



Legislation Details (With Text)

**File #:** 29479      **Version:** 1      **Name:** Authorizing Assignment and Assumption Agreement and Subordination of a loan from WISH Trust to Ponwood Circle, LLC.

**Type:** Resolution      **Status:** Passed

**File created:** 3/13/2013      **In control:** BOARD OF ESTIMATES (ended 4/2017)

**On agenda:** 5/21/2013      **Final action:** 5/21/2013

**Enactment date:** 5/22/2013      **Enactment #:** RES-13-00363

**Title:** Authorizing the Mayor and City Clerk to execute an Assignment and Assumption Agreement and Subordination of Mortgage allowing Ponwood Circle, LLC to assume all obligations as Borrower on a loan originally made to the Wisconsin Initiatives in Sustainable Housing, Inc. d/b/a WISH Trust for the property located at 132 Ponwood Circle, Unit A.

**Sponsors:** Maurice S. Cheeks, Lauren Cnare, Matthew J. Phair

**Indexes:**

**Code sections:**

**Attachments:** 1. Memo to CDBG RE WISH transfer to MOI Apr 2013.pdf, 2. WISH Trust Ponwood Cir Transfer Request

| Date      | Ver. | Action By                                   | Action  | Result |
|-----------|------|---|---|--------|
| 5/21/2013 | 1    | COMMON COUNCIL                              | Adopt   | Pass   |
| 5/13/2013 | 1    | BOARD OF ESTIMATES (ended 4/2017)           | RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER   | Pass   |
| 5/2/2013  | 1    | COMMUNITY DEVELOPMENT BLOCK GRANT COMMITTEE | Return to Lead with the Recommendation for Approval | Pass   |
| 5/1/2013  | 1    | BOARD OF ESTIMATES (ended 4/2017)           | Referred  |        |
| 4/30/2013 | 1    | COMMON COUNCIL                              | Refer   | Pass   |
| 4/19/2013 | 1    | Community Development Division              | Referred for Introduction                           |        |

**Fiscal Note**

No appropriation is required, and there is no impact on the local levy.

**Title**

Authorizing the Mayor and City Clerk to execute an Assignment and Assumption Agreement and Subordination of Mortgage allowing Ponwood Circle, LLC to assume all obligations as Borrower on a loan originally made to the Wisconsin Initiatives in Sustainable Housing, Inc. d/b/a WISH Trust for the property located at 132 Ponwood Circle, Unit A.

**Body**

The CDBG Office assisted the Wisconsin Initiatives in Sustainable Housing, Inc. d/b/a WISH Trust ("WISH Trust") with \$50,000 in HOME funds in 2006 to purchase a condominium unit located at 132 Ponwood Circle, Unit A to be operated as affordable rental housing. WISH Trust is a non-profit organization that was established to provide affordable housing for people with disabilities. The CDBG Office provided a long-term deferred loan with shared appreciation payable upon sale, change in use, or transfer of the unit. The City holds a mortgage with WISH Trust in the amount of \$42,500 to secure its loan.

WISH Trust initially intended to grow as an affordable housing organization and acquire enough properties to maintain a viable portfolio. However, it has become uneconomical to administer and effectively manage. In 2007, WISH, Inc. merged with Movin' Out, Inc. (MOI), a local community-based agency that provides

permanent, affordable rental housing and homeownership opportunities for people with disabilities. The merger resulted in MOI absorbing all of WISH's properties and providing property management services for this unit. MOI has established Ponwood Circle, LLC, a single-member LLC whose sole member is Movin' Out, Inc., which is prepared to acquire and manage the unit at 132 Ponwood Circle, Unit A as an affordable HOME rental unit. WISH Trust will deed the unit to Ponwood Circle, LLC and replace WISH Trust's existing first mortgage (\$24,000) with private financing. Ponwood Circle, LLC will assume the existing \$42,500 in HOME loan funds in the property by executing an Assignment and Assumption Agreement. The City's HOME loan will be subordinate to the new first mortgage in the same position as previously.

WHEREAS, the CDBG staff and the CDBG Committee have reviewed this proposal and find that it furthers the goals expressed in the 2010-2014 Five-Year Community and Neighborhood Development Plan and the 2013 Community Action Plan; and

WHEREAS, in 2006 the City of Madison CDBG Office provided a long-term deferred HOME loan with shared appreciation in the amount of \$42,500 (the Loan) to WISH Trust to acquire and rehabilitate one unit at 132 Ponwood Circle, Unit A (the Property) as affordable rental housing for low-income people with disabilities; and

WHEREAS, WISH Trust desires to deed the Property to Ponwood Circle, LLC, a single member LLC whose sole member is Movin' Out, Inc., who will continue to lease, manage and maintain the Property as permanent, affordable rental housing for low-income people with disabilities; and

WHEREAS, the Loan is secured by a mortgage on the Property (the Mortgage) which shall be subordinated to the first mortgage lien of Bank Mutual; and

WHEREAS, the Property is restricted by a Land Use Restriction Agreement (the LURA) which runs with the land and will remain in first position; and

WHEREAS, WISH Trust by letter to the CDBG Office dated February 25, 2013, requested that the City approve of the transfer of the Loan and all WISH Trust's related obligations there under; and

WHEREAS, authorization of this transaction will maintain the property as permanent, affordable rental housing which is in high demand for low-income people with disabilities; and

WHEREAS, the Loan is contingent upon Ponwood Circle, LLC obtaining sufficient financing to complete the project while maintaining a 115% secured loan to value ratio.

NOW, THEREFORE, BE IT RESOLVED that the Common Council does hereby approve of the assumption of the Loan Agreement, Mortgage, Promissory Note, and LURA and all of WISH Trust's obligations for the Property there under to Ponwood Circle, LLC.

BE IT FURTHER RESOLVED that the Mayor and the City Clerk are hereby authorized to execute an Assignment and Assumption Agreement with WISH Trust and Ponwood Circle, LLC and a Subordination of Mortgage in favor of Bank Mutual in forms as shall be approved by the City Attorney consistent with this Resolution.

BE IT FURTHER RESOLVED that the Mayor and the City Clerk are hereby authorized to execute, deliver, publish, file and record such other documents, instruments, notices and records and take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution and to comply with and perform the obligations of the City hereunder.