

PUBLIC IMPROVEMENT REIMBURSEMENT AGREEMENT

BY AND BETWEEN
THE EAGLE URBAN RENEWAL AGENCY
AND
YESTERDAY PROPERTIES, LLC

March 5, 2023

**Infrastructure Improvements for Mixed Use Building
2024**

PUBLIC IMPROVEMENT REIMBURSEMENT AGREEMENT

THIS PUBLIC IMPROVEMENT REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of the 5th day of March 2024, by and between the EAGLE URBAN RENEWAL AGENCY ("EURA"), the urban renewal agency for the City of Eagle ("City"), an independent public body, corporate and politic, organized and existing under the urban renewal laws of the State of Idaho (the "Agency") and Yesterday Properties, LLC an Idaho limited liability company ("Participant"). Agency and Participant may collectively be referred to as "Parties" and individually as "Party."

RECITALS

WHEREAS, the EURA, an independent public body, corporate and politic, is an urban renewal agency created by and existing under the authority of and pursuant to the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, as amended and supplemented, and the Local Economic Development Act of 1988, being Idaho Code, Title 50, Chapter 29; as amended and supplemented (collectively the "Act");

WHEREAS, the EURA was established by Resolution No. 06-50 of the City Council of the City of Eagle, Idaho (hereinafter the "City Council"), adopted October 10, 2006;

WHEREAS, the City Council of the City of Eagle, Idaho (the "City"), on December 11, 2007, after notice duly published, conducted a public hearing on the Eagle Revitalization Plan (the "Plan");

WHEREAS, following said public hearing the City adopted its Ordinance No. 592 on December 11, 2007, approving the Plan and making certain findings;

WHEREAS, the EURA has a strong interest in the revitalization, development and re-development of those portions of the City of Eagle with the urban renewal district;

WHEREAS, Participant will be developing property in the urban renewal district as described herein and will be required or has agreed to make certain public improvements including street improvements, curb, gutter, sidewalk, water lines, hydrants, street lights, storm water improvements, landscaping. an upgraded a sewer line, fire hydrant, ACHD and other public improvements;

WHEREAS, the EURA received a request from Participant to receive reimbursement for construction costs associated with the such public improvements for its project as noted in Exhibit A attached hereto and incorporated herein with the exception of the noted soft costs which are to be excluded from reimbursement;

WHEREAS, the total cost eligible for reimbursement of construction and related work for the corresponding the public improvements is \$268,894.00 to be paid upon completion and submission of the request for reimbursement with supporting documentation;

NOW, THEREFORE, based upon the mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the Agency and the Participant agree as follows:

I. SUBJECT OF AGREEMENT

A. Reimbursement Agreement

The purpose of this Agreement is to effectuate the Plan and a portion of the Eagle Urban Renewal Project (the "Urban Renewal Project") by providing for upgrades to a water line and other public improvements as noted in Exhibit A ("Reimbursable Improvements") that will support and promote redevelopment within the urban renewal

district. The maximum amount of reimbursement to be paid by the EURA to Participant for these Reimbursable Improvements is two hundred sixty eight thousand eight hundred ninety four dollars (\$268,894.00). Reimbursement to be made upon completion of the project and submission of a request for reimbursement with supporting documentation.

The above noted recitals are hereby incorporated into this Agreement as if set forth fully herein. There is any conflict between the language contained in the exhibits attached hereto and the body of this Agreement the terms and conditions contained in the body of the Agreement and not the Exhibits will govern and control.

The Participant will ensure construction of the Reimbursable Improvements and as part of the Participant's development project as described in Exhibit A. Participant will provide documentation acceptable to Agency that the reimbursable Improvements as described in Exhibit A to this Agreement were properly constructed, completed and accepted by applicable agencies prior to receiving any reimbursement under this Agreement.

The Project is anticipated to be completed within 18 months. Unless extended by mutual written agreement, the Term of this Agreement shall be through September 30, 2025 or until the Reimbursable Improvements are properly completed and the applicable reimbursements are paid to Participant, whichever occurs first. If the project is completed and the reimbursement request is made prior to the end of this Term then the Term shall be automatically extended for an additional 30 days to allow for processing of the request for reimbursement. This Term may be extended by mutual written agreement of the parties. This Agreement may be earlier terminated by the parties as provided herein and portions of this Agreement pertaining to the obligations of Participant shall survive expiration and termination of this Agreement.

The Participant agrees to provide a written and verbal report to the EURA Board on the progress of their project every six months until the project is completed.

B. The Plan

This Agreement is subject to the provisions of the Plan.

C. Reimburse for Costs of Public Improvements

The Reimbursable Improvements consist of various public improvements as noted in Exhibit A which is located within the Urban Renewal Project Area. The Parties agree that reimbursement under this agreement will be paid only after the Reimbursable Improvements described in this Agreement are properly completed and accepted by the applicable agencies and corresponding documentation establishing payment acceptable to EURA is provided by the Participant. Participant agrees to submit a request for reimbursement to the Agency prior to expiration of the Term of this Agreement.

D. Agency Participation Policy

Generally, the Agency has agreed to financially participate with a private developer when such participation, in the Agency's complete discretion, achieves and conforms with the goals and objectives of the Plan and the law, is not duplicative of other public entity funding, does not replace or substitute for the obligations imposed by other governmental agencies on the Participant, when funding is available and where the applicable project is a priority for the Agency.

E. Indemnification

Participants shall indemnify, defend and hold harmless the Agency and its respective officers, agents, consultants and employees from and against all liabilities, obligations, damages, penalties, claims, suits, costs, fees, charges, and expenses, including without limitation architect, engineer and attorney fees, which may be imposed upon or incurred by or asserted against Agency or its respective officers, agents, consultants and employees by reason of any of the following:

- a. Any and all construction and other work related to reimbursable Improvements and other work related to Participant's project and their request for reimbursement;

- b. Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of the property or area where work related to the Participant's project and the reimbursable Improvements or related activities are performed;
- c. Any negligence on the part of Participant or any of their agents, consultants, contractors, subcontractors, servants, employees, subtenants, operators, licensees, guests or invitees;
- d. Any accident, injury, or damage to any person or property occurring in, on, about or enroute to or from the property or area where the work related to Participant's project is being performed or any part thereof, whether during construction or after construction; and/or
- e. Any failure on the part of Participant to perform or comply with any of the terms, provisions, covenants, and conditions contained in this Agreement to be performed or complied with on its part.

Participants shall also indemnify and hold harmless and defend Agency and its officers, agents, consultants and employees from and against any and all claims or causes of action asserted by entities or individuals that are not a party to this Agreement regarding the validity or legality of this Agreement and the reimbursement to Participant.

F. Rights of Access During Construction

Representatives of the Agency and the City shall have the reasonable right of access to the site and property where any work related to Participant project and the Reimbursable Improvements are being or has been performed without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed constructing the reimbursable public improvements.

II. DEFAULTS, REMEDIES, AND TERMINATION

A. Defaults in General

Subject to any approved extensions of time as set forth in this Agreement, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The Party who so fails or delays must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction, or remedy with reasonable diligence and during any period of curing shall not be in default.

The Party claiming default shall give written notice of default to the Party in default specifying the default complained of, and the injured Party may not institute proceedings against the party in default until thirty (30) days after giving such notice; said thirty (30) days constitutes the period to cure any default.

Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive such party of its right to institute and maintain any action or proceeding which it may deem necessary to protect, assert, or enforce any such rights or remedies. The time to cure a default shall not commence until notice is provided.

B. Legal Actions

In addition to any other rights or remedies, any party may institute legal action to cure, correct, or remedy any default; to recover damages for any default; or to obtain any other remedy consistent with the purpose of this Agreement. The laws of the State of Idaho shall govern the interpretation and enforcement of this Agreement.

C. Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different

times, of any other rights or remedies for the same default or any other default by the other party. The Agency rights and remedies retained by the Agency shall include without limitation an action for specific performance, damages or other equitable remedy and withholding payment of its funds then due under this Agreement.

D. Termination

If either party is in breach or default of the terms of this AGREEMENT, then upon proper notice and opportunity to cure as provided herein, the non-defaulting party may terminate this AGREEMENT. Upon such termination, non-defaulting party shall have no further liability to the other under this Agreement.

III. GENERAL PROVISIONS

A. Notices, Demands, and Communications Between the Parties

Formal notices, demands, and communications between the Agency and Participants shall be sufficiently given if dispatched by regular mail or registered or certified mail, postage prepaid, return receipt requested, to the last known address of Agency and Participants as set forth in this Agreement. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail.

B. Nonliability of Agency Officials and Employees

No member, official, consultant or employee of the Agency shall be personally liable to the Participants in the event of any default or breach by the Agency or for any amount which may become due to the Participants or for any obligations under the terms of this Agreement.

C. Attorney Fees and Costs

In the event that either party to this Agreement shall initiate an action to enforce any of the provisions hereof in any action at law or in equity, the non-prevailing party to such action agrees to pay to the prevailing party all costs and expenses, including reasonable attorney fees incurred therein by the prevailing party, and such may be included in the judgment entered in such action.

D. Severability

The provisions in this Agreement are severable. Should any one or more of the provisions of this Agreement for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein.

E. Headings

The section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Agreement.

F. Counterparts

This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

G. Dispute Resolution

In the event that a dispute arises between Agency and Participants regarding the application or interpretation of any provision of this Agreement, the aggrieved party shall promptly notify the other party to this Agreement of the dispute within thirty (30) days after such dispute arises. If the Parties fail to resolve the dispute informally within thirty

(30) days after delivery of such notice, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in the Northwestern States or otherwise, as the Parties may mutually agree before resorting to litigation. Should the Parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days or other mutually agreeable timeframe after such commencement of mediation or other process of structured negotiation, each party shall have the right to pursue any rights or remedies it may have at law or in equity.

H. Forced Delay; Extension of Times of Performance

In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation; unusually severe weather; acts of another party; environmental analysis or removal of hazardous or toxic substances; acts or the failure to act of any public or governmental agency or entity; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the forced delay, which period shall commence to run from the time of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Agency and Participant.

I. Attachments and Exhibits Made a Part

All attachments and exhibits, including without limitation Exhibit A, which are attached to this Development Agreement are made a part hereof by this reference.

J. Computation of Time

In computing any period of time prescribed or allowed under this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last calendar day of the period so computed shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. As used herein, "legal holiday" means a legal holiday recognized by the City on which the offices of the City are closed for City business.

K. No Third-Party Beneficiary or Joint Venture

The provisions of this Agreement are for the exclusive benefit of Agency and Participant and their authorized successors and assigns, and not for the benefit of any third person; nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person except for provisions expressly for the benefit of a mortgagee of Participant or its successors and assigns. The parties hereto are no partners nor are they to be considered to be engaged in any joint venture.

L. Good Faith and Cooperation

It is agreed by Agency and Participants that it is in their mutual best interests and in the best interests of the public that the re-development of the Property proceed and be completed as herein agreed, and, to that end, the Parties shall in all instances cooperate and act in good faith in compliance with all of the terms, covenants, and conditions of this Agreement and shall deal fairly with each other.

IV. AMENDMENTS TO THIS AGREEMENT

This Agreement may only be amended by mutual written agreement of the Parties hereto.

V. ENTIRE AGREEMENT, WAIVERS, AND AMENDMENTS

This Agreement comprises the entire understanding and agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter thereof.

All waivers of the provision of this Agreement must be in writing and signed by the appropriate authorities of the Agency and Participant.

VI. TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

The effective date of this Agreement shall be the date when this Agreement has been signed by the Agency.

AGENCY

Date: 03.05.24

EAGLE URBAN RENEWAL AGENCY
P.O. Box 1957
Eagle, Idaho 83616

By 
Teri Ladoux, Chair

Attest 
EURA Secretary

PARTICIPANT

Date: 3-28-24

Yesterday Properties, LLC
P.O. Box 1595
Eagle, ID 83616

By Shawn L. Nickel

Shawn Nickel

Title: Manager

Exhibit A

Reimbursable Public Improvements – Not to Exceed \$268,894.00
(List Excludes the soft costs which are stricken in the document)



Standard Estimate Report
23_237 Yesterday Properties - N 2nd ROW

EXHIBIT E

Page 1

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Estimator: Brian Ellway
Project Manager:
Project Coordinator: Robert Gnut
Superintendent:
Bid Date:
Job Size:
Duration:
Project Budget:
Bid Bond:
Project LD's:

PROPERTY A

Item	Description	Takeoff Qty	Unit Cost	Total	
					Amount
01 Site A					
1000.00	GENERAL REQUIREMENTS				
1101.00	Personnel: Supervision				
00	Project Manager	4.00 week	3,775.608 /week	15,102	
10	Superintendent	10.00 week	3,320.616 /week	33,206	
	Personnel: Supervision			47,309	
	560.00 Labor hours				
1511.00	Temp Utilities				
1	Temp Electricity	10.00 week	122.03 /week	1,220	
13	Temp Toilet	2.50 month	152.538 /month	381	
	Temp Utilities			1,602	
1521.00	Temp: Facilities				
1	Office Trailer	2.50 month	732.18 /month	1,830	
	Temp: Facilities			1,830	
	433.325 Equipment hours				
1592.20	Controls: Erosion				
01	Sediment & Erosion Control	1.00 isum	732.18 /sum	732	
	Controls: Erosion			732	
1701.10	Surveying				
2	Surveying - LS	1.00 isum	7,321.80 /sum	7,322	
	Surveying			7,322	
1705.00	Clean Up				
10	Daily Cleanup	75.00 hour	39.355 /hour	2,952	
00	Final Cleanup	1.00 isum	732.18 /sum	732	
	Clean Up			3,684	
	75.00 Labor hours				
	GENERAL REQUIREMENTS				62,478
	635.00 Labor hours				
	433.325 Equipment hours				
2100.00	SITework				
2100.01	Site Work Sub - WB				
10	Demo / Concrete Prep	1.00 isum	34,607.71 /sum	34,605	
10	Traffic Control & ROW Permit	1.00 isum	13,423.30 /sum	13,423	
10	Traffic Control & ROW Permit	1.00 isum	4,381.20 /sum	4,551	



Standard Estimate Report

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Estimator: Brian Ellway
Project Manager:
Project Coordinator: Robert Grub
Superintendent:
Bid Date:
Job Size:
Duration:
Project Budget:
Bid Bond:
Project LD's:

Item	Description	Takeoff Qty	Unit Cost	Total	
				Unit Cost	Amount
	Site Work Sub - WB				52,912
2500.00	Paving Subcontractor - WB				
00	Asphalt Patching	1.00	sum	17,935.41	17,935
	Paving Subcontractor - WB				17,938
2584.00	Paving: Markings/Striping - WB				
00	Asphalt Striping Subcontractor - WB	1.00	sum	915.23	915
	Paving: Markings/Striping - WB				915
2900.01	Landscapes: General - WB				
00	New Trees	4.00	each	1,217.558 /each	4,871
20	Irrigation	1.00	sum	4,694.43	4,694
	Landscapes: General - WB				8,466
2950.00	Misc Site Specialties - WB				
00	Tree Grates	4.00	each	6,886.216 /each	27,545
	Misc Site Specialties - WB				27,545
	SITEWORK				109,177
3000.00	CONCRETE				
3000.01	Division 3 Subcontractors - WB				
00	Concrete - Eagle City Standards	1.00	sum	71,226.47	71,226
	Division 3 Subcontractors - WB				71,226
	CONCRETE				71,226
16000.00	ELECTRICAL				
16001.00	Electrical Complete - WB				
20	New Eagle Standard Light Pole	2.00	each	12,465.365 /each	24,931
	Electrical Complete - WB				24,931
	ELECTRICAL				24,931
	01 Site A				267,812
	636.00 Labor hours				
	433.325 Equipment hours				



Standard Estimate Report 23_237 Yesterday Properties - N 2nd ROW

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Estimator: Brian Ellway
Project Manager:
Project Coordinator: Robert Grut
Superintendent:
Bid Date:
Job Size:
Duration:
Project Budget:
Bid Bond:
Project LD's:

PROPERTY B

Item	Description	Takeoff Qty	Unit Cost	Total	
					Amount
02 Site B					
1000.00	GENERAL REQUIREMENTS				
1101.00	Personnel: Supervision				
00	Project Manager	2.00 week	3,775.81 /week		7,551
10	Supervisors	6.00 week	3,220.617 /week		19,324
	Personnel: Supervision				26,875
	320.00 Labor hours				
1511.00	Temp Utilities				
1	Temp Electricity	8.00 week	122.03 /week		732
13	Temp Toilet	1.50 month	152.63 /month		229
	Temp Utilities				961
1521.00	Temp: Facilities				
1	Office Trailer	1.50 month	732.18 /month		1,095
	Temp: Facilities				1,098
	252.995 Equipment hours				
1592.20	Controls: Erosion				
01	Sediment & Erosion Control	1.00 sum	244.08 /sum		244
	Controls: Erosion				244
1701.10	Surveying				
2	Surveying - LS	1.00 sum	3,050.75 /sum		3,051
	Surveying				3,051
1705.00	Clean Up				
10	Daily Cleanup	45.00 hour	39.355 /hour		1,771
00	Final Cleanup	1.00 sum	732.18 /sum		732
	Clean Up				2,503
	45.00 Labor hours				
	GENERAL REQUIREMENTS				34,732
	365.00 Labor hours				
	252.995 Equipment hours				
2100.00	SITEWORK				
2100.01	Site Work Sub - WB				
11	Demo / Concrete Prep	1.00 sum	22,343.70 /sum		22,344
	Site Work Sub - WB				22,344
2500.00	Paving Subcontractor - WB				



Standard Estimate Report 23_237 Yesterday Properties - N 2nd ROW

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Estimator: Brian Ellway
Project Manager:
Project Coordinator: Robert Grub
Superintendent:
Bid Date:
Job Size:
Duration:
Project Budget:
Bid Bond:
Project LD's:

Item	Description	Takeoff Qty	Unit Cost	Total	
				Amount	
2500.00	Paving Subcontractor - WB				
00	Asphalt Patching	1.00	/sum	7,504.84	/sum
	Paving Subcontractor - WB			7,504	
2900.01	Landscape: General - WB				
00	New Trees	2.00	/each	1,217.580	/each
20	Irrigation	1.00	/sum	2,295.39	/sum
	Landscape: General - WB			4,731	
2950.00	Misc Site Specialties - WB				
00	Tree Grates	2.00	/each	6,986.216	/each
	Misc Site Specialties - WB			13,972	
	SITEWORK				48,552
3000.00	CONCRETE				
3000.01	Division 3 Subcontractors - WB				
01	Concrete - Eagle City Standards	1.00	/sum	20,847.81	/sum
	Division 3 Subcontractors - WB			20,848	
	CONCRETE				20,848
16000.00	ELECTRICAL				
16001.00	Electrical Complete - WB				
21	New Eagle Standard Light Pole	1.00	/each	12,465.36	/each
	Electrical Complete - WB			12,465	
	ELECTRICAL				12,465
	02 Site B				116,597
	385.00 Labor hours				
	252.985 Equipment hours				