

STATE OF TEXAS

§

GRANT AGREEMENT

§

BETWEEN CITY OF LEON VALLEY

§

AND WOT AUTO SPA

COUNTY OF BEXAR

§

This Grant Agreement (hereinafter referred to as the "Agreement") is made and entered into by and between the CITY OF LEON VALLEY ("CoLV") and WOT AUTO SPA, acting by and through its representative ("Grantee") (CoLV and Grantee collectively referred to herein as the "Parties").

**WHEREAS**, the Grantee's property is located at 4700 Timco West, Suite 102 and 103, Leon Valley, Texas 78238. (the "Property") in the exclusive manner specified herein; and

**WHEREAS**, Article III, Section 52-a of the Texas Constitution gives the Texas Legislature the authority to provide for Grants of public money for the development and diversification of the State's economy and the elimination of unemployment or underemployment; and

**WHEREAS**, the CoLV's mission is to provide a diverse and versatile business environment that supports a healthy economy. The City will exhibit a distinctive and welcoming identity at its boundaries and throughout the community. The City will attract, expand and retain viable businesses to promote development and redevelopment, including a town-centered design, pedestrian friendly connections and world class public transit.

**WHEREAS**, the CoLV intends, and in connection with such intention, has approved the proposed Small Business Encouragement Grant, which has been described in an application from the Grantee, attached and incorporated herein by reference as Exhibit A (the "Project"); and

**WHEREAS**, has agreed to provide up to Ten Thousand Dollars (\$10,000.00) "Grant" to the Grantee to modernize the location with updated fixtures, new signage, a new floor plan for better workstations, and fresh paint. The funds will also be used to better market the shop to customers outside Leon Valley to drive revenue, as defined herein, associated with the Grant for the purpose of encouraging and supporting small businesses in the City;

**NOW THEREFORE**, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

**SECTION 1. AGREEMENT PURPOSE**

- A. **Recitals.** The recitals to this Agreement are incorporated herein for all purposes.
- B. **Purpose.** The specific purpose of this Agreement is to provide a grant of funds to Grantee for the purchase new equipment to modernize the location with updated fixtures, new signage, a new floor plan for better workstations, and fresh paint. The funds will also be used to better market the shop to customers outside Leon Valley to drive revenue, through a one-time reimbursement payment in an amount of up to Ten Thousand Dollars (\$10,000.00). This action will be a significant contribution toward a broader purpose to promote, encourage, and protect local businesses, the expansion and protection of the local tax base, and the quality of life for Leon Valley's residents.
- C. **Term.** The term of this Agreement shall begin on the Effective Date and automatically expire upon the date the Grant is provided or unless sooner terminated as provided herein.

**SECTION 2. CONDITIONS TO GRANTS**

- A. **Conditions.** The obligation for CoLV to pay any and all of the Grants hereunder shall be conditioned upon compliance with and satisfaction of each of the conditions set forth below:
1. To receive the Grant, Grantee must submit to CoLV documentation substantiating Grantee's Eligible Costs used for the purchase stated purpose of the grant. Such documentation must include receipts of purchase, delivery, and proof of installation at the Property.
  2. To receive Grant consideration, Grantee must submit legible copies of the Certificate of Occupancy and Texas Sales Tax Certificate, where applicable.
  3. CoLV will issue the Grant monies to Grantee within 10 days of its review and approval of the Grantee's documentation of Eligible Costs.
  4. Grantee shall submit a completed application and all documentation to CoLV on or before November 2, 2023. CoLV City Council shall have sole authority and discretion to grant an extension.
  5. Prohibition on Default. The Grantee shall not receive any Grant funds in the event of Grantee's uncured breach or default of this Agreement.

### SECTION 3. USE OF GRANT FUNDS

- A. The Grantee understands that this Grant was designed to be used solely for defined purpose.
- B. Eligible Costs for reimbursement by the Grant are for the defined purpose and not to exceed the established maximum disbursement per business.
- C. The funds to be awarded to Grantee under this Agreement are in the amount of up to Ten Thousand Dollars (\$10,000.00) "Grant". Grantee acknowledges and agrees that CoLV's obligation and agreement to pay the Grant under this Agreement is subject to the approval and appropriation of funds by the City of Leon Valley City Council.
- D. CoLV shall not be obligated to pay any monies beyond the amount of the Grant and is only obligated to make Grants from approved sources budgeted and approved by the City Council. Grantee represents that it understands that any expenditures by the Grantee in anticipation of reimbursement from Grant funds shall never be obligations of any CoLV fund and is subject to the extent and availability of actual grant funds to reimburse.

### SECTION 4 TERMINATION

- A. **Termination.** This Agreement shall terminate upon the occurrence of anyone or more of the following:
  - 1. Sixty (60-days) after Eligible Costs have been reviewed, approved and disbursed by CoLV up to the amount of the Grant;

In addition, CoLV will have the sole discretion and option to terminate this Agreement in the event:

  - 1. Grantee breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof;
  - 2. Grantee has ceased its business operations at the Property;
  - 3. Grantee is a party to voluntary or involuntary bankruptcy proceeding;
- B. **Repayment of the Grant.** In the event the Agreement is terminated, then Grantee shall immediately refund to CoLV an amount equal to the sum of the Grant monies paid by CoLV to Grantee pursuant to this Agreement. Notwithstanding the foregoing, Grantee will not be required to repay the Grant if the Agreement is terminated under Section 4A(1).

**SECTION 5     INDEMNIFICATION**

**THE GRANTEE COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS THE COLV AND THE OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, VOLUNTEERS AND REPRESENTATIVES OF THE COLV, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON THE COLV, DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO THE GRANTEE'S ACTIVITIES UNDER THIS CONTRACT, INCLUDING ANY ACTS OR OMISSIONS OF THE GRANTEE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT, CONTRACTOR OR SUBCONTRACTOR OF THE GRANTEE, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS CONTRACT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE COLV UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE COLV AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. THE GRANTEE SHALL PROMPTLY ADVISE THE COLV IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE COLV OR THE GRANTEE KNOWN TO THE GRANTEE RELATED TO OR ARISING OUT OF THE GRANTEE'S ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE GRANTEE'S COST. THE COLV SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING THE GRANTEE OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.**

**IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH, IS AN INDEMNITY EXTENDED BY GRANTEE TO INDEMNIFY, PROTECT AND HOLD HARMLESS COLV FROM THE CONSEQUENCES OF ITS OWN NEGLIGENCE; PROVIDED HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF COLV IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND IT SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF COLV IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. GRANTEE FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF AND IN THE NAME OF COLV ANY CLAIM OR LITIGATION BROUGHT AGAINST COLV AND ITS OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR PROPERTY DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.**

**IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE COLV SHALL SURVIVE THE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT FOR THE APPLICABLE PERIOD OF LIMITATION AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE COLV PERMITTED BY LAW.**

**SECTION 5 MISCELLANEOUS**

A. Grantee shall comply with all applicable federal, state and City laws and regulations, as amended. Grantee agrees to obtain and maintain, all necessary permits and approvals from City and/or all other governmental agencies having jurisdiction over the business. At its sole cost and expense, Grantee shall be responsible for paying, or causing to be paid, to City and all other governmental agencies the cost of all applicable permit fees and licenses required.

B. Grantee represents, warrants, assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement and to perform the responsibilities herein required.

C. In no event shall the CoLV be liable for any expenses of Grantee not eligible or allowable for reimbursement by the Grant.

D. Grantee represents and warrants that the documentation verifying the Eligible Costs submitted to the CoLV for reimbursement by Grant funds are true and correct. Grantee's submission of falsified information or the failure to timely submit all information by Grantee as requested by CoLV is breach of this Agreement and grounds for termination of this Agreement.

E. Grantee shall use generally accepted accounting principles and establish and use internal administrative controls to preclude theft, embezzlement, improper inducement and obstruction of investigation or other criminal action and to prevent fraud and program abuse.

F. CoLV will not be liable to Grantee or any other entity for any additional costs incurred by Grantee.

G. It is expressly understood and agreed by the Parties hereto that CoLV is contracting with Grantee as an Independent Contractor, and that Grantee, its employees and subcontractors are not employees of the CoLV.

H. Except as specifically provided in this Agreement, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both Parties to this Agreement upon CoLV approval and authorization of Grantee.

I. This Agreement is not assignable. Notwithstanding any attempt to assign the Agreement, Grantee shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants and conditions herein. Grantee shall be held responsible for all funds received under this Agreement.

J. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

K. This Agreement shall be construed under the laws of the State of Texas and all obligations of the parties created hereunder are performable in Bexar County, Texas.

**\*\*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK\*\***  
**SIGNATURE ON NEXT PAGE**

**WITNESS OUR HANDS, EFFECTIVE as of \_\_\_\_\_, 2023 (the “Effective Date”).**

**GRANTOR:**  
**CITY OF**  
**LEON VALLEY**

**WOT AUTO SPA:**  
**MICHAEL SMITH**  
**WOT AUTO SPA**

\_\_\_\_\_  
**Crystal Caldera**  
Leon Valley City Manager

\_\_\_\_\_  
**MICHAEL SMITH**  
Owner

\_\_\_\_\_  
**Roque Salinas**  
Director of Economic Development

**RESOLUTION #**

**EXHIBIT A**

[ATTACH GRANT APPLICATION HERE]