

VENDOR AGREEMENT

(Italian Festival 2024)

THIS VENDOR AGREEMENT (hereinafter this “Agreement”) is made and entered into effective the date signed below, by and between **the CITY OF BUNNELL**, a municipality of the State of Florida (hereinafter the “CITY”) and _____, (hereinafter the “VENDOR”). The term VENDOR herein shall mean any business or person renting a space to sell food, goods or services.

1. **Set Up, Breakdown and Operating Hours.** VENDOR shall set up on Friday, October 18, 2024, from 12:00 noon to 7:00 p.m. VENDOR may break down on Sunday, October 20, 2024, after 6:00 p.m. The Italian Festival shall occur Saturday, October 19, 2024, from 10:00 a.m. to 10:00 p.m., and Sunday, October 20, 2024, from 10:00 a.m. to 6:00 p.m. VENDORS shall remain open during all operating hours of the Italian Festival. VENDORS that are entertainers, shall perform during the hours reserved.
2. **Lot Maintenance.** VENDOR shall repair any property damage to the lot caused using the lot including repairing holes, ruts, damage to any underground utilities, (if any), power lines, poles, or CITY owned fences, sidewalks, signage or any other property damage caused by any vehicles parked on the Lot.
3. **Proof of Licensing, Business Tax Receipts, Certification and Insurance.** VENDORS selling products shall provide a copy of the following items with the registration form. The CITY reserves the right to require updated copies of licenses, certifications, business tax receipts or insurance certifications if they expire prior to the event: (If Applicable)
 - i. Flagler County Business Tax Receipt for FY 24/25
 - ii. Any applicable State issued license or certification from the Florida Department of Business and Professional Regulation or the Florida Department of Health which is required for the selling of food and beverages, including alcoholic beverages. Vendors acknowledge that they are subject to State and local administrative and health inspectors while at the Italian Festival.
 - iii. Insurance certificates demonstrating evidence of the insurance requirements contained herein.
4. **Termination.**
 - a. The CITY has the right to immediately terminate this Agreement for VENDOR’s material non-compliance with the terms and conditions of this Agreement.
 - b. The CITY may terminate this Agreement for convenience, or when it determines, in its sole discretion, that continuing this Agreement would not produce beneficial results, by providing VENDOR with thirty (30) days written notice of such termination.

5. **INSURANCE**

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, Vendor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of VENDOR. VENDOR shall provide the CITY a certificate of insurance evidencing such coverage. VENDOR’s insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by VENDOR shall not be interpreted as limiting the VENDOR’s liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the CITY.

The coverages, limits, and/or endorsements required herein protect the interests of the CITY, and these coverages, limits, and/or endorsements shall in no way be required to be relied upon by VENDOR for assessing the extent or determining appropriate types and limits of coverage to protect VENDOR against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the CITY’s review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by VENDOR under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The CITY, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the CITY, its officials, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$300,000 combined single limit each accident.

If VENDOR does not own vehicles, VENDOR shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Liquor Liability

Vendor shall provide evidence of coverage for liquor liability in an amount not less than \$1,000,000 per occurrence. If the Commercial General Liability policy covers liquor liability (e.g. host or other coverage), the Contractor shall provide written documentation to confirm that coverage already applies to this Agreement.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the CITY must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the CITY, if they are in accordance with Florida Statute.

VENDOR waives, and VENDOR shall ensure that their insurance carrier waives, all subrogation rights against the CITY, its officials, employees, and volunteers for all losses or damages. The CITY requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

VENDOR must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

- a. VENDOR shall provide the CITY with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
- b. VENDOR shall provide to the CITY a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of VENDOR to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. The CITY shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
- e. The CITY shall be granted a Waiver of Subrogation on the Vendor's Workers' Compensation insurance policy.
- f. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

CITY of Bunnell, a municipality of the State of Florida, 604 E. Moody Blvd., Unit 6, PO Box 756, Bunnell Florida 32110

VENDOR has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the CITY as an Additional Insured shall be at the Contractor's expense.

If VENDOR's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, VENDOR may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

VENDOR's insurance coverage shall be primary insurance as respects to the CITY, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by VENDOR that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

VENDOR shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to their insurance company or companies and the CITY's Risk Management office, as soon as practical.

6. Indemnification.

- a. VENDOR shall defend, indemnify, and hold harmless the CITY and all of the CITY's officers, agents, and employees from and against any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, which may arise from the use of the Grant Funds or any operations and activities of VENDOR pursuant to this Agreement. VENDOR recognize the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the CITY when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the CITY in support of these indemnification, legal defense, and hold harmless contractual obligations in accordance with the laws of the State of Florida. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve VENDOR of its liability and obligation to defend, hold harmless, and indemnify the CITY as set forth in this paragraph of this Agreement. Such indemnification shall be in addition to any and all other legal remedies available to the CITY and shall not be considered to be the CITY's exclusive remedy.
- b. In the event that any claim in writing is asserted by a third party which may entitle the CITY to indemnification, the CITY must give notice thereof to VENDOR, which notice must be accompanied by a copy of the statement of the claim. Following the notice, VENDOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If VENDOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the CITY decides to participate in the proceeding or defense, the CITY will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to VENDOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.
- c. The indemnification provisions of this paragraph shall survive the termination of this Agreement.

7. **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed to extend, the CITY's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the CITY to be sued by third parties in any matter arising out of this Agreement.

8. **Miscellaneous.**

- a. VENDOR spaces are limited and shall be allocated on a first come first serve basis.
- b. **Utilities.** Electricity and water are available to indoor booths and some outdoor booths. VENDOR shall provide its own generators and electrical extension cords for electricity. It is recommended that VENDOR verify the availability of electricity and water prior to the event.
- c. **Severability.** Should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- d. **Relationship.** It is specifically agreed that VENDOR is not a servant, employee, joint adventurer, or partner of the CITY. It is further agreed that no agent, employee, or servant of VENDOR shall be deemed to be the agent, employee, or servant of the CITY. None of the benefits, if any, provided by the CITY to its employees, including but not limited to, Workers' Compensation insurance and unemployment insurance, are available from the CITY to the employees, agents, or servants of VENDOR. VENDOR agrees to comply with all Federal, State, and municipal laws, rules, and regulations that are now or may in the future become applicable to VENDOR.
- e. **Law; Venue.** This Agreement is being executed in Bunnell, Florida and is governed in accordance with the laws of the State of Florida. The venue of any action hereunder will be in the CITY of Bunnell or the County of Flagler, Florida.
- f. **Counterparts and Electronic Copies.** This Agreement may be signed in counterparts and electronic copies or transmittal of the Agreement or any notice required herein shall be deemed as original and valid.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date written below.

CITY OF BUNNELL, a municipality
of the State of Florida

/s/ Alvin B. Jackson, Jr.

Dr. Alvin B. Jackson, Jr., CITY Manager

VENDOR

Business / Act Name: _____

Signature of Authorized Representative

Printed Name: _____

Date: _____