

# Arlington Commons - Phase IC

Location: 505 E Lamar Boulevard

Property Owner: Arlington Commons Lands, LLC

835 E Lamar Boulevard Ste 175

Arlington, TX 76011

## About the Project

In a public/private partnership with the developer, City of Arlington is assisting with the redevelopment of approximately 66 acres along East Lamar Blvd, between Rolling Hills Country Club and Lincoln Drive. The intent is to redevelop the project area and establish a new market rate rental standard that presently does not exist in Arlington. The private portion of this proposal includes the complete redevelopment of four existing apartment complexes – Huntington Chase, Pointe of North Arlington, Countrywood, and Water Chase, totaling approximately 31 acres. The public portion includes future improvements to Parkway Central city park and the adjacent right-of-way of East Lamar Blvd., totaling approximately 35 acres. The City's participation will offset a portion of the redevelopment costs, which include detention and drainage improvements, demolition and remediation, as well as improvement of the adjacent public spaces. The developer proposes to replace the existing complexes with a multi-year, phased, mix-use development that is consistent with the goals of the Lamar/Collins Overlay District.

## Goals of the Project

Revitalization and redevelopment in North Arlington; major capital investment; property tax base enhancement

## Current Status

Per the terms of the Master 380 Agreement, the developer requested a 10-year, 90% tax abatement agreement for Phase IC of the redevelopment project. City Council approved Resolution No. 18-238 authorizing the abatement agreement with Arlington Commons Lands, LLC. In May 2021, City Council approved Resolution No. 21-094 authorizing the first amended and restated tax abatement agreement to extend the completion deadline to 12/31/2021. Assuming all criteria are met, Owner will be eligible for the first year of the abatement in tax year 2022.

## Benefit to City

Redevelopment of aging multi-family housing; revitalization of North Arlington; enhanced property tax base

Reinvestment Zone	41	
Ordinance	18-052	
Year Approved by Council	2018; 2021	
Base Year	2015	
Beginning Year	2022	FY23
Ending Year	2031	FY32
Duration	10 years	
Base Year Value	TBD by Tarrant Appraisal District	
Property Tax Account Number(s)	42454482	
Total Abatement Allowed	90%	
Total Estimated Investment by Company	\$ 250,000,000	(All Phases)
	\$ 35,000,000	(Phase IC)

Complete Eligible Property by 12/31/2021 resulting in added taxable value above the base by at least \$7M by tax year 2022

Maintain Eligible Property for duration of agreement

**Criteria Evaluated** Maintain Multi-Family License as required by the City's Uniform Housing Code

Conform to applicable codes, ordinances, laws and regulations

Timely payment of ad valorem taxes; render any property for taxation

**Incentives Allowed**

90% if Added Taxable Value of \$7m over the Base Year Value is achieved

**Resolution No. 21-097**

**A resolution authorizing the execution of the First Amended and Restated Tax Abatement Agreement – Phase IC by and between Arlington Commons Lands, LLC and the City of Arlington, Texas, relative to tax abatement for a project in Reinvestment Zone Number Forty-One in the City of Arlington, Texas**

- WHEREAS, on May 4, 2021, by Resolution No. 21-094, City Council approved a Fourth Amended and Restated Master Economic Development Program Agreement with Arlington Commons Lands, LLC relative to economic development incentives associated with demolition, remediation and redevelopment in the area of East Lamar Boulevard and Lincoln Drive in the City of Arlington (“Project”); and
- WHEREAS, the Arlington City Council has elected to participate in tax abatements in accordance with TEX. TAX CODE ANN. Chapter 312, and has adopted policy statements, guidelines, criteria and procedures for evaluating and considering applications and agreements for such incentives; and
- WHEREAS, the ultimate goal and public purpose of agreements and programs established under the City’s economic development policies is to protect and enhance City’s fiscal ability to provide high quality municipal services for the safety, comfort and enjoyment of City residents; and
- WHEREAS, the City finds that the administration of a program of incentives to Arlington Commons (“Program”) in exchange for Arlington Commons’ completion of the project proposed by Arlington Commons, which would contribute to the retention or expansion of employment in the City and would attract major investment, which would contribute to the economic development of the City; and
- WHEREAS, the City has determined that the Program will directly establish a public purpose and that all transactions involving the use of public funds and resources in the establishment and administration of the Program contain sufficient controls to ensure that the public purpose is carried out; and
- WHEREAS, the City finds that the Project meets the applicable guidelines, criteria, and minimum requirements previously established by City; and
- WHEREAS, the City and Arlington Commons desire to amend and fully restate the Tax Abatement Agreement – Phase IC to extend the timeframes for completion

of the Project and start of the tax abatement due to COVID-19 and other force majeure events; 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 governing body and as part of its official record.

II.

That the City Manager or his designee is hereby authorized to execute the First Amended and Restated Tax Abatement Agreement - IC with Arlington Commons Lands, LLC. A substantial copy of the agreement is attached as Exhibit "A".

III.


In authorizing the execution of and in executing the referenced agreement, the City of Arlington, Texas, through its City Council and City officials, hereby exercises a governmental function in accordance with but not limited to Section 101.0215 of the Texas Civil Practices and Remedies Code.

PRESENTED AND PASSED on this the 4th day of May, 2021, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



W. JEFF WILLIAMS, Mayor

ATTEST:

  
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY 

**Exhibit “A”**

**First Amended and Restated Tax Abatement Agreement – Phase IC**





WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the Code, to the presiding officers of the governing bodies of each of the taxing units in which the Premises to be subject to the Agreement is located; and

WHEREAS, the City Council finds that it is in the public interest to provide the tax abatement; and

WHEREAS, due to COVID-19 and other events of Force Majeure, the timeframes for completion of the Eligible Property and start of the tax abatement need to be extended; NOW THEREFORE,

The CITY and OWNER, 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. “Added Taxable Value” is defined as the value of the Eligible Property and Premises above the Base Year Value, as appraised by the Tarrant Appraisal District.
- B. “Base Year Value” is defined as the tax year 2015 taxable value of the Premises in Reinvestment Zone Number Forty-One, on January 1, 2015, as finally determined by Tarrant Appraisal District.
- C. “Eligible Property” is defined as real property improvements as provided in **Exhibit “A”** erected or affixed to the Premises after this Agreement is signed and through December 31, 2022. **Exhibit “A”** is attached hereto and incorporated herein for all purposes.
- D. “Premises” are defined as the real property (land only) located at 505 East Lamar Boulevard, described in **Exhibit “B”**, which existed on January 1, 2015, in Reinvestment Zone Number Forty-One, that is owned by OWNER. **Exhibit “B”** is attached hereto and incorporated herein for all purposes.
- E. “Reinvestment Zone Number Forty-One” is defined as the real property located in the City of Arlington and described by City of Arlington Ordinances No.14-071 and No. 18-052, attached hereto as **Exhibit “C”**.

## **II.** **General Provisions**

- A. The Premises are not in an improvement project financed by tax increment bonds.

- B. The Premises are not owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of CITY.
- C. It is acknowledged and agreed by the parties that the completion of the Eligible Property is consistent with the purposes of encouraging development or redevelopment of the Reinvestment Zone.

### **III.**

#### **Improvement Conditions and Requirements**

- A. OWNER shall improve the Premises by completing the Eligible Property on or before December 31, 2021. Completion shall be demonstrated by obtaining all final requisite certificates of occupancy for the Eligible Property.
- B. OWNER's completion of the Eligible Property of this Agreement must result in Added Taxable Value above the Base Year Value ("Added Value") of at least \$7,000,000 the tax year beginning January 1, 2022, as finally determined by the Tarrant Appraisal District ("TAD").
- C. OWNER shall maintain the Eligible Property on the Premises for the term of this Agreement and at all times maintain a Multi-Family License as required by Article XIV of the Uniform Housing Code Chapter of the Code of the City of Arlington.
- D. OWNER shall at all times maintain the Premises in accordance with the Declaration of Maintenance Covenants attached hereto as **Exhibit "D"** and incorporated herein for all purposes.
- E. Eligible Property shall at all times conform to the applicable building codes, zoning ordinances, and all other ordinances and regulations or laws.
- F. OWNER shall not allow the ad valorem taxes owed to CITY on any property owned by OWNER and located within the City of Arlington to become delinquent beyond the last day they can be paid without assessment of penalty.
- G. OWNER shall not fail to render for taxation any property located within the City of Arlington.
- H. OWNER covenants and certifies that OWNER 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 OWNER is convicted of a violation under 8 U.S.C. Section 1324a(f), OWNER shall repay to the CITY the full amount of taxes abated under Section IV of this Agreement, plus 10% per annum from the date the abatement was made. Repayment shall be paid within 120 days after the date following such conviction that OWNER receives notice of violation from the

CITY as provided by 2264.101(c) of the Texas Government Code. OWNER shall not be liable for a violation by a subsidiary, affiliate, or franchisee of OWNER or by a person with whom OWNER contracts.

#### IV.

#### Abatement Allowed

- A. If the Improvement Conditions and Requirements set forth in Section III are met, CITY agrees to exempt from taxation ninety percent (90%) of the Added Taxable Value. The exemption shall be for a period as follows, from the tax year beginning January 1, 2022, through and including the tax year beginning January 1, 2031.

#### V.

#### Reports, Audits, and Inspections

- A. Annual Certification and Reports - Pursuant to state law, OWNER shall certify annually to taxing units that OWNER is in compliance with the terms of the Agreement and shall provide taxing units with reports and records reasonably necessary to support each year of the Agreement, as follows:
1. Certification -- OWNER shall complete and certify a tax abatement certification to be provided by CITY for each year of the Agreement, to be due annually not later than April 1. This certification shall include reports on Eligible Property values and costs, a narrative description of the project's progress, and other submittals required by the Agreement.
  2. Additional Reports -- Additionally, throughout the term of this Agreement, OWNER shall furnish CITY any additional records and information reasonably requested to support the reports required by this Agreement.
- B. Right to Audit Books and Records - CITY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. CITY shall notify OWNER in advance in writing of their intent to audit in order to allow OWNER adequate time to make such books and records available.
- C. Inspection - At all times throughout the term of this Agreement, CITY and TAD shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, 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 installation and operation of the Eligible Property on the Premises. The inspections shall be conducted within a reasonable time period after notice by CITY or TAD to OWNER, provided, however, that all inspections shall be made



with one (1) or more representative(s) of OWNER present and in accordance with the safety standards of OWNER.

**VI.**  
**Use of Premises**

The Premises at all times shall be used in a manner that is consistent with CITY's zoning ordinances as well as any other laws, and in a manner consistent with the general purpose of encouraging development within Reinvestment Zone Number Forty-One.

**VII.**  
**Breach and Recapture**

- A. **Breach** - A breach of this Agreement may result in termination of this Agreement. The following conditions shall constitute a breach of this Agreement:
1. The Premises are abandoned by OWNER by ceasing to operate the Eligible Property as multi-family for a consecutive period of at least six months or operating at an occupancy rate below 33% for a consecutive period of six months or more in abatement years 5-10; or
  2. OWNER fails to complete and adhere to the OWNER's Improvement Conditions and Requirements as specified in Article III above; or
  3. OWNER fails to comply with the reporting or inspection requirements described in Article V of this Agreement.
- B. **Notice of Breach** - In the event that CITY makes a reasonable determination that OWNER has breached this Agreement then CITY shall give OWNER written notice of such breach. OWNER shall have 60 days following receipt of said written notice to reasonably cure such breach or this Agreement may be terminated by CITY. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to OWNER at the addresses provided in Article VIII of this Agreement.
- C. **Tax Lien Not Impaired** - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien may be fully enforced pursuant to the provisions of the Code.

**VIII.**  
**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, return receipt requested, postage prepaid, or by hand delivery:

DEVELOPER: Arlington Commons Lands, LLC  
Attention: Robert H. Kembel  
835 E. Lamar Blvd., #254  
Arlington, Texas 76011

WITH A Barry R. Knight  
COPY TO: Attorney at Law  
3521 Rankin Ave.  
Dallas, Texas 75205

CITY: City of Arlington  
Attention: Economic Development Manager  
P.O. Box 90231  
Arlington, Texas 76004-3231

Any party may change the address and add additional parties to whom notice will be sent by giving the other parties written notice in the manner provided in this Article.

**IX.**  
**City Council Authorization**

This Agreement was authorized by resolution of the City Council authorizing the City Manager or his designee to execute this Agreement on behalf of the CITY.

**X.**  
**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.

**XI.**  
**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 OWNER, 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 abatement in

effect and such other matters reasonably requested by the party(ies) to receive the certificates.

**XII.**  
**OWNER's Standing**

OWNER, 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 City Council actions authorizing same, and OWNER shall be entitled to intervene in said litigation.

**XIII.**  
**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.

**XIV.**  
**Indemnification**

**It is understood and agreed between the parties that the OWNER, in performing its obligations hereunder, is acting independently, and CITY assumes no responsibility or liability to third parties in connection therewith, and OWNER agrees to indemnify and hold harmless CITY from any such responsibility or liability. It is further understood and agreed among the parties that CITY, in performing its obligations hereunder, is acting independently, and the OWNER assumes no responsibility or liability to third parties in connection therewith, and CITY agrees to the extent allowed by law to indemnify and hold harmless OWNER from any such responsibility or liability.**

**XV.**  
**Force Majeure**

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, act of God, fire, or other casualty of a similar nature.

**XVI.**  
**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.

**XVII.**  
**Recordation of Agreement**

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

**XVIII.**  
**Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses**

In performing this Agreement, OWNER agrees to use diligent efforts to purchase all goods and services from Arlington or Tarrant County businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors, and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor, or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers, or other persons or organizations proposed for work on this Agreement, the OWNER agrees to consider this policy and to use their reasonable and best efforts to select and employ such companies and persons for work on this Agreement.

**XIX.**  
**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.

**XX.**  
**Successors and Assigns**

The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. It is intended by the parties hereto that this Agreement may be assigned by OWNER to a successor owner only with prior written approval of the City Council, which approval will not be unreasonably withheld or delayed. Assignment to related entities where The Nehemiah, LLC is the general partner or managing member shall be expressly allowed without City Council approval.

**XXI.**  
**Counterparts**

This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall

constitute one instrument, and shall be binding and effective when all of the parties hereto have executed at least one counterpart.

**XXII.**  
**No Third-Party Beneficiaries**

For purposes of this Agreement, including its intended operation and effect, the parties specifically agree that: (1) the Agreement only affects matters/disputes between the parties to this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entity may be in a contractual relationship with CITY or OWNER or both; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or OWNER.

**XXIII.**  
**Remedies**

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

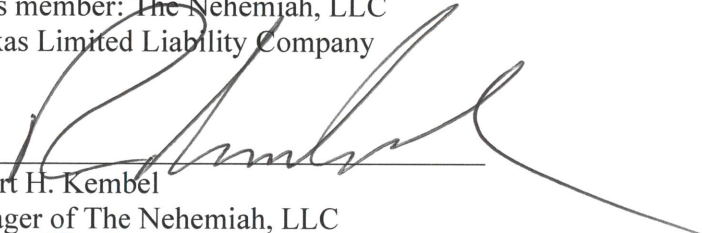
**XXIV.**  
**Termination**

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; however, in no event shall the abatement exceed 10 years.


IN WITNESS WHEREOF, each party has caused this Agreement to be executed on the date indicated below, effective as of the later of such dates.

**ARLINGTON COMMONS LANDS, LLC**

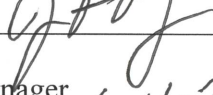
a Texas Limited Liability Company  
By its member: The Nehemiah, LLC  
a Texas Limited Liability Company

BY   
Robert H. Kembel  
Manager of The Nehemiah, LLC  
Date 5-13-21


WITNESS:

  
\_\_\_\_\_

**CITY OF ARLINGTON, TEXAS**

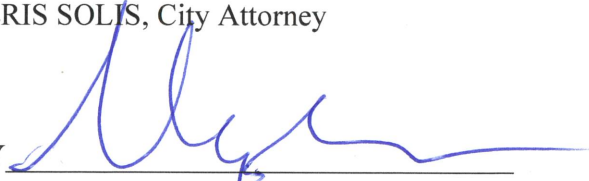
BY   
JIM PARAJON  
Deputy City Manager  
Date 6-11-21

ATTEST:

  
\_\_\_\_\_  
ALEX BUSKEN, City Secretary



APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY   
\_\_\_\_\_



**Exhibit "A"**

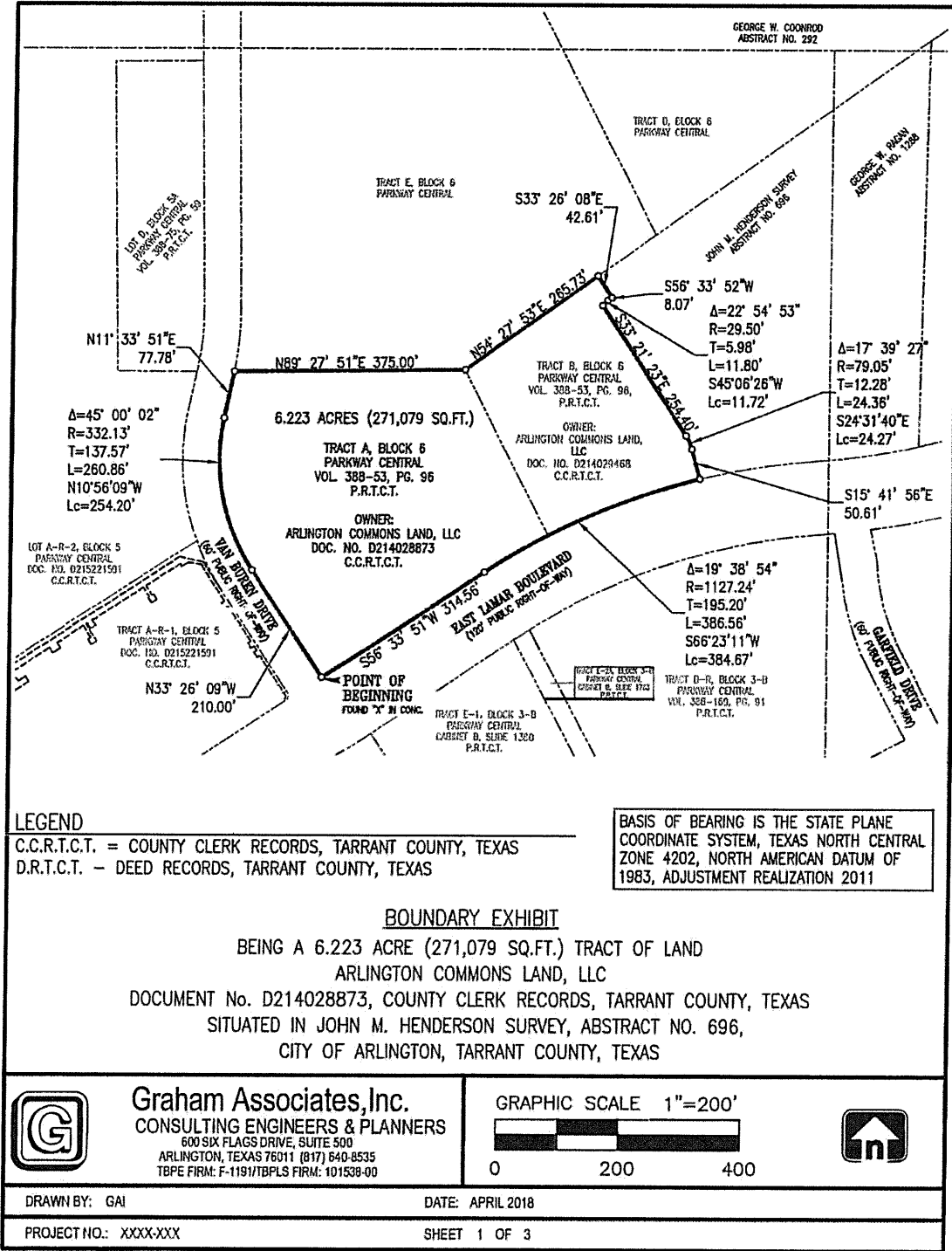
**ELIGIBLE PROPERTY- Phase I-C Project**

Phase IC of a multi-family redevelopment project to include the construction of new multi-family facility comprised of at least 350 multi-family units and a structured parking garage. Construction of the Phase IC Project with a total minimum capital investment of \$100,000 per multi-family unit in overall project costs.



Exhibit "B"

**PREMISES - Legal Property Description**



BOUNDARY EXHIBIT

Being a 6.223 acre tract of land situated in the John M. Henderson Survey, Abstract No.696, Tarrant County, Texas and being all of Tract A, Block 6, Parkway Central Addition, as recorded in Volume 388-53, Page 96, Plat Records, Tarrant County, Texas, and conveyed by deed to Arlington Commons Land, LLC., as recorded in Document No. D214028873, County Clerk Records, Tarrant County, Texas, and being a portion of Tract B, Block 6, Parkway Central Addition, as recorded in Volume 388-53, Page 96, Plat Records, Tarrant County, Texas, and conveyed by deed to Arlington Commons Land, LLC., as recorded in Document No. D214029468, County Clerk Records, Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at a found "x" in concrete, said point being the southwest corner of said Tract A, Block 6, and being at the intersection of the existing north right-of-way line of East Lamar Boulevard (having a 120' R.O.W.) and the existing west right-of-way line of Van Buren Drive (having a 60' R.O.W.);

THENCE North 33°26'09" West, leaving said existing north right-of-way line, and along said existing west right-of-way line, a distance of 210.00 feet to a point for corner, for the beginning of a tangent curve to the right having a radius of 332.13 feet, a central angle of 45°00'02", and a long chord which bears North 10°56'09" West, 254.20 feet;

THENCE continuing along said existing west right-of-way line, and along said tangent curve to the right, an arc distance of 260.86 feet to a point for corner;

THENCE North 11°33'51" East, continuing along said existing west right-of-way line, a distance of 77.78 feet to a point for corner, said point being the northwest corner of said Tract A, Block 6;

THENCE North 89°27'51" East, leaving said existing west right-of-way line, and along the north line of said Tract A, a distance of 375.00 feet to a point for corner, said point being the northeast corner of said Tract A, and being the northwest corner of said Tract B, Block 6;

THENCE North 54°27'53" East, leaving said north line of Tract A, and along the north line of said Tract B, Block 6, a distance of 265.73 feet to a point for corner;

THENCE South 33°26'08" East, leaving said north line of Tract B, a distance of 42.61 feet to a point for corner;

THENCE South 56°33'52" West, a distance of 8.07 feet to a point for corner, for the beginning of a tangent curve to the left having a radius of 29.50 feet, a central angle of 22°54'53", and a long chord which bears South 45°06'26" West, 11.72 feet;

THENCE along said tangent curve to the left, an arc distance of 11.80 feet to a point for corner;

THENCE South 33°21'23" East, a distance of 254.40 feet to a point for corner, for the beginning of a tangent curve to the right having a radius of 79.05 feet, a central angle of 17°39'27", and a long chord which bears South 24°31'40" East, 24.27 feet;

THENCE along said tangent curve to the right, an arc distance of 24.36 feet to a point for corner;

THENCE South  $15^{\circ}41'56''$  East, a distance of 50.61 feet to a point for corner, for the beginning of a non-tangent curve to the left having a radius of 1127.24 feet and a central angle of  $19^{\circ}38'54''$ , and a long chord which bears South  $66^{\circ}23'11''$  West, 384.67 feet, said point being in the existing north right-of-way line of said East Lamar Boulevard;

THENCE along said existing north right-of-way line, and along said non-tangent curve to the left an arc distance of 386.56 feet to a point for corner;

THENCE South  $56^{\circ}33'51''$  West, continuing along said existing north right-of-way line, a distance of 314.56 feet to the POINT OF BEGINNING and CONTAINING 271,079 square feet, 6.223 acres of land, more or less.

**Exhibit "C"**

**Ordinance 14-071  
Creating  
Reinvestment Zone Forty- One**

**Ordinance 18-052  
Renewing  
Reinvestment Zone Forty- One**

Ordinance No. 14-071

**An ordinance establishing Reinvestment Zone Number Forty-One; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading**

WHEREAS, the City Council of the City of Arlington, Texas, desires to promote the development or redevelopment of a certain area within its jurisdiction by the establishment of a Reinvestment Zone for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the designation of the property described in Exhibit "A" as Reinvestment Zone Number Forty-One, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; NOW THEREFORE,

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

1.

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

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the designation of Reinvestment Zone Number Forty-One has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Forty-One should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Forty-One are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be designated Reinvestment Zone Number Forty-One is reasonably likely, as a result of this designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially creates Reinvestment Zone Number Forty-One for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially designated as Tax Abatement Reinvestment Zone Number Forty-One of the City of Arlington, Texas.

4.

The designation of Reinvestment Zone Number Forty-One of the City of Arlington, Texas shall expire five (5) years after the effective date of its designation and may be renewed.

5.

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.

6.

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.

7.

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.

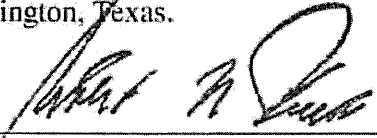
8.

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.

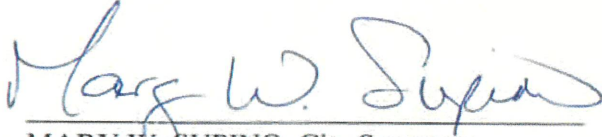
9.

This ordinance shall become effective upon second reading.

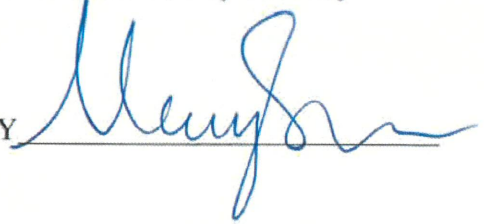
PRESENTED AND GIVEN FIRST READING on the 4th day of November, 2014, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 18th day of November, 2014, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
ROBERT N. CLUCK, Mayor

ATTEST:

  
\_\_\_\_\_  
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY   
\_\_\_\_\_



**Exhibit "A"**

**LEGAL DESCRIPTION  
ARLINGTON COMMONS LANDS**

Arlington Commons Lands is the sole owner of a 24.528 acre tract of land situated in the J. M. Henderson Survey, Abstract No. 696 and being all of Lot A-R, Block 5 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 1, Plat Records, Tarrant County, Texas (PRTCT), a portion of Lot D, Block 6 of Parkway Central, an addition to the City of Arlington, Tarrant County, Texas as recorded in Volume 388-75, Page 59 (PRTCT), a portion of Van Buren Drive (a variable 60.00 feet wide public right-of-way), all of Lot A, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-53, Page 96, Plat Records, Tarrant County, Texas (PRTCT), all of Lot B, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 96, Plat Records, Tarrant County, Texas (PRTCT) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2 inch iron rod for corner, said point being at a 1/2 inch iron rod found with a cap stamped "GAI" for the Southwesterly corner of said Lot A-R, Block 5.

THENCE North 00°11'11" West, a distance of 393.17 feet to a point for corner;

THENCE North 89°04'55" East, a distance of 132.51 feet to a point for corner;

THENCE North 05°05'41" West, a distance of 593.53 feet to a point for corner;

THENCE North 88°11'13" East, a distance of 380.88 feet to a point for corner;

THENCE North 01°06'10" West, a distance of 505.86 feet to a point for corner;

THENCE North 89°32'21" East, a distance of 142.55 feet to a point for corner;

THENCE South 01°01'09" East, a distance of 402.62 feet to a for the beginning of a tangent curve to the right having a radius of 423.50 feet, a central angle of 12°35'00", and a long chord which bears South 05°16'21" West, 92.82 feet;

THENCE along said curve to the right, an arc distance of 93.01 feet to a point for corner;

THENCE South 11°33'51" West, a distance of 12.86 feet to a point for corner;

THENCE North 89°27'51" East, a distance of 61.36 feet to a point for corner;

THENCE North 89°27'51" East, a distance of 375.00 feet to a point for corner;

THENCE North 54°18'04" East, a distance of 935.26 feet to a point for corner;

THENCE South  $00^{\circ}22'23''$  West, a distance of 663.44 feet to a for the beginning of a curve to the right having a radius of 1269.86 feet and a central angle of  $9^{\circ}31'59''$  and a long chord which bears South  $81^{\circ}56'21''$  West, 211.04 feet;

THENCE along said curve to the right an arc distance of 211.28 feet to a for the beginning of a reverse curve to the left having a radius of 1041.05 feet, a central angle of  $23^{\circ}32'44''$ , and a long chord which bears South  $73^{\circ}09'17''$  West, 424.81 feet;

THENCE along said curve to the left, an arc distance of 427.81 feet to a for the beginning of a compound curve to the left, having a radius of 1127.24 feet and a central angle of  $6^{\circ}07'07''$ , and a long chord which bears South  $59^{\circ}37'24''$  West, 120.32 feet;

THENCE along said curve to the left an arc distance of 120.38 feet to a point for corner;

THENCE South  $56^{\circ}33'51''$  West, a distance of 314.56 feet to a point for corner;

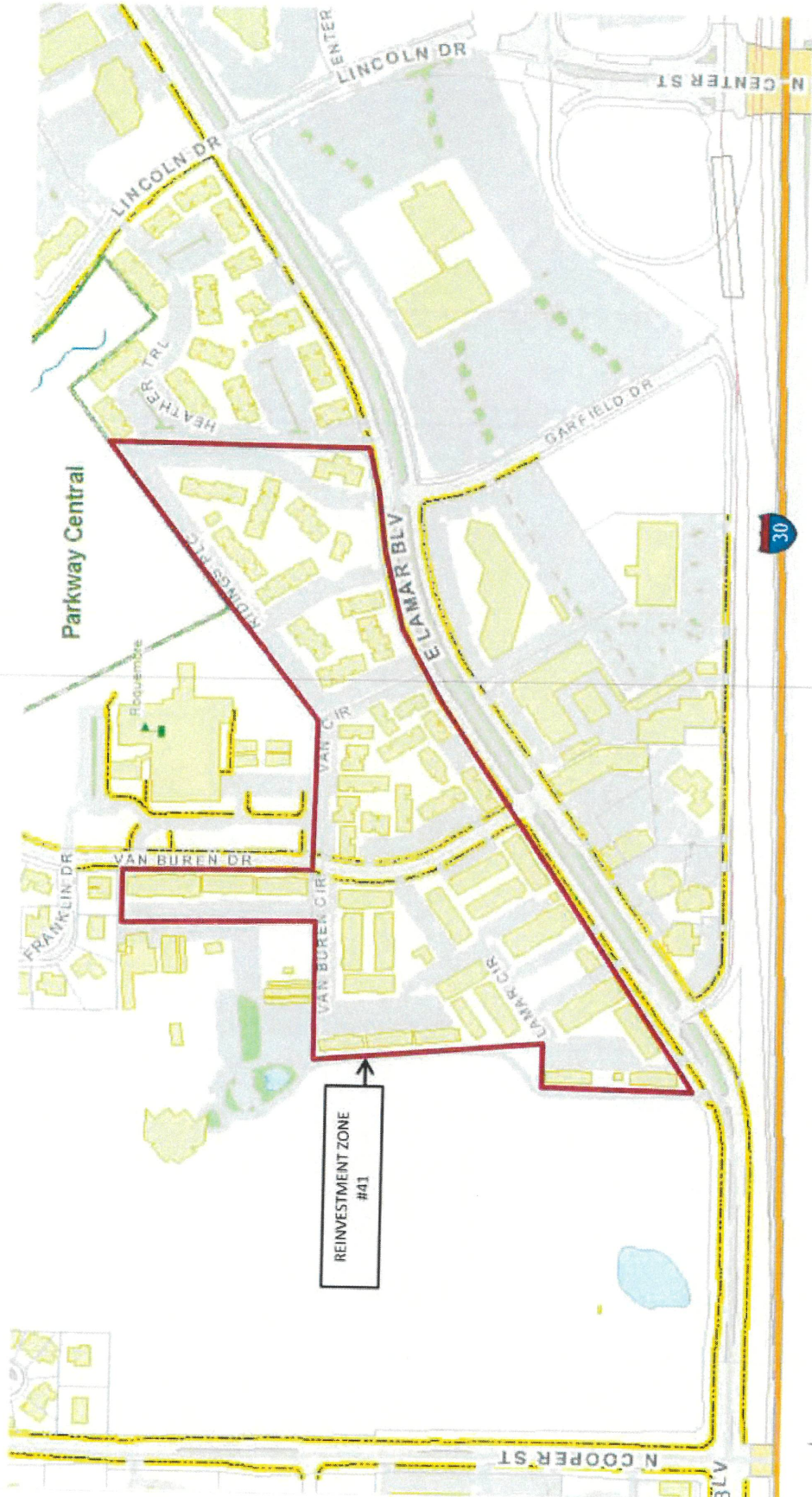
THENCE South  $56^{\circ}33'51''$  West, a distance of 60.00 feet to a point for corner;

THENCE South  $56^{\circ}33'51''$  West, a distance of 685.00 feet to a for the beginning of a tangent curve to the right having a radius of 786.70 feet, a central angle of  $14^{\circ}20'10''$ , and a long chord which bears South  $63^{\circ}43'56''$  West, 196.33 feet;

THENCE along said curve to the right, an arc distance of 196.84 feet to a for the POINT OF BEGINNING and CONTAINING 1,068,480 square feet, 24.528 acres of land, more or less.

**Exhibit "B"**

**Map**



Parkway Central

REINVESTMENT ZONE  
#41

30



**Ordinance No. 18-052**

**An ordinance re-designating and renewing Reinvestment Zone Number Forty-One; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading**

WHEREAS, on November 18, 2014, City Council of the City of Arlington, Texas approved Ordinance 14-071 approving the creation of Reinvestment Zone Number Forty-One for commercial-industrial tax abatement; and

WHEREAS, the City Council of the City of Arlington, Texas, desires to continue to promote the development or redevelopment of a certain area within its jurisdiction by the re-designation and renewal of Reinvestment Zone Number Forty-One for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the re-designation and renewal of the property described in Exhibit "A" as Reinvestment Zone Number Forty-One, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; NOW THEREFORE,

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

1.

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

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the re-designation and renewal of Reinvestment Zone Number Forty-One has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Forty-One should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Forty-One are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be re-designated and renewed as Reinvestment Zone Number Forty-One is reasonably likely, as a result of this re-designation and renewal, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially re-designates and renews Reinvestment Zone Number Forty-One for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially re-designated and renewed as Tax Abatement Reinvestment Zone Number Forty-One of the City of Arlington, Texas.

4.

The re-designation and renewal of Reinvestment Zone Number Forty-One of the City of Arlington, Texas shall expire five (5) years after the effective date of its re-designation and renewal.

5.

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.

6.

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.

7.

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.

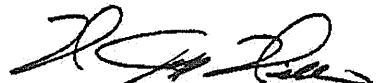
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Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

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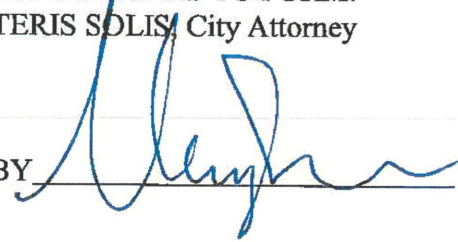
PRESENTED AND GIVEN FIRST READING on the 21st day of August, 2018, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 4th day of September, 2018, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
W. JEFF WILLIAMS, Mayor

ATTEST:

  
\_\_\_\_\_  
ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY   
\_\_\_\_\_





**Exhibit "A"**

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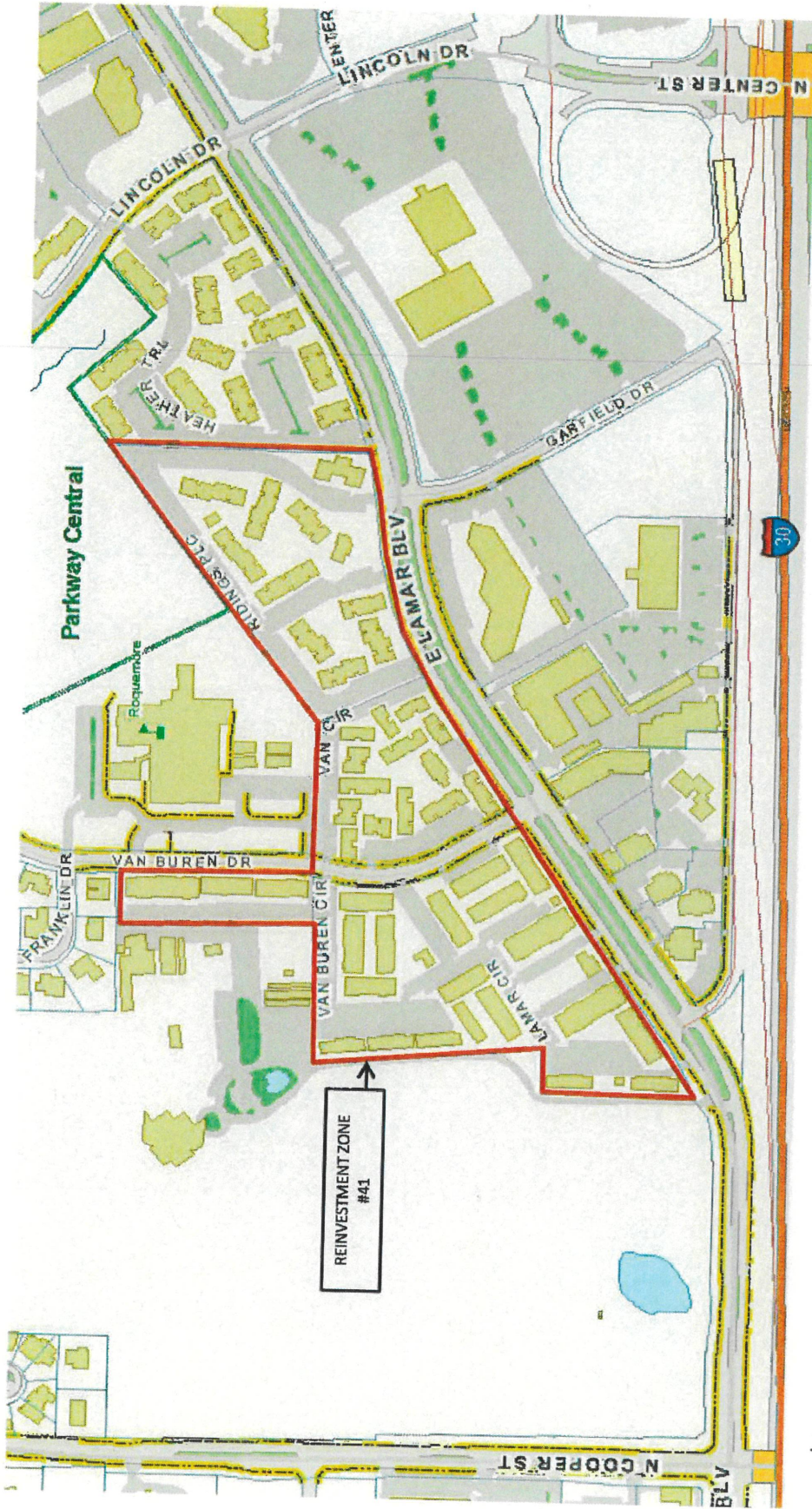
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**Exhibit "B"**





REINVESTMENT ZONE #41



**Exhibit "D"**  
**Declaration of Maintenance Covenants**



**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**DECLARATION OF MAINTENANCE COVENANTS**

THE STATE OF TEXAS     §  
  §  
COUNTY OF TARRANT   §

THIS DECLARATION OF MAINTENANCE COVENANTS (this "**Declaration**") is made this 13<sup>th</sup> day of May, 2021 (the "**Effective Date**"), by ARLINGTON COMMONS LANDS, LLC ("**Declarant**"),

RECITALS:

- A. Declarant is the owner of that certain real property located within the City of Arlington, Texas, described in **Exhibit A** attached hereto (the "**Land**").
- B. Declarant intends to make certain improvements to the Land, including the construction of approximately \_\_\_ apartment units (such improvements together with the Land, the "**Property**").
- C. Declarant would like to impose certain maintenance covenants on the Property to ensure that the Property will be kept in a condition that is consistent with certain standards held by both Declarant and The City of Arlington, Texas (the "**City**").

DECLARATION:

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, transferred, sold, conveyed, and occupied subject to the following covenants, which shall run with title to the Land.

1. **Maintenance Covenants**. The following covenants shall apply to the Property as of the Effective Date and will remain in full force and effect until the expiration of the Term (as defined herein). Absent written approval from the City manager or its designee, any owner or operator of the Property shall adhere to the following maintenance obligations:

- a. All landscaping must be kept in a clean and orderly condition consistent with other Class A developments within the City of Arlington, Texas, and (ii) the conditions and requirements of project's approved plans including landscaping and screening must be keep in quality condition. Any landscaping deemed to be dying or in a state of distress must be replaced within sixty (60) days of occurrence or notification from the City.

- b. All driveways, garages, parking areas, carports, and other vehicular infrastructure must be kept in a clean and orderly condition consistent with other Class A developments within the City of Arlington, Texas. Any of these items that become damaged or in need of repair, such as restriping or pavement repair, either through owner determination or upon notification from the City must be replaced or repaired to conditions consistent with other Class A developments within the City of Arlington within ninety (90) days of notification. At a minimum the parking areas shall be restriped once every seven (7) years;
- c. All painted or stained exterior materials (*e.g.*, siding, wood, stucco, etc.) on the Property must be re-painted or re-stained as often as necessary to maintain a look consistent with new Class A developments within The City of Arlington, Texas, but in no event less than once every ten (10) years;
- d. The Property must be kept reasonably clear of all trash and debris in a manner consistent with other Class A developments within The City of Arlington, Texas;
- e. All trash and recycling facilities on the Property must be kept in a clean and orderly condition consistent with other Class A developments within The City of Arlington, Texas; and
- f. Repairs to any Critical Damage (defined below) must commence within a commercially reasonable time not to exceed sixty (60) days. “Critical Damage” means any significant damage that is visible from a right-of-way or that materially affects the integrity or performance of (i) exterior facades, fencing, and lighting, (ii) mechanical and structural systems (*e.g.*, mechanical, electrical, plumbing, retaining walls, building roofs, load-bearing building systems, and parking), or (iii) any necessary security features (*e.g.*, access controlled gates, perimeter fencing, etc.).

2. **Effect of Maintenance Covenants.** The maintenance obligations referenced in this Declaration are intended to impose heightened maintenance standards on owners and operators of the Property. This Declaration is not intended to, nor shall be interpreted to, mitigate, waive, replace, or otherwise affect any maintenance obligations already imposed by the City as of the Effective Date or as may be adopted by the City under future ordinance(s). In the event of a conflict between this Declaration and any present or future Ordinance established by the City affecting the Property, the more restrictive provision(s) shall prevail.

3. **Third-Party Beneficiary.** The provisions of this Declaration are for the benefit of Declarant and, as an intended third-party beneficiary to this Declaration, the City. Accordingly, the City shall have the right to enforce the provisions of this Declaration.

4. **Binding on Successors.** The obligations in this Declaration shall be covenants running with the Land and shall bind and inure to the benefit and burden of Declarant and its respective successors and permitted assigns, and all future owners and operators of the Property, until the

expiration of the Term. A copy of this Declaration shall be provided by Declarant to any future owner or operator of the Property.

5. **Violation Corrections.** Any violation of the obligations referenced in this Declaration may be enforced by Declarant or City, who shall give written notice thereof to the owner of the Property, describing in reasonable detail the nature of the violation. The owner of the Property shall have sixty (60) days within which to cure such violation. If the violation is not cured within sixty (60) days, then the party or parties entitled to enforce such restriction may exercise any and all remedies available under law or equity, including without limitation the right to seek injunctive and declaratory relief. The failure at any time to enforce the terms of this Declaration, whether violations are known or not, shall not constitute a waiver or estoppel of the right to do so at a later time.

6. **Term.** The obligations in this Declaration shall continue in full force and effect for twenty five (25) years and, thereafter, will automatically renew for successive periods of ten (10) years unless terminated by a written, recorded document countersigned by the City and the then-current owner of the Property.

7. **Waiver of Restrictions.** Notwithstanding anything herein to the contrary, Declarant grants to City manager, or its designee, the exclusive right to waive or grant a variance of any restriction in response to a specific request therefor, which waiver or variance would be conditioned upon, and effective only upon, a signed written instrument, executed by the City manager or its designee and recorded in the official public records for real property in Tarrant County, Texas. Any waiver or variance granted under this Section 7 shall be limited to the specific request for which such waiver or variance was granted and shall in no instance be deemed to constitute a future waiver of any restriction set forth in this Declaration.

8. **Amendment and Early Termination.** This Declaration may be amended, modified, or terminated prior to the end of the Term only with a written, recorded document countersigned by the City and the then-current owner of the Property.

9. **Notices.** Any notice, demand or request required or permitted hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) certified mail; (c) facsimile or electronic email (provided that a copy is also sent by the manner described in the preceding clause (b)), or (d) registered or certified, first class U.S. mail, return receipt requested.

**If to Declarant:**

Arlington Commons Lands, LLC  
**Attention:** Robert H. Kembel  
835 E. Lamar Blvd. #254  
Arlington, Texas 76011

**If to City:**

City of Arlington



**Attention: City Manager  
101 W. Abram Street  
Arlington, Texas 76010**

10. **Governing Law.** These Covenants shall be construed and governed under the internal laws of the State of Texas, without regarding to any conflicts of law analysis.

11. **Terminology and Captions.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter. All section headings, captions, and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise effect that which is set forth in any of the paragraphs, sections, or articles hereof.

12. **Severability.** If any part or provision of this Declaration shall be declared invalid, by judgment or court order, the same shall not affect any other provisions of this Declaration and such remaining portions of this Declaration shall remain in full force and effect. The court shall rewrite and enforce any such invalid provision to make it enforceable in a manner to as closely match the original intent of the parties as possible.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Maintenance Covenants as of the Effective Date

**DECLARANT:**

ARLINGTON COMMONS LANDS, LLC,  
A Texas limited liability company

By: The Nehemiah, LLC,  
A Texas limited liability company,  
Its Member

By:   
Robert H. Kembel, Manager

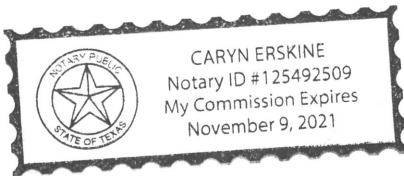
THE STATE OF TEXAS

COUNTY OF TARRANT

This instrument was acknowledged before me on May 13<sup>th</sup>, 2021, by Robert H. Kembel, Manager of The Nehemiah, LLC, member of Arlington Commons Lands, LLC, on behalf of said limited liability company.

(SEAL)

Name: Caryn Erskine  
Notary Public, State of Texas.



**EXHIBIT "A"**  
**PROPERTY**