



**IDAHO GEM GRANT
STATE OF IDAHO – DEPARTMENT OF COMMERCE
CITY OF WEISER**

This grant Agreement (“Agreement”) is entered into by and between the Idaho Department of Commerce (“Department”), and the City of Weiser (“Grantee”), for the purpose of providing the Grantee with an Idaho Gem Grant (IGG) to support the project: Weiser Expansion.

WHEREAS, in 2001 the State of Idaho’s Legislature created the Rural Initiative to provide assistance to rural communities for the planning and implementation of economic development projects that facilitate economic growth through job creation, job retention and economic diversification.

WHEREAS, the Grantee submitted a satisfactory IGG application #006180 (“Application”) to the Department on or before the deadline. The grant application and any requested scope of work or budget modifications requested are hereby incorporated by reference.

WHEREAS, the Director of Department reviewed staff evaluations and recommendations for award and approved the Grantee for an award, including pre-award costs to commence February 13, 2024.

NOW THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties agree as follows:

1. Term. This Agreement shall commence as of February 13, 2024, or when all parties sign, whichever occurs last; and expire on February 13, 2026, unless extended, in writing, by the parties or unless terminated earlier in accordance with this Agreement, Project costs must be incurred on or after February 13, 2024, to be eligible for reimbursement.

2. Award Amount. The total amount of assistance awarded under this Agreement is **\$50,000.00**. If Project costs exceed the total award, the Grantee shall be responsible for the cost overruns. This award is cost reimbursable.

3. Match Amount. The Grantee agrees to provide **\$154,461.74** in local matching funds as identified in the Application. Match must be documented.

4. Allowable Costs. The use of IGG funds includes construction materials, new and rehabilitative construction contracts, architect and engineering services, legal and professional services required for Project implementation, equipment and installation, advertising or printing necessary to satisfy procurement and legal requirements, acquisition of real estate for business development or matching funds for other state, federal or foundation economic development grants.

5. Unallowable Costs. IGG funds may not be used for any purpose other than described in Article 4 – Allowable Costs, including any administrative expenses incurred by the Grantee or its partners, ongoing overhead, operating, or staff costs, construction, rehabilitation, or operation of active churches, schools, general government facilities, jails or state and federal facilities, or political activities. Administrative expenses may be used as a match.

6. Matching Funds. A minimum 20% cash and/or in-kind match is required. A maximum of 5% of the value of the award may be in-kind match. Pledged cash match must be provided and documented during the Term of the agreement.

7. Payments. Request for Funds (RFF) must be requested by the Grantee through the Department's [online grant portal \(Portal\)](#). The RFF must contain an invoice from the Grantee to the Department for the amount due and must include supporting documentation of the incurred costs such as vendor receipts and proof of payment. If matching funds are being provided, the match documentation must also be included.

8. Reporting. The Grantee shall submit a progress narrative report with each request for funds. The report shall detail the work progress to date and identify any challenges that may delay or otherwise impact the schedule of the work.

9. Records. In the performance of the Agreement the Grantee shall maintain books, records and accounts of all activities related to the Agreement and for which expenses will be claimed. Such books, records and accounts shall be made available for inspection and audit by the Department, or an Auditor acting on behalf of the Department as requested. Records shall be retained for a minimum of three (3) years after the closeout of the Agreement.

10. Recognition of Funding. All activities funded by this Agreement shall credit the IGG program. Refer to the IGG handbook for requirements.

11. Compliance with Law. The Grantee shall comply with all requirements of federal, state and local laws, rules, and regulations applicable to the Grantee or to the services performed by the Grantee pursuant to this Agreement including but not limited to:

- [Idaho Code Title 67, Chapter 28](#); Purchasing by Political Subdivisions
- [Idaho Code Title 54, Chapter 19](#); Public Works Contractors
- [Idaho Code 67-2320](#); Professional Service Contracts with Design Professionals, Construction Managers and Professional Land Surveyors

12. Transparency. The Grantee is subject to Idaho Code §§ 74-101 through 74-126 (Public Records Law), and Idaho Code §§ 74-201 through 74-208 (Open Meetings Law) and any other laws specific to the Grantee's governmental subdivision. The Department may monitor and make periodic inspections and evaluations of the Project.

13. Retention and Use of Funded Property, Materials and Equipment. The Grantee warrants that the ownership of any property purchase or materials created, through the use of Program funds shall remain with the Grantee and be utilized solely for the purposes of the Work. It is not the Departments intent to own any property, including copyrights and rights to use of copyrighted materials.

14. Non-Performance. In the event that the Grantee is deficient in reporting or performance benchmarks the Department shall notify the Grantee in writing of the deficiency and request the Grantee to correct the deficiency within 30 days. If the Grantee fails to respond within 30 days or to sufficiently address the deficiency within 45 days, then the Department may withhold payment pending the correction of any deficiencies. If the Grantee fails to meet the performance requirements, following all notices and cure periods described in this section, the Department may terminate this Agreement.

15. Amendments. The Agreement may not be released, discharged, changed, extended, modified, subcontracted or assigned in whole or in part (collectively, an “Amendment”) except to the extent provided by an amendment in writing signed by the Grantee and the Department.

16. Termination.

For Cause. The Department shall have the right to terminate this Agreement in whole or in part, at any time before the date of completion, whenever it is determined, the Grantee has failed to comply with the conditions of the Agreement, or funding for the IGG program is reduced or eliminated. The Department shall notify the Grantee in writing of the determination and the reasons for the termination and the effective date.

Without Cause. The Department shall have the right to terminate this Agreement at any time without cause upon thirty (30) days written notice to the GRANTEE specifying the effective date of the termination.

The Department and the Grantee will coordinate the orderly termination of the Project, transfer of work, and payment for work completed under the Grant.

17. Relationship of Parties. It is distinctly and particularly understood and agreed between the parties that the Department is in no way associated or otherwise connected with the performance of any service under this Agreement on the part of the Grantee or with the employment of labor or the incurring of expenses by the Grantee. The Grantee is solely and personally liable for all labor, taxes, insurance, required letter of credit and other expenses, except as specifically stated herein, and for any and all damages in connection with the operation of this Agreement, whether it may be for personal injuries or damages of any other kind. The Grantee shall not imply, represent, or claim to be an officer or employee of the Department or the state of Idaho. The Grantee shall exonerate, indemnify, defend, and hold the Department and the state of Idaho harmless from and against and assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security, worker’s compensation, and income tax laws with respect to the Grantee or Grantee’s employees engaged in performance under this Agreement. The state of Idaho and the Department do not assume liability as an employer. Further, the parties do not intend for this Agreement to create any third-party beneficiaries.

18. Conflict of Interest / Contingency fees. If at any time the Department or the ITC becomes aware of an apparent or actual conflict of interest the Department or the ITC may request more information of the Grantee regarding the conflict of interest. The Grantee certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations not specified herein made contingent upon this Agreement.

19. Governing Law. The Agreement shall be governed by and construed under the laws of the state of Idaho and the parties hereto consent to the jurisdiction and exclusive venue of the state courts of Ada County in the state of Idaho in the event of any dispute with respect to the Agreement.

20. Attorney fees. In the event of a legal proceeding of any kind instituted under the Agreement or instituted to obtain performance or to remedy a default under the Agreement,

the prevailing party shall be awarded such additional sums as the court may adjudge for reasonable attorney fees and to pay all costs and disbursements incurred in connection therewith.

21. Force majeure. If the Grantee or the Department is delayed, hindered, or prevented from performing any act required under the Agreement by reason of delay beyond the reasonable control of the asserting party including, but not limited to, interruption of the power supply, theft, fire, Act of God or public enemy, pandemic, severe and unusual weather conditions, injunction, riot, strikes, lockouts, insurrection, war, or court order, then performance of the act shall be excused for the period of the delay. In that event, the period for the performance of the act shall be extended for a period equivalent to the period of the delay. Matters of the Grantee's finances shall not be considered a force majeure.

22. Certification Concerning Boycott of Israel: Pursuant to Idaho Code section 67-2346 (effective July 1, 2021), if payments under the Agreement exceed one hundred thousand dollars (\$100,000) and Grantee employs ten (10) or more persons, Grantee certifies that it is not currently engaged in, and will not for the duration of the Agreement engage in, a boycott of goods or services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein.

23. Assignment / Subcontracting. This Agreement cannot be assigned without the prior written approval of the Department. This Agreement may not be subcontracted or sub-granted.

24. No Waiver. The failure of either party to require strict performance of any term or condition of the Agreement, or to exercise any option or discretion granted to it, in any one or all instances shall not be construed to be a waiver or relinquishment of any such term or condition. The same shall be and remain in full force and effect unless there is a prior written waiver by the waiving party.

25. Severability. If any term, provision, covenant, or condition of the Agreement, or the application thereof to any party or circumstance, shall be held to be illegal, invalid or unenforceable, in whole or in part or for any reason, the remaining terms, provisions, covenants and conditions of the Agreement shall continue in full force and effect as if the Agreement had been executed with the illegal, invalid or unenforceable portion eliminated, so long as the Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter of the Agreement, and the deletion of such portion of the Agreement will not substantially impair the respective benefits or expectations of the parties to the Agreement.

26. Survival of Terms. Any termination, cancellation, or expiration of the Agreement notwithstanding, provisions which are intended to survive and continue shall survive and continue, including, but not limited to the provisions of the following sections of this Agreement: *8. Reporting; 9. Records; 19. Governing Law; 20. Attorney Fees.*

27. Entire Agreement. This Agreement constitutes the entire Agreement between the parties and shall supersede all previous applications, proposals, oral or written, negotiations, representations, commitments, and all other communications between the parties.

28. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[End of text; signatures and exhibits follow]

State of Idaho
Department of Commerce
Director

City of Weiser
Mayor
Randy Hibberd

Print name

Print name

Signature

Signature

Date

Date

If the Grantee requires additional signatories or approval stamps, they may be written in below: