

STATE OF TEXAS

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KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF TARRANT

Saginaw Home Improvement Program (SHIP) Agreement

This Saginaw Home Improvement Program (SHIP) Agreement (“Agreement”) is made by and between the City of Saginaw, a Texas home-rule municipality (the “City”) and _____ (“Property Owner”).

WITNESSETH:

WHEREAS, the Property Owner is the owner of a single-family residential structure located at _____, Saginaw, Texas (the “Residence”); and

WHEREAS, the City is authorized by Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Gov’t Code to provide economic development grants to promote state and local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the promotion of the redevelopment of existing housing stock in the City promotes economic development within the City and is essential for the continued economic growth and vitality of the City; 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 City, 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 City, which, in turn, stimulates trade and commerce and reduces unemployment; and

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

WHEREAS, this Agreement is made in the exercise of the City’s governmental functions in the interest of the health, safety, and welfare of the general public and for economic development purposes pursuant to Chapter 380 of the Texas Local Gov’t Code; and

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

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:

Section 1. Term

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

Section 2. 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 Residence as approved by the Financial Services Department as being eligible for an incentive under the Saginaw Home Improvement Program (SHIP).

“City” shall mean the City of Saginaw, Texas.

“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 City’s final inspection of Residence following the construction of the Approved Project.

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

“Event of 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.

“Expiration Date” shall mean two (2) years from Completion of Construction.

“Saginaw Home Improvement Program” or “SHIP” shall mean the City of Saginaw Home Improvement Program (SHIP) adopted by Resolution of the Saginaw City Council, and as may be amended from time to time.

“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 City.

“Incentive” shall mean an economic development incentive rebate in an amount equal to up to ten (10) times the amount of increase in property taxes for the Residence for the first tax year following the Completion of Construction as the result of the increase in the Taxable Value of the Residence. Upon approval of the Property Owner’s SHIP Application, the City’s Financial Services Department shall determine the range of the Incentive in accordance with the preceding sentence: (1) subject to Current Revenue; (2) based on the number of pending SHIP Applications and currently Approved Projects; and (3) in consideration of code compliance priorities or other public health and safety concerns related to the Residence. The maximum Incentive rebate shall not exceed the Certified Costs per Approved Project, and the maximum Incentive rebate shall not exceed \$5,000.00 per Approved Project under any circumstances.

“Residence” shall mean the single-family residential structure, excluding the land, located at _____, Saginaw, Texas.

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

“Taxable Value” shall mean the appraised value of the Residence as certified by the applicable appraisal district, or its successor entity, as of January 1 of a given year.

Section 3. Economic Development Incentive

(a) 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(b) hereof, the City agrees to provide the Incentive to the Property Owner to be paid in a single lump-sum payment no later than September 30th of the first calendar year following Completion of Construction. Projects must be completed before January 1 of the following year. For example, assume that the Approved Project is completed on December 31, 2022 and that the 2023 property taxes for the Residence increased \$300.00 above the 2022 property taxes as a result of the Approved Project. If the Certified Costs for the project were \$3,000.00, and the range of the incentive rebate was approved at ten (10) times the amount of the increase in property taxes, then the total maximum Incentive would be \$3,000.00 and would be paid NO later than September 30, 2023.

(b) Current Revenue. The Incentive made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City (“Current Revenue”). Under no circumstances shall City’s obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the City’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.

Section 4. Incentive Conditions

- (a) Conditions. The City's obligation to pay the Incentive shall be conditioned upon the Property Owner's continued compliance with and satisfaction of the terms and conditions of this Agreement and each of the conditions set forth in this Article.
- (b) Inspections. The Property Owner agrees to submit to periodic inspections of the Residence by the City during the period beginning with the date of Commencement of Construction and ending on date of Completion of Construction.
- (c) Construction Costs. The construction costs incurred and paid by the Property Owner for the Approved Project shall be at least \$2,500 (the "Certified 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 City to verify the Certified Costs incurred and paid by the Property Owner for construction of the Approved Project.
- (d) Completion of Construction. The Property Owner shall cause Completion of Construction of the Approved Project to occur within six (6) months after the City's approval of the Property Owner's proposed project for an Incentive. Additional time may be added to the deadline for Completion of Construction, subject to approval by the City Building Official.

Section 5. Termination

- (a) This Agreement shall terminate upon the occurrence of any one of the following:
 - (1) mutual agreement of the parties;
 - (2) the Expiration Date;
 - (3) at the City's option, if any Impositions owed to the City 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);
 - (4) by the City 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;
 - (5) by City, if the Property Owner suffers an Event of Bankruptcy or Insolvency;
 - (6) by City, 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

(7) the sale or transfer of the Residence following one assignment of this Agreement as provided herein.

(b) In the event of termination by the City pursuant to (a)(3), (4), (5), (6) or (7) the Property Owner shall immediately repay to the City an amount equal to Incentive paid to Property Owner, if any, prior to termination of this Agreement. If the Incentive is not repaid by the Property Owner within thirty (30) days from the date of termination, the City may file a lien against the Property Owner, the Residence, or the Property Owner's real property to recapture the Incentive and preserve the public purposes of the Program.

Section 6. Miscellaneous

(a) Assignment. This Agreement may not be assigned without the prior written consent of the City, 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 Residence to a subsequent owner of the Residence upon thirty (30) days prior written notice to the City. This Agreement shall automatically terminate upon any subsequent sale or transfer of the ownership of the Residence.

(b) Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto.

(c) Limitation on Liability. It is understood and agreed between the parties that the Property Owner and/or Property Owners, in satisfying the conditions of this Agreement, have acted independently, and City assumes no responsibilities or liabilities to third parties in connection with these actions.

(d) 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.

(e) 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.

(f) Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, 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:

Saginaw, Texas _____

If intended for City, to:

Attn: Director of Community & Economic Development
City of Saginaw, Texas
333 W. McLeroy Blvd.,
Saginaw, Texas 76179

With a copy to:

Attn: Bryn Meredith
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

(g) 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.

(h) Governing Law. The 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 Tarrant County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

(i) Amendment. This Agreement may only be amended by the mutual written agreement of the parties.

(j) 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.

(k) Recitals. The recitals to this Agreement are incorporated herein.

(l) Gift to Public Servant. The City may terminate the Agreement immediately if the Property Owner has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

(m) 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.

(n) Public Information. All Certified Costs, information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. In addition to the foregoing

sentence, the City shall submit to the comptroller the information as required by Texas Local Gov't Code Sec. 380.004, and any other information the comptroller considers necessary to operate and update the database described by Section 403.0246(c), Government Code.

(o) 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.

(p) The following documents are hereby incorporated into this Agreement as if fully set forth herein: (1) The Saginaw Home Improvement Program (SHIP) - Economic Development Incentive Policy; and (2) the Saginaw Home Improvement Program (SHIP) Application submitted by the Property Owner.

(q) Employment of Undocumented Workers. As required by Texas Gov't Code Ch. 2264, 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 Incentives herein and any other funds received from the City as of the date of such violation within 120 calendar days after the date the Property Owner is notified by the City of such violation, plus interest at the rate of 6% compounded annually from the date of violation until paid. The Property Owner is not liable for a violation of this paragraph by a subsidiary, Affiliate, or franchisees, or by a person with whom the Property Owner contracts.

(r) Governmental Function(s) and Immunity. The parties hereby acknowledge and agree that the City is entering into this Agreement pursuant to its governmental function(s) and that nothing contained in this Agreement shall be construed as constituting a waiver of the City's police power, legislative power, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. To the extent a Court of competent jurisdiction determines that the City's governmental immunity from suit or liability is waived in any manner, or that this Agreement is subject to the provisions of Chapter 271 of the Texas Local Gov't Code, as amended, the City's immunity from suit shall be waived only as set forth in Subchapter I of Chapter 271, Texas Local Gov't Code. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code, including but not limited to all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in Chapter 101 and Chapter 75.

[Signature page(s) to follow]

[Remainder of Page Left Blank]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective as of the day of _____, 20__.

City of Saginaw, Texas

By: _____
City Manager, Gabe Reaume

Attest:

By: _____
City Secretary, Janice England

Approved As To Form:

By: _____
Bryn Meredith, City Attorney

Executed on this _____ day of _____, 20__.

Property Owner

By: _____

Name: _____