



## Legislation Text

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**File #:** 46865, **Version:** 1

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### **Fiscal Note**

This resolution would authorize a \$595,000 Jobs TIF loan to Extreme Engineering Solutions, Inc or its assigns ("Employer") for the retention of 170 FTE jobs at a newly constructed 115,000 square foot facility at 9901 Silicon Prairie Parkway in a proposed TID #47 to be created in 2017. Funding of the Jobs TIF Loan is contingent upon the creation and certification of TID #47.

This loan would be repaid through incremental taxes generated by the Project and represents approximately 40% of the present value of all incremental taxes anticipated from the Project over the 20 years of life in a newly-created TID #47.

Funding of the \$595,000 Jobs TIF Loan to the Project requires an amendment to the 2017 Capital Budget authorizing the expenditure. While it is anticipated that the incremental taxes generated by the Project will be sufficient to repay the loan within approximately 8 years, the Employer is required to guaranty a minimum payment if sufficient future tax increment is not available. Employer shall also guaranty that 170 FTE living wage jobs be retained each year at the Project for five years commencing on the date of occupancy. In any year during that period, if Employer's job retention is below 170 FTE jobs, Employer shall pay a penalty of \$25,700 per job with an annual cap of \$119,000 for job retention deficiency.

The increment guarantee is secured by a subordinated mortgage on the property. The Jobs TIF Loan also requires that Employer be prohibited from selling or transferring the Property prior to repayment of the TIF Loan. If Employer sells or transfers the Property to a tax-exempt entity, Buyer shall pay an annual payment in lieu of taxes (PILOT) in the amount of the property tax paid as of the date of sale, frozen, until 2037.

### **Title**

Amending the 2017 Capital Budget and Authorizing the Mayor and City Clerk to execute a development agreement to fund a \$595,000 Jobs TIF Tax Incremental Finance Loan to Extreme Engineering Solutions, Inc. or its assigns to assist in the development of a corporate headquarters and manufacturing facility within the boundary of a proposed TID #47 (Silicon Prairie).

### **Body**

WHEREAS, the Common Council adopted the current TIF Policy on February 25, 2014; and,

WHEREAS, this TIF Policy contemplates "Jobs Projects" that foster the retention and creation of new employment opportunities throughout the community; and,

WHEREAS, employers in Manufacturing and Digital Technology field are identified as eligible for "Jobs Projects;" and,

WHEREAS, Extreme Engineering ("Employer"), currently located in a 44,000 square foot space in Middleton, designs and manufactures rugged-use (i.e. designed to function at extreme temperature, altitude and vibration) electronic circuit boards with uses in the commercial, communications, industrial, military, medical and aerospace industries; and,

WHEREAS, Employer desires to relocate and expand in Madison by constructing a new 115,000 square foot facility at 9901 Silicon Prairie Parkway ("Property") and Employer will retain and maintain at least 170 full time equivalent positions at this location ("Project"); and,

WHEREAS, Employer will be a complimentary addition to the Silicon Prairie business park, helping to insure that this area of the City remains important center for technology-related companies; and

WHEREAS, funding of Jobs TIF assistance to the Project is contingent upon the creation of a proposed Tax Incremental District (TID) #47 (Silicon Prairie) in 2017; and

WHEREAS, Employer submitted a TIF Application to the City of Madison and City staff have determined that the project qualifies for \$595,000 of TIF assistance under the "Jobs Project" category of the City's TIF Policy and complies with the provisions for a gap analysis waiver and the amount of TIF assistance representing 40% of the net present value of tax increment; and

WHEREAS, on March 27, 2017, the Board of Estimates (hereafter called the "Finance Committee") considered the TIF Policy Goals statement and the TIF staff report, and in conformance to TIF Policy, authorized a gap analysis waiver; and

WHEREAS, funding for the \$595,000 TIF Loan requires an amendment to the 2017 Capital Budget; 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

NOW, THEREFORE, BE IT RESOLVED that the City hereby finds and determines that the Project is consistent with the public purposes of Tax Increment Finance Law and the plans and objectives set forth in City of Madison TIF Policy, the City's loan to Employer demonstrates the potential to retain employment within the City of Madison, thereby making more likely an accomplishment of the public purpose objectives set forth in a proposed TID#47 Project Plan (at such time that it is presented to the Common Council for consideration in 2017), the TIF Law and City TIF Policy.

NOW THEREFORE BE IT RESOLVED, that the City hereby finds and determines that the Project is consistent with the public purposes of Tax Increment Finance Law and the plans and objectives set forth in City of Madison TIF Policy.

BE IT FURTHER RESOLVED, that funding is subject to the following conditions:

1. The Project. Employer agree to develop on the Property:
  - a. Approximately 115,000 gross square feet of commercial space for the design and production of rugged-use electronic circuit boards.
  - b. Maintain 170 full time equivalent ("FTE") jobs that pay a living wage (the "FTE Jobs") on the Property for five years beginning upon occupancy of the Project by the Employer.
2. Form of Assistance. TIF assistance shall be provided in the form of a zero interest (0%) loan at closing from the City to Employer, or its assigns, in an amount not to exceed Five Hundred Ninety Five Thousand Dollars (\$595,000) ("TIF Loan"). The TIF Loan shall be disbursed in two payments. The first payment of Two Hundred Ninety Eight Thousand Dollars (\$298,000) (the "First Payment") shall be disbursed at or following closing of the TIF Loan upon verification that the Employer has incurred TIF eligible expenses in the amount of the First Payment. The second payment of Two Hundred Ninety Seven Thousand Dollars (\$297,000) shall be disbursed to Employer on the date of occupancy of the Project by the Employer and verification that Employer has one hundred seventy (170) FTE Jobs on the Property.

3. Evidence of Financing, and Job Creation/Retention Provision. Prior to the TIF Loan closing, Employer shall provide evidence of bank financing, grant funds and/or equity in the aggregate amount of not less than \$15,380,000 ("Financing").

Bank financing shall be evidenced in the form of a bank or institutional investor commitment letter and evidence that Employer has met all of the lender's conditions of financing such as commercial pre-leasing requirements, if any.

Equity investment shall be evidenced by paid invoices or other documentation of prepaid project costs paid by Employer and/or a financial statement demonstrating Employer's financial capacity to invest equity in the Project. In aggregate, Employer's equity investment shall not be less than the amount of the TIF Loan at closing.

A principal of Employer (the "Guarantor") shall guaranty to maintain at least one hundred seventy FTE Jobs at the Project starting on the date of occupancy of the Project by the Employer (the "Jobs Guaranty").

The Guarantor agrees that for each of the five years following the date of occupancy of the Project by the Employer, Employer will be required to maintain at least one hundred seventy FTE Jobs at the Project. Verification of the number of FTE Jobs will be evidenced by a certified statement by Employer, subject to verification to the City's reasonable satisfaction, of compliance with this provision at the first, second, third, fourth, and fifth anniversaries of the date of occupancy of the Project by the Employer.

In the event that the Jobs Guaranty is not met as evidenced by Employer's certification, then the Guarantor shall be required to pay a penalty in the amount of \$25,700 per job (2017 Living Wage Standard (\$12.85 per hour) x 40 hours a week x 50 weeks a year = \$25,700/FTE job) below the 170 FTE Jobs with an annual cap of \$119,000 (\$595,000 divided by five years of the Jobs Guaranty).

4. 2017 Capital Budget Authorization. Funding for the TIF Loan is contingent upon an amendment to the City of Madison 2017 Capital Budget authorizing the expenditure of funds stated herein.
5. Method of Payment and Tax Increment Guaranty. In addition to the Jobs Guaranty, the City's expenditure in providing the TIF Loan for the Project shall be repaid by Employer through tax increments generated by the Project and/or cash payments by Employer. A schedule of the projected increment used to calculate the TIF Loan amount shall be attached to the TIF Loan Agreement ("Increment Schedule").
6. No TID Certification. In the event that the TID #47 creation is not certified by DOR on or about April 30, 2018, Employer shall be obligated to repay all funds disbursed by the City as a conventional loan, amortized over ten years, together with the costs of issuance and interest on the unpaid principal balance at a rate equal to the rate of the City's borrowing, plus one hundred basis points with payment to be made quarterly. Employer shall perform on all requirements of the TIF Loan Agreement for the loan funds disbursed to Employer by the City ("City Loan"). In such event, the City shall credit Developer for the City's portion of annual estimated incremental property taxes levied on the Project, as set forth in the Tax Increment Guaranty provision in Section 5, until the City Loan is repaid. If in any year, the actual annual tax levy on the Project is less than the amount set forth in the Tax Increment Guaranty, Employer shall pay the City the annual difference as a guaranty payment. Employer shall repay to the City remaining principal on the City Loan, if any, at its ten-year maturity in 2027. In the event of the TID #47's non-certification, the City shall make its best effort to correct any issues that prevented Plan Amendment certification in 2018 and secure certification by DOR in 2019.
7. Sale to Tax Exempt Entity - PILOT Payment. Employer shall be prohibited from selling, leasing or transferring the Property prior to the Employer's repayment of the TIF Loan without the prior written consent to the City (except for transfers made pursuant to foreclosure of senior loan on the project). If

Employer sells the Property to a tax-exempt entity ("Buyer"), whereupon such ownership renders the Property as property tax-exempt, Buyer shall pay the City an annual payment in lieu of taxes (PILOT) in the amount of property tax last levied as of the date of sale to Buyer, frozen, through 2037. The City shall share said PILOT in proportion with the overlying taxing jurisdictions. Buyer shall execute a PILOT Agreement and a mortgage in favor of the City in the amount of the PILOT payments ("Buyer's Mortgage") at the time of Buyer's acquisition of the Property. The Buyer's Mortgage and PILOT Agreement shall be released and terminated by the City upon the receipt by the City of the required PILOT payments.

8. Security and Guaranty. The TIF Loan shall be evidenced by a Note executed by Employer, or its assigns, to the City of Madison in the amount of the TIF Loan bearing zero percent (0%) interest ("Note"). Employer shall execute a mortgage in favor of the City of Madison securing payment of the TIF Loan ("Mortgage"). If necessary, the City shall agree to execute a subordination of mortgage in a form approved by the City Attorney and acceptable to Employer and Employer's lender(s). Rob Scidmore shall execute a personal guaranty guaranteeing (a) the payment of the TIF Loan, and (b) the PILOT payment in the event the Employer fails to cause the Buyer to enter into a PILOT Agreement as required in Paragraph 7, but shall be released upon execution of the PILOT Agreement.
9. Satisfaction. The Mortgage shall be satisfied and the Note cancelled, via a recordable mortgage release, upon full payment of the TIF Loan.
10. Affirmative Action MGO 39.02 (9). Employer 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, Employer shall contact the City's Affirmative Action Division to assure that Employer is in compliance with the aforementioned requirements. Employer 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. Employer shall allow maximum feasible opportunity to small business enterprises to compete for any contracts entered into pursuant to the contract.
11. Living Wage (MGO 4.20). Employer shall comply with Madison General Ordinance 4.20 that requires Employer to provide a living wage.
12. Accessibility (MGO 39.05). Employer shall submit a written assurance of compliance with Madison General Ordinance 39.05.
13. Equal Opportunity. Employer shall comply with all applicable local, state and federal provisions concerning Equal Opportunity.
14. Equal Benefits. Employer shall comply with Madison General Ordinance 39.07 that requires Employer to provide equal benefits.
15. Ban the Box. Employer shall comply with Madison General Ordinance 39.08 related to job applicant arrest and conviction records.
16. Material Changes. Any material changes to the size, use or ownership of the Project or Property that is stated in the TIF Application 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 Employer. Notwithstanding the foregoing, the City acknowledges that the Employer may, with the prior approval of the City, which approval may not be unreasonably withheld, reconfigure the size and use of the Project to address current market conditions without impacting the validity of the TIF Loan or the Jobs Guaranty.

17. Project Completion. Employer shall guarantee that the construction of the Project will be completed by June 30, 2019. Project completion shall be evidenced by the issuance of a certificate of occupancy.
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, Employer 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. Employer shall provide the City an environmental assessment of the Property which is acceptable to staff.
21. Automatic Expiration. The TIF Loan to Employer shall be null and void in the event that Employer does not commence construction on the Project, as evidenced by issuance of construction permits, by April 30, 2018.

BE IT STILL FURTHER RESOLVED that the TIF Loan to the Employer 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.

BE IT FINALLY RESOLVED that the 2017 Capital Budget be amended to authorize \$595,000 of funding to provide TIF Loan assistance to the Project.