

ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ABILENE AND NUHOME CONSTRUCTORS OF ABILENE, LLC.

This Economic Development Agreement (“Agreement”) is effective as of the 27th day of July, 2023 (“Effective Date”), by and between NUHOME CONSTRUCTORS OF ABILENE, LLC, a Limited Liability Corporation ("Developer"), and the CITY OF ABILENE, TEXAS, a home rule city and municipal corporation ("City"), for the purposes and considerations stated below.

RECITALS

WHEREAS, the Developer has undertaken single-family residential infill development within Abilene Neighborhood Empowerment Zone No. 1 and No. 2 as created by Resolution No 203-2021 of the City Council of the City of Abilene, Texas wherein an infill residential development incentive was authorized by the City; and

WHEREAS, the governing body of the City of Abilene adopted Resolution 49-2016 creating an Economic Development Program authorized by Chapter 380 of the Texas Local Government Code, as amended; and

WHEREAS, the City desires to enter into this Agreement with the Developer in order to implement the economic development program developed by the City to enhance and expand the City’s commercial economic and employment base by providing market driven, affordable and quality single-family residential housing to the long term interest and benefit of the City and the State of Texas; and

WHEREAS, the City has determined that making an economic development grant for the Economic Incentives to the Developer in accordance with this Agreement will further the objectives of the City, will benefit the City and the City’s inhabitants, will increase the quality of life of the City, will foster and promote additional economic development and will protect and safeguard the public health, safety and welfare of its residents; and

WHEREAS, the Developer acquired a list of properties for the removal of blight within the Neighborhood Empowerment Zones, and the properties are located within the City of Abilene Neighborhood Empowerment Zones No. 1 and No. 2, and more particularly described on **Exhibit A – Projects**, which is attached and incorporated herein as part of this Agreement (the “Project”); and

WHEREAS, the current properties are creating downward economic pressure on the economic vitality of the area, and it is anticipated that the Development will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible “project” and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City; and

WHEREAS, the City hereby finds that this Agreement promotes infill development within the neighborhood empowerment zone and, as such, meets the requisite under Chapter 378 of the Texas Local Government Code and is in the best interests of the City.

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

I. AUTHORITY

- 1.01 The Agreement is authorized by state law, including but not limited to Chapters 378 and 380 of the Texas Local Government Code, and is within the authority of the City and constitutes a legal and binding obligation of the City.
- 1.02 The Developer’s execution and performance of this Agreement constitutes a valid and binding obligation of the Developer.
- 1.03 The factual recitals and findings set forth above are found to be true and correct for all purposes, and are incorporated into this Agreement.

II. DEFINITIONS

- 2.01. **Program** means the economic development program identified in Article IV herein and established by the City pursuant to this Agreement.
- 2.02. **Developer** means Nuhome Constructors of Abilene, LLC, its successors or assigns.

III. TERM

- 3.01 This Agreement shall be effective as of the date of execution of both parties. This Agreement shall remain in full force and effect until the earlier of: (A) each party hereto has completed their respective obligations hereunder; or (B) Three (3) years from the Effective Date (“**Term**”).

IV. ECONOMIC DEVELOPMENT PROGRAM

- 4.01 Pursuant to Chapters 378 and 380 of the Texas Local Government Code and Resolution No 203-2021, the City shall contribute the sum of ten times the amount of increased city

related ad valorem tax liability created by (1) new residential construction, or (2) renovation or rehabilitation of existing residential improvement, up to a maximum one-time incentive of \$5,000 per improvement.

- 4.02 It being necessary to establish the increased value created by the improvement, this program shall allow for payment of the incentive to an improvement completed on or after December 2, 2021, which is the date of the adoption of Resolution No. 203-2021 wherein the residential infill program was established.
- 4.03 Any incentive paid under this Agreement shall be paid on or after October 1, 2023.

V. DEVELOPER'S OBLIGATIONS AND DUTIES

- 5.01 The Developer has constructed or renovated six single-family homes within the NEZ pursuant to the program between December 21, 2021 and May 15, 2023.
- 5.02 The Developer shall construct at least three additional improvements within the NEZ pursuant to the terms of the program.
- 5.03 Provide to the City evidence from the Taylor County Central Appraisal District, and/or a Licensed Texas Real Estate Appraiser, of the increased assessed value of the properties following construction, renovation or rehabilitation.

VI. CITY OBLIGATIONS AND DUTIES

- 6.01 Pay the Economic Incentives to Developer pursuant to the terms and conditions of this Agreement and the terms and requirements of Resolution No. 203-2021 which are incorporated herein.

VII. DEFAULT

- 7.01 If any party should default upon any terms or obligations with respect to this Agreement ("**Defaulting Party**"), the other party ("**Complaining Party**") shall provide written notice of the default and shall reasonably include the actions required to cure such default. If the Defaulting Party cures the default within thirty (30) days after notice of default is received ("**Cure Period**"), or commences to cure default within said thirty (30) days and diligently pursues the cure to its conclusion, then this Agreement shall continue as if no default occurred.

- 7.02 In the event that the Defaulting Party fails to cure the default as required by Section 7.01 above, the Complaining Party may, by action or proceeding at law or in equity, be awarded damages and/or specific performance for such default, including reasonable attorney's fees and costs.

VIII. GENERAL PROVISIONS

- 8.01 **DEVELOPER COVENANTS AND AGREES TO AND DOES HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS. IN ADDITION, DEVELOPER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM THE FAILURE OF DEVELOPER OR ITS CONTRACTORS AND SUBCONTRACTORS TO PROPERLY SAFEGUARD THE WORK, ON ACCOUNT OF ANY ACTS, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF DEVELOPER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES.**
- 8.02 If any provision of this Agreement, or a portion thereof, or the application thereof to any person or circumstances shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Agreement, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 8.03 This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought under this Agreement shall be in Taylor County, Texas.
- 8.04 Developer shall not assign this Agreement without the express written consent of the City.

- 8.05 Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers or render any of said parties liable for the debts or obligations of any other of said parties.
- 8.06 Except as otherwise expressly provided herein, this Agreement may only be amended, modified or terminated by a declaration in writing, executed and acknowledged by all the parties to this Agreement.
- 8.07 This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein, and supersedes all prior discussions and agreements between the parties.
- 8.08 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.
- 8.09 In the event any legal proceeding is commenced to enforce or interpret provisions of this Agreement, the prevailing party in any such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action.


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FOLLOWS.]

SIGNED AND EFFECTIVE of the 27th day of July, 2023.

DEVELOPER

NUHOME CONSTRUCTORS OF ABILENE, LLC


2007 W Beauregard Ave
San Angelo, TX 76901-3812

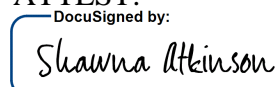
By: 
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Name: Barry Fletcher

Its: Managing Member

CITY OF ABILENE


E27D700B8444EA...
Robert Hanna, City Manager

ATTEST:

C9A687226196428...
Shawna Atkinson, City Secretary

APPROVED AS TO FORM:



D47F7C82A7BE450...
Stanley Smith, City Attorney



Exhibit “A” – Project Area

2018 Lillius Street*

2042 Lillius Street

2050 Lillius Street

309 Elm Street

319 Elm Street

542 Elm Street

634 Elm Street

1130 S 4th Street

1207 S 4th Street

1933 S 15th Street

1724 N 15th Street*

1910 Clinton St**

1301 Pecan St**

1349 Pecan St**

* Address is under construction, or a permit has been issued but the improvement has not been started as of July 6, 2023.

** Address is in the NEZ, but no permit has been issued as of July 6, 2023.

Certificate Of Completion

Envelope Id: 37A19F9370C045D4900B28DBC8CDFC86

Status: Completed

Subject: Complete with DocuSign: 380 AGREEMENT - CITY OF ABILENE AND NUHOME CONSTRUCTORS OF ABILENE.CLEA...

Source Envelope:

Document Pages: 7

Signatures: 4

Envelope Originator:

Certificate Pages: 5

Initials: 0

Kristen Tusing

AutoNav: Enabled

Stamps: 1

555 Walnut St

Envelopeld Stamping: Enabled

Abilene, TX 79601

Time Zone: (UTC-06:00) Central Time (US & Canada)

kristen.tusing@abilenetx.gov

IP Address: 66.76.21.2

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8/16/2023 3:45:56 PM

kristen.tusing@abilenetx.gov

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: City of Abilene

Location: DocuSign

Signer Events

Barry Fletcher

barry.nuhome@gmail.com

Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:


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Signature Adoption: Pre-selected Style

Using IP Address: 216.146.8.92

Timestamp

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Resent: 8/22/2023 1:31:58 PM

Viewed: 8/22/2023 5:01:48 PM

Signed: 8/22/2023 5:03:13 PM

Electronic Record and Signature Disclosure:

Accepted: 8/22/2023 5:01:48 PM

ID: 57aa6516-127a-4186-aaf7-5644aa9775ed

Stanley Smith

stanley.smith@abilenetx.gov

City Attorney

City of Abilene

Security Level: Email, Account Authentication (None)

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Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Robert Hanna

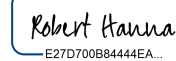
robert.hanna@abilenetx.gov

City Manager

City of Abilene

Security Level: Email, Account Authentication (None)

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Signed using mobile

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Signed: 8/22/2023 8:53:40 PM

Electronic Record and Signature Disclosure:

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Signer Events	Signature	Timestamp
Shawna Atkinson shawna.atkinson@abilenetx.gov City Secretary City of Abilene Security Level: Email, Account Authentication (None)	<div> <div>DocuSigned by:</div> <div>  </div> <div>C9A687226196428...</div> </div> <div>  </div>	Sent: 8/22/2023 8:53:42 PM Viewed: 8/23/2023 6:12:17 AM Signed: 8/23/2023 6:12:28 AM

Signature Adoption: Pre-selected Style
 Using IP Address: 98.97.86.85
 Signed using mobile

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Kristen Tusing kristen.tusing@abilenetx.gov Security Level: Email, Account Authentication (None)	<div>VIEWED</div> <p>Using IP Address: 66.76.21.2</p>	Sent: 8/16/2023 3:50:20 PM Viewed: 8/16/2023 3:50:41 PM Completed: 8/16/2023 3:50:55 PM
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Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Kaitlin Richardson kaitlin.richardson@abilenetx.gov Deputy City Secretary City of Abilene Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 8/23/2023 6:12:31 AM Viewed: 8/23/2023 9:52:19 AM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	8/17/2023 8:41:59 AM
Certified Delivered	Security Checked	8/23/2023 6:12:17 AM
Signing Complete	Security Checked	8/23/2023 6:12:28 AM
Completed	Security Checked	8/23/2023 6:12:31 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Abilene:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: bobvw@abilenetx.gov

To advise City of Abilene of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at bobvw@abilenetx.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from City of Abilene

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to bobvw@abilenetx.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Abilene

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to bobvw@abilenex.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Abilene as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Abilene during the course of your relationship with City of Abilene.