

# **CONTRACT FOR JOB RETENTION FORGIVABLE LOAN**

THIS LOAN AGREEMENT, entered into as of the date on the signature page, by and between the City of St. Joseph, Missouri and \_\_\_\_\_ on the terms, conditions and provisions as set forth hereinafter below.

## RECITALS:

WHEREAS, The City of St. Joseph (hereinafter referred to as the "City") is a Municipal Corporation located in Buchanan County, Missouri, is organized and existing under the laws of the State of Missouri, and is authorized and empowered to exercise all powers conferred by the State Constitution, laws and local ordinances, including but not limited to, the power to contract;

WHEREAS, \_\_\_\_\_, located at \_\_\_\_\_ St Joseph Missouri, will retain \_\_\_ current jobs;

WHEREAS, as an incentive to \_\_\_\_\_ located in St Joseph Missouri, the St. Joseph City Council is hereby providing a small business pandemic relief loan in an amount not to exceed \$5,000.00, to assist with the job retention herein.

NOW THEREFORE, IN CONSIDERATION OF THESE MUTUAL COVENANTS, the City and Grantee do hereby agree as follows:

## SECTION 1. Definitions - Abbreviations

1.1 "City" shall mean the City of St. Joseph, Missouri, acting by and through its City Manager, and grantor of the small business pandemic relief loan to \_\_\_\_\_.

1.2 "Grantee" shall mean \_\_\_\_\_ operating in St. Joseph, Buchanan County, Missouri, organized under the laws of the State of Missouri.

1.3 "City Manager" shall mean the City Manager of the City of St. Joseph, or said designee.

1.4 "Business or Company" shall mean \_\_\_\_\_, as referenced above.

1.5 "Business location" shall mean the property located at \_\_\_\_\_, St. Joseph, Buchanan County, Missouri.

1.6 "Small Business Emergency Pandemic Loan", or "Funds" shall mean the amount not to exceed \$5,000.00 provided to the Grantee to assist with salaries, utility bills, rent, and fixed costs , said loan is subject to the terms, conditions and performance measures as stated in this Contract.

1.7 "CDBG-CV" shall mean the Community Development Block Grant Program administered by the U.S. Department of Housing and Urban Development, and all rules and regulations as noted in 24 CFR Part 570, and any subsequent rules and regulations as noted in 24 CFR Part 570.

1.8 "Loan Agreement" shall mean this document between the City and Grantee for which said loan funds are based - and all attachments and exhibits; rules; regulations, and written approvals of the City, whether attached or merely mentioned, are to be considered to be as fully a part of this Loan Agreement as if attached to this Loan Agreement or recited in the Loan Agreement. Loan Agreement may synonymously be called the "Contract".

1.9 "Low and Moderate Income Person" shall mean a person determined to have a low or moderate income by HUD based on family size, a copy of HUD income guidelines for St. Joseph, Missouri, applicable to this Contract is attached as Attachment "1"

1.10 "Anniversary Date" shall mean the date of the executed contract of CDBG-CV loan funds that are released by the City to Grantee for eligible expenditures set forth herein.

1.11 "Term of Agreement" shall mean the Six (6) month period, beginning with the anniversary date.

## SECTION 2. Duties and Conditions of City Financing:

2.1 The City agrees to provide the Company with an Small Business Emergency Pandemic loan, and subject to the terms, conditions, and performance measures specified in this Contract. Such loan shall be in an amount not to exceed \$5,000.00.

2.2 The City's financial obligations in regard to this Contract shall cease upon the date that the requirements have been met by the Grantee. This contract and all subsequent reimbursements shall be administered by the City of St. Joseph, Planning and Community Development, Community Development Division, 1100 Frederick Avenue, Room 101A, St. Joseph, Missouri 64501. Said loan funds shall only be used for the purposes specified herein.

2.3 It is hereby mutually agreed between the parties hereto that the loan amount for said eligible operating expenses (salaries, rent, utilities, and fixed expenses) shall be paid to the Grantee.

2.4 A Unless otherwise requested in writing by the Grantee, checks shall be mailed directly to the Grantee at the address specified in Section 7 of this Contract. The

City shall only release checks to the Grantee's Signatories hereto; or other designee, provided the City receives a notarized statement from the Grantee Signatories authorizing the release of checks to said designee.

2.5 The Grantee understands and agrees that said loan funds are conditioned upon the Grantee's compliance to 24 CFR Part 570, Community Development Block Grants; Final Rule, attached and incorporated herein as Attachment "2".

2.6 The Grantee understands and agrees that loan funds are NOT to be used for any gratuitous expenses or bonuses, i.e. business entertaining, etc.

2.7 The Grantee shall ensure that all business and real estate taxes and licenses, regular and special, unless abated or eliminated by government authority, are to be paid up-to-date as of the scheduled time, and must remain current throughout the term of this Contract.

**SECTION 3. Duties and Responsibilities of Grantee:**

3.1 The Grantee shall be responsible for compliance with all existing and future federal regulations and OMB Circulars applicable to this Contract during the course of this activity, and all other duties, conditions, responsibilities noted in this Contract and necessary to meet the objectives under this Agreement for the duration of the loan.

3.2 The Grantee agrees to conduct its business activity according to sound business practices. The Grantee further agrees to allow the City or its designee to conduct routine monitoring of the business operation, including financial records and practices, during the term of this Agreement.

3.3 *Audits* -- the Grantee agrees to provide the City with a copy of a financial statement by a Certified Public Accountant, based on general accounting practices, within 150 days of the end of the Grantee's fiscal year, for the years in which loan funds are received for Business Expansion activity.

3.3A The Grantee agrees to resolve any and all audit findings in a timely manner, and to implement any and all audit recommendations.

3.4 The Grantee agrees to maintain detailed records, files, and sufficient documentation on the Business Expansion activity to show compliance with 24 CFR Part 570.506 and to be responsible for such record keeping. The Grantee further agrees to make all records concerning the Job Retention activity available at all times to the City and HUD during the term of this contract, and will allow the City and HUD to conduct routine monitoring and review of internal control and actual expenditures related to

funding herein. Further, the Grantee agrees to maintain detailed records, files, and sufficient documentation to substantiate the fulfillment of performance measures outlined in Sections 6 and 7 of this contract.

3.5 The Grantee agrees to resolve all City and HUD monitoring findings to the satisfaction of the City and HUD.

3.6 The Grantee agrees to provide the City with copies of information requested by the City relating to the Job Retention activity for the term of this contract.

3.7 The Grantee agrees to abide by all existing federal, state and local laws, rules, regulations and ordinances which now or hereafter may be in effect and applicable to this Contract.

3.8 The Grantee agrees to *indemnify, defend and hold harmless* the City, its officials, employees and agents from any violation by Grantee of said laws, rules, regulations, and ordinances.

#### SECTION 4. Mutual Agreements

4.1 The Grantee agrees, and the City states, that the City:

- a) Is not acting as Grantee's manager; and will play no role in activity, other than in the area of monitoring compliance to Contract.
- b) Makes no warranties, express or implied, in relation to the project.
- c) Owes no duty to the Grantee, or any other person, that shall arise because of any inspection of the premises by the City's agents or employees.

4.2 The parties to this contract agree that the Grantee is an independent contractor and that the Grantee shall not, under any circumstances, be deemed an employee of the City.

**4.3 The Grantee understands that no expenses incurred - or work or services performed on the Grantee's behalf - prior to the date of this Contract shall be eligible for payment.**

4.4 The Grantee agrees that all legal responsibility for such environmental review, legal costs associated thereto, and effective resolution of legal matters, shall be the responsibility of the Grantee and/or the selected consultant. The Grantee agrees that the consultant of environmental review shall be available to address in writing any and all public comments which may arise as a result of the Environmental Review Procedures.

## SECTION 5. Provisions of the Agreement

5.1 Equal Employment Opportunity. This Agreement is subject to all federal, state and local laws, rules, and regulations pertaining to equal employment opportunity, including:

a) The Grantee agrees to provide employment and contracting opportunities for residents, businesses and lower income persons and further agrees to insert in all contracts and subcontracts for work or services assisted in-whole or in-part with the grant funds, the requirements of the Housing and Urban Development Act of 1968, as amended, and the City's requirements for providing opportunities to residents.

b) The Grantee agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, age, disability, familial status or national origin; and shall take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment without regard to the above. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training including apprenticeships. The Grantee shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause and shall agree that all qualified applicants will receive consideration for employment without regard to the above stated categories.

c) The Grantee agrees to provide the City data on each employee employed through this agreement, beginning with the date of this contract and for a period of three years after the completion date. Such data is to be maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEOC-4 form: The Grantee agrees to provide the City with documentation of actions taken to assure equal employment opportunities to all persons.

d) The Grantee agrees to comply with Title VII of the Civil Rights Act of 1964 and will require all its contractors and subcontractors to comply with this Act, which prohibits unfair or discriminatory employment practices.

e) The Grantee shall not, in the performance of this Agreement, discriminate or permit discrimination.

5.2 Other Requirements by which this Agreement is Governed:

a) The requirements of Executive Order 11246 and the regulations issued under the Order at 41 CFR 60, relating to nondiscrimination in employment

by recipient of federal funds in nondiscrimination of employment by contractors and subcontractors of federally assisted projects.

b) The requirements of Executive Orders 11625 and 12432, relating to the expanded use of Minority Business Enterprises; and 12138, relating to the expanded use of Women Business Enterprises.

5.3 Captions. Captions used in this Agreement are for convenience and are not used in the construction of this Agreement.

5.4 Interest of Parties. No employee of the Grantee, or its designees or agents, directors or officers, no employee of the City and no other public official of such locality or localities who exercises any functions or responsibilities related to this Contract, with respect to his/her tenure for one year thereafter, shall have any interest, direct or indirect, in this Contract or sub-contract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

5.5 Merger. This Agreement shall not be merged into any other oral or written Agreement, lease or deed of any type.

5.6 Modification. This Agreement, together with the attached Loan Documents and Attachments, contains the entire Agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms herein unless done in writing and signed by an authorized officer of the respective parties.

5.7 Assignment. The terms of this Contract shall be binding on the parties and their heirs, successors, assigns, agents or representatives, and the terms herein may only be modified in writing and executed by the parties hereto.

5.8 Drug Free Workplace. The Grantee agrees to comply with the Drug Free Workplace Act of 1988 (Pub. L 100-690, Title V, subtitle D), and agrees to file with the City the attached "Certification Regarding Drug-Free Workplace Requirements." (See Attachment "3") The Grantee further agrees that contractors and subcontractors shall comply with said Act.

5.9 Strict compliance. All provisions of this Agreement and each and every document that is attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from authorized representatives of the parties.

5.10 Default of Grantee. In the event the Grantee shall default in the performance of any terms, covenants, conditions, sections or Agreements to be performed under this Agreement, or attachments and exhibits hereto, the City shall have the right to terminate the Agreement and demand repayment of loan funds as stated herein, and/or

avail itself of any remedy available to it at law or in equity, including specific performance. For purposes of this section, the insolvency, bankruptcy, dissolution or termination of existence of \_\_\_\_\_, or an assignment for the benefit of creditors, or the appointment by any judicial authority or any person to take charge of its assets or the involuntary sale of said loan or advances, shall also constitute a default by the Grantee hereunder.

5.11 Non-Conformance to Agreement. The Grantee's failure to comply with any portion of this Agreement shall be construed as material non-conformance to the Agreement and shall result in the termination of the Agreement.

5.12 Termination of Agreement. In the event this Agreement is terminated by the City because of non-conformance, any loan funds disbursed to the Grantee, shall become due and payable at the City's discretion.

5.13 Concerning Lobbying. To the best of its knowledge and belief, the Grantee contends that NO federal appropriated funds have been paid by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, or Member of Congress in connection with the awarding of any federal contract, the making of any Federal grant, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, or cooperative agreement;

- a) The Grantee agrees that if any funds other than Federal appropriated funds, including City funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
- b) The Grantee agrees that the language of this section be included in the award documents for all contracts funded in-whole or in-part with federal funds to all tiers, and that all tiers shall certify and disclose accordingly.

**SECTION 6. Low and Moderate Income Job Retention -- Special Conditions of Grantee to this Agreement.**

6.1 -- During this Six (6) month Contract term, the Grantee agrees to retain \_\_\_ (?) full-time low-moderate income job(s) for receipt of CDBG-CV funds released under this Contract. Failure to comply the benchmark will result in breach of contract and repayment of the loan and will not be forgiven.

6.2 The Grantee further commits and agrees that at least fifty-one percent (51%) of the jobs are classified as a low-moderate job in accordance with HUD guidelines.

These jobs will be held by or will be "taken by" low and moderate income persons according to the practices established by HUD.

6.3 The Grantee agrees to comply with the following provisions:

- a) To provide the City, prior to the release of Grant funds, with a current listing of all employees and their job titles as of the date of this Contract.
- b) To provide the City, prior to the release of grant funds, with detailed information on each job, including: Job title; minimum skills; experience and education required; hourly wage or salary scale; and special skills required for job. However, the Grantee nevertheless agrees to hire unqualified persons and provide training for them.
- c) To provide for City review and approval, a Retention Plan. Such plan shall include actions, which will be taken to ensure that at least 51% of the jobs are held by or filled by low and moderate-income persons. The Grantee agrees to adapt practices to recommendations of the City in an effort to provide maximum opportunities to low and moderate-income persons.
- d) In addition to following equal employment hiring practices, the Grantee agrees to achieve a Minority Hiring Goal based on said jobs. Said goal shall be representative of St. Joseph's total minority population, or seven percent (7%) of said jobs.
- e) The Grantee agrees to retain the following information on job applicants and those hired under this Section of the Contract:
  - 1) Copies of all applications.
  - 2) A listing of all pertinent information to all applicants including: Name; date of application; number of dependents; marital status; sex; race/ethnic and disability information; date interviewed; date job offer made if applicable; date offer accepted or denied; position applied for; position interviewed for; reason applicant was denied position or not interviewed; low and moderate income status. For applicants hired, whether or not the employee is a single head of household (male or female) with children.
  - 3) For applicants interviewed and/or hired, information substantiating that such persons qualify according to HUD income guidelines based on their household/family income. Acceptable documentation for those interviewed would be a signed certification itemizing their household/family income. For those actually hired, a copy of their most recent Income Tax Form.



- 4) A cumulative listing by job title of *all* new permanent full-time jobs filled and which jobs were initially held by low and moderate income persons, including hiring and termination dates, and reason for termination.
  - 5) Such additional information as may be required to document compliance.
- 6.4 The Grantee agrees to retain jobs as required under this section, and to meet the low and moderate-income hiring requirements or the full loan amount released under this contract shall be repaid to the City.
- 6.5 Employment of Unauthorized Aliens Prohibited
- a. Grantee shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of this contract, Grantee shall affirm, by sworn affidavit and provision of documentation, its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Aquaterra shall also affirm, by sworn affidavit, that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.
  - b. Grantee agrees to abide by any and all rules promulgated by the attorney general that are designed to implement R.S.Mo. Sections 285.525 – 285.550.

SECTION 7. Authorized Representatives

In further consideration of the mutual covenants contained herein, the parties hereto expressly agree for the purpose of notice, including legal service of process, during the term of this Agreement and for the period of any applicable Statute of Limitations thereafter, that the following named individuals shall be authorized representatives of the parties.

**City of St. Joseph**  
City Manager  
1100 Frederick Avenue  
St. Joseph, Missouri 64501

**123 Company**  
\_\_\_\_\_  
St. Joseph, MO 64501

IN WITNESS WHEREOF, the parties hereto have set their hands, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**SIGNATURES BY CITY:**

CITY OF ST. JOSEPH

\_\_\_\_\_  
City Manager

ATTEST: (Seal)

\_\_\_\_\_  
City Clerk

I HEREBY CERTIFY that there is an unencumbered balance to the credit of such appropriation to pay for that portion of the Contract, which will constitute the City of St. Joseph's pro rata share and actual contribution to the project.

\_\_\_\_\_  
Director of Administrative Services

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

**SIGNATURES OF COMPANY:**

Managing Member of 123 Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Managing Member

ATTEST: (Seal)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Typed Title

**SIGNATURES OF INDIVIDUALS:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

ATTEST: (Seal)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Typed Title

## **ATTACHMENTS AND EXHIBITS**

Attachment "1"	Income Guidelines
Attachment "2"	**Community Development Block Grant Regulations, 24 CFR Part 570
Attachment "3"	Certification Regarding Drug-Free Workplace Requirements
Attachments "4"	Verification of Income of Employee(s) Benefiting from the City of St. Joseph's Small Business Emergency Pandemic Loan

\*\* Due to the length of this document is included as reference and a complete and accurate copy of this document can be reviewed in the office of Planning and Community Development.