

AGENDA STAFF REPORT

DATE: April 19, 2023

TO: Mayor and City Council

APPROVED BY: Gabriel Martin, City Manager

PREPARED BY: Carlos Campos, City Attorney
Seth Merewitz, Special Counsel

SUBJECT: Pueblo Viejo – Subordination Agreement

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Recommendation: Staff recommends that the City authorize the City Manager to execute a Subordination Agreement between the City, the California Department of Housing and Community Development (the “HCD”) and Ath & Cesar Chavez CIC, LP (“Borrower”) for the subordination of the City Loan (as defined below) to the HCD Loan (as defined below) (the “Subordination Agreement”), subject to changes recommended by the City Attorney.

Background: On or around October 28, 2018, the City made a loan in the amount of \$9,240,000 (the “City Loan”) to Borrower for the development of an 105-unit affordable apartment complex in the City (the “Project”). The City Loan was evidenced by a promissory note and secured by a deed of trust that was recorded against the Project property (together, the City Loan Documents”). Borrower’s financing for the Project also includes a commitment for a permanent loan of funds from HCD (“HCD Loan”), which financing is scheduled to close this month.

As a condition to closing the HCD Loan, HCD requires that the City subordinate the lien of the City Loan to the lien of the HCD Loan in accordance with HCD regulations by execution of the Subordination Agreement. The HCD Loan was not specifically described as a lien that would be senior to the City Loan in the City Loan Documents, therefore this approval is requested to establish the City’s authority to execute the Subordination Agreement.

Discussion & Analysis: The subordination of the lien of the City Loan to the lien of the HCD Loan pursuant to the Subordination Agreement was contemplated at the time that the City made the City Loan, and is required by the rules and regulations of HCD.

The City Attorney will review the draft Subordination Agreement provided by Borrower that is attached hereto. The City Manager will execute once City Attorney has approved of the language and any suggested revisions.

The City has an interest in supporting the continued operation of the Project, and the request for subordination is a typical and noncontroversial request in connection with the HCD Loan.

Fiscal Impact: None – The Subordination Agreement does not impact the economic benefits anticipated by the City.

Coordinated With: Bill Pattison, Finance Director

Attachments: Subordination Agreement

**AGENDA
ITEM**