

## LOAN AGREEMENT

THIS AGREEMENT entered into on this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between Greater Lexington Corporation of Dawson County, Nebraska, hereinafter referred to as "the Company", and the City of Lexington, Nebraska (Lexington CDBG Housing Re-use Program), hereinafter referred to as "the City".

WITNESSETH, it is agreed by the parties as follows:

### SECTION 1. LENDING.

- 1.1 Amount. The Company will borrow and the City will lend One Hundred and Thirty-five thousand and no\100ths Dollars (\$135,000.00) herein with interest thereon called the loan. Said amount shall be available as a line of credit to be drawn against by written requests.
- 1.2 Repayment. Repayment of the loan will be made as follows: The principal and interest shall be payable at the City Offices of Lexington, Nebraska, or such other place as the holder may designate in writing, in one installment of principal and interest, on the 1st day of November, 2012 if not sooner paid.
- 1.3 Interest. Interest shall accrue on the unpaid principal balance from the date of the Promissory Note at the rate of 0% per annum.
- 1.4 Prepayment. The Company shall have the right to prepay the principal amount outstanding in whole or in part at any time. Any partial payment shall be applied against the principal amount outstanding and shall not extend or postpone the due date of any subsequent annual installment or change the amounts of any installments, unless the holder hereof shall otherwise agree in writing.
- 1.5 Renewal: Subject to the right of either party to terminate, the parties agree that this Agreement may be annually renewed with the repayment terms automatically extended for one year. In the event of sale of the secured property, net proceeds of such sale shall be paid to City as a loan repayment, and the line of credit established shall be available for additional housing projects.

### SECTION 2. SECURITY AND GUARANTEE.

- 2.1 Security. The borrower will execute a Deed of Trust and Security Agreement and Financing Statement granting Lender a first lien position in the following described real estate, to-wit:

Lot 20, CED Addition to the City of Lexington, Dawson County, Nebraska.

In the event of Renewal, as provided in Section 1.5 of this Agreement, Borrower shall be entitled to substitute by procuring replacement property to be used in housing projects, and by executing a Deed of Trust encumbering the replacement property.

2.2 Property- Insurance. In the event the Company has physical damage insurance on any of the property securing said loan, the City will be named as a loss payee in all policies of said property insurance held by the Company.

### SECTION 3. REPRESENTATIONS AND WARRANTIES.

The Company represents and warrants to the City (which representations and warranties shall be deemed continuing) that:

- 3.1 Regulatory Regulations. No consent is required from any federal, state, county, municipal or local regulatory body for the making of or performance under this agreement, other than the City of Lexington, Nebraska.
- 3.2 Financial Statements. All financial statements and data as furnished and to be furnished to the City fairly reflect the financial condition of the Company and the results of operations as of the date of such statement or data, have been prepared in conformity with generally accepted accounting principles, and no material adverse change has occurred since the date of any such statement or data.
- 3.3 Liabilities. Except to the extent shown in the statements and data warranted by 3.2 which are furnished by the Company to the City, and the Company has no liabilities, direct or contingent, and that the Company has good and marketable title to all of its properties and assets, free and clear of all mortgages, liens, pledges, charges, security interests and encumbrances, and that none of such properties, is held under any conditional sale or other title-retention agreement (including any lease in the nature of a title-retention agreement) and that no financing statements under the Uniform Commercial Code or mortgage or deeds of trust which name the Company as debtor has been filed in any jurisdiction, that the Company has not signed any such financing statement or security agreements or mortgages authorizing any secured party hereunder to file any such financing statement, and except as permitted hereunder in accordance with this Agreement, the Company has not given consent to the subordination of any of its rights or claims or to the rights or claims of any other person.
- 3.4 Taxes and Claims. The Company has filed all required federal, state and local tax returns, and has paid all taxes as shown on such returns as they have become due and that no material claims, litigation or governmental proceedings are pending or threatened.
- 3.5 Litigation. There are no actions, suits or proceedings pending or threatened (or to the knowledge of the Company any basis therefore) which question the validity of this agreement, the notes, and all other agreements, instruments, documents, certificates and reports executed or to be executed in connection herewith or which question any action taken or to be taken pursuant hereto or thereto.

### SECTION 4. AFFIRMATIVE COVENANTS

Until such time as the indebtedness of the Company to the City has been fully paid, the Company shall:

- 4.1 Maintenance of Properties. Maintain all equipment in good repair.
- 4.2 Taxes and Other Liens. Promptly pay all taxes, unless contested in good faith, as well as all lawful claims for labor, materials and supplies, which if unpaid, might become a lien or charge against its properties and against which, if requested by the City, the company shall set up reserves satisfactory to the City.
- 4.3 Financial Statements. The Company shall furnish to the City:
- a) A distribution report outlining the expenditures of funds.
  - b) Proof of an injection in the amount of the line of credit drawdown(s).
  - c) Quarterly financial reports during the duration of the loan.
- 4.4 Deeds of Trust. Abide by all terms of the security agreements, financing statement, assignments and mortgages executed by the Company pursuant hereto, the instant Loan Agreement included.

## SECTION 5. NEGATIVE COVENANTS

Except with the prior written consent of the City, the Company shall not directly or indirectly;

- 5.1 Sale of assets or mergers. Sell, lease, transfer or otherwise dispose of any of the fixed assets which are collateral for the loan or consolidate with or merge into any other entity or permit any other entity to merge into it, or acquire all or substantially all of the property or assets of any other entity without the prior written consent of the City.

## SECTION 6. EVENTS OF DEFAULT

If any one or more of the following events shall occur and be continuing, then the Promissory Note executed in connection herewith shall, thereupon, at the option of the City, immediately become due and payable without presentation, demand, further notice, or protest, all of the foregoing having hereby been expressly waived by the Company;

- 6.1 Nonpayment. Nonpayment after the due date of any principal or accrued interest on the Promissory Note given pursuant to this agreement.
- 6.2 Misrepresentation. A representation or warranty made by the Company, as set forth in Section 3 hereof being or becoming materially false.
- 6.3 Negative Covenants. A breach by the Company in the observance or performance of any negative covenant as set forth in section 5 hereof, or of any other agreements contained within this Agreement.
- 6.4 Affirmative Covenants. A breach by the Company in the observance or performance of any of the affirmative covenants as set forth in Section 4 hereof or of any other agreements contained within this agreement.
- 6.5 Insolvency. The Company:
- a) Admitting in writing its inability to pay its debts generally as they become due;
  - b) Filing or consenting to the filing of a petition in bankruptcy or a petition to take advantage of any insolvency act;
  - c) Making an assignment for the benefit of creditors;

- d) Consenting to the appointment of a receiver of itself or of the whole or any substantial part of its property;
  - e) Suffering a petition under the federal bankruptcy code to be filed against it, or being adjudicated bankrupt;
  - f) Filing a petition or answer seeking reorganization or arrangement under the federal bankruptcy code or other applicable law.
- 6.6 Default in Other Indebtedness. A default by the Company with respect to any indebtedness (other than as permitted for notes provided for in this agreement) upon becoming due and payable or upon having been declared due and payable prior to expressed maturity by reason of default of the Company, or in the performance or observance of any obligations or conditions relating thereto.
- 6.7 Judgments. Any final judgment under Court action levied against the Company, if said judgment remains undischarged for a period of sixty (60) days or more after the date on which such judgment becomes final.

## SECTION 7. CONDITIONS OF LENDING

The City shall not be obligated to make any advance provided for hereunder until such time as there has been received:

- 7.1 Resolutions. A distribution report outlining the expenditure of funds as well as proof of an injection in the amount of the line of credit drawdown(s).

## SECTION 8. MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

- 8.1 Prepayment. The Company shall have the right to prepay the principal amount outstanding in whole or in part, provided that the holder of the Promissory Note may require that any partial prepayment shall be made on the date monthly installments are due and shall be in the amount of that part of one or more installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the holder of the Promissory Note shall agree in writing.
- 8.2 Waivers. No omission or delay by the City in exercising any right or power under this agreement or under any note or other agreement incidental hereto shall impair such right or power or be construed to be a waiver of any default or an acquiescence therein, and any single or partial exercise of any other right, and no waiver shall be valid unless it is in writing and signed by the City. All remedies herein and by law afforded shall be cumulative and shall be available to the City until the indebtedness of the Company is fully paid.
- 8.3 Notices. Any written notice required or permitted in this agreement maybe delivered by depositing it in the regular mails, postage prepaid, charges prepaid, addressed to the Company at (address), Lexington, Nebraska, and to the City at City of Lexington, Nebraska, CDBG Housing Re-use Fund, PO Box 70, Lexington, Nebraska 68850.
- 8.4 Governing Law. This agreement and the notes and any and all other agreements, instruments, documents, items and certificates executed in connection herewith shall be

governed by the laws of the State of Nebraska.

8.5 Successors and Assigns. This agreement shall be binding upon the Company and the City and their respective successors and assigns and inure to the benefit of the Company and the City and their respective successors and assigns.

8.6 Section Headings. This agreement contains capitalized section headings which are included solely for purposes of organization and reference and which shall not in any manner be construed to act as a limitation on the force and effectiveness of any of the provisions included herein.

8.7 Execution. This agreement, and all agreements arising in connection herewith may be executed in any number of counterparts, each of which shall be considered an original, and all of which taken together shall constitute the same agreement.

8.8 Dates of Signing. The foregoing represents the agreement of the parties from the date first above states irrespective of dates of signing.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF LEXINGTON, NEBRASKA,  
LEXINGTON CDBG HOUSING RE-USE  
PROGRAM

BORROWER  
Greater Lexington Corporation

By: \_\_\_\_\_  
Joe Pepplitsch, City Manager

By: \_\_\_\_\_  
Vance Bricker, President