



## Legislation Text

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**File #:** 66789, **Version:** 1

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### **Fiscal Note**

The proposed resolution authorizes amending the Economic Development Division's 2021 adopted capital budget by \$4,700,000 in order to purchase Unit 2 of a Condominium Plat, which is part of an affordable housing and grocery store development, pursuant to a development agreement with Rule Enterprises, LLC and Movin' Out, Inc (Legistar File ID #58251). The \$4.7 million for the newly created capital project will be funded by General Fund GO Borrowing. The proposed resolution also rescinds the \$780,000 grant, authorized by RES-21-00485 (Legistar File ID #66044), originally awarded to the "owner" of the grocery store.

### **Title**

Amending RES-21-00148 Approving a Development Agreement for the sale and redevelopment of 1402 South Park Street, commonly known as Truman Olson, Rescinding RES-2100485 Authorizing a Grant to Luna's Grocery, and Amending the 2021 Adopted Capital Budget to Provide a Four Million Seven Hundred Thousand (\$4,700,000) Commitment to Purchase the Grocery Condominium Unit. (13th A.D.)

### **Body**

WHEREAS on December 3, 2019, the City of Madison as authorized by Legistar File ID No. #58251 selected Rule Enterprises, LLC and Movin' Out, Inc (collectively, the "Developer") to undertake the redevelopment of property located at 1402 S. Park Street (the "Property"); and

WHEREAS as directed by Legistar File ID No. #58251 City Staff negotiated a Development Agreement (the "Development Agreement") with the Developer to undertake said redevelopment of the Property which was subsequently executed on May 12, 2021; and

WHEREAS, the Development Agreement authorizes the sale of the Property by the City to the Developer, provided (i) that the Developer has secured all Municipal development and zoning approvals and secured all necessary financing to construct a private development (the "Development"), and (ii) that the Development shall consists of one hundred and fifty (150) units of affordable housing and a grocery store ("Grocery") of no less than twenty-four thousand (24,000) square feet (the "Grocery Restriction"); and

WHEREAS, the Grocery shall occupy Unit 2 of a Condominium plat ("Unit 2"), which shall be recorded in the Office of the Dane County Register of Deeds, or any other legally created space for the purposes of the Grocery; and

WHEREAS, the owner and operator of the Grocery is Mariam Maldonado (the "Owner"); and

WHEREAS, the Common Council approved a grant to the Grocery in the amount of \$780,000 pursuant to Legistar File ID #66044 on July 6, 2021 (the "Grant"); and

WHEREAS, the Grant was intended to assist Owner in meeting lender equity requirements of 10% for a total loan amount anticipated to be Eight Million Nine Hundred Thousand Dollars (\$8,900,000) (the "Loan"); and

WHEREAS, following authorization of the Grant, the Owner and Owner's lender have determined that the Loan is unsupported by the Grocery's anticipated operational income, which would create an untenable risk for the Owner and Owner's lender; and

WHEREAS, the Wisconsin Housing and Economic Development Authority (WHEDA) is committed to financing the Development's construction, and has extended its closing deadline in order to accommodate options for the Grocery project to move forward; and

WHEREAS, the Developer risks losing financing necessary to fund the construction of the Development if the Owner cannot provide a commitment to purchase the Grocery; and

WHEREAS, the Owner will not be able to provide a commitment to purchase without restructuring the Grocery financing; and

WHEREAS, in order for the Development to close on financing and begin construction, the City desires to make the unconditional financial commitment to purchase Unit 2 upon substantial completion of the white box in 2022 in the event the Owner or another grocer cannot purchase Unit 2 at such time for the operation of a grocery.

WHEREAS, purchasing this condominium unit provides a path forward toward securing a long-term grocery solution for the neighborhood;

WHEREAS, The City is committed to ensuring food access for the residents of South Madison, as it has done in other cases throughout the City, there exists the possibility that additional financial resources in excess of \$4,600,000 will be needed from the City of Madison for a grocery store to succeed in this space.

WHEREAS, City staff can work to find ways to reduce the net City contribution to this project to a value below \$4,600,000.

NOW THEREFORE BE IT RESOLVED, that in consideration of the recitals stated above, the Common Council hereby amends the 2021 Economic Development Division Capital Budget by \$4,600,000 funded from General Fund supported General Obligation borrowing to purchase Unit 2 from the Developer, its affiliates or assigns, upon substantial completion of Unit 2 as determined by an architect on an AIA approved form ("Substantial Completion").

BE IT FURTHER RESOLVED, that the Economic Development Division Capital Budget is further amended by \$100,000 funded from General Fund supported General Obligation borrowing (for a total of \$4,700,000) to cover miscellaneous costs associated with preparing for the closing on the purchase of the condominium unit and holding costs (including condominium association fees) upon closing.

BE IT FURTHER RESOLVED, that RES-21-00148 (Legistar File ID No. #63900), and the associated Development Agreement, is hereby amended to create an effective date for the Grocery Restriction as of Substantial Completion and sale of Unit 2 to the City or its designee, and to amend the termination date and the definition of Closing Date to mean September 30, 2021.

BE IT FURTHER RESOLVED, that City staff are directed to continue working toward finding a viable solution for the Grocery with the goal of limiting or removing the City's financial commitment under this resolution, and present options therefore to the Common Council for approval.

BE IT STILL FURTHER RESOLVED, that the Grant to the Owner authorized by RES-21-00485 (Legistar File ID No. #66044) is hereby rescinded.

BE IT FINALLY RESOLVED, that the Mayor and City Clerk are hereby authorized to execute, deliver and record any documents necessary to carry out the intentions of this resolution, including, but not limited to, an amendment to the Development Agreement, Purchase and Sale Agreement for the Property, and Grocery Restriction, in a form approved by the City Attorney.