

**UPPER FLOOR RENOVATION PROGRAM
LOAN AND DEVELOPMENT AGREEMENT
119-127 4th Street**

THIS AGREEMENT, dated the 16th day of January 2018, by and between Jeaneri, Ltd. with its address at 121 4th Street South, La Crosse, Wisconsin 54601, hereinafter referred to as the Debtor, and the City of La Crosse, Wisconsin, a municipal corporation of the State of Wisconsin, having its principal office at City Hall, 400 La Crosse Street, La Crosse, Wisconsin 54601, hereinafter referred to as the City.

WITNESSETH:

WHEREAS, the City has funds available from the State of Wisconsin Board of Commissioners of Public Lands (State Trust Fund) to be used for the Upper Floor Renovation Program to renovate upper floors of buildings in Downtown La Crosse; and

WHEREAS, the Debtor desires to improve the economic environment in the central business district; and

WHEREAS, the Debtor wishes to borrow from the City the sum of up to Six Hundred Thousand Dollars (\$600,000) which will be applied toward the cost of the second floor renovations at 119-127 4th Street South; and

WHEREAS, the City is willing to loan the total sum of up to Two Hundred Thousand Dollars (\$200,000) per building, to the Debtor which will be applied toward the cost of second floor renovations of the 3 buildings at 119-127 4th Street South, pursuant to the following terms and conditions; and

WHEREAS, prior to advancing funds to the Debtor, the City of La Crosse desires certain assurances as more fully set forth herein;

NOW, THEREFORE, in consideration of the mutual representations and agreements contained herein, and for other good and valuable consideration, it is agreed as follows:

A. PROJECT

1. The Debtor shall complete renovations on the second floor at 119-127 4th Street South in accordance with the applications submitted to the City of La Crosse dated September 18, 2017. The land and building are described as:

That part of Lot Four (4) in Block Thirty-four (34) of Original Plat of the Town of La Crosse, in the City of La Crosse, La Crosse County, Wisconsin, described as follows: Beginning at the Northwesterly corner of said Lot 4; thence Southwesterly along the Northwesterly line thereof 40.0 feet; thence Southeasterly, parallel with the Northeasterly line of said Lot 4 to the Township line between Townships 15 and 16, Range 7 West; thence Easterly along said Township line to its intersection with the Southeasterly line of said Lot 4, being the Westerly line of the alley; thence Northeasterly along said Southeasterly line to the Northeasterly corner of said Lot 4; thence Northwesterly along the Northeasterly line thereof to the point of beginning.

That part of the Northerly side of the Easterly end of Lot 1 in Block 13 of C. & F.J. Dunn, H. L. Dousman & Peter Cameron's Addition to the Town of La Crosse, in the City of La Crosse, La Crosse County, Wisconsin, as is sufficient to widen the Southeasterly end of Lot 4 in Block 34, of the Original Plat of the Town of La Crosse to the full width of 26.0 feet, so that said parcel of land shall in no part thereof be of less width Northerly and Southerly than 26.0 feet. Said parcel also being described as: All that part of Lot 1 in Block 13 of C. & F. J. Dunn, H. L. Dousman & Peter Cameron's Addition to the Town of La Crosse, in the City of La Crosse, lying Northeasterly of a line 26.0 feet Southwesterly of and parallel with the Northeasterly line of Lot 4 in Block 34 of the Original Plat of the Town of La Crosse.

Property Address: 119-121 4th Street South, La Crosse

Tax Parcel No.: 17-20023-030 and 17-20033-010

The South 20 feet of Lot 4 and all of Lot 5 in Block 34 of the Original Plat of the Town of La Crosse, in the City of La Crosse, La Crosse County, Wisconsin.

All that part of Lot One (1) in Block Thirteen (13) of C. and F. J. Dunn, H. L. Dousman and Peter Cameron's Addition to the Town, now City of La Crosse, La Crosse County, Wisconsin, lying North of the centerline of the North party wall of the Dittman Building numbered 129 South 4th Street in the City of La Crosse, which party wall is also the South wall of the Mader Building, No. 123-125 South 4th Street in La Crosse, which centerline of said party wall is described in Quit Claim Deed dated May 14, 1946, and recorded April 29, 1947, in 216 Deeds, page 350, Document No. 491229 as follows: Commencing at a point in the Westerly line of said Lot 1, 16.98 feet South of the Northwest corner of said Lot 1; thence East in a straight line to point in the East line of said Lot 1 which is 17.74 feet South of the Northeast corner of the said Lot 1: EXCEPTING therefrom all that part of the above described parcel lying Northeasterly of a line drawn 26 feet Southwesterly of and parallel with the Northeasterly line of Lot 4 in Block 34, Town of La Crosse.

Together with Partywall Agreements as set forth in Volume 57 of Deeds, page 320 and Volume 69 of Deeds, page 289.

Together with a perpetual easement for ingress, egress, and parking purposes together with all rights necessary of convenient for the full enjoyment or use of the easement over the following described premises: Part of Lot 4 in Block 34 of the Original Plat of the Village (now City) of La Crosse and part of Lot 1 in Block 13 of C. and F. J. Dunn, H. L. Dousman and Peter Cameron's Addition to the Town, now City of La Crosse, described as follows: Beginning at the Northeast corner of said Lot 4; thence North 63° 42' 10" West 20.22 feet, thence South 27° 16' 49" West 8.85 feet; thence North 63° 42' 10" West 8.47 feet; thence South 27° 16' 49" West 17.21 feet; thence North 63° 55' 13" West 30.93 feet; thence South 26° 57' 23" West 14.75 feet; thence South 63° 49' 10" West 5.21 feet; thence South 1° 03' 13" West 1.84 feet; thence South 89° 38' 04" East 3.25 feet; thence South 1° 03' 13" West 4 feet; thence North 89° 38' 04" West 3.25 feet; thence South 1° 03' 13" West 9.94 feet; thence South 89° 38' 04" East 71.64 feet to a point on the East line of said Lot 1; thence North along the East line of said Lot 1, a distance of 17.48 feet to the Northeast corner thereof; thence North 26° 12' 42" East 12.33 feet to the point of beginning.

Property Address: 123-127 4th Street South, La Crosse
Tax Parcel No.: 17-20033-020 and 17-20023-040

B. PUBLIC BENEFIT

Property value must increase at a rate of one and one fourth times the City's loan. The property value of the entire project must increase by \$750,000 to satisfy the public benefit test. The 2016 Assessor's Office Assessed Value for the properties is \$380,400, so the value after rehabilitation shall be a minimum of \$1,130,400 by the completion time stipulated in Section D of this document.

C. THE LOAN

1. The City agrees to lend to the Debtor a sum up to, but in no case more than, \$600,000, in Upper Floor Renovation Program funds for second floor renovations for each building.
2. The Upper Floor Renovation Program loan shall be evidenced by the Debtor's execution and delivery to the City of a Promissory Note in substantially the form of the Promissory Note annexed hereto as Exhibit "A," and the loan shall be for the term, shall bear interest at the rate, shall be payable at the time and in the manner, and shall otherwise be governed by the provisions contained in the form of the Promissory Note and amortization schedule annexed hereto as Exhibit "B." The Debtor listed above shall be liable for payment of said Promissory Note.
3. Upper Floor Renovation Program loan and Promissory Note (Exhibit "A") shall be secured by a mortgage covering the premises located at 119-127 4th Street South, La Crosse substantially in the form of the Mortgage annexed hereto as Exhibit "C," and shall be in favor of the City upon all lands, structures, and fixtures. The security position of the City may be subordinated to a first lien in an amount not to exceed \$1,500,000 to finance the improvements at the 119-127 4th Street South.
4. No disbursement of the Upper Floor Renovation Program loan funds shall be made by the City unless and until the Debtor has furnished to the City a casualty or property insurance policy or policies duly endorsed to indicate the City's interest in the property as additional insured in an amount equal to at least \$600,000. Said insurance shall be maintained at all times during the term of the loan and shall be written by an insurance company licensed to do business in Wisconsin.
5. Upon any refinancing, sale in whole or in part or other disposition of the equipment, and/or bankruptcy during the term of the loan, any outstanding balance including interest shall become immediately due and payable to the City.
6. The Debtor may, at its option, at any time and from time to time, prepay the loan in part or in whole without premium or penalty. Any such partial prepayment shall be applied to the next installment(s) due.
7. The Debtor agrees that this agreement may be terminated or suspended in the event the

Debtor fails to comply with the project activity time frame or in the event of default, inability, or failure to perform as required by this or any accompanying agreements. The City may take appropriate and corrective action in order to insure compliance with this agreement. In the event of default hereunder, City shall give written notice thereof to Debtor whereupon Debtor shall have a period of ten (10) days during which to secure such default before City may proceed to foreclose on the Upper Floor Renovation Program loan, collect upon guarantees, or otherwise take such actions as City shall have available to it.

D. TIME FRAME

The Debtor agrees that it will complete work on the Upper Floor Renovation Program assisted activities (the project) according to the following schedule:

Activity	Completion Date
Completion of Improvements	360 days from loan execution
Investment of Equity Funds	360 days from loan execution

E. DEBTOR'S RESPONSIBILITIES

Debtor Agrees to:

1. The City as the second mortgage holder, with first mortgage holder being Merchants Bank NA
2. Allow the City or its representatives access to the project site at reasonable times for the purpose of observing project progress.
3. Provide, upon request, all information and data necessary to determine that time schedules are being met and proposed work is being achieved.

F. CONFLICT OF INTEREST

Except for approved eligible administrative and personnel costs, no member, officer, or employee of the City, its designees, or agents, no consultant, no member of the governing body of the City, and no other public official of the City, who exercise or who has exercised any functions or responsibilities with respect to the project during his/her tenure, or who is in the position to participate in a decision-making process or gain inside information with regard to the project, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, who are to perform in connection with the project business or in any activity for benefit therefrom, which is part of the project business at any time during such persons tenure or for one year thereafter.

G. NOTICES

Any notice, certificate, request, complaint, demand, communication, or other paper (collectively "Notices") shall be sufficiently given hereunder and shall be deemed given when delivered or mailed registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the City: Planning Department
 City of La Crosse
 400 La Crosse Street
 La Crosse, WI 54601

If to the Debtor: Jeaneri, Ltd
 Attention: Dale Berg
 121 4th St S
 La Crosse, WI 54601

The City and the Debtor may designate any further or different addresses to which subsequent Notices shall be sent.

H. SUCCESSORS AND ASSIGNS

This agreement shall inure to the benefit of and shall be binding upon the City and the Debtors and their respective successors and permitted assigns.

I. SEVERABILITY

In the event any provision of this agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative, invalid, or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same illegal, inoperative, invalid, or unenforceable to any extent whatsoever.

J. AGREEMENT AMENDMENT

This agreement may not be amended, changed, modified, altered, or terminated without the written agreement signed by the party(s) against whom enforcement of any such amendment, change, modification, alteration, or termination is sought.

K. GOVERNING LAW

This agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin applicable to agreements made and to be performed entirely within such State.

L. INDEPENDENT STATUS

Nothing contained herein, nor any act of the City, the Debtor, or any other party, shall be deemed or construed by any party, or by any other third person, to create any relationship with third party beneficiary, principal, or agent, limited or general partnership, or joint venture, or of any association or relationship involving the City. The Debtor is at all times considered an independent agency and not an agency or branch of the City.

IN WITNESS WHEREOF, the City has caused this agreement to be executed by its Mayor and attested to by its Clerk and Jeaneri, Ltd.

ATTEST:

Teri Lehrke
Teri Lehrke, City Clerk

CITY OF LA CROSSE, WISCONSIN

Tim Kabat
Tim Kabat, Mayor

WITNESS:

Sam Olson
Sam L. Olson, Planning Staff

DEBTOR

Dale Berg
Dale D Berg
Jeaneri, Ltd.

STATE OF WISCONSIN)

) ss.

COUNTY OF LA CROSSE)

Personally came before me, this 16th day January, 2018, the above named representative of Jeaneri, Ltd. known to be the person who executed the foregoing instrument and acknowledge the same.

Barbara J. Blomstad
Notary Public, La Crosse County, Wisconsin

My commission expires 8-15-20