

On April 8, 2013, Council adopted Resolution No. 2013-22 authorizing the City Attorney (Trustee) to approve subordination requests that do not exceed \$20,000. In the event a request exceeds \$20,000, Council must make the final approval.

A single family rehabilitation program loan recipient has requested the City subordinate a \$28,850 HOME deferred payment loan.

FACTS AND FINDINGS:

Prior to program year 2012-2013, the City provided HOME funding to low-moderate income households for needed repairs to their homes. This funding was intended to bring homes up to decent, safe, and sanitary standards. Repairs included abatement of lead-based paint, replacement of windows for energy efficiency, widening of doors and replacement of bathroom fixtures to address ADA accessibility, upgrading electrical systems, and replacement of failing roofs.

This \$28,850 single family rehabilitation loan is secured by an interest in the property through a trust deed and promissory note. The borrower is in the process of refinancing the primary lender's mortgage and is asking the City to subordinate its current lien position to the new primary lender.

By subordinating the City's security interest, the borrower is able to refinance their existing mortgage at a better interest rate and will not, at the time of the refinance, be required to pay off the City's loan. This allows the borrower to obtain a lower mortgage payment. The City's loan is still due and payable upon sale of the property, if the property is no longer owner-occupied, or if the borrower otherwise violates the terms of the loan.

The request to subordinate the City's lien has been reviewed under the Federal Programs loan servicing guidelines, and the subordination will not affect the City's interest in the project.

The loan servicing guidelines are as follows:

1. No cash out or additional debt added into the first mortgage loan, regardless of loan to value ratio;
2. The loan being subordinated to does not exceed a thirty year term;
3. Loan to value of the new primary loan must be below 80%, except for loans being refinanced under the HOME Affordable Refinance Program Act (HARP);
4. Value of property must be determined by current appraisal or lender determined valuation;
5. All loans must be closed in escrow;
6. All recording fees, title insurance, tax service, appraisal, and all other fees required as closing must be paid by the borrower, or sponsor;

7. Real estate taxes and required insurance, if any, must be current;
8. The subordination will not result in a drop in priority for the City's security interest from its lien position at the time of the request; and
9. If the balance due on the City's loan is more than \$20,000.00, City Council approval of the subordination is required.

The HARP Act covers loans that are owned or guaranteed by Fannie Mae or Freddie Mac in situations where the homeowner's current loan-to-value ratio exceeds 80%. The HARP Act also does not require a formal appraisal if the automated valuation model is available. The primary purpose of the HARP Act was to provide a means to reduce the rate and/or term of federally-backed loans in an effort to assist those households that would not otherwise be able to refinance their loans due to high loan-to-value ratios. There is no maximum loan to value limit for borrower eligibility under HARP within the subordination policies for Federal Programs.

The borrower's primary loan is being refinanced under the HARP Act, and the lender is requesting the City subordinate its current lien position. Federal Programs staff has confirmed the new primary loan meets the HARP eligibility requirements. The loan also meets Federal Program's loan servicing guidelines:

Staff analysis as it relates to the single family rehabilitation loan is as follows:

1. New primary loan amount: \$98,600;
2. There is no cash out;
3. Term: 30 year;
4. Loan to value: HARP loan refinance is not required to meet the 80% loan to value test.
5. Appraisal or lender determined value: \$195,407;
6. Closing will occur at title, and all fees must be paid prior to the recording of the City subordination;
7. Real estate taxes and insurance are current;
8. The City is currently in second lien position. This subordination will not result in a drop of that position, and
9. The balance due is more than \$20,000, therefore City Council must give authority to the trustee allowing a subordination.

The single family rehabilitation loan program was a means for low income families, without any

financial means, to repair any health and safety deficiencies in their home. The loan is a deferred zero interest loan that does not require repayment until the owner no longer lives in the home. If the City subordinates its current lien position to the primary lender with a lower interest rate, this reduces the family's monthly mortgage which provides additional discretionary income for necessary living expenses. The subordination may diminish a potential foreclosure or provide an increase in equity.

Therefore, staff recommends the City Council authorize the subordination of a \$28,850 HOME deferred payment loan of a single family rehabilitation owner-occupied program loan.

The primary lender will maintain a primary lien position and the City will continue to maintain a second lien position. This subordination will not put the City's current lien position at risk.

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Attachments:

1. None