



## Legislation Details (With Text)

<b>File #:</b>	43448	<b>Version:</b>	2	<b>Name:</b>	Agreement to fund an \$80,000 Madison Capital Revolving Fund Loan to Sherman Plaza, Inc. - Leasehold Improvements to former Kohl's grocery store at 2901 North Sherman Avenue
<b>Type:</b>	Resolution	<b>Status:</b>			Filed
<b>File created:</b>	6/20/2016	<b>In control:</b>			COMMON COUNCIL
<b>On agenda:</b>	8/2/2016	<b>Final action:</b>			9/6/2016
<b>Enactment date:</b>	7/6/2016	<b>Enactment #:</b>			RES-16-00509
<b>Title:</b>	SUBSTITUTE - Authorizing the Mayor and City Clerk to execute an agreement to fund an \$80,000 Madison Capital Revolving Fund loan to Sherman Plaza, Inc. to partially fund leasehold improvements to the former Kohl's grocery store located at 2901 North Sherman Avenue and amend the 2016 Adopted Capital Budget to appropriate \$80,000 from the Capital Revolving Loan Fund.				
<b>Sponsors:</b>	Larry Palm				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. MCRF Loan Report - Sherman Plaza Inc and RP's Pasta 6-21-16.pdf, 2. RPs Pasta Memo - Legistar 43446 and 43448 6-27-16.pdf				

Date	Ver.	Action By	Action	Result
9/6/2016	2	COMMON COUNCIL	Place On File Without Prejudice	Pass
8/2/2016	2	COMMON COUNCIL	Re-refer	Pass
7/19/2016	2	COMMON COUNCIL	Reconsider	Pass
7/19/2016	2	COMMON COUNCIL	Refer	Pass
7/5/2016	2	COMMON COUNCIL	Adopt Substitute	Pass
6/27/2016	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
6/21/2016	1	COMMON COUNCIL	Referred	
6/20/2016	1	Attorney's Office	Referred for Introduction	

### Fiscal Note

#### MCRF Loan #2

This resolution would authorize an \$80,000 end loan from the Madison Capital Revolving Fund to Sherman Plaza, Inc. to partially fund capital leasehold improvements to the building located at 2901 North Sherman Avenue that would facilitate a commercial food production use for its proposed tenant, RP's Pasta Company. End loan proceeds shall be provided upon satisfactory completion of the project in conformance to the terms and conditions of the MCRF Loan, as stated herein. Terms of the MCRF Loan would be a maximum of five (5) years, amortized over ten (10) years at an interest rate of 3% fixed, with a balloon payment of principal and interest payable at maturity.

Borrower shall make quarterly principal and interest payments. Borrower shall execute a mortgage in favor of the City on the Mortgaged Property, as indicated by the PINs below.

PINs:

081030302161  
081030302202  
081030302210  
081030302228  
081030302236

Borrower shall execute a mortgage in favor of the City. Principals of Borrower, David W. Bruns and Donald B. Bruns shall each execute a personal guaranty.

#### MCRF Loan #1

In addition, a separate authorizing resolution authorizes \$800,000 of MCRF loan funds (MCRF Loan #1) to partially fund tenant improvements paid by Tenant. Terms of MCRF Loan #1 would be a maximum of five (5) years, amortized over ten (10) years at an interest rate of 3% fixed. At maturity, the City shall extend said Note at Tenant's request by a period not to exceed five years, contingent upon Tenant demonstrating that the MCRF Loan is not in default and that the job creation and retention goals are met.

Borrower shall make quarterly principal and interest payments. Borrower shall execute a mortgage in favor of the City on the Mortgaged Property, as indicated by the PINs below.

PINs:

081030302161  
081030302202  
081030302210  
081030302228  
081030302236

Tenant shall execute a leasehold mortgage in favor of the City (together the "MCRF Mortgage") securing payment of the MCRF Loan. The City shall agree to execute a subordination of mortgage in a form approved by the City Attorney if necessary. Principals of Borrower, David W. Bruns and Donald B. Bruns and a principal of Tenant, Peter A. Robertson, shall each execute a personal guaranty guaranteeing payment of the MCRF Loan.

#### MCRF Fund Balance

The cash balance in the MCRF Fund is approximately \$1.3M. This amount is available to fund the MCRF loan program and \$125,000 authorized in the 2016 Operating Budget for the Façade Grant program.

After reducing the cash balance by the \$250,000 MCRF loan authorized for the Willy Street Co-op project in April, 2016 and \$125,000 authorized for the Façade Grant program, the MCRF will have approximately \$925,000 of funds available to fund the loan requests to be authorized by the City. The aggregate \$880,000 in MCRF loans to Borrower will therefore exhaust the 2016 MCRF Fund in 2016.

#### **Title**

SUBSTITUTE - Authorizing the Mayor and City Clerk to execute an agreement to fund an \$80,000 Madison Capital Revolving Fund loan to Sherman Plaza, Inc. to partially fund leasehold improvements to the former Kohl's grocery store located at 2901 North Sherman Avenue and **amend the 2016 Adopted Capital Budget to appropriate \$80,000 from the Capital Revolving Loan Fund.**

#### **Body**

WHEREAS, 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); and

WHEREAS, the Community Development Authority (CDA) has been designated as agent of the City of Madison for the operation and administration of the Program; and

WHEREAS, on April 16, 1996, the Common Council accepted the MCRF objectives and policy as proposed by the CDA; and

WHEREAS, the CDA approved an \$80,000 MCRF loan ("MCRF Loan #2) to Sherman Plaza, Inc. ("Borrower") to partially fund capital leasehold improvements including specialized heating, ventilation, air conditioning and electrical work required for commercial food production, to the property located at 2901 North Sherman Avenue (the "Project"); and

WHEREAS, the CDA also approved an \$800,000 MCRF loan ("MCRF Loan #1) to Borrower to be transferred to RP's Pasta Company ("Tenant") to partially pay for tenant improvements; and

WHEREAS, staff has completed its review of MCRF Loans #1 and #2 request for financial assistance for the Project and finds that it meets most objectives and policy of the MCRF Loan program except that the aggregate amount of MCRF Loans #1 and #2 exceed the MCRF maximum loan amount of \$250,000; and

WHEREAS, the CDA recommended an exception to its maximum loan policy in its approval of MCRF Loans #1 and #2; and

NOW THEREFORE BE IT RESOLVED that a MCRF end loan in the amount of \$80,000 be made to Sherman Plaza, Inc., evidenced by a loan agreement and note made to the City of Madison under the following terms and conditions:

1. The Project. Tenant agrees to make capital leasehold improvements to the Property including specialized heating, ventilation, air conditioning and electrical work required for commercial food production to facilitate the expansion of RP's Pasta Company ("Tenant").
2. Form of Assistance. MCRF Loan assistance shall be disbursed in the form of an Eighty Thousand Dollar (\$80,000) end loan from the City to Borrower contingent upon providing the City of Madison with the following:
  - a. A Certificate of Occupancy from the City of Madison for the Project
  - b. A current real estate appraisal of the Property demonstrating that the MCRF loan and all other financing do not exceed 90% of the appraised value.
  - c. An executed copy of a lease of not less than 10 years duration, between Borrower and Tenant to the City, to its satisfaction.
3. Method of Payment and Guaranty. Principals of Borrower, David W. Bruns and Donald B. Bruns shall guaranty repayment of \$80,000 of the MCRF loan. A schedule of the projected payments shall be attached to the MCRF Loan Agreement.
4. Security. The MCRF Loan shall be evidenced by a Note to the City of Madison in the amount of \$80,000, bearing 3 percent (3%) interest ("Note") at a term of 5 years, with a ten-year amortization. Borrower shall execute and deliver the Note. Borrower shall execute a mortgage on the Property in favor of the City of Madison securing payment of the MCRF Loan ("MCRF Mortgage"). The City shall agree to execute a subordination of mortgage in a form approved by the City Attorney if necessary. Principals of Borrower, David W. Bruns and Donald B. Bruns shall execute a personal guaranty guaranteeing payment of the MCRF Loan.
5. Satisfaction. Subject to Section 4, the MCRF Mortgage shall be satisfied and the Note cancelled upon full payment of the MCRF Loan.
6. Affirmative Action MGO 39.02 (9). Borrower and its contractors/subcontractors shall comply with all

applicable provisions of the Madison General Ordinance (MGO) 39.02 (9), concerning contract compliance requirements. Prior to commencing construction, Borrower shall contact the City's Affirmative Action Division to assure that Borrower is in compliance with the aforementioned requirements. Borrower shall assist and actively cooperate with the Affirmative Action Division in obtaining the compliance of contractors and subcontractors with such applicable provisions of the Madison General Ordinance. Borrower shall allow maximum feasible opportunity to small business enterprises to compete for any contracts entered into pursuant to the contract.

7. Living Wage (MGO 4.20). Borrower shall comply with Madison General Ordinance 4.20 that requires Developer to provide a living wage.
8. Accessibility (MGO 39.05). Borrower shall submit a written assurance of compliance with Madison General Ordinance 39.05.
9. Equal Opportunity. Borrower shall comply with all applicable local, state and federal provisions concerning Equal Opportunity.
10. Equal Benefits. Borrower shall comply with Madison General Ordinance 39.07 that requires Developer to provide equal benefits.
11. Ban the Box. Borrower shall comply with Madison General Ordinance 39.08 related to job applicant arrest and conviction records.
12. Material Changes. Any material changes to the size, use or ownership of the Project or Property that is stated in the MCRF Application as of the date of introduction of a resolution to the Common Council to approve this MCRF Loan, shall subject this MCR Loan commitment to reconsideration by the City, or if the loan has been made to immediate repayment of the MCRF Loan by Borrower.
13. Project Completion. Borrower shall guarantee that the construction of the Project shall be completed by June 30, 2017. Project completion shall be evidenced by the issuance of a certificate of occupancy for the Project.
14. Property Insurance. Prior to funding, evidence shall 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.
15. Title Insurance. At least fifteen (15) days prior to closing, Borrower shall provide a commitment for a title insurance policy of the proper type and amount (i.e. the amount of the MCRF Loan) of coverage to the City. The City shall receive a lender's policy.
16. Land Use Approval Contingency. The terms and conditions of this MCRF assistance are contingent upon approval of zoning and other land use approvals for the Project as described in the MCRF Application and its amendments and attachments including approximately 40,000 gross square feet of commercial space or other use allowed by the zoning text.
17. Automatic Expiration. The MCRF Loan to Borrower shall be null and void in the event that Borrower does not commence construction on the Project, as evidenced by issuance of construction permits, by December 31, 2016.

BE IT STILL FURTHER RESOLVED that the Common Council hereby authorizes an exception to the MCRF Loan Policy that such loans not exceed \$250,000 for this Project.

**BE IT STILL FURTHER RESOLVED that the 2016 Adopted Capital Budget is amended to appropriate**

**\$80,000 within the Economic Development Division from the Capital Revolving Fund for the loan,**

BE IT FINALLY RESOLVED that the MCRF Loan #2 to the Project is hereby approved and that the Mayor and City Clerk are hereby authorized to execute a loan agreement and other documents as may be necessary to effectuate the transaction, all of which are subject to the approval of the City Attorney.