

STATE OF TEXAS §
 §
COUNTY OF DENTON §

Affidavit of Eligibility and Liability Release Agreement

BEFORE ME, the undersigned authority, on this day personally appeared _____, and upon his/her oath deposed and stated as follows:

This Affidavit of Eligibility and Liability Release Agreement (“Affidavit/Release” or “Agreement”) to the City of Coppell, Texas (“City”) as a legal representative of _____ (the “Company”), with the understanding that this Affidavit/Release will be relied upon by the City (and the other City Persons) in connection with the Company’s application for financial assistance (the “Application”) under the Coppell Cares Business Retrofit Grant Program (the “Program”). Company acknowledges and agrees that there is adequate, sufficient, and good and valuable consideration for this Affidavit/Release.

Compliance:

1. Company is in compliance with, and will continue to comply with all the rules, regulations, terms and conditions set forth in the Application, and with all laws, rules and regulations pertaining to the Application and the Program; that all information provided to the City now and in the future has been and will be true, accurate, and complete. Company has not perpetrated and will not perpetrate any fraud or deception in connection with the Program. Company has not sought to influence the outcome of the Application and is submitting this Agreement as expressly required under the Program’s criteria.

2. Company understands that the City or its agents may be required to advise the United States Internal Revenue Service of the value of any Program grant awarded to the Company, and in connection therewith, a completed Form W-9 is attached hereto. I acknowledge and agree that I may be subject to taxation in connection with a Program grant and will pay any and all such taxes when due.

Release, Indemnity and Hold Harmless:

3. COMPANY HEREBY RELEASES, WAIVE, ACQUITS, FOREVER DISCHARGES, AND COVENANTS NOT TO SUE THE CITY OR ANY OF THE CITY’S OFFICIALS, OFFICERS, EMPLOYEES, AGENTS OR VOLUNTEERS, IN EITHER THEIR OFFICIAL OR PRIVATE CAPACITIES (COLLECTIVELY, “CITY PERSONS”), FOR AND/OR FROM ANY AND ALL CLAIMS, LIABILITY, DEMANDS, LOSSES, HARM, ACTIONS, SUITS, JUDGMENTS, PENALTIES, FEES, COSTS AND EXPENSES WHATSOEVER, (COLLECTIVELY, “CLAIMS”), WHICH THE COMPANY MAY NOW OR HEREAFTER BE ENTITLED TO ASSERT, ARISING OUT OF, CAUSED BY, IN CONNECTION WITH, OR RELATED TO, THE PROGRAM, OR MY POSSESSION, ACCEPTANCE, USE, OR MISUSE THEREOF, OR ANY OF MY OTHER ACTS OR OMISSIONS IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO,

DEATH, ILLNESS, INJURY, LOSS OF ENJOYMENT, PROPERTY DAMAGE OR DESTRUCTION, OR OTHER HARM OR LOSS OF ANY NATURE, AND ANY AND ALL ANY TAXES LEVIED, ASSESSED OR COLLECTED, AND FURTHER INCLUDING, WITHOUT LIMITATION, ANY AND ALL CLAIMS WHICH ARISE OUT OF, ARE RELATE TO, OR ARE CAUSED BY, IN WHOLE OR IN PART, ANY NEGLIGENT ACT OR OMISSION OF THE CITY OR ANY CITY PERSONS OR ANY OTHER PERSONS, OR ANY ACT OR OMISSION OF THE CITY, ANY CITY PERSONS, OR ANY OTHER PERSONS, THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

Company has voluntarily chosen to submit its Application and hereby accepts Program grant funds, subject to eligibility, and AGREES TO ASSUME ANY AND ALL RISKS with respect to any harm, damage, injury, incident, action, occurrence or activity which may occur in connection with or result from the Application and/or Program Grant, and/or Company's acceptance, use, misuse, or possession thereof.

4. FURTHER, COMPANY HEREBY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY AND ALL CITY PERSONS FROM AND AGAINST ANY AND ALL CLAIMS, INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEY'S FEES (NOT TO EXCEED \$350.00 PER HOUR), THAT MAY ARISE OUT OF, RESULT FROM, OR BE INCURRED DUE TO THE SUBMISSION OF COMPANY'S APPLICATION OR ITS PARTIPICATION IN THE PROGRAM, ACCEPTANCE OF A PROGRAM GRANT, ACCEPTANCE, USE, MISUSE OR POSSESION THEROF, OR ANY ACTS OR OMISSIONS IN CONNECTION THEREWITH. SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE CITY, ANY CITY PERSONS, OR ANY OTHER PERSONS, OR BY ANY ACT OR OMISSION OF THE CITY, ANY CITY PERSONS, OR ANY OTHER PERSONS, THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.

5. It is the Company's express intent that this Affidavit/Release shall bind the Company, its agents, heirs, assigns, successors and legal representative(s), and shall be deemed as a RELEASE, WAIVER, DISCHARGE, AND COVENANT NOT TO SUE the City and all other City Persons (identified herein, including paragraph 3 hereof) for any and all purposes.

6. COMPANY UNDERSTANDS THAT THIS IS A LEGAL DOCUMENT AND THAT BY SIGNING IT, AMONG OTHER THINGS, COMPANY GIVES UP ITS RIGHT TO SUE OR OTHERWISE MAKE A CLAIM against the City and all other City Persons, as set forth herein.

Representations:

7. I certify that I am a properly authorized official or agent of the Company and have the necessary legal authority to execute this Affidavit of Eligibility and Liability Release Agreement on the Company's behalf.

8. Company is not in any type or manner of litigation or contemplating litigation with the City or County of Denton.

9. Company is currently operating with its principal place of business within the corporate limits of the City.

Miscellaneous Provisions:

10. Company agrees to return, immediately upon demand by the City, any and all Program grant funds that have been or may be awarded if any statement, certification, or representation made in this Affidavit/Release is discovered or believed to be false or misleading, and Company acknowledges and agrees that all available legal, equitable and other rights and remedies may be pursued against it in connection therewith. Company represents and affirms that this Affidavit/Release does not conflict with any other commitments or obligations on its part.

11. Except for the Application and Program eligibility criteria, this Affidavit/Release constitutes the entire Agreement between Company and the City with respect to the matters described herein, and supersedes any and all other agreements and communications, oral or written, between Company and the City, any City Persons, or any other Persons. This Agreement may not be amended or supplemented except by a (paper) writing signed by the Company and the City.

12. The section and subsection headings contained herein are for convenience only and shall not be used in interpretation of this Agreement and are not intended to define or limit the scope of any provision of this Agreement. For purposes of this Agreement, “including” is a term of enlargement and not of limitation or exclusive enumeration, and use of the term does not create a presumption that components not expressed are excluded.

13. Company signs and makes this Affidavit/Release voluntarily, freely, and knowingly, and it has not relied upon any representations made by the City or any City Person in signing this Affidavit/Release.

14. This Affidavit/Release shall be governed by and construed according to the laws of the State of Texas (without reference to the choice of laws provisions of any jurisdiction), and venue for all matters, claims, or proceedings hereunder shall lie exclusively in Denton County, Texas.

15. The provisions of this Affidavit/Release are severable, and if any provision hereof is held to be illegal, invalid or unenforceable under present or future constitution or laws, such provision shall be fully severable and this Affidavit/Release shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof shall remain in full force and effect.

COMPANY CERTIFIES IT HAS READ THIS AFFIDAVIT/RELEASE, HAS FULLY INFORMED ITSELF OF ITS CONTENTS BEFORE EXECUTION, AND UNDERSTANDS ALL OF ITS TERMS, PROVIIONS, AND CONDITIONS. COMPANY HEREBY REPRESENTS AND WARRANTS THAT ALL STATEMENTS MADE IN THIS AFFIDAVIT/RLEASE ARE TRUE, ACCURATE AND COMPLETE.

[Signature Page to Follow]

Signature: _____

Title: _____

Name: _____

Company address: _____

Date: _____