



**CITY OF MCMINNVILLE**  
**PLANNING DEPARTMENT**  
 231 NE FIFTH STREET  
 MCMINNVILLE, OR 97128  
 503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

**MCMINNVILLE URBAN RENEWAL ADVISORY COMMITTEE**  
**Community Development Center, 231 NE 5<sup>th</sup> Street**  
**Wednesday, March 1, 2017**  
**4:00 PM**

COMMITTEE MEMBERS	ITEM
<p>Walt Gowell Chair</p> <p>Kyle Faulk</p> <p>Ed Gormley</p> <p>Kelly McDonald</p> <p>Cassie Sollars</p> <p>Wendy Stassens</p> <p>Marilyn Worrix</p> <p>Kem Carr Ex-Officio</p> <p>Scott Hill Ex-Officio</p> <p>Rebecca Quandt Ex-Officio</p>	<ol style="list-style-type: none"> <li>1. Call to Order/Introduction</li> <li>2. Citizen Comments</li> <li>3. Action Items:           <ul style="list-style-type: none"> <li>• Property Assistance Program Loan/Grant Documents (<i>Exhibit 1</i>)</li> <li>• Façade Improvement Grant: 311 East 1<sup>st</sup> Street (<i>Exhibit 2</i>)</li> </ul> </li> <li>4. Discussion Items:           <ul style="list-style-type: none"> <li>• Alpine Avenue Ground-Breaking</li> <li>• Parking Study Kick-Off</li> <li>• 3<sup>rd</sup> Street Improvement Project Sub-Committee</li> </ul> </li> <li>5. Presentations:           <ul style="list-style-type: none"> <li>• 1% for Public Art (<i>Exhibit 3</i>)</li> <li>• Atticus Hotel</li> </ul> </li> <li>6. Commissioner/Committee Member Comments</li> <li>7. Staff Comments</li> <li>8. Adjournment</li> </ol>

\*Please note that these documents are also available on the City's website [www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov); click on Government, click on Boards and Commissions, click on McMinnville Urban Renewal Advisory Committee. You may also request a copy from the Planning Department at the Community Development Center, 231 NE 5<sup>th</sup> Street, 503-434-7311.



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## **EXHIBIT 1 - STAFF REPORT**

**DATE:** March 1, 2017  
**TO:** McMinnville Urban Renewal Advisory Committee Members  
**FROM:** Heather Richards, Planning Director  
**SUBJECT:** Property Assistance Loan and Grant Program

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### **Report in Brief:**

This is an action to approve final documents for a Property Assistance Loan and Grant program expanding the McMinnville Urban Renewal Agency's "Planning and Development Assistance Programs" project in the McMinnville Urban Renewal Plan to assist businesses and new development projects in the urban renewal district.

### **Background:**

The McMinnville City Council and McMinnville Urban Renewal Agency (Agency) adopted the McMinnville Urban Renewal Plan (Plan) on July 23, 2013. The Plan identifies 13 projects to finance with tax increment funds collected in the identified district. One of these projects is entitled, "Planning and Development Assistance Programs".

*This project will establish and manage a package of low interest loan and/or small grant programs for business and residents to improve their property's appearance and condition, consistent with the goals and objectives of this plan (e.g. storefront and tenant improvement programs, signage, historic preservation, seismic upgrades, and financial and technical assistance). (McMinnville Urban Renewal Plan, page 13).*

Currently the Agency offers a Façade Improvement Grant under this project objective. However, the façade improvement grant is for small exterior improvements and at their December 7, 2016 meeting, the McMinnville Urban Renewal Advisory Committee (MURAC) recommended adding a Free Design Assistance Program and Development Loan and Grant program to the project per the following:

- Free Design Assistance: Up to 10 hours or \$1000 of Free Design Assistance from a pre-qualified list of vendors to help with development and redevelopment projects. Require an application fee that can be applied to the match requirement for a grant or loan to ensure that the applicant is serious about their project. (See Free Design Assistance application). Free Design Assistance applications can be administratively approved.

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### *Attachments*

*Resolution No. 2017-03*

*Free Design Assistance Application*

*Development Loan/Grant Application*

*Loan/Grant Development Agreement*

*Promissory Note*

*Trust Deed*

*Façade Improvement Grant Agreement*

- Development Loan/Grant Program: Up to 20% of the overall project costs and not to exceed \$100,000, that can be independently negotiated with each project and is discretionary relative to whether or not it is a loan or grant depending upon the amount of value that the project brings to the district, both in terms of taxable improvement and jobs, as well as community value. (See Loan/Grant Application). All development loans and grants over \$5000 must be approved by the Agency after review and recommendation by the McMinnville Urban Renewal Advisory Committee. All development loans and grants must be accompanied by a development agreement. (See attached Development Agreement)
- Clawback Provision: All Agency grants will have a clawback provision in case the property is sold within five years so that the property owner does not benefit from the equity of the Agency investment. (See Façade Improvement Grant Contract)..

These recommendations were approved by the Urban Renewal Board at their January 24, 2017 meeting per Resolution 2017-03. (Please see attached Resolution).

**Discussion:**

Draft documents to support the program were reviewed by legal counsel and are being presented for final approval.

- ✓ Free Design Assistance Application
- ✓ Development Loan/Grant Program
- ✓ Loan/Grant Development Agreement
- ✓ Promissory Note
- ✓ Trust Deed
- ✓ Façade Improvement Grant Contract

**Fiscal Impact:**

The Plan budgets \$940,000 to this project over the lifetime of the Plan.

**Action / Recommended Motion:**

“I move to adopt the documents as presented or amended.”

RESOLUTION NO. 2017-03

A Resolution of the McMinnville Urban Renewal Board approving the development of a Property Development Assistance program to be used in the Urban Renewal Area per the McMinnville Urban Renewal Plan.

RECITALS:

The City of McMinnville created an Urban Renewal Area in its downtown core and NE Gateway Area in 2013; and

The Purpose of this plan was to assist in implementing the goals of the McMinnville Comprehensive Plan, the Third Street Streetscape Plan, and other planning documents, to help stimulate the economy, create a unique identify and sense of place, and to support local downtown businesses and development of the downtown and the NE Gateway area; and

One of the projects outlined in this plan is a "Planning and Development Assistance Program" that establishes and manages a package of low interest loans and/or small grants for businesses and residents to improve their property's appearance and condition, consistent with the goals and objectives of this plan (e.g. storefront and tenant improvement programs, signage, historic preservation, seismic upgrades, and financial and technical assistance).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE MCMINNVILLE URBAN RENEWAL AGENCY as follows:**

1. That the McMinnville Urban Renewal Advisory Committee shall move forward with administering a development loan and grant program that achieves the intention of McMinnville's Comprehensive Plan and Urban Renewal Plan; and
2. That the McMinnville Urban Renewal Advisory Committee is empowered to make decisions of grants and loans up to \$5000 that meet the program's criteria; and
3. That any grant or loan over \$5000 must be approved by the McMinnville Urban Renewal Board after review and recommendation by the McMinnville Urban Renewal Advisory Committee.

Adopted by the Board of the McMinnville Urban Renewal Agency at a regular meeting held the 24<sup>th</sup> day of January, 2017 by the following votes:

Ayes: Drabkin, Garvin, Jeffries, Stassens, Ruden

Nays: \_\_\_\_\_

Approved this 24<sup>th</sup> day of January, 2017.

  
\_\_\_\_\_  
CHAIR OF THE URBAN RENEWAL BOARD

Approved as to form:

  
\_\_\_\_\_  
CITY ATTORNEY



# McMinnville Urban Renewal Agency

## Free Design Assistance Program

Date: \_\_\_\_\_

**Application Fee: \$150.00\***

### **APPLICANT INFORMATION:**

Applicant's Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Cell Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

Fax: \_\_\_\_\_

**Proof of Ownership:** Please provide proof of ownership or fill out the hold harmless agreement providing written authorization from the property owner to proceed with the project.

**Taxes:** Have all taxes levied on the building and property described in this application been paid to date?

Yes

No

If no, please attach explanation.

### **BUILDING INFORMATION:**

Year Built: \_\_\_\_\_

Historic Name(s): \_\_\_\_\_

Briefly describe what you want to do: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **DESIGN INFORMATION:**

Architect/Design Firm: \_\_\_\_\_

Phone: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail: \_\_\_\_\_

Fax: \_\_\_\_\_

- ❖ ***The program offers ten (10) free hours of architectural / conceptual / design services – one assignment per property.***
- ❖ ***Upon request, the City can provide a list of pre-approved architectural firms.***
- ❖ ***Application fee can be used towards the required match for a grant project.***



**McMinnville Urban Renewal Agency**

**Free Design Assistance Program**

**HOLD HARMLESS AGREEMENT**

**AND**

**OWNER AUTHORIZATION FOR TENANT TO CARRY OUT FAÇADE IMPROVEMENT AND/OR REHABILITATION PROJECT**

I, \_\_\_\_\_ hereby authorize \_\_\_\_\_ to carry out improvements as specified in the accompanying Façade Improvement Grant Application, on my property located at \_\_\_\_\_, which is within the City of McMinnville’s Urban Renewal District.

I also agree to hold harmless the City of McMinnville in the event of property damage or physical injury as a result of working on the aforementioned project.

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary

**Return To:**  
Heather Richards  
Planning Director  
City of McMinnville  
231 NE 5<sup>th</sup> Street  
McMinnville, OR 97128  
Phone: (503) 434-7311  
Fax: (503) 434-4955  
E-mail: [heather.richards@mcminvilleoregon.gov](mailto:heather.richards@mcminvilleoregon.gov)





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## **MCMINNVILLE URBAN RENEWAL AGENCY DEVELOPMENT LOAN/GRANT PROGRAM**

### **PROGRAM SUMMARY AND APPLICATION**

#### **Purpose:**

Provide an ongoing source of gap financing for new construction or substantial rehabilitation projects that provide an immediate increase in assessed value and support additional goals identified in the McMinnville Urban Renewal Plan.

#### **Qualifying Projects:**

Qualifying projects must satisfy ALL of the following conditions:

- Be located within the boundaries of the McMinnville Urban Renewal District. Please see attached map.
- Be new construction or substantial rehabilitation projects that increase assessed value and create jobs.
- Comply with all federal, state and city codes.
- Leverage at least four dollars of private investment for each dollar of urban renewal financing.
- Address two or more of the following urban renewal strategy goals:
  1. **ECONOMY:** Encourage the economic growth of the Area as the commercial, cultural, civic, and craft industry center for McMinnville.
  2. **ENCOURAGE A UNIQUE DISTRICT IDENTITY:** One intent of the Plan is to enhance the physical appearance of the district, create a pedestrian environment that encourages the development and redevelopment of active uses such as shopping and entertainment, and support commercial, civic, and craft industrial business activity.

#### **DOWNTOWN COMMERCIAL CORE**

The downtown commercial core should be a regional destination as well as the commercial center for the citizens of McMinnville. Its identity should enhance and preserve the qualities of the downtown, including its historic heritage, that make it an economically healthy, attractive, and unique environment for people to live, work, shop, and socialize.



## NORTHEAST GATEWAY

The Northeast Gateway area should be a unique destination that reflects the authenticity of historic and current uses within the area – a place where things are crafted, experienced, and enjoyed, and a place where you can live, work, and play.

3. **HOUSING:** Promote development of affordable, quality housing in the Area. Promote a residential development pattern that is land intensive and energy efficient, provides for an urban level of public and private services, and allows unique and innovative development techniques to be employed in residential designs.
4. **HISTORIC PRESERVATION:** Enhance sites and structures of historical, cultural and/or architectural significance.
5. **DEVELOPMENT AND REDEVELOPMENT:** Pursue development and redevelopment opportunities that will add economic, civic, craft industry, and cultural opportunities for the citizens of McMinnville, economically strengthen the Area, and attract visitors to the Area.

**Ineligible Projects:** The following types of projects are not eligible for the loan program.

- Minor maintenance or aesthetic improvement projects not associated with larger rehabilitation work
- Tenant improvement projects not associated with larger rehabilitation work that otherwise would qualify the project.
- Residential projects unless they are 4 units or more, or mixed-use projects.
- Projects that will dislocate existing residents or businesses
- Land or building acquisition loans

## Key Terms:

**(These can be applied at the discretion of the McMinnville Urban Renewal Board)**

- Interest rate of Wall Street Journal Prime rate at time of issuance of loan commitment or as determined to be in the by the City and the Urban Renewal Board at its sole discretion.
- Except when deemed by the Urban Renewal Board to be both necessary for the success of the project and in the best interest of the City and the Urban Renewal District, loan cannot exceed 20% of construction costs.
- Borrowing entity must have 10% equity in project.
- Interest only payments during construction.
- Draw down loan (i.e. interest accrues only on portion drawn).
- Pay-in commensurate with construction progress or as negotiated.
- Loan will be secured by lien on real estate,
- Personal guaranty required,
- 15-year term starting at earlier of completion of construction or final draw

## Conditions and Considerations:

1. All projects are to be approved by the McMinnville Urban Renewal Board, following a recommendation to approve, approve with conditions, or deny by the McMinnville Urban Renewal Advisory Committee (MURAC) Review Subcommittee. The project must be found to meet the program criteria and underwriting criteria **and** to be in the best interest of the City and the Urban Renewal Agency.
2. If the Property is located within the Downtown Design Overlay District, the City and its designated committees/commissions and/or the McMinnville Downtown Association Design Review Subcommittee will review the plans for conformance with the Design Overlay District Standards.
3. Loan decisions, underwriting standards, loan terms and collateral requirements will be entirely at the discretion of the City. The project must be feasible and have an acceptable prospect of repayment.
4. The City of McMinnville will lien the property for the value of the loan. The City of McMinnville may request a title report on the property, which will be subject to attorney review at the discretion of the City Manager. In addition to the lien, property owners must sign a promissory note and guaranty for the repayment of the funds. The Urban Renewal Agency may deny any loan based on the Title Report or the number of liens upon the property.
5. All loans made under this program are subject to availability of program funds. Once the loan is repaid, the lien will be released from holding.
6. All projects shall comply with the City of McMinnville Development and Building Code, including the historic preservation provisions if applicable.



# CITY OF MCMINNVILLE URBAN RENEWAL BOARD DEVELOPMENT LOAN/GRANT PROGRAM INTAKE FORM

**1. Applicant**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Wk. Phone: \_\_\_\_\_ Hm. Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Legal Form: Sole Proprietorship  Partnership  Corporation   
Limited Liability Entity  Profit  Non-Profit

Social Security Number/Tax ID Number: \_\_\_\_\_

**2. Property to be Developed or Redeveloped**

Address: \_\_\_\_\_

Tax Map / Lot Number: \_\_\_\_\_

Property name (if any): \_\_\_\_\_

**3. Owner of Property (If not applicant)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**4. Development Program (if new construction)—Summarize proposed development including square footage by proposed occupancy, proposed site improvements, other key project components.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. **Substantial Rehabilitation Program (if adaptive reuse)** Describe all major building systems to be rehabilitated or replaced and proposed occupancy. If existing tenants will be effected describe plans to minimize impacts on tenants during construction.

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6. **Historic Resources-** Describe if building or property has any historic resources and plans to comply with requirements associated with historic resources.

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7. **Design Review Consistency—** Describe if building is located within the Downtown Design Overlay Zone and plans to ensure building meets requirements for this district.

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8. **Budgeted Project Costs:**

Property acquisition:	\$
Demolition (if any):	\$
Environmental Remediation (if any):	\$
Hard Construction Costs:	\$
Third Party Consultant Fees:	\$
Fees Paid to Any Related Party*:	\$
Financing Fees (application fees, origination fees):	\$
Construction Period Interest and Carrying Costs:	\$
Other (please specify):	\$
<b>TOTAL PROJECT COSTS:</b>	<b>\$</b>

\*Including Developer Fees and any financing or consulting Fees to be paid to a party with an identity of interest with applicant or property owner.

**9. Proposed Sources:**

Existing land or building value (if property owned by applicant):	\$
Other owner equity (should be 10% of project costs minimum):	\$
Tax credit equity (i.e. New Market, Historic, or Low Income Housing Tax Credits):	\$
Conventional Loans:	\$
Subsidized Loans:	\$
Redevelopment Opportunity Fund Loans:	\$
Other sources:	\$
<b>TOTAL PROJECT COSTS:</b>	<b>\$</b>

**10. Team Members:**

**General Contractor (if selected)**

Firm: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Legal Form: Sole Proprietorship  Partnership  Corporation   
 Profit  Non-Profit

Tax ID Number: \_\_\_\_\_

CCB# \_\_\_\_\_

Is there an identity of interest with Applicant or Property Owner? \_\_\_\_\_

**Property Manager/Operator (if selected)**

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Legal Form: Sole Proprietorship  Partnership  Corporation   
 Profit  Non-Profit

Tax ID Number: \_\_\_\_\_

Is there an identity of interest with Applicant or Property Owner? \_\_\_\_\_

**Primary Lender (if identified)**

Bank: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

**Secondary Lender (if identified)**

Bank: \_\_\_\_\_

Primary Contact: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

DRAFT

**CERTIFICATION BY APPLICANT**

The applicant certifies that all information provided in this application is true and complete to the best of the applicant's knowledge and belief. If the applicant is not the owner of the property to be rehabilitated, or if the applicant is an organization rather than an individual, the applicant certifies that he/she has the authority to sign and enter into an agreement to perform the proposed work on the building. Evidence of this authority must be attached.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Return Application To:**  
Planning Director  
City of McMinnville  
231 NE 5<sup>th</sup> Street  
McMinnville, OR 97128

DRAFT



# Checklist Items for Underwriting Approval

## Underwriting Review:

Prior to committing Urban Renewal Funds to a project, the Urban Renewal Agency will make a determination as to whether the project adequately supports urban renewal goals, is feasible, poses an acceptable risk to the agency and is in the best interest of the City and the Agency. In order to make this determination, the Agency may require the following items. Please meet with the Planning Director to determine what will be required.

- **Market Analysis:** A third party market analysis prepared to prevailing professional standards identifying at minimum: demand for product, primary market, competitors, achievable rents/room rates/ticket prices, and anticipated capture rate. (This requirement may be waived for public projects.)
- **Appraisal:** A third party appraisal prepared to current Uniform Standards of Professional Appraisal Practice (USPAP) standards identifying land and stabilized improvement value, expected operating income, expected operating expenses, and expected net operating income. Appraisal should include consideration of cost, sales comparable, and income approaches to determination of value.
- **Financial Proforma:** Developer's financial proforma identifying sources and uses, monthly cash flow during construction period, and annual cash flow waterfall from start of start of construction through year 20 of stabilized operations.
- **Environmental Analysis:** Phase I ESA meeting current ASTM standards completed in past 180 days and reflecting current site conditions. The cost of mitigating any identified environmental risks must be specifically addressed in the financial analysis and construction contract.
- **Development Team History:** Narrative history and schedule of experience developing projects for similar uses and scope. Primary applicant should provide a schedule of any commercial real estate projects currently owned including occupancy and debt service coverage ratios. Executive officers of applicant must authorize a personal background check.
- **Development Team Financial Capacity:** Equity source must provide certified financial statement, schedule of real estate owned, and verification of account balances to demonstrate capacity to fund required equity contribution as well as potential cost overruns.
- **Property Management Experience History:** Proposed property manager must be identified and have successful track record of operating similar facilities. Please provide a narrative history of company and schedule of properties under management including occupancy and current debt service coverage ratios.
- **Preliminary Property Management/Operator Agreement-** Agreement should specify services provided by Manager as well as fee schedule.
- **Construction Plans:** Copy of plans submitted for building department approval.
- **Physical Condition Needs Assessment:** For all adaptive reuse projects, a PCNA Report shall be prepared which shall identify the condition of all building systems and include a schedule of anticipated capital repairs for a 20-year period.

- **General Contractor Experience History:** The general contractor must demonstrate a track record of successfully completing similar projects and the capacity to complete the proposed project. The contractor shall provide a history of completed projects from the last 5 years with references and a financial statement indicating sufficient capitalization to complete the project. In cases where there is a related party interest between the General Contractor and the Developer, the Agency will require a separate third party construction cost review.
- **Construction Bid** including draft construction contract.
- **\*Third Party Construction Cost Review.** Review of plans and construction costs to be engaged by City. City may agree to utilize reviewer engaged by primary lender.
- **Financing commitments:** Executed commitments from other lenders indicating the amount, interest rate (or interest rate index), term and special conditions are required.
- **Development Team Financial Capacity:** Equity source must provide certified financial statement, schedule of real estate owned, and verification of account balances to demonstrate capacity to fund required equity contribution as well as potential cost overruns.

The City reserves the right to engage its own reports or analyses to verify or clarify information provided by Applicant or consultants engaged by the applicant.

## Checklist Items for Closing

Prior to closing the City will at minimum require the following items.:

- **Executed Construction Contract and General Conditions:** An executed fixed price contract and general conditions in a form acceptable to the Urban Renewal Agency (preferably AIA Form 101-1997) with construction schedule consistent with financial projections required as a condition for closing.
- **Final Construction Drawings approved by Building Department**
- **Building permit**
- **Final financial projections from project**
- **Executed financing commitments from all sources (including equity) from all sources consistent with financial projections**
- **Personal guaranty to repay loan from Applicant**
- **Executed operating/management agreement between developer and proposed operator/property manager with management fees consistent with financial projections.**
- **Executed Redevelopment Opportunity Fund Loan Agreement and related documents.**
- **Other documents as required by the specific nature of the project**

## Construction Period Review

During the construction period, City or its Construction Management Consultant will participate in all construction progress and draw request meetings. Draw requests will be approved upon confirmation that work being paid for is complete and built as per approved plans.



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## **MCMINNVILLE URBAN RENEWAL AGENCY LOAN AGREEMENT**

**THIS LOAN AGREEMENT ("Loan Agreement") is made this {Date} by and between {Applicant Name(s)} and {Business Name}, (collectively, "Borrower") and the City of McMinnville, a municipal corporation of the State of Oregon, acting by and through the MCMINNVILLE URBAN RENEWAL AGENCY ("Lender").**

### **RECITALS**

- A. Lender operates the Development Loan Program whereby Lender provides financing to qualified applicants for renovation and new construction projects to address blight conditions related to the poor visual appearance of buildings and the related vacancies of such inadequate, degraded, or obsolete buildings.
- B. Borrower is the owner of that certain property located at {Property Address} in the City of McMinnville, legally described in **Exhibit A** (the "**Property**"). Borrower wishes to make capital improvements to the Property consistent with the Property Rehabilitation Loan program and seeks financing from Lender for such purpose (the "Project").
- C. Lender has determined that Borrower is a "qualified applicant" and agrees to provide financing for capital improvements for the Project, on the terms and conditions of this Loan Agreement.

Therefore, the parties agree as follows:

## 1. DEFINITIONS

**Agency** means the McMinnville Urban Renewal Agency.

**Agency Board** means the McMinnville Urban Renewal Agency Board.

**Application** means the City of McMinnville Urban Renewal Agency Development Loan Program Application (**Exhibit G**), unless otherwise provided.

**Certificate of Occupancy** means the Certificate of Occupancy issued for the Project by the City of McMinnville Building Department.

**City** means the City of McMinnville, a municipal corporation of the State of Oregon.

**Construction Documents** means the plans and specifications for the Project, the construction contract, any design professional agreements for the Project, and any other documents relating to the design or construction, or construction management of the Project, all as approved in writing by Lender as provided herein.

**Construction Period** means the period beginning on the date this Agreement is executed and ending on final completion of the Project as defined in the Construction Documents. Upon request by Borrower and with the prior written consent of Lender, the Construction Period may be extended as provided in the Construction Documents.

**Eligible Work** means work that is eligible for funding through Property Rehabilitation Loan Program as approved by the Agency Board, further defined in the Application, and approved by the Agency as part of its underwriting process.

**Eligible Project Costs** means costs that are directly related to Eligible Work as stated on the Construction Contract or, if no construction contract is in place, on the construction contractor's bid documents.

**Fiscal Year** means the period beginning on the first day of July of each year and ending on the last day of June the following year.

**Loan** means the loan from Lender described in Section 2.1 of this Loan Agreement.

**Loan Documents** mean this Loan Agreement, the Note, the Trust Deed, the Guaranty and any other agreement, addendum or amendment executed by Borrower and Lender in connection with the Loan.

**Loan Period** means the period beginning on the date of the first disbursement under this Loan Agreement and continuing to the earlier of 10 full years from the date of the first disbursement or until the loan and all accrued interest is fully repaid.

**Note** means that certain Promissory Note dated **{Date}**, and executed by Borrower in favor of Lender and evidencing the Loan, attached hereto as **Exhibit C**.

**Owner Match** means capital improvements to the Property consisting of Eligible Work and funded by sources other than City or Urban Renewal Agency loan or grant programs.

**Project** shall mean the capital improvements to the Property as approved by City and planned and executed by Borrower.

**Public Subsidy** means any government-sponsored credit, funding, or abatement, including but not limited to: loans; property tax or assessment abatements, credits, or reductions; taxable or tax exempt bonds; or grants including fee waivers.

**Required Owner Match** means an Owner Match representing XX% of Eligible Project Costs.

**Sources and Uses of Funding Budget** means the amounts and sources of all funding for the Project and the construction budget approved by Lender in writing, attached hereto as **Exhibit E**, as the same may be revised from time to time with the written consent of Lender.

**Trust Deed** means that certain Line of Credit Trust Deed, Security Agreement, Fixture Filing, and Assignment of Leases and Rents dated **{Date}**, executed by Borrower, as Grantor, in favor of Lender, as Beneficiary, encumbering the Project and securing the Loan, attached hereto as **Exhibit D**.

**Urban Renewal District Boundary or "Boundary"** means the adopted boundary of the McMinnville Urban Renewal District as that boundary may be amended from time to time.

## 2. LOAN AND PROJECT FUNDING

2.1 **Loan Amount, Security.** Subject to the terms and conditions of this Loan Agreement, Lender agrees to make a loan to Borrower ("**Loan**") in the maximum principal amount **{Amount written (\$XXXX)}** ("**Loan Amount**"). The Loan is evidenced by and repayable in accordance with this Loan Agreement, Guaranty and Note, and is secured by the Trust Deed. All payments and prepayments on the Loan and all other amounts payable hereunder or under the Trust Deed by Borrower to Lender shall be made to:

**City of McMinnville**

Attn: Finance Department, Finance Controller  
220 NE Second Street  
McMinnville, OR 97128

or at such other address as Lender may specify in writing.

2.2 **Other Project Funding.** In addition to Lender Loan, the Project has or will receive the following funding sources, which will be used to construct the Project, as set forth below:

**{INSERT LIST OF ALL OTHER FUNDING SOURCES AND THE USE OF THE FUNDING HERE}**

### 3. LOAN TERMS

3.1 **Loan.** Lender agrees, on the terms and conditions of this Loan Agreement and upon satisfaction of any conditions precedent, to disburse a total aggregate principal amount equal to the Loan Amount.

3.2 **Interest.** Interest shall accrue at a compound interest rate of **3.25%**, the Wall Street Journal Prime Rate at the time of agreement signatures. Interest shall commence accruing at the time of the last draw.

3.3 **Documentation Required for Disbursements.** Borrower may request disbursement in accordance herewith by providing Lender with copies of executed and approved Application, Loan Agreement, Promissory Note, Guaranty, and proof of Trust Deed filed with the City of McMinnville Recorder, and documentation that capital improvements satisfying Required Owner Match are in place and have been paid for.

3.4 **Payments.** Repayment Due on Sale or Transfer, as set forth below.

(a) Loan payments shall be made in accordance with the terms described in the Note.

(b) Any sale, transfer, conveyance, bequest or gift of the Property or Project shall require written notification to Lender prior to closing and funding the transaction, at which time the Loan and any accrued interest will become immediately due and payable at Lender's sole option.

3.5 **Covenants of Borrower.** Borrower covenants as follows with respect to the construction of the Project, unless Lender has waived compliance in writing. Continuous and full compliance with each covenant below is a condition precedent to Lender's obligation to disburse loan funds:

(a) RESERVED

(b) Each of Borrower's representations and warranties contained in the Loan Agreement and other Loan Documents are true and correct in all respects.



(c) No default has occurred or is continuing under this Loan Agreement or any other Loan Document, and no event shall have occurred that, with the giving of notice or passage of time or both, would constitute a default.

(d) Borrower has provided to Lender, at Borrower's expense, an extended lender's policy of title insurance insuring the lien of the Trust Deed, subject only to Permitted Exceptions (as defined in the Trust Deed).

(e) There has been no condemnation, casualty, or catastrophe affecting the security value of the Project.

(f) Lender will receive copies of lien waivers, in form and substance reasonably satisfactory to Lender, from the general contractor and all subcontractors who worked on the Project indicating that they have been paid for all work performed, or the applicable construction lien period shall have expired (without any liens having been filed), or Borrower will obtain, at its option and expense, a title policy in a form acceptable to Lender, insuring the lien of the Trust Deed against all construction liens that have been or may be filed against the Project.

(g) A completion notice will be posted in accordance with ORS 87.045 and Lender may inspect (unless it waives inspection in its sole discretion) the Project to determine that it was completed in accordance with the Construction Documents and other applicable requirements.

(h) A Certificate of Occupancy will be issued for the Project and all other governmental approvals, licenses, or permits necessary for the use and/or occupancy of the Project shall be obtained.

(i) Lender will receive from Borrower all required regulatory reporting forms as applicable to the Project in form and substance reasonably acceptable to Lender and such supporting documentation as Lender may request.

(j) Borrower has or will commence work within thirty (30) days after the date of this Loan Agreement, unless Lender consents in writing to a longer period. All work will be done under and in accordance with building and other applicable permits issued by the City of McMinnville.

(k) Borrower will comply at its sole cost with any applicable laws related to competitive bidding, payment of wages, and working conditions on the Project, and will indemnify and hold Lender harmless from any violations related to such laws.

(l) The Project will be constructed in a good, workmanlike, expeditious, and continuous manner. The Project shall be completed in accordance with the Construction Documents, as evidenced by the written certification of the Project architect or other design professional and contractor in form and substance satisfactory to Lender, no later than the end of the Construction Period.



(m) All Construction Documents and the Sources and Uses of Funding Budget in Section 2.2 hereof will be approved by Lender in writing and shall not be modified subsequent thereto in any material respect without Lender's prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

(n) Lender and its agents and representatives have the right at any reasonable time to inspect the Project, and inspect financial documentation pertaining to the Project to insure compliance with the terms of the Loan, and to verify that construction is progressing in compliance with the Lender-approved disbursement schedule; provided, however, such inspection by Lender is solely for the purpose of protecting Lender's rights and interests, and shall under no circumstances impose any liability on Lender or result in a waiver of any default of Borrower or be a representation that Borrower is or will be in compliance with the Construction Documents or other applicable laws or requirements.

(o) RESERVED

(p) All funds disbursed hereunder will be used by Borrower for such purposes relating to construction of the Project as shown and approved by Lender in the Sources and Uses of Funding Budget and for no other purpose. Borrower will not loan or otherwise make available all or any part of the Loan proceeds to any person or entity without the prior written consent of Lender.

(q) Borrower agrees to provide to Lender upon Lender's request supporting documentation of all costs incurred by Borrower that are shown on the Sources and Uses of Funding Budget, whether or not such costs are paid from Loan proceeds.

(r) All contractors and subcontractors on the Project shall be registered and bonded in accordance with Oregon law and shall be licensed by the City of McMinnville for construction work. Borrower covenants that all necessary permits, operating and business licenses required by the City of McMinnville, State of Oregon, and all other government agencies have been issued and copies will be provided to Lender upon request.

(s) Borrower will contribute, at minimum, the greater of **{ Amount written (\$XXXX)}** in equity or 10% of the final loan amount (i.e., funds provided by Borrower or its beneficial owners) and, at minimum, the greater of **{Amount written (\$XXXX)}** or 50% of the final loan amount in funds borrowed from other sources toward Project expenses. Borrower will provide Lender with receipts or other evidence satisfactory to Lender in Lender's sole discretion that such investment has been made. Payments made by Borrower or its beneficial owners, or the Guarantor, pursuant to this subsection shall not be in the form of a loan.

(t) Borrower covenants that there has been no material change in the Project financing as described in Section 2.

(u) Borrower covenants that if Borrower intends to vacate the Property or Project, Borrower will provide at least 30 days advance written notice to Lender. Borrower will remain fully obligated to perform under the Loan Documents in the event it vacates the Property or Project, and Lender reserves all of its rights to ensure and compel Borrower's

performance if Borrower vacates the Property or Project, unless Lender in its sole discretion consents otherwise in writing.

#### 4. COLLATERAL

4.1 **Trust Deed; Security Interest in Personal Property Collateral.** To secure Borrower's prompt payment and performance of its obligations under this Loan Agreement and Note, Borrower shall grant Lender a lien on the Property and all improvements now or hereafter existing on the Property (including the Project) and a continuing security interest in personal property now or hereafter located on, relating to, or used in connection with the Property or the Project, as and to the extent provided in the Trust Deed.

Upon request by the Senior Lender to subordinate Lender's Trust Deed and the personal property security interest to the Senior Lender's mortgage documents, and after Lender's approval of the terms and condition of the Senior Lender's mortgage documents, Lender shall execute such subordination agreement or other documents as are necessary to evidence such subordination. Lender will not unreasonably withhold approval of the Senior Lender's mortgage documents.

4.2 **Personal Property Lien Perfection.** Borrower agrees that Lender has the right to file UCC financing statements, instruments, and documents, and Borrower agrees to take such other action as may be required to perfect or to continue the perfection of Lender's security interest in the collateral described in the Trust Deed.

#### 5. BORROWER'S REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender as follows:

5.1 **Status; Business.** Borrower is comprised of individuals together with {BUSINESS NAME}, a {ENTER ENTITY TYPE} duly organized and validly existing under the laws of the state of Oregon, both of whom have the power and authority to enter into the Loan Documents.

5.2 **No Violations or Default.** Borrower is not in default under or in violation of any indenture or agreement to which it is a party or by which it is bound, or any order, regulation, ruling, or requirement of a court or other public body or authority. No creditor has given Borrower notice or threatened to give it any notice of default under any agreement or other obligation.

5.3 **Litigation.** No action, suit, investigation, or proceeding is pending against Borrower or with respect to the Project before any court or administrative agency, (a) the outcome of which, by itself or taken together with other such litigation, might have a material adverse effect on the business, assets, operations, or financial condition of Borrower, or (b) which purports to affect the legality, enforceability, or validity of any Loan Document.

5.4 **Tax Returns and Taxes.** All federal, state, and other tax returns of Borrower required by law to be filed have been filed. All other taxes applicable to Borrower, including real property taxes (to the extent not abated in accordance with applicable law), are current.

5.5 **Title to Collateral.** All the collateral described in the Trust Deed is owned by Borrower, and Borrower's interest in such collateral is free and clear of all liens and encumbrances of any kind except those approved in writing by Lender ("**Permitted Exceptions**").

5.6 **Compliance With Laws.** Borrower is in material compliance with all federal, state and local laws, rules, regulations, ordinances and orders applicable to it, the Property or the Project, and the operation thereof, including, without limitation, all applicable health and safety, environmental, and zoning laws.

5.7 **Financial Statements.** All financial statements delivered by Borrower to Lender will, as of the date thereof, be true, correct and complete, fairly represent the financial condition of the Project at the dates thereof; and be prepared in accordance with generally accepted accounting principles and practices in the United States, consistently applied. Since the date of the most recent financial statements delivered to Lender, there has been no material adverse change in the financial condition of Borrower or Project.

## 6. **AFFIRMATIVE COVENANTS**

At all times during the term of this Loan Agreement and until all amounts and obligations owing hereunder and under any other Loan Document shall have been paid and performed, Borrower covenants and agrees as follows:

6.1 **Licenses; Maintenance of Business.** Borrower {INSERT BUSINESS NAME} will remain a {INSERT ENTITY TYPE} validly existing under the laws of Oregon and will keep in force all licenses and permits necessary to the proper conduct of its ownership and operation of the Project.

6.2 **Performance of Obligations.** Borrower will pay all principal of and interest on the Loan in accordance with the terms of the Note and this Loan Agreement, and will pay when due all other amounts payable by Borrower hereunder or under any Loan Document, and will comply with all requirements of the Trust Deed.

6.3 **Compliance with Laws and Use Restrictions.** Borrower will comply with, or cause the Project to comply with, all laws, ordinances, statutes, rules, regulations, orders, injunctions, or decrees of any government agency or instrumentality applicable to Borrower, the Project, or the operation thereof, including (a) all applicable health and safety, environmental, and zoning laws, and (b) all restrictions on the use, occupancy or operation of the Project arising from the original source of the Loan proceeds or otherwise required by Lender.

6.4 **Other Obligations.** Borrower will pay, and discharge before the same shall become delinquent, all indebtedness, taxes, and other obligations for which it is liable or to

which its income or property is subject and all claims for labor and materials or supplies which, if unpaid, might become by law a lien (other than a Permitted Exception) upon the collateral described in the Trust Deed, except any thereof whose validity or amount is being contested in good faith by Borrower in appropriate proceedings with adequate provision having been made in accordance with generally accepted accounting principles for the payment thereof if the contest is determined adversely to Borrower. If Borrower fails to discharge any such claim or lien, Lender may, in its sole discretion and without waiving the default, pay the same, which payment shall, at Lender's option, be added to the amount outstanding under the Note with interest.

**6.5 Indemnity.** Borrower shall indemnify and hold Lender, its employees and agents harmless from and against any and all liabilities, claims, losses, damages, or expenses (including attorney fees and title costs and expenses) which any of them may suffer or incur in connection with (a) the inaccuracy of any of the representations and warranties made in this Loan Agreement, (b) any transaction contemplated by this Loan Agreement or any other Loan Document, and (c) the construction, or operation of the Project, except to the extent such liabilities, claims, losses, damages, or expenses arise solely from the gross negligence or willful misconduct of Lender.

**6.6 Financial Information.** Borrower shall provide to Lender periodic financial statements meeting the requirements of Section 5.7 and other reports as reasonably requested by Lender, including copies of federal and state tax returns.

**6.7 Additional Documents; Additional Acts.** From time to time, Borrower will execute and deliver all such information, documents, or instruments and perform all such other acts as Lender may reasonably request to carry out the transactions contemplated by the Loan Documents.

## **7. NEGATIVE COVENANTS**

At all times during the term of this Loan Agreement and until all amounts and obligations owing hereunder and under any other Loan Document shall have been paid and performed in full, Borrower will not, directly or indirectly, without the prior written consent of Lender:

**7.1 Ownership/Change in Control.** Sell or transfer any beneficial interest in Borrower in violation of the terms of the Note, or change or permit a material change in Borrower's legal organizational structure, except as provided in Sections 8.5 and 8.6 of the Trust Deed.

**7.2 Sale or Merger.** Sell or transfer all or any part of the Property or Project in violation of the terms of the Note, or dissolve, liquidate, merge, reorganize, or consolidate.

**7.3 Indebtedness.** Except as specifically contemplated in this Loan Agreement, incur any new indebtedness in addition to the Loan or indebtedness upon Property secured by Permitted Exceptions.

7.4 **Liens.** Create, assume, or suffer to exist any lien or charge of any kind, direct or indirect, upon any of the Property or the Project, except for Permitted Exceptions and liens in favor of Lender, and liens that have been bonded against pursuant to Oregon law.

## 8. EVENTS OF DEFAULT

Any of the following shall be an event of default (“**Event of Default**”) under this Loan Agreement:

8.1 **Failure to Pay Obligations Under Note and Trust Deed When Due.** Borrower fails to pay any sum due under the Note within fifteen (15) days after the date it is due, or fails to pay any other amount required to be paid by Borrower pursuant to the Trust Deed or the Loan Documents (including, without limitation, taxes, assessments, insurance and any other payment necessary to prevent filing or imposition of any liens) within fifteen (15) days after written notice of nonpayment from Lender specifying the default.

8.2 **Failure to Comply with Covenants.** Borrower fails to perform or abide by any other covenant in this Loan Agreement or in the Loan Documents and such failure, to the extent curable, is not cured within thirty (30) days after written notice from Lender specifying the default or, if such breach cannot with due diligence be cured within such period, if Borrower shall fail within such thirty (30) day period to commence cure of the failure and thereafter diligently prosecute to completion such cure (which cure in any event shall occur within sixty (60) days after the default notice).

8.3 **Failure to Obtain Lender’s Consent to Transaction.** Borrower engages in a sale, transfer or assignment, or uses Loan proceeds, in violation of the terms of the Note, the Trust Deed, or the Loan Documents, or changes the use of the Property or Project without Lender’s prior written consent.

8.4 **Failure to Comply.** Borrower defaults under the Note, this Loan Agreement, the Trust Deed, or the Loan Documents and fails to cure the default within the applicable cure period, if any, set forth therein.

### 8.5 **Failure to Pay General Debts When Due.**

(a) Borrower or any guarantor of the Loan (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (ii) admits in writing its inability to pay, or generally is not paying, its debts as they become due, (iii) makes a general assignment for the benefit of creditors, (iv) commences a voluntary action under the United States Bankruptcy Code (as now or hereafter in effect), (v) is adjudicated a bankrupt or insolvent, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, (vii) fails to controvert in a timely or appropriate manner, or acquiesces or consents in writing to, any petition filed against it, in an involuntary action under the United States Bankruptcy Code, or (viii) takes any action or consents to any action for the purpose of effecting any of the foregoing.



(b) (i) A proceeding or case is commenced against Borrower, without its consent, in any court of competent jurisdiction, seeking the liquidation, reorganization, dissolution, windup, or composition or readjustment of the debts of Borrower, (ii) a receiver, trustee, custodian, liquidator, or the like is appointed for Borrower or for all or a substantial part of its assets, or (iii) relief is granted to Borrower under any law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or (iv) an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for any period of sixty (60) days, or an order for relief against Borrower is entered in an involuntary case under the United States Bankruptcy Code.

**8.6 Failure to Disclose Material Facts.** Borrower fails to disclose any fact material to the making of any loan to Borrower, or upon discovery by Lender of any misrepresentation by, or on behalf of, or for the benefit of Borrower.

**8.7 Default Under Other Loans.** Borrower defaults under any other loan (including any construction, permanent, or bond financing) secured in whole or in part by the Property, including any loan secured by a Permitted Exception, and fails to cure such default within any applicable cure period set forth in the loan documents relating to such loan. If Borrower cures a default under any other loan, that cure shall constitute a cure under the Trust Deed, the Note, or the Loan Documents, provided Borrower is not in default of any other provision of the Trust Deed, the Note, or the Loan Documents.

**8.8 Default by Guarantors.** Any guarantor repudiates or breaches any of its obligations under the guaranty.

**8.9 Failure to Replace Guarantors.** Borrower fails to replace a guarantor if such person becomes the subject of voluntary or involuntary proceeding within ninety (90) days following the commencement of such proceeding with a replacement reasonably satisfactory to Lender.

**8.10 Discontinued Construction.** Construction on the Project is discontinued or prohibited for at least 30 consecutive days, or the Project is abandoned.

**8.11 Failure to Diligently Pursue the Project.** Borrower fails to diligently pursue the Project during the Construction Period. Borrower agrees to use commercially reasonable efforts to comply with the Project schedule approved by Lender, attached to this Loan Agreement as **Exhibit H**.

## **9. RIGHTS AND REMEDIES ON DEFAULT**

Upon the occurrence of an Event of Default and at any time thereafter, Trustee or Lender may, at its option, exercise any one or more of the following rights and remedies:

9.1 **Acceleration.** Lender may declare the entire remaining unpaid balance of principal and unpaid accrued interest and other charges payable by Borrower pursuant to the Note or any other Loan Document, to be immediately due and payable in full.

9.2 **Foreclosure.** Lender shall have the right to foreclose by notice and sale, or Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with applicable law. In any judicial foreclosure, Lender shall be entitled to obtain a deficiency judgment for any amount by which the amount of the obligations secured hereby exceeds the sale proceeds.

9.3 **Waiver of Rights.** Notwithstanding Section 9.2, Lender shall have the right, at its sole option, to waive its rights under the Trust Deed and pursue an independent action upon the Note. The Note, Trust Deed, and other Loan Documents are separate and distinct instruments separately or collectively enforceable in accordance with their terms.

9.4 **Rights and Remedies.** Lender shall have any other right or remedy provided in the Trust Deed, the Note, the Loan Documents, or any other instrument delivered by Borrower in connection therewith, or available at law, in equity, or otherwise in such order and manner as it may select.

9.5 **Notification to Obligors to Pay Rent Directly to Lender.** Lender may at any time, without notice, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of the security for the obligations hereby secured, notify obligors of rents to pay Lender directly, and/or enter upon and take possession of the Property or any part thereof, in its own name sue or otherwise collect any and all Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any obligations secured hereby, and in such order as Lender may determine.

9.6 **Uniform Commercial Code.** Lender shall have all rights and remedies under the Oregon Uniform Commercial Code, as amended from time to time. Lender shall give Borrower reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or any other intended disposition of personal property collateral is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

9.7 **Exercising Rights and Remedies.** In exercising its rights and remedies, Lender may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Lender may bid at any public sale on all or any portion of the Property. A waiver by either party of a breach of a provision of the Trust Deed shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. An election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Lender under the Trust Deed are cumulative and not exclusive. An election to make expenditures or take action to perform an obligation of Borrower shall not affect Lender's right to declare a default and exercise its remedies under the Trust Deed. Lender shall have any other right or remedy provided in the Note, the Loan Documents, or any other



instrument delivered by Borrower in connection therewith, or any remedy available at law, in equity, or otherwise in such order and manner as it may elect.

**9.8 Foreclosure of Lessee's Rights - Subordination.** Lender shall have the right, at its option, to foreclose the Trust Deed subject to the rights of any lessee(s) of the Property. Lender's failure to foreclose against any lessee shall not be asserted as a claim against Lender or as a defense against any claim by Lender in any action or proceeding. Lender, at any time, may subordinate the Trust Deed to any or all of the lessees, except that Lender shall retain its priority claim to any condemnation or insurance proceeds.

**9.9 Repairs During Redemption.** In the event of a judicial foreclosure, the purchaser during any redemption period may make such repairs and alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring of the Property. Any sums so paid, together with interest from the date of the expenditure at the rate provided in the judgment shall be added to the amount required to be paid for redemption of the Property.

**9.10 Event of Foreclosure.** In the event of any judicial or nonjudicial foreclosure sale, Lender in its discretion may use a single notice covering both real estate and personal property, designate the order of sale, and may elect to sell the real estate and personal property as an integrated unit or separately. Any person permitted by law to do so may purchase at any sale.

**9.11 Proceeds of Sale.** Subject to the provisions of applicable law, the proceeds of any sale under the Trust Deed will be applied first to payment of costs and expenses, then to payment of security protection advances, then to payment of the other secured obligations (which includes any applicable prepayment premium or fee) in any order that Lender chooses, and then to any other person or persons who may establish to the satisfaction of Lender that they are legally entitled to it.

**9.12 Borrower's Waiver of Rights Upon Sale.** Borrower waives all rights to direct the order and/or combinations in which any of the collateral will be sold, and also any right to have any of the collateral marshaled upon any sale. Borrower acknowledges that there is no fiduciary relationship between Borrower and Lender.

**9.13 During Construction.**

(a) Lender shall have the right to take over and cause the Project to be completed and, for that purpose, make disbursements from any undisbursed Loan funds. Any contract entered into or indebtedness incurred on the exercise of such right may be exercised by Lender in the name of Borrower, and Lender is hereby irrevocably appointed attorney-in-fact (the appointment being coupled with an interest) to enter into the contract, incur such obligations, enforce contracts or loan agreements theretofore made by or on behalf of Borrower, and to do any and all things necessary or proper to complete the work of construction, including the signing of Borrower's name to such contracts and documents as may be deemed necessary by counsel for Lender. In no event shall Lender be required to use its own funds to complete the Project if undisbursed Loan funds are insufficient, but

Lender may, at its option, advance such funds. Any funds so advanced shall be payable to Lender by Borrower on demand together with interest thereon at the Default Rate under the Note and shall be secured by the Trust Deed.

(b) Lender shall have the right to suspend or terminate its obligation to make further disbursement of Loan proceeds, consistent with this Agreement.

9.14 **Interest on Default.** Upon the occurrence of any Event of Default, interest under the Note shall accrue on the unpaid principal balance from the date of the Event of Default, or if the Event of Default is a payment default, from the date the first unpaid payment was due, at a rate (the “**Default Rate**”) equal to twelve percent (12%) per annum until paid in full. Lender may charge interest at the Default Rate starting when Lender gives notice of the default to Borrower and continuing until the default is cured or the Note is paid in full or discharged through foreclosure against the collateral and applicable redemption rights have expired.

9.15 **Rights and Remedies Cumulative.** All rights and remedies described in Section 9 are nonexclusive, cumulative and in addition to any other remedy Lender may have by agreement, at law, or in equity. Partial exercise of any right or remedy shall not limit or restrict Lender’s subsequent exercise of such right or remedy nor shall it restrict Lender’s contemporaneous or subsequent exercise of any other right or remedy.

9.16 **No Waiver.** No failure or delay of Lender in exercising any right hereunder shall operate as a waiver of that right or any other right. No modification or waiver of any provision of the Trust Deed or any other Loan Document shall be effective unless in writing, and signed by Lender pursuant to Agency Board authorization, and then only in specific instance and for the purpose given. No notice or demand on Borrower shall entitle Borrower to any other notice or demand in other similar circumstances.

9.17 **Payment of Costs of Collection.** In the event of a default or commencement of litigation to enforce or construe any term of the Trust Deed, the Note, or any other Loan Document, the losing party will pay to the prevailing party such amounts as shall be sufficient to cover the cost and expense of collection or enforcement, including, without limitation, reasonable attorney fees and costs prior to and at any arbitration proceeding or at trial, on appeal, or in any bankruptcy proceeding.

## 10. MISCELLANEOUS

10.1 **Recourse Provision.** The obligations under the Note, including the obligations secured by the Trust Deed, are with recourse to Borrower, and any of its partners or members.

10.2 **Counterparts.** This Loan Agreement may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all the parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.

10.3 **Survival.** All agreements, representations, and warranties shall survive the execution and delivery of this Loan Agreement, any investigation at any time made by Lender or on its behalf, the making of the Loan, and the delivery of the Trust Deed and Note.

10.4 **Notice.** Any notice required or permitted under this Loan Agreement shall be in writing and shall be deemed effective (a) when actually delivered in person, (b) one business day after deposit with a commercial courier service for "next day" delivery, (c) two business days after having been deposited in the United States mail as certified or registered mail, or (d) when transmitted by facsimile (answer back or receipt confirmed), addressed to the parties as follows:

If to Borrower:

{Applicant}  
{Applicant Address}  
{Applicant Address}  
{Applicant Phone}  
{Applicant Fax}

If to Lender:

McMinnville Urban Renewal Agency  
Attn: City of McMinnville Planning Director  
231 NE Fifth Street  
McMinnville, Oregon 97129  
Phone: (503) 434-7311  
Fax: 503-474-4955

with a copy to:

McMinnville Urban Renewal Agency  
Attn: City of McMinnville Finance Controller  
220 NE Second Street  
McMinnville, Oregon 97128  
Phone: (503) 434-7311  
Fax: 503-474-4955

10.5 **Successors and Assigns.** This Loan Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns. Notwithstanding the foregoing, in the event the Senior Lender acquires title to the Property or Project through foreclosure, or deed in lieu of foreclosure, neither the Senior Lender nor any subsequent purchaser of the Property or Project following such foreclosure, or deed in lieu of foreclosure, shall be deemed a "successor or assign" of Borrower.

10.6 **Governing Law.** This Loan Agreement and the other Loan Documents shall be governed by and construed under Oregon law, without respect to conflict of laws principles.

10.7 **Assignment.** Borrower may not assign this Loan Agreement without the prior written consent of Lender, which Lender may withhold in its sole discretion.

**10.8 Modification; Entire Agreement Loan Agreement Controlling; Headings.**

This Loan Agreement may not be modified or amended except by an instrument in writing signed by Borrower and Lender. This Loan Agreement, taken together with the other Loan Documents and the Commitment Letter, reflects and sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior agreements and understandings relating to such subject matter. Terms and conditions described within the Loan Documents shall supersede those contained in the Commitment Letter. The headings in this Loan Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms hereof.

**10.9 Validity; Severability.** If any provision of this Loan Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Loan Agreement, and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

**10.10 Exhibits.** Any exhibits attached to this Loan Agreement and referred to herein are incorporated in this Loan Agreement as if they were fully set forth in the text hereof.

**10.11 Time of Essence.** Time is of the essence of this Loan Agreement and each of the Loan Documents.

**10.12 No Third-Party Beneficiaries.** This Agreement does not confer and is not intended to confer any rights, obligations or remedies upon any person other than Lender and Borrower.

**10.13 Lender's Consent.** Throughout the Loan Documents, a reference to Lender's (or as Agency or City may otherwise be defined in the Loan Documents) ability to consent to an act or request means at Lender's sole discretion unless expressly stated otherwise in a specific instance.

***[SIGNATURES ON FOLLOWING PAGE]***

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their duly authorized representatives as of the date first above written.

**BORROWER:**

**By:**

\_\_\_\_\_  
**{Applicant(Individual)}**

**Date:**

\_\_\_\_\_

**By:**

\_\_\_\_\_  
**{Applicant (Individual)}**

**Date:**

\_\_\_\_\_

**By:**

\_\_\_\_\_  
**{Applicant (Business Entity)}**

**Printed**

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**Date:**

\_\_\_\_\_

**LENDER:**

**CITY OF MCMINNVILLE**, a municipal corporation of the State of Oregon, acting by and through the **McMinnville Urban Renewal Agency**

**By:** \_\_\_\_\_

\_\_\_\_\_, **City Manager,**  
**City of McMinnville, on behalf of the**  
**McMinnville Urban Renewal Agency**

**Date:**

\_\_\_\_\_

## List of Exhibits: On File with the City of McMinnville

- Exhibit A     Legal Description of Property
- Exhibit B     Commitment Letter
- Exhibit C     Promissory Note
- Exhibit D     Trust Deed
- Exhibit E     Sources and Uses of Funding Budget
- Exhibit F     McMinnville Development Loan Closing Checklist
- Exhibit G     Development Loan Program Description
- Exhibit H     Project Schedule

DRAFT

Loan Number: MURA DEVELOPMENT LOAN XX-XX



**CITY OF MCMINNVILLE  
PLANNING DEPARTMENT**  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128

503-434-7311  
www.mcminnvilleoregon.gov

## **MCMINNVILLE URBAN RENEWAL AGENCY PROMISSORY NOTE**

(Amortizing Payments)

\$ **{Amount written (\$XXXX)}**

**{Date}**

**McMinnville, Oregon**

**{Applicant }** ("Borrower"), promises to pay to the order of the **CITY OF MCMINNVILLE**, a municipal corporation of the State of Oregon, acting by and through the **MCMINNVILLE URBAN RENEWAL AGENCY**, its successors and assigns ("Lender"), at 220 NE Second Street, McMinnville, Oregon, 97128, or at such other address as Lender may specify in writing, the principal amount of **{Amount written (\$XXXX)}** ("Principal Balance"), or so much thereof as may be disbursed pursuant to the terms of that certain Loan Agreement of even date herewith between Borrower and Lender ("**Loan Agreement**"), together with any accrued interest. Interest under this Note shall be computed on the basis of a 365-day year. The amount of each payment made by Borrower that is allocated to interest will be based on the actual number of calendar days during such month and shall be calculated by multiplying the unpaid Principal Balance of this Note by the per annum Interest Rate, dividing the product by 365 and multiplying the quotient by the actual number of days elapsed.

This promissory note ("**Note**") is the note referred to in the Loan Agreement and is entitled to the benefits of, and subject to the limitations of, the Loan Agreement. All capitalized terms not defined herein shall have the respective meanings given thereto in the Loan Agreement.



## 1. LOAN

1.1 **Interest.** Except as otherwise provided in this Note, loan interest shall accrue on amounts disbursed hereunder from the date of last disbursement at the rate of X.XX percent (X.XX%) {make consistent with interest rate provided in the Loan Agreement} per annum compound interest.

### 1.2 Payment.

(a) Payments shall be due semi-annually on June 15, and December 15 following the initial disbursement.

(b) The base semi-annual payment amount is agreed based on full amortization of the Loan over a 10 year (120 month) term, and is mutually agreed to be the lesser of {insert the calculated payment amount} or the remaining balance, plus any late charges, default interest or other penalties and fees.

1.3 **Application of Payment.** Each payment shall be applied first, at Lender's option, to any unpaid late charges or other sums payable by Borrower under this Note or any other documents or instruments executed by Borrower in connection with the Loan (collectively with this Note, the "**Loan Documents**"), then to accrued interest on this Note, if any, and then to the Principal Balance of this Note.

## 3. MATURITY DATE

The maturity date means the earlier of the date when this entire Note, principal, any penalties and interest, is paid in full, or the first day following ten full years from the commencement date of the Loan Period ("**Maturity Date**"). The unpaid Principal Balance of this Note, all unpaid penalties and accrued interest thereon, and all sums payable by Borrower in connection with this Note shall be due and payable in full on the Maturity Date or, at Lender's option, upon any default under this Note, the Loan Agreement, Trust Deed or any other agreement or instrument securing this Note, which default remains uncured after expiration of any applicable cure period.

## 4. PREPAYMENT

Borrower may prepay the Loan Balance at any time without penalty. All prepayments will be applied first to late fees and default interest, if any, second, to accrued interest on this Note, and then to the Principal Balance of this Note. Partial prepayments will not affect the obligation of the Borrower to pay installments provided for above or any other obligation of Borrower under this Note.

## 5. LATE CHARGE

If any payment due under this Note is not paid in full within fifteen (15) days of its due date, a late charge equal to five percent (5%) of the late payment amount due may be charged. That late charge shall be paid with the first installment payment due after

Borrower has received written notice of the late charge, but, if not so paid, Lender may elect to (a) refuse any late payment or any subsequent payment unless accompanied by the applicable late charge, (b) add the late charge to the Principal Balance of this Note, or (c) treat the failure to pay the late charge as demanded as a default under this Note. If a late charge is added to the Principal Balance of this Note, it shall bear interest at the same rate as the Principal Balance of this Note. However, assessment of a late charge is not a waiver of Lender's right to demand and receive timely payment of any payments due or a waiver of any of Lender's remedies hereunder or under the Trust Deed or any other instrument or agreement securing this Note.

## **6. SUBSIDIZED LOAN; DUE ON TRANSFER; NO CHANGE IN USE**

(a) Borrower acknowledges that the interest rate on the Loan is subsidized by public funds and is below the prevailing market rate for similar loans obtainable in the private marketplace. Borrower further acknowledges that the favorable interest rate on the Loan is not intended to benefit Borrower or any subsequent owner of the Project in the event of any sale or transfer of the Project or of a beneficial interest in Borrower.

Accordingly, any sale, transfer, conveyance, or gift (or any attempted sale, transfer, conveyance, or gift) of all or any part of, or any interest in, the Property or the Project, or any beneficial interest in Borrower, without the prior written consent of Lender (which Lender may grant, condition, or withhold in its sole and absolute discretion) is prohibited, and upon any such prohibited sale or transfer, this Note and all other indebtedness secured by the Trust Deed shall become immediately due and payable in full.

As used herein, the term "sale or transfer" is used in its broadest sense, and includes, with respect to the Property or Project, a ground lease, master lease or other lease not in the ordinary course of business, land sale contract, foreclosure, deed in lieu of foreclosure, or transfer (by operation of law or otherwise) pursuant to any dissolution, liquidation, merger, reorganization or consolidation, and with respect to a beneficial interest in Borrower, a sale, gift or other transfer of any partnership, stock, membership or other ownership interest in Borrower other than a transfer upon death of the owner of such interest. Notwithstanding who is the holder of this Note, Lender reserves the right to approve a sale or transfer as described in this Section. Any transferee shall be bound by the terms of this Note.

(b) Borrower shall not change the use of the Property or Project without Lender's prior written consent, which may be withheld or conditioned in Lender's sole and absolute discretion.

## **7. EVENTS OF DEFAULT**

Borrower shall be in default under this Note if any one or more of the Events of Default described in the Trust Deed or the Loan Agreement, which are incorporated by reference in this Note, occur.

## **8. LENDER'S RIGHTS AND REMEDIES ON DEFAULT**

Upon the occurrence of any Event of Default, Lender may exercise any one or more of the rights and remedies on default described in the Trust Deed or the Loan Agreement, which are incorporated by reference in this Note.

Upon the occurrence of any Event of Default, interest under this Note shall accrue on the unpaid Principal Balance from the date of the Event of Default, or if the Event of Default is a payment default, from the date the first unpaid payment was due, at a rate (the “**Default Rate**”) equal to the lesser of twelve hundred basis points above the rate stated in Section 1.1 of this Note (i.e. a 12 percent interest rate) or the maximum interest which may be collected from Borrower under applicable law. The interest rate reverts to that shown in Section 1.1 when the default is cured. If the unpaid Principal Balance and all accrued interest are not paid in full on the Maturity Date, the unpaid Principal Balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of the Borrower’s delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

## **9. ATTORNEY FEES**

In case of default, Borrower promises to pay any reasonable expenses incurred in making collection of delinquent amounts, including reasonable attorney fees, even though no suit or action is filed thereon. In case suit or action is instituted relating in any way to this Note, the prevailing party shall be entitled to its costs and disbursements incurred herein and such additional sums as a court of competent jurisdiction may adjudge reasonable as attorney fees in any such suit or action, and in any appeal therefrom. Such costs and attorney fees agreed to be paid to the prevailing party shall include, without limitation, costs and attorney fees incurred in any federal bankruptcy proceedings or under any state receivership statutes.

## **10. RECOURSE PROVISION**

The obligations under this Note, including the obligations secured by the Trust Deed, are with recourse to Borrower, and any of its partners or members.

## **11. MISCELLANEOUS**

This Note may not be modified or amended except in writing and signed by Borrower and Lender. Time is of the essence of each provision of this Note. Borrower waives presentment for payment, notice of dishonor, protest, notice of protest and diligence in collection, and consents that the time of payment of the Principal Balance

and accrued interest, or any part thereof, may be extended by Lender without otherwise modifying, altering, releasing, affecting or limiting Borrower's liability or the security for this Note. If any provision of this Note is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Note. This Note shall be construed in accordance with Oregon law without respect to conflict of laws principles.

**BORROWER:**

\_\_\_\_\_

By:

\_\_\_\_\_  
**{Applicant}**

By:

\_\_\_\_\_  
**{Applicant}**

DRAFT

**When Recorded Return to:**

City of McMinnville  
City Recorder  
220 NE Second Street  
McMinnville, OR 97128  
Attn: Melissa Grace  
Loan Number: MURA DEVELOPMENT LOAN XX-XX

**LINE OF CREDIT TRUST DEED, SECURITY AGREEMENT,  
FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS**

<b>{Date}</b>
<b>Statutory Notice</b>
<p>The maximum principal amount to be advanced pursuant to the Loan Agreement (as defined below) is _____ <b>Dollars (\$_____ .00)</b>. Such amount may be exceeded (at Beneficiary's option) to complete the construction of previously agreed-upon improvements on the Land (as defined below) pursuant to ORS 86.155 .</p> <p>The maturity date of the Promissory Note secured by this Line of Credit Trust Deed ("<b>Trust Deed</b>") is <b>{Date}</b>, exclusive of any option to renew or extend the maturity date).</p> <p>There is no prepayment penalty during the first year or any successive years of the Loan Period (as defined in the Loan Agreement).</p>

**THIS LINE OF CREDIT TRUST DEED, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS ("Trust Deed")** is made this **{Date}**, by and among **{Applicant}**, whose address is **{Applicant Address}**, as "Grantor", **{Trustee}**, whose address is **{Trustee Address}** as "Trustee," and the **CITY OF MCMINNVILLE** a municipal corporation of the State of Oregon, acting by and through the **MCMINNVILLE URBAN RENEWAL AGENCY**, whose address is 220 NE Second Street, McMinnville, Oregon 97128, as "**Beneficiary**."

All capitalized terms not defined herein shall have the respective meanings given thereto in the Loan Agreement (as defined below).

**Therefore, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:**

## 1. GRANT AND CONVEYANCE.

**FOR VALUE RECEIVED**, Grantor does hereby convey to Trustee, in trust, WITH POWER OF SALE, that certain real property situated in the County of Yamhill, State of Oregon, and described in **Exhibit A** (the "**Land**");

**TOGETHER WITH** a security interest in, and a lien upon, all improvements, property and property rights associated with the Land, and all proceeds thereof, whether now owned or hereafter acquired, including, but not limited to, the following:

All buildings, structures and improvements now or at any time hereafter erected, constructed and situated upon the Land or any part thereof (collectively, "**Improvements**") and all apparatus, appliances, furnaces, boilers, machinery, engines, equipment and other like property and fixtures of every kind and description now or hereafter affixed or attached to or located in any such Improvements;

All furniture, fixtures (including without limitation appliances), equipment, and other personal property used in connection with the operation of the Land and Improvements;

All general intangibles, licenses, accounts, contracts and contract rights (including construction and architect contracts), leases, rental agreements, and other agreements for the use and occupancy of residential or commercial space in the Improvements, Rents (as defined in Section 4 below), plans and specifications, engineering environmental or other reports and studies, management contracts or agreements, zoning rights and privileges, permits, and certificates required, used or created in connection with the rehabilitation, ownership, operation or maintenance of the Land or Improvements.

The Land, Improvements, and all other property described above are hereinafter collectively referred to as the "**Property**".

Grantor is indebted to Beneficiary according to the terms of the Note dated {INSERT DATE} in the principal amount of **{Write out Amount} Dollars (\$XXXX.00)**, under which the final payment of principal and interest will be due on {INSERT DATE}. The Note, together with any other note or notes given in renewal, modification, substitution or in addition to the promissory note originally issued, is referred to herein as the "**Note**." This Trust Deed, and the lien and security interest granted hereunder, are given to secure (a) repayment of all principal, interest and late charges under the Note, (b) performance of all obligations of Grantor under that certain Loan Agreement of even date herewith between Grantor and Beneficiary ("**Loan Agreement**"), (c) any future amounts that Beneficiary may in its discretion loan to Grantor, with interest thereon, (d) any amounts expended or advanced by Beneficiary to discharge obligations of Grantor or expenses incurred by Beneficiary or Trustee to enforce obligations of Grantor, as permitted under this Trust Deed, with interest thereon at the Default Rate



under the Note, and (e) performance of all other obligations of Grantor under this Trust Deed or under the Note.

## 2. COVENANTS

Grantor represents, warrants and covenants as follows:

2.1 **Title.** Grantor is the lawful owner of the Property, and the Property is free and clear of any trust deed, mortgage, lien, charge, encumbrance, easement or other matter affecting title thereto, other than property taxes not yet due and payable, utility easements, liens securing loans in favor of any senior lender to which the lien of this Trust Deed is expressly subordinated in writing, use restrictions and covenants required by any government agency in connection with the property and matters permitted by Beneficiary as set forth in **Exhibit B** (collectively "**Permitted Exceptions**"). Grantor will maintain and preserve the lien of this Trust Deed until the obligations secured hereby have been paid in full.

2.2 **Performance.** Grantor will pay to Beneficiary promptly when due all amounts due under the Note, the Loan Agreement, this Trust Deed, the Loan Documents and any other documents executed by Grantor in favor of Beneficiary in connection herewith, and shall strictly perform all obligations imposed upon Grantor by this Trust Deed.

2.3 **Maintain Property.** Grantor will protect, preserve and maintain, at Grantor's expense, all Improvements in good order and repair and will not permit or cause any waste of the Property, and will complete or restore promptly and in a good and workmanlike manner, all repairs necessary to the Land and Improvements that may be constructed, damaged or destroyed. Grantor shall not conduct or permit any nuisance to be maintained on the Land. Grantor shall not remove from the Land or demolish any of the Improvements.

2.4 **Access by Beneficiary.** Beneficiary and its agents and representatives may, upon twenty-four (24) hours' prior notice, except in the case of an emergency when no notice shall be required, enter upon the Property to attend to Beneficiary's interest and to inspect the Property. This provision shall not be construed to allow Beneficiary or its representatives to violate (or cause the owner or manager to violate) the provisions of the Oregon Landlord Tenant Act, and notice is subject to requirements in commercial leases.

2.5 **Insurance.** The Grantor will obtain and maintain (a) commercial general liability and property damage insurance, naming Beneficiary, its employees and agents as additional insureds, covering the Improvements and the Land and the work and business conducted thereon, with such limits as Beneficiary may reasonably request from time to time, and (b) insurance against loss or damage to the Improvements and other tangible Property (other than the Land) by fire and any of the risks covered under an "all risk" policy, with extended coverage and course of construction endorsements

and with a standard lender's loss payable clause naming as beneficiary "City of McMinnville, by and through McMinnville Urban Renewal Agency," in an amount not less than the full replacement value of the Improvements, in each case in a company or companies acceptable to Beneficiary, and will deliver copies of all such policies and renewals thereof to Beneficiary. Grantor must provide thirty (30) days prior written notice to Beneficiary of cancellation or any reduction of coverage. Grantor agrees that it will comply with the requirements of Beneficiary as to the purchase and maintenance of flood insurance, as those requirements are established by Beneficiary's policies and requirements in effect from time to time.

**WARNING:**

**Unless you (Grantor) provide us (Beneficiary) with evidence of the insurance coverage as required by this Trust Deed and Loan Agreement, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.**

**You are responsible for the cost of insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.**

**The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.**

**2.6 Liens, Taxes and Assessments.** Grantor will, so long as this Trust Deed remains in force, keep the Property free from construction liens and will timely pay all taxes, assessments, charges or liens that may be levied or assessed upon the Property, before any tax, assessment, charge or lien becomes past due or delinquent, and before commencement of any foreclosure or collection proceedings that may threaten the security of this Trust Deed. Grantor shall not, without Beneficiary's prior written consent, place or allow any liens or encumbrances to be placed on the Property (other than Permitted Exceptions).

**2.7 Other Loans Kept Current.** Grantor shall timely make all payments due and perform all other covenants under all other loans secured by the Property.



## 2.8 Environmental Matters.

(a) Grantor shall indemnify and hold harmless Beneficiary from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims (collectively, "**Claims**") arising out of or relating to the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, the Property of any Hazardous Material (including, without limitation, any Claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "superfund" or "super lien" law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree applicable to the Property or to the operations thereon that regulates, relates to or imposes liability or standards of conduct concerning any Hazardous Material ("**Environmental Laws**"). For purposes of this Trust Deed, the term "**Hazardous Material**" shall mean any and all hazardous or toxic substances, wastes or materials as listed or defined by any Environmental Law. Grantor will give Beneficiary prompt written notice of any proceeding, inquiry or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Materials on the Property, and of Grantor's discovery of any Hazardous Materials on, in or under the Property.

(b) Grantor warrants to Beneficiary that, to the best knowledge and belief of Grantor and based on due and diligent inquiry by Grantor, (i) there are no Hazardous Materials in, upon, or buried on or beneath the Property or the Improvements, nor have any Hazardous Materials been emitted or released therefrom in violation of any Environmental Laws, and (ii) there are not now, nor have there been, any underground storage tanks located on the Property, including any tanks used for the storage of Hazardous Materials. In no event shall Grantor bring onto, store upon, bury, use upon, emit or release from, nor allow to be brought onto, stored upon, buried, used upon, or emitted or released from the Property, any Hazardous Materials in violation of any Environmental Laws, nor cause or permit any underground tanks to be installed on the Property.

**2.9 Compliance with Laws and Covenants.** Grantor shall promptly comply with all federal, state, and local laws, ordinances and regulations, including without limitation all Environmental Laws, the Americans with Disabilities Act of 1990, and the Fair Housing Act of 1968 (as amended or as may be amended from time to time) applicable to the use or occupancy of the Property. Grantor shall also comply with any and all restrictive covenants and affordability requirements (including without limitation those contained in the Loan Agreement) applicable to the use or occupancy of the Property.

**2.10 Failure to Comply with Covenants.** Should Grantor default in the performance of any of the above covenants relating to payments of insurance, liens, taxes, assessments or other charges, and fail to cure such default within the cure period set forth below, Beneficiary may elect to pay any such amount and any payment so made will be added to the debt secured by this Trust Deed and shall bear interest at the Default Rate under the Note until paid. Any such payment by Beneficiary shall be

without prejudice to Beneficiary's rights and remedies hereunder and shall not be a waiver of default.

**2.11 Further Encumbrance.** Grantor shall not permit the Property to be further encumbered by additional liens for financing without the prior written consent of Beneficiary, which Beneficiary may withhold in its sole discretion.

**2.12 Grantor's Defense of Property.** Grantor shall appear in and defend any action or proceeding which may affect the Property or the rights or powers of Beneficiary or Trustee under this Trust Deed.

**2.13 Impairment to Property.** Grantor shall not, without Beneficiary's prior written consent, change the general nature of the occupancy of the Property, initiate, acquire or permit any change (not to be unreasonably withheld, conditioned or delayed) in any public or private restrictions (including, without limitation, a zoning reclassification) limiting the uses which may be made of the collateral, or take or permit any action which would impair the Property or its use or Beneficiary's lien or security interest in the Property.

**2.14 Utilities.** Grantor shall pay or cause to be paid when due all utility charges which are incurred by Grantor or others for the benefit of or for service to the Property or which may become a charge or lien against the Property for gas, electricity, water, sewer or other utility services furnished to the Property and all other assessments or charges of a similar nature, whether public or private, affecting the Property or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

**2.15 Alterations, Removal and Demolition.** Unless otherwise agreed in writing by Beneficiary, Grantor shall not structurally alter, remove or demolish any building or improvement on the Property without Beneficiary's prior written consent, which Beneficiary may withhold in its sole discretion. Grantor shall not remove any fixture or other item or property which is part of the Property without Beneficiary's prior written consent unless the fixture or item of property is replaced by an article of equal suitability, owned by Grantor free and clear of any lien or security interest.

**2.16 Completion, Repair and Restoration.** Grantor shall promptly complete or repair and restore in good workmanlike manner any building or improvement on the Property which may be constructed or damaged or destroyed and shall pay all costs incurred therefor. Prior to commencement of any rehabilitation, Grantor shall submit the plans and specifications for Beneficiary's approval and furnish evidence of sufficient funds to complete the work.

**2.17 Disclosure of Material Facts.** Grantor will keep Beneficiary fully and currently informed as to all material facts and developments regarding Grantor and the construction, rehabilitation and operation of the collateral, including any facts that are necessary to make all previous disclosures and representations not misleading.

**2.18 Notification of Claim or Investigation.** Without thereby limiting the generality of the foregoing, Grantor will promptly notify Beneficiary of any investigation, action, or proceeding that might affect the title, value, or utility of the collateral, or the security interest of Beneficiary under this Trust Deed, and Grantor will appear and participate in any such investigation, action, or proceeding unless excused by Beneficiary in writing. In the event that Grantor, in Beneficiary's reasonable judgment, fails to participate diligently in any such investigation, action, or proceeding, Beneficiary may appear and participate in such investigation, action, or proceeding and settle or compromise claims in connection therewith. All claims (including awards, payments, damages, direct, consequential, and other proceeds) that arise in connection with any condemnation or other taking, or for conveyances in lieu of condemnation, are hereby assigned to Beneficiary.

### **3. SECURITY AGREEMENT AND FIXTURE FILING**

**3.1 Security Agreement.** Grantor hereby grants to Beneficiary a continuing security interest in, and lien upon, Grantor's right, title and interest in and to all Property that is personal property subject to the Oregon Uniform Commercial Code, whether such Property is now owned or hereafter acquired. Grantor agrees that Beneficiary has the right to file UCC financing statements, instruments and documents and Grantor agrees to take such other action as may be necessary or appropriate to perfect or continue the perfection of Beneficiary's security interest in such collateral.

**3.2 Fixture Filing.** To the extent any of the Property constitutes fixtures subject to the Oregon Uniform Commercial Code, this Trust Deed shall also be effective as a financing statement filed as a fixture filing pursuant to ORS 79.0502, between Grantor as debtor and Beneficiary as secured party, covering such Property, which is or is to become fixtures related to the Land. The parties agree that a photographic or other reproduction of this Trust Deed shall be sufficient as a financing statement and as a fixture filing and may be filed in any appropriate office in lieu thereof to the extent permitted by law.

### **4. ASSIGNMENT OF LEASES AND RENTS**

Grantor hereby assigns to Beneficiary and grants to Beneficiary a security interest in all existing and future leases, rental agreements, and other agreements for the use and occupancy of residential or commercial space in the Improvements. Grantor further assigns to Beneficiary the right to receive all of the rents, income, receipts, revenues, and other income of any nature now due or which may become due to Grantor, including without limitation basic and percentage rent and payments for use of parking areas or other common areas, arising from or related to the Land or the Improvements (collectively, the "**Rents**"); subject, however, to a license hereby granted by Beneficiary to Grantor to collect and receive Rents so long as no default has occurred under this Trust Deed.

## 5. EVENTS OF DEFAULT

Any of the following shall be an event of default ("**Event of Default**") under this Trust Deed:

**5.1 Failure to Pay Obligations Under Note and Trust Deed When Due.** Grantor fails to pay any sum due under the Note within fifteen (15) days after the date it is due, or fails to pay any other amount required to be paid by Grantor pursuant to this Trust Deed or the Loan Documents (including, without limitation, taxes, assessments, insurance and any other payment necessary to prevent filing or imposition of any liens) within fifteen (15) days after written notice of nonpayment from Beneficiary specifying the default.

**5.2 Failure to Comply with Covenants.** Grantor fails to perform or abide by any other covenant in this Trust Deed or in the Loan Documents and such failure, to the extent curable, is not cured within thirty (30) days after written notice from Beneficiary specifying the default or, if such breach cannot with due diligence be cured within such period, if Grantor shall fail within such thirty (30) day period to commence cure of the failure and thereafter diligently prosecute to completion such cure (which cure in any event shall occur within sixty (60) days after the default notice).

**5.3 Failure to Obtain Beneficiary's Consent to Transaction.** Grantor engages in a sale, transfer or assignment, or uses Loan proceeds, in violation of the terms of the Note, this Trust Deed, or the Loan Documents, or changes the use of the Property without Beneficiary's prior written consent.

**5.4 Failure to Comply.** Grantor defaults under the Note, the Loan Agreement, this Trust Deed (other than as specified in Section 5.1), or the Loan Documents and fails to cure the default within the applicable cure period, if any, set forth therein.

**5.5 Failure to Pay General Debts When Due.** Occurrence of any of the following shall be events of default:

(a) Grantor or any guarantor of the Loan (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property, (ii) admits in writing its inability to pay, or generally is not paying, its debts as they become due, (iii) makes a general assignment for the benefit of creditors, (iv) commences a voluntary action under the United States Bankruptcy Code (as now or hereafter in effect), (v) is adjudicated a bankrupt or insolvent, (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, (vii) fails to controvert in a timely or appropriate manner, or acquiesces or consents in writing to, any petition filed against it, in an involuntary action under the United States Bankruptcy Code, or (viii) takes any action for the purpose of effecting any of the foregoing.

(b) (i) A proceeding or case is commenced against Grantor, without its consent, in any court of competent jurisdiction, seeking the liquidation, reorganization, dissolution, windup, or composition or readjustment of the debts of Grantor, (ii) a receiver, trustee, custodian, liquidator, or the like is appointed for Grantor or for all or a substantial part of its assets, or (iii) relief is granted to Grantor under any law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for any period of 60 days, or (iv) an order for relief against Grantor is entered in an involuntary case under the United States Bankruptcy Code.

**5.6 Failure to Disclose Material Facts.** Grantor fails to disclose any fact material to the making of any loan to Grantor, or upon discovery by Beneficiary of any misrepresentation by, or behalf of, or for the benefit of Grantor.

**5.7 Default Under Other Loans.** Grantor defaults under any other loan (including any construction, permanent, or bond financing) secured in whole or in part by the Property, including any loan secured by a Permitted Exception, and fails to cure such default within any applicable cure period set forth in the loan documents relating to such loan. If Grantor cures a default under any other loan, that cure shall constitute a cure under this Trust Deed, the Note, or the Loan Documents, provided Grantor is not in default of any other provision of this Trust Deed, the Note, or the Loan Documents.

**5.8 Default by Guarantors.** Any guarantor repudiates or breaches any of its obligations under the guaranty.

**5.9 Failure to Replace Guarantor.** Grantor fails to replace a guarantor if such person becomes the subject of voluntary or involuntary proceeding within ninety (90) days following the commencement of such proceeding with a replacement reasonably satisfactory to Beneficiary.

**5.10 Discontinued Rehabilitation.** Rehabilitation on the Project is discontinued or prohibited for at least 30 consecutive days, or the Project is abandoned.

**5.11 Failure to Diligently Pursue the Project.** Grantor fails to diligently pursue the Project during the Construction Period. Grantor agrees to use commercially reasonable efforts to comply with the Project schedule approved by Beneficiary, attached to the Loan Agreement as Exhibit I.

## **6. RIGHTS AND REMEDIES ON DEFAULT**



Upon the occurrence of an Event of Default and at any time thereafter, Trustee or Beneficiary may, at its option, exercise any one or more of the following rights and remedies:

**6.1 Acceleration.** Beneficiary may declare the entire remaining unpaid balance of principal and unpaid accrued interest and other charges payable by Grantor pursuant to the Note or any other Loan Document, to be immediately due and payable in full.

**6.2 Foreclosure.** Trustee, at Beneficiary's direction, shall have the right to foreclose by notice and sale, or Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with applicable law. In any judicial foreclosure, Beneficiary shall be entitled to obtain a deficiency judgment (subject to any applicable nonrecourse provisions in the Note) for any amount by which the amount of the obligations secured hereby exceeds the sale proceeds.

**6.3 Waiver of Rights.** Notwithstanding Subsection 6.2, Beneficiary shall have the right, at its sole option, to waive its rights under this Trust Deed and pursue an independent action upon the Note, unless the Note is nonrecourse by its express terms. The Note, Trust Deed, and other Loan Documents are separate and distinct instruments separately or collectively enforceable in accordance with their terms.

**6.4 Rights and Remedies.** Trustee and Beneficiary shall have any other right or remedy provided in this Trust Deed, the Note, the Loan Documents, or any other instrument delivered by Grantor in connection therewith, or available at law, in equity, or otherwise in such order and manner as it may select.

**6.5 Notification to Obligors to Pay Rent Directly to Beneficiary.** Beneficiary may at any time, without notice, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of the security for the obligations hereby secured, notify obligors of Rents to pay Beneficiary directly, and/or enter upon and take possession of the Property or any part thereof, in its own name sue or otherwise collect any and all Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any obligations secured hereby, and in such order as Beneficiary may determine.

**6.6 Uniform Commercial Code.** Beneficiary shall have all rights and remedies under the Oregon Uniform Commercial Code, as amended from time to time. Beneficiary shall give Grantor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or any other intended disposition of personal property collateral is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

**6.7 Exercising Rights and Remedies.** In exercising its rights and remedies, Trustee or Beneficiary may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Beneficiary may bid at any public sale on all or any portion of the Property. A waiver by either party of a breach of a provision of this Trust Deed shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. An election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Beneficiary under this Trust Deed are cumulative and not exclusive. An election to make expenditures or take action to perform an obligation of Grantor shall not affect Beneficiary's right to declare a default and exercise its remedies under this Trust Deed.

**6.8 Foreclosure of Lessee's Rights - Subordination.** Beneficiary shall have the right, at its option, to foreclose this Trust Deed subject to the rights of any lessee(s) of the Property. Beneficiary's failure to foreclose against any lessee shall not be asserted as a claim against Beneficiary or as a defense against any claim by Beneficiary in any action or proceeding. Beneficiary, at any time, may subordinate this Trust Deed to any or all of the lessees, except that Beneficiary shall retain its priority claim to any condemnation or insurance proceeds.

**6.9 Repairs During Redemption.** In the event of a judicial foreclosure, the purchaser, during any redemption period may make such repairs and alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring of the Property. Any sums so paid, together with interest from the date of the expenditure at the rate provided in the judgment shall be added to the amount required to be paid for redemption of the Property.

**6.10 Event of Foreclosure.** In the event of any judicial or nonjudicial foreclosure sale, Beneficiary in its discretion may use a single notice covering both real estate and personal property, designate the order of sale, and may elect to sell the real estate and personal property as an integrated unit or separately. Any person permitted by law to do so may purchase at any sale.

**6.11 Proceeds of Sale.** Subject to the provisions of applicable law, the proceeds of any sale under this Trust Deed will be applied first to payment of costs and expenses, then to payment of security protection advances, then to payment of the other secured obligations (which includes any applicable prepayment premium or fee) in any order that Beneficiary chooses, and then to any other person or persons who may establish to the satisfaction of Beneficiary that they are legally entitled to it.

**6.12 Grantor's Waiver of Rights Upon Sale.** Grantor waives all rights to direct the order and/or combinations in which any of the collateral will be sold, and also any right to have any of the collateral marshaled upon any sale. Grantor acknowledges that there is no fiduciary relationship between Grantor and Trustee or between Grantor and Beneficiary.



### 6.13 During Construction.

(a) Beneficiary shall have the right to take over and cause the Project to be completed and, for that purpose, make disbursements from the undisbursed Loan funds. Any contract entered into or indebtedness incurred on the exercise of such right may be exercised by Beneficiary in the name of Grantor, and Beneficiary is hereby irrevocably appointed attorney-in-fact (the appointment being coupled with an interest) to enter into the contract, incur such obligations, enforce contracts or loan agreements theretofore made by or on behalf of Grantor, and to do any and all things necessary or proper to complete the work of construction, including the signing of Grantor's name to such contracts and documents as may be deemed necessary by counsel for Beneficiary. In no event shall Beneficiary be required to use its own funds to complete the Project if undisbursed Loan funds are insufficient, but Beneficiary may, at its option, advance such funds. Any funds so advanced shall be payable to Beneficiary by Grantor on demand together with interest thereon at the Default Rate under the Note and shall be secured by this Trust Deed.

(b) Beneficiary shall have the right to suspend or terminate its obligation to make further disbursement of Loan proceeds.

**6.14 Interest on Default.** Upon the occurrence of any Event of Default, interest under the Note shall accrue interest on the unpaid Principal Balance (as defined in the Note) from the date of the Event of Default, or if the Event of Default is a payment default, from the date the first unpaid payment was due, at a rate (the "**Default Rate**") equal to the lesser of twelve percent (12%) per annum or the maximum amount provide by law until paid in full. The interest rate reverts to that shown in Section 2(a) of the Note when the default is cured. If the unpaid Principal Balance and all accrued interest are not paid in full on the Maturity Date, the unpaid Principal Balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate.

**6.15 Rights and Remedies Cumulative.** All rights and remedies described in Section 6 are cumulative and in addition to any other remedy Beneficiary may have by agreement, at law, or in equity. Partial exercise of any right or remedy shall not limit or restrict Beneficiary's subsequent exercise of such right or remedy nor shall it restrict Beneficiary's contemporaneous or subsequent exercise of any other right or remedy.

**6.16 No Waiver.** No failure or delay by Beneficiary in exercising any right hereunder shall operate as a waiver of that right or any other right. No modification or waiver of any provision of this Trust Deed or any other Loan Document shall be effective unless in writing, and then only in specific instance and for the purpose given. No notice or demand on Grantor shall entitle Grantor to any other notice or demand in other similar circumstances.

**6.17 Payment of Costs of Collection.** In the event of a default, or commencement of litigation to enforce or construe any term of this Trust Deed, the Note, or any other Loan Document, the losing party will pay to the prevailing party such

amounts as shall be sufficient to cover the cost and expense of collection or enforcement, including, without limitation, reasonable attorney fees and costs prior to and at any arbitration proceeding or at trial, on appeal, or in any bankruptcy proceeding.

## **7. CONDEMNATION AND CASUALTY**

**7.1 Assignment of Proceeds.** All compensation, awards, damages, rights of action, and proceeds, including the proceeds of any insurance affecting the Property, arising out of any taking or damage by reason of any public or private improvement, condemnation proceeding, zoning change or conveyance in lieu thereof, fire, earthquake or other casualty (collectively the "**Proceeds**"), are hereby assigned to and shall be paid to Beneficiary, subject, however, to the rights of the senior mortgage lender ("Senior Lender") under that certain mortgage encumbering the Property and to which this Trust Deed is subordinated and to the rights of the Senior Lender under its deed of trust to be recorded against the Property. If Senior Lender elects to make all of the Proceeds available to Grantor for the repair or restoration of the Property, Beneficiary shall also make any Proceeds (after deducting therefrom all of its expenses, including attorney fees) paid to it available for such purpose, subject to Beneficiary's customary restrictions relating to the disbursement thereof. If the Senior Lender instead elects to apply some or all of the Proceeds to the satisfaction of Grantor's indebtedness to the Senior Lender, Beneficiary may, after deducting therefrom all of its expenses, including attorney fees, release any money received by it, apply the same on any obligations secured hereby or apply the same to the repair or restoration of the Property as it may elect. Grantor agrees to execute such further assignments to Beneficiary of any awards, damages, rights of action and Proceeds as Beneficiary or Trustee may require. In the event any Proceeds are paid to Grantor, such Proceeds shall promptly (within five (5) days of receipt thereof) be paid over to Beneficiary for the purposes set forth in this paragraph. Notwithstanding the above, if the Proceeds plus any additional funds of Grantor will permit the damaged or taken Improvements to be replaced with Improvements of equal or greater value, then the Proceeds (less certain administrative and legal costs of Beneficiary) shall be disbursed to Grantor through a Beneficiary-controlled account to pay the cost of restoration of the Improvements, provided it is economically and legally feasible to do so, in the reasonable judgment of Beneficiary.

**7.2 Notification of Damage, Injury, Loss or Condemnation Proceedings.** Grantor shall immediately notify Beneficiary in writing if: (i) any damage occurs or any injury or loss is sustained in the amount of Ten Thousand Dollars (\$10,000.00) or more to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property. If Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Property, and it may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Grantor in adjusting any loss covered by insurance.

## 8. MISCELLANEOUS

8.1 **Indemnification.** Except as limited by Section 8.4, Grantor shall indemnify Beneficiary against and hold it harmless from any and all liabilities, claims, losses, damages, or expenses (including attorney fees) which Beneficiary may suffer or incur in connection with (a) the breach of any representation or warranty made by Grantor under this Trust Deed, and (b) Grantor's failure to perform any of its covenants or obligations under this Trust Deed. The indemnity obligations of Grantor shall survive the reconveyance or foreclosure hereof.

8.2 **Severability.** If any of the provisions contained in this Trust Deed shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions in this Trust Deed shall not be affected.

8.3 **Attorney Fees.** In the event suit or action is instituted to enforce or interpret any of the terms of this Trust Deed, the prevailing party shall be entitled to recover its reasonable attorney fees at trial, on any appeal and on any petition for review, in addition to all other sums provided by law. Whether or not any court action is involved, all reasonable expenses incurred by Beneficiary that are necessary at any time in Beneficiary's opinion for the protection of its interest or the enforcement of its rights shall become a part of the obligations secured hereby and shall bear interest from the date of expenditure until repaid at the Default Rate under the Note. Expenses covered by this paragraph include (without limitation) the cost of searching records, discovery deposition costs, obtaining title reports, surveyors' reports, attorney opinions, title insurance and fees for Trustee.

8.4 **Recourse Provision.** The obligations under the Note, including the obligations secured by this Trust Deed, are with recourse to Grantor, and any of its partners or members.

8.5 **Assignment.** Grantor may only assign its rights and obligations hereunder with the written consent of Beneficiary; provided, however, that no assignment shall invalidate or impair the effectiveness of this Trust Deed or the covenants contained herein.

### 8.6 **Due on Sale or Transfer; No Change in Use.**

(a) Any sale or transfer (or any attempted sale or transfer) of all or any part of, or any interest in, the Land or the Project, or any beneficial interest in Grantor, without the prior written consent of Beneficiary (which Beneficiary may grant, condition, or withhold in its sole and absolute discretion) is prohibited, and upon any such prohibited sale or transfer, the Note and all other indebtedness secured by this Trust Deed shall become immediately due and payable in full.

As used herein, the term “sale or transfer” is used in its broadest sense, and includes, with respect to the Land or Project, a ground lease, master lease or other lease not in the ordinary course of business, land sale contract, foreclosure, deed in lieu of foreclosure, or transfer (by operation of law or otherwise) pursuant to any dissolution, liquidation, merger, reorganization or consolidation, and with respect to a beneficial interest in Grantor, a sale, gift or other transfer of any partnership, stock, membership or other ownership interest in Grantor other than a transfer upon death of the owner of such interest. Notwithstanding who is the holder of the Note, Beneficiary reserves the right to approve a sale as described in this Section. Any transferee shall be bound by the terms of this Trust Deed. Grantor shall notify Beneficiary of any such transfer within thirty (30) days.

(b) Grantor shall not change the use of the Property without Beneficiary's prior written consent, which may be withheld or conditioned in Beneficiary's sole and absolute discretion.

**8.7 Time of Essence.** Time is of the essence of each of Grantor's obligations under this Trust Deed.

**8.8 Waivers by Grantor.** Without affecting any of Grantor's obligations under the Loan Documents, Grantor waives the following: (a) any right to require Beneficiary to proceed against any specific party liable to sums due under the Loan Documents or to proceed against or exhaust any specific security for sums due under the Loan Documents; (b) notice of new or additional indebtedness of any Grantor or any other party liable for sums due under the Loan Documents to Beneficiary; (c) any defense arising out of Beneficiary entering into additional financing or other arrangements with any Grantor or any other party liable for sums due under the Loan Documents and any action taken by Beneficiary in connection with any such financing or other arrangements or any pending financing or other arrangements; (d) any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution or subrogation or any other rights or remedies of Beneficiary against any Grantor or any other party liable for sums due under the Loan Documents or any Property; and (e) any obligation of Beneficiary to see to the proper use and application of any proceeds advanced pursuant to the Loan Documents.

**8.9 Right of Subrogation.** Beneficiary is subrogated to the rights, whether legal or equitable, of all beneficiaries, mortgagees, lienholders and owners directly or indirectly paid off or satisfied in whole or in part by any proceeds advanced by Beneficiary under the Loan Documents, regardless of whether such parties assigned or released of record their rights or liens upon payment.

**8.10 Joint and Several Liability.** If there is more than one Grantor of this Trust Deed, their obligations shall be joint and several.

**8.11 Statement of Amount Owning.** Grantor within fifteen (15) days after request by Beneficiary will furnish Beneficiary a written statement of the amount due

under the Loan Documents, any offsets or defenses against the amount claimed by Grantor, and such other factual matters as Beneficiary may reasonably request.

**8.12 Controlling Document.** In the event of a conflict or inconsistency between the terms and conditions of this Trust Deed and the terms and conditions of any other of the Loan Documents (except for any separate assignment of the Rents and/or the Leases and any loan agreement which shall prevail over this Trust Deed), the terms and conditions of this Trust Deed shall prevail.

**8.13 Notice.** Any notice required or permitted under this Trust Deed shall be in writing and shall be deemed effective: (a) when actually delivered in person, (b) one business day after deposit with a commercial courier service for “next day” delivery, (c) two business days after having been deposited in the United States mail as certified or registered mail, or (d) when transmitted by facsimile (answer back or receipt confirmed), addressed to the parties as follows:

To Grantor: {Applicant Address}  
{Applicant Address}  
{Applicant Address}

To Beneficiary: McMinnville Urban Renewal Agency  
Attn: City of McMinnville, Controller  
220 NE Second Street  
McMinnville, OR 97128

with a copy to: McMinnville Urban Renewal Agency  
Attn: City of McMinnville, Planning Director  
231 NE Fifth Street  
McMinnville, OR 97128

**8.14 Subordination.** It is anticipated that Beneficiary will subordinate this Trust Deed to the Senior Lender’s mortgage. If the Senior Lender requests Beneficiary to subordinate its security interest to the Senior Lender’s mortgage documents and after Beneficiary’s approval of the terms and conditions of the Senior Lender’s mortgage documents, Beneficiary shall execute such subordination agreement or other documents as are necessary to evidence such subordination. Beneficiary will not unreasonably withhold approval of the Senior Lender’s mortgage documents.

**8.15 Statutory Notice.** BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS

INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

By signing below, Grantor accepts and agrees to the terms and covenants contained in this Trust Deed and in any Exhibits attached hereto.

Signature Page Follows



**GRANTOR:**

\_\_\_\_\_, an Oregon  
\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Managing Member

By: \_\_\_\_\_  
\_\_\_\_\_, Member

STATE OF OREGON        )  
                                  ) ss.  
County of Yamhill        )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by  
\_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_, an Oregon  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public of Oregon  
My Commission Expires: \_\_\_\_\_

STATE OF OREGON        )  
                                  ) ss.  
County of Yamhill        )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by  
\_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_, an Oregon  
limited liability company.

\_\_\_\_\_  
Notary Public of Oregon  
My Commission Expires: \_\_\_\_\_



**EXHIBIT A: Legal Description**

DRAFT

**EXHIBIT B**

Please see attached.

DRAFT



CITY OF MCMINNVILLE  
PLANNING DEPARTMENT  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128

503-434-7311  
www.mcminnvilleoregon.gov

**CONTRACT BETWEEN THE CITY OF MCMINNVILLE BY AND  
THROUGH  
THE MCMINNVILLE URBAN RENEWAL AGENCY  
And**

**{Applicant – Name, Business Name and Property Address}**

**FOR THE USE OF  
DOWNTOWN URBAN RENEWAL FUNDS**

**THIS AGREEMENT** is entered into this **{Date}** by and between the City of McMinnville, acting by and through the McMinnville Urban Renewal Agency (AGENCY) and, **{Applicant Name, Business Name and Property Address}** (**APPLICANT**).

**WHEREAS**, the AGENCY, subject to Agency's authority, has established a Downtown McMinnville Property Loan and Grant Program (the PROGRAM), both to encourage property and business owners to improve the exteriors of buildings by upgrading the physical characteristics of those buildings, and to improve the value of those buildings by preserving the thriving historic character of the downtown; and

**WHEREAS**, the AGENCY has determined that this program serves the best interest of the public and has elected to utilize urban renewal funds as the funding source for the Downtown McMinnville Property Assistance Program; and

**WHEREAS**, the Applicant is the owner of the building at **{Address}**, or is the tenant of that building, and is authorized by the building owner to carry out improvements for the building which is within the Urban Renewal District; and

**WHEREAS**, the Applicant has submitted an application dated \_\_\_\_\_ for grant funds under the Program, attached hereto as "Exhibit A" and hereby incorporated into this Agreement by this reference, and has requested approximately **{Amount of Award}**, in grant funds from the AGENCY; and

**WHEREAS**, the AGENCY has determined that Applicant has met all of the conditions necessary for the requested funds;

**NOW, THEREFORE**, it is agreed between the AGENCY and Applicant as follows:

**I. SCOPE OF SERVICE**

**A. Activities**

Applicant agrees to participate in the Downtown Urban Renewal Agency's Downtown Loan and Grant Program, and the AGENCY agrees to provide Loan and Grants as set forth in this Contract. Under this program, Applicant agrees that it will preserve, rehabilitate, restore and/or reconstruct the primary façades of its approved commercial property as proposed in the approved application and with guidance from AGENCY staff and the McMinnville Historic Landmarks Committee, as applicable. Upon satisfactory completion of the pre-approved project, Applicant will receive a grant reimbursement up to a maximum of **{Amount of Award}** through the Façade Improvement Grant Funds, per the approval of the AGENCY on **{Date}**, attached hereto as "Exhibit B" and incorporated into this Agreement by this reference.

**B. Scope of Work**

This contract pertains to a small improvement project at **{Address}** as presented in the application dated **{Date}** and approved by the McMinnville Urban Renewal Advisory Committee. Any reimbursement expenses must pertain entirely to this pre-approved scope of work:

**{Describe the scope of work}**

**C. Special Contingencies:**

**Property Lien:**

Property owner consents to the City of McMinnville placing a lien on the above referenced property in the amount of the grant project. The lien will be released five (5) years after project completion.

**Contingency for Funds Payback:**

Applicant agrees to refund to the AGENCY the full amount of the grants under this contract if the building is sold or the property is significantly modified (as determined by the AGENCY in its sole discretion) within five (5) years of project completion.

**Tax Implications:**

The AGENCY has not made any representations regarding the tax consequences of grant proceeds. Applicant shall determine the tax consequences of the grant proceeds with its tax advisor.

**D. Ineligible Expenses**

The AGENCY will not reimburse Applicant for any costs incurred outside of the approved Scope of Work as described in Paragraph 1.B of this contract.

**E. Performance Monitoring**

The AGENCY will monitor the performance of Applicant against goals and performance standards required by AGENCY policy and the approved Scope of Work. Substandard performance, as determined by the AGENCY, will constitute non-compliance with this Agreement. If action to correct such substandard performance is not initiated by Applicant within seven (7) days after notice of such substandard performance in writing by the AGENCY, contract suspension or termination procedures will be initiated.

**II. TIME OF PERFORMANCE**

Work on the project outlined in Paragraph I.B is expected ***to commence no later than***

***{Date}, and be completed by {Date}.*** Applicant must submit any requests for extensions in writing no later than 30 days prior to the completion deadline . The request must include a clear explanation of the reason(s) for the extension, propose a new project completion date, describe what elements of the project have been completed under the Scope of Work and what elements of the project under the Scope of Work still need to be completed. Extensions will be granted or denied by the Agency, in its sole discretion.

**III. BUDGET:**

The total project budget is \$***{Total Project Budget}***. The Agency will pay up to 50% of the actual cost, with a 50% match requirement from the Applicant pursuant to the terms of the McMinnville Façade Improvement Grant program. The Agency contribution is currently estimated at approximately ***{Amount of Award}***.

The AGENCY may require a more detailed budget breakdown than the one contained herein, and Applicant shall provide such supplementary budget information, in a timely fashion and in the form and content prescribed by the AGENCY, as the AGENCY may request from time to time. No amendments to

this budget are valid without the prior written approval of the AGENCY.

**IV. PAYMENT**

**A. Maximum Amount:**

The total amount to be paid by the AGENCY (for grants and loans) under this agreement shall not exceed **{Amount of Award}**.

**B. Process for Payment:**

Under this Agreement, payment for work performed will be in the form of reimbursement for work performed and paid for by the Applicant, and the work is approved by AGENCY staff. (Work performed prior to application review and funding approval by the AGENCY will not be eligible for reimbursement.) Upon completion of the project, the Applicant will submit to AGENCY staff a letter requesting reimbursement, accompanied by copies of all invoices paid in full. AGENCY Staff will review the letter and submitted invoices, confirm payment of those invoices and completion of the invoiced work as completed in the approved Scope of Work. If the McMinnville Urban Renewal Advisory Committee approves and signs off on the reimbursement request, in whole or in part, a reimbursement to the Applicant will be disbursed equal to that amount.

**V. NOTICES**

All notices, communications and other details concerning this Agreement shall be directed to the following contract representatives:

**AGENCY**

*Heather Richards  
City of McMinnville  
Planning Director  
231 NE 5<sup>th</sup> Street  
McMinnville, OR 97128  
Heather.Richards@mcminnvilleoregon.gov*

**APPLICANT'S NAME:**

**{Name}**  
**{Address}**  
**{Address}**  
**{Town, State, Zip Code}**  
**{Email}**

**VI. GENERAL CONDITIONS**

**A. Contractual Relationship**

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing an obligation on the part of the AGENCY to oversee or perform the work specified in the Scope of Work. Applicant shall at all times be solely responsible for its improvements, obligations to its contractors and subcontractors, employees, and to comply with all land use requirements.

**B. Hold Harmless**

Applicant agrees to hold harmless, defend and indemnify the AGENCY, its partners, officers, employees and agents from any and all threatened, alleged or actual claims, actions, suits, charges, damages, liabilities and judgments, including any related costs, expenses and losses whatsoever that arise out of Applicant's performance or nonperformance of the subject matter called for in this Agreement.

**C. Insurance & Bonding**

Applicant shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage. A Certificate of Insurance satisfactory to the AGENCY shall be filed with the AGENCY prior to the commencement of any work contemplated by this Agreement.

**D. Grantor Recognition**

Applicant shall insure recognition of the role of the AGENCY in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source, and the AGENCY's standard project notice shall be posted at the project site in a prominent place easily viewable by the passing public.

**E. Amendments**

The AGENCY and Applicant may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the AGENCY'S governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the AGENCY or Applicant from any obligations under this Agreement, unless explicitly so stated in the fully executed amendment.

This Agreement shall be subject to all federal, state or local governmental



statutes, guidelines, and policies, including amendments made after execution of this Agreement. If any change in such code or regulation results in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, the parties shall agree to such modification or the Agreement shall be terminated.

**F. Suspension of Termination**

The AGENCY may suspend or terminate the Agreement, in whole or in part, if Applicant materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein. In addition, the AGENCY may declare Applicant ineligible for any further participation in AGENCY contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe Applicant is in noncompliance with any applicable rules or regulations, or the terms of this Agreement, the AGENCY may withhold up to one hundred (100) percent of any outstanding contract funds until such time as the AGENCY determines that Applicant is in compliance with such rules, regulations, provisions and the terms of this Agreement.

If this Agreement is suspended or terminated, Applicant shall immediately return to the AGENCY all funds disbursed under the terms this Agreement. Any funds not refunded to the AGENCY within 24 hours of termination shall bear interest at 18% per annum or the maximum rate allowed by applicable law, whichever is greater. In any proceeding to recover funds owing under this section, the AGENCY or the City of McMinnville shall be entitled to recover its costs and attorney fees.

**G. Successors and Assigns**

This agreement shall be binding on the parties' successors and assigns.

**VII. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

**IN WITNESS WHEREOF**, the Parties have executed this contract as of the date first written above.

**AGENCY**

**APPLICANT**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
{Applicant Name}

DRAFT

**EXHIBIT A**

**Application**

DRAFT

**EXHIBIT B**

**Agency Approval**

DRAFT

**Attachment A: Conditions of Approval.**

**FAÇADE IMPROVEMENT GRANT  
Conditions of Approval  
Address**

As a condition of this grant award, the applicant (“Grantee”) agrees to the following:

1. Grantee reaffirms that all information provided in its Façade Grant Application is correct and accurate.
2. Grantee has read and agrees to abide by the provisions and requirements of the City of McMinnville Urban Renewal Agency Façade Grant Program.
3. All work performed by Grantee will be consistent with the approval by the McMinnville Urban Renewal Advisory Committee (MURAC). If Grantee desires to make any changes in the project, Grantee will obtain approval from the MURAC before implementing such changes. Grantee understands that the MURAC is not required to approve any changes.
4. Grantee understands that the grant will be paid to Grantee only upon completion of the work, submission of all dated statements or invoices to the MURAC, and approval by the MURAC of the completed work.
5. Grantee will notify the MURAC immediately if Grantee’s interest in the subject property changes in any way. This Agreement is not assignable by Grantee without prior written approval of the MURAC, which will not be unreasonably withheld.
6. Grantee will provide appropriate “before” and “after” photographs of the project site and/or building to the MURAC. The Grantee hereby grants to the MURAC and McMinnville Urban Renewal Agency (MURA) the right to use pictures, renderings, or descriptions of the work for any and all promotional purposes desired by the MURAC or MURA.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date



**CITY OF MCMINNVILLE**  
**PLANNING DEPARTMENT**  
231 NE FIFTH STREET  
MCMINNVILLE, OR 97128  
503-434-7311

[www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

## **EXHIBIT 2 - STAFF REPORT**

**DATE:** March 1, 2017  
**TO:** McMinnville Urban Renewal Advisory Committee Members  
**FROM:** Heather Richards, Planning Director  
**SUBJECT:** Façade Improvement Grant – 311 E 1<sup>st</sup> Street

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### **Report in Brief:**

This is the consideration of a façade improvement grant application for entryway improvements at the Chehalem Valley Dance Academy at 311 E 1<sup>st</sup> Street.

### **Background:**

The applicant is requesting \$2,500.00 as a matching grant for an entryway improvement project that consists of a new awning, lighting and security cameras. The estimated total projects are \$4,974.70. - \$5,574.70.

### **Discussion:**

Please see attached application.

### **Fiscal Impact:**

\$3125.00 of the \$10,000.00 budgeted in FY 16/17 has been either expended or obligated from the Façade Improvement Grant program.

### **Action / Recommended Motion:**

“I move to approve payment of \$2,500.00 to Chelalem Valley Dance Academy for entryway improvements at 311 E 1st Street.”



**McMinnville Urban Renewal Agency**  
**c/o Planning Department**  
231 NE Fifth Street • McMinnville, OR 97128  
(503) 434-7311 Office • (503) 474-4955 Fax  
[www.ci.mcminnville.or.us](http://www.ci.mcminnville.or.us)

**Office Use Only:**

File No. \_\_\_\_\_  
Date Received \_\_\_\_\_  
Received by \_\_\_\_\_

## Façade Improvement Grant Application

### Applicant Information

Applicant is:  Property Owner  Contract Buyer  Option Holder  Agent  Other business

Applicant Name Chenahem Valley Dance Academy Phone 503-537-3902

Contact Name Kristen Stalter / Lindsey Palmer Phone 971-241-2881  
*(If different than above)*

Address 311 E. 1st St.

City, State, Zip Newberg, OR 97132

Contact Email office@iheartcvda.com

### Property Owner Information

Property Owner Name Anderland LLC Phone 503 537 9717  
*(If different than above)*

Contact Name Gary Anderson Phone \_\_\_\_\_

Address PO BOX 545

City, State, Zip McMinnville, OR 97128

Contact Email \_\_\_\_\_

### Site Location and Description

*(If metes and bounds description, indicate on separate sheet)*

Business Name Chenahem Valley Dance Academy

Property Address 2010 NE Evans St. McMinnville, OR 97128

Assessor Map No. R4



**Project Information**

Estimated Project Start Date: March 15 Estimated Project Completion Date: April 30

Grant Amount Requested (no more than \$2,500): \$ 2500

Applicant Matching Funds: \$ 2500 - + additional

Total Project Costs: \$ 5000 - 6000

**Note:** The total grant amount requested should equal or exceed the matching funds total.

**Project Budget**

Attach documentation for costs such as contractor's bids or detailed estimate for materials and labor costs. (Attach additional sheets as needed)

Labor	Materials	Purpose (i.e. painting, awning, repair)	Estimated Cost
	awning - pipe frame	Awning	\$ 2675 -
\$85/hr 5-8 hours	2-3 light fixtures	Solar LED security lighting	\$ 1000 - 1000
\$40/hr 1-2 hours	2 drop down signs	signage	\$ 400 - 400 -
	2 cameras \$348	security cameras	\$ 1549.7 -
		permits	\$ N/A
			\$
			\$
			\$
<b>Total Project Costs:</b>			\$ 4974.70 → 5,574.70



**Description of Project/Use of Funds**

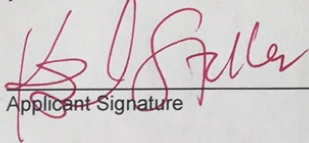
Describe below all proposed improvements included in your project to include a summary of the building's current condition, areas to be improved and how, as well as any proposed materials or colors. Please enclose pictures, drawings, as necessary to help describe the work. (Attach additional sheets as needed)

We are improving the look, usability, & safety of our building. We plan on installing an awning over our 2 side entrances, solar LED lighting, & wireless 24/7 security cameras. We will mimic the look of other downtown awnings - using black & white styling. All new items will be energy efficient. In order for us to better serve our clients, we will provide a dry, well-lit, and safe space for them to enter & exit. Because our business operates primarily at night, this will have a huge impact on our growth.

In addition to this completed application, the applicant must provide the following:

- Digital photographs of the existing building façade.
- Photos, plans, and/or sketches of the proposed improvements
- Quotes, fee proposal, and any other information that supports the proposed budget.

I agree to comply with the guidelines and standards of the McMinnville Urban Renewal Agency's Façade Improvement Grant Program and I understand that this is a voluntary program, under which the City has the right to approve or deny any project or proposal or portions thereof.

  
Applicant Signature

Kristen Stoller  
Print Name

2.23.16  
Date

Owner (if different) Signature

Print Name

Date



# SALEM TENT & AWNING

CCB#66298

SERVING THE WILLAMETTE VALLEY SINCE 1890  
 • PO Box 5274 • 280 Wallace Rd NW Salem OR 97304 • 503-363-4788  
 • Fax 503-363-0286 • www.salemtent.com •

Proposal #44051

**Bill To**  
 PALMER , LINDSEY  
 CVDA  
 206 NE EVANS ST  
 MCMINNVILLE, OR 97128  
 971-241-2881

**Ship To**  
 PALMER , LINDSEY  
 CVDA  
 206 NE EVANS ST  
 MCMINNVILLE, OR97128  
 971-241-2881

Written By	Sale Date	Pattern	Border	Frame	Recover	Installation
Cliff	10/26/2016	SUNBRELLA	Hemmed	Pipe		ST&A

We hereby submit specifications and estimates for:

Description	Quantity	Price	Extended Amount
OPTION 1: NEW PIPE FRAME AWNING FOR 2ND ST SIDE OF BUILDING. WILL SPAN FROM WINDOW JUST RIGHT OF DOOR & GO LEFT TO DRAIN PIPE. 4'D X 4'P X 37'-2" WIDE.	0	\$4,276.00	\$0.00
OPTION 2: NEW PIPE FRAME AWNING TO SPAN ONLY THE 2 DOORWAYS. 4'D X 4'P X 17'-4" WIDE. PRICES INCLUDE INSTALLATION, DOES NOT INCLUDE PERMITS.	0	\$2,625.00	\$0.00

We hereby Propose to furnish labor and materials-- complete in accordance with the above specifications, with payment to be made as follows: 1/2 down with the balance upon completion.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed on upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accident, or delays beyond our control. This proposal subject to acceptance within 30 DAYS and is void thereafter at the option of the undersigned.

Proposal By \_\_\_\_\_

### Acceptance Of Proposal

The above prices, Specifications, and conditions are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Also I acknowledge that I have received if applicable the following Disclosures (ORS 87.093) , (ORS 701.330) & (ORS 701.330(1))

ACCEPTED DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

Estimated Completion Date:

	<b>Subtotal</b>	\$0.00
	<b>Shipping</b>	
	<b>Total</b>	<b>\$0.00</b>





## Information Notice To Owner About Construction Liens

(ORS 87.093)

**This is not a lien. Your contractor is required by law to provide this notice to inform you about construction lien laws. This notice explains the construction lien law, and gives steps you can take to protect your property from a valid lien. As an owner, you should read this information notice carefully. This information notice is required to be given if you contract for residential construction or remodeling, if you are buying a new home, or at any time the contract price exceeds \$2,000.**

- Under Oregon law, your contractor and others who provide labor, materials, equipment, or services to your project may be able to claim payment from your property if they have not been paid. That claim is called a Construction Lien.
- If your contractor does not pay subcontractors, employees, rental equipment dealers, materials suppliers, or does not make other legally required payments, those who are owed money may place a lien against your property for payment. **It is in your best interest to verify that all bills related to your contract are paid, even if you have paid your contractor in full.**
- If you occupy or will occupy your home, persons who supply materials, labor, equipment, or services ordered by your contractor are permitted by law to file a lien against your property only if they have sent you a timely Notice of Right to Lien (which is different from this Information Notice), before or during construction. If you enter into a contract to buy a newly-built, partially-built, or newly-remodeled home, a lien may be claimed even though you have not received a Notice of Right to a Lien. If you do not occupy the building, a Notice of Right to Lien is not required prior to filing a lien.

**This notice is not intended to be a complete analysis of the law. You should consult an attorney for more information.**

### Common Questions and Answers About Construction Liens

**Can someone record a construction lien even if I pay my contractor?** Yes. Anyone who has not been paid for labor, material, equipment, or services on your project and has provided you with a valid Notice of Right to Lien has the right to record a construction lien.

**What is a Notice of Right to Lien?** A Notice of a Right to Lien is sent to you by persons who have provided labor, materials, or equipment to your construction project. It protects their construction lien rights against your property.

**What should I do when I receive a Notice of Right to Lien?** Don't ignore it. Find out what arrangements your contractor has made to pay the sender of the Notice of Right to Lien.

**When do construction liens need to be recorded?** In Oregon, construction liens generally need to be recorded within 75 days from the date the project was substantially completed, or 75 days from the date that the lien claimant stopped providing labor, material, equipment, or services, whichever happened first. To enforce a lien, the lien holder must file a lawsuit in a proper court within 120 days of the date the lien was filed.

**Note to Contractor:** This notice must be delivered personally, or mailed by registered mail, certified mail, or by first-class mail with a certificate of mailing. Ask the signing parties to provide you with an original or copy to retain in your files. You should retain proof of delivery of this notice for at least two years.

(over)

## Steps That Consumers Can Take to Protect Themselves

- **Contact the Construction Contractors Board (CCB) and confirm that your contractor is licensed.** The law requires all construction contractors to be licensed with the CCB. Check a contractor's license online at the CCB consumer website: [www.oregon.gov/ccb](http://www.oregon.gov/ccb), or you can call 503-378-4621.
- **Review the Consumer Protection Notice (ORS 701.330(1)),** which your contractor must provide to you at the time of contract on a residential structure.
- **Consider using the services of an escrow agent** to protect your interests. Consult your attorney to find out whether your escrow agent will protect you against liens when making payments.
- **Contact a title company about obtaining a title policy** that will protect you from construction lien claims.
- **Find out what precautions, if any, will be taken** by your contractor, lending institution, and architect to protect your project from construction liens.
- **Ask the contractor to get lien waivers or lien releases** from every subcontractor, materials provider, equipment provider, and anyone else the contractor is responsible for paying. Do this before you give your contractor a progress payment.
- **Have a written contract with your contractor.** A written contract is **required** for projects greater than \$2,000. An original contractor that fails to provide a written contract as required by law, may not place a construction lien against the owner's property.
- **If you receive a Notice of Right to Lien, ask for a statement of the reasonable value of the materials, labor, equipment, or services** provided to your project from everyone who sends you a Notice of Right to Lien. If the information is not provided in a timely manner, the sender of the Notice of Right to Lien may still be able to file a construction lien, but will not be entitled to attorney fees.
- **When you pay your contractor, write checks made jointly payable to the contractor, subcontractors, materials, equipment, or services providers.** The checks name both the contractor and the subcontractor, materials or equipment provider. The checks can only be cashed if **both** the contractor and the subcontractor, materials or equipment provider endorses it. This ensures that the subcontractor and other providers will be paid by your contractor, and can eliminate the risk of a lien on your property.
- **Should you have a dispute with your contractor,** you may be able to file a complaint with the CCB and be reimbursed in whole or in part from the contractor's bond. For more details about help available through the agency, write to the CCB at PO Box 14140, Salem, OR 97309-5052 or call 503-378-4621.
- **Consult an attorney.** If you do not have an attorney, consider contacting the Oregon State Bar Referral Service at 503-684-3763 or 1-800-452-7636.

Signing this Information Notice verifies only that you have received it. Your signature does not give your contractor or those who provide material, labor, equipment, or services, any additional rights to place a lien on your property.

Job Site Address: \_\_\_\_\_

CONTRACTOR: CCB#: **66298** \_\_\_\_\_

PROPERTY OWNER: \_\_\_\_\_

**Salem Tent and Awning Co.** \_\_\_\_\_

Print Name (as it appears on contract)

Print Name (as it appears on contract)

*Deric Cruikshank*

Signature

Date

Signature

Date



# Notice of Procedure

## Regarding Residential Construction Arbitrations and Lawsuits

(ORS 701.330)

Oregon law contains important requirements that homeowners must follow before starting an arbitration or court action against any contractor, subcontractor, or supplier (materials or equipment) for construction defects.

**Before you start an arbitration or court action, you must do the following:**

1. Deliver a written notice of any conditions that you believe are defective to the contractor, subcontractor, or supplier that you believe is responsible for the alleged defect.
2. Allow the contractor, subcontractor, supplier, or its agent, to visually inspect the possible defects and also allow the contractor, subcontractor, or supplier to do reasonable testing.
3. Provide the contractor, subcontractor, supplier, or its agent, the opportunity to make an offer to repair or pay for the defects. You are not obligated to accept any offer made.

There are strict procedures and deadlines that must be followed under Oregon law. Failure to follow those procedures or meet those deadlines will affect your right to start an arbitration or court action.

**You should contact an attorney** for information on the procedures and deadlines required under Oregon law.

Your contractor is supplying this notice to you as required by Oregon law.

CONTRACTOR: CCB#: 66298

HOMEOWNER:

**Salem Tent and Awning Co.**

Print Contractor Name (as it appears on contract)

Print Homeowner Name (as it appears on contract)

*Deric Cruikshank*

Signature of Authorized Representative Date

Signature

Date





# Consumer Protection Notice

## Actions to help make your project successful

(ORS 701.330 (1))

Oregon law requires contractors to provide the homeowner with this notice at the time of written contract, for work on a residential structure. This notice explains licensing, bond and insurance requirements, and steps that consumers can take to help protect their interests.

### START OUT YOUR PROJECT RIGHT

- 1. Make sure your contractor is properly licensed** before you sign a contract. Visit [www.oregon.gov/ccb](http://www.oregon.gov/ccb), and click on the link, **Check on a Contractor's License**, or call our offices at 503-378-4621. To be licensed in Oregon, contractors must take training and pass a test on business practices and law. Licensing is not a guarantee of the contractor's work.
  - **A license requires the contractor to maintain a surety bond and liability insurance** - The CCB surety bond provides a limited amount of financial security if the contractor is ordered to pay damages in contract disputes. It is not intended to be a safety net for consumer damages. Consumers with large projects may wish to look into performance bonds. Liability insurance coverage provides for property damage and bodily injury caused by the contractor. It does not cover contract disputes, including poor workmanship.
  - **If your contractor is not licensed** - the CCB bond and dispute resolution services will not be available to you.
- 2. What you should know about bids, contracts, and change orders:**
  - **Bids** - *Do not automatically accept the lowest bid* - A low bid may make it necessary for the contractor to use lower quality materials and to cut corners in workmanship.
  - **Contracts and Change Orders** - *Always get it in writing*. Your contractor is required to provide a written contract if the contract price is more than \$2000. The CCB recommends that all contracts be in writing.
  - **Contracts should be as detailed as possible** - Some items to include are materials and costs, permits, estimated start and completion dates, debris removal, and arbitration clauses. Make sure the contractor's name, CCB number, and contact information is included in the contract.
  - **Read and understand your contract before signing it** - Don't be pressured into signing your contract without taking the time needed to go through it. Make sure it includes enough details to avoid misunderstandings and to protect you and your property.
- 3. Additional contract information you should know:**
  - **A Payment Schedule** - should be included in the contract. Stick to the schedule and never pay in full for a project before the work is complete.
  - **Special Note on Liens** - Subcontractors and material suppliers that work on your project are often paid by the general contractor. If a general contractor fails to pay, the subcontractor may file a lien on your property. For information on construction liens, visit the CCB's Consumer Help Page at [www.oregon.gov/ccb](http://www.oregon.gov/ccb), or contact an attorney.
  - **Warranty on new residential construction** - Contractors must make an offer of a warranty when constructing a new residential structure. Consumers may accept or refuse the warranty.
- 4. If you should have a problem with your contractor** - You can file a complaint with the CCB against a **licensed** contractor within one year of the substantial completion of work on your project. Contact the CCB office at 503-378-4621 for help.

Visit the CCB website at for more information on having a successful project.  
[www.oregon.gov/ccb](http://www.oregon.gov/ccb)

CONTRACTOR: CCB#: 66298

PROPERTY OWNER: \_\_\_\_\_

*Deric Cruikshank*

Signature

Date

Signature

Date

**From:** Kristen Stoller  
**To:** [Heather Richards](#)  
**Subject:** Fwd:  
**Date:** Thursday, February 23, 2017 2:17:54 PM

---

Hello Heather!

Thank for meeting me on Tuesday. Please let me know if you prefer me to mail these - my fax is out!

Included in the body is the security camera install bid.

Attached is the awning rendering.  
Attached is the new project overview and pricing.  
[Here is a link to the security cameras.](#)

Please let me know anything else I can do!

Thank you again!

-----

Dear Lindsey,

We appreciate the opportunity to help with the installation of your 2 Nest cameras on the south side of the building looking across both entry/exit doors. After our meeting, I have come up with the following;

**Materials to Include:**

CAT5E cable, 40',connectors  
Surge protected power strip  
Mounting hardware  
Network switch,4 port  
Camera installation labor  
Blue Label state of Oregon Permit

\$1201.70

**Exclusions:**

Customer to provide 2 cameras for installation

Customer to complete all cloud and network based programming, if DND is responsible for programming, then it shall be completed on a time and materials basis. (this is due to DND staff having no knowledge as to the customers' existing network structure or configuration)

DND Security and Communications will hold its price firm for 30 days.

DND Security and Communications is locally owned with a professional staff of technicians that can meet all your low voltage needs. We believe that the enclosed specifications will not only meet your requirements, but will exceed your expectations. As you consider your low voltage needs, please know that our commitment to your satisfaction is our goal. We pride ourselves on maintaining good relations with our clients. Our aim is to always provide excellent service that you can count on. We look forward to working with you on this project. Please contact us if you have any questions or comments.

Thank you for your interest in our company.

Respectfully submitted,

George Faulkner

DND Security and Communications

--

Kristen Stoller  
Owner/Artistic Director  
Chehalem Valley Dance Academy  
Locations in Newberg and McMinnville  
[www.iheartcvda.com](http://www.iheartcvda.com) 503.537.3902

To: McMinnville Urban Renewal Advisory Committee (MURAC)  
230 NE Second Street  
McMinnville, OR 97128

From: McMinnville Downtown Association Committee for Public Art (MDACPA)  
230 NE Second Street  
McMinnville, OR 97128

Subj.: One Percent for Art

Dear Committee:

The McMinnville Downtown Association Committee for Public Art requests that the McMinnville Urban Renewal Agency consider adopting an One Percent for Art program for Public Improvement Projects within the Urban Renewal District whereby one percent of costs of project budgets are set aside for the acquisition of Public Art as part of the McMinnville Urban Renewal Agency's revitalization efforts.

We propose that MDA CPA administer these funds by:

1. Recommending and aiding in the selection of locations for Public Art.
2. Issuing requests for proposals and calls to artists for public art in those locations.
3. Judging and selecting responses and proposals and submitting the selected responses/proposals to the Board of the McMinnville Urban Renewal Agency for approval.
4. Applying for matching grants to expand the budget and scope of art we are able to support.

We very much hope that both MURAC and the McMinnville Urban Renewal Agency will give serious consideration to this request and return a positive answer.

Sincerely,  
McMinnville Downtown Association Committee for Public Art  
Steven Rupp  
Chair