

City of Cambridge

MASSACHUSETTS

Agenda #8 Authorizing execution of an "Agreement For Public Body Approval Of Section 312 Rehabilitation Loans" and designating an official authorized to approve such loans on behalf of the City of Cambridge.

City Council

October 17

1977

	YEA	NAY	ABSENT	PRESENT
Mrs. Ackermann	✓			
Mr. Clem	✓			
Mr. Clinton	✓			
Mr. Danehy				✓
Mr. Duehay	✓			
Mrs. Graham	✓			
Mr. Russell	✓			
Mr. Sullivan		✓		
Mayor Vellucci	✓			

7 1 0 ✓

*CCSK
R.F.
A*

AGREEMENT FOR APPROVAL OF
SECTION 312 REHABILITATION LOANS

by and between

City of Cambridge
(Community Development Department)

and

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

THIS AGREEMENT, made and entered into on the date herein below specified, by and between the City of Cambridge, (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:

SECTION 1: Purpose of Agreement

The Public Body has the responsibility and jurisdiction to carry out one or more activities under the City of Cambridge Community Development Block Grant Program, including, but not limited to, processing Section 312 Loans in designated Community Development Block Grant Areas. The processing by the Public Body and submission to the Department of Housing and Urban Development for approval, for rehabilitation loans under Section 312 of the Housing Act of 1964, as amended (Section 312 Loans) and as extended under Section 116 of Title I of the Housing and Community Development Act of 1974, is presently authorized with respect to one or more of the areas covered by such project or program. 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 6: Restriction On Officials Authorized To Approve Loans

The Public Body shall not initially or at any time during the term of this Agreement confer its authority to approve Section 312 loans under this Agreement upon any officer or employee who exercises any duties or responsibilities in the administration of the Public Body's Section 312 Loan Program, including, without limitation:

- (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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 12: Term of Agreement

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

SECTION 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 Section 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 thirty (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 sixty (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.

SECTION 14: Effective Date

This Agreement shall be effective the _____ day of _____

SECTION 15: Counterparts of Agreement

This Agreement may be executed in four 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 their behalf this
day of 1977.

Attest:

(SEAL)

by _____

by _____

James L. Sullivan,
City Manager

David R. Vickery
Assistant City Manager

Approved as to legal form

Russell B. Higley
Acting City Solicitor

Attest:

UNITED STATES OF AMERICA
Secretary of Housing and Urban
Development

by _____

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

- (1) He is the duly qualified and acting City Clerk of the City of Cambridge, herein called the "Public Body" and the keeper of its records; including the journal of proceedings of the 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 _____ day of _____, 19____, 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 _____ day of _____, 19____.

(SEAL)

ATTEST:

(Signature of Recording Officer)

(Signature of Attesting Officer)

(Title of Recording Officer)

(Title of Attesting Officer)

AFFIDAVIT

The undersigned, being duly sworn, depose and say that I am the Assistant City Manager for Community Development for the City of Cambridge, Commonwealth of Massachusetts, and have been authorized by Resolution of the Cambridge City Council dated _____ to approve, on behalf of the City of Cambridge, all Section 312 Rehabilitation loans as provided for under an agreement between the City of Cambridge and the United States Department of Housing and Urban Development dated _____.

David R. Vickery
Assistant City Manager for
Community Development
City Hall Annex
57 Inman Street
Cambridge, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Sworn to before me this _____ day of _____, 1977.

Notary Public

OPINION OF PUBLIC BODY
COUNSEL RESPECTING AGREEMENT FOR PUBLIC BODY
APPROVAL OF SECTION 312 REHABILITATION LOANS

City of Cambridge

Dear Mr. Sullivan

I have examined the proposed "Agreement for Public Body Approval of Section 312 Rehabilitation Loans" (herein called the Agreement), identified as Agreement No. _____, to be entered into between yourself and the United States of America. I have also examined the _____ counterparts of the Agreement.

I have also examined that certain Resolution adopted by the City Council of the City of Cambridge on _____, 19____, wherein the execution of the Agreement was authorized.

I have made appropriate inquiry, and I am satisfied that said Resolution is still in full force and effect, and that there is no pending or threatened litigation (either in Federal or in State courts) challenging your authority to enter into the Agreement, or to perform the activities contemplated thereby. I have also examined all relevant and applicable constitutional provisions, laws, resolutions, judicial decisions, and other opinions of the State of Massachusetts and the locality of Cambridge, and I hereby certify that (Cite applicable statutory and/or local charter provisions) confer upon City of Cambridge the necessary power and authority to execute and carry out the terms of the Agreement.¹

I am therefore, of the opinion that you are authorized to enter into the Agreement, and that it has been executed as authorized by said Resolution and by law, and that, when the Agreement has been executed by the Government, it will constitute a valid, binding and legal agreement between yourself and the Government.

Attorney-at-Law

¹If there are any exceptions to the statements in this paragraph, they should be set out immediately following the paragraph, and the last paragraph altered as needed.

CHAPTER 26. PUBLIC BODY APPROVAL OF REHABILITATION LOANS

1. GENERAL. Under certain circumstances, a HUD Area Office may authorize a Public Body to approve rehabilitation loans with respect to properties located in federally assisted urban renewal, NDP, concentrated code enforcement, or certified areas. Such authority is granted by the execution of an "Agreement" between HUD and authorized officials of the Public Body. (See Appendix 1.) An agreement shall be effective during the time that the Public Body has responsibility for administering an active federally assisted project or program, in which the making of rehabilitation loans is allowed, and the agreement shall cover all federally assisted projects under the jurisdiction of the Public Body.
2. APPLICABILITY OF APPROVAL AUTHORITY. An executed agreement authorizes and directs a Public Body to exercise powers of approval and disapproval of residential and mixed-use loan applications for properties which will contain 4 or less dwelling units after rehabilitation.
3. LOANS A PUBLIC BODY MAY NOT APPROVE. An executed agreement does not authorize a Public Body to approve the following loans:
 - a. Properties Containing 5 or more Dwelling Units. An application for a loan on residential and mixed-use property which will contain 5 or more dwelling units after rehabilitation cannot be approved by a Public Body. Those applications shall be processed by the Public Body and submitted to the Area Office for approval.
 - b. Nonresidential Loans. An application for a loan on nonresidential property cannot be approved by a Public Body. The application shall be processed by the Public Body and submitted to the Area Office for processing.
4. CONSIDERATIONS IN EVALUATING A PUBLIC BODY. The determination of whether or not a Public Body is qualified to approve and disapprove loans will be made by the Area Office. To be selected for approval authority, the Area Office will determine that the Public Body has:
 - a. Sufficient staff, with demonstrated ability to undertake and properly provide financial advisory service, prepare and evaluate loan applications and supporting documentation including work writeups, cost estimates, and construction contracts, determine acceptable risk, obtain contracts for the rehabilitation work, and inspect the rehabilitation work

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in process and completed, and manage and administer the rehabilitation escrow account.

- b. A thorough understanding of HUD requirements related to rehabilitation loans, including loan limits, purposes for which loan funds may be used, determination and documentation of good and marketable title, loan settlement and the recordation and distribution of the security instruments, timely transmittal of loan cases to FNMA, and the importance of prompt, complete, and accurate reporting and transmittal of documents to the Area Office and HUD.
 - c. A continuing capacity to train new staff with minimal Area Office assistance.
 - d. A rehabilitation workload large enough to warrant decentralization of loan approval authority.
5. PROCESSING OF AGREEMENT BETWEEN HUD AND A PUBLIC BODY. When the Area Office determines that a Public Body has demonstrated a capacity to undertake approval of rehabilitation loan applications, it will notify the Public Body by letter. The letter will tender an agreement. (see Appendix 1.)
- a. Execution and Return of Contract Documents. To accept loan approval authority, the Public Body shall transmit the appropriate contract documents to the Area Office, Attention: Area Counsel, as follows:
 - (1) Four counterpart originals of the agreement executed by an authorized official of the Public Body. When accepted, the Area Office will enter the effective date of the agreement, and will return two fully executed counterpart originals to the Public Body.
 - (2) Three properly attested copies of the resolution adopted by the Public Body. (See Appendixes 2 and 3.)
 - (3) Opinion of Public Body counsel that the Public Body has the necessary powers to execute and carry out the terms of the agreement. (See Appendix 4.)
 - b. Resolution Designating an Approving Officer. The Public Body initially designates the "Approving Officer" (AO) in the resolution it adopts authorizing the execution of an agreement. Whenever the Public Body adopts a resolution changing the designation of an AO, it shall promptly transmit two attested copies of the resolution to the Area Office.

6. DOCUMENTS TRANSMITTED TO HUD BY PUBLIC BODY FOR APPROVED LOANS. A Public Body that is authorized to approve rehabilitation loan applications will submit to the Area Office only the completed and approved original and five copies of Form HUD-6230 and Form HUD-6243. The Forms HUD-6230 and HUD-6243 shall be accompanied by the original and five copies of HUD-6236.
 - a. Purpose of Receipt of Forms in Area Office. The Public Body submits to the Area Office Form HUD-6230 or HUD-6243, as applicable, only to provide to HUD the statistical data needed for program administration, and to have recorded in the official accounting records the reservation of funds to cover the approved rehabilitation loan. These forms are not submitted to the Area Office for substantive review or action.
 - b. Cancellation of Fund Reservations. The Area Office will constantly monitor an approving Public Body's utilization of fund reservations, in order to assure appropriate fund management, and will require or institute cancellation of specific fund reservations, where their examination reveals excessive delays in completing loan settlement.
7. RESTRICTION ON NOTIFYING APPLICANT OF LOAN APPROVAL. Although the loan application has been approved by the Public Body, the approval, as such, becomes a valid approval only if funds are available. Consequently, the Public Body must await receipt of the prevalidated copies of loan application form from the Regional Office Accounting Division before the applicant is advised that his loan application has been approved. The Public Body shall note in its files the means and date of notification to the applicant of loan approval.
8. FIELD REVIEW BY THE AREA OFFICE. In addition to any other visits, the CIR-rlg will visit a Public Body with loan approval authority, at least semiannually, to inspect the files and records on approved and disapproved rehabilitation grants and loans, and may inspect some properties in which rehabilitation work is completed or underway. The frequency of these visits may vary depending upon the volume of activity. An insufficient volume of activity may be a basis for the Area Office to terminate or suspend the agreement. The purpose of these visits is to ascertain and evaluate generally the Public Body's performance and compliance with HUD policies and requirements, as a basis for continuing the agreement. They are not intended to be a comprehensive inspection of all cases processed by the Public Body, or of all its activities. Therefore, the inspection activities of the CDR-rlg do not have any effect on Public Body responsibility for proper performance under the policies and requirements.

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9. TERMINATION OR SUSPENSION OF AGREEMENT. An agreement may be terminated, as follows:
- For cause or convenience, by either party, after 30 days' written notice of intent to terminate the agreement. However, when a Public Body gives notice of its intent to terminate the agreement, the Area Director may require the Public Body to continue under the agreement for an additional period of time, not to exceed 60 days, so the Area Office may prepare to accommodate the workload.
 - Automatically, when there is no longer under the jurisdiction of the Public Body an active project or program in which rehabilitation loans may be made.
 - For cause, the Area Director, by written notice to the Public Body, may immediately suspend an agreement, pending corrective action or termination.
10. APPLICABILITY OF OTHER HANDBOOKS. While all rehabilitation loans are made subject to the requirements of this handbook, there are special provisions and limitations on the making of rehabilitation loans depending on the type of project or program area in which the property to be rehabilitated is located. Consequently, in addition to the provisions of Handbook 7375.1, rehabilitation loans made on property in a certified area are subject to the provisions of 7390.1, Certified Area Program Handbook.
11. DETERMINATION OF ACCEPTABLE RISK. Section 312(a)(1)(C)(3) of the Housing Act of 1964, as amended, states, "(3) the loan is an acceptable risk, taking into consideration the need for the rehabilitation, the security available for the loan, and the ability of the applicant to repay the loan." Some of the considerations of "acceptable risk" are set forth in chapter 3, for the guidance of all Public Bodies, whether or not they have loan approval authority under an "Agreement." In the case of loan applications originated by a Public Body that does not have authority to approve loans, the determination of acceptable risk for the United States is made by the Area Office by its approval action. However, a Public Body approving rehabilitation loans under an "Agreement" is fully responsible for making, on its own judgment, the determination of acceptable risk for each loan application.
12. APPLICATION FILES. A Public Body with loan approval authority shall maintain an application file for each loan that it processes.

The file shall be separate from, and in addition to, any other file maintained by the Public Body and shall contain those documents set forth in chapter 10, appendix 1, as well as those documents required to be sent to the CDR-rlg at time of settlement, post settlement, and loan closeout. The Public Body shall forward the application file to the Area Office upon request.

AGREEMENT FOR PUBLIC BODY APPROVAL OF
SECTION 312 REHABILITATION LOANS

THIS AGREEMENT, made and entered into on the date hereinbelow specified, by and between _____ (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 Public Body shall not initially, or at any time during the term of this Agreement, confer its authority to approve Section 312 loans under this Agreement upon any officer or employee who exercises any duties or responsibilities in the administration of the Public Body's Section 312 Loan Program, including, without limitation:

- 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 _____ counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

SUGGESTED FORM OF RESOLUTION OF PUBLIC BODY'S
GOVERNING BODY 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

(INSTRUCTIONS: Submit three certified copies to HUD. The title, style of enacting clause, requisite approval, and, where required, publication of the resolution should conform to applicable law. A Certificate in the form specified in Appendix 4, should accompany each copy. The Certificate with the first copy shall be manually signed).

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 (Name of 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 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 (Name of Public Body) for the (Name of Public Body) to have direct approval authority with respect to Section 312 loans:

NOW, THEREFORE, BE IT RESOLVED BY THE (GOVERNING BODY OF PUBLIC BODY):

1. That (Title of Public Body's Official) is hereby authorized and directed to execute on behalf of the (Name of Public Body) an "Agreement for Public Body Approval of Section 312 Rehabilitation Loans," and to act as the authorized representative of the (Name of Public Body) 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 (Title of Public Body's Official(s)) [is] [are] hereby authorized to approve, on behalf of the (Name of Public Body), 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 (Name of Public Body) with regulations of the Department of Housing and Urban Development effectuating Title VI of the Civil Rights Act of 1964 and applicable Executive Orders.

SUGGESTED FORM OF CERTIFICATE OF RECORDING OFFICER

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

The undersigned hereby certifies that:

- (1) He is the duly qualified and acting (Title of Officer) of the (Name of Public Body), herein called the "Public Body," and the keeper of its records; including the journal of proceedings of the (Governing Body of the Public Body), 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 _____ day of _____, 19__, 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 _____ day of _____, 19__.

(SEAL)

ATTEST:

(Signature of Recording Officer)

(Signature of Attesting Officer)

(Title of Recording Officer)

(Title of Attesting Officer)

SUGGESTED FORM OF OPINION OF PUBLIC BODY
COUNSEL RESPECTING AGREEMENT FOR PUBLIC BODY
APPROVAL OF SECTION 312 REHABILITATION LOANS

(INSTRUCTIONS: Prepare original and 2 copies on letterhead of counsel. Attach signed original to copy of Resolution (Appendix 2) with manually signed Certificate (Appendix 3).)

(Name and Address of Public Body)

Dear _____:

I have examined the proposed "Agreement for Public Body Approval of Section 312 Rehabilitation Loans" (herein called the Agreement), identified as Agreement No. _____, to be entered into between yourself and the United States of America. I have also examined the _____ counterparts of the Agreement.

I have also examined that certain Resolution adopted by the (Name of Governing Body) of (Name of Public Body) on _____, 19____, wherein the execution of the Agreement was authorized.

I have made appropriate inquiry, and I am satisfied that said Resolution is still in full force and effect, and that there is no pending or threatened litigation (either in Federal or in State courts) challenging your authority to enter into the Agreement, or to perform the activities contemplated thereby. I have also examined all relevant and applicable constitutional provisions, laws, resolutions, judicial decisions, and other opinions of the State of _____ and the locality of _____, and I hereby certify that (Cite applicable statutory and/or local charter provisions) confer upon (Name of Public Body) the necessary power and authority to execute and carry out the terms of the Agreement. [1]

I am therefore, of the opinion that you are authorized to enter into the Agreement, and that it has been executed as authorized by said Resolution and by law, and that, when the Agreement has been executed by the Government, it will constitute a valid, binding and legal agreement between yourself and the Government.

(Signature)

Attorney-at-Law

[1] If there are any exceptions to the statements in this paragraph, they should be set out immediately following the paragraph, and the last paragraph altered as needed.

Agenda #8a

F213A

Resolution re: Section 312 Rehabilitation Loans.

In City Council,
October 17, 1977