

May 25, 2022

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

WHEREAS, on May 27, 1998, City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Six (“Farmers Market TIF District”), in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to promote development and redevelopment in the Farmers Market area through the use of tax increment financing, by Ordinance No. 23521; and

WHEREAS, on August 25, 1999, City Council authorized the Farmers Market TIF District Project Plan and Reinvestment Zone Financing Plan (“Farmers Market TIF District Project Plan”), by Ordinance No. 24001; and

WHEREAS, on February 27, 2013, City Council authorized a Master Agreement with DFM Developer, Ltd. for the redevelopment of the Dallas Farmers Market, by Resolution No. 13-0447; and

WHEREAS, on March 27, 2013, City Council authorized amendments to the Farmers Market TIF District Project Plan (the “Amended Farmers Market TIF District Project Plan”), including the expansion of the geographic boundaries to include the Dallas Farmers Market property, by Ordinance No. 28951; and

WHEREAS, the Amended Farmers Market TIF District Project Plan cites a goal to “improve the pedestrian environment through plaza and sidewalk improvements, landscaping, lighting, design standards, and burial of overhead utilities, including improved pedestrian connections throughout the Farmers Market TIF District” and, specifically, calls for “improvements to Pearl Street and Taylor Street for outdoor public festivals/activities;” and

WHEREAS, on June 10, 2015, City Council authorized an amendment to the Master Agreement with DFM Developer, Ltd. for the redevelopment of the Dallas Farmers Market, by Resolution No. 15-1099; and

WHEREAS, on December 13, 2017, City Council adopted the Downtown Dallas 360 Plan, which included strategies for building complete neighborhoods and promoting great placemaking, including 1) creating pocket parks or plazas by activating existing small lots and other “leftover” spaces to provide relief from buildings for a range of activities, 2) improving parks and open space opportunities in emerging neighborhoods, including Farmers Market, and 3) activating the public realm, by Resolution No. 17-1940; and

WHEREAS, City Council finds that spending Reinvestment Zone Number Six funds to improve the Pearl Expressway public right-of-way between Taylor Street and Marilla Street as depicted in **Exhibit A** (the “Premises”) is necessary and convenient to implement the Amended Farmers Market TIF District Project Plan; and

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WHEREAS, FM City Park, LLC is an affiliate of the entities that own property adjacent to the Premises, and the City Council seeks a partnership with FM City Park, LLC and/or its affiliates to benefit the Amended Farmers Market TIF District Project Plan; and

WHEREAS, on December 13, 2021, the Farmers Market TIF District Board of Directors reviewed and unanimously recommended approval of a development agreement with FM City Park, LLC and/or its affiliates in an amount not to exceed \$285,650.00 to design and construct the Pearl Expressway improvements ("Pearl Improvement Project" or "the Project") and included findings that the use of district-wide set-aside funds for the Project to enhance the pedestrian environment is a benefit to the Farmers Market TIF District and is necessary and convenient to implement the Amended Farmers Market TIF District Project Plan; and

WHEREAS, The Economic Development Committee was briefed on February 7, 2022; and

WHEREAS, the expenditure of Farmers Market TIF funds to support the Project is consistent with promoting development and redevelopment of the Farmers Market TIF District in accordance with the purposes for its creation and the ordinances adopted by the City Council approving the Farmers Market TIF District Project Plan and the Amended Farmers Market TIF District Project Plan and is for the purpose of making public improvements consistent with and described in the Amended Farmers Market TIF District Project Plan for the Farmers Market TIF District; and

WHEREAS, an accompanying ordinance authorized by City Council on April 13, 2022 shall declare the Premises vacated and closed insofar as the right, title and easement of the public to use said tract for vehicular purposes are concerned; and

WHEREAS, to further implement the Amended Farmers Market TIF District Project Plan and the Dallas Downtown 360 Plan, the City desires to enter into a development agreement with Adjacent Owner and/or its affiliates in an amount not to exceed \$285,650.00, payable from current and future Farmers Market TIF District (District-Wide Improvement) Funds to improve the Premises.

Now, Therefore,

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

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SECTION 1. That the City Manager is hereby authorized to execute a development agreement and all other necessary documents with FM City Park, LLC (“Adjacent Owner”) and/or its affiliates in an amount not to exceed \$285,650.00 for the design and construction of the Pearl Improvement Project, located in the Pearl Expressway public right-of-way between Taylor Street and Marilla Street, in Tax Increment Financing Reinvestment Zone Number Six (“Farmers Market TIF District”), approved as to form by the City Attorney, payable from Farmers Market Tax Increment Financing (“TIF”) District funds, such improvements being necessary and convenient to the implementation of the Amended Farmers Market TIF District Project Plan.

SECTION 2. That the facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

SECTION 3. That the Chief Financial Officer is hereby authorized to encumber and disburse funds in an amount not to exceed \$285,650.00 to Adjacent Owner and/or its affiliates from the Farmers Market TIF District Fund (subject to current and future appropriations from tax increments) from Farmers Market TIF District Fund, Fund 0036, Department ECO, Unit W820, Object 4599, Activity TFFM, Program FMTIF0015, Encumbrance/Contract No. CX-ECO-2022-00018722, Vendor VS88464.

SECTION 4. That nothing in this resolution shall be construed to require the City to approve payment from any source of City funds other than Farmers Market TIF District (District-Wide Improvement) Funds. Any funds expended under the development agreement that remain unpaid upon termination of the Farmers Market TIF District due to lack or unavailability of Farmers Market TIF District Funds shall no longer be considered Project costs of the Farmers Market TIF District or the City and the obligation of the Farmers Market TIF District to pay Adjacent Owner shall automatically expire.

SECTION 5. That in addition to the conditions set out in the Sections above, the development agreement is hereby expressly made subject to all the following contingencies, which must be performed or occur:

- A. Development of the Project shall include improvements to Pearl Expressway public right-of-way between Taylor Street and Marilla Street (between the bollards) as depicted in **Exhibit A** and shall include, but not be limited to, raising the street right-of-way to be level with the adjacent sidewalks, installation of pavers, and streetscape furnishings, as shown in **Exhibit B**.
- B. Adjacent Owner shall enter into a private development contract with the City of Dallas, administered by the Development Services Department, and may privately bid and contract for construction of the Project.

SECTION 5. (continued)

- C. Adjacent Owner shall obtain a permit or other required City documentation evidencing approval to start construction by December 31, 2022.
- D. Construction of the Project shall be substantially complete by December 31, 2023 as evidenced by letter of acceptance, certificate of completion, or similar documentation from the City ("Project Completion").
- E. The Adjacent Owner submitted conceptual plans for the Project to the City of Dallas Planning and Urban Design Department ("PUD"), and the conceptual plans were accepted by PUD on December 4, 2020. The Adjacent Owner shall submit a set of construction permit drawings to PUD for a staff review to ensure that the Project is constructed in substantial conformance with the conceptual plans attached as **Exhibit B**. Prior to execution of a private development contract, Project plans must be approved by Development Services Department, Public Works Department, PUD, and Dallas Fire Rescue, and all local, state and federal health and safety requirements must be met.
- F. Adjacent Owner shall make a good faith effort to comply with the Business Inclusion and Development ("BID") Plan for construction expenditures. Specifically, the good faith effort goal shall be 32% participation by certified Minority/Women Business Enterprises firms for all construction work related to the Project, and Adjacent Owner shall meet all reporting requirements (**Exhibit C**).
- G. Until the Project has passed final building inspection and all required paperwork documenting Project Completion has been submitted to the Office of Economic Development, Adjacent Owner shall submit to the Office of Economic Development quarterly status reports (**Exhibit D**) for ongoing work on the Project. Such status reports shall be due within 30 calendar days following the end of each calendar quarter after the City Council approval date.
- H. The TIF funding shall be disbursed upon Project Completion and verification that all Project conditions have been met; the actual TIF funding shall be based on actual Project expenditures, and detailed documentation shall be required for verification. Any Project costs exceeding \$285,650.00 shall be at the sole expense of Adjacent Owner (estimated budget **Exhibit E**).
- I. Prior to the Project Completion, Adjacent Owner shall execute an Operating and Maintenance Agreement (defined below) for any Non-Standard Public Improvements (defined below) associated with the Project (the "Operating and Maintenance Agreement"), and if necessary, obtain a license from City for the purpose of maintaining any improvements in the public right-of-way.

SECTION 5. (continued)

“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 artwork and fountains, City shall retain ownership of such public improvements and may at its sole option, if Adjacent Owner fails to maintain such public improvements after notice from City, perform such maintenance and invoice Adjacent Owner for the costs, which costs Adjacent Owner shall pay within thirty (30) days of notice. Adjacent Owner 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 in perpetuity, unless or until the Premises is no longer utilized as a public pedestrian area or at the City’s discretion, provided that the Director of Economic Development consents in writing to the termination of the Operating and Maintenance Agreement. Adjacent Owner shall so remain responsible for the maintenance of the Non-Standard Public Improvements in perpetuity even if Adjacent Owner chooses to forgo the TIF funding or does not earn the TIF funding as a result of default. 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 approval of the Director of Economic Development, in whole or in part, to a new adjacent owner to all or a portion of the Project. If an existing, executed, and filed operating and maintenance agreement is found to apply to the Premises, execution of a new Operating and Maintenance Agreement conforming to the requirements of this subsection shall nevertheless be required and shall supersede any such existing operating and maintenance agreement to the extent that such existing operating and maintenance agreement applies to the Premises.

- J. To offset maintenance costs, Adjacent Owner shall have the right to provide revenue-generating activities within the Premises only during “Market Events” as described in the Farmers Market Redevelopment Project Master Agreement. This allowance does not provide Adjacent Owner permission to provide revenue-generating activities without proper permits and does not allow uses not otherwise permitted. Adjacent Owner shall continue to abide by Dallas City Code Chapter 42A related to Special Events and Dallas Farmers Market Farmers Market related activities, including, but not limited to, activation and permitting of the Premises, a portion of the “Dallas Farmers Market,” as defined in Chapter 42A.

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SECTION 6. That should Adjacent Owner not perform one or more of the contingencies listed above, the City Manager is authorized to terminate the development agreement and disallow disbursement of any or all of the TIF funding.

SECTION 7. 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.