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WHEREAS, the City of Dallas (“City”) recognizes the importance of its role in local economic development; and

WHEREAS, many municipalities within the Dallas-Fort Worth region have economic development programs to compete with the City for establishments, expansions, and relocations of business operations; and

WHEREAS, investment decisions made by businesses and commercial property owners are often significantly influenced by a municipality’s ability to provide competitive economic development incentives; and

WHEREAS, it is in the interest of the City to support and secure the establishments, expansions, and relocations of business operations within the city and the economic vitality and employment opportunities that these business operations bring for Dallas residents; and

WHEREAS, SWC Buckner and Peavy, LLC (“Owner”) and Vista Property Company, LLC (“Developer”) (collectively, “Owner/Developer”) seek City incentives to support the redevelopment of a shopping center located at 3035 North Buckner Boulevard and re-tenanting the vacant free-standing anchor building of approximately 52,500 square feet (“anchor building”) with an established grocery store operator (“Project”); and

WHEREAS, pursuant to an executed conditional incentive offer letter, Owner/Developer has participated in at least one community stakeholder meeting organized and hosted (virtually) to discuss the proposed Project and answer questions from community stakeholders; and

WHEREAS, the Project is located in an area characterized as a food desert (defined as a low-income census tract where more than 100 housing units do not have a vehicle and are more than 1/2 mile from the nearest supermarket); and

WHEREAS, in the context of the City’s Market Value Analysis, the Project is located in a non-residential tract and is generally surrounded by residential market types D, E, F, and G. Market types D, E, F, and G reflect middle to lower-middle residential real estate markets. This Project will result in a grocery store that is accessible by the surrounding residential market areas; and

WHEREAS, in furtherance of its governmental function as a political subdivision of the State of Texas, and consistent with the authority granted under Chapter 380 of the Texas Local Government Code, the City of Dallas 2017 General Obligation Bond Program (Proposition I), and Ordinance No. 30554, it is in the best interest of the City to enter into an economic development grant agreement (“Grant Agreement”) and provide this incentive as a part of the City’s ongoing program to promote local economic development and to stimulate business and commercial activity in the City; and

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WHEREAS, pursuant to Resolution No. 20-1972, approved by the City Council on December 9, 2020, the City: (1) elected to continue its participation in economic development incentives and approved an extension of its Public/Private Partnership Program (“P/PPP”) - Guidelines and Criteria, which established certain guidelines and criteria for the use of City incentive programs for private development projects, (2) established programs for making loans and grants of public money to promote local economic development and to stimulate business and commercial activity in the City pursuant to the Economic Development Programs provisions under Chapter 380 of the Texas Local Government Code (“Economic Development Act”), and (3) established appropriate guidelines and criteria governing tax abatement agreements to be entered into by City as required by the Property Redevelopment and Tax Abatement Act, as amended, (V.T.C.A. Tax Code, Chapter 312) (“Tax Abatement Act”); and

WHEREAS, pursuant to the City’s P/PPP - Guidelines and Criteria (effective for the period December 31, 2020 through June 30, 2021), this Project is located in a Target Area and exceeds the minimum eligibility criteria requirements of the P/PPP - Guidelines and Criteria for a Target Area based on the anticipated total Project investment totaling approximately \$7.4 million; and

WHEREAS, consistent with the authority granted under the Economic Development Act and the City’s P/PPP - Guidelines and Criteria, staff recommends that the City Council authorize the proposed Grant Agreement as a part of the City’s ongoing program to promote local economic development and to stimulate business and commercial activity in the city of Dallas.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Manager is hereby authorized to execute a Chapter 380 conditional Grant Agreement and all other necessary documents with SWC Buckner and Peavy, LLC (“Owner”) and Vista Property Company, LLC (“Developer”) to provide an economic development grant, to redevelop the shopping center on 5.2 acres of land at 3035 North Buckner Boulevard, Dallas, Texas 75228 (the “Property”), approved as to form by City Attorney, in an amount not to exceed One Million Three Hundred Thousand Dollars and 00/100 Cents (\$1,300,000.00).

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SECTION 2. That the conditional Grant Agreement is hereby expressly made subject to all of the following contingencies, which must be performed or occur:

- a) Owner/Developer shall complete (or cause to be completed) Property improvements, which shall include: parking lot improvements (including new landscaped islands, paving re-surfacing/re-striping); building façade improvements to the anchor building and an outparcel building; landscaping; exterior lighting improvements to the anchor building, the outparcel building, and the parking lot; new electrical panels and switch gear; new glass storefronts on the outparcel building; and a new storefront for the anchor building (the “Project”).
- b) Only upon completion of the Project will an economic development grant in an amount not to exceed One Million Three Hundred Thousand Dollars and 00/100 cents (\$1,300,000.00) be payable by the City to Owner/Developer. Such grant shall be deployed as a Chapter 380 conditional grant, with Six Hundred Fifty Thousand Dollars and 00/Cents (\$650,000.00) of the grant sourced from the ECO (I) Fund (2017 General Obligation Bond Fund) and Six Hundred Fifty Thousand Dollars and 00/Cents (\$650,000.00) of the grant to be sourced from the City’s P/PPP Fund as a conditional grant.
- c) Owner/Developer shall obtain (or cause to be obtained) a building permit for the Project by December 31, 2021.
- d) Owner/Developer shall complete (or cause to be completed) construction of the Project and obtain final certificates of occupancy (or equivalent evidence of completion issued by the City) by September 30, 2022.
- e) Owner/Developer shall incur (or cause to be incurred) and provide documentation evidencing a minimum investment of Three Million Dollars and 00/100 cents (\$3,000,000.00) in capitalized hard construction costs and construction-related soft costs (e.g., architect, engineer, landscape architect, interior designer, environmental consultant, etc.). The minimum investment requirement shall not be satisfied by site acquisition costs, leasing commissions, marketing costs, developer profit/fees, financing fees, reserves, operating deficits through stabilization, carrying costs, or legal fees. The minimum investment requirement shall be satisfied only by those eligible costs incurred after January 15, 2021 (the date of execution of the incentive offer). Developer shall provide a capitalized cost affidavit for a minimum of \$1,300,000.00. The investment requirement must be incurred on or before September 30, 2022.
- f) Prior to City’s execution of the Grant Agreement, Owner/Developer shall execute a lease with El Rio Grande Latin Market for a minimum 15-year term.

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SECTION 2, (continued)

- g) Prior to City's execution of the Grant Agreement, Owner/Developer shall execute a lease with a sit-down restaurant (i.e. not fast food) acceptable to the Director of the Office of Economic Development ("OED Director") in any portion of the 12,500 square foot outparcel building.
- h) Owner/Developer has submitted Project plans for design review by the City's Planning and Urban Design Department ("PUDD"). Prior to City's execution of the Grant Agreement, Owner/Developer shall submit a set of revised plans to PUDD for final review to ensure that the Project will be constructed in conformance with PUDD's design recommendations dated October 30, 2020. The revised plans shall be attached as exhibits to the Grant Agreement.
- i) Owner/Developer shall execute the Grant Agreement with the City no later than March 31, 2022.
- j) Owner/Developer shall make a good faith effort to comply with the City's Business Inclusion and Development ("BID") goal of 32% participation by certified Minority/Women-owned Business Enterprises ("M/WBE") for all hard construction expenditures on the Project and meet all reporting requirements.
- k) For all employment opportunities created by operation of the El Rio Grande Latin Market grocery store and prior to payment of the grant, Owner/Developer shall submit to the OED a written plan ("Local Hiring Plan") describing how Owner/Developer shall cause El Rio Grande Latin Market to use and document best efforts to recruit and hire City residents. At a minimum, the written plan shall describe how Owner/Developer shall cause El Rio Grande Latin Market to target recruitment best efforts in zip codes 75217, 75226, 75227, 75150, 75149, and 75228 through local advertisement, community outreach, local engagement, participation in job fairs, and coordination with local hiring sources. The Local Hiring Plan shall be subject to approval by the OED Director to ensure that employment opportunities are targeted to local Dallas residents and that best efforts are made to promote the hiring of neighborhood residents for the new jobs created. Compliance with the Local Hiring Plan shall be a material obligation of the Grant Agreement.
- l) Until the Project has passed final building inspection and all required paperwork documenting Project completion has been submitted to the OED, Owner/Developer shall submit to the OED quarterly status reports for ongoing work on the Project. Such status reports shall be due within 30 calendar days following the end of each calendar quarter.

SECTION 2. (continued)

- m) Owner/Developer shall, upon advanced request, allow City staff to review files and documents related to grant requirements contained herein and to monitor and confirm compliance with the terms and conditions of the Grant Agreement.
- n) Upon submission of a formal request by Owner/Developer, the OED Director may, at his/her sole discretion, extend any date or deadline specified herein for a period of up to nine months.
- o) If the OED Director determines the Project has been delayed due to force majeure, the OED Director may grant Owner/Developer additional time to complete the Project as may be required if the OED Director determines that Owner/Developer is diligently and faithfully pursuing completion of the Project. Extension of Project deadlines due to force majeure shall not require City Council approval. "Force majeure" shall mean any contingency or cause beyond the reasonable control of Owner/Developer including, without limitation, acts of nature or the public enemy, war, riot, civil commotion, insurrection, state, federal or municipal government, or de facto governmental action (unless caused by acts or omissions of Owner/Developer), fires, explosions, and floods.
- p) The economic development grant shall only be payable to Owner: (1) after construction of the Project is completed, (2) after the Owner/Developer has obtained final certificates of occupancy (or equivalent evidence of completion issued by the City) for both buildings, (3) the grocery store is open to the public, (4) a minimum of 50% of the 12,500 square foot outparcel building is leased and occupied, and (5) upon satisfaction of all terms and conditions in the executed Grant Agreement.
- q) The economic development grant shall be secured by a performance lien deed of trust in favor of the City and recorded in the real property records of Dallas County against Owner's interests in the subject property.
- r) The Six Hundred Fifty Thousand Dollar and 00/100 cents (\$650,000.00) in funding from the 2017 General Obligation Bond Program (Economic Development Proposition I) will be a grant. The Six Hundred Fifty Thousand Dollars and 00/100 cents (\$650,000.00) in funding from the City's Public/Private Partnership Program Fund will be a conditional grant, and the repayment obligation of the \$650,000.00 conditional grant will be forgivable at the end of the Compliance Period if the Owner/Developer meets all the conditions in subsections u) through x).
- s) The performance lien deed of trust shall be subordinate only to the senior construction/permanent lender.

SECTION 2. (continued)

- t) The Compliance Period for the Project shall commence on the date of grant payment and shall terminate upon the 5th anniversary of the grant payment.
- u) Failure by Owner/Developer to maintain and operate the anchor building as a grocery store for five years after the date of the grant payment ("Compliance Period") shall be a default of the Grant Agreement.
- v) Failure by Owner/Developer to maintain a minimum of 50% of the 12,500 square foot outparcel building as leased and occupied for the duration of the Compliance Period shall be a default of the Grant Agreement.
- w) Owner/Developer shall not permit tenants to use the buildings for pawn shops, bars, nightclubs, sexually oriented businesses, payday lenders, and indoor commercial amusement/recreation at any time during the Compliance Period.
- x) Prior to the end of the Compliance Period, Owner/Developer may not sell or otherwise directly or indirectly transfer the Property subject to the City's lien without prior written approval by the OED Director; OED Director approval is predicated on the new ownership entity's ability to demonstrate financial capacity and experience to operate and manage the Property.
- y) Uncured default(s) shall result in enforcement of the Grant Agreement, the deed of trust, and/or any other related grant documents (collectively referred to as the "Grant Documents"). A default under the Grant Documents includes, but is not limited to:
 - i. Maintain the property in compliance with all federal, state, and local laws and codes.
 - ii. Submit annual compliance reports to the OED by April 15th of each year during the Compliance Period.
 - iii. Obtain OED Director approval for the sale of the Property prior to the end of the Compliance Period.

If Owner/Developer fails to comply with the Grant Documents, the City may pursue any remedies available to it at law or in equity, including, but not limited to, requiring Owner to convey fee simple title of the Property to the City, free of any liens or encumbrances, in a form acceptable to the City (following notice and failure to cure).

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SECTION 3. That pursuant to Section 2, the City Manager is hereby authorized to execute a performance lien deed of trust and to execute release of the performance lien deed of trust, each approved as to form by the City Attorney. The City manager is hereby authorized to execute a release of lien only upon Owner/Developer's compliance with all terms and conditions of the Grant Agreement.

SECTION 4. That pursuant to Sections 1 and 2, the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed \$1,300,000.00 to SWC Buckner and Peavy, LLC or an affiliate, as follows:

ECO (I) Fund

Fund 1V52, Department ECO, Unit VI30

Object 3016, Activity ECNR, Program EC17VI30

Encumbrance/Contract No. CX-ECO-2021-00015809-1

Vendor VC22791; and

\$ 650,000.00

Public Private Partnership Fund

Fund 0352, Department ECO, Unit VI30

Object 3016, Activity PPPF, Program PPPFVI30

Encumbrance/Contract No. CX-ECO-2021-00015809-2

Vendor VC22791

\$ 650,000.00

Total amount not to exceed One Million Three Hundred
Thousand Dollars and 00/100 cents

\$1,300,000.00

SECTION 5. That this resolution does not constitute a binding agreement upon the City or subject the City to any liability or obligation with respect to the grant funds until such time as the documents are duly approved by all parties and executed.

SECTION 6. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.