

**AGREEMENT
BETWEEN
CITY OF LAREDO, TEXAS and LIFTFUND INC.**

THIS AGREEMENT ("Agreement") is entered into as of the date of the last signature set forth on the signature page below ("Effective Date") between the **CITY OF LAREDO, TEXAS**, a political subdivision of the State of Texas ("CITY"), duly acting herein by and through the City of Laredo City Council ("City Council") for and on behalf of CITY and **LIFTFUND INC. CONTRACTOR**"), a nonprofit corporation of the State of Texas, for the purposes and considerations stated below:

WHEREAS, the City Council of the City of Laredo, Texas, has investigated and determined that it is in the best interest of the CITY and its citizens to encourage programs, including programs for making loans of public money to promote local economic development and stimulate business and commercial activity in the CITY; and

WHEREAS, the CONTRACTOR is a private, non-profit organization that was created to provide credit and services to small businesses and entrepreneurs who do not have access to loans from commercial sources and to provide leadership and innovation to the micro-lending industry; and

WHEREAS, the CITY has received funds from the Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act and determined that allocating funds to promote programs that will stimulate and encourage business and commercial activity in the CITY caused by the COVID-19 pandemic, retain and expand job opportunities, and build the property tax base remains a high priority for the CITY; and

WHEREAS, in accordance with this LOAN PROGRAM and in the interest of retaining and expanding job opportunities and building the property tax base, the will use its own capital to provide principle for low-interest loans for qualifying small businesses and entrepreneurs and use the amount not to exceed FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$500,000.00) in total program funding provided by the CITY to "buy-down" the interest rates to zero percent (0%) on each individual loan.

NOW, THEREFORE, upon and in consideration of the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. PURPOSE.

The purpose of this Agreement is to help small businesses in the City of Laredo that have suffered financial losses as a result of COVID-19 ("Purpose"). The provision of the economic benefits contemplated by this Agreement will be to contributions toward a broader purpose of stimulating

and encouraging business and commercial activity, and increasing job opportunities during that difficult time.

SECTION 2. TERM.

The term shall be effective upon approval by the City of Laredo's City Council for the period of one (1) calendar year beginning on the date of the last signature set forth on the signature page below and ending one (1) calendar year later ("Expiration Date"), or the date in which all funds have been exhausted, whichever occurs earlier, or ("Term"), unless otherwise terminated on an earlier date in accordance with the terms of this Agreement. In the event that after the Expiration Date all funds have not yet been exhausted, the Agreement can be reviewed and the parties may mutually agree to renew the Agreement for successive one (1) year terms ("Term"), unless otherwise terminated on an earlier date in accordance with the terms of this Agreement.

SECTION 3. AMERICAN RESCUE PLAN ECONOMIC DEVELOPMENT INTEREST BUY-DOWN LOANS

1. Subject to the CONTRACTOR continued fulfillment of all the terms, conditions, representations and warranties contained in this Agreement during the Term, the CITY will provide the CONTRACTOR American Rescue Plan Act Interest Buy-down funds in the amount up to and not exceeding FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$500,000.00), to be utilized as presented below:

| | |
|---|---------------------|
| Interest Buy-down Program Funds | \$495,000.00 |
| Administration and Services | \$ 0.00 |
| Community Outreach & Marketing | \$ 5,000.00 |
| Total | \$500,000.00 |

2. The American Rescue Plan Interest Buy-down Loans funds provided by the CITY for administrative expenses shall be expended by the CONTRACTOR only for those costs and expenses directly related to the CONTRACTOR's provision of the services described in SECTION 4. American Rescue Plan Interest Buy-down Loans funds must never be used by the CONTRACTOR for the payment of staff bonuses or performance payments, entertainment, gifts, or legal expenses.
3. The CONTRACTOR will submit a request for payment quarterly included with each report.

SECTION 4. SCOPE OF SERVICES.

The CONTRACTOR intends to utilize funds for principal from the CONTRACTOR's own funding, and other sources.

SECTION 5. REPORTING REQUIREMENTS.

1. The CONTRACTOR will provide **quarterly** status reports 45 days after each quarter end during the Term to the City of Laredo Economic Development department until funds are fully exhausted, or through the end of the Term in a mutually-acceptable format that details the CONTRACTOR's efforts in providing these Loans to the City of Laredo Interest Buy-Down Program.
2. In addition, at the option of and on request of the CITY, representatives of the CONTRACTOR must provide a briefing to City Council during a scheduled public meeting to report on CONTRACTOR'S efforts.

SECTION 6. FISCAL MANAGEMENT AND RECORDS RETENTION.

1. The CONTRACTOR will properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to Interest Buy-Down funds provided hereunder, and will make such materials available to the CITY at its office and at a reasonable time if CITY deems necessary during the Term for purposes of inspection, examination, and making excerpts and/or copies of same by CITY or its authorized representatives.
2. The CITY may audit the CONTRACTOR's records to determine their compliance with the terms of this Agreement. The CONTRACTOR, during normal business hours, shall allow the CITY reasonable access to its records and books and all other relevant records related to the terms of this Agreement.
3. The CONTRACTOR must establish and use commercially reasonable internal accounting and administrative controls to preclude theft, embezzlement, improper inducement, obstruction of investigation or other criminal action and to prevent fraud or abuse.
4. An accounting system using at least generally accepted accounting practices for governmental entities that accurately reflects all costs and expenses related to the American Rescue Plan Act Interest Buy-down Loans (paid and unpaid) and chargeable to this Agreement is mandatory.
5. The CONTRACTOR acknowledges that City of Laredo Interest-Buy Down funds provided by the American Rescue Plan and pursuant to this Agreement are public funds and must be expended and accounted for in accordance with the laws of the State of Texas. Accordingly, the CONTRACTOR agrees to keep a separate general ledger account for Interest Buy-Down funds and to clearly document, by way of loan contracts or other similar documentation, all expenditures of Interest Buy-Down funds and to provide an accounting of those expenditures upon request of the CITY.
6. Upon termination of this Agreement, any American Rescue Plan Act Interest Buy-down Loan funds given to CONTRACTOR by the CITY that have not been utilized before the date of

completion or termination must immediately be returned to CITY. The provision applies to funds that were to be utilized for administration and services or Interest Buy-down.

7. The CONTRACTOR agrees to abide by and adhere to applicable federal or state provisions regarding financial accounting.
8. The CONTRACTOR will retain all documents related to the American Rescue Plan Act Interest Buy-down funds provided hereunder for a period of three (3) years from the date of termination or expiration of the Term. If, however, at the end of retention period there is litigation involving or concerning the above documentation, the CONTRACTOR will retain the records until the resolution of such litigation.

SECTION 7. INDEMNIFICATION.

1. TO THE EXTENT ALLOWED BY LAW, THE CONTRACTOR WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS, THE CITY AND THE CITY'S OFFICERS AND EMPLOYEES FROM ALL CLAIMS OF PROPERTY DAMAGE, PROPERTY LOSS, PERSONAL INJURY, DEATH, ILLNESS, INTELLECTUAL PROPERTY RIGHT INFRINGEMENT, REGULATORY COMPLIANCE ARISING FROM THE CONTRACTOR AND/OR THE CONTRACTOR'S EMPLOYEES' SERVICES, CONTRACTORS, SUBCONTRACTORS, OR LICENSEES ACTIONS OR OMISSIONS. THE OBLIGATION UNDER THIS SECTION REMAINS IN EFFECT FOR ALL CLAIMS ARISING DURING THE TERM OF THIS CONTRACT.
2. CONTRACTOR shall make the indemnity requirement of this Article a requirement of any subcontracts where the subcontractor is providing any of the services required under this Agreement. In any such subcontract, in addition to CITY being an indemnitee, CONTRACTOR shall also be named as an indemnitee.

SECTION 8. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION.

1. CONTRACTOR will comply with all applicable local, state and federal equal employment opportunity and affirmative action rules, regulations, and laws.
2. If CONTRACTOR or its subcontractors fail to comply with local, state and federal equal employment opportunity and affirmative action rules, regulations, and laws, CONTRACTOR may be barred from further contracts with CITY.

SECTION 9. REPRESENTATIONS OF THE CONTRACTOR.

1. The CONTRACTOR represents that the execution and performance of this Agreement has been duly authorized by its governing authority and does not require the consent or approval of any other person or entity which has not been obtained. Additionally, the individual executing this Agreement on behalf of the CONTRACTOR represents, warrants, assures and

guarantees that he or she has full legal authority to execute this Agreement on behalf of the CONTRACTOR and to bind the CONTRACTOR to all terms, performances and provisions herein contained. In the event that a dispute arises as to the legal authority of either the CONTRACTOR, or the person signing on behalf of the CONTRACTOR, to enter into this Agreement, CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement.

2. The CONTRACTOR represents that the American Rescue Plan Act Interest Buy-down Loans funds provided under this agreement will be utilized only for the purposes described in SECTION 1. The CONTRACTOR agrees that any change in use of funds must have the prior approval of the City Council, such approval not to be unreasonably withheld or delayed.
3. The CONTRACTOR represents and warrants that the American Rescue Plan Act Interest Buy-down Loans funds will be dispersed according to the terms contained in the Agreement and **Attachment "A."**
4. The CONTRACTOR represents that it will conduct its activities utilizing American Rescue Plan Act Interest Buy-down Loans funds in accordance with all applicable federal and state laws.
5. The CONTRACTOR represents that it is in good standing under the laws of the State of Texas and has all power and authority to carry on its business as presently conducted in Laredo, Texas.
6. The CONTRACTOR represents that it has timely filed and will timely file all local, State, and Federal tax reports and returns required by laws to be filed and all taxes, assessments, fees, and other governmental charges, including applicable ad valorem taxes, have been timely paid, and will be timely paid, during the term of this Agreement.

SECTION 10. DISPUTES.

The Parties agree to cooperate with each other in good faith to resolve all disputes arising under this Agreement.

SECTION 11. DEFAULT, TERMINATION, AND REPAYMENT OF INTEREST BUY-DOWN LOANS.

1. During the Term, should the CITY determine that the CONTRACTOR has failed to comply with any term or condition of this Agreement, or if any representation or warranty made by the CONTRACTOR to CITY in this Agreement is false or misleading in any material respect (each, a "Default"), then CITY may declare such Default under Section 13 Notice provisions and terminate this Agreement in accordance with the procedure described herein. If CITY provides the CONTRACTOR with written notice of a Default(s) ("Default Notice"), and the Default(s) as identified in the Default Notice is not cured within seven (7) days from the date

the Default Notice is effective per Section 13 Notice provisions ("Cure Period"), then this Agreement shall automatically terminate effective as of the date of the expiration of the Cure Period ("Termination Date"). CITY may, in its sole discretion, extend the Cure Period if the CONTRACTOR commences the cure within the Cure Period and is diligently pursuing such cure. In the event of a termination of this Agreement pursuant to this Section, the CONTRACTOR agrees to repay any unspent American Rescue Plan Act Interest Buy-down Loans and unspent funds representing unearned Administrative and Services fees.

2. The CITY may terminate this Agreement for its convenience upon Notice per Section 13. Notices, and without the requirement of an event of default by CONTRACTOR which shall become effective per the terms in Section 13 Notices. Should the CITY terminate this Agreement for its convenience, within 14 business days of the effective Notice date, CONTRACTOR shall provide documentation of all Interest Buy-down Loans disbursed and return any remaining funds advanced by the CITY that remain undistributed to Interest Buy-down Loans recipients due and submit a final request for reimbursement to the CITY
3. The CONTRACTOR agrees that any unspent amounts received from the CITY under this program which become due and owing under this Section shall be paid to CITY within fourteen (14) business days after the effective Notice date.
4. The remedies contained herein are non-exclusive, and CITY shall have any and all remedies it may be entitled to in law or in equity. The exercise of any remedy by CITY shall not be deemed as a waiver of any other remedy to which CITY may be entitled.

SECTION 12. ASSIGNMENT.

1. No legal or business entity other than the CONTRACTOR shall be entitled to receive the benefit of the American Rescue Plan Act Interest Buy-down Loans provided under this Agreement, including any entity resulting from a merger, reorganization, or any other form of business combination involving the CONTRACTOR, without the prior written consent of CITY, acting by and through the City Council (such consent not to be unreasonably withheld or delayed). In addition, this Agreement shall not be assigned by the CONTRACTOR to any other legal entity without the prior written consent of CITY (such consent not to be unreasonably withheld or delayed). Any attempted transfer of the rights and responsibilities under this Agreement or the assignment of this Agreement without prior approval of CITY, acting by and through the City Council, shall be void and this Agreement shall terminate triggering the repayment provisions of Section 11.
2. In the event of an assignment by the CONTRACTOR to which CITY has consented in writing, the assignee, or the assignee's legal representative, shall agree in writing with CITY to assume, perform, and be bound by the covenants, obligations, and agreements contained in this Agreement. The CONTRACTOR agrees that such an assignment shall in no way relieve it from any obligation created under this Agreement.

SECTION 13. NOTICES.

All notices provided to be given under this Agreement must be in writing, and shall either be personally served against a written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid, and addressed to the proper Party at the address which appears below, or at such other address as the Parties hereto may hereafter designate in accordance herewith. All notices given by certified or registered mail shall be deemed to have been given when received, and shall be effective from such date received.

CITY OF LAREDO:

1110 Houston Street
Laredo, Texas 78042
City Manager
Joseph W. Neeb

LIFTFUND INC.

2014 S. Hackberry
San Antonio, Texas 78210
President and CEO
Laurie Vignaud

SECTION 14. SEVERABILITY.

In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word contained in this Agreement is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the Parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In such event, there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal, and enforceable to effectuate the purpose of this Agreement.

SECTION 15. RELATIONSHIP OF PARTIES.

Nothing contained herein shall be deemed or construed by the Parties hereto, or by any third-party as creating the relationship of principal and agent, employer-employee, partners, joint ventures or any other similar such relationship between the Parties and the CONTRACTOR has complete control of, and sole right to control, the performance of all work performed in connection with the business activities of the CONTRACTOR.

SECTION 16. APPLICABLE LAW AND VENUE.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of law principles that would require the application of the laws

of any other state. Venue for any action brought hereunder (including any action in federal court) will be exclusively in the City of Laredo, Texas.

SECTION 17. AMENDMENT OF AGREEMENT.

No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties hereto.

SECTION 18. ENTIRE AGREEMENT.

This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreements between the Parties respecting the subject matter within.

IN WITNESS WHEREOF, this Agreement is executed in duplicate originals effective this 7th day of February, 2023. 2024

CITY OF LAREDO, TEXAS

LIFTFUND INC.

By: Joseph W. Neeb

Joseph W. Neeb

City Manager

Date: 2-7-24

By: Laurie Vignaud

Laurie Vignaud

President and CEO

Date: 2/6/2024

ATTEST:

By: Jose A. Valdez, Jr.

Jose A. Valdez, Jr.

City Secretary

APPROVED AS TO FORM ONLY:

By: Doanh T. Nguyen

Doanh T. Nguyen

City Attorney



MEMORANDUM OF UNDERSTANDING
EXHIBIT "A"
SMALL BUSINESS INTEREST BUY-DOWN LOANS PROGRAM

Purpose:

The Interest Buy-Down program will support small and micro-businesses operating within the City of Laredo city limits which suffered negative economic impact or start-up enterprises which formed as a direct result from the Covid-19 pandemic with an aspirational emphasis on inclusive and diverse communities. The program has dedicated \$500,000 to the small business recovery Interest Buy-down Loans Program and funds will be issued before June 1, 2024. Interest Buy-down Loans awarded for this program are up to \$50,000 and eligible only to for-profit enterprises.

Timeline:

An expectation to beginning February 1, 2024, until funds are exhausted.

A sample breakdown of fees is below:

| | Current Rate | Buy Down Option |
|------------------|--------------|-----------------|
| Loan Amount | \$15,000 | \$15,000 |
| Term | 36 | 36 |
| Rate | 12.5% | 0% |
| Payment Amount | \$502 | \$417 |
| Monthly Buy Down | NA | \$85 |
| Total Buy Down | NA | \$3065 |

All loan applications are subject to LiftFund's underwriting and scoring criteria and methodology.

Loan Eligibility:

- For profit enterprise.
- Located within the City of Laredo city limits.
- A business may be a start-up or an established business. Start-up enterprises will need to demonstrate a direct correlation to the negative effects of the Covid 19 pandemic and/or attest to the fact of creating the business as a direct result of the Covid 19 pandemic.
- Both the business and guarantor must be in good standing with creditors.
- A business will be verified using LiftFund's existing process methodology, which may include one of the following: Smartlinx Report, Entity documentation verified with Secretary of State, a copy of the Assumed Business Name filed with the County, or filed tax return verification.
- The ability to repay the loan and service the new debt obligation will be verified using existing LiftFund policies concerning capacity verification.
- An existing business must demonstrate a negative impact to operations due to the pandemic. A ("Negative impact") is defined as a decrease in gross sales between 2019

and 2020 or a decrease in gross sales between 2019 and 2021 (Line 1 of Schedule C or Line 1a of 1120, 1120S or 1065). Furthermore, a negative impact to an existing business may be codified through demonstration of loss of revenues by providing banks statements from Quarter 4 of 2019 and Quarter 1, 2, 3, or 4 of 2020 or 2021 which detail the reduction in revenues, or the borrower will make an attestation affirming their direct negative impact as a result of the Covid 19 pandemic.

- In operation before January 1, 2020, and currently operating. “Operational” is defined as a positive amount of gross receipts or sales on the 2019 tax return (Line 1 of Schedule C or Line 1a of 1120, 1120S or 1065) “Currently operational” is defined as the presence of business activity generated sales deposits on the most recent bank statement. For businesses who began operations in 2019, a pro-rated portion of financials for 2020 and 2021 will be taken for comparison.

Loan Terms:

- Loan consideration not to exceed \$50,000. An interest rate of 12.5% will be used to determine a borrower’s cost of interest prior to applying a reduced “buy down” interest rate.
- A commitment fee of 5% will accompany each loan. Up to 5% commitment fee
- The monthly term will differ based upon loan size, capacity to service the proposed debt and intended loan purpose

The monthly term will differ based upon loan size, capacity to service the proposed debt and intended loan purpose.

Interest Buy-down Loans Follow Up:

All businesses receiving assistance will be required to complete bi-annual follow-up surveys. Interest Buy-down Loans recipients must keep detailed records on re-opening dates, receipts for expenditure of Interest Buy-down Loans funds, and staff and payroll record. Interest Buy-down Loans recipients will also have access to ongoing technical assistance webinars to receive the support and business education needed to prevent permanent closure and maintain job creation and retention.