

F-1: SAMPLE WRITTEN AGREEMENT

GRANT AGREEMENT BY AND BETWEEN:

DIVISION OF ADMINISTRATION
STATE OF LOUISIANA
UNITED STATES OF AMERICA
FEDERAL EMPLOYER I.D.#

AND

TOWN OF _____

AMOUNT OF GRANT AGREEMENT: _____

THIS AGREEMENT, is made and entered into as of this _____ day of _____ 20____, by and between the State of Louisiana, Division of Administration or its Successor, hereinafter called "STATE", represented by **Traci Watts**, Office of Community Development, and the CITY OF _____, Louisiana hereinafter called "GRANTEE," represented by _____, duly authorized to act in accordance with resolution attached hereto and made a part hereof and _____, hereinafter called "ASSISTED BUSINESS," a corporation created and existing under and by virtue of the laws of the State of Louisiana, represented by _____, President, duly authorized to act in accordance with resolution attached hereto and made a part hereof.

1. All parties acknowledge that the GRANTEE has applied for a FY ____ Economic Development Grant from the STATE for _____ for Infrastructure Improvements **and a loan**. In accordance with Attachment A of the contract, hereinafter referred to as the "Grant Agreement" entered into by and between the STATE and GRANTEE, said Grant Agreement is adopted and made a part of this contract hereof by reference just as if same had been copied in full.
2. a. ASSISTED BUSINESS agrees to carry out all activities set forth in Exhibit C and Exhibit D, of the Grant Agreement at a total minimum cost of _____ and agrees to adhere to the time performance schedule in the application or as amended. ASSISTED BUSINESS assures the GRANTEE and STATE that funds will be invested at and above the funds generated through operations in a ratio of \$ _____ private funds to \$1.00 LCDBG funds, according to the program schedule as referenced above.

Any reduction in private expenditures shall require a corresponding reduction in the LCDBG funds if less than one to one, according to the ratio.

b. ASSISTED BUSINESS further agrees to the following:

Change of Ownership - ASSISTED BUSINESS must obtain, in writing, prior authorization from the STATE and GRANTEE for any change of ownership interest of ASSISTED BUSINESS.

3. ASSISTED BUSINESS further agrees to make available to the GRANTEE the following financial information:

a. Financial/Employment Record – The ASSISTED BUSINESS will upon request by the GRANTEE, the Legislative Auditor for the State of Louisiana, the Division, and/or HUD, make available its records with respect to invoices, materials, payrolls, records of personnel, and conditions of employment relating to matters covered by this Contract.

The ASSISTED BUSINESS shall provide on a quarterly basis a report showing the amount of funds invested by the ASSISTED BUSINESS in this project and showing jobs created, including low-moderate income jobs, as a result of this project. The reports are due no later than 30 days after the end of each quarter. The first quarter begins the date of the first draw of monies from the State. The first reporting period will be adjusted to coincide with the next federal and State quarterly reporting period of 3-31, 6-30, 9-30, or 12-31. The report will be due 1 month after the end of the first reporting period and every 3 months thereafter. In order to document the information included in these reports, ASSISTED BUSINESS shall provide paid invoices showing work completed and materials purchased for the project by the ASSISTED BUSINESS when requested by the State. Current payrolls of the plant operating in _____, Louisiana shall also be provided as requested by the State. ASSISTED BUSINESS shall also provide an annual report including this same information as well as information described in Exhibits C and D of Attachment A of this contract. These quarterly and annual reports shall be provided to the GRANTEE and to the Division by the ASSISTED BUSINESS no later than thirty (30) days after the end of the time period covered by the report.

The above Expenditure/Employment records, either on a quarterly and/or yearly basis, are to be reviewed by the GRANTEE and the Division for administrative purposes only.

4. ASSISTED BUSINESS further represents that Grantee has applied for a Loan and/or Infrastructure Improvements as described in Exhibit A of the Grant Agreement and for the benefit of the Assisted Business, based upon Assisted Business's representations to the STATE that:

a. ASSISTED BUSINESS acknowledges its representation in the application for the grant under the Grant Agreement pertaining to the number and types of jobs indicated in the Application, Low-to-Moderate Income Benefit, attached as Exhibit D 1 b) of Attachment A, which shall result in the creation of a total of

_____ () full-time jobs of which _____ () shall be held by persons from low to moderate income families.

ASSISTED BUSINESS agrees to keep employment records including race, ethnicity, gender, and handicap status and shall report this information as required by the STATE. At least fifty-one percent (51%) of all jobs created by the ASSISTED BUSINESS must be held by persons from low to moderate income families.

- b. ASSISTED BUSINESS shall include on all applications for employment the household income, number of persons in the household, and any other information required by HUD at the date of hiring of all employees. GRANTEE will provide income certification forms to ASSISTED BUSINESS.
 - c. ASSISTED BUSINESS acknowledges its representation in the Application, and hereby obligates itself to invest \$ _____ in private funds in consideration of receipt of the LCDBG **Loan and/or** Infrastructure Improvements from GRANTEE. ASSISTED BUSINESS further acknowledges its duty to invest private funds, over and above the funds generated through operations, in a ratio of \$ _____ of private funds to \$1.00 of LCDBG funds.
 - d. ASSISTED BUSINESS acknowledges its duty in fulfilling its Contractual duty to GRANTEE, and in turn GRANTEE'S obligation to meet the National Objective requirements of the program in a timely manner; and obligates itself to create or cause to be created the number of jobs within the quarterly time frames set forth in the Grant Application or as subsequently updated and that the GRANTEE expects these jobs to be created at the specified time intervals, in satisfactory performance of the Grant Agreement.
 - e. ASSISTED BUSINESS acknowledges that the STATE and GRANTEE in making these **Loan and/or** Infrastructure Improvements, relied upon representations of the ASSISTED BUSINESS regarding potential sales, financial performance, employment, market, financial resources and conditions, economic assumptions, technical and managerial expertise, and total projected investment. ASSISTED BUSINESS further acknowledges that the STATE and GRANTEE have relied upon these representations as being realistic, accurate, knowledgeable, and having been made in good faith. The STATE shall consider these factors to the extent that it may grant relief from Contract conditions within overall accomplishments of the National Objective.
5. GRANTEE agrees to carry out all activities set forth in Attachment A, Exhibit A, B, and D of the Grant Agreement, at a maximum total cost \$ _____ and agrees to adhere to the time performance schedule as submitted in the application or as subsequently amended.
 6. GRANTEE further represents that it has applied for and is receiving the funds under the Grant Agreement, based upon its representation to the STATE that:

- a. The Grant is anticipated to create a specific number of permanent new job opportunities within the quarterly time frames set forth in the Grant Application for persons who, at the time of their employment, will be persons of low-to-moderate income households. Low to moderate income households are determined by annualizing the household income from three months immediately prior to the date of hiring. Low-to-moderate income persons are defined as persons whose annual income is less than the following amounts, listed by household size, for the Parish of _____.

Household Size by Number of Persons

One	Two	Three	Four	Five	Six	Seven	Eight
\$xx,000	\$xx,000	\$xx,000	\$xx,000	\$ xx,000	\$xx,000	\$xx,000	\$xx,000

- b. The Grant anticipates private funds in the amount of \$_____ will be invested, over and above the funds generated through operations; or a minimum of \$_____ of private funds to \$1.00 of LCDBG funds.
- c. GRANTEE obligates itself to use all powers available to enforce the undertaking or assurance of the participating parties, namely ASSISTED BUSINESS, respecting the creation of jobs which are specified in Exhibit D of the Grant Agreement.
7. GRANTEE and ASSISTED BUSINESS acknowledge that nothing contained in this contract, or by any third person shall be considered to create any relationships of third-party beneficiary, principal and agent, limited or general partnership, joint venture of any association or relationship involving GRANTEE or ASSISTED BUSINESS.
8. The GRANTEE and ASSISTED BUSINESS shall comply with all applicable federal, state and local laws, e.g., Equal Opportunity, contracted in Exhibit F of the Grant Agreement or as otherwise required.
9. REMEDIES UPON DEFAULT. Upon the occurrence, or the discovery of the STATE or GRANTEE of the occurrence, of any of the foregoing events, circumstances, or conditions of default, the STATE shall have, in addition to its option to halt the infrastructure improvements and loan provisions, all of the rights and remedies of a secured party under the applicable laws of the State of Louisiana. Without in any way limiting the generality of the foregoing, the STATE shall have the following specific rights and remedies:
- a. In the event the ASSISTED BUSINESS is unable to provide the employment opportunities for low- and moderate-income persons as set forth in Exhibit D of Attachment A, the STATE or GRANTEE shall have the right to exercise any and all of the specific steps described in its Corrective and Remedial Actions Policy

which was published as a Rule in the August 20, 1987 issue of the Louisiana Register.

- b. In addition, if the ASSISTED BUSINESS fails to create the total of _____ () full-time jobs and of the jobs that are created at least fifty-one percent (51%) are held by low-to-moderate income persons, the Division may, in its discretion, require the ASSISTED BUSINESS to pay to the Division for each job less than the number of jobs which had been agreed to by the ASSISTED BUSINESS. If at least fifty-one percent (51%) of all jobs created by the ASSISTED BUSINESS are not held by low to moderate income persons, the Division may require all Grant funds expended to be repaid by the ASSISTED BUSINESS to the Division.

10. TERMINATION OR SUSPENSION:

- c. The GRANTEE or STATE may, after giving reasonable written notice specifying the effective date, terminate this Contract in whole or part for cause, which shall include but not be limited to:
 - (1) failure, for any reason, of the ASSISTED BUSINESS to fulfill in a timely and proper manner the obligations under this Contract, and such statutes, Executive Orders, and federal directives as may become generally applicable at any time.
 - (2) submission by the ASSISTED BUSINESS to the GRANTEE or its Auditors, of reports that are incorrect or incomplete in any material respect;
 - (3) ineffective or improper use of funds provided under this Contract;
 - (4) suspension or termination of the grant by the STATE under which this contract is made, or the portion thereof delegated by this Contract.
- d. If the ASSISTED BUSINESS is unable or unwilling to comply with such additional conditions as may be lawfully applied to the Grant by the STATE, the GRANTEE shall terminate the Contract by giving reasonable written notice to the STATE, signifying the effective date thereof. The GRANTEE, if first authorized by the STATE, may at its sole option continue with its own funds on the project until a question is resolved with the understanding that a satisfactory resolution may allow the STATE to reimburse funds at its sole option and discretion.
- e. If through any cause, the ASSISTED BUSINESS shall fail to fulfill in a timely and proper manner, their obligations under this contract, or if the ASSISTED BUSINESS shall violate any of the covenants, agreements, or stipulations of this contract, the GRANTEE or STATE shall thereupon have the right to terminate this contract by giving written notice to the ASSISTED BUSINESS of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of said termination.

- f. Notwithstanding the above, the ASSISTED BUSINESS shall not be relieved of any liability to the GRANTEE or STATE including liability for damages sustained by the GRANTEE or STATE by virtue of any breach of the ASSISTED BUSINESS.
11. The ASSISTED BUSINESS shall not assign any interest in this Agreement and shall not transfer any interest in the same whether by assignment or novation, without the prior written consent of both the GRANTEE and STATE.
12. Attachment A, Exhibits A through F, Attachment B, Attachment C, and Attachment D to this Contract are hereby included and made a part of this Contract. ASSISTED BUSINESS shall ensure that the information required in Attachments B and D is provided to the GRANTEE.
13. SPECIAL CONDITIONS
- A. In the event ASSISTED BUSINESS fails to satisfy any special condition of this contract, fails to implement the project described in Attachment A, of this Agreement, or fails to comply with any provision of this Agreement, in addition to the remedies specified elsewhere in this Agreement, ASSISTED BUSINESS may be liable to the GRANTEE for an amount not to exceed the GRANTEE'S maximum obligation under this contract.
- B. ASSISTED BUSINESS shall submit to the GRANTEE, when requested to do so by the GRANTEE, a document which must include the following: (1) the types of positions, number and wage scales of all permanent positions to be created/retained as a result of this project, including specifics on those jobs filled/to be filled by low and moderate income persons; (2) a hiring plan that includes methods of identifying and training potential low/moderate income job applicants; (3) any other relevant details or special conditions placed on this contract.
- C. ASSISTED BUSINESS shall ensure that the GRANTEE is provided with the documentation required by Exhibit D of Attachment A of this Agreement.
- D. ASSISTED BUSINESS shall ensure that the GRANTEE is provided with a copy of the hazard insurance policy covering all items held as collateral for the Loan funds provided.
- E. The ASSISTED BUSINESS shall within thirty days after the end of each three-month period during the term of this contract, document and furnish to the GRANTEE low/moderate income verification forms marked "Attachment B and other documentation necessary for GRANTEE to satisfy the requirements of Attachment A, with respect to permanent jobs created and that the low and moderate income of ASSISTED BUSINESS'S employees meet the requirements.

- F. The GRANTEE shall have access to the ASSISTED BUSINESS'S Employment Records in order to verify Employment data such as low/moderate income status, ethnicity, etc.
- G. The ASSISTED BUSINESS may not sell or lease machinery and/or equipment purchased with Loan Funds without the written permission of the GRANTEE and STATE during the term of this contract. During the term of this contract, GRANTEE shall have the right to recover some or all of the \$_____ paid to ASSISTED BUSINESS under this contract, based on the sale or lease of such machinery and/or equipment. This paragraph shall apply to all lease agreements or sales of such items except that the GRANTEE and STATE shall have the right to approve any such leases or sales, if it deems them favorable.
- H. Successors: This contract shall inure to the benefit of and bind the heirs, personal representatives, successors, and assigns of the parties.
- I. If Unenforceable: If any provision of this contract is determined to be unlawful or unenforceable by a court having jurisdiction over the parties, such provision shall be severable from the other provisions of this Agreement, and all remaining provisions shall be fully enforceable.
- J. Governing Law and Venue: This contract shall be governed by the laws of Louisiana, which State shall also be deemed the place where this agreement was entered into and the place of performance and transaction of business of the parties.
- K. Authority to Make and Use Copies: ASSISTED BUSINESS authorizes GRANTEE to make copies, photocopies, reproductions and other facsimiles (copies) of this original Agreement for the purpose of filing and for any other purposes permitted as if such copies were the original.
- L. Notwithstanding any other provisions of this contract to the contrary, the schedules concerning the times of the creation of jobs set forth in Exhibit D of Attachment A are extended as guidelines and it shall not be a default under this contract if ASSISTED BUSINESS fails to create the number of jobs in any particular period as set forth in the LCDBG Program Time Schedule submitted in the grant application or as subsequently amended by all parties' agreement. It being expressly understood and agreed, however, that it shall be considered a default under this contract if ASSISTED BUSINESS has failed to create _____() permanent jobs of which at least fifty-one percent (51%) are low/moderate income on or before the termination of this contract. If additional jobs are created beyond the number cited above, fifty-one percent (51%) must be filled by low to moderate income persons.
- M. In the event the GRANTEE becomes obligated to pay any sum of money to the Louisiana Division of Administration under the Division of Administration Agreement with respect to, because of or arising out of any of the following, to-

wit: (1) the failure of ASSISTED BUSINESS to comply with any of its obligations under this Agreement, (2) the failure of the GRANTEE to comply with any of its obligations under the Division of Administration Agreement which failure results from or arises out of ASSISTED BUSINESS failing to comply with its obligations under this Agreement or (3) the failure of the GRANTEE to comply with any of its obligations under the Division of Administration Agreement, including without limitation, the requirements of Exhibits A through F (to the Division of Administration Agreement), which relate to the creation of jobs or to the income requirements with respect to the persons whose jobs are referred to in such Exhibits A through F thereto, then ASSISTED BUSINESS shall be obligated to pay such amounts to GRANTEE at the office of the Mayor of _____ in the City of _____ in _____ Parish, Louisiana, within fifteen (15) days after the Louisiana Division of Administration makes any written demand on GRANTEE for any such amount (there may be different demands for different amount made from time to time). Any written request from the Louisiana Division of Administration for the payment by GRANTEE of any amount of money by reason of or based on any of the matters set forth above shall be deemed to be owing by the GRANTEE to the Louisiana Division of Administration for the purposes of the foregoing obligation of the ASSISTED BUSINESS to make payment(s) to GRANTEE, subject to ASSISTED BUSINESS'S right to recover such funds from the GRANTEE as hereinafter provided as a result of a final judgment against the Louisiana Division of Administration as provided for below. The failure of ASSISTED BUSINESS to make any such payment which is required by written notice from the Louisiana Division of Administration as above provided within the time above provided shall give the GRANTEE the right at its election to terminate this agreement without any further obligation to ASSISTED BUSINESS but such termination shall not relieve ASSISTED BUSINESS of its obligations under this agreement. Provided however, ASSISTED BUSINESS shall have the right to make any payment requested by GRANTEE under the provisions of this paragraph under protest and if it is determined by final judgment, no longer subject to appeal, of a court of competent jurisdiction in a case in which the Louisiana Division of Administration is a party along with GRANTEE and ASSISTED BUSINESS that such amount was not owed by GRANTEE to the Louisiana Division of Administration then GRANTEE will repay such amount without interest (except for any interest which the GRANTEE might be entitled to recover from the Louisiana Division of Administration.) GRANTEE and ASSISTED BUSINESS hereby agree that any such litigation with the Louisiana Division of Administration shall be in a court of competent jurisdiction in East Baton Rouge Parish, Louisiana. The total aggregate liability to the ASSISTED BUSINESS shall be \$_____. The obligations of ASSISTED BUSINESS under this Section shall remain in effect after termination of this contract.

- N. Notwithstanding any other provision of this contract to the contrary, no employee or duly authorized agent of GRANTEE may enter upon the premises without the prior consent of an officer of ASSISTED BUSINESS, which consent shall not be

unreasonably delayed or withheld and which consent shall be given with respect to the matters referred to in this Agreement.

- O. The ASSISTED BUSINESS agrees to indemnify, defend and hold harmless GRANTEE and the members of the City Council of _____, including the Mayor (all of the foregoing are hereinafter, separate and collectively, referred to in the singular as "Indemnitee"), from and against all claims, causes of action, damages, suits and liability, of every kind, including all expenses of litigation, court costs and attorney's fees, (a) for damage to any property or for injuries, sickness or death of any person caused by, arising out of or related, directly or indirectly, to the premises or ASSISTED BUSINESS'S occupation of or use of the premises or any Waste on or under the premises or any operations or activities of ASSISTED BUSINESS or on behalf of ASSISTED BUSINESS or under its authority or with the express or implied consent of ASSISTED BUSINESS; which operations, occupation or uses or activities are with respect to or are directly or indirectly related to (1) the purchase or operation of machinery and equipment. The above indemnity shall apply even though any damage to property or any injury, sickness or death referred to therein is caused in whole or in part by any defect in or condition of machinery and/or equipment, whether or not such defect or condition was known by Indemnitee. Under the provisions of this indemnity, the ASSISTED BUSINESS is agreeing to indemnify Indemnitee from ASSISTED BUSINESS'S own negligence or fault. However, notwithstanding any other provision of this Special condition to the contrary, this indemnity shall not be applicable to any damage, injury or death caused by the sole negligence of any employee or duly authorized agent of GRANTEE which occurred by an action or omission of such GRANTEE employee or duly authorized agent, which act or omission occurs on the premises while said GRANTEE employee is actually on the premises. Notwithstanding any provision of this Special Condition to the contrary, this indemnity shall not be applicable to any claim arising prior to the date of this Agreement. The GRANTEE shall give prompt and timely written notice to ASSISTED BUSINESS of any claim made or suit or action commenced which in any way would result in indemnification under this paragraph. The obligations of ASSISTED BUSINESS under this Special Condition shall remain in effect after termination of this Agreement as to any liability which arose during this Agreement. So long as either (1) ASSISTED BUSINESS is entitled to possession of the machinery and/or equipment of this Agreement or (2) ASSISTED BUSINESS owns any part of the machinery and/or equipment, it is hereby agreed that ASSISTED BUSINESS shall carry and maintain, and have in full force and effect comprehensive general public liability insurance, endorsed to include broad form contractual liability insurance coverage and with a cross liability endorsement and such insurance shall name GRANTEE as an additional insured thereunder (together with a cross liability endorsement relating thereto), but the GRANTEE as an additional insured shall only be such with respect to liability arising out of the machinery and/or equipment purchased by Loan Funds or duties with respect thereto or with respect to or which occurs on the premises and such liability insurance shall provide the first tier, or primary coverage, with respect to any other insurance coverage provided to or for

GRANTEE or otherwise afforded to GRANTEE, which other insurance afforded GRANTEE shall be excess. Such insurance shall be with insurance companies authorized to transact business in the State of Louisiana. Such public liability insurance shall have a combined single limit of not less than \$1,000,000.00 per occurrence for bodily injury and property damage. In no event shall the procurement and maintenance of the insurance coverage provided for herein modify, reduce, limit or otherwise restrict ASSISTED BUSINESS'S indemnification obligations provided for above. ASSISTED BUSINESS shall furnish to GRANTEE a certificate or certificates signed by a duly authorized agent of the company issuing such insurance coverage, detailing the coverage, limits and expiration thereof, and specifying that the same shall not be canceled or materially changed until after ten (10) day notice in writing has been given to GRANTEE by such insurance company. The provisions of the above insurance agreement are solely for the benefit of ASSISTED BUSINESS and GRANTEE. Accordingly, third parties shall have no rights under or by reason of the provisions of this paragraph with respect to ASSISTED BUSINESS providing insurance.

THUS DONE AND SIGNED in the presence of the undersigned Notary Public and competent witnesses at _____, Louisiana, on this ___ day of _____, 20_____.

WITNESSES:

DIVISION OF ADMINISTRATION

TRACI M. WATTS, LCDBG DIRECTOR

NOTARY PUBLIC
My Commission expires:_____

WITNESSES:

MANUFACTURING, INC.

PRESIDENT

NOTARY PUBLIC
My Commission expires:_____

WITNESSES:

CITY OF _____

MAYOR

NOTARY PUBLIC
My Commission expires: _____

Please note: Attachment A is the contract between the State and the local governing bodies with Exhibits, A-F.

Attachment B is the Employee Survey Form Attachment C is the Employee Characteristics Record

Attachment D is the Quarterly Status of Sources and Uses

LCDBG ECONOMIC DEVELOPMENT PROGRAM

COMMUNITY: _____ COMPANY: _____

PROGRAM YEAR: _____ CURRENT DATE: / / _____

Employee: LAST NAME _____ FIRST NAME _____

Employee: SSN (last four digits only) _____ DATE HIRED _____ / _____ / _____

Employee: JOB TITLE OR POSITION _____

HUD Income Limits for FY _____ PARISH _____

The Employee's FAMILY INCOME is:

Please **circle** the number that corresponds to the income category and number of persons in **your family**. The income is determined by computing the total income of all family members for the last three months and then multiplying that number by four.

	<u>1 Person</u>	<u>2 Persons</u>	<u>3 Persons</u>	<u>4 Persons</u>	<u>5 Persons</u>	<u>6 Persons</u>	<u>7 Persons</u>	<u>8 Persons</u>
Above more than								
Moderate less than								
Low – less than								
Extremely Low less than								

Employee: Racial Category:

- | | |
|--|--|
| <input type="checkbox"/> African American or Black | <input type="checkbox"/> African American or Black and White |
| <input type="checkbox"/> White | <input type="checkbox"/> Alaskan Native or American Indian and White |
| <input type="checkbox"/> Alaskan Native or American Indian | <input type="checkbox"/> Alaskan Native or American Indian and Black |
| <input type="checkbox"/> Asian | <input type="checkbox"/> Asian and White |
| <input type="checkbox"/> Native Hawaiian or Other Pacific Islander | <input type="checkbox"/> Other Multi Racial |

Please **mark this box if the employee is of the following ethnicity:** Hispanic or Latino

Employee: Check if applicable:

-
- Unemployed at time of hire

Note: 18 U.S.C. Sec 1001 provides that "whoever knowingly and willfully makes any materially false, fictitious, or fraudulent statement or representation;...shall be fined under this title or imprisoned not more than five years or both.

Signature _____

Attachment D

QUARTERLY STATUS OF SOURCES AND USES LCDBG ECONOMIC DEVELOPMENT FUND

DATE OF REPORT:

COMMUNITY:

ASSISTED BUSINESS:

TYPE OF GRANT:

REPORT #

PERIOD COVERING From:

To:

EXPENDITURES:

PRIVATE:

LCDBG:

Current Period Only

Total Previous Periods

TOTAL CURRENT

JOBS:

TOTAL:

LOW/MOD:

Total Employment Previous Periods

New Hires This Period

Discharged Employees

**NET TOTAL EMPLOYMENT
THIS PERIOD**

PERSON PREPARING REPORT: _____

Signature of Local Government Official

Signature of Assisted Business