



Roll Call Number

16-1409

Agenda Item Number

32

Date August 22, 2016

RESOLUTION APPROVING HOME AGREEMENT, MORTGAGE, AND RELATED DOCUMENTS, AND SUBORDINATION AGREEMENT, WITH WE CAN BUILD IT, LLC FOR THE RENOVATION OF 2714 INGERSOLL AVENUE

WHEREAS, on November 19, 2012, by Roll Call No. 12-1778, the City Council approved an U.S. Department of Housing and Urban Development (HUD) funded HOME Agreement, mortgage, and related documents with MEM Investment, LLC, as recorded in Book 14583, Pages 182-197, 198-207, 208-210 and 211-213 in the Polk County Recorder's Office (collectively "HOME documents"), to provide a \$164,989 loan for the renovation of 2714 Ingersoll Avenue ("Property"), a vacant 22-unit apartment building; and

WHEREAS, as approved and as required by the HOME Program, the City's HOME funds have been expended for rehabilitation of eleven (11) of the twenty-two units on the Property which will be restricted to households below 60% of median income for a five-year period with restricted rent limits; and

WHEREAS, on September 22, 2014, by Roll Call No. 14-1476, the City Council approved a subordination agreement and subordination of the HOME documents with MEM Investment, LLC and Lincoln Savings Bank to allow refinancing of the primary loan by Lincoln Savings Bank for the renovation of the Property by MEM Investment, LLC, in exchange for a restrictive covenant from Lincoln Savings Bank upon the Property ensuring that the Property will remain subject to the HUD-required income limitations; and

WHEREAS, MEM Investment, LLC and developer We Can Build It, LLC, represented by Jeff Young, have proposed purchase of the Property by We Can Build It, LLC for completion of the project in the timeframe required by HUD; and

WHEREAS, City Community Development Department staff has reviewed funding availability, past projects that have been completed by We Can Build It, LLC and Jeff Young, and information provided by said proposed developer on a rehabilitation budget, time frame and completion of a lead-based paint safety course; and

WHEREAS, City staff are negotiating a HOME Agreement, mortgage, and related documents with We Can Build It, LLC to transfer funding to the proposed new developer; and

WHEREAS, City staff will negotiate a Subordination Agreement, in substantially the form on file in the office of the City Clerk, providing for subordination of the HOME documents to Bank Iowa, as lender for We Can Build It, LLC, subject to approval by Bank Iowa of a restrictive covenant to be placed upon the Property requiring compliance with HUD income limits; and

WHEREAS, City Community Development staff are in support of the proposed purchase of the Property and HOME Agreement with We Can Build It, LLC, and of the subordination of the HOME documents to Bank Iowa, subject to and contingent upon agreement by Lincoln Savings Bank to the proposed purchase and assignment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

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1. City Community Development Department staff are hereby authorized and directed to negotiate, approve, administer and monitor HOME program documents, including but not limited to a HOME Agreement, mortgage, promissory note, and restrictive covenant, with We Can Build It, LLC, subject to final approval as to form by the City Legal Department and agreement of the proposed Property purchase by Lincoln Savings Bank, and the Community Development Director is authorized to execute and record said HOME documents following occurrence of said contingencies.

2. The Subordination Agreement between the City of Des Moines and Bank Iowa, subordinating the City's HOME documents to the financing to be provided by Bank Iowa, is hereby approved in substantially the form on file in the office of the City Clerk, subject to final approval as to form by the City Legal Department, agreement of the proposed Property purchase by Lincoln Savings Bank, and granting of the HUD-required restrictive covenant to the City by Bank Iowa; the Mayor and the City Clerk, respectively, are authorized and directed to sign and attest to the Agreement following occurrence of said contingencies.

3. The Community Development Department Director is authorized to execute and record a release of the restrictive covenant between Lincoln Savings Bank and the City subject to recording of the restrictive covenant between Bank Iowa and the City.

(Council Communication No. 16-476)

MOVED by Moore to adopt.

Form Approved:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GREY	✓			
HENSLEY				✓
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED

APPROVED

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

T. M. Franklin
Mayor

Diane Rauh
City Clerk