



City of Grand Island

Tuesday, August 26, 2014

Council Session - Updated

Item G-18

#2014-248 - Approving Subordination Agreement for Miguel & Maria Mendoza - 405 E. 3rd Street

Staff Contact: Jaye Monter, Finance Director

Council Agenda Memo

From: Tonja Carey, Community Development

Council Meeting: August 26, 2014

Subject: Approving Subordination Agreement for 405 E. 3rd Street

Item #'s: G-18

Presenter(s): Jaye Monter, Finance Director

Background

The City Of Grand Island has a Deed of Trust filed on property owned by Miguel A. Mendoza and Maria I. Mendoza, a married couple, located at 405 E. 3rd Street, in the amount of \$24,697.34. On November 13, 2008, Community Development Block Grant funds in the amount of \$24,697.34 were loaned to Miguel A. Mendoza and Maria I. Mendoza, a married couple, to assist in the rehabilitation of a home in the Owner-occupied rehabilitation program as part of the Community Development Block Grant program. The legal description is:

Lot Four (4), Block Seventy (70), Original Town, now City Of Grand Island, Hall County, Nebraska.

The owner is requesting permission from the City to subordinate to a new mortgage amount of \$43,000.00 and accept second position to the first mortgage. Miguel A. Mendoza and Maria I. Mendoza, a married couple, currently own the property and are seeking a new mortgage with First National Bank of Omaha. The new lender is requesting first position on the Deed of Trust. The house will remain occupied and property taxes will continue to be paid. The equity in the property is in excess of the lien amounts held by both the City and the bank.

Discussion

The City's current lien is in the amount of \$24,697.34, which has a balance of \$12,140.79 due to 10% being forgiven annually. A new lien in the amount of \$43,000.00 with First National Bank of Omaha would replace the City of Grand Island's senior lien. By law,

the new lien, with First National Bank of Omaha, would be junior in priority to the City's lien; however, the First National Bank of Omaha, has asked the City to subordinate its lien to the new lien.

The appraised value of the property is \$95,000.00, as of August 1, 2014, and is sufficient to secure the first mortgage of \$43,000.00 and the City's remaining mortgage of \$12,140.79. The new loan would secure a fixed interest rate of 4.375%. The City's loan, with a remaining balance of \$12,140.79, is a zero percent interest loan that is due only when the homeowners sell the house.

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 First National Bank of Omaha, placing the City in the junior position to the new Deed of Trust.

Sample Motion

Move to recommend approval of the Subordination Agreement with First National Bank of Omaha, placing the City in the junior position to the new Deed of Trust.

Subordination Request from Miguel Mendoza Santamaria & Maria I. Mendoza

The City Of Grand Island has a Deed of Trust filed on property at 405 E. 3rd Street in the amount of \$24,697.34. On November 13, 2008, Community Development Block Grant funds were loaned to the owners to assist in the rehabilitation of a home in the Owner-occupied rehabilitation program. The address is 405 E. 3rd Street. The legal description is:

Lot Four (4), Block Seventy (70), Original Town, now City Of Grand Island, Hall County, Nebraska.

The owner is requesting permission from the City to subordinate to a new mortgage to be held by First National Bank of Omaha and thereby accept second position to the new mortgage.

Miguel A. Mendoza and Maria I. Mendoza, a married couple, currently own the property and are seeking a new mortgage with First National Bank of Omaha. The new lender is requesting first position on the Deed of Trust. The house will remain occupied and property taxes will continue to be paid. The equity in the property is in excess of the lien amounts held by both the City and the bank.

The City's current lien is in the amount of \$24,697.34, which has a current balance of \$12,140.79 due to 10% being forgiven annually. A new lien in the amount of \$43,000.00 with First National Bank of Omaha would replace the City of Grand Island's senior lien. By law, the new lien would be junior in priority to the City's lien; however, the First National Bank of Omaha, has asked the City to subordinate its lien to the new lien.

The appraised value of the property is \$95,000.00 as of August 1, 2014, and is sufficient to secure the first mortgage of \$43,000.00 and the City's remaining mortgage of \$12,140.79. The new loan would secure a fixed interest rate of 4.375%. The City's loan, with a remaining balance of \$12,140.79, is a zero percent interest loan that is due only when the homeowners sell the house.

\$ 43,000.00 New lien
\$ 12,140.79 City's lien
\$ 55,140.79 First and second lien total

\$ 95,000.00 August 1, 2014 Appraisal amount

Old house payment: \$0 (mortgage was paid in full)
New house payment: \$431.31 4.375% fixed interest rate

SUBORDINATION AGREEMENT

COMES NOW the City of Grand Island, Nebraska, secured party/beneficiary and hereby partially subordinates its trust deed/real estate lien recorded November 13, 2008 on the following described real estate:

Lot Four (4), Block Seventy (70), Original Town, now City Of Grand Island, Hall County, Nebraska.

It is the intent of this Agreement that the trust deed for amounts loaned by First National Bank of Omaha to Miguel Mendoza Santamaria & Maria I. Mendoza (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 November 13, 2008, up to the amount of \$43,000.00 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 November 13, 2008 as Document Number 0200809416 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 0200809416. It is understood that First National Bank of Omaha intends to lend funds to Borrowers but that the subordinated amount is not to exceed \$43,000.00 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

By _____
Jay Vavricek, Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

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

Notary Public

RESOLUTION 2014-248

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated September 17, 2008 and recorded on November 13, 2008, as Instrument No.0200809416, in the amount of \$24,697.34 secured by property located at 405 E. 3rd Street and owned by Miguel A.Mendoza and Maria I. Mendoza, a married couple, said property being described as follows:

Lot Four (4), Block Seventy (70), Original Town, now City Of Grand Island, Hall County, Nebraska.

WHEREAS Miguel A. Mendoza & Maria I. Mendoza, wish to execute a Deed of Trust in the amount of \$43,000 with First National Bank of Omaha, to be secured by the above-described real estate upon the subordination of the City's 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 Miguel A. Mendoza and Maria I. Mendoza, a married couple, to the City of Grand Island, as beneficiary to that of the new loan and Deed of Trust of First National Bank of Omaha, 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, August 26, 2014

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
August 25, 2014	☐ City Attorney