



# City of Grand Island

Tuesday, December 4, 2012

Council Session

## Item G6

**#2012-352 - Approving Subordination Agreement for 515 E 1st Street**

**Staff Contact: Marco Floreani**

# **Council Agenda Memo**

**From:** Marco Floreani, Community Development

**Council Meeting:** December 4, 2012

**Subject:** Approving Subordination Agreement for 515 E. 1<sup>st</sup> Street

**Item #'s:** G-6

**Presenter(s):** Jaye Monter, Finance Director

## **Background**

On February 19, 2009, Community Development Block Grant funds in the amount of \$25,000 were loaned to Hector R. Vasquez & Beatrice R. Vasquez, Borrowers, for housing rehabilitation assistance towards their home. The City of Grand Island has a Deed of Trust filed on property located at 515 E 1<sup>st</sup> Street. The lien is in the amount of \$25,000 with only \$16,868 remaining due to 10% (or \$2,500) being forgiven each year for ten years based on the Housing Rehabilitation Program loan terms. The program loan is a zero percent interest loan with 10% being forgiven each year and is due only when the homeowners sell the house. The legal description is:

Lot Two (2), in Block Ninety-Five (95), in the Original Town, now City of Grand Island, Hall County, Nebraska.

## **Discussion**

The owner is refinancing for a better interest rate and lower payments. They are requesting permission from the City to subordinate to the new mortgage amount and accept second position. The owner is requesting a new mortgage in the amount of \$28,702 and Wells Fargo Bank, N.A. of Grand Island requests first position on the lien. 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.

A new lien in the amount of \$28,702 with Wells Fargo Bank, N.A. would by law be junior in priority to the City's lien; however, Wells Fargo Bank, N.A., has asked the City to subordinate its Deed of Trust to the new Deed of Trust.

The property's assessed value of \$48,378 is sufficient to secure the mortgage of \$28,702 and the City's remaining note of \$16,868.

### **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 Wells Fargo Bank, N.A. placing the City in the junior position to the new Deed of Trust.

### **Sample Motion**

Move to recommend approval of the Subordination Agreement with Wells Fargo Bank, N.A., placing the City in the junior position to the new Deed of Trust.

### Subordination Request from Hector R. Vasquez & Beatrice R. Vasquez

The City Of Grand Island has a Deed of Trust filed on property at 515 E. 1st St. in the amount of \$25,000 with \$16,868 remaining due to 10% being forgiven each year for ten years. On February 19, 2009, Community Development Block Grant funds were loaned to the home owners for rehabilitation assistance towards their home in the Housing Rehabilitation Program. The address is 515 E. 1<sup>st</sup> St. The legal description is:

Lot Two (2), in Block Ninety-Five (95), in the 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 and accept second position to the first mortgage.

The owner is refinancing with the same bank for a better interest rate. 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 assessed value of the property is \$48,378 and is sufficient to secure the new mortgage of \$28,702, and the City's remaining loan amount of \$16,868. The City's loan is a zero percent interest loan that is due only when the homeowners sell the house. Ten-percent (or \$2,500) is forgiven annually per the terms of the Housing Rehabilitation Program.

\$ 28,702	New lien
\$ 16,868	City's lien
\$ 45,570	First and second lien total
\$ 48,378	Assessed value

Previous house payment: \$456.54/mo.

New house payment: \$339.23/mo.

3.00% fixed interest rate for 15 yrs.

## SUBORDINATION AGREEMENT

COMES NOW the City of Grand Island, Nebraska, secured party/beneficiary and hereby partially subordinates its trust deed/real estate lien recorded April 2, 2009 on the following described real estate:

Lot Two (2), in Block Ninety-Five (95), in the Original Town, now City of Grand Island, Hall County, Nebraska

It is the intent of this Agreement that the trust deed for the amount loaned by Wells Fargo Bank, N.A. of Grand Island to Hector R. Vasquez & Beatrice R. Vasquez (Borrowers) that 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 April 2, 2009, up to the amount of \$28,702 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 April 2, 2009 as Document Number 0200902434 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 0200902434. It is understood that Wells Fargo Bank, N.A. intends to lend funds to Borrower but that the subordinated amount is not to exceed \$28,702 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 \_\_\_\_\_,  
2012, by Jay Vavricek, Mayor of the City of Grand Island, Nebraska.

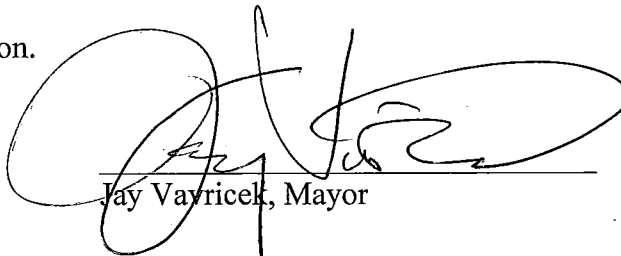
\_\_\_\_\_  
Notary Public

### SUBSTITUTION OF TRUSTEE

Robert J. Sivick, attorney at law, is hereby appointed successor trustee under the trust deed executed by Hector R. Vasquez & Beatrice R. Vasquez as Trustors, in which the City of Grand Island is named Beneficiary and Wesley D. Nespor, Attorney, as Trustee, and filed for record April 2, 2009 and recorded as Instrument No. 0200902434 in the office of the Register of Deeds of Hall County, Nebraska. The trust property affected is legally described as follows:

Lot Two (2), in Block Ninety-Five (95), In the Original Town, now City Of Grand Island, Hall County, Nebraska.

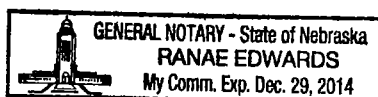
Beneficiary also requests subordination.

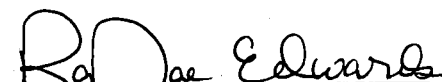
  
Jay Vavricek, Mayor

STATE OF NEBRASKA     )  
                                      ) ss.  
COUNTY OF HALL        )

On this 27<sup>th</sup> day of November, 2012, before me, the undersigned, a General Notary Public, duly commissioned and qualified, personally came Jay Vavricek, Mayor, and acknowledged the execution of this substitution to be his voluntary act and deed on behalf of the Beneficiary.

WITNESS my hand and notary seal the day and year last above written.



  
Notary Public

RESOLUTION 2012-352

WHEREAS, the City of Grand Island, is the lender and secured party of a Deed of Trust dated February 19, 2009 and recorded on April 2, 2009, as Instrument No.0200902434, in the amount of \$25,000.00, secured by property located at 515 E. 1st Street and owned by Hector R. Vasquez & Beatrice R. Vasquez, Borrowers, said property being described as follows:

Lot Two (2), in Block Ninety-Five (95), in the Original Town, now City of Grand Island, Hall County, Nebraska.

WHEREAS, Hector R. Vasquez & Beatrice R. Vasquez wish to execute a Deed of Trust and Note in the amount of \$28,702.00 with Wells Fargo Bank, N.A., to be secured by the above-described real estate conditioned upon the City subordinating its Deed of Trust to their lien priority;

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

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

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 Hector R. Vasquez & Beatrice R. Vasquez, Borrowers, to the City of Grand Island, as beneficiary to that of the new loan and Deed of Trust of Wells Fargo Bank, N.A., 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, December 4, 2012.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form	☐ _____
November 30, 2012	☐ City Attorney