

ROUTING SLIP
CONTRACTS AND AGREEMENTS

Originating Department: Community Development

Council Meeting Date: 11/20/2014

Department Contact: Scott Erwin

Phone # 256-427-5423

Contract or Agreement: Contract

Document Name: Subordination Agreement to the Environmental Covenant granted to the Alabama De...

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

Account Number:

Procurement Agreements

| | |
|-----------|-----------|
| Select... | Select... |
|-----------|-----------|

Grant-Funded Agreements

| | |
|--------------------|-----------------------------------|
| Federal HUD | Grant Name: |
| | HOME Investment Partnership Grant |

| Department | Signature | Date |
|---|---|----------|
| 1) Originating |  | 11/13/14 |
| 2) Legal | | |
| 3) Finance | | |
| 4) Originating | | |
| 5) Copy Distribution | | |
| a. Mayor's office (2 copies) | | |
| b. Clerk-Treasurer (Original & 2 copies) | | |
| c. Legal (1 copy) | | |

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 11/20/2014

Action Requested By:
Community
Development

Agenda Item Type
Resolution

Subject Matter:

Subordination Agreement to the Environmental Covenant granted to the Alabama Department of Environmental Management, by Clarkston Square, LP.

Exact Wording for the Agenda:

Subordination Agreement to the Environmental Covenant granted to the Alabama Department of Environmental Management, by Clarkston Square, LP.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

This document is a subordination Agreement to the Environmental Covenant granted to the Alabama Department of Environmental Management, by Clarkston Square, LP. The Alabama Housing Finance Authority requests the City of Huntsville as a lien holder to complete this action.

Associated Cost:

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Select...

Department Head: 

Date: 11/13/14

Resolution No. 2014-_____

WHEREAS, the City of Huntsville, Alabama received grants from the United States Department of Housing and Urban Development, hereinafter referred to as HUD, whereby certain funds were provided to the City under the provisions of the HOME Investments Partnership Act, as amended; and,

WHEREAS, the City of Huntsville, Alabama awarded HOME funds to Clarkston Square, LP for the construction of a senior apartment community that is also funded by Low Income Tax Credits from the Alabama Housing Finance Authority.

WHEREAS, the Alabama Department of Environmental Management has required Clarkston Square, LP to execute an Environmental Covenant governing the use of the property and has requested all lien holders to acknowledge that their lien is subject to said Environmental Covenant and to the rights, covenants, restrictions and easements created thereunder.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor of the City of Huntsville is hereby authorized to execute a Subordination Agreement to the Environmental Covenant granted to the Alabama Department of Environmental Management, by Clarkston Square, LP which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "SUBORDINATION AGREEMENT TO ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT RELATED TO ENVIRONMENTAL COVENANT OF CLARKSTON SQUARE." consisting of two(2) pages, and the date appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville.

ADOPTED this the 20th day of November 2014.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 20th day of November, 2014.

Mayor of the City of Huntsville,
Alabama

SUBORDINATION AGREEMENT TO ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT RELATED TO ENVIRONMENTAL COVENANT OF CLARKSTON SQUARE

The City of Huntsville, Alabama, an Alabama municipal corporation, acting by and through the Department of Community Development (hereinafter the "City"), with an address of P.O. Box 308, Huntsville, Alabama 35804, is the holder of a mortgage granted by Clarkston Square, LP, an Alabama limited partnership ("Grantor"), dated October 1, 2014, and recorded with the Madison County Clerk's Office in Document Number _____ (collectively, the "Mortgage").

The City hereby assents to the grant of that certain Environmental Covenant granted by Grantor and to Alabama Department of Environmental Management ("ADEM" or "Holder") (the "Environmental Covenant") and recorded in Document Number _____ to be filed in connection with the filing of the Environmental Covenant and agrees that the Mortgage shall be subject to said Environmental Covenant and to the rights, covenants, restrictions and easements created by and under said Environmental Covenant insofar as the interests created under the Mortgage affect the Property or identified in the Environmental Covenant and as if for all purposes said Environmental Covenant had been executed, delivered and recorded prior to the execution, delivery and recordation and/or registration of the Mortgage.

The execution of this Subordination Agreement by the City shall not subject such person or entity to liability for environmental remediation pursuant to Applicable Alabama Legal Authorities, provided that such person or entity shall not otherwise be liable for environmental remediation under another provision of law.

The execution of this Subordination Agreement by the City shall not be presumed to impose any affirmative obligation on the City with respect to said Environmental Covenant.

The City's act of subordinating its prior interest in the Property to said Environmental Covenant shall not affect the priority of the Mortgage in relation to any other interests that exist in relation to the Property.

The City further assents specifically to the subsequent recordation and/or registration of the Environmental Covenant, in accordance with the terms as referenced in the Environmental Covenant and agrees that the Mortgage shall be subject to the Environmental Covenant and to the rights, covenants, restrictions, and easements created thereby and thereunder insofar as the interests created under the Mortgage affect the Property or as so modified and as if for all purposes said Environmental Covenant had been executed, delivered and recorded prior to the execution, delivery and recordation of the Mortgage.

**_____
President of the City Council of the
City of Huntsville, Alabama
Date: November 20, 2014**

The City has caused this instrument to be executed this ___ day of _____, 2014.

CITY OF HUNTSVILLE

Tommy Battle, Mayor

ATTEST:

Charles E. Hagood
Clerk-Treasurer

STATE OF ALABAMA

COUNTY OF MADISON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Tommy Battle, Mayor of the City of Huntsville, Alabama and Charles E. Hagood, Clerk-Treasurer, whose names are signed to the foregoing Subordination Agreement and who are known to me, acknowledged before me on this date that, being informed of the contents of this Subordination Agreement, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office, this the _____ day of _____, 2014.

Notary Public

My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF MADISON

I, _____, Clerk of the Madison County Court, do certify that the foregoing Subordination Agreement was lodged in my office for record, and that I have recorded it, and the certificate thereon, this ___ day of _____, 2014.

County Clerk