

REIMBURSEMENT AND COST SHARE AGREEMENT

This AGREEMENT is made and entered into by and between the City of Grand Junction, a Colorado home rule municipality (City) and Panda Restaurant Group (Developer). The City and the Developer may be referred to as "the Parties."

RECITALS

Developer has received conditional approval from the City of Grand Junction Community Development Department to develop a Panda Express (hereinafter referred to as "the Development") located at 2422 Patterson Road in Grand Junction, Colorado. The Development necessitates construction of a median and related improvements (hereinafter referred to as "Median" or "the Median") in Patterson Road to ensure access to the Development is *right-in/right-out* (as required by the Patterson Road Access Management Policy), and as more particularly described in the approved construction plans and in that certain Development Improvements Agreement (DIA) between the City and the Developer. The Developer understands and agrees that it is required to construct the Median as a condition of approval and use of the property for the purposes the Developer intends.

With and because of the foregoing understandings and agreements the City and the Developer have further agreed that Developer will construct the Median to required City standards and when the construction is complete and found to be to those standards, the City will reimburse the Developer for fifty percent, 50%, of the cost of the Median as the same is shown on Exhibit A attached hereto. Exhibit A is incorporated by this reference as if fully set forth.

The Developer's required tasks for construction of the Median include but are not limited to:

- A. Providing traffic control,
- B. Removing existing asphalt,
- C. Installing concrete curb, gutter, and reinforced fillets,
- D. Installing landscape rock over weed barrier, and
- E. Contracting for and managing the Median construction project.

NOW THEREFORE, for and in consideration of the promises contained herein, the sufficiency of which the Parties hereby acknowledge, the Parties mutually covenant and agree as follows:

1. Developer obligations. Developer agrees to construct within 9 months of construction plan approval the Median as set forth in the Plans and in accordance with City controls, dimensions, designs, specifications and standards (City Standards).
2. City obligations. City will reimburse the Developer for fifty percent, 50%, of that portion of the actual costs of construction related to the Median shown in Exhibit A, not to exceed \$15,320.82.
3. Payment. Contingent on the work being inspected and meeting City Standards, the City will make payment to the Developer within thirty (30) days of receipt of an invoice with attached documentation evidencing the actual costs of the City's portion of the work and submission of an IRS form 1099.
4. Reimbursement/payment by the City hereunder shall not constitute acceptance of the public infrastructure (Improvements) by the City; acceptance of infrastructure is governed by the terms of

the DIA. The City reserves the right to inspect and reject any or all the Improvements in accordance with the DIA.

5. Offsets. The cost of repair and/or replacement of substandard work, if not promptly performed by the Developer/its contractor, may be offset against the amounts owing hereunder.
6. Developer shall be wholly responsible for completion of the Median and shall bear the risk of loss relating to the work and its failure to timely complete the work in accordance with the DIA and City Standards.
7. No agency or partnership. Developer and any persons employed by or contracted with the Developer for construction of the Median shall be independent contractors and not employees or agents of the City. This Agreement does not create a partnership nor a joint venture between the Parties.
8. Warranty and security. Developer shall post security and warranties for the Improvements in accordance with the DIA.
9. Whole agreement. This Agreement incorporates all prior discussions and agreements of the Parties regarding cost-sharing of and reimbursement for the City's portion of the cost of the Median and may not be amended except in writing duly executed by the Parties.
10. No third-party beneficiary. This Agreement is binding upon and inures only to the benefit of the Parties thereto; there are no third-party beneficiaries to this Agreement.
11. No Assignment. Developer may not assign or delegate this Agreement or any portion thereof or any monies due hereunder with the City's prior written consent.
12. No consequential or indirect damages. In no event shall the City be liable to the Developer for indirect or consequential damages, including but not limited to loss of advantage or profit.
13. Compliance with applicable law. Developer shall be solely responsible for compliance with all applicable laws and regulations in the performance of the work to construct the Median.

IN WITNESS WHEREOF, the Parties execute this Agreement:

CITY OF GRAND JUNCTION

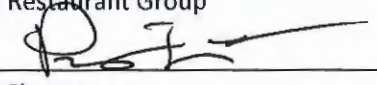
By:  _____

Printed name: Greg Caton

Title: City Manager

Date: 12/1/2021

Panda Restaurant Group

 _____

Peggy Cherng
Co-Chair & Co-CEO

Date: November 9, 2021

