

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 (the “Act”) to promote development and redevelopment in the Farmers Market area through the use of tax increment financing by Ordinance No. 23521, as amended; 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, as amended; and

WHEREAS, on February 27, 2013, City Council authorized a Master Agreement with DFM Developer, Ltd to redevelop the Dallas Farmers Market (“Master Developer”) by Resolution No. 13-0447; and

WHEREAS, the Master Agreement dated February 27, 2013 anticipated the sale of the Auxiliary/Administration Building (the “Property”), currently addressed as 2100 Jan Pruitt Way, by the City to Dallas Farmers Market Trust, LLC (“DF Market”), an affiliate of the Master Developer, with obligations to renovate the existing building for use as a culinary learning center, production studio, administration office, retail leasing/retail vendors and potential Dallas Police Department assistance or staging center and a building permit for such renovation was initially required no later than October 1, 2014; 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 of the Farmers Market TIF District to include the Dallas Farmers Market property by Ordinance No. 28951; and

WHEREAS, on March 27, 2013, pursuant to an exception to the requirements to seek public bids for the sale of City-owned property as set forth in Texas Local Government Code, Section 272.001(b)(6), the City Council authorized the sale of the Property to DF Market with a right of reverter to be released subject to permits being issued for improvements to the Property or a personal guarantee of completion of improvements to the Property by Resolution 13-0538; and

WHEREAS, the City conveyed the Property to the Master Developer via a Deed Without Warranty (Administration Building) (the “Deed”), which included a right of reverter in favor of the City, along with Operating Covenants (Administration Building), was executed on September 16, 2013, and filed with the Dallas County Clerk as clerk’s file number 201300356402; and

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WHEREAS, the Deed was further subject to: (i) the terms, covenants, conditions, reservations, restrictions and exceptions of Resolution Nos. 13-0447 and 13-0538, passed by the City Council on February 27, 2013 and March 27, 2013, respectively; (ii) the terms of the Master Agreement pertaining to the Property, to the extent same have not been released pursuant to the terms on the Deed; (iii) the Operating Covenants; (iv) any and all recorded covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, or other instruments applicable to the Property or any part thereof, to the extent same are valid, binding and enforceable against the Property; [non-relevant conditions excluded]; and

WHEREAS, on May 2, 2014, the City Manager's Office provided correspondence to the North Texas Food Bank ("NTFB") acknowledging that DF Market and the NTFB had entered into a purchase and sale agreement for the Property, and indicating that (i) NTFB must apply for a building permit to renovate the Property, and commence construction by October 1, 2015; and (ii) the City would release the reverter upon issuance of a certificate of occupancy to NTFB upon completion of certain Property improvements; and

WHEREAS, on September 19, 2014, the City executed an "Acknowledgement of Release and Termination of Right of Reverter", due to NTFB's compliance with the extended deadlines of the Master Agreement, as amended and the modified conditions of the Operating Covenants; and

WHEREAS, since the reverter was released and the five-year term of the Operating Covenants expired on September 16, 2018, such obligations are no longer a requirement of the Property; and

WHEREAS, on June 10, 2015, the City Council authorized an amendment to the Master Agreement with DFM Developer, Ltd., extending deadlines for several Farmers Market Redevelopment parcels by Resolution No. 15-1099; and

WHEREAS, on December 13, 2017, City Council adopted the Downtown Dallas 360 Plan, which included strategies to build complete neighborhoods and promote 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, on October 9, 2020, NTFB sold the Property back to the Master Developer under the entity name of 1100 Pearl Street, LLC; and

WHEREAS, this item was briefed to the Economic Development Committee on February 7, 2022; and

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WHEREAS, on February 17, 2022 the Farmers Market TIF District Board of Directors (“TIF Board”) reviewed the proposed Pearl Lofts Project and tabled action on the item until the Board had an opportunity to receive neighborhood feedback on the Project; and

WHEREAS, on February 28, 2022 the TIF Board reviewed the proposed Pearl Lofts Project and recommended City Council authorization of a development agreement with 1100 Pearl Street Inc. and/or its affiliates in an amount not to exceed \$6,544,249.00; and

WHEREAS, while the Master Agreement, as amended, does not expressly authorize the proposed Pearl Lofts Project, such use is in line with the goals and objectives of the Amended Farmers Market TIF District Project Plan; and

WHEREAS, despite the change in conditions since the City conveyed the Property to an affiliate of Developer, the Deed and the Master Agreement, as amended, impose conditions that remain of record and are valid, binding and enforceable against the Property; 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, and amendment to the Master Agreement, as amended (for which consideration from the Master Developer or an affiliate has been received), with 1100 Pearl Street, Inc. and/or its affiliates in an amount not to exceed \$6,544,249.00, payable from future Farmers Market TIF District Funds, as consideration for the design, funding, and construction of the Project on property currently addressed as 2100 Pruitt Way (the “Property”) in the Farmers Market TIF District, approved as to form by the City Attorney, to improve the Property.

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, conditioned upon approval as to form by the City Attorney, a development agreement (“development agreement”), and an amendment to the Master Agreement, as amended, that expressly permits the uses and improvements as proposed, along with other documents the City deems necessary, with 1100 Pearl Street, Inc. (“Developer”) and/or its affiliates in an amount not to exceed \$6,544,249.00 (“TIF Subsidy”), payable from future Farmers Market TIF District Funds, in consideration of Pearl Lofts mixed-use and mixed-income development project (the “Project”) on property currently addressed at 2100 Jan Pruitt Way (the “Property”) in Tax Increment Financing Reinvestment Zone Number Six (“Farmers Market TIF District”) as depicted in **Exhibit A**.

SECTION 2. 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 the Chief Financial Officer is hereby authorized to disburse funds to 1100 Pearl Street, Inc. and/or its affiliates from the Farmers Market TIF District Fund (subject to future appropriations from tax increments), as follows:

Farmers Market TIF District Fund
Fund 0036, Department ECO, Unit W819, Object 3016
Activity TFFM, Program FMTIF0014
Encumbrance/Contract No. CX ECO-2022-00018711
Vendor No.VC24472, in an estimated amount of \$ 6,166,015.00

Farmers Market TIF District Fund
Fund 0036, Department ECO, Unit W819, Object 4599
Activity TFFM, Program FMTIF0014
Encumbrance/Contract No. CX ECO-2022-00018711
Vendor No. VC24472, in an estimated amount of \$ 378,234.00

For a total amount not to exceed \$6,544,249.00

SECTION 4. That the Developer shall design, fund and/or construct The Project and related public infrastructure improvements on and adjacent to the Property as described in Section 6 of this Resolution and in substantial conformance with **Exhibit B**.

SECTION 5. That nothing in this resolution shall be construed to require the City to approve payment from any source of City funds other than the Farmers Market TIF District Fund and/or Tax Increment Bonds. 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 Developer shall automatically expire.

SECTION 6. That in addition to the conditions set out in the sections 1-5 above, the development agreement and TIF Subsidy is hereby expressly made subject to all of the following contingencies which must be performed or occur:

- A. Developer shall incur (or cause to be incurred) and provide documentation evidencing a minimum of \$27,000,000.00 in private investment expenditures (**Exhibit C**) for the Project, including on-site and off-site infrastructure, on-site preparation including demolition, site amenities, building construction/finish-out, and professional fees (e.g., architecture, engineering, landscape architecture, testing and permit fees). Construction management costs may be considered a private investment expenditure if services are directly related to ensuring the quality of the construction of the Project and are performed by an independent and third party unaffiliated with Developer.

SECTION 6. (continued)

Construction management costs must be evidenced by invoices with detailed descriptions of services performed. Acquisition cost and soft costs, including but not limited to, 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 a private investment expenditure. With the exception of professional fees and environmental assessments, expenditures made prior to January 19, 2022, the execution date of the Letter of Intent, shall not count towards Developer's minimum private investment requirement.

- B. The Project shall include a minimum of 100 multi-family units of which 30% (30) of the units shall be set aside and leased solely to those households earning a maximum of 80% of the Area Median Income (AMFI) for the Affordability Period, as further described in Section 6.F of this resolution.
- C. The Project shall include a minimum of 100,000 square foot building (excluding parking structure) of which a minimum of 5,300 square feet shall be the ground floor office space.
- D. Developer shall obtain a demolition permit by December 31, 2022 and a building permit or a foundation permit by March 31, 2023.
- E. Construction of the Project, including all associated public improvements/streetscape improvements, shall be complete, and all portions of the building shall be inhabitable or occupiable by March 31, 2025, as evidenced by certificate of occupancy, letter of acceptance, certificate of completion, and/or similar documentation from the City.
- F. The Project shall include a minimum of 100 residential units of which 30% of the units shall be set aside and leased solely to those households earning a maximum of 80% of the AMFI for a minimum of 15 years (the "Affordability Period"), in accordance with the attached rent schedule (**Exhibit D**). The Farmers Market TIF District Mixed-Income Housing Guidelines ("Guidelines") (**Exhibit E**) shall be followed except where the requirements herein or in the development agreement are more restrictive than the Guidelines. The affordable units shall be comparable in size and finish quality to market rate units, shall not be fixed to specific unit numbers 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. By right, Developer may decrease the size of any unit as shown in Exhibit D by no more than 10%. Prior to the Project's completion as defined herein, the affordability requirement shall be impressed upon the Property by deed restriction for the Affordability Period.

SECTION 6. (continued)

After the Project's completion and throughout the Affordability Period, Developer shall monitor and submit bi-annual reports to the Director of the Office of Economic Development ("Director") on the status of its compliance with the requirements of the Project's Affordability. Developer shall submit written certification and documentation of compliance on the form attached as **Exhibit F**.

Developer further agrees to complete the Affirmative Fair Housing Marketing Plan, attached hereto as **Exhibit G**, and submit the plan to the Office of Equity and Inclusion for approval. Developer shall submit a copy of the approved Affirmative Fair Housing Marketing Plan to the Director within thirty (30) calendar days of approval and market the residential units pursuant to the Affirmative Fair Housing Marketing Plan.

- G. Developer shall abide by Ordinance 30246, approved by Resolution 16-1760, which requires that "multifamily housing accommodations that benefit from a financial award approved by the City Council on or after the effective date of this ordinance [October 26, 2016] shall set aside at least 10 percent of the dwelling units and solely lease those dwelling units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for a minimum of 15 years from the date of the initial issuance of the housing accommodation's certificate of occupancy". If Ordinance 30246 and Chapter 20A of the Dallas City Code are amended prior to the Project's certificate of occupancy date, Developer shall abide by such amended requirements. If applicable, prior to the Project's completion as defined in Section 6E of this resolution, this requirement shall be impressed upon the Property by deed restriction. For the avoidance of doubt, the dwelling units leased to voucher holders to satisfy the ten percent (10%) requirement in this section will count towards the affordability requirement included in Section 6.F of this resolution.
- H. Of the parking spaces being constructed as part of the Project, 25 spaces, most conveniently located to the public, shall have signage stating that those 25 parking spaces are available to the public between 6:00 p.m. and 7:00 a.m. on the weekdays and at all times during the weekends; the public parking spaces may be shared with the North Texas Food Bank ("NTFB") and shall be reflected in the lease between Developer and NTFB.
- I. The proposed management entity for the Project must be submitted at least three months prior to Project completion for review and approval by the Director, based on the management entity's comparable experience managing other multi-family properties.

SECTION 6. (continued)

- J. Prior to the Project completion, Developer 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. “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 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 20 years even if Developer chooses to forgo the TIF Subsidy, does not qualify for the TIF Subsidy or defaults pursuant to the development agreement.
- K. The Developer shall make a good faith effort to comply with 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, excluding tenant finish-out not funded by Developer, of the Project (i.e., public and private improvements) and meet all reporting requirements (see **Exhibit H**).
- L. Until the Project has passed final building inspection and all required paperwork for TIF payment has been submitted, Developer shall submit to the Office of Economic Development (“OED”) quarterly status reports (**Exhibit I**) for ongoing work on the Project as well as public improvements. Such status reports will be due to the OED no later than thirty (30) calendar days after the end of each calendar quarter after the City Council approval date, if any.

SECTION 6. (continued)

- M. 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 on May 21, 2021 and June 25, 2021, the UDPRP provided advice (see **Exhibit B-1**). Developer submitted responses to the City's Planning and Urban Design Department ("PUD") staff with updated conceptual drawings and renderings in several iterations, resulting in a final set of conceptual plans accepted by PUD staff as satisfying UDPRP's advice, on December 9, 2021 (see **Exhibit B**).

The Director may authorize minor modifications to the conceptual site plan and conceptual renderings, which may arise during the development process due to local, state, or federal regulatory requirements so long as the minor modifications are in substantial conformance with the spirit and intent of the UDPRP advice. Modifications to the conceptual site plan and conceptual renderings, should the Director determine they are material, shall require review by the UDPRP. As the final step in the urban design process and prior to permit approval, Developer shall provide a set of permit drawings for the Project (i.e., public and private improvements) to PUD for internal review and approval to ensure compliance with UDPRP recommendations and responses as submitted by Developer and shown in **Exhibit B** and **Exhibit B-1**. PUD shall complete the review of the permit drawings within ten (10) business days of Developer's submission.

- N. Developer shall submit to the City a written plan describing (i) how Developer shall use and document best efforts to recruit and hire residents of the city of Dallas and (ii) how Developer shall cause all tenants of the retail/commercial spaces to use and document best efforts to recruit and hire residents of the city of Dallas. At a minimum, the written plan shall describe how Developer and 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 plan shall be subject to approval by the Director to ensure that employment opportunities are targeted to Dallas residents, and that reasonable efforts are made to promote the hiring of neighborhood residents for any new jobs created. No portion of the TIF Subsidy shall be paid until Director approves the written plan. Compliance with the approved written plan shall be a material obligation of the development agreement.

SECTION 6. (continued)

- O. Prior to City's execution of a development agreement, Developer shall execute a lease with NTFB for a minimum 5 year term.
- P. Prior to payment of the TIF Subsidy, Developer shall provide evidence that a minimum of sixty percent (60%) of the residential units and sixty percent (60%) of the ground floor office space are leased and occupied ("Occupancy Requirement"). As ongoing compliance, the Occupancy Requirement must be verified each year that a TIF Subsidy payment is made, prior to the remittance of such payment.
- Q. The Director may authorize minor modifications to the Project, including, but not limited to, adjustment in unit type and unit mix. The Director may, after approval and recommendation of the TIF Board, authorize an extension of the Project for up to an additional 12 months.

SECTION 7. That payment of the TIF Subsidy is subject to the availability of tax increment during the lifespan of the Farmers Market TIF District. If the appraised value of the Property in the Farmers Market TIF District remains constant or decreases in value from the base year value, the TIF Subsidy 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 Farmers Market TIF District (including collection of the 2028 tax year increments in calendar year 2029), subject to the limitations on repayment of the TIF Subsidy provided in the development agreement.

SECTION 8. That assuming all other conditions for payment have been met, the City of Dallas will administer the payment of the TIF Subsidy for the Project annually, pursuant to the Farmers Market TIF District Increment Allocation Policy attached hereto as **Exhibit J**.

SECTION 9. That prior to completing all obligations in Section 6 of this resolution, necessary to begin receiving payment of the TIF Subsidy, the Developer may assign the development agreement only to a direct affiliate of Developer with the Director's prior written approval.

SECTION 9. (continued)

After completing all obligations required to begin receiving payment of the TIF Subsidy, an assignment of the obligations of the development agreement, in whole or in part, shall require the Director's prior written approval. If the Director, in his or her sole discretion, allows the Developer to assign the development agreement, however, the terms and conditions of the development agreement shall be binding upon the successors and assigns. Such assignment shall not be effective unless or until the assignee assumes and expressly agrees to perform, observe, and fulfill all the terms, covenants, conditions, and obligations required to be performed and fulfilled by Developer under the development agreement from and after the date of assignment.

Any receivables due under the development agreement may be assigned and transferred by Developer or assignee upon providing the Director with written notice within 30 calendar days of such assignment. Developer and 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 development agreement for the benefit of their respective lenders without the consent of, but with written notice to, the 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 development agreement unless the lender agrees in writing to perform such obligations or incur such liability.

Upon dissolution of the assignee or termination of the assignment, however, the terms and conditions of the development agreement shall revert to the Developer.

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.