CITY OF MADISON: Planning and Community and Economic Development Dept: CDBG Office

Memo

To: CDBG Commission

From: Sue Wallinger, CDBG Office

Date: April 27, 2009

Re: Request by YWCA of Madison to Consolidate Outstanding Loans and Waive Framework Language Related to Shared Appreciation on Property at 101 E. Mifflin Street.

On January 27, 2009, the CDBG Commission approved allocating $250,000 in HOME funds to the YWCA of Madison, Inc. or its LLC affiliate for the acquisition and/or rehabilitation of up to 11 units at 101 E. Mifflin Street. In keeping with the 2009-10 Program Funding Framework for Community and Neighborhood Development, the "funds will be provided in the form of a long-term deferred loan payable upon sale or change in the use of the property". The Framework indicates that a "mortgage will require a repayment equal to the amount of the CDBG Office funds invested or the percent of appraised value which the CDBG Office funds represent in the value of the property, whichever is higher", often referred to as shared appreciation.

In addition to the most recent loan, the YWCA has seven additional outstanding notes on the property with the City. Six of the notes are as a result of improvements funded with CDBG Office funds which total $127,956.50. Three of these notes include a shared appreciation amount from between .02% - 3%; the other three notes have no shared appreciation. The deferred loans that include the shared appreciation are dated 12/1997, 10/2000 and 12/2004. Appraisal done in September 1996 and again in February 2009, indicated that the value of the property has declined in which case there would be no appreciation to share. The seventh note is with the Community Development Unit and not part of this consolidation process as the terms differ greatly from the CDBG Office deferred loans.

Attached you will find a letter from Attorney Tim Radelet on behalf of the YWCA of Madison stating that the YWCA would like to repay the existing CDBG loans and then borrow the aggregate amount repaid plus the new loan as a single new loan. This would simplify the overall process and make the property more attractive to potential buyers of the tax credits that the YWCA hopes to receive to finance a portion of the rehabilitation project.

According to Radelet, the shared appreciation formula presents income tax problems in tax credit projects. The loans would need to be made to the YWCA and then the YWCA would re-lend the money to the LLC at 0% interest. The LLC would secure the loan from the YWCA with a mortgage and then the YWCA could collaterally assign the note and mortgage from the LLC to the City as collateral for the city's loans to the YWCA. This process adds accounting and legal expenses to the overall transaction.

Staff and non-profit housing developers have been discussing the merits and the challenges of the shared appreciation requirement that the Commission implemented in the 1990s. The inclusion of the shared appreciation has added to the burden of administering the CDBG Office funds with no significant recapture of funds other than the recapture and subsequent re-loaning of the shared appreciation back to the original non-profit developer. Without the shared appreciation, the increase in value would have been retained by the non-profit reinvesting in housing development without the added administration burden placed on the CDBG Office.

Staff recommends that the Commission approve combining the six existing notes with the new loan into one single deferred loan due at sale or change of use of the property with no shared appreciation. Staff recommends that the Commission approve a waiver of the Framework regarding language related to the inclusion of the percent of appraised value which the CDBG Office funds represent in the value of the property.