



City of Grand Island

Tuesday, November 04, 2008

Council Session

Item G8

#2008-318- Approving Subordination Agreement on Lot 1, Platte Industrial 6th Subdivision (Economic Development Corporation)

Staff Contact: Chad Nabity

Council Agenda Memo

From: Chad Nabity AICP, Planning Director

Council Meeting: November 4, 2008

Subject: Subordination Request for 4705 Gold Core Dr.
(Grand Island Economic Development Corp.)

Item #'s: G-8

Presenter(s): Joni Kuzma, Community Development

Background

The City Of Grand Island has a Real Estate Lien filed on property in the Platte Valley Industrial Park (Spec Building Site) in the amount of \$250,000. On October 5, 2007 a lien was filed against this property to secure Community Development Block Grant funds and agreements in the amount of \$250,000.00 that were loaned to the Grand Island Economic Area Development Corporation to assist in the construction of a shell building for the purposes of economic development as part of the Community Development Block Grant program. The legal description is:

All of Lot One (1) Platte Valley Industrial Park Sixth Subdivision, in the City Of Grand Island, Nebraska according to the record plat thereof,

The owner is requesting permission to assume a first lien, behind which the City would become the second lien.

Discussion

The City's current Real Estate Lien is junior in priority. A new lien not to exceed the amount of \$9,000,000 with Platte Valley State Bank & Trust, and Nebraska Development Corporation and/or U.S. Small Business Administration to Zitski, LLC, Nova Tech, Inc and Gloria J. Thesevitz would replace the senior Deed of Trust. By law, the new Deed of Trust would be junior in priority to the City's lien, however, the new lenders, Platte Valley State Bank & Trust, and Nebraska Development Corporation and/or U.S. Small

Business Administration have asked the City to subordinate its Real Estate Lien to the new Deed of Trust.

The new anticipated value of the property is sufficient to secure the first mortgage of \$9,000,000 and the City's original lien of \$250,000. The City's loan of \$250,000 runs with the ownership of the property. The lien amount does not decrease and is only forgiven once owner meets the employment requirements of the grant and maintains those positions for one year.

ALTERNATIVES

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

1. Approve the Subordination Request.
2. Refer the issue to a Committee.
3. Postpone the issue to a later date.

RECOMMENDATION

City Administration recommends that the Council approves the Subordination Request.

Sample Motion

Recommend approval to the Grand Island City Council of the Subordination Agreement with Platte Valley State Bank & Trust, and Nebraska Development Corporation and/or U.S. Small Business Administration, placing the City in the junior position to the new Deed of Trust.

SUBORDINATION AGREEMENT

COMES NOW the City of Grand Island, Nebraska, secured party/beneficiary and hereby partially subordinates its trust deed/real estate lien recorded October 5, 2007 affecting the following described real estate:

Lot One (1), Platte Valley Industrial Park Sixth Subdivision, in the City of Grand Island, Hall County, Nebraska.

It is the intent of this Agreement that the trust deeds for amounts loaned by Platte Valley State Bank & Trust and Nebraska Economic Development Corporation ("NEDCO") and/or U.S. Small Business Administration ("SBA") to Zitski, LLC, Nova Tech, Inc., and Gloria J. Thesenvitz (collectively the "Borrowers") 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 October 5, 2007, up to the amount of \$9,000,000 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 October 5, 2007 at Document Number 0200708621 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 0200708621. It is understood that Platte Valley State Bank & Trust, NEDCO and SBA intend to lend funds to Borrowers but that the subordinated amount is not to exceed \$9,000,000 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 _____
Margaret Hornady, Mayor

The foregoing instrument was acknowledged before me on _____, 20____, by Margaret Hornady, Mayor of the City of Grand Island, Nebraska.

Notary Public

RESOLUTION 2008-318

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated October 4, 2007 and recorded on October 5, 2007, as Instrument No. 0200708621, in the amount of \$250,000.00, secured by property described as follows:

Lot One (1), Platte Valley Industrial Park Sixth Subdivision, in the City of Grand Island, Hall County, Nebraska. (Formerly known as Lot 7, Platte Valley Industrial Park Third Subdivision in said City).

WHEREAS, Grand Island Area Economic Development Corporation wishes to sell the property in furtherance of its mission and in compliance with a CDBG program loan affecting the property; 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.

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 Deed of Trust to the City of Grand Island, as beneficiary to that of the new loans and Deeds of Trust of Platte Valley State Bank & Trust and Nebraska Economic Development Corporation ("NEDCO") and/or U.S. Small Business Administration ("SBA"), Beneficiary, as more particularly set out in the subordination agreement.

Adopted by the City Council of the City of Grand Island, Nebraska, _____, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
October 31, 2008	☐ City Attorney