

APPENDIX B

PROGRAM AGREEMENT

CITY OF ONTARIO

Downtown Storefront Façade Improvement Grant Agreement

THIS AGREEMENT, entered into this _____ day of _____, _____, between the City of Ontario, CA (hereinafter referred to as “City”) and the following designated OWNER/LESSEE:

Owner Name: _____

Lessee’s Name: _____

Name of Business: _____

Business Tax ID #: _____

Address of Property to be improved: _____

WITNESSETH:

WHEREAS, the City of Ontario has established the Downtown Storefront Façade Improvement Program for application within the Historic Downtown Area for Euclid facing buildings between Emporia Street to G Street (100-200 blocks of South Euclid and 100-600 blocks of North Euclid) (hereinafter referred to as “Program Area”); and

WHEREAS, said Downtown Storefront Façade Improvement Program is administered by the City with the advice of the City Council and is funded by Community Development Block Grant Funds (CDBG) under the U.S. Department of Housing and Urban Development for the purpose of commercial revitalization, stimulation of private investment and customer patronage, preservation and beautification of the Historic Downtown Area, and to generate shopping opportunities by creating a pleasant walking environment resulting from the improved visual aesthetics of the commercial building façades.

WHEREAS, pursuant to the Downtown Storefront Façade Improvement Program, the City has agreed to participate, subject to its sole discretion in reimbursing owners/lessees for the cost of eligible exterior improvements to commercial establishments within the Project Area up to

a maximum of \$25,000 with an applicant contribution of 1:1 leverage of personal funds towards the improvements of the building in the scope of work; and

WHEREAS, the Owner/Lessee's property is located within the Program Area, and the Owner/Lessee desires to participate in the Downtown Storefront Façade Improvement Program pursuant to the terms and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements obtained herein, the City and the Owner/Lessee do hereby agree as follows:

SECTION 1

With respect to the façade improvements to the exterior of the property, the City shall reimburse the Owner/Lessee for the cost of supply and installation contracts up to a maximum amount of \$25,000 provided that Owner/Lessee has contributed said amount of personal funds towards the exterior improvements.

The actual total reimbursement amount per this Agreement shall not exceed \$_____ for façade improvements.

The improvement costs, which are eligible for City reimbursement is limited to supply and installation contracts which are defined as those where the material supplier will provide installation of the material with an incidental amount of construction activity that does not require a separate construction contract. No extensive structural modifications should be required to install the materials (i.e., widening entrances or installing wiring). Such improvements may include but are not limited to: new signage; new awnings; exterior lighting; and anti-graffiti treatment to existing windows.

The improvement costs, which are eligible for City reimbursement, shall be shown on the plans, design drawings, specifications, and estimates approved by the City. Such plans, design drawings, specifications, and estimates are attached hereto as Exhibit "A."

SECTION 2

No improvement work shall be undertaken until the design has been submitted to and approved by the City. Following approval, the OWNER/LESSEE shall contract for the work and shall commence and complete all such work within ninety (90) days from the date of such approval. The OWNER/LESSEE may request a ninety (90) day extension provided there is a demonstrated hardship.

SECTION 3

The City shall periodically review the progress of the contractor's work on the façade improvements pursuant to this Agreement. Such inspections shall not replace any required permit inspection by Building Inspectors. All work which is not in conformance with the approved plans, design drawings, and specifications shall be immediately remedied by the OWNER/LESSEE and deficient or improper work shall be replaced and made to comply with the approved plans, design drawings, and specifications and the terms of this Agreement.

SECTION 4

Upon completion of the improvements and upon their final inspection and approval by the City, the OWNER/LESSEE shall submit to the City a properly executed and notarized contractor statement showing the full cost of the work to complete the façade improvement related work, as well as a statement for façade improvement work done to achieve the 1:1 match required by this Agreement. In addition, the OWNER/LESSEE shall submit to the City proof of payment of the contract cost pursuant to the contractor's statement and final lien waivers from all contractors and subcontractors as well as proof of 1:1 match. The City shall, within forty-five (45) days of receipt of contractor's statement, proof of payment, conformed copy of the Notice of Completion, and lien waivers, issue a check to the OWNER/LESSEE as reimbursement in the total grant amount stated in SECTION 1 of this Agreement.

SECTION 5

If the OWNER/LESSEE fails to complete the improvement work provided for herein in conformity with the approved plans, design drawings, and specifications and the terms of this Agreement, then upon written notice being given by the City to the OWNER/LESSEE, by certified mail to the address listed above, this Agreement shall terminate and the financial obligation on the part of the City shall cease and become null and void.

SECTION 6

This Agreement shall be binding upon the City and upon the OWNER/LESSEE and its successors, to said property for a period of five (5) years from and after the date of completion and approval of the façade improvements provided herein unless otherwise agreed upon by the parties in writing. It shall be the responsibility of the OWNER/LESSEE to inform subsequent OWNER(S)/LESSEE(S) of the provisions of this Agreement.

SECTION 7

The OWNER/LESSEE agrees to maintain the improvements at his/her sole expense for a period of five (5) years unless otherwise agreed upon by the parties in writing. In the event that the OWNER/LESSEE fails to maintain the improvements, the City may issue a thirty (30) day written notice to the OWNER/LESSEE to correct any maintenance deficiencies. If the OWNER/LESSEE fails to correct the stated deficiencies within thirty (30) days of the notice, City may cause any maintenance or repair work to be performed at OWNER's expense.

SECTION 9

The OWNER/LESSEE agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal laws, pertaining to the development and use of the Property and construction of the façade improvements, as well as operations conducted on the Property. The OWNER/LESSEE agrees that the City shall not be liable for, and covenants and agrees to indemnify and hold harmless the City and its officials, officers, employees, and agents from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting

from noncompliance with all municipal, county, state and federal laws. The OWNER/LESSEE will require any contractor to comply with the above cited Local, State and Federal laws, and will incorporate these laws in any written agreement between the OWNER/LESSEE and a contractor.

SECTION 10

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Participant, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the OWNER/LESSEE or successor or on any obligation under the terms of this Agreement.

SECTION 11

The OWNER/LESSEE releases the City from, and covenants and agrees that the City shall not be liable for, and covenants and agrees to indemnify and hold harmless the City and its officials, officers, employees, and agents from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character and nature whatsoever arising out of or, resulting from or in any way connected with directly or indirectly with the façade improvements. The OWNER/LESSEE further covenants and agrees to pay for or reimburse the City and its officials, officers, employees, and agents for any and all costs, reasonable attorney's fees, liabilities, or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or cause of action. The city shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive the completion of said façade improvements.

SECTION 12

Nothing herein is intended to limit, restrict, or prohibit the OWNER/LESSEE from undertaking any other work in or about the subject premises, which is unrelated to the façade improvement provided for in this Agreement.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

PROPERTY OWNER

CITY OF ONTARIO

Name

Scott Ochoa, City Manager

Signature

LESSEE/BUSINESS OWNER

Approved as to Form

Name

_____,
City Attorney

Signature