

LOAN AND CONSTRUCTION AGREEMENT

This Loan and Construction Agreement (herein "Agreement") is made this 24 day of August, 2018, by and among Jay Olson, trustee of **the Arnold A Olson Trust Agreement dated October 24, 2007**, under the laws of **Minnesota**, and Jay Olson, trustee of the **Shirley A Olson Trust Agreement dated October 24, 2007** under the laws of **Minnesota**, (collectively referred to herein as "Borrower"), **Otis avenue, LLC, a Minnesota limited liability company**, with its offices located at 463 Desnoyer Avenue, St. Paul, Minnesota 55104 (herein "Lender").

WITNESSETH:

WHEREAS, Borrower seeks to obtain a loan from Lender in the aggregate amount of One Hundred Thousand and NO/100 (\$100,000.00) Dollars to be used to finance a certain construction costs, fees, and taxes on property commonly referred to as 522-4 Otis Ave., St. Paul, located in Ramsey County, Minnesota, which property is legally described as follows:

See **Exhibit A** attached hereto

(herein "Construction Premises");

WHEREAS, the Construction Premises is currently a category three vacant building by order of the City of St. Paul.

WHEREAS, the Borrower is willing to secure said loan against both the Construction Premises, and an additional property, commonly referred to as 515-17 Desnoyer Ave., St. Paul, located in Ramsey County, Minnesota, which property is legally described as follows:

See **Exhibit B** attached hereto

(herein, the Construction Premises, and the additional property are collectively referred to as the "Mortgaged Premises");

WHEREAS, the Lender desires to loan to Borrower up to One hundred Thousand and NO/100 (\$100,000.00) Dollars pursuant to the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. The Loan.

- (a) The Lender shall loan to Borrower the sum of up to One Hundred Thousand and NO/100 (\$100,000.00) Dollars for the financing of a

portion of the costs of construction of the Construction Premises, located in St. Paul, Minnesota. Borrower's indebtedness shall be evidenced by a single promissory note in the face amount of One hundred Thousand and NO/100 (\$100,000.00) Dollars, attached hereto as **Exhibit C** ("Note"). Said Note shall be secured by a mortgage in the form attached hereto as **Exhibit D** ("Mortgage").

- (b) The proceeds of the Note shall be disbursed pursuant to the terms and conditions of this Agreement, and only for payment of construction costs, taxes and fees as set forth in this agreement. No direct disbursements shall be made to Borrower.
- (c) Except as provided above, the parties acknowledge and agree that the sole purpose of the loan from Lender is the repair on the Construction Premises, located in St. Paul, Minnesota, to repair the Construction Premises to the satisfaction of the City of St. Paul, thereby removing restrictions relating to the sale of the Construction Premises. In addition, Borrower shall be in default under this Agreement if any of the proceeds from the Note are used for any other purpose.
- (d) The Lender may maintain from time to time, at its discretion, liability records as to any and all loans made or repaid and interest accrued or repaid under this Agreement. All entries made on any such record shall be presumed correct until Borrower establishes the contrary. Any billing statement or accounting rendered by the Lender shall be presumed to be correct unless specific written notice of exception is given to the Lender at 463 Desnoyer Avenue, St. Paul, Minnesota, within thirty (30) days after its receipt by Borrower.
- (e) Borrower shall, without demand, reimburse Lender for all of Lender's attorneys' fees and costs incurred by the Lender in drafting this Agreement and related documents or negotiating its terms with the parties hereto. The parties hereto acknowledge and agree that such fees and costs (excluding mortgage registration tax, title, appraisal and filing fees) shall not exceed Seven Thousand Five Hundred and NO/100 Dollars (\$7,500.00) through the date of execution hereof. Borrower agrees that Lender may at any time or from time to time, without further request by or notice to Borrower, make a loan to Borrower in the sum of such attorneys' fees and costs and add such indebtedness to other indebtedness of Borrower under the Note or the Lender may apply proceeds of the Note directly to pay such attorneys' fees and costs.

2. Construction and Disbursement. Borrower desires to hire the lender to complete construction on the Construction Property to make repairs to the property, bring the property into compliance with the ordinances of the City of St. Paul, and to ultimately resell the property to the Lender. Borrower is restricted from making the sale to the Lender until such construction is completed.

(a) Approvals and Compliance. Upon executing this Agreement, and the other documents related to and required by this agreement:

- a. Borrower shall cooperate in obtaining any federal, state, and local approval necessary to authorize construction on the Construction Property.
- b. Borrower shall make application to the City of St. Paul to obtain approval for construction, including any condemnation related approvals, and building compliance approvals.
- c. Borrower shall apply for a Code Compliance Inspection, and comply with any requirements of the City of St. Paul, including but not limited to the conditions of the Letter from the City of St. Paul, dated ~~June 20~~, 2018, attached hereto as **Exhibit E**. *August 12*
- d. Upon Completion of the Code Compliance Inspection, a true and correct copy shall be incorporated as **Exhibit F** to this Agreement.
- e. Upon Completion of the Code Compliance Inspection, the Borrower and Lender shall complete a detailed work plan for construction, including but not limited to the items noted on the Code Compliance Inspection report, which shall be signed by Lender and Borrower and made part of this agreement. ("Detailed Work Plan"). The Detailed Work Plan shall be signed by the parties and attached hereto as **Exhibit G**.

(b) Construction. Upon the completion of the Code Compliance Inspection, Detailed Work Plan, and obtaining necessary permits, Lender agrees to commence construction as follows:

- a. Lender shall have the sole responsibility and sole right to act as general contractor for construction on the property.
- b. Lender may hire sub-contractors, employees, and agents as necessary to complete construction per the Detailed Work Plan.
- c. Lender estimates that the construction will be completed according to the schedule in the Detailed Work Plan, but within 180 days after commencement of construction, which shall be commenced within 21 days of receiving necessary approvals from the City of St. Paul, and any other necessary federal, state or local governmental body.

(c) Construction Costs, Fees, Taxes.

- a. All costs of any kind related to the construction will be the responsibility of the Borrower. Lender agrees to lend Borrower funds, according to the terms of this agreement, the promissory note, and related agreements for the cost of construction and expenses necessary for the completion of this Agreement. Said loan is capped at a maximum of One Hundred Thousand and NO/100 (\$100,000.00) Dollars. Costs of construction shall include:
- i. Expenses necessary to comply with the terms and conditions imposed by the City of St. Paul, or any other governmental requirements, permits or conditions of any kind;
 - ii. Costs incurred by Lender for materials, employees, sub-contracted labor, and other expenses necessary, in the Lender's sole discretion, to complete construction of the Detailed Work Plan;
 - iii. Real estate taxes required to be paid as a condition of completing construction and transferring the Construction Property, which are estimated to be Thirteen Thousand Nine Hundred Eighteen Dollars and 63/100 (\$13,918.63) plus interest and penalties;
 - iv. Real estate taxes required to be paid in order to change the title of any other Mortgaged Premises which are estimated to be Fifteen Thousand NO/100 (\$15,000.00) Dollars;
 - v. Fees related to bonds and insurance policies necessary for approval or construction;
 - vi. Attorney's fees related to loan and construction documents, review of title and compliance issues, and obtaining City of St. Paul approval; and
 - vii. Any and all other costs paid by the Lender related to construction;

(d) Sale of the Property. Upon completion of construction, and approval by the City of St. Paul and all other necessary governing authorities, the Borrower shall sell the property to the lender according to the terms of the purchase agreement attached hereto as **Exhibit H**.

3. Representations and Warranties. Borrower represents and warrants to the Lender that:

(a) Borrower is an individual residing in Forest Lake, Minnesota. Borrower has the power to own, convey and mortgage the Mortgaged Premises, and to carry on all business related to such property. Borrower further represents that he is the sole owner of the Mortgaged Premises, following the anticipated transfer of the Mortgaged Premises to him which

shall be commenced on the same date as this instrument, and that, subject to the approval of the Ramsey County Registrar of Titles, he has the authority to enter into all agreements contemplated by the parties, and empowered to execute, deliver, and perform this Agreement and to borrow money from the Lender.

(b) To the best knowledge of Borrower, no litigation, tax claims, or governmental proceedings are pending or are threatened against Borrower or order of any court or administrative agency is outstanding against Borrower or any of its managers.

(c) The authorization, execution, delivery and performance of this Agreement are not and will not be subject to the jurisdiction, approval, or consent of or to any requirement of registration with or notification to any federal, state or local regulatory body or administrative agency, except for the proceedings referenced in this document relating to the categorization of the Construction Premises as a Category 3 Vacant Building.

(d) Borrower has filed all federal and state tax returns which are required to be filed, and all taxes shown as due thereon have been paid.

4. Breach of Representations and Warranties. The breach of any of the representations or warranties contained in Section Three of this Agreement or any of the covenants or other promises contained in this Agreement, the Note, the Mortgage, or any instrument executed in conformity herewith, shall constitute a condition of default under this Agreement, and all other such documents entitling the Lender to pursue any of its rights and remedies under the terms and conditions of any such documents or instruments or as otherwise allowed by law.

5. Reservation of Right to Make Demand. Borrower acknowledges that the Lender reserves the right to accelerate and demand immediate payment of any or all loans and the interest fees and other charges thereon and of all other obligations of Borrower upon the failure of Borrower to comply with any aspect of this Agreement, the Purchase Agreement, the Note, the Mortgage, or any other document or instrument executed in conformity herewith.

6. Miscellaneous. Borrower agrees that prior to the Lender advancing any sums to Borrower under the Note, Borrower shall furnish to Lender the following at Borrower's sole cost and expense:

- (a) an Affidavit of Borrower regarding no judgments, Bankruptcies or tax liens.
- (b) UCC searches on the Borrower from the Minnesota Secretary of State, in the form and content satisfactory to Lender.

- (c) the One Hundred Thousand and NO/100 (\$100,000.00) Dollar Note.
- (f) a Mortgage securing the Note.
- (g) a mortgagee's policy of title insurance insuring Lender that the Mortgage is a first mortgage prior and superior to any other liens or encumbrances upon the Mortgaged Premises, with all standard exceptions deleted and with a zoning endorsement.
- (h) a Detailed Work Plan providing for total project costs of not more than One Hundred Thousand and NO/100 (\$100,000.00) Dollars0.
- (i) Evidence of insurance on the Mortgaged Premises satisfactory to the Lender and containing mortgagee loss payable clauses and a builder's risk endorsement in favor of the Lender.

7. Other Automatic Events of Default. In addition to, and not in lieu of, other events of default specified previously within this Agreement, the following shall also constitute automatic events of default entitling the Lender to exercise any or all of its rights under this Agreement or any instrument executed in conformity herewith:

- (a) The Borrower shall die.
- (b) A petition is filed by or against the Borrower under the United States Bankruptcy Code.
- (c) Borrower fails to pay when due any sums owed to the Lender.
- (d) A garnishment summons or a writ of attachment is issued against or served upon the Lender for the attachment of any of the Borrower's property in the Lender's possession or any indebtedness owing by the Lender to the Borrower, and the same is not released or bonded over within forty-five (45) days.
- (e) Borrower furnish to the Lender any credit application or financial statement containing any information which shall prove to have been materially incorrect in any respect when made.
- (f) Borrower ceases to be actively engaged in the business currently engaged in.

8. Additional Covenants. Borrower and Lender agree that:

(a) Borrower shall pay or reimburse the Lender and its participants for all expenses, including all reasonable fees and disbursements of legal counsel, incurred by the Lender or any of the Lender's participants in connection with the enforcement of this Agreement or any document contemplated hereby, or in connection with the protection or enforcement of the interest and collateral security of the Lender in any litigation or Bankruptcy or insolvency proceeding or the prosecution or defense of any action or proceeding relating in any way to the transactions contemplated by this Agreement.

(b) The performance or observance of any promise or condition set forth in this Agreement may be waived in writing by the Lender, but not otherwise. No delay in the exercise of any power, right, or remedy of the Lender shall operate as a waiver thereof nor shall any signer or partial exercise thereof or the exercise of any other power, right, or remedy.

(c) The Lender and its participants, if any, are not partners or joint ventures with Borrower and the Lender shall not have any liability or responsibility for any obligation, act, or omission of any of its participants.

(d) Any notices required to be given to Borrower or Lender by this Agreement or any of the Exhibits hereto shall be provided at the addresses listed below:

To: Jay Olson
8023 Lake Drive
Forest Lake, MN 55025

Otis Avenue, LLC
463 Desnoyer Avenue
St. Paul, MN 55104
Attn: Jeff Chermak

With a
Copy to: William M. Hansen
William M. Hansen Associates, PLLC
7500 Olson Memorial Highway
Suite 100
Minneapolis, MN 55427

All such notices shall be deemed received upon mailing, regular or certified mail, to the parties at the addresses listed above.

(e) This Agreement is being executed in and is intended to be enforced in the State of Minnesota. This Agreement and the transaction evidenced hereby shall be construed and enforced in accordance with the laws of the State of Minnesota in the State of Minnesota.

(f) All Exhibits to this Agreement are deemed part of the Agreement and all terms and conditions of such Exhibits are to be deemed incorporated by reference into the

Agreement.

(g) This Agreement shall be binding upon Borrower and their heirs, successors and assigns, and shall inure to the benefit of the Lender and its participants, successors, and assigns. This Agreement shall be effective when executed by Borrower and delivered to the Lender, whether or not this Agreement is executed by the Lender. All rights and powers specifically conferred upon the Lender may be transferred or delegated by the Lender to any of its participants, successors, or assigns. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement or in any other agreement between Borrower and the Lender shall survive the execution, delivery, and performance of this Agreement and the creation and payment of any indebtedness to the Lender. Borrower waives notice of the acceptance of this Agreement by the Lender.

(h) This instrument may be executed in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one instrument.

(i) No failure or delay on the part of the Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right power or remedy hereunder or under the Mortgage. The remedies herein and in the Mortgage provided are cumulative and not exclusive of any remedies provided by law.

(j) No amendment, modification, termination or waiver of any provision of this Agreement, the Mortgage or the Notes or consent by the Borrower to any departure therefrom shall be effective unless the same shall be in writing and signed by the Lender and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the proper officers thereunto duly authorized on the day and year first above written.

Borrowers:

Arnold A Olson Trust Agreement dated
October 24, 2007, under the laws of
Minnesota

By:  _____

Its: Trustee

Shirley A Olson Trust Agreement dated October 24, 2007 under the laws of Minnesota

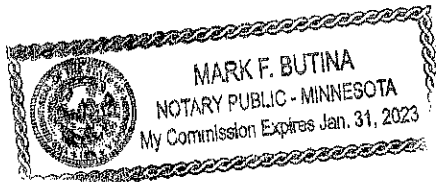
By: [Signature]

Its: Trustee_n

STATE OF MINNESOTA)
COUNTY OF Anoka) ss.

On this 24th day of September, 2018, before me appeared Jay Olson, the trustee of the **Arnold A Olson Trust Agreement dated October 24, 2007**, organized and existing under the laws of the State of Minnesota, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as the free act and deed of the Lender.

 _n [SEAL]



[Signature]

Notary Public
State of Minnesota
My Commission Expires: 1-31-2023

Lender:

Otis Avenue, LLC, a Minnesota limited liability company

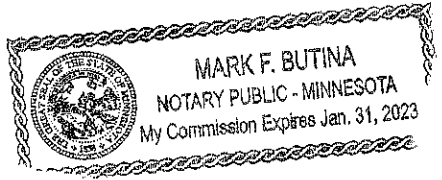
By: [Signature]

Jeff Chermak,
Its: Chief Operating Manager

STATE OF MINNESOTA)
COUNTY OF Anoka)ss.

On this 24th day of September, 2018, before me appeared Jeff Chermak, the Chief Operating Manager of Otis Avenue, LLC to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

[SEAL]



A handwritten signature in black ink, appearing to read "Mark F. Butina".

Notary Public
State of Minnesota
My Commission Expires: 1-31-2023

EXHIBIT A

LEGAL DESCRIPTION

RAMSEY COUNTY, MINNESOTA

Lot 2, Block 20, Desnoyer Park,

The Northwesterly 10 feet of Lot 3, Block 20, Desnoyer Park, together with that part of the Southwesterly half of the vacated alley accruing to said lots.

EXHIBIT B

LEGAL DESCRIPTION

RAMSEY COUNTY, MINNESOTA

Lot 2, Block 20, Desnoyer Park,

The Northwesterly 10 feet of Lot 3, Block 20, Desnoyer Park, together with that part of the Southwesterly half of the vacated alley accruing to said lots.

and

The Easterly 1/2 of lot 36, and all of Lot 35, Block 20, Desnoyer Park, together with that part of Northeasterly half of the vacated alley accruing to said lots.

the Borrower is not promptly repaid to Lender, any monies received, at the option of Lender, may first be applied to repay such advances, plus interest thereon, at the rates provided herein.

All payments shall be made at the office of the Lender set forth above, or at such other place as the Lender hereof may from time to time designate writing.

This is a line of credit promissory note such that all advances, repayments and re-advances subject to the terms of the Loan and Construction Agreement, are evidenced by this single Note in conjunction with the Lender's liability records.

This Line of credit Promissory Note is secured by the personal guaranty(Exhibit A) of the undersigned, Mr Jay Olson, and the real property at 522-4 Otis Avenue jointly owned by the Arnold A Olson trust agreement and Shirley A Olson trust agreement dated October 24, 2007 under the laws of Minnesota, signed by Jay Olson Trustee.

It is hereby expressly agreed that should default be made in the payment of any installment of principal, interest or other sums when due hereunder and such default continues for five (5) days after written notice thereof to Borrower; or an "Event of Default" shall occur under the Purchase Agreement, (i) the whole sum of principal, accrued interest and other sums outstanding hereunder shall, at the option of the Lender hereof, be fully accelerated and become immediately due and payable, anything contained herein or in any instrument now or hereafter securing this Note to the contrary notwithstanding. Said acceleration option shall continue until all such defaults have been cured. In the event of such acceleration, the Maturity Date shall be deemed to mean the date on which the Note is due and payable as a result of such acceleration.

In the event that any installment required hereunder is not paid within five (5) days after its due date, Borrower agrees to pay a late charge equal to five percent (5%) of the amount of each such unpaid installment payment to defray the costs of Lender incident to collecting such late payment. This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other rights the Lender may have, including the right to declare the entire unpaid principal and interest immediately due and payable.

No delay or omission on the part of Lender of this Note in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a waiver of any such right or remedy on a future occasion.

Borrower and all guarantors, if any, hereof hereby severally waive presentment for payment, protest and demand, notice of protest, demand, dishonor and nonpayment of this Note; and hereby further consent that the Lender may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, or modify the Mortgage or any other document securing this Note, or partially release or satisfy any security furnished thereby, and

such consent, release or satisfaction shall not alter nor diminish the liability of any person liable or to become liable for the indebtedness evidenced hereby or any portion of such indebtedness; and hereby further consent that no act, omission or thing, except full payment of this Note, which but for this provision could act as a release or impairment of their liability, shall in any way release, impair or effect the liability of any of them; and consent to the personal jurisdiction of the state and federal courts located in the State of Minnesota in connection with any controversy related in any way to this Note or any security or guaranty for this Note, waive any argument that venue in such forums is not convenient, and agree that any litigation indicated by any of them against the Lender or any other holder of this Note relating in any way to this Note or any security or guaranty for this Note shall be venued in either the District Court of Ramsey County, Minnesota, or the United States District Court, District of Minnesota, Fourth Division.

Borrower agrees to pay all costs of collection, including attorneys' fees, in case the principal of this Note or any payment on the principal, interest, or other sum due hereunder is not paid when due, and to pay all costs including attorneys' fees in case it becomes necessary to protect the security hereof, whether suit be brought or not.

Notwithstanding any provision herein or in any instrument now or hereafter securing this Note, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the usury laws of Minnesota.

The rights or remedies of the Lender as provided in this Note and the Mortgage and any other documents securing this Note shall be cumulative and concurrent, and may be pursued singly, successively, or together against the Mortgaged Property, as defined in the Loan and Construction Agreement, any other funds, property or security held by Lender for the payment hereof or otherwise at the sole discretion of the Lender. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies or the right to exercise them at any later time.

Waiver of right to trial by jury. Borrower hereby agrees not to elect a trial by jury of any issue triable of right by jury, and waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist with regard to this Note, the Mortgage, or the other Loan and Construction Agreement, or any claim, counterclaim or other action arising in connection therewith. This waiver of right to trial by jury is given knowingly and voluntarily by Borrower, and is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Lender is hereby authorized to file a copy of this paragraph in any proceeding as conclusive evidence of this waiver by Borrower.

Borrower:

Arnold A Olson Trust Agreement dated

October 24, 2007, under the laws of
Minnesota

By: *J. Olson*
Its: Trustee

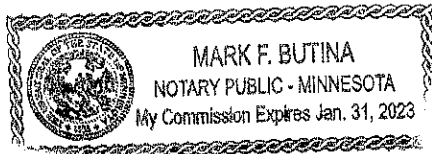
Shirley A Olson Trust Agreement dated
October 24, 2007 under the laws of
Minnesota

By: *J. Olson*
Its: Trustee

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this 27th day of September 2018, before me appeared Jay Olson, trustee of the Arnold A Olson Trust Agreement dated October 24, 2007, under the laws of Minnesota, and Jay Olson, trustee of the Shirley A Olson Trust Agreement dated October 24, 2007 under the laws of Minnesota to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as the free act and deed of the corporation.

[SEAL]



[Signature]

Notary Public
State of Minnesota
My Commission Expires: 1-31-2023