



CITY OF AURORA, ILLINOIS

RESOLUTION NO. R19-322
DATE OF PASSAGE September 24, 2019

A Resolution Authorizing the Execution of a Historic Preservation Grant Agreement with Westin Trevor McMaken for 435 W. New York Street

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS by petition dated August 29, 2019, Westin Trevor McMaken filed with the City of Aurora a request for a Preservation Grant for certain property within the City of Aurora and the Tanner Historic District; and

WHEREAS, on September 5, 2019, the Historic Preservation Commission reviewed said request and recommended that the City enter into a Preservation Grant Agreement pursuant to said request; and

WHEREAS, for reasons set forth in the Preservation Grant Agreement, attached hereto and incorporated herein as Exhibit "A", the City and Westin Trevor McMaken wish to enter into said attached Agreement for restoration work at 435 W. New York Street; and

WHEREAS, the City Budget contains sufficient funds, in excess of the amount of \$15,350.00 for this Agreement in Account Number 215-1840-463.50-43 OTHER SC-SPECIAL PROGRAMS/GRANTS/PROPERTY REHAB in order to provide all necessary funding for the project; and

WHEREAS, on September 11, 2019, the Building, Zoning, and Economic Development Committee of the Aurora City Council reviewed said petition and the before mentioned recommendations and recommended APPROVAL of said petition; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Aurora, Illinois, finds as facts all of the preamble recitals of this Resolution and hereby

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authorizes the Mayor and City Clerk to execute the Preservation Grant Agreement attached hereto as Exhibit "A".

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PASSED AND APPROVED ON September 24, 2019

AYES 10 NAYS 0 NOT VOTING 0 ABSENT 2

[Signature]
Alderman Llamas, Ward 1

[Signature]
Alderman Mesiacos, Ward 3

[Signature]
Alderman Franco, Ward 5

[Signature]
Alderman Hart-Burns, Ward 7

[Signature]
Alderman Bugg, Ward 9

[Signature]
Alderman Jenkins, At Large

[Signature]
Alderman Garza, Ward 2

[Signature]
Alderman Donnell, Ward 4

[Signature]
Alderman Saville, Ward 6

[Signature]
Alderman Smith, Ward 8

[Signature]
Alderman Lofchie, Ward 10

[Signature]
Alderman O'Connor, At Large

ATTEST:

[Signature]
City Clerk

[Signature]
Mayor

RECOMMENDATION

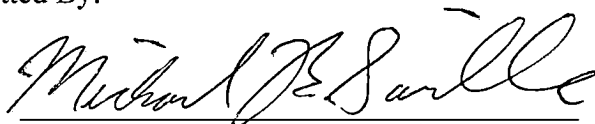
TO: THE COMMITTEE OF THE WHOLE

FROM: THE BUILDING, ZONING AND ECONOMIC DEVELOPMENT COMMITTEE

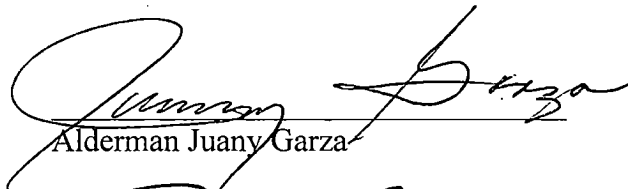
The Building, Zoning and Economic Development Committee at the regular scheduled meeting on **Wednesday, September 11, 2019** recommended **APPROVAL** of A Resolution Authorizing the Execution of a Historic Preservation Grant Agreement with Westin Trevor McMaken for 435 W. New York Street.

VOTE: 5-0

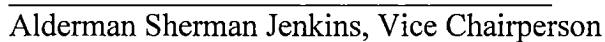
Submitted By:



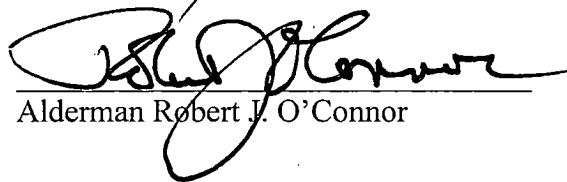
Alderman Michael Saville, Chairperson



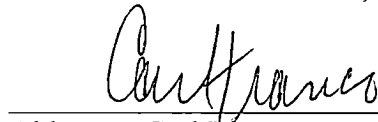
Alderman Juany Garza



Alderman Sherman Jenkins, Vice Chairperson



Alderman Robert J. O'Connor



Alderman Carl Franco

Dated this 11th day of September, 2019

EXHIBIT "A"
HISTORIC PRESERVATION GRANT AGREEMENT
WITH WESTIN TREVOR MCMAKEN FOR 435 W. NEW YORK STREET

THIS GRANT AGREEMENT ("**Agreement**") is made and entered into as of the 24 day of September, 2019 ("**Agreement Date**") by and between the CITY OF AURORA, ILLINOIS, an Illinois municipal home rule corporation, ("**CITY**"), and WESTIN TREVOR MCMAKEN, ("**OWNER**"). The CITY and the OWNER are sometimes referred to individually as "**Party**" and collectively as "**Parties**".

W I T N E S S E T H:

WHEREAS, the City of Aurora has a population of more than 25,000 persons in it and is, therefore, a home rule unit as defined in Article VII, section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, the CITY annually allocates funds to be granted as financial assistance to property owners in historic districts to conserve and revitalize the City's historic neighborhoods; and

WHEREAS, the City Budget contains sufficient funds, in excess of the amount of \$15,350.00 for this Agreement, in Account #215-1840-463.50-43 in order to provide the agreed upon funding for this project.

WHEREAS, on July 9, 2019 the CITY established grant eligibility requirements and Guidelines for a Historic Preservation Grant Program ("**Program**") by resolution number R19-217; and

WHEREAS, through this Agreement the CITY is authorizing a change in the approved Guidelines to remove the requirement of prevailing wage due to the size of these projects and that most of the applications did not use prevailing wage; and

WHEREAS, on August 29, 2019, Westin Trevor McMaken filed with the City of Aurora a request for financial assistance for the property located at 435 W. New York Street ("**Property**") within the Tanner Historic District ("**District**") a proposed renovation of said Property; and

WHEREAS, the OWNER desires to cause the renovation of the Property as described in Article Five and in the renovation scope of work description in Attachment "A" ("**Project**"); and

WHEREAS, it has been determined that the OWNER and the Project meet parameters of the Program and this Agreement has been recommended by the Preservation Commission for approval at its meeting held on September 5, 2019; and

WHEREAS, the CITY has adopted Resolution Number R19-322 authorizing the execution of this Agreement; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE ONE **INCORPORATION OF RECITALS**

1.1 Incorporation of Recitals. The findings, representations and agreements set forth in the above Recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though fully set forth in this Article One.

ARTICLE TWO **DEFINITIONS**

2.1 Definitions. For purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided herein, including above in the recitals hereto and as follows:

"Actual Project Cost" means all those actual and known costs expended by the OWNER for the Project as presented in documentation to the CITY, as detailed in Attachment "C".

"Effective Date" means the date as established pursuant to Article Eight.

"Estimated Project Costs" means all those costs estimated to be expended by the OWNER associated with the Project as estimated in the Owner's Project Expense Estimates attached hereto and hereby made a part hereof in Attachment "B".

"Project" means the renovation and redevelopment of the Property as described in Article Five and in Attachment "A".

ARTICLE THREE **CONSTRUABILITY OF TERMS**

3.1 Construability of Terms. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.
- (c) The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

- (d) Headings of Articles and Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (e) All Attachments attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any Attachment and the terms of this Agreement, the Agreement shall control.
- (f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
- (g) In connection herewith concerning written directions or authorization in respect of the investment of any funds, notwithstanding any provision hereof to the contrary, such direction or authorization orally by telephone, other telecommunication or otherwise, confirmed in writing, including by telecopier/facsimile transmission, shall be appropriate and is hereby approved. Failure of the investing agent to actually receive such written confirmation shall not render invalid or ineffective any such oral direction or authorization.
- (h) The City Mayor, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the CITY and with the effect of binding the CITY as limited by and provided for in this Agreement. OWNER is entitled to rely on the full power and authority of the Persons executing this Agreement on behalf of the CITY as having been properly and legally given by the CITY.

ARTICLE FOUR
CITY CODES, ORDINANCES AND PROCEDURES

4.1 Adherence to City Codes and Ordinances. All development and construction of the Project shall comply in all respects with the provisions in the Building, Plumbing, Mechanical, Electrical, Storm Water Management, Fire Prevention, Property Maintenance, FoxWalk Design Guidelines, Zoning and Subdivision Codes of the City of Aurora and all other germane codes and ordinances of said City in effect on the date that an application for a building permit and/or earth moving permit for such re-development or construction is filed, and during construction, except as otherwise provided herein and to the extent all such codes and ordinances are of general applicability to property within the city. OWNER has examined and is familiar with all the current covenants, conditions, restrictions, building regulations, zoning ordinances, property maintenance regulations, environmental laws and land use regulations, codes, ordinances, federal, state and local ordinances, and the like, and represents and warrants that the Project shall be developed in accordance with same, or those that are in place at the time of building permit/earth moving permit.

4.2 Approval of Plans and Permits. OWNER shall petition the CITY for all applicable approvals required for the renovation and construction of the Project including but not limited to: Certificate(s) of Appropriateness; Zoning Permit(s); Building Permit(s); Sign Permit(s); Stormwater Permit(s); Demolition Permit(s); Driveway Permit(s); Curb Cut Permit(s) and any improvements in the public right of way. Said petitions by OWNER shall include making all submittal requirements in conformance with City policies, codes and ordinances. All documents and submittals shall adhere to all applicable codes and ordinances including but not limited to those listed in this Agreement.

The CITY'S review and approval shall not be unreasonably withheld. The CITY shall further promptly process, and not unreasonably withhold its approval of these requests of OWNER.

4.3 Compliance with Applicable Laws. OWNER shall at all times acquire, install, construct, operate and maintain the Project in conformance with all applicable laws, rules, ordinances and regulations. All work with respect to the Project shall conform to all applicable federal, state and local laws, regulations and ordinances, including, but not limited to, City of Aurora Historic Districts and Landmarks Guidelines, building codes, property maintenance codes and any other applicable codes and ordinances of the CITY in effect from time to time during the course of construction of the Project, unless the same conflicts with an express term of this Agreement.

4.4 Cooperation. The CITY and the OWNER agree to cooperate in implementing the Project in accordance with the Parties respective obligations set forth in this Agreement and in accordance with specific approvals by the CITY in the future of the site plans for the Property and Project. Whenever any Party is required to take any

action pursuant to the terms of this Agreement, including but not limited to giving any consent, such action shall not be unreasonably withheld or delayed.

The CITY agrees to cooperate with OWNER, and shall affirmatively support OWNER's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity other than the CITY and upon request of OWNER, shall promptly execute any applications or other documents which OWNER intends to file with such other governmental or quasi-governmental entities with respect to the Project.

4.5 Modifications. OWNER may request and obtain certain modifications to this Agreement, without a public hearing except as required by state law, but with the approval of the Corporate Authorities of the CITY.

4.6 Reimbursement Procedures. The CITY shall authorize the distribution of funds to the OWNER pursuant to Article Six, upon satisfaction of the conditions stated in this Agreement in addition to the Reimbursement Procedures included herein in Attachment "C".

ARTICLE FIVE **PROJECT**

5.1 Project. The OWNER shall cause the completion of the Project, being the renovation of the Property pursuant to the description in Attachment "A".

ARTICLE SIX **CITY COVENANTS AND AGREEMENTS**

6.1 City Obligations. The CITY shall have the obligations set forth in this Article Six. All obligations of the CITY are expressly contingent upon OWNER receiving all required CITY approvals for the Project, and upon OWNER acting in accordance with all terms of this Agreement.

6.2 Financial Incentive. To conserve and revitalize the District the CITY agrees to provide an incentive to the OWNER, in an amount up to Fifteen Thousand Three Hundred and Fifty dollars (\$15,350.00) contingent upon using a local contractor OR \$10,000 plus 50 percent (50%) of the Actual Project Costs minus the \$10,000 outright granted, plus a potential \$1,000 bonus if using a local contractor (see below for details) with the lesser amount being the maximum amount of said incentive ("**Incentive Amount**"). Said Incentive Amount shall be subject to the following provisions and prior to the distribution of any CITY funds the OWNER shall satisfy the conditions listed in Section 7 herein.

- (a) Said Incentive Amount may be requested by the OWNER once applicable City approval has been obtained for the work, final inspections have been approved, and the costs are incurred and paid by the OWNER.
- (b) If the total cost for all of the Actual Project Costs (taken as a whole) is less than the Incentive Amount, the lesser amount is the maximum amount OWNER shall be entitled to be reimbursed hereunder. If the acquisition cost of the Property and/or the cost of the Actual Project Costs exceed the Incentive Amount, OWNER shall only be entitled to receive the maximum Incentive Amount stated herein from the CITY.

ARTICLE SEVEN

OWNER'S COVENANTS AND AGREEMENTS

7.1 Owner's Obligations. OWNER shall have the obligations set forth in this Article Seven for the Project. These commitments shall include, but are not limited to the following:

- (a) Application for Approvals: The OWNER shall petition the CITY for all applicable approvals, including but not limited to a Certificate of Appropriateness pursuant to Article Four herein.
- (b) Project: The OWNER shall complete the Project in accordance with all of the provisions set forth in this Agreement, and in accordance with future approvals by the CITY.

Timing of this Obligation: The Project must be completed in a timely manner in order to allow for the submittal of all reimbursement requests prior to September 1, 2020.

- (b) Tax Information: The OWNER is responsible for paying taxes on the grant. The OWNER shall complete and return to CITY IRS Form W-9. The CITY will issue a 1099 form in the amount of the Incentive Amount to the OWNER.

Timing of this Obligation: The OWNER covenants and agrees to satisfy the requirements of this Section 7.1(b) within sixty (60) days after the Effective Date.

- (c) Licensed Contractor: If a trade is licenses by the City of Aurora, the OWNER shall only employ contractor(s) of that trade which are licensed by the CITY to complete the Project.

Timing of this Obligation: Upon the request of the CITY, the OWNER shall demonstrate to the CITY's sole satisfaction that OWNER has met the requirements of this Section.

- (d) Partnership Sign: OWNER shall post an identification sign, provided by the CITY and if requested by the CITY, promoting the partnership with the CITY on the Project. Upon request of the CITY said sign shall be posted on the Property for the duration of the Project or for a minimum of thirty (30) days whichever is longer.

Timing of this Obligation: Upon the request of the CITY, the OWNER shall post the sign as provided by the CITY.

- (e) Landmark: Properties listed individually on the National Register of Historic Places or that contribute to a National Register Historic District must become a locally designated Landmark prior to the disbursement of any funds.

7.2 Financial Incentive. The OWNER shall satisfy all of the following conditions prior to the CITY's distribution of any CITY funds referenced in Section 6.2 herein to the OWNER:

- (a) The OWNER may request the said funds referenced in Section 6.2 herein upon satisfaction of the Reimbursement Procedures in Section 4.6 herein and those conditions and provisions included in Section 7.1 herein.

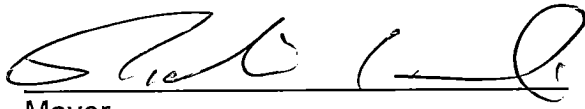
ARTICLE EIGHT **EFFECTIVENESS**

The Effective Date for this Agreement shall be the day on which this Agreement is fully executed pursuant to duly enacted CITY ordinance authorizing the execution of and adoption of this Agreement.

For each day that the CITY or OWNER is delayed by an Uncontrollable Circumstance, the dates set forth in this Agreement shall be extended by one (1) day.

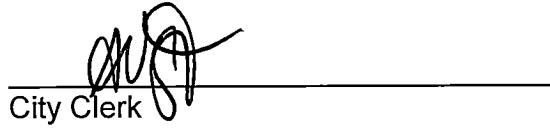
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

CITY OF AURORA,
an Illinois municipal corporation,

A handwritten signature in black ink, appearing to be "Rick L. ...", written over a horizontal line.

Mayor

ATTEST:

A handwritten signature in black ink, appearing to be "M. ...", written over a horizontal line.

City Clerk

OWNER:

Westin Trevor McMaken

By: W. T. C.

Print Name/Title: Westin Trevor McMaken

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Westin McMaken, is personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this 23rd day of September 2019.



Tracey M Vacek

Attachment "A"
Renovation Description

Work includes repairing/replacing gutters, soffits, fascia, skirt, porch ceiling, crown molding along with scraping, and glazing windows and priming and painting house.

Priority of the work should be as follows:

- 1.) Repair the damaged built-in gutters and downspouts and if replacement is needed, the replacement should be in-kind to match the existing gutters.
- 2.) Restore and replace rotten wood on the exterior of the home. Replacement wood should match the existing wood in type, reveal, texture, etc.
- 3.) Repaint the exterior of the home. Paint should be high quality and paint color must be approved by staff and should include several colors based upon what is appropriate for the style as determined by staff.

Attachment "B"
OWNER's Project Expense Estimates

Items		Cost	
Property Location: 435 W. New York Street			
Gutter Repair/ Wood Repair/Restoration/Painting		\$17,000.00	
Contingency (10%)		\$1,700.00	
Total		\$18,700.00	

Attachment "C"
Reimbursement Procedures

The OWNER shall provide the CITY with all documentation required to evidence the cost of the Actual Project Cost, such records to include, but not be limited to, all contracts with general contractors and all subcontractors, copies of checks, receipts for materials, invoices and any other documentation specified by the CITY and/or in the possession of OWNER.

Prior to the reimbursement the OWNER shall satisfy the following standard conditions and procedures:

- (a) **Certification:** As a prerequisite to the disbursement of any and each payment to OWNER, OWNER must certify to the CITY the following if applicable:
 - (i) OWNER has the right, power and authority to submit the request for payment and to perform its obligations under the Agreement.
 - (ii) The requested disbursement is for Actual Project Costs which are qualified for payment under this Agreement.
 - (iii) None of the items for which payment is requested has been the basis for a previous payment.
 - (iv) The payment has already been paid from OWNER to its construction manager, contractor, subcontractor or material supplier or others.
- (b) **Reimbursement Request for Improvements:** As a prerequisite to the disbursement of any and each payment, OWNER shall submit to the Director of Planning and Zoning a disbursement request. Requests shall minimally be accompanied by the following:
 - (i) The CITY must receive proof that the Actual Project Costs were incurred in the form of the following: cancelled checks, receipts/invoices marked paid, receipts for materials, labor time log.
 - (ii) Vendor Packet (1-17): Prior to any work beginning, OWNER shall complete the Vendor Packet and be issued a Vendor Number and Purchase Order Number.
 - (iii) W-9 Form: Prior to any work beginning, the OWNER shall complete and return to CITY IRS Form W-9.
 - (iv) Historic Certificate of Appropriateness (HCOA): Prior to any work beginning, a HCOA must be obtained and a Certificate

- posted.
 - (v) HCOA Detailed Budget (1-24) - Prior to the issuance of a HCOA, the HCOA Detailed Budget Form (1-24) must be submitted and approved by the Director of Planning and Zoning.
 - (vi) Contractors Sworn Statement (1-19) - A completed Contractors Sworn Statement verifying that the contractor was paid.
- (c) **Timelines and Inspections:** Prior to the disbursement of any payment by the CITY, OWNER must provide to the CITY documentation of the satisfaction of the following conditions:
- (i) The CITY has completed and approved final inspections of the Project.