

Memorandum



CITY OF DALLAS

DATE December 3, 2021

TO Honorable Mayor and Members of the City Council

SUBJECT **Upcoming Agenda Item: Establishment of the City of Dallas Economic Development Corporation (EDC)**

During the December 8, 2021 City Council meeting, Councilmembers will consider an agenda item to authorize the (1) establishment of the City of Dallas Economic Development Corporation (the EDC), a non-profit local government corporation to be formed for the purpose of aiding and acting on behalf of the City of Dallas (City); (2) approval of the EDC's Certificate of Formation and Bylaws; (3) approval of the appointment of the EDC's interim Directors, as set out in the Certificate of Formation; (4) approval to file the EDC's Certificate of Formation with the Texas Secretary of State; (5) approval of an interlocal agreement between the City and EDC; (6) Any expenditures incurred by the City before or after this action shall be reimbursed by the American Rescue Plan Act of 2021 (ARPA 2021) funds from the U.S. Treasury Department allocated for the EDC; and (7) Funding allocation will be from ARPA U.S. Treasury Department in an amount not to exceed \$7,000,000.00 over three years. Financing: U.S. Department of Treasury Grant Funds, ARPA 2021.

The Economic Development Corporation was briefed to the Economic Development committee November 1, 2021. Staff and the City Attorney's Office have drafted formation documents for the new legal entity, these documents are attached as exhibits. Once the formation documents are approved by City Council and directors are in place, the entity can begin hiring staff and commencing operation. It is recommended that all this work be complete, and the entity formally launched, by the second quarter of 2022.

Should you have any questions please contact me or Robin Bentley, Director, Office of Economic Development at robin.bentley@dallascityhall.com or at (214) 670-0170.

A handwritten signature in blue ink that reads "Eric A. Johnson".

Dr. Eric A. Johnson,
Chief of Economic Development and Neighborhood Services

c: T.C. Broadnax, City Manager
Chris Caso, City Attorney
Mark Swann, City Auditor
Billerae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizzor Tolbert, Chief of Staff to the City Manager

Majed A. Al-Ghafry, Assistant City Manager
Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
M. Elizabeth Reich, Chief Financial Officer
M. Elizabeth (Liz) Cedillo-Pereira, Chief of Equity and Inclusion
Directors and Assistant Directors

APRIL 2021



BRIEFING PAPER ON ESTABLISHING A NEW ECONOMIC DEVELOPMENT ENTITY CITY OF DALLAS

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TIP STRATEGIES, INC., is a privately held economic development consulting firm with offices in Austin and Seattle. TIP is committed to providing quality solutions for public sector and private sector clients. Established in 1995, the firm's primary focus is economic development strategic planning.

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INTRODUCTION

BACKGROUND

One of the overarching goals of the draft Economic Development Strategic Action Plan (EDSP) completed in 2019 was the creation of a new, independent organization to lead the City of Dallas's business attraction and marketing, business retention and expansion, and entrepreneurial and small business development efforts. The EDSP argued Dallas needs a new structure outside of City government dedicated to more aggressively promoting Dallas's competitive strengths, assets, and advantages and to generating new investment and jobs in the City, especially in underserved and underdeveloped areas.

After the plan's completion, TIP Strategies was hired by the City of Dallas to facilitate a review of the draft plan and to work with specific stakeholder groups to identify priorities that would inform next steps for implementation. This review included gathering input on the draft plan from Dallas City councilmembers, a community review panel, and a policy advisory committee through interviews, listening sessions, and an online survey. Stakeholders were excited about creating a new economic development entity and saw an important role for a new entity in Dallas's economic development landscape. Indeed, creating a new economic development entity was the highest priority item in the online survey and was frequently mentioned during interviews.

The City of Dallas further engaged TIP Strategies to assist with the implementation of that recommendation. Specifically, the TIP consulting team was charged with benchmarking other regional, state, and national peers to identify potential models that could work in Dallas. These models include legal structure, governance, functions, funding, and staffing. This research informed a formal set of recommendations submitted to the Dallas City Council for consideration, which this briefing document lays out.

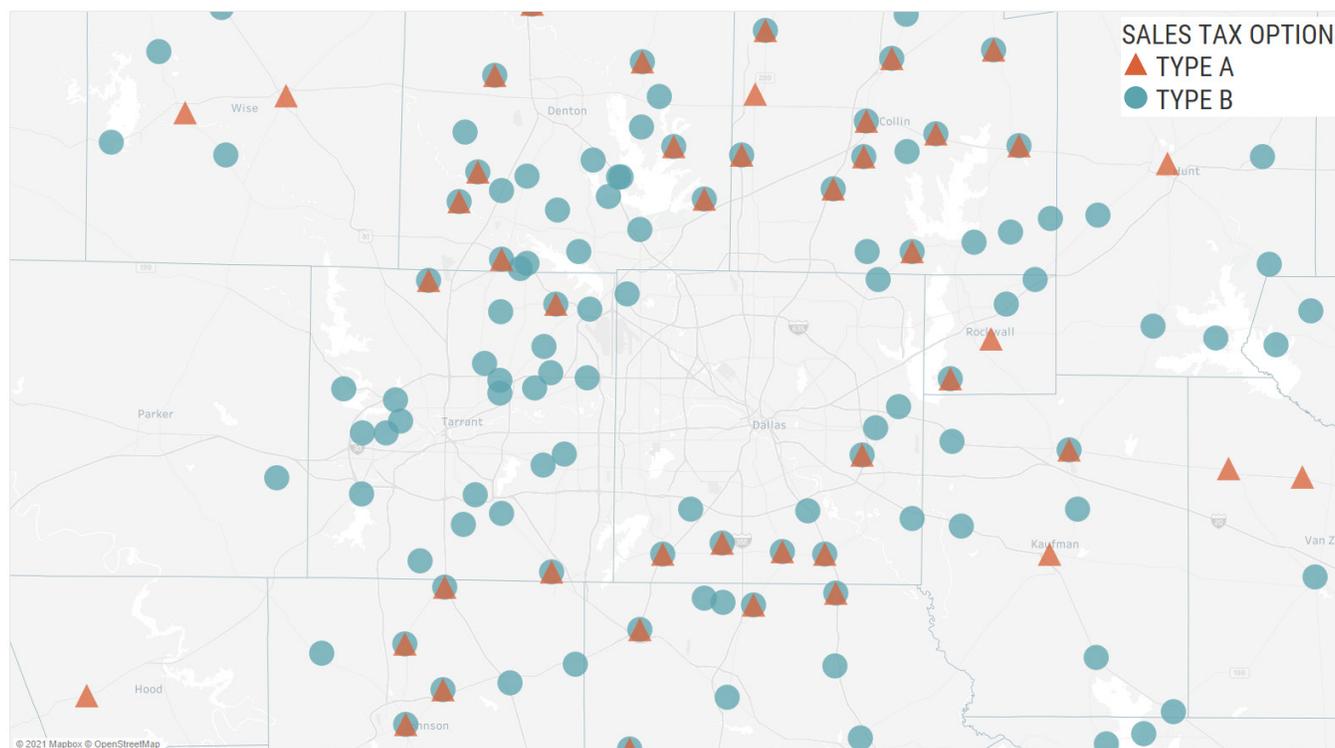
WHY A NEW ENTITY IS NEEDED

The competition for investment, jobs, and talent in the DFW Metroplex and the larger North Texas region is fierce. As shown in Figure 1 below, in North Texas there are dozens of communities that have established Type A or Type B (or both) local option sales tax corporations to lead their economic development efforts. Such sales tax corporations enable many of these communities to offer generous financial incentives in the form of land, buildings, and cash grants. In addition, cities in the Metroplex that do not have economic development sales tax corporations (e.g., Fort Worth, Irving, Arlington, Plano, and Richardson) have well-funded economic development organizations that compete at the highest levels.

The City of Dallas's economic development program is capably led by the Office of Economic Development (OED). The recommendation to form a new economic development entity is not a reflection on the performance of OED. Indeed, OED helped to grow the taxable value of developable properties in southern Dallas by 80 percent from 2015 to 2020. In acknowledgement of the department's professional excellence, OED was recognized this year by the International Economic Development Council as an Accredited Economic Development Organization.

OED is organized around four key functional areas: area development; business development; business and workforce inclusion; and finance, compliance, and administration. Within the business development area, the OED employs two staff members focused on business recruitment and retention, prospect support, business outreach, and related research and analysis. The City does limited marketing and outreach, generally in partnership with the Dallas Regional Chamber or the Texas Economic Development Corporation. While both are first-rate economic development organizations, the DRC is a regional organization that serves the interests of multiple community members in the Dallas region, and TxEDC supports the entire state. City leaders have expressed a desire for Dallas to have an independent economic development organization focused solely on showcasing Dallas's assets and catalyzing new development, especially in southern Dallas.

FIGURE 1. ECONOMIC DEVELOPMENT SALES AND USE TAX ELECTIVES IN NORTH TEXAS, AS OF MARCH 2021



Source: Texas Comptroller of Accounts; TIP Strategies, Inc.

Among the perceived advantages of an independent entity is the ability to insulate economic development activities from day-to-day politics, including the competing—and sometimes divergent—priorities of the City’s 14 individual Council Districts. Forming a separate entity would also help mitigate the impact of leadership changes and create an environment that allows a nimbler, market-paced response to investment opportunities. The entity would coordinate closely with the City while remaining outside of the constraints of governmental bureaucracy. Additional advantages of an independent economic development entity include:

- ▶ More speed and efficiency in responding to business development opportunities.
- ▶ The ability to move at the speed of the market for real estate transactions.
- ▶ Greater access to private sector networks, industry knowledge, and resources.
- ▶ Added potential to engage the development community on such issues as social equity, workforce, and housing.
- ▶ More operational flexibility and autonomy on issues of financial planning and budgeting, human resource management, information technology, purchasing, and procurement.

BENCHMARKING

TIP examined cities and organizations at the regional, state, and national levels to identify how Dallas’s peers and competitors are organized and structured to pursue their economic development goals. We looked at 15 cities and categorized each type of entity, geographic focus, governance, staffing levels, funding source, revenue, and primary functions. A matrix containing information for each city/organization is displayed in Appendix A.

Major economic development entities within the DFW Metroplex that TIP benchmarked include a mix of chambers of commerce (Fort Worth, Irving-Las Colinas, and Richardson), Type A and Type B sales tax corporations (Frisco and McKinney), and a city department (Plano). The chamber organizations have contracts with their cities to provide economic development services. At the state level, Houston and San Antonio are served by 501(c)(6) non-profit organizations (Greater Houston Partnership and the San Antonio Economic Development Foundation, respectively) that are funded primarily by memberships. Like Dallas, the City of Austin operates a City economic development department and invests in a regional economic development initiative led by the Austin Chamber. However, in 2020 the City of Austin established a new, independent Austin Economic Development Corporation (AEDC) that will serve as a public real estate developer on behalf of the City. AEDC was formed as a local government corporation (LGC) under Texas law.

At the national level, most large cities structure their economic development programs as a family of entities that serve different purposes and roles. Often there is a large lead agency that operates outside of city government. Such entities include New York City Economic Development Corporation (NYCEDC), the Philadelphia Industrial Development Corporation (PIDC), the Baltimore Development Corporation (BDC), World Business Chicago (WBC), Los Angeles Economic Development Corporation (LAEDC), and Invest Atlanta. All these entities, except for Invest Atlanta, are independent nonprofit organizations with strong governance ties to their city governments, but they also receive private funding. Invest Atlanta is a local government authority that was established by state legislation in Georgia but is currently in the process of seeking non-profit status.

The consulting team conducted a more thorough analysis of Invest Atlanta to identify some of the key reasons for the organization's long track record of success. This included an interview with Invest Atlanta's CEO, Dr. Eloisa Klementich. Below are some key takeaways from the interview with Dr. Klementich. The full case study on Invest Atlanta is provided in Appendix B.

- ▶ Invest Atlanta began with a single focus and steadily added competencies over the decades, which allowed the organization to grow organically and with enough time to fully understand their needs and seamlessly integrate change.
- ▶ The decision to structure Invest Atlanta as an independent government authority has enabled them to recruit top talent, since it is not part of City government.
- ▶ Braiding economic, community, and workforce development under one roof allows funds to be used synergistically and reduces spending on redundant services.
- ▶ Keeping decision making power within Invest Atlanta for development projects ensures follow-through and consistency, independent of changing elected officials.
- ▶ Coordinating efforts like these presents front-loaded challenges, but once they are adopted, it makes the development processes much smoother and quicker in the long run.

The Invest Atlanta case study is included to highlight key traits of a successful and established independent economic development organization. However, the consulting team recommends that Dallas adopt an organizational model closer to AEDC, which has a narrower mission and is focused on functions and capabilities that OED does not currently possess.

RECOMMENDATIONS FOR A NEW ENTITY

STRUCTURE

TIP Strategies recommends the City of Dallas establish a new economic development corporation (EDC) as a local government corporation. As provided for by Chapter 431 Texas Transportation Code, Chapter 394 Texas Local Government Code, and the Texas Nonprofit Corporation Law, Texas cities are allowed to create a LGC to act on behalf of a city to accomplish a governmental purpose. These functions would need to be defined in the documents creating the LGC.

An LGC has the powers granted to a transportation corporation under the Texas Transportation Code and the powers granted to a nonprofit corporation under the Texas Business Organizations Code. Both types of corporations have, among other powers, the power to contract and own property.

TIP also recommends the new entity be established as a non-profit 501(c)(3) primarily due to its capacity to receive charitable donations. This will offer the entity greater flexibility in being able to raise non-public funds.

FUNCTIONS

The EDC's functions should expand over time to allow the organization to grow organically, develop competencies, demonstrate successes, and identify needs. Trying to stand up a new organization while overburdening it with too many missions would be a mistake. Initially, the EDC's primary areas of focus should be on developing a portfolio of competitive properties that could generate new private investment in underserved areas and to aggressively market them to potential investors. Therefore, within the first three years, the EDC's primary functions would be twofold:

- ▶ **BUSINESS DEVELOPMENT:** Lead the City's business retention, expansion, and recruitment efforts and economic development marketing activities.
- ▶ **PUBLIC DEVELOPER:** Serve as a public developer of City-owned properties, as well as conduct land acquisition in support of redevelopment and job growth (especially in historically underdeveloped areas of southern Dallas) to advance real estate projects that the City could not do on its own.

These missions align with two key themes outlined in the Dallas Economic Development Policy:

- ▶ Promote an environment that is conducive to attracting, retaining, and nurturing businesses that support prosperity and equitable access to employment opportunities.
- ▶ Strategically invest in economic growth below I-30, south of the Trinity River, and in historically underserved communities in Dallas.

Over time, the EDC can take on additional responsibilities such as small business development, workforce development, talent attraction, and entrepreneurship and innovation.

BUSINESS DEVELOPMENT

Business development is the core mission of any economic development organization. The City of Dallas needs a more robust business development program that actively markets the City to potential investors and strengthens Dallas's brand as one of the world's great economic centers.

- ▶ **BUSINESS MARKETING AND ATTRACTION:** The EDC will spearhead an expanded business recruitment program designed to attract new domestic and foreign direct investment to Dallas through targeted marketing. As is called out in the EDSP, the EDC should engage in branding, outbound marketing through earned media, marketing missions, national advertising, trade shows/industry conferences, inbound marketing (familiarization tours, networking with real estate brokers and developers), and organizing “hot teams” specific to each target industry—to promote the City of Dallas. In addition, one of the EDC’s first tasks should be to engage an economic development marketing firm to develop a vision and branding initiative to guide the business recruitment program, which is a key recommendation in the Community Transformation Action Roadmap.
- ▶ **BUSINESS RETENTION AND EXPANSION:** The EDC will proactively engage and support existing businesses in the community through business visitations, networking, and events.

PUBLIC REAL ESTATE DEVELOPMENT

The EDC should serve as a catalyst agent for helping to spur new development and redevelopment in historically underserved areas that would not attract private investment “but for” the participation of the public sector. This new entity will give the City of Dallas an ability to acquire and manage a portfolio of properties and to partner with the private sector to facilitate new investment, development, and job creation. Residing outside of City government will allow the EDC to move at the pace of the market and rapidly respond to new opportunities. Primary activities in this role would include:

- ▶ **PUBLIC DEVELOPMENT:** Subject to the approval of the Dallas City Council, the EDC would take title to strategic City-owned properties. The transfer of City-owned property to the EDC would be done with an explicit contractual requirement to achieve a public purpose. In addition, the EDC would engage in private land acquisition to spur new development or redevelopment in strategic areas.
- ▶ **EXISTING ASSET SUPPORT:** Because the EDC will become a member of Dallas’s family of economic development entities, it would be able to support major development projects such as the Kay Bailey Hutchison Convention Center, the Streetcar project, and Hensley Field.
- ▶ **TRANSACTION SUPPORT:** The EDC would perform real estate transactions (lease, sale, purchase) on direction from the City Council and in conformance with relevant City plans such as the Comprehensive Housing Policy and Forward! Dallas.
- ▶ **LEASE ADMINISTRATION:** The EDC would manage properties on behalf of the City. The City will retain title.

OVERSIGHT

The creation of a new entity should not be seen simply as an effort to privatize economic development in Dallas. Privatization is not the objective. The EDC will become an important component within Dallas’s family of economic development entities and programs. Indeed, the OED will remain within the City and have the lead role in negotiating incentives and managing the contractual relationship with the entity.

Dallas City Council will have oversight of the EDC through approving board appointments, providing guidance on contractual priorities, and the authorizing any public financial incentives. Preliminary recommendations for board composition and how accountability to the taxpayer will be ensured are listed here.

- ▶ The Dallas City Council will approve board members nominated by the City Manager’s Office. The City Manager’s Office should work closely with local stakeholders to identify local experts representing diverse interests in the city to serve on the board. The slate of board nominees will be presented to City Council for approval.

- ▶ The board of directors should consist of 11 to 15 members representing diverse organizations representing the public, nonprofit, and private sectors. The board should be composed of high-level experts representing such areas as real estate, planning, equity, business, economic and community development, finance, workforce, marketing, resource development, architecture and design, and philanthropy. A small working group of stakeholders and City staff should identify the specific constituencies and areas of expertise that will be represented on the board.
- ▶ Once the EDC is established, there may be a need to have a transitional board consisting of five to seven members to guide operations until a full board is seated.
- ▶ The EDC should operate under a five-year contract with the City. OED would manage and administer the contract. The contract should delineate the specific functions, goals, and measures the EDC will be expected to meet. The City Council will provide guidance as to what its economic development priorities are in the contract.
- ▶ The executive director reports to the EDC board and is responsible for day-to-day management of the organization and the staff.
- ▶ The authority to approve public financial incentives will remain with the Dallas City Council.
- ▶ The EDC board will have the authority to approve real estate transactions the entity is involved in.
- ▶ The EDC will support the work of OED. By way of example, the EDC may pay for travel and registration fees for industry events attended by OED staff. Likewise, the EDC may produce marketing collateral for OED programs and events.
- ▶ Transparency will be a guiding principle of the EDC. The organization will provide regular reports to the City of Dallas and the public. A detailed annual report will be submitted and presented to the City of Dallas Economic Development Committee. A regular newsletter (quarterly or monthly) should be produced to update the board, councilmembers, and the public. This principle aligns with the key theme in the Dallas Economic Policy for good governance. Specifically, the policy calls for:
 - ▶ Increased accountability and transparency to ensure information is readily available.
 - ▶ Creating inclusive governmental processes and policies that consider stakeholders at the neighborhood, city, and regional levels.

FUNDING

- ▶ The EDC will require public funding to launch and sustain the organization. In the tight fiscal environment the City is currently facing, funding EDC operations out of the general fund will be difficult, but critical to its success. Reallocating funds currently appropriated for OED is untenable since the EDC will support (but not replace) OED functions.
- ▶ As a 501(c)(3), the EDC will also be able to receive additional private financial support to leverage/match public funding. Private contributions, however, should only be used to support marketing and business retention, expansion, and recruitment activities and expenses. Moreover, the EDC would not adopt a pay-to-play investor funding model for private sector contributors.
- ▶ The city may allocate a portion of the 2017 General Obligation Bond to fund capitalizable expenses of real estate development projects for the first three years of the EDC; however, such bond funds could not be used for administrative and operating expenses of the EDC. Proposition I of the bond proposal authorized the City of Dallas to issue general obligation bonds of the City in the principle amount of “\$55,400,000 for the purpose of providing funds for promoting economic development throughout the city.” One potential solution would be to include funding for the EDC in the next bond proposition.

- ▶ As a public developer, the EDC would earn revenue through its real estate transactions and lease agreements. Over the long term, this revenue will allow the EDC to become more financially self-sustaining. Real estate revenue can also be used to reimburse the City for public funds used to start up and sustain the EDC over the first three years.
- ▶ Funding the EDC using economic development sales tax (Type A and Type B) or hotel occupancy tax (HOT) is not viable. The City's sales tax rate (8.25 percent) is currently maxed out, with 1 percent of the City's 2 percent allocation committed to funding Dallas Area Rapid Transit (DART). As for the HOT, any revenue it generates must be allocated to tourism efforts or for the convention/hotel industry, including 30 percent for marketing the Kay Bailey Hutchison Convention Center. Economic development efforts which aren't directly linked to those things are ineligible.

STAFFING

- ▶ The consulting team recommends that no existing OED business development personnel should be transferred to the new EDC to take up similar positions. Rather, new business development and real estate management positions would be created to fill out the team and bring in the other expertise, and the EDC will support the existing OED staff and functions. However, until a new business development and real estate management team for the EDC is created, the EDC would temporarily be staffed by OED personnel.
- ▶ Until a permanent CEO is hired, the Interim Director of OED serves as the interim CEO of the EDC.
- ▶ The CEO of the EDC would be responsible for identifying additional business development, real estate, and administrative positions and hiring personnel to fill them.
- ▶ For business development functions, new positions will likely include a director of business development, a marketing and communications specialist, an international business development manager, and four business development/project managers aligned with the City's eight target industries identified in the Economic Development Strategic Plan (each specialist would be assigned to developing two target industries). The business development/project managers would be responsible for business attraction, retention, and expansion activities. The EDC should also create at least two positions for performing research and data analysis, which is an important function in any first-class economic development organization. Research and data are critical to the EDC's ability to respond to site selection RFPs, inform the target industry program, track real estate product, and educate City leaders and the public on business and industry trends.
- ▶ For public development functions, new positions will likely include a chief financial officer, general counsel, chief operating officer, budget analyst, real estate transactions officer, and asset manager.
- ▶ The EDC should negotiate its own employment benefits, such as health insurance and retirement plans.

PROJECTED BUDGET

A budget recommendation has been estimated by determining an appropriate budget to carry out the identified functions of the EDC, as well as considering budgets of comparable economic development organizations. Most of the budget will go toward covering operating expenses such as personnel, marketing and outreach, and general and administrative costs. TIP estimates approximately 15 full-time staff will be required for the EDC to fulfill its business development and real estate development functions. It is reasonable to expect these positions will be added to the organization over a three-year period. Therefore, annual budgets should gradually increase over time.

The City should house the organization in one of its facilities in the first few years to minimize overhead costs. Ideally, such a location would be in southern Dallas, a target area for development.

It is not possible at this time to estimate any funds needed for capital costs or transaction expenses related to real estate development.

Based on the budget of comparable organizations in the DFW Metroplex, the EDC's budget range is \$3 million to \$5 million by year three.

TIMELINE

The City should work to formally launch the EDC by the second quarter of 2022. In the interim, completion of several steps will be required.

Council approval and passage of authorizing ordinance: Q3 2021

Establish legal entity: Q3 2021-Q4 2021

Appoint board of directors: End of Q4 2021

Hire chief executive: Q1 2022

Begin hiring staff and commencing operations: Q2 2022

APPENDIX A: BENCHMARKING TABLES

FIGURE 2. DFW PEERS & COMPETITORS WHO DALLAS COMPETES WITH FOR INVESTMENT AND JOBS WITHIN THE METROPLEX

CITY	TYPE OF ENTITY	GEOGRAPHIC FOCUS	GOVERNANCE	PERSONNEL	FUNDING SOURCE	REVENUE	PRIMARY FUNCTIONS
Fort Worth Chamber of Commerce	Chamber of Commerce – 501(c)(6)	Fort Worth region	5 Officers 48 Board Members	16 FTE	Private Investments Memberships Events	\$5,297,061 (2018)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Talent ▶ Entrepreneurship ▶ Advocacy
Plano Economic Development	City Department	City	City Council	5 FTE	2 cents of property taxes dedicated to ED incentive fund	\$8,924,828 (2020)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Redevelopment
Frisco Economic Development Corporation	Type A sales tax corporation (City also has a Type B corp.)	City	7-member Board of Directors appointed by the City Council	9 FTE	half-cent sales tax and other revenues	\$42,990,488 (2019)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Product ▶ Entrepreneurship
Richardson Economic Development Partnership	Partnership between the City and Chamber	City (Telecom Corridor)	Board of Directors (24)	7 FTE	City appropriation and member dues	\$2,823,982 (2018)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Entrepreneurship ▶ International Business Recruitment
McKinney Economic Development Corporation	Type A sales tax corporation (City also has a Type B corp.)	City	7-member Board of Directors appointed by the City Council	7 FTE	quarter-cent sales tax	\$16,725,965 (2019)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Infrastructure ▶ Marketing
Irving-Las Colinas Chamber of Commerce	Non-Profit 501(c)(6)	City/Regional	Board of Directors (56)	19 FTE	Membership dues Grants Program Services	\$4,655,805 (2019)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Small Business/Entrepreneurship ▶ Marketing ▶ International ▶ Workforce Development

FIGURE 3. STATEWIDE PEERS & COMPETITORS
WHO DALLAS COMPETES WITH FOR INVESTMENT & JOBS IN TEXAS

CITY	TYPE OF ENTITY	GEOGRAPHIC FOCUS	GOVERNANCE	PERSONNEL	FUNDING SOURCE	REVENUE	PRIMARY FUNCTIONS
Greater Houston Partnership	Non-Profit 501(c)(6) (formed when the Houston Chamber of Commerce, Houston Economic Development Council, and the Houston World Trade Association merged in 1989)	12-County Greater Houston Region	Board of Directors (142) Executive Committee (42) Advisory Committees (9)	82	Memberships Donations Investments	\$17,611,204 (2019 estimated, combined balance with GHP Foundation)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Incentive assistance ▶ Permitting process assistance ▶ Data collection and analysis ▶ Marketing ▶ Talent Attraction ▶ Advocacy ▶ Resiliency ▶ Global Recruitment ▶ K-12 + Higher Ed ▶ Workforce
San Antonio Economic Development Foundation	Non-Profit 501(c)(6)	San Antonio, TX	Executive Committee (21)	19	Memberships Donations Investments Grants Programs Miscellaneous	\$2,947,434	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Workforce ▶ Global Recruitment ▶ Incentive assistance
Austin Economic Development Corporation	Local Government Corporation	Austin	22-member board appointment by City Council	11 (projected staffing by year 3)	City seed funding. Future revenue from real estate transactions, lease management.	\$900,000 (2021 proposed); \$3,941,500 (2024 proposed)	<ul style="list-style-type: none"> ▶ Public real estate development

FIGURE 4. NATIONAL PEERS & COMPETITORS
WHO DALLAS COMPETES WITH FOR INVESTMENT & JOBS WITHIN THE NATION

CITY	TYPE OF ENTITY	GEOGRAPHIC FOCUS	GOVERNANCE	PERSONNEL	FUNDING SOURCE	REVENUE	PRIMARY FUNCTIONS
Invest Atlanta	Local Government Authority	Atlanta, GA	Chair (Mayor) Board of Directors (9)	51	City funds Service/Loan/Admin Fees Developer Fees Rental Income Debt Service Payments	\$44,311,650 (2018)	<ul style="list-style-type: none"> ▶ Site selection ▶ Housing ▶ Entrepreneurship ▶ Incentive assistance ▶ Business Development ▶ Neighborhood redevelopment ▶ Business Attraction ▶ Retention & Expansion ▶ Workforce
World Business Chicago	Non-profit 501(c)(3)	Chicago, IL	Chair (Mayor) Board of Directors (76)	28	Private donations Government grants Programs Galas Sponsorships	\$8.9 million (2019)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Research & Data ▶ Entrepreneurship ▶ Small Business ▶ DEI
Philadelphia Industrial Development Corporation	Non-Profit 501(c)(4)	Philadelphia, PA	Board of Directors (30)	60	Government grants Programs Investments	\$23.46 million (2018)	<ul style="list-style-type: none"> ▶ Financing ▶ Site Development ▶ Networking ▶ Entrepreneurship ▶ Small Business
New York City Economic Development Corporation	Non-Profit	New York, NY	Board of Directors (27)	438	Contributions, Grants, Gifts Program Services	\$761.12 million (2018)	<ul style="list-style-type: none"> ▶ Site selection ▶ Housing ▶ Entrepreneurship ▶ Incentive assistance ▶ Business Development ▶ Neighborhood redevelopment ▶ Business Attraction ▶ Retention & Expansion ▶ Transportation

CITY	TYPE OF ENTITY	GEOGRAPHIC FOCUS	GOVERNANCE	PERSONNEL	FUNDING SOURCE	REVENUE	PRIMARY FUNCTIONS
Baltimore Development Corporation	Non-profit 501(c)(3)	Baltimore, MD	Board of Directors (15)	52	Federal Funds City Funds State Funds Investments Fees Private Grants	\$14,641,017 (2018)	<ul style="list-style-type: none"> ▶ Business Attraction ▶ Retention & Expansion ▶ Marketing ▶ Site Development ▶ Neighborhood ▶ Redevelopment ▶ Small Business ▶ Entrepreneurship ▶ Food Policy ▶ FTZ
Los Angeles Economic Development Corporation	Non-profit 501(c)(3)	Los Angeles County	Board of governors which includes the Executive Committee (100+)	29	Contributions, Grants Program Services Membership Dues Program Services	\$7,363,304 (2019)	<ul style="list-style-type: none"> ▶ Site selection ▶ Entrepreneurship ▶ Incentive assistance ▶ Business Development ▶ Neighborhood redevelopment ▶ Business Attraction ▶ Retention & Expansion ▶ Industry Cluster Development ▶ Workforce Development

APPENDIX B: INVEST ATLANTA CASE STUDY

WEBSITE

www.investatlanta.com

FUNDERS/SPONSORS

Three primary sources equally fund Invest Atlanta (IA):

- ▶ The City of Atlanta, through economic and community development contracts
- ▶ IA's management of TIFF/TADS charge back to the City
- ▶ Issuing bonds for the City after the Urban Residential Finance Authority (URFA) receives bond allocations and gives IA to manage

PROGRAM AFFILIATION

The City of Atlanta:

- ▶ Urban Residential Finance Authority (URFA)
- ▶ Downtown Development Authority (DDA)
- ▶ WorkSource Atlanta (WSA)
- ▶ Atlanta Emerging Markets, Inc. (AEMI)

TIMELINE

1976	Atlanta EDC (AEDC) is formed
1979	URFA merged with AEDC
1982	DDA joins AEDC and purchases its first property that decade
1985	The State adopts the Redevelopment Powers Law, giving local governments the authority to sell bonds to finance infrastructure costs within a tax allocation district (TAD), which works similarly to tax increment financing
Late 1980s	The AEDC, URFA, and DDA merge and become Atlanta Development Authority (ADA), the City's EDA
2006	IA is created and is an operating owner of AEMI, a community development entity (CDE) for federal New Markets Tax Credits
2012	ADA is rebranded as Invest Atlanta
2015	IEDC designates IA as an Accredited Economic Development Organization, the first in the state
2020	The Board approves IA's integration with WSA, effective July 2021.

BACKGROUND

IA is the economic development authority for the City of Atlanta. Founded in 1976 as AEDC, the initial focus was small business support programming. By the end of the 1980s, through a series of mergers and a key piece of passed legislation, AEDC had expanded to include housing and downtown redevelopment services and became the ADA. Structured as a registered local government authority, IA is not a city department. It is comprised of an 8-member executive team supported by 43 FTE and is governed by a 9-member Board of Directors, chaired by the Mayor. Funding is divided equally among the City (through a contract for economic development services), IA's management of TADS through charge backs to the City, and issuing bonds for the City after URFA receives the bond allocations. While IA can receive donations from private citizens or entities, most private donations go to the Chamber which in turn works closely with IA on business attraction but not retention. Currently, IA is in the process of filing for non-profit status to more easily accept donations for retention efforts.

The decision to maintain independence from the City has provided IA the agility needed to stay competitive as an organization, passing on the economic benefits to the larger Atlanta community through strategic hiring and business recruitment. For instance, IA is the decisionmaker on which bids to accept on any given economic development project. They can go with the bidder that has the best comprehensive package for the community over accepting the highest bid. Further, braiding community development with economic development is beneficial for IA and businesses alike. It streamlines the bureaucratic processes for businesses, as most services are housed under one organization instead of multiple independent authorities, while funneling money back to IA for their end-to-end management of projects. Another benefit of independence is that communication is less likely to get lost in translation as different teams work on the same objective within the organization. While IA is not an official city department, they do follow the spirit of the law. Transparency in reporting is paramount to IA and the CEO provides quarterly reports to city council and monthly newsletters to the board, council members, and the general public in addition to the required annual federal, state, and IGA reporting requirements.

IA's contract with the City for economic and community development services is up for renewal every five years. After incorporating workforce development services in July 2021, all three development services will be on the same contract renewal schedule with the City. Internally, the CEO of IA conducts a salary survey of employees every three years to keep pace with inflation and other competitors. IA has the freedom to match or exceed municipal salary and benefits packages for their employees, allowing IA to recruit and retain the best talent.

KEY TAKEAWAYS

- ▶ IA began with a single focus and steadily added competencies over the decades which allowed the organization to grow organically and with enough time to truly understand their needs and seamlessly integrate change.
- ▶ The decision to structure IA as an independent government authority has enabled them to recruit top talent since funding is independent of the City.
- ▶ Braiding economic, community, and workforce development under one roof allows funds to be used synergistically and reduces spending on redundant services.
- ▶ Keeping decision making power with IA for development projects ensures follow-through and consistency, independent of changing elected officials.
- ▶ Coordinating efforts like these presents front-loaded challenges but once they are adopted, make the development processes much smoother and quicker in the long run.

**CERTIFICATE OF FORMATION FOR
CITY OF DALLAS ECONOMIC DEVELOPMENT CORPORATION**

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more and a resident of the City of Dallas (“City”) and the State of Texas (“State”) acting as incorporators of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended (the “Act”), and to the extent required by the Act, Chapter 394, Texas Local Government Code, as amended (“TLGC”) and Chapter 22, Texas Business Organizations Code (the “TBOC”), pursuant to Resolution No. 21-_____ adopted by the City Council of the City (“City Council”) on December 8, 2021, do hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I

The name of the corporation is The City of Dallas Economic Development Corporation (the “Corporation”). The Corporation may also adopt a separate business name (e.g. a “doing business as” name or DBA).

ARTICLE II

The Corporation is a public nonprofit local government corporation.

ARTICLE III

The period of duration of the Corporation shall be perpetual.

ARTICLE IV

The Corporation is organized and shall be operated solely to carry out the purposes of the Act and to accomplish any governmental purpose of the City, limited to charitable purposes within the meaning of 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Corporation must not be organized or operated for the benefit of private interests, and no part of the organization’s net earnings may inure to the benefit of any private shareholder or individual. No substantial part of the activities of the Corporation shall include carrying on propaganda, or otherwise attempting to influence legislation or participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office.

The Corporation is formed pursuant to the provisions of the Act and TLGC as they now or may hereafter be amended, which authorize the Corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in furtherance of the purposes for its creation.

The Corporation shall have and exercise all the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to local government corporations incorporated under the Act and under the TBOC, subject to any limitations described in the Bylaws. The City may limit the Corporation's activities by amending this Certificate or the Corporation’s bylaws by a three-fourths vote of City Council.

The Corporation shall have all powers which are available to nonprofit and local government corporations in Texas under the laws of the State of Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes, or other debt obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, subject to any limitations described in the Bylaws.

Nothing in this Certificate of Formation shall be construed as creating a debt of the City, as neither the full faith and credit or the general revenues of the City shall be available for the payment of any obligation of the Corporation. Additionally, the Corporation shall issue and deliver any bonds, notes, credit agreements or any other debt instruments or obligations only if the final terms of which including the principal amount, note amount, interest rate or rates, redemption provisions, and other terms and conditions relating to such issuance have been approved by the City Council.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental, and not proprietary, functions. The Corporation shall not exercise the powers of sovereignty of the City, including the power to tax, eminent domain power, or police power.

ARTICLE V

The Corporation shall have no members and shall have no stock.

ARTICLE VI

The City Council by resolution authorized the creation of the Corporation as a local government corporation and approved the form of this Certificate of Formation. The Corporation is not a city board for the purposes of Dallas City Code Chapter 8: Boards and Commissions.

To the extent necessary to carry out its authorized purposes, the Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given under the Act and the general laws of the State of Texas to nonprofit corporation incorporated under the Texas Nonprofit Corporation Law which are consistent with the provisions of the Act, together with all powers incidental thereto or necessary therefor, subject to any limitations in the Bylaws. Additionally, in the exercise of the powers of the Corporation, the Corporation may enter into any sale, loan, lease, trust, operating, or other agreements authorized by the Act (including but not limited to agreements concerning the Corporation's acceptance of financial support from the City or any other source, whether public or private, and receipt of donations by gift or devise and grants from any source) that are necessary and appropriate to the fulfillment of the authorized purposes of the Corporation, subject to any limitations in the Bylaws.

The Corporation is a constituted authority and a public instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Code, and the Corporation is authorized to act on behalf of the City as provided in this Certification of Formation. However, the Corporation is not a political subdivision or political corporation of the State of Texas within the meaning of the State

of Texas constitution and laws, including, without limitation, Article III, Section 52 of the State of Texas Constitution and no agreements, bonds, debts, or obligations of the Corporation are or shall ever be deemed to be agreements, bonds, debts, or obligations, of the lending of credit or a grant of public money or things of value, by or of the City or any other political corporation, subdivision, or agency of the State of Texas, or a pledge of the faith and credit of any of them.

ARTICLE VII

The affairs of the Corporation shall be managed by a board (the “Board”) consisting of three interim Directors or fifteen Directors who shall be appointed as prescribed in the Bylaws (the “Directors”). A majority of the non-vacant Director seats shall be required to hold meetings.

The directors identified in Article VIII below shall serve as the initial three Directors. Directors shall serve until his or her successor is appointed as prescribed in the Bylaws. Directors shall be eligible for reappointment. A Director serves without compensation but shall be entitled to reimbursement for actual expenses incurred in performing services as a director. Any vacancy in the Board shall be filled in the manner prescribed in the Bylaws. Any Director may be removed from office at any time, with or without cause, by resolution of the City Council or by a three-fourths vote of the Directors.

The initial Directors shall hold an organizational meeting to adopt the Bylaws as approved by the City Council of the City of Dallas and consider any other items the Directors deem necessary.

ARTICLE VIII

The name and street address of each incorporator is:

Eric Johnson	1500 Marilla, Dallas, Texas 75201
T.C. Broadnax	1500 Marilla, Dallas, Texas 75201
Tennell Atkins	1500 Marilla, Dallas, Texas 75201
Dr. Eric Anthony Johnson	1500 Marilla, Dallas, Texas 75201

The street address of the initial registered office of the Corporation is 1500 Marilla, Dallas, Texas 75201, which is within the city limits of the City, and the name of its initial registered agent at such address is T.C. Broadnax, City Manager.

The names and street addresses of the initial Directors of the corporation are:

Elizabeth Reich, President	1500 Marilla, Dallas, Texas 75201
Robert Perez, Vice President	1500 Marilla, Dallas, Texas 75201
Elizabeth Saab, Secretary and Treasurer	1500 Marilla, Dallas, Texas 75201

ARTICLE IX

The Bylaws of the Corporation were approved by the City Council on December 8, 2021 in Resolution No. _____. These Bylaws shall be adopted by the Board and shall, together with this Certificate of Formation, govern the affairs of the Corporation until and unless amended in accordance with Article XV of this Certificate of Formation or in the Bylaws. Where the language of the Bylaws and of this Certificate conflict, this Certificate shall control.

ARTICLE X

No Director shall be liable to the Corporation for monetary damages for an act or omission in the director's capacity as a director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, regardless of whether the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by State law. Any repeal or amendment of this Article shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director.

ARTICLE XI

The meetings of the Corporation shall be subject to the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and the Board is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, as amended.

ARTICLE XII

The Corporation: (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered to or for the Corporation in effecting one or more of its purposes); (b) shall not direct any of its activities to attempting to influence legislation by propaganda or otherwise; (c) shall not participate in or intervene in (including the publication or distribution of statements), any political campaign on behalf of or in opposition to any candidate for public office; and (d) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives.

Any income earned by the Corporation after payment of necessary expenses, debt, and such reserves as may be required by a lender in the authorizing documents related to the issuance of debt shall be used to fund future operating expenses of the Corporation. No part of the Corporation's income shall inure to the benefit of any private interests.

ARTICLE XIII

If the Corporation is a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation (a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code; (b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code; (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

ARTICLE XIV

The City Council may at any time consider and approve with by a three-fourths vote a resolution directing the Board to proceed with the dissolution of the Corporation, subject to any limitation on the impairment of contracts or other obligations entered into by the Corporation, at which time the Board shall proceed with the dissolution of the Corporation in accordance with applicable State law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Section shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of this Certificate of Formation.

In the event of the dissolution of the Corporation, after the payment or satisfaction of all debts, liabilities, and obligations, all assets will be turned over to the City, unless the City shall otherwise direct; provided, however, any such disposition shall only be for tax-exempt purposes in such a manner and to such organization or organizations which shall at the time of such dissolution qualify as an organization exempt from federal taxation under Section 501(a) of the Code or as an organization or organizations described in section 501(c)(3) of the Code. The Corporation shall not be dissolved or liquidated, and its business shall not be terminated, by act of the City Council or otherwise, so long as the Corporation shall be obligated to pay any bonds, notes, or other obligations. No action shall be taken pursuant to this Article in any manner or at any time that would impair any contract, lease, right, or other obligation theretofore executed, granted, or incurred by the Corporation.

ARTICLE XV

This Certificate of Formation may be changed or amended by (1) a two-thirds (2/3) vote of the Directors and approval of the changes by resolution of the City Council, or (2) approval by resolution of the City Council alone. Any such amendment must be filed with the Office of the Texas Secretary of State to be effective.

ARTICLE XVI

The Corporation is a constituted authority and a public or governmental instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code. Although the Corporation is authorized to act on behalf of one or more governmental entities as provided in this Certificate, the Corporation is not a political subdivision or political authority of the

State within the meaning of the Constitution and laws of the State, including, without limitation, Article III, Section 52 of the Texas Constitution, and no agreement, bond, debt, or obligation of the Corporation shall be deemed to be the agreement, bond, debt, or obligation, or the lending of credit, or a grant of public money or thing of value, of or by the City or any other political subdivision or authority or agency of the State, or a pledge of the faith and credit of any of them. No action of the Corporation shall be an action of the City or its agents or employees, and neither this Certificate nor any action by the Board or the City Council shall create a joint enterprise.

ARTICLE XVII

This Certificate of Formation shall be effective when fully executed and filed with the Office of the Texas Secretary of State. Each of the undersigned executes this instrument subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that he and she is authorized to execute this instrument.

DRAFT

IN WITNESS WHEREOF, we have hereunto set our hand this _____ day of _____ 2021.

Incorporator

Incorporator

Incorporator

Incorporator

I, the undersigned, a Notary Public of the State of Texas, certify that on this ____ day of _____, 2021, _____, _____ and _____, each being by me first duly sworn, severally declared on his or her oath that they are the persons who signed the foregoing document as incorporators.

Given under my hand and seal of office on the date and year above written.

Notary Public State of Texas

**BYLAWS OF
CITY OF DALLAS ECONOMIC DEVELOPMENT CORPORATION**

**ARTICLE 1
STRUCTURE, PURPOSES AND MEMBERS**

1.01 Purpose. The City of Dallas Economic Development Corporation (the “Corporation”) is a public nonprofit corporation organized under the laws of the State of Texas for the purpose of aiding, assisting and acting on behalf of the City of Dallas, Texas (the “City”) in the performance of its governmental functions as set forth in the Corporation’s Certificate of Formation, and in the Corporation’s agreement with the City of Dallas, as may be amended from time to time (“Agreement”).

1.02 Formation. The Corporation is formed pursuant to the provisions of Subchapter D, Chapter 431, Texas Transportation Code (the “Act”) as it now or may hereafter be amended, which authorizes the Corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes for its creation, in the manner specified by Chapter 394 of the Texas Local Government Code, and in conformance with Chapter 22 of the Texas Business Organizations Code (the “TBOC”).

The Corporation will also seek determination by the Internal Revenue Service that it is a public charity pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

1.03 Powers. The Corporation shall have and exercise all rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit local government corporations incorporated under the Act including, without limitation, the TBOC, to the extent necessary to carry out its authorized purposes, including but not limited to the power to acquire land and enter into a sale, loan, lease, grant, transfer, trust, operating, or other agreements. The Corporation may also adopt a separate business name (e.g. a “doing business as” name or DBA).

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The Corporation is created as a local governmental corporation pursuant to the Act and shall be a governmental unit within the meaning of Chapter 101, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental, not proprietary, functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code.

1.04 Purposes. The Board of Directors shall administer the Corporation for the purposes set forth in the Certificate of Formation and pursuant to the Agreement.

1.05 Members. The Corporation has no members.

ARTICLE 2 OFFICES

2.01 Principal Place of Business. The principal place of business of the Corporation is located at 1500 Marilla, Dallas, Texas 75201. The Corporation may have such other offices within Dallas, Texas as the Board of Directors may determine or as the affairs of the Corporation may require from time to time. The Corporation shall not maintain offices outside of the State of Texas.

2.02 Registered Agent and Registered Office. The Corporation shall have and continuously maintain in the State of Texas a registered office and a registered agent whose office is the Corporation's registered office, as required by the TBOC. The registered office may but need not be identical to the principal office of the Corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors in accordance with applicable law.

ARTICLE 3 BOARD OF DIRECTORS

3.01 General Powers. The property, business, and affairs of the Corporation shall be managed and controlled by a board (the "Board") and, subject to the restrictions imposed by law, the Certificate of Formation, these Bylaws, and the Agreement, the Board shall exercise all of the powers of the Corporation.

3.02 Number, Appointment and Term. The Board shall consist of at least three (3) interim Directors and up to fifteen Directors (the "Directors") who shall be appointed as prescribed in the Bylaws. The initial Directors shall be those persons set forth in the Certificate of Formation. After the formation of the Corporation, the City Manager will submit a slate of candidates for the Board for City Council Approval. The Corporation's Executive Director, the City of Dallas Chief of Economic Development and Neighborhood Services, and Office of Economic Development Director shall serve as ex-officio Directors on the Board. The ex-officio Directors shall not be included in the 15 Director positions or as a quorum of the Board, and shall not vote on matters before the Board.

Each Director shall serve a term of three years ending on June 30 or until his or her successor is nominated by the Board, approved by the City Manager, and approved by City Council unless such Director has been appointed to fill an unexpired term, in which case the term shall expire on the expiration date of the term of the Director whom he or she was appointed to replace. Directors shall be eligible for reappointment. There is no limit on the number of terms a Director may serve. Each person serving as a Director shall hold office until the earlier to occur of (a) his or her successor has been appointed or (b) his or her death, resignation, or removal as hereinafter provided.

3.03 Removal. Any Director may be removed from office, with or without cause, by resolution of the City Council or with cause by a three-fourths vote of the Directors.

3.04 Vacancies. Any vacancy occurring in the office of a Director, whether by death, resignation, removal, or otherwise, shall be filled for the unexpired portion of the term of the former occupant in the same manner in which the original appointment is made.

3.05 Meetings of Directors. The Directors may hold meetings, maintain an office, and keep the Corporation's books and records at such place or places within the City as the Board of Directors may from time to time determine; provided, however, that in the absence of any such determination, such place shall be the Corporation's principal office in the State of Texas.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of the Council under Chapter 551, Texas Government Code (the "Open Meetings Act"). The Board is subject to Chapter 552, as amended, Texas Government Code (the "Public Information Act"). The City Secretary has the primary responsibility for carrying out the duties required by the Public Information Act for the Board, and is designated as the public information coordinator for the Board for the purposes of such statute.

3.06 Organizational Meetings. After approval of the Certificate of Formation by the Council and filing of the Certificate of Formation with the Texas Secretary of State, the initial three Directors will hold an organizational meeting to adopt and approve the Bylaws and to transact such other business as may be included in the meeting agenda. Once the full slate of Directors is appointed by the Council, the full Board will hold an additional organizational meeting to elect officers, to launch a search for an Executive Director, and to transact such other business as may be included in the meeting agenda. This second organizational meeting shall serve as the first Annual Meeting (as defined in Section 3.07 below) of the Board.

3.07 Annual Meetings. The annual meeting of the Board of Directors (the "Annual Meeting") shall be held each year in the month of June for the purpose of (a) electing officers for the ensuing year, (b) recommending the next year's operating budget for City Council review and approval, (c) determining the date, time, and location of Regular Meetings for the next year, and (d) if necessary, transacting other business. The Board will designate the time and location of such annual meeting, which location shall be within the City.

3.08 Regular Meetings. Regular meetings of the Board ("Regular Meetings") shall be held at such times and places within the City as shall be designated from time to time by resolution of the Board.

3.09 Special Meetings. Special meetings of the Board ("Special Meetings") may be called by or at the request of the President of the Board or the City Manager of the City of Dallas, and shall be called by the Secretary whenever requested in writing by at least a majority of the Directors then in office.

3.10 Notice. The Secretary shall give notice of the time and place of each Annual, Regular and Special Meeting to each Director by electronic message or phone call at least three (3) business days before such meeting. Notice of such meeting shall also be given in the manner required of the Council under the Open Meetings Act.

3.11 Quorum. A majority of the then-appointed Directors shall constitute a quorum for the consideration of any matters pertaining to the Corporation's purposes. If at any meeting of the Board there is less than a quorum present, the meeting shall be cancelled, or if the meeting is already underway, shall immediately adjourn. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board, unless a greater number is required by law, the Certificate of Formation, or these Bylaws.

A Director who is present at a meeting of the Board at which any action is taken shall be presumed that have assented to such action, unless the Director's dissent shall be entered into the minutes of the meeting.

3.12 Participation by Telephone Conference and Videoconference. In accordance with the Open Meetings Act, members of the Board may participate in and hold meetings of the Board by means of visible and audible presence in a video conference to the same extent as a governmental body within the meaning of the Open Meetings Act, and participation in such a meeting shall constitute presence in person at such meeting. Notice of such virtual or hybrid meetings shall be given in accordance with the Open Meetings Act.

3.13 Conduct of Business. At all meetings of the Board of Directors, the President shall preside, and in the absence of the President, the Vice President shall preside, and in the absence of the Vice-President, a President shall be chosen by the Board from among the Directors present to preside over the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Board of Directors, but in the absence of the Secretary, the President of the meeting may appoint any person to act as secretary of the meeting. The President of any meeting of the Board of Directors shall determine the order of business and the procedure at the meeting, including, without limitation, conduct of the discussion and the order of business.

3.14 Compensation of Directors, Expenses. Persons serving as Directors shall not receive any salary or compensation for their services as Directors. However, Directors shall be entitled to reimbursement for reasonable expenses actually incurred in performance of their official duties as a Director.

3.15 Relationship with the City. The President of the Board shall make an annual report regarding the operations and finances of the Corporation to the City Council or a committee thereof as required by the City's agreement with the Corporation (the "ILA") and shall make such other reports or presentations as may be required from time to time by the city manager of City.

3.16 Director's Reliance of Consultant Information. Directors shall discharge their duties in good faith, with ordinary care, and in a manner each Director reasonably believes to be in the Corporation's best interests. In this context, "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances. A Director shall not be liable if while acting in good faith and with ordinary care, the Director relies on information, reports, or statements, including financial statements and other financial data, concerning the Corporation or any matters pertaining to the Corporation's purposes that were prepared or presented by (a) one or more officers or employees of the Corporation or (b) legal counsel, public accountants, or other persons if such Director reasonably believes the information, reports, or statements are within that person's professional or expert competence. A Director is not relying in good faith if he or she has knowledge that renders such reliance unwarranted or unreasonable.

ARTICLE 4 OFFICERS

4.01 Officers. The officers of the Corporation shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of the Certificate of Formation or these Bylaws. The Board may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed herein or prescribed, from time to time, by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary. All offices except Treasurer and Secretary must be held by persons serving as Directors of the Corporation.

4.02 Election and Term of Office. Each year at the Annual Meeting of the Board, the Board of Directors shall elect officers. All officers shall hold office for a term of one (1) year, commencing upon his or her election at an annual meeting and expiring when an election of officers is held at the next Annual Meeting following the Annual Meeting at which he or she was elected, and may be reelected to such office any number of times. Notwithstanding the above, each officer shall continue to hold office until his or her successor shall have been duly elected or until his or her earlier, death, resignation, or removal. All officers shall be subject to removal, with or without cause, at any time by a majority vote of the Board. A vacancy in any office because of death, resignation, removal, or otherwise, may be filled by majority vote of the Board for the unexpired portion of the term.

4.03 President. The President shall preside at all meetings of the Board of Directors, shall perform such other duties as are specified in these Bylaws, and shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time. To the extent authorized by the Board, the President may sign, accompanied by a secondary signature from the Corporation's Executive Director or Board's Vice President, in the name and on the behalf of the Corporation all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes, and other instruments of the Corporation. The President may call Special meetings of the Board.

4.04 Vice President. The Vice President shall generally assist the President in the performance of the President's duties and, in the absence of the President or in the event of his or her inability or refusal to act, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall also perform such other duties as from time to time may be assigned to him or her by the President or Board of Directors. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability of the President to act at the time such action was taken.

4.05 Treasurer. The Treasurer shall have custody of all of the Corporation's funds and securities that come into such officer's hands. When necessary or proper, the Treasurer may endorse or cause to be endorsed, with approval of the Executive Director, in the name and on the behalf of the Corporation, checks, notes, and other obligations for collection and shall deposit or cause to be deposited the same to the credit of the Corporation in such bank or banks or depositories and in such manner as shall be designated and prescribed by the Board; may sign or cause to be signed all receipts and vouchers for payments made to the Corporation either alone or jointly with such other officer as may be designated by the Board; whenever required by the Board, shall render or cause to be rendered a statement of the cash account; shall enter or cause to be entered regularly in the Corporation's books

to be kept by such officer for that purpose full and accurate records of all moneys received and paid out on account of the Corporation; shall perform all acts incident to the position of Treasurer subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require. The Treasurer may either be a Director or an employee of the City.

4.06 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors in books provided for that purpose; shall attend to the giving and serving of all notices; shall have charge of the Corporation's books, records, documents, and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board of Directors may direct, all of which shall be open at reasonable times to the inspection of any Director upon application at the Corporation's office during business hours; and shall in general perform all duties incident to the office of Secretary subject to the control of the Board of Directors.

4.07 Officer's Reliance of Consultant Information. Officers shall discharge their duties in good faith, with ordinary care, and in a manner each officer reasonably believes to be in the Corporation's best interests. In this context, "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances. An officer shall not be liable if while acting in good faith and with ordinary care, the officer relies on information, reports, or statements, including financial statements and other financial data, concerning the Corporation or any matters pertaining to the Corporation's purposes that were prepared or presented by legal counsel, public accountants, or other persons if such officer reasonably believes the information, reports, or statements are within that person's professional or expert competence. An officer is not relying in good faith if he or she has knowledge that renders such reliance unwarranted or unreasonable.

ARTICLE 5 STAFF

5.01 Staff. The Board of Directors may hire such staff as it deems necessary to carry out the work of the Corporation, subject to and in accordance with the Corporation's budget adopted in accordance with Section 6.03. The Director of the City's Office of Economic Development will serve as the interim Executive Director for the Corporation until a permanent hire is made.

ARTICLE 6 FINANCES, AUDITS, AND RECORDS

6.01 Fiscal Year. The fiscal year of the Corporation shall be the same as the fiscal year of the City.

6.02 Books and Records. The Corporation shall keep correct and complete books and records of accounts and shall also keep minutes of the proceedings of its Board. All books and records may be inspected by representatives of the City with reasonable notice.

6.03 Operating and Capital Budget. At each Annual Meeting the Board shall approve a recommended operating and capital budget for the next fiscal year which shall be submitted to the

Chief of Economic Development for approval. The budget will be presented to the Economic Development Committee of the Dallas City Council (or such relevant successor committee as may be established by the City) at the next available committee meeting.

6.04 Authorization to Sign Checks. All checks, drafts, or orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Corporation shall be signed by the Treasurer and, if in an amount that exceeds Five Thousand Dollars (\$5,000.00), countersigned by the Executive Director of the Corporation.

6.05 Deposits. All funds of the Corporation shall be deposited within 1-3 business days of receipt to the credit of the Corporation in such banks, trust companies, depositories, or investment funds or companies as shall be designated from time to time by or in accordance with Board resolution or as otherwise required by the ILA. Any checks or financial instruments waiting to be processed or deposited should be logged and secured by designated staff to either be placed in a locked safe or a locked drawer for safekeeping.

6.06 Appropriations, Donations, and Grants. The Corporation shall have the authority to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State of Texas, any political subdivision or municipality of the State of Texas, or any other source.

6.07 Audits. The Board shall cause to be maintained a proper and complete system of records and accounts of all transactions, business, and affairs of the Corporation. At the end of each fiscal year, the Board shall cause the preparation of a financial statement for the Corporation, which shall be audited by an independent certified public accountant or firm of independent certified public accountants retained by the Board for such purpose. A copy of such audited financial statement shall be delivered to the Chief Financial Officer of City upon completion but not later than 90 days after the end of the Corporation's fiscal year. In addition, the City shall have access to the premises, documents, records, and other materials of the Corporation at any reasonable time and shall have the right to audit same. The Corporation shall reimburse the City for any costs of such audits.

6.08 Legal Counsel. The Corporation shall engage legal counsel to advise it on all legal issues.

ARTICLE 7 INDEMNIFICATION

7.01 Right to Indemnification. Subject to the limitations and conditions as provided in this Article 7 and the Certificate of Formation, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative (hereinafter a "proceeding"), or any appeal in such a proceeding or any inquiry or investigation that could lead to such a proceeding, by reason of the fact that he or she, is or was a Director or officer of the Corporation shall be indemnified by the Corporation to the fullest extent permitted by the TBOC, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent than such amendment permits the Corporation to provide broader indemnification rights that said law permitted the Corporation to

provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such person in connection with such proceeding, and indemnification under this Article 7 shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. The rights granted pursuant to this Article 7 shall be deemed contract rights, and no amendment, modification or repeal of this Article 7 shall have the effect of limiting or denying any such rights with respect to action taken or proceedings arising prior to any such amendment, modification or repeal. Notwithstanding the foregoing, the indemnity described above does not apply to a Director or officer's bad faith or gross negligence, or any illegal act. In addition, Board members are considered Plan members as defined under Chapter 31A of the Dallas City Code. If City incurs any cost under Chapter 31A, the LGC will reimburse the City.

7.02 Advance Payment. The right to indemnification conferred in this Article 7 shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 7.01 above who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such Director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article 7 and verification satisfactory to the Board as to such person's ability to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article 7 or otherwise.

7.03 Indemnification of Employees and Agents. The Corporation, by adoption of a resolution of the Board or pursuant to an agreement approved by the Board, may indemnify and advance expenses to an employee or agent of the Corporation to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Directors and officers.

7.04 Appearance as a Witness. Notwithstanding any other provision of this Article 7, the Corporation may pay or reimburse reasonable expenses actually incurred by a Director or officer in connection with his or her appearance or other participation in a legal proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

7.05 Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article 7 shall not be exclusive of any other right which a Director or officer may have or hereafter acquire under any law (common or statutory) or provision of the Certificate of Formation or these Bylaws.

7.06 Insurance. The Corporation shall, at its expense, secure and maintain at all times such directors and officers liability insurance coverage as is required by the ILA. The Corporation may also purchase and maintain, at its expense, any additional insurance it deems necessary to protect itself and any person who is or was serving as a Director, officer, employee, or agent of the Corporation.

7.07 Notification. Any indemnification of or advance or reimbursement of expenses to a Director or officer in accordance with this Article 7 shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board and, in any case, within the 12-month period immediately following the date of the indemnification, reimbursement, or advance.

7.08 Savings Clause. If this Article 7 or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer or any other person indemnified pursuant to this Article 7 as to costs, charges and expenses (including attorneys' fees), judgments, fines and in amounts paid in settlement with respect to any action, suit of proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article 7 that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE 8 MISCELLANEOUS PROVISIONS

8.01 Supremacy of Certificate of Formation. These Bylaws are subject to and governed by the Certificate of Formation.

8.02 Seal. The Corporation's seal, if any, shall be such as may be approved from time to time by the Board.

8.03 Notice and Waiver of Notice. Whenever any notice is required to be given by mail under the provisions of these Bylaws, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed postpaid wrapper addressed to the person entitled hereto at such person's post office address, as such appears in the records of the Corporation, and such notice shall be deemed to have been given on the date of such mailing. If transmitted by facsimile or electronic message, such notice shall be deemed to be delivered upon successful transmission of the facsimile or electronic message. A member of the Board of Directors may waive notice of any meeting. The attendance or participation of a member of the Board at any meeting shall constitute a waiver of notice of such meeting unless such attendance or participation is for the purpose of objecting to the failure of notice. A waiver of notice in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to notice.

8.04 Resignations. Any Director or officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

8.05 Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases, and vice versa.

8.06 Actions Requiring Prior City Council Approval. The following actions must be pre-approved by resolution of the Dallas City Council before the Board may take any such action:

- (1) amendment or restatement of the Bylaws or Certificate of Formation of the Corporation;
- (2) issuance of bonds; or
- (3) any activity not described in the Agreement.

The Corporation shall have the ability to take the following actions without pre-approval by resolution of the Dallas City Council:

- (4) Any activity described in the Agreement.

ARTICLE 9 CODE OF ETHICS

9.01 Policy and Purposes.

(1) It is the policy of the Corporation that Director and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Corporation; and that the Board of Directors establish policies to control and manage the affairs of the Corporation fairly, impartially, and without discrimination.

(2) This Code of Ethics has been adopted as part of the Corporation's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

9.02 Conflicts of Interests.

(1) Except as provided in subsection (3) below, a Director or officer is prohibited from participating in a vote, decision, or award of a contract, and all Board deliberation related to same, involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefitted by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of \$15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An interest of a person related in the second degree by affinity (marriage relationship) or the third degree by consanguinity (blood relationship) to a Director or officer is considered a substantial interest.

(2) If a Director or a person related to a Director in the first or second degree by affinity or the first, second, or third degree by consanguinity has a substantial interest in a business entity or real property that would be pecuniary affected by any official action taken by the Board of Directors, such Director, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board.

(3) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a

similar interest in the same action or if all other similar business entities in the City will receive a similar pecuniary benefit.

(4) An employee of a public entity may serve on the Board.

9.03 Acceptance of Gifts. No Director or officer shall accept any benefit as consideration for any decision, opinion, recommendation, vote or other exercise of discretion in carrying out official acts for the Corporation. No Director or officer shall solicit, accept, or agree to accept any benefit from a person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the Director's or officer's discretion. As used here, a benefit does not include:

(1) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a Director or officer;

(2) a gift or other benefit conferred on account of kinship or a personal, professional or business relationship independent of the official status of the Director or officer;

(3) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

- a. not more than one honorarium is received from the same person in a calendar year;
- b. not more than one honorarium is received for the same service; and
- c. the value of the honorarium does not exceed \$250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;

(4) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest if reported as may be required by law.

9.04 Bribery. A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:

(1) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;

(2) any benefit as consideration for the Director or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(3) any benefit as consideration for a violation of duty imposed by law on the Director or officer.

9.05 Nepotism. No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree of consanguinity to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty days prior to the appointment of the Director or officer so appointing or voting.

9.06 Annual Statements. Each Director and officer shall annually sign a statement which affirms such person:

- and
- (1) has received a copy of the Code of Ethics policy, has read and understands the policy,
 - (2) has agreed to comply with the policy.

**ARTICLE 10
AMENDMENTS TO BYLAWS**

These Bylaws may be altered or amended in whole or in part, or repealed and new bylaws may be adopted, by a two-thirds (2/3) vote of the Directors present at any Board meeting where a quorum of Directors is present, if at least seven (7) days' written notice is given of an intention to alter, amend, or repeal these Bylaws or to adopt new Bylaws at such meeting, and such notice contains the proposed amendment(s). Any proposed alteration, change, amendment, repeal, or adoption of new bylaws approved by the Directors must be approved by the City Council to be effective. Alternately, the Bylaws may be altered or amended in whole or in part, or repealed and new bylaws may be adopted, by resolution of the City Council.

* * * * *

The undersigned, being the duly elected and qualified Secretary of the Corporation, does hereby certify that the foregoing Bylaws of the Corporation were duly adopted by the Board of Directors of the Corporation at a meeting held on _____, 2022, at which a quorum was present and voting throughout.

_____, Secretary

Exhibit D

DRAFT INTERLOCAL COOPERATION AGREEMENT BETWEEN CITY OF DALLAS ECONOMIC DEVELOPMENT CORPORATION AND THE CITY OF DALLAS, TEXAS, PROVIDING THE TERMS PURSUANT TO WHICH THE CITY OF DALLAS ECONOMIC DEVELOPMENT CORPORATION WILL ACT ON BEHALF OF THE CITY IN FURTHERANCE OF ITS AUTHORIZED PURPOSES; AND OTHER RELATED MATTERS

This Interlocal Cooperation Agreement (the “*Agreement*”) is made to be effective as of the ____ day of ____ MONTH, 2022 by and among The City of Dallas Economic Development Corporation, a Texas Local Government Corporation created pursuant to section 431.101 *et seq.* of the Texas Transportation Code (the “*Corporation*”), and the City of Dallas, Texas, a home rule municipality and political subdivision of the State (the “*City*”). The Corporation and the City may be referred to individually as a *Party* or collectively as the *Parties*.

RECITALS

- A. Subchapter D, Chapter 431, Texas Transportation (*Chapter 431*), authorizes the creation of local government Corporations to aid and act on behalf of local governments.
- B. The City created the Corporation under the provisions of Chapter 431 and the Texas Nonprofit Corporation Law, as defined by Section 1.008 of the Texas Business Organizations Code, for the purposes of aiding and assisting the City by engaging in socially beneficial real estate development, and economic development.
- C. Section 791.003(4)(B), Texas Government Code, provides that a “local government Corporation created under Subchapter D, Chapter 431, Transportation Code,” such as the Corporation, is a “local government” for purposes of the Interlocal Cooperation Act, which Act has been codified as Chapter 791, as amended, Texas Government Code (“*Interlocal Cooperation Act*” or “*Chapter 791*”).
- D. Section 791.003(4)(A), Texas Government Code, provides that a municipality, such as the City, is a “local government” for purposes of the Interlocal Cooperation Act.
- E. Section 791.011(a), as amended, Texas Government Code, provides that “[a] local government may contract or agree with another local government...to perform governmental functions and services in accordance with [the Interlocal Cooperation Act].”
- F. Due to the joint and mutual interests held by the Parties, including the purposes for which the Corporation was organized as described in the Corporation’s Certificate of Formation, the Parties desire to enter into this Agreement to memorialize the terms pursuant to which the Corporation may operate and act on behalf of the City in performing various services and completing various projects on behalf of the City in furtherance of the Corporation’s authorized purposes in an expeditious and efficient manner, in cooperation with the other governmental entities and private persons in such a manner as to benefit the City.
- G. The terms of each project or service approved by the City and to be accepted by the Corporation (each, a “*Project*” and, collectively, the “*Projects*”) shall be evidenced in an addendum substantially in the form attached as Exhibit A (“*Addendum*”), which is incorporated into this Agreement for all purposes and each Addendum shall be subject to the terms and conditions of this Agreement.

- H. This Agreement shall constitute an interlocal cooperation agreement as authorized pursuant to the provisions of Chapter 791.
- I. The adoption of this Agreement is found and determined to be in the best interest of the residents of the City and in furtherance of municipal public purposes.

ACCORDINGLY, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

SECTION 1: DEFINITION AND USE OF TERMS. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, all references in this Agreement to designated *Sections, Schedules, Exhibits*, and other subdivisions are to the designated Sections, Schedules, Exhibits, and other subdivisions of this Agreement as originally adopted. If a defined term is used in an Addendum, the defined term will have the same meaning as it has in this Agreement. Terms not otherwise defined in this Agreement have the meanings in the Corporation's Certificate of Formation or Bylaws.

SECTION 2: REPRESENTATIONS.

2.1 Representations of the Corporation. The Corporation represents to the City that:

- (a) The Corporation is a public, nonprofit corporation organized under the laws of the State and is duly qualified and authorized to carry out the purposes of Chapter 431 and to accomplish any governmental purpose of the City, as contemplated by the Corporation's Certificate of Formation and this Agreement.
- (b) The Corporation has the power, authority, and legal right to enter into and perform under this Agreement and the execution, delivery, and performance have been duly authorized.
- (c) This Agreement has been duly authorized, executed, and delivered and constitutes a legal, valid, and binding obligation of the Corporation enforceable in accordance with its terms.
- (d) To the extent Corporation is paying for the performance of governmental functions or services those payments are from current revenue available to Corporation.

2.2 Representations of City. City represents to the Corporation that:

- (a) The City is a political subdivision and a home rule municipality under the laws of the State and is duly qualified and authorized to carry out the governmental functions and operations as contemplated by this Agreement.
- (b) The City has the power, authority, and legal right to enter into and perform under this Agreement and the execution, delivery, and performance have been duly authorized.
- (c) This Agreement has been duly authorized, executed, and delivered and constitutes a legal, valid, and binding obligation of the City enforceable in accordance with its terms.
- (d) To the extent the City is paying for the performance of governmental functions or services those payments are from current revenues available to the City.

SECTION 3: FINDINGS. Each of the Parties find that entering into this Agreement for the purposes in this Agreement is for the benefit of the residents of the City.

SECTION 4: AGREEMENT OF THE PARTIES. Pursuant to the terms of this Agreement, the Corporation will identify and, upon approval of the City Council, pursue Projects and Services for the benefit of the City as its everyday core operations and mission. The City agrees, as part of its annual budget process, to appropriate up to \$7 Million in American Rescue Plan Act of 2021 funds for the Corporation's operations and purposes in accordance with Section 6.6 below.

SECTION 5: TERM OF THIS AGREEMENT. The term of this Agreement shall commence on the date first written above and shall continue for a period of the earlier of ten years or until the Corporation is dissolved or notice of termination is given to the City. Prior to the expiration of the ten-year term, the Parties may agree to renew the term of this Agreement for an additional fifteen years.

Either Party may terminate this Agreement by giving 60 days' advance written notice to the other Party. The City may at any time consider and approve by three fourths vote a resolution directing the Board of Directors (the "Board") to proceed with the dissolution of the Corporation, subject to any limitation on the impairment of contracts or other obligations entered into by the Corporation, at which time the Board shall proceed with the dissolution of the Corporation in accordance with State law.

In the event of the dissolution of the Corporation, after the payment or satisfaction of all debts, liabilities, and obligations, all assets will be turned over to the City, unless the City shall otherwise direct; provided, however, any such disposition shall only be for tax-exempt purposes in such a manner and to such organization or organizations which shall at the time of such dissolution qualify as an organization exempt from federal taxation under Section 501(a) of the Code or as an organization or organizations described in section 501(c)(3) of the Code. The Corporation shall not be dissolved or liquidated, and its business shall not be terminated, by act of the City Council or otherwise, so long as the Corporation shall be obligated to pay any bonds, notes, or other obligations. No action shall be taken pursuant to this Article in any manner or at any time that would impair any contract, lease, right, or other obligation theretofore executed, granted, or incurred by the Corporation.

The payment obligations within this Agreement survive termination if the work which forms the basis of the request for payment has been completed and documented to the City's satisfaction and City has not paid for such work in full prior to the termination date.

SECTION 6: PROJECTS AND SERVICES.

6.1 Organization and Operation of the Corporation

Powers and Purpose of the Corporation. The Corporation is a local government corporation organized by the City under Chapter 431, Subchapter D of the Texas Transportation Code, as amended (the "Act"), to aid and act on behalf of the City as provided for in the Act and to carry out its authorized purposes as set forth in the Corporation's Bylaws. The Corporation has the authority to enter into Interlocal Agreements with other government entities, as set forth in the Interlocal Cooperation Act. As the City has established the Corporation, such Interlocal Agreements may only

be for services and projects that are consistent with and not in conflict with the purposes of the City. Nothing in this Agreement shall limit the powers otherwise granted to the Corporation by or pursuant to the terms of the Act; including, without limitation, transacting with other local governments, political subdivisions, state or federal agencies, or with private persons, in furtherance of the Corporation's authorized purposes pursuant to the Corporation's Certificate of Formation, so long as those transactions are consistent with and not in conflict with the purposes of the City. At least 60 days prior to execution, the Corporation will provide the City Manager or the City Manager's designee with a substantially final copy of any interlocal agreement that Corporation intends to enter into, even if the City is not a party. The City shall have 30 days to review and provide to the Corporation any concerns related to City issues. The Corporation shall have 15 days to address these concerns. The City will respond to any proposed changes and/or Corporation's response regarding the City's issues within 15 days of receipt. The City must affirmatively respond and advise the Corporation regarding whether the City issues have been addressed before the Corporation will execute the interlocal agreement.

(a) *Organization and Governance.* The Parties agree and acknowledge that the Corporation shall be operated and governed as an independent not-for-profit corporation in accordance with its Certificate of Formation and Bylaws and notwithstanding anything in this Agreement to the contrary, the affairs of the Corporation shall be managed and conducted by the Board of Directors and Officers of the Corporation as provided for in the Corporation's Certificate of Formation and Bylaws. Corporation's operation in accordance with its Certificate of Formation and its Bylaws shall be a condition precedent to City's performance under this Agreement or any addendum hereto.

6.2 Services of the Corporation. The City may retain the Corporation to perform the services described in this Section:

(a) *Real Estate Transactional Services.* The Corporation may provide brokerage and transactional services to the City for the disposal, lease, or licensing of real property owned by the City, or for the acquisition or leasing of real property for the City, as may be agreed upon by the Parties from time to time pursuant to a Transactional Services Addendum. Such Services may include, without limitation, highest and best use analyses, land valuation analyses, marketing and solicitation services, and brokerage services. For each such transaction, the Corporation shall be paid as set forth in contracts for such services. The Corporation will be required to obtain any necessary licenses and certifications, including but not limited to a Texas Real Estate Broker's License prior to performing such services unless a vendor is responsible for such services.

(b) *Real Estate Management and Administration.* The Corporation may be responsible for the administration, management (including lease management or qualified management agreements), operation and/or maintenance of properties owned or controlled by the City, as may be agreed upon by the Parties from time to time pursuant to a Real Estate Management Addendum.

(c) *Public Development.* To the greatest extent permitted by law, the Corporation may also perform services such as planning, facilitation, advocacy, promotion, negotiation, financing, development, and/or redevelopment of Projects as may be agreed upon by the Parties pursuant to a Public Development Addendum and any contracts that are legally required to perform such services. Such public development services may include those services, transactions and endeavors more fully described in Section 6.3 below.

(d) *Business Development.* The Corporation may engage in targeted and outbound marketing, inbound marketing, branding to guide the Corporation's Projects and Programs, media campaigns, marketing missions, attendance at trade shows and industry conferences to promote the City of Dallas, expand business recruitment, and support the existing business community. The Corporation may not offer incentives and shall provide notice to Office of Economic Development (OED) staff before attending any marketing missions, trade shows, and industry conferences to promote the City of Dallas, expand business recruitment, and support the existing business community. The Corporation may not offer incentives and shall provide at least 30 days notice to Office of Economic Development staff before registering and/or making any arrangements to attend any marketing missions, trade shows, and industry conferences to promote the City of Dallas to allow the OED Director opportunity to consider if there is desire for OED participation for the OED Director or OED designated Staff to be included. Corporation will endeavor to provide advance notice to OED Director when receiving notice from site selectors of scheduled visits in the event that OED Director wishes to be in attendance or have designated Staff be on the site visit. With the annual proposed budget submission to the OED Director, the Corporation shall include the Marketing Workplan and calendar with itemized activities, descriptions, and participants for said activities.

(e) *Additional Services.* The Corporation may be responsible for the performance of consulting, technical advisory or other professional services (including the delivery of studies, reports, assessments, data analysis, legal analysis, strategic planning, and making recommendations), administration of economic development or grant programs, and such other services as shall be necessary or convenient for the management, administration, oversight, planning and implementation of any Projects, or which may otherwise be necessary, useful or desirable to lessen the burdens of government and to serve the public purposes and functions of the City, or as may be agreed upon by the Parties from time to time pursuant to an Additional Services Addendum and any required contracts. Corporation and City may use common vendors for data and research. Rather than each entity contracting separately with these vendors, the parties agree that the Corporation will contract with such vendors on behalf of both entities and that the Corporation will provide licenses and logins for OED staff.

6.3 Proposed Projects. The Parties agree that Corporation will identify, pursue, accept, and undertake certain development projects on behalf of the City in furtherance of the Corporation's authorized purposes as described in Article IV of the Corporation's Certificate of Formation. Such Projects may include any project which may be necessary, useful, or desirable to lessen the burdens of government and to serve the public purposes and functions of the City ("*Proposed Project*"). The Corporation will work with the City to identify any additional Proposed Projects to be considered for approval by the City. Such Proposed Projects shall be included in the Corporation's Annual Report submitted to the City for approval pursuant to the terms of this Agreement.

After City Council has approved a Proposed Project, the City and the Corporation shall mutually identify the Services to be performed by the Corporation with respect to such Proposed Project in an Addendum in accordance with Section 6.2 of this Agreement. Additionally, any approved Proposed Project Addendum may, to the fullest extent permitted by law, identify and authorize other transactions and endeavors to be pursued by the Corporation as may be necessary, desirable or useful and in the City's interests including the following:

(a) *Development of City Property.* The City may lease, convey, or otherwise dispose of property or property interests owned or controlled by the City to the Corporation in accordance with applicable law, for the development of any Project.

(b) *Additional Agreements with the Corporation.* The City and the Corporation may enter into development agreements, grant agreements, or other contracts as may be necessary or convenient for the Parties in accordance with applicable law, to carry out the development of any Project.

(c) *Third Party Agreements.* The Corporation may, subject to the requirements of this Agreement and applicable law, enter into one or more development agreements, construction contracts, professional services agreements, grant agreements, interlocal agreements, leases, instruments of indebtedness, or other contracts, with respect to the pursuit or fulfillment of any Project with Corporations, firms, associations, trusts, institutions, foundations, other political subdivisions, state agencies, or other governmental entities. The Parties agree that these third-party agreements will always be consistent with City purposes and development requirements.

(d) *Conveyance and Acquisition of Property and Property Interests.* The Corporation may acquire interests in real property or improvements from third parties (including fee simple, leasehold interests, licenses, use rights, or condominium interests). It is the responsibility of the Corporation to ensure that any such interests are consistent with City purposes and development requirements, as well as the Corporation's purposes as stated in the Corporation's Certificate of Formation and Bylaws (including any amendments approved by City Council). Notice shall be provided to the City Manager or his designee 30 days before the anticipated closing date. The City Manager or their designee may object if there are concerns relating to City purposes.

(e) *Special Districts.* Working cooperatively with the City and consistent with City development plans, and only with City Council approval, the Corporation may facilitate the formation, repurposing, expansion, or administration of public improvement districts, planned unit developments, tax increment reinvestment zones, or other special districts with the City, or other local governments, or by special legislation only if approved by the City, in connection with incentivizing or financing the development and operation of any Project ("*Special Districts*"). Subject to any applicable Federal and State laws, City Code, ordinances, resolutions, and policies of the City, the Parties will work cooperatively in the (i) formation, repurposing, or expansion of any Special Districts; and (ii) in the preparation and approval of any financing plans, special assessment plans, development plans, reimbursement agreements, or development agreements related to these Projects.

(f) *Entitlements.* To the extent permitted under the constitution and laws of the State of Texas, and City Code, Ordinances, and policies, the City may coordinate with the Corporation with respect to the processing of any applications and issuance of any permits, licenses, authorizations or other entitlements required from the City for the development of any Project. None of the City's boards, commissions, or governing body shall be bound or restricted by anything contained in this Agreement. The City makes no representation and provides no assurances to the Corporation, and the Corporation understands and agrees that any necessary zoning, replatting, abandonment, building inspection, or other approval decisions, including any decision of the City Council, will be made by the appropriate body of the City or another entity, and that such approval is solely within the discretion of that body and may be denied.

6.4 Objectives and Priorities. The Parties agree and acknowledge that the Corporation was formed by the City to accomplish the holistic goals of the City related to inclusive growth and economic development. Accordingly, the Projects and Services undertaken by the Corporation shall generally be for the achievement of the following principal objectives and priorities of the City (the “*Principal Objectives*”):

- (a) The creation, redevelopment, and revitalization of healthy, vibrant, resilient, diverse and inclusive neighborhoods and communities;
- (b) Addressing neighborhood change, urban displacement, and residential affordability challenges, including through the development of affordable housing and workforce housing;
- (c) Increasing equity to include closing disparities in outcomes by race, income, geography, or other factors, and supporting small and minority-owned businesses and establishments;
- (d) Fostering, supporting and preserving of the City’s creative communities, local creative talent, and culture and cultural organizations;
- (e) The proactive and innovative development and expansion of infrastructure, communities, public facilities, and other socially beneficial real estate projects; and
- (f) Increasing the tax base within the City of Dallas to generate revenues and other resources for the City through the promotion of job growth and business growth.

In addition to the Principal Objectives set forth above, the City may identify additional objectives and priorities with respect to any Project or other Services undertaken by the Corporation.

6.5 Annual Report to the City. The President of the Board of the Corporation shall make an annual report (the “*Annual Report*”) and other reports regarding the operations and finances of the Corporation to City Council and shall make supplemental reports from time to time as required by the City Manager and City Council. The Annual Report shall be submitted to City on or before January 31 and shall include, at a minimum, the following:

- (a) ***Project Summary.*** An executive summary of the Projects described in the Annual Report for the prior year and a status update of each such Project, including a discussion on the successes (and/or failures) of such Projects;
- (b) ***Budget Summary.*** An annual budget for the Corporation, including:
 - (i) A two-year historical and five-year projected income statement;
 - (ii) A balance sheet for the first day and last day of the previous Fiscal Year; and
 - (iii) Any requests for additional monies in the coming year;

(c) ***Real Estate Transactions.*** A report summarizing the results of any real property transactional services performed by the Corporation during such fiscal year.

(d) ***Real Estate Management and Administration.*** An executive summary of all real estate managed by the Corporation on behalf of the City, including for each property, the occupancy rate, lease, and operating revenues and expenses compared to the budget for the prior year, a capital expenditure and progress report, and an operating budget for the following fiscal year. An operating budget showing two years of history and five years of projection;

(i) A capital budget including sources and uses, with notation as to any sources of public funding, and a progress report on capital work; and

(ii) A narrative description of the public purpose contemplated by the City when disposing of the property (or the management of such property) to Corporation. A report indicating progress toward achieving the public purpose contemplated, including any relevant quantitative metrics such as job creation/retention, commercial affordability, residential affordability, climate and environmental mitigation measures, transportation access, cultural preservation, historic preservation, small business preservation, and impacts on achieving greater equity or inclusion;

(e) ***Special Program Services.*** A report on any Projects, special programs, or services undertaken by the Corporation on behalf of the City. For each program or services, the report will provide (i) a general description of the program or services contracted for by the City;

(i) a budget indicating all sources and uses of funds for the Project, program, or service; and

(ii) a summary for the services provided, with a comparison to actual expenditures showing any variances from the budget for these services; and (iii) a narrative description of the possible impacts of ending the program, and any potential for expanding or extending the program, with the Corporation's recommendations regarding the same.

(f) ***Inclusive Growth Report.*** An inclusive growth report on how the Corporation's Projects or programs have contributed to the achievement of the Principal Objectives, including improvements in economic growth, social equity, cultural vitality, and environmental sustainability.

(g) ***Proposed Projects or Services.*** A presentation of any potential new Projects or Services ("*Proposed Projects*") for consideration by the City for the subsequent Fiscal Year and the Corporation shall include the Proposed Projects in the Annual Report for presentation to and consideration and approval by the City, including the following:

(i) A description of the public purpose, expected economic impacts and public benefits, and other outcomes of the Proposed Project, and how the Proposed Project may work to achieve the Primary Objectives;

(ii) If applicable, a preliminary feasibility analysis, plan of finance (if

applicable), and timeline for the Proposed Project, including a general description of material assumptions;

(iii) A summary of any community participation and input gathered with respect to the Proposed Project;

(iv) The Corporation's recommendations for further feasibility studies, economic studies, or other analysis necessary or advisable for purposes of determining the efficacy, value, feasibility or public benefits of the Proposed Project;

(v) A summary of proposed scope of Services to be provided by the Corporation, and their associated cost to the City for the next Fiscal Year, and if the Proposed Project is a multi-year project, a preliminary summary of the Services and their estimated cost to the City for the ensuing three Fiscal Years;

(vi) A description of any proposed delegations of authority to City officials or to the Corporation to pursue the Proposed Project, if approved, and the terms pursuant to which such authorized officials may act, and such other terms that would be instructive to the authorized officials in carrying out their duties in pursuing a Proposed Project. Proposed Projects that were identified in the Annual Report for the previous Fiscal Year, but not yet commenced or completed shall not automatically carry-over to the subsequent Fiscal Year and shall be explicitly listed as a Proposed Project in the Annual Report for the upcoming Fiscal Year.

6.6 Budget and Finance.

(a) **Generally.** The information pertaining to the Corporation's finances, including the Corporation's Fiscal Year, annual budget, maintenance of books and records, etc., is as provided for in the Corporation's Bylaws including but not limited to development of procedural guidelines, internal controls, chains of custody, delegation of duties, and reporting.

(b) **Appropriations.** The City has allocated up to \$7 Million in American Rescue Plan Act of 2021 funds for operation of the Corporation. The City and the Corporation will abide by all terms, conditions and reporting requirements of the City and the U.S. Department of the Treasury {i.e. Quarterly reporting that will need to be submitted to the federal entity and any others as relevant and pertinent which will include but not be limited to: positions funded with job descriptions, timesheets/payroll reports, vendor invoices on their letterhead, proofs of payment – cancelled checks or electronic transfers with sufficient descriptive information to identify for audit trail purposes, other as needed or requested by the City and/or U.S. Department of the Treasury}. These funds will be held by the Office of Economic Development until the approval of each annual budget of the Corporation, at which time the Office of Economic Development will release the amount of such budget. Unbudgeted funds will remain with the Office of Economic Development for disbursement in future years. The City Manager will review, and if appropriate, recommend to City Council, funding for the Corporation as requested by the Corporation in any Addendum, including each Annual Addendum, as set forth in Section 6.6(d) below.

(c) **City Administrative Support or Other Costs Incurred on behalf of the Corporation.** In consideration of the Projects to be provided by the Corporation, the City may

provide certain administrative support services and accommodations to the Corporation as may be necessary or convenient for the operation of the Corporation; including City staff support and office space, meeting space, and office equipment as necessary to enable Corporation to carry out its municipal purposes described in this Agreement or in the Addenda (“*City Administrative Support*”). The Corporation shall pay the costs for services as from time to time shall be billed to the Corporation by the City and payable by the Corporation to the City within 30-45 days from billing date. In a similar fashion, any other costs for goods and/or services, that the City may consider pertinent to incur on behalf of the Corporation, shall be billed by the City to the Corporation and payable to the City within 30-45 days from billing date. If the Office of Economic Development has unencumbered funds described under Section 6.6(b), the City may reimburse itself from that funding source 30 days after presenting an invoice to Corporation.

(d) Corporation Budget. No later than February 15 of each year, the Corporation shall provide to the City Manager or the City Manager’s designee a proposed written Budget, itemized expenditure line items in a form acceptable to the Director of OED for the next ensuing Fiscal Year (the “*Annual Addendum*”). Such proposed Annual Addendum shall include the information detailed under the Annual Report, above; including the following:

(i) Any additions or updates to active and ongoing Projects or Services previously approved by the City.

(ii) A line-item budget detailing the fees, costs, and expenses of the Corporation payable by the City for such Fiscal Year as compensation for ongoing Services to be performed by the Corporation, substantially in a form approved by the Director of OED in his or her sole discretion.

(iii) As Corporation enters into contract with third parties using City funds that have been appropriated by the City, Corporation shall be responsible for ensuring compliance with all applicable laws relating to such agreements, including the procurement of these contracts. The Corporation shall provide all information it has regarding these contracts at the time it submits its proposed budget to the City.

(iv) A description of the City’s Administrative Support being requested from the City for the next ensuing Fiscal Year.

The Annual Addendum shall also include such exhibits and appendices as may be reasonably necessary to evidence the scope, progress, timelines, budgets, the workplan which shall include the marketing plan activities with respective calendars, and other details of each Project identified in the Annual Addendum.

(e) Annual Audit.

(i) *Corporation’s Audit.* During the term of this Agreement, Corporation shall obtain an annual audit of financial statements prepared in accordance with accounting principles generally accepted in the United States of America. The audit shall be completed by an independent auditing firm and shall include an examination of the separate account maintained to receive and disburse funds and any other City resources provided by the City to Corporation pursuant to

this Agreement. A copy of the financial statement and independent auditor's report shall be provided to the City at the completion and Corporation's review of the audit.

(ii) *City's Audit.* The City or its authorized representative, shall at all reasonable times, on 10 business days' prior written notice, have the right to examine, inspect, and audit all books, papers, and bank records of Corporation directly related to the funds, and other City support including but not limited to administrative support as the City may consider pertinent, provided to Corporation under this Agreement, to determine the accuracy of reports made under this Agreement and ensure that the City's resources are being used for municipal purposes. The cost and expenses incurred by the City shall be the sole responsibility of and borne by the City. Those records shall be maintained by Corporation for a period of four years after the termination of the initial Term of this Agreement and any applicable extension period, or a period longer than four years if the City provides the Corporation with notice of litigation or another reason for the need to maintain such records in excess of four years, and shall be made available for inspection and audit by the City or its agents at Corporation's place of business.

(iii) *Dispute Findings.* Either Corporation or the City may dispute the findings of audits performed under this Agreement, by giving written notice to the other party within 30 days of receiving the results of an audit. The Party electing to dispute audit results shall, within 30 days following receipt of the auditor's report, submit such additional information as it believes is required to correct the auditor's report.

(iv) *Scope.* Though the Corporation is organized and shall be operated solely to carry out the purposes of Chapter 431 and to accomplish any governmental purpose of the City, as described in the Corporation's Certificate of Formation, the City recognizes that Corporation may provide certain services to various entities and organizations unaffiliated with the City if the provision of such services accomplishes a governmental purpose of the City. Based on the foregoing, any audits, reports, or information requested by the City shall include the funding, staff, and assets provided to Corporation by the City under the terms and conditions of this Agreement and in furtherance of any Project or by any other entity or organization with whom the Corporation provides services. The Corporation shall not be obligated to provide any audits, reports, or information related to the third parties which are excepted from disclosure pursuant to the provisions of Chapter 552, as amended, of the Texas Government Code, unless disclosure is required by other law.

(f) *Investment of Funds.* The Corporation shall invest public funds on deposit only in investments that are authorized by the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended.

SECTION 7: REAL ESTATE

7.1 Construction Standards and Liens. Any Project involving construction must be

constructed in accordance with the following construction standards:

- (a) Construction must be performed in a good and workmanlike manner in accordance with the applicable approved drawings, specifications, project manuals and/or plans at the end of the construction document phase (“*Final Plans*”).
- (b) Construction must be completed using good industry practice for the type of work in question.
- (c) The materials and workmanship must be of a quality greater than or at least equal to the standards set out in the Final Plans.
- (d) All construction must be designed and constructed in compliance with all applicable building codes, ordinances, and other laws or regulations of governmental authority having jurisdiction over the construction.
- (e) The work must comply with the Americans with Disabilities Act requirements applicable to municipally owned and operated facilities.
- (f) No construction or work may be commenced until all licenses, permits, and authorizations required of all governmental authorities having jurisdiction (including the City) necessary to commence construction have been obtained.
- (g) Corporation shall be responsible for the payment of any fees associated with any required licenses, permits and authorizations, unless these fees are City fees and are waived by City Council.

7.2 Construction of Projects. To the extent that any Project or component is funded from City funds or which the City is designated as the “owner” for purposes of construction (each a “*City Public Works Project*”), each such City Public Works Project shall be performed in accordance with the then-existing construction standards of the City and in accordance with all applicable laws governing the construction of such Project; including insurance requirements, payment and performance bond requirements, building codes, prevailing wage and wage compliance program requirements, using City contract documents, and following the City’s M/WBE program, as well as all other worker protection and environmental requirements of the City. Any Project solely funded with funds that are not the City’s shall comply with all applicable laws governing the construction of such Project, and shall also comply with requirements set out in each Addendum applicable to the Project.

7.3 Independent Contractor. The Corporation and the City covenant and agree that the Corporation is an independent contractor and not an officer, agent, servant or employee of City; that the Corporation shall have control of and right to control, in its sole discretion, the details of the work performed and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and the Corporation; that the doctrine of respondeat superior shall not apply as between City and the Corporation, its officers, agents, employees, contractors, subcontractors and Corporation, and nothing in this Agreement shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and the Corporation. The Parties understand and agree that the City

shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Corporation under this Agreement and that the Corporation has no authority to bind the City.

7.4 Right to Hire Third Parties. The Corporation specifically reserves the right to hire third parties to perform any or all of the Services and other undertakings contemplated for the benefit of the City as described in this Agreement; provided (a) funds are available and budgeted, (b) any agreement with such third parties complies with the City’s Living Wage Program, and (c) any such retained parties possess the requisite licenses and/or permits necessary in order to provide the applicable trades or services.

7.5 Records.

(a) The Corporation and its subcontractors, if any, shall take commercially reasonable care in their maintenance of all documents, papers, and records, and other evidence pertaining to the Services and Projects, and funding provided for in this Agreement, and shall make such documents available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period for purposes of the audit described in this Agreement.

(b) The Corporation shall retain any and all documents produced as a result of services or funding provided under this Agreement for a period of four years from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided under this Agreement, the Corporation shall retain the records until the resolution of such litigation or other such questions.

(c) Corporation is required to make any information created or exchanged with the City pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the City. No information made available to the City by the Corporation shall be construed as a waiver any right of third parties to receive prior notice and submit briefings to the Office of the Texas Attorney General prior to the release of such information to the public, in the manner provided by the Texas Public Information Act.

7.6 Insurance. The Corporation shall procure insurance as required by the City of Dallas Risk Management. See Exhibit B, Insurance Requirements.

SECTION 8: BONDS AND OTHER FINANCING.

8.1 Bond Covenant. The City and Corporation understand and acknowledge that the City may, in its sole discretion, finance certain contributions to the Corporation or Projects with the proceeds of obligations, the interest on which is excludable from gross income for federal income tax purposes (“*Tax Exempt Bonds*”) and, in connection with the Tax Exempt Bonds, the City will make certain covenants, representations and provisions to assure compliance with the applicable provisions of the Internal Revenue Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto relating to Tax Exempt Bonds. Corporation

agrees to take, or refrain from, actions to ensure the Tax Exempt Bonds satisfy such covenants, representations and provisions. In particular, but not by way of limitation, Corporation will not use or permit the property financed with Tax Exempt Bond Funds to be used (i) in any activity which constitutes an unrelated trade or business within the meaning of Section 513 of the Internal Revenue Code or (ii) by any person other than a governmental person or an exempt organization described in Section 501(c)(3) of the Internal Revenue Code. Moreover, if the Internal Revenue Code is amended, or regulations or rulings are hereafter promulgated which impose additional requirements applicable to the Tax Exempt Bonds or if it is determined by a court of applicable jurisdiction that this Agreement fails to comply with the terms of the Internal Revenue Code, then the City and Corporation agree to renegotiate, in good faith, to amend or replace this Agreement in order to comply with the additional requirements only to the extent necessary to preserve the exemption from federal income taxation of interest on the Tax Exempt Bonds.

8.2 Financing Limitation. Any third-party financing obtained by Corporation shall not be secured by any part of the City or any guarantee, obligation or agreement of the City. The Corporation covenants and agrees not to permit the encumbrance, whether voluntary or involuntary, on any part of the City, for any purpose whatsoever. The Parties agree that, as a condition to making any loan to Corporation, as permitted in this Agreement, any third-party lender may require reasonable assurances from the City with respect to their satisfaction of their respective funding obligations under this Agreement, and the City agrees to provide, to the extent permitted under applicable law, such reasonable assurances as may be so requested, provided that the same does not increase their respective obligations or liabilities under this Agreement.

8.3 City Review of Corporation Bonds. Corporation may, with City approval pursuant to this Agreement and Corporation's Bylaws, finance projects by issuing tax-exempt bonds. Prior to submitting any proposed bonds to the City for approval, Corporation shall first obtain approval from City's Chief Financial Officer for the terms of any such debt financing, including the principal amount, interest rate or rates, redemption provisions, and other terms and conditions relating to the issuance of the bonds. Any sale of debt by Corporation shall comply with City's Financial Management Performance Criteria.

SECTION 9: INDEMNITY.

9.1 Corporation Indemnification of the City. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CORPORATION SHALL FULLY INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS THE CITY, ITS PAST, PRESENT AND FUTURE CITY COUNCIL MEMBERS, OFFICERS AND EACH OF ITS RESPECTIVE AGENTS AND EMPLOYEES, FROM AND AGAINST ALL LIABILITIES, CLAIMS, DAMAGES, FINES, PENALTIES, LOSSES, LIENS, CAUSES OF ACTION, COSTS, AND EXPENSES (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY, OR RESULTING FROM (IN WHOLE OR IN PART), (1) THE PERFORMANCE, FAILURE TO PERFORM, OR IMPROPER PERFORMANCE OF ANY SERVICES OR WORK WITHIN THE SCOPE OF THIS AGREEMENT, (2) THIS AGREEMENT, OR (3) ANY ACT OR OMISSION OF THE CITY AND ITS RESPECTIVE EACH OF AGENTS INCLUDING CITY COUNCIL MEMBERS, OFFICERS, ATTORNEYS, AND EMPLOYEES, AND ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE CITY. CITY SHALL PROMPTLY ADVISE THE

CORPORATION IN WRITING OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION AS TO WHICH THIS INDEMNIFICATION MAY APPLY, AND THE CORPORATION, AT ITS EXPENSE, SHALL REIMBURSE CITY ON DEMAND ANY AND ALL COSTS AS DESCRIBED HEREIN EXPENDED IN CONNECTION WITH SUCH MATTER. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

9.2 Non-Transferable. The provisions of this INDEMNITY are solely for the benefit of the parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. The Corporation shall advise the City in writing within three business days of any claim or demand against the City or the Corporation known to the Corporation related to or arising out of the Corporation activities under this Agreement and shall see to the investigation and defense of such claim or demand at the Corporation's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving the Corporation of any of its obligations under this Section.

9.3 Waiver of Attorneys' Fees. In consideration of the execution of this Agreement and in consideration of the City's waiver of its right to attorney's fees, Corporation knowingly and intentionally waives its right to attorney's fees under Section 271.153, Texas Local Government Code, as amended, in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Agreement.

SECTION 10: NON-DISCRIMINATION. As part of the consideration for this Agreement, Corporation covenants and agrees that no person on the grounds of race, color, religion, sex, national origin or ancestry, age, or sexual orientation, or gender identity, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any Project. Corporation agrees to post, in conspicuous places available to employees and applicants for employment, notices stating the contents of this non-discrimination section of this Agreement. Corporation covenants and agrees that this section shall be binding on any successors and assigns of Corporation to this Agreement.

SECTION 11: AMENDMENT. This Agreement, including any Addendum, may be amended, modified, revised or changed by written instrument executed by all the Parties.

SECTION 12: ADDRESSES AND NOTICE. Unless otherwise provided, any notice, request, or report, (*Notice*) provided or permitted to be given, made or accepted by any party to any other party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner described shall be conclusively deemed to be effective, unless otherwise stated, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties hereto shall, until changed as hereinafter provided, be as follows:

A. If to the Corporation, to:

[ADDRESS]

With a copy to:

[ADDRESS]

B. If to the City, to:

Dallas City Manager
Dallas City Hall
1500 Marilla St
4EN
Dallas, TX 75201

With a copy to:

City of Dallas Office of
Economic Development Director
Dallas City Hall
1500 Marilla St.
6DN
Dallas, Texas 75201

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least 10 days' written notice to the other Parties.

SECTION 13: COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

SECTION 14: ENTIRE AGREEMENT. This Agreement contains the entire agreement between the Parties pertaining to the subject matter here of and fully supersedes all prior agreements and understandings between the parties pertaining to such subject matter.

SECTION 15: CAPTIONS. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection.

SECTION 16: INCORPORATION OF PREAMBLE AND RECITALS. The recitals contained in the preamble are found to be true, and such recitals are made a part of this Agreement for all purposes and are adopted as a part of the judgment and findings of the respective governing body of each Party.

SECTION 17: INCONSISTENT PROVISIONS. All prior ordinances, orders or resolutions, or parts, which are in conflict or inconsistent with any provision of this Agreement are repealed to the extent of such conflict, and the provisions of this Agreement shall be and remain controlling as to the matters provided in this Agreement. In the event of a conflict with the Corporation's Certificate of Formation, the Certificate of Formation shall control. In the event of a conflict with the Corporation's Bylaws, the Bylaws shall control.

SECTION 18: GOVERNING LAW. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 19: VENUE. The obligations of the Parties to this Agreement shall be performable in Dallas County, Texas, and if legal action is necessary in connection with or to enforce rights under this Agreement exclusive venue shall lie in Dallas County, Texas.

SECTION 20: CITY APPROPRIATIONS. Corporation acknowledges that the City has provided notice that the City's payment obligations to Corporation are payable only from funds appropriated or available for the purpose of this Agreement. If the City does not appropriate funds for this Agreement, or if there are no other lawfully available funds for this Agreement, the Agreement is void. City shall provide Corporation notice of the failure of City to make an adequate appropriation for any fiscal year to pay the amounts due under the Agreement or the reduction of any appropriation to an amount insufficient to permit City to pay its obligations under the Agreement.

SECTION 21: SEVERABILITY. If any provision of this Agreement or the application to any person or circumstance shall be held to be invalid, the remainder of this Agreement and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Parties declare that this Agreement would have been enacted without such invalid provision.

SECTION 22: CONSTRUCTION. References are gender neutral. This Agreement and all the terms and provisions shall be constructed to effectuate the purposes set forth and to sustain the validity of this Agreement.

SECTION 23: COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT. The meetings of the Corporation shall be subject to the Open Meetings Act, Chapter 511, Texas Government Code, as amended, and the Board is subject to the Texas Public Information Act, Chapter 552, Texas Government Code, as amended, in the same manner as if the Corporation were a political subdivision.

It is officially found, determined, and declared that the meeting of each of the governing body of the Parties at which this Agreement was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Agreement, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 24: MARKETING AND LOGO REQUIREMENTS. Corporation shall not adopt any trademark, trade name, logo, slogan, domain name or other source identifier that is identical to, incorporates, or is confusingly similar to any City trademark or copyright; provided, however, that (i) Corporation may adopt and use its Corporate name and any trade name approved by City and (ii) Corporation shall not be restrained from using the word “Dallas” in its ordinary geographic meaning.

SECTION 25: LIAISONS. The City designates the Economic Development Director as the City’s liaison and interim executive director for the Corporation (the “Director”). The Director shall have the power to appoint other City staff as designee in his or her stead. The Director shall be the Corporation’s point of contact with the City. The Director shall provide reasonable assistance, as he or she deems appropriate, in obtaining and conveying relevant information regarding the Corporation’s projects to the appropriate municipal departments, committees, boards, and City Council. Unless otherwise specified, “City” approval and authorization shall mean approval and authorization by the City Manager. The City Liaison shall be invited to all Board meetings.

The LGC, within thirty (30) days of its formation meeting, shall provide the name of its authorized representative (the “LGC Liaison”) for the City. The LGC liaison shall be the City’s point of contact with the LGC.

The Director, at the Director’s discretion, shall provide administrative support services for the Corporation, and shall perform duties as prescribed by the City Council. The Corporation staff functions also may be performed by City staff, as directed by the City Manager, and the Corporation shall pay the costs for such services and items used in common as from time to time shall be billed to the Corporation by the City. Corporation staff may also provide support to Office of Economic Development activities regarding vendor licenses, travel, and similar purchases and services.

The Corporation shall be responsible for procuring, at its sole cost, its own legal representation and financial advisor. At the request of the City Attorney, the Corporation’s counsel will provide legal status reports and will participate from time to time in briefings of the City Council and its committees and the Board of the Corporation.

SECTION 26: MISCELLANEOUS. Where applicable by law, pursuant to Section 2271.002, Texas Government Code, the Corporation hereby (i) represents that it does not boycott Israel, and (ii) subject to or as otherwise required by applicable federal law, including without limitation 50 U.S.C. Section 4607, agrees it will not boycott Israel during the term of the Contract. As used in the immediately preceding sentence, “boycott Israel” shall have the meaning given such term in Section 2271.001, Texas Government Code.

The Corporation hereby represents that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under Section 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a foreign terrorist organization. As used in the immediately preceding sentence, “foreign terrorist organization” shall have the meaning given such term in Section 2252.151, Texas Government Code.

Where applicable by law, pursuant to Section 2274.002, Texas Government Code, the

Corporation hereby represents that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association. As used in the immediately preceding sentence, “firearm entity” and “firearm trade association” shall have the meanings given such terms in Section 2274.001, Texas Government Code.

[The remainder of this page intentionally left blank.]

DRAFT

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date and year last written below.

City of Dallas Economic Development Corporation

President of the Board of Directors

DATE: _____

Executive Director of the Corporation or Vice President of the Board of Directors

DATE: _____

ATTEST:

Secretary of the Board of Directors

CITY OF DALLAS, TEXAS

City Manager

DATE: _____

Approved as to Form:

Assistant City Attorney

ATTEST:

City Secretary

EXHIBIT A

Form of Addendum

(appears on immediately following page)

DRAFT

ADDENDUM NO. _____

[PROJECT OR SERVICES DESCRIPTION]

This Addendum No. *(Addendum)* pertains to the [Description of Project/Services] (the “[*Project/Services*]”) and is entered into between the City of Dallas, Texas (the “*City*”) and the City of Dallas Economic Development Corporation (the “*Corporation*”), effective [Month] [Day], [Year], pursuant to the Interlocal Cooperation Agreement entered into by and among the Corporation and the City on [Month] [Day], [Year] (the “*Interlocal Agreement*”). The City and the Corporation may be referred to individually as a *Party* or collectively as the *Parties*. Terms not otherwise defined have the meanings ascribed to them in the Interlocal Agreement.

1. Description of the [Project/Services].

[For Transactional., Management or Additional Services:]

The City authorizes and directs the Corporation to perform, and the Corporation accepts, the following Services:

[List and describe the Services to be performed by the Corporation here.]

[For Public Development Projects:]

The City authorizes and directs the Corporation to proceed with the [pursuit, planning, facilitation, advocacy, promotion, negotiation, financing, development, and/or redevelopment] of [*Provide a description of Services to be performed by the Corporation here. A more detailed description of the Project may be provided by reference to an exhibit.*] Such development services shall include the following undertakings of the Corporation:

[List and describe any specific authorities, undertakings to be performed by the Corporation in connection with the Project. This may include assisting with the establishment of special districts, operating or managing special districts, the acquisition of property or property interests, entering into transactions with third parties, guiding and assisting with land use or regulatory matters, etc.]

[If the Project involves the disposition of property or property interests from the City to the Corporation, include the following: The Parties intend that the City will [lease/convey] the property described in Exhibit [] attached to this Addendum for the development of the Project by the Corporation by [EXPECTED CLOSING DATE] [subject to the satisfaction of the following conditions].]

2. Public Purposes and Priorities. [*Note: this section may not apply to more traditional real estate services such as property management or brokerage services, and may be removed in such cases.*]

Reference is made to the Principal Objectives described in Section 6.5 of the Interlocal Agreement. The City has determined that the [Project/Services] described in this Addendum is for the accomplishment of one or more of the Principal Objectives, including [*describe specific*

objectives to be achieved]. [The City may elect to describe any additional specific objectives to be achieved by the Project/undertaking here.] The Corporation agrees to act in a manner consistent with the objectives and priorities described in this Addendum and to provide an update to the City in its Annual Report describing the manner, progress and extent to which such objectives have been achieved.

3. Corporation Fees, Costs, and Expenses.

[If the Corporation will receive fees or be compensated for its costs and expenses for the Project or Services , they should be described here. This may include brokerage fees or commissions for transactional services, management fees for the management or operation of City property, or fixed fees for specific undertakings such as reports or studies. For Projects, the City may agree to pay development fees to the Corporation. For any recurring costs, or multi-year payments, it should be noted that payments beyond the current fiscal year remains subject to appropriation.]

This Addendum may be amended, modified, revised, or changed by written instrument executed by all Parties.

This Addendum shall be attached to the Interlocal Agreement as an exhibit and incorporated into the Interlocal Agreement for all purposes. Additionally, this Addendum shall be subject to the terms and conditions of the Interlocal Agreement.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have executed this Addendum to be effective as of the last date and year written below.

City of Dallas Economic Development Corporation

President/CEO

DATE: _____

ATTEST:

Secretary

DRAFT

[Addendum No. __]
[Project Name]

CITY OF DALLAS, TEXAS

City Manager

DATE: _____

ATTEST:

City Secretary

DRAFT

[Addendum No. __]
[Project Name]

EXHIBIT B

The City of Dallas accepts the required insurance coverage in the agreement awarded by the City of Dallas Economic Development Corporation, in addition to the following:

(a) Prior to the approval of this contract by the City, the Corporation shall procure, pay for and maintain the following insurance written by companies approved by the State of Texas and acceptable to City. The insurance shall be evidenced by delivery to the City, at the address shown in Required Provisions c.(ii), certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, the City shall be entitled to receive without expense, copies of the policies and all endorsements. City has not duty to pay or perform under this contract or agreement until such certificate has been delivered to the City and no officer or employee shall have authority to waive this requirement.

(b) The City reserves the right to review the insurance requirements of this section during the effective period of the contract and to modify insurance coverages and their limits when deemed necessary and prudent by City's Office of Risk Management based upon economic conditions, recommendation of professional insurance advisors, changes in statutory law, court decisions or other relevant factors. The Corporation agrees to make any reasonable request for deletion, revision or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either party to the contract). Upon request by City, the Corporation shall exercise reasonable efforts to accomplish such changes in policy coverages and shall pay the cost thereof.

(c) **Required Provisions.** The Corporation agrees that with respect to the required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:

i. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable lines of coverage.

ii. State that coverage shall not be canceled except after thirty (30) days written notice on all applicable lines of coverage to:

Office of Economic Development
Attention: Samantha Taylor
1500 Marilla St. #6DN
Dallas, Texas 75201 and

Director, Office of Risk Management
1500 Marilla, 6A-South
Dallas, Texas 75201

iii. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss on all applicable lines of coverage.

iv. Provide that the Corporation's insurance is primary insurance as respects the City, its officers, employees and elected representatives.

v. Ensure that all certificates of insurance identify the service or product being provided and name the City department shown in Required Provisions c.(i) as the Certificate Holder.

(d) Insurance Coverage Required. Subject to the Corporation's right to maintain reasonable deductibles, the Corporation shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at the Corporation's sole expense, insurance coverage in the following types(s) and amounts:

(e) (1) Without limiting any of the other obligations or liabilities of the Corporation, the Corporation shall require each Subcontractor performing work under the contract, at the Subcontractor's own expense, to maintain during the term of the contract, levels of insurance that are necessary and appropriate for the services being performed, comply with all applicable laws and are consistent with industry standards. The Subcontractor's liability insurance shall name the Corporation as an additional insured. (2) The Corporation shall obtain and monitor the certificates of insurance from each Subcontractor. The Corporation must retain the certificates of insurance for the duration of the contract and shall have the responsibility of enforcing insurance requirements among its subcontractors. The City shall be entitled, upon request and without expense, to receive copies of these certificates.

(f) Approval, disapproval or failure to act by the City regarding any insurance supplied by the Corporation or its subcontractors shall not relieve the Corporation of full responsibility or liability for damages and accidents as set forth in the contract documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the Corporation from liability.

7.7 Other Revenues of the Corporation. Any contributions, revenues, compensation or other funds received by the Corporation from other persons, including charitable donations or payments received from other governmental entities, shall belong exclusively to the Corporation and shall not constitute funds of the City. Nothing in this Agreement shall limit the Corporation's authority to use any of its funds for any lawful purpose in accordance with its Certificate of Formation and Bylaws.

The Parties may agree, by an Addendum or in a separate written agreement, to establish one or more fundraising campaigns, charitable programs or trusts, to raise funds exclusively for one or more Projects as may be approved by the City. Any such funds shall be set aside, appropriated, and encumbered to ensure that contractual obligations are funded and met from the Corporation's general funds for such appointed purpose as required by law. If fundraising is for a Project funded (or to be funded) by the City with tax-exempt public financing, the Corporation must have the fundraising approved in advance by the City Attorney who will review the fundraising proposals with outside bond counsel.

7.8 Miscellaneous. Corporation agrees to follow all other applicable State and federal law not otherwise explicitly described in this Agreement, as well as City Code and applicable requirements for any Projects approved by City Council.