



# RESOLUTION No. 23-480

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION APPROVING THE LEASE AGREEMENT WITH JAVA JOHNS LLC TO ALLOW FOR SPACE LEASE FOR THE COUNTY CAFÉ' FOR A THREE-YEAR TERM BEGINNING SEPTEMBER 12, 2023 THROUGH SEPTEMBER 11, 2026 AND APPROVAL TO RENEW THE LEASE AGREEMENT FOR UP TO TWO ADDITIONAL ONE YEAR TERMS

WHEREAS, the Department of Facilities Management is responsible for all County property management including the leasing of space from private Parties when County resources require expansion such as additional office space; and

WHEREAS, in addition, Facilities Management is also responsible for the leasing of County property when the County has a surplus of space which can be better utilized by non-County Parties; and

WHEREAS, within the Eric Rood Administrative Center (ERAC) located in Nevada City, CA the County has designated space referred to as "The County Café"; and

WHEREAS, it is in the best interest of the public to provide cafeteria services to County employees and members of the public; and

WHEREAS, Facilities Management collaborated with the Purchasing Division to develop Request for Qualifications (RFQ) No. 169391 to seek a new Business Provider and revamp the space to comply with environmental health requirements and provide a fresh new look to the space; and

WHEREAS, the RFQ was advertised on the County's website, posted on social media platforms, announced in the County weekly news memo and distributed via email to all restaurants and food trucks who were in compliance with Environmental Health Department's requirements at the time of the solicitation being released; and

WHEREAS, two proposals were received for this RFQ:

1. Java Johns LLC of Nevada City, CA
2. Nicholas Eslinger of Grass Valley, CA; and

WHEREAS, an evaluation team comprised of county staff in various Departments reviewed each proposal in accordance with the criteria published in the RFQ; and

WHEREAS, Java Johns LLC was determined to be the top ranked firm.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, hereby directs that:

1. Finds that this Lease with Java Johns LLC is in the best interest of the public.

2. Approves the panel's recommendation to award the top-rated firm – Java Johns LLC of Nevada City, CA
3. Approves in substantially the form attached hereto, the Lease Agreement with Java Johns, LLC for a three (3) year term beginning September 12, 2023 through September 11, 2026 and rent shall be \$150 per month.
4. Authorizes renewal of the Lease Agreement for up to two (2) additional one (1) year periods.
5. Authorizes the Facilities Director to sign all documents pertaining to the Lease and future renewals so long as there is no additional financial impact to the County as a result of this action.

Funding: 0101-10702-415-1000/430200

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 12th day of September, 2023, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward C. Scofield, Lisa Swarthout, Susan Hoek and Hardy Bullock.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 

  
Edward C. Scofield, Chair

# LEASE AGREEMENT

## AGREEMENT FOR CAFÉ / LUNCHROOM AT ERIC ROOD ADMINISTRATIVE CENTER

Whereas the County of Nevada, (COUNTY), and Java Johns LLC. (VENDOR) desire to enter into an Agreement for the purpose of operating a food business establishment in the Eric Rood Administrative Center (ERAC); and,

Whereas VENDOR and COUNTY recognize that partnering with a qualified business to lease space and offer food services benefits the COUNTY, Community, and Clients

Now, therefore, the parties agree as follows:

1. This Agreement shall commence on September 12, 2023, and shall terminate on September 11, 2026.
2. Vendor will be granted space access to set-up and establish business processes post Board approval by means of key and badge access. No rent will be due during this time (September 12 through 30, 2023). 1<sup>st</sup> months' rent will be due by October 1<sup>st</sup>, 2023.
3. VENDOR shall provide and maintain a commercial general liability and property damage insurance policy in the amount of two million dollars (\$2,000,000). Said policy shall remain in force through the life of this Agreement and shall be payable on a "per occurrence" basis. The COUNTY shall be named as an additional insured on the commercial general liability policy. The insurer shall provide the County a certificate of insurance with endorsements signed by the insurer evidencing such insurance prior to commencement of this Agreement and said certificate with endorsement shall provide for thirty (30) day advance notice to the County of any termination in coverage.
4. VENDOR shall provide proof of Workers Compensation insurance to the County. A certificate of insurance shall be provided to the County prior to commencement of this agreement and annually upon renewal of the policy.
5. VENDOR shall comply with the COUNTY's Green Procurement and Sustainable Practices Policy (Board Resolution SR 22-0124), including efforts to minimize waste generation by using recycled and recyclable materials, organic waste disposal requirements.
6. VENDOR agrees to pay to the COUNTY **\$150.00 per calendar month**. Payments may be paid in advance on a quarterly basis.
7. VENDOR shall provide regular service from 7:00 a.m. to 3:00 p.m. on weekdays that are not County holidays. Hours may be extended at the VENDOR'S discretion but not less than.
8. COUNTY agrees to provide the approximately 1,200 sq. ft. of non-commercial café/lunchroom space on the first floor of the Eric Rood Administrative Center (ERAC) including adjoining kitchen area and storage room. VENDOR shall be responsible for maintaining the space in a clean and orderly condition and in full compliance with County Environmental Health and State health codes.
9. The Agreement may be amended or modified only by written agreement of all parties.

### SECTION 1. PREMISES

- 1.1 That certain portion of the real property within the Nevada County Eric Rood Administrative Center with the street address of 950 Maidu Avenue, located in the City of Nevada City, County of Nevada, State of California, with the zip code 95959 (hereinafter referred to as "Premises") and is approximately 1,200 square feet of space as further described in Exhibit 1 attached hereto and made a part hereof.
- 1.2 In addition to the VENDOR's rights to use and occupy the Premises as specified, the VENDOR shall have non-exclusive right during the business hours of approximately 7:00 A.M. to 5:00 P.M. access to and from the Premises over and across any publicly accessible part of COUNTY's property, for any purpose related to

the use and enjoyment of the VENDOR and their respective officers, employees, business invitees, customers and patrons.

\*Non-exclusive: Pertains to the common area in the Premise and the publicly accessible part of the COUNTY'S property, not the leased space for food service operations of the VENDOR.

VENDOR shall have access for the sole purpose of food preparation and delivery of supplies and food during NON-OPERATIONAL business hours. In the event of any other reason for access, event, or otherwise, VENDOR must have written approval from the Director of Facilities.

- 1.3 The seating area accessible to the public and county employees of the Premises shall be accessible for seating regardless of patronage to the VENDOR and shall be available for seating outside of operating hours. Vendor will make every attempt to the best of their ability to secure Vendor's equipment and supplies to ensure the public and county employees have no access to said equipment and supplies.

## **SECTION 2. TERM and TERMINATION**

2.1 **Term.** The Agreement term shall be 36 months commencing September 12, 2023, and shall terminate on September 11, 2026.

2.2 **Material Breach.** A Material Breach, as defined pursuant to the terms of this Agreement in section 13, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which the COUNTY may elect to immediately terminate this Agreement without notice.

2.3 **Termination Due to Contamination.** Notwithstanding any other provision of this Agreement, the COUNTY shall have the right to terminate this Agreement should problems with asbestos, lead, mold, fungus, or other contamination arise which would cause the County to expend funds to eliminate the problems in order to continue tenancy. The VENDOR shall have no liability for any repairs caused by asbestos, lead, mold, fungus, or other contamination problems, and has the option to terminate this Agreement should contamination in the Premises arise. Upon correction Vendor will have the opportunity to return to business.

2.4 **Deficiency Notice Procedures.** Deficiencies shall be verbally stated, documented and presented to the VENDOR by the Director of Facilities or Designee. The VENDOR shall respond within forty-eight (48) hours of the presented notice. The VENDOR shall provide a plan to remedy the stated deficiencies to prevent future occurrence and have 15 calendar days to cure potential deficiency. Exceptions can be granted beyond the 15-day period in writing from the Director of Facilities due to extraneous circumstances such as supply chain issues. The VENDOR will be responsible for providing follow-up documentation of satisfaction of deficiency notice. VENDOR is responsible for re-inspection of problem areas before notifying the County the problem has been resolved.

VENDOR's management team must be available for a face-to-face meeting, in person or on a virtual meeting platform, within forty-eight (48) hours of notification.

Patterns of complaints, which may indicate the VENDOR's failure to adequately staff, train and supervise, shall cause a face-to-face meeting with the VENDOR owner in order to clarify the VENDOR's obligations and produce a written work plan and time frame for remedying the deficiencies.

Repeated deficiencies will result in contract termination without notice for failure to perform (See Material Breach Section 13.)

### SECTION 3. RENT

- 3.1 **Rent Amount.** VENDOR shall pay to COUNTY rent for the use of the Premises in the monthly amount of \$150 or an annual amount of one thousand eight hundred dollars (\$1,800) for the term of 36 months. If Section 19 is enacted by the County and Vendor after the initial 36-month term the monthly rent shall be one hundred fifty dollars (\$150.00) each month with payments made by the 1<sup>st</sup> of each month. Notices and Payments procedures are found in Section 14.
- 3.2 **Rent Payment.** VENDOR shall cause payment of Rent to be received by COUNTY by the 1<sup>st</sup> of each month in lawful money of the United States, without offset or deduction, on or before the day on which it is due. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days in said month. Rent shall be payable to COUNTY at the address stated herein or to such other person or at such other place as COUNTY may designate by notice as provided herein. Acceptance of a payment which is less than the amount then due shall not be a waiver of COUNTY's rights to the balance of such Rent, regardless of COUNTY's endorsement of any check so stating. Notices and Payments procedures are found in Section 14.
- 3.3 **Late Charge.** If any installment of rent due from VENDOR is not received by COUNTY by the fifteenth calendar day of the month, a late fee of \$25.00 will be assessed.
- 3.4 **Security Deposit.** The COUNTY requires **no security deposit** under the terms of this Agreement.

### SECTION 4. USE OF PREMISES

- 4.1 **VENDOR Use.** The Premises shall be used by VENDOR for the conduct of VENDOR's business operation and related purposes only. The Premises shall be used for no other purpose without the written consent of the COUNTY Director of Facilities.
- 4.2 **Vehicle Parking.** The VENDOR its invitees, employees, contractors, and patrons shall have use of unreserved parking spaces in COUNTY's parking area adjacent to the Premises for the term of the Agreement and any extensions. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles".
- 4.3 The premise does not contain a commercial kitchen and food that is conducive to smoke, flames or grease splatter are not permitted.
- 4.4 The Premises may be closed by the COUNTY in the event of weather, power outage, emergency, or declared emergency. In the event the COUNTY, closes the ERAC building the COUNTY is not responsible for lost revenue, loss of product, or lost wages. The rent will not be pro-rated for closures shorter than 30 days.
- 4.5 At minimum the VENDOR shall keep the premises open for business Monday through Friday from 7:00 am to 3:00 pm on weekdays that are not County holidays. Hours may be extended at the VENDOR's discretion within the hours of 7:00 am and 5:00 pm with COUNTY's approval but not to weekends or holidays.

### SECTION 5. SERVICES and UTILITIES

- 5.1. **VENDOR Obligations.** VENDOR shall pay for the following utilities to the COUNTY in addition to monthly rental rate:
- a. Phone – phone service is provided by Nevada County Information and General Services Agency. The rate for the monthly phone bill is included in your base rate of \$150 per month.
  - b. Internet – The VENDOR shall supply their own internet connection. If the VENDOR desires to have internet cabling installed the VENDOR must coordinate with the Facilities Department.

5.2. **COUNTY's Obligations.** COUNTY shall pay for utilities used by VENDOR within the Premises, including the following:

- a. Heat;
- b. Hot and cold water;
- c. Electricity;
- d. Phone;
- e. Public restroom facilities;
- f. Janitorial and trash removal in common areas only

5.3. **Government Restrictions.** In the event of imposition of federal, state or local government controls, rules, regulations, or restrictions on the use or consumption of energy or other utilities during the term of the Agreement, both the COUNTY and VENDOR shall be bound thereby. Any cost associated with compliance shall be paid by the COUNTY unless such costs are directly related to the conduct of the VENDOR's business within the Premises.

## **SECTION 6. MAINTENANCE AND REPAIRS**

### **6.1 COUNTY's Obligations.**

- 6.1.1 COUNTY may, upon written authorization by VENDOR, enter and inspect the Premises at reasonable times to conduct maintenance services or make any necessary repairs to the Premises.
- 6.1.2 COUNTY shall furnish at COUNTY's sole expense all electric light bulbs and/or tubes as required during the term of this Agreement.
- 6.1.3 COUNTY shall during the term of this Agreement, provide and maintain in good repair and tenantable condition, at COUNTY's own cost, the exterior of the Premises, together with appurtenances, rights, privileges and easements belonging or appertaining thereto including but not limited to, the following: landscaping, building structural integrity, paving, parking lots, parking lot striping, fencing, irrigation systems, walks, roof, gutters, downspouts, exterior walls and doors, windows, exterior building and parking lot lighting, and other outside elements of the Premises.
- 6.1.4 COUNTY shall, during the term of this Agreement, provide and maintain in good repair and tenantable condition, at COUNTY's own cost, interior structural components such as, but not limited to stairways, handrails, ceilings, and walls.
- 6.1.5 COUNTY shall pay the costs of ordinary and routine maintenance and repairs and/or replacement of the plumbing systems and fixtures, hot water heater, electrical systems and fixtures, and heating, ventilation and air conditioning (HVAC) systems and any other installed systems used for heating or cooling or ventilation. COUNTY shall schedule and pay for annual HVAC inspections.
- 6.1.6 COUNTY shall repair or replace any existing flooring and repaint Premises when it is degraded by wear and tear.
- 6.1.7 COUNTY shall provide all exterior pest control services.
- 6.1.8 COUNTY shall, at COUNTY's own cost, promptly make repairs to areas of water intrusion and replace any building materials that show signs of current or previous water intrusion.
- 6.1.9 COUNTY is responsible for repairs or maintenance to the Premises which are caused by COUNTY, or its agents, employees, contractors, or others entering the Premises on COUNTY's behalf including but not limited to, for the purpose of performing modifications or alterations to the building and/or other maintenance and repairs.

6.1.10 COUNTY is responsible for securing the Premises including, but not limited to, locking doors, when COUNTY, or its employees, contractors or others are at the Premises on COUNTY's behalf including, but not limited to, for the purpose of performing modification or alterations to the building and/or other maintenance and repairs.

**6.2 VENDOR's Obligations.**

6.2.1 The VENDOR's at the VENDOR's sole cost, shall procure, supply and maintain in good working order their own furniture and special equipment for this space.

6.2.2 Except as provided in Section 6.1, VENDOR shall be responsible for repairs or maintenance to the Premises which are caused by VENDOR, or its employees, contractors or others entering the Premises on VENDOR's behalf.

6.2.3 VENDOR shall repair at its own expense any damage to the Premises caused by or in connection with the removal of any articles of personal property, business or trade fixtures, machinery, equipment, furniture, or improvements or additional, including without limitation thereto, repairing damage to the floor and patching the walls.

6.2.4 VENDOR shall give COUNTY prompt notice of any damage to or defective condition in any part or appurtenance of the Premises.

6.2.5 VENDOR shall, at its expense, keep and maintain and repair any and all items of personal property and equipment installed by it within the Premises. VENDOR shall also maintain the Premises in a good, safe and sanitary condition and shall return the Premises to COUNTY in the same condition as at the commencement of the term, ordinary wear and tear expected.

6.2.6 VENDOR shall be allowed to re-key the lock to the back storage area of the Premises in coordination with the Nevada County Facilities Department. In event of such re-keying the Nevada County Facilities Department shall be a key holder.

6.2.7 VENDOR shall maintain all of the equipment and furniture brought into the Premises in good working condition at the sole cost of the VENDOR.

6.2.8 VENDOR shall supply and maintain the tables, chairs and furniture that will be occupying the "Café" space.

**6.3 Compliance with Law.**

6.3.1 COUNTY and VENDOR shall each do all acts required to comply with all applicable laws, ordinances, regulations and rules of any public authority relating to their respective maintenance obligations as set forth herein. Any costs associated with compliance shall be paid by COUNTY unless costs are directly related to the conduct of the VENDOR's business within the Premises.

6.3.2 COUNTY represents that the Premises are compliant with the Americans with Disabilities Act (42 USC sec. 1201) and its related regulations, and the Fair Employment and Housing Act (Gov. Code Section 12940), and Title 24 of the California Code of Regulations. COUNTY's obligation as set forth in Section 9.2 herein shall include the obligation to indemnify, defend, and hold VENDOR harmless from any and all claims or actions arising from violations of the Americans with Disabilities Act or the Fair Employment and Housing Act.

6.3.3 The VENDOR dba as Java Johns' LLC, must comply with California Retail Food Code (Cal Code) sections 114387 and 113945-114125, to ensure the facility meets current Cal Code requirements.

## **SECTION 7. ALTERATIONS**

### **7.1 Alterations by the VENDOR.**

- 7.1.1 VENDOR shall not make or allow to be made any alterations, additions or improvements to or of the Premises, without first obtaining the written consent of COUNTY Director of Facilities.
- 7.1.2 In the event COUNTY consents to the making of any alterations, additions or improvements to the Premises by VENDOR, the same shall be made by VENDOR at VENDOR's sole cost and expense.
- 7.1.3 All improvements made by VENDOR to the Premises that are attached to the Premises so that they cannot be removed without material injury to the Premises shall become the property of COUNTY upon installation and VENDOR shall have no obligation or liability for removal of such improvements.
- 7.1.4 Not later than the last day of the term of this Agreement, unless the parameters of Section 19 have been met, VENDOR shall, at VENDOR's expense, remove all of VENDOR's personal property and those improvements made by VENDOR which have not become the property of COUNTY, including trade fixtures; repair all damage resulting from the installation or removal of such property and improvements; surrender Premises in as good order, condition or repair as they were in at the beginning of the term, except for reasonable use and wear thereof, and damage by fire, the elements, casualty, act of God or other cause not due to the misuse or neglect of the VENDOR or VENDOR's officers, agents, employees or visitors; and remove at VENDOR's expense any signs notices or displays placed or installed by VENDOR.
- 7.1.5 The COUNTY may choose to remodel the physical space occupied by the VENDOR. The COUNTY shall consult with the VENDOR on timing in the event a remodel occurs. The COUNTY will notice the VENDOR no less than 90 days prior to start of the remodel. The COUNTY shall send updates to the VENDOR during remodel discussions and planning. The COUNTY shall not be responsible for any loss of revenue or product during the time required to complete the remodel.

## **SECTION 8. ASSIGNMENT AND SUBLETTING**

**8.1 COUNTY's Consent Required.** VENDOR shall not assign this Agreement, or any interest therein, and shall not sublet said premises, or any part thereof, of any right or privilege belonging thereto, without the written consent of COUNTY, which consent shall not be unreasonably withheld. Consent to one assignment or subletting shall not be construed as consent to any subsequent assignment or subletting. Unless such consent has been obtained, any assignment or transfer, or attempted assignment or transfer of this Agreement, or of any interest therein, or subletting, either by voluntary or involuntary act of the VENDOR, or by operation of law or otherwise, shall, at the option of COUNTY, terminate this Agreement, and any such purported assignment, transfer or subletting without such consent shall be null and void.

**8.2 ReAgreement of VENDOR.** In the event of an assignment of this Agreement, which is approved by COUNTY, whereby such successor in interest agrees to be bound by all the terms, covenants and conditions of this Agreement, VENDOR shall be relieved from all obligations and liabilities occurring thereafter on the part of the new tenant.

## **SECTION 9. INDEMNITY AND HOLD HARMLESS**

**9.1 VENDOR's Indemnification.** VENDOR shall indemnify and hold COUNTY harmless from and defend COUNTY against any and all claims of liability for any injury, death, or damage to any person or property occurring in or on the Premises when such injury, death or damage is caused in part or in whole by the neglect fault or omission of any duty with respect to the same by VENDOR, its agents, contractors, or employees. If any action or proceeding is brought against COUNTY by reason of any such claim, VENDOR, upon notice from COUNTY, shall defend the same at VENDOR's expense provided, however, that VENDOR shall not be required to defend nor be liable for damage, injury, or death occasioned by the active or passive negligence or intentional



acts of COUNTY or its agents, contractors, or employees. COUNTY shall provide notice to VENDOR within 10 days of receipt or notice of any claim.

**9.2 COUNTY's Indemnification.** COUNTY shall indemnify, defend, save, protect and hold harmless VENDOR, its employees, agents, and volunteers from any and all demands, losses, claims, costs, suits, liabilities and expenses for any damage, injury or death (collectively, "Liability") arising directly or indirectly from or connected with this Agreement and/or the VENDOR's occupancy/use of the Premises which is caused, or claimed or alleged to be caused, in whole or in part, by the negligence or willful misconduct of COUNTY, its officers, employees, agents contractors, consultants, or any person under its direction or control and shall make good to and reimburse the VENDOR for any expenditures, including reasonable attorney's fees, the VENDOR may make by reason of such matters and, if requested by VENDOR, shall defend any such suits at the sole cost and expense of COUNTY. COUNTY's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of the VENDOR or any other person; provided, however, that COUNTY shall not be required to indemnify VENDOR for the proportion of Liability a court determines is attributable to the negligence or willful misconduct of the VENDOR.

If such indemnification becomes necessary, the County Counsel for the COUNTY shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend the County. This indemnification clause shall survive the termination or expiration of this Agreement.

## **SECTION 10. INSURANCE**

VENDOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the VENDOR's operation and use of the leased premises. The cost of such insurance shall be borne by the VENDOR.

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than **\$1,000,000** per accident for bodily injury or disease. (This applies to VENDORS with employees).
3. **Property insurance** against all risks of loss to any tenant improvements or betterments, at full replacement cost with no coinsurance penalty provision.

If the VENDOR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by the VENDOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

### **Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

#### ***Additional Insured Status***

The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO

Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

#### ***Primary Coverage***

For any claims related to this contract, the **VENDOR's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the VENDOR's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

#### ***Umbrella or Excess Policy***

The VENDOR may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

#### ***Legal Liability Coverage***

The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the leased property.

#### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.

#### ***Waiver of Subrogation***

VENDOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said VENDOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. VENDOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.

#### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the VENDOR to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or COUNTY. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 [fill in the amount for your comfort level for the specific VENDOR and job – it could be much higher, or in the case of a very small VENDOR, you might want it lower] unless approved in writing by COUNTY. Any and all deductibles and SIRs shall be the sole responsibility of VENDOR who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. COUNTY may deduct from any amounts otherwise due VENDOR to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. COUNTY reserves the right to obtain a copy of any policies and endorsements for verification.

#### ***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the COUNTY.

#### ***Verification of Coverage***

VENDOR shall furnish the COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work

beginning shall not waive the VENDOR's obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Special Risks or Circumstances***

COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**SECTION 11. DAMAGE OR DESTRUCTION**

If the Premises are damaged or destroyed in whole or in part by fire or other casualty, COUNTY shall repair and restore the Premises to a good tenantable condition. All rent shall wholly abate in case the entire Premises are untenable or shall abate pro rata for the portion rendered untenable in case a part only is untenable, until the Premises are restored to a tenantable condition. However, there shall be no abatement of rent if the damage is due to the fault or neglect of VENDOR or its employees.

COUNTY shall commence and complete all work required to be done under the prior paragraph with reasonable promptness and diligence, but COUNTY shall not be in default in any required performance if delay in performance results from fire, flood, storm, labor disputes, shortage of materials or transportation facilities, governmental regulations, war, act of God or other causes beyond COUNTY's reasonable control. If COUNTY does not commence the repair or restoration within sixty (60) days after the damage or destruction occurs, or if repair or restoration will require more than 120 days to complete, VENDOR may, at VENDOR's option, terminate this Agreement by giving COUNTY notice of VENDOR's election to do so at any time prior to the commencement of the repair or restoration. In that event, this Agreement shall terminate as of the date of notice. Notwithstanding the above, if the Premises are more than 50% destroyed, COUNTY may elect not to repair the Premises and, upon written notice to VENDOR, may terminate the Agreement whereupon VENDOR shall not be liable for any further rental payments.

**SECTION 13. DEFAULT OR BREACH**

The occurrence of any one or more of the following events constitutes a material default and breach of this Agreement by VENDOR:

- a) The failure by VENDOR to make any payment of rent or any other payment required to be made by VENDOR hereunder, as and when due, where the failure continues for a period of ten (10) days after notice thereof from COUNTY to VENDOR.
- b) The failure by VENDOR to observe or perform any of the covenants, conditions, or provisions of this Agreement to be observed or performed by VENDOR, other than those described in subparagraph a) above, where the failure continues for a period of thirty (30) days after notice thereof from COUNTY to VENDOR; provided, however, that if the nature of VENDOR's default is such that more than thirty (30) days are reasonably required for its cure, then VENDOR shall not be deemed to be in default if VENDOR commences such cure within the thirty (30) day period and thereafter diligently completes the cure.
- c) The filing by VENDOR or another of a petition to have VENDOR adjudged a bankrupt.
- d) The appointment of a trustee or receiver to take possession of substantially all VENDOR's assets located at the Premises or of VENDOR's interest in this Agreement, if possession is not restored to VENDOR within thirty (30) days.
- e) The attachment, execution or other judicial seizure of substantially all VENDOR's assets located at the Premises or of VENDOR's interest in this Agreement, if the seizure is not discharged within thirty (30) days.
- f) The abandonment of the Premises.
- g) In the event of any such material default or breach by VENDOR, COUNTY may, after giving notice as provided above, pursue those remedies available to COUNTY under the laws or judicial decisions of the State of California.
- h) COUNTY shall not be in default unless COUNTY fails to perform obligations required of it within a reasonable time, but in no event later than thirty (30) days after written notice of the nature of the problem and request to cure by VENDOR to COUNTY; provided that if the nature of COUNTY's obligation is such that more than thirty (30) days are reasonably required for performance, then COUNTY shall not be in

default if COUNTY commences performance within the thirty (30) day period and thereafter diligently completes performance.

- i) If COUNTY defaults in the performance of any of the obligations or conditions required to be performed by COUNTY under this Agreement, VENDOR may, after giving notice as provided above, either cure the default and deduct the cost thereof from rent subsequently becoming due hereunder, or elect to terminate this Agreement upon giving thirty (30) days' notice to COUNTY of its intention to do so. In that event, this Agreement shall terminate upon the date specified in the notice, unless COUNTY has meanwhile cured the default. VENDOR may also pursue those remedies available to it under the laws or judicial decisions of the State of California.

**14. NOTICES AND PAYMENTS**

14.1 All acceptances, approvals, consents, notices, payment, demands or other communications required or permitted to be given or sent by either party to the other, shall be deemed to have been fully given when made in writing and delivered in person or deposited in the United States mail, certified and postage prepaid, addressed to:

**COUNTY OF NEVADA:**

Information and General Services Department

**VENDOR:**

Java Johns LLC

Address: 950 Maidu Ave.  
City, St, Zip Nevada City, CA 95959  
Attn: IGS Admin  
Email: IGSAdmin@nevadacountyca.gov  
Phone: 530-265-1238

Address 12316 Francis Drive  
City, St, Zip Grass Valley, Ca 95949  
Attn: Elizabeth Raiche  
Email: javajohns.nevadacity@gmail.com  
Phone: 812-431-2965

The address to which any such written communication may be given or sent to either party may be changed by written notice given by such party as above provided.

**SECTION 15. GOVERNING LAW**

All questions with respect to construction of this Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the State of California. Any dispute arising hereunder or relating to this Agreement shall be litigated in the State of California and venue shall lie in the County of Nevada.

## **SECTION 16. INUREMENT**

Subject to the restrictions on assignments as herein contained, this Agreement shall inure to the benefit of, and shall be binding upon the assigns, successors in interest, personal representatives, estates, and heirs of the respective parties hereto.

## **SECTION 17. ENTIRE AGREEMENT**

This instrument along with any exhibits or attachments hereto constitutes the entire Agreement between COUNTY and VENDOR relative to the Premises. This Agreement and any exhibits or attachments may be altered, amended, or revoked only by an instrument in writing signed by both COUNTY and VENDOR. COUNTY and VENDOR agree that all prior or contemporaneous oral agreements between their agents or representatives relative to the leasing of the Premises are written into or revoked by this Agreement. If any provision contained in an exhibit or attachment to this Agreement is inconsistent with any other provision herein, the provision contained in the exhibit or attachment shall control, unless otherwise provided in the exhibit or attachment.

## **SECTION 18. PROHIBITED USES**

18.1 VENDOR shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which is not within the permitted use of the Premises which will in any way increase the existing rate of or affect any fire or other insurance upon the Premises or any of its contents, or cause a cancellation of any insurance policy covering said Premises or any part thereof or any of its contents. VENDOR shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Premises or injure or annoy them or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; nor shall VENDOR cause, maintain or permit any nuisance in, on or about the Premises.

18.2 VENDOR shall not use the Premises or permit anything to be done in or about the Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. VENDOR shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances, and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board or fire underwriters or other similar bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by VENDOR's improvements or acts. The judgment of any court of competent jurisdiction or the admission of VENDOR in any action against VENDOR, whether COUNTY be a party thereto or not, that VENDOR has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between the COUNTY and VENDOR and shall be grounds for termination of this Agreement.

## **SECTION 19. HOLDOVER**

If VENDOR, with written approval from the Director of Facilities, remains in possession of the Premises after the expiration or termination of this Agreement and without the execution of a new Agreement, VENDOR shall be deemed to be occupying the Premises as a tenant from month-to-month, subject to all of the conditions, provisions and obligations of this Agreement insofar as they are applicable to a month-to-month tenancy.

## **SECTION 20. SIGNS**

The VENDOR may not affix upon the glass panes and supports of the Premises windows signs, advertising placards, names, insignia, trademarks and descriptive materials, without prior written approval of the Director of Facilities. Sandwich Boards are allowed to be placed outside and indoors so long as they do not create a trip nuisance and the path of travel is accessible for the public (including ADA access.)

**SECTION 21. SEVERABILITY**

The invalidity of any provision of this Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof. The language in all parts of this Agreement shall be construed according to the fair meaning and not strictly for or against either COUNTY or VENDOR.

**SECTION 22. NO AGENCY**

This Agreement does not create the relationship of principal and agent or a partnership or joint venture, or of any association other than that of COUNTY and VENDOR.

**SECTION 23. AUTHORIZED EXECUTION**

Each individual executing this Agreement in a representative capacity represents and warrants that they are duly authorized to execute and deliver this Agreement for such party.

**IN WITNESS WHEREOF**, COUNTY and VENDOR have executed this Agreement on the day and year first written above. By their signatures below, each signatory represents that they have the authority to execute this Agreement, and to bind the party on whose behalf his or her execution is made:

COUNTY OF NEVADA:

By: Justin Drinkwater Date: 09/18/2023  
Justin Drinkwater (Sep 18, 2023 11:40 PDT)  
Printed Name/Title: Justin Drinkwater, Director of Facilities

Approved as to Form – County Counsel:

By: Kit Elliott Date: 09/15/2023  
Kit Elliott (Sep 15, 2023 09:26 PDT)

VENDOR: Java Johns, LLC

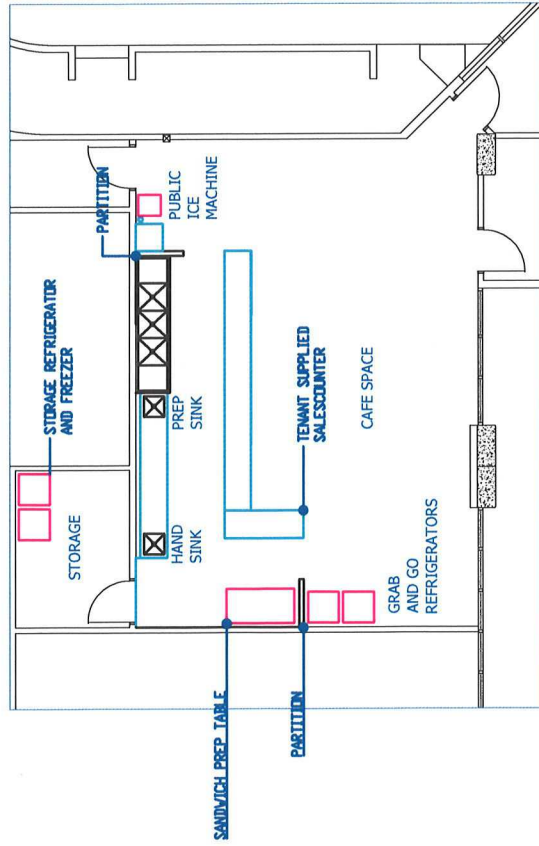
By: Elizabeth Raiche Date: 08/31/2023  
Elizabeth Raiche (Aug 31, 2023 08:41 PDT)

Name: Elizabeth Raiche

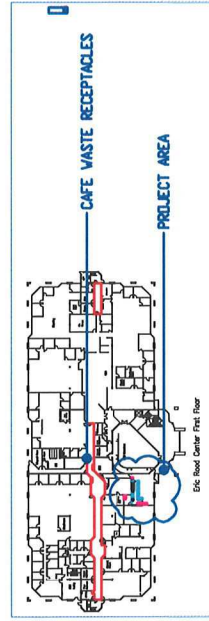
\* Title: President

***\*If the business is a corporation, this Agreement must be signed by two corporate officers; one of which must be the secretary of the corporation, and the other may be either the President or Vice President, unless an authenticated corporate resolution is attached delegating authority to a single officer to bind the corporation (California Corporations Code Sec. 313).***

# Exhibit 1



CAFE PROJECT AREA



SITE PLAN

- SHEET NOTES**
1. NORTH, WEST, PARTITION AND STORAGE ROOM WALLS TO BE CLAD IN "MARLITE SYMMETRIX SMARTSEAM" FRP PANELS.
  2. EXISTING TILE AND RUBBER BASEBOARD TO BE REPLACED WITH SANITARY COVE CERAMIC TILE BASEBOARD.
  3. EXISTING CABINETS TO BE REPLACED WITH PAINTED WOOD CABINETS COVERED WITH LAMINATED COUNTERTOPS.
  4. TENANT SUPPLIED SALES COUNTER TO HAVE FOOD SAFE WORK SURFACES.
  5. HAND WASH SINK TO HAVE HANDS FREE FAUCET, SOAP AND TOWEL DISPENSERS.
  6. CEILING TILES IN STORAGE ROOM AND ABOVE FOOD SERVICE AREAS TO BE REPLACED WITH "ARMSTRONG KITCHEN ZONE" IN A SMOOTH FINISH.
  7. PUBLIC ICE MACHINE IS NOT FOR TENANT USE.
  8. WASTE AND RECYCLABLES FROM CAFE ARE TO BE PLACED IN RECEPTACLES IN THE HALLWAY NORTH OF THE SPACE. THESE RECEPTACLES ARE EMPTIED DAILY BY COUNTY STAFF.
  9. SANDWICH PREP TABLE TO HAVE CUTTING BOARD TO BE RESURFACED TO A SMOOTH AND SANITARY CONDITION.

General Notes

No.	Revision/Issue	Date

Project Name and Address NEVADA COUNTY FACILITIES 10014 N. BLOOMFIELD RD. NEVADA CITY, CA 95959	Project Number 20230502	Issue NTS
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Project Name and Address COUNTY CAFE UPDATE 950 MALDU AVENUE NEVADA CITY, CA 95959	Project Number 20230502	Issue NTS
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