
LOAN AGREEMENT

BETWEEN

**THE MONTANA
BOARD OF INVESTMENTS**

AND

CITY OF MISSOULA

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THIS LOAN AGREEMENT, is made and entered into this ____ day of _____, 2017 by and between the CITY OF MISSOULA, a municipal corporation organized and existing under the laws of the State of Montana (“CITY”), and MONTANA BOARD OF INVESTMENTS, an agency of the government of the State of Montana established pursuant to Mont. Code Ann. § 2-15-1808 (“MBOI”). It is specifically agreed and acknowledged that this agreement is subject to the terms and conditions of that certain Master and Subordination Agreement, executed currently herewith (the “Master Agreement”).

WHEREAS, Mont. Code Ann. § 17-6-309(2) authorizes the Montana Board of Investments (“MBOI”) to make an infrastructure loan to enhance economic development and create jobs in the basic sector of the economy, as defined by MBOI by rule, if the loan will result in the creation of a business estimated to employ at least 15 people in Montana on a permanent, full-time basis or result in the expansion of a business estimated to employ at least an additional 15 people in Montana on a permanent, full-time basis or raise salaries, wages, and business incomes of existing employees and employers; and

WHEREAS, Mont. Code Ann. § 17-6-311(2) provides that the total amount of loans made pursuant to Mont. Code Ann. § 17-6-309(2) may not exceed Eighty Million Dollars (\$80,000,000), and a single loan may not be less than Two Hundred Fifty Thousand Dollars (\$250,000). A loan may not exceed Sixteen Thousand Six Hundred Sixty-Six and no/100 Dollars (\$16,666) per job that is estimated to be created; and

WHEREAS, the City of Missoula (“CITY”) is a municipal corporation organized and existing under the laws of the State of Montana; and

WHEREAS, CITY proposes to purchase certain real property and certain Infrastructure constructed thereon, the proceeds of such purchase to be used to finance the acquisition, construction and improvement of such Infrastructure, and in return for certain use fees and agreements, lease the property to CONSUMER DIRECT GRANT CREEK CAMPUS, LLC, a Montana limited liability company (“CONSUMER DIRECT”), which will, with its affiliates, operate a commercial office building and related business activities thereon, estimated to create one hundred twenty (120) full time jobs; and

WHEREAS, to finance its purchase of such property, CITY has applied for an infrastructure loan from MBOI in the amount of One Million Nine Hundred Ninety-Nine Thousand Nine Hundred Twenty and no/100 Dollars (\$1,999,920) based on the estimated creation by CONSUMER DIRECT of one hundred twenty (120) full time jobs; and

WHEREAS, the MBOI approved the infrastructure loan on November 17, 2015 subject to certain terms and conditions; and

WHEREAS, Mont. Code Ann. § 17-6-316 requires that a loan made pursuant to Mont. Code Ann. § 17-6-309(2) must be used to provide Infrastructure, as provided for in Mont. Code

Ann. § 7-15-4288(4) that allows the location, creation, or expansion of a business in Montana. The loan must be made to a local government that will create the necessary Infrastructure. The Infrastructure may serve as collateral for the loan. The local government receiving the loan may charge fees to the users of the Infrastructure. A loan repayment agreement must provide for repayment of the loan from the entity authorized to charge fees for the use of the services of the Infrastructure. Loans made pursuant to Mont. Code Ann. § 17-6-309(2) qualify for the job credit interest rate reductions under Mont. Code Ann. § 17-6-318, if the interest rate reduction passes through to the business creating the jobs; and

WHEREAS, CITY and MBOI anticipate that CONSUMER DIRECT will qualify, pursuant to Mont. Code Ann. § 17-6-316(3), to receive a credit against taxes due under Mont. Code Ann. Title 15, Chapter 30 or 31, for the use fees paid by CONSUMER DIRECT for the use of the Infrastructure.

NOW THEREFORE, for good and valuable consideration, MBOI and CITY hereby agree as follows:

SECTION 1. DEFINITIONS

As used in this Loan Agreement the following definitions apply:

“Amortization Schedule” means that document attached to this Loan Agreement as Exhibit D and incorporated herein, as the same may be revised and replaced from time to time as provided herein or in any Related Documents, in which Loan repayment is scheduled based on the date of disbursement, the Applicable Interest Rate, and a Twenty (20) year term.

“Applicable Interest Rate” means the rate of interest applicable at a given time taking into account any reductions or increases in such interest rate as provided for herein or in any Related Documents.

“Assignment of Lease” means the Assignment of Lease attached to this Loan Agreement as Exhibit L, by which CITY assigns the Lease to MBOI.

“Assignment of Public Improvements Use Fee Agreement” means the Assignment of Public Improvements Use Fee Agreement attached to this Loan Agreement as Exhibit G, by which CITY assigns the Public Improvements Use Fee Agreement to MBOI.

“Basic Sector of the Economy” means (a) business activity conducted in the state that produces goods and services for which 50% or more of the gross revenues are derived from out-of-state sources; or (b) business activity conducted in-state that produces goods and services for which 50% or more of which will be purchased by in-state residents in lieu of like or similar goods and services which would otherwise be purchased from out-of-state sources.

“Business Day” means any day which is not a Saturday or Sunday or a legal holiday in the State of Montana and which is not a day on which commercial banks in Helena, Montana are authorized or required by law or executive order to close.

“CITY” means the City of Missoula, Montana, a municipal corporation organized and existing under the laws of the State of Montana.

“City Trust Indenture” means the first priority Trust Indenture on the Public Improvements attached to this Loan Agreement as Exhibit C-1 and incorporated herein, securing CITY’s repayment of the Note.

“CITY Legal Opinion” means the legal opinion attached to this Loan Agreement as Exhibit H, in which CITY legal counsel opines that: (a) the Loan Agreement is a legal and binding obligation of CITY; (b) CITY has legal authority to enter into this Loan Agreement under the laws resolution(s) by which it is governed and the CITY Resolution; and (c) CITY has authority to purchase, hold, lease to CONSUMER DIRECT and otherwise undertake the Public Improvements to be funded by the Loan Proceeds.

“CITY Resolution” means that document attached to this Loan Agreement as Exhibit A and incorporated herein, in which the governing body of CITY authorizes and approves the Loan.

“Collateral” means the Trust Indentures, the Assignment of Lease, the Assignment of Public Improvements Use Fee Agreement, the Guaranties and any other collateral provided by CITY as security for repayment of the Loan.

“CONSUMER DIRECT” means Consumer Direct Grant Creek Campus, LLC, a Montana Limited Liability Company.

“CONSUMER DIRECT Legal Opinion” means the legal opinion attached to this Loan Agreement as Exhibit I, in which CONSUMER DIRECT legal counsel opines to the legal and binding nature of the Public Improvements Use Fee Agreement on CONSUMER DIRECT.

“CONSUMER DIRECT Resolution” means that document attached to the Loan Agreement as Exhibit E, in which the members of CONSUMER DIRECT authorize CONSUMER DIRECT to execute and deliver the CONSUMER DIRECT Trust Indenture and to execute and deliver to the CITY the documents providing for the sale and transfer of the Public Improvements to the CITY.

“CONSUMER DIRECT Trust Indenture” means the first priority Trust Indenture on the Supplemental Collateral, attached to this Loan Agreement as Exhibit C-2 and incorporated herein, under which CONSUMER DIRECT is the Grantor and MBOI is the Beneficiary, securing CITY’s repayment of the Note.

“Event of Default” means an event of default as specified in Section 16 of this Loan Agreement.

“Guaranties” means and includes the Guaranty of William F. Woody, the Guaranty of Greer C. Woody and the Guaranty of Bruce Kramer.

“Guaranty of William F. Woody” means the Guaranty attached to this Loan Agreement as Exhibit M-1 and incorporated herein, by which William F. Woody, individually, guaranties to MBOI the obligations of CONSUMER DIRECT under the Public Improvements Use Fee Agreement.

“Guaranty of Greer C. Woody” means the Guaranty attached to this Loan Agreement as Exhibit M-2 and incorporated herein, by which Greer C. Woody, individually, guaranties to MBOI the obligations of CONSUMER DIRECT under the Public Improvements Use Fee Agreement.

“Guaranty of Bruce Kramer” means the Guaranty attached to this Loan Agreement as Exhibit M-3 and incorporated herein, by which Bruce Kramer, individually, guaranties to MBOI the obligations of CONSUMER DIRECT under the Public Improvements Use Fee Agreement.

“Infrastructure” means the Public Improvements as further defined in Exhibit D to the Public Improvement Use Fee Agreement.

“Initial Interest Rate” means the initial interest rate of five and seven tenths percent (5.70%) as provided in Section 8 of this Agreement.

“Job Creation Estimate” means that document incorporated into this Loan Agreement as Exhibit J, in which CONSUMER DIRECT estimates the number of full time jobs to be created by the Public Improvements to be one hundred twenty (120).

“Job Credit Certification” means a certification in the form attached to the Public Improvements Use Fee Agreement as Exhibit E and incorporated herein, as prepared by CONSUMER DIRECT and submitted to CITY from time to time and subsequently submitted by CITY to MBOI, in which CONSUMER DIRECT certifies that it has created and filled and will retain sufficient jobs to be eligible for a job credit interest rate reduction. An initial Job Credit Certification executed by CONSUMER DIRECT is attached hereto as Exhibit K.

“Lease” means the Ground Lease Agreement with Option to Purchase dated as of _____, 20____, by and between CITY, as Landlord, and CONSUMER DIRECT, as Tenant, attached to the Public Improvements Use Fee Agreement as Exhibit A, with respect to the Public Improvements, together with any modifications, supplements, amendments or addendums thereto.

“Loan” means the infrastructure loan from the Permanent Coal Tax Trust to CITY that was approved by MBOI on November 17, 2015 in the amount of up to One Million Nine Hundred Ninety-Nine Thousand Nine Hundred Twenty and no/100 Dollars (\$1,999,920), as provided for herein and subject to the terms of this Loan Agreement.

“Loan Agreement” means this agreement.

“Loan Proceeds” means the funds loaned from the Permanent Coal Tax Trust to CITY under this Loan Agreement.

“MBOI” means the Montana Board of Investments created pursuant to Mont. Code Ann. § 2-15-1808 or any successor to its functions under the Loan Agreement.

“Note” means the Public Improvements Use Fee Note attached to and incorporated in this Loan Agreement as Exhibit B, in which CITY promises to repay the Loan.

“Permitted Encumbrances” means as of any particular time: (i) liens for taxes and assessments not then delinquent, (ii) the Lease and that certain Landlord’s Consent to Assignment related thereto, (iii) liens permitted under this Agreement, (iv) such minor defects, irregularities, encumbrances, collaterals, rights-of-way and clouds on CITY’s or CONSUMER DIRECT’s title, as applicable, as normally exist with respect to properties similar in character to the Public Improvements or the Supplemental Collateral, as applicable, and which do not, in the opinion of independent counsel, materially impair the property affected thereby for the purpose for which it was intended, (v) liens on CITY’s, or CONSUMER DIRECT’s interest in the Public Improvements or the Supplemental Collateral, as applicable, subordinate and subject to the Assignment of Lease, Assignment of Public Use Fee Agreement and Trust Indentures, except to the extent otherwise agreed to in writing by MBOI.

“Public Improvements” means a parcel of real property located in Missoula, County of Missoula, Montana, as more particularly described in Exhibit B to the Public Improvements Use Fee Agreement, attached hereto and incorporated herein by reference, including all improvements thereon other than the building (with any internal building fixtures and improvements) constructed or to be constructed thereon by CONSUMER DIRECT, the bike storage structure of approximately 660 square feet located adjacent to the building, the chiller, generator, and playground equipment located thereon, all of which shall be reserved by CONSUMER DIRECT and not part of the Public Improvements.

“Public Improvements Use Fees” or “Use Fees” means the use fees imposed or charged by CITY in the Public Improvements Use Fee Agreement with respect to the Public Improvements, from which the Note is payable.

“Public Improvements Use Fee Agreement” means the Public Improvements Use Fee Agreement between CITY and CONSUMER DIRECT of even date herewith, a copy of which is attached to this Loan Agreement as Exhibit F and incorporated herein, in which CITY agrees to assess against CONSUMER DIRECT for the use of the Public Improvements and CONSUMER DIRECT agrees to remit a Public Improvements Use Fee directly to MBOI in an amount sufficient to make all Loan payments and fully satisfy the amortized Loan.

“Qualifying Jobs” means jobs certified by CONSUMER DIRECT which meet the requirements of Mont. Code Ann. § 17-6-318 for purposes of an interest rate reduction.

“Related Documents” means the Note, City Trust Indenture, Consumer Direct Trust Indenture, Public Improvements Use Fee Agreement, Assignment of Public Improvements Use Fee Agreement, Lease, Assignment of Lease, Landlord’s Consent to Assignment, Master Agreement, Guaranties, and other documents executed concurrently herewith and other appropriate security documents or any one or more of the documents alone or in combination.

“Supplemental Collateral” means a parcel of real property consisting of .5 acres, more or less, as more specifically described in Exhibit C, attached hereto and incorporated herein by reference.

“Trust Indentures” means the CITY Trust Indenture and the CONSUMER DIRECT Trust Indenture.

SECTION 2. AUTHORITY TO LEND

MBOI represents and warrants that it has the authority to enter into this Loan Agreement under the laws and rules by which it is governed and that the amount loaned does not exceed Sixteen Thousand Six Hundred Sixty-Six and no/100 Dollars (\$16,666) for each job expected to be created as evidenced by the Job Creation Estimate (Exhibit J). MBOI further represents and warrants that after making this Loan, the aggregate amount of infrastructure loans outstanding will not exceed Eighty Million Dollars (\$80,000,000).

SECTION 3. AUTHORITY TO BORROW

CITY represents and warrants that it has the authority to enter into this Loan Agreement under the laws and charter by which it is governed, pursuant to the CITY Resolution and as reflected in the CITY Legal Opinion.

SECTION 4. FULL DISCLOSURE

CITY represents and warrants that it has fully disclosed to MBOI and CONSUMER DIRECT: (a) any existing or pending litigation to which it is a party; (b) any existing or pending disputes to which it is a party; or (c) to the best of its knowledge, other existing or pending facts,

matters or events that may impair its ability to enter into and fulfill its obligations under this Loan Agreement.

SECTION 5. DUE EXECUTION

CITY represents and warrants that its execution, delivery, and performance of the Loan Agreement and all the Related Documents have been duly authorized by all necessary action by CITY and do not conflict with, result in a violation of, or constitute a default under (a) any provision of any agreement or other instrument binding upon CITY or to which CITY is a party, or (b) any law, governmental regulation, court decree, or order applicable to CITY or to CITY's properties, assets or liabilities.

SECTION 6. AUTHORITY TO UNDERTAKE PUBLIC IMPROVEMENTS; COMPLIANCE WITH CERTAIN LAWS

CITY represents and warrants that it has the authority to purchase, hold, lease to CONSUMER DIRECT and otherwise undertake the Public Improvements to be funded by the Loan Proceeds and is eligible for financing under Mont. Code Ann. § 17-6-316 and, based upon the representations of CONSUMER DIRECT, that Basic Sector jobs are estimated to be created as required by Mont. Code Ann. § 17-6-309 (2). CITY further represents and warrants that it has complied with all federal and state regulations, including all environmental laws/regulations and any applicable federal, state and CITY requirements with respect to the Public Improvements.

SECTION 7. COMMITMENT TO LEND

Subject to the terms and conditions of this Agreement, MBOI agrees to lend to CITY, in a single advance, up to One Million Nine Hundred Ninety-Nine Thousand Nine Hundred Twenty and no/100 Dollars (\$1,999,920) from the Permanent Coal Tax Trust.

SECTION 8. LOAN INTEREST RATE

In the event of any conflict between this Section and the provisions of the Note, this Section shall control.

Initial Rate - The Initial Interest Rate is five and seven tenths percent (5.70%) per annum.

Job Credit Interest Rate Reduction - MBOI agrees to reduce the Initial Interest Rate as permitted by Mont. Code Ann. § 17-6-318 and as provided herein and in the Note, up to a maximum total reduction of two and five tenths (2.50) percentage points, based on the number of jobs created as specified in the Job Credit Certification; provided, however, that in no event shall the Applicable Interest Rate hereunder be less than three and two tenths percent (3.20%) per annum. A Job Credit Certification for interest rate reduction may be submitted at the time of Loan disbursement and thereafter on a semi-annual basis, commencing six months after the loan

is originated, until a maximum interest rate reduction of 2.50% is realized. In addition, MBOI may, in its discretion, require that CONSUMER DIRECT submit a Job Creation Certification at least semi-annually, as more specifically provided in Section 4.1 of the Public Improvements Use Fee Agreement. CONSUMER DIRECT shall provide CITY with a copy of each Job Credit Certification submitted to MBOI. If a Job Credit Certification is received by MBOI at least fifteen (15) business days prior to the next scheduled payment date and approved by MBOI staff, any applicable reduced interest rate will be effective on that payment date. Nothing in this Agreement shall be construed to preclude CONSUMER DIRECT from receiving job credit benefits under any program other than the infrastructure tax credit provided for in Mont. Code Ann. §17-6-316(3) or the interest rate reduction provided for in Mont. Code Ann. §17-6-318, to the extent CONSUMER DIRECT meets the requirements of any such other program, with respect to any jobs created or to be created hereunder.

If at any time while all or any part of the loan remains outstanding, CONSUMER DIRECT eliminates ten (10) or more Qualifying Jobs, MBOI may increase the Applicable Interest Rate commensurate with the number of Qualifying Jobs eliminated, if MBOI determines, in its sole discretion, that such increase is in the best interest of MBOI's programs; provided, however, that the interest rate shall not be increased to a rate greater than the Initial Interest Rate of five and seven tenths percent (5.70%) per annum during the term of the loan. MBOI shall notify CONSUMER DIRECT and CITY in writing of any interest rate increase hereunder and the effective date of such increase, which date shall be at least ten (10) Business Days after the date of such notice.

MBOI will revise the Amortization Schedule promptly to reflect any approved reduction or increase in the Applicable Interest Rate and forward the revised Amortization Schedule to CITY with a copy to CONSUMER DIRECT. Such revised Amortization Schedule will replace and supersede any previous Amortization Schedule for purposes of this Loan Agreement and any Related Documents.

Interest Calculations - Interest shall be calculated on an actual/365 day simple interest basis (366 days during leap years) as follows:

A divided by 365 times B times C where

A = Interest Rate B = Principal Outstanding C = number of Days Principal Outstanding

SECTION 9. LOAN TERM

The term of the Loan shall be for a period of twenty (20) years from the date of Loan disbursement as specified in the Amortization Schedule. Any deferral of principal payments shall not extend the Loan's term or alter the number of payments, but will instead alter the amount of subsequent payments. In the event of any agreed deferral of principal, MBOI will revise the Amortization Schedule promptly to reflect such deferral and forward the revised

Amortization Schedule to CITY with a copy to CONSUMER DIRECT. Such revised Amortization Schedule will replace and supersede any previous Amortization Schedule for purposes of this Loan Agreement and any Related Documents.

SECTION 10. COMMITMENT TO BORROW AND REPAY

CITY agrees to accept the Loan Proceeds as a single advance, and agrees to comply with all provisions of this Loan Agreement and repay the Loan in accordance with the Amortization Schedule.

Public Improvements Use Fee Agreement – CITY agrees to impose a monthly Public Improvements Use Fee on CONSUMER DIRECT through the Public Improvements Use Fee Agreement in an amount sufficient to amortize the Loan as provided in the Amortization Schedule, as it may be revised from time to time in accordance with this Agreement. CITY agrees to assign such Public Improvements Use Fee Agreement to MBOI and authorize MBOI to receive payments directly from CONSUMER DIRECT as provided in this Agreement or the Related Documents. Public Improvements Use Fee payment dates shall conform precisely to the payment dates in the Amortization Schedule. The amount of each Public Improvements Use Fee paid by CONSUMER DIRECT shall be credited against the obligation for payment of rent under the Lease. CITY shall obtain the CONSUMER DIRECT Legal Opinion in which legal counsel representing CONSUMER DIRECT opines to the legal and binding nature of the Public Improvements Use Fee Agreement on CONSUMER DIRECT.

SECTION 11. LOAN PREPAYMENT

CITY or CONSUMER DIRECT, with fifteen (15) calendar days advance written notice to MBOI, may prepay all or any portion of this Loan at any time without penalty. All prepayments shall be applied on the principal in the inverse order of maturity, and shall not alter the obligation of CITY to make the next succeeding payment or payments of principal and interest due hereunder in accordance with the Amortization Schedule until the Loan is fully paid and satisfied.

SECTION 12. COLLATERAL AND SECURITY; NO OTHER LIENS; FLOW DOWN OF GRANTOR OBLIGATIONS

(a) Loan Security. The Loan will be secured by a perfected first priority Trust Indenture on the Public Improvements, a first priority Trust Indenture on the Supplemental Collateral, the Assignment of Public Improvements Use Fee Agreement, the Assignment of Lease and the Guaranties, and execution and delivery of documents creating and perfecting such security shall be a condition of the Loan. CITY covenants and agrees with MBOI that while this Loan Agreement is in effect, CITY shall not, without the prior written consent of MBOI create or allow to be created any lien or charge upon the Public Improvements or Public Improvements Use Fee Agreement, except Permitted Encumbrances.

(b) In consideration of the provisions of Section 13 of this Loan Agreement and Section 10.3 of the Public Improvements Use Fee Agreement (regarding no financial liability of CITY), CITY agrees that it will require CONSUMER DIRECT in writing (through the Public Improvements Use Fee Agreement or the Lease) to perform any financial or pecuniary obligations of Grantor under the CITY Trust Indenture to the same extent that CITY would be required to perform such obligations in the absence of the limitations of Section 13 of this Loan Agreement and Section 10.3 of the Public Improvements Use Fee Agreement. CITY may delegate to CONSUMER DIRECT in writing (through the Public Improvements Use Fee Agreement or the Lease) any other obligations of Grantor under the CITY Trust Indenture, except any such obligations of Grantor under the CITY Trust Indenture that by their nature may be performed solely by Grantor; provided, however, that, subject to the provisions of Section 13 of this Loan Agreement and Section 10.3 of the Public Improvements Use Fee Agreement, no such delegation shall relieve CITY of its obligations as Grantor under the CITY Trust Indenture.

SECTION 13. LIMITED RECOURSE LOAN

The parties acknowledge and agree that the obligation imposed upon CITY for the Loan or under this Loan Agreement is not a general obligation of CITY, but is a special, limited obligation of CITY and shall not be payable from or a charge upon any general funds of CITY. The sole source of repayment for the Loan is the Public Improvements Use Fee, which will be assigned to MBOI, and any other collateral as provided herein and in the Related Documents. Neither the Note, nor any of the obligations or agreements of the CITY contained in this Agreement or any Related Documents, shall be construed to constitute an indebtedness of the CITY within the meaning of any constitutional, statutory or charter provisions whatsoever. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by CITY contained in any document executed by CITY in connection with the Public Improvements or the Loan shall give rise to any pecuniary liability of CITY or a charge against its general credit or taxing powers, or shall obligate CITY financially in any way except with respect to the Public Improvements Use Fees, the application of Use Fee payments, or the proper application of the Loan Proceeds, and no execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of CITY. Nothing herein shall preclude a proper party in interest from seeking and obtaining specific performance against CITY for any failure to comply with any term, condition, covenant or agreement herein or from resorting to any Collateral provided to secure the Loan; provided, that no costs, expenses or other monetary relief shall be recoverable from CITY except as may be payable from the Public Improvements Use Fee or proceeds of the Loan.

SECTION 14. RELEASE OF COLLATERAL

Within ten (10) Business Days after the Loan has been fully repaid and all other obligations performed under this Loan Agreement, MBOI will execute and deliver to CITY and/or CONSUMER DIRECT, as applicable, such request for reconveyance of the Trust

Indentures, reassignments and other documents as may be appropriate and necessary to release the Public Improvements from the lien of the Trust Indenture, release the Public Improvements Use Fee Agreement from the Assignment thereof, release the Lease from the Assignment thereof, release the Guarantors from the Guaranties, and to otherwise release all the collateral and security provided to secure CITY's performance under this Loan Agreement. Pursuant to the terms of the Consumer Direct Trust Indenture, the parties acknowledge and agree that the Supplemental Collateral may be released as collateral under this Loan Agreement upon sufficient prepayment of the principal on the Note, pursuant to the terms of the Consumer Direct Trust Indenture.

SECTION 15. NOTICE OF NONPAYMENT AND LOAN DEFAULT

CITY will be considered in default if any Public Improvements Use Fee payment from CONSUMER DIRECT to MBOI during the term of this Loan Agreement is ninety (90) days late. MBOI will provide written notice to CITY should any Public Improvements Use Fee payment to MBOI be thirty (30) days late and again if any such payment is sixty (60) days late. Should a Public Improvements Use Fee payment be ninety (90) days late, or any other default occurs under this Agreement, MBOI will provide to CITY formal notice of default in writing. Any notice provided by MBOI to CITY pursuant to this paragraph shall be copied to CONSUMER DIRECT and BANK OF MONTANA, pursuant to Section 31 of this Agreement, and CONSUMER DIRECT and BANK OF MONTANA shall each have the right, but not the obligation, to cure any such nonpayment or default within the applicable cure period.

SECTION 16. DEFAULT

Each of the following shall constitute an Event of Default under this Loan Agreement:

- (a) CITY fails to comply with or to perform any term, obligation, covenant or condition contained in this Loan Agreement or in any of the Related Documents.
- (b) Any event of default by CONSUMER DIRECT under the Public Improvements Use Fee Agreement, the Lease or any Related Document that is not cured as permitted in the Public Improvements Use Fee Agreement, the Lease or other applicable Related Document.
- (c) Any warranty, representation or statement made or furnished by CITY or on CITY's behalf under this Loan Agreement or in any of the Related Documents is materially false or misleading in any respect, either now or at the time made or furnished or at any time thereafter.
- (d) The dissolution or termination of CITY's existence as a going organization, the insolvency of CITY, the appointment of a receiver for any part of CITY's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against CITY.

(e) This Loan Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected Security Interest or lien) at any time and for any reason.

(f) Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any person or party against any or all of the Collateral. However, this event of default shall not apply if there is a good faith dispute by CITY as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if CITY gives MBOI written notice of the creditor or forfeiture proceeding and deposits with MBOI monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by MBOI, in its sole discretion, as being an adequate reserve or bond for the dispute.

(g) Sale, transfer, hypothecation, assignment, or conveyance of the Collateral or any portion thereof or interest therein by City or CONSUMER DIRECT, without MBOI's prior written consent.

(h) All or any material portion of the Collateral is condemned, seized, or appropriated without compensation, and CITY does not within 60 days after such condemnation, seizure, or appropriation, initiate and diligently prosecute appropriate action to contest in good faith the validity of such condemnation, seizure, or appropriation.

SECTION 17. DEFAULT REMEDIES

Whenever any event of default referred to in Subsection 16 hereof shall have happened and be continuing (after expiration of all applicable cure periods), MBOI shall have the right, at its option, to take any remedial steps it may have hereunder, under any Related Document or under applicable law, subject to the limitations of Section 13 hereof. Such remedial steps may include but are not limited to any one or more of the following:

(a) If the event CITY (or CONSUMER DIRECT on behalf of CITY) shall fail to make any payment of principal or interest when due as required by the Note, this Agreement or any Related Document, MBOI, at its option, may declare the entire sum then remaining unpaid to be immediately due and payable without notice, and the unpaid amount shall continue as a special purpose, limited obligation of CITY until fully paid;

(b) Resort, in its sole discretion, to any Collateral for payment or satisfaction of any obligation hereunder or under any Related Document, including without limitation foreclosing any one or both of the Trust Indentures, or exercising any or all of its rights under the Assignment of Public Improvements Use Fee Agreement or the Assignment of Lease, and nothing in this Agreement, the Public Improvements Use Fee Agreement or any Related Document (except the Landlord's Consent to Assignment or Master Agreement) shall require or

be construed to require that MBOI marshal assets or resort to the Collateral in any particular order or proportion with respect to any such default; and

(c) Exercise or seek any other remedy available under this Agreement or any Related Document, or available at law or in equity.

SECTION 18. LOAN PROCEEDS UTILIZATION

CITY agrees to utilize the Loan Proceeds to fund purchase, acquisition, construction and improvement of the Public Improvements. CITY shall not utilize Loan Proceeds for any other purpose unless authorized in writing by MBOI.

SECTION 19. JOB CREATION ESTIMATE

CONSUMER DIRECT has executed and delivered the Job Creation Estimate to MBOI, in which CONSUMER DIRECT estimates the number of jobs to be created, including estimated salaries and hiring schedules. CITY has no obligation to verify said estimate and, to the extent any such verification may be required, such verification shall be MBOI'S responsibility. CONSUMER DIRECT may provide and MBOI may require additional updated Job Creation Certificates at such times as provided in and according to the requirements of this Agreement or the Public Improvements Use Fee Agreement.

SECTION 20. CONTINUING RESPONSIBILITIES OF PARTIES

MBOI – Within 30 days after the end of each calendar year during the term of this Loan Agreement and any extension hereof, MBOI will provide a statement to CITY and CONSUMER DIRECT listing the interest and principal paid during the previous year. The amount of the payments may increase or decrease based on the timing of payments made during the previous year, any interest rate adjustments, and prepayments and any payment deferrals. Interest will be calculated as provided in Section 8 of this Loan Agreement. MBOI will provide the Montana Department of Revenue with information concerning the principal and interest payments made under the Public Improvements Use Fee Agreement to facilitate the calculation of any tax credit available to CONSUMER DIRECT.

CITY shall ensure that the initial Public Improvements Use Fee Agreement payment levels conform to the Amortization Schedule. Should MBOI revise the Amortization Schedule consistent with the provisions herein or the Related Documents, it shall provide notice in writing to CITY and CONSUMER DIRECT that the use fee is adjusted, either upward or downward, commensurate with the payment required in the revised Amortization Schedule.

SECTION 21. MODIFICATION TO LOAN AGREEMENT

This Loan Agreement may be modified only in writing signed by MBOI and CITY, and upon the written consent of CONSUMER DIRECT, except that the Amortization Schedule may be revised by MBOI without such further written agreement as provided in Sections 8, 9 and 20 of this Loan Agreement.

SECTION 22. LICENSES AND PERMITS

In the event only the owner of the property can reasonably take an action required for CONSUMER DIRECT's operations upon the Public Improvements, CITY shall provide reasonable assistance to CONSUMER DIRECT or take any such action reasonably requested by CONSUMER DIRECT. CITY will notify MBOI within 30 days of obtaining information or receiving notice that any license or permit under which CONSUMER DIRECT operates expires, terminates, is suspended or is discontinued by the State of Montana, the Federal Government or any other governmental agency. CITY will have 60 days from the date of notice to MBOI to provide evidence to MBOI that the license or permit is fully restored. If the license or permit is not fully restored prior to the expiration of the 60 days, MBOI may consider CITY in default of the Loan Agreement, and such shall constitute an Event of Default hereunder.

SECTION 23. GOVERNING LAW, JURISDICTION AND VENUE

This Loan Agreement is authorized by Montana law and will be interpreted according to Montana law. The parties hereby consent to jurisdiction and venue for any litigation or dispute arising from this Loan Agreement in the Montana state district court in the Fourth Judicial District in and for Missoula County.

SECTION 24. BINDING EFFECT AND ASSIGNMENT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. CITY shall not assign its interest in this Loan Agreement, except for the required assignment of the Public Improvements Use Fees to MBOI.

SECTION 25. SEVERABILITY

If any provisions of this Loan Agreement shall be determined to be unenforceable at any time, it shall not affect any other provision of the Loan Agreement.

SECTION 26. SURVIVAL OF REPRESENTATIONS AND WARRANTIES

CITY understands and agrees that in making the Loan, MBOI is relying on all representations, warranties, and covenants made by CITY in the Loan Agreement and all Related Documents. CITY further agrees that regardless of any investigation made by MBOI, all such representations, warranties and covenants will survive the making of the Loan, shall be continuing in nature, and shall remain in full force and effect until such time as CITY's

indebtedness shall be paid in full, or until this Loan Agreement shall be terminated in the manner provided herein, whichever is the last to occur.

SECTION 27. TERMINATION

This Loan Agreement shall terminate when the Loan has been paid in full, CITY has performed all other obligations under this Loan Agreement and MBOI has released all collateral as required under Section 14 of this Loan Agreement.

SECTION 28. ATTORNEY FEES

Each party shall be entitled to its reasonable costs and expenses, including attorneys' fees and legal expenses, incurred in connection with the prevailing enforcement of this Loan Agreement or the Related Documents. Either party may hire and pay one or more third parties to enforce or assist in the enforcement of this Loan Agreement or the Related Documents, and the non-prevailing party shall pay the costs and expenses of such enforcement. Costs and expenses include attorneys' fees, paralegals' fees and other legal expenses whether or not there is a lawsuit, including attorneys' fees, paralegals' fee and other legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. The non-prevailing party also shall pay all court costs and such additional fees as may be directed by the court.

SECTION 29. ENTIRE AGREEMENT

This Loan Agreement, together with the Exhibits incorporated herein and the Related Documents, constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes any and all previous agreements or commitments between the parties with respect to the subject or transactions contemplated herein. CITY represents and warrants that any agreement between it and CONSUMER DIRECT shall not be in conflict with this Loan Agreement and its Exhibits incorporated.

SECTION 30. EXHIBIT LEDGER

The following Exhibits are attached to this Loan Agreement:

<u>Exhibit</u>	<u>Document Name</u>
Exhibit A	City of Missoula Resolution
Exhibit B	Use Fee Note
Exhibit C-1	CITY Trust Indenture
Exhibit C-2	CONSUMER DIRECT Trust Indenture
Exhibit D	Amortization Schedule
Exhibit E	CONSUMER DIRECT Resolution

Exhibit F.....	Public Improvements Use Fee Agreement
Exhibit G.....	Assignment of Public Improvements Use Fee Agreement
Exhibit H.....	CITY Legal Opinion
Exhibit I	CONSUMER DIRECT Legal Opinion
Exhibit J	Job Creation Estimate
Exhibit K.....	Initial Job Credit Certification
Exhibit L	Assignment of Lease
Exhibit M-1	Guaranty of William F. Woody to MBOI
Exhibit M-2	Guaranty of Greer C. Woody to MBOI
Exhibit M-3	Guaranty of Bruce Kramer to MBOI

SECTION 31. NOTICES

All notices and other written communication regarding this Loan Agreement shall be submitted to the persons (or their successors) listed below:

Montana Board of Investments
2401 Colonial Drive – 3rd Floor
Helena, MT 59601
Attention: Doug Hill
Director of In-State Loan Programs

City of Missoula
435 Ryman Street
Missoula, Montana 59802
Attention: Dale D. Bickell
Chief Administrative Officer

With a copy to:

Consumer Direct Grant Creek Campus, LLC
100 Consumer Direct Way
Missoula, MT 59808

AND

Bank of Montana
125 Bank Street, Suite 100
Missoula, MT 59808

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be duly executed as of the date first written above.

MONTANA BOARD OF INVESTMENTS

By: _____
DOUG HILL
Director of In-State Loan Programs

CITY OF MISSOULA

By: _____
Its: _____

ATTEST

By: _____
Its: _____

STATE OF MONTANA)
 : ss.
County of _____)

On this ____ day of _____, 2017, before me, a notary public for the state of Montana, personally appeared Doug Hill, known to me to be the Director of In-State Loan Programs of the Montana Board of Investments, the State government agency that executed the within instrument, and acknowledged to me that such agency executed the same.

In witness whereof, I have hereunto set my hand and affixed my notarial seal on the day and year first-above written.

Notary Public for the State of Montana

(Notarial Seal/Stamp Above)

STATE OF MONTANA)
 :SS
County of Missoula)

On this _____ day of _____, 2017, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of the City of Missoula, a _____ established pursuant to Montana law, and acknowledged to me that they executed the written instrument on behalf of said municipal airport authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for the State of Montana

(Notarial Seal/Stamp Above)