

WHEREAS, on October 23, 2013, City Council authorized a Chapter 380 Economic Development Grant pursuant to the Texas Local Government Code in the amount of \$1,500,000.00 to KRR Construction, LTD. for the acquisition and redevelopment of improved property located at 3540 Simpson Stuart Road (Property) and unimproved property located at 3546 Simpson Stuart Road in Dallas, including associated closing costs, pre-development, relocation, environmental, and demolition costs by Resolution No. 13-1864; and

WHEREAS, on December 10, 2014, City Council authorized a contract amendment to increase the funding by \$1,300,000.00 for the Chapter 380 Economic Development Grant Agreement with KRR Construction, LTD. thereby increasing the contract from \$1,500,000.00 to a total amount not to exceed \$2,800,000.00 for the purchase and installation of business personal property and equipment required pursuant to the terms of a lease agreement with Moran Foods, LLC (Save A Lot) for the Property by Resolution No. 14-2140; and

WHEREAS, in March 2015, the City and KRR Construction, LTD. executed (1) a Chapter 380 Economic Development Grant Agreement (“the grant agreement”), requiring KRR Construction LTD. to acquire and redevelop the Property located at 3540 Simpson Stuart Road and to operate a grocery store on the Property for a ten-year period in consideration for the \$2,800,000.00 grant funds (“the grant”) and providing that after ten years of operations as a grocery store, KRR Construction, LTD. shall be released from liability to repay the grant, (2) a Deed of Trust securing performance under the grant agreement (“the deed of trust”), and (3) deed restrictions (“the deed restrictions”) restricting Property use and preventing Property sale or transfer of ownership without consent and approval of the City, as authorized by Resolution Nos. 13-1864 and 14-2140, and

WHEREAS, KRR Construction LTD. acquired and redeveloped the Property, and opened a Save-A-Lot grocery store on or about October 28, 2016, and later converted the grocery store to a Save U More grocery store; and

WHEREAS, in January of 2021 the Save U More grocery store ceased operations and is currently for sale, and, therefore, KRR Construction LTD. ceased operating a grocery store on the Property five years and nine months before the applicable ten-year period ended; and

WHEREAS, A & S Supermarkets, LLC (“Buyer”) now intends to purchase the Property at 3540 Simpson Stuart Road and to start operations as a grocery store; and

WHEREAS, as a condition of funding by American Continental Bank (“senior lender”) for the purchase of the Property, the City’s lien must be subordinated to the senior lender; and

WHEREAS, the City desires to facilitate the transaction between A & S Supermarkets, LLC and KRR Construction, LTD. at the Property to provide grocery store access to the community.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to (a) assign the grant agreement from KRR Construction, LTD. to A & S Supermarkets, LLC or an affiliate or subsidiary thereof (“Buyer”) and to execute an assignment, amendment, and restatement of the grant agreement, as applicable, and any ancillary documents, approved as to form by the City Attorney, and (b) assign the deed of trust from KRR Construction, LTD. to Buyer and execute an assignment and amendment of the deed of trust, as applicable, and any ancillary documents, approved as to form by the City Attorney.

SECTION 2. That the terms of the grant agreement, as amended and restated (the “Agreement”), shall include:

- (a) Buyer shall operate a grocery store on the Property for five years and nine months beginning on the date that the certificate of occupancy for the grocery store is completed (“grocery store operation period”);
- (b) The grocery store operation period shall be tolled for any time period when Buyer fails to keep the Property open and operating as a grocery store;
- (c) Buyer shall obtain a certificate of occupancy for the grocery store and begin operating the Property as a grocery store no later than January 1, 2023;
- (d) Buyer shall restrict the use of the Property to a grocery store for the grocery store operation period;
- (e) After a grocery store has operated on the Property for the duration of the grocery store operation period, the City shall release Buyer from any indebtedness on the grant;
- (f) Buyer shall execute an assignment of the deed of trust, approved as to form by the City Attorney, on the Property; and
- (g) Buyer shall execute an amendment to the deed restrictions, approved as to form by the City Attorney.

SECTION 3. That the deed restrictions, as amended, shall include the following requirements:

- (a) The term of the compliance period for the deed restrictions shall be five years and nine months beginning on the date that the certificate of occupancy for the grocery store is completed, and this compliance period shall be tolled for any time period when the grocery store is not open and operating;

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SECTION 3. (continued)

- (b) The deed restrictions shall restrict the use of the Property to a grocery store during the compliance period; and
- (c) The deed restrictions shall prevent Property sale or transfer of ownership without the consent and approval of the City during the compliance period.

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SECTION 4. That the City Manager is hereby authorized to subordinate the grant to a position that shall be no less than second, except upon approval of the Director of the Department of Economic Development, to the senior lender, provided the following conditions are met:

- (a) An appraisal showing that the as-is value of the Property exceeds \$1.9 million;
- (b) A satisfactory environmental report;
- (c) Tax forms, financial statements, credit histories, business plan, profit and loss projections, and other financial information from the company provided to the bank; and
- (d) Buyer's agreement that the new grocery store will open on or before January 1, 2023.

SECTION 5. That this Agreement is designated as Contract No. ECO-2022-00020361.

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.