

I, Amy T. Harvey, Deputy Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2020-03-04/R-10) adopted by the Chapel Hill Town Council on March 4, 2020.

This the 5th day of March, 2020.

Amy T. Harvey

**Amy T. Harvey
Deputy Town Clerk**



A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SIGN WELL DOT, INC. INCENTIVE AGREEMENT (2020-03-04/R-10)

WHEREAS, the Council wants to create a strong and active downtown; and

WHEREAS, workers in downtown add to its life and vibrancy; and

WHEREAS, Well Dot, Inc. committed to located a significant facility in downtown Chapel Hill; and

WHEREAS, the State of North Carolina played a key role in helping to secure this client to locate in Chapel Hill; and

WHEREAS, it is for the betterment of downtown to have these new employees in downtown and supporting local businesses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to sign the Well Incentive Agreement as presented to the Town Council on March 4, 2020 subject to minor technical and non-substantive adjustments as needed in the judgment of the Manager and Town Attorney and distribute the award accordingly.

This the 4th day of March, 2020.

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement (hereinafter the “Agreement”) is made and entered into as of the ____ day of March 2020, by and among WELL DOT, INC. a Delaware corporation, (“Owner”) and the Town of Chapel Hill, North Carolina, a municipal corporation of the State of North Carolina (the “Town”) for the purpose of encouraging the development of major job presence in downtown Chapel Hill (the “Project”). Owner and the Town may hereinafter be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

1. On March 14, 2018, the Chapel Hill Town Council, the governing board of the Town, , authorized an Incentive Policy, that includes awarding incentives for job creation and investment.
2. Owner inquired in the second quarter of 2019 about the possibility of locating a significant office in downtown Chapel Hill in connection with the Project.
3. The Parties anticipate that the Project will result in the hiring of up to 400 employees and an investment of a minimum of \$2.5 million dollars in improvements to land, construction of, or improvements to, buildings, and purchase or lease of equipment.
4. Performance-based financial support from the Town to this Project would make it possible for the Owner to proceed with committing to Chapel Hill as the primary office for the corporation.
5. Based on careful consideration and evaluation of the performance-based financial support proposed by the Town, Owner decided to locate in multiple facilities in downtown Chapel Hill, bringing significant new employees to downtown.
6. A public hearing was held March ____, 2020 on this proposed Agreement in satisfaction of all requirements of North Carolina Gen. Stat. §158-7.1(c).
7. On March ____, 2020, the Town Council authorized entering into this Agreement pursuant to Resolution Number 2020-03-04/R__.

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the Owner and the Town do hereby agree as follows:

TERMS:

1. Town Economic Development Grant. The Town hereby agrees to award a Performance-Based Economic Development Grant (the “Grant”) to Owner to be paid in multiple annual installments consisting of: (i) cash grants, (each annual installment of a cash grant,

a “Cash Award” and collectively, such annual installments, the “Cash Awards”) and (ii) annual credits toward payment otherwise due for use of Town parking services (each annual credit, a “Credit” and, collectively, such annual credits, the “Credits”). The aggregate amount of Cash Awards shall not exceed \$450,000 (“Aggregate Cash Award”) and the aggregate amount of Credits shall not exceed \$450,000, (“Aggregate Credit Award”) for a combined total aggregate value not to exceed \$900,000 (the “Total Town Grant Amount”). The Grant is subject to the terms and conditions set forth herein.

2. Project Effective Date. This Agreement shall be effective as of March __, 2020 (the “Effective Date”).
3. Term. This Agreement shall expire on April 1, 2028 (the “Expiration Date”). Owner shall be eligible to receive Cash Awards and Credits based upon Employees hired during the period of time from the Effective Date to the Expiration Date (the “Term”) subject to the Terms of this Agreement.
4. Grants Contingent Upon Performance by Owner. The Total Town Grant Amount has been calculated based upon the assumption that by the Expiration Date, Owner shall: (i) have in its employ 400 full-time Employees (as defined below), and (ii) have entered into an agreement with Orange County, North Carolina pursuant to which Owner shall invest a minimum of \$2.5 million in real and personal property located within the Town (the “Investment Agreement”).
5. Calculation of Grants:
 - a. *Grant*: The Town shall award a Grant per-Employee to Owner in an amount equal to \$2,250 allocated evenly between the Cash Awards and the Credits, as set forth in Exhibit A, subject to the Total Town Grant Amount. The total of grants and credits will not exceed \$900,000 over the life of this agreement
 - i. Parking Credits. Up to one-half of the total Grant amount (\$450,000) can be used as a parking credit for spaces located in downtown Chapel Hill. Location and number of space will be determined annually and set for the following year.

The Parties agree that the current annual fee of a parking space is \$1,380 (\$115 per month times 12 months) and that the Credits for parking should begin as of the date of this signing. Parking fees, as of the drafting of this Agreement, are a part of an annual Fee Schedule adopted by Town Council. Those Fees are subject to change and the current annual cost of a parking space, in this Agreement, may also change.

As a result, in light of the Total Credit Amount, Town will afford a Credit of \$56,248 in each calendar year of the Term. Credit shall equal payment for Parking Spaces (as defined below) in each such calendar year, as set forth in Exhibit A.
 - ii. Cash Grant. The Parties agree that the payment of the Cash Awards should begin in calendar year three of the Term (2023). As a result, in light of the Total Cash Grant Amount, Town will pay Owner a Cash Grant

of \$75,000 by the Payment Date (as defined below) in each calendar year of the Term, beginning on the Payment Date that occurs in 2023, as set forth in Exhibit A.

- b. *Certification.* Beginning in 2021, by March 31st of each calendar year during the Term (the “Certification Date”), Owner shall submit a copy of Form NCUI 101 (or a mutually agreed-upon equivalent) (the “Certification”) to the Town setting forth the number of full-time employees (“Employees”) hired during the immediately previous calendar year; provided that, the initial Certification to be filed on March 31, 2021, shall include the Employees hired from the Effective Date through December 31, 2020, and the total number of Employees currently employed by Owner. Owner shall be permitted to redact sensitive information from the Form.
 - c. *Payment.* Town shall pay Owner the Cash Award within 45 days of receipt of the Certification (the “Payment Date”).
 - d. *Parking Spaces.* Owner will work with the Town’s Economic Development Officer to coordinate with Parking Services to determine the exact location of the parking spaces; provided that such location shall be no greater than 0.25 miles from 501 W. Franklin St., Chapel Hill, NC, 27516 (the “Parking Spaces”). The location of the Parking Spaces for each calendar year of the Term shall be determined by [December 1st] of the immediately preceding calendar year, beginning on December 1, 2020.
6. Progress Check. If the Certification submitted by Owner on March 31, 2024, shows that Owner’s total number of Employees is less than 90% of the total projected number of Employees as of year- end 2023, as forth in Exhibit A, Parties shall discuss in good faith a remediation plan based on, among other things, total expected hires for the remainder of the Term and market factors. No modifications to this Agreement will be required if the investment goals set forth in the Investment Agreement are not met.
 7. Amendment, Modification and Termination. The terms of this Agreement may be amended, modified or terminated by written agreement of the Parties. Notwithstanding the foregoing, Owner may add as a party or parties to this Agreement an entity or entities within the corporate structure of Owner to join Owner in the execution of the (the “Related Members”). Upon written notice to the Town, Owner may add Related Members to this Agreement, remove existing Related Member(s), or update the definition of Related Member to incorporate changes to the corporate structure. When a Related Member is so added to this Agreement, any Employees of such Related Member shall be deemed to be Employees of Owner for all purposes hereunder. Any such modification to this Agreement will be subject to the approval of the Town, which approval shall not be unreasonably withheld, conditioned or delayed.
 8. Recordation/Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors, and assigns.
 9. Assignment. This Agreement shall be assignable by Owner, subject to the approval of the Town, which approval shall not be unreasonably withheld, conditioned or delayed.

10. Disclaimer of Joint Venture, Partnership and Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Town and Owner, or to impose any partnership obligation or liability upon the Parties. Neither the Town nor Owner shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent of representative of, or to otherwise bind, the other Party.
11. Construction. The Parties acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by counsel for the Parties. As such, the doctrine of construction against the drafter shall have no application to this Agreement.
12. Governing Law. This Agreement and all obligations arising out of it shall in all respects be governed by and shall be construed in accordance with the laws of the State of North Carolina (excluding conflict of laws rules and principles, to the extent that to do so would result in the application of the laws of another jurisdiction).
13. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
14. Authority. Each Party represents and warrants that it has undertaken all actions necessary for approval, execution and delivery of this Agreement, and that the person signing this Agreement has the authority to bind such Party.
15. Address and Contact Information. The payment to the Owner and written notices pursuant to this Agreement shall be mailed or otherwise delivered to:

Attn: Jared Sokolsky, CFO
Well Dot, Inc.
419 W. Franklin Street
Chapel Hill, NC 27516
jared.sokolsky@well.co

When a notice is required or permitted by this Agreement, it shall be given by written notice to the Parties by delivery to:

Attn: Town Manager
Town of Chapel Hill
405 Martin Luther King, Jr. Blvd.
Chapel Hill, NC 27514
manager@townofchapelhill.org

Kathryn Howell
Chief Legal Officer
Well Dot, Inc.
419 W. Franklin Street
Chapel Hill, NC 27516

kathy.howell@well.co

Either Party may update the notices information above by delivery of a written notice to the other Party.

16. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions of this Agreement unless the provision invalidated is so fundamental to this Agreement that this Agreement shall fail of its essential purpose without the provision that was invalidated.
17. Force Majeure. In the event that either Party hereto is be delayed or hindered in or prevented from the performance of an act required hereunder by reason of the following: labor dispute, including strike and lockout; unavailability of essential materials or duly qualified Employees as reasonably determined by Owner, riot; epidemic; war, extreme weather events, fire; explosion; accident; delays or default of the other party, then performance of such act shall be excused for the period of the delay, and thereafter the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. No such event shall excuse the payment of any sums due and payable hereunder on the due date hereof.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

DRAFT

IN WITNESS WHEREOF, the Town and Owner have executed and delivered this Agreement under seal as of the Effective Date.

WELL DOT, INC. (_____)

BY:

By: _____
Printed Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the State of _____,
County of _____, do hereby certify that _____,
personally appeared before me this day and acknowledged that (s)he is _____ of
WELL DOT, INC., and further acknowledged that by authority duly given, (s)he signed the
foregoing and annexed instrument in its name on behalf of WELL DOT, INC.

Witness my hand and notarial seal, this _____ day of _____, 20____.

(Official Seal or Stamp)

Notary Public
My Commission Expires: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

TOWN OF CHAPEL HILL
a North Carolina municipal corporation

By: _____
Maurice Jones, Town Manager

ATTEST BY TOWN CLERK:

TOWN CLERK

TOWN SEAL

Town Clerk attests date this the _____ day of _____, 20____.

Approved as to Form and Authorization

TOWN LEGAL STAFF

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

FINANCE OFFICER

DATE

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

I, _____, a Notary Public in and for _____ County, North Carolina, certify that _____ personally came before me this day and acknowledged that she is the (Acting) Town Clerk of the Town of Chapel Hill, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by _____, its _____, sealed with its corporate seal, and attested by her as its (Acting) Town Clerk.

Witness my hand and notarial seal, this _____ day of _____, 20____.

(Official Seal or Stamp)

Notary Public
My Commission Expires: _____

EXHIBIT A

Well Dot Inc.									
Number year	1	2	3	4	5	6	7	8	
Year *	2021	2022	2023	2024	2025	2026	2027	2028	TOTAL
Jobs	74	110	132	80	4				400
Eligible Award			\$210,752	\$313,280	\$375,936	\$227,840	\$11,392		\$899,968
TOTAL			\$210,752	\$313,280	\$375,936	\$227,840	\$11,392		
Cash			\$74,997.33	\$74,997.33	\$74,997.33	\$74,997.33	\$74,997.33	\$74,997.33	\$449,984
Parking Credit (In kind)	\$56,248	\$56,248	\$56,248	\$56,248	\$56,248	\$56,248	\$56,248	\$56,248	\$449,984
TOTAL AWARD	\$56,248	\$56,248	\$131,245	\$131,245	\$131,245	\$131,245	\$131,245	\$131,245	\$899,968
* Years equal to Town's Fiscal years (July 1 - June 30)									
Per Job Award		\$2,250							
Projected annual parking award		\$56,248							

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