



City of Grand Island

Tuesday, March 25, 2014
Council Session (Corrected)

Item G-8

#2014-63 - Approving Subordination Agreement for 1115 East 9th Street

Staff Contact: Jaye Monter, Finance Director

Council Agenda Memo

From: Tonja Carey, Community Development Specialist

Council Meeting: March 25, 2014

Subject: Approving Subordination Agreement for
1115 E. 9th St.

Item #'s: G-8

Presenter(s): Jaye Monter, Finance Director

Background

The City Of Grand Island has a Deed of Trust filed on property owned by Victor M. and Gina A. Henriquez, husband and wife, located at 1115 E. 9th St., in the amount of \$9,000.00. On December 31, 2002, Community Development Block Grant funds in the amount of \$9,000.00 were loaned to Victor M. and Gina A. Henriquez to assist in the purchase of a home. The legal description of the property is:

Lot Nine (9), Lincoln View Estates Subdivision, in the City of Grand Island,
Hall County, Nebraska.

The owner is requesting permission from the City to subordinate to a new mortgage amount of \$75,000.00 and accept second position to the first mortgage.

Discussion

The City is in second position with the current amount of \$9,000.00 which is held with Wells Fargo. A new loan with Home Federal Savings and Loan Association of Grand Island would replace the current senior Deed of Trust. By law, the new Deed of Trust would be junior in priority to the City's lien, however, the new lender, Home Federal Savings and Loan Association of Grand Island has asked the City to subordinate its Deed of Trust to the new Deed of Trust and accept second position.

The owner is refinancing the current mortgage for two reasons; for a better rate with Home Federal Savings and Loan Association of Grand Island as well as removing Gina

A. Henriquez's name from the mortgage since they are no longer a married couple. The house will remain occupied and property taxes will continue to be paid.

The equity in the property is in excess of the lien amount held by both the City and the bank. The appraised value of the property is \$108,000 and is sufficient to secure the first mortgage of \$75,000.00 and the City's mortgage of \$9,000.00.

ALTERNATIVES

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the Subordination Agreement
2. Refer the issue to a Committee
3. Postpone the issue to a later date
4. Take no action on the issue

RECOMMENDATION

City Administration recommends that the Council approves the Subordination Agreement with Home Federal Savings and Loan Association of Grand Island, placing the City in the junior position to the new Deed of Trust.

Sample Motion

Move to recommend approval of the Subordination Agreement with Home Federal Savings and Loan Association of Grand Island, placing the City in the junior position to the new Deed of Trust.

Subordination Request from Victor M. Henriquez

The City Of Grand Island has a Deed of Trust filed on property at 1115 E. 9th St. in the amount of \$9,000.00. On December 31, 2002, Community Development Block Grant funds were loaned to assist in the purchase of a home. The address is 1115 E. 9th St. The legal description is:

Lot Nine (9), Lincoln View Estates Subdivision in the City of Grand Island, Hall County, Nebraska

The owner is requesting permission from the City to subordinate to a new mortgage amount and accept second position to the first mortgage.

The City's current Deed of Trust is junior in priority to a Deed of Trust to Wells Fargo Bank in the amount of \$52,550.00. By law, the new Deed of Trust would be junior in priority to the City's lien. However, the lender has asked the City to subordinate to the new Deed of Trust.

The new appraised value of the property is \$108,000.00 and is sufficient to secure the new first mortgage of \$75,000.00, and the City's loan of \$9,000.00. The City's loan of is a zero percent interest loan that is due only when the homeowners sell the house.

\$ 75,000.00 New lien
\$ 9,000.00 City's lien
\$ 84,000.00 First and second lien total

\$ 108,000.00 Appraisal amount

SUBORDINATION AGREEMENT

COMES NOW the City of Grand Island, Nebraska, secured party/beneficiary and hereby partially subordinates its trust deed/real estate lien recorded December 31, 2002 on the following described real estate:

Lot Nine (9), Lincoln View Estates Subdivision, in the City of Grand Island, Hall County, Nebraska, a/k/a 1115 E. 9th St.

It is the intent of this Agreement that the trust deed for amounts loaned by Home Federal Savings and Loan Association of Grand Island to Victor M. Henriquez (Borrower) that has been or is about to be filed, shall be superior to the trust deed/real estate lien of the City of Grand Island, its successors and assigns recorded December 31, 2002, up to the amount of \$75,000.00 plus interest and amounts advanced to protect the collateral. Thereafter, the City of Grand Island's lien shall have priority. It is further understood that this subordination shall include all current obligations, extensions, renewals, advances or modifications made by the City of Grand Island, Nebraska to Borrowers which is secured by the trust deed/real estate lien recorded December 31, 2002 as Document Number 200214704 in the records of the Register of Deeds of Hall County, Nebraska. Nothing in this Subordination Agreement is intended as a promise to provide financing or make advances to Borrowers by the City of Grand Island, Nebraska and it is not the intention of the City of Grand Island, Nebraska to warrant or guarantee the obligations of Borrowers but merely to partially subordinate its lien interests under the instrument recorded at Document Number 200214704. It is understood that Home Federal Savings and Loan Association of Grand Island intends to lend funds to Borrowers but that the subordinated amount is not to exceed \$75,000.00 plus interest and amounts advanced to protect the collateral.

Nothing in this instrument is intended to relieve Borrowers of their obligation to the City of Grand Island, Nebraska or to subordinate any other lien interests including, but not limited to, real estate taxes and special assessments.

Dated: _____ City of Grand Island, Nebraska

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

By _____
Jay Vavricek, Mayor

The foregoing instrument was acknowledged before me on _____,
2014, by Jay Vavricek, Mayor of the City of Grand Island, Nebraska.

Notary Public

RESOLUTION 2014-63

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated December 31, 2002 and recorded on December 31, 2002, as Instrument No.200214704, in the amount of \$9,000.00 secured by property located at 1115 E. 9th Street and owned by Victor M. and Gina A. Henriquez, married persons, said property being described as follows:

Lot Nine (9), Lincoln View Estates Subdivision, in the City of Grand Island, Hall County, Nebraska.

WHEREAS, Victor M. Henriquez wishes to execute a Deed of Trust and Note in the amount of \$75,000.00 with Home Federal Savings and Loan Association, to be secured by the above-described real estate conditioned upon the City subordinating its Deed of Trust to their lien priority; and

WHEREAS, the value of the above-described real estate is sufficient to adequately secure both loans; and

WHEREAS, the requested subordination of the City's lien priority is in the best interests of all parties; and

WHEREAS, the City Attorney's office has reviewed and approved the proposed agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to execute an agreement subordinating the lien priority of the above described Deeds of Trust from Victor M. and Gina A. Henriquez, married persons, to the City of Grand Island, as beneficiary to that of Victor M. Henriquez, a single person and the new loan and Deed of Trust of Home Federal Savings and Loan Association of Grand Island, Beneficiary, as more particularly set out in the subordination agreement.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 25, 2014.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 23, 2014	☐ City Attorney