

PROGRAM AGREEMENT
CITY OF BEAUMONT
Downtown Storefront Façade Improvement Grant Agreement

THIS AGREEMENT, entered into this fifth day of November, 2024, between the City of Beaumont, CA (hereinafter referred to as “City”) and the following designated OWNER/LESSEE:

Owner Name: Dave Corey

Lessee’s Name: _____

Name of Business: Berkshire Hathaway

Business Tax ID #: _____

Address of Property to be improved: 960 Beaumont Avenue

Total Budget for Project: \$80,484.69

Maximum Potential Reimbursement Sought: \$40,242.35

WITNESSETH:

WHEREAS, the City of Beaumont has established the Downtown Storefront Façade Improvement Program for application within the Downtown Mixed Use Zone, Beaumont Avenue Mixed Use Zone or Commercial Neighborhood Zone (hereinafter referred to as “Program Area”);

WHEREAS, said Downtown Storefront Façade Improvement Program is administered by the City for the purpose of commercial revitalization, stimulation of private investment and customer patronage, preservation and beautification of the Historic Downtown Area, and to generate shopping and dining opportunities by creating a pleasant walking environment resulting from the improved visual aesthetics of the commercial building façades;

WHEREAS, pursuant to the Downtown Storefront Façade Improvement Program, the City has agreed to participate, subject to its sole discretion, in reimbursing owners/lessees for the cost of materials only for eligible exterior improvements to commercial establishments within the Project Area with a mandatory minimum OWNER/LESSEE contribution of 1:1 leverage of personal funds towards the improvements to the building within the scope of work and subject to a maximum matching amount to be paid by the City of \$50,000 (for example if the cost of the project is \$60,000 the maximum City match is \$30,000; if the project amount is \$120,000 the maximum City match is \$50,000);

WHEREAS, under the limited circumstance where an owner/lessee retains a contractor who performs the work in accordance with the prevailing wage laws, construction costs may be reimbursable subject to the same limitations as for materials on a combined basis; and

WHEREAS, the Owner/Lessee's property is located within the Program Area, and the Owner/Lessee desires to participate in the Downtown Storefront Façade Improvement Program pursuant to the terms and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein and the Recitals above which are incorporated herein by this reference, the City and the Owner/Lessee do hereby agree as follows:

SECTION 1

The Downtown Storefront Façade Improvement Program reimbursements are limited to supply contracts for materials only (reimbursement for construction is not permitted except as otherwise provided below for prevailing wage jobs). Further the Owner/Lessee contribution is subject to a mandatory 1:1 leverage of personal funds towards the improvements of the building in the scope of work with an overall maximum matching amount to be paid by the City of \$50,000 (for example if the cost of the project is \$60,000 the maximum City match is \$30,000; if the project amount is \$120,000 the maximum City match is \$50,000). Payment of the matching amount by an owner/lessee is a condition precedent to payment by the City of the matching amount which is limited to materials only.

Costs for construction are not eligible for reimbursement. Notwithstanding the forgoing, constructions costs are subject to reimbursement subject to the matching and other requirements set forth above if, and only if, the Owner/Lessee secures the services of a contractor who performs the services in accordance with the provisions of the Labor Code concerning prevailing wages, record keeping and other legal requirements as referred to in section 1.1 below.

THE ACTUAL TOTAL REIMBURSEMENT AMOUNT PER THIS AGREEMENT SHALL NOT EXCEED \$50,000 FOR FAÇADE IMPROVEMENTS (INCLUSIVE OF MATERIALS AND PREVAILING WAGES, IF ANY) UNDER ANY CIRCUMSTANCES.

The improvement costs, which are eligible for city reimbursement, shall be shown on the plans, design drawings, and specifications approved by the City. Such plans, design drawings, and specifications are attached hereto as Exhibit "A."

SECTION 1.1

PREVAILING WAGES:

- A. In order to receive reimbursement of construction costs subject to Section 1 above, Owner/Lessee and contractor shall comply with all applicable laws and regulations relating to prevailing wages in connection with construction. Wage rates for the project shall be in accordance with the "General Wage Determination Made By the Director of Industrial Relations Pursuant To California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1",
- B. The following Labor Code sections are hereby referenced and made a part of this Agreement:
 - 1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
 - 2. Section 1777.5 - Apprenticeship Requirements.

3. Section 1813 - Penalty for Failure to Pay Overtime.
4. Sections 1810 and 1811 - Working Hour Restrictions.
5. Section 1775 - Payroll Records.
6. Section 1773.1 - Travel and Subsistence Pay.

SECTION 2

No improvement work shall be undertaken until the design has been submitted to and approved by the City. Following approval, the OWNER/LESSEE shall contract for the work and shall commence and complete all such work within ninety (90) days from the date of such approval. The OWNER/LESSEE may request a ninety (90) day extension provided there is a demonstrated hardship.

SECTION 3

The City shall periodically review the progress of the contractor's work on the façade improvements pursuant to this Agreement. Such inspections shall not replace any required permit inspection by Building Inspectors. All work which is not in conformance with the approved plans, design drawings, and specifications shall be immediately remedied by the OWNER/LESSEE and deficient or improper work shall be replaced and made to comply with the approved plans, design drawings, and specifications and the terms of this Agreement.

SECTION 4

Upon completion of the improvements and upon their final inspection and approval by the City, the OWNER/LESSEE shall submit to the City a properly executed and notarized contractor statement showing the full cost of the work to complete the façade improvement related work, as well as a statement for façade improvement work done to achieve the 1:1 match required by this Agreement. In addition, the OWNER/LESSEE shall submit to the City proof of payment of the contract cost pursuant to the contractor's statement and final lien waivers from all contractors and subcontractors as well as proof of 1:1 match. The City shall, within forty-five (45) days of receipt of contractors statement, proof of payment, conformed copy of the Notice of Completion, and lien waivers, issue a check to the OWNER/LESSEE as reimbursement in the total grant amount stated in SECTION 1 of this Agreement.

SECTION 5

If the OWNER/LESSEE fails to complete the improvement work provided for herein in conformity with the approved plans, design drawings, and specifications and the terms of this Agreement, then upon written notice being given by the City to the OWNER/LESSEE, by certified mail to the address listed above, this Agreement shall terminate and the financial obligation on the part of the City shall cease and become null and void.

SECTION 6

This Agreement shall be binding upon the City and upon the OWNER/LESSEE and its successors, to said property for a period of five (5) years from and after the date of completion and approval of the façade improvements provided herein unless otherwise agreed upon by the parties

in writing. It shall be the responsibility of the OWNER/LESSEE to inform subsequent OWNER(S)/LESSEE(S) of the provisions of this Agreement.

SECTION 7

The OWNER/LESSEE agrees to maintain the improvements at his/her sole expense for a period of five (5) years unless otherwise agreed upon by the parties in writing. In the event that the OWNER/LESSEE fails to maintain the improvements, the City may issue a thirty (30) day written notice to the OWNER/LESSEE to correct any maintenance deficiencies. If the OWNER/LESSEE fails to correct the stated deficiencies within thirty (30) days of the notice, City may cause any maintenance or repair work to be performed at OWNER's expense.

SECTION 8

The OWNER/LESSEE agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal laws, pertaining to the development and use of the Property and construction of the façade improvements, as well as operations conducted on the Property. The OWNER/LESSEE agrees that the City shall not be liable for, and covenants and agrees to indemnify and hold harmless the City and its officials, officers, employees, and agents from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from noncompliance with all municipal, county, state and federal laws. The OWNER/LESSEE will require any contractor to comply with the above cited Local, State and Federal laws, and will incorporate these laws in any written agreement between the OWNER/LESSEE and a contractor.

SECTION 9

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Participant, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the OWNER/LESSEE or successor or on any obligation under the terms of this Agreement.

SECTION 10

The OWNER/LESSEE releases the City from, and covenants and agrees that the City shall not be liable for, and covenants and agrees to indemnify and hold harmless the City and its officials, officers, employees, and agents from and against any and all losses, claims, damages, liabilities, or expenses, of every conceivable kind, character and nature whatsoever arising out of or, resulting from or in any way connected with directly or indirectly with the façade improvements including, but not limited to, claims based on alleged or actual violations of the prevailing wage laws. The OWNER/LESSEE further covenants and agrees to pay for or reimburse the City and its officials, officers, employees, and agents for any and all costs, reasonable attorney's fees, liabilities, or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or cause of action. The city shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive the completion of said façade improvements.

SECTION 11

Nothing herein is intended to limit, restrict, or prohibit the OWNER/LESSEE from undertaking any other work in or about the subject premises, which is unrelated to the façade improvement provided for in this Agreement.

SECTION 12

All of the terms of the City of Beaumont Downtown Façade Improvement Program and related policies and regulations are contractually binding on OWNER/LESSEE and are incorporated herein by this reference, including, but not limited to the following insurance and permit requirements.

A. Insurance and Licenses- OWNER/LESSEE, at its sole cost and expense, commencing no later than the date OWNER/LESSEE is provided approval for funding shall procure, pay for and thereafter keep in full force and effect the following types of insurance, in at least the amounts and in the forms specified below:

Commercial General Liability (CGL) with limits no less than One Million Dollars (\$1,000,000.00) per occurrence basis including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than Two Million Dollars (\$2,000,000) per occurrence.

A policy or policies of Workers' Compensation insurance in the amount required by the State of California.

The OWNER/LESSEE is solely responsible for ensuring that the contractor has customary and reasonable insurance and required licenses. In addition, the OWNER/LESSEE shall insure that the contractor obtains all necessary permits for both the program-funded and leverage-funded improvements.

B. Permits- OWNER/LESSEE must obtain plan approval and any applicable Planning and Building permits from the City and OWNER/LESSEE must comply with all city policies and ordinances including business permit requirements. All work performed under the provisions of this Program shall meet all applicable standards contained in the City's adopted zoning ordinance, and local building and safety codes.

[signatures on following page]

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

PROPERTY OWNER

By: _____

Date: _____

LESSEE/BUSINESS OWNER

By: _____

CITY OF BEAUMONT

By: _____

Approved as to Form

Exhibit A