

**GRANT AWARD AGREEMENT FUNDING  
BETWEEN THE CITY OF VACAVILLE AND  
[ENTER COMPANY]  
FOR  
CITY OF VACAVILLE STOREFRONT IMPROVEMENT GRANT**

**THIS AGREEMENT** is made and entered into on the date last written below, by and between the **CITY OF VACAVILLE**, a municipal corporation (hereinafter "CITY"), and **[ENTER COMPANY]**, a California **[sole proprietorship/corporation]**, (hereinafter "APPLICANT").

**R E C I T A L S**

The purpose for which this AGREEMENT is made, and all pertinent recitals are listed in EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**SECTION 1. APPLICANT OBLIGATIONS.**

APPLICANT hereby agrees to use the City of Vacaville Storefront Improvement funds provided to APPLICANT solely for the project pursuant to all of the terms and conditions of this AGREEMENT. The grant use of funds is more particularly set forth in Exhibit C, attached hereto and incorporated herein by reference (the "Use of Funds"). The Storefront Improvement funds shall be used solely for the actual expenses incurred by APPLICANT for the uses as set forth in the scope of work approved by in the notice to proceed attached hereto as Exhibit C and incorporated herein by reference. CITY staff may approve minor changes to the budget that do not exceed the maximum amount in Section 4 of this AGREEMENT.

The CITY will monitor the performance of APPLICANT against requirements herein, as set forth in Exhibit E (Reporting Requirements). Substandard performance as determined by CITY will constitute non-compliance with this AGREEMENT. If APPLICANT does not take action to correct such substandard performance within a reasonable period of time after being notified by CITY, CITY may initiate suspension of this AGREEMENT and grant repayment procedures.

**SECTION 2. TERM OF AGREEMENT.**

Notwithstanding the date of execution of this AGREEMENT, the term of this AGREEMENT shall be from date of execution to five years from date of execution, inclusive, subject to the provisions of SECTION 11 of this AGREEMENT. CITY shall evaluate APPLICANT's performance on an as needed basis and APPLICANT shall retain documents as determined by CITY during the entire term of this AGREEMENT.

**SECTION 3. USE OF GRANT PROCEEDS.**

The eligible expenditures of APPLICANT are to be completed according to the schedule specified in Section C of EXHIBIT C, entitled "Use of Funds". Time is of the essence in this AGREEMENT.

APPLICANT shall establish and maintain work performance goals, program participation data, and other work performance related measures as required by CITY. These measures as required by CITY shall be used to evaluate APPLICANT's progress toward performance of those activities identified in Section C of EXHIBIT C, entitled "Use of Funds".

**SECTION 4. COMPENSATION.**

The grant funds to be paid to APPLICANT, up to a maximum amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), shall be as follows: One payment of \_\_\_\_\_ Dollars (\$) as set forth in Section 5, below. If APPLICANT complies with this AGREEMENT and provides all documents and certifications requested by CITY subsequent to APPLICANT's use of the grant funds. If APPLICANT does not comply with this AGREEMENT, CITY may seek partial or full repayment of the grant funds. No interest shall accrue on the grant funds.

CITY shall provide grant funding to APPLICANT for expenses incurred in accordance with the budget specified in Section C of EXHIBIT D. Expenses include only expenses incurred for or related to operations of APPLICANT as specified in EXHIBITS B and C.

**SECTION 5. METHOD OF PAYMENT.**

Notwithstanding the compensation schedule above, any and all other documentation related to expenditures during the preceding period, accompanied by a report specifying expenses incurred for approval by CITY's representative. The applicant shall submit invoices to the City for costs associated with eligible improvements made. Once improvements have been inspected and all provisions of the guidelines have been satisfied the City of Vacaville may authorize the release of funding in the form of a check to the applicant.

**SECTION 6. INDEPENDENT CONTRACTOR.**

It is understood and agreed that APPLICANT (including APPLICANT 's employees), in the performance of the work and services agreed to be performed by APPLICANT, shall act as and be an independent contractor and not an agent or employee of CITY; and, as an independent contractor, neither APPLICANT nor APPLICANT's employees shall have any rights to retirement benefits or other benefits that accrue to CITY's employees and APPLICANT hereby expressly waives any claim it or its employees may have to any such benefits or rights.

**SECTION 7. ASSIGNABILITY.**

The parties agree that the expertise and experience of APPLICANT are material considerations for this AGREEMENT. APPLICANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of APPLICANT's obligations hereunder, without the prior written consent of CITY, and any attempt by APPLICANT to so assign or transfer this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

**SECTION 8. INDEMNIFICATION.**

A. INDEMNITY.

APPLICANT shall indemnify and hold harmless CITY, its officers, officials, employees and volunteers from and against all actions, causes of actions, damages, costs, liabilities, claims, losses, judgments, penalties and expenses of every type and description, including without limitation any fees and/or costs reasonably incurred by CITY's staff attorneys or contract attorneys and any and all costs,

fees and expenses incurred in enforcing this provision (hereafter collectively referred to as “liabilities”), arising out of or in connection with any negligent act or omission, misconduct, or other legal fault of APPLICANT, its officers, employees, subAPPLICANTS, subcontractors, or agents in connection with the performance or nonperformance of this AGREEMENT, whether or not CITY accepted or approved any service or work product performed or provided by APPLICANT hereunder, and whether or not such liabilities are litigated, settled, or reduced to judgment. In the event that a final decision or judgment allocates liability by determining that any portion of damages awarded is attributable to CITY’s negligence or willful misconduct, CITY shall pay the portion of damages which is allocated to CITY’s negligence or willful misconduct, provided that CITY shall not be liable for any passive negligence of CITY, its officers or employees in reviewing, accepting, or approving any service or work product performed or provided by APPLICANT.

APPLICANT agrees the obligation to indemnify, hold harmless, and defend CITY, its officers, officials, employees, and volunteers as described specifically extends to and includes any and all actions, causes of action, claims, demands, liability, loss, injury, including but not limited to bodily injury or death, damage, expense, costs (including, without limitation, costs fees of litigation, attorneys’ fees, and expert witness fees) of every nature arising out of or in connection with the performance of APPLICANT’S obligations or its failure to comply with any of its obligations contained in the AGREEMENT related to any communicable illness, disease, or infection, including, but not limited to, the novel corona virus (COVID – 19) and its symptoms, any government order related to public health, and any other illness or injury claimed arising out of or in connection with the APPLICANT’S performance or nonperformance of obligations under this AGREEMENT.

APPLICANT further agrees the obligation to indemnify, hold harmless, and defend CITY, its officers, officials, employees, and volunteers as described specifically extends to and includes any and all actions, causes of action, claims, demands, liability, loss, injury, including but not limited to any damages, expense, repayment of funds, penalties, costs (including, without limitation, costs fees of litigation, attorneys’ fees, and expert witness fees) of every nature arising out of or in connection with the performance of APPLICANT’S obligations or its failure to comply with any of its obligations contained in the AGREEMENT related the use of grant funds under the American Rescue Plan Act of 2021, the United States Department of the Treasury guidelines and interpretations, as currently exist or as may be amended and supplemented in the future, and the CITY program guidelines in connection with the APPLICANT’S performance or nonperformance of obligations under this AGREEMENT.

#### B. OBLIGATION TO DEFEND.

APPLICANT shall, upon CITY’s request, defend with counsel approved by CITY (which approval shall not be unreasonably withheld), at APPLICANT’s sole cost and expense, any action, claim, suit, cause of action or portion thereof which asserts or alleges liabilities resulting from any allegedly negligent act, omission, misconduct, or other legal fault of APPLICANT, its officers, employees, subAPPLICANTS, subcontractors, or agents in connection with the performance or nonperformance of this AGREEMENT, whether or not such action, claim, suit, cause of action or portion thereof is well founded.

#### C. INSURANCE POLICIES; TERMINATION.

Acceptance of insurance certificates or endorsements required under EXHIBIT D of this AGREEMENT does not relieve APPLICANT from liability under this Section 8 and shall apply to all damages and claims of every kind suffered, or alleged to have been suffered, by reason of APPLICANT’S negligence, misconduct, or other legal fault regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. The provisions of this Section 8 shall survive any termination of this AGREEMENT.

## **SECTION 9. INSURANCE REQUIREMENTS.**

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the Insurance obligations contained in this agreement. APPLICANT agrees to have and maintain the policies of insurance set forth in EXHIBIT D, entitled "INSURANCE", which is attached hereto and incorporated herein. All policies, endorsements, certificates, and/or binders shall be subject to approval by CITY's Risk Management as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by CITY's Risk Management. APPLICANT agrees to provide CITY with a copy of said policies, endorsements, certificates and/or binders before performance commences under this AGREEMENT.

## **SECTION 10. NONDISCRIMINATION.**

APPLICANT shall not discriminate in any way against any person on the basis of age, sex, race, color, creed, or national origin in connection with or related to the performance of this AGREEMENT.

APPLICANT shall not employ discriminatory practices in the provision of services, employment of personnel, or in any other respect on the basis of age, race, color, religion, sex, national origin, ancestry, or physical or mental handicap, or any other protected class under all applicable federal and state laws and regulations. During the performance of this AGREEMENT, APPLICANT agrees as follows:

- A. No person in the United States shall on the grounds of age, race, color, religion, sex, national origin, ancestry, or physical or mental handicap be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program, project, or activity made possible by or resulting from this AGREEMENT in accordance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended; and the American with Disabilities Act of 1990.
- B. APPLICANT will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin, ancestry, or physical or mental handicap. APPLICANT shall take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, age, color, religion, sex, national origin, ancestry, or physical or mental handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- C. APPLICANT will, in all solicitations or advertisements for employment, state that all qualified applications will receive consideration for employment without regard to age, race, color, religion, sex, national origin, ancestry, or physical or mental handicap.

## **SECTION 11. TERMINATION.**

- A. In accordance with 24 CFR 85.44, CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination.
- B. If APPLICANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.

- C. In accordance with Article XVI, Section 18 of the California Constitution, if in any fiscal year subsequent to the execution of this AGREEMENT, CITY fails to appropriate money for the purpose of funding this AGREEMENT, this AGREEMENT shall terminate, without penalty, effective upon the close of business on the last day of the fiscal year for which funding has been appropriated.
- D. CITY's Director of Economic Development Services or his/her authorized designee is empowered to terminate this AGREEMENT on behalf of CITY.
- E. In the event of termination, APPLICANT shall deliver to CITY copies of all reports, documents, and other work performed by APPLICANT under this AGREEMENT and, upon receipt thereof, CITY shall pay APPLICANT for the reasonable value of services performed to the date of termination.

## **SECTION 12. GOVERNING LAW.**

CITY and APPLICANT agree that the law governing this AGREEMENT shall be that of the State of California. Grant funds are to be used by APPLICANT exclusively for the purposes permitted under the 2024 City of Vacaville Storefront Improvement Grant Guidelines and as set forth in this AGREEMENT.

## **SECTION 13. COMPLIANCE WITH LAWS, REGULATIONS, AND GOVERNMENTTTN ORDERS.**

- A. APPLICANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

APPLICANT shall comply with all federal, state, county, and local orders and guidelines regarding the operations of its programs, use of the premises, and any and all other activities the APPLICANT engages in while performing its obligations under the AGREEMENT. The APPLICANT shall be solely responsible for ensuring the health and safety of the public entering the utilizing APPLICANT programs or services, and any and all other activities the APPLICANT engages in while performing its obligations under the AGREEMENT. APPLICANT agrees it shall be responsible for following appropriate government orders and guidance related communicable and infectious disease including, but not limited to, following all federal, state, county, and local guidelines.

## **SECTION 14. CONFIDENTIAL INFORMATION.**

All data, documents, discussions, or other information developed or received by or for APPLICANT in the performance of this AGREEMENT are confidential and not to be disclosed to any person except with the prior written permission of CITY, or as required by law.

## **SECTION 15. WAIVER.**

APPLICANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by APPLICANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

## **SECTION 16. REPORTING REQUIREMENTS, RECORDS, AUDITING, AND MONITORING.**

- A. APPLICANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to APPLICANT pursuant to this AGREEMENT.
- B. APPLICANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at any time during regular business hours upon written request by CITY's City Attorney, City Manager, or a designated representative of either of these officers. Copies of such documents shall be provided to the CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at APPLICANT's address indicated for receipt of notices in this AGREEMENT.
- D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of APPLICANT's business, CITY may, by written request by any of the above-named officers, require that custody of such records and documents be given to CITY and that such records and documents shall be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by APPLICANT, APPLICANT's representatives, or APPLICANT's successor-in-interest during regular business hours.
- E. Within fifteen (15) days of CITY's request APPLICANT shall provide CITY with a copy of a fiscal organization-wide audit that meets 2 CFR Part 200 requirements. APPLICANT shall respond to and address any audit findings.
- F. APPLICANT shall comply with the provisions set forth in EXHIBIT E, entitled "REPORTING REQUIREMENTS", which is attached hereto and incorporated herein.

## **SECTION 17. CONFLICT OF INTEREST.**

APPLICANT shall avoid all conflict of interest or appearance of conflict of interest in the performance of this AGREEMENT.

## **SECTION 18. CLAIMS AGAINST THE CITY.**

In the event any claim or cause of action is brought against the CITY by APPLICANT, its officers, employees, subAPPLICANTS, subcontractors, or agents in connection with the performance or nonperformance or arising out of or in any way connected to this AGREEMENT or the duties and obligations contemplated herein, APPLICANT, its officers, employees, subAPPLICANTS, subcontractors, or agents must comply with Vacaville Municipal Code (VMC) Chapter 1.10, as may be amended from time to time. Any claims arising out of or in any way connected to this AGREEMENT, the performance or non-performance hereof, or the duties and obligations

contemplated herein must be presented in writing to the CITY no later than six (6) months after the accrual of the cause of action and such claims shall be governed by the provisions of VMC Chapter 1.10, as may be amended from time to time. No lawsuit, complaint, or cause of action arising out of or in any way connected with the AGREEMENT, the performance or non-performance hereof, or the duties and obligations contemplated herein may be brought against the CITY, or any officer, employee, board, commission, or authority of the CITY, until a written claim has been presented to the CITY Council (by and through the CITY Clerk) and has been acted upon or has been deemed to have been rejected by the CITY.

**SECTION 19. NOTICES.**

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and addressed to the respective parties as follows:

**TO CITY:** City of Vacaville  
Economic Development Department  
650 Merchant Street  
Vacaville, CA 95688  
ATTENTION: Barbara Carr

**TO APPLICANT :**

ATTENTION:

Notice shall be deemed effective on the date personally delivered or emailed or, if mailed, three (3) days after deposit in the mail.

**SECTION 20. FORCE MAJURE:** A party shall not be liable for any failure of or delay in the performance of this AGREEMENT for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders, including government public health orders, or any other force majeure event.

**SECTION 21. VENUE.**

In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Solano or, where otherwise appropriate, exclusively in the United States District Court, Eastern District of California, Sacramento, California.

**SECTION 22. INTERPRETATION.**

Each party has reviewed this AGREEMENT and any question of doubtful interpretation shall not be resolved by any rule of interpretation providing for interpretation against the drafting party. This AGREEMENT shall be construed as if both parties drafted it. The captions and headings contained herein are for convenience only and shall not affect the meaning or interpretation of this AGREEMENT.

**SECTION 23. SIGNATOR'S WARRANTY.**

Each party warrants to each other party that he or she is fully authorized and competent to enter into this AGREEMENT in the capacity indicated by his or her signature and agrees to be bound by this AGREEMENT.

**SECTION 24. ELECTRONIC SIGNATURES AND COUNTERPARTS.**

As permitted under the U.S. Electronic Signatures in Global and National Commerce (EISGN) Act of 2000, and the Uniform Electronic Transactions Act (UETA), the parties hereby agree to conduct this transaction by electronic means. This AGREEMENT may be executed through an electronic signature and may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that the electronic signatures appearing on this AGREEMENT are intended by each party using it to have the same force and effect as the use of a manual signature for the purposes of validity, enforceability, and admissibility.

**SECTION 25. PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.



**WITNESS THE EXECUTION HEREOF** on the day and year last written below.

APPROVED AS TO FORM:

"CITY"

CITY OF VACAVILLE, a municipal corporation

By: \_\_\_\_\_  
Andria Borba,  
Assistant City Attorney

By: \_\_\_\_\_  
Don Burrus  
Director of Economic Development Services

Dated: \_\_\_\_\_

"APPLICANT"

\_\_\_\_\_, a California  
[sole proprietorship/corporation]

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

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

## **EXHIBIT A**

### **RECITALS**

WHEREAS, CITY the City of Vacaville has provided funds for the purposes of grants to encourage business owners and/or commercial property owners to improve the exterior of commercial buildings, including, but not limited to, outdoor seating area, add or improve non-temporary business building signage; and create a more attractive commercial environment to strengthen economic vitality in the Vacaville Downtown Specific Plan area.

WHEREAS, APPLICANT meets the necessary requirements to receive grant funding under the 2024 Vacaville Storefront Improvement Grant Program in compliance with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

NOW, THEREFORE, the purpose of this AGREEMENT is to provide grant funds to APPLICANT subject to all the conditions and terms of this AGREEMENT.

## **EXHIBIT B**

### **USE OF FUNDS**

#### **ELIGIBLE IMPROVEMENTS**

1. **Building Facades:** Facade improvements must be integrated into a comprehensive architectural theme and may include, but are not limited to, such items as improvements to front entrances and storefronts; display windows and glazing; painting/stucco; wood treatments; artistic murals; exterior lighting, and awnings.
2. **Outdoor Seating:** Eligible outdoor seating improvements must be coordinated with the City's Project Review Committee and may include such items as fencing and dividers, seating and tables, moveable landscaping, canopies, lighting, and outdoor heaters.
3. **Signage:** Eligible signage improvements must be non-temporary building sign cabinets or fascia elements that are integrated into building facades, and must follow the Downtown's Specific Plan Design Guidelines, and the City of Vacaville Sign ordinance.

All property improvements made under this Program must be consistent with the City's Zoning Ordinance, General Plan, and the City of Vacaville Downtown Specific Plan. As with any other project, the property improvements under this program must also adhere to all applicable building codes, sign ordinances, and development/design standards for the City of Vacaville. Any code violations must be corrected before funding is released. Should any code violations occur related to any improvements made using funding from this Program and remain uncured for a period of time as outlined in a code enforcement citation, the participant may be required to reimburse the City for any unamortized funding over a 5-year period from the date funding is released.

#### **ELIGIBLE SOFT COST**

1. The "soft costs" eligible under this section include:
2. Architectural design review, plan check, boundary survey.
3. Architectural and/or APPLICANT services to the property or business tenant, e.g. preparation of bids, preparation and filing of plans, construction monitoring, progress payments, lien releases, or change orders.
4. Costs of current title report for the property.
5. Such other costs, fees, and exterior improvements approved by the Director of Economic Development Services, or his or her designee, which are consistent with the objectives of the Program.

**Use of Funding Description:**

Eligible uses include but are not limited to: furniture, fixtures and equipment purchases to complete approved improvements, labor costs of approved contractor, construction materials as listed and approved in the application's scope of work. Other expenses may be eligible and will be reviewed on a case by case basis. List below planned activities for funding:

<b>Activity</b>	<b>Amount</b>

CITY shall require appropriate documentation that the expenses for which funds were allocated to be appropriated for identified expenses under this Agreement and under any applicable state, federal or local laws, rules, ordinances or regulations. **All funding must be spent prior to June 30, 2025.**

## EXHIBIT D

### INSURANCE REQUIREMENTS FOR GRANT RECEPIENT

APPLICANT will have active general liability and appropriate special liability insurance within 30 days of application for grant funds.

<b>Minimum Scope of Insurance</b> – the following forms shall be provided and coverage shall be at least as broad as the following: <ol style="list-style-type: none"><li>1. Insurance Services Office Commercial General Liability coverage (ISO Occurrence Form CG0001).</li><li>2. Original and separate Additional Insured Endorsement for General Liability On-Going Operations (ISO Form CG 20 10).</li><li>3. Original and separate endorsement for Primary and Non-Contributory insurance coverage (ISO Form CG 20 01).</li><li>4. Insurance Services Office Automobile Liability coverage (ISO Form CA 0001, Code 1, Any Auto).</li><li>5. Workers' Compensation Insurance as required by the State of California including Employer's Liability coverage.</li><li>6. Original and separate Waiver of Subrogation for Workers' Compensation Insurance.</li></ol>	
<b>Required Coverage</b>	<b>Minimum Limits</b>
General Liability <i>(primary and excess limits combined)</i>	<b>Minimum coverage \$1,000,000 per occurrence and \$2,000,000 aggregate.</b>  Includes coverage for bodily injury, personal injury, property damage and products and completed operations. If the policy includes a general aggregate, either the general aggregate shall apply separately to this project, service or location or the <b>minimum required aggregate limit shall be twice the per occurrence limit.</b>  Policy shall be endorsed to name the City of Vacaville as Additional Insured per the conditions detailed below.
Automobile Liability <i>(if applicable)</i>	<b>\$500,000</b> per occurrence for bodily injury and property damage.
Workers' Compensation and Employers' Liability	Statutory limits as required by the State of California including \$1,000,000 Employers' Liability per accident, per employee for bodily injury or disease. If APPLICANT is self-insured, provide a certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations and Self-Insurance.  If CONSULTANT is not required by the State of California to carry Workers' Compensation and Employer's Liability, CONSULTANT agrees to complete the Workers' Compensation Declaration provided by CITY. CONSULTANT

	agrees if their Workers' Compensation requirement status changes while CONSULTANT is performing work under this contract, CONSULTANT will provide City evidence of such Workers' Compensation coverage in compliance with the terms of our contractual agreement.
<b>Required Policy Conditions</b>	
Additional Insured Endorsement - On-Going Operations	The City of Vacaville, its officers, officials, employees, agents and volunteers are to be named as Additional Insured for all liability arising out of, or in any way caused, in whole or in part, actively or passively, by the named insured in the performance of this AGREEMENT. All coverage available to the named insured shall also be available and applicable to the CITY as Additional Insured. <b><i>Additional Insured On-Going Operations Coverage shall be at least as broad as ISO Form CG 20 10 04 13.</i></b>
Primary and Noncontributory Endorsement	The Additional Insured coverage under the APPLICANT's policy shall be Primary and Noncontributory and will not seek contribution from the CITY's insurance or self-insurance and shall be at least as broad as <b>ISO Form CG 20 01 04 13.</b>
A. M. Best Rating	A-:VII or better. If the A.M. Best Rating falls below the required rating, APPLICANT must replace coverage immediately and provide prompt notice to CITY.
Waiver of Subrogation Endorsement	APPLICANT's insurer will provide a Waiver of Subrogation endorsement in favor of CITY for Workers Compensation coverage during the life of this AGREEMENT.
Deductibles and Self-Insured Retentions	<ol style="list-style-type: none"> <li>1. All deductibles and self-insured retentions (SIR) greater than \$50,000 must be disclosed to and approved by CITY's Risk Management and shall not reduce the limits of liability.</li> <li>2. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.</li> <li>3. At the option of CITY either the insurer shall reduce or eliminate such deductibles or SIR as respects CITY; or APPLICANT shall procure a financial guarantee in an amount equal to the deductible or SIR retention guaranteeing payment of losses and related investigations, claims administration and defense expenses.</li> </ol>

### **Umbrella/Excess Liability Policies**

The limits of insurance required in this AGREEMENT may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall be at least as broad as specified for the underlying coverages and cover those insured in the underlying policies. Any umbrella or excess insurance shall also apply on a Primary and Noncontributory basis for the benefit of the CITY before the CITY's own insurance or self-insurance shall be called upon to protect it as a named insured.

### **Claims-Made Policies**

If any insurance policy is written on a claims-made form, the following conditions apply: 1) the retroactive date must be shown and must be before the date of this AGREEMENT, 2) the insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work, and 3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date

of this AGREEMENT, APPLICANT must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

### **Subcontractors**

APPLICANT shall include the following language in their agreement with subcontractors: "Subcontractor agrees to be bound to the APPLICANT and the City of Vacaville in the same manner and to the same extent as the APPLICANT is bound to City of Vacaville under the Contract Documents. Subcontractor further agrees to include the same indemnity and insurance provisions contained in the City Contract Document, to the extent they apply to the scope of the sub-subcontractor's work. A copy of the CITY Contract Document indemnity and insurance provisions will be furnished to subcontractor upon request."

APPLICANT is responsible for verifying subcontractors' insurance policies and endorsements. APPLICANT agrees to furnish to CITY upon request proof of insurance coverage for APPLICANT's subcontractors.

APPLICANT agrees to defend and indemnify CITY for any damage resulting from failure of either APPLICANT or any subcontractor to take out or maintain the required insurance policies. The fact that insurance is obtained by APPLICANT and/or APPLICANT's subcontractors, will not be deemed to release or diminish the liability of CONSULTANT, including, without limitation, liability under the indemnity provisions of this AGREEMENT. Damages recoverable by CITY from APPLICANT or any third party will not be limited by the amount of the required insurance coverage.

### **Verification of Coverage**

All original certificates and endorsements shall be received and approved by CITY before work may begin. CITY reserves the right to obtain full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

**Original insurance certificates and required policy endorsements shall be mailed, or delivered to CITY's Risk Management.** Insurance certificates and endorsements may be emailed or faxed to CITY's Project Manager.

#### CITY's Risk Management

NAME: Erin Berndsen

ADDRESS: City of Vacaville

650 Merchant Street

Vacaville, CA 95688

EMAIL: erin.berndsen@cityofvacaville.com

PHONE: (707) 449-5195

### **Continuous Coverage**

APPLICANT shall maintain the required insurance for a period of at least one hundred and eighty (180) days (except as required under Claims-Made Policies) after final payment has been made by CITY to APPLICANT pursuant to this AGREEMENT. Should APPLICANT cease to have insurance as required during this time, all work by APPLICANT pursuant to this AGREEMENT shall cease until insurance acceptable to CITY is provided. **Maintenance of proper insurance coverage is a material element of this AGREEMENT. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by CITY as a material breach of this AGREEMENT.** In the event that APPLICANT fails to comply with CITY's insurance requirements, CITY may take such action as it deems necessary to protect CITY's interests. Such action may include but is not limited to termination of this AGREEMENT, withholding of payments, or other actions as CITY deems appropriate.

If services or the scope of work extend beyond the expiration dates of the required insurance policies initially approved by CITY, APPLICANT must provide updated certificates and endorsements indicating that the required coverage, terms and conditions are still in place. **Renewal certificates and updated endorsements shall be mailed to CITY's Project Manager.**

**Consistent with Public Policy**

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms and provisions herein may be consistent with public policy and thus enforceable.



## **EXHIBIT E**

### **REPORTING REQUIREMENTS, INSPECTION AND RELEASE OF FUNDING**

- Progress inspections by City staff may be conducted to ensure that the improvements are being constructed in accordance with the approved plans and the City's Codes.
- A final inspection by City staff shall be conducted to determine that the improvements have been completed in accordance with the plans, and with the City's Codes.
- Upon completion of the proposed improvements, the City will reimburse the applicant for project-related invoices (direct expenses) for up to the maximum amount allowed under these guidelines. Applicants shall be responsible for all costs, including soft costs more than the funding assistance received or the maximum amount allowed as stated above.
- Maintain the improvements for a minimum of three years.

**APPLICANT CERTIFICATION FORM**

Certification.

The APPLICANT certifies that the expenses for which APPLICANT used the Grant proceeds: (i) are necessary expenditures incurred and approved under the proposed improvements and were not completed prior to the Notice to Proceed. Any work that extends beyond June 30, 2024, will need prior approval and may or may not be approved for an extension. The APPLICANT also certifies that the APPLICANT is in good standing, has no debts to the CITY, and is not debarred by the Federal Government.

\_\_\_\_\_  
NAME

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BY