, and credited to repayment of the Loan), including for the purpose of satisfying Developer's obligations under Section 5 of the TIF Agreement.
3. The City agrees that upon conveyance of Unit 102 to Options, the City shall execute and deliver to Options (a) a partial release of the TIF Mortgage that releases Unit 102 from the obligations and security interest provided under the TIF Mortgage (the "Mortgage Release") and (b) a release of Unit 102 from any obligations or restrictions provided in the TIF Agreement (the "Agreement Release").
4. Options agrees to pay to the City, on or before January 31, 2022, and on or before January 31 of each year thereafter, the amount of \$29,785.00 and the City accepts this amount as Options' annual PILOT.
5. In the event Options further subdivides Unit 102, any taxable portion of Unit 102 shall proportionately reduce the PILOT, with the taxable portion paying general property taxes.
6. Termination:
  - a. If the use, occupancy, or ownership of Unit 102 no longer qualifies as exempt from general property tax under Section 70.11, Wis. Stats., in which case the obligation under this Agreement shall terminate and Unit shall be subject to general property tax.
  - b. Upon payment in full by the Developer of the Loan (as that term is defined by Section 1 of the TIF Agreement), in which case Options' obligations under this Agreement to pay the PILOT shall immediately be satisfied in full such that no further payments under this Agreement shall be due.
  - c. Upon the earlier of 2040 and the termination of the District.

BE IT FURTHER RESOLVED, that the documents will only become effective if Options closes on its purchase of Unit 102 and the City Assessor finds that Unit 102 is tax exempt.

BE IT FINALLY RESOLVED, the Mayor and Clerk are authorized to execute and record documents, and take further actions necessary to carry out the purpose of this resolution in a form to be approved by the City Attorney.