

**TAX INCREMENT REINVESTMENT ZONE NUMBER THREE,
TOWN OF LITTLE ELM, TEXAS,**

LAKEFRONT BUSINESS REIMBURSEMENT AGREEMENT

This **LAKEFRONT BUSINESS REIMBURSEMENT AGREEMENT** (hereinafter referred to as this “TIRZ Agreement”) is made and entered into by and between the **TAX INCREMENT REINVESTMENT ZONE NUMBER THREE, TOWN OF LITTLE ELM, TEXAS**, (hereinafter referred to as the “TIRZ # 3”), a tax increment reinvestment zone created by the Town of Little Elm, Texas, pursuant to Chapter 311 of the Texas Tax Code, as amended, and _____, a Texas [corporation] [partnership] [limited liability company] (hereinafter referred to as the “Developer”), is made and executed on the following recitals, terms and conditions.

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended (the “Act”), the Town Council of the Town of Little Elm, Texas, a Texas home rule municipality (hereinafter referred to as the “Town”) adopted Ordinance No. 1175 on October 15, 2013, which ordinance, among other things, (i) created, established, and designated an area within the corporate limits of the Town as “Reinvestment Zone Number Three, Town of Little Elm, Texas” (the “Reinvestment Zone”), (ii) created a Board of Directors for the Reinvestment Zone, and (iii) established a tax increment fund for the Reinvestment Zone; and

WHEREAS, Section 311.010(b) of the Act provides that the Board of Directors of TIRZ # 3 (hereinafter referred to as the “Board”) may enter into agreements as the Board consider necessary or convenient to implement the Project and Financing Plan and achieve its purposes; and

WHEREAS, Section 311.010(h) of the Act authorizes the Board subject to the approval of the Town Council of the Town, “to implement the project plan and reinvestment zone financing plan and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality or county, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code. The approval required by this subsection may be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan”; and

WHEREAS, the Board has concluded and hereby finds that this TIRZ Agreement clearly

promotes economic development in the Town of Little Elm, Texas, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution and Section 311.010(h) of the Act by assisting in the development and diversification of the economy of the State of Texas and the Town, by eliminating unemployment or underemployment in the State of Texas, and the Town, and by the development or expansion of commerce within the State of Texas, and the Town; and

WHEREAS, the Board has determined that it is in the best interest of TIRZ # 3 to contract with Developer, in order to provide for the efficient and effective implementation of certain aspects of the TIRZ # 3's Project and Financing Plan; and

WHEREAS, TIRZ # 3 desires to reimburse Developer for certain project costs in the amount not to exceed **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)** (hereinafter defined as the "Grant Amount").

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TIRZ # 3 and the Developer agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this TIRZ Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. TERM.

This TIRZ Agreement shall be effective as of the Effective Date, and shall continue thereafter until the second anniversary of the Effective Date of this Agreement, as defined herein, unless terminated sooner under the provisions hereof.

SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this TIRZ Agreement.

- (a) **Act.** The word "Act" means the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended.
- (b) **Board.** The word "Board" means the Board of Directors of TIRZ # 3 authorized by Section 311.009 of the Act. For the purposes of this TIRZ Agreement, Board's address is 100 W. Eldorado Parkway, Little Elm, Texas 75068.
- (c) **Developer.** The word "Developer" means _____, a Texas [corporation] [partnership] [limited liability company], its successors and assigns, whose corporate address for the purposes of this TIRZ Agreement is _____

_____, Little Elm, Texas 75068.

- (d) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this TIRZ Agreement by and between TIRZ # 3 and Developer.
- (e) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (f) **Grant Amount.** The words “Grant Amount” mean a grant in the amount not to exceed **Twenty-Five Thousand and No/100 Dollars (\$25,000.00).**
- (g) **Property.** The word “Property” means _____, Little Elm, Texas 75068.
- (h) **Qualified Expenditures.** The words “Qualified Expenditures” mean those expenditures consisting of the construction and installation of improvements consistent with **Exhibit A** of this Agreement, which is attached hereto and is incorporated herein for all purposes, and which otherwise meet the definition of “Project cost” as defined in Section 311.002(1) of the Act. The term “Qualified Expenditures” means such improvements affixed to the structure or real property, and may include painting structures, adding photo place making opportunities, and enhanced landscaping. The term “Qualified Expenditures” does not include specific signage for a particular end user. Board of Directors of TIRZ # 3 has final authority to approve improvements as “Qualified Expenditures.”
- (i) **TIRZ Agreement.** The term “TIRZ Agreement” means this Lakefront Business Reimbursement Agreement, together with all exhibits and schedules attached to this Lakefront Business Reimbursement Agreement from time to time, if any, authorized pursuant to Section 311.010 of the Act.
- (j) **Term.** The word “Term” means the term of this Reimbursement Agreement as specified in Section 2 of this Reimbursement Agreement.
- (k) **TIRZ # 3.** The term “TIRZ # 3” means the tax increment financing reinvestment zone named Tax Increment Reinvestment Zone Number Three, Town of Little Elm, Texas, created by Town Ordinance No. 1175, approved by the Town Council of the Town on October 15, 2013, as amended, and as authorized by the Act.
- (l) **TIRZ # 3 Tax Increment Fund.** The term “TIRZ # 3 Tax Increment Fund” means the tax increment fund established pursuant to Section 311.014 of the Act, and Section 6 of Ordinance No. 1175, approved by the Town Council of the Town on October 15, 2013.
- (m) **Town.** The word “Town” means the Town of Little Elm, Denton County, Texas, a Texas home-rule municipality. For the purposes of this TIRZ Agreement, Town’s address is 100 W. Eldorado Parkway, Little Elm, Texas 75068.

SECTION 4. OBLIGATIONS OF DEVELOPER.

Developer covenants and agrees while this TIRZ Agreement is in effect the Developer shall comply with the following terms and conditions:

- (a) **Qualified Expenditures.** Developer covenants and agrees to submit to the TIRZ # 3 upon request paid invoices, paid receipts, or other paid documentation of the Qualified Expenditures made to the Property located within TIRZ # 3 or benefitting TIRZ # 3 in the minimum amount of **Twenty-Five Thousand and No/100 Dollars (\$25,000.00)**, and in a form acceptable to the TIRZ # 3, within one (1) year of the Effective Date of this Agreement.
- (b) **Job Creation and Retention.** Developer covenants and agrees by the Effective Date and during the Term of this TIRZ Agreement to cause said business to employ and maintain a minimum of _____ employment positions working at the Property.
- (c) **Business Located on the Property.** Developer covenants and agrees during the Term of this TIRZ Agreement to keep open to the general public the business located on the Property.
- (d) **Performance.** Developer agrees to perform and comply with all terms, conditions and provisions set forth in this TIRZ Agreement, and any other agreements by and between the TIRZ # 3 and Developer.

SECTION 5. OBLIGATIONS OF TIRZ # 3.

TIRZ # 3 covenants and agrees while this TIRZ Agreement is in effect TIRZ # 3 shall comply with the following terms and conditions:

- (a) **Payment of Grant Amount.** In consideration of Developer's obligations and expenditures for the Qualified Expenditures, subject to the conditions contained in this TIRZ Agreement, TIRZ # 3 covenants and agrees to pay to Developer the lesser of the paid invoices, paid receipts, or other paid documentation of the Qualified Expenditures submitted to the TIRZ # 3 consistent with Section 4(a) of this Agreement or the Grant Amount. Said amount shall be paid from current funds in the TIRZ # 3 Tax Increment Fund, as such funds are on deposit in the TIRZ # 3 Tax Increment Fund, and such payments to Developer as described herein shall not exceed the Grant Amount. Payments made under this TIRZ Agreement shall be made solely from the TIRZ # 3 Tax Increment Fund, subject to the limitation on payments provided in this TIRZ Agreement.
- (b) **Performance.** TIRZ # 3 agrees to perform and comply with all terms, conditions and provisions set forth in this TIRZ Agreement, and any other agreements by and between TIRZ # 3 and Developer.

SECTION 6. CESSATION OF ADVANCES.

If TIRZ # 3 has made any commitment to provide financial assistance to Developer, whether under this TIRZ Agreement or under any other agreement, TIRZ # 3 shall have no obligation to advance or disburse financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; (ii) if Developer is indebted to the Town, EDC or any other Government entity, or (iii) an Event of Default occurs.

SECTION 7. EVENT OF DEFAULT.

Each of the following shall constitute an Event of Default under this TIRZ Agreement:

- (a) **General Event of Default.** Failure of Developer or TIRZ # 3 to comply with or to perform any other term, obligation, covenant or condition contained in this TIRZ Agreement, or failure of Developer or TIRZ # 3 to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and TIRZ # 3 is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to TIRZ # 3 by or on behalf of Developer under this TIRZ Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.
- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the Town of Little Elm, Texas, to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from TIRZ # 3 and/or Denton County Central Appraisal District is an Event of Default.

SECTION 8. EFFECT OF AN EVENT OF DEFAULT.

In the event of default under Section 7 of this TIRZ Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this TIRZ Agreement. In the event, Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by TIRZ # 3 to Developer pursuant to Section 5(a) of this TIRZ Agreement shall become immediately due and payable by Developer to TIRZ # 3.

SECTION 9. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this TIRZ Agreement:

- (a) **Amendments.** This TIRZ Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this TIRZ Agreement. No alteration or amendment to this TIRZ Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This TIRZ Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this TIRZ Agreement shall lie in the state district courts of Denton County, Texas.
- (c) **Assignment.** This TIRZ Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This TIRZ Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. TIRZ # 3 warrants and represents that the individual executing this TIRZ Agreement on behalf of TIRZ # 3 has full authority to execute this TIRZ Agreement and bind TIRZ # 3 to the same. Developer warrants and represents that the individual executing this TIRZ Agreement on Developer's behalf has full authority to execute this TIRZ Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this TIRZ Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the TIRZ Agreement.
- (f) **Counterparts.** This TIRZ Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this TIRZ Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to TIRZ # 3:

Tax Increment Reinvestment Zone Number Three,
Town of Little Elm, Texas
100 W. Eldorado Parkway
Little Elm, Texas 75068

Attn: Jennette Espinosa, Executive Director
Telephone: (214) 975-0455

if to Developer:

Attn: _____
Telephone: _____

- (h) **Severability.** The provisions of this TIRZ Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this TIRZ Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of the TIRZ Agreement shall be enforced as if the invalid provision had never been included.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this TIRZ Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this TIRZ Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this TIRZ Agreement plus interest, at the rate of six percent (6%), not later than the 120th day after the date the TIRZ # 3 notifies Developer of the violation.

[The Remainder of this Page Intentionally Left Blank]

THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS TIRZ AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS TIRZ AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.

TIRZ # 3:

**TAX INCREMENT REINVESTMENT ZONE
NUMBER THREE, TOWN OF LITTLE ELM,
TEXAS,**

By: _____

Curtis Cornelious, Chairperson

Date Signed: _____

STATE OF TEXAS

§

§

COUNTY OF DENTON

§

This instrument was acknowledged before me on the ____ day of _____, 2023, by Curtis J. Cornelious, President of the Tax Increment Reinvestment Zone, Number Three, Town of Little Elm, Texas, a tax increment reinvestment zone created by the Town of Little Elm, Texas, pursuant to Chapter 311 of the Texas Tax Code, on behalf of said Texas tax increment reinvestment zone.

Notary Public, State of Texas

DEVELOPER:

_____,
a Texas [corporation] [partnership] [limited liability
company],

By: _____
Name: _____
Title: _____
Date Signed: _____

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on the ____ day of _____, 2023,
by _____, _____ of _____, a
Texas [corporation] [partnership] [limited liability company], on behalf of said Texas
[corporation] [partnership] [company].

Notary Public, State of Texas

Exhibit A

[Qualified Expenditures]