



Legislation Text

File #: 24398, **Version:** 1

Fiscal Note

There is no impact on the City levy associated with the loss of Federal loan proceeds. Had they been repaid, these loan funds may potentially have been reprogrammed to support other CDBG-related projects in the future, but there is otherwise no significant impact on City funding or programs.

Title

Authorizing the Finance Director to write off uncollectable loans of CDBG funds made for the benefit of Genesis Development Corporation and authorizing the Mayor and City Clerk to execute any documents to effectuate such write off.

Body

PREAMBLE

By Second Substitute Resolution No. RES-05-00912, File No. 02146, adopted November 29, 2005, the Common Council authorized the provision of a loan of CDBG funds in the amount of \$1,093,100 to the Dane Fund, Inc., now known as Forward Community Investments ("Forward"), to assist in the creation of a business incubator by Genesis Development Corporation at 313 West Beltline Highway. The City funds were leveraged as a part of a New Market Tax Credits structure, and replaced existing mortgage loans of CDBG funds that had previously been lent by the City to the project. Forward loaned the \$1,093,100 of CDBG funds to Genesis Investment Fund, L.L.C., which then loaned those funds to WCDLF Sub CDE IX, LLC ("WCDLF") which then loaned them to Genesis Development Corporation. The City's \$1,093,100 loan to Forward is evidenced by a promissory note in the amount of the loan. The promissory note is secured solely by an Assignment of Loan as Collateral under which the City's recourse in case of default is to succeed Forward as the payee of the note and succeed to all of Forward's rights and obligations under a Third Pledge and Security Agreement from Genesis. The City's \$1,093,100 loan to Forward is not secured by a mortgage and is uncollectable. In 2009, WCDLF began foreclosure proceedings against Genesis, and in 2011 the Dane County Circuit Court granted a judgment of foreclosure to WCDLF. The property is being managed by a court-approved Receiver. Prior to 2005, the City had loaned CDBG funds to Genesis to partially assist Genesis in its acquisition of the property. Of these loan funds, \$23,404 is secured by a fourth mortgage on the property. The foreclosure judgment effectively forecloses the City's ability to collect on this mortgage loan.

The \$1,093,100 loan to Forward and the \$23,404 loan to Genesis were CDBG funds. HUD does not require the repayment to the federal government of CDBG funds in cases of default by recipients.

NOW, THEREFORE, BE IT RESOLVED,, that the Finance Director is hereby authorized to write off a loan in the amount of \$1,093,100 to Forward Community Investments and a loan in the amount of \$23,404 to Genesis Development Corporation, and the Mayor and City Clerk are hereby authorized to execute any documents necessary to effectuate such write-offs, all in a form to be approved by the City Attorney.