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**WHEREAS**, the City of Dallas (City) recognizes the importance of its role in local economic development and the provision of affordable housing; and

**WHEREAS**, investment decisions made by business owners, developers, and property owners are often significantly influenced by a municipality's ability to provide economic development incentives; and

**WHEREAS**, on June 26, 1996, the City Council held a public hearing and authorized the establishment of Tax Increment Financing Reinvestment Zone Number Five (City Center TIF District or TIF District) in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended (the Act) to promote development and redevelopment in the City Center area through the use of tax increment financing by Ordinance No. 22802, as amended; and

**WHEREAS**, on February 12, 1997, the City Council authorized the Project Plan and Reinvestment Zone Financing Plan (City Center TIF District Plan) by Ordinance No. 23034; as amended; and

**WHEREAS**, on November 6, 2012, Dallas voters approved a \$642 million general obligation bond program, of which \$55 million was included in Proposition No. 3 for the purpose of providing funds for the following public purpose, to-wit: promoting economic development in the Southern area of the city and promoting economic development in other areas of the city in connection with transit-oriented development, through planning, designing, constructing, improving, extending and expanding public street, utility, and other infrastructure facilities, including the acquisition of land thereof, and through funding the city's programs for economic development including the acquisition of improved and unimproved properties, the demolition of existing structures, making loans and grants of bond proceeds and otherwise providing assistance for private commercial, industrial, retail, residential and mixed-use development; and

**WHEREAS**, on May 26, 2021, the City Council adopted an Economic Development Policy 2022-2032 (Policy) by Resolution No. 21-0927, as amended; and

**WHEREAS**, on December 14, 2022, the City Council authorized amendments to the City Center TIF District Plan which, among other changes, shifted and modified the set-asides established within the City Center TIF District budget by Ordinance No. 32360; and

**WHEREAS**, on January 25, 2023, in furtherance of the new Policy goals, the City Council also authorized a new Economic Development Incentive Policy (Incentive Policy) effective for the period January 1, 2023 through December 31, 2024, by Resolution No. 23-0220, as amended; and

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**WHEREAS**, the Incentive Policy establishes certain guidelines and criteria for the use of City incentive programs for private development projects and establishes programs for making loans and grants of public money to promote local economic development and stimulate business and commercial activity in the City pursuant to Chapter 380, Texas Local Government Code; and

**WHEREAS**, on February 12, 2024, West End Lofts LP (Developer), a Texas limited partnership submitted an initial incentive application to the City of Dallas Office of Economic Development (OED) to facilitate the West End Lofts Project, a proposed mixed-use, mixed-income, and transit-oriented development project (“Project”) to be located within and adjacent to the City Center TIF District on properties currently addressed as 805 Elm Street, 711 Elm Street, and 211 North Austin Street (“Property”); and

**WHEREAS**, on February 14, 2024, the City Council authorized a Resolution of Support for Developer, related to its application to the Texas Department of Housing & Community Affairs (TDHCA) for competitive 9% low income housing tax credits (LIHTC) in the 2024 application cycle for the Project, by Resolution No. 24-0255; and

**WHEREAS**, on May 4, 2024, Dallas voters approved a \$1.25 billion general obligation bond program, of which \$72.3 million was included in Proposition G for the purpose of providing funds for the City’s programs for economic development pursuant to the City of Dallas Economic Development Incentive Policy, including making grants of bond proceeds and otherwise providing assistance and incentives for commercial, industrial, retail, residential, mixed-use development and other economic development and redevelopment, land acquisition, demolition, and infrastructure development; and

**WHEREAS**, the proposed Project is located in a High Opportunity Area; and

**WHEREAS**, on July 25, 2024, the TDHCA formally awarded competitive 9% LIHTC to the Project with the Project being the 3<sup>rd</sup> highest scoring/top-ranked application out of 15 total applications in Region 3/Urban; and

**WHEREAS**, in accordance with the LIHTC requirements for the Project, a Land Use Restriction Agreement (“LURA”) will be placed on the Property, committing Developer to serve residents earning between 30% and 80% of the Area Median Income (“AMI”) for a period of 45 years as follows: of the 63 income-restricted units, 23 units shall be set aside for households earning a maximum of 30% AMI; 23 units shall be set aside for households earning a maximum of 60% AMI; 4 units shall be set aside for households earning a maximum of 70% AMI; and 13 units shall be set aside for households earning a maximum of 80% AMI; and

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**WHEREAS**, the City Center TIF District Project Plan and the Section 311.010(b) of the Act allow expenditure of TIF District funds outside the TIF District boundary for affordable housing; and

**WHEREAS**, although 805 Elm Street is not within the City Center TIF District, the Project is an affordable housing development and, as such, is eligible for City Center TIF District funding because affordable housing benefits the City Center TIF District; and

**WHEREAS**, dedicating City Center TIF District funding to the Project is necessary and convenient to implement the City Center TIF District Project Plan

**WHEREAS**, on November 19, 2024, the City Center TIF District Board of Directors reviewed the Project and recommended City Council authorization of a TIF Subsidy in an amount not to exceed \$28,275,676.00 and associated incentive agreement to support the Project, subject to Developer making best efforts to provide a minimum of two square feet per residential unit for pet relief facilities; and

**WHEREAS**, on December 2, 2024, the Economic Development Committee of City Council was briefed regarding the proposed Project; and

**WHEREAS**, the City finds that the Project will significantly advance the public purpose of economic development within the city; and

**WHEREAS**, to further implement the City Center TIF District Plan and provide gap funding to make the Project financially feasible, the City desires to execute an economic development incentive agreement and all other necessary documents with West End Lofts LP and/or its affiliates ("Developer") to include (1) a tax increment financing ("TIF") subsidy in an amount not to exceed \$28,275,676.00 ("TIF Subsidy") payable from current and future City Center TIF District funds and (2) a Chapter 380 economic development grant in an amount not to exceed \$20,724,324.00 ("Grant") payable in not to exceed amounts as follows: (a) \$7,357,605.00 from the City's Public/Private Partnership Fund, (b) \$7,724,324.00 from the Economic Development (G) Fund (2024 General Obligation Bond Fund) (subject to current and annual appropriations), and (c) \$5,642,395.00 from the City's 2012 General Obligation Bond Fund (Proposition 3: Economic Development/Housing), in consideration of the West End Lofts Project, a mixed-use, mixed-income, and transit-oriented development project proposed on real property currently addressed as 805 Elm Street, 711 Elm Street, and 211 N. Austin Street, within and adjacent to Tax Increment Reinvestment Zone Number Five (City Center TIF District), in accordance with the Economic Development Incentive Policy; and

**WHEREAS**, the expenditure of City Center TIF District funds supporting an incentive agreement for this Project is consistent with promoting development and redevelopment of the TIF District in accordance with the purposes for its creation, the ordinance adopted by the City Council approving the City Center TIF District Plan, as amended, and is for the purpose of creating new affordable housing units within the TIF District; and

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**WHEREAS**, consistent with the authority granted under the Economic Development Incentive Policy, staff recommends that the City Council authorize the proposed economic development incentive agreement with Developer for the Project; and

**WHEREAS**, in furtherance of its governmental function as a political subdivision of the State of Texas, and consistent with the authority granted under the Act, Chapter 380, Texas Local Government Code, the City of Dallas 2012 General Obligation Bond Program (Proposition 3), the 2024 General Obligation Bond Program (Proposition G), Ordinance No. 28740, and Ordinance No. 32658, it is in the City's best interest to enter into an economic development incentive agreement as part of the City's ongoing efforts to promote local economic development and to stimulate business and commercial activity within the TIF District, and provide new affordable housing units within the city; and

**WHEREAS**, the City Council finds that the City is: (i) acting in its governmental capacity and its performance hereunder is pursuant to authority granted by the State of Texas, its sovereign or for the benefit of the sovereign; (ii) authorizing this agreement to primarily benefit the public at large; or (iii) performing functions closely related to or essential to the performance of governmental activities.

**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 an economic development incentive agreement with West End Lofts LP and/or its affiliates ("Developer") to include (A) a tax increment financing ("TIF") subsidy in an amount not to exceed \$28,275,676.00 ("TIF Subsidy"), attached as **Exhibit A**, payable from current and future City Center TIF District funds; and (B) a Chapter 380 economic development grant in a total overall amount not to exceed \$20,724,324.00 ("Grant") payable in not to exceed amounts as follows: (i) \$7,357,605.00 from the City's Public/Private Partnership Fund, (ii) \$7,724,324.00 from the Economic Development (G) Fund (2024 General Obligation Bond Fund) (subject to current and annual appropriations), and (iii) \$5,642,395.00 from the City's 2012 General Obligation Bond Fund (Proposition 3: Economic Development/Housing), and all other usual and customary documents necessary, appropriate and convenient to consummate this transaction, including but not limited to deed restrictions as further described herein, each approved as to form by the City Attorney (incentive agreement), in consideration of the West End Lofts Project, a mixed-use, mixed-income, and transit-oriented development project proposed on real property currently addressed as 805 Elm Street, 711 Elm Street, and 211 N. Austin Street, within and adjacent to Tax Increment Reinvestment Zone Number Five (City Center TIF District), in accordance with the Economic Development Incentive Policy.

**SECTION 2.** That the City Council finds that the facts and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct.

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**SECTION 3.** That expenditures made pursuant to this resolution shall be made from lawfully available funds, including the General Obligation Commercial Paper Notes Series A and B (the “Commercial Paper Notes”), as amended, and any expenditures made pursuant to this Resolution from lawfully available funds shall be reimbursed from the proceeds of the Commercial Paper Notes or from the proceeds of general obligation bonds issued by the City up to the amount of expenditures authorized by this resolution.

**SECTION 4.** That, pursuant to this resolution and the incentive agreement, the Chief Financial Officer is hereby authorized to disburse the TIF Subsidy and the Grant, collectively the “City Subsidy”, in an amount not to exceed \$49,000,000.00 to West End Lofts LP and/or its affiliates (Vendor No.VC0000033714) from the funding sources as listed and described below:

City Center TIF District Fund Fund 0035, Department ECO, Unit X159, Activity TCCN Object 3016, Program WELOFTSMIP Encumbrance/Contract No.CX ECO-2025-00026569	\$28,275,676.00
Public/Private Partnership Fund Fund 0352, Department ECO, Unit X158, Activity PPPF Object 3016, Program WELOFTSMIP Encumbrance/Contract No.CX ECO-2025-00026569	\$ 7,357,605.00
Economic Development (G) Fund Fund 1Y52, Department ECO, Unit YG06, Activity ECNR Object 3016, Program EC24YG06 Encumbrance/Contract No. ECO-2025-00026569	\$ 7,724,324.00
Economic Development and Housing Development Program Fund Fund 4U52 , Department ECO, Unit X157, Activity ECNR Object 3016, Program WELOFTSMIP Encumbrance/Contract No. CX ECO-2025-00026569	<u>\$ 5,642,395.00</u>
Total amount not to exceed	\$49,000,000.00

**SECTION 5.** That nothing in this resolution shall be construed to require the City to approve payment of the TIF Subsidy from any source of City funds other than City Center TIF District Fund and/or Tax Increment Bonds. Any funds expended under the incentive agreement that remain unpaid upon termination of the City Center TIF District, due to lack or unavailability of City Center TIF District Funds, shall no longer be considered project costs of the City Center TIF District or the City, and the obligation of the City Center TIF District to pay any remaining amount of the TIF Subsidy to Developer shall automatically expire.

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**SECTION 6.** That in addition to the conditions set out in the sections above, the incentive agreement is hereby expressly made subject to all of the following contingencies, which must be performed or occur:

- A. Required Minimum Investment. Developer shall invest (or cause to be invested) and provide documentation to the OED Director evidencing a minimum of \$67,000,000 in investment expenditures for the delivery of the Project (“Required Minimum Investment”), attached as **Exhibit B**, by December 31, 2028. Construction management costs may be included in the Required Minimum Investment calculation if the construction management services are directly related to ensuring the quality of the construction of the Project and are performed by an independent and unaffiliated third-party. Construction management costs must be evidenced by invoices with detailed descriptions of services performed. Developer fees, legal fees, marketing fees, financing fees, leasing commissions, carrying costs, reserves, operating deficits through stabilization and other similar costs shall not be considered an eligible Investment Expenditure. With the exception of site acquisition, professional fees, environmental assessments and other eligible due diligence costs required by TDHCA, no expenditures made prior to the execution of the Letter of Intent on November 13, 2024 may be included in the Required Minimum Investment calculation.
- B. Required Project Components. The Project shall include:
- i. rehabilitation of the entire 5-story historic 805 Elm Street building on the Property into 56 multi-family units;
  - ii. new ground-up construction of 98 multi-family units located at 805 Elm Street;
  - iii. a minimum of 154 multi-family units between the rehabilitation of the historic building on the Property and new ground-up construction, of which a minimum of 40% (63) shall be set aside as affordable and leased in accordance with Section 6.C of this resolution;
  - iv. rehabilitation of the 711 Elm Street parking garage to provide residential parking for the Project;
  - v. a minimum of 16,000 net rentable square feet of ground floor commercial space throughout the buildings listed above and as further described in Section 6.E of this resolution;
  - vi. construction of a 14,000 square foot publicly accessible plaza and promenade (open space) on 211 N. Austin abutting the DART West End Station and spanning to Elm Street between the residential building and the 711 Elm Street parking garage, as further depicted in **Exhibit E** attached hereto; and
    - i. site improvements (public and private) necessary to complete the Project (e.g. utilities; demolition; lighting; landscaping; signage; streetscape).

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**SECTION 6.** (continued)

- C. Affordability. The Project shall contain a total of at least 154 rental multi-family residential units, of which at least 40% (63) of the units shall be set aside and leased solely to those households earning at/below 30%, 60%, 70%, and 80% of AMI for a minimum of 15 years beginning after the Project has reached Substantial Completion as defined in Section 6.G of this resolution and been placed in service (the TIF Affordability Period) (although anticipated to be set aside for 45 years for LIHTC-compliance), in accordance with the attached rent schedule, attached as **Exhibit C**. Recertification at lease renewals of the affordable units shall be consistent with TDHCA regulations. The City Center TIF District Mixed-Income Housing Guidelines (“Guidelines”), attached as **Exhibit D**, which may be amended by the City Center TIF District Board of Directors, shall be followed except where the requirements of this resolution are more restrictive than the Guidelines or in instances that conflict with TDHCA requirements.

The affordable units shall be of identical finish-out and materials as market rate units and shall not be segregated or concentrated in any one floor or area of the Project but shall be dispersed throughout all of the residential portions of the Project. For the term of the TIF Affordability Period, the affordability requirements as described herein shall be impressed upon the Property by deed restriction prior to 50% completion of the Project construction as evidenced by detailed pay applications from a third-party construction manager approved by the OED Director as to the status of completion of the Project, in his/her reasonable discretion.

After the Project’s Substantial Completion as defined in Section 6.G herein and throughout the TIF Affordability Period, Developer shall monitor and submit reports twice a year to the OED Director on the status of its compliance with the requirements of the Project’s Affordability. Developer shall submit written certification and documentation of compliance or, in lieu, may submit TDHCA compliance documents.

Developer further agrees to complete the Affirmative Fair Housing Marketing Plan (AFHMP) and submit the AFHMP to the City’s Office of Equity and Inclusion for approval. Developer shall submit a copy of the approved AFHMP to the OED Director within thirty (30) days of approval and market the residential units pursuant to the AFHMP.

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## SECTION 6. (continued)

- D. Vouchers. In accordance with City of Dallas Ordinance 30246, approved by Resolution No. 16-1760, as amended by City of Dallas Ordinance 32195, approved by Resolution No. 22-0743, Developer shall make best efforts to lease up to ten percent (10%) of the Project's residential units to voucher holders during the TIF Affordability Period. Developer shall register with a minimum of one (1) local provider of housing vouchers at least twelve (12) months prior to the Project's Substantial Completion. As applicable, Ordinance 32195 shall be enforced. Should Ordinance 32195 and Chapter 20A of the Dallas City Code be further amended prior to Project Completion, Developer shall abide by such amended terms. Pursuant to Section 20A-4.1(a) of the Dallas City Code, Developer shall not discriminate against holders of any housing vouchers, and Developer shall comply with Section 20A-28 of the Dallas City Code regarding tenant selection. This requirement shall also be impressed upon the Property by deed restriction, which shall be impressed upon the Property prior to 50% completion of the Project construction as evidenced by detailed pay application from a third-party construction manager approved by the OED Director as to the status of completion of the Project, in his/her reasonable discretion.
- E. Ground Floor Space. Developer shall construct or cause to be constructed and make "white-box" ready, which shall include completion of all construction to make ready for tenant improvements, a minimum of 16,000 square feet of net rentable square footage for retail/commercial use. Developer may opt to utilize 20% (or up to 3,200 net rentable square feet) of the ground floor space for supplemental tenant amenities. In addition, Developer may opt to utilize 50% (or up to 8,000 net rentable square feet) of the ground floor space for live-work units or, with OED Director written approval, may propose alternative active ground floor use. In no case shall less than 4,800 net rentable square feet be utilized for retail/commercial use.
- F. Building Permit Deadline. Developer shall obtain a building permit, which may include a foundation permit, by December 31, 2026. A foundation permit may constitute meeting the obligation of this requirement. A grading permit shall not meet this requirement.
- G. Substantial Completion Deadline. Developer shall cause the construction of the Required Project Components to be completed and all portions of the buildings shall be occupiable by December 31, 2028 or the placed in service deadline established by TDHCA for the Project, as evidenced by certificate(s) of occupancy, letter(s) of acceptance, certificate(s) of completion, and/or similar documentation issued by the City ("Substantial Completion"). Developer shall provide OED Director documentation of any changes to TDHCA's placed in service deadline within five (5) days of Developer notification. All portions of the ground floor space (minimum "white-box ready" and as described in Section 6.E of this resolution), parking garage, and open space shall be complete at time of Substantial Completion.

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## SECTION 6. (continued)

- H. Property Management. The proposed property management group for the Project, which may be an affiliate of Developer, must be submitted at least three (3) months prior to Substantial Completion for review by the OED Director to consider acceptance based on the management entity's comparable experience managing other multi-family properties, such approval not being unreasonably withheld. Any replacement or successor property management group must be approved by OED Director.
- I. Operating and Maintenance Agreement. If applicable and prior to the Substantial Completion, Developer shall execute an Operating and Maintenance Agreement (defined below) for any Non-Standard Public Improvements (defined below) associated with the Project that will be owned by the City but maintained by the Developer (the "Operating and Maintenance Agreement"). If necessary, Developer shall obtain a license from City for the purpose of maintaining any improvements in the public right-of-way. "Non-Standard Public Improvements" shall be defined as those public infrastructure improvements which exceed the City's standard design requirements, as determined by the City, and shall include specially designed street/pedestrian lighting, brick pavers, bollards, sidewalks, public art, fountains, landscaping and irrigation. With the exception of specially designed street/pedestrian lighting, public art work and fountains, City shall retain ownership of such public improvements and may at its sole option, if Developer fails to maintain such public improvements after notice from City, perform such maintenance and invoice Developer for the costs, which costs Developer shall pay within thirty (30) days of notice. Developer shall submit documentation evidencing that an executed Notice of Operating and Maintenance Agreement specifying the existence of an executed Operating and Maintenance Agreement for the Non-Standard Public Improvements was recorded with the Dallas County Clerk's Office. The term for the Operating and Maintenance Agreement shall be twenty (20) years. The terms and conditions of the Operating and Maintenance Agreement are binding upon the successors and assigns of all parties hereto and may be assignable, subject to OED Director approval, in whole or in part, to a new owner of all or a portion of the Project. Developer shall remain responsible for the maintenance of the Non-Standard Public Improvements for a term of twenty (20) years even if Developer chooses to forgo the City Subsidy or is not paid the City Subsidy as a result of default.
- J. Public Access to Infrastructure not owned by City. Prior to City's payment of any portion of the City Subsidy and at no cost to City, Developer shall provide reasonable public access easements, deed restrictions, or other instruments reasonably acceptable to the OED Director if any street, utility, or open space improvements associated with the Project remain in non-City ownership but require public access.

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## SECTION 6. (continued)

- K. M/WBE Inclusion in Construction of Project. Developer shall make a good faith effort to comply with the City's Business Inclusion and Development ("BID") goal of forty percent (40%) participation by certified Minority/Women-owned Business Enterprises ("M/WBE") for all hard construction expenditures (public and private improvements) for the Project and meet all process and reporting requirements of the City's BID program.
- L. Quarterly Reporting. Until all Required Project Components have passed final building inspection and Developer has submitted all required paperwork documenting Substantial Completion to the OED Director, Developer shall submit to OED quarterly status reports for ongoing work on the Project in the form to be attached to the incentive agreement. Such status reports shall be due within 30 calendar days following the end of each calendar quarter.
- M. Design. The Urban Design Peer Review Panel ("UDPRP") is an independent group of professional designers selected by the City Manager with expertise in architecture, landscape architecture, engineering, and urban planning. Review by the UDPRP is required for all projects requesting TIF subsidies. Following a formal review of the Project's preliminary conceptual drawings and renderings (**Exhibit E**) on June 28, 2024, the UDPRP provided advice (see **Exhibit F**). On August 6, 2024, Developer submitted a response to the City's Planning and Development Department ("PDD") which are included in **Exhibit F**. On August 6, 2024, the PDD staff indicated that the responses submitted by Developer on August 6, 2024 satisfied the UDPRP's advice but that updated plans are required to be provided to PDD staff for final review, once available. Such updated plans satisfying PDD are a material requirement for City Subsidy.

Prior to submitting construction plans as part of a building permit application to the City's PDD, Developer shall submit a set of construction drawings to the Preservation and Urban Design staff of PDD and OED Director for a final staff review to ensure that the Project (public and private improvements) will be constructed in substantial conformance with the final approved conceptual drawings and renderings attached to the incentive agreement. Developer shall make best efforts to identify and include a minimum of two square feet per residential unit for pet relief facilities. PDD and OED staff shall complete the final staff review within ten (10) business days of submission.

**SECTION 6.** (continued)

Allowable minor modifications to the Project's design may include those required to comply with development regulations administered by the City's PDD or other City departments, federal, state and local laws, codes and regulations, including those changes described in Section 6.Q of this resolution. Prior to making any Project design changes that would be considered minor in nature, Developer shall notify the OED Director and submit proposed changes to the OED Director for review and approval. OED staff shall complete the final review to ensure compliance with concept plan of any such minor design changes within ten (10) business days of submission by the Developer.

- N. Local Hiring. For all permanent employment opportunities created by operation of the Project, Developer shall submit to the City a written plan ("Local Hiring Plan") describing (a) how Developer or its property management group shall use and document commercially reasonable efforts to recruit and hire residents of the city of Dallas and (b) how Developer or its property management group shall cause all non-residential tenants of all buildings in the Project to use and document commercially reasonable efforts to recruit and hire residents of the city of Dallas. At a minimum, the Local Hiring Plan shall describe how Developer, its property management group, and/or tenants will target local recruitment through local advertisement, community outreach, local engagement, participation in local job fairs, and/or 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 Dallas residents and that commercially reasonable efforts are made to promote the hiring of neighborhood residents for any new permanent jobs created. No portion of the City Subsidy shall be disbursed to Developer until the OED Director approves the Local Hiring Plan. Within thirty (30) calendar days of OED Director's receipt of the Local Hiring Plan, the OED Director shall either approve the Local Hiring Plan or give written notification to the Developer of the OED Director's disapproval, specifying the reasons for such disapproval. Compliance with the approved Local Hiring Plan shall be a material requirement for the incentive agreement.
- O. Minimum Ground Floor Occupancy Requirement. Prior to payment of any portion of the City Subsidy, Developer shall provide evidence that a minimum of 40% of the net rentable ground floor space is leased and occupied pursuant to Section 6.E.

**SECTION 6.** (continued)

- P. Ongoing Ground Floor Occupancy Requirement. After initial payment of the City Subsidy, Developer, for a period of five (5) years thereafter (“Ground Floor Occupancy Compliance Period”), shall immediately notify City in writing if ground floor occupancy falls below the minimum requirement described in Section 6.O above (“Ground Floor Occupancy Default”). Such notice shall specify the nature of the Occupancy Default, the period of existence thereof, and the action Developer is taking or proposes to take with respect to curing the Ground Floor Occupancy Default. Failure of Developer to cure the Ground Floor Occupancy Default within 180 calendar days following written notice by Developer or City shall constitute an uncured ground floor occupancy default (“Uncured Ground Floor Occupancy Default”). If Developer is making a good faith effort to cure by taking commercially reasonable and continuous steps to cure any Ground Floor Occupancy Default, the 180-calendar day period may be extended by the OED Director.
- Q. Minor Modifications. The OED Director may authorize minor modifications to the Project, including, but not limited to, adjustment in unit type (including decreases to the size of any unit by not more than 10% as shown in **Exhibit C**), unit mix, set-aside duration, and/or qualifying Area Median Income, if consistent with TDHCA’s Project requirements and in compliance with City Center TIF District Policies and Plans, and may, after approval and recommendation of the TIF District Board, authorize an extension of the Project’s material dates and deadlines up to 12 months.
- R. Capital Commitment. Prior to or contemporaneously with City’s execution of the incentive agreement, Developer shall provide evidence of binding commitments of all capital sources necessary to complete the Project, including Tax Credit Investor(s) firm commitment letter and/or loan agreements.
- S. Deadline for Execution of the Incentive Agreement. Developer shall execute the incentive agreement with City by December 31, 2025.
- T. Partnership with Dallas College. Prior to initial payment of the City Subsidy and for the duration of the Ground Floor Occupancy Compliance Period, Developer shall make commercially reasonable efforts to establish a partnership at the Property with Dallas College by responding to any/all solicitations from Dallas College regarding expansion or improvements to the El Centro campus, which may include its stated intent to utilize 2019 Dallas College General Obligation Bond Funds to build a Dallas Education and Innovation Hub downtown to serve the entire county, including a Business Training Center and a redesigned El Centro College campus. Developer shall provide evidence of such commercially reasonable efforts to the OED Director each year by April 15. The City shall not deem it an event of default of the incentive agreement if Dallas College does not choose to establish a partnership at the Property.

**SECTION 6.** (continued)

- U. Force Majeure. Notwithstanding Section 6.Q of this resolution or any other provision of this Resolution to the contrary, in the event the OED Director determines the Project has been delayed as a result of Force Majeure, after being provided written notice by Developer, Developer shall have additional time to complete the Project, as may be required in the event of Force Majeure, defined herein, so long as, within ten (10) business days, Developer provides OED Director notice of such event and is diligently and faithfully pursuing completion of the Project, as determined by the OED Director. Extension of Project deadlines as a result of Force Majeure shall not require City Council approval. "Force Majeure" shall mean any contingency or cause actually impacting the Project and beyond the reasonable control of and in no way caused, directly or indirectly, by the acts or omissions of Developer, as reasonably determined by the OED Director 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 Developer), fires, explosions, floods, pandemics, epidemics, or viral outbreaks, shortages in labor or materials, delays in or damages caused by delivery of materials, and strikes. In the event of Force Majeure, Developer shall be excused from doing or performing the same during such period of delay, so that the completion dates applicable to such performance, or to the construction requirement shall be extended for a period equal to the period of time Developer was delayed, subject to OED Director's approval.

**SECTION 7.** That all payments of the TIF Subsidy portion of the City Subsidy are subject to the availability of tax increment. If the appraised value of the property in the City Center TIF District remains constant or decreases in value from the base year value, the TIF Subsidy payment for that year may be reduced or unpaid due to the lack of available increment. The TIF Subsidy shall be paid solely from the Tax Increment Fund, if and when tax increments are received and available for such purpose, during the life of the City Center TIF District (including collection of the 2037 tax year increments in calendar year 2038), subject to the limitations on repayment of the TIF Subsidy provided in the incentive agreement.

**SECTION 8.** That, assuming all other conditions for payment have been met, the City will administer the payment of the TIF Subsidy portion of the City Subsidy annually pursuant to the City Center TIF District Increment Allocation Policy attached as **Exhibit G**.

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**SECTION 9.** That until completion of the Project, an assignment of the incentive agreement shall only be allowed to a direct affiliate of Developer with the prior written approval of the OED Director, not to be unreasonably withheld.

After completion of the Project, Developer may assign its rights or obligations under the incentive agreement to any entity with the prior written approval of the OED Director. Any receivables due under the incentive agreement may be assigned by Developer upon providing the OED Director with written notice within thirty (30) calendar days of such assignment. Developer and any permitted assignee have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, interest under the incentive agreement for the benefit of their respective lenders without the consent of, but with written notice to, the OED Director. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate the lender to perform any obligations or incur any liability under the incentive agreement unless the lender agrees in writing to perform such obligations or incur such liability.

**SECTION 10.** 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.