

AGREEMENT FOR ADVANCEMENT  
AND REIMBURSEMENT OF  
FULL COST RECOVERY FEES  
FOR APPLICATION PROCESSING  
AND INSPECTION SERVICES

This Agreement for Advancement and Reimbursement of Full Cost Recovery Fees for Application Processing and Inspection Services ("Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023 ("Effective Date") by and between the Town of Yountville, a California municipal corporation ("Town") and \_\_\_\_\_ ("Applicant") and ("Owner"). Town, Applicant, and Owner are individually referred to as "Party" and collectively as "Parties."

The Parties agree as follows:

1. Applicant hereby agrees to advance to the Town of Yountville, within 10 days of the Effective Date, the sum of \_\_\_\_\_ (\$\_\_\_\_) and to advance all subsequent reimbursable costs, both direct and indirect, including State-mandated costs, associated with review and processing of the accompanying application for land use and/or encroachment or grading permit for land use approval(s) and inspection(s) with respect to the subject property or project located at \_\_\_\_\_, even if the application is withdrawn or not approved.
2. Reimbursable costs include but are not limited to, all items within the scope of the Town's adopted Master Fee Schedule, as well as the cost of retaining professional and technical consultant services and any services necessary to perform functions related to review and processing of the applications and inspection of the work. Applicant understands that the initial \$\_\_\_\_\_ deposited upon execution of this Agreement may not be adequate to fully reimburse Town for costs incurred with processing of the application, and that periodically as need arises, Applicant will be called upon to make further deposits to cover the costs noted above at such time(s) and of such amounts as requested by the Planning and Building Director or designee.
3. In the event, for any reason, a Town request for further deposit from Applicant is not fully satisfied, the Town may, at the sole and exclusive discretion of the Planning and Building Director, result in temporary or permanent cessation of processing of the application or inspection of the work and, after notice, may result in the denial of the application and/or order to cease work. Prior to completion of processing of any phase of the project, any and all outstanding amounts due pursuant to this Agreement shall be paid. The Planning and Building Department will withhold issuance of further plan checks, entitlements, permits, certificates of occupancy, etc., until all required

processing and inspection fees have been paid in full. Applicant acknowledges and agrees to the provisions of this Section 3, notwithstanding any time limits or rights afforded to Applicant under the Permit Streamlining Act (Government Code section 65920, et seq.) or other applicable law.

4. Town agrees to review and process the application in accordance with this Agreement and all applicable laws, regulations, ordinances, standards, and policies. This Agreement applies to all subsequent applications related to the project.
5. Applicant agrees to adhere to the following guidelines with respect to the billing of processing and inspection fees:
  - a. Non-receipt of invoices must be brought to the Town's attention within 30 days of the date they are routinely received by the Applicant.
  - b. Invoices presented without sufficient "backup" documentation shall be brought to the Town's attention within 30 days of the receipt of invoice from the Town.
  - c. Questions regarding specific charges that Applicant believes may be questionable and/or incorrect must be brought to Town's attention no later than 30 days following receipt of invoice and corresponding documentation.
6. Failure to comply with the aforementioned procedures within the specific times may, if research of billing information is requested, result in additional charges for clerical time spent and will be billed at the Town's cost recovery rate. Please note that, with the exception of documented disputed amounts, finance charges will be assessed at the rate of 12% per annum or 1% per month on all past due amounts.
7. The advance of funds pursuant to this Agreement shall not be contingent on the hiring of any specific employee or consultant. The Town reserves absolute discretion as to the selection, hiring, assignment, supervision and evaluation of any and all employees, contractors, or consultants that may be necessary to assist the Town in processing of the application. Town shall have the sole discretion to establish the amount of compensation paid to the employees and the amount of fees paid to the consultants or the consultants' firms that are hired by the Town to complete the steps necessary for processing of the Application.

8. The advance of funds pursuant to this Agreement shall not be dependent upon the Town's approval or disapproval of the project, the application, or any part thereof, or upon the result of any action, and shall in no way influence processing of the application. Neither Applicant nor any other person providing funding for processing of the application shall, as a result of such funding, have any expectation as to the results of the Town's actions in connection with processing the Application.
9. Applicant is expressly prohibited from directly or indirectly exercising any supervision or control over any employee, agent, or consultant of the Town engaged in processing of the application. Any violation of this provision is cause for the Town to cease processing of the application, at the sole and exclusive direction of the Town. This prohibition shall not be construed to preclude Applicant, its agents or representatives, from providing information to the Town or any employee, agent or consultant of the Town, or from seeking information from the Town, or employee, agent or consultant of the Town with respect to processing of the application.
10. In any legal action arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including costs and attorneys' fees.
11. As part of this application, Applicant agrees to defend, indemnify, release and hold harmless the Town, its agents, offices, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("Indemnitees"), the purpose of which is to attack, set aside, void or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the Applicant, third parties and/or the Indemnitees, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the Indemnitees.
12. Nothing in this agreement shall prohibit the Town from participating in the defense of any claim, action or proceeding. In the event that Applicant is required to defend the Indemnitees in connection with any said claim, action or proceeding, the Town shall retain the right to (i) approve the counsel to so defend the Indemnitees, (ii) approve all significant decisions concerning the matter in which the defense is conducted, and (iii) approve any and all settlements, which approvals shall not be unreasonably withheld by the Town.
13. Town shall also have the right not to participate in said defense, except that Town agrees to cooperate with Applicant in the defense of said claim, action or proceeding. If Town chooses to have counsel of its own defend any claim, action or proceeding

where the Applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town.

14. Applicant also agrees to so indemnify the Indemnitees for all costs incurred in additional investigation or study, or for supplementing, redrafting, revising or amending any document (e.g., the EIR, Specific Plan Amendment, Specific Plan, General Plan Amendment, Rezone, etc.) if such is made necessary by the claim, action or proceeding and if the Applicant desires approvals from the Town which are conditioned on the approval of said documents.
15. The undersigned Applicant or Authorized Agent thereof hereby represents that he/she either personally owns the subject property, is an entity authorized to install and maintain facilities for provision of utility, telecommunications, video, voice or data transmission service in the public street right of way, or is a duly authorized agent of the Owner with full authority to execute this Agreement on behalf of the Owner. Applicant agrees to be jointly and severally liable with the Owner for payment of all fees referenced above. Applicant agrees to notify Town in writing prior to any change in ownership and to submit a written assumption of the obligations under this Agreement signed by the new owner or his/her authorized agent.
16. Invoices are due and payable within 10 days. A penalty will be charged on delinquent accounts at the rate of 1% per month or 12% per annum. Owner agrees that delinquent amounts shall constitute a lien on the subject property and expressly consents to recordation of a notice of lien and/or copy of this Agreement against the subject property with respect to any amounts which are delinquent.
17. Each Party acknowledges that this Agreement sets forth all covenants, promises, conditions and understandings between the Parties regarding the advance of funds for processing of the application and the uses thereof, and there are no promises, conditions, or understandings either oral or in writing between the Parties other than as set forth herein. No other prior oral or written agreements regarding the subject matter herein are binding upon the Parties.
18. This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California. In the event of a dispute concerning the terms of the Agreement, the venue for any legal action shall be with the Superior Court of California for the County of Napa.
19. Each Party had an opportunity to consult with counsel of their choosing in reviewing and negotiating this Agreement. Any uncertainty or ambiguity in this Agreement shall not be construed for or against either Party based on attribution of drafting to either Party.

20. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed a fully executed agreement. This Agreement may be transmitted by facsimile, electronic mail (email), or other electronic means and the production or reproduction of signatures by facsimile, electronic mail (email), or other electronic means shall be treated as binding originals thereof.

The Parties hereby enter into this Agreement as of the Effective Date:

By: \_\_\_\_\_

Name, Title

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name, Title

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name, Title

Date: \_\_\_\_\_