




MISC 2004132192



OCT 06 2004 13:53 P 4

DEBT SUBORDINATION AGREEMENT

Received - RICHARD TAKECHI
Register of Deeds, Douglas County, NE
10/6/2004 13:53:41.09

2004132192

WHEREAS, Villa De Sante I Limited Partnership, a Nebraska Limited Partnership, Villa De Sante I Development Company Limited Liability Company, General Partner, a wholly owned subsidiary of Omaha Economic Development Corporation, Alvin M. Goodwin, President, 2221 North 24 Street, Omaha, Nebraska 68110 (hereinafter referred to as "Borrower") is now or hereafter may be indebted to First National Bank of Omaha (hereinafter referred to as "Bank"), on account of a loan in the amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00) which indebtedness was incurred for the purpose of partially financing the construction of a multi-unit residential project on property located at 60th Street and Hartman Avenue, Omaha, Nebraska and legally described as:

Lot 1, Ville De Sante Replat 3, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, together with improvements thereon

WHEREAS, the Borrower is also indebted to the City of Omaha (hereinafter referred to as "City") by virtue of a loan made in the sum of Nine Hundred Thousand and 00/100 Dollars (\$900,000.00), which indebtedness was also incurred for the purpose of partially financing construction on the above-described property; and,

WHEREAS, the Borrower's above-described indebtedness to the City is secured by a Deed of Trust and Promissory Note, which security interest was perfected on October 28, 2003, upon the filing of same with the Douglas County Register of Deeds, same being recorded on October 29, 2003, as Instrument Number 2003211323; and,

WHEREAS, the Bank is unwilling to make the above-described loan unless same could be secured by a "first" mortgage/deed of trust; and,

WHEREAS, the City is willing to subordinate its position as a secured creditor to that of the Bank in accordance with the terms of the City's Agreement with the Borrower as follows: The City will secure its CDBG Repayable Loan with no less than a fourth deed of trust during the construction phase subordinate to a total amount not to exceed Three Million One Hundred Fifty-one Thousand Thirty-two and 00/100 Dollars (\$3,151,032.00).

misc
FEE 20.50 FB 43-40324
BKP _____ C/O _____ COMP gy
DEL _____ SCAN _____ FV _____

TA-49010

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Bank do hereby agree that the lien acquired by the Bank by virtue of a mortgage/deed of trust executed in its favor by the Borrower to secure the above-referenced indebtedness shall be deemed a first and prior lien upon the above-described property, which lien shall be superior to the previously acquired lien of the City (as hereinabove described), as if the mortgage/deed of trust executed in favor of the Bank had been filed with and duly recorded by the Register of Deeds at some time prior to that of the City.

IN WITNESS WHEREOF, the parties have executed this Debt Subordination Agreement as of the date indicated below.

ATTEST:

CITY OF OMAHA, A Municipal Corporation

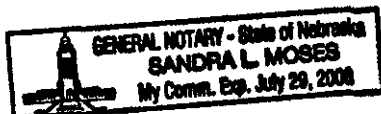

CITY CLERK

Mike Jany 9/1/04
MAYOR OF THE CITY OF OMAHA

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 1st day of September, 2004, before me the undersigned, a Notary Public in and for said County, personally came Mike Fahy,
Mayor and Buster Brown, City Clerk,
who executed the above document, and acknowledged the execution thereof to be their voluntary act and deed as such officer and the voluntary act and deed of the City of Omaha, a Municipal Corporation.

In testimony whereof I have hereunto set my hand and affixed by Notary Seal at Omaha in Douglas County, on the day and date last above written.



Sandra L. Moses
NOTARY PUBLIC


My Commission expires

July 29, 2008

By
Title
Date

By Kurt A. Brown
Title 2nd Vice President
Date 9/28/04

On this 28TH day of SEPTEMBER, 2004 before me the undersigned, a Notary Public in and for said County, personally came KEITH A. SWANSON,
SECOND VICE PRESIDENT OF FIRST NATIONAL BANK OF OMAHA
to me known to be the person named in and who executed the above documents, and acknowledged the execution thereof to be their voluntary act and deed.

 **GENERAL NOTARY-State of Nebraska**
TRACY MORRISON
My Comm. Exp. Dec. 24, 2007

Shary Monzon
NOTARY PUBLIC

My Commission expires 12-24-07

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

CONSENT OF THE CITY OF OMAHA

The City of Omaha, a municipal corporation in Douglas County, Nebraska, hereby consents to the substitution of the first page (copy attached) of a Subordination Agreement executed by the Mayor of the City of Omaha and Villa De Sante I Limited Partnership, a Nebraska Limited Partnership, Villa De Sante I Development Company Limited Liability Company, General Partner, a wholly owned subsidiary of Omaha Economic Development Corporation, Alvin M. Goodwin, President, 2221 North 24 Street, Omaha, Nebraska 68110, for the purposes of correcting the identity of the General Partner by deleting Kellom Villa Development Corporation, a Nebraska non-profit Corporation, from the Subordination Agreement.

This consent is dated this 23rd day of September, 2004.

ATTEST:

CITY OF OMAHA, a Municipal Corporation

Buster Brown
City Clerk
STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

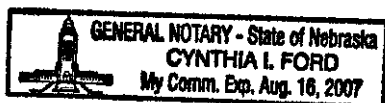
Mike Fahey
Mike Fahey, Mayor

On this 23rd day of Sept, 2004, before me the undersigned, a Notary Public in and for said County, personally came Mike Fahey, Mayor, and Buster Brown, City Clerk, who executed the above consent, and acknowledged the execution thereof to be his/her voluntary act and deed as such official and the voluntary act and deed of the City of Omaha, a Municipal Corporation.

In testimony whereof I have hereunto set my hand and affixed by Notary Seal at Omaha in Douglas County, on the date last above written.

Cynthia I Ford
Notary Public

My Commission expires August 16, 2007.



APPROVED AS TO FORM:

Freeman B. No 9/13/04
Assistant City Attorney