

**CITY OF FORT BRAGG  
LICENSE AGREEMENT  
WITH SABINE BRUNNER  
FOR USE OF CITY'S SIGN  
(LOCATION: 221 EAST REDWOOD AVENUE)**

THIS LICENSE AGREEMENT ("License") dated as of October \_\_, 2018, is by and between the CITY OF FORT BRAGG (hereinafter called "City") and SABINE BRUNNER (hereinafter called "Licensee") whose address is 221 East Redwood Avenue, Fort Bragg, California 95437. The parties hereto agree as follows:

**1. Sign.** City owns a "Welcome to Fort Bragg" sign, a photograph of which is included hereto as Exhibit "A" which is approximately 17.6 feet wide by 6 feet tall ("City's Sign"). Subject to the following terms and conditions, City licenses to Licensee City's Sign for use as described herein.

**2. Use.** Licensee is authorized to display the City's Sign, affixed to her business location at 221 East Redwood Avenue, Fort Bragg, California known commonly as Little Cup Ceramics. Licensee shall secure the City's Sign to her building in a manner that ensures it will not pose any safety hazard to the public. Licensee's use of the City's Sign in any manner which constitutes a hazard to the public health or safety, including any use specifically contemplated by this License, but conducted in a manner hazardous to the public health or safety, is prohibited and shall constitute a default under this License.

**3. Conditions Precedent.** This License is conditioned upon Licensee, or Licensee's assigns, obtaining all governmental permits and approvals enabling Licensee, or its assigns, to display the City's Sign on Licensee's business premises.

**4. Term.** The term of this License ("Term") shall be five (5) years commencing on October \_\_\_\_, 2018 ("Commencement Date"). The Term may be renewed for one (1) year periods, provided the Licensee requests such extension, in writing, at least sixty (60) days before the expiration of the term, and the City consents in writing to such extension.

**5. Rent.**

A. In consideration of the rights granted by this License, upon the Commencement Date and throughout the Term of this License, Licensee shall pay City the sum of One Dollar (\$1.00) per year as rent ("Rent"). Rent shall be payable on the commencement date in advance, and before the first day of the term of any subsequent renewal date.

B. If the Rent is not received by City on or before the thirtieth (30<sup>th</sup>) day following the due date, it shall be deemed delinquent.

## **6. Improvements, Restoration, and Maintenance**

A. Licensee must receive City's written permission before making any substantive changes to the City's Sign.

B. Licensee shall be responsible for restoration costs, maintenance and upkeep of the City's Sign during the term of this Licensee.

**7. Termination.** This License may be terminated without liability on thirty (30) days prior written notice as follows:

A. By either party upon a default of any covenant, condition, or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default;

B. By Licensee at any time. However, should Licensee choose to terminate this license for any reason other than default by City, Licensee shall not receive a refund of any rental amounts paid in advance to City.

C. By the City, at such time as it determines it has a suitable use for the City's Sign, and desires to use it elsewhere in the City limits.

## **8. Insurance.**

A. Licensee shall maintain in full force and effect the following types of insurance in the amounts specified:

1. General Liability. Licensee shall maintain in full force and effect a policy of commercial general liability insurance (ISO occurrence form CG0001) with limits no less than the following: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this agreement, or the general aggregate limit shall be twice the required occurrence limit.

2. Worker's Compensation and Employer's Liability Insurance. Licensee shall fully comply with the law of California concerning worker's compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability Licensee may have for worker's compensation. Licensee shall also maintain in full force and effect a policy of employer's liability insurance with limits no less than the following: One Million Dollars (\$1,000,000) each accident; One Million Dollars (\$1,000,000) policy limit bodily injury by disease; One Million Dollars (\$1,000,000) each employee bodily injury by disease.

B. The general liability policy shall contain, or be endorsed to contain, the following provisions:

1. The City, its officers, employees and volunteers shall be added as insureds with respect to liability arising out of any injury or claim related to the Licensee installation, use, maintenance or display of the City's Sign. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of section 2782 of the Civil Code.

2. For any claims related to work or operations performed by or on behalf of Licensee, the Licensee's insurance coverage shall be primary insurance as respects the City, its officers, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, employees, or volunteers shall be excess of the Licensee's insurance and shall not contribute with it.

3. Coverage shall not be cancelled by the Insurer except after thirty (30) days prior written notice has been given to the City.

C. The insurance company or companies providing Consultant the coverages required by this Agreement shall be admitted in the State of California and have a current A.M. Best's rating of no less than A:VII or equivalent acceptable to City.

D. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, either: the Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, if officers, employees and volunteers; or the Licensee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. The insurance shall be maintained from the time Licensee's activities first commence through the entire term of this License if an occurrence policy form is used. If a claims made policy form is used, the following requirements apply:

1. The "Retro Date" must be shown, and must be before the date of the License or the beginning of Licensee's activities.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of Licensee's activities.

3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the effective date of the License, the Licensee must purchase "extended reporting" coverage for a minimum of five (5) years after completion of

Licensee's activities.

4. A copy of the claims reporting requirements must be submitted to the City for review.

F. If Licensee, for any reason, fails to maintain insurance coverage which is required under this License, the failure shall be deemed a material breach and default of this License. If Licensee fails to obtain or maintain any insurance required by this License, City shall have the right to purchase the insurance and Licensee shall reimburse the full cost of such insurance within thirty (30) days of purchase. If Licensee fails to reimburse City for insurance, the amount of unpaid reimbursement shall bear interest at the maximum rate permissible under law until paid.

G. Licensee shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

H. Concurrently with the execution of this Agreement, Licensee shall furnish City with fully completed and properly executed certificates of insurance for each type of coverage required. Certificates shall be on forms provided by the City. Licensee shall replace certificates of insurance for policies expiring prior to completion of the work under the Agreement, and shall continue to furnish certificates for five years beyond the Agreement terminate date, when the Consultant has a claims made form of insurance.

I. Concurrently with the execution of this Agreement, Licensee shall furnish City with endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City.

J. Licensee shall have the right to self-insure with respect to any of the above insurance only upon receiving written approval of City.

**10. Successors and assigns.** Licensee may assign this License at any time upon written notice to and approval of City, which approval shall not be unreasonably withheld. This License shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties.

**11. Indemnity and Mutual Release.**

A. Licensee shall indemnify, protect, and defend City and its officers, officials, employees and volunteers and hold them harmless from any and all claims, damages, losses and liability arising out of the use of City's Sign, and shall further indemnify and hold the City and its officers, officials, employees and volunteers harmless from any and all claims arising out of

Licensee's activities under this License, or the performance of any obligation on its part to be performed under the terms of this License, or from any breach or default thereof, or from any negligence or willful misconduct by it or any of its officers, agents, employees, or volunteers from and against all costs, attorneys' fees, expenses and liabilities incurred in the defense of any such claim or action brought thereon; except where caused by the active negligence, sole negligence, or willful misconduct of the City and for any and all costs incurred by City in defending such claims, including investigator's, witnesses', and attorney's fees and court costs.

B. The indemnification provisions of this Section shall survive the expiration or earlier termination of this License to and until the last date permitted by law for the bringing of any claim or action with respect to which indemnification may be claimed hereunder.

**12. Attorneys fees; Litigation costs.** If any action at law or in equity is brought to recover any rent or other sums under this License, or for or on account of any breach of or to enforce or interpret any of the covenants, terms, or conditions of this License, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes: (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this License for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action.

Any award of damages following judicial remedy or arbitration as a result of the breach of this License or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

**13. Miscellaneous.**

A. Severability. If any provision of the License is invalid or unenforceable with respect to any party, the remainder of this License or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this License shall be valid and enforceable to the fullest extent permitted by law.

B. Counterparts. This License 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.

C. Notices. Any notice or demand required to be given herein shall be made by certified or registered mail, return receipt requested, confirmed fax, or reliable overnight mail to the address of the respective parties set forth below:

<b>City:</b> City Manager City of Fort Bragg 416 North Franklin Street Fort Bragg, CA 95437	<b>Licensee:</b> Sabine Brunner Little Cup Ceramics 221 East Redwood Avenue Fort Bragg, CA 95437
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City or Licensee may from time to time designate any other address for this purpose by written notice to the other party.

D. Choice of Law. This License shall be governed under the laws of the State of California.

E. Survival of Terms. Terms and conditions of this License which by their sense and context survive the termination, cancellation or expiration of this License will so survive.

F. Entire Agreement. The terms of this License (including the Exhibits, all of which are hereby incorporated by reference) are intended by the parties as the final expression of their agreement with respect to such terms. The parties further intend that this License constitutes the complete and exclusive statement of its terms and no extrinsic evidence whatsoever may be introduced in any proceeding, involving this License. The language in all parts of this License will in all cases be construed as a whole and in accordance with its fair meaning and not construed for or against either party.

G. Amendments and Modifications. No amendment, modification or supplement, including those by custom, usage of trade, or course of dealing, of any provisions of this License Agreement shall be binding on any of the parties unless it is in writing and signed by the parties in interest at the time of the modification. No oral order, objection, claim, or notice by either party to the other shall affect or modify any of the terms or obligations contained in the License.

IN WITNESS WHEREOF, Licensee has caused its duly authorized representative for and on its behalf to execute this License, and the City of Fort Bragg, a municipal corporation, has caused this License to be executed by its City Manager and attested to by its City Clerk under the authority of Resolution No. \_\_\_\_\_, adopted by the City Council of the City of Fort Bragg on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and Licensee has so executed it.

LICENSEE:

CITY OF FORT BRAGG

By: \_\_\_\_\_  
Sabine Brunner

By: \_\_\_\_\_  
Tabatha Miller, City Manager

ATTEST:

By: \_\_\_\_\_  
June Lemos, CMC, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Russell Hildebrand  
City Attorney

**EXHIBIT A**

**[INSERT PICTURE OF SIGN HERE]**