



## Legislation Text

File #: 02146, Version: 3

### Fiscal Note

The City has made three separate loans totaling \$1,062,000 to Genesis based on earlier Council approvals, two for acquisition of 313 West Beltline Highway and one for a series of renovation projects. Two of these loans ~~are~~ were deferred payment, due on sale or change in use of the building; one was structured as an installment loan with payments deferred until January 30, 2007. A ~~Council-adopted~~ Council-adopted December 2004 resolution ~~adopted by the Council~~ allowed for approved the subordination of those original CDBG loans to a New Market Tax Credit refinancing that established new first and second mortgages, and deferred the beginning of the installment loan repayment to the City until 2012. A subsequent ~~resolution adopted by the Council in~~ Council-adopted February 2005 resolution authorized a loan to the Dane Fund equivalent to the proceeds from ~~Genesis~~ 'Genesis' repayment of the three loans, to be used by the Dane Fund for investment in a NMTC qualified entity for a new loan to Genesis to refinance its first mortgage loan with more favorable terms through the New Market Tax Credits. Credit program. This resolution permits the completion of the New Market Tax Credit financing by changing the terms of the City commitment to the Dane Fund to \$1,093,100. The terms of the Dane Fund grant loan are intended to trigger a repayment of the grant loan to the City at the end of the a contingent loan in the amount of the appreciated value of the Genesis repayment. That NMTC financing NMTC period, or trigger a reversion to the original City loan terms. This City contingent grant loan to the Dane Fund would also result in a fee to the City CD program valued at \$10,000 per year in interest during the period of the NMTC. NMTC. The City contingent grant loan to the Dane Fund would be secured by the Dane Fund's assignment to the City of its security interest in two LLCs serving as the NMTC investment fund and the CDE a promissory note in the amount of \$1,093,000 and a Third Priority Pledge and Security Agreement from Genesis Investment Fund, LLC. The CDE would hold first, and second real estate mortgages on the incubator facility in the amount of \$1,150,000, followed by the \$1,093,000 real estate third mortgage. First, second and third mortgages totaling \$2,243,000 will be held by WCDLF SUB CDE IX, LLC throughout the tax credits period. The City would retain a subordinated fourth mortgage of \$23,404 which represents the residual funds yet unexpended from the original third City loan referenced above.

### Title

SECOND SUBSTITUTE - ~~Authorizing the provision of a contingent grant loan of \$1,093,100 in CDBG funds to the Dane Fund Inc. to be used to leverage New Market Tax Credits to help refinance finance the Genesis Development Corporation mortgages on its business incubator, revising two prior resolutions that altered the repayment terms from three existing CDBG Loans totaling \$970,000 to Genesis Development Corporation, and authorizing the Mayor and the City Clerk to sign agreements and related documents to implement the to effect such changes project through the Dane Fund, Genesis, and entities qualifying under the NMTC laws.~~

### Body

WHEREAS the City Council approved two loans to Genesis Development Corporation to help the group purchase 313 West Beltline Highway to serve as a business incubator, and a third loan to Genesis to help the group renovate certain portions of the building;

WHEREAS on December 14, 2004, the Common Council approved a resolution to authorize the Mayor and the City Clerk to enter into agreement(s) with Genesis to permit the subordination of the ~~City's~~ City's mortgages on the property totaling \$970,000 to those offered under the New Market Tax Credits (NMTC) program by the Dane Fund and a first mortgage lender, and allow the deferral of the repayment on the installment loan for the period of the New Market Tax Credits, with reversion to the original terms for that loan in 2012; and

WHEREAS a resolution approved by the Common Council in February 2005 authorized the Mayor and the City Clerk to accept repayment of the earlier loans and permit provision of new loan assistance to the Dane Fund for investment in an LLC with a tax creditor investor, and re-invest in a community development entity created to invest in tax credits;

WHEREAS Genesis could obtain approximately \$200,000 in additional capital at the end of the ~~seven year~~ seven-year tax credit ~~period. period,~~ and enjoy lower first mortgage payment costs during the period of the NMTC.

WHEREAS the CDBG staff and Commission have reviewed the proposal and recommend Council adoption as a way to

leverage advantageous financing for the City's ~~City's~~ prior CDBG investment, and increase the chances for greater operational security for the Genesis Business Incubator;

NOW THEREFORE BE IT RESOLVED that the Common Council authorize the Mayor and the City Clerk to enter into new loan agreement(s) and any other needed related documents with the Dane Fund and other entities established to use the repayment of the appreciated value of the original \$1,062,000 investment in the Genesis Incubator to permit to:

a) ~~Provision of a new loan(s)~~ a) Provide a new loan to the Dane Fund (totaling up to the appreciated value of the original \$1,062,000 CDBG Incubator Investment actually repaid by Genesis), in the amount of \$1,093,100 to invest into a New Market Tax Credit qualified entity(ies) for new loans to Genesis.

b) ~~Inclusion of~~ b) Include provisions in the new loan(s) to the Dane Fund for compliance with job creation requirements and the assignment of some form of security member interest from the Dane Fund and in the Investment LLCs that qualify under the NMTC program;

c) permit the subordination of the City's mortgage representing the unexpended residual from the original third City loan of \$92,000 (\$23,404) to a fourth position behind the NMTC loan, the related assignment of rents and leases and fixtures a \$950,000 first mortgage, a \$200,000 second mortgage, and a \$1,093,100 third mortgage.

FURTHER BE IT RESOLVED that the Common Council authorize the Mayor and the City Clerk to enter into new loan agreement(s) with Genesis Development Corporation at the end of the New Market Tax Credit period that provide the three original City loans at their appreciated value under the original terms of repayment.

Note: The City provided the first loan as a standard CDBG ~~contingent grant loan~~ with repayment due on sale or transfer, with the amount owed to be the greater of the pro-rated appreciated value or the original amount. The terms of the second loan provided the City the opportunity to determine after a five year period whether the incubator were in a financial position to begin to repay the second loan, or at the City's ~~City's~~ option, convert the installment loan into a deferred payment loan with repayment terms similar to the first loan. The December 2004 resolution authorized deferral of the installment loan until the end of the seven-year tax credit period, with reversion to the original terms in 2012. The February 2005 resolution approved the provision of a new loan to the Dane fund to accomplish the same objectives as the first resolution. This resolution authorizes essentially the same actions, with a different dollar amount, and a few minor technical amendments. Under these provisions, the ~~City's~~ City's 'second' 'second' loan to Genesis, with its installment repayment provisions, would trigger the beginning of a new repayment period to start at the expiration of the New Market Tax Credits.