

ORDINANCE NUMBER 1367-17

## EXECUTIVE SUMMARY

LEGISLATIVE REQUEST: Passage of legislation to accept prepayment of the Perry Payne, LTD. Community Development Block Grant Loan (CDBG) and the HUD 108 Loan (108) and enter into CDBG and HUD 108 Loan Agreement Modifications in support of the prepayment.

DESCRIPTION: The City agreed to loan Perry Payne, LTD. (the Borrower) \$550,000 in CDBG funds, evidenced by Community Development Block Grant Contract dated May 16, 1995 pursuant to Ordinance 150-95, passed March 13, 1995 and \$2,100,000 in HUD 108 funds, evidenced by Housing and Urban Development 108 Loan Contract dated September 26, 1995 pursuant to Ordinance No 150-95, passed March 13, 1995, to assist in the redevelopment of the Perry Payne Building from 99 office units to 93 residential rental units. The Perry Payne Building is located at 740 West Superior Avenue, Cleveland, Ohio 44113.

The Borrower has requested to prepay the CDBG and 108 Loans at approximately one third (\$650,000) of the outstanding Loan balances due on August 1, 2047.

The City agrees that prepayment makes additional funds available to the Department of Community Development by replenishing the CDBG funding source.

AMOUNT: There is no change to the CDBG Loan of Amount of \$550,000. The current Loan Balance is \$550,000.

There is no change to the 108 Loan of Amount of \$2,100,000. The current Loan Balance is \$1,405,000.

CURRENT LOAN TERMS: See attached chart

APPLICANT: Perry Payne, LTD.  
John J. Carney, Manager  
2001 Crocker Road  
420 Gemini Tower II  
Cleveland, Ohio 44145

COUNCILPERSON: Kerry McCormack, Ward 3

PROJECT PLAN: In 1994 and 1995 City Loan funds were used for the conversion and rehabilitation of a 99 unit office building into 93 units of market-rate rental apartments located in the Perry Payne Building. Perry Payne, LTD. will complete an Application for HUD Section 241 (a) Mortgage Insurance for Supplemental Loans for Multifamily Projects to repair and restore significant deterioration of the building's façade. The projected cost of this restoration is \$2,000,000.

The Borrower has outstanding loans with the City secured only by mortgages that are both subordinate to the existing first mortgage,

a HUD 223 (f) Multifamily Loan through Wells Fargo Bank National Association and to two Dollar Bank Notes.

Under this Loan hierarchy, Loan repayment from cash flow is applied to the HUD 223 (f) Loan first. The repayment of indebtedness to both the Dollar Bank and City Loans may be made only from the Project's Surplus Cash, as defined in the HUD, Dollar Bank, and City Loan Agreements. Under the current Debt Repayment Structure, the City Loans would not be paid off until 2035.

However, under the proposed HUD 241 (a) Loan structure, the City would have to agree to subordinate its Loans to the new Loan and to New Member Loans (partner loans to the project to pay for the HUD 241 (a) Application Fee and financing costs of the Application). The new loan structure would extend the City Loans repayment through 2057.

In an effort to address the façade repair as quickly as possible and secure the necessary financing to do so, the Borrower has requested to retire the indebtedness to the City through a prepayment of the City Loans. The City's consent to subordinate its Loans to new debt and extend the repayment schedule through 2057 would not be necessary. The City would realize repayment of its Loans by 2020.

REVISED LOAN TERMS:

1. A Modification of the CDBG Loans Terms to enable the City to accept, as payment in full, a \$183,333 prepayment of the CDBG Loan at approximately one third of the balance due.
  - a. The \$183,333 is payable in three successive annual payments commencing in 2018.
  - b. The Interest Rate is zero percent (0%). However, Interest shall accrue daily on a per diem basis at one percent (1%) monthly for each day the payment is late.
2. A Modification of the 108 Loan Terms to enable the City to accept, as payment in full, a \$466,667 prepayment of the 108 Loan at approximately one third of the balance due.
  - a. The \$466,667 is payable in three annual payments commencing in 2018.
  - b. The Interest Rate is zero percent (0%). However, Interest shall accrue daily on a per diem basis at one percent (1%) monthly for each day the payment is late.
3. Amendment of the Loan collateral and security instruments for both the CDBG and the 108 Loans.
  - a. The Loan collateral and security instruments for the prepayment of both Loans will be a Personal Guaranty from John J. Carney and a Personal Guaranty from Robert N. Rains.

- b. A Mortgage warranting to the City of Cleveland property located at 740 West Superior Avenue, Cleveland, Ohio 44113.

## EXECUTIVE SUMMARY

### CURRENT LOAN TERMS

PERRY PAYNE LTD.	HUD 108	CDBG
<b>LOAN AMOUNT</b>	\$2,100,000	\$550,000
<b>ORIGINAL LOAN DATE</b>	9-25-95	5-16-95
1st Amendment	7-30-2008 Amended the Mortgage and Promissory Note Permitted the conversion of project from rental units to for-sale condominium units Agreed to subordinate the Note and Mortgage to Dollar Bank and Federal Bank Loans	9-22-2015 Amended the Mortgage and Promissory Note
2 <sup>nd</sup> Amendment	7-16-2012 Refinance of senior debt with HUD 223 (f) Loan; required Modification of 108 Loan Contract to: <ul style="list-style-type: none"> <li>• subordinate to new Loan;</li> <li>• extend Maturity Date;</li> <li>• accept Surplus Cash for City Loan repayment</li> </ul>	7-29-2008 Permitted the conversion of project from rental units to for-sale condominium units Agreed to subordinate the Note and Mortgage to Dollar Bank and Federal Bank Loans
3 <sup>rd</sup> Amendment		7-16-2012 Refinance of senior debt with HUD 223 (f) Loan; required Modification of 108 Loan Contract to: <ul style="list-style-type: none"> <li>• subordinate to new Loan;</li> <li>• extend Maturity Date;</li> <li>• accept Surplus Cash for City Loan repayment</li> </ul>
<b>BALANCE</b>	\$1,405,000	\$550,000
<b>INTEREST RATE</b>	Fixed, 4%	Interest accrues annually at 3%
<b>LOAN TERM</b>	Per the Second Amendment to Loan Agreement dated July 16, 2012, the Loan Term is the same as that of the Senior Lender (Wells Fargo), 35 years	Per the Third Amendment to Loan Agreement dated July 16, 2012, the Term is the same as that of the Senior Lender (Wells Fargo), 35 years
<b>MATURITY DATE</b>	8-1-2047	8-1-2047
<b>REPAYMENT</b>	<u>Surplus Cash:</u> 1 <sup>st</sup> - to pay all amounts of accrued interest on Dollar Bank Note A; 2 <sup>nd</sup> - to pay all amounts of accrued interest on Dollar Bank Note B; 3 <sup>rd</sup> - to pay all principal amounts on Dollar Bank Note A until paid in full;	<u>Surplus Cash:</u> 1 <sup>st</sup> - to pay all amounts of accrued interest on Dollar Bank Note A; 2 <sup>nd</sup> - to pay all amounts of accrued interest on Dollar Bank Note B; 3 <sup>rd</sup> - to pay all principal amounts on Dollar Bank Note A until paid in full;

	<p>4<sup>th</sup> – after Note A is paid in full, to pay all principal amounts due on Dollar Bank Note B until paid in full;</p> <p>5<sup>th</sup> – after all principal and interest on Note B is paid in full, to pay all amount due on the 108 Loan until paid in full;</p> <p>6<sup>th</sup> – to pay all amounts due on the CDBG Loan until paid in full.</p>	<p>4<sup>th</sup> – after Note A is paid in full, to pay all principal amounts due on Dollar Bank Note B until paid in full;</p> <p>5<sup>th</sup> – after all principal and interest on Note B is paid in full, to pay all amount due on the 108 Loan until paid in full;</p> <p>6<sup>th</sup> – to pay all amounts due on the CDBG Loan until paid in full.</p>
<b>SECURITY</b>	<p>Non-Recourse Promissory Note Open-End Mortgage and Security Agreement on building and improvements</p>	<p>Non-Recourse Promissory Note Open-End Mortgage</p>