

**FORGIVABLE LOAN AGREEMENT**

AGREEMENT BETWEEN THE CITY OF SALINAS AND LOAN RECIPIENT NAME (LOAN RECIPIENT) ESTABLISHING TERMS AND CONDITIONS FOR DOWNTOWN OUTDOOR DINING FORGIVABLE LOAN PROGRAM.

This Agreement (AGREEMENT) is entered into by and between the City of Salinas (CITY) and \_\_\_\_\_ (LOAN RECIPIENT) in accordance with the City of Salinas Downtown Outdoor Dining Program (PROGRAM).

WHEREAS, in August 2007, the City Council approved Ordinance 2475 amending Chapters 2, 3, 21, and 30 of the Salinas City Code regarding encroachments and the consumption of alcohol in the public right-of-way to allow for sidewalk cafés; and

WHEREAS, at the same meeting, Resolution 19298 (N.C.S.) was adopted setting the Sidewalk Café Encroachment Permit application fee at \$300 with an annual renewal inspection fee of \$100; and

WHEREAS, on March 17, 2020, the Salinas City Council approved Resolution No. 21805 declaring the existence of a local emergency resulting from the COVID-19 pandemic; and

WHEREAS, Resolution No. 21805, consistent with Government Code section 8634, vested authority in the Director of Emergency Services (City Manager) to issue and to enforce orders and regulations to mitigate the effects of the local emergency on and as necessary for the protection of life and property during the local emergency; and

WHEREAS, pursuant to that authority the Director of Emergency Services issued order No. 05-2020 related to the deferral of Temporary Use of Land Permit and Encroachment Permit fees for outdoor restaurant operations, and Order No. 06-2020 related to the deferral of Temporary Use of Land Permit and Encroachment Permit fees for outdoor business activities; and

WHEREAS, Resolution No. 21948 approved the continued deferral of fees for Temporary Use of Land Permit and Encroachment Permits for outdoor business activities through June 30, 2021; and

WHEREAS, Resolution No. 22049, authorized the City Manager or his designee to extend outdoor activity permits every six-months and to waive associated permit fees until the region returns to the yellow tier; and

WHEREAS, effective June 2, 2021, Monterey County moved into the Yellow Tier and the State set June 15, 2021, as the date it intends to move beyond the “Blueprint for a Safer Economy” tier system with all sectors listed in the current Blueprint Activities and Business Tiers Chart being able to return to usual operations; and

WHEREAS, On June 3, 2021, to support public health and economic recovery, Governor Newsom issued a letter to local leaders encouraging the extension of regulatory relief to allows restaurants and bars to maintain expanded outdoor operation through the end of 2021; and

WHEREAS, On December 14, 2021, City Council extended the term and fee waiver of COVID-19 Relief Temporary Outdoor Permits thru December 31, 2022; and

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WHEREAS, at the same meeting, City Council requested staff to return to City Council in 2022 to consider establishing a loan or grant program to financially assist businesses to obtain a permanent Sidewalk Café Encroachment Permit in compliance with the City's permit design standards.

WHEREAS, on June 21, 2022, Resolution 22398 (N.C.S.) was adopted approving the Downtown Outdoor Dining Forgivable Loan Program (Program), and  
WHEREAS, the City of Salinas has determined that it is appropriate and in the best interest of the City and its citizens to offer an incentive in the form of a forgivable loan to cover the cost of quality furniture and appurtenances, including the sidewalk café encroachment permit fee; and

WHEREAS, the Program provides one-time forgivable loans up to \$10,000 per business for the purchase of outdoor furniture and fixtures for eateries in the Central City Overlay District – Downtown Core; and

WHEREAS, the City has established funding for the Program through the Economic Development Element Implementation (CIP 9136); and

WHEREAS, forgivable loans will be available on a first come, first serve basis, with priority to current temporary current Covid-19 Relief Temporary Sidewalk Café Encroachment Permit holders; and

WHEREAS, the City of Salinas believes that it is appropriate and reasonable to expect the LOAN RECIPIENT to bind him/herself to the City of Salinas to produce certain results in conjunction with the sidewalk café furniture and appurtenances described herein as conditions of the Downtown Outdoor Dining Forgivable Loan Program being offered by the City of Salinas; and

WHEREAS, the LOAN RECIPIENT, whose contact information is provided in the Program's Forgivable Loan Application (Exhibit A), has requested funding assistance under the City of Salinas Downtown Outdoor Dining Program (Exhibit B) for Sidewalk Café furniture and appurtenances to be used in conjunction with the eatery operations located at \_\_\_\_\_ (BUSINESS ADDRESS); and

WHEREAS, a Site Plan and Sidewalk Café Encroachment Permit (Exhibit C) were approved by the City of Salinas (City) on \_\_\_\_\_; and

WHEREAS, the City has approved a forgivable loan to \_\_\_\_\_ (LOAN RECIPIENT) in the amount of \$\_\_\_\_\_ for furniture described in the Recipient's Forgivable Loan Application and noted on the Sidewalk Café Site Plan and Encroachment Permit Application, dated \_\_\_\_\_.

NOW, THEREFORE, for and in consideration of the Terms and Conditions set forth in the Program, the parties hereby agree as follows:

1. Forgivable loans are made available to eateries to assist in the purchase of furniture for outdoor dining that is to be used in the public sidewalk. Sidewalk Café Encroachment Permit cost and installation costs are not included.
2. Loan recipients will select tables, chairs, fencing, outdoor heaters and or umbrellas from the Program's Acceptable Furniture Options Table. Deviations or alternatives to said options table must be pre-approved in writing by the City. Loan recipient will be responsible for payments directly to the vendor using the forgivable loan amount. Any expenditure that exceeds the approved loan amount shall be the sole responsibility of the loan recipient. This includes any additional add-ons, taxes and surcharges.

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3. Property and or eatery owner must complete and sign the Program Forgivable Loan Application and submit to the City along with completed Sidewalk Café Encroachment Permit Application and Operational Statement (in conformance with the Downtown Outdoor Dining Program Design Guidelines, for review and approval prior to installation of Sidewalk Café perimeter fencing, furniture, and or accessory furniture. City staff will notify applicant whether the Forgivable Loan Application has been preapproved within 10-15 business days.
4. Sidewalk Café furniture purchased prior to approval of the forgivable loan application is not eligible under the Downtown Outdoor Dining Forgivable Loan Program.
5. Acceptance of the forgivable loan mandates the eatery to remain open, operational, and in working condition at the approved location for at least three (3) years. If the business does not remain open, operational and in the same location, the business will be responsible for repayment of the forgivable loan amount and will be subject to a 33.3% discount per year. In other words, a business that fails to remain open after year one, must repay 66.6% of the forgivable loan; after year 2, the business must repay 33.3% of the forgivable loan; after year 3, the business is no longer financially obligated to repay its debt. In all cases, the furniture remains the ownership of the business.
6. Loan recipients are required to enter into an agreement with the City to maintain the Sidewalk Café operations for an ongoing consistent basis of three (3) years, subject to the Sidewalk Café Design Guidelines, Permitting, and Operational Requirements. Eateries must agree to not relocate their business within three years of reimbursement payment. This Forgivable Loan Program is transferable should there be a change of ownership or business. New owners would be required to assume the loan and maintenance agreements for the remaining term. The loan recipient shall be held responsible for Program requirements until evidence of new business ownership and a new fully executed Forgivable Loan and Maintenance Agreement is filed with the City.
7. Forgivable loans will be financed on a reimbursement basis. Funds will be disbursed upon passing of final inspection for the approved Sidewalk Café Encroachment Permit, and submittal of receipt/proof of purchase for outdoor dining furniture as per the **Approved Forgivable Loan Program Application** for City to verify eligible expenses. All checks from the City of Salinas to the successful loan recipient will be made out to the applicant's business entity. Completion of a W-9 form for the business entity is required. Business entity name must match in all required forms, licenses, and permits.
8. Applicant must renew the Sidewalk Café Encroachment Permit on an annual basis. Permit renewal fee is \$100 and applicant is responsible for said cost.
9. Submission of an application is not a guarantee of funding. It is the responsibility of the applicant to **read and understand** all aspects of the Program, its policy and procedures. There is a 90-calendar day period for the loan recipient to install the City-approved Sidewalk Café furnishings and obtain passing of final City inspection following the date of approval of the Forgivable Loan Program Application. Unless there are extreme circumstances for not having an operation Sidewalk Café within said required period, the approved loan application will be dismissed.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

LOAN RECIPIENT

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

(Signature)

Printed Name: \_\_\_\_\_

CITY OF SALINAS

DOWNTOWN OUTDOOR DINING PROGRAM FORGIVABLE LOANS

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

(Signature)

Printed Name: \_\_\_\_\_

SAMPLE