

September 28, 2022

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 developers are often significantly influenced by a municipality’s ability to provide economic development incentives; and

WHEREAS, it is in the interest of the City to support and secure the development, establishment, expansion, and relocation of businesses within the City and the economic vitality and employment opportunities that these business operations bring for Dallas residents; and

WHEREAS, Island Rock Holdings, LLC (“Developer”) seeks City incentives to support the Longhorn Ballroom Redevelopment Project (“Project”) currently addressed as 200 Corinth Street and 2202-2222 Riverfront Boulevard; and

WHEREAS, on December 10, 2008, City Council authorized the designation of Tax Increment Reinvestment Zone Number Seventeen (“TOD TIF District” or “District”) in accordance with the Tax Increment Financing Act (“TIF Act”), as amended, V.T.C.A. Texas Tax Code, Chapter 311, by Resolution No. 08-3392 and Ordinance No. 27432; and

WHEREAS, on April 14, 2010, City Council authorized the Project Plan and Reinvestment Zone Financing Plan (“TIF Plan”) for the TOD TIF District by Resolution No. 10-0915 and Ordinance No. 27854; and

WHEREAS, on August 15, 2012, City Council authorized a general obligation bond election to be held on November 6, 2012, by Ordinance No. 28740, 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

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WHEREAS, in 2019, the City Manager established the Equity Revitalization Capital Fund to support a combination of City priorities ranging from housing programs, elimination of racially/ethnically concentrated areas of poverty, and quality of life programs; and

WHEREAS, the allocation of the Equity Revitalization Capital Fund to City Council District 2 is intended to provide gap financing for quality of life projects such as the revitalization of the Longhorn Ballroom; and

WHEREAS, on June 8, 2022, pursuant to Resolution No. 22-0901 approved by the City Council, 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, (Texas Tax Code, Chapter 312) ("Tax Abatement Act"); and

WHEREAS, on August 30, 2022, the TOD TIF District Board of Directors ("TIF Board") reviewed and unanimously recommended approval of the proposed incentive and agreement to support the Project; and

WHEREAS, on September 6, 2022, the Economic Development Committee of City Council was briefed regarding the proposed incentive and agreement to support the Project; and

WHEREAS, pursuant to the City's P/PPP – Guidelines and Criteria, the Project is located in a non-target area; and

WHEREAS, pursuant to the City's P/PPP – Guidelines and Criteria, the Project meets the minimum eligibility criteria in a non-target area based on a Project investment exceeding \$5 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 an economic development 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; and

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WHEREAS, to further implement the TIF Plan, the City desires to execute a development agreement (“Development Agreement”) that consists of both a tax increment financing (TIF) development agreement and all other necessary documents with Island Rock Holdings, LLC, and/or its affiliates in an amount not to exceed \$2,100,000.00 (“TIF Subsidy”), payable from future TOD TIF District funds, and a Chapter 380 economic development grant agreement with Island Rock Holdings, LLC and/ or its affiliates in an amount not to exceed \$2,050,000 (\$250,000.00 payable from Equity Revitalization Capital Funds and \$1,800,000.00 payable from 2012 General Obligation Bond Funds) in accordance with the City’s Public/Private Partnership Program (“380 Grant”), for a total incentive (collectively, the “City Subsidy”) in an amount not to exceed \$4,150,000, in consideration of the Project on property currently addressed as 200 Corinth Street and 2202-2222 Riverfront Boulevard; and

WHEREAS, in furtherance of the TIF Plan, as amended, and to promote within the TOD TIF District: (1) development and diversification of the economy, (2) elimination of unemployment and underemployment, and (3) development and expansion of commerce, the City desires to provide economic incentives to Island Rock Holdings, LLC and/or its affiliates to support the Project; and

WHEREAS, the expenditure of District funds supporting this Project is consistent with promoting development and redevelopment of the TOD TIF District in accordance with the purposes for its creation, the ordinance adopted by the City Council approving the TIF Plan, and is for the purpose of making public investment expenditures consistent with and described in the TIF Plan; and

WHEREAS, improvements in the District will enhance the value of all the taxable real property in the District and will be of general benefit to the City; and

WHEREAS, the proposed Project will not occur within the city of Dallas without an offer of economic development incentives from the City and complies with the TIF Plan, the City’s PPP – Guidelines and Criteria, and all applicable local, state, and federal laws.

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 tax increment financing (TIF) development agreement and all other necessary documents with Island Rock Holdings, LLC and/or its affiliates in an amount not to exceed \$2,100,000.00, payable from future TOD TIF District funds ("TIF Subsidy") as shown in **Exhibit A**, and a Chapter 380 economic development grant agreement with Island Rock Holdings, LLC and/or its affiliates in an amount not to exceed \$2,050,000.00 (\$250,000.00 payable from Equity Revitalization Capital Fund and \$1,800,000.00 payable from 2012 General Obligation Bond Fund) in accordance with the City's Public/Private Partnership Program ("380 Grant"), in consideration of the Longhorn Ballroom Redevelopment Project ("Project") on property currently addressed at addressed as 200 Corinth Street and 2202-2222 Riverfront Boulevard in the TOD TIF District, approved as to form by the City Attorney.

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 pursuant to Section 6 and Section 7 of this resolution, the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed \$4,150,000.00 to Island Rock Holdings, LLC (VC25694) and/or its affiliates, from the funding sources as listed and described below:

TOD TIF District Fund Fund 0062, Department ECO, Unit W892 Activity TODD, Object 4599, Program TODTIF0005 Encumbrance/Contract No. CX-ECO-2022-00020261	\$2,100,000.00
Equity Revitalization Capital Fund Fund 0719, Department HOU, Unit W484 Activity EQRV, Object 3016, Program HOEQ0071 Encumbrance/Contract No. CX-ECO-2022-00020261	\$ 250,000.00
Economic Development & Housing Development Program Fund (2012 General Obligation Bond Fund) Fund 4U52, Department ECO, Unit W892 Activity ECNR, Object 3016, Program EC12W892 Encumbrance/Contract No. CX-ECO-2022-00020261	<u>\$1,800,000.00</u>
Total amount not to exceed	\$4,150,000.00

SECTION 4. That the Developer shall design, fund and/or construct the Project and related public infrastructure improvements on and adjacent to property currently addressed currently addressed as 200 Corinth Street and 2202-2222 Riverfront Boulevard in the TOD TIF District as described in SECTION 6 and in substantial conformance with **Exhibit C1 and C2**.

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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 the TOD TIF District Fund and/or Tax Increment Bonds. Any funds expended under the development agreement that remain unpaid upon termination of the TOD TIF District, due to lack or unavailability of TOD TIF District Funds, shall no longer be considered project costs of the TOD TIF District or the City, and the obligation of the TOD TIF District to pay any remaining amount of the TIF Subsidy to Developer shall automatically expire.

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

- A. Minimum Investment. Developer shall incur (or cause to be incurred) and provide documentation evidencing a minimum of \$10 million in Investment Expenditures (**Exhibit B**) for construction of the Project, including capitalized costs for site acquisition (to include cash purchase price or, if Project real estate is contributed to Developer in trade for equity in the Developer entity, the fair market value of the Project real estate as evidenced by 3rd party MAI-certified appraisal, plus any delinquent real property taxes paid incidental to site acquisition), costs for demolition, off-site infrastructure, on-site preparation, site amenities, building construction/finish-out/furnishings/equipment, and professional fees (e.g. land use and development consultants, architecture, engineering, landscape architecture, interior design). Construction management costs may be considered an Investment Expenditure if 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. Except as provided otherwise herein, 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 Investment Expenditure. Notwithstanding any provision to the contrary, the following expenditures made prior to execution of the Letter of Intent dated August 24, 2022 shall be considered a qualifying Investment Expenditure for purposes of meeting Developer's minimum investment requirement: professional fees, environmental assessments and other customary due diligence costs, site acquisition (to include cash purchase price or, if Project real estate is contributed to Developer in trade for equity in the Developer entity, the fair market value of the Project real estate as evidenced by 3rd party MAI-certified appraisal, plus any delinquent real property taxes paid incidental to site acquisition), long lead equipment purchases including without limitation HVAC, and costs incurred to secure and preserve the site including roof repairs, interior electrical repair, demolition, and fire sprinkler repair.

SECTION 6. (continued)

- B. Minimum Project Requirements. The Project shall include a minimum a minimum of 40,000 square feet of commercial and/or entertainment venue space including both the ballroom (Building #1) and the adjacent multipurpose building (Building #2), site improvements including the courtyard/parking lot and creation of a new approximately 2-acre outdoor “backyard” event space, and all public infrastructure improvements and streetscape improvements required for the Project to obtain certificate(s) of occupancy and/or as described in **Exhibit C1 and C2** attached hereto.
- C. Building Permit Deadline. Developer shall obtain a building permit for all Project components by June 30, 2025. A demolition permit or grading permit does not constitute meeting the obligation of this requirement.
- D. Completion Deadline. Construction of all the Project components shall be complete, and all portions of Building #1, Building #2, and the “backyard” event space shall be occupiable by June 30, 2026, as evidenced by certificate(s) of occupancy, letter(s) of acceptance, certificate(s) of completion, and/or similar documentation from the City.
- E. Public Access to Infrastructure Not Owned by City. Prior to completion of the Project and at no cost to City, Developer shall provide reasonable public access easements, deed restrictions, or other instruments reasonably acceptable to the Director if any street and utility infrastructure improvements associated with the Project remain in non-City ownership but require public access.
- F. Property Management. The proposed management group for all of the Project components must be submitted at least three months prior to Project completion for review by the Director to consider acceptance based on the management entity’s comparable experience managing other comparable properties, such approval not being unreasonably withheld. Notwithstanding any provision to the contrary, any affiliate of the Developer shall be considered an approved manager for any component of the Project.
- G. Operating and Maintenance Agreement. If applicable, and prior to 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, including specially designed street/pedestrian lighting, brick pavers, bollards, sidewalks,

SECTION 6. (continued)

public art, fountains, landscaping, and irrigation. If Developer fails to maintain such public improvements after notice from City, City may, at its sole option, 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 (not to be unreasonably withheld, conditioned, or delayed), in whole or in part, to a new owner of all or a portion of the Project.

- H. Business Inclusion. 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 on the Project and meet all reporting requirements.
- I. Quarterly Reporting. Until the Project has passed final building inspection and all required paperwork documenting Project completion for all components has been submitted to the Office of Economic Development, Developer shall submit to the Office of Economic Development quarterly status reports for ongoing work on the Project (including any public improvements). Such status reports shall be due within 30 calendar days following the end of each calendar quarter after the City Council approval date.
- J. 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 City subsidies in TIF districts. Following a formal review of the Project's preliminary conceptual drawings and renderings on October 22, 2021, the UDPRP provided advice (see **Exhibit C1**). Additional comments and clarifications were made between staff and Developer after the formal review. On November 23, 2021, Developer submitted a response to the City's Planning and Urban Design Department ("PUD") staff with updated conceptual drawings and renderings (see **Exhibit C2**). On December 16, 2021, PUD staff provided additional follow up and indicated that an updated development plan should be submitted for final review to determine if Developer has satisfied the UDPRP's advice.

SECTION 6. (continued)

Prior to building permit application submittal to the City's Development Services Department, Developer shall submit a set of permit drawings to PUD for a final staff review to ensure that the Project (i.e. public and private improvements) will be constructed in substantial conformance with the approved conceptual drawings and renderings. Allowable minor modifications may include, but are not limited to, those required for compliance with development regulations administered by the City. PUD staff shall complete the final staff review of permit drawings within 10 business days of submission by Developer.

- K. Local Hiring. For all permanent employment opportunities created by operation of the Project, Developer shall submit to the City a written plan describing how Developer or its property management group shall use and document commercially reasonable efforts to recruit and hire residents of the city of Dallas. At a minimum, the written plan shall describe how Developer, or its property management group 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 (not to be unreasonably withheld, conditioned, or delayed) 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 Director approves the local hiring plan.
- L. Local Education/Workforce Partnership. Developer or affiliate shall use best efforts to partner with Dallas College and/or other mutually-approved non-profit service providers (collectively, the "Non-Profit Partners") to create paid experiential learning opportunities that would provide students in Dallas College's Commercial Music Program at the Cedar Valley Campus in southern Dallas (or equivalent) with opportunities to gain exposure and experience in the commercial music industry (e.g. composition and digital music production; music business and entrepreneurship; music performance; recording technology). Developer or affiliate shall endeavor to deliver to Director an agreement executed by Developer or affiliate and the Non-Profit Partners documenting the terms of the proposed program no later than December 31, 2023. At a minimum, Developer or affiliate shall use best efforts to participate in the program through December 31, 2028. Developer or affiliate shall provide to Director an annual summary report regarding the status and outcomes of the paid experiential learning program involving the educational partner, including number of participants, salaries or other benefits paid to participants, and race/gender/ethnicity of participants, and a summary of the program activities. The City shall not deem it a default of the development agreement if a Non-Profit Partner refuses participation or if program participants are terminated in the normal course of Developer's (or affiliate's) business for reasons consistent with their normal business practices.

SECTION 6. (continued)

- M. Public Safety Measures. Developer or affiliate shall coordinate with the City's Office of Integrated Public Safety Solutions (OIPSS) and the Dallas Police Department (DPD) to create a reasonable security plan for the Project, including any specific property improvements and/or operational considerations. Such a security plan may include increased security patrols during construction; a modern security camera system with DPD access; LED lighting throughout the property; perimeter fencing repairs; etc. The security plan shall be approved by OIPSS, DPD, and Director of Office of Economic Development (such approval not to be unreasonably withheld, conditioned, or delayed) within 6 months of the execution of the development agreement (with ongoing compliance with the security plan to be required throughout the term of the agreement). This requirement will be enforceable by specific performance.
- N. Modifications. The Director of the Office of Economic Development may authorize minor modifications to the Project, and, in his or her sole discretion, the Director may refer any proposed design modifications to the TIF Board and/or UDPRP if the proposed design modifications materially affect the Project. In addition, subject to TIF Board approval, the Director may extend all Project deadlines up to 12 months.
- O. IRS Section 118 Provisions. Without altering or excusing any obligation of the Developer under the development agreement, the City acknowledges that the City Subsidy may be funded directly to Developer, or to an affiliate of Developer as Developer may direct, as necessary to facilitate the treatment of all City Subsidy payments under the development agreement as non-shareholder contributions to capital, in accordance with the provisions of Section 118 of the Internal Revenue Code of 1986 (the "Code"). Developer acknowledges and agrees that the City expresses no opinion with respect to the appropriate federal income tax treatment of such payments and that the City has not made any representations or covenants other than in this section with respect to such federal income tax treatment of the City Subsidy. An "affiliate" of the Developer means an entity owned (in whole or part) and controlled by Developer's principal, Edwin Cabaniss.
- P. 380 Grant Security and Subordination. The 380 Grant portion of the City Subsidy shall be secured by a performance lien deed of trust (or other instrument approved by the City Attorney's Office) in favor of the City and shall be recorded in the real property records of Dallas County within 30 calendar days of execution of the agreement. City's lien shall be subordinate to the senior lender, whether the loan is made for construction or permanent financing purposes and to any lien encumbering the Property to secure any new market tax credits (NMTC).

SECTION 6. (continued)

The City shall also consent and subordinate to any Property Assessment Clean Energy (PACE) assessment lien providing financing for any portion of the Project. The City's lien shall be released upon expiration of the 5-year period specifically referenced in the "Continued Minimum Occupancy Requirement in Building #2."

- Q. Commencement of Operations of the Longhorn Ballroom. Prior to City's disbursement of Installment #1 of the 380 Grant portion of the City Subsidy, the Longhorn Ballroom (Building #1) shall be open to the public and shall have commenced daily operations as an entertainment/event venue.
- R. Continued Operations Requirement for Longhorn Ballroom. Subject to the occurrence of force majeure events, failure to maintain and operate the Longhorn Ballroom (Building #1) as an entertainment/event venue for 5 years after the date that Developer obtains a CO for Building #1 shall be a default of the agreement.
- S. Minimum Occupancy Requirement in Building #2. Prior to City's disbursement of Installment #2 of the 380 Grant portion of the City Subsidy, Developer shall use reasonable commercial efforts to lease and occupy a minimum of 50% of the total gross floor area of Building #2 and shall provide reasonable evidence of such efforts to the City.
- T. Continued Minimum Occupancy Requirement in Building #2. Subject to the occurrence of force majeure events, failure to use reasonable commercial efforts to maintain a minimum of 50% of the total gross floor area of Building #2 as leased and occupied for 5 years after the date Developer initially meets the "Minimum Occupancy Requirement in Building #2" shall be a default of the agreement.
- U. Specific Uses not Allowed in the Project. Pawn shops, sexually oriented businesses, payday lenders, and indoor gaming/gambling shall not be permitted in any portion of the Project for 5 years after the date that Developer obtains a CO for Building #1.
- V. Force Majeure. Notwithstanding Section 6N) or any other provision of this resolution to the contrary, in the event the Director determines (which determination shall not be unreasonably withheld, conditioned, or delayed) 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 Developer is diligently and faithfully pursuing completion of the Project, as determined by the Director (which determination shall not be unreasonably withheld, conditioned, or delayed). Extension of Project deadlines as a result of force majeure shall not require City Council approval.

SECTION 6. (continued)

“Force majeure” shall mean any contingency or cause beyond the reasonable control of Developer, as reasonably determined by the Director (which determination shall not be unreasonably withheld, conditioned, or delayed) 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 Director’s approval (which approval shall not be unreasonably withheld, conditioned, or delayed).

- W. City Right to Use Property. During the five year period following the date that Developer obtains a CO for Building #1 of the Project, subject to availability, City shall have the right to use Building #1, Building #2, or the outdoor “backyard” event space for public purposes during non-events to the extent that such use does not interfere with Developer’s or tenants’ use, subject to prior notice and coordination with Developer necessary to gain access; provided, however, that City’s right shall be limited to no more than once per quarter and for a period not to exceed 8 hours. City shall not be required to pay the standard rental fees for the use of the space. Developer will cover the first \$1,500 of Developer’s costs of operating the venue during such events (staffing, utilities, etc.) and the City agrees to pay any such costs in excess of \$1,500, if any.

SECTION 7. That payment of the TIF Subsidy is subject to the availability of tax increment. If the appraised value of the property in the TOD 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 TOD TIF District (including collection of the 2038 tax year increments in calendar year 2039), 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 TOD TIF District Increment Allocation Policy attached hereto as **Exhibit D**.

SECTION 9. Until completion of the Project, an assignment of the Developer’s duties and obligations under the development agreement shall only be allowed to a direct affiliate of Developer with the prior written approval of the Director, not to be unreasonably withheld, conditioned, or delayed. After completion of the Project, Developer may assign its rights

or obligations under the Development Agreement to any entity with the prior written approval of the Director.

Any receivables due under the Development Agreement may be assigned by Developer or assignee upon providing the Director with written notice within thirty (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.

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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.