

PROPERTY IMPROVEMENT GRANT AGREEMENT

This Property Improvement Grant Agreement (the "Agreement") is entered into this ____ day of _____, 20__ (the "Effective Date") between the Tax Increment Finance Authority of the City of Newaygo (the "Authority"), an authority created by the City of Newaygo, Michigan (the "City"), pursuant to the Tax Increment Finance Authority Act, 1980 P.A. 450, as amended, located at 28 State Rd, Newaygo, Michigan 49337 and

Owner Name and address: _____

Lessee's Name and address: _____

Business Name and address: _____

Address of Property to be improved:

(the "Applicant")

RECITALS:

WHEREAS, the Authority has established, administers, and funds a program for business owners within the Newaygo TIFA District (the "District") for the purposes of controlling and preventing blight and deterioration (the "Property Improvement Program"); and

WHEREAS, through the Property Improvement Program, the City has agreed to reimburse Applicants for the cost of eligible exterior improvements to commercial establishments within the District up to a maximum of 50% of the approved cost of such improvements; and

WHEREAS, the Applicant owns or leases property located within the District (the "Property"), and the Applicant wishes to participate in the Property Improvement Program pursuant to the terms of this Agreement.

WHEREAS, the Applicant has submitted to the District, and the District has approved, plans, design drawings, and specifications, as applicable, outlining the full scope and extent of proposed improvements on the Property (the "Approved Improvements") along with the estimated costs including all labor, materials, equipment, and other contract items necessary for the proper execution of

the Approved Improvements (the "Approved Costs"). Said plans, drawings, specifications, and estimates submitted by the Applicant to support the Project and Approved Costs are on file with the Authority.

Therefore, the parties agree as follows:

Section 1 – Reimbursement.

The Authority shall reimburse the Applicant for 50% of the Approved Costs or 50% of the Actual Costs (defined below), whichever is less, of constructing the Approved Improvements. Any reimbursement amount paid to Applicant under this Agreement shall not exceed \$ _____.

Section 2- Construction of the Project.

- a) Zoning and Building Permit Approval and Compliance. Prior to initiating any construction work, the Applicant shall apply for and obtain all necessary permits and approvals required under the City's Code of Ordinances, or any other state or local law or regulation. At all times, the Applicant shall construct and maintain the Approved Improvements in compliance with the City's Code of Ordinances, any approvals or permits received from the City, and all other state or local laws, rules, or regulations. The Applicant agrees that this Agreement does not relieve the Applicant of any obligation to apply for or obtain any permits or approvals including, but not limited to, any zoning, land use, building, mechanical, electrical, or similar permit or approvals. This Agreement is not a substitute for the City's proper approval of any application by the Applicant related to any required permit or approval nor is it to be deemed an approval by the City of any land-use activity.

- b) Compliance with Approved Improvements. Unless an exception is pre-approved in writing by the Authority, the Applicant shall construct the Approved Improvements without any modifications, changes, eliminations, or deletions. The Applicant shall complete all of the Approved Improvements within 365 days from the Effective Date. The Applicant may request an extension from the Authority provided that Applicant has experienced demonstrated hardship that may be granted or denied in the Authority's discretion.

Section 3 – Periodic Review.

The City Zoning Administrator may periodically review the Applicant's progress on completing the Approved Improvements. Such review shall not replace any other inspections required by applicable state or local laws, ordinances, or permits. The City Zoning Administrator may notify the Applicant if any work is not consistent with the Approved Improvements, and Applicant shall promptly correct or remediate said work to ensure compliance with the Approved Improvements.

Section 4 – Completion of Approved Improvements and Submission of Costs.

- a) Final Inspection. Upon completion of the construction work, the Applicant shall notify the Authority and the work will be inspected by the City Zoning Administrator for overall completeness, quality, and compliance with this Agreement and conformity with the Approved Improvements. If any deficiencies are found, the Applicant shall promptly correct said deficiencies to bring the work in compliance the Approved Improvements.

- b) Submission of Final Costs. Upon final inspection and approval by the City Zoning Administrator pursuant to Section 4(a), the Applicant shall within 60 days of completion of the Approved Improvements submit to the attention of the Director of the Authority an executed statement containing:
 - i) The full cost of completing the Approved Improvements (the “Actual Costs”);
 - ii) Each separate component amount due to each contractor or subcontractor involved in furnishing labor, materials, or equipment necessary to complete the Approved Improvements;
 - iii) Proof of payment of all costs incurred by the Applicant for the construction of the Approved Improvements along with final lien waivers from all contractors and subcontractors;
 - iv) Before and after photos of the Approved Improvements; and
 - v) A certification that all amounts owed to the City, including taxes, permit fees etc., have been paid.
- c) Review of Submission. The Authority, or a committee of the Authority established for this purpose, shall evaluate the submission for completeness and compliance with this Agreement and the terms of the Property Improvement Program.
- d) Failure to Submit Required Documentation. If Applicant fails to submit the required documentation under Section 4(b) within 60 days of completion of the Approved Improvements, Applicant shall forfeit any right to reimbursement under this Agreement. The Authority may extend this deadline in its sole discretion for good cause shown.
- e) Payment of Reimbursement. If Applicant has fully complied with this Agreement, within 45 days of the receipt by the Applicant of all documentation required to be submitted by Section 4(b), the Authority shall issue a check to Applicant for a reimbursement amount as specified in Section 1.

Section 5 – Termination.

If the Applicant violates any term of this Agreement, including, but not limited to, failing to complete the Approved Improvements in full conformity with the approval, the Authority may terminate this Agreement at any time by providing Applicant written notice of the termination by certified mail at Applicant’s address written above. If the Authority terminates this Agreement, Applicant will have no right to any reimbursement for any work completed or partially completed.

Section 6 – Maintenance of the Improvements.

Upon completion of the Approved Improvements pursuant to this Agreement and for a period of five (5) years thereafter, the Applicant shall properly maintain the Approved Improvements in finished form and shall not change or alter the Approved Improvements, or contract to change or alter the Approved Improvements, except with prior written approval of the Authority. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the Approved Improvements.

Section 7 – Binding Agreement

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, assigns, and transferees for a period of 5 years from the completion of the Approved Improvements and acceptance of the Approved Improvements by the Authority. The Authority may record this Agreement with the Newaygo County Register of Deeds.

Section 8 – Indemnity, Release, Hold-Harmless.

The Applicant shall indemnify, defend, and hold-harmless the Authority and City, and their respective officials, officers, employees, agents, and assigns, from and against any and all costs, losses, claims, damages, liabilities, or expenses, of every kind, character and nature whatsoever, including reasonable attorney’s fees, arising out of, resulting from, or in any way connected with directly or indirectly with this Agreement, the Property Improvement Program, or any construction, maintenance, building, or rebuilding work conducted in connection therewith. The City or the Authority shall each have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive any termination of this Agreement or completion of the Approved Improvements.

Section 9 – Other Construction Work.

Nothing herein is intended to limit, restrict, or prohibit the Application from undertaking any other work in or about the Property, which is unrelated to the Approved Improvements.

Section 10 – Use of Photos.

The Applicant hereby grants to the Authority the right to use pictures, renderings, or descriptions of the Approved Improvements for any and all promotional purposes desired by City.

Section 11 – Miscellaneous.

- a) This Agreement has been executed in the State of Michigan and shall be governed by Michigan law.
- b) This Agreement may only be amended pursuant to a written document executed by all of the parties hereto.
- c) The waiver by any party hereto of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement.
- d) If any section or provision of this Agreement is unenforceable for any reason, the unenforceability thereof shall not impair the remainder of this Agreement, which shall remain in full force and effect.
- e) It is contemplated that this Agreement shall be executed in multiple counterparts, all of which together shall be deemed to be one agreement.
- f) This Agreement represents the entire understanding and agreement between the parties hereto with regard to the matters addressed herein.
- g) The captions in this Agreement are for convenience only and shall not be considered as a part of this Agreement or in any way amplify or modify the terms and provisions of this Agreement.

h) This instrument was made and entered into in consideration of less than \$100.00 and is exempt from state and county transfer tax pursuant to MCL 207.526(a) and 207.505(a). Any payments referred to herein are not payments made in consideration of this Agreement but instead document the outstanding and legal obligations of the parties.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date first appearing above.

OWNER:

Print Name: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Acknowledged before me in _____ County, _____, on _____, 20____,
by _____, the _____, of
_____, who is personally known to me or who
produced his/her driver's license as identification.

Notary Public, _____ County, _____
Acting in _____ County
My commission expires: _____

LESSEE:

Print Name: _____

STATE OF _____)
) ss.
COUNTY OF _____)

Acknowledged before me in _____ County, _____, on _____, 20____,
by _____, the _____, of

