



## Legislation Text

---

**File #: 01552, Version: 3**

---

### Fiscal Note

This resolution would authorize a \$4,274,000 loan to The Alexander Company and its assigns ("Developer") for the construction of Phase I of a project to be located in the 300 block of (Block 51) of West Washington Avenue, namely a 159-unit condominium project, 10,000 square foot commercial space and 258 parking stalls ("Project"). This loan would be repaid through incremental taxes generated by the Project and represents approximately 51% of the present value of all incremental taxes anticipated from the Project throughout the maximum 27-year life of the TID. This funding level is slightly above the 50% policy established by Common Council and would require a Council exception to TIF Policy.

Sufficient funding for this loan was authorized in the 2005 Capital Budget to provide the initial capitalization for this loan. However, due to the timing of the certification of an amended boundary and project plan for TID #28 by the State of Wisconsin Department of Revenue, it is anticipated that funding for this loan would actually occur no earlier than the first quarter of 2006. Therefore, borrowing authority for this project will need to be reauthorized in the 2006 Capital Budget. Actual distribution of funds by the City of Madison is contingent upon State of Wisconsin certification of the amended TID boundary and project plan and Plan Commission approval of no fewer than 22 residential condominium units in the Broom Street element of the Project.

While it is anticipated that the incremental taxes generated by the Project will be sufficient to repay the loan, within approximately 7 years, 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

AMENDED SUBSTITUTE - Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$4,274,000 Tax Incremental Finance Loan to the Alexander Co., Inc. and its assigns to assist in the development of the first phase of a mixed-use redevelopment project (Capitol West) located in Block 51 of the West Washington Avenue corridor in the amended TID #28 (Bassett).

### Body

WHEREAS, the City of Madison has, by adoption on December 14, 2004 of Resolution Number 62,098, ID Number 36,928, amended the boundary and project plan for Tax Incremental District (TID) #28; and

WHEREAS said Project Plan, among other things, provides for planned economic, commercial, housing and mixed-use development in order to maintain the Block 51 area healthy, vibrant element of the West Washington Avenue corridor; and

WHEREAS, The Alexander Co. and its assigns ("Developer") has proposed to construct 159 condominium units in the first phase including 47 18 units that shall be made affordable, 10,000 square feet of commercial and 258 parking stalls, at an estimated total development cost of approximately \$47,170,000 in Block 51 of West 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"), namely the 309 West Washington element, Broom Street town homes element, and Main Street town homes element; and

WHEREAS \$4,274,000 of TIF assistance would be provided toward constructing the first phase of the Project, currently occupied by the Meriter Hospital property (the "Property"); and

WHEREAS, in conformance to City of Madison TIF Policy, \$3,078,000 of the \$4,274,000 gap is attributable to demolition and remediation, underground parking construction, purchase of existing structured parking and commercial construction in the 309 West Washington project element and \$1,166,000 of gap attributable to construction and sale of 47 18

Inclusionary Zoning Units in the Project; and

WHEREAS, City staff has conducted an analysis (See Attached Report) of the Project and has determined the gap to be \$4,274,000 and that, but for TIF assistance, the Project could not occur; and

WHEREAS, in conformance to TIF Policy, \$4,274,000 of said TIF assistance represents approximately 51% of the present value of the estimated tax incremental revenues generated by the Project; and

WHEREAS, for the purpose of promoting market and affordable owner-occupied housing, the City finds it necessary and appropriate to make an exception to TIF Policy 4(e) that no more than 50% of the net present value of the tax increment generated by a private development project shall be made available to that project as gap financing; and

WHEREAS, \$3,274,000 of the loan becomes a grant if the Developer sells 80 residential condominium units to owner-occupants by June 30, 2007 and the remaining \$1,000,000 of the loan becomes a grant if the Developer sells an additional 60 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) #28 was submitted to the State of Wisconsin Department of Revenue for certification of base value and increment on December 20, 2004; and

WHEREAS, the City of Madison estimates that state certification of TID #28 amendment will occur no later than May 30, 2006 and TIF funds may be released only upon the City's receipt of state certification of TID #28; and

WHEREAS, funding of the loan proceeds to this project is anticipated in 2006 and thereby would require authorization in the City of Madison 2006 Capital Budget; 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 #28 Project Plan and the subsequent amendment to the Project Plan and boundary adopted on December 14, 2004 and that the City's loan to Developer will stimulate redevelopment in TID #28, 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. 159 residential condominium units
  - b. No less than 47 ~~18~~ 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.
  - c. Approximately 10,000 gross square feet of ground-level commercial space.
  - d. 18,000 square feet of residential storage space.
  - e. No fewer than 258 parking stalls at an estimated cost of \$4,698,000-including an estimated 136 to 147 underground stalls, 20 surface stalls and 89 to 100 stalls to be purchased in the Main Street Ramp owned by Meriter.
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 Four Million Two Hundred Seventy Four Thousand Dollars (\$4,274,000) to partially finance Developer's development of the Property. Three Million Two Hundred Seventy Four Thousand Dollars (\$3,274,000) of said TIF Loan becomes a grant if Developer sells 80 residential condominium units to owner-occupants by October 30, 2007 and the remaining One Million Dollars (\$1,000,000) of said TIF Loan becomes a grant if an additional 60 residential condominium units are sold by October 30, 2008. **The TIF loan is contingent upon authorization for its funding being included in the 2006 adopted Capital Budget.**

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 the City's receipt of increment revenue.
4. Subordinated Developer Loan Developer has loaned the Project approximately \$1,804,000 ("Developer Loan"). Developer shall not repay itself this Developer Loan prior to selling 80 residential condominium units to owner-occupants.
5. Evidence of TID #28 Amendment Certification. The City shall make TIF funds available no sooner than the date the City receives evidence of the base value certification of the amended boundary and project plan for TID #28 from the State of Wisconsin Department of Revenue. The City will use its best efforts to obtain certification of the amended boundary and project plan for TID #28 from the State of Wisconsin Department of Revenue.
6. 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.
7. 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.

8. 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.
9. 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.
10. 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.
11. Accessibility (MGO 3.72). Developer agrees to meet applicable accessibility accommodations for the Project as required by Madison General Ordinance 3.72.

12. Equal Opportunity and Fair Housing. Developer shall comply with all applicable local, state and federal provisions concerning Equal Opportunity and Fair Housing.
13. 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.
14. Project Completion. Developer must guarantee that the construction of the Project will be completed by December 31, 2007.
15. 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.
16. 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.
17. Environmental Assessment. Developer shall provide the City an environmental assessment of the site which is acceptable to staff.
18. Land Use Approval Contingency. The terms and conditions of this TIF assistance are contingent upon approval and recording of the GDP/SIP for Phase I of the Project as described in the May 3, 2005 amendment to Developer's TIF Application of July 12, 2004, including no less than 22 condominiums on Broom Street.

BE IT STILL FURTHER RESOLVED that the City, at its sole discretion, finds it necessary and appropriate to make exception to City of Madison TIF Policy 4(e) that no more than 50% of the net present value of the tax increment generated by a private development project shall be made available to that project as gap financing; and

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.