



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: December 27, 2021

TO: President Lawrence W. Atencio and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Daniel C. Kogovsek, City Attorney
SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBORDINATION OF DEED OF TRUST AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND MOUNTAIN VIEW TOWNHOMES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP AND THE COLORADO HOUSING AND FINANCE AUTHORITY, A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO RELATING TO THE MOUNTAIN VIEW TOWNHOMES PROJECT

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign a Subordination of Deed of Trust Agreement relating to Housing Authority of the City of Pueblo's Mountain View Townhomes Project.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On April 30, 2020, the City made a loan to Mountain View Townhomes, LLLP ("Borrower") in the principal amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00) in connection with the project commonly known as Mountain View Townhomes. Borrower signed a Promissory Note dated April 30, 2020, which was secured by a Deed of Trust also dated April 30, 2020, encumbering the Mountain View Townhomes property. The Deed of Trust was recorded on May 6, 2020, under Reception No. 2177205 in the real estate records of the Clerk and Recorder of Pueblo County.

Borrower has requested a loan from the Colorado Housing and Finance Authority ("CHFA") in the principal amount of One Million Four Hundred Twenty-Five Thousand and No/100 Dollars (\$1,425,000.00) to also be secured by a Deed of Trust encumbering the Mountain View Townhomes property.

CHFA is willing to make the loan to Borrower on the condition that CHFA's Deed of Trust become superior to the lien of any other party including the City's Deed of Trust. The attached agreement subordinates the City's Deed of Trust to the CHFA Deed of Trust.

FINANCIAL IMPLICATIONS:

The City's Deed of Trust will be subordinate to CHFA's Deed of Trust until the CHFA loan is repaid by the Borrower on or before 2057. Should the Borrower default under the terms of the Promissory Note and Deed of Trust given for the benefit of the City, CHFA must consent to any foreclosure action brought by the City against the Borrower. In the event of such a default, CHFA has agreed to cooperate with the City to achieve a financial resolution which is acceptable to all parties.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

A no-action alternative would leave the Mountain View Townhomes project without permanent financing from CHFA.

RECOMMENDATION:

Approve the Ordinance.

Attachments:

Proposed Ordinance

Proposed Subordination of Deed of Trust Agreement.

ORDINANCE NO. 10098

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBORDINATION OF DEED OF TRUST AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND MOUNTAIN VIEW TOWNHOMES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP AND THE COLORADO HOUSING AND FINANCE AUTHORITY, A BODY CORPORATE AND POLITICAL SUBDIVISION OF THE STATE OF COLORADO RELATING TO THE MOUNTAIN VIEW TOWNHOMES PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Subordination of Deed of Trust Agreement between the City of Pueblo, a Colorado municipal corporation and the Mountain View Townhomes LLLP, a Colorado limited liability limited partnership and the Colorado Housing and Finance Authority, a body corporate and political subdivision of the State of Colorado, dated on or about January 10, 2022, a copy of which is attached hereto and incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement which are necessary or appropriate to implement transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2021.

Final adoption of Ordinance by City Council on January 10, 2022 .



President of City Council

Action by the Mayor:

- Approved on January 12, 2022.
- Disapproved on _____ based on the following objections:

Hilda Lewis
Mayor

Action by City Council After Disapproval by the Mayor:

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of _____, on _____
- Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

[Signature]
City Clerk