

12-9-20

ORDINANCE NO. 31717

An ordinance changing the zoning classification on the following property:

BEING Lots 4 and 5 in City Block W/8751; fronting approximately 1,060.29 feet on the west line of President George Bush Turnpike; fronting approximately 203.98 feet on the north line of Frankford Road; and containing approximately 11.724 acres,

from a CR Community Retail District to Planned Development District No. 1041; amending Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code by creating a new Article 1041; establishing use regulations and development standards for this planned development district; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding the rezoning of the property described in this ordinance; and

WHEREAS, the city council finds that it is in the public interest to establish this planned development district; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

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SECTION 1. That the zoning classification is changed from a CR Community Retail District to Planned Development District No. 1041 on the property described in Exhibit A, which is attached to and made a part of this ordinance (“the Property”).

SECTION 2. That Chapter 51P, “Dallas Development Code: Planned Development District Regulations,” of the Dallas City Code is amended by adding a new Article 1041 to read as follows:

“ARTICLE 1041.

PD 1041.

SEC. 51P-1041.101. LEGISLATIVE HISTORY.

PD 1041 was established by Ordinance No. _____, passed by the Dallas City Council on December 9, 2020.

SEC. 51P-1041.102. PROPERTY LOCATION AND SIZE.

PD 1041 is established on property located on the northwest corner of President George Bush Turnpike and Frankford Road. The size of PD 1041 is approximately 11.724 acres.

SEC. 51P-1041.103. DEFINITIONS AND INTERPRETATIONS.

(a) Unless otherwise stated, the definitions and interpretations in Chapter 51A apply to this article. In this district:

(1) **BAIL BOND OFFICE** means an office for the issuance, brokerage, or procurement of bail bonds, whether as an accessory use or a main use.

(2) **MASSAGE ESTABLISHMENT** and **MASSAGE** mean a massage establishment or massage as defined by Texas Occupation Code Chapter 455, as amended.

(3) **TATTOO OR BODY PIERCING STUDIO** means a business in which tattooing or body piercing is performed. **TATTOOING** means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment. **BODY PIERCING** means the piercing of body parts, other than ears, for purposes of allowing the insertion of jewelry.

(b) Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51A.

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- (c) This district is considered to be a nonresidential zoning district.

SEC. 51P-1041.104. EXHIBIT.

The following exhibit is incorporated into this article: Exhibit 1041A: development plan for Subareas A and B.

SEC. 51P-1041.105. CREATION OF SUBAREAS.

This district is divided into two subareas: Subarea A and Subarea B.

SEC. 51P-1041.106. DEVELOPMENT PLAN.

Development of Subareas A and B must comply with the development plan for Subareas A and B (Exhibit 1041A). If there is a conflict between the text of this article and the development plan for Subareas A and B, the text of this article controls.

SEC. 51P-1041.107. MAIN USES PERMITTED.

- (a) Subarea A. The following uses are the only main uses permitted:

- Convalescent and nursing homes, hospice care, and related institutions.
- Duplex.
- Handicapped group dwelling unit. *[SUP required if spacing component of Section 51A-4.209(b)(3.1) is not met.]*
- Local utilities.
- Multifamily.
- Retirement housing.
- Single family.
- Tower/antenna for cellular communication. *[Must be mounted on the roof or attached to a building or parking structure.]*

- (b) Subarea B. The following uses are the only main uses permitted:

(1) Office uses.

- Medical clinic or ambulatory center.
- Office. *[Except bail bond office]*

(2) Retail and personal services.

- Child care facility.
- Commercial amusement (inside). *[SUP]*
- Dry cleaning or laundry store.
- General merchandise or food store 3,500 square feet or less.
- General merchandise or food store greater than 3,500 square feet.

- Personal service uses. *[Except for massage establishment or massage, and tattoo or body piercing studio.]*
- Restaurant with a drive-in or drive-through service. *[Must be part of a multi-tenant building.]*
- Restaurant without drive-in or drive-through service.

(3) Utility and public service uses.

- Local utilities.
- Tower/antenna for cellular communication. *[Must be mounted on the roof or attached to a building or parking structure.]*

SEC. 51P-1041.109. ACCESSORY USES.

As a general rule, an accessory use is permitted in any district in which the main use is permitted. Some specific accessory uses, however, due to their unique nature, are subject to additional regulations in Section 51A-4.217. For more information regarding accessory uses, consult Section 51A-4.217.

SEC. 51P-1041.110. YARD, LOT, AND SPACE REGULATIONS.

(Note: The yard, lot, and space regulations in this section must be read together with the yard, lot, and space regulations in Division 51A-4.400. If there is a conflict between this section and Division 51A-4.400, this section controls.)

(a) All subareas. Except as provided in this section, the yard, lot, and space regulations for the MU-1 Mixed Use District apply.

(1) Setbacks.

(A) Setbacks only apply to the perimeter of the Property. Setbacks are not required between subareas or lots.

(B) Except as provided in this subsection, minimum setback is:

- (i) 15 feet along Frankford Road.
- (ii) 15 feet along President George Bush Turnpike service road.
- (iii) 10 feet along the western boundary of the Property.
- (iv) 15 feet along the northern boundary of the Property.

(2) Urban form setback and tower spacing. Urban form setback and tower spacing are not required.

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(3) Projections.

(A) For residential uses, balconies, bay windows, awnings, patios, signs, and entryways affixed to the building or part of the foundation may project up to five feet into a required setback.

(B) Stoops, retaining walls, benches, pots, raised planters, sculptures, cabanas and other decorative landscape items may be located within a required setback.

(b) Subarea A.

(1) Density. Except as provided in this paragraph, maximum number of dwelling units is 200. If compliant with Section 51P-1041.118, the maximum number of dwelling units is 380.

(2) Floor area. No maximum floor area.

(3) Height. Maximum structure height is 55 feet. Roof-mounted mechanical equipment may project up to 12 feet above the maximum structure height.

(4) Lot coverage. Maximum lot coverage is 60 percent. Aboveground parking structures are included in lot coverage calculations, surface parking lots and underground parking structures are not.

(5) Stories. Maximum number of stories above grade is four.

(c) Subarea B.

(1) Floor area. Maximum floor area is 13,000 square feet for non-residential uses.

(2) Height. Maximum structure height is 24 feet.

(3) Lot coverage. Maximum lot coverage is 50 percent.

SEC. 51P-1041.111. OFF-STREET PARKING AND LOADING.

(a) Except as provided in this section, consult the use regulations in Division 51A-4.200 for the specific off-street parking and loading requirements for each use.

(b) Required parking for any use in this district may be provided in any subarea.

(c) For the purposes of complying with parking requirements, the entire district is considered one lot.

SEC. 51P-1041.112. DESIGN STANDARDS.

(a) Purpose. These design standards are intended to ensure that continuous facades that are located along well-travelled pedestrian ways are compatible with the surrounding area and mitigate the negative impact of continuous facades, while allowing creativity, flexibility, and variety in design.

(b) Facade walls. Facade walls facing a public right-of-way must incorporate at least three of the following design elements. The remaining facade walls must incorporate at least two of the following design elements. Except for Paragraph (3), the cumulative length of these design elements must extend for at least 50 percent of the facade wall's horizontal length.

(1) A repeating pattern of wall recesses and projections, such as bays, offsets, reveals, or projecting ribs, that has a relief of at least eight inches.

(2) Trim, molding, or accent elements using decorative contrasting colors on at least five percent of the area of the facade wall.

(3) Enhanced exterior light fixtures such as wall sconces, light coves with concealed light sources, ground-mounted accent lights, or decorative pedestal lights.

(4) A repeating pattern of pilasters projecting from the facade wall by a minimum of eight inches or architectural or decorative columns.

(5) Display windows, faux windows, or decorative windows.

(6) Arcades, awnings, canopies, covered walkways, or porticos.

(7) Any other comparable design elements approved by the building official.

(c) Facade wall changes. Facade walls must have one or more of the following:

(1) Changes of color, texture, or material, either diagonally, horizontally, or vertically, at intervals of not less than 20 feet and not more than 100 feet.

(2) Changes in plane with a depth of at least 24 inches, either diagonally, horizontally, or vertically, at intervals of not less than 20 feet and not more than 100 feet.

SEC. 51P- 1041.113. ENVIRONMENTAL PERFORMANCE STANDARDS.

See Article VI.

SEC. 51P-1041.114. LANDSCAPING.

(a) Except as provided in this section, landscaping must be provided in accordance with Article X.

(b) In Subarea B, the required street buffer zone depth along the President George Bush Turnpike is five feet.

- (c) A residential buffer zone is not required between subareas.
- (d) Plant materials must be maintained in a healthy, growing condition.

SEC. 51P-1041.115. SIDEWALKS AND PEDESTRIAN AMENITIES.

(a) A minimum five-foot-wide sidewalk with at least four feet of unobstructed width must be provided along Frankford Road and must be located between two and 10 feet of the back of curb.

(b) An internal sidewalk on the west side of Subarea B is required to connect Subareas A and B to Frankford Road.

(c) A minimum five-foot-wide sidewalk with at least four feet of unobstructed width is required in the President George Bush Turnpike Service Road right-of-way adjacent to the eastern boundary of Subarea B subject to approval by the Texas Department of Transportation. If Texas Department of Transportation approval cannot be obtained, the property is exempt from this requirement.

(d) A sidewalk is not required along the President George Bush Turnpike Service Road adjacent to Subarea A.

SEC. 51P-1041.116. SIGNS.

(a) In Subarea A, signs must comply with the provisions for non-business zoning districts in Article VII.

(b) In Subarea B, signs must comply with the provisions for business zoning districts in Article VII.

SEC. 51P-1041.117. RESIDENTIAL AMENITIES.

(a) A minimum 1,000-square foot common amenity courtyard is required in Subarea A.

(b) A minimum of two 500-square foot common greenspace areas are required in Subarea A.

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SEC. 51P-1041.118. DEVELOPMENT BONUS FOR MIXED INCOME HOUSING.

(a) A multifamily project qualifies for the development bonus in Section 51P-1041.110(b) if a minimum of seven percent of the total dwelling units are provided at Income Band 2 (between 61 percent and 80 percent of Area Median Family Income) in compliance with Division 51A-4.1100.

(b) Compliance with Section 51A-4.1107 is not required.

SEC. 51P-1041.119. ADDITIONAL PROVISIONS.

(a) The Property must be properly maintained in a state of good repair and neat appearance.

(b) Development and use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the city.

SEC. 51P-1041.120. COMPLIANCE WITH CONDITIONS.

(a) All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications, and completed to the satisfaction of the city.

(b) The building official shall not issue a building permit to authorize work, or a certificate of occupancy to authorize the operation of a use, until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the city.”

SECTION 3. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, as amended, the property description in Section 1 of this ordinance shall be construed as including the area to the centerline of all adjacent streets and alleys.

SECTION 4. That development of this district must comply with the full-scale version of Exhibit 1041A (development plan for Subareas A and B) attached to this ordinance. A reduced-sized version of this plan shall be provided in Chapter 51P. Permits shall be issued based on information provided on the full-scale version of the plan.

SECTION 5. That the city attorney is authorized to insert the enrolled number of this ordinance in the legislative history section of Article 1041 in Chapter 51P.

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SECTION 6. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That the zoning ordinances of the City of Dallas and Chapter 51P of the Dallas City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 9. That this ordinance shall take effect immediately from and after its passage and publication, in accordance with the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By Casey Bussell
Assistant City Attorney

Passed DEC 09 2020

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EXHIBIT A

OVERALL BOUNDARY

BEING a 11.7239 acre tract of land located in the William Miller Survey, Abstract No. 883, City of Dallas, Denton County, Texas, said 11.7239 acre tract of land being a portion of the remainder of **LOT 5, BLOCK W/8751, MCKAMY CROSSING SHOPPING CENTER II**, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet V, Page 249, Plat Records, Denton County, Texas (P.R.D.C.T.), said 11.7239 acre tract of land also being all of **LOT 4, BLOCK W/8751, MCKAMY CROSSING SHOPPING CENTER III, PHASE I**, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet V, Page 925, P.R.D.C.T., said 11.7239 acre tract of land also being all of that certain tract of land conveyed to **BUCKNER INVESTMENTS, LLC**, by deed thereof filed for record in Denton County Clerk's Instrument No. 2016-163618, Official Public Records, Denton County, Texas (O.P.R.D.C.T.), said 11.7239 acre tract of land also being a portion of those certain tracts of land conveyed to **MCKAMY CREEK SHOPPING CENTER, LTD.**, by the deeds thereof filed for record in Volume 4777, Page 725, Volume 4963, Page 1508, and Volume 5084, Page 307, Deed Records, Denton County, Texas (D.R.D.C.T.), said 11.7239 acre tract of land also being a portion of that certain tract of land conveyed to **ARMSTRONG FRANKFORD 190, LLC**, by deed thereof filed for record in Denton County Clerk's Instrument No. 2007-92536, O.P.R.D.C.T., said 11.7239 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3 inch aluminum monument found (Controlling Monument) at the most northerly northwest lot corner of said Lot 5, same being the northeast lot corner of Lot 2A, Block W/8751, of said McKamy Crossing Shopping Center II, said monument found also being on the south lot line of Lot 2, Block R/8751, Sunset Oaks/Sunset Place Addition, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet D, Page 42, P.R.D.C.T.;

THENCE South 89°58'32" East, along the common lot line of said Lots 2 and 5, a distance of 957.02 feet to a point for corner at the northeast lot corner of said Lot 5, same being the southeast lot corner of said Lot 2, and being on the northwest right-of-way line of State Highway No. 190 (being a variable width public right-of-way with controlled access, a portion of said right-of-way being conveyed to the State of Texas, by the deeds thereof filed for record in Volume 4182, Page 588, D.R.D.C.T. and Denton County Clerk's Instrument No. 96-R0013312, O.P.R.D.C.T.), from which a 1/2 inch iron rod found bears South 55°12'01" West, a distance of 0.45 feet;

THENCE South 36°42'33" West, along a southeast lot line of said Lot 5 and along the said northwest right-of-way line, a distance of 378.42 feet to a Texas Department of Transportation aluminum monument found (Controlling Monument) at a southeast lot corner of said Lot 5, same being at an angle point in the said right-of-way line;

THENCE South 33°03'46" West, continuing along the said lot line and the said right-of-way line, at a distance of 208.95 feet passing an "X" cut in concrete found at the most easterly southeast lot corner of said Lot 5, same being the northeast lot corner of the aforesaid Lot 4, and continuing

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along the southeast lot line of said Lot 4 and along the said right-of-way line, in all a total distance of 302.83 feet to a 1/2 inch iron rod found (Controlling Monument) at a southeast lot corner of said Lot 4, same being at an angle point in the said northwest right-of-way line;

THENCE South 42°27'53" West, continuing along the said southeast lot line of Lot 4 and along the said northwest right-of-way line, a distance of 205.66 feet to a 1/2 inch iron rod with a cap stamped "BRITTAIN & CRAWFORD" found (Controlling Monument);

THENCE South 22°43'15" West, continuing along the said lot line and the said right-of-way, a distance of 173.38 feet to a 3 inch aluminum monument stamped "MCKAMY CREEK SHOPPING CENTER" found at the most southerly southeast lot corner of said Lot 4, same being at the intersection of the said northwest right-of-way line with the north right-of-way line of Frankford Road (being a variable width public right-of-way with controlled access, a portion of said right-of-way being conveyed to the State of Texas, by the deeds thereof filed for record in Volume 4182, Page 588, D.R.D.C.T. and Denton County Clerk's Instrument No. 96-R0071572, O.P.R.D.C.T.);

THENCE South 89°22'28" West, along the south lot line of said Lot 4 and along the said north-of-way line of Frankford Road, a distance of 203.98 feet to an "X" cut in concrete found at the southwest lot corner of said Lot 4, same being the southeast lot corner of Lot 5B, of said Block W/8751, from which an "X" cut in concrete found bears N57°55'24" West, a distance of 0.77 feet;

THENCE North 00°36'31" West, along the common lot line of said Lots 4 and 5B, a distance of 189.89 feet to a point for corner from which an "X" cut in concrete found bears North 52°18'53" West, a distance of 0.30 feet;

THENCE North 33°02'22" East, continuing along the said common lot line, a distance of 107.79 feet to a 1/2 inch iron rod found (Controlling Monument) at the most northerly northeast lot corner of said Lot 5B;

THENCE South 88°57'00" West, along the north lot line of said Lot 5B, a distance of 201.71 feet to a 3 inch aluminum monument found (Controlling Monument) at the intersection of the said north lot line with the west lot line of the aforesaid Lot 5, same being the east lot line of the aforesaid Lot 2A;

THENCE North 01°03'00" West, along the common lot line of said Lots 2A and 5, a distance of 595.00 feet to the **POINT OF BEGINNING**.

The hereinabove described tract of land contains a computed area of **11.7239 acres (510,695 square feet)** of land, more or less.

SUBAREA A

BEING a 10.4235 acre tract of land located in the William Miller Survey, Abstract No. 883, City

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of Dallas, Denton County, Texas, said 10.4235 acre tract of land being a portion of the remainder of **LOT 5, BLOCK W/8751, MCKAMY CROSSING SHOPPING CENTER II**, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet V, Page 249, Plat Records, Denton County, Texas (P.R.D.C.T.), said 10.4235 acre tract of land also being a portion of **LOT 4, BLOCK W/8751, MCKAMY CROSSING SHOPPING CENTER III – PHASE I**, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet V, Page 925, P.R.D.C.T., said 10.4235 acre tract of land being a portion of that certain tract of land conveyed to **BUCKNER INVESTMENTS, LLC**, by deed thereof filed for record in Denton County Clerk's Instrument No. 2016-163618, Official Public Records, Denton County, Texas (O.P.R.D.C.T.), said 10.4235 acre tract of land also being a portion of that certain tract of land conveyed to **McKAMY CREEK SHOPPING CENTER, LTD.**, by the deeds thereof filed for record in Volume 4777, Page 725, Volume 4963, Page 1508, and Volume 5084, Page 307, D.R.D.C.T., said 10.4235 acre tract of land also being a portion of that certain tract of land conveyed to **ARMSTRONG FRANKFORD 190, LLC**, by deed thereof filed for record in Denton County Clerk's Instrument No. 2007-92536, O.P.R.D.C.T., said 10.4235 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3 inch aluminum monument found (Controlling Monument) at the most northerly northwest lot corner of said Lot 5, same being the northeast lot corner of Lot 2A, Block W/8751, of said McKamy Crossing Shopping Center II, said monument found also being on the south lot line of Lot 2, Block R/8751, Sunset Oaks/Sunset Place Addition, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet D, Page 42, P.R.D.C.T.;

THENCE South 89°58'32" East, along the common lot line of said Lots 2 and 5, a distance of 957.02 feet to a point for corner at the northeast lot corner of said Lot 5, same being the southeast lot corner of said Lot 2, and being on the northwest right-of-way line of State Highway No. 190 (being a variable width public right-of-way with controlled access, a portion of said right-of-way being conveyed to the State of Texas, by the deeds thereof filed for record in Volume 4182, Page 588, D.R.D.C.T. and Denton County Clerk's Instrument No. 96-R0013312, O.P.R.D.C.T.), from which a 1/2 inch iron rod found bears South 55°12'01" West, a distance of 0.45 feet;

THENCE South 36°42'33" West, along a southeast lot line of said Lot 5 and along the said northwest right-of-way line, a distance of 378.42 feet to a Texas Department of Transportation aluminum monument found (Controlling Monument) at a southeast lot corner of said Lot 5, same being at an angle point in the said right-of-way line;

THENCE South 33°03'46" West, continuing along the said lot line and the said right-of-way line, at a distance of 208.95 feet passing an "X" cut in concrete found at the most easterly southeast lot corner of said Lot 5, same being the northeast lot corner of the aforesaid Lot 4, and continuing along the southeast lot line of said Lot 4 and along the said right-of-way line, in all a total distance of 302.83 feet to a 1/2 inch iron rod found (Controlling Monument) at a southeast lot corner of said Lot 4, same being at an angle point in the said northwest right-of-way line;

THENCE South 42°27'53" West, continuing along the said southeast lot line of Lot 4 and along the said northwest right-of-way line, a distance of 205.66 feet to a 1/2 inch iron rod with a cap

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stamped "BRITTAIN & CRAWFORD" found (Controlling Monument);

THENCE South 22°42'38" West, continuing along the said lot line and the said right-of-way, a distance of 3.29 feet to a 5/8 inch iron rod with a cap stamped "SPOONER 5922" set (hereinafter referred to as an iron rod set);

THENCE North 56°57'38" West, departing the said lot line and the said right-of-way line, over and across said Lot 4, a distance of 244.52 feet to an iron rod set on the northwest lot line of said Lot 4, same being a southeast lot line of the aforesaid Lot 5;

THENCE South 33°02'22" West, along the said lot lines, a distance of 14.55 feet to a 1/2 inch iron rod found (Controlling Monument) at the most northerly northeast lot corner of Lot 5B, Block W/8751, of said McKamy Crossing Shopping Center III – Phase I (Cabinet V, Page 925);

THENCE South 88°57'00" West, along the north lot line of said Lot 5B, a distance of 201.71 feet to a 3 inch aluminum monument found (Controlling Monument) at the intersection of the said north lot line with the west lot line of the aforesaid Lot 5, same being the east lot line of the aforesaid Lot 2A;

THENCE North 01°03'00" West, along the common lot line of said Lots 2A and 5, a distance of 595.00 feet to the **POINT OF BEGINNING**.

The hereinabove described tract of land contains a computed area of **10.4235 acres (454,050 square feet)** of land, more or less.

SUBAREA B

BEING a 1.3004 acre tract of land located in the William Miller Survey, Abstract No. 883, City of Dallas, Denton County, Texas, said 1.3004 acre tract of land being a portion of **LOT 4, BLOCK W/8751, MCKAMY CROSSING SHOPPING CENTER III – PHASE I**, being an Addition to the said City and State, according to the plat thereof filed for record in Cabinet V, Page 925, Plat Records, Denton County, Texas, said 1.3004 acre tract of land also being a portion of that certain tract of land conveyed to **ARMSTRONG FRANKFORD 190, LLC**, by deed thereof filed for record in Denton County Clerk's Instrument No. 2007-92536, Official Public Records, Denton County, Texas (O.P.R.D.C.T.), said 1.3004 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 3 inch aluminum monument stamped "MCKAMY CREEK SHOPPING CENTER" found at the most southerly southeast lot corner of said Lot 4, same being at the intersection of the northwest right-of-way line of State Highway No. 190 (being a variable width public right-of-way with controlled access, a portion of said right-of-way being conveyed to the State of Texas, by the deeds thereof filed for record in Volume 4182, Page 588, D.R.D.C.T. and Denton County Clerk's Instrument No. 96-R0013312, O.P.R.D.C.T.) and the north right-of-way line of Frankford Road (being a variable width public right-of-way with controlled access, a portion of said right-of-way being conveyed to the State of Texas, by the deeds thereof filed for

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record in Volume 4182, Page 588, D.R.D.C.T. and Denton County Clerk's Instrument No. 96-R0071572, O.P.R.D.C.T.);

THENCE South $89^{\circ}22'28''$ West, along the south lot line of said Lot 4 and along the said north-of-way line of Frankford Road, a distance of 203.98 feet to an "X" cut in concrete found at the southwest lot corner of said Lot 4, same being the southeast lot corner of Lot 5B, of said Block W/8751, from which an "X" cut in concrete found bears $N57^{\circ}55'24''$ West, a distance of 0.77 feet;

THENCE North $00^{\circ}36'31''$ West, along the common lot line of said Lots 4 and 5B, a distance of 189.88 feet to a point for corner from which an "X" cut in concrete found bears North $52^{\circ}18'53''$ West, a distance of 0.30 feet;

THENCE North $33^{\circ}02'22''$ East, continuing along the said common lot line, at a distance of 107.79 feet passing a 1/2 inch iron rod found at the most northerly northeast lot corner of said Lot 5B, and continuing along the northwest lot line of said Lot 4, in all a total distance of 122.34 feet to the most northerly corner of the herein described tract;

THENCE South $56^{\circ}57'38''$ East, departing the said lot line, over and across said Lot 4, a distance of 244.52 feet to the southeast lot line of said Lot 4, same being the aforesaid northwest right-of-way line of State Highway No. 190;

THENCE South $22^{\circ}43'15''$ West, continuing along the said lot line and the said right-of-way line, a distance of 170.09 feet to the **POINT OF BEGINNING**.

The hereinabove described tract of land contains a computed area of **1.3004 acres (56,645 square feet)** of land, more or less.



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL DEC 09 2020

ORDINANCE NUMBER 31717

DATE PUBLISHED DEC 12 2020

ATTESTED BY:

A handwritten signature in black ink, appearing to be "R. G. ...".

201956

December 9, 2020

WHEREAS, the termination of deed restrictions in the attached instrument has been volunteered in connection with property located along the north line of Frankford Road and along the west line of the President George Bush Turnpike, which is the subject of Zoning Case No. Z190-298(CT); and

WHEREAS, the City Council desires to accept the termination of deed restrictions in the attached instrument; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the termination of deed restrictions in the attached instrument is accepted by the City Council of the City of Dallas to be used in conjunction with the development of property that is the subject of Zoning Case No. Z190-298(CT).

Section 2. That this termination of deed restrictions must be filed in the Deed Records of Dallas County, Texas.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By *Casey Byers*
Assistant City Attorney



THENCE S 89° 25' 34" E 595.83 feet along the North boundary line of said 280.36 acre tract to a 1/2" iron rod found at the Northwest corner of the tract of land conveyed to James J. Hartnett, Sr. by the deed recorded in County Clerks File No. 94-R0082511 of the deed records of Denton County, Texas;

THENCE S 00° 32' 11" E 872.65 feet along the West boundary line of said Hartnett Tract to a 1/2' iron rod set in the North right-of-way line of Frankford Road (a 100-foot right-of-way);

THENCE Along the North right-of-way line of said Frankford Road, as follows:

1. S 89° 54' 27" W 45.61 feet, to a 5/8" iron rod found at the beginning of a curve to the left.
2. SOUTHWESTERLY 93.97 feet, along said curve to the left having a radius of 950.00 feet, a central angle of 05° 40' 03", and a chord bearing S 87° 04' 25" W 93.93 feet, to a 1/2" iron rod set at the end of said curve.
3. S 84° 14' 24" W 356.52 feet, to a 1/2' iron rod set at the beginning of a curve to the right.
4. SOUTHWESTERLY 106.83 feet, along said curve to the right having a radius of 850.00 feet, a central angle of 07° 12' 04", and a chord bearing S 87° 50' 25" W 106.76 feet, to a 1/2" iron rod set, in the West boundary line of aforesaid 280.36 acre tract;

THENCE N 00° 11' 43" W 923.26 feet, along the West boundary line of said 280.36 acre tract, being the East boundary line of Lot 1, Block W/8751 Springfield Apartments, an Addition to the City of Dallas, Denton County, Texas according to the plat recorded in Cabinet E, Slide 160, of the Map Records of Denton County, Texas and also the East boundary line of aforesaid North Central Dallas Housing Opportunity to THE PLACE OF BEGINNING, containing 12.324 acres of land.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated August 4, 1998, signed by James M. Harris, Trustee and Gardcom. Ltd. Money Purchase Pension Plan & Trust and recorded in Volume 4199, Page 562, of the Deed Records of Denton County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "A" and made a part of this instrument.

III.

The Owner does hereby terminate and release the following restrictions as they apply to the Property, to wit, such restrictions being all of the restrictions contained in instrument described in Section II above:

1. No building will be located within fifty feet (50') of the north right-of-way line of Frankford Road.
2. A landscape buffer twenty-five feet (25') in width and containing a three foot (3') high berm with grass or ground cover will be planted adjacent to the northern right-

of-way line of Frankford Road. This area will contain 3 1/2" Live Oak trees planted twenty-five foot (25') on center, except for driveway openings and visibility corner clips. Any protected tree located in the landscape buffer which is retained will count toward the required trees on a tree per tree basis. Said landscape buffer and Live Oak trees shall be installed prior to the issuance of a certificate of occupancy on the Property. The twenty-five foot (25') landscape buffer shall contain at least one hundred seventy (170) five (5) gallon shrubs and shall be maintained in a healthy, growing condition.

3. Detached premise signs along Frankford Road will be monument signs with a maximum height of ten feet (10') and may be incorporated in the landscape buffer and located on said berm. The maximum number of monument signs is two (2) and the maximum size of each sign is one hundred (100) square feet. Non-premise signs are prohibited.
4. No building located within two hundred fifty feet (250') of the northern right-of-way line of Frankford Road may exceed two (2) stories which shall not exceed thirty-six feet (36') in height.
5. No building located on the Property may exceed fifty feet (50') in height.
6. No tower/antenna for cellular communication may be located within two hundred fifty feet (250') of the northern right-of-way line of Frankford Road.
7. Any roof mounted mechanical equipment must be screened.
8. Parking lot lights may not exceed twenty two feet (22') in height and must be fitted with a shielded type of directional fixture to direct light onto the Property and away from adjacent properties.
9. The following uses are permitted:
 - A. Agricultural uses:
 - Crop production
 - B. Commercial and business service uses:
 - Catering Service
 - C. Institutional and community service uses:
 - Adult day care facility
 - Cemetery or mausoleum
 - Child care facility
 - Church
 - Community service center
 - Library, art gallery, or museum

- Public or private school

D. Miscellaneous uses:

- Temporary construction or sales office
- Placement of fill material

E. Office uses:

- Financial institution without drive-in window
- Financial institution with drive-in window
- Medical clinic or ambulatory surgical center
- Office

F. Recreation uses:

- Country club with private membership
- Private recreation center, club or area
- Public park playground or golf course

G. Retail and personal service uses:

- Dry cleaning or laundry store
- Furniture store
- General merchandise or food store 3,500 square feet or less
- General merchandise or food store greater than 3,500 square feet
- Home improvement center, lumber, brick or building materials, sales yard
- Motor vehicle fueling station
- Nursery, garden shop or plant sales
- Personal service use
- Restaurant without drive-in or drive-through service

H. Utility and public service uses:

- Electrical substation
- Local utilities
- Police or fire station
- Post office
- Tower/antenna for cellular communication
- Radio, television or microwave tower
- Utility or government installation other than listed

10. Retail and Personal Service Uses are limited to a floor area ratio of .35:1.00. Office uses are limited to a floor area ratio of .5:1.00.

IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

THE OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS TERMINATION.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of Chapter 51A of the Dallas City Code, as amended, apply and are incorporated into this instrument as if recited in this instrument.

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of Dallas, Dallas County, this the 9th day of December 2020

[Signatures Follow]

[Owner Signatures Attached on Following Pages]

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Owner
By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:
Christopher J. Caso, City Attorney

By: Casey Buzza
Assistant City Attorney

[Attach an acknowledgment for each signer]

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for a CR Community Retail District which was approved by the City Council on September 9, 1998, on Zoning Case No. Z978-175/10526-NC(KC) on property on the north side of Frankford Road, east of Kelly Boulevard; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restrictions set forth in the attached instrument be and are hereby accepted by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property zoned a CR Community Retail District as described in Ordinance No. 23648

Section 2. That said deed restrictions shall be filed in the Deed Records of Denton County, Texas.

Section 3. That this resolution shall take effect from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

ANGELA K. WASHINGTON, ~~Interim~~ City Attorney

By *Fleeta Fernandez*
Assistant City Attorney

APPROVED BY
CITY COUNCIL

SEP 09 1998

Shirley Gey
City Secretary

APPROVED _____

HEAD OF DEPARTMENT

APPROVED _____

DIRECTOR OF FINANCE

APPROVED _____

CITY MANAGER

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DEED RESTRICTIONS

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF DENTON §

I.

The undersigned, **James M. Harris, Trustee** (undivided 7/9th interest) and **Gardcom, Ltd. Money Purchase Pension Plan & Trust** (Individual Accounts of James M. Harris and Adam Harris) 2/9th individual interest ("the Owners"), are the owners of the following described property ("the Property"), being in particular a tract of land out of the William Miller Survey, Abstract No. 883, and J. McCarts Survey, Abstract No. 885, City Block 8751, City of Dallas ("City"), Denton County, Texas, and being that same tract of land conveyed to James H. Harris, Trustee (undivided 7/9th interest) and Gardcom, Ltd. Money Purchase Pension Plan and Trust (Individual Accounts of James M. Harris and Adam Harris, 2/9th undivided interest) by Mark A. Weisbart, Trustee, by deed dated October 11, 1996, and recorded in the Deed Records of Denton County, Texas under Instrument Number 96-R0073836, and being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

II.

The Owners do hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. No building will be located within fifty feet (50') of the north right-of-way line of Frankford Road.
2. A landscape buffer twenty-five feet (25') in width and containing a three foot (3') high berm with grass or ground cover will be planted adjacent to the northern right-of-way line of Frankford Road. This area will contain 3 1/2" Live Oak trees planted twenty-five foot (25') on center, except for driveway openings and visibility corner clips. Any protected tree located in the landscape buffer which is retained will count toward the required trees on a tree per tree basis. Said landscape buffer and Live Oak trees shall be installed prior to the issuance of a certificate of occupancy on the Property. The twenty-five foot (25') landscape buffer shall contain at least one hundred seventy (170) five (5) gallon shrubs and shall be maintained in a healthy, growing condition.

3. Detached premise signs along Frankford Road will be monument signs with a maximum height of ten feet (10') and may be incorporated in the landscape buffer and located on said berm. The maximum number of monument signs is two (2) and the maximum size of each sign is one hundred (100) square feet. Non-premise signs are prohibited.
4. No building located within two hundred fifty feet (250') of the northern right-of-way line of Frankford Road may exceed two (2) stories which shall not exceed thirty-six feet (36') in height.
5. No building located on the Property may exceed fifty feet (50') in height.
6. No tower/antenna for cellular communication may be located within two hundred fifty feet (250') of the northern right-of-way line of Frankford Road.
7. Any roof mounted mechanical equipment must be screened.
8. Parking lot lights may not exceed twenty two feet (22') in height and must be fitted with a shielded type of directional fixture to direct light onto the Property and away from adjacent properties.
9. The following uses are permitted:
 - A. Agricultural uses:
 - *Crop production*
 - B. Commercial and business service uses:
 - *Catering Service*
 - C. Institutional and community service uses:
 - *Adult day care facility*
 - *Cemetery or mausoleum*
 - *Child care facility*
 - *Church*
 - *Community service center*
 - *Library, art gallery, or museum*
 - *Public or private school*
 - D. Miscellaneous uses:
 - *Temporary construction or sales office*
 - *Placement of fill material*

- E. Office uses:
- *Financial institution without drive-in window*
 - *Financial institution with drive-in window*
 - *Medical clinic or ambulatory surgical center*
 - *Office*
- F. Recreation uses:
- *Country club with private membership*
 - *Private recreation center, club or area*
 - *Public park, playground or golf course*
- G. Retail and personal service uses:
- *Dry cleaning or laundry store*
 - *Furniture store*
 - *General merchandise or food store 3,500 square feet or less*
 - *General merchandise or food store greater than 3,500 square feet*
 - *Home improvement center, lumber, brick or building materials, sales yard*
 - *Motor vehicle fueling station*
 - *Nursery, garden shop or plant sales*
 - *Personal service use*
 - *Restaurant without drive-in or drive-through service*
- H. Utility and public service uses:
- *Electrical substation*
 - *Local utilities*
 - *Police or fire station*
 - *Post office*
 - *Tower/antenna for cellular communication*
 - *Radio, television or microwave tower*
 - *Utility or government installation other than listed*

10. Retail and Personal Service Uses are limited to a floor area ratio of .35:1.00. Office uses are limited to a floor area ratio of .5:1.00.

III.

These restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the City Attorney. If the City Council approves an amendment or termination of these restrictions, the Owners must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at their sole cost and expense before the amendment or termination becomes effective.

V.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owners agree that these restrictions inure to the benefit of the City. The Owners hereby grant the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners agree that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

The Owners agree to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provision of this document.

VIII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owners who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

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IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

X.

The Owners understand and agree that this document shall be governed by the laws of the State of Texas.

XI.

The Owners certify and represent that there are no liens, other than liens for ad valorem taxes, against the Property if there are no signatures of lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared severable.

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EXECUTED this the 4th day of August, 1998.

JAMES M. HARRIS, TRUSTEE

James M Harris

GARDCOM, LTD. MONEY PURCHASE
PENSION PLAN & TRUST

By: *James M Harris*
Its: Trustee

CONSENT AND CONCURRENCE OF
LIENHOLDER:

Property Lienholder

By: _____
Title: _____

APPROVED AS TO FORM:

SAM A. LINDSAY, City Attorney

By: *Sam A Lindsay*
Assistant City Attorney

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STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 4, 1998, by James M. Harris, Trustee.



Stephanie Reese
Notary Public in and for the State of Texas

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on August 4, 1998, by James M. Harris, Trustee of Gardcom, Ltd. Money Purchase Pension Plan & Trust, on behalf of said Trust.



Stephanie Reese
Notary Public in and for the State of Texas

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EXHIBIT A

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LEGAL DESCRIPTION

BEING 12.324 acres of land located in the WILLIAM MILLER SURVEY, Abstract No. 883, and the J. McCants Survey, Abstract No. 885 Dallas, Denton County, Texas and being a portion of the 280.36 acre tract of land conveyed to Charles C. McKamy, by the deed recorded in Volume 157, Page 104 of the Deed Records of Denton County, Texas. Said 12.324 acres being more particularly described by metes and bounds, as follows:

BEGINNING at a 1/2" iron rod found at the Northwest corner of said 280.36 acre tract also being the Northeast corner of Block 1/8751 North Central Dallas Housing Opportunity Addition to the City of Dallas, Denton County, Texas according to the plat recorded in Cabinet H, Page 135 of the Map Records of Denton County, Texas.

THENCE S 89° 25' 34" E 595.83 feet along the North boundary line of said 280.36 acre tract to a 1/2" iron rod found at the Northwest corner of the tract of land conveyed to James J. Hartnett, Sr. by the deed recorded in County Clerks File No. 94-R0082511 of the deed records of Denton County, Texas;

THENCE S 00° 32' 11" E 872.65 feet along the West boundary line of said Hartnett Tract to a 1/2" iron rod set in the North right-of-way line of Frankford Road (a 100 foot right-of-way);

THENCE Along the North right-of-way line of said Frankford Road, as follows:

1. S 89° 54' 27" W 45.61 feet, to a 5/8" iron rod found at the beginning of a curve to the left.
2. SOUTHWESTERLY 93.97 feet, along said curve to the left having a radius of 950.00 feet, a central angle of 05° 40' 03", and a chord bearing S 87° 04' 25" W 93.93 feet, to a 1/2" iron rod set at the end of said curve.
3. S 84° 14' 24" W 356.52 feet, to a 1/2" iron rod set at the beginning of a curve to the right.
4. SOUTHWESTERLY 106.83 feet, along said curve to the right having a radius of 850.00 feet, a central angle of 07° 12' 04", and a chord bearing S 87° 50' 25" W 106.76 feet, to a 1/2" iron rod set, in the West boundary line of aforesaid 280.36 acre tract;

THENCE N 00° 11' 43" W 923.26 feet, along the West boundary line of said 280.36 acre tract, being the East boundary line of Lot 1, Block W/8751 Springfield Apartments, an Addition to the City of Dallas, Denton County, Texas according to the plat recorded in Cabinet E, Slide 160, of the Map Records of Denton County, Texas and also the East boundary line of aforesaid North Central Dallas Housing Opportunity Addition to THE PLACE OF BEGINNING, containing 12.324 acres of land.

201956

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TERMINATION OF DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DENTON) KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned (collectively, "the Owner"), is the owner of the following described property ("the Property"), being in particular a tract of land out of the William Miller Survey, Abstract No. 883, part of City Block W/8751, City of Dallas ("City"), Denton County, Texas. The Owner of the Property is further described as follows:

McKamy Holdings, Ltd. (f/k/a as McKamy Creek Shopping Center, Ltd.), by (i) deed dated February 14, 2001, and recorded in Volume 4777, Page 725, in the Deed Records of Denton County, Texas, (ii) deed dated October 24, 2001, and recorded in Volume 4963, Page 1508, in the Deed Records of Denton County, Texas and (iii) deed dated May 2, 2002, and recorded in Volume 5084, Page 307 in the Deed Records of Denton County, Texas;

Bucker Investments, LLC, by deed dated December 28, 2016, and recorded under Instrument No. 2016-163618, in the Deed Records of Denton County, Texas;

City Credit Union, by deed dated October 18, 2010, and recorded under Instrument No. 2010-104774, in the Deed Records of Denton County, Texas; and

Armstrong Frankford 190, LLC, by deed dated July 26, 2007, and recorded under Instrument No. 2007-92536, in the Deed Records of Denton County, Texas.

The Property is more particularly described as follows:

Being all that certain lot, tract, or parcel of land situated in the William Miller Survey, Abstract Number 883, and the J. McCants Survey, Abstract Number 885, in the City of Dallas, Denton County, Texas and being part of that certain (called) 280.36 acre tract of land conveyed by deed from J.L. McKamy, et us, Annie McKamy, to Charles C. McKamy, as recorded in Volume 157, Page 104, Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the north boundary line of said 280.36 acre tract and in the proposed west right-of-way line of State Highway 190 (proposed 400' right-of-way), said point being N 88°48'22" W, 850.17 feet from an iron rod found, in the centerline of Marsh Lane, a public roadway, and in the east line of said John Smith Survey and in the west line of the William Larkin Survey, Abstract Number 755, Denton County, Texas, said iron rod being the southeast corner of that certain (called) 5.471 acre tract of land conveyed by deed from. Charles S.

McKamy to Charles L. McKamy, as recorded in Volume 557, Page 646, Deed Records of Denton County, Texas;

THENCE S 30°00'32" W, 405.65 feet along said west right-of-way line to a point for corner;

THENCE N 89°29'32" W, 528.07 feet to a point for corner;

THENCE S 00°30'28" W, 615.19 feet to a point in the proposed north right-of-way line of Frankford Road (proposed 100' right-of-way);

THENCE N 89°29'32" W, 186.15 feet along said proposed north right-of-way line to a point for corner;

THENCE N 00°03'16" E, 979.31 feet to a point in the north boundary line of said 280.36-acre tract;

THENCE S 88°42'22" E, 921.80 feet along said north boundary line to the PLACE OF BEGINNING.

SAVE AND EXCEPT any property, if any, south of the north line of Frankford Road (100 feet wide) as established by the Dallas City Council by Resolution No. 87-3834, dated December 2, 1987, such street being shown on City of Dallas Frankford Road Plans 311D-3407 as prepared by C.L. Moon and on file with the Chief City Surveyor of the City of Dallas, and same north line being the most northerly line described in an easement from Charles S. McKamy to the City of Dallas dated September 19, 1994, and recorded on October 8, 1996, at Document No. 96-R0071572 in the Document Records of Denton County, Texas.

II.

The Property was impressed with certain deed restrictions ("restrictions") as shown in an instrument dated September 4, 1998, signed by James J. Hartnett, P.C., Will Ford Hartnett and James J. Hartnett, Jr., and recorded in Volume 4199, Page 550, of the Deed Records of Denton County, Texas, a true and correct copy of which is attached to this instrument as Exhibit "A" and made a part of this instrument.

III.

The Owner does hereby terminate and release the following restrictions as they apply to the Property, to wit, such restrictions being all of the restrictions contained in instrument described in Section II above:

- I. No building will be located within thirty feet (30') of the north right-of-way line of Frankford Road.

2. A landscape buffer twenty-five feet (25') in width and containing at least a three foot (3') high grass or ground cover berm will be constructed and maintained adjacent to the north right-of-way line of Frankford Road. Said buffer shall contain at least fifty-five (55) 5-gal. shrubs. This area will contain 3 1/2" caliper Live Oak trees planted thirty feet (30') on center, except for driveway openings and visibility corner clips. Any protected tree, located in the landscape buffer, which is retained, shall count toward the required trees on a tree per tree basis. Said landscape buffer and Live Oak trees shall be installed prior to the issuance of a certificate of occupancy.
3. There shall not be more than one detached premise sign along Frankford Road. Said sign shall not exceed a maximum height of ten feet (10') and a maximum effective area of one hundred square feet (100-sq. ft.). This sign may be incorporated in the landscape buffer and located on said berm. Non-premise signs within five hundred feet (500') of the north right-of-way line of Frankford Road are prohibited and may only be located within one hundred feet (100') of the SH 190 right-of-way.
4. No building located within two hundred fifty feet (250') of the north right-of-way line of Frankford Road may exceed two (2) stories and thirty-six feet (36') in height.
5. No tower/antenna for cellular communications, except mounted cellular antenna may be located within two hundred fifty feet (250') of the existing northern right-of-way line of Frankford Road.
6. The maximum permitted floor area ratio for retail uses shall not exceed 0.35 to 1.00.
7. The maximum permitted floor area ratio for office uses shall not exceed 0.50 to 1.00.
8. Any roof mounted mechanical equipment must be screened.
9. Parking lot lights may not exceed twenty-two feet (22') in height and must be fitted with a shielded type of directional fixture to direct light onto the Property and away from adjacent properties.
10. No more than one drive-through restaurant shall be located within one hundred fifty feet (150') of the north right-of-way line of Frankford Road.
11. The only uses permitted on the Property are:
 - A. Agricultural uses:
 - Crop production
 - B. Commercial and business service uses:
 - Catering Service
 - C. Institutional and community service uses:

- Adult day care facility
- Cemetery or mausoleum
- Child-care facility
- Church
- Community service center
- Library, art gallery, or museum
- Public or private school

D. Miscellaneous uses:

- Temporary construction or sales office
- Placement of fill material

E. Office uses:

- Financial institution without drive-in window
- Financial institution with drive-in window
- Medical clinic or ambulatory surgical center
- Office

F. Recreation uses:

- Country club with private membership
- Private recreation center, club or area
- Public park, playground, or golf course

G. Retail and personal service uses:

- Auto service center only in conjunction with a motor vehicle fueling station
- Car wash only in conjunction with a motor vehicle fueling station
- Dry cleaning or laundry store
- Furniture Store
- General merchandise or food store 3,500 square feet or less
- General merchandise or food store greater than 3,500 square
- Home improvement center, lumber, brick or building materials sales yard
- Motor vehicle fueling station
- Nursery, garden shop, or plant sales
- Personal service use
- Restaurant without drive-in or drive-through service
- Restaurant with drive-through service.

H. Utility and public service uses:

- Electrical substation
- Local utilities
- Police or fire station
- Post office
- Radio, television, or microwave tower

- Tower/antenna for cellular communication
- Utility or government installation other than listed

IV.

The above termination was made following a public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings was given as would have been required by law for a zoning change on the Property. The Owner must file this instrument in the Deed Records of the county or counties where the Property is located at his or her sole cost and expense before the termination becomes effective.

V.

The termination of these restrictions is not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

THE OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS TERMINATION.

VII.

Unless stated otherwise in this instrument, the definitions and provisions of Chapter 51A of the Dallas City Code, as amended, apply and are incorporated into this instrument as if recited in this instrument.

VIII.

The Owner certifies and represents that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgagees or lienholders subscribed below.

IX.

The invalidation of any provision in this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED at the City of Dallas, Dallas county, this the 9th day of December 2020

[Signatures Follow]

[Owner Signatures Attached on Following Pages]

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Owner
By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:
Christopher J. Caso, City Attorney

By: Casey Buzen
Assistant City Attorney

[Attach an acknowledgment for each signer]

Armstrong Signature Page
Termination of Deed Restrictions

ARMSTRONG FRANKFORD 190, LLC,
a Texas limited liability company

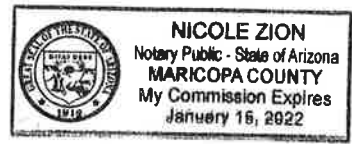
By: Gustine Investments, Inc., its Majority Member

By: [Signature]
Name: Kevin Parker
Title: President

Arizona
STATE OF PENNSYLVANIA §
Maricopa §
COUNTY OF BUTLER §

The foregoing instrument was acknowledged before me on the 24th day of November, 2020, by Kevin Parker, President of Gustine Investments, Inc., Majority Member of Armstrong Frankford 190, LLC, a Texas limited liability company, on behalf of said limited liability company.

[Signature]
Notary Public in and for the State of
My Commission expires: 1/15/2022



Deed Rest
CR ord 23647

201956

COUNCIL CHAMBER

982648

September 9, 1998

WHEREAS, the deed restrictions in the attached instrument have been volunteered in conjunction with a request for a CR Community Retail District which was approved by the City Council on September 9, 1998, on Zoning Case No. Z978-174/10525-NC(KC) on property on the north side of Frankford Road, east of Kelly Boulevard; and

WHEREAS, said deed restrictions have been approved as to form; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the deed restrictions set forth in the attached instrument be and are hereby accepted by the City Council of the City of Dallas, Texas, to be used in conjunction with the development of property zoned a CR Community Retail District as described in Ordinance No. 23647

Section 2. That said deed restrictions shall be filed in the Deed Records of Denton County, Texas.

Section 3. That this resolution shall take effect from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

ANGELA K. WASHINGTON, Interim City Attorney

By [Signature]
Assistant City Attorney

**APPROVED BY
CITY COUNCIL**

SEP 09 1998

[Signature]
City Secretary

APPROVED

HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

CITY MANAGER

DEED RESTRICTIONS

THE STATE OF TEXAS)
)
COUNTY OF DENTON)

KNOW ALL PERSONS BY THESE PRESENTS:

I.

The undersigned, James J. Hartnett, P.C., a Texas Professional Corporation, Will Ford Hartnett, individually, and James J. Hartnett, Jr., individually, ("the Owners") are the owners of the following described property ("the Property"), being in particular a tract of land out of the William Miller Survey, Abstract No. 883, City Block 8751, City of Dallas ("City"), Denton County, Texas, and which is comprised of the same tract of land conveyed to James J. Hartnett, P.C., a Texas Professional Corporation by substitute trustee's deed dated November 1, 1994 and recorded in the Deed Records of Denton County, Texas, County Clerk No. 94-R0082511, a portion of which was conveyed to Will Ford Hartnett, individually, by James J. Hartnett, P.C., by General Warranty Deed dated November 14, 1996, and recorded in the Deed Records of Denton County, Texas, County Clerk No. 96-R0081533, and a portion of which was conveyed to James J. Hartnett, Jr., individually, by James J. Hartnett, P.C., by General Warranty Deed dated January 15, 1997, and recorded in the Deed Records of Denton County, Texas, County Clerk No. 97-R0067954, and being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes.

II.

The Owners do hereby impress all of the Property with the following deed restrictions ("restrictions"), to wit:

1. No building will be located within thirty feet (30') of the north right-of-way line of Frankford Road.
2. A landscape buffer twenty-five feet (25') in width and containing at least a three foot (3') high grass or ground cover berm will be constructed and maintained adjacent to the north right-of-way line of Frankford Road. Said buffer shall contain at least fifty-five (55) 5-gal. shrubs. This area will contain 3 1/2" caliper Live Oak trees planted thirty feet (30') on center, except for driveway openings and visibility corner clips. Any protected tree, located in the landscape buffer, which is retained, shall count toward the required trees on a tree per tree basis. Said landscape buffer and Live Oak trees shall be installed prior to the issuance of a certificate of occupancy.
3. There shall not be more than one detached premise sign along Frankford Road. Said sign shall not exceed a maximum height of ten feet (10') and a maximum effective area of one hundred square feet (100-sq. ft.). This sign may be incorporated in the landscape buffer and located on said berm. Non-premise signs within five hundred feet (500') of the north

right-of-way line of Frankford Road are prohibited and may only be located within one hundred feet (100') of the SH 190 right-of-way.

4. No building located within two hundred fifty feet (250') of the north right-of-way line of Frankford Road may exceed two (2) stories and thirty-six feet (36') in height.
5. No tower/antenna for cellular communications, except mounted cellular antenna may be located within two hundred fifty feet (250') of the existing northern right-of-way line of Frankford Road.
6. The maximum permitted floor area ratio for retail uses shall not exceed 0.35 to 1.00.
7. The maximum permitted floor area ratio for office uses shall not exceed 0.50 to 1.00.
8. Any roof mounted mechanical equipment must be screened.
9. Parking lot lights may not exceed twenty-two feet (22') in height and must be fitted with a shielded type of directional fixture to direct light onto the Property and away from adjacent properties.
10. No more than one drive-through restaurant shall be located within one hundred fifty feet (150') of the north right-of-way line of Frankford Road.
11. The only uses permitted on the Property are:
 - A. Agricultural uses:
 - *Crop production*
 - B. Commercial and business service uses:
 - *Catering Service*
 - C. Institutional and community service uses:
 - *Adult day care facility*
 - *Cemetery or mausoleum*
 - *Child-care facility*
 - *Church*
 - *Community service center*
 - *Library, art gallery, or museum*
 - *Public or private school*
 - D. Miscellaneous uses:
 - *Temporary construction or sales office*
 - *Placement of fill material*
 - E. Office uses:
 - *Financial institution without drive-in window*
 - *Financial institution with drive-in window*
 - *Medical clinic or ambulatory surgical center*

– *Office*

F. Recreation uses:

- *Country club with private membership*
- *Private recreation center, club or area*
- *Public park, playground, or golf course*

G. Retail and personal service uses:

- *Auto service center only in conjunction with a motor vehicle fueling station*
- *Car wash only in conjunction with a motor vehicle fueling station*
- *Dry cleaning or laundry store*
- *Furniture Store*
- *General merchandise or food store 3,500 square feet or less*
- *General merchandise or food store greater than 3,500 square*
- *Home improvement center, lumber, brick or building materials sales yard*
- *Motor vehicle fueling station*
- *Nursery, garden shop, or plant sales*
- *Personal service use*
- *Restaurant without drive-in or drive-through service*
- *Restaurant with drive-through service.*

H. Utility and public service uses:

- *Electrical substation*
- *Local utilities*
- *Police or fire station*
- *Post office*
- *Radio, television, or microwave tower*
- *Tower/antenna for cellular communication*
- *Utility or government installation other than listed*

III.

These restrictions shall continue in full force and effect for a period of twenty (20) years from the date of execution, and shall automatically be extended for additional periods of ten (10) years unless amended or terminated in the manner specified in this document.

IV.

These restrictions may be amended or terminated only after public hearing before the City Plan Commission and a public hearing before and approval by the City Council of the City. Notice of the public hearings must be given as would be required by law for a zoning change on the Property. The amending or terminating instrument must be approved as to form by the city attorney. If the City Council approves an amendment or termination of these restrictions, the

Owners must then file the amending or terminating instrument in the Deed Records of the county or counties where the Property is located at their sole cost and expense before the amendment or termination becomes effective.

V.

These restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

The Owners agree that these restrictions inure to the benefit of the City. The Owners hereby grant the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against the person violating or attempting to violate these restrictions, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce these restrictions, the Owners agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs. For further remedy, the Owners agree that the City may withhold any certificate of occupancy or final inspection necessary for the lawful use of the Property until these restrictions are complied with. The right of the City to enforce these restrictions shall not be waived, expressly or otherwise.

VII.

The provisions of this document are hereby declared covenants running with the land and are fully binding on all successors, heirs, and assigns of the Owners who acquire any right, title, or interest in or to the Property, or any part thereof. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

VIII.

The Owners agree to defend, indemnify, and hold harmless the City from and against all claims or liabilities arising out of or in connection with the provisions of this document.

IX.

Unless stated otherwise in this document, the definitions and provisions of CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," as amended, apply and are incorporated into this document as if recited in this document.

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X.

The Owners understand and agree that this document shall be governed by the laws of the State of Texas.

XI.

The Owners certify and represent that there are no mortgages or liens, other than liens for ad valorem taxes, against the Property if there are no signatures of mortgages or lienholders subscribed below.

XII.

The invalidation of any provision of this instrument by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED this the 4th day of SEPT, 1998.

JAMES J. HARTNETT, P.C.,
a Texas Professional Corporation
OWNER

By: 

Printed Name: JAMES J. HARTNETT

Title: PRESIDENT

WILL FORD HARTNETT
OWNER

By: 

JAMES J. HARTNETT, JR.
OWNER

By: 

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ANNE PERREAULT HARTNETT
OWNER

By: Anne Hartnett 9/4/98

CONSENT AND CONCURRENCE OF
LIENHOLDER OR MORTGAGEE

Property Lienholder

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM:

ANGELA K. WASHINGTON, Interim City Attorney

By: Angela K. Washington
Assistant City Attorney

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STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by
(month)

James J. Hartnett, Jr.

(SEAL)

Donna Lynn Spencer

Notary Public

My commission expires:

Donna Lynn Spencer
(date)

3-31-01

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STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by
James J. Hartnett as President of JAMES J. HARTNETT,
P.C., a/an Texas professional corporation, on behalf of said corporation.

(SEAL)

Donna Lynn Spiveck

Notary Public

My commission expires:

3-31-01

Donna Lynn Spiveck
(date)

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STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4th day of September by
(month)
Will Ford Hartnett.

(SEAL)

Denise Lynn Spencer

Notary Public

My commission expires:
3-31-01

Denise Lynn Spencer
(date)

201956
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STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on this 4 day of September by
(month)
Anne Perreault Hartnett.

(SEAL)

Debra Lynn Spencer

Notary Public

My commission expires:

3-31-01

Debra Lynn Spencer
(date)

EXHIBIT A

Legal Description

Being all that certain lot, tract, or parcel of land situated in the William Miller Survey, Abstract Number 883, and the J. McCants Survey, Abstract Number 885, in the City of Dallas, Denton County, Texas and being part of that certain (called) 280.36 acre tract of land conveyed by deed from J.L. McKamy, et us, Annie McKamy, to Charles C. McKamy, as recorded in Volume 157, Page 104, Deed Records of Denton County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the north boundary line of said 280.36 acre tract and in the proposed west right-of-way line of State Highway 190 (proposed 400' right-of-way), said point being N 88°48'22" W, 850.17 feet from an iron rod found in the centerline of Marsh Lane, a public roadway, and in the east line of said John Smith Survey and in the west line of the William Larkin Survey, Abstract Number 755, Denton County, Texas, said iron rod being the southeast corner of that certain (called) 5.471 acre tract of land conveyed by deed from Charles S. McKamy to Charles L. McKamy, as recorded in Volume 557, Page 646, Deed Records of Denton County, Texas;

THENCE S 30°00'32" W, 405.65 feet along said west right-of-way line to a point for corner;

THENCE N 89°29'32" W, 528.07 feet to a point for corner;

THENCE S 00°30'28" W, 615.19 feet to a point in the proposed north right-of-way line of Frankford Road (proposed 100' right-of-way);

THENCE N 89°29'32" W, 186.15 feet along said proposed north right-of-way line to a point for corner;

THENCE N 00°03'16" E, 979.31 feet to a point in the north boundary line of said 280.36-acre tract;

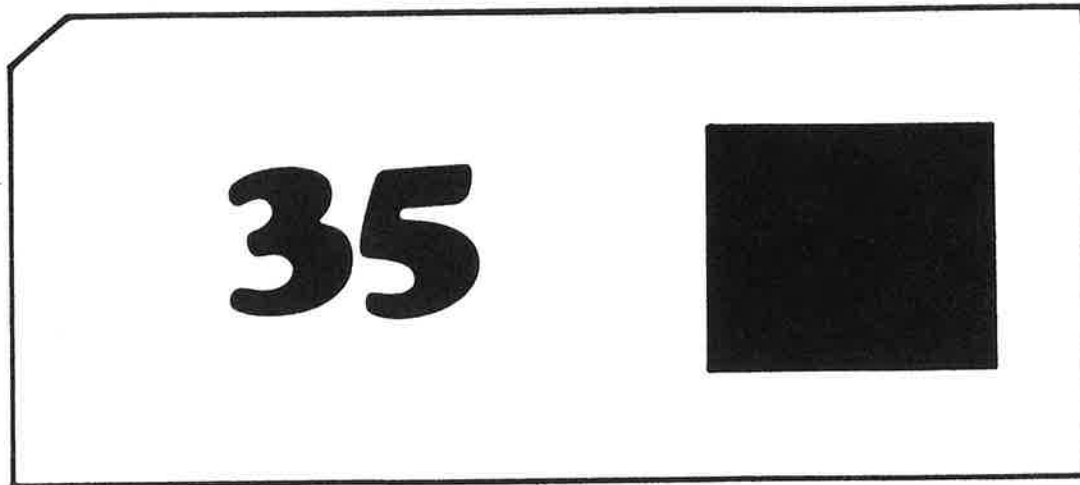
THENCE S 88°42'22" E, ^{921.80}~~1021.81~~ feet along said north boundary line to the PLACE OF BEGINNING ~~and containing approximately 9.429 acres of land;~~

SAVE AND EXCEPT any property, if any, south of the north line of Frankford Road (100 feet wide) as established by the Dallas City Council by Resolution No. 87-3834, dated December 2, 1987, such street being shown on City of Dallas Frankford Road Plans 311D-3407 as prepared by C.L. Moon and on file with the Chief City Surveyor of the City of Dallas, and same north line being the most northerly line described in an easement from Charles S. McKamy to the City of Dallas dated September 19, 1994, and recorded on October 8, 1996, at Document No. 96-R0071572 in the Document Records of Denton County, Texas.

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NOTICE



THIS FILE INCLUDES ONE OR MORE 35MM APERTURE CARDS