



Participation Agreement

THIS AGREEMENT is entered into this ___ day of _____, 20____ (the “Effective Date”) by and between the Elko Redevelopment Agency, a political subdivision of the State of Nevada organized and existing under Chapter 279 of the Nevada Revised Statutes (the “RDA”), and:

NAME OF PARTICIPANT:

NAME OF PROPERTY OWNER:

PARTICIPANT’S PHYSICAL ADDRESS:

PARTICIPANT’S MAILING ADDRESS (IF DIFFERENT):

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

(the “Participant”).

PHYSICAL ADDRESS OF PROJECT PROPERTY:

(the “Project Property”).

RECITALS

WHEREAS, the RDA, in its continuing effort to support the redevelopment of the Elko Redevelopment Area (the “Area”), has created the Infrastructure Grant Program (the “Program”);

WHEREAS, the primary objective of the Program is to encourage and support property owner investment in dilapidated buildings and structures requiring building, fire and city code upgrades within the Area;

WHEREAS, the Program is a process that involves a one-time reimbursement in an amount determined by the RDA for approved expenses for property owner(s) and/or lessee(s) who are investing into their property by bringing the property into conformance with current accessibility, building, fire, city and other adopted codes on the Project Property (the “Work”);

WHEREAS, the Program will provide reimbursement for a Participant’s investment in the Work in an amount determined by the RDA (the “Grant”);

WHEREAS, to be considered for the Grant, the Participant must apply for the Grant on a form or forms provided by the RDA;

WHEREAS, the Participant must comply with this Agreement, to include any requirements incorporated by reference to be eligible for the Grant;

WHEREAS, to receive the Grant, the Participant’s application must be approved by the RDA;

WHEREAS, the Project Property is located within the Area;

WHEREAS, the Participant seeks to take part in the Program pursuant to the terms and conditions of this Agreement;

WHEREAS, if the Participant is not the Property Owner, the Property Owner must agree to satisfy the Participant’s remaining obligations in the event of Participant’s default hereunder;

NOW, THEREFORE, for and in consideration of the above recitals and the terms and conditions set forth below, the RDA and the Participant agree as follows:

I.

PROGRAM DESCRIPTION

A. Subject to the terms and conditions set forth in this Agreement, the RDA shall reimburse the Participant for the cost of the Work in an amount not to exceed the following amount



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approved by the RDA: \$ _____.

B. Costs which are eligible for reimbursement include all labor, material, equipment and other related items necessary for the proper performance of the Work as shown on the estimates approved by the RDA, attached at **Appendix 1** and incorporated herein; *provided*, costs paid for in cash will not be reimbursed by the RDA.

C. By signing this Agreement, the Participant certifies that all requirements set forth in the **Program Guidelines**, attached hereto at **Appendix 2** and incorporated herein by this reference, have been satisfied.

D. Participant has obtained all required certificates of insurance from its contractor(s) in compliance with the **Program Guidelines**.

E. In the event the RDA determines that the Participant has materially misrepresented any information needed to obtain approval for participation in the Program, to include the foregoing certification that the requirements set forth in the **Program Guidelines** have been satisfied, the RDA may thereupon immediately recover all Grant funds paid to the Participant, together with reasonable attorney fees and costs incurred in enforcing this provision.

II.

ACCEPTANCE BY RDA

Upon completion of the Work and issuance of a Certificate of Occupancy or a Letter of Completion by the City of Elko for the project, the Participant shall complete and submit to the RDA a properly executed **Reimbursement Request Form** (supplied by the RDA) showing all expenses incurred in performing the Work. In addition, the Participant shall submit to the RDA proof of payment to its contractor(s) and final lien waivers from all contractors and subcontractors.

III.

PAYMENTS BY RDA

Except as otherwise provided in this Agreement, the RDA shall, within forty-five (45) days of receipt of the **Reimbursement Request Form**, proof of payment to its contractor, and lien waivers from Participant's contractor(s) and subcontractor(s), issue a Final Payment to the Participant as reimbursement for of the RDA approved expenditures for performance of the Work.

IV.

FAILURE TO COMPLETE WORK



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If the Participant (including Participant’s contractor(s) and/or subcontractor(s)) fails to complete the Work in accordance with this Agreement, to include the approved plans, design drawings and specifications at **Appendix 1**, then upon written notice from the RDA to the Participant in the manner provided herein, the Agency may, in its discretion, (1) if different than the Participant, hold the Property Owner responsible for Participant’s default, in which event the Property Owner shall be subject to this Agreement in the same manner as Participant and shall be responsible for satisfying Participant’s remaining obligations hereunder, to include any remaining maintenance obligations, (2) pursue any and all available legal and equitable remedies against the Participant based on Participant’s breach, and/or (3) terminate this Agreement. In the event of a default by Participant hereunder, the financial obligation on the part of the RDA shall terminate without any retroactive obligation on the part of the RDA to reimburse the Participant for any Work performed or money or labor expended. Any breach of this Agreement by the Participant shall automatically and immediately disqualify the Participant from any Grant funds, to include Grant funds for Work already performed or funds already expended.

V.

TERM

This Agreement shall commence on the Effective Date and shall terminate three (3) years thereafter unless earlier terminated as provided herein or unless an extension is approved by the RDA. The period during which this Agreement remains in effect is referred to herein as the “Term.”

VI.

HOLD HARMLESS AND INDEMNIFICATION

The Participant shall indemnify and defend the RDA, and shall release, hold and save the RDA harmless from and against all liabilities, debts, claims, actions, causes of action, losses, damages and attorney’s fees now existing or that may hereafter arise or result from performance of the Work. Without limitation, as used in this Agreement, the term “the RDA” shall include all officials, officers, employees, directors, employees, agents and representatives of the Elko Redevelopment Agency.

VII.

OTHER WORK

Nothing herein is intended to limit, restrict or prohibit the Participant from undertaking any other work in or about the Project Property which is unrelated to the Work.

VIII.



GENERAL PROVISIONS

A. AMENDMENT.

No modification, amendment, addition to, or termination of this Agreement nor waiver of any of its provisions shall be valid or enforceable unless in writing and signed by all the parties.

B. ASSIGNMENT; BINDING EFFECT.

This Agreement shall be binding on the parties’ successors and assigns.

C. NOTICES.

Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if personally delivered or sent by registered or certified mail to:

If to the RDA:

**Elko Redevelopment Agency
c/o Elko City Planner
1751 College Avenue
Elko, Nevada 89815**

If to the Participant:

Name of Participant: _____

Name of Contact (if different): _____

Title of Contact: _____

Mailing Address: _____

City/State/Zip Code: _____

If to the Property Owner:

Name of Property Owner: _____

Name of Contact (if different): _____

Title of Contact: _____



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Mailing Address: _____

City/State/Zip Code: _____

or such other address as shall be specified in writing by either the RDA, the Property Owner, or the Participant.

D. GOVERNING LAW AND VENUE.

This Agreement shall be governed, construed and enforced according to the laws of the State of Nevada. Any action to enforce this Agreement or regarding any benefits or conditions of this Agreement shall be filed in the Fourth Judicial District Court in and for the County of Elko, State of Nevada, which court shall have jurisdiction and venue over said action.

E. ATTORNEY FEES AND COSTS.

In the event of any litigation concerning this Agreement between the parties, the prevailing party shall be entitled to recover all its court costs and reasonable attorney's fees from the other party.

F. SEVERABILITY.

In the event any term or provision of this Agreement is held to be invalid or unenforceable in any respect by a court of competent jurisdiction, then all other terms and provisions of this Agreement shall remain in full force and effect and shall not in any way be affected or impaired thereby.

G. CAPTIONS.

The captions appearing at the commencement of the articles and sections and herein are not substantive but are descriptive only and for convenience in reference to this Agreement and in no way whatsoever define, limit or describe the scope or intent of this Agreement or other otherwise affect the same.

H. NO INTEREST IN PROJECT PROPERTY.

Nothing in this Agreement shall be construed to transfer any interest in the Project Property to the RDA.

I. ENTIRE AGREEMENT.



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This Agreement (including any appendices hereto and any documents incorporated by reference) contains the entire agreement between the RDA and the Participant with respect to the subject matter hereof, and all representations, provisions and covenants between the parties, whether verbal or written, are merged herein.

J. TIME OF THE ESSENCE.

Time is of the essence in this Agreement and of each covenant and agreement that is to be performed at a particular time or within a particular period of time. However, if the final date of any period which is set forth in this Agreement falls on a Saturday, Sunday or legal holiday under the Laws of the United States or the State of Nevada, then the time of such period shall be extended to the next date which is not a Saturday, Sunday or legal holiday.

K. CONFLICTING TERMS.

In the event of a conflict between this Agreement and any document incorporated herein by reference, to include the appendices hereto, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement:

ELKO REDEVELOPMENT AGENCY:

By: _____
Signature

Print Name

PARTICIPANT:

By: _____
Signature

Print Name

PROPERTY OWNER:

By: _____
Signature

Print Name