Introduced by _____ Council Bill No. _____R 127-13_____

A RESOLUTION

authorizing subordination agreements in favor of Providence Bank on property owned by JES Dev. Co., Inc. located in Hanover Estates I.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a subordination agreement in favor of Providence Bank on property owned by JES Dev. Co., Inc. located in Hanover Estates Plat One, as shown by a Deed of Trust and Security Agreement dated May 22, 1997 and recorded in Book 1323, Page 909 in the office of the Recorder of Deeds for Boone County, Missouri. The form and content of the agreement shall be substantially as set forth in "Attachment A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 2. The City Manager is hereby authorized to execute a subordination agreement in favor of Providence Bank on property owned by JES Dev. Co., Inc. located in Hanover Estates Plat One, as shown by a Deed of Trust and Security Agreement dated August 3, 1998 and recorded in Book 1451, Page 9 in the office of the Recorder of Deeds for Boone County, Missouri. The form and content of the agreement shall be substantially as set forth in "Attachment B" attached hereto and made a part hereof as fully as if set forth herein verbatim.

ADOPTED this _____ day of _____, 2013.

ATTEST:

_____ _____

City Clerk Mayor and Presiding Officer

APPROVED AS TO FORM:

_____

City Counselor

SUBORDINATION AGREEMENT

This Subordination Agreement ("Agreement") dated this _____ day of July, 2013, executed by City of Columbia, Missouri ("**Grantor**"), being the owner and holder of a certain Note and Deed of Trust (collectively the "City of Columbia Note and Deed of Trust") dated May 22, 1997, filed of record June 25, 1997, at Book 1323, Page 909, in the office of the Recorder of Deeds for Boone County, Missouri, covering the real estate described in the attached **Exhibit A** (the "Property").

Now, Therefore, for and in consideration of the sum of ten and 00/100 Dollars ($10.00) and other good and valuable consideration to City of Columbia, Missouri, paid, receipt of which is hereby acknowledged, does hereby covenant, consent and agree that the lien of the City of Columbia Note and Deed of Trust, to the extent that it applies to that portion of the Property as described on **Exhibit A**, attached and incorporated by this reference, shall be subject to and subordinate to a Deed of Trust dated August 30, 2012, filed of record September 27, 2012, at Book 4036, Page 190, in the office of the Recorder of Deeds for Boone, County, Missouri, securing a loan in a principal amount not to exceed $654,602.59, in favor of Providence Bank, a Missouri banking corporation ("**Grantee**"), with an address of 3855 Forum Boulevard, Columbia, Missouri, 65203, upon said real estate or any part thereof, and to any and all renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Deed of Trust (the "Providence Bank Deed of Trust"). The parties agree that the fixed loan amounts secured by the Providence Bank Deed of Trust will not include any future advances; however, the parties agree that the Providence Bank Deed of Trust will secure the repayment of funds advanced under the Providence Bank Deed of Trust, including but not limited to funds advanced to satisfy unpaid taxes and unpaid insurance, to ensure the validity and priority of the Providence Bank Deed of Trust.

This Agreement shall be binding upon the parties and their successors, legal representatives, and assigns.

In Witness Whereof, the undersigned has caused this Agreement to be duly executed on the day and year first above written.

GRANTOR:

City of Columbia, Missouri

By:_____
Title:_____

STATE OF MISSOURI)
)ss.
COUNTY OF _____)

On this _____ day of July, 2013, before me, a Notary Public in and for said state, personally appeared Mike Matthes, City Manager of the City of Columbia, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same for the purposes therein stated.

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

_____
Notary Public
Printed Name:_____

My commission expires: _____.

GRANTEE:

Providence Bank

By:_____
Title:_____

STATE OF MISSOURI)
)ss.
COUNTY OF BOONE)

On this _____ day of July, 2013, before me appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the _____ of Providence Bank, a Missouri Corporation, and that said instrument was signed in behalf of said Corporation by authority of its board of directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

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

_____
Notary Public
Printed Name:_____

My commission expires: _____.

Exhibit A
(Legal Description of Property)

LOT TWO (2) OF HANOVER ESTATES PLAT ONE (1), A SUBDIVISION IN THE CITY OF COLUMBIA, MISSOURI, AS SHOWN BY PLAT RECORDED IN PLAT BOOK 30, PAGE 92, RECORDS OF BOONE COUNTY, MISSOURI.

SUBORDINATION AGREEMENT

This Subordination Agreement ("Agreement") dated this _____ day of July, 2013, executed by City of Columbia, Missouri ("**Grantor**"), being the owner and holder of a certain Note and Deed of Trust (collectively the "City of Columbia Note and Deed of Trust") dated August 3, 1998, filed of record September 3, 1998, at Book 1451, Page 9, in the office of the Recorder of Deeds for Boone County, Missouri, covering the real estate described in the attached **Exhibit A** (the "Property").

Now, Therefore, for and in consideration of the sum of ten and 00/100 Dollars ($10.00) and other good and valuable consideration to City of Columbia, Missouri, paid, receipt of which is hereby acknowledged, does hereby covenant, consent and agree that the lien of the City of Columbia Note and Deed of Trust, to the extent that it applies to that portion of the Property as described on **Exhibit A**, attached and incorporated by this reference, shall be subject to and subordinate to a Deed of Trust dated August 30, 2012, filed of record September 27, 2012, at Book 4036, Page 190, in the office of the Recorder of Deeds for Boone, County, Missouri, securing a loan in a principal amount not to exceed $654,602.59, in favor of Providence Bank, a Missouri banking corporation ("**Grantee**"), with an address of 3855 Forum Boulevard, Columbia, Missouri, 65203, upon said real estate or any part thereof, and to any and all renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Deed of Trust (the "Providence Bank Deed of Trust"). The parties agree that the fixed loan amounts secured by the Providence Bank Deed of Trust will not include any future advances; however, the parties agree that the Providence Bank Deed of Trust will secure the repayment of funds advanced under the Providence Bank Deed of Trust, including but not limited to funds advanced to satisfy unpaid taxes and unpaid insurance, to ensure the validity and priority of the Providence Bank Deed of Trust.

This Agreement shall be binding upon the parties and their successors, legal representatives, and assigns.

In Witness Whereof, the undersigned has caused this Agreement to be duly executed on the day and year first above written.

GRANTOR:

City of Columbia, Missouri

By:_____
Title:_____

STATE OF MISSOURI)
)ss.
COUNTY OF _____)

On this _____ day of July, 2013, before me, a Notary Public in and for said state, personally appeared Mike Matthes, City Manager of the City of Columbia, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same for the purposes therein stated.

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

_____
Notary Public
Printed Name:_____

My commission expires: _____.

GRANTEE:

Providence Bank

By:_____
Title:_____

STATE OF MISSOURI)
)ss.
COUNTY OF BOONE)

On this _____ day of July, 2013, before me appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the _____ of Providence Bank, a Missouri Corporation, and that said instrument was signed in behalf of said Corporation by authority of its board of directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

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

_____
Notary Public
Printed Name:_____

My commission expires: _____.

Exhibit A
(Legal Description of Property)

LOT TWO (2) OF HANOVER ESTATES PLAT ONE (1), A SUBDIVISION IN THE CITY OF COLUMBIA, MISSOURI, AS SHOWN BY PLAT RECORDED IN PLAT BOOK 30, PAGE 92, RECORDS OF BOONE COUNTY, MISSOURI

Source: Community Development - CDBG/Home Agenda Item No:

To: City Council
From: City Manager and Staff

Council Meeting Date: Jul 1, 2012

Re: Approving a Subordination Agreement with JES Dev. Co., Inc for Hanover Estates I

EXECUTIVE SUMMARY:
Approval of this Council resolution authorizes the City Manager to execute a subordination agreement with JES Dev. Co., Inc. The City of Columbia provided a HOME Rental Production Program loan to JES Dev Co, Inc. in January of 2010 in the amount of $406,989.22. The loan was provided in order to fund an affordable housing development for seniors. The project was funded with Low-Income Housing Tax Credits (LIHTC) through the Missouri Housing Development Commission, as well as with City HOME funds. Hanover Estates I consists of 64 affordable multi-family rental housing units for seniors. The developer stated that the refinance of the development was conducted to obtain lower financing costs, as well as provide additional funding to its replacement reserve account.

DISCUSSION:
JES Dev. Co, Inc. refinanced its former loan on the Hanover Estates I development through Providence Bank on August 30, 2012. The developer informed City staff on December 4, 2012 that Providence Bank is requiring the City to subordinate the existing HOME loan with the December 2012 balance of $369,141. Providence Bank informed City staff that the developer was exploring paying off the City HOME loan on January 3, 2013. City staff was informed on May 8, 2013 that Providence Bank and the developer request a subordination of the HOME loan on Hanover Estates. City staff worked closely with Providence Bank in order to ensure City HOME funds will be protected as a part of the subordination.

The pay-off on the former loan refinanced by Providence Bank was $589,972.13 and there were $64,630.46 in additional fees for loan origination, escrows, title fees, appraisal, recording fee, and funds disbursed to the borrower for replacement reserves. The total loan amount from the refinance through Providence Bank was $654,602.59, with a 5-year fixed rate balloon at 3.75%. The developer is required to make 59 monthly payments of $3,385.10, with the balance due on the 60th month. The interest rate on the previous mortgage was 7.02%. There was a total of $40,000 cash out as a result of this refinance and the developer has put these funds aside for the development's replacement reserves.

Total debt after refinance was $1,023,743.59 in December of 2012. Providence Bank required an appraisal of the development, which appraised at $964,000 under rent restrictions of LIHTC and HOME Program requirements. At the end of the 20 year affordability requirements for this development, the development can go to market rate rental units. The appraisal noted that the development appraised at $2,420,000 under market rent rate assumptions, which would sufficiently cover total debt.

City staff recommends Council approve the attached resolution authorizing the City Manager to execute the attached subordination agreements.

FISCAL IMPACT:

Approval of this resolution has no fiscal impact.

VISION IMPACT:
http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php

Approval of this resolution has no fiscal impact.

SUGGESTED COUNCIL ACTIONS:
The Council should approve the attached resolution authorizing the City Manager to execute subordination agreements with JES Dev Co, Inc. for Hanover Estates I.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		**Program Impact**		**Mandates**	
City's current net FY cost	$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	$0.00	Duplicates/Epands an existing program?	No	**Vision Implementation impact**	
Amount of budget amendment needed	$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		**Resources Required**		Vision Impact?	No
One Time	$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	