Legislation Details (With Text)

File #:	27556	**Version:**	1	**Name:**	Lenhart - University Crossing Lot 1
Type:	Resolution			**Status:**	Passed
File created:	8/29/2012			**In control:**	Economic Development Division
On agenda:	9/4/2012			**Final action:**	10/2/2012
Enactment date:	10/5/2012			**Enactment #:**	RES-12-00752
Title:	AMENDMENT Amending Enactment No. RES-11-00919 regarding the Tax Incremental Finance loan to GI Clinic, LLC				
Sponsors:	Mark Clear				
Indexes:					
Code sections:					
Attachments:	1. Property Subdivision Plan.pdf				

Date	Ver.	Action By	Action	Result
10/2/2012	1	COMMON COUNCIL	Refer	Fail
10/2/2012	1	COMMON COUNCIL	Adopt With Amendment(s)	Pass
9/24/2012	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
9/4/2012	1	COMMON COUNCIL	Referred	
8/29/2012	1	BOARD OF ESTIMATES (ended 4/2017)	Referred for Introduction	

Fiscal Note

This resolution amends a 2011 resolution (#24230) related to a TIF loan of $1,372,000, to GI Clinic, LLC, for a University of Wisconsin Digestive Health Clinic Project. The amendment would do the following:

- Delete a reference to 265 parking stalls from the project.
- Amend the prohibition on sale or transfer of the property prior to repayment of the TIF loan to allow the original property to be subdivided.
- Allow the sale or transfer of the subdivided portion of the property without requiring payment of either a release price or an equity participation payment.
- Release the subdivided parcel from the TIF mortgage and development agreement and remove the tax increment on the subdivided parcel as a credit toward the developer's increment tax guaranty.
- Consistent with the 2011 resolution, require the owners of both the original property and the subdivided portion to continue to make a payment in lieu of taxes (PILOT) in the event that the either or both properties become tax-exempt.

The proposed resolution makes no change to an appropriation. Estimated revenues to the city are unchanged since the original PILOT requirement and the equity participation payment up to the amount of the TIF loan are retained.

Subdivision of the property does change the assumptions used in calculating the TIF loan. The entire project

was assumed to generate $24.5 million in value. The TIF loan of $1.372 million was estimated to use approximately 29% of the net present value of the incremental taxes generated by the project value over the life of the tax increment district (see TIF report attached to resolution #24230).

According to the City Assessor, the estimated value of the property without the subdivided parcel ranges from $18 million to $22.4 million, depending on the amount assumed for net operating income. Based on this range of added property value from the project, the TIF loan of $1.372 million would represent between 32% and 39% of the net present value of the incremental taxes generated by the project value over the life of the tax increment district.

In order to establish the amount of the TIF loan, a comparison is made between the cost of the project and the developer's equity contribution and loan proceeds. This "gap analysis" reviews the cost of land acquisition, demolition of existing structures, infrastructure and construction, as well as various soft costs related to the project, such as for engineering and design, developer fees and legal costs. The goal of the analysis is to ensure that the costs and sources of financing related to the development are reasonable and the amount of the TIF loan is based on a clear understanding of the funding shortfall for the project.

The gap analysis prepared for this project and included in the October 2011 TIF report identified total costs of $21.9 million and developer financing and equity contributions of $20.5 million. The difference, $1.372 million, was the amount of the TIF loan to be awarded.

A possible subdivision of the property to which this resolution is responding may affect the gap analysis for the project, depending on the number of cost and financing factors that are altered due to the change in size of the parcel. If costs (such as for land acquisition and demolition) are reduced by subdividing the parcel, and source of funds (i.e., loans and equity) are reduced commensurately, then the gap analysis might remain the same. On the other hand, those or other elements of the cost analysis, such as developer fees, engineering costs and legal fees, may not change in proportion to the size of the land subdivision. As such, the gap could be smaller or larger than originally estimated. In any event, the proposed resolution does change some of the underlying assumptions used in the TIF report prepared for this project and upon which the $1.372 million TIF loan amount was calculated.

Title

AMENDMENT Amending Enactment No. RES-11-00919 regarding the Tax Incremental Finance loan to GI Clinic, LLC

Body

On November 1, 2011, the Common Council adopted Enactment No. RES-11-00919, File No. 24230 (the "2011 Resolution") that authorized the execution of a development agreement to fund a tax incremental finance loan in the principal amount of $1,372,000 to GI Clinic, LLC ("Developer"). Developer's property is located on University Avenue in Tax Incremental Finance District Number 41. Under the terms of the 2011 Resolution, Developer is prohibited from selling or transferring the property prior to repayment of the TIF loan. In addition, the 2011 Resolution requires that Developer pay the City an equity participation payment upon the sale or transfer of any portion of the property. The City has not closed on the TIF loan, and a development agreement between the City and Developer has not been executed.

After the adoption of the 2011 Resolution, Developer met with City staff regarding its desire to subdivide the property into two lots (Parcels A and B on the attached draft plan) and to sell or transfer Parcel B. The clinic project to be funded with TIF is located on Parcel A. The sale of Parcel B would be contrary to the "no sale" provision of the 2011 Resolution and would trigger the payment of the equity participation payment to the City. Developer has requested that the City amend the 2011 Resolution to allow the sale of Parcel B prior to repayment of the TIF Loan and without triggering the equity participation payment.

NOW, THEREFORE, BE IT RESOLVED that:

1. Enactment No. RES-11-00919 is amended to:
   (a) delete from the definition of "Project" in Section 1 the 265 parking stalls;

powered by Legistar™

(b) amend the provision in Section 9 prohibiting the sale or transfer of the property prior to repayment of the TIF loan to allow the sale or transfer of Parcel B prior to repayment of the TIF Loan;
(c) allow the sale or transfer of Parcel B without requiring payment of either a release price or the equity participation payment;
(d) require Developer to subject both Parcels A and B to the terms of a PILOT agreement and/or land use restriction agreement under which the Parcel owners would be required to pay PILOT payments to the City through 2038 if their Parcel is no longer subject to the property tax, for any reason; and
(e) specify that if Parcel B is sold or transferred, the City shall release Parcel B from the terms of the TIF mortgage and development agreement, and that the tax increment from Parcel B shall not be used as a credit towards Developer's tax increment guaranty.
(f) specify that if any developer should apply for TIF assistance for a project to be constructed on Parcel

2. All other terms and conditions of Enactment No. RES-11-00919 shall remain the same.
3. The Mayor and City Clerk are authorized to execute a development agreement with Developer consistent with the terms of the 2011 Resolution, as amended by this Resolution, and to execute a PILOT Agreement or other document with the owner or Parcel B, all in a form to be approved by the City Attorney.