

AGREEMENT BETWEEN CITY OF CLEARLAKE,
LAKE COUNTY ECONOMIC DEVELOPMENT CORPORATION, AND
CLEAR LAKE CHAMBER OF COMMERCE
FOR USE OF FACILITY, OPERATION AND MAINTENANCE
OF CLEARLAKE BUSINESS AND VISITORS CENTER (14295 LAKESHORE DRIVE)

This Agreement is entered into this ___ day of November 2022 by and between the City of Clearlake ("CITY"), the Lake County Economic Development Corporation ("EDC") and the Clear Lake Chamber of Commerce ("CHAMBER") for purposes of use and operation of property located at 14295 Lakeshore Drive as a Business and Visitors' Center.

RECITALS

Whereas, promotion of commerce, local businesses support and tourism in the City of Clearlake is of significant public interest; and

Whereas, the CITY owns property located at 14295 Lakeshore Drive that it has designated for the purpose of providing these services and for the purposes of this Agreement shall be known as Clearlake Business and Visitors' Center ("CENTER"); and

Whereas, the stated property has an existing building designated for use as the Clearlake Visitors' Center and has been utilized as the office of the Clear Lake Chamber of Commerce; and

Whereas, the property abuts Highlands Park, also owned by the city, and is intended to blend together for aesthetics and community use; and

Whereas, CITY, EDC and CHAMBER desire to cooperatively provide this service at this location; and

Whereas, it is in the public interest for the CITY, EDC and CHAMBER to jointly operate the Business and Visitors' Center for the purpose of promoting local commerce, business and tourism;

AGREEMENT

It is hereby agreed by and between the parties hereto as follows:

1. City Responsibilities. Throughout the duration of this Agreement, the CITY shall have the following responsibilities:
 - a. Provide EDC full access to the facility for use as office space, as a Small Business Development Center, and meeting space for business support services in exchange for \$300 per month rent.

- b. Provide CHAMBER access to the facility to use as the Chamber's primary office space for operation of CHAMBER business for \$1 per year.
 - c. CITY shall provide maintenance and upkeep on the facility.
 - d. CITY shall pay all utilities.
 - e. CITY shall provide garbage collection will be provided through the City's franchise agreement.
2. EDC Responsibilities: Throughout the duration of this Agreement, the EDC shall have the following responsibilities:
- a. EDC shall be considered the lead tenant for the purposes of this agreement. The EDC will be the primary occupant for the areas of the facility identified on Exhibit A and agrees to share common areas such as the kitchen, bathrooms, conference/board room and lobby areas with the CHAMBER;
 - b. EDC shall utilize the facility as a co-office space with its location(s) in other areas of the County;
 - c. The EDC shall designate the location as a Small Business Development Center (SBDC) and offer the services required by the Small Business Administration (SBA) for operation of said Center;
 - d. The EDC shall offer business support services to the Clearlake business community and surrounding areas, originating from this location. These services may include, but are not limited to: free technical assistance, business support services including workshops and one-on-one consulting, access to capital including grants and the EDC's loan portfolio, and others services as the EDC and CITY may agree are appropriate to support local business;
 - e. The EDC shall be responsible for keeping the facility clean, safe, sanitary and orderly;
 - f. The EDC shall be responsible for coordinating and scheduling the use of shared spaces of the facility. The EDC shall not unreasonably withhold the request of the CHAMBER for scheduled use of shared spaces;
 - g. The EDC may approve the use of shared spaces such as conference/board room, etc. for use by other organizations as needed, including the CITY;
 - h. The EDC shall provide signage identifying the facility as a SBDC and office of the EDC;
 - i. EDC agrees that it shall not allow the combustion of tobacco or any other substance in a cigar, cigarette, pipe, vaping, or any similar smoking device in any area of the premises. Smoking is prohibited inside the building and in the park. EDC agrees that its employees, customers, guests and invitees and all others shall comply with this provision;

- j. All signage and graphics of every kind visible from public view corridors or the exterior of the property will be subject to CITY'S prior written approval and will be subject to any applicable governmental laws and ordinances and in conformance with CITY'S design standards;
- k. EDC shall be responsible for notifying the CITY in writing if there is a need for maintenance at the facility;

3. Chamber Responsibilities. Throughout the duration of this Agreement, the CHAMBER shall have the following responsibilities:

- a. CHAMBER shall utilize the facility as its principal place of business and promote visitor attractions and services, resorts, lodging facilities, restaurants and other businesses within the City of Clearlake and surrounding areas. The CHAMBER shall have guaranteed access to the areas of the facility identified on Exhibit A and will share common areas such as kitchen, bathrooms, lobby, conference/board room with the EDC. While the CHAMBER's access for desk space, board meetings, etc. is "guaranteed" the CHAMBER shall request use of shared spaces of the EDC, and EDC shall be responsible for scheduling and coordinating use of shared spaces. Use of the shared spaces shall not be unreasonably withheld by the EDC;
- b. CHAMBER shall keep the Visitors' Center open to the public during its normal business hours and on Saturdays during the time between Memorial Day and Labor Day weekends. Signage shall be posted on-site clearly stating the Center's office hours and emergency contact information;
- c. CHAMBER shall be responsible for keeping the facility clean, safe, sanitary, and orderly and to ensure there is a lack of clutter in areas occupied or used by the CHAMBER, including posting of flyers on windows, etc.;
- d. CHAMBER shall require that all volunteers and staff that use the space during EDC's hours of operation, sign a confidentiality agreement to protect EDC client information.
- e. CHAMBER agrees that it shall not allow the combustion of tobacco or any other substance in a cigar, cigarette, pipe, vaping, or any similar smoking device in any area of the premises. Smoking is prohibited inside the building and in the park. CHAMBER agrees that its employees, customers, guests and invitees and all others shall comply with this provision;
- f. All signage and graphics of every kind visible from public view corridors or the exterior of the property will be subject to CITY'S prior written approval and will be subject to any applicable governmental laws and ordinances and in conformance with CITY'S design standards;

- J. CHAMBER shall develop a premier event (i.e. festival, arts and crafts show, etc.) to be held annually for the life of this agreement and designed to support local business, bring visitors into the city and spotlight all that the city has to offer;
4. Maintenance. The CITY shall provide all maintenance of the facility during the term of the agreement.
 5. Ownership of Facilities. Ownership of CENTER shall remain with CITY.
 6. Term. This agreement shall remain in full force and effect for a minimum of five (5) years and thereafter until such time as either CITY, EDC or CHAMBER provides notice to the other party of intent to terminate as set forth below.
 7. Termination or Modification: This Agreement is revocable only by mutual consent or on written notice given by one party to the other party a minimum of 90 days prior to the proposed termination date or by material breach. In the event any Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default. ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within ten (10) days. Upon written notice, CITY may extend the time of performance. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for Party's breach of the Agreement or to terminate the Agreement; or the CITY may exercise any other available and lawful right or remedy. Defaulting Party shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY's exercise of its remedies under this Agreement.
 8. Parties agree to review Agreement as necessary to discuss any proposed modifications. Any modifications to Agreement shall be in writing signed by both parties and shall not become effective until both party's governing body have reviewed and approved them as an addendum to this agreement.
 9. Notices. All notices, demands, requests, approvals, authorizations or designations by either CITY, EDC or CHAMBER to the other shall be in writing and shall be given and served upon the other party, or may be deposited in the United States Mail, postage prepaid, addressed as follows:

City of Clearlake
City Manager
14050 Olympic Drive
Clearlake, CA 95422

Lake EDC
Executive Director
PO Box

Clear Lake Chamber of
Commerce President
14913 Lakeshore Drive, Suite
C Clearlake, CA 95422

10. Insurance: EDC and CHAMBER shall, during the term of this Agreement:

- a. Procure and maintain Workers' Compensation Insurance as required by the laws of the State of California;
- b. Procure and maintain comprehensive liability insurance in the amount of \$1,000,000 for any person, \$1,000,000 for any occurrence and \$1,000,000 for property damage; and
- c. Prior the EDC's and CHAMBER'S entry upon the premises, furnish CITY with endorsements to the policies of insurance described in (b) above, with such endorsement showing that the City of Clearlake is named as additional insured. Such endorsements shall also provide that the insurance, or the limits of such insurance, may not be cancelled, terminated or materially changed without first providing 30 days prior written notice to CITY. These are the minimum required and do not in any way represent or imply that such coverage is sufficient to adequately cover the EDC's and CHAMBER'S liability under this agreement. The full coverage and limits of Insurance carried by or available to the EDC and CHAMBER shall be available to the City of Clearlake and these insurance requirements shall not in any way act to reduce coverage that is broader or includes higher limits than those required. The insurance obligations under this agreement shall be: 1- all the Insurance coverage and limits carried by or available to the EDC and CHAMBER; or 2- the minimum Insurance requirements shown in this agreement, whichever is greater. Any insurance proceeds in excess of the specified minimum limits and coverage required, which are applicable to a given loss, shall be available to the City of Clearlake.
- d. Any failure of EDC or CHAMBER to maintain the insurance required by this section, or to comply with any of the requirements of this paragraph, shall constitute a material breach of the entire Agreement.

11. Indemnification. To the fullest extent permitted by law, EDC and CHAMBER shall hold harmless, defend at its own expense, and indemnify the City of Clearlake and its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of EDC and/or CHAMBER or its officers, agents, or employees in rendering services under this Agreement; excluding, however, such liability, claims, losses, damages, or expenses arising from City's sole negligence or willful acts. These defense and indemnity obligations shall survive the termination or completion of this agreement and are in addition to, and not limited by, the insurance obligations in the agreement.

12. Prevailing Wage Laws. CITY, EDC and CHAMBER agree that if 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") apply to repairs, maintenance, improvements, and work done by the CHAMBER, and any employee, agents, volunteers or contractors working for or on behalf of EDC or CHAMBER to the 14295 Lakeshore Drive leased premises, then the EDC and/or CHAMBER will comply with the requirements of the California Prevailing Wage Laws. EDC and/or CHAMBER shall defend, indemnify, and hold the CITY its elected officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

13. Binding on Successors. This Agreement shall inure to the benefit of and bind the parties hereto, and their successors or assigns, including any and all public agencies to which the real property and facilities herein referred to may be transferred by reason of incorporation, disincorporation, annexation, consolidation or for any other reason.
14. Attorney's Fees and Costs. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.
15. Non-Discrimination in Employment. In the performance of the work authorized under this Agreement, EDC and/or CHAMBER shall not unlawfully discriminate against any qualified worker because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age.
16. Severability. If any provision of this Agreement is held to be unenforceable, the remainder of the Agreement shall be severable and not affected.
17. Assignment. E D C a n d / o r CHAMBER shall not assign any interest in the Agreement and shall not transfer any interest in the same without the prior written consent of CITY.
18. Counterparts. This agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. This Agreement may be executed by electronic signatures (e.g., using DocuSign or e-SignLive) or signatures transmitted in portable document format ("pdf"), and copies of this Agreement executed and delivered by means of electronic or pdf signatures shall have the same force and effect as copies hereof executed and delivered with original manually executed signatures. The parties may rely upon electronic and pdf signatures as if such signatures were manually executed originals and agree that an electronic or pdf signature page may be introduced into evidence in any proceeding arising out of or related to this Agreement as if it were an original manually executed signature page.
19. Captions. Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provisions hereof.

20. No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on behalf of the persons duly authorized by the governing body of the parties hereto on the date first hereinabove written.

CITY OF CLEARLAKE

LAKE COUNTY ECONOMIC DEVELOPMENT CORPORATION

By: _____

By: _____

Title: _____

Title: _____

Attest:

City Clerk

Approved as to form:

CLEAR LAKE CHAMBER OF COMMERCE

By: _____

City Attorney

Title: _____