

Execution Copy

CASE – 353327

**MICHIGAN ECONOMIC DEVELOPMENT CORPORATION
MATCH ON MAIN
GRANT AGREEMENT
WITH
CITY OF MARQUETTE DOWNTOWN DEVELOPMENT AUTHORITY**

This Grant Agreement (this “Agreement”), effective as of April 22, 2022 (the “Effective Date”), is between the Michigan Economic Development Corporation, a public body corporate (the “MEDC”), whose address is 300 North Washington Square, Lansing, Michigan 48913, and the City of Marquette Downtown Development Authority, a Michigan public body corporate, whose address is 337 West Washington Street, Marquette, Michigan 49855 (the “Grantee”). As used in this Agreement, the MEDC and the Grantee are, individually, a “Party” and, collectively, the “Parties”.

RECITALS

A. The MEDC Match on Main initiative (“MoM”) is to provide MEDC funding to Redevelopment Ready Communities®, and select or master level Michigan Main Street communities in Michigan to support small businesses within their respective communities.

B. The Grantee applied for a MoM award on March 9, 2022 (“Application”) to support reimbursement of certain capital expenditures by Peace Pie Company LLC (“Company”), a Michigan limited liability company whose project address is 1034 North Third Street, Marquette, Michigan 48955 and located within Grantee’s traditional downtown, historic neighborhood commercial corridor, or area planned and zoned for concentrated commercial development (“Project”).

C. The MEDC agrees to award Grantee a grant in the amount of up to Twenty-Five Thousand Dollars (\$25,000) to be disbursed by Grantee under the terms of this Agreement (the “MEDC Grant”).

D. Consistent with this Agreement, the Grantee desires to disburse the MEDC Grant to the Company for reimbursement of certain of the Company’s Eligible Expenses for the Project.

In consideration of the Recitals and promises in this Agreement, the Parties agree:

ARTICLE I

DEFINITIONS

Section 1.1 Defined Terms. Except as otherwise defined in this Agreement, all capitalized terms in this Agreement shall have the respective meanings set forth on Exhibit A, which contains the defined terms for this Agreement and is incorporated herein by reference.

Section 1.2 Construction of Certain Terms. Unless the context of this Agreement otherwise requires: (i) words of any gender include each other gender; and (ii) words using the singular or plural number also include the plural or singular number.

ARTICLE II

Execution Copy

MEDC GRANT

Section 2.1 MEDC Grant Commitment. Subject to the terms and conditions of this Agreement, and in reliance upon the representations and covenants of the Grantee set forth in this Agreement, the MEDC agrees to make, and the Grantee agrees to accept, the MEDC Grant.

Section 2.2 MEDC Grant Manager. The Grantee must communicate with the MEDC representative named below, or his or her designee as notified from time to time regarding this Agreement.

Suzanne Perreault ("Grant Manager")
Michigan Economic Development Corporation
300 North Washington Square
Lansing, Michigan 48913
perreaults@michigan.org

Section 2.3 Grant Disbursement Request. Subject to the terms and conditions of this Agreement, payment of up to the full amount of the MEDC Grant shall be made to the Grantee in one disbursement as soon as institutionally possible for the MEDC, after completion of all of the following requirements to the satisfaction of the Grant Manager:

- (a) **Vendor Registration.** MEDC requires that payments under this Agreement be processed by electronic funds transfer (EFT). Grantee is required to register to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website (www.michigan.gov/VSSLogin).
- (b) **Conditions to MEDC Grant Disbursement.** Grantee has timely complied with, and in the manner required by, Key Milestone Number One, which includes that the Grantee has submitted to the Grant Manager, in form and substance set forth for Key Milestone Number One on Exhibit B to the satisfaction of the Grant Manager, the fully completed and signed of all of the following, all of which are made part of Exhibit B-1:
 - i. the Grant Disbursement Request, together with:
 - a) a copy of the supporting documentation received by the Grantee from the Company evidencing the Company Match;
 - b) the Company Acknowledgment, and
 - c) the Compliance and Reporting form, together with a copy of the supporting documentation received by the Grantee from the Company evidencing the Company's actual expenditure of permitted Eligible Expenses for the Project (i.e., receipt, copy of check payment, purchaser order denoted as paid).

The Grant Manager determines compliance with Key Milestone Number One.

Execution Copy

ARTICLE III

REPRESENTATIONS AND COVENANTS OF THE GRANTEE

The Grantee represents to the MEDC, from the Effective Date through the end of the Term:

Section 3.1 Organization. The Grantee is duly organized and has the power to enter into and perform its obligations under this Agreement.

Section 3.2 Authority. The execution, delivery and performance by the Grantee of this Agreement has been duly authorized and approved by all necessary and proper action on the part of the Grantee and will not violate any provision of law or result in the breach, be a default of, or require any consent under, any of Grantee's organizational and governing documents, or any agreement or instrument to which the Grantee is a party, or by which the Grantee or its property may be bound or affected. This Agreement is valid, binding, and enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, moratorium, reorganization or other laws or principles of equity affecting the enforcement of creditors' rights generally or by general principles of equity.

Section 3.3 Consent. Except as has been disclosed in writing to the MEDC, no consent or approval is necessary from any governmental or other entity, except the MEDC, as a condition to the execution and delivery of this Agreement by the Grantee or the performance of any of its obligations under this Agreement.

Section 3.4 Full Disclosure. Neither this Agreement, the Application, the Grant Disbursement Request, or to the knowledge of the Grantee, any supporting documentation furnished by the Grantee to the MEDC in connection with the MEDC Grant or this Agreement contain, or shall contain, any untrue statement of material fact, or to the best of the Grantee's knowledge, omit, or shall omit, a fact, necessary to make the statements true. There are no undisclosed facts, which materially adversely affect or, to the best of the Grantee's knowledge, are likely to materially adversely affect the properties, business, or condition (financial or otherwise) of the Grantee or the ability of the Grantee to perform its obligations under this Agreement.

Section 3.5 Litigation or Other Proceedings. Except as has been disclosed in writing to the MEDC, to the knowledge of the Grantee and its officers or directors, there are no suits or proceedings pending or, to the knowledge of the Grantee or its officers or directors, threatened, before any court, governmental commission, board, bureau, or other administrative agency or tribunal, which, if resolved against the Grantee, would have a material adverse effect on the financial condition or business of the Grantee or impair the Grantee's ability to perform its obligations under the Agreement.

Section 3.6 Compliance with Laws. To its knowledge, the Grantee is not, and will not, be in violation of any laws, ordinances, regulations, rules, orders, judgments, decrees, or other requirements imposed by any governmental authority to which it is subject.

Section 3.7 Uses of Grant Disbursements.

- (a) Any Grant Disbursement paid by the MEDC to the Grantee shall be paid by the Grantee to the Company as reimbursement for permitted Eligible Expenses for the Project.

Execution Copy

- (b) In addition to submission of information required by Key Milestone Number One, if requested by the Grant Manager, the Grantee shall provide additional information satisfactory to the Grant Manager evidencing the Grantee's use of any portion of the Grant Disbursement.

Section 3.8 Conflict of Interest. Except as has been disclosed to the MEDC, Grantee affirms that neither the Grantee, nor any of its officers, directors, employees, or affiliates have, shall have, or shall acquire any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner with Grantee's performance of its obligations under this Agreement or otherwise create the appearance of impropriety with respect to this Agreement.

Grantee further affirms that neither Grantee nor any of its officer, directors, employees, or affiliates have accepted, shall accept, have offered, or shall offer, anything of value to influence the MEDC, its Corporate Board, Executive Committee and their respective directors, participants, officers, agents, and employees. Grantee shall not attempt to influence any MEDC employee by the direct or indirect offer of anything of value. Grantee also affirms that neither Grantee, its affiliates or their employees has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Grantee or its Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the execution of this Agreement.

In the event of change in either the interests or services under this Agreement, Grantee will inform the MEDC regarding possible conflicts of interest which may arise because of such change. Grantee agrees that conflicts of interest shall be resolved to the MEDC's satisfaction or the MEDC may terminate this Agreement. As used in this Paragraph, "conflict of interest" shall include, but not be limited to, conflicts of interest that are defined under the laws of the State of Michigan.

Section 3.9 Key Milestones. The Grantee agrees to Key Milestone Number One set forth in Exhibit B, which is incorporated herein by reference.

ARTICLE IV

OTHER GRANTEE COVENANTS

Section 4.1 Reporting. In addition to other reporting to the MEDC under this Agreement, or under the MEDC's Redevelopment Ready Communities® and Michigan Main Street programs, as applicable, the Grantee shall provide such other reports and information related to the MEDC Grant and this Agreement as reasonably requested by Grant Manager from time to time through the end of the Term.

Section 4.2 Indemnification and Insurance. To the extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the MEDC, its Corporate Board, Executive Committee, and their respective directors, participants, officers, agents, and employees ("Indemnified Persons") from any damages that it may sustain by any acts or omissions of Grantee pertaining to this Agreement. The Grantee shall maintain such insurance to protect the Indemnified Persons from claims that might arise out of, or as a result of, Grantee's operations, or its acts or omissions arising under this Agreement; however, Grantee's indemnification obligations under this Agreement shall not be limited to the limits of liability imposed under the

Execution Copy

Grantee's insurance policies. The Grantee will provide and maintain its own general liability, property damage and workers' compensation insurance. This Section shall survive indefinitely.

Section 4.3 Access to Records. During the Term, and for seven (7) years thereafter, the Grantee shall maintain reasonable records arising out of this Agreement and shall allow access to those records by the MEDC, or its authorized representative. This Section shall survive for seven (7) years following the end of the Term.

ARTICLE V

REPRESENTATIONS AND COVENANTS OF THE MEDC

The MEDC represents and warrants to the Grantee:

Section 5.1 Organization. The MEDC is a public body corporate and has the power and authority to enter into and perform its obligations under this Agreement.

Section 5.2 Consent. Except as disclosed in writing to the Grantee, or provided by law, no consent or approval is necessary from any governmental authority as a condition to the execution and delivery of this Agreement by the MEDC or the performance of any of its obligations under this Agreement.

ARTICLE VI

SUSPENSION, TERMINATION, DEFAULT AND REPAYMENT

Section 6.1 Suspension, Termination, Event of Default. Notwithstanding anything to the contrary, the MEDC's obligation to disburse any portion of the MEDC Grant shall automatically be suspended and may be terminated, and this Agreement may be terminated, all at the option of the MEDC, upon the occurrence, and during the continuance, of any one or more of the following events (each, an "Event of Default"), unless a written waiver is provided by the MEDC:

- (a) the failure of the Grantee to timely request the Grant Disbursement, and in the manner, as required by Key Milestone Number One in accordance with this Agreement, which in the aggregate, totals the full amount of the MEDC Grant;
- (b) any representation or covenant made by the Grantee in support of this Agreement shall prove incorrect at the time that such representation was made in any material respect, including, but not limited to, any information provided in any Grant Disbursement Request or otherwise in support of Key Milestone Number One, or the representations and covenants set forth in Article III or Article IV;
- (c) any material failure by the Grantee to comply with any of the terms, covenants, and conditions on its part to be performed under this Agreement, including without limitation, any of the terms, covenants or conditions under Article III or Article IV, which, if considered curable by the MEDC, is not cured by the Grantee to the satisfaction of the MEDC within the Cure Period;
- (d) the Grantee is in default, violation, breach, or non-compliance, of any kind or nature under any agreement or requirement, including submission of reports, with the

Execution Copy

MEDC, or for any department or agency within the State, federal, local or any governmental agency, including without limitation, the Department of Licensing and Regulatory Affairs, the Department of Labor and Economic Opportunity, or the Michigan Strategic Fund, which, if considered curable by the MEDC, is not cured by the Grantee to the satisfaction of the MEDC within the Cure Period; or

- (e) any voluntary bankruptcy or insolvency proceedings are commenced by, or against, the Grantee, with any such proceedings against the Grantee not being set aside within sixty (60) calendar days from the date commenced.

Section 6.2 Repayment of Certain Events.

- (a) **Event of Default.** If this Agreement is terminated prior to the end of the Term by the MEDC as a result of any Event of a Default, the Grantee shall upon written notice by the MEDC, immediately repay to the MEDC the amount of the MEDC Grant then disbursed by the MEDC to the Grantee that Grantee has not yet disbursed to the Company as permitted by this Agreement.
- (b) **Recovery by the Grantee.** In the event the Grantee receives repayment for any reason, voluntarily or involuntarily, of any portion of any MEDC Grant funds from or on behalf of any Company, the amount received (not to exceed the amount of the Grant Disbursement paid to Grantee) less reasonable costs of collection, if any, shall be repaid to the MEDC within thirty (30) calendars of receipt by the Grantee.
- (c) **Failure to Disburse.** In the event the Grantee has received any Grant Disbursement and has not, within sixty (60) days of receipt of such Grant Disbursement, disbursed all such MEDC Grant monies to the Company as required by this Agreement, the Grantee shall return to the MEDC the portion of the MEDC Grant monies not yet disbursed by the Grantee.

Section 6.3 Other Suspension. In the event the MEDC becomes aware of an event or circumstance, which, with the giving of notice or passage of time or both, would reasonably constitute an Event of Default, the MEDC may immediately and without prior notice suspend making any Grant Disbursement, until such time the MEDC is satisfied otherwise. The Grantee shall cooperate upon the request of the Grant Manager to provide additional information regarding the aforementioned event or circumstance.

Section 6.4 Available Remedies. The suspension or termination of payments to the Grantee, or the termination of this Agreement, are not intended to be the sole and exclusive remedies available to the MEDC, and each remedy shall be cumulative and in addition to every other provision or remedy given herein or now or hereafter existing at law, in equity, by statute or otherwise. The Grantee shall also pay all costs and expenses, including, without limitation, reasonable attorney's fees and expenses incurred by the MEDC in collecting any sums due the MEDC from the Grantee under this Agreement, in enforcing any of its rights against the Grantee under this Agreement, or in exercising any remedies against the Grantee available to the MEDC.

Execution Copy

ARTICLE VII

MISCELLANEOUS

Section 7.1 Notice. Any notice or other communication under this Agreement shall be in writing and e-mailed, or faxed, or mailed by first class mail, postage prepaid, or sent by express, overnight courier to the respective Party at the address listed at the beginning of this Agreement or such other last known addresses or e-mail accounts and shall be deemed delivered one business day after the delivery or mailing date.

Section 7.2 Counterparts; Facsimile/pdf Signatures. This Agreement may be signed in counterparts and delivered by facsimile or in pdf form or other electronic format, and in any such circumstances, shall be considered one document and an original for all purposes.

Section 7.3 Severability. All clauses of this Agreement are distinct and severable and, if any clause shall be deemed illegal, void, or unenforceable, it shall not affect the validity, legality or enforceability of any other clause or provision of this Agreement. To the extent possible, the illegal, void, or unenforceable provision shall be revised to the extent required to render the Agreement enforceable and valid, and to the fullest extent possible, the rights and responsibilities of the Parties shall be interpreted and enforced to preserve the Agreement and the intent of the Parties. Provided, if application of this section should materially and adversely alter or affect a Party's rights or obligations under this Agreement, the Parties agree to negotiate in good faith to develop a structure that is as nearly the same structure as the original Agreement (as may be amended from time to time) without regard to such invalidity, illegality, or unenforceability.

Section 7.4 Captions. The captions or headings in Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections of this Agreement.

Section 7.5 Governing Law. This Agreement is a contract made under the laws of the State, and for all purposes shall be governed by, and construed in accordance with, the laws of the State.

Section 7.6 Relationship between Parties. The Grantee and its officers, agents and employees shall not describe or represent themselves as agents of the State, the MEDC, or the MEDC to any individual person, firm, or entity for any purpose.

Section 7.7 Successors and Assigns. The MEDC may at any time assign its rights or obligations in this Agreement. The Grantee may not assign its rights or obligations under this Agreement without the prior written consent of the MEDC. The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

Section 7.8 Waiver. A failure or delay in exercising any right under this Agreement will not be presumed to operate as a waiver unless otherwise stated in this Agreement, and a single or partial exercise of any right will not be presumed to preclude any subsequent or further exercise of that right or the exercise of any other right.

Section 7.9 Termination of Agreement. Except as to this Article VII and the Exhibit A definitions, which shall survive indefinitely, and except as to other terms and conditions which shall survive as provided in this Agreement, this Agreement shall terminate at the end of the Term.

Execution Copy

Provided however, any claims for repayment hereunder which arise out event that occurred during the Term, shall be brought within three (3) years after the end of the Term, and all available remedies thereon shall survive until all amounts due the MEDC are paid in full. Provided further, and notwithstanding anything to the contrary, in the event that the State Legislature or the State government fails to provide or terminates the funding necessary for the MEDC to fund the MEDC Grant, the MEDC may terminate this Agreement by providing notice to the Grantee not less than thirty (30) calendar days before the date of cancellation provided, however, that in the event the action of the State Legislature or State government results in an immediate absence or termination of funding, this Agreement may be terminated effective immediately upon delivery of written notice to the Grantee. In the event of termination of funding, the MEDC has no further obligation to make any Grant Disbursement to Grantee for any reason beyond the date of termination of this Agreement.

Section 7.10 Amendment. This Agreement may not be modified or amended except pursuant to a written instrument signed by the Grantee and the MEDC.

Section 7.11 Publicity. At the request and expense of the MEDC the Grantee will cooperate with the MEDC, and request that the Company also cooperate, to promote the Project through one or more of the placement of a sign, plaque, media coverage or other public presentation at the Project location, or other locations, acceptable to the Parties.

Section 7.12 Site Visit. At the request and expense of the MEDC, the Grantee will cooperate with the MEDC, and request that the Company also cooperate, to permit the Grant Manager or such other MEDC representative to visit the Project location and/or view the results of the permitted Eligible Expenses.

(Signature page follows)

Execution Copy

The Parties have executed this Agreement effective on the Effective Date.

The signatories below warrant that they are empowered to enter into this Agreement.

CITY OF MARQUETTE DOWNTOWN DEVELOPMENT AUTHORITY

Tara Laase-McKinney 4/22/2022
Tara Laase-McKinney Date
Events & Promotions Manager

MICHIGAN ECONOMIC DEVELOPMENT CORPORATION

DocuSigned by:
Christin Armstrong 5/18/2022
Christin Armstrong Date
Secretary

(Signature page to MEDC Match on Main Grant Agreement)