



TOWN OF
LOWELL
CULTIVATING COMMUNITY

Town of Lowell

Façade Improvement Agreement

March, 2020

THIS AGREEMENT, entered into this ____ day of _____, 20__, between the Lowell Redevelopment Commission, Indiana (hereinafter referred to as "COMMISSION") and the following designated OWNER/LESSEE, to wit:

Owner/Lessee's Name: _____

Name of Business: _____

Tax ID#/Social Security# _____

Address of Property to be Improved:

WITNESSETH:

WHEREAS, the Commission has established a Façade Improvement Program for application within the Lowell Downtown Development Area ("AREA"); and

WHEREAS, said Façade Improvement Program is administered by the COMMISSION and is funded from the general fund for the purposes of encouraging and attracting retail growth, stimulating additional businesses and encouraging private investing through improved aesthetics within the AREA; and

WHEREAS, pursuant to the Façade Improvement Program the COMMISSION has agreed to participate, subject to its sole discretion, in reimbursing OWNERS/LESSEES for the cost of eligible exterior improvements to commercial establishments within the AREA up to a maximum of seventy-five percent (75%) participation and a maximum reimbursement amount of ten thousand dollars (\$10,000) per application; and

WHEREAS, OWNER/LESEES has prepared plans, design drawings, specifications and estimates and has secured applicable Town of Lowell and State of Indiana permits and approvals (herein referred to as "Project Documentation") attached hereto as Exhibit I; and

WHEREAS, the OWNER/LESSEE's property is located within the AREA, and the OWNER/LESSEE desires to participate in the Façade Improvement Program pursuant to the terms and provisions of this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements obtained herein, the COMMISSION and the OWNER/LESSEE do hereby agree as follows:

SECTION 1: COMMISSION shall reimburse OWNER/LESSEE for the cost of improvements to the OWNER/LESSEE'S property at the rate of seventy-five percent (75%) of such cost, provided that the total reimbursement for improvements shall not exceed ten thousand dollars (\$10,000) per application as defined herein.

The improvement costs that are eligible for COMMISSION reimbursement include all labor, materials, equipment and other contract items necessary for the proper execution and completion of the work as shown within the Project Documentation.

SECTION 2: No improvement work shall be undertaken until all Project Documentation has been approved by the COMMISSION. Following approval, the OWNER/LESSEE shall contract for the work and shall commence and complete all such work and submit all requests for reimbursement to the Town Manager within six months from the date of such approval by the COMMISSION. The OWNER/LESSEE may seek an extension of the deadline, not to exceed 12 months, for completing the work and submitting its request for reimbursement from the Town Manager, however, such request must be made in writing and submitted to the Town Manager prior to the expiration of the initial deadline to complete the work and submit the requests for reimbursement. In the event that the OWNER/LESSEE fails to comply with these requirements the COMMISSION may terminate this Agreement and its obligation to reimburse the applicant.

SECTION 3: The Town Manger shall periodically review the progress of the contractor's work on the façade improvement pursuant to this Agreement. Such inspections shall not replace any required permit inspection by the Director of Planning and Development and Building Inspectors. All work which is not in conformance with the approved Project Documentation shall be immediately remedied by the OWNER/LESSEE and deficient or improper work shall be replaced and made to comply with the approved Project Documentation and the terms of this Agreement.

SECTION 4: Upon completion of the improvements and upon their final inspection and approval by the Town Manager, the OWNER/LESSEE shall submit to the COMMISSION a properly executed and notarized contractor statement showing the full cost of the work as well as each separate component amount due to the contractor and each and every subcontractor involved in furnishing labor, materials or equipment in the work. In addition, the OWNER/LESSEE shall submit to the COMMISSION proof of payment of the contract cost pursuant to the contractor's statement and final lien waivers from all contractors and subcontractors. The COMMISSION shall, within sixty (60) days of receipt of the contractor's statement, proof of payment and lien waivers, issue a check to the OWNER/LESSEE as reimbursement for seventy-five percent of the approved construction cost

estimate or seventy-five percent of the actual construction cost, whichever is less, subject to the limitations set forth in Section 1 hereof.

SECTION 5: If the OWNER/LESSEE or his contractor fails to complete the improvement work provided for herein in conformity with the terms of this Agreement, then upon written notice being given by the Town Manager 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 COMMISSION shall cease and become null and void.

SECTION 6: Upon completion of the improvement work pursuant to this Agreement and for a period of ten (10) years thereafter, the OWNER/LESSEE shall be responsible for properly maintaining such improvements in finished form and without change or alteration thereto, as provided in this Agreement, and for the said period of ten (10) years following completion of the construction thereof, the OWNER/LESSEE shall not enter into any Agreement or contract or take any other steps to alter, change or remove such improvements, or the approved design thereof, nor shall OWNER/LESSEE undertake any other changes, by contract or otherwise, to the improvements provided for in this Agreement unless such changes are first submitted to the Town Manager, and any additional review body designated by the Town Manager, for approval. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the improvements as specified in the plans, design drawings and specifications approved pursuant to this Agreement. OWNER/LESSEE shall execute and record a restrictive covenant, in a form substantially the same as Exhibit "II" hereto, at the COMMISSION's request.

SECTION 7: The OWNER/LESSEE releases the COMMISSION from, and covenants and agrees that the COMMISSION shall not be liable for, and covenants and agrees to indemnify and hold harmless the COMMISSION 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 or in any way connected, directly or indirectly, with the façade improvement(s), including but not limited to actions arising from the Indiana Common Construction Wage Act (Ind. Code § 5-16-7 et seq.) The OWNER/LESSEE further covenants and agrees to pay for or reimburse the COMMISSION and its officials, officers, employees and agents for any and all costs, reasonable attorneys' fees, liabilities or expenses incurred in connection with investigating, defending against or otherwise in connection with any such losses, claims, damages, liabilities, or causes of action. The COMMISSION 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 improvement(s).

SECTION 8: 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 9: This Agreement shall be binding upon the COMMISSION 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 improvement provided for herein. It shall be the responsibility of the OWNER/LESSEE to inform subsequent OWNER(s)/LESSEE(s) of the provisions of this Agreement.

SECTION 10: During the term of this Agreement and during the term of any subsequent contract with a subcontractor performing work under this Agreement, OWNER/LESSEE shall maintain full compliance with the requirements of Indiana’s Employment Eligibility Verification as set forth in **Exhibit A** to this Agreement

SECTION 11: OWNER/LESSEE shall be responsible for obtaining all necessary building permits and other approvals from the Town of Lowell and State of Indiana prior to commencing work on the improvements. OWNER/LESSEE shall be further responsible for complying with the applicable requirements of the Americans with Disabilities Act (“ADA”) in constructing the improvements pursuant to this Agreement.

SECTION 12: As a condition precedent to participating in the COMMISSION’s Façade Improvement Program, OWNER/LESSEE may be responsible for conveying certain easement(s) and/or right-of-way to the Town of Lowell. In these circumstances, no OWNER/LESSEE shall be eligible for reimbursement by the COMMISSION until such time as all easement(s) and/or rights-of-way have been conveyed to the Town of Lowell. In the event that this Section applies and the OWNER/LESSEE is requested to convey easement(s) and/or right-of-way to the Town of Lowell, documentation confirming such conveyance shall be set forth in **EXHIBIT B** to this Agreement.

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

OWNER/LESSEE

LOWELL REDEVELOPMENT COMMISSION

Signature

Commission President

Printed

ATTEST:

Clerk-Treasurer

EXHIBIT A – EMPLOYMENT ELIGIBILITY VERIFICATION

OWNER/LESSEE affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

OWNER/LESSEE shall enroll in and verify the work eligibility status of all its newly hired employees through the Federal E-Verify program as defined in IC 22-5-1.7-3. OWNER/LESSEE is not required to participate should the Federal E-Verify program cease to exist. OWNER/LESSEE shall not knowingly employ or contract with an unauthorized alien. OWNER/LESSEE shall not retain an employee or contract with a person that OWNER/LESSEE subsequently learns is an unauthorized alien.

OWNER/LESSEE shall require its subcontractors, who perform work under this contract, to certify to TOWN that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the Federal E-Verify program. OWNER/LESSEE agrees to maintain this certification throughout the duration of the term of this agreement with the COMMISSION and during the term of any subsequent contract with a subcontractor performing work under this agreement.

The COMMISSION may terminate for default if OWNER/LESSEE fails to cure a breach of this provision no later than thirty (30) days after being notified by the COMMISSION.

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Town of Lowell Façade Improvement Program

REQUEST FOR DISBURSEMENT FORM

Applicant: _____

Property Address: _____

Mailing Address: _____

Materials/Services Purchased	Vendor/Contractor	Invoice/Receipt Number	100% of Cost of Item
Attach more sheets as necessary			
		TOTAL PROJECT COST	\$

TOTAL AMOUNT OF REIMBURSEMENT REQUESTED: \$ _____

Proof of payment for the above listed items must be attached to this form. Please provide all copies of invoices and/or receipts with check number(s) or include a copy of payment check.

I hereby verify under oath and subject to the penalties of perjury that the above items have been completed in accordance with the Town of Lowell’s Façade Improvement Program and the Façade Improvement Agreement and that all contractors, sub-contractors and material suppliers have been paid in full.

Applicant Signature, Title

Date

NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him/her, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this contractor quote/construction bid is made without reference to any other contractor quote/contractor bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/she further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I affirm under the penalties of perjury that the foregoing facts and information are true and correct to the best of my knowledge and belief.

Dated at _____ this _____ day of _____, 20____.

(Name of Organization)

By _____

(Title of Person Signing)