

ECONOMIC INCENTIVE AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF HENDERSON §

This Economic Incentive Agreement ("Agreement") is entered into this 16th day of February, 2023 by and between the City of Tool, Texas, a Type-A general law municipality, organized and existing pursuant to the laws of the State of Texas and located in Henderson County, Texas ("City"), and Cedar Creek LotCO, LLC and The Groves @ Cedar Creek, LLC ("Developers") for the purpose and consideration set forth herein.

WHEREAS, the City is authorized pursuant to Texas Local Government Code Chapter 380 to provide economic incentives in furtherance of commercial and/or economic growth in the City; and

WHEREAS, the City has implemented policies, procedures and objectives to promote economic development within the City; and

WHEREAS, the City finds that this Agreement and its purpose complies with the City's economic development policies and State law; and

WHEREAS, the Developers are an entity that develops property for residential use and is registered with the Texas Secretary of State; and

WHEREAS, the Developers have determined that the City is a desired locale to provide its development operations and intends to develop thirty-four (34) residential waterfront lots (The Groves @ Cedar Creek, LLC owns 26 lots; Cedar Creek LotCO, LLC owns 8 lots, respectively), on the Cedar Creek Reservoir (the "Project"); and

WHEREAS, the City has determined that this overall development's presence and development within the City will provide an economic benefit to the City.

NOW, THEREFORE, City and Developers agree as follows:

I. CITY'S OBLIGATIONS AND INCENTIVES

A. City shall provide the following incentives to the Developers, as a conglomerate:

1. The City will compensate Developers for the difference between the construction and installation of asphalt streets, as compared to concrete streets for the Project. The City will pay \$170,000.00 towards the cost of the road construction at the later of (1) the execution of the Definitive Agreements, or (2) the successful annexation of the Project by the City, for the first seventeen (17) homes. The City will pay \$11,764.70 per home for the remaining homes in the Project, up to thirty-four (34) homes, upon completion of each home's foundation, to pay for the concrete streets (each a "Home Draw"). The City will put \$200,000.00 for the Project in escrow

(at an agreed upon banking institution), in favor of the Developers, for a term of five (5) years from the effective date of this Agreement or the completion of thirty-four (34) homes (whichever occurs first) from which the Developers may collect a Home Draw. The City's obligation to pay a Home Draw expires at the end of the 5-year term and any amounts left in escrow will revert back to the City from the escrow account. Further, the Developers may not collect a Home Draw for homes that are not waterfront properties.

2. The City will charge the Developers a construction permit fee of \$2,800.00 per home.
3. The City will not require streets associated with the Project to adhere to the curb and gutter requirement, as outlined in Ordinance 154.086 Section P6.
4. The City shall allow the Project to be a gated community and will have to adhere to the State of Texas requirements, if the road is dedicated to the city. If the agreed upon road is not dedicated to the city, the developers shall have the responsibility of maintaining the road.
5. The Developers are expected to install four to five fire hydrants inside of the development.
6. The City, concurrently and upon approval of this agreement, shall also approve for recording the final platting of the development as presented in Exhibit A, including any applicable variances from the City Code.

II. DEVELOPERS' OBLIGATIONS

- A. The Developers shall make all improvements associated with the Project in accordance with all applicable laws, ordinances, codes, rules and requirements of the City of Tool, Henderson County, the State of Texas and the United States, and any subdivision, agency or authority thereof.
- B. The Developers shall obtain all appropriate and applicable City, State and Federal permits necessary and required for the Project.
- C. Upon request of City, the Developers shall provide City any and all documentation regarding the Project and development of same.
- D. Upon request of City, the Developers shall provide City financial records associated with the development of the Project.
- E. The Developers shall provide the City a copy of the Homeowner's Association's rules and building covenants, that are provided to home buyers or builders.
- F. The Developers shall supply a drainage plan to the City at a later date, to be determined by both parties.

- G. Developers, singularly and collectively, are bound by the terms of this Agreement.

III. DEFAULT

A. General Event of Default

Failure of the Developers or the City to comply with or to perform any of the terms, obligations or covenants contained in this Agreement, or failure of the Developers or City to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between the Developers and City, shall be an event of default.

B. False Statements

Any warranty, representation or statement made or furnished to the City by and on behalf of the Developers under this Agreement that is false or misleading in any material respect, either now or at any time later furnished, shall be an event of default.

C. Insolvency

The Developer's insolvency, appointment of receiver for any part of the Developer's property, any assignment for the benefit of creditors of the Developers, any type of creditor workout for the Developers, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Developers shall be an event of default.

- D. In the event of a default, the individual (Cedar Creek LotCO, LLC **OR** The Groves @ Cedar Creek, LLC) defaulting party shall have thirty (30) days to begin to cure said default. Should said default remain uncured, the non-defaulting party shall have the right to terminate this Agreement or maintain a cause of action for damages caused by the event(s) of default. In the event that an independent Developer (Cedar Creek LotCO, LLC. **OR** The Groves @ Cedar Creek, LLC., individually) defaults and is unable or unwilling to cure said default within the prescribed time period, the aggregate total value of all financial incentives provided by City to the defaulting Developer shall become immediately due and payable by the Developers to City. Additionally, City shall have no further obligations to provide the incentives agreed to herein to that Developer.

IV. ENTIRE AGREEMENT

Both parties hereto agree that this Agreement (along with the Agreement for Development and Tax Abatement) is the entire agreement between the parties, with no oral or verbal agreements and/or understandings between the parties being binding. Any amendment to this Agreement shall only be valid if reduced to writing and agreed to and signed by both parties.

V. MISCELLANEOUS

- A. This Agreement shall be construed and interpreted under the laws of the State of Texas, with venue for any legal action lying in Henderson County, Texas; and

- B. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors, assigns and all those in privity with them. The Developers may not assign any of the rights and/or obligations found herein to any other entity, except for successors in interest and tenants occupying the property or the other Developer outlined in this agreement, without first obtaining the written consent and approval of the City.

AGREED to this 16th day of February, 2023.

CEDAR CREEK LOTCO, LLC

11226 Indian Trail
Dallas, Texas 75229

By: 

Printed Name: Aaron Albright

THE GROVES @ CEDAR CREEK, LLC.


P.O. Box 43042
Kemp, TX 75143

By: 

Printed Name: John Litchfield

CITY OF TOOL, TEXAS

City Hall
701 N. Tool Dr.
Tool, Texas 75143

By: 
Julius Kizzee, City Administrator