

**City of Fontana's Empowerment Revolving Loan Fund Program
Administered by AmPac Tri-State CDC, Inc. dba AmPac Business Capital
Promissory Note**

[Borrower's Legal Name]- City of Fontana Empowerment Loan- Loan #[Loan Number]

#[Loan Amount]

Date: **[Date]**

For value received, the undersigned, **[Signer(s) Legal Name(s)]**, doing business as **[Borrower's Legal Name]** ("Borrower"), a business located at **[Borrower's Address]**, and **[Signer(s) Legal Name(s)]**, an individual residing at **[Signer(s) Address(es)]**, ("Individual"), jointly and severally promise to pay to the order of AmPac Tri-State CDC, Inc., a California Corporation dba AmPac Business Capital, ("Lender"), located at 3110 B Inland Empire Blvd. Ontario, CA 91764, the principal sum of **[Loan Amount (\$0.00)]**, together with annual interest at the rate of six and one-half per cent (**6.5%**) on the principal balance, with all principal and interest due and payable on [date] (the "Maturity Date") and subject to the terms and conditions set forth below:

This Note shall be subject to the following additional provisions:

1. **Purpose of Loan:** This Promissory Note is made and given pursuant to that certain Business Loan Agreement ("Agreement") by and between the Borrower and Lender dated on the same date of this Promissory Note, which is incorporated herein by reference. The loan is being funded by the City of Fontana ("City" as beneficiary under the City's Empowerment Revolving Loan Fund Program for entrepreneurs and small businesses with the City of Fontana for the purpose of providing access to funding for business growth. All initially capitalized terms used but not defined herein shall have the same meanings given to them in the Agreement.

2. **Term; Note Payments; Repayment:**

Commencing **[Date of First Payment]**, Borrower promises to pay Lender the loan balance of **[Loan Amount (\$0.00)]**, in **Sixty (60)** monthly installments of **[Payment Amount (\$0.00)]** to be received by Lender on or before the 1st day of the month for each of the following **sixty (60)** months. Principal and interest are payable in lawful money of the United States of America.

Unless due at an earlier time by virtue of the acceleration of the balance hereof in accordance with Section 3 hereof, all unpaid principal shall be due and payable on or by the date that is sixty (60) months following the date of this Note (the "Maturity Date"). Payment shall be made payable to AmPac Tri-State CDC, Inc. dba AmPac Business Capital and shall be collected via ACH transfer collected directly from the Borrower's bank account provided at the time of closing.

3. **Default:**

Failure to remit any payment as set forth above shall constitute a default under this Note. Each payment must be received on or before the due dates stated above, and any payment not received within ten days of each due date shall, in addition to the amount past due, accrue a late fee in the additional amount of 10% of the amount past due.

In addition, the parties underlying loan agreement requires that Borrower remain in business for six months and retain employees. If the Borrower fails to remain in business for six months and retain employees shall constitute a default under this Note.

In the event of default, the entire outstanding balance shall become due and payable, at Lender's option, and Lender shall recover all its costs and expenses in enforcing this Note, including reasonable attorneys' fees and court costs incurred, whether or not suit has been filed on this Note. Borrower expressly waives notice of the exercise of this option.

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Lender may waive certain terms or conditions of this Note. Any waiver must be in writing, and constitutes a waiver limited to the specific circumstances set forth in such writing, and not a waiver of any other requirement or condition of this Note.

4. **Default Rate of Interest:** On the occurrence of a Default under this Note, the entire unpaid principal balance shall then automatically bear interest at an annual rate equal to the lesser of (a) [number] percent ([number] %) per annum or (b) the maximum interest rate allowed by law (the Default Rate).

5. **No Pre-Payment Penalty and Application of Payments:**

This Note may be prepaid, in whole or in part, without penalty, at option of Borrower and without the consent of Lender, as long as any principal prepayment is accompanied by a payment of interest accrued to the date of prepayment on the amount prepaid. In the event of partial pre-payments, regular monthly payments continue to be due on the dates and in the amounts set forth above.

Additional principal payments will not impact on the fact that regular monthly payments, in the full amount, must be received by Lender. Additional principal payments in addition to regular monthly payments will result in reduction in the number of monthly payments for the loan to be paid off.

Each payment under this Note shall be credited first to interest then due and any remainder to principal. All payments of principal under this Note shall be applied to the most remote principal installment then unpaid.

6. **Savings Clause:**

This Note shall be deemed a part of and shall be construed pursuant to the terms of the Loan Agreement signed by the parties, which agreement is attached hereto and incorporated herein, as though set forth in full. If any portion of this Note is found to be invalid or unenforceable, then, as far as reasonable, and possible, the remainder of the terms of the Note shall be valid and enforceable and the party's intent-that Borrower shall pay Lender the entire principal amount due under this Note, plus interest-shall be upheld.

7. **Security:**

This Note is secured by a security interest on the *equipment, furniture, computers and other office machines, supplies, tools, inventory, accounts receivable* of the business known as **[Borrower's Legal Name]** more fully described in the Loan Agreement between Lender and Borrower and dated on or about the same date as this Note. Borrower is advised that a UCC-1 Financing Statement will be filed with the California Secretary of State, to be released upon Borrower's payment in full of this Note and all obligations related to it.

8. **Governing Law/Jurisdiction/Venue:**

This Note is to be construed in accordance with and governed by the laws of the State of California. The parties agree that authority and venue should be in the courts of San Bernardino County, California.

9. **Waiver of any Claim of Consequential Damages and of Trial by Jury:**

In any suit between the parties, only actual damages may be recovered. The parties waive any right they might have to any claim for special, exemplary, consequential, or punitive damages. The parties also specifically waive any right they may have to a trial by jury. Each party signing

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below has had the opportunity to consult with an attorney of their own choosing regarding signing this document.

10. **Usury:** All agreements between Borrower and Lender are expressly limited, so that in no event or contingency, whether because of the advancement of the proceeds of this Note, acceleration of maturity of the unpaid principal balance, or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance, or retention of the money to be advanced under this Note exceed the highest lawful rate permissible under applicable usury laws. If, under any circumstances, fulfillment of any provision of this Note or the interest or instrument securing this Note or any other agreement pertaining to this Note, after timely performance of such provision is due, shall involve exceeding the limit of validity prescribed by law that a court of competent jurisdiction deems applicable, then, ipso facto, the obligations to be fulfilled shall be reduced to the limit of such validity. If under any circumstances, Lender shall ever receive as interest an amount that exceeds the highest lawful rate, the amount that would be excessive interest shall be applied to reduce the unpaid principal balance under this Note and not to pay interest, or, if such excessive interest exceeds the unpaid principal balance under this Note, such excess shall be refunded to Borrower. This provision shall control every other provision of all agreements between Borrower and Lender.

11. **Costs Paid by Borrower.** Borrower agrees to pay the following costs, expenses and attorneys' fees paid or incurred by the City, or as adjudged by a court of competent jurisdiction: (a) reasonable costs of collection, costs and expenses and attorneys' fees paid or incurred in connection with the collection or enforcement of this Promissory Note, whether or not suit is filed; and (b) costs of suit in such sum as the court may adjudge reasonable as attorneys' fees in any action to enforce payment of this instrument.

12. **Joint and Several Obligation.** Borrower and all other persons liable or to become liable for all or part of this indebtedness, jointly and severally waive demand, presentment for payment, notice of nonpayment, protest and notice of protest hereon, and agree to pay, in the Event of Default hereunder, all costs of collection, including reasonable attorneys' fees of City, whether or not suit is commenced.

13. **Time Is of the Essence:** Time is of the essence with respect to all obligations of Borrower under this Note.

IN WITNESS WHEREOF, Borrower has executed this Promissory Note as of the date first written above.

Borrower:

[Borrower's Legal Name]

[Signer(s) Legal Name(s), and Title(s)]