

**AGREEMENT NO. \_\_\_\_\_**

This Destination Market Street Program Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_, by and between the City of Inglewood, a municipal corporation and charter city (“City”), 1 W. Manchester Boulevard, Inglewood, California 90301, and \_\_\_\_\_, an owner of commercially zoned property on or around Market Street between Florence Avenue and Hillcrest Boulevard (“Market Street”) with lease holding commercial tenant(s) or a commercial tenant on or around Market Street who has obtained the property owner’s written consent are eligible to apply for Destination Market Street Program (“Program”) funds, located at \_\_\_\_\_ (“Grantee”).

**RECITALS**

**WHEREAS**, Market Street is the City’s downtown commercial corridor; and

**WHEREAS**, there exists a compelling need for targeted revitalization efforts to attract more residents and visitors to Market Street, which can occur by fostering a vibrant environment for dining, shopping and entertainment. Such a revitalization requires a reinvestment on and around Market Street, which would support the economic goals of the City; and

**WHEREAS**, Section 19.56(E)(12) of the Budget Act of 2021 appropriated funding from the California General Fund to the California Department of Transportation to be allocated to the City for the Market Street Streetscape Improvement Program and Market Street Façade and Tenant Improvement Program, to fund streetscape improvements as well as provide grants allowing for façade and tenant improvements to owners and businesses on or around Market Street; and

**WHEREAS**, the Grantee is either 1) an owner of commercially zoned property on or around Market Street with lease holding commercial tenant(s) or 2) a commercial tenant on or around Market Street who has obtained the property owner’s written consent and are eligible to apply for the Program; and

**WHEREAS**, the funds allocated to the Program shall be disbursed to eligible participants in the form of grants; and

**WHEREAS**, the City subsequently issued guidelines for the Program and Grantee submitted an application for the grant, both of which are hereby incorporated into this Agreement by reference; and

**WHEREAS**, the City has reviewed Grantee’s application and determined that it qualifies for a grant;

**NOW, THEREFORE** in consideration of the mutual covenants and conditions herein contained, and for good and valuable consideration, the City and Grantee (collectively referred to as the “Parties”) mutually agree as follows:

**ARTICLE 1 – GRANTEE’S REPRESENTATIONS**

Grantee certifies, to the best of its knowledge and belief, that the information provided in

its application is true and complete as of the date submitted to the City, and remains accurate and complete as of the date Grantee's authorized representative signs this Agreement.

The information contained in Grantee's application are material representations of fact upon which the City is relying upon in entering into this Agreement, and any misrepresentation shall be considered a material breach of this Agreement, entitling the City to terminate this Agreement, not disburse any grant funds, and require the Grantee to return any previously disbursed grant funds.

## **ARTICLE 2 – GRANT AWARD**

The City shall disburse to the Grantee a one-time grant not-to-exceed \_\_\_\_\_ (\$\_\_\_\_\_), in accordance with City's customary business practices. Grantee shall expend the grant funds only for the purposes identified in its grant application and that are eligible under the Program. If applicable, the Grantee is responsible for reporting and paying any taxes associated with receiving this grant. The City is not under any legal obligation to disburse grant funds unless they are available, and by entering into this Agreement City does not guarantee that such funds are available.

Eligible Uses of Funds. The Grantee may only use the grant funds for improvements to fixed assets. Eligible improvements include, but are not limited to:

1. Exterior elements that improve the aesthetics of the building (i.e., painting, store front windows, doors, security grilles, stucco and tile repair, box cornices, awnings, etc.) facing the public right-of-way, sidewalk or similar pedestrian-oriented pathway;
2. Removal of inappropriate or incompatible exterior finishes or materials (i.e., false fronts, panels, etc.);
3. Restoration of exterior finishes;
4. Exterior building signage attached to the building (i.e., externally illuminated signs);
5. Installation of new exterior lighting and furniture;
6. Construction signage during the Program's business and tenant improvement work;
7. Streetscape, curbside improvements in the public right of way;
8. Interior construction, painting, finishes and materials;
9. Tenant improvement such as furniture, fixtures and equipment;
10. Conversion to restaurant use;
11. Correction of code violations and/or Americans with Disabilities Act (ADA) compliance (limited interior and exterior) inclusive of parking improvements and hardscape;
12. Infrastructure upgrades (e.g. upgrading power/electric service);
13. Hazardous material and asbestos abatement as part of restoration or improvements;
14. Mechanical/Heating Ventilation Air Conditioning (HVAC) systems;
15. Low impact design features (i.e. rain gardens, bioretention gardens, bioswales, pervious pavement, green roofs, and rain harvesting);
16. Art installations, except those required by the City's Percent for Arts requirement;
17. Earthquake retrofitting;
18. Design and permitting services associated with implementing eligible

improvements and associates permitting fees.

Ineligible use of funds. Grantee shall not use the grant funds for any of the following:

1. Activities or Improvements:
  - a. Routine maintenance or repairs;
  - b. Structural foundation improvements other than earthquake retrofitting;
  - c. Billboards, roof signs, or temporary signs;
  - d. Temporary window displays.
  - e. Relocation Payments and/or Financial Assistance to displaced individual(s) and/or businesses.
2. Business Activities and Uses
  - a. Banks, savings and loan associations, gas and service stations, used car lots, adult entertainment businesses as set forth in the Inglewood Municipal Code, religious institutions, and government offices and agencies;
  - b. Businesses engaged in any unpermitted activity;
  - c. Private clubs and businesses which limit the number of memberships for reasons other than capacity;
  - d. Corporate-owned chains with locations outside of the State of California;
  - e. Businesses engaged in any socially undesirable activity or activity that may be considered predatory such as businesses check cashing businesses;
  - f. Liquor stores, smoke shops, cannabis businesses, and firearms retailers.

### **ARTICLE 3 – TERM & TERMINATION**

The term of this Agreement is for two (2) years from the date first indicated above. Any funds that have not been expended by the Grantee after the expiration of this Agreement shall be returned to the City within sixty (60) days of the City's request for the same. Grantee is expected to advance the Project within 120 days of award. Lack of progress within this period may become grounds for revocation of grant award.

This Agreement may be terminated by the City in its sole discretion, or when conditions encountered make it impossible or impracticable to proceed, or when the City is prevented from proceeding with the Agreement by law or by official action of a public authority, or if there are insufficient funds available for the grant program.

Grantee's representations and obligations for the expenditure of grant funds shall survive the termination or expiration of this Agreement.

### **ARTICLE 4 – BOOKS AND RECORDS**

During the term of this Agreement and for five years after the termination or expiration of this Agreement, the Grantee shall keep appropriate books, records, and accounts (collectively "Grant Records") in connection with the expenditure of grant funds under this Agreement. All Grant Records shall be stored and maintained by Grantee at its offices located in the City.

City shall have access to and the right to examine, audit, excerpt copy, or transcribe any

pertinent transaction, activity, or record relating to this Agreement. City auditors, at all reasonable times, shall have access to the offices of the Grantee and all necessary Grant Records, and shall be provided adequate working area for the City auditors to conduct audits in compliance with this Agreement. Such working area shall include: a desk, chair, calculator and telephone, and shall have ready access to a photocopy or facsimile machine. City auditors shall be allowed to interview any employee of Grantee throughout the term of this Agreement and for a period of five (5) years after final expenditure of the grant funds, or longer if required by law.

Grant Records shall be provided to the City upon request and at Grantee's expense. Unless otherwise exempt under applicable law, applications and Grant Records are public records subject to the California Public Records Act, and the Grantee shall assist the City in complying with any request for records. Failure to comply with this Article will constitute a violation of this Agreement and may result in a termination of this Agreement and Grantee repaying any funds. This Article survives the termination or expiration of this Agreement.

## **ARTICLE 5 – NOTICES**

Any notice given pursuant to this Agreement shall be deemed received and effective on the date personally delivered, or if mailed, five (5) days after deposit of the same in the custody of the United States Postal Service, when properly addressed, posted, and deposited in the United States mail to the respective parties as follows:

City:

City Manager  
City of Inglewood  
1 W. Manchester Blvd.  
Inglewood, CA 90301

Grantee:

Name & Title:  
Entity Name:  
Address:  
Address:

With Copy to:

City Clerk's Office  
City of Inglewood  
1 W. Manchester Blvd.  
Inglewood, CA 90301

## **ARTICLE 6 – CHOICE OF LAW & VENUE**

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, Superior Court, Southwest District, located at 825 Maple Avenue, Torrance, California 90503-5058. In the event of litigation in the United States District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

## **ARTICLE 7 – COMPLIANCE WITH LAWS**

Grantee shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including, without limitation, requirements regarding the use of grant funds under

the Budget Act of 2021 that are in effect as of the effective date of this Agreement and that may later be enacted or promulgated. Applicable regulations include, but are not limited to, the following identified in that certain *Funds Transfer Agreement Between the California Department of Transportation and the City of Inglewood* executed in June 2022:

1. The Drug-Free Workplace Act of 1990, requiring Grantee and any contractors hired to perform work subject to a grant distributed based on the terms of this Agreement to, at a minimum, take the following actions to provide a drug-free workplace:
  - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
  - b. Establish a Drug-Free Awareness Program to inform employees about:
    - 1) the dangers of drug abuse in the workplace;
    - 2) the employer's policy of maintaining a drug-free workplace;
    - 3) any available counseling, rehabilitation and employee assistance programs; and,
    - 4) penalties that may be imposed upon employees for drug abuse violations.
  - c. Ensure that every employee who performs work subject to a grant distributed based on the terms of this Agreement:
    - 1) receives a copy of their employer's drug-free workplace policy statement; and,
    - 2) agrees to abide by the terms their employer's statement as a condition of employment associated with this Agreement.
2. California Public Contracting Code sections 10410 *et. seq.*, which establishes conflicts of interest limitations on current or former state employees.
3. California Labor Code section 3700, which requires Grantee to require every employer which it disburses Program funds to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the Labor Code, prior to commencing the performance of the work described in this Agreement.
4. The Americans with Disabilities Act of 1990 (42 U.S.C. § 1210 *et seq.*), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

## **ARTICLE 8 – INDEMNIFICATION**

To the fullest extent provided by law, Grantee shall defend at its own expense, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of Grantee's use of the grant funds.

## **ARTICLE 9 – MISCELLANEOUS**

Authority to Sign Agreement. The person executing this Agreement on behalf of the

Grantee warrants that: (1) Grantee is duly organized and existing; (2) s/he is duly authorized to execute this Agreement on behalf of the Grantee; (3) by executing this Agreement, the Grantee is formally bound to the provisions of this Agreement; and (4) entering into this Agreement does not violate any provision of any other agreement to which the Grantee is bound.

**Non-Assignability.** Grantee shall not assign any interest in this Agreement and shall not transfer any interest in the same, whether by assignment or novation, without prior written approval of the City.

**Prevailing Wages.** Grantee is aware of the requirements of California Labor Code section 1720 et seq., and 1770 et seq., as well as California Code of Regulations, Title 8, section 16000 et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the grant funds are to be used for payment of wages/payroll, Grantee fully agrees to comply with such laws.

**No Third Party Beneficiaries.** There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

**Interpretation.** The Parties waive any benefit from the principle of contra proferentum and interpreting ambiguities against drafters. No party shall be deemed to be the drafter of this Agreement, or of any particular provision, and no part of this Agreement shall be construed against any party on the basis that the particular party is the drafter of any part of this Agreement.

**Titles.** Article titles, paragraph titles, or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

**Counterparts.** This Agreement may be executed in counterparts, and when each party hereto has signed and delivered at least one such counterpart, each counterpart shall be deemed an original and, when taken together with the other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all parties hereto.

**Severability, Invalidity and Waiver.** If any provision of this Agreement is to any extent illegal, invalid, or incapable of being enforced, such provision shall be deemed severable and excluded from this Agreement to the extent of such illegality, invalidity or unenforceability; and the remainder of this Agreement shall continue in full force and effect unless the application of this severability provision should render a material term of this Agreement meaningless, in which case the entire Agreement is void.

**Waiver by any party to this Agreement of any term, condition or covenant of this Agreement shall not constitute a waiver of any other term, condition or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by the City of any work or services by Special Counsel shall not constitute a waiver of any of the provisions of this Agreement.**

**Entire Agreement.** This Agreement and any agreement, document, or instrument attached hereto or referred to herein, integrate all terms and conditions mentioned herein or incidental

hereto, and supersede all oral negotiations and prior writings with respect to the subject matter hereof. In the event of any conflict between the terms, conditions, covenants, and provisions of this Agreement and any other such agreement, document, or instrument, the terms, conditions, covenants, and provisions of this Agreement shall prevail.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the date and year first written above.

**CITY OF INGLEWOOD**

**GRANTEE**

\_\_\_\_\_  
James T. Butts, Jr.  
Mayor

\_\_\_\_\_  
Name:  
Property Owner/Tenant (Circle One)

Acknowledged by **PROPERTY OWNER**, if not Grantee

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

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Aisha L. Thompson  
City Clerk

\_\_\_\_\_  
Rick R. Olivarez  
Interim City Attorney