

# **Lender Manual**

## **Homebuyer's Assistance (HBA) Loan Program City of Madison**

*This is an Acquisition and Rehabilitation Loan Program*

City of Madison  
Economic Development Division  
215 Martin Luther King Jr. Blvd, Ste 312  
PO Box 2983  
Madison, WI 53701-2983

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# PREFACE

This Lender Manual for the Homebuyer's Assistance (HBA) Loan Program includes the program requirements approved by the Community Development Authority (CDA) and the Common Council (CC) of the City of Madison. This program is administered by the Economic Development Division (EDD).

Address: City of Madison  
Economic Development Division (EDD)  
215 Martin Luther King Jr. Blvd, Ste 312  
PO Box 2983  
Madison, WI 53701-2983

Telephone: (608) 266-4223

Office Hours: 8:00 a.m. to 4:30 p.m., Monday - Friday

The Homebuyer's Assistance Loan Program is funded by the City of Madison.

# CHAPTER I

## *HBA LOAN*

The HBA Program provides a second mortgage loan to eligible borrower(s) to assist in financing a portion of the cost of acquisition and rehabilitation of an eligible owner-occupied, one-to-eight unit property located in the City of Madison. The amount of the HBA Loan shall not be more than 30% of the total cost of acquisition plus rehabilitation plus closing costs (Total Project Cost). The HBA Program provides the following **types of loans**:

- (1) **Installment Loans**. Installment loans shall be provided to households earning more than 80% of the Dane County Median Income (DCMI) but less than 125% DCMI. As of 3/09 the 125% income limit is \$100,000. The annual rate of interest to be charged for the HBA loans shall equal the cost of City of Madison borrowed funds in the year plus a service fee of one percent, rounded upward to the nearest one-quarter of one percent. The current interest rate as of 1/09 is 5%. The maximum term of the loan shall not exceed twenty years.
- (2) **Deferred Payment Loans (DPL)**. DPL shall be provided to households earning 80% of the Dane County Median Income or less. On the tenth anniversary, the DPL (the original principal loan amount plus a one-time 10% interest charge) will convert to an Installment loan at an interest rate equal to the Installment Loan rate at the time the loan was closed (as of 1/09 this rate is 5%), amortized over 15 years. The principal loan amount and a one-time 10% interest charge would be due if the borrower(s) sells, vacates or transfers the property during years 1 through 9 (prior to the tenth anniversary).
- (3) **Matching Down Payment Funds**. Additional funding may be available to match Home-Buy funds for borrower(s) purchasing a property, which has been designated to receive matching funds, or for borrower(s) whose income is no more than 50% of the DCMI. See Home-Buy Handbook.
- (4) **Short Term Developer Financing** (See Developer Section).

### ***HBA Loan Due***

The HBA loan becomes due and payable when one of the following occurs:

- Title to, or equitable ownership in, the property is transferred to any party other than the surviving spouse of the borrower(s); or
- -The borrower(s) vacate the property; or
- -The borrower(s) defaults in meeting any of the terms and conditions of the HBA Loan Agreement; or
- -The borrower(s) refinances with cash-out.

## **CHAPTER II**

### ***ELIGIBILITY & OTHER PROGRAM REQUIREMENTS***

#### ***Property Eligibility Requirements***

To be eligible for the Program, the property must meet the following requirements:

- The property must be located in the City of Madison.
- The property must be in need of rehabilitation of at least 10% of the purchase price.
- The “after rehabilitation” appraised value, as determined by City staff, must support the rehabilitation to be completed. The first mortgage plus the City Rehab loan may not exceed 105% combined loan-to-value.
- The building must be at least a one unit and no more than eight units.
- The property must be owner-occupied.

#### ***Borrower Eligibility Requirements***

To be eligible for the Program, the borrower(s) must meet the following requirements:

- An eligible borrower(s) for an Installment Loan must have a combined household income (compliance income) of all adults intending to occupy the property, which does not exceed 125% of the Dane County Median Income (DCMI). (As of 3/09 \$100,000.)
- An eligible borrower(s) for a Deferred Payment Loan must have a combined household income (compliance income) of all adults intending to occupy the property which does not exceed 80% of the Dane County Median Income (DCMI) based on their family size.
- The borrower(s) must be able to obtain a first mortgage loan for the purchase of the property.
- The borrower(s) must provide 3% cash down payment of the Total Project Cost, of which 1% must be borrower(s) own funds.
- An eligible borrower(s) may be a developer who agrees to sell the property to eligible owner-occupants after rehabilitation.
- The borrower(s), except for developers, must be an owner-occupant of the property.
- The borrower(s) must have fulfilled the Home Buyer Education requirement prior to closing.

## ***Other Program Requirements***

### ***HBA Loan Amount***

The maximum loan amount is \$40,000 for a single-family structure and \$10,000 for each additional unit up to a maximum of \$110,000 for an eight-unit structure. The property must be in need of rehabilitation of at least 10% of the proposed purchase price. The amount of the HBA Loan shall not be more than 30% of the total cost of acquisition plus rehabilitation plus closing costs (Total Project Cost).

### ***Determining HBA Loan Amount***

The amount of the HBA Loan shall be the difference between the Total Project Cost (Acquisition + Rehabilitation + Closing Costs) and the sum of:

- The amount of the first mortgage loan; and
- The amount of the actual borrower(s) down payment (minimum down payment of 3%, of which 1% must be borrower(s) own funds); and
- Any down payment assistance programs or other funding the borrower(s) are obtaining. (Stacking down payment programs is allowed.); and
- The HBA funds must be used toward rehabilitation in an amount no less than 10% of purchase price.

*NOTE: A 6% construction contingency will be escrowed from the HBA loan amount.*

### ***Total Project Costs***

Total Project Cost is detailed below. The borrower(s) may incur other additional costs in connection with acquisition and/or rehabilitation of the property, but no part of such other additional costs shall be financed with a HBA Loan, nor shall any payment by the borrower(s) of such other additional costs be credited toward the amount of the borrower(s) down payment, nor shall any such additional costs be included as part of the Total Project Cost.

### ***Eligible Acquisition/Closing Costs***

The following costs of acquisition/closing costs of an eligible property are eligible acquisition costs:

- The purchase price.
- Customary and reasonable financing and closing costs normally required by the first mortgage lender.
- Closing costs for the City HBA loan which includes: title insurance, recording fee, 1.5% City loan processing fee, home inspection report, homebuyer education fee, and other items as deemed necessary by the City.

### ***Eligible Rehabilitation Costs***

The following costs of rehabilitation of an eligible property are eligible rehabilitation costs:

- The costs of rehabilitation work needed to correct existing and incipient violations of the requirements of the Minimum Housing and Property Maintenance Code, the HUD-established

Cost-Effective Energy Conservation Standards for Rehabilitation of Residential Properties, lead-based paint requirements and other applicable property rehabilitation standards.

- The costs of rehabilitation work needed to convert the property so as to change its use or to reduce the number of dwelling units.
- The costs of making the property accessible to and usable by a person with a physical or mental disability.
- The reasonable costs of necessary design services, where the applicant employs a private designer to prepare plans and/or specifications for the rehabilitation work.

### ***Ineligible HBA Loan Costs***

Except as otherwise provided, ineligible HBA loan costs include the following:

- The costs of new construction or substantial reconstruction (excludes Developer loans).
- The costs of materials, fixtures, equipment, or landscaping of a type or quality which exceeds that customarily used in properties of the same general type as the property to be rehabilitated.
- The costs of purchase, installation, or repair of furnishings.
- Excessive loan fees and closing costs.
- City application fee of \$50.

### ***First Mortgage***

The first mortgage shall not exceed WHEDA's current interest rate by more than 2%, otherwise the loan is ineligible for HBA funds.

### ***Processing of Loan Application***

EDD staff will review the completed loan package (see Checklist) submitted by the lender for accuracy, program compliance and technical content on the basis of general underwriting standards within 10 business days. Once it is determined whether the HBA loan will be a Deferred or Installment loan and the loan amount is determined, EDD staff will send the borrower a Truth-In-Lending for the HBA loan. When the underwriting review is completed, EDD staff will contact the borrower(s) to arrange for an inspection of the property by staff and a lead-based paint inspector (if necessary). A recommendation will be made for continued processing for loan approval or for loan rejection. Prior to loan commitment, a copy of all bids is necessary.

*The City will generally follow the WHEDA HOME Program underwriting guidelines, unless otherwise stated in this Handbook.* NOTE: A positive DU/LP loan approval by the first mortgage holder does not guarantee City approval of the HBA loan.

Qualifying ratios are 33/40%. Expanded ratios may be allowed with strong compensating factors such as good savings history, history of comparable rent expense, credit scores of 660+.

### ***Training Requirement***

The borrower(s) must have fulfilled the Home Buyer Education requirement prior to closing.

### ***Escrowing of Funds***

At the loan closing, the proceeds of the HBA Loan to be used to finance the cost of the rehabilitation of the property, as well as any supplemental rehabilitation funds provided by or on behalf of the borrower(s), will be deposited in an escrow account established on the borrower(s) behalf with a title company. Disbursements from this escrow account will be authorized by EDD staff.

## **CHAPTER III**

### **SHORT TERM DEVELOPER FINANCING**

#### ***Loan Types***

- (1) Short-Term Construction/Rehabilitation Financing. A short-term construction/rehabilitation loan in the form of a two-year balloon. This loan requires monthly P&I payments. Qualifying Developers must meet the following minimum requirements:
  - (a) The property must be located in the City of Madison.
  - (b) The maximum loan amount shall be up to \$40,000 for a single unit and \$10,000 per additional unit up to a maximum of \$110,000 for an 8-unit building.
  - (c) The amount of the construction/rehabilitation loan shall be no more than 30% of the total cost of acquisition plus construction/rehabilitation cost plus mortgage closing costs (Total Project Cost).
  - (d) The property must be sold to eligible owner-occupants whose income is no more than 125% of the Dane County Median Income. As of 3/09, \$100,000.
  - (e) The property after construction/rehabilitation must meet all codes, including the Minimum Housing and Energy Codes.
  - (f) If the construction work involves disturbing lead-based paint or asbestos, the City's Lead-Based Paint Ordinance and accepted industry abatement standards must be followed.
  - (g) The Developer must pay a nonrefundable \$200 application fee at time of submittal of application.
  - (h) The Developer will pay a .005% loan processing fee at loan closing.
  - (i) Construction/rehabilitation funds will be escrowed with a Wisconsin licensed title company. City will be responsible for authorizing the release of escrowed funds, upon receipt of the necessary documents from Developer and contractor(s).
- (2) Land Acquisition Financing. Short-term land acquisition financing for up to \$250,000 may be provided to qualifying developers to assist in the cost of land acquisition and the cost of land write-down for development in the City of Madison of affordable owner-occupied housing under the HBA Developer program. (Please note that the \$250,000 limit may be increased by \$50,000 subject to CDA review and approval). Other City funds, private, and non-City funds must be used to match these "seed monies". The maximum term of these loans is three years and requires monthly P&I payments. The Developer must agree that the land will be developed with affordable owner-occupied housing and will be sold within a three-year period to households earning no more than 125% of the Dane County Median Income. As of 3/09, \$100,000.

The following information must be included in the application request for land acquisition financing:

- (a) Project description including the Scope of Work and estimated Cost Schedule of the project including a breakdown of the land, hard and soft costs, a Construction Timetable, a copy of the construction drawings, and the amount of the City loan request.
- (b) The name(s), qualifications and experience of the development team members.

- (c) The proposed method of construction and conventional financing including payback terms and interest rates.
- (d) Description of any other public financing.
- (e) Description of the form(s) of security and the terms.
- (f) Sources and Uses of Funds Statement.
- (g) Cash Flow Analysis.
- (h) Financial Proforma.
- (i) Copy of Bank's Phase One Environmental Site Assessment. Otherwise City will order an Assessment, if necessary, at Developer's expense.
- (j) Copy of Bank's appraisal report and pictures showing the estimated market value of the project upon completion prepared by a licensed Wisconsin appraiser. Otherwise the City will order an appraisal at Developer's expense.
- (k) Copy of the Construction or First Mortgage Loan Commitment letter.
- (l) Copy of the executed Accepted Offer to Purchase or the Option to Purchase Agreement.
- (m) A nonrefundable \$200 application fee is due at the time of application.

***Program Fees and Charges for Developer Programs***

- (1) Application Fee. Nonrefundable \$200 fee payable at time of application.
- (2) Title Insurance Commitment. A Copy of the title commitment is required before loan closing.
- (3) Recording fees shall be paid by the Developer.
- (4) Loan Processing Fee. The processing fee is .005% of the City loan amount and is paid at loan closing. (e.g. \$100,000 City loan x .005% = \$500 loan processing fee due at closing.)
- (5) The Developer is responsible for covering the cost of an appraisal report by a Wisconsin licensed appraiser. The City will not accept an appraisal prepared for the Developer.
- (6) For Land Acquisition Financing the Developer is responsible for covering the cost of a Phase One Environmental Site Assessment, if not otherwise provided by the lender. The City will not accept an Assessment that was completed for the Developer.
- (7) At loan closing, the Developer is to provide evidence of adequate hazard insurance coverage, which lists the City of Madison as a second mortgagee.

***Loan Conditions for Developer Programs***

- (1) The Developer shall provide a personal guarantee or corporate for the full amount of the City loan.
- (2) Nondiscrimination Based on Disability. The Developer agrees to assure that the development will be accessible to persons with physical disabilities. certifies that they will comply with section 39.05 of the Madison General Ordinances, entitled "Nondiscrimination Based on Disability in City Assisted Programs and Activities," and agrees to ensure that any contractor and subcontractor who performs any part of this agreement complies with section 39.05, where applicable. This includes but is not limited to assuring compliance by the Contractor and any

Subcontractor, with section 39.05(4) of the Madison General Ordinances, “Discriminatory Actions Prohibited.”

- (3) The Developer must make the units affordable to households whose income does not exceed 125% of the Dane County Median Income. (As of 3/09 \$100,000.)
- (4) Total debt secured by the property, including the City loan, cannot exceed a 90% total loan-to-value.
- (5) At loan closing, the Developer must provide evidence of their 10% cash investment into the project.
- (6) The Developer agrees to sign the City Note, Mortgage, Land Use Restriction and Developer’s Agreement, and any other documents deemed necessary by the City to protect its interest.
- (7) The Developer agrees to comply with the City’s Lobby Law and complete and file all necessary forms with the City Clerk’s office.
- (8) The Developer must give the EDD staff written permission to obtain the necessary information to process the loan request.
- (9) The Developer agrees to permit all inspections of the property as deemed necessary by the EDD staff.
- (10) Qualifying Developers must demonstrate the ability to payoff the loan when it comes due and payable.
- (11) The Developer must comply with and obtain compliance of contractors and subcontractors with the Equal Opportunity, Affirmative Action, Living Wage, Disability Rights, Nondiscrimination and Prevailing Wage Ordinances.

### ***Interest Rate for Developer Programs***

The annual base interest rate applicable to the HBA Developer’s Loan Programs are established by the Board of Estimates and approved by the Common Council of the City of Madison. The base rate of interest shall equal the cost of borrowed funds to the City of Madison in the previous year, plus a service fee of one percent, rounded upward to the nearest one-quarter of one percent. The current interest rate as of 1/09 was 5%.

# APPENDIX 1

## 2009 INCOME LIMITS

### 2009 INCOME LIMITS BY FAMILY SIZE

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<u>Persons in Family</u>	<u>50% of Median</u>	<u>80% of Median</u>
1	\$28,000	\$44,800
2	32,000	51,200
3	36,000	57,600
4	40,000	64,000
5	43,200	69,100
6	46,400	74,250
7	49,600	79,350
8 or more	52,800	84,500

125% DCMI as of 3/09 \$100,000.

**APPENDIX 2  
(LOAN PROCESSING)**

**CHECKLIST  
APPLICATION (Use Lender's)  
PERMISSION TO VERIFY FORM  
TERMS & CONDITIONS  
DISCLOSURE STATEMENT MGO 3.35(5)(E)**

**CITY OF MADISON**

**CHECKLIST – HBA LOAN**

- \_\_\_\_\_ Application
- \_\_\_\_\_ Permission to Verify Form
- \_\_\_\_\_ Terms & Conditions
- \_\_\_\_\_ Disclosure MGO 3.35(5)(e)
- \_\_\_\_\_ Copy of 1st Mortgage Commitment Letter
- \_\_\_\_\_ Good Faith Estimate
- \_\_\_\_\_ Home Inspection Report
- \_\_\_\_\_ Appraisal (which reflects the after rehabilitation value is preferred)
- \_\_\_\_\_ Credit Report
- \_\_\_\_\_ Verification of Employment
- \_\_\_\_\_ Verification of Deposit
- \_\_\_\_\_ Offer to Purchase
- \_\_\_\_\_ Other (i.e., divorce decree, child support documentation, bankruptcy discharge papers, explanation of late payments, rent verification, green card etc.).
- \_\_\_\_\_ Training Certificate
- \_\_\_\_\_ Copy of all bids
- \_\_\_\_\_ Prior to closing, City requires a full Title Insurance Lender’s Policy for the City of Madison

**LENDER CONTACT PERSON**

Name \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

**CLOSING INFORMATION:**

Estimated closing date \_\_\_\_\_

Where closing \_\_\_\_\_

Phone # \_\_\_\_\_

Mail to: City of Madison, Economic Development Division, 215 Martin Luther King Jr., Blvd., Ste 312, P.O. Box 2983, Madison, WI 53701-2983.

Any questions call Terri Goldbin at 608-266-4223.

03/09

**CITY OF MADISON**

**CHECKLIST – HBA – SHORT TERM CONSTRUCTION/REHABILITATION FINANCING**

- \_\_\_\_\_ \$200 Application Fee
- \_\_\_\_\_ Rental Rehabilitation Application
- \_\_\_\_\_ Permission to Verify Form
- \_\_\_\_\_ Disclosure MGO 3.35(5)(e)
- \_\_\_\_\_ Verification of Income, City to order
- \_\_\_\_\_ 2 Years Tax Returns and All Schedules
- \_\_\_\_\_ Verification of Deposit, City to order
- \_\_\_\_\_ Verification of Mortgage(s), City to order
- \_\_\_\_\_ Credit Report, City to order
- \_\_\_\_\_ Copy of First Mortgage Commitment (if Applicable)
- \_\_\_\_\_ Property Inspection Report
- \_\_\_\_\_ Copy of Bank’s Appraisal and Pictures
- \_\_\_\_\_ Offer to Purchase (if Applicable)
- \_\_\_\_\_ Copy of all Bids, prior to commitment

**CONTACT PERSON:**

Name \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

**CLOSING INFORMATION:**

Estimated closing date \_\_\_\_\_

Mail file to: City of Madison, Economic Development Division (EDD), ATTN: Terri Goldbin, 215 Martin Luther King Jr., Blvd., Suite 312, P.O. Box 2983, Madison, WI 53701-2983.

Any questions call Terri Goldbin at 608-266-4223.

03/09

**CITY OF MADISON**  
**CHECKLIST - HBA – LAND ACQUISITION FINANCING**

Checklist

- \_\_\_\_\_ \$200 Application Fee
- \_\_\_\_\_ Application
- \_\_\_\_\_ Disclosure MGO 3.35(5)(e)
- \_\_\_\_\_ Project description (including Scope of Work), Cost Schedule, Construction Timetable, Construction Drawings
- \_\_\_\_\_ Name, qualifications, experience of Development Team Members
- \_\_\_\_\_ Proposed construction and conventional financing terms
- \_\_\_\_\_ Description of any other Public Financing
- \_\_\_\_\_ Description of the forms of security and terms to protect the City’s loan participation.
- \_\_\_\_\_ Source and Uses of Funds Statement
- \_\_\_\_\_ Cash Flow Analysis
- \_\_\_\_\_ Financial Proforma
- \_\_\_\_\_ Copy of Bank’s Phase One Environmental Site Assessment, otherwise City will order (if necessary) upon receipt of funds from Developer
- \_\_\_\_\_ Copy of Bank’s Appraisal and Pictures, otherwise City will order, upon receipt of funds from Developer.
- \_\_\_\_\_ Copy of construction or first mortgage loan commitment.
- \_\_\_\_\_ Copy of Accepted Offer or Option to Purchase Agreement

**CONTACT PERSON:**

Name \_\_\_\_\_

Phone # \_\_\_\_\_

Fax # \_\_\_\_\_

**CLOSING INFORMATION:**

Estimated closing date \_\_\_\_\_

Deliver file to: City of Madison, Economic Development Division (EDD), ATTN: Terri Goldbin, 215 Martin Luther King Jr., Blvd., Suite 312, P.O. Box 2983, Madison, WI 53701-2983.

Any questions call Terri Goldbin at 608-266-4223.

03/09



# City of Madison

## Housing Rehabilitation Services Programs

This notice to you as required by the Right to Financial Privacy Act of 1978 that the Department of Housing and Urban Development has a right of access to financial records held by any financial institution in connection with the consideration or administration of the rehabilitation loan for which you have applied. Financial records involving your transaction will be available to HUD without further notice or authorization but will not be disclosed or released to another Government agency or Department without your consent except as required or permitted by law.

### Applicant's permission to verify

To Whom It May Concern:

This is to certify that we have given our permission to the City of Madison to request and receive information required to verify employment, mortgages, deeds of trust, savings accounts, credit accounts, and all other information necessary to complete our application for a Housing Rehabilitation loan.

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Print Name (Borrower)

Print Name (Co-borrower)

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Signature (Borrower)

Signature (Co-borrower)

---

Street Address

---

City, State, and Zip Code

---

Date

**Please read, sign, and return this form along with the completed application to:**

City of Madison  
Economic Development Division  
215 Martin Luther King, Jr. Blvd., Ste 312  
P.O. Box 2983  
Madison WI 53701-2983

**TERMS AND CONDITIONS  
HOMEBUYER'S ASSISTANCE LOAN (HBA)**

This document sets forth the terms and conditions to which borrower(s) must agree in order to obtain a housing rehabilitation loan under the Housing Rehabilitation Services Program.

1. HBA-Installment Loans (IL). Installment loans shall be provided to households earning more than 80% of the Dane County Median Income but no more than 125% of the Dane County Median Income. As of 3/09 \$100,000. The annual rate of interest to be charged for the HBA loans shall equal the cost of City of Madison borrowed funds in the year plus a service fee of one percent, rounded upward to the nearest one-quarter of one percent. The maximum term of the loan shall not exceed twenty years.
2. HBA-Deferred Payment Loans (DPL). DPL shall be provided to households earning 80% of the Dane County median income or less. On the tenth anniversary, the DPL (the original principal loan amount plus a one-time 10% interest charge) will convert to an Installment loan at an interest rate equal to the Installment Loan rate at the time the loan was closed, amortized over fifteen years. The principal loan amount and a one-time 10% interest charge would be due if the borrower(s) sells, vacates or transfers the property during years 1 through 9 (before the tenth anniversary).
3. Matching Down Payment Funds. Additional funding may be available to match Home-Buy funds for borrower(s) purchasing a property which has been designated to receive matching funds or for borrower(s) whose income is no more than 50% of the DCMI.
4. Program Fees and Charges.
  - A. Application Fee. The amount of the application fee to be charged to the borrower(s) for a HBA Loan is \$50. The application fee must be paid at the time of loan closing, from borrower(s) own funds.
  - B. Title Insurance. The City shall be provided with a Mortgagee's Title Insurance Policy satisfactory to the City, in the amount of the Rehabilitation Loan, and issued by a title insurance company licensed in the State of Wisconsin.
  - C. Recording Fees. The cost of recording the mortgage and any other documents will be charged at loan closing.
  - D. Loan Processing Fee. The amount of the loan processing fee is 1.5% of the HBA loan amount and is charged at loan closing.
  - E. Appraisal Fee. Is to be provided by the first mortgage lender.
5. Lump-Sum Repayment of Loan. The HBA loan shall become immediately due and payable to the City upon the occurrence of any of the following:
  - A. Title to, or equitable ownership in, the property is transferred to any party other than the surviving spouse of the borrower(s), if any; or
  - B. The borrower(s) vacate the property; or
  - C. The borrower(s) default in meeting any of the terms and conditions of the loan; or
  - D. The borrower(s) refinance with cash-out.

6. Repayment of the Loan. Except as otherwise stated, the HBA loan shall be repaid in substantially equal monthly installments with interest in arrears.
7. Prepayment of the Loan. The borrower(s) reserve the right to prepay, at any time, all or part of the HBA loan without penalty.
8. Loan Security.
  - A. Form of Loan Security Required. The borrower(s) must provide security for the HBA Loan in the form of a mortgage. In the case of multiple ownership, the signature of every titleholder to the property will be required.
  - B. Preservation of the Security. The borrower(s) must agree to maintain the property in decent, safe, sanitary, and sound condition during the term of the HBA Loan.
  - C. Property Insurance. The borrower(s) must maintain property insurance on the property as required, during the term of the HBA loan and list the City of Madison as a Mortgagee.
9. City Ordinance Requirements. In addition to the terms and conditions referred to in the preceding paragraphs, the borrower(s) must agree to comply with the following terms and conditions:
  - A. Nondiscrimination Based on Disability. Borrower assures and certifies that they will comply with section 39.05 of the Madison General Ordinances, entitled “Nondiscrimination Based on Disability in City Assisted Programs and Activities,” and agrees to ensure that any subcontractor who performs any part of this agreement complies with section 39.05, where applicable, including all actions prohibited.”
  - B. Contract Compliance Requirements. The borrower(s) and their contractors must comply with all applicable provisions of Madison General Ordinance Section 3.58 (8), concerning contract compliance requirements.
  - C. Nondiscrimination. In the performance of work under this contract, the borrower agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. Borrower further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex or national origin.
  - D. Prevailing Wage. If eight or more units, the borrower(s) agree to comply with Madison General Ordinance Section 4.23 entitled “Prevailing Wage on Building or Work Financed In Whole Or In Part With City Financial Assistance”.
  - E. Section 8. The Borrower(s) agree to not refuse to lease or otherwise make unavailable units in the Project solely because any applicant for a unit is a direct recipient of a Federal, State or Local government-housing subsidy. Borrower(s) shall comply with the provisions of Madison General Ordinances Section 32.12(16), for as long as the loan remains outstanding.
  - F. Lobbying Ordinance. The Borrower(s) agree to comply with the City of Madison’s Lobbying Ordinance. If you are seeking approval of a development that has over 40,000 gross square feet of non-residential space, or a residential development of over 10 dwelling units, or if you are seeking assistance from the City with a value of over \$10,000, then you likely are subject to Madison’s lobbying ordinance, Madison General Ordinance Section 2.40 and you may be required to register and report your lobbying. Please consult the City Clerk for more

information. Failure to comply with the lobbying ordinance may result in fines of \$1,000 to \$5,000.

G. Affirmative Action Department. Section 39.02(9)(c) requires that contracts (unless exempt) that borrower(s) agree to comply with the workforce utilization and affirmative action provision.

10. Use of Proceeds. The borrower(s) shall agree to use the proceeds of the HBA Loan only to pay for costs of services and materials necessary to carry out the rehabilitation work for which the loan is approved. Six percent of the construction costs must be set-aside in the escrow account for contingencies.
11. Escrowing the Rehabilitation Funds. The borrower(s) shall agree to permit the City of Madison, its agents or designees, to act as escrow agent of the proceeds of the HBA Loan and other funds used in combination with the HBA loan, including the borrower(s) own funds. The borrower(s) permit the City, its agents or designees to disburse such funds in the manner set forth in the Contract for Rehabilitation Work.
12. Completion of Work. The borrower(s) shall assure that the rehabilitation work shall be carried out promptly and efficiently through written contract(s).
13. Contract for Rehabilitation Work form to be used. The Contract for Rehabilitation Work form, which is provided by the EDD Staff, shall be used for rehabilitation work financed in whole or in part with the HBA Loan.
14. Best Value Contracting. Borrower(s) shall utilize for construction of the Project those firms which have met the prequalification requirements of Section 33.07(7), Madison General Ordinances, if applicable.
15. Inspections. The borrower(s) shall permit inspection by EDD Staff of the property to be rehabilitated with the assistance of the City Loan, for compliance with the Minimum Housing and Property Maintenance Code and other applicable local codes and ordinances. The borrower(s) shall also permit all other inspections deemed necessary by the EDD Staff of the property, the rehabilitation work, and all contracts, materials, equipment, payrolls, and conditions of employment pertaining to the work.
16. Lead-Based Paint Hazards. Any work which disturbs a painted surface must include lead testing and lead safe work practices.
17. Records. The borrower(s) shall keep such records as may be required with respect to the rehabilitation work performed with the assistance of the HBA Loan.
18. Interest of Public Body. The borrower(s) shall allow no member of the governing body of the City of Madison, and no official or employee of the City of Madison who exercises any functions or responsibilities in connection with the administration of the HBA Program to have any interest, direct or indirect, in the proceeds of the HBA Loan, or in any contract entered into by the borrower(s) for the performance of work financed in whole or in part with the proceeds of the loan.
19. Bonus, Commission, or Fee. The borrower(s) shall not pay any bonus, commission, or fee for the purpose of obtaining approval of the loan application, or any other approval or concurrence required by the Community Development Authority or the EDD Staff to complete the rehabilitation work financed in whole or in part with the HBA Loan.

By signing this document, I/We hereby acknowledge having read and understand the above terms and



MGO 3.35(5)(e) Disclosure Statement

Are any of the borrowers a City employee, elected City official, City board or committee member or an immediate family member of the aforementioned? “Immediate family” member of a City employee, official or board/committee member means a spouse, a registered domestic partner, or a relative by marriage, adoption or lineal descent who receives more than one-half of his or her support from the City employee, official or board/committee member.

\_\_\_\_\_ Yes    \_\_\_\_\_ No

\_\_\_\_\_  
Borrower Signature                      date

\_\_\_\_\_  
Borrower Signature                      date

**If answered Yes above, borrowers will be required to provide written disclosure of the nature and extent of the relationship or interest to the President and Members of the Common Council and the Director of the Department of Planning & Community & Economic Development.**

**APPENDIX 3**  
***(LOAN CLOSING)***

**CONTRACT FOR REHABILITATION WORK**  
**ORDER TO PROCEED LETTER**  
**NOTE**  
**MORTGAGE**

**STANDARD FORM OF CONTRACT**

**CONTRACT FOR REHABILITATION WORK**

This agreement is made by the Owner, hereinafter sometimes referred to as the “Contractor” for the benefit of the City of Madison, a Wisconsin municipal corporation.

**WHEREAS**, the Owner has applied to the City of Madison, Wisconsin, hereinafter called the “City”, for a housing rehabilitation loan under the City’s Housing Rehabilitation Services Program (HRSP), and the City, acting by and through its Department of Planning & Community & Economic Development, hereinafter called “DPCED”, has approved such application; and

**WHEREAS**, the Owner proposes to finance the cost of the rehabilitation work provided for in this Contract with the proceeds of a housing rehabilitation loan to be made to the Owner by the City under the HRSP (and from other funds which may be available to the Owner to finance the cost of such rehabilitation work), and

**WHEREAS**, the Owner has submitted bids, proposals and materials list for the performance of the rehabilitation work provided for in this Contract; and

**WHEREAS**, the Owner has accepted the bids and proposals for the performance of such rehabilitation work and desires to engage these Contractors to perform such rehabilitation work in accordance with the provisions of this Contract.

**NOW, THEREFORE**, for the considerations stated herein, the Owner hereby agrees as follows:

**GENERAL CONDITIONS**

1. Property to be Rehabilitated. The property to be rehabilitated pursuant to this Contract is located at \_\_\_\_\_, in the City of Madison, Wisconsin, and is more particularly described as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
2. Contract Documents. The Contract Documents that comprise this Contract for Rehabilitation Work consist of this Contract, as executed on behalf of the Owner and the following additional documents, each of which has been attached to this Contract prior to its execution by the Owner and each of which is hereby incorporated in this Contract by reference; (a) the bid(s), and proposal(s), submitted by the Owner; and (b) the specifications, including the plan drawings (if any), for the rehabilitation work to be performed on behalf of the Owner pursuant to this Contract.
3. Scope of Work. The Owner or Contractor shall furnish all necessary materials, equipment, tools, labor and supervision necessary to perform, and shall perform, all of the rehabilitation work provided for in this Contract relating to the property described in Section 1 of this Contract.
4. Time of Performance. The Construction work shall commence within 30 days from the date of closing, and shall satisfactorily be completed within 120 days after loan closing.

5. Permits and Codes. The Owner shall insure that all necessary permits required in connection with the performance of the rehabilitation work provided for in this Contract have been obtained and shall arrange for inspections of the work to guarantee compliance with the requirements and applicable codes, ordinances and regulations of the City.
6. Insurance. The Contractor shall maintain in force, between the time that the Contractor commences the rehabilitation work provided for in this Contract and the time that such work is completed, commercial general liability insurance protecting the Owner for not less than \$300,000 in the event of bodily injury, including death, and property damage arising out of the Contractor's operations under this Contract, whether such operations be by the Contractor, any subcontractors or suppliers engaged by the Contractor in connection with such operations, or anyone directly or indirectly employed by either the Contractor or such subcontractors or suppliers, and such insurance or other coverage as is required by Wisconsin law governing Worker's Compensation. Before commencing the rehabilitation work provided for in this Contract, the Contractor shall furnish DPCED with certificates showing that the required insurance is in force.
7. Owner to Hold the City Harmless. The Owner shall indemnify and hold harmless, the City of Madison, the CDA and their officers, agents and employees from all liability and claims for damages because of expense suffered or alleged to have been suffered by any person as a result of, or arising from this Contract, whether such operations be by the Contractor, any subcontractors or suppliers in connection with this Contract, or any one directly or indirectly employed by either the Contractors, subcontractors or suppliers.
8. Inspection. During the performance of the rehabilitation work, the Contractors shall permit DPCED to inspect the rehabilitation work as necessary to assure that the rehabilitation work being performed by the Contractors (a) will bring the property being rehabilitated into compliance with the requirements of the City's Minimum Housing and Property Maintenance Code, Federal Housing Quality Standards (HQS), and other application local codes and ordinances; and (b) is being completed in accordance with the requirements of this Contract.
9. Equal Opportunity, Fair Housing, Prevailing Wage, Lobbying Ordinance and Affirmative Action. The Owner shall comply with all applicable provisions of the Madison General Ordinances concerning equal opportunity, fair housing, prevailing wage, lobbying ordinance and affirmative action programs and practices in connection with the rehabilitation work being performed under this Contract, and shall assist and actively cooperate with the City in obtaining the compliance of subcontractors with such provisions of the Madison General Ordinances, and with the rules, regulations and relevant orders issued by the City pursuant to such provisions of the Madison General Ordinances.
10. Changes in the Work. No changes, alterations, additions, deletions, assignments or substitutions shall be made in the work or materials called for in the specifications, including the plan drawings, if any, which are part of this Contract, except by written Change Order signed by the Owner and approved by DPCED. Change Orders shall be limited to covering work items, the need for which cannot be determined until sometime during the Contractor's performance of the rehabilitation work, and when issued, shall be deemed to be modifications of this Contract as originally executed by the Owner. All proposed Change Orders shall be reviewed and approved by DPCED.

11. Interest of City Officials and Personnel in Contract. No member of the Common Council of the City of Madison, and no official or employee of the City who exercises any functions or responsibilities in connection with the administration of the City's HRSP shall be allowed by either the Owner or the Contractor to have any interest, direct or indirect, in the proceeds of the housing rehabilitation loan made or to be made to the Owner by the City under the HRSP, or in this Contract.
12. Contract Price. Upon satisfactory completion of the rehabilitation work provided for in this Contract, as determined by the Owner, the Contractors shall be paid the amount of \$\_\_\_\_\_ hereinafter called the "Contract Price", which shall constitute full and complete compensation for the performance of the rehabilitation work provided for in this Contract, except as otherwise provided in Section 10 of this Contract.
13. Lump Sum Payment of Contract Price. The Contractor shall be paid the Contract Price for the rehabilitation work provided for in this Contract in the following manner. Upon receipt of the Contractor's requisition for payment. DPCED shall make an inspection of the property to which this Contract pertains, to assure that the property has been brought into compliance with the requirements of the City's Minimum Housing and Property Maintenance Code, Federal HQS and all other applicable local codes and ordinances, and that the rehabilitation work has been satisfactorily completed in conformance with this Contract. The Contractor shall be paid the Contract Price for completion of the work only after inspection and acceptance by the Owner of the work to be completed by the Contractor pursuant to this Contract, and the Contractor has furnished the Owner all guarantees and warranties due the Owner for the rehabilitation work, satisfactory releases of all liens or claims for liens by the Contractor, all laborers, all subcontractors having performed any work and all suppliers of materials, equipment and services provided to the Contractor in connection with the work.
14. Lien Waivers. The Contractors shall protect, defend and indemnify the Owner from any claims for unpaid work, labor or materials. Payment for the rehabilitation work provided for in this Contract shall not be due until the Contractor has delivered to the Owner, c/o DPCED, complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and services for which a lien could be filed, or a bond satisfactory to the Owner and DPCED indemnifying the Owner against any lien.
15. Disputes. All disputes arising under this Contract or its interpretation, whether involving law, or fact or both, or extra work, and all claims for alleged breach of contract may be presented in writing by the Contractor to DPCED, within ten days of commencement of the dispute. Such claim shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime the Contractor shall proceed with the work. The Contractor shall in no case allow the dispute to delay the work but shall promptly notify the Owner and DPCED that he is proceeding with the work under protest and he may then except the matter in question from the final lien release until the dispute has been resolved according to law. Any claim not presented within the time limit specified in this Section shall be deemed to have been waived.

16. Binding Arbitration. Whenever a dispute over completed work arises between the Owner and the rehabilitation contractor that cannot be amicably settled under Section 15 herein, the following procedure shall apply: The DPCED inspector must initially certify that the contractor has completed all work satisfactorily according to the contract and all applicable codes and that, in the inspector's opinion, the Owner is not acting in good faith by not releasing final payment to the Contractor. The inspector will then refer the matter to the Director of the Inspection Unit who shall ask for inspections by the Building Inspection Supervisor, or designee, and by a disinterested third party. Only if all three persons completely agree in favor of the Contractor may a payment be made to the Contractor without the Owner's signature of approval; and the file will be closed by applying any remaining construction escrow account funds to the principal balance of the loan. This clause is not intended to preclude the Owner from pursuing independent legal rights and remedies under other sections of this agreement as permitted by law.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Contractor

**ADDITIONAL CONTRACT PROVISIONS**

(If this Contract includes additional provisions not included in the General Conditions such additional provisions shall be attached to this Contract prior to its execution by the Contractor and the Owner. If no additional provisions are to be included in this Contract, this Contract shall so state by having the work "None" written or typed on the following line.)

**IN WITNESS WHEREOF**, the Owner has executed this Contract as of the date written above.

**CONTRACTOR**

**OWNER**

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name of Owner(s)

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

ORDER TO PROCEED LETTER

**Dated:** \_\_\_\_\_

**Loan Number:** \_\_\_\_\_

You are the successful bidder on the rehabilitation of the property located at:

\_\_\_\_\_

Work should be started by \_\_\_\_\_, and be satisfactorily completed by \_\_\_\_\_ . Again, you are reminded to obtain the required permits before commencing work on the project. Your cooperation in this matter will be greatly appreciated.

Sincerely,

\_\_\_\_\_  
\_\_\_\_\_, Escrow Officer

\_\_\_\_\_, Borrower

\_\_\_\_\_, Borrower

City of Madison  
Economic Development Division  
215 Martin Luther King Jr. Blvd, Ste 312  
PO Box 2983  
Madison WI 53701-2983

(Please refer any questions on contract to: Terri Goldbin 608-266-4223 or  
Craig Wilson 608-266-6557

## MORTGAGE NOTE

**Borrower:** \_\_\_\_\_ **Mortgaged Property:**  
**Madison, WI**

**Homebuyer's Assistance Loan-DPL** **Amount: \$** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Loan No.:** \_\_\_\_\_

**For Value Received**, the Borrower jointly and severally promise(s) to pay to the order of the City of Madison, a Wisconsin municipal corporation, at its offices located at 210 Martin Luther King, Jr., Boulevard, Room 406, Madison, Wisconsin 53703, the principal sum of \_\_\_\_\_ and no/100 (\$ \_\_\_\_\_), together with deferred interest thereon calculated as set forth below, and agrees to the other conditions set forth herein as follows:

- (a) Interest shall accrue at the rate of ten percent (10%) of the unpaid principal balance for the first year of this Note. Interest shall begin accruing on the date the loan funds are disbursed. Interest shall not accrue in years two through nine following the date of this Note.
- (b) On the tenth anniversary of the date of this Note, interest shall begin accruing at the rate of 5% per annum calculated on the principal balance plus the 10% interest charge for the first year following execution of the Note, less any payments made on principal and interest. Payments of principal and interest shall be due on the first day of each month for 180 months with a payment of \$ \_\_\_\_\_ on \_\_\_\_\_, and on the first day of each month for 179 months thereafter.
- (c) Payments shall be applied first to interest due, then next to any charges due under the terms of the Mortgage and then to principal.

**This Note** is secured by a mortgage of even date from the Borrower to the City (the "Mortgage"), which is incorporated herein by reference. The Borrower reserve(s) the right to prepay at any time all or part of this Note without penalty.

**Delinquency Charge.** If any installment owed under this Note is not paid on or before the 15<sup>th</sup> day after its due date, the City shall collect a delinquency charge equal to \$3.00 or 3% of the unpaid amount of the installment, whichever is less. The unpaid balance of the Note shall bear interest after the final scheduled maturity date at the rate of 12% per year. Payments shall be applied first to interest due, then next to any charges due under the terms of the Mortgage and then to principal.

**This Note**, together with accrued interest and delinquency charges, shall become immediately due and payable to the City of Madison upon the occurrence of any of the following:

- (a) The Borrower fails to make any payment due under this Note; or
- (b) Title to, or equitable ownership in, the mortgaged property is transferred to any party other than Borrower; or
- (c) The mortgaged property is no longer occupied by the Borrower; or

(d) The Borrower defaults in any of the covenants, terms, or provisions of the Mortgage subject to Borrower's right of notice of default and opportunity to cure, if any.

**Loan Provision.** Where applicable, the Borrower agrees to not refuse to lease or otherwise make unavailable units in the property solely because an applicant for a unit is a direct recipient of a federal, state or local government housing subsidy. Borrower shall comply with this Provision for as long as the loan remains outstanding.

**This Note** may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement is sought.

The Borrower acknowledges receipt of an exact copy of this Note.

\_\_\_\_\_  
Borrower (sign here)

\_\_\_\_\_  
Borrower (sign here)

\_\_\_\_\_  
Borrower (Print Name)

\_\_\_\_\_  
Borrower (Print Name)

## MORTGAGE NOTE

**Borrower:** \_\_\_\_\_ **Mortgaged Property:** \_\_\_\_\_  
**Installment Loan:** \_\_\_\_\_ **Amount:** \_\_\_\_\_  
**Date:** \_\_\_\_\_ **Loan No.:** \_\_\_\_\_

**For Value Received**, the Borrower jointly and severally promise(s) to pay to the order of the City of Madison, a Wisconsin municipal corporation, at its offices located at 210 Martin Luther King, Jr., Boulevard, Room 406, Madison, Wisconsin 53703, the principal sum of \_\_\_\_\_ Dollars and - /100 (\$ \_\_\_\_\_), together with interest on the unpaid principal balance at the rate of Five (5%) percent per year. Principal and interest in the amount of \$ \_\_\_\_\_ shall be payable on the first day of each month commencing on \_\_\_\_\_, and on the first day of each month for the next \_\_\_ months thereafter.

**This Note** is secured by a mortgage of even date from the Borrower to the City (the "Mortgage"), which is incorporated herein by reference. The Borrower reserve(s) the right to prepay at any time all or part of this Note without penalty.

**Delinquency Charge.** If any installment owed under this Note is not paid on or before the 15<sup>th</sup> day after its due date, the City shall collect a delinquency charge equal to \$3.00 or 3% of the unpaid amount of the installment, whichever is less. The unpaid balance of the Note shall bear interest after the final scheduled maturity date at the rate of 12% per year.

**This Note**, together with accrued interest and delinquency charges, shall become immediately due and payable to the City upon the occurrence of any of the following, subject to Borrower's right of notice of default and opportunity to cure, if any:

- (a) The Borrower fails to make any payment due under this Note;
- (b) Title to, or equitable ownership in, the mortgaged property is transferred to any party other than Borrower;
- (c) The mortgaged property is no longer occupied by the Borrower; or
- (d) The Borrower defaults in any of the covenants, terms, or provisions of the Mortgage.

**Loan Provision.** Where applicable, the Borrower agrees to not refuse to lease or otherwise make unavailable units in the property solely because an applicant for a unit is a direct recipient of a federal, state or local government housing subsidy. Borrower shall comply with this Provision for as long as the loan remains outstanding.

This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement is sought.

The Borrower acknowledges receipt of an exact copy of this Note.

NOTICE TO BORROWER

- (a) DO NOT SIGN THIS NOTE IF IT CONTAINS ANY BLANK SPACES.
- (b) YOU ARE ENTITLED TO AN EXACT COPY OF THIS NOTE.
- (c) YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS NOTE AND YOU MAY BE ENTITLED TO PARTIAL REFUNDS OF FINANCE CHARGE.

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Borrower (Print Name)

\_\_\_\_\_  
Borrower (Print Name)



in a suit at law or by foreclosure of this Mortgage or by the exercise of any other remedy available at law or equity. If this Mortgage is subordinate to a superior mortgage lien, a default under the superior mortgage lien constitutes a default under this Mortgage.

3. **NOTICE.** Unless otherwise provided in the Obligation secured by this Mortgage, prior to any acceleration (other than under paragraph 9, below) Mortgagee shall mail notice to Mortgagor specifying: (a) the default; (b) the action required to cure the default; (c) a date, not less than 15 days from the date the notice is mailed to Mortgagor by which date the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration.

4. **EXPENSES AND ATTORNEY FEES.** In case of default, whether abated or not, all costs and expenses, including, but not limited to, reasonable attorney fees, to the extent not prohibited by law shall be added to the principal, become due as incurred, and in the event of foreclosure be included in the judgment.

5. **FORECLOSURE WITHOUT DEFICIENCY.** Mortgagor agrees to the provisions of Sections 846.101 and 846.103, Wis. Stats., as may apply to the Property and as may be amended, permitting Mortgagee in the event of foreclosure to waive the right to judgment for deficiency and hold the foreclosure sale within the time provided in such applicable Section.

6. **RECEIVER.** Upon default or during the pendency of any action to foreclose this Mortgage, Mortgagor consents to the appointment of a receiver of the Property, including homestead interest, to collect the rents, issues and profits of the Property during the pendency of such an action, and such rents, issues and profits when so collected shall be held and applied as the court shall direct.

7. **WAIVER.** Mortgagee may waive any default without waiving any other subsequent or prior default by Mortgagor.

8. **MORTGAGEE MAY CURE DEFAULTS.** In the event of any default by Mortgagor of any kind under this Mortgage or any Obligation secured by this Mortgage, Mortgagee may cure the default and all sums paid by Mortgagee for such purpose shall immediately be repaid by Mortgagor with interest at the rate then in effect under the Obligation secured by this Mortgage and shall constitute a lien upon the Property.

9. **CONSENT REQUIRED FOR TRANSFER.** Mortgagor shall not transfer, sell or convey any legal or equitable interest in the Property (by deed, land contract, option, long-term lease or in any other way) without the prior written consent of Mortgagee, unless either the indebtedness secured by this Mortgage is first paid in full or the interest conveyed is a mortgage or other security interest in the Property, subordinate to the lien of this Mortgage. The entire indebtedness under the Obligation secured by this Mortgage shall become due and payable in full at the option of Mortgagee without notice, which notice is hereby waived, upon any transfer, sale or conveyance made in violation of this paragraph. A violation of the provisions of this paragraph will be considered a default under the terms of this Mortgage and the Obligation it secures.

10. **ASSIGNMENT OF RENTS.** Mortgagor hereby transfers and assigns absolutely to Mortgagee, as additional security, all rents, issues and profits which become or remain due (under any form of agreement for use or occupancy of the Property or any portion thereof), or which were previously collected and remain subject to Mortgagor's control following any default under this Mortgage or the Obligation secured hereby and delivery of notice of exercise of this assignment by Mortgagee to the tenant or other user(s) of the Property in accordance with the provisions of Section 708.11, Wis. Stats., as may be amended. This assignment shall be enforceable with or without appointment of a receiver and regardless of Mortgagee's lack of possession of the Property.

11. **ENVIRONMENTAL PROVISION.** Mortgagor represents, warrants and covenants to Mortgagee that (a) during the period of Mortgagor's ownership or use of the Property no substance has been, is or will be present, used, stored, deposited, treated, recycled or disposed of on, under, in or about the Property in a form, quantity or manner which if known to be present on, under, in or about the Property would require clean-up, removal or other remedial action ("Hazardous Substance") under any federal, state or local laws, regulations, ordinances, codes or rules ("Environmental Laws"); (b) Mortgagor has no knowledge, after due inquiry, of any prior use or existence of any Hazardous Substance on the Property by any prior owner of or person using the Property; (c) without limiting the generality of the foregoing, Mortgagor has no knowledge, after due inquiry, that the Property contains asbestos, polychlorinated biphenyl components ("PCBs") or underground storage tanks; (d) there are no conditions existing currently or likely to exist during the term of this Mortgage which would subject Mortgagor to any damages, penalties, injunctive relief or clean-up costs in any governmental or regulatory action or third-party claims relating to any Hazardous Substance; (e) Mortgagor is not subject to any court or administrative proceeding, judgment, decree, order or citation relating to any Hazardous Substance; and (f) Mortgagor in the past has been, at the present is and in the future will remain in compliance with all Environmental Laws. Mortgagor shall indemnify and hold harmless Mortgagee from all loss, cost (including reasonable attorney fees and legal expenses), liability and damage whatsoever directly or indirectly resulting from, arising out of or based upon (i) the presence, use, storage, deposit, treatment, recycling or disposal, at any time, of any Hazardous Substance on, under, in or about the Property, or the transportation of any Hazardous Substance to or from the Property, (ii) the violation or alleged violation of any Environmental Law, permit, judgment or license relating to the presence, use, storage, deposit, treatment, recycling or disposal of any Hazardous Substance on, under, in or about the Property, or the transportation of any Hazardous Substance to or from the Property, or (iii) the imposition of any governmental lien for the recovery of environmental clean-up costs expended under any Environmental Law. Mortgagor shall immediately notify Mortgagee in writing of any governmental or regulatory action or third-party claim instituted or threatened in connection with any Hazardous Substance on, in, under or about the Property.

12. **SECURITY INTEREST ON FIXTURES.** To further secure the payment and performance of the Obligation, Mortgagor hereby grants to Mortgagee a security interest in:

**CHOOSE ONE OF THE FOLLOWING OPTIONS; IF NEITHER IS CHOSEN, OPTION A SHALL APPLY:**

- A. All fixtures and personal property located on or related to the operations of the Property whether now owned or hereafter acquired.

B. All property listed on the attached schedule.

This Mortgage shall constitute a security agreement within the meaning of the Uniform Commercial Code with respect to those parts of the Property indicated above. This Mortgage constitutes a fixture filing and financing statement as those terms are used in the Uniform Commercial Code. This Mortgage is to be filed and recorded in the real estate records of the county in which the Property is located, and the following information is included: (1) Mortgagor shall be deemed the "debtor"; (2) Mortgagee shall be deemed to be the "secured party" and shall have all of the rights of a secured party under the Uniform Commercial Code; (3) this Mortgage covers goods which are or are to become fixtures; (4) the name of the record owner of the land is the debtor; (5) the legal name and address of the debtor are

\_\_\_\_\_  
(6) the state of organization and the organizational identification number of the debtor (if applicable) are \_\_\_\_\_; and  
(7) the address of the secured party is \_\_\_\_\_  
\_\_\_\_\_.

- 13. **SINGULAR; PLURAL.** As used herein, the singular shall include the plural and any gender shall include all genders.
- 14. **JOINT AND SEVERAL/LIMITATION ON PERSONAL LIABILITY.** The covenants of this Mortgage set forth herein shall be deemed joint and several among Mortgagors, if more than one. Unless a Mortgagor is obligated on the Obligation secured by this Mortgage, Mortgagor shall not be liable for any breach of covenants contained in this Mortgage.
- 15. **INVALIDITY.** In the event any provision or portion of this instrument is held to be invalid or unenforceable, this shall not impair or preclude the enforcement of the remainder of the instrument.
- 16. **MARITAL PROPERTY STATEMENT.** Any individual Mortgagor who is married represents that the obligation evidenced by this instrument was incurred in the interest of Mortgagor's marriage or family.

Dated: \_\_\_\_\_

\_\_\_\_\_(SEAL) \_\_\_\_\_(SEAL)

\* \_\_\_\_\_ \*

\_\_\_\_\_(SEAL) \_\_\_\_\_(SEAL)

\* \_\_\_\_\_ \*

**AUTHENTICATION**

Signature(s)  
\_\_\_\_\_  
authenticated on \_\_\_\_\_  
\_\_\_\_\_

\* \_\_\_\_\_  
TITLE: MEMBER STATE BAR OF WISCONSIN  
(If not, \_\_\_\_\_  
authorized by Wis. Stat § 706.06)

**ACKNOWLEDGMENT**

STATE OF WISCONSIN )  
 ) ss.  
\_\_\_\_\_ COUNTY )  
Personally came before me on \_\_\_\_\_,  
the above-named \_\_\_\_\_  
\_\_\_\_\_ to me known to be the person(s) who executed the foregoing  
instrument and acknowledged the same.

THIS INSTRUMENT DRAFTED BY:  
  
Percy Brown  
City of Madison Economic Development Division

\* \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission (is permanent) (expires):  
\_\_\_\_\_)

**(Signatures may be authenticated or acknowledged. Both are not necessary.)**

**NOTE: THIS IS A STANDARD FORM. ANY MODIFICATONS TO THIS FORM SHOULD BE CLEARLY INDENTIFIED.**