

## SMALL BUSINESS FORGIVABLE LOAN AGREEMENT

This Agreement is entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ among the City of Muscatine, Iowa (the “City”), \_\_\_\_\_ [Name of Business] (the “Company”) and \_\_\_\_\_ [Name of individual guarantor] (the “Individual(s)”) and together with the Company, the “Borrower”).

WHEREAS, the City, pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 15A and Chapter 403 of the Code of Iowa, has established its Small Business Forgivable Loan Program (the “Program”) in order to make available public funds for the support of economic development initiatives and business development in the community; and

WHEREAS, the Program includes the funding of forgivable economic development loans to private entities for the funding of improvements to local businesses and business facilities; and

WHEREAS, this Small Business Forgivable Loan Agreement (the “Agreement”) between the City and the Borrower has been prepared to facilitate the funding of a forgivable economic development loan in the maximum amount of \$\_\_\_\_\_ (the “Forgivable Loan”) from the City to the Borrower in connection with certain improvements to be undertaken by the Borrower (the “Improvements”), which Improvements are described on Exhibit A hereto; and

WHEREAS, the Improvements are for the benefit of the Borrower’s business (the “Business”), which Business and the regular operations thereof are described on Exhibit B hereto; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

**A. Borrower’s Covenants**

1. The Borrower agrees to undertake and complete the Improvements by \_\_\_\_\_ (the “Completion Date”), subject to any extensions granted to the Borrower by the City, and to use the proceeds of the Forgivable Loan solely in connection therewith. All improvements must be completed by the first anniversary of the origination of the loan.

2. The Borrower agrees that it will own and operate the Business as described on Exhibit B throughout the term of the Forgivable Loan, aside from any interruptions in regular operations resulting from construction of the Improvements and with any exceptions from such regular operations as are agreed to in writing by the City.

3. The Borrower agrees to repay all un-forgiven principal of the Forgivable Loan in five (5) equal annual installments due on the first, second, third, fourth and fifth anniversary of the Completion Date (\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_) (each, an "Anniversary Date"), unless the loan is otherwise forgiven in accordance with the conditions hereinafter set forth in Section B.2. The Borrower hereby acknowledges and agrees to the loan repayment forgiveness conditions set forth in Section B.2 of this Agreement. The Borrower reserves the right to prepay such principal in any amount at any time without penalty. Payment of principal on the Forgivable Loan shall be made to the City of Muscatine at 215 Sycamore, Muscatine, Iowa 52761-3840 (the "City Administrator's Office") by 4:00 p.m. on each Anniversary Date, as set forth herein. The Borrower shall execute a promissory note in favor of the City to evidence its obligations with respect to the Forgivable Loan. The promissory note shall be in substantially the form as set forth on Exhibit C hereto.

4. The Borrower agrees to submit an annual report to the City not more than 45 days not less than 30 days before each Anniversary Date demonstrating to the satisfaction of the City that the Borrower continues to maintain ownership of the Business and is operating the Business in accordance with its regular operations, as described on Exhibit B hereto. The Annual Report shall include such information, documentation and/or records as the City may require, which information, documents and/or records are listed on Exhibit B hereto.

5. The Borrower understands the city will file UCC-1 form.

**B. City's Obligations**

1. The City hereby agrees to deliver to the Borrower proceeds of the Forgivable Loan in its entirety in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) on the date hereof.

2. The City will file UCC-1 Form to secure a position as a creditor for its loan until expiration.

3. Subject to the adequate demonstration (as set forth in Section A.4 above) by the Borrower, the City agrees to forgive one-fifth (1/5th) of the principal amount of the Forgivable Loan on each Anniversary Date such that if the Borrower continues to own and operate the Business as covenanted in Section A.2 above until the fifth Anniversary Date (\_\_\_\_\_), the Forgivable Loan would be entirely forgiven.

4. Promptly following discharge of the Borrower's obligations under the Forgivable Loan, whether by repayment as set forth in Section A.3. above, forgiveness as set forth in Section B.2. above, or a combination of repayment and forgiveness, the City agrees to cooperate with Borrower to file a release of the Mortgage or the Financing Statement at Borrower's expense.

**C. Events of Default, Remedies & Offset.**

1. The occurrence of any of the following shall constitute an Event of Default:

- a. The Borrower shall fail to complete the Improvements by the Completion Date.
- b. The Borrower shall cease to own or operate the Business as covenanted in Section A.2 above.
- c. The Borrower shall fail to make when due, whether by acceleration or otherwise, any payment of principal of the Forgivable Loan.

2. If any Event of Default described in Section C.1 shall occur and be continuing for a period of five (5) days after notice of such Event of Default has been given to the Borrower, then the City may declare the outstanding unpaid principal balance of the Forgivable Loan to be forthwith due and payable, whereupon the Forgivable Loan shall immediately become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything in this Agreement to the contrary notwithstanding.

**D. Administrative Provisions**

1. This Agreement may not be amended or assigned by either party without the written consent of the other party.

2. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

4. This Agreement shall remain in full force and effect during the time period (the "Term") commencing with the date first written above and terminating on \_\_\_\_\_ (the fifth Anniversary Date).

The City, the Company and the Individuals have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF MUSCATINE, IOWA

By \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
COMPANY

By \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
INDIVIDUAL

By \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Notary Public:

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Signed and sworn to (or affirmed) before me on  
Date: \_\_\_\_\_,  
By: \_\_\_\_\_,

Signature: \_\_\_\_\_

**EXHIBIT A – IMPROVEMENTS**

*(Describe the improvements to be undertaken with the Forgivable Loan.)*

**EXHIBIT B – BUSINESS AND OPERATIONS**

*(Describe the Borrower’s business and the regular operations of that business.)*

*(List any and all information, documents and/or records Borrower will be required to present pursuant to Section A.4. of the Loan Agreement.)*

**EXHIBIT C – FORM OF PROMISSORY NOTE**

**MAXIMUM PRINCIPAL AMOUNT:** \$ \_\_\_\_\_

**Interest Rate:** 0%

**Dated:** \_\_\_\_\_, 20\_\_

\_\_\_\_\_ (the “Company”) and \_\_\_\_\_ (the “Individual(s)”) and together with the Company, the “Borrower”) for value received, promises to pay, to the City of Muscatine, Iowa (the “City”), its successors or assigns, the principal sum of \_\_\_\_\_ (\$ \_\_\_\_\_), in lawful money of the United States of America, in five equal annual installments on \_\_\_\_\_ in each of the years 20\_\_ to 20\_\_, inclusive.

The City has made a forgivable loan to the Borrower the principal amount of \$ \_\_\_\_\_ (the “Forgivable Loan”) under this Promissory Note (the “Note”) and under a certain Small Business Forgivable Loan Agreement (the “Agreement”) between the City and the Borrower dated \_\_\_\_\_, 20\_\_, and reference is hereby made to the Agreement for a more complete description of the rights and obligations of the parties.

The Forgivable Loan shall be forgiven by the City in accordance with the terms and schedule set forth in the Agreement.

Payment of principal of the Forgivable Loan shall be made to the City of Muscatine at 215 Sycamore, Muscatine, Iowa 52761-3840 at 4:00 p.m. on \_\_\_\_\_ in each of the years 20\_\_ to 20\_\_, unless sooner forgiven in accordance with the Agreement.

The Borrower reserves the right to prepay principal of this Note, in whole or in part, without penalty, at any time prior to maturity.

In the event of a default under the Agreement which has not been cured in accordance with the terms of the Agreement, including the failure to make payments of principal as they come due under the terms of the Agreement, the Borrower agrees to pay all costs and expenses of collection, including reasonable attorney’s fees. The Borrower waives demand, presentment, notice of non-payment, protest, notice of protest and notice of dishonor.

This Note is secured, and its maturity is subject to acceleration in each case upon the terms provided in the Agreement.

The validity, construction and enforceability of this Note shall be governed by the internal laws of the State of Iowa without giving effect to the conflict of laws principles thereof.

\_\_\_\_\_  
BORROWER

By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
INDIVIDUAL

By: \_\_\_\_\_  
Title: \_\_\_\_\_