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|  <p style="text-align: center;">Council Communication Office of the City Manager</p> | Date: | August 22, 2016 |
| | Agenda Item No. | 32 |
| | Roll Call No. | <u>16-1409</u> |
| | Communication No. | <u>16-476</u> |
| | Submitted by: | Phillip Delafield, Community Development Director |

AGENDA HEADING:

Resolution Approving HOME Agreement, Mortgage, and Related Documents, and Subordination Agreement, with We Can Build It, LLC for the Renovation of 2714 Ingersoll Avenue.

SYNOPSIS:

- This action will create new HOME Agreements and subordinate a HOME mortgage for the Property at 2714 Ingersoll Avenue to be purchased and renovated by Jeff Young, 3410 Lincoln Place Drive, Des Moines, IA 50312. Bank Iowa will be the new primary lender.
- The current owner, MEM Investment, LLC (Matthew Whitaker, 521 East Locust Street, Suite 302, Des Moines, IA 50309-2017) has been unable to complete the project.
- The potential buyer, We Can Build It, LLC, will complete the project by December and implement the City’s affordability requirements of 11 units rented to qualified tenants under 60% of median income.
- The City’s loan is for \$165,989 for renovation of 11 HOME assisted units with a five (5) year period of affordability.
- If the rehabilitation is not completed by December 12, 2016, and a Certificate of Occupancy issued, the City will be required to repay the \$164,989 to HUD because no affordable units were created with HOME funds.

FISCAL IMPACT:

Amount: \$165,989

Funding Source: HOME Investment Partnership (HOME) Funds, SP036, CDD049900, FY11
Recommended Operating Budget

ADDITIONAL INFORMATION:

- On November 19, 2012, by Roll Call No. 12-1778, the City Council approved a HOME Rehabilitation Loan for 2714 Ingersoll Avenue with MEM Investment, LLC.
- The loan was for \$164,989 with a \$25,000 repayment and \$139,989 loan forgiveness at the end of five (5) years of compliance with affordability, income restrictions and other HOME requirements on marketing.
- The rehabilitation was beset with cost overruns and problems including basement water, mold mitigation, incorrectly applied guttering, water seeping through the west wall and back decking in worse condition than was originally expected.

- The ownership of MEM Investment, LLC was changed in summer 2014 with Matthew Whitaker becoming sole owner of the LLC.
- On September 22, 2014, by Roll Call No. 14-1476, the City Council approved a subordination agreement of the City HOME loan security interests to allow refinancing of the primary loan for the building with Lincoln Savings Bank. The bank loan was increased and Mr. Whitaker contributed additional equity to complete the project.
- Over the last 18 months, City staff has monitored the rehabilitation and corresponded/met several times with Mr. Whitaker but problems continued to plague the renovation.
- On March 9, 2016, the City of Des Moines did a final inspection of the building and finding no work ongoing, sent a “Notice of Default and Determination” on the HOME Agreement on April 1, 2016 which terminated the HOME agreement and documents with MEM Investment, LLC.
- On July 1, 2016, Lincoln Savings Bank filed a “Petition for Mortgage Foreclosure Without Redemption” after MEM Investment, LLC made no reply to the City’s notice of default.
- According to Lincoln Savings Bank Counsel, Lincoln Savings Bank will release the lawsuit without prejudice after receiving payment.
- MEM Investments, (Whitaker) is to provide a portion of the Lincoln Savings Bank repayment and to settle all contractor liens against the property.
- Jeff Young, We Can Build It, LLC, has a purchase order with Mr. Whitaker that involves the City’s subordination to a new loan with Bank Iowa and continues the affordable unit requirements and restrictive covenants.
- Mr. Young has provided staff with a bank commitment, 10-year cash flow pro-forma, list of properties and liabilities owned by his company, expedited rehabilitation plan and costs, and list of buildings rehabilitated and sold over last few years.
- Mr. Young will complete the rehabilitation and further improve the units by adding a mini split-system (air conditioning) for each unit. He will comply with the site plan requirements for the back stair and install the streetscape improvements along Ingersoll Avenue. The estimated cost for completing the renovation is \$528,000.
- Mr. Young is currently in the process of renovating 515 28th Street and hopes to improve parking and connectivity between the two (2) buildings and other buildings along Ingersoll Avenue.
- The assisted 1-bedroom units will rent at \$682 with no utility costs, the assisted 2-bedroom units will rent for \$844 with no utility costs.
- If the project is not completed by December, the City will need to repay the HOME funds to HUD. The timeframe should be met because of Mr. Young’s construction experience, the contractors that he has committed to the work and the work to be completed.

PREVIOUS COUNCIL ACTION(S):

Date: September 22, 2014

Roll Call Number: [14-1476](#)

Action: [Subordination](#) Agreement and subordination of City HOME Loan Security Interests to allow refinancing of the primary loan for the renovation of 2714 Ingersoll Avenue, MEM Investment LLC. ([Council Communication No. 14-468](#)) Moved by Coleman to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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