

ECONOMIC DEVELOPMENT DOWNTOWN DISTRICT RESTAURANT INCENTIVE PROGRAM PARTICIPATION AND REIMBURSEMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT PARTICIPATION AND REIMBURSEMENT AGREEMENT (this "**Agreement**") is made this ____ day of ____ 2024, between **Business Owner** whose mailing address is 2901 W Hill Rd Boise, ID 83703 (hereinafter referred to as "**DK Donuts LLC**" or the "**Participant**"), and the **NAMPA DEVELOPMENT CORPORATION**, an urban renewal agency formed under the laws of the State of Idaho (hereinafter referred to as "**NDC**" or the "**AGENCY**") whose address is 500 12th Ave. S., Nampa, Idaho 83651 (together, the "**PARTIES**").

1. Recitals

1.1 The Parties do hereby enter into this Agreement to memorialize their respective duties, rights and obligations related to the redevelopment of the property referenced herein. Participants intends to open new restaurant business or make modifications to an existing restaurant including: grease interceptors/traps, fees in relation to: domestic water base, domestic water fire flow, SE4 collections systems, SE4 wastewater, plan review, impact, subcontractor permit, building permits, tenant improvement permits, or other project previously approved in application to NDC at 200 12th Ave S Nampa, ID 83651, hereinafter referred to as (the "**Project**"). The maximum reimbursement shall not exceed one hundred fifty thousand dollars and zero cents (\$150,000.00). The Project consists of demolition, flooring, framing, plumbing, gas, electrical, HVAC, drywall, painting, hood, and permit fees ("**Project Area**"). **Not** included in the project area are exterior paint, cabinets, countertops, code signage and fire extinguishers, builders fee, architect fee, and engineer fees. Such Project Area consists of the DK Donuts LLC tenant space located inside the property pictured in "**Exhibit A**" and described in in a final scope of work "**Exhibit B**" both attached hereto and incorporated by reference herein.

1.2 NDC is an independent public body, corporate and politic, created as an urban renewal agency pursuant to Idaho Code § 50-2006, part of the Idaho Urban Renewal Law of 1965. As an urban renewal agency established by the City of Nampa, NDC is charged with aiding and assisting economic development in the Nampa area, including recruiting new companies to the area, helping existing businesses expand and assisting developments that will retain and increase available jobs in the community; and is further charged with encouraging such development by private enterprise; all as more specifically provided in Idaho Code §§ 50-2002 and 50-2003, being part of the Idaho Urban Renewal Law, and Idaho Code § 50-2902, being part of the Local Economic Development Act.

1.3 The Nampa City Council, by the adoption of Ordinance No. 3652 on December 18, 2006, found the Project Area a deteriorated and deteriorating area existing in the City as defined by the Law and Act, and authorized the preparation of an urban renewal plan.

1.4 Further, the Historic Downtown Restaurant Incentive program meets the goals defined in

the 2006 Nampa Urban Renewal Plan (the “**Plan**”) to strengthen the economic base of the Project Area and the community by the installation of needed public improvements and facilities to stimulate new commercial expansion, employment, and economic growth; The provision of adequate land for parks and open spaces, pedestrian walkways, and parking; provision and improvement of streets rights of way and other public infrastructure and public facilities in the Project Area and the enhancement and improvement of transportation for vehicles, bicycles, and pedestrians in the Project Area.

1.5 NDC has reviewed the elements of the Project and feels the Project would enhance the redevelopment and revitalization of the Project Area pursuant to the provisions of the Plan and affords maximum opportunity, consistent with the sound needs of the City as a whole for the redevelopment of the Project Area by private enterprise.

1.6 Based on these reasons, NDC has committed to provide funding for the Downtown Restaurant Incentive Program as an incentive that will provide up to 50% of costs expended toward restaurant improvements that meet eligible NDC approved expenses.

- A. The incentive will be a cash reimbursement upon completion of the construction project with the benefiting property owner submitting documentation of both the total dollars invested in the building and the actual costs for the restaurant improvement construction.
- B. The Participant will submit receipts and proof of payment to document the total amount of funds invested in the property, and the actual cost of NDC approved restaurant expenses for which reimbursement is sought. Receipts of payment and performance of contracts must be submitted to the Agency in order to obtain reimbursement.
- C. The Participant will construct and pay for the Improvements and receive reimbursement payments from NDC after NDC has accepted and approved the documentation set out in C above, and the acceptance of the restaurant improvements by the City of Nampa as meeting its standards.

By this Agreement, NDC and PARTICIPANT wish to memorialize their mutual undertakings and commitments with respect to the Project, and Project Area described herein and therefore, agree as follows:

1. NDC's Undertaking

1.1 To further the proposed redevelopment, including infrastructure improvements and increased tax base expected therefrom, NDC agrees to reimburse Participant up to 50% of eligible expenses, to benefit said development utilizing revenue allocation funds in accordance with the terms set out in this Agreement.

1.2 The qualified invoice and proof of payment shall be for labor, materials and professional services related to the applicable Improvements. "Qualified invoices and proof of payment," as that term is used in this Agreement, shall mean signed contracts or agreements that include adequate detail of the charges represented thereby, which relate to the Improvements that have been

constructed or installed, and which have been reviewed by the City's Engineer or designee, along with NDC or their designated agent, and proof that such payments have been paid in full, along with an invoice to NDC for reimbursement.

1.3 NDC shall reimburse PARTICIPANT for approved qualified invoices and proof of payments in the order said invoices are received. NDC will disburse no more than 50% of Project costs. Reimbursement is due after PARTICIPANT receives an occupancy permit for the Project and then within thirty (30) days after NDC receives a complete application for reimbursement from PARTICIPANT.

1.4 In the event PARTICIPANT fails to complete the Improvements as listed in the Plan, NDC's obligation to pay PARTICIPANT any reimbursement under the terms of this Agreement shall be terminated regardless of the amount of funds invested by PROPERTY OWNER.

2. PARTICIPANTS Undertaking

2.1 In return for NDC's agreement to provide said incentive, PARTICIPANT agrees to construct the Improvements on the site, assure the Improvements are safe and sound in all physical respects, bring the property to a marketable condition, which will continue throughout an estimated useful life for a minimum of twenty (20) years, and comply with the following provisions:

- A. PARTICIPANT is improving property that is not a franchise or formula restaurant; new businesses will operate within the Business, Historic, or Village districts; existing businesses operate within the Business, Historic, or Village district; and the establishment does not have a drive-thru.
- B. All such buildings or portions of buildings which are constructed within the Project Area shall conform with all applicable codes and ordinances of the City of Nampa. Including design guidelines set forth in the Historic Subdistrict Design Guidelines.
- C. Any new construction shall also conform to all applicable provisions, requirements, and regulations of the 2006 Urban Renewal Plan.
- D. Participants who retain real property shall be required to join in the recordation of such documents as may be necessary to make the provisions of the Plan applicable to their properties.
- E. That PARTICIPANT and their successors agree:
 - a. A plan and time schedule for the proposed development shall be submitted to the NDC. Initial plan and time schedule shall be provided within ninety (90) days after the effective date of this Agreement.
 - b. The purchase or lease of the land and/or subterranean rights and/or air rights is for the purpose of redevelopment and not for speculation.
 - c. That there will be no discrimination against any person or group of persons because of race, sex, creed, color, national origin or ancestry, in the sale,

lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises or any improvements erected or to be erected thereon, therein conveyed; nor will PARTICIPANT or any person claiming under or through PARTICIPANT establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sub lessees, or vendees in the premises or any improvements therein conveyed.

- d. That the site and construction plans will be submitted to NDC for review as to conformity with the provisions and purposes of the Plan.
- e. All development plans (whether public or private) prepared, pursuant to disposition and development or owner participation agreements, shall be submitted to NDC for approval and architectural review.
- f. All real property in the Project Area, under the provisions of this Agreement, is made subject to the controls and requirements of the Plan. No such real property shall be developed or otherwise changed after the date of the adoption of the Plan, except in conformance with the provisions of the Plan, notwithstanding any requirement set forth in this Agreement or the Plan.
- g. In the event PARTICIPANT fails to make the necessary Improvements, then NDC's obligation to make reimbursement to PARTICIPANT shall cease.
- h. PARTICIPANT shall deliver updated timelines to NDC and schedule project status meetings with the NDC to keep them informed of the progress of the Project.
- i. All reimbursements by NDC hereunder are conditioned upon PARTICIPANT fulfilling the commitments set forth in sub-paragraphs A-H above. If such conditions are not met, no sums shall be due from NDC herein.

2.2 PARTICIPANT shall provide proof of payment for the amount of the costs incurred by PARTICIPANT to complete the Improvements, along with contracts to substantiate the work completed, as provided in subsection 1.2.

2.3 PARTICIPANT shall provide to NDC such additional information respecting the work and payments as NDC may reasonably request.

3. Effect of Agreement

3.1 It is further intended by the parties to this Agreement that the amounts paid by NDC to PARTICIPANT hereunder, through payment of qualified invoices and proof of payment submitted by PARTICIPANT, shall not be paid as compensation for specific services by PARTICIPANT for NDC. Rather, the intent of the parties is that the payments promote the economic development of the area in which the PARTICIPANT Project shall be located and provides funding for the infrastructure improvements.

3.2 The parties acknowledge that the effect of the payments by NDC required hereunder will

inure to the benefit of PARTICIPANT, while having the corresponding benefit to the public purposes of NDC as described above.

4. Miscellaneous

4.1 This Agreement shall be governed by and construed under the laws of the State of Idaho; venue shall be Canyon County, Idaho.

4.2 The term of this Agreement shall expire and be of no further force or effect, upon the earlier to occur of (a) the date the revenue allocation area established in Ordinance No. 3652 and the urban renewal plan approved thereby terminates; (b) the date on which NDC has paid to PARTICIPANT (through the special account as provided herein) all amounts due to PARTICIPANT hereunder in the aggregate; or (c) if PARTICIPANT has failed to complete all necessary Improvements within six (6) months after the effective date of this Agreement. The revenue allocation area established in Ordinance No. 3652 and the urban renewal plan approved thereby terminates on December 31, 2031.

4.3 This Agreement shall be binding upon and inure to the benefit of the respective parties and their legal successors; but neither party may assign this Agreement without the express written consent of the other party. Notwithstanding the foregoing, PARTICIPANT shall have the sole and absolute right to assign its right to reimbursement hereunder to its investors and lenders, its successors or other designee.

4.4 In any litigation arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees from the non-prevailing party. Determination of the prevailing party in any such litigation shall be made on the basis of the factors enumerated in Rule 54(d)(1)(B), Idaho Rules of Civil Procedure, as the same now exists or may subsequently be amended.

4.5 Each party represents to the other that it has full legal authority to enter into and execute this Agreement, including obtaining any required resolution of its governing board.

4.6 Notices by either party to the other shall be made in writing and delivered by first class U.S Mail, postage prepaid, to the parties as follows:

PARTICIPANT: DK Donuts LLC
2901 W Hill Rd
Boise, ID 83703

NDC: Nampa Development Corporation
500 12th Avenue South
Nampa, Idaho 83651

4.7 This Agreement constitutes the entire agreement of the parties hereto with respect to the reimbursement by NDC to PARTICIPANT and supersedes any prior agreements of the parties.

4.8 This Agreement is effective on the date adopted by the Nampa Development Corporation

Board of Commissioners, and upon final recordation of the deed indicating PARTICIPANT, as owner of the property listed herein.

4.9 This Agreement is between NDC and PARTICIPANT and is not transferrable.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

NAMPA DEVELOPMENT CORPORATION
the Urban Renewal Agency of the City of
Nampa, Idaho

By:

Date:

PARTICIPANT
Business Owner: DK Donuts LLC

By:

Date:

Exhibit A

Proximity Map

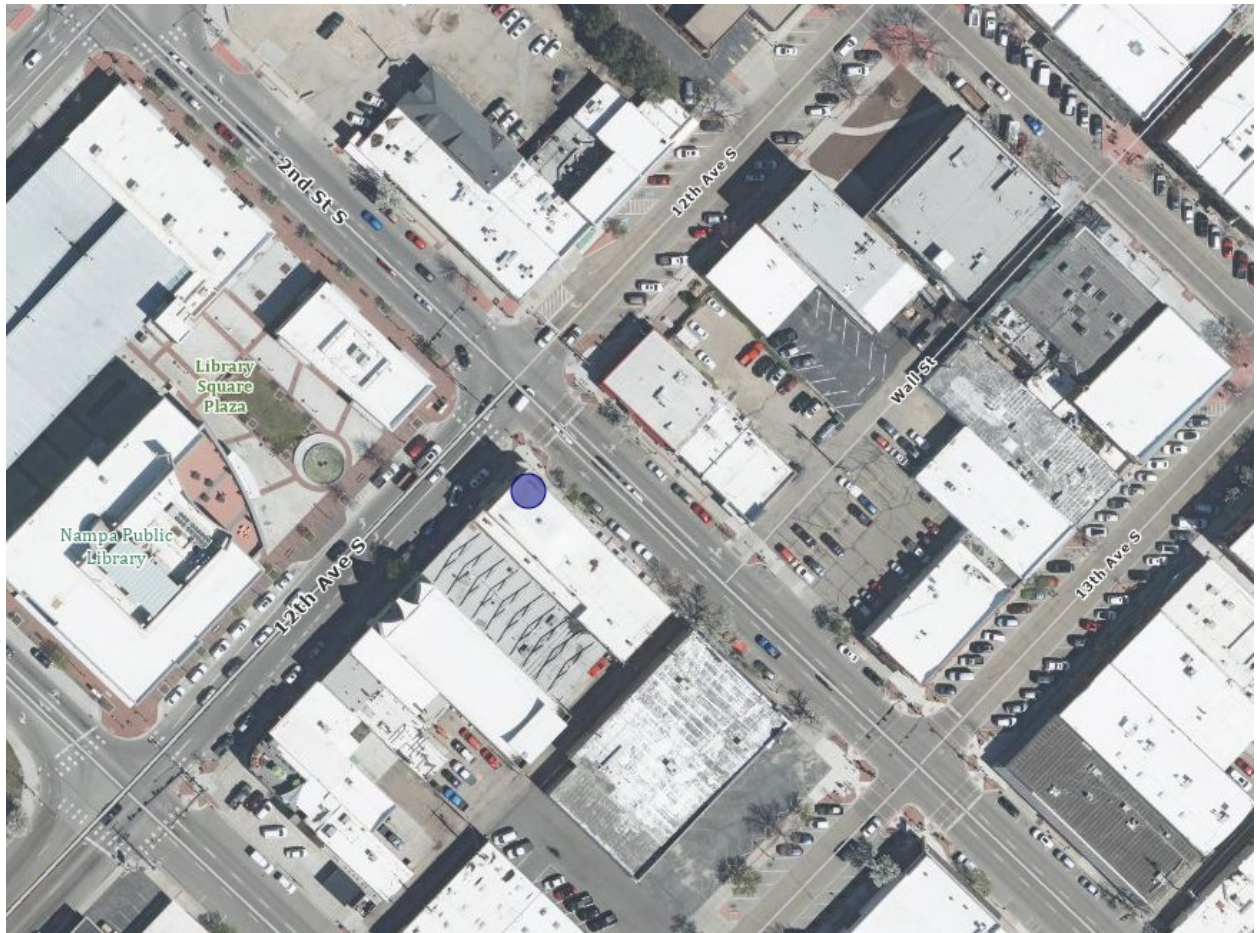


Exhibit B

SCOPE OF WORK FINAL

Restaurant Property Address: 200 12th Ave S

Business or Property Owner Name: DK Donuts

Improvement	Description	Estimated Cost
Demolition	Demo part of the ceiling for new T-bar; demo old HVAC ductwork in basement; cut new hole in wall for hood venting and other pipes with framing; final clean	\$9,800.00
Flooring	Add post where missing in basement for extra support; add metal braces to old posts; nail down/add shims to old hardwood to prevent creaking and sagging; fill old HVAC vents and other holes; add leveling cement to level; furnish and install new flooring; thermoplastic; rubber wall base	\$31,520.00
Framing	New walls; add door; drop ceiling addition; guard rail to roof unit	\$33,120.00
Plumbing	Install plumbing; install new water meter	\$37,700.00
Gas	Upgrade gas meter to 2PSI; run gas lines	\$13,300.00
Electrical	Furnish and install new 200 amp panel; demo old electrical and lights; furnish and install new electrical; new lights and emergency lights; 3 phase converter addition	\$49,900.00
HVAC	Furnish and install new HVAC per plans	\$44,965.00
Drywall	Furnish and install new drywall for areas with new framing; texture; FRP panels in kitchen and bathrooms	\$19,800.00
Prep/Painting	Interior walls, ceiling, HVAC, ductwork and doors	\$9,812.00
Hood	Hood (Minus shipping and Sales Tax)	\$33,879.98
Permits	Building; electrical; plumbing; mechanical	\$16,500.00
TOTAL		\$300,297.00
Not To Exceed Reimbursement Amount		\$150,000