



Legislation Text

File #: 21205, Version: 1

Fiscal Note

This resolution would authorize the expenditure of \$114,000 for a TIF project loan that would require an appropriation in the 2012 Capital Budget. The proposed project is not located within the boundaries of an existing TIF district and, therefore, would also require the creation of a new Tax Increment District #41 approved by the Common Council, the Joint Review Board and the Wisconsin Department of Revenue (DOR) before project costs would be eligible for TIF reimbursement. The proposed resolution provides that no City loan disbursement would occur prior to DOR certification of the new TIF district. The City's loan would be funded by general obligation debt of \$114,000. The debt incurred for this project would be eligible for reimbursement from a newly created TID #41. The proposed TIF Loan represents approximately 17% of the present value of tax increments estimated to be generated by the project, in accordance with TIF Policy. In addition, the TIF Loan is contingent upon the project being awarded Section 42 Low Income Housing tax credits and securing a \$239,000 CDBG loan or other necessary funding during 2011.

Title

Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$114,000 Tax Incremental Finance Loan to Wingra Commons, LLC ("Developer") to assist in the development of a 63-unit income-restricted housing project located at 1012 Fish Hatchery Road.

Body

WHEREAS on March 7, 2006 the City of Madison adopted RES 06-00238 File No. 01363 adopting the Wingra Creek Market Study and Redevelopment Plan ("Wingra Creek Plan") as a supplement to the South Madison Neighborhood Plan that sets forth the types of development that might occur in the Wingra Creek District; and

WHEREAS the Wingra Creek District is bounded by Fish Hatchery Road to the north and west; south Park Street to the east; Wingra Creek to the south as a strategic site for future revitalization efforts; and

WHEREAS the study established potential uses for the former Bancroft Dairy property, located within the Wingra Creek District, including the parking lot located at 1012 Fish Hatchery Road; and

WHEREAS Wingra Commons, LLC ("Developer") proposed a 62-unit income restricted project in 2010 ("Original Project") on the property generally located at 1012 Fish Hatchery Road ("Property"); and

WHEREAS on March 16, 2010 the City of Madison adopted RES-10-00278 authorizing a \$300,000 TIF assistance loan to Developer for said Original Project, contingent, among other things, upon award by the Wisconsin Housing and Economic Development Authority ("WHEDA") of Section 42 Low-Income Housing Tax Credits to the Original Project; and

WHEREAS the Original Project did not receive an award of Section 42 Low-Income Housing Tax Credits by WHEDA and said action therefore nullified the TIF Loan authorized in RES-10-00278; and

WHEREAS, in 2011, Wingra Commons, LLC ("Developer") proposes to construct no less than 63 units of income-restricted housing at an estimated development cost of approximately \$10,564,030 ("New Project") on property generally located at 1012 Fish Hatchery Road ("Property"); and

WHEREAS, as no Tax Incremental District (TID) is located on or near the Property, the City anticipates the creation of a TID #41 Project Plan and Boundary for consideration by the City of Madison Common Council, Joint Review Board of overlying taxing jurisdictions during 2011 with Common Council adoption to be

completed prior to September 30, 2011; and

WHEREAS, a financing gap is attributable to insufficient equity being generated by Section 42 Low Income Housing Tax Credits caused by poor market conditions for the sale of Section 42 tax credits; and

WHEREAS, City staff has conducted an analysis (See Attached Report) of the Project and has determined the gap to be \$114,000 and that, but for TIF assistance, the Project could not occur; and

WHEREAS, said TIF assistance represents approximately 17% of the present value of the estimated tax incremental revenues generated by the Project, consistent with TIF Policy 50% Rule; and

WHEREAS said TIF assistance is contingent upon award of Section 42 Low-Income Housing Tax Credits to the Project in 2011; and

WHEREAS said TIF assistance is also contingent upon award of \$239,000 of loan assistance from the City of Madison Community Development Block Grant ("CDBG") program; and

WHEREAS, the TIF Loan becomes a grant when tax increment received from the Project and/or Developer out-of-pocket payments are sufficient to repay the TIF Loan estimated to occur in approximately four (4) years; 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 TIF Loan proceeds to be made available to the New Project require authorization in the 2012 Capital Budget.

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 Wingra Creek Plan and that the City's loan to Developer demonstrates the City's efforts to create affordable housing, eliminate blight and stimulate planned commercial redevelopment in the Wingra Creek District area, thereby making more likely an accomplishment of the public purpose objectives set forth in 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 on the Property:
 - a. A 63-unit income-restricted housing facility with 66 parking stalls.
2. Form of Assistance. TIF assistance shall be provided in the form of a zero interest (0%) loan at closing from the City to Developer in the amount of One Hundred and Fourteen Thousand Dollars (\$114,000) ("TIF Loan"). Said TIF Loan becomes a grant when the tax increment recovered from the Project and/or cash payments from Developer are sufficient to repay the TIF Loan and the City's associated borrowing costs.
3. 2012 Capital Budget Authorization. Funding for the One Hundred and Fourteen Thousand Dollars (\$114,000) TIF Loan is contingent upon authorization in the City of Madison 2012 Capital Budget.
4. Creation of TID #41 Boundary and Project Plan. The City shall make TIF funds available no sooner than the date the City receives certification from the WI Department of Revenue of the creation of TID #41 Boundary and Project Plan.
5. Tax Credit Approval. TIF assistance to the Project is contingent upon Developer receiving an award of

Section 42 low-income housing tax credits from Wisconsin Housing and Economic Development Authority ("WHEDA") in 2011.

6. CDBG Approval. TIF assistance to the Project is contingent upon Developer receiving \$239,000 of Community Development Block Grant (CDBG) assistance in 2011 or other funding by December 31st, 2011.
7. Method of Payment and Tax Increment Guaranty. The City's expenditure in providing the TIF Loan for the Project shall be repaid by Developer through tax increments generated by the Project and/or cash payments by Developer.
8. Equity Participation Payment. In addition to all other payments required to be made by Developer to the City, Developer shall pay the City on the earlier of July 6, 2038 or the day of sale or transfer of the Project an equity participation payment ("Equity Participation Payment") equal to either 3% of the gross sales price on the date of sale, or the assessed value of the Property, including improvements thereon, as of July 6, 2038, not to exceed \$114,000. Said payment shall constitute complete satisfaction and payment of the Equity Participation Payment
9. Affordability. Developer shall obtain an allocation of federal low-income housing tax credits from the Wisconsin Housing and Economic Development Authority ("WHEDA"). Developer shall maintain approximately fifty-five (55) apartment units as affordable low-income units subject to the applicable tenant income and rent restrictions imposed by WHEDA and Section 42 of the Internal Revenue Code. Such restrictions shall be evidenced by a "land use restriction agreement" in WHEDA's standard form, and shall be specifically enforceable for a period of no less than fifteen (15) years.
10. Security and Personal Guaranty. The TIF Loan shall be evidenced by a Note executed by Developer to the City of Madison in the amount of One Hundred and Fourteen Thousand Dollars (\$114,000) bearing zero percent (0%) interest ("Note"). Developer shall execute a second mortgage in favor of the City of Madison securing payment of the TIF Loan and Equity Participation Payment ("Mortgage"). The City shall agree to execute a subordination of mortgage in a form approved by the City Attorney and acceptable to Developer and Developer's lender(s). An individual principal of the Developer shall execute a personal guaranty guaranteeing payment of the TIF Loan and Equity Participation Payment.
11. Satisfaction. The Mortgage shall be satisfied and the Note cancelled upon full payment of the TIF Loan and Equity Participation Payment. At Developer's request, the City shall provide a letter to Developer's lender indicating whether Developer has satisfied any of the terms of the Loan Agreement.
12. Affirmative Action MGO 39.02 (9). Developer 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, Developer shall contact the City's Affirmative Action Division to assure that Developer is in compliance with the aforementioned requirements. Developer 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. Developer shall allow maximum feasible opportunity to minority/disadvantaged women business enterprises to compete for any contracts entered into pursuant to the contract.
13. Prevailing and Living Wage (MGO 4.20 & 4.23). Developer shall comply with Madison General Ordinances 4.20 and 4.23 that require Developer to provide a living wage and a prevailing wage.
14. Accessibility (MGO 39.05). Developer shall submit a written assurance of compliance with Madison General Ordinance 39.05.

15. Section 8. Developer agrees to not refuse to lease or otherwise make unavailable units in the Project solely because any applicant for a unit is a direct recipient of federal, state, or local housing subsidy. Developer shall comply with the provisions of Section 32.12(13), MGO, for as long as the TIF Loan and the Equity Participation remain outstanding.
16. Material Changes. Any material changes to the size, use or ownership of the Project or Property that is stated in the TIF Application dated December 20, 2010 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, shall 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.
17. Project Completion. Developer shall guarantee that the construction of the Project will be completed by December 31, 2013.
18. 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.
19. Title Insurance. At least fifteen (15) days prior to closing, Developer shall 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.
20. Environmental Assessment. Developer shall provide the City an environmental assessment of the Property which is acceptable to staff.
21. Land Use Approval Contingency The terms and conditions of this TIF assistance are contingent upon approval and recording of the PUD/SIP for the Project as described in the December 20, 2010 TIF Application and its attachments and amendments including no less than 63 units of income-restricted housing and no less than 66 parking stalls.

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.