

Parks at Arlington Mall . Dick's House of Sport

Location: 3811 S Cooper St, Arlington TX 76015 (NE corner of IH-20 and Cooper St)

Property Owner: Parks at Arlington LP c/o Brookfield Properties

350 N Orleans St

Chicago IL 60605

About the Project

The Parks Mall at Arlington, developed in 1988, encompasses 1.5 million square feet of retail space across 88 acres. It ranks as the 9th most visited mall in Texas, significantly contributing to Arlington's sales tax revenue. However, like many U.S. malls, it faces challenges from shifting retail trends and declining property values, which fell by \$48.7 million from 2018 to 2022. Collaborative efforts among owners, tenants, and the community are vital to address these challenges. In July 2021, Sears vacated its long-standing anchor space at the mall. DICK'S Sporting Goods, a successful junior anchor at the mall, plans to transform the former Sears building into a 120,000 square foot DICK'S House of Sport, an experiential retail concept featuring sports equipment and facilities for community events. This project, Phase 1a, involves a minimum capital investment of \$25 million and aims to be completed by June 30, 2026. Following this, Parks at Arlington, LLC will redevelop the current DICK'S Sporting Goods space into new tenant spaces (Phase 1b) with a minimum investment of \$20 million, to be completed by October 31, 2030. To support this redevelopment, the City of Arlington entered into a Performance Agreement with Parks at Arlington, LLC. The City will provide grants equivalent to 70% of new sales tax revenue generated above the base year sales volume, capped at \$500,000 annually and \$5 million total for Phase 1a. For Phase 1b, grants will be the lesser of 20% of the actual capital investment or \$5 million total. Parks at Arlington, LLC will pass through the grants for Phase 1a to DICK'S Sporting Goods. Requirements for Parks at Arlington, LLC include completing a master redevelopment plan by December 31, 2026, implementing community events, and achieving a 30% MWBE contracting goal. This initiative aims to sustain and revitalize the Parks Mall for future success.

Goals of the Project

To redevelop a vacant portion of the mall while helping an existing business expand, and position/prepare the remainder of the mall for redevelopment.

Current Status

Mall owner is actively working with Sears building owner to prepare space for Dicks expansion.

Benefit to City

Redevelops a mall into a more modern shopping experience while diversifying and expanding the tax base.

Year Approved by Council	2023
Base Year	2023
Beginning Year	2026
Ending Year	
Duration	
Base Year Value	
Property Tax Account Number(s)	40332640
Total Rebate Allowed	
Total Estimated Investment by Company	

Criteria Evaluated

Minimum required capital investment of \$25m for Phase 1a

Minimum required capital investment of \$20m for Phase 1b

Completion of Phase 1a by June 30, 2026

Completion of a master plan for the redevelopment of the remaining portion of the mall by December 31, 2026

Completion of Phase 1b by October 31, 2030

Implementation of community events and the Partner to Empower Program

30% MWBE contracting goal

Incentives Allowed

Grant payments equivalent to 70% of the sales taxes generated from new sales increment above the base year sales volume for up to fifteen years for each phase in an amount not to exceed \$500,000 annually, with a cap of \$5m in total payments for Phase 1a.

The lesser of 20% of the actual capital investment or \$5m in total payments for Phase 1b.

Resolution No. 23-177

A resolution authorizing the execution of a Performance Agreement by and between Parks at Arlington, LLC and the City of Arlington, Texas relative to the redevelopment of the Parks Mall

WHEREAS, CITY has found that providing a program consisting of a grant of funds to Parks at Arlington, LLC (hereinafter referred to as "OWNER") in exchange for OWNER'S completion of the project proposed by OWNER will promote local economic development and stimulate business and commercial activity and create jobs within the City of Arlington (hereafter referred to as "PROGRAM"); and

WHEREAS, Chapter 380 of the Local Government Code provides statutory authority for establishing and administering the PROGRAM provided herein; and

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

WHEREAS, the Arlington City Council has elected to participate in economic development incentives in accordance with V.T.C.A. Local Government Code, Chapter 380, and has adopted policy statements, guidelines, criteria and procedures for evaluating and considering applications and agreements for such incentives; NOW THEREFORE

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

I.

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

II.

That the City Manager or his designee is authorized to execute a Performance Agreement with OWNER to provide certain economic incentives associated with the redevelopment of the Parks Mall.

III.

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

IV.

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

PRESENTED AND PASSED on this the 27th day of June, 2023, by a vote of 8 ayes and 1 nays at a regular meeting of the City Council of the City of Arlington, Texas.



JIM R. ROSS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY 

Exhibit "A"



THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Performance
Agreement

THIS PERFORMANCE AGREEMENT (hereinafter referred to as “Agreement”) is entered into on July 17, 2023 (hereinafter referred to as “Effective Date”) by and between **PARKS AT ARLINGTON, LLC**, a Delaware limited liability company (hereinafter referred to as “**OWNER**”), and the **CITY OF ARLINGTON, TEXAS**, a home-rule city and municipal corporation of Tarrant County, Texas, acting by and through its City Manager or his designee (hereinafter referred to as “**CITY**”).

WITNESSETH:

WHEREAS, OWNER owns a portion of and is the developer of the shopping mall currently known as The Parks at Arlington (the “Mall”); and

WHEREAS, several other anchor parcels attached to the Mall are independently owned; however, for purposes of this Agreement, such anchor parcels shall be considered part of the Mall; and

WHEREAS, Transform SR Holdings LLC (“TransformCo”) is the owner of one of such anchor parcels (i.e., the former Sears parcel at the Mall (the “Sears Parcel”)), and Dick’s Sporting Goods, Inc., a Delaware corporation (“DSG”), is currently negotiating with TransformCo to lease the Sears Parcel, or a portion thereof, for the development and operation of a DICK’S House of Sport retail store; and

WHEREAS, OWNER intends to reposition (or cause to be repositioned, whether through itself, the independent anchor parcel owners, or tenants thereof) the Mall, including but not limited to repositioning the Sears Parcel, through a multi-phased redevelopment (hereinafter referred to as “Project”); and

WHEREAS, CITY finds that providing a program of incentives to OWNER, in exchange for completion of the Project in the City of Arlington, will promote local economic development and stimulate business and commercial activity within the City of Arlington (hereinafter referred to as “Program”); and

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

WHEREAS, Chapter 380 of the Local Government Code provides statutory authority for establishing and administering the Program provided herein; NOW THEREFORE,

CITY and OWNER, for and in consideration of the mutual promises contained herein, do hereby agree as follows:

I. DEFINITIONS

The following terms shall have the following meaning for purposes of this Agreement:

- A. "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by OWNER, or is under common control of OWNER.
- B. "Phase 1A Base Year Value" means the total amount of Sales Tax received by the CITY from taxpayers located in the Phase 1A Project Rebate Zone during the twelve (12) month period immediately prior to the beginning of the first full calendar month following completion of the Phase 1A Project, which for purposes of this Agreement shall be deemed to be \$0.
- C. "Phase 1A Project" means redevelopment of the Phase 1A Project Rebate Zone as a DICK's House of Sport (the "HOS Store"). The store will be focused on experiential shopping, though the exact design for the HOS Store has not yet been completed, stores operating under the House of Sport trade name are generally large format sporting goods stores that provide customers with an incredible assortment of products along with in-store experiences including a climbing wall, multiple golf bays with TrackMan simulators, and multi-sport cages that can be used for baseball, softball, lacrosse and soccer and give customers an opportunity to try product while measuring and tracking their performance. House of Sport stores also focus on deep integration with the local community through partnerships and events. Some locations have an ice rink in the winter depending on the location's climate. This location shall have an outdoor field attached to the store that can be used for open play, clinics, league space and community events.
- D. "Phase 1A Project Rebate Zone" means the Sears Parcel, located at 3871 S Cooper Street, Arlington, TX 76015, identified in **Exhibit "A,"** attached hereto and incorporated herein for all purposes.
- E. "Phase 1B Base Year Value" means the total amount of Sales Tax received by the CITY from taxpayers located in the Phase 1B Project Rebate Zone during the twelve (12) full month period immediately prior to the date the Dick's Sporting Goods closes the location located in the Phase 1B Project Rebate Zone.
- F. "Phase 1B Project" means redevelopment of the Phase 1B Project Rebate Zone into one or more retail, restaurant, entertainment and/or service spaces.
- G. "Phase 1B Project Rebate Zone" means the portion of the Mall, located at 3891 S Cooper Street, Arlington, TX 76015, identified in **Exhibit "B,"** attached hereto and incorporated herein for all purposes.
- H. "Phase 1A Sales Tax Year" means a twelve (12) month period with the first Phase 1A Sales Tax Year beginning with the first full calendar month following completion of the Phase

1A Project and the HOS Store initially opening for business in the Phase 1A Project Rebate Zone.

- I. "Phase 1B Sales Tax Year" means a twelve (12) month period with the first Phase 1B Sales Tax Year beginning with the first full calendar month following completion of the Phase 1B Project.
- J. "Project Costs" means the actual hard and soft cost to permit, entitle, design, develop, construct, and equip the project paid by OWNER and/or tenants and/or other owners of the project, including but not limited to: design, architectural and engineering costs; costs to construct, equip, and furnish the project; costs of public and private infrastructure necessary to serve the project; permits, license, and inspection fees; drainage and/or detention fees and costs; and fees and expenses of the architect, general contractor, subcontractors, material suppliers, vendors, attorneys, consultants and similar persons.
- K. "Sales Tax" means the CITY's 1% general sales and use taxes imposed pursuant to Section 321.103(a) of the Texas Tax Code, plus the CITY's .25% street maintenance sales and use tax imposed pursuant to Section 327.003 of the Texas Tax Code, plus the CITY's .25% economic development sales and use tax imposed pursuant to Section 505.252 and 505.253 of the Texas Local Government Code, plus the CITY's .50% venue sales and use tax imposed pursuant to Section 334.081 of the Texas Local Government Code.
- L. "Term" means the period of time from the Effective Date through the date upon which the last grant provided for in Section III is paid, unless sooner terminated in accordance with this Agreement.

II.

PERFORMANCE CONDITIONS AND REQUIREMENTS

To receive the grants provided for in Article III, OWNER shall cause the following to occur:

A. CONDITIONS TO PHASE 1A GRANTS

- i. The Phase 1A Project shall be completed by no later than June 30, 2026. Completion of the Phase 1A Project shall be evidenced by a final certificate of occupancy for a sporting goods retailer occupying no less than one hundred and twenty thousand (120,000) square feet in the Phase 1A Project Rebate Zone.
- ii. No later than sixty (60) days after completion of the Phase 1A Project OWNER shall provide substantiation to the CITY documenting that no less than Twenty-Five Million and 00/100 Dollars (\$25,000,000.00) were spent on Project Costs for the Phase 1A Project.

- iii. The Phase 1A Project shall be operated as a HOS Store, or comparable DSG flagship concept that includes the elements described in Section I.B., for the period of time beginning no later than July 1, 2026 and ending no earlier than July 1, 2041.

B. CONDITIONS TO THE PHASE 1B GRANTS

- i. OWNER shall complete a master plan for the redevelopment of the Mall, to include general scope, planned improvements, and future phasing, and shall submit a copy of the master plan to the CITY no later than December 31, 2026.
- ii. The Phase 1B Project shall be completed by no later than October 31, 2030. Completion shall be evidenced by one or more final certificates of occupancy for no less than forty thousand (40,000) square feet in the Phase 1B Project Zone. OWNER agrees not to lease all or a portion of the Phase 1 B Project Zone to small-box discount retailers, such as Dollar General and Dollar Tree, and/or stores selling smoking paraphernalia and electronic cigarettes, and further undesirable uses as agreed to by the parties.
- iii. No later than sixty (60) days after completion of the Phase 1B Project OWNER shall provide substantiation to the CITY documenting the total amount spent on Project Costs for the Phase 1B Project, which shall be no less than Twenty Million and 00/100 Dollars (\$20,000,000.00).
- iv. Calculated on October 31, 2031, and annually thereafter for the remaining Term of this Agreement, the average annual occupancy in the Phase 1B Project Zone operating under one or more final certificates of occupancy for the prior year shall be no less than sixty thousand (60,000) square feet.

C. GENERAL OBLIGATIONS APPLICABLE TO PHASE 1A AND PHASE 1B

- i. During the Term of this Agreement OWNER agrees to use good faith efforts to (a) collaborate with the CITY to implement various community initiatives, such as the Partner to Empower Program, and (b) host no less than fifteen (15) community events per year at the Mall during the Term of this Agreement.
- ii. During the Term of this Agreement OWNER shall not fail to render for taxation any taxable property owned or possessed by OWNER in the City of Arlington, nor allow the ad valorem taxes owed to the CITY on any taxable property owned or possessed by OWNER in the City of Arlington to become delinquent beyond the date when due, as such date may be extended to allow for protest of valuation or appeal. This provision shall not be deemed to restrict OWNER's ability to challenge or dispute the taxable appraised value of any property owned or possessed by OWNER in the City of Arlington.
- iii. During design and construction of the Phase 1A Project and the Phase 1B Project, OWNER agrees to use diligent efforts and to direct the applicable anchor parcel

owner, its tenants, contractors and subcontractors to use diligent efforts to purchase goods and services from Arlington businesses whenever such goods and services are comparable in availability, terms, quality, and price. OWNER also agrees to develop a policy that establishes a goal of thirty percent (30%) use by OWNER of qualified contractors, subcontractors, and suppliers where at least fifty-one percent (51%) of the ownership of such contractors, subcontractors, or suppliers is vested in racial or ethnic minorities or women. During design and construction of the Project OWNER shall provide the CITY with quarterly reports on its efforts towards achieving this goal.

- iv. During the Term of this Agreement OWNER shall, or shall direct the other applicable tenants or parcel owners, to provide the CITY with the name, address, and taxpayer identification number for all taxpayers operating in the Phase 1A Project Rebate Zone and the Phase 1B Project Rebate Zone. In addition, OWNER shall (or shall direct the applicable taxpayer to) provide the CITY with a waiver of confidentiality form signed by an authorized officer or director from each taxpayer operating in the Phase 1A Project Rebate Zone and the Phase 1B Project Rebate Zone that allows the Texas Comptroller to release information regarding to Sales Tax to the CITY. The waiver of confidentiality form shall be in the form attached hereto as **Exhibit "C"** or any successor form promulgated by the Texas Comptroller.
- v. Design and construction of the Project shall comply with all applicable federal, state and local laws and regulations. OWNER shall, or shall direct any tenants or other parcel owners, to obtain all necessary permits, licenses, and inspections for construction of the Project. During the Term of the Agreement the Mall shall at all times be used in a manner that is consistent with applicable federal, state, and local laws, rules, and regulations.
- vi. During the Term of this Agreement OWNER covenants and certifies that OWNER does not and will not knowingly employ an undocumented worker as that term is defined in Section 2264.01(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if OWNER is convicted of a violation under 8 U.S.C. Section 1324a(f), OWNER shall repay the CITY the full amount of any incentives provided, plus ten percent (10%) interest per annum from the date the incentives were paid. Repayment shall be paid within one hundred and twenty (120) days after the date OWNER receives notice of violation of this provision from the CITY, which notice shall not be given by the CITY until after such conviction has become final and non-appealable.
- vii. During the Term OWNER shall provide CITY, its agents and employees, and shall direct any tenants or other parcel owners to provide CITY, its agents and employees, reasonable rights of access to the property in order to ensure that the construction of the applicable Project is being accomplished in accordance with this Agreement and all applicable federal, state, and local laws, rules, and regulations. After completion of the Project, CITY shall have the continuing right, subject to

OWNER's and any applicable tenants' and other parcel owners; reasonable security requirements, to inspect the Project and OWNER's pertinent business records to ensure that the Project is thereafter maintained, operated, and occupied in compliance with this Agreement. All access and inspections pursuant to this section shall be conducted only upon reasonable prior notice to OWNER and in a manner as to not materially interfere with the operation of the property or the Project.

- viii. During the Term OWNER covenants and agrees that it will manage and operate, or cause to be managed or operated, the Mall as a complex of retail stores and commercial enterprises that is a part of a first-class regional enclosed mall shopping center development in a manner substantially similar to the condition of the Mall as of the Effective Date. To that end, OWNER will use its reasonable efforts to: (i) have a proper mixture and balance of tenants representing a sound and balanced diversification of merchandise who are reasonably evenly disbursed throughout the Mall (a) whose uses include but are not limited to retail, restaurant, entertainment or service tenants under bona fide leases and/or (b) who are similar to tenants found in other first class regional, enclosed mall shopping centers in the Dallas-Fort Worth metropolitan area, and (ii) maintain a quality of management in operation which is not less than that generally adhered to in other similar first-class regional enclosed mall shopping centers in the State of Texas.
- ix. During the Term of this Agreement, OWNER shall provide, and shall direct any tenants or other parcel owners to provide, the CITY with all reasonably requested records and information to support OWNER's and such tenants' and parcel owners' compliance with all obligations in this Agreement. CITY shall have the right to ~~audit such records and information related to the Project upon advance written~~ notification and adequate time for the applicable entity to make sure records and information available. Such records and information are considered by the parties to be excepted from public disclosure pursuant to applicable law. The CITY shall notify the applicable entity within five (5) business days after receiving any Public Information Act requests that seek disclosure of records or information provided by the applicable entity, and the parties shall reasonably cooperate to determine whether or to what extent the requested records or information may be released without objection and without seeking a written opinion of the Texas Attorney General. If the applicable entity takes the position that the responsive records or information is information excepted from public disclosure then the CITY shall seek a written opinion from the Texas Attorney General; however, applicable entity must submit written comments to the Attorney General to establish reasons why the information should be withheld. The burden of establishing the applicability of exceptions to disclosure for such information resides with the applicable entity. Should the Texas Attorney General issue an opinion that the requested records or information, or any part thereof, should be released the CITY may release such records or information without penalty or liability.

Notwithstanding anything contained herein to the contrary, the conditions to payment set forth in this Article II shall be applied on a phase-by-phase basis, such that a condition failure with respect to a particular phase shall not affect the payment obligations with respect to the other phase. For example, if the condition related to Phase 1B payments set forth in subsection C fails, only the Phase 1B Grant (as hereinafter defined) payments shall be interrupted and there shall be no impact on the Phase 1A Grant (as hereinafter defined) payments

III. PERFORMANCE GRANTS

A. Phase 1A Grants. In exchange for OWNER's compliance with the performance conditions and requirements applicable to Phase 1A, set forth in Article II of this Agreement, the CITY agrees to provide OWNER with up to fifteen (15) annual performance grants for the Phase 1A Project (the "Phase 1A Grants").

1. The amount of each Phase 1A Grant shall be the lesser of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) or an amount equal to seventy percent (70%) of the total amount of Sales Tax, above the Phase 1A Base Year Value, received by the CITY from all taxpayers operating in the Phase 1A Project Rebate Zone during the previous Phase 1A Sales Tax Year.
2. Each Phase 1A Grant shall be paid by CITY to OWNER within sixty (60) days following the end of a Phase 1A Sales Tax Year.
3. CITY will continue to make Phase 1A Grants to OWNER until such time as the cumulative total of all Phase 1A Grants equals Five Million and 00/100 Dollars (\$5,000,000) or until such time as CITY has made fifteen (15) consecutive annual Phase 1A Grants, whichever occurs first.

B. Phase 1B Grants. In exchange for OWNER's compliance with the performance conditions and requirements applicable to Phase 1B, set forth in Article II of this Agreement, the CITY agrees to provide OWNER with up to fifteen (15) annual performance grants for the Phase 1B Project (the "Phase 1B Grants").

1. The cumulative total of the Phase 1B Grants shall be the lesser of (a) an amount equal to twenty percent (20%) of the total amount spent on Project Costs for the Phase 1B Project, which have been substantiated to the CITY in accordance with Section II.B.iii, or (b) Five Million and 00/100 Dollars (\$5,000,000.00) (the "Maximum Phase 1B Grant Amount")
2. The amount of each annual Phase 1B Grant shall be the lesser of (a) an amount equal to ten percent (10%) of the Maximum Phase 1B Grant Amount, or (b) an amount equal to seventy percent (70%) of the total amount of Sales Tax, above the Phase 1B Base Year Value, received by the CITY from all taxpayers operating in the Phase 1B Project Rebate Zone during the previous Phase 1B Sales Tax Year.

If in any given Phase 1B Sales Tax Year, seventy percent (70%) of the total amount of Sales Tax does not exceed the Phase 1B Base Year Value then the CITY shall not owe to OWNER a Phase 1B Grant; such non-payment year shall count towards the limit of fifteen (15) consecutive annual performance grants for the Phase 1B project as if a Phase 1B Grant had been paid.

3. Each Phase 1B Grant shall be paid by CITY to OWNER within sixty (60) days following the end of a Phase 1B Sales Tax Year.
 4. CITY will continue to make Phase 1B Grants to OWNER until such time as the cumulative total of all Phase 1B Grants equals the Maximum Phase 1B Grant Amount or until such time as CITY has made fifteen (15) consecutive annual Phase 1B Grants, whichever occurs first.
- C. If (i) the final result of an assessment, audit, refund claim or other action by an entity or taxing authority results in a change in the amount of liability for Sales Tax for an entity operating in the Phase 1A Project Rebate Zone or the Phase 1B Project Rebate Zone that was used as basis for the computation of a grant under this Section III, and (ii) such change in liability results in payment to or from the CITY of such Sales Tax, whether by actual payment, credit, offset, or otherwise, then (iii) the CITY, after notice to OWNER will adjust the subsequent grant(s) amount whether up or down, as the case may be, to account for such Sales Tax liability adjustment.
- D. All Phase 1A Grants and Phase 1B Grants shall be subject to the annual appropriation by the Arlington City Council of the CITY in the annual budget and the CITY's obligations under this Agreement shall not constitute a general obligation of the CITY or indebtedness under the constitution or laws of the State of Texas.
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IV. ASSIGNMENTS

It is intended by the parties hereto that this Agreement may not be assigned by OWNER to a successor owner and/or any other party unless such assignee is approved in writing by the Arlington City Council, such approval not to be unreasonably withheld, conditioned, or delayed.

Notwithstanding the foregoing, written approval by the Arlington City Council is not required for the following: (1) assignment to an Affiliate of OWNER, provided Affiliate assumes in writing the obligations of OWNER under this Agreement and provides written notice to CITY within thirty (30) days of such assumption, (2) assignment to a lender of OWNER (or such lender's assignee) in which OWNER assigns its rights under this Agreement or grants a security interest in this Agreement to OWNER's lender; provided, however that OWNER's lender or its assignee shall be recognized as OWNER under this Agreement and shall be entitled to rights of OWNER hereunder only if (i) OWNER's lender or its assignee becomes the owner of the Property through foreclosure or deed in lieu of foreclosure, (ii) OWNER's lender or its assignee assumes in writing the obligations of OWNER under this Agreement, and (iii) OWNER's lender or its assignee provides written notice to CITY within 30 days of such assumption, or (3) following completion

of the Phase 1B Project (in accordance with Section II.B.ii above), assignment to an experienced institutional shopping mall owner/operator in connection with the sale or transfer by OWNER of its entire interest in the Mall, provided however that such assignee shall be recognized as OWNER under this Agreement only if (x) such assignee assumes in writing the obligations of OWNER under this Agreement, and (y) such assignee provides written notice to CITY not less than 15 days prior to such assignment and assumption. Further, the parties hereto acknowledge and consent to the OWNER's transfer of its beneficial entitlement in, obligations with respect to, and right to receive, the Phase 1A Grants to DSG.

V. INDEMNIFICATION

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

VI. BREACH

- A. Breach - Subject to Section B below, a breach of this Agreement by OWNER may result in termination of this Agreement. ~~OWNER's failure to satisfy any of the Performance Conditions and Requirements as specified in Article II shall constitute a breach of this Agreement.~~
- B. Notice of Breach and Remedy - In the event that CITY makes a reasonable determination that OWNER has breached this Agreement, then CITY shall give OWNER written notice of such detailing the breach. OWNER has 60 days following receipt of said written notice to cure such breach, including with respect to any breach caused solely by failure to deliver written notice within a specified time frame (provided, however, that if such breach is susceptible of cure but cannot reasonably be cured within such sixty (60) day period and provided further that OWNER shall have commenced to cure such breach within such 60-day period and thereafter diligently and expeditiously proceeds to cure the same, such 60- day period shall be extended for such time as is reasonably necessary for OWNER in the exercise of due diligence to cure such breach) or this Agreement may be terminated by CITY and no further grant payments provided for in Section III will be paid. CITY's termination of this Agreement is CITY's sole and exclusive remedy for a breach of this Agreement by OWNER. Notice of breach and opportunity to cure shall be in writing and shall be delivered by personal delivery or certified mail to OWNER at its address provided in Article VII of this Agreement. Notwithstanding the foregoing, failure to satisfy any of

the Performance Conditions and Requirements as to Phase 1A or Phase 1B shall result in the CITY's right to terminate this Agreement with respect to the applicable phase only, and the parties' rights and obligations with respect to the other phase shall remain unchanged.

- C. Payment Default- CITY agrees that its failure to pay the Phase 1A Grants or Phase 1B Grants when due is an Event of Default and, upon the occurrence of same, that the OWNER shall be entitled to terminate this Agreement as its sole and exclusive remedy.

VII. NOTICE

Notices required to be given to any party to this Agreement shall be delivered by hand delivery or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and shall be deemed delivered as of the date of delivery or deposited in the United States Mail:

OWNER: Parks at Arlington, LLC
c/o Brookfield Properties
350 N. Orleans Street
Chicago, Illinois 60605
Attention: Legal Real Estate

WITH A
COPY TO: Dick's Sporting Goods, Inc.
345 Court Street
Coraopolis, Pennsylvania 15108
Attention: Legal Department

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

WITH A
COPY TO: City of Arlington
Attention: City Attorney
P.O. Box 90231
Arlington, Texas 76004-3231

City of Arlington
Attention: Treasury Division / Economic Development Team
PO Box 90231 MS 63-0820
Arlington TX 76004-3231

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

**VIII.
FORCE MAJEURE**

Neither CITY nor OWNER, nor any successor in interest or assignee shall be considered in breach or default of their respective obligations under this Agreement, and time for performance of obligations hereunder shall be extended, in the event of any delay caused by force majeure, including damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, governmental action or inaction for an unreasonable period (unless caused by negligence or omissions by OWNER), acts of God, or similar events.

**IX.
COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all of the parties hereto have executed at least one counterpart.

**X.
AUTHORITY**

This Agreement was authorized by Resolution No. 23- 177 of the Arlington City Council, authorizing the City Manager or his designee to execute this Agreement on behalf of CITY, and shall constitute a valid and binding agreement between CITY and OWNER upon execution.

**XI.
SEVERABILITY**

In the event any section, subsection, paragraph, sentence, phrase, or word is held invalid, illegal, or unconstitutional, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word. In addition, in the event this Agreement is terminated with respect to a particular phase, the balance of this Agreement shall stand, shall be enforceable, and shall read as if the parties intended at all times to delete the terminated phase, and all applicable terms and conditions.

**XII.
ESTOPPEL CERTIFICATE**

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested may be addressed to a subsequent purchaser, assignee, tenant or other parcel owner, or lender of OWNER, or any other entity who owner or is a tenant in a portion of the Project shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the grant payments in effect, and such other matters reasonably requested by the party(ies) to receive the certificates. Provided under no circumstances shall an estoppel certificate amend or modify the terms and conditions of this Agreement.

XIII. STANDING

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

XIV. APPLICABLE LAW

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

XV. NO OTHER AGREEMENT

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified, or supplemented only by an instrument or instruments in writing executed by the parties. Notwithstanding the foregoing, the parties acknowledge and consent to OWNER and DSG entering into a separate agreement transferring OWNER's beneficial entitlement to the Phase 1A Grants to DSG, its subsidiaries, affiliates, successors and assigns.

XVI. HEADINGS AND EXHIBITS

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof. The exhibits attached to this Agreement are incorporated herein and are deemed part of this Agreement for the purposes stated

herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

**XVII.
SURVIVAL OF OBLIGATIONS**

All obligations under this Agreement shall survive the expiration or termination of this Agreement to the extent required for their full observance and performance.

**XVIII.
SUBSEQUENT AGREEMENT(S)**

It is the intent of OWNER to consider redevelopment of additional portions of the Mall in subsequent phases. The CITY will consider OWNER's performance under this Agreement when considering the award of grants for subsequent phases.

[signatures follow]

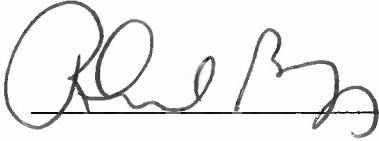
IN WITNESS WHEREOF, each party has caused this Agreement to be executed on the date indicated below, effective as of the later of such dates.

PARKS AT ARLINGTON, LLC

BY 
Authorized Signatory

Date 6/29/23

WITNESS:



CITY OF ARLINGTON, TEXAS

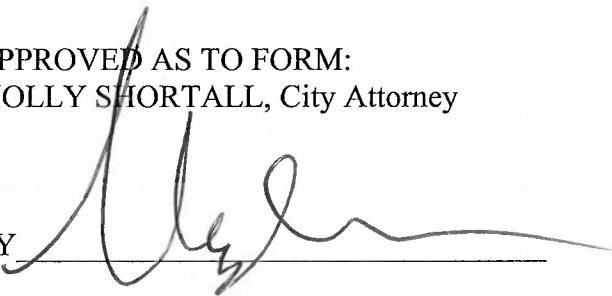
BY 
TREY YELVERTON

City Manager
Date 7/17/23

ATTEST:


ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY 

THE STATE OF ILLINOIS §
§

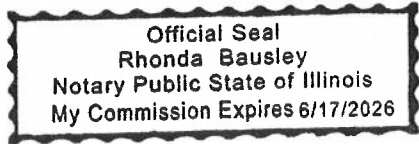
PARKS AT ARLINGTON, LLC

COUNTY OF COOK §

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Illinois, on this day personally appeared JAMES MRSAMIS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **PARKS AT ARLINGTON, LLC**, an entity duly authorized to do business in the State of Texas, and as the **Authorized Signatory** for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 29TH day of JUNE, 2023.



[Signature]
Notary Public in and for
The State of Illinois
Rhonda Bausley
Notary's Printed Name

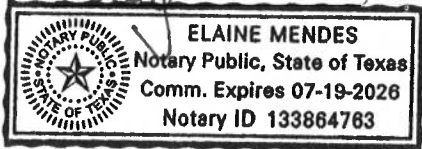
6/17/26
My Commission Expires

THE STATE OF TEXAS §
§
COUNTY OF TARRANT §

CITY OF ARLINGTON, TEXAS
Acknowledgment

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

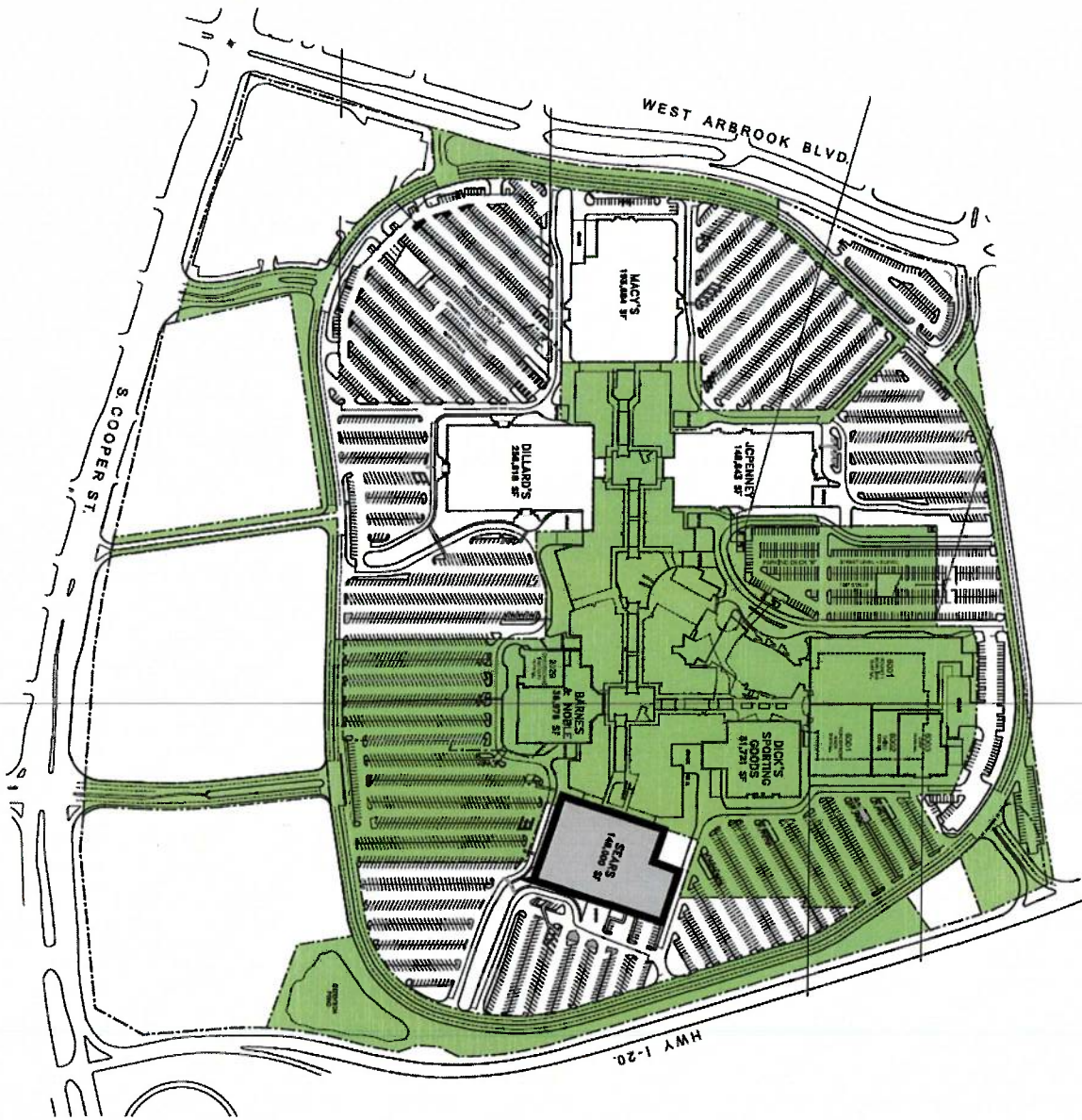
GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 17th day of July, 2023.



[Signature]
Notary Public in and for
The State of Texas
Elaine Mendes
Notary's Printed Name

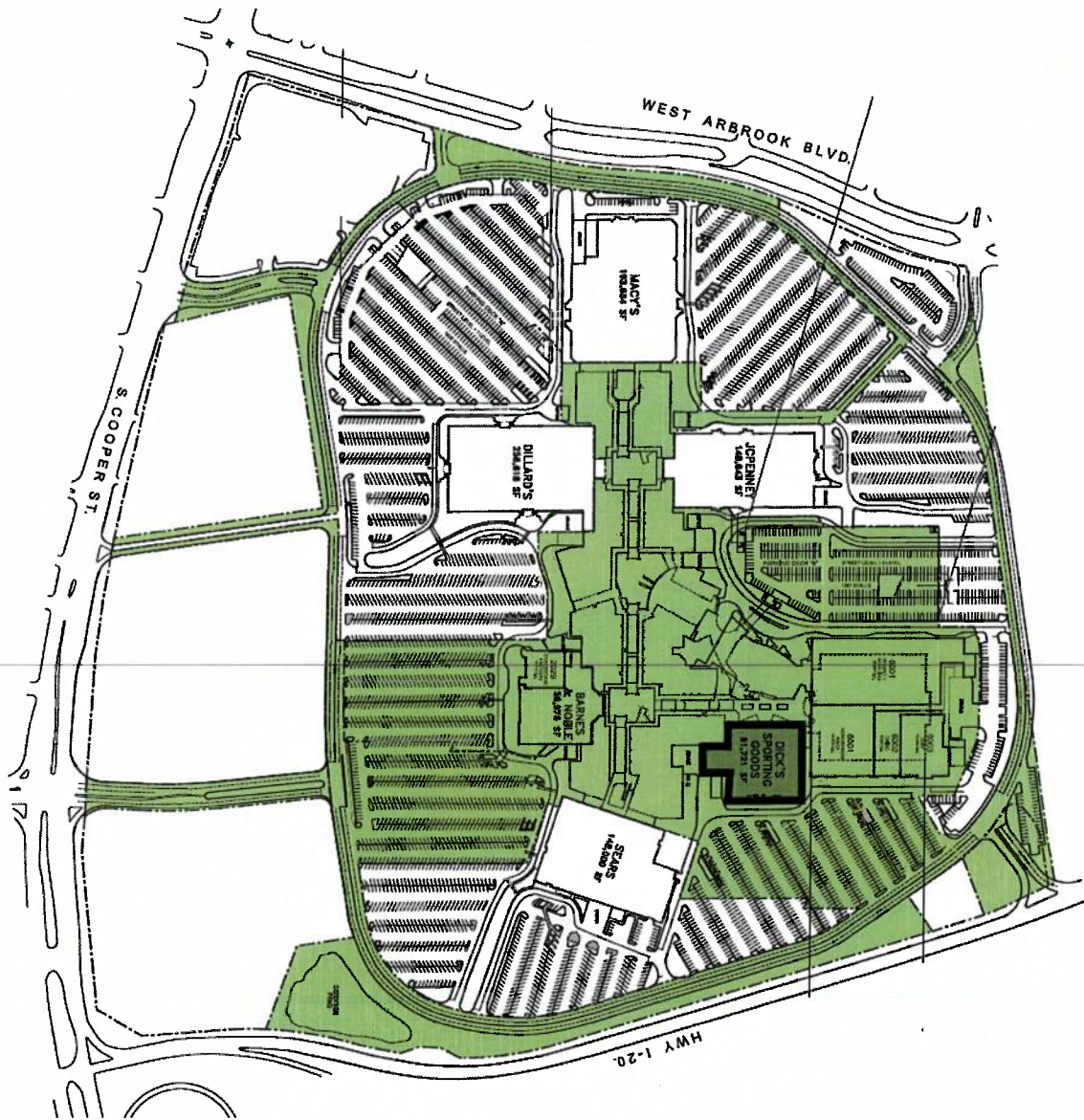
My Commission Expires

EXHIBIT "A"
Phase 1A Project Rebate Zone



Phase 1a
Improvement/Sales Tax Rebate Zone

EXHIBIT "B"
Phase 1B Project Rebate Zone



**Phase 1b
Improvement/Sales Tax Rebate Zone**

EXHIBIT "C"
Waiver of Confidentiality Form

**AGREEMENT FOR DISCLOSURE OF CONFIDENTIAL
TAX INFORMATION**

This agreement is entered into between the City of Arlington (hereafter the "City") and _____ (hereinafter the "taxpayer") for the purposes indicated herein.

I, _____, _____ (title), and the duly authorized agent of _____, Arlington, Texas _____, do hereby stipulate and agree as follows:

I hereby authorize the Texas Comptroller's Office to release and disclose any and all Sales and Use tax information relating to the operation of the above referenced taxpayer's business location to the City. I understand and agree that this release will be made by the Comptroller's Office to the City on an ongoing monthly basis beginning on the date this Agreement is executed. This Agreement waives any and all rights with respect to the parties regarding the confidentiality of tax information under Sections 111.006, 151.027, Tax Code, or other state law.

The City agrees that it will use the tax information disclosed by the Comptroller pursuant to this Agreement solely and exclusively for the purposes of the allocation of sales tax revenue. This agreement will be renewed in three years on the date below.

This Agreement is entered into in Arlington, Tarrant County, Texas and Texas law will apply to its interpretation and enforcement.

SIGNED AND AGREED TO on this the _____ day of _____, 2023.

Signature

Printed Name

Title

Texas Taxpayer Identification Number

WITNESS:

CITY OF ARLINGTON, TEXAS

BY _____
TREY YELVERTON
City Manager

ATTEST:

ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City
Attorney

BY _____