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A RESOLUTION AUTHORIZING EXECUTION OF AN "AGREEMENT FOR PUBLIC BODY APPROVAL OF SECTION 312 REHABILITATION LOANS," AND DESIGNATING OFFICIAL(S) AUTHORIZED TO APPROVE SUCH LOANS ON BEHALF OF THE PUBLIC BODY.

WHEREAS, under Section 312 of the Housing Act of 1964, as amended (herein referred to as Section 312), the Secretary of Housing and Urban Development is authorized, under the conditions and to the extent provided therein, to make loans (Section 312 loans) to owners and tenants of property in certain areas for the rehabilitation of their property and to delegate to or use as agent any local public agency or organization to the extent he determines appropriate and desirable to carry out the objectives of Section 312 in the areas involved; and

WHEREAS, Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin under any program or activity receiving Federal financial assistance and Executive Order 11063 prohibits discrimination on basis of race, color, creed or national origin in sale, lease or other disposition of residential property (including land intended for residential use) or in the use or occupancy thereof; and

WHEREAS, the City of Albany has responsibility and jurisdiction to carry out one or more Urban Renewal Projects, Neighborhood Development Programs, Concentrated Code Enforcement Programs, or Certified Area Programs in an area or areas delineated in the applicable Urban Renewal Plan, Grant Contract for Code Enforcement Program, or Grant Contract for Certified Area Program, in which Section 312 loans are authorized to be made; and

WHEREAS, it is desirable and will significantly benefit the rehabilitation objectives of all such projects and programs administered by the City of Albany for the City of Albany to have direct approval authority with respect to Section 312 loans:

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NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ALBANY:

1. That the Planning Director or his designatee is (are) hereby authorized and directed to execute on behalf of the City of Albany an "Agreement for Public Body Approval of Section 312 Rehabilitation Loans," and to act as the authorized representative of the City of Albany in connection therewith.
2. That it is cognizant that under an "Agreement for Public Body Approval of Section 312 Rehabilitation Loans" Section 312 loans may be approved only in accordance with outstanding policy of the Department of Housing and Urban Development, as it exists from time to time, and subject to availability of funds therefor.
3. That the Planning Director or designatee [is] [are] hereby authorized to approve, on behalf of the City of Albany Section 312 loans under the provisions of said Agreement, and such official[s] [is] [are] hereby directed to approve such loans only in accordance with the policy of the Department of Housing and Urban Development, and subject to availability of funds as determined by that Department.
4. That the United States of America and the Secretary of Housing and Urban Development be, and they hereby are, assured of full compliance by the City of Albany with regulations of the Department of Housing and Urban Development effectuating Title VI of the Civil Rights Act of 1964 and applicable Executive Orders.

DATED this 24th day of October, 1979.

*Richard S. Olsen*  
Mayor

ATTEST:

*[Signature]*  
City Recorder

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(To Accompany Resolution of Public Body's Governing Body)

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The undersigned hereby certifies that:

(1) He is the duly qualified and acting City Recorder of the City of Albany, herein called the "Public Body," and the keeper of its records; including the journal of proceedings of the Albany City Council, herein called the "Governing Body."

(2) The attached resolution is a true and correct copy of the resolution as finally adopted at a meeting of the Governing Body held on the 24th day of October, 1979, and duly recorded in his office;

(3) Said meeting was duly convened and held in all respects in accordance with law and, to the extent required by law, due and proper notice of such meeting was given. A legal quorum was present throughout the meeting, and a legally sufficient number of members of the Governing Body voted in the proper manner for the adoption of said resolution. All other requirements and proceedings under law incident to the proper adoption or passage of said resolution have been duly fulfilled, carried out, and otherwise observed;

(4) If an impression of the seal has been affixed below, it constitutes the official seal of the Public Body, and this certificate is hereby executed under such official seal. If no seal has been affixed below, the Public Body does not have and is not legally required to have an official seal;

(5) The undersigned is duly authorized to execute this certificate.

IN WITNESS WHEREOF the undersigned has hereunto set his hand this 25 day of October, 1979.

(SEAL)

ATTEST:

Stephen W. Bryant  
(Signature of Attesting Officer)

[Signature]  
(Signature of Recording Officer)

Lynne Santos / Recorder  
(Title of Recording Officer)

Planning Director  
(Title of Attesting Officer)

AGREEMENT FOR PUBLIC BODY APPROVAL OF  
SECTION 312 REHABILITATION LOANS

THIS AGREEMENT, made and entered into on the date hereinbelow specified, by and between City of Albany (the Public Body), and the United States of America (the Government), acting by and through the Secretary of Housing and Urban Development (the Secretary),

WITNESSETH: In consideration of the mutual covenants, promises, and representations contained herein, the parties do agree as follows:

SEC. 1. PURPOSE OF AGREEMENT

The Public Body has responsibility and jurisdiction to carry out one or more Urban Renewal Projects, Neighborhood Development Programs, Concentrated Code Enforcement Programs, or Certified Area Programs in areas delineated in the applicable Urban Renewal Plan, Grant Contract for Code Enforcement Program, or Grant Contract for Certified Area Program. The processing by the Public Body, and submission to the Department of Housing and Urban Development for approval, of rehabilitation loans under Section 312 of the Housing Act of 1964, as amended (Section 312 loans) is presently authorized with respect to one or more of the areas covered by such project [s] or program [s]. The purpose of this Agreement is to extend to the Public Body authority to approve, in accordance with the regulations, policies, and requirements (hereinafter called regulations) of the Secretary, certain applications for Section 312 loans, subject to verification by the Secretary of fund availability for an approved loan.

SEC. 2. APPLICABILITY OF APPROVAL AUTHORITY

During the term of this Agreement, the Public Body shall have final authority to approve applications for Section 312 loans with respect to residential and mixed-use property, which will contain one to four dwelling units after rehabilitation, and which is located in an area with respect to which the Public Body has authority to process such loans, as described in Section 1 hereof. The Public Body shall exercise such loan approval authority with respect to property in all such areas which come under its jurisdiction during the term of this Agreement. However, no loan approval under authority of this Agreement shall be valid until the Secretary has determined that funds are available therefor and has notified the Public Body thereof.

### SEC. 3. NOTIFICATION OF FUND AVAILABILITY

Upon receipt of the documentation required by the Secretary's regulations to be submitted with respect to Section 312 loans approved by a Public Body, the Secretary shall promptly notify the Public Body in writing whether sufficient funds are available for the approved loan.

### SEC. 4. COMPLIANCE WITH GOVERNMENT REGULATIONS

The loan approval authority granted by this Agreement shall be exercised in accordance with the procedures and requirements established by the applicable regulations of the Secretary in effect from time to time. In particular, the Public Body shall not notify an applicant of loan approval until receipt of notice of availability of funds for the loan from the Secretary.

### SEC. 5. EFFECT OF FAILURE TO COMPLY

- a. Grounds for Termination. Failure of the Public Body to comply with the procedures and requirements of the Secretary with respect to loan approval, or with respect to other aspects of the Section 312 loan program, are grounds for termination of this Agreement at the option of the Secretary. However, such failure shall not create or justify any claim against the Government on the part of any third person, and shall not constitute grounds for any third person to contest the validity of any Section 312 loan approved by the Public Body under authority of this Agreement and during its term.
- b. Defend and Hold Harmless. The Public Body will warrant, defend, and hold harmless the Government with respect to all claims and losses caused by its failure to comply with the regulations of the Secretary and the requirements of applicable State and local law in its approval of Section 312 loans under authority of this Agreement, and in the subsequent settlement and administration of loans so approved. In the event the Secretary's regulations and the requirements of State and local law are inconsistent, the Public Body shall request advice from the Secretary prior to approval of the Section 312 loan.

**SEC. 6. RESTRICTION ON OFFICIALS AUTHORIZED TO APPROVE LOANS**

The Planning Director of the Public Body, or his designatee, shall be the only officer or employee to whom the public body may delegate the authority to approve 312 loans.

If the Planning Director, or his designatee, is delegated to approve 312 loans, he shall not personally engage in any of the following:

- a. Preparation of rehabilitation work writeups or cost estimates, or of construction contract documents;
- b. Obtaining information with respect to, completing with the borrower, or processing a Section 312 loan application or any of the related documents constituting the loan application file;
- c. Selection of or negotiation with contractors to perform the rehabilitation work;
- d. Authorization of disbursements from the rehabilitation escrow account, or signing or countersigning of checks drawn on the rehabilitation escrow account;
- e. Inspection of the rehabilitation work to ascertain whether the work is completed or for the purpose of authorizing any partial payment requested by a contractor; or
- f. Authorization of signing or signing of Form HUD-6245, Certificate of Final Inspection.

**SEC. 7. SUBMISSION OF DOCUMENTATION**

Promptly upon approval of a Section 312 loan by an appropriate official of the Public Body, the Public Body shall assemble and transmit to the Secretary the documentation required to be submitted with respect to a Section 312 loan approved by a Public Body, in accordance with such requirements and regulations of the Secretary as shall be in effect from time to time. The Public Body shall also promptly submit copies as required of any resolutions affecting the identity of Public Body officials authorized to approve Section 312 loans under the Agreement, any notices of the Public Body's determination to cancel this Agreement, and any other required documentation or reports, in accordance with such requirements and regulations.

#### SEC. 8. SUPERVISION, ADMINISTRATION, AND INSPECTION

The Public Body shall, at all proper times, provide or cause to be provided competent and adequate architectural, engineering, financial and other technical supervision and inspection of rehabilitation work financed by Section 312 loans approved under this Agreement. The Public Body shall keep full and accurate books and records with respect to Section 312 loans approved under this Agreement, and with respect to its administration of the Section 312 loan program, and shall maintain them in accordance with such requirements and regulations of the Secretary as shall be in effect from time to time. The Public Body shall, at any time during normal business hours, and as often as the Secretary or the Government may deem necessary, permit the Secretary or any other representative of the Government, to inspect, make excerpts or transcripts of, copy, and audit such books and records. The Public Body will cooperate in any inspection of rehabilitation work financed by Section 312 loans approved under this Agreement, as deemed necessary by the Secretary or the Government.

#### SEC. 9. COMPLIANCE WITH CIVIL RIGHTS ACT OF 1964

The Public Body will perform its activities under this Agreement in accordance with all requirements imposed by, or pursuant to regulations of the Secretary effectuating, Title VI of the Civil Rights Act of 1964.

#### SEC. 10. CANCELLATION OF APPROVED LOANS

The Secretary reserves the right to cancel Section 312 loans approved by the Public Body, in accordance with the requirements and regulations of the Secretary in effect from time to time. Upon receipt of such notice of cancellation, the Public Body shall promptly submit to the Secretary any documentation requested by him, and shall promptly refund the amount of the loan to the Secretary, on account of the Section 312 Loan Revolving Fund.

#### SEC. 11. RIGHTS UNDER OTHER CONTRACTS

The rights of the parties under this Agreement shall be in addition to, and not in derogation of, the rights of the parties under any contract for Federal assistance with respect to any of the Projects or Programs described in Section 1 hereof under the jurisdiction of the Public Body.

SEC. 12. TERM OF AGREEMENT

This Agreement shall be effective from the date hereinbelow specified until terminated in accordance with Sec. 13 hereof.

SEC. 13. TERMINATION OF AGREEMENT

- a. Automatic Termination. This Agreement shall automatically terminate on the official date of closeout of the last project or program (as described in Sec. 1 hereof) under the jurisdiction of the Public Body, in the area of which Section 312 loans are authorized.
- b. Termination by Parties. This Agreement shall terminate 30 days after written notice of intent to terminate is sent by one party to the other, except that, when the Public Body gives notice of its intent to terminate the Agreement, the Secretary may require the Public Body to continue under the Agreement for a specified additional period of time, not to exceed 60 days, in order that arrangements may be made to accommodate the workload resulting from the Public Body's termination. Notice of termination under this subsection may be given by either party for cause or convenience.
- c. Suspension or Termination for Cause. The Secretary may, for cause, by written notice to the Public Body, require that the Public Body discontinue immediately the approval of loans under this Agreement pending completion of specified corrective action by the Public Body, or termination of this Agreement.

SEC. 14. EFFECTIVE DATE

This Agreement shall be effective the \_\_\_\_\_ day of \_\_\_\_\_,  
(Month)  
\_\_\_\_\_  
(Year)

SEC. 15. COUNTERPARTS OF AGREEMENT

This Agreement may be executed in 4 counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.



IN WITNESS WHEREOF, the Public Body has caused this Agreement to be duly executed in its behalf and its seal to be hereunto affixed and attested; and, thereafter, the Government has caused the same to be duly executed in its behalf this 30th day of October, 1979.

[SEAL]

City of Albany

(Name of Public Body)

By Stephen W Bryant  
(Signature)

Stephen W. Bryant

(Type or Print Name of Public Body Official)

Planning Director

(Title)

ATTEST:

[Signature]

City Recorder

UNITED STATES OF AMERICA  
Secretary of Housing and Urban Development

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
[Title of Officer Authorized to Execute]