Resolution No. 24-357

A resolution authorizing the execution of TIRZ Chapter 380 Grant Agreement by and between Pershing Development LLC, the City of Arlington, and the Board of Directors of Tax Increment Reinvestment Zone Number One, City of Arlington, Texas-Downtown

WHEREAS, Pershing Development LLC, ("Developer") plans to acquire 1.146 acres of real property located on Dugan Street in downtown Arlington, Texas ("Premises"); and

WHEREAS, the Premises are located within Tax Increment Reinvestment Zone Number One ("TIRZ 1"); and

WHEREAS, Developer desires to demolish and/or remove the existing structures and construct new multi-family housing on the Premises; and

WHEREAS, TIRZ 1 and the City Council have found that providing a program of incentives to Developer in exchange for Developer's acquisition and redevelopment of the Premises will promote local economic development and stimulate business and commercial activity and retain jobs within the City of Arlington ("City") and inside Tax Increment Reinvestment Zone Number One (hereafter referred to as "Incentive Program"); and

WHEREAS, TIRZ 1 and the City Council have determined that the Incentive Program will directly establish a public purpose and that all transactions involving the use of public funds and resources in establishment and administration of the Incentive Program contain controls likely to ensure that the public purpose is accomplished; and

WHEREAS, Chapter 380 of the Texas Local Government Code and Section 311.010 of the Texas Tax Code provide statutory authority for establishing and administering the Program; and

WHEREAS, on November 22, 2024, the TIRZ 1 Board approved Resolution No. 24-03 authorizing the execution of TIRZ Chapter 380 Grant Agreement by and between the Developer, the City, and the Board of Directors of TIRZ 1; and

WHEREAS, the Board of Directors of Tax Increment Reinvestment Zone Number One, City of Arlington, Texas - Downtown has forwarded its recommendation and findings to City Council; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this body and as part of its official record.

II.

That the City Manager or his designee is authorized to execute a TIRZ Chapter 380 Grant Agreement by and between Pershing Development LLC, the City of Arlington, and the Board of Directors of Tax Increment Reinvestment Zone Number One, City of Arlington, Texas.

III.

That the City Council accepts and approves the TIRZ 1 Resolution No. 24-03 authorizing the Chair of the Board of Directors to execute a TIRZ Chapter 380 Grant Agreement by and between Pershing Development LLC, the City of Arlington, and the Board of Directors of Tax Increment Reinvestment Zone Number One, City of Arlington, Texas.

IV.

A substantial copy of the TIRZ Chapter 380 Grant Agreement is attached hereto as Exhibit "A" and incorporated herein for all intents and purposes.

PRESENTED AND PASSED on this the 17th day of December, 2024, by a vote of 9 ayes and 0 nays at a special meeting of the City Council of the City of Arlington, Texas.

JIM R. ROSS, Mayor

ATTEST:

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY

Exhibit "A"

THE STATE OF TEXAS §
§ **TIRZ Chapter 380 Grant Agreement**
COUNTY OF TARRANT §

THIS Agreement ("Agreement") is executed as of the Effective Date (defined below), by and among Pershing Development LLC, an entity duly authorized to do business in the State of Texas, acting by and through its authorized officer (hereinafter referred to as **"DEVELOPER"**), THE CITY OF ARLINGTON, a municipal corporation (hereinafter referred to as **"CITY"**), and THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF ARLINGTON, TEXAS- DOWNTOWN as established by the City of Arlington, Texas (hereinafter referred to as "**TIRZ**"). DEVELOPER, CITY, and TIRZ may be referred to jointly herein as the "Parties" or individually as a "Party."

W I T N E S S E T H:

WHEREAS, DEVELOPER plans to acquire certain PREMISES, defined below, in downtown Arlington, Texas; and

WHEREAS, the PREMISES are located within Tax Increment Reinvestment Zone Number One ("TIRZ 1"); and

WHEREAS, DEVELOPER desires to demolish and/or remove the existing structures and construct multi-family housing on the PREMISES; and

WHEREAS, TIRZ has found that providing a program of incentives to DEVELOPER in exchange for DEVELOPER's acquisition and redevelopment of the PREMISES will promote local economic development and stimulate business and commercial activity and retain jobs within the City of Arlington and inside Tax Increment Reinvestment Zone Number One (hereafter referred to as "Incentive Program"); and

WHEREAS, the TIRZ has determined that the Incentive Program will directly establish a public purpose and that all transactions involving the use of public funds and resources in establishment and administration of the Incentive Program contain controls likely to ensure that the public purpose is accomplished; and

WHEREAS, Chapter 380 of the Local Government Code and Section 311.010 of the Texas Tax Code provide statutory authority for establishing and administering the Incentive Program provided herein; and

WHEREAS, the 2018 TIRZ 1 Amended and Restated Project Plan and Finance Plan approved by the City Council of the City pursuant to Ordinance No. 19-003 ("Amended TIRZ Plan") provides for the Incentive Program, including the

costs to be funded by the grant payments as provided herein; and

WHEREAS, the City Council of the City has adopted resolution No. 24-357 on December 17, 2024, authorizing the grant payments as provided herein to be made pursuant to the Incentive Program; and

WHEREAS, the City Council of the City has adopted resolution No. 24-357, on December 17, 2024, authorizing the TIRZ to enter into this Agreement; NOW THEREFORE,

The CITY, TIRZ, and DEVELOPER, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant, and contract as set forth below:

I.
Definitions

A. CITY MANAGER means the City Manager for the City of Arlington.

B. DEMOLITION means the demolition and/or removal of all existing structures and improvements located on the PREMISES, including the costs of asbestos removal or remediation, the cost of which is an authorized cost under the Amended TIRZ Plan.

C. DEVELOPMENT means the construction of a multi-family housing development as described in the DEVELOPMENT PLAN.

D. DEVELOPMENT PLAN means Planned Development 24-02 (or "PD42-02") as approved by the City Council in Ordinance 24-030, attached hereto as **"Exhibit 1"**, and as may be amended according to the ordinances of the City of Arlington.

E. EFFECTIVE DATE means the date on which all parties have executed this Agreement.

F. PREMISES means the 1.146 acres of real property located on Dugan Street, more fully described in **Exhibit "1-A."**

G. PUBLIC IMPROVEMENTS means the sidewalks, approaches, public parking spaces, public water and sanitary sewer improvements, landscaping, irrigation, public art, storm water drainage/detention systems, street improvements, and burying of electrical and telecommunication lines on the Premises or necessary for constructing the Development.

II.
Term

This Agreement shall commence as of the Effective Date and shall expire eight (8) years from date of completion of the Development as specified Section IV.H below (the "Term"), unless otherwise sooner terminated in accordance with the terms of this Agreement.

III.
General Provisions

The Incentive Program provided herein is not an improvement project financed by tax increment bonds. All grant payments to be made as provided in Article V below will be paid to Developer from currently available TIRZ 1 funds consisting exclusively of the City's increment. The PREMISES are not owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of the CITY.

IV.
Conditions and Requirements

In exchange for the receipt of payments provided for in the Incentive Program, DEVELOPER shall:

A. Complete Demolition of the existing structures on the Premises by no later than June 30, 2026.

B. Complete construction of the Public Improvements by no later than June 30, 2027.

C. Complete construction of the Development by no later than December 31, 2027.

D. Construction, maintenance, and operation of the Public Improvements and Development shall be in conformance with the Development Plan.

E. On or before April 1 of every year of the Term, DEVELOPER shall complete an annual certification in a form provided by the CITY, in which DEVELOPER will certify compliance with the requirements applicable to the DEVELOPER at that time, including, but not limited to, all the requirements contained in this Article IV.

F. Throughout the Term all activity on the PREMISES shall conform to the applicable building codes, zoning ordinances, and all other state, federal, or local laws, ordinances, and regulations. DEVELOPER shall apply for any obtain all necessary governmental permits and approvals for all activities, construction, and operations at the PREMISES.

G. Throughout the Term DEVELOPER shall not fail to render for taxation any property owned by DEVELOPER and located within the City. In addition,

throughout the Term the ad valorem taxes owed for the PREMISES shall not become delinquent beyond the last day they can be paid without assessment of penalty, as such date is generally extended to allow for any appeal.

H. During design and construction of the DEVELOPMENT, DEVELOPER agrees to use diligent efforts and to cause its contractors and subcontractors to use diligent efforts to purchase all goods and services from businesses located in the City whenever such goods and services are comparable in availability, terms, quality, and price. DEVELOPER also agrees to develop a policy that establishes a goal of thirty percent (30%) use by DEVELOPER of qualified contractors, subcontractors, and suppliers where at least fifty-one percent (51%) of the ownership of such contractors, subcontractors, or suppliers is vested in racial or ethnic minorities or women for design and construction of the DEVELOPMENT. DEVELOPER shall provide the TIRZ with a report documenting its efforts towards achieving such goal upon completion of the DEVELOPMENT.

I. DEVELOPER shall construct the residential units of the development for use as complete, market-rate dwelling units. For so long as DEVELOPER owns and/or operates the DEVELOPMENT, DEVELOPER shall only lease apartments as complete dwelling units and shall not lease residential units on a per-bedroom basis or otherwise lease subdivided dwelling units.

V.
Incentive Program

A. In exchange for DEVELOPER's compliance with the Conditions and Requirements set forth in Article IV, TIRZ agrees to provide the following grant payments to DEVELOPER:

i. Up to One Million, Five Hundred and Fifty Thousand and 00/100 Dollars ($1,550,000) in reimbursement for verified costs of Demolition and/or of constructing the Public Improvements (the "Reimbursement Grant"). The Reimbursement Grant will be available to the DEVELOPER to fund applicable costs associated with the constructing the Facilities Improvements on the Premises. The CITY will reimburse the DEVELOPER no more frequently than once per quarter, within 30 days of receipt of proof of payment by DEVELOPER for the verified, actual expenses of constructing the facilities improvements, including labor, materials, design and engineering costs, furniture, fixtures and equipment.

ii. DEVELOPER acknowledges and agrees that the grant payment provided herein will be made solely from the CITY's increment deposited into the Tax Increment Fund of the TIRZ, established pursuant to Ordinance no. 98-142 (the "TIF Fund"). The City acknowledges that the increment from the CITY currently available and on deposit within the TIF Fund are

sufficient to fund the grant payments in the amounts and at the times provided in this Article V. DEVELOPER agrees to look solely to the City's increment on deposit in the TIF Fund, not CITY general funds or CITY bond funds, or any other TIRZ or CITY funds for payment of the grant provided herein. Nothing in this Agreement shall be construed to require the CITY to approve payment from any source of CITY funds other than the CITY increment on deposit in the TIF Fund. Upon the expiration of the term of the TIRZ on December 31, 2038, or any subsequently extended date, as provided in the ordinance creating same, as amended, any grant payment that remains unpaid due to the lack of monies on deposit in the TIF Fund or due to DEVELOPER's failure to meet any precondition of payment of such grant shall no longer be considered Development Costs of the TIRZ, and any obligation of the TIRZ to pay such grant to DEVELOPER shall automatically expire; provided, any CITY increment that has accrued during the term of the TIRZ but is collected or disbursed subsequent to the expiration of the TIRZ shall be applied to pay Development Costs that remain unpaid immediately prior to the TIRZ expiration.

B. The City agrees to waive all fees for demolition of existing structures, building permits, impact fees, and tap fees for initial construction of the Development so long as the construction of the Development is completed prior to December 31, 2027 (the "Fee Waiver"). In the event of a breach as defined in section IX, the City may recapture any fees waived subject to this provision.

C. DEVELOPER further acknowledges and agrees that the TIRZ and CITY are not obligated to provide any payments or other benefits not explicitly provided in this Agreement for the DEVELOPMENT, and any further agreements executed by the same parties for the DEVELOPMENT shall credit the CITY and TIRZ with the payments already provided through this Agreement.

VII.
Records, Audits, and Inspections

A. Additional Records and Information - Throughout the Term of this Agreement, DEVELOPER shall furnish TIRZ any additional records and information reasonably requested to confirm compliance with the Conditions and Requirements set forth in Section IV of this Agreement.

B. Right to Audit Books and Records - TIRZ shall have the right to audit the books and records of DEVELOPER related to the Conditions and Requirements. TIRZ shall notify DEVELOPER in advance in writing of their intent to audit in order to allow DEVELOPER adequate time to make such books and records available.

C. Inspection - At all times throughout the Term of this Agreement, TIRZ shall have

reasonable access to the PREMISES for the purpose of inspecting the PREMISES to ensure that the work contemplated herein is conducted, maintained, and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the operation of the PREMISES. The inspections shall be conducted within a reasonable time period after notice by TIRZ and with a representative of Developer present.

VIII.
Use of Premises

The PREMISES at all times shall be used in a manner that is consistent with CITY's Unified Development Code and all other applicable federal, state, and local laws.

IX.
Default, Termination, Transfer of Premises

A. A default shall exist under this Agreement if a Party fails to perform or observe any material covenant contained in this Agreement. A non-defaulting Party shall immediately notify the defaulting Party in writing upon becoming aware of any condition or event constituting a default. Such notice shall specify the nature and the period of existence thereof and what action, if any, the non-defaulting Party requires or proposes to require with respect to curing the default.

B. If a default shall occur and continue after thirty (30) days' notice of the same, the non-defaulting Party may, at its option, pursue any remedies it may be entitled to, at law or in equity, in accordance with applicable law, without the necessity of future notice to or demand upon the defaulting Party. The non-defaulting Party shall not, however, pursue remedies for as long as the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that defaulting Party has commenced to cure such default within thirty (30) days following notices, and provided further, that in no event shall failure to make monetary payments required under the terms of this Agreement be deemed reasonable justification to extend such opportunity beyond the initial period.

C. Without limiting the forgoing, if a defaulting Party fails to cure (or commence to cure) a default within the periods provided for in Section IX.B. above, then the non-defaulting Party shall have the right to terminate this Agreement by delivering written notice to the defaulting Party, which termination shall be effective thirty (30) days following delivery of such notice unless the defaulting Party shall cure such default within such additional thirty (30) day period. A termination of this Agreement by a Party shall not relieve the Party of its obligations therefore accrued prior to and through the effective date of such termination.

D. In the event DEVELOPER fails to satisfy the Conditions and Requirements outlined in Sections IV.D, IV.E, IV.F, IV.G, and/or IV.H, and fails to timely cure in accordance with Section IX.B., DEVELOPER shall transfer the PREMISES to CITY for zero dollars ($0.00) via special warranty deed; this shall be the sole

remedy of the CITY for failure to satisfy these Conditions and Requirements. CITY shall provide DEVELOPER written notice after the cure period has expired and DEVELOPER shall have sixty (60) days from the date the CITY provides such written notice to sell the PREMISES to the CITY for zero dollars ($0.00).

X.
Undocumented Workers

DEVELOPER covenants and certifies that DEVELOPER does not and will not knowingly employ an undocumented worker as that term is defined by section 2264.001(4) of the Texas Government Code. In accordance with section 2264.052 of the Texas Government Code, if DEVELOPER is convicted of a violation under 8 U.S.D. Section 132a(f), DEVELOPER shall repay to the TIRZ the full amount of the grant payments provided under Section V of this Agreement, plus 10% per annum from the date such fees were waived or grant payments were made. Repayment shall be paid within 120 days after the date following such conviction that DEVELOPER receives notice of violation from the TIRZ as provided by 2264.101(c) of the Texas Government Code.

XI.
Effect of Sale or Lease of Property

Except as otherwise authorized in Article XXII below, the Incentive Program authorized by this Agreement shall not be assignable to any new owner or lessee of all or a portion of the PREMISES unless such assignment is approved in writing by the TIRZ, with approval by the City Council, which approval shall not be unreasonably withheld.

XII.
Notice

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

DEVELOPER:
Pershing Development LLC
Attention: Edward Manuel, Manager
262 Carroll St, Suite 115
Fort Worth, Texas 76107

TIRZ:
Tax Increment Reinvestment Zone Number One
Attention: City Manager's Office
Post Office Box 90231
Arlington, Texas 76004-3231

cc:
Tax Increment Reinvestment Zone Number One
Attention: City Attorney's Office

Post Office Box 90231
Arlington, Texas 76004-3231

CITY: City of Arlington
Attention: City Manager's Office
Post Office Box 90231
Arlington, Texas 76004-3231

cc: Tax Increment Reinvestment Zone Number One
Attention: City Attorney's Office
Post Office Box 90231
Arlington, Texas 76004-3231

XIII.
Authorization and Board Representation

This Agreement was authorized by resolution of the TIRZ authorizing the Chairman of the Board of Directors for Tax Increment Reinvestment Zone Number One to execute this Agreement on behalf of the TIRZ. DEVELOPER understands and agrees that TIRZ, in its sole discretion, may appoint certain CITY staff members, a CITY department, or another entity to serve as its representative in carrying out any and all of the responsibility of the TIRZ hereunder, and that reference to the TIRZ in this Agreement means the Board of Directors for Tax Increment Reinvestment Zone Number One or any such designed representative.

XIV.
Severability

In the event any section, subsection, paragraph, sentence, phrase, or word is held invalid, illegal, or unconstitutional, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

XV.
Estoppel Certificate

Any Party hereto may request an estoppel certificate from another Party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of DEVELOPER, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the grant payments in effect, and such other matters reasonably requested by the Party(ies) to receive the certificates.

XVI.
DEVELOPER's Standing

DEVELOPER, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or TIRZ or CITY actions authorizing same, and DEVELOPER shall be entitled to intervene in said litigation.

XVII.
Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

XVIII.
Indemnification

DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE TIRZ, ITS OFFICERS, AGENTS AND EMPLOYEES, AND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, OR BY ANY NEGLIGENT ACT OR OMISSION OF DEVELOPER, ITS OFFICERS, AGENTS, ASSOCIATES, OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE TIRZ OR THE CITY OR THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE OF BOTH DEVELOPER, TIRZ, OR CITY, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY AND THE TIRZ UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

XIX.
Force Majeure

It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, court injunction, necessary condemnation proceedings, acts of the other Party, its affiliates/related entities and/or their contractors, or any actions or inactions of third parties or other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

XX.
No Other Agreement

This Agreement embodies all of the agreements of the Parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified, or supplemented only by an instrument or instruments in writing executed by the Parties.

XXI.
Headings

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXII.
Successors and Assigns

The Parties to this Agreement each bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other Party in respect to all covenants of this Agreement. No successor, executor, administrator, or assign is valid in the place of the Parties to this Agreement without the written consent of TIRZ and CITY, such consent shall not be unreasonably withheld. Assignments to related entities where Pershing Development LLC (or other entity owned and controlled by Pershing Development LLC) is the general partner shall be expressly permitted without necessity of City Council approval.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

PERSHING DEVELOPMENT LLC
A Texas limited liability company

BY _____

Name: Edward Manuel

Title: Principal

WITNESS:

_____

THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF ARLINGTON, TEXAS

BY _____

Name _____

Title TIRZ Chairman

WITNESS:

_____

CITY OF ARLINGTON, TEXAS

BY _____
TREY YELVERTON
City Manager

ATTEST:

_____
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY _____

THE STATE OF TEXAS §
§ **PERSHING DEVELOPMENT LLC**
COUNTY OF TARRANT § **Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Edward Manuel, known to me (or proved to me on the oath of _____ or through divas license (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of Pershing Development LLC **(DEVELOPER),** an entity duly authorized to do business in the State of Texas, and as the manager thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 8th day of January, ~~2024.~~ 2025

KODI HAWKINS
NOTARY PUBLIC
ID# 133369978
State of Texas
Comm. Exp. 09-30-2025

9/30/25
My Commission Expires

Kodi Hawkins
Notary Public in and for
The State of Texas
Kodi Hawkins
Notary's Printed Name

THE STATE OF TEXAS §
§ **THE BOARD OF DIRECTORS OF**
§ **TAX INCREMENT REINVESTMENT**
§ **ZONE NUMBER ONE,**
§ **CITY OF ARLINGTON, TEXAS**
COUNTY OF TARRANT § **Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Jim Ross, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF ARLINGTON, TEXAS, and as the Chairman thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 22nd day of January, 2025

ELAINE MENDES
Notary Public, State of Texas
Comm. Expires 07-19-2026
Notary ID 133864763

My Commission Expires:

Elaine Mendes
Notary Public In and For
The State of Texas
Elaine Mendes

THE STATE OF TEXAS §
§ **CITY OF ARLINGTON**
§
§
COUNTY OF TARRANT § **Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Trey Yelverton, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of CITY OF ARLINGTON, TEXAS, and as the City Manager thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 21st day of January, 2025

Donna S. King
Notary Public In and For
The State of Texas

11/27/25
My Commission Expires:

Donna S. King

DONNA S. KING
Notary Public, State of Texas
Comm. Expires 11-27-2025
Notary ID 3051663

Exhibit "1"

6/27/2024
6/28/2024

Ordinance No. 24-030

An ordinance changing the zoning classification on certain property known as 701, 703, 705, 707, 709 and 711 Dugan Street and 700 East South Street to Planned Development (PD) for limited Residential Multi-Family 22 (RMF-22) uses, to be known as Balfour Lofts; with a Development Plan, amending the Zoning District Map accordingly; authorizing the building official to issue permits upon the effective date; providing for a fine of up to $2,000 for each violation; providing this ordinance be cumulative; and providing for severability, governmental immunity, injunctions, and publication; and an effective date

WHEREAS, after notice and public hearing the Planning and Zoning Commission heard and recommended approval of Zoning Case PD24-02 on May 15, 2024; and

WHEREAS, it is expressly understood by the applicant that a Planned Development (PD) is a specific type of zoning request that is not required by the City of Arlington for the development of this type of land use; and

WHEREAS, there are specific allowances and development code deviations that may be granted through the approval of a Planned Development; and

WHEREAS, in exchange for such allowances and deviations, the City of Arlington, by and through its Planning and Zoning Commission and its City Council, may require reasonable conditions and additional standards as shown in an approved Planned Development and in accordance with an associated Development Plan; and

WHEREAS, the City Council finds that the proposed Planned Development is essential to preserving the historical, cultural and/or architectural standards of the City of Arlington; and

WHEREAS, notwithstanding the limitations on building material standards imposed by Chapter 3000 of the Texas Government Code, and effective September 1, 2019, said Development Plan shall continue to apply to the proposed development included herein and shall continue to require that the design and construction thereof complies with the associated Development Plan, and that all applicable building permit applications related to this project conform in all respects; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public

and in support of the health, safety, morals, and general welfare of the citizens that the zoning amendment be approved. Now, therefore.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

THAT the zoning classification of certain property known as 701, 703, 705, 707, 709 and 711 Dugan Street and 700 East South Street is hereby changed to Planned Development (PD) with for limited Residential Multi-Family 22 (RMF-22) uses, to be known as Balfour Lofts, with a Development Plan, by the approval of PD24-02. The Zoning District Map shall be amended to reflect the zoning change made by this ordinance. Development and use of the property shall comply with this ordinance and the attached Development Plan.

2.

The Building Official is hereby authorized and directed to issue permits in compliance with this ordinance, including all exhibits attached to this ordinance, immediately after the effective date of this ordinance. In the event of a conflict between the provisions in Exhibit B and the provisions in any other exhibit, the provisions in Exhibit B control.

3.

Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

4.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

5.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

6.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

7.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

8.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

9.

This is an ordinance for the immediate preservation of the public peace, property, health and safety, and is an emergency measure within the meaning of Article VII, Sections 11 and 12, of the City Charter; and the City Council, by the affirmative vote of all of its members present and voting, hereby declares that this ordinance is an emergency measure, and the requirement that it be read at two (2) meetings, as specified in Section 11, is hereby waived.

10.

This ordinance shall become effective upon second publication.

PRESENTED AND GIVEN FIRST READING on the 11th day of June, 2024, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 25th day of June, 2024, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

JIM R. ROSS, Mayor

ATTEST:

MARTHA GARCIA, Acting City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY

Exhibit "1-A"

PD24-02
EXHIBIT "A"

BEING A 1.146 ACRE TRACT OF LAND SITUATED IN THE JOHN HUITT SURVEY, ABSTRACT NO. 703, CITY OF ARLINGTON, TARRANT COUNTY, TEXAS, BEING ALL OF LOT 4 AND A PORTION OF LOTS 3, 5, 6, 7 AND 8, THE WM. M. DUGAN ADDITION, AN ADDITION TO THE CITY OF ARLINGTON, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 204, PAGE 68, DEED RECORDS, TARRANT COUNTY, TEXAS (DRTCT), AND ALL OF LOT 7-R, DUGAN ADDITION, AN ADDITON TO THE CITY OF ARLINGTON, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 388-47, PAGE 170, PLAT RECORDS, TARRANT COUNTY, TEXAS (PRTCT), AND DESCRIBED IN THE DEED TO EN LAS ROCAS RANCH, LLC (TRACTS ONE THROUGH TRACT SIX), AS RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D221012668, OPRTCT and DESCRIBED IN THE DEED TO ARLINGTON URBAN MINISTRIES, AS RECORDED IN COUNTY CLERK'S INSTRUMENT NO. D205236246, OPRTCT, SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT FOR THE NORTHWEST CORNER OF SAID LOT 7-R, DUGAN ADDITION, AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF EAST SOUTH STREET, A VARIABLE WIDTH RIGHT-OF-WAY AND THE EAST RIGHT-OF-WAY LINE OF SPRUANCE STREET, A 70.00 FOOT WIDE RIGHT-OF-WAY;

THENCE NORTH 89°24'43" EAST, WITH THE NORTH LINE OF SAID LOT 7-R, DUGAN ADDITION, THE NORTH LINE OF SAID LOT 4, WM. M. DUGAN ADDITION AND THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST SOUTH STREET, PASSING A 1/2" IRON ROD FOUND (DISTURBED), AT A DISTANCE OF 0.27 FEET AND CONTINUE FOR A TOTAL DISTANCE OF 250.00 FEET TO A 5/8" CAPPED IRON ROD STAMPED "MMA" SET FOR THE NORTHEAST CORNER OF SAID LOT 4 AND THE NORTHWEST CORNER OF LOT 3 OF SAID WM.M DUGAN ADDITION, FROM WHICH A 1/2" IRON ROD FOUND BEARS SOUTH 25°49'03" WEST, A DISTANCE OF 4.27 FEET;

THENCE SOUTH 0°31'00" EAST, WITH THE COMMON LINE OF SAID LOT 3 AND LOT 4, A DISTANCE OF 50.14 FEET TO A 1/2" CAPPED IRON ROD STAMPED "MILLER 5665" FOUND FOR CORNER;

THENCE NORTH 89°21'32" EAST, OVER AND ACROSS SAID LOT 3, A DISTANCE OF 49.29 FEET TO A POINT FOR CORNER IN THE EAST LINE OF SAID LOT 3 AND THE WEST LINE OF LOT 2 OF SAID WM. M. DUGAN ADDITION;

THENCE SOUTH 0°17'02" WEST, WITH THE COMMON LINE OF SAID LOT 2 AND LOT 3, PASSING A 3/4" IRON PIPE FOUND, AT A DISTANCE OF 0.43 FEET, AND CONTINUE FOR A TOTAL DISTANCE OF 124.92 FEET TO A 5/8" CAPPED IRON ROD STAMPED "MMA" SET FOR THE SOUTHEAST CORNER OF SAID LOT 3, THE SOUTHWEST CORNER OF SAID LOT 2 AND IN THE APPARENT NORTH RIGHT-OF-WAY LINE OF DUGAN STREET, A 70.00 FOOT WIDE PUBLIC RIGHT-OF-WAY;

THENCE SOUTH 89°24'43" WEST, WITH THE SOUTH LINE OF SAID LOTS 3, 4, 5, 6, 7 AND 8 AND THE NORTH RIGHT-OF-WAY LINE OF SAID DUGAN STREET, A DISTANCE OF 298.83 FEET TO A TO A 5/8" CAPPED IRON ROD STAMPED "MMA" SET FOR THE SOUTHWEST CORNER OF SAID LOT 8 AND IN THE EAST RIGHT-OF-WAY LINE OF SAID SPRUANCE STREET;

THENCE NORTH 0°05'39" WEST, WITH THE west line of said LOT 8, SAID LOT 7-R AND THE EAST RIGHT-OF-WAY LINE OF SAID SPRUANCE STREET, A DISTANCE OF 175.01 FEET TO THE **POINT OF BEGINNING** AND CONTAINING 49,909 SQUARE FEET OR 1.146 ACRES OF LAND, MORE OR LESS.

AND being generally located south of East South Street and east of Spruance Street with the physical addresses of 701, 703, 705, 707, 709 and 711 Dugan Street and 700 East South Street.

PD24-02
EXHIBIT "B"

1. The zoning of this site is Planned Development (PD) for limited Residential Multi-Family 22 (RMF-22) uses, with a Development Plan.

2. Short Term Rentals are strictly prohibited.

3. The property shall be developed with 65 dwelling units.

4. The historic Balfour and associated signage shall be placed on the property at several locations.

5. Deviations allowed through this Planned Development include the following:
   a. The 180-foot maximum allowed length of the multi-family buildings will be increased as shown on the approved development plan.
   b. Minimum density increased to 56.7 units per acre.
   c. Parking shall be as shown on the approved development plan. On-street parking shall be counted towards required parking.
   d. Landscape setbacks shall be as shown on the approved development plan.
   e. Landscaping shall be as shown on the approved development plan.
   f. The carports shall be designed as shown on the approved development plan with flat roofs and no masonry columns.

6. The applicant shall pay into the reforestation fund at a rate of $200.00 per the negative caliper inches that are not preserved per the tree preservation requirements.

Building Materials and Design

7. The building materials shall be as shown on the development plan.

8. The minimum square footage for each living unit shall be as follows:

	UDC Min. Unit Area	Proposed Min. Unit Area
Efficiency/Studio	600 square feet	543 square feet
Efficiency/Studio	600 square feet	595 square feet
One-bedroom	750 square feet	654 square feet
One-bedroom	750 square feet	847 square feet

Two-bedroom	900 square feet	979 square feet
Two-bedroom	1,100 square feet	1,162 square feet

9. The cementitious fiberboard shall be re-painted at least every ten years to maintain a quality standard of living environment.

Parking

10. Parking shall be as shown on the approved development plan. On-street parking shall count towards the required parking.

11. A minimum of 10 bicycle spaces will be provided in the building.

12. EV charging stations shall be provided in some of the garages, if desired by tenants.

Amenities

13. The property will have 7,800 square feet of open space, which includes private yards along Spruance Street and South Street.

14. The amenities shall include the following: dog park, public art at several locations and secured internal bike parking, per the approved development plan.

Screening and Fencing

15. A variable width landscape buffer will be provided along the east property line. This shall include nine (9) three-inch caliper understory trees and a 6-foot double sided wood fence.

16. Screening and fencing shall be as shown on the approved development plan.

Landscaping

17. Tree grates along the Spruance Street and E. South Street sidewalks shall be a minimum 4 foot by 8 foot.

18. Four-inch caliper trees shall be planted along the Spruance Street and E. South Street sidewalks.

19. Landscaping shall be provided as shown on the approved development plan.

20. Common Open Space areas shall be maintained per the approved development plan.

21. Approved landscape plan must be maintained to the design as approved. The owner, or its successor, shall be responsible for replacing any dead or dying landscaping. The irrigation system must be maintained, and all plant material routinely trimmed to maintain a quality standard of living environment.

22. Mechanical equipment shall be screened by measures identified in the UDC.

23. The development entrance on Dugan Street shall provide enhanced landscaping and gateway elements, and entry fence. Said enhanced features and entry fence shall be properly maintained in accordance with the attached Development Plan.

24. Art at the hard corner of E. South Street and Spruance Street shall be provided. These improvements encroach into a planned utility easement that runs along the property line. An Easement Use Agreement approved by the City and Franchise Utility companies, is required. If an Easement Use Agreement is not approved, the art shall be relocated elsewhere on the subject property, as approved by the Zoning Administrator, or her designee. If Franchise Utility companies reject the proposed location, the art shall be relocated elsewhere on the subject property, as approved by the Zoning Administrator, or her designee.

General

25. Use and development of the property shall comply with the attached Development Plan.

26. Utilities shall be buried underground.

27. In the event of a conflict between the provisions in this Exhibit B and any other exhibits to this ordinance, the provisions of Exhibit B control.