

CITY OF GARDNER MICROENTRPRISE ASSISTANCE PROGRAM
GRANT AGREEMENT AND RECAPTURE AGREEMENT

This AGREEMENT made as of this 26th day of October, 2021 by and between the **City Of Gardner**, acting by and through its Mayor, having its principal offices at 95 Pleasant Street in Gardner, Worcester County, Massachusetts, 01440 (hereinafter collectively referred to as the "CITY"), and **Rebecca Wilson**, (hereinafter referred to as the "PARTICIPANT").

Whereas, the CITY has entered into an agreement (the "Grant Agreement") with the Massachusetts Department of Housing and Community Development (the "Funding Source") to fund the Gardner Microenterprise Assistance Program in whole or in part with a Massachusetts Community Development Block Grant (CDBG);

Whereas, the CITY has agreed to adhere to the regulations and directives issued by the Funding Source and to perform and observe the terms and conditions of the Grant Agreement; and

Whereas, the PARTICIPANT(S) has made application to the CITY through its Gardner Microenterprise Assistance Program for financial assistance in the form of a Grant (hereinafter referred to as the "Grant") for the purpose of paying certain fixed business costs including rent, lease, or mortgage (not including interest, insurance, and taxes), and necessary business utilities (electric, business phone, business internet, heating fuel, water and sewer service, and garbage collection) for which payment thereof has been impacted by documented adverse impacts experienced due to the COVID-19 pandemic, as set forth in Attachment A; and

Whereas, the PARTICIPANT has been deemed by the CITY to be eligible to receive said financial assistance through its Gardner Microenterprise Assistance Program; and

Whereas, the PARTICIPANT(S) has agreed to the terms and conditions outlined in the City of Gardner Microenterprise Assistance Program Guidelines, which are incorporated herein by reference; and

Whereas, the CITY has agreed to provide a Grant contingent upon its being able to recapture from the PARTICIPANT(S) a portion or entirety of such financial assistance under the circumstances described herein,

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the PARTICIPANT(S) and CITY agree as follows:

1. The CITY agrees to provide a GRANT in the amount of \$5,032.86 to assist the PARTICIPANT(S) to sustain the business operation of the entity identified in the first paragraph herein, being in good standing with the Commonwealth of Massachusetts and/or the City of Gardner for the purposes and terms described

in Attachment B.

2. The PARTICIPANT(S) agree to repay a pro-rated or entire sum to the CITY in accordance with Section 3 below upon the occurrence of any of the following events:

- a. If the PARTICIPANT(S) d/b/a as **Just Dance Performing Arts Center** fails to operate within the City of Gardner during the 24 months from the date of this Agreement for any reason other than a permanent or temporary closure due to unsurmountable financial or economic circumstances or the occurrence of an unforeseen act of nature outside of the control of the business owner(s), during the 24 months from the date of this Agreement or for other unforeseen circumstances to be considered and approved by the City of Gardner in its sole discretion acting through a review and decision of the Community Development Block Grant Steering Committee;
- b. If the PARTICIPANT(S) relocate the microenterprise business to another community within 24 months from the date of this Agreement;
- c. If the PARTICIPANT(S) duplicate the benefits of the awarded funds through the receipt and use of any other public or private funding sources for the same purpose as the funds awarded by this Grant during the Grant period.
- d. If the PARTICIPANT(S) have engaged in fraud and/or misrepresentation, to be determined in the sole discretion of the CITY, to obtain this Grant from the CITY or have failed to respond to reasonable requests for Grant related reporting information.

3. This Agreement shall remain in force for 24 months from the date of execution of this Agreement (the "Recapture Period").

During the Recapture Period, upon the event of an occurrence as described in "2.a." or "2.b." above, the CITY shall be entitled to repayment from the PARTICIPANT(S) under the aforementioned agreements, terms, and conditions of this Agreement in accordance with the following schedule:

- a. Within six (6) months from the date of this Agreement, 100% of the Grant shall be recaptured by the CITY;
- b. After six (6) months, but no more than twelve (12) months from the date of this Agreement, 75% of the Grant shall be recaptured by the CITY;
- c. More than twelve (12) months and less than eighteen (18) months from the date of this Agreement, 50% of the Grant shall be recaptured by the CITY;
- d. More than eighteen (18) months and less than twenty-four (24) months from the date of this Agreement, 25% of the Grant shall be recaptured by the CITY;

- e. After twenty-four (24) months from the date of this Agreement, 0% of the Grant shall be recaptured by the CITY;

During the Recapture Period, in the event of an occurrence as described in "2.c." or "2.d." above, the CITY shall be entitled to full reimbursement and 100% of the Grant shall be recaptured by the CITY from the PARTICIPANT(S) under the aforementioned agreements, terms, and conditions of this Agreement.

The CITY reserves any and all rights to enforce this Microenterprise Assistance Program Grant Agreement and Recapture Agreement in a court of competent jurisdiction in the event PARTICIPANT(S) fail to repay the granted funds in accordance with this Section.

4. COMPLETE AGREEMENT

This Microenterprise Assistance Program Grant Agreement and Recapture Agreement supersedes all prior agreements and understanding between the two parties. No amendments shall be effective unless it is in writing and signed by all parties.

5. ASSIGNMENT/SUBCONTRACTING

The PARTICIPANT shall not assign or subcontract all or any of this Microenterprise Assistance Program Grant Agreement and Recapture Agreement without prior written consent of the CITY.

6. RELEASE OF INFORMATION FOR PROGRAM REPORTING

The PARTICIPANT authorizes the CITY to report and publish the microenterprise business name and Grant amount to promote this and similar microenterprise assistance programs and to fulfill CITY reporting requirements to the Commonwealth of Massachusetts.

7. AVAILABILITY OF FUNDS

The compensation provided by this Agreement is subject to the continued availability of funds, and to the continued eligibility of the CITY to receive such funds.

8. INDEMNIFICATION

The PARTICIPANT(S) shall defend, indemnify and hold harmless the CITY and its officials, agents and employees from and against any and all claims arising directly or indirectly from this Agreement. The PARTICIPANT(S) further agree that the CITY is entitled to recover its costs and attorney(s)' fees incurred for any action taken by the CITY to enforce its rights as set forth herein, or in the event that the PARTICIPANT(S)' fail to re-pay the granted funds in conformance with Section 3, or are otherwise in default of this Agreement.

9. GOVERNING LAW

This Microenterprise Assistance Program Grant Agreement and Recapture

Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and PARTICIPANT(S) submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

10. SEVERABILITY

The invalidity of one or more provisions of this Microenterprise Assistance Program Grant Agreement and Recapture Agreement shall not affect the validity or enforceability of the remaining provisions.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

EXECUTED as a sealed instrument on the day and year first above written.

CITY OF GARDNER, BY ITS MAYOR

By: *Michael J. Pugh*
NAME

10/28/21
DATE

ATTEST: *James DeLoe*
NAME

10/28/21
DATE

PARTICIPANT

By: *Paul Wil*
PARTICIPANT'S NAME

10/26/21
DATE

Owner
PARTICIPANT'S TITLE

ATTEST: *Jessica DeLoe*
NAME

10/26/21
DATE

PARTICIPANT

By: _____
PARTICIPANT'S NAME

DATE

PARTICIPANT'S TITLE

ATTEST: _____
NAME

DATE

APPENDIX A

Gardner Microenterprise Assistance Program Completed Application