

**Village of Birch Run Downtown Development Authority  
Business Assistance Program  
Grant Agreement**

This Grant Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the Village of Birch Run Downtown Development Authority, an authority created under Act 197 of the Michigan Public Acts of 1975, whose address is 12060 Heath Street, P.O. Box 371, Birch Run, Michigan 48415 (hereafter "DDA"), and \_\_\_\_\_, a Michigan \_\_\_\_\_, whose address is \_\_\_\_\_, Birch Run, Michigan 48415 (hereafter "Applicant").

RECITALS

- A. The DDA is engaged in a program to promote and enhance the commercial core of the community, to encourage economic development and activity in this area, and to improve the viability of businesses within the Village of Birch Run DDA District.
- B. The Applicant has submitted an application to the DDA for matching grant funds to make improvements to their business, including plans and specifications, which are incorporated by reference and attached as Exhibit A (hereafter "Project Improvements").
- C. The Applicant and the DDA desire to enter into this Agreement to set forth the terms and conditions of Applicant's completion and maintenance of the Project Improvements; and the DDA's grant of certain funds to Applicant upon satisfactory completion of the Project Improvements.

NOW, THEREFORE, it is agreed as follows:

- 1. Completion of Improvements.** The Applicant shall obtain all necessary permits and approvals to complete the Project Improvements. Project Improvements must meet all Village of Birch Run ordinances and State of Michigan code requirements including zoning, building, and safety codes. All work must be performed by licensed contractors. All work must be initiated within sixty (60) days of the award of the grant by the DDA and completed within six (6) months from the date of this agreement, unless extended in writing by the DDA Board of Directors.
- 2. Grant Amount.** Subject to satisfaction of the conditions set forth in this Agreement, the DDA shall disburse matching grant funds to the Applicant in the amount of \$ \_\_\_\_\_ (\$ \_\_\_\_\_ .00) (hereafter

"Grant"). Applicant hereby acknowledges, however, that the Village of Birch Run DDA may discontinue this program at any time and may cancel all or a portion of a grant, with or without notice and for any reason including, but not limited to availability of program funding.

**3. Grant Program Only.** It is expressly understood that the Project Improvements purchased or constructed in accordance with this Agreement will at all times be insured for replacement cost by the Applicant, and the DDA or the Village of Birch Run will not protect or insure the Project Improvements made under this Agreement. This Agreement shall not constitute a joint venture by the Village of Birch Run, the DDA, or any officer or employee of the Village of Birch Run or the DDA.

**4. Conditions for Grant Disbursement.**

- i. Completion of the Project Improvements – Applicant and his or her contractors shall have completed the Project Improvements in accordance with approved plans and permits and in accordance with the plans and specifications attached as Exhibit A.
- ii. Submission to the DDA – The following documents shall be submitted to the DDA:
  - a. Request for grant payment, presented to the DDA no later than sixty (60) days after the completion of the Project Improvements.
  - b. Final invoices from contractors or suppliers marked "Paid in Full" along with copies of the checks made payable to the contractor or supplier.
  - c. Copies of Waivers of Lien from all contractors.
  - d. Proof that improvements have passed all final inspections and meet all Village of Birch Run zoning, building, and safety codes.
  - e. Current photographs of the building showing the area after the Project Improvements are completed.
- iii. Verification of Other Conditions – Property taxes (real & personal), utilities, and other Village accounts must be current before reimbursement will be made. Business owners must also have a valid business license in the Village of Birch Run before reimbursement will be made.
- iv. Right to Reject – The DDA Board of Directors has the absolute right to reject any and all submitted paid bills, contractor invoices, or supplier statements at its sole discretion and may not provide for reimbursement for any expenses which are not approved by the DDA Board of Directors.

**5. Maintenance of Project Improvements.** Applicant, at its sole cost and expense, shall maintain the Project Improvements in accordance with the

approved plans and permits and all applicable federal, state and local laws and regulations. Project Improvements that have been made through the Façade Improvement Grant Program or the Sign Grant Program may not be removed or significantly altered for a minimum of five (5) years from the date of this Agreement. In the event that the Project Improvements that have been made through the Façade Improvement Grant Program or the Sign Grant Program are removed, not maintained, or are significantly altered within five (5) years of payment of the Grant, the Applicant shall reimburse the DDA according to the following schedule:

Anytime during...	
Year One	100% reimbursement of the Grant
Year Two	80% reimbursement of the Grant
Year Three	60% reimbursement of the Grant
Year Four	40% reimbursement of the Grant
Year Five	20% reimbursement of the Grant

**6. Modifications of Grant Agreement.** If it becomes necessary for any reason to alter or make a change relating to the use of a grant or the approved Project Improvements, written approval must be received from the Village of Birch Run DDA Board of Directors before proceeding. Failure to receive written authorization may cause forfeiture of all or a portion of the grant award.

**7. Indemnification.** Applicant shall indemnify, defend, and hold harmless the DDA, the Village of Birch Run, its and their elective and appointive boards, commissions, officers, agents, and employees, from any and all claims of any kind and nature arising from the acts or omissions of the Applicant or its contractors, employees, representatives or agents.

**8. Insurance.** Until completion of the Project Improvements and disbursement of the Grant by the DDA, Applicant shall maintain or shall cause its contractor to maintain the following insurance coverage:

- i. Commercial General Liability – A policy in the amount of one million dollars (\$1,000,000.00) combined single limit, including bodily injury, property damage, and contractual liability, that shall protect the Applicant, the DDA, and the Village of Birch Run from claims for damages.
- ii. Workers Compensation – Applicant and any contractor that is contracted to perform the Project Improvements pursuant to this Agreement shall carry any applicable Worker’s Compensation Insurance as required by law.

Prior to beginning any work, Applicant shall provide to the DDA Director a certificate of insurance showing the above insurance and that the DDA, Village of

Birch Run, and their elective and appointive boards, commissions, officers, agents, and employees as an additional named insured.

- 9. Compliance with Laws.** Applicant and his or her contractors shall complete the Project Improvements in conformity with all applicable federal, state, and local laws.
- 10. Notices.** Any notices relating to this Agreement shall be given in writing to the addresses that first appear above and shall be deemed sufficiently given and served for all purposes when delivered personally or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid.
- 11. Default.**
- i. Any failure by Applicant to perform any term or provision of this Agreement shall constitute an "Event of Default" if Applicant does not cure such failure within thirty (30) days following written notice of the default from the DDA. Upon occurrence of an Event of Default, the DDA shall have the right, in addition to any other rights or remedies:
    - a. to institute any action at law or in equity to cure, correct, prevent or remedy any Event of Default;
    - b. to recover damages for any Event of Default; or
    - c. to terminate this Agreement by written notice to Applicant.The Applicant's indemnity obligations under Section 7 shall survive such termination.
  - ii. Any failure or delay by DDA in asserting any of its rights or remedies as to any Event of Default shall not operate as a waiver of any Event of Default or of any such rights or remedies.
- 12. Miscellaneous Terms and Provisions.**
- i. Severability – If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.
  - ii. Integrated Agreement – This Agreement represents the entire understanding by the Applicant and the DDA as to those matters contained herein. In the event of any conflict between the provisions of this Agreement and the Business Assistance Program Guidelines, the

provisions of this Agreement shall control. This Agreement may not be modified or altered except in writing, approved by the DDA Board, and signed by duly authorized representatives of all parties.

- iii. No Third-Party Beneficiary – Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it.
- iv. Governing Law – The laws of the State of Michigan shall govern the interpretation and enforcement of this Agreement without reference to principles of conflict of laws.
- v. Authority – Each party executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind.
- vi. No Agency Relationship – Neither Applicant nor any of Applicant’s agents or contractors are or shall be considered to be agents of the DDA in connection with the performance of any of Applicant’s obligations under this Agreement.

IN WITNESS, the parties have executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**APPLICANT**

By: \_\_\_\_\_

**PROPERTY OWNER (if applicable)**

By: \_\_\_\_\_

**DDA**

By: \_\_\_\_\_  
DDA Chair

By: \_\_\_\_\_  
DDA Director