

STATE OF TEXAS § TOWN OF LITTLE ELM, TEXAS
 § QUALIFYING HOME IMPROVEMENT TAX INCENTIVE
 PROGRAM
DENTON COUNTY § AGREEMENT

This Qualifying Home Improvement Tax Incentive Program Agreement (“**Agreement**”) is made by and between the Town of Little Elm, Texas (“**Town**”) and David and Amy Hillock (“**Property Owner**”) (each a “**Party**” or collectively the “**Parties**”), acting by and through their respective authorized officers and representatives.

WITNESSETH:

WHEREAS, the Property Owner is the owner of the real property located at 1301 Xeraco Drive, Little Elm, TX, 75068 (the “**Property**”); and

WHEREAS, Texas Local Government Code Chapter 380 allows the Town to provide incentives for the promotion of economic development; and

WHEREAS, the promotion of the redevelopment of existing housing stock in the Town promotes economic development within the Town and is essential for the continued economic growth and vitality of the Town; and

WHEREAS, it is well established that the availability of quality housing stock encourages the relocation of businesses and attracts new business enterprises, as well as the expansion of existing business enterprises within the Town, which in turn stimulates growth, creates jobs and increases property and sales tax revenues; and

WHEREAS, the promotion of the housing stock is a major contributing factor to the growth of the Town, which in turns stimulates trade and commerce and reduces unemployment; and

WHEREAS, residential development and redevelopment will attract and encourage business relocation and expansion since business will look to the available housing stock to meet the needs of management and the work force; and

WHEREAS, the Town has determined that providing an economic development incentive in accordance with this Agreement will further the objectives of the Town, will benefit the Town and the Town’s inhabitants and will promote local economic development and stimulate business and commercial activity in the Town.

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I Term

The term of this Agreement shall begin on the Effective Date and continue until the Expiration Date, unless sooner terminated, as provided herein.

Article II Definitions

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them:

“Approved Project” shall mean a project for home improvements, modifications or remodeling of the Property as approved by the Town’s Director of Development Services as being eligible for an incentive under the Home Improvement Tax Incentive Program.

“Bankruptcy or Insolvency” shall mean insolvency, appointment of receiver for the Property Owner and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Property Owner and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Commencement of Construction” shall mean that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for the Approved Project; and (ii) all necessary permits for the construction of the Approved Project have been issued by all applicable governmental authorities.

“Completion of Construction” shall mean the date of the final Home Improvement Tax Incentive Program inspection of the Property by the Town’s Director of Development Services, or designee, following the completion of construction of the Approved Project.

“Effective Date” shall mean the last date of execution hereof.

“Expiration Date” shall mean two (2) years from the Effective Date.

“Home Improvement Tax Incentive Program” shall mean the Town of Little Elm Home Improvement Tax Incentive Program adopted by Town of Little Elm Ordinance No. 1433, as amended. The Home Improvement Program is limited to one approved project per location per calendar year. A proposed project for home improvements, modifications or remodeling of a property is not eligible for an incentive under the Home Improvement Tax Incentive Program while an Approved Project is pending and has not been completed.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special,

ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Property Owner or any property or any business owned by Property Owner within the Town.

“Incentive” shall mean an economic development incentive in an amount equal to ten (10) times the amount of increase in property taxes for the Property for the first tax year following the date of Completion of Construction as the result of the increase in the Taxable Value of the Improvements, under the Home Improvement Tax Incentive Program as determined by the Director of Development Services for the Approved Project.

“Property” shall mean the real property, including the improvements, located at 1301 Xeraco Drive, Little Elm, TX, 75068.

“Property Owner” shall mean the owner of the Property.

“Taxable Value” shall mean the appraised value of the Property as certified by the Denton County Appraisal District, or its successor entity, as of January 1 of a given year.

“Town” shall mean the Town of Little Elm, Texas.

Article III

Economic Development Incentive

3.1 **Payment.** Subject to the Property Owner’s continued satisfaction of the terms and conditions of this Agreement and the obligation of the Property Owner to repay the Incentive pursuant to Section 5.2 hereof, the Town agrees to provide the Incentive to the Property Owner to be paid in a single lump-sum payment on or about April 1 of the first full calendar year following the date of Completion of Construction. For example, assume that the Approved Project is completed on June 30, 2019, and that the 2020 property taxes for the Property increased \$500.00 above the 2019 property taxes as a result of the Approved Project, then the total Incentive would be \$5,000.00, and would be paid on or about April 1, 2021. The incentive amount will be finally conveyed and accepted by the property owner and the Town in the economic development agreement in advance of the incentive payment pursuant to Section 4.4 hereof.

3.2 **Current Revenue.** The Incentive made hereunder shall be paid solely from lawfully available funds that have been appropriated by the Town. Under no circumstances shall the Town’s obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the Town’s obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution or other Party.

Article IV

Incentive Conditions

The obligation of the Town to pay the Incentive shall be conditioned upon the continued compliance with and satisfaction of the terms and conditions of this Agreement by the Property

Owner and each of the conditions set forth in this Article.

4.1 **Inspections.** The Property Owner agrees to submit to periodic inspections of the Property by the Town during the period beginning with the date of Commencement of Construction and ending on date of Completion of Construction.

4.2 **Construction Costs.** The construction costs incurred and paid by the Property Owner for the Approved Project shall be at least \$20,000.00 (the "Certified Construction Acceptable Costs"). The Property Owner shall, as a condition precedent to the payment of the Incentive, provide copies of invoices, receipts and other documentation as may be reasonably requested by the Town to verify the costs incurred and paid by the Property Owner for construction of the Approved Project.

4.3 **Completion of Construction.** The Property Owner shall cause Completion of Construction of the Approved Project to occur on or before twenty-four (24) calendar months after the Town approval of this Development Agreement. The Property Owner shall request the Director of Development Services inspect the Approved Project on or before twenty-four (24) calendar months after the Town approval of the Property Owner's proposed project for an Incentive. The Property Owner shall cause Completion of Construction of the Approved Project to occur prior to any sale or transfer of the Property to another person, company or other entity, unless the Agreement has been assigned by the Property Owner as permitted in Section 6.1.

4.4 **Approval of Economic Development Agreement.** Provided that all documentation of payments made by the Property Owner has been received Town, the amount of the incentive shall be determined by the Director of Development Services, whose decision shall be final in all respects. The incentive amount will be finally conveyed and accepted by the property owner and the Town in the economic development agreement in advance of the incentive payment. The economic development agreement shall be executed by the Property Owner and the Town prior to the Incentive Payment.

Article V Termination

5.1 This Agreement shall terminate upon the occurrence of any one of the following:

- (a) Mutual agreement of the Parties;
- (b) The Expiration Date;
- (c) At the Town's option, if any Impositions owed to the Town or the State of Texas by Property Owner shall become delinquent (provided, however, Property Owner retains the right to timely and properly protest and contest any such Impositions);
- (d) By the Town, in the event Property Owner breaches any of the terms or conditions of this Agreement and such breach is not cured within sixty (60) days after written notice thereof;

- (e) By the Town, if the Property Owner suffers an event of Bankruptcy or Insolvency;
- (f) By the Town, if any subsequent Federal or State legislation or any final, non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable; or
- (g) The sale or transfer of the Property following one assignment of this Agreement as provided herein.

5.2 In the event of termination by the Town pursuant to 5.1(c), (d), (e), (f) or (g), the Property Owner shall immediately repay to the Town an amount equal to Incentive paid to Property Owner, if any, prior to termination of this Agreement.

Article VI Miscellaneous

6.1 **Assignment.** This Agreement may not be assigned without the prior written consent of the Town, except that this Agreement may be assigned by the Property Owner one (1) time in connection with the sale or transfer of the ownership (including a life estate) of the Property to a subsequent owner of the Property upon thirty (30) days prior written notice to the Town. This Agreement shall automatically terminate upon any subsequent sale or transfer of the ownership of the Property.

6.2 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and assigns of the Parties hereto.

6.3 **Limitation on Liability.** It is understood and agreed between the Parties that the Property Owner, in satisfying the conditions of this Agreement, has acted independently, and Town assumes no responsibilities or liabilities to third Parties in connection with these actions.

6.4 **No Joint Venture.** It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the Parties.

6.5 **Authorization.** Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.6 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three days thereafter sent by United States Mail, postage prepaid, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered.

If intended for Property Owner, to:
David and Amy Hillock
1301 Xeraco Dr.
Little Elm, TX 75068

If intended for Town, to:

Attn: Development Services
100 W. Eldorado Parkway
Little Elm, TX 75068

6.7 **Entire Agreement.** This Agreement is the entire Agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the Parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

6.8 **Governing Law.** This Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Denton County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.9 **Amendment.** This Agreement may only be amended by the mutual written agreement of the Parties.

6.10 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.11 **Recitals.** The recitals to this Agreement are incorporated herein.

6.12 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.13 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.14 **Employment of Undocumented Workers.** During the term of this Agreement the Property Owner agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), the Property Owner shall repay the amount of the Grant and any other funds received by the Property Owner from the Town as of the date of such violation within one hundred twenty (120) days after the date the Property Owner is notified by the Town of such violation, plus interest at the rate of four (4%) compounded annually from the date of violation until paid.

[Signature Page to Follow]

EXECUTED on this _____ day of _____, 20____.

TOWN OF LITTLE ELM, TEXAS

By: _____
Matt Mueller, Town Manager

EXECUTED on this 9th day of October, 2023

PROPERTY OWNER


