

# Memorandum



DATE February 13, 2009

TO Members of the Economic Development Committee:  
Ron Natinsky (Chair), Tennell Atkins (Vice Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane, Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT Convention Center Hotel Developer Agreement

Pursuant to City Council Action on December 10, 2008, City staff has finalized the Hotel Developer Agreement in substantially the same form as briefed to the Economic Development Committee on December 5, 2008.

The Agreement formalizes the following:

- Scope, quality and price of Hotel Project Budget
- Guaranteed maximum price
- Developer Responsibilities
- BID compliance
- Construction Schedule
- Other legal requirements
  - Bonding and insurance requirements
  - Termination provisions
  - Remedies
  - Liquidated Damages
  - Approvals
  - Defaults
  - Indemnification

Project scope remains at 1,000 hotel rooms with 720 parking spaces with restaurants, pool, spa and exercise facilities consistent with a high quality hotel. Since December 2008, the project design for meeting and ballroom space has been refined with input from our recommended hotel operator. The adjusted net functional meeting space is over 80,000 sf inclusive of a grand ballroom and junior ballroom. While the amount of functional meeting and ballroom space has been reduced from what has been previously presented, our recommended hotel operator believes the meeting and ballroom configuration as reflected in the schematic design drawings reflects the optimum efficiency and profitability under their business model for this property.

Further, recognizing the need to improve and expand meeting space in the convention center, staff is reviewing a number of options including finish out of space in the D and E wing of the center as well as other locations in the complex to improve the current deficiencies of meeting room to exhibit hall ratios in our center. One of the goals for restructuring of convention center debt was to identify capital funds to be used for much needed capital improvements in our center. The debt restructuring was recently completed resulting in \$59.0m in capital funds. Staff has been coordinating with our Dallas Convention Bureau and facility users to ensure the meeting and ballroom opportunities are maximized for our customers.

The Hotel Developer Agreement between the Dallas Convention Center Hotel Development Corporation (LGC) and Matthews Holdings Southwest, Inc (MSW) sets terms to which MSW will design, develop, construct, equip, furnish and complete the Convention Center Hotel Project within a \$346,055,154 Hotel Project Budget, including developer fee of 2.58%. This amount represents approximately \$10 million of savings from the Guaranteed Maximum Price (GMP) previously briefed to the committee.

The Hotel Developer Agreement provides for a 28 month construction schedule as well as incentives for early achievement of substantial completion, with appropriate penalties for failure to deliver a substantially completed project within the prescribed 28 month construction schedule. In addition, incentives are available to the developer/builder to strive for cost savings throughout the construction process without sacrificing quality or negatively impact the recommended hotel operator brand standards as well as our overall design objective for a four-star quality hotel.

MSW has complied with inclusion goals throughout the pre-development work. The Hotel Developer Agreement continues MSW's commitment for MWBE and local small business (MWBE/SBE) participation in the Hotel project. Commitment to achievement of MWBE goals is part of the Hotel Developer Agreement.

- Project specific goal for design and construction has been set at 30%
  - Higher than BID program construction goal of 25% and A&E goal of 25.66%
  - Can set higher because study areas include counties outside Dallas County, some non-Dallas County firms will count towards achievement of goals
- These goals cover all phases except utility work done by Oncor, performance bonding expense, building permits, and insurance costs

The Hotel Developer Agreement provides for the design of a LEEDS Silver hotel project.

City staff has reviewed insurance requirements for this project and determined a contractor controlled insurance program (CCIP) is best course. This program allows the City:

- To put cost control responsibility to contractor, and removes liability for claims or their impact
- To oversee insurance availability and removes barriers for small and MWBE firms
- Further, the program will include:
  - Administration of all facets of program including reporting, review of loss and cost projections, and review of premium costs
  - Prompt payment for claims requirement
  - Workers' compensation medical cost containment
  - Return-to-work programs
  - Comprehensive loss prevention and safety programs
  - Subcontractor enrollment process to ease administrative burden of contractors

The agreement also provides for an arrangement with MSW, other partners and the City of Dallas for the development of the properties proximate to the Hotel. Since the arrangement involves other properties than the Hotel Tract, we will present the information in executive session at the appropriate time.

Pursuant to the Hotel Developer Agreement, MSW agrees to enter into a guaranteed maximum price Design/Build GMP Contract on agreed terms and conditions, subject to such modifications as are acceptable to MSW and the LGC, with Balfour/Russell/Pegasus (Contractor) for the design, construction and equipping of the Hotel Project within the Hotel Project Budget and by the

Hotel Project Completion Date. The Design/Build GMP Contract will contain standard city contract provisions, such as compliance with the SBE and MWBE Policies, OSHA, ADA and prevailing wage rates, performance/payment bonds, insurance requirements and liquidated damages in the event of project delays, and indemnities. MSW and its Contractor will be responsible for Hotel Project costs in excess of the Design/ Build GMP Contract, unless such costs are the result of delays in the Hotel Project Completion Date or increases in the GMP attributable to (1) a change order by the LGC increasing Hotel Project scope (and not offset by other Hotel Project scope reductions or project savings), (2) unreasonable delays by the LGC in making required payments or approving hotel design/project submissions, or (3) agreements between the LGC and third parties that materially adversely affect the Hotel Project Completion Date or Hotel Project Budget. The LGC will be responsible for the Hotel Project costs attributable to subsurface or environmental issues in excess of certain budgeted amounts in the Design/Build GMP Contract set aside for such purpose.

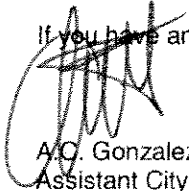
MSW and Contractor have incentives pursuant to the Hotel Developer Agreement to complete the Hotel Project early and within/under budget.

Early Completion Incentive: The Hotel Developer Agreement provides that in the event MSW and its Contractor substantially complete the Hotel Project earlier than the Hotel Completion Date (28 months after the hotel bond financing date), the LGC, MSW and Contractor will share equally (1/3, 1/3, 1/3) in the capitalized interest cost savings on the hotel bonds that result from such early completion (not to exceed 60 days of capitalized interest cost savings).

Completion Within/Under Budget Incentive: If the Hotel Project is completed within the Design/Build GMP costs and amounts remain in the Contingency Fund, the remaining contingency funds up to the Budgeted Contingency Fund Amount belongs to the MSW and Contractor, provided the Hotel Project is completed by the Hotel Completion Date, subject to force majeure delays. If, however, the Hotel Project is delayed, the LGC is entitled to remaining funds in the Contingency Fund to pay the LGC's bond interest costs as a result of the project delay. Any remaining amounts in the Contingency Fund belong to MSW and Contractor, up to the Budgeted Contingency Fund Amount.

Owner Savings: LGC shares on an equal basis in the early completion incentive as stated above. The LGC also receives all savings as a result of Hotel Project scope changes and savings from the final Design/Build GMP Contract. In addition, if amounts remaining in the Contingency Fund exceed the Budgeted Contingency Fund Amount, those excess contingency funds belong to the LGC.

If you have any questions, please do not hesitate to contact me.



A.C. Gonzalez  
Assistant City Manager

c:     The Honorable Mayor and Members of the City Council  
       Mary K. Suhm, City Manager  
       Deborah Watkins, City Secretary  
       Tom Perkins, City Attorney  
       Craig Kinton, City Auditor  
       Judge C. Victor Lander, Judiciary  
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       Jill A. Jordan, P.E., Assistant City Manager  
       Jeanne Chipperfield, Interim Director, Office of Financial Services  
       Dave Cook, Chief Financial Officer  
       Karl Zavitkovsky, Director, Office of Economic Development  
       Hammon Perot, Assistant Director, Office of Economic Development  
       Frank Poe, Director, Convention & Event Services  
       Helena Stevens-Thompson, Assistant to the City Manager



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Subject: Historic Preservation Tax Incentive - 501 2<sup>nd</sup> Avenue

On January 5, 2009 the Landmark Commission recommended approval of a ten year 100% tax exemption for the Hickory Street Annex. The Historic Preservation Tax Incentive Program offers tax exemptions to historic properties that have undergone or are currently undergoing rehabilitation. The Hickory Street Annex is a historic Gulf Oil distribution depot that was constructed in 1921. The Historic Tax Incentive Program was reviewed and approved by the Dallas City Council on November 26, 2007. This application complies with all requirements of that program. The Code requires City Council approval for any exemption over \$50,000. The City Council may approve or deny any portion of the exemption over \$50,000. This request is for approximately \$105,000 over ten years.

The application has been submitted by Kaelson Company Properties, Inc. The "Based on Major Rehab" exemption allows for up to a 100% exemption of the city portion of the property taxes for up to a ten year period. To qualify for this exemption, the cost of rehabilitation must exceed 75 percent of the pre-rehabilitation value of the structure. Prior to the initiation of the tax exemption, verification of expenditures is required.

The 2008 DCAD appraised value of the Hickory Street Annex is \$914,660, with an improvement value of \$227,250 and land value of \$687,410. The applicant is planning on investing approximately \$500,000 into the property to redevelop the complex into retail and office use. To date, they have already completed work on the electrical, foundation, plumbing, painting and roofing.

### FISCAL INFORMATION

Revenue: First year tax revenue foregone estimated at \$10,580 (Estimated revenue foregone over ten years is \$105,802)

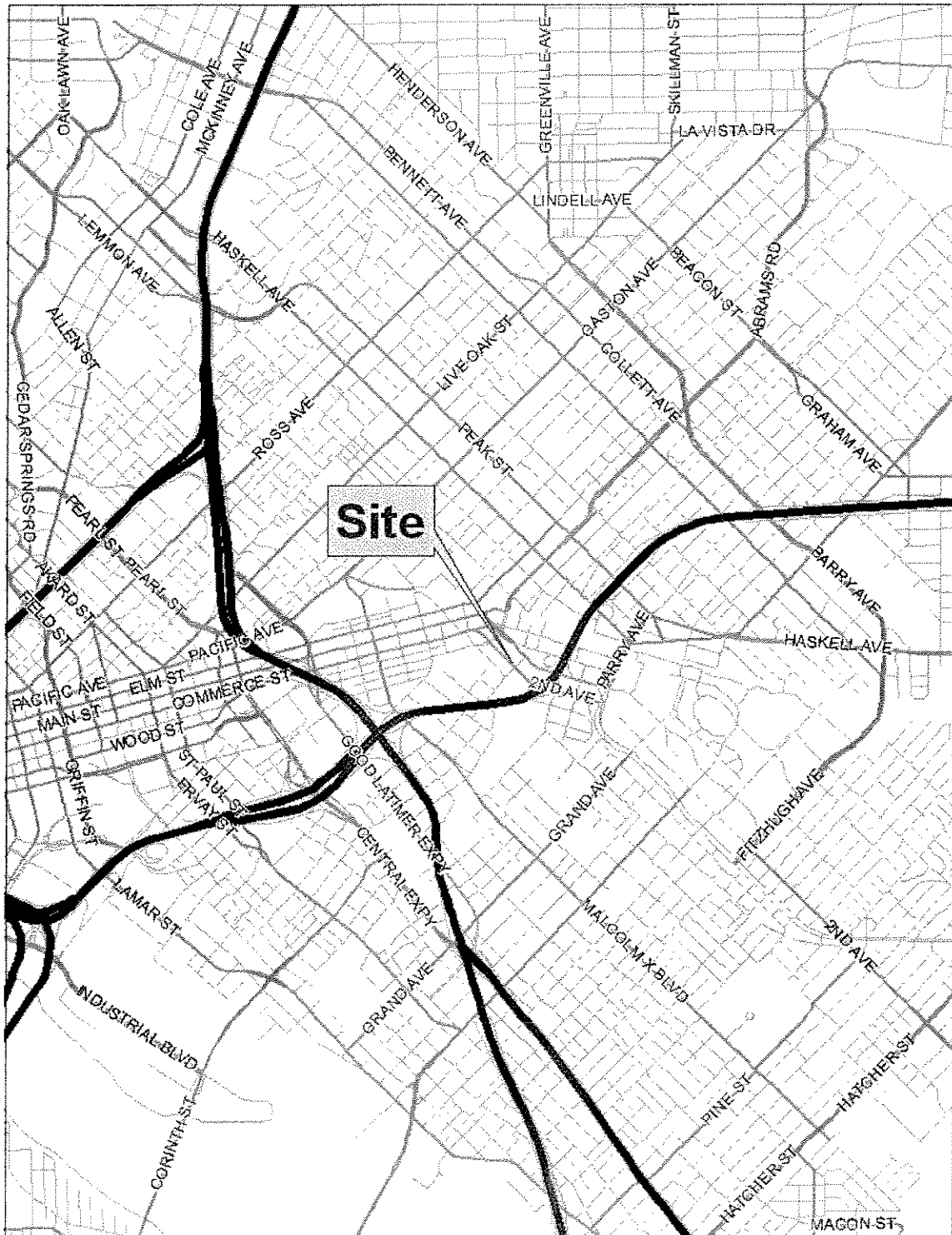
**MAP**

Attached

A handwritten signature in black ink, appearing to be 'A.C. Gonzalez', written over a circular stamp or seal.

A.C. Gonzalez  
Assistant City Manager

c: The Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
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Subject: Historic Preservation Tax Incentive - 507 S. Harwood

On November 3, 2008 the Landmark Commission recommended approval of a ten year 100% tax exemption for the Masonic Temple. The Historic Preservation Tax Incentive Program offers tax exemptions to historic properties that have undergone or are currently undergoing rehabilitation. The Masonic Temple is an Art Moderne building that was built in 1941. The Historic Tax Incentive Program was reviewed and approved by the Dallas City Council on November 26, 2007. This application complies with all requirements of that program. The Code requires City Council approval for any exemption over \$50,000. The City Council may approve or deny any portion of the exemption over \$50,000. This request is for approximately \$77,307 over ten years.

An application has been submitted by Lloyd Chance on behalf of the Masonic Lodge Corporation. The "Based on Major Rehab" exemption allows for up to a 100% exemption of the city portion of the property taxes for up to a ten year period. To qualify for this exemption, the cost of rehabilitation must exceed 75 percent of the pre-rehabilitation value of the structure. Prior to the initiation of the tax exemption, verification of expenditures is required.

The 2008 DCAD appraised value of the Masonic Lodge is \$1,028,800, with an improvement value of \$1,000 and land value of \$1,027,800. Due to the nature of the organization, they are not currently planning any large scale rehabilitation on the property. However, they have made repairs to the entryway. The organization hopes that the relief from taxes can lift a burden from the organization allowing them to continue their philanthropic efforts within the community.

### **FISCAL INFORMATION**

Revenue: First year tax revenue foregone estimated at \$7,731 (Estimated revenue foregone over ten years is \$77,307)

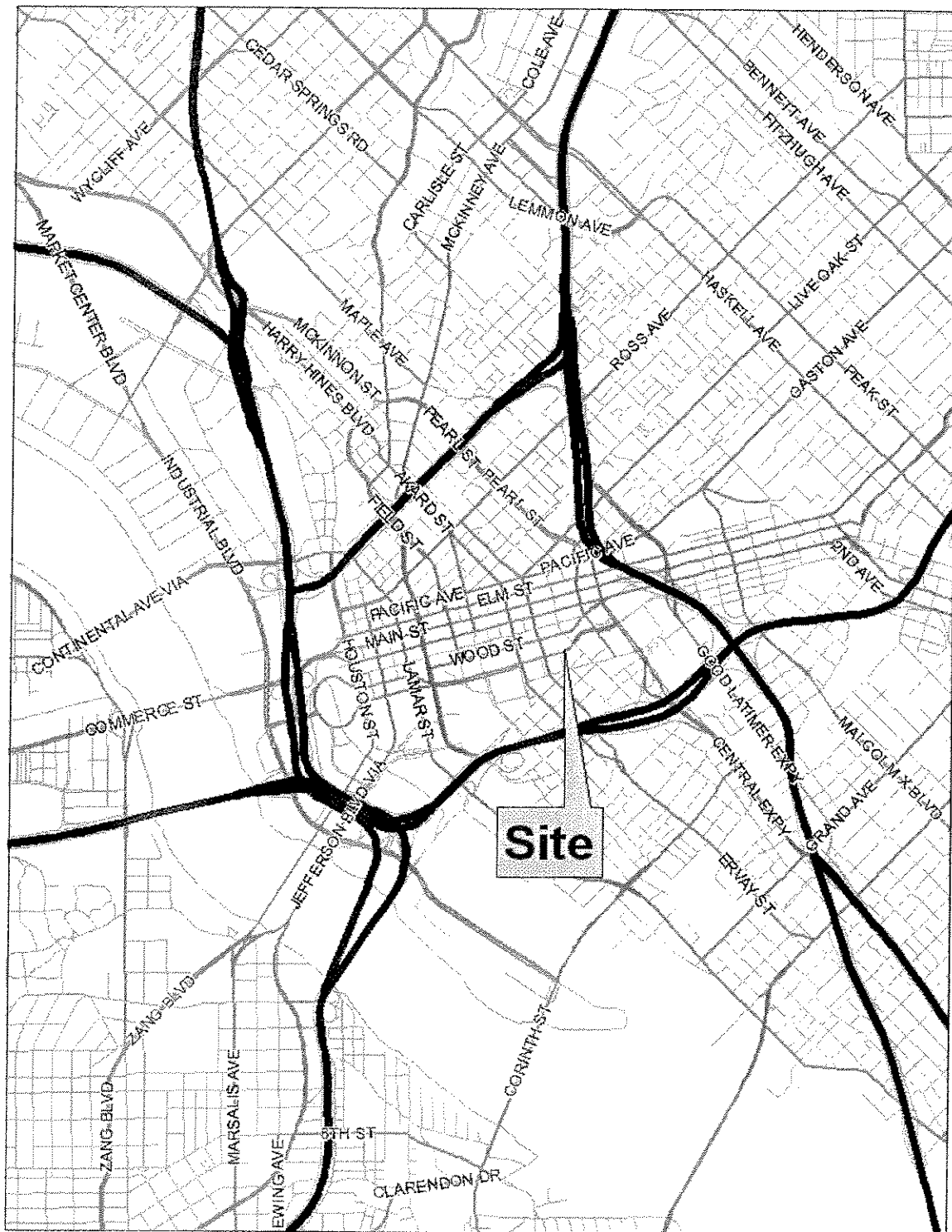
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Assistant City Manager

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Subject: Historic Preservation Tax Incentive - for 1611 McKinney Avenue

On January 5, 2009 the Landmark Commission recommended approval of a ten year 100% tax exemption for the Luna Tortilla factory. The Historic Preservation Tax Incentive Program offers tax exemptions to historic properties that have undergone or are currently undergoing rehabilitation. The Luna Tortilla Factory, built in 1938, is the last remaining business from little Mexico, Dallas's earliest Hispanic neighborhood. The Historic Tax Incentive Program was reviewed and approved by the Dallas City Council on November 26, 2007. This application complies with all requirements of that program. The Code requires City Council approval for any exemption over \$50,000. The City Council may approve or deny any portion of the exemption over \$50,000. This request is for approximately \$190,789 over ten years.

An application has been submitted by Triton Downtown, LLC. The "Endangered Property" exemption allows for up to a 100% exemption of the city portion of the property taxes for up to a ten year period. To qualify for this exemption, the cost of rehabilitation must exceed 25 percent of the pre-rehabilitation value of the structure. The Landmark Commission determined that this application should be treated as an "Endangered Property" because the building faces increasing pressure from the development occurring in the immediate area and a sharp rise in property values. In addition, the Luna Tortilla Factory was included on Preservation Dallas' 11 Most Endangered Properties list in 2008.

The 2008 DCAD appraised value of the Luna Tortilla Factory is \$1,801,000, with an improvement value of \$1,000 and land value of \$1,800,000. The applicant is planning on investing approximately \$750,000 into the property. Currently, the building is vacant, and the applicant has proposed to renovate the historic building for commercial use. Prior to the initiation of the tax exemption, verification of expenditures is required.

### FISCAL INFORMATION

Revenue: First year tax revenue foregone estimated at \$19,079 (Estimated revenue foregone over ten years is \$190,789)

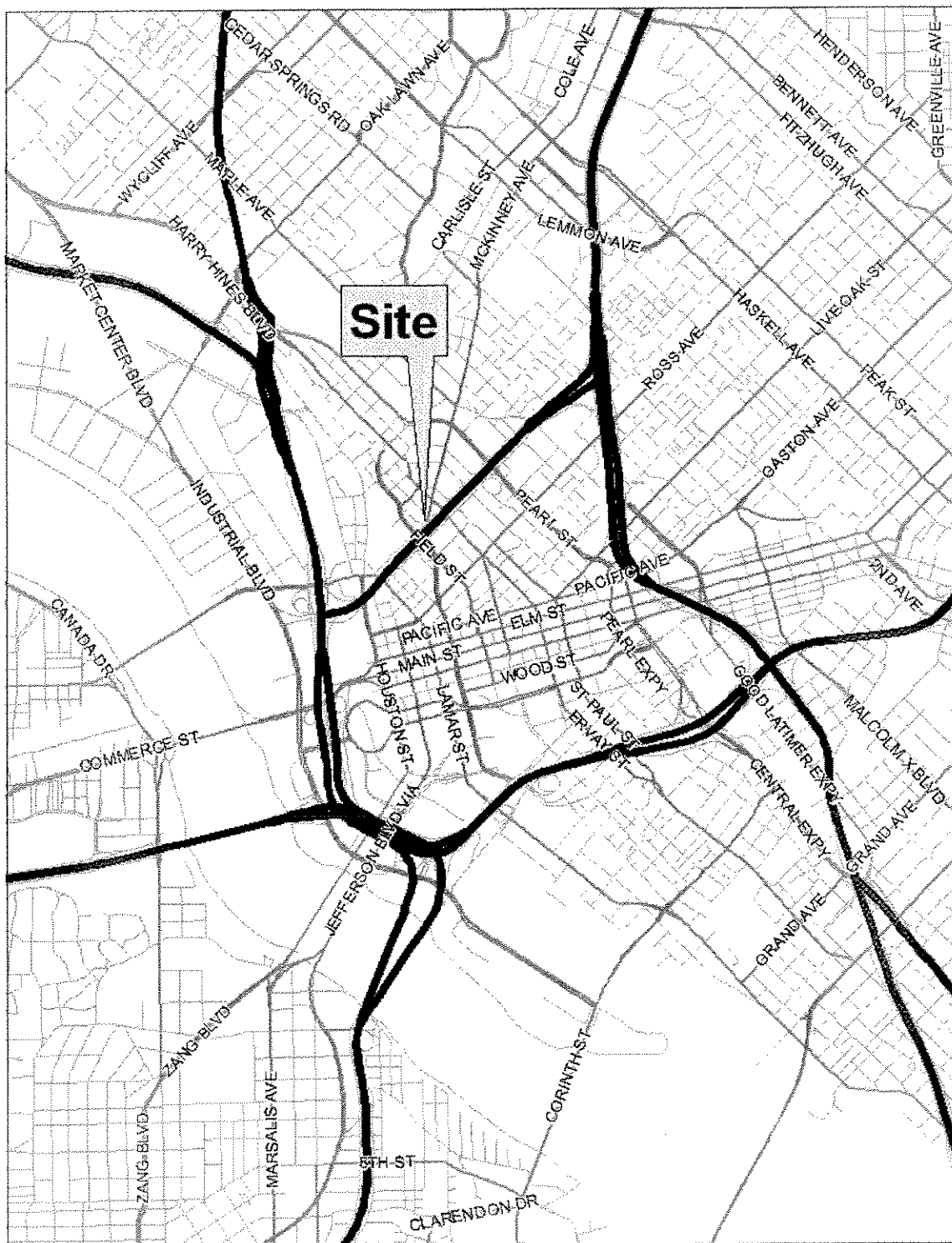
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Subject: Proposed Amendments to the Landmark Commission's Rules of Procedure

On June 2, 2008, the Landmark Commission approved the proposed amendments to their Rules of Procedure. Chapter 51A-3.103(d)(4) of the Dallas Development Code allows for the Landmark Commission to adopt subject to City Council Approval, rules governing its proceedings. The rule revisions are proposed to ensure they match current language of the Dallas Development Code, the City Charter, City Code and State law. The proposed amendments pertain to duties of the chair, quorum, hearings, attendance, the creation of task forces and committees.

### FISCAL INFORMATION

No cost consideration to the City.

### COUNCIL DISTRICT

All

### STAFF

Theresa O'Donnell, Director

### RECOMMENDATION

On June 2, 2008, the Landmark Commission approved the proposed amendments to their Rules of Procedure.

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LANDMARK COMMISSION  
RULES OF PROCEDURE  
(Revised *Insert date of approval* [9-1-05])

SECTION 1. AUTHORITY.

The Dallas City Code provides that the Landmark Commission may adopt rules to govern its proceedings that are not inconsistent with Chapter 8 of that code or state law. These Rules of Procedure establish guidelines to be followed by all persons at a meeting of the Commission, including members of the Commission, administrative staff, news media, and visitors. [City Code, Ch. 51A, Sec. 51A-3.103(d)(4)].

SECTION 2. INTERPRETATION. Unless the context clearly indicates otherwise:

- (A) Words used in the present tense include the future tense.
- (B) Words in the singular include the plural, and words in the plural include the singular.
- (C) These rules apply to all task forces of the Commission.

SECTION 3. DEFINITIONS. Unless the context clearly indicates otherwise:

- (A) BRIEFING means a statement by city staff to the Commission during a meeting concerning a matter on the agenda.
- (B) COMMISSION means the Landmark Commission.
- (C) CHAIR means the presiding officer of the Commission.
- (D) MEETING means a regular, special, or called meeting of the Commission and includes all briefings and official inspection tours.
- (E) MEMBER means a duly appointed member of the Commission.
- (F) OFFICIAL INSPECTION TOUR means a scheduled site inspection on the Commission's meeting agenda.

SECTION 4. DUTIES OF THE CHAIR.

- (A) The chair, when present, shall preside at all meetings. In the absence of the chair, the vice-chair shall exercise the powers of the chair. In the absence of the chair and vice-chair, the Commission shall elect a temporary chair. If the presiding officer ceases to preside during a meeting, and no council-appointed vice-chair is present, the presiding officer may, subject to the approval of the Commission, appoint a temporary chair. The first adjournment puts an end to this appointment [~~or election of a temporary chair does not survive the meeting in which it is made~~]. ~~[[City Code, Ch. 8, Sec. 8-9.]]~~

- (B) A temporary chair may be removed by a two-thirds vote of the Commission. If the temporary chair is removed, a new temporary chair must be elected. This election does not survive the meeting in which it was held.
- (C) The chair shall rule on points of order and procedures that are brought up in meetings; however, a member may appeal to the Commission from a ruling of the chair. If the appeal is seconded, the member making the appeal may briefly explain the reason for the appeal and the chair may briefly explain the ruling; but there shall be no debate on the appeal, and no other member shall participate in the discussion. The chair shall then put the question "shall the decision of the chair be sustained?". If a majority of the members present vote "Aye," the ruling of the chair is sustained; otherwise it is overruled. [City Code, Ch. 8, Secs. 8-9(b) and 8-15.]
- (D) In debate, the chair shall be referred to by official title and shall be addressed by prefixing Mr. or Madam, as the case may be, to that title. [City Code, Ch. 8, Sec. 8-9(d).]
- (E) The chair shall conduct each vote in accordance with Section 11 of these rules.
- (F) The chair shall dispense the business of the Commission in a just and orderly manner, including signing the minutes of each meeting and each certificate of appropriateness in accordance with the decision of the Commission.

#### SECTION 5. MOTIONS.

- (A) Equal right to make motions. All members shall have an equal right to make a motion on any matter before the Commission.
- (B) Holding motions. When recognized by the chair, a member may state a readiness to make a motion. It is the privilege of the chair, if the chair thinks debate is not ended, to ask the member to hold the motion. The member may defer to the chair's request or make the motion at the member's option. If the recognized member defers to the request, the chair must return to that member prior to accepting a motion from any other member.
- (C) Reconsideration.
  - (1) Unless an item is referred back to the Commission by the City Plan Commission or City Council, a motion to reconsider is the exclusive method by which a matter can again be brought before the Commission after a final vote has been taken. A motion to reconsider any action of the Commission can be made not later than the next succeeding meeting. Such a motion can only be made by a member who voted with the prevailing side. It can be seconded by any member. No question shall be twice reconsidered, except by unanimous consent of the Commission.

- (2) In order to reconsider the action in the same meeting at which the motion to reconsider is made, the subject matter of the reconsideration must be on the agenda that is publicly posted in accordance with applicable laws. If the subject matter is not on the agenda when made, the motion to reconsider must include a date when reconsideration of the previous action is proposed to be placed on the agenda.
- (3) Once an action reaches the floor of the City Plan Commission or City Council, it cannot be changed by the Commission. Once an action can no longer be changed by the Commission, it may not be reconsidered. Once a certificate of appropriateness is approved by the Commission, it cannot be reconsidered after the meeting in which the certificate is approved.
- (4) After a matter has been finally voted on and all possibilities of reconsideration have been exhausted, the matter may not again be brought before the Commission until at least six months from the date it was last voted on.
- (5) An item referred back to the Commission by the City Plan Commission or City Council is a new item.

#### SECTION 6. MEETINGS.

- (A) Calendar. The Commission shall adopt a calendar of meeting dates, times, places, and events on a regular basis, to be held at a location within a public building. This calendar should cover no less than a 90-day time period from the date it is adopted. The Commission shall meet at least once each month, with additional meetings upon the call of the chair or upon petition of a simple majority of the members. [City Code, Ch. 8, Sec. 8-2 and Ch. 51A, Sec. 51A-3.103(d)(1).]
- (B) Placement of items on the agenda. The agenda shall include any item that a member requests be brought before the Commission. The request to place an item on the agenda must be provided to city staff at least 100 [74] hours in advance of the day of the meeting at which the member wants the item considered unless the meeting is an emergency meeting, as described by state law, in which case the request to place an item on the agenda must be provided to city staff at least three hours in advance of the meeting. No person may remove an item from the agenda if a member has requested it in accordance with this paragraph.
- (C) Public notice. The agenda for all meetings shall be posted by the city secretary on the City's official bulletin board in accordance with the Texas Open Meetings Act and on the City's website. [Texas Government Code Sec. 551.043 and 551.050, and City Code, Ch. 8, Sec. 8-7.]
- (D) Quorum. A quorum exists when there are physically present a simple majority of the number of members officially appointed to the Commission, regardless of the total number of members actually provided for the Commission, except that a quorum may not be fewer than six members. [City Code Sec. 51A-3.103(b).]

- (E) Items taken in order. The items on the Commission agenda [~~docket~~] must be acted upon in the order in which they appear, unless, upon a majority vote, the Commission determines [~~finds~~] that:
- (1) the reordering of items will accommodate members of the public who have appeared to offer comment or testimony;
  - (2) the grouping of certain items [~~eases~~] together provides a more expeditious means to handle those items [~~eases~~];
  - (3[2]) the special nature of a particular item [~~ease~~] indicates that it should be acted upon earlier or later than the other items in the agenda [~~docket~~]; or
  - (4[3]) a hardship is shown.
- (F) Discussion.
- (1) A member who desires to speak must be recognized by the chair. No member shall address the chair or demand the floor while a vote is being taken. [[~~{~~]City Code, Ch. 8, Sec. 8-13.~~}~~]]
  - (2) All discussion must be limited to the question under consideration, and all discussion must be addressed to the chair [~~Commission~~] and not to individual members. [City Code, Ch. 8, Secs. 8-10, 8-22(b), and 8-22(e).]
  - (3) No member shall be allowed to speak more than once upon any one subject until every other member choosing to speak on the subject shall have spoken, and no member shall speak more than twice upon any one subject, nor for a longer time than five minutes, without a two-thirds affirmative vote of the Commission. The five-minute limitation includes time expended by the member on discussion, debate, and asking questions. [City Code, Ch. 8, Sec. 8-16.]
  - (4) A member, once recognized, shall not be interrupted while speaking unless called to order by the chair, except when a point of order is raised by another member or the speaker chooses to yield to questions from another member. If a member is called to order while speaking, the member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or otherwise [~~shall alter the remarks so as to~~] comply with rules of the Commission. [City Code, Ch. 8, Sec. 8-22(c).]
  - (5) The right of a member to address the Commission on a question of personal privilege shall be limited to cases in which the member's integrity, character, or motives are assailed, questioned, or impugned. [[~~{~~]City Code, Ch. 8, Sec. 8-19.~~}~~]]

- (6) A member stopped from voting on a matter for reasons of financial interest shall:
  - (a) refrain from discussing the matter at any time with any other member of the Commission or any other body that will consider the matter;
  - (b) leave the room during the debate and hearing; and
  - (c) refrain from voting on the matter. [[({City Code, Ch. 8, Sec. 8-14.})]]
- (G) Required statement. Each person who speaks at a public hearing must state his or her name, address, and, if applicable, who he or she represents.
- (H) Hearings for Certificates of Appropriateness.
  - (1) Applications. An application for a certificate of appropriateness must be submitted in writing to the director of development services on a form provided by the city. The application must include two copies of all plans and other documents related to the work. [[({City Code, Ch. 51A, Sec. 51A-4.501.})]]
  - (2) Consent and discussion agenda [docket]. The applications shall be divided into a consent agenda [docket] and a discussion agenda [docket]. The applications on the consent agenda [docket] shall be grouped together and the Commission shall take one vote on that entire agenda [docket]. Unless the Commission takes an application out of order in accordance with Section 6(E) of these rules, the Commission must vote on the consent agenda [docket] before voting on any application on the discussion agenda [docket]. Prior to the vote on the consent agenda [docket], any member or city staff may remove an application from that agenda [docket] and place it on the discussion agenda [docket]. The applications on the discussion agenda [docket] shall be grouped by historic district and the districts shall be taken in alphabetical order, unless the Commission takes an application out of order in accordance with Section 6(E) of these rules.
  - (3) Procedure. Each public hearing concerning an application for a certificate of appropriateness must be conducted in the following order:
    - (a) City staff shall give a briefing concerning the application, including the address of the property for which the application has been made and a summary of the proposed work.
    - (b) If applicable, city staff shall lead an official inspection tour of the property for which the application has been made.

- (c) City staff shall state the staff recommendation regarding the application.
  - (d) The chair, or ~~[in the chair's absence,]~~ a member selected by the chair ~~[of the task force that reviewed the application]~~, shall state the task force recommendation regarding the application.
  - (e) Each side of the issue shall have a maximum of 15 minutes to make a presentation, but no person may speak for more than five minutes. Those persons who want the Commission to approve the application shall speak first. The applicant has the right to be the first speaker. After each person has finished speaking, any member may question the speaker. The questions and answers shall not count against the time allocated to that side. All evidence presented to the Commission during this time shall be placed in an appropriate file by the Commission's secretary.
  - (f) After giving members an opportunity to ask questions, the chair shall close the public hearing. Each member may then address the Commission in accordance with Section 6(F) of these rules. After debate has been closed, the chair shall call for a motion regarding the application.
  - (g) The Commission may alter the time limits in this subsection by a majority vote.
- (I) Intermissions. Intermissions may be taken at regular intervals during meetings. The length of the intermission shall be announced by the chair, and members must return to their seats in the meeting room promptly at the conclusion of the intermissions.

#### SECTION 7. CONDUCT OF MEMBERS.

- (A) While in the meeting room during a meeting, members shall comport themselves at all times in a manner consistent with the Code of Conduct contained in Article V of Chapter 8 of the Dallas City Code, as amended, and each member shall:
  - (1) not use the telephones in the meeting room;
  - (2) refrain from reading materials not pertinent to business of the Commission; ~~and~~
  - (3) refrain from any other activity that could possibly divert their attention or that of other members from the matters properly before the Commission as a whole; and
  - (4) during Commission meetings, members shall preserve order and decorum and shall neither, by conversation or otherwise, delay or interrupt the

proceedings nor refuse to obey the orders of the chair or the rules of the Commission. All members shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the Commission and shall refrain at all times from rude and derogatory remarks, reflection as to integrity, abusive comments, and statements as to motives and personalities. [City Code, Ch. 8, Sec. 8-22(a) and (d)]

- (B) A member temporarily absent from a meeting shall return to the meeting as soon as possible.

#### SECTION 8. CONDUCT OF CITIZENS AND OTHER VISITORS.

- (A) Citizens and other visitors are welcome to attend all public meetings of the Commission and will be admitted to the meeting room up to the fire safety capacity of the room. [City Code, Ch. 8, Sec. 8-25(a).]
- (B) Citizens and other visitors attending Commission meetings shall observe the same rules of propriety, decorum, and good conduct applicable to members. Any person making personal, impertinent, profane, or slanderous remarks or who becomes boisterous while addressing the Commission or while attending a Commission meeting shall be removed from the room by the sergeant-at-arms if the chair so directs, and that person shall be barred from attending the remainder of that meeting. [City Code, Ch. 8, Sec. 8-25(b).]
- (C) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the chair, who shall direct the sergeant-at-arms to remove offenders from the room. Aggravated cases shall be prosecuted on appropriate complaint signed by the chair. If the chair fails to act, any member may move to require the chair to act to enforce the rules, and the affirmative vote of the majority of the Commission shall require the chair to act. [City Code, Ch. 8, Sec. 8-25(c).]

#### SECTION 9. EXECUTIVE SESSIONS.

- (A) The Commission may remove itself from an open meeting by moving to go into an executive session. Only matters allowed under the Texas Open Meetings Act [by state law] may be addressed in an executive session. All communication in an executive session is privileged information. The privilege can only be waived by a member by formal waiver. Members are cautioned that discussing the privileged communication with a member of the public, the media, or any other person not privy to the executive session may damage the privilege. Members shall not intentionally or knowingly disclose any confidential government information gained by reason of the member's position. [City Code, Ch. 12A, Sec. 12A-6(b).] The Commission may only ~~[shall not]~~ hold an executive session ~~[except]~~ when:
  - (1) seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the

Commission's attorney to his client under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act;

- (2) deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person;
- (3) deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person;
- (4) deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing;
- (5) deliberating the deployment, or specific occasions for implementation, of security personnel or devices; or
- (6) discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Texas Government Code Chapter 551, Subchapter D] [it is considering the merits or deficiencies of an individual potential appointee to a task force, discussing complaints about or evaluations of individual staff members, or seeking the advice of its attorney on the following matters:
  - (1) pending or contemplated litigation;
  - (2) settlement offers;
  - (3) risk of liability of the Commission or individual members thereof for taking an action; or
  - (4) any matter where the duty of the Commission's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, conflicts with the Open Meetings Law.] (Texas Gov't Code §551.071 et seq.)]

- (B) A motion to go into an executive session must be seconded and requires a majority vote. If the motion passes, the Commission shall follow the following procedure:

- (1) The chair shall announce that the Commission is going into an executive session, identifying the section of the Texas Open Meetings Act under which the executive session is held.
  - (2) The chair shall announce the time.
  - (3) Members shall move quickly to the location of the executive session with no discussion among themselves or with members of the public or media.
  - (4) The chair shall announce the date and time at the beginning of the executive session.
  - (5) The executive session must be tape recorded.
  - (6) The chair shall announce the date and time at the end of the executive session.
  - (7) At the end of the executive session, members shall return quickly to the meeting room with no discussion among themselves or with members of the public or media.
  - (8[5]) The chair shall announce the date and time when the Commission resumes the open meeting. [Texas Government Code Chapter 551, Subchapter E; Dallas City Code §8-6(b)]
- (C) No formal vote shall be taken in an executive session on any matter under consideration, nor shall a member enter into a commitment with another member respecting a vote to be taken subsequently in a public meeting of the Commission.

#### SECTION 10. ATTENDANCE.

- (A) All regular members must comply with the attendance rules [~~set forth~~] in Chapter 8 of the Dallas City Code. No member shall be excused from attendance at a meeting unless for medical reasons certified to by a physician or unless excused by the Commission and the City Council. A member having three unexcused absences in succession shall forfeit membership on the Commission. A member who is absent from more than 25 percent of the regular meetings during any twelve month period, whether excused or not, shall forfeit membership on the Commission. Any office that has been forfeited under the provisions of this subsection shall be filled for the remainder of the term by appointment of the City Council. For purposes of this subsection, the record of a member's absences will begin with the first regular meeting after the 15th day from the date the member received notice of appointment. [Dallas City Charter Ch. XXIV, Sec. 17; Dallas City Code Ch. 8, Sec. 8-20]
- (B) A member may not leave a meeting without acknowledgment by the chair. A member who leaves a meeting after the Commission has been duly called to order and is absent for the remainder of the meeting without first obtaining the consent

of the chair shall be charged with an unexcused absence for that meeting. The consent of the chair may be given only in an emergency beyond the control of the member that requires the member to leave the meeting. [City Code, Ch. 8, Sec. 8-21.]

- (C) A member absent from the meeting room because of a conflict of interest is not absent for purposes of the attendance rules.
- (D) A member will be counted absent unless the member attends both the inspection trip and the meeting, or the member represents that a personal inspection has been made of each location visited by the inspection trip and attends the meeting. A member who certifies visiting one or more, but not all, of the scheduled sites visited by the inspection trip is absent for the purpose of the attendance rules. A member can certify inspection trip attendance by submitting a "Personal Inspection of Sites" form to the Commission secretary. [Dallas City Code §8-20.1]
- (E) A member who is not present for the briefing will be counted absent for the purpose of the attendance rules, but will be able to vote on items during the hearing.

#### SECTION 11. VOTING AND VOTING QUALIFICATIONS.

- (A) Every member present when a question is put shall vote either "yes" or "no," unless the member is prevented from voting because of conflict of interests. A member who is absent from the meeting during a vote and returns to or arrives at the meeting before adjournment shall, upon returning or arriving, vote on the question for the record unless prevented from voting by a conflict of interests. A member must be physically present in the meeting room to vote except that a member who is present during the meeting [in accordance with Section 10 of these rules] who does not vote and who is not prevented from voting by a conflict of interests shall be recorded as having voted in the affirmative, unless the member has obtained the consent of the chair to leave the meeting and is absent for the remainder of the meeting. [City Code, Ch. 8, Sec 8-17.]
- (B) The chair shall state~~[, or direct a member to state,]~~ each motion before it is submitted for a vote. The chair~~[, or a member of city staff as directed by the chair,]~~ shall then call for an affirmative and negative vote, and announce the result. [City Code, Ch. 8, Sec. 8-11.]
- (C) A roll call vote shall be taken upon the request of any member. [City Code, Ch. 8, Secs. 8-11 and 8-18.]
- (D) Once cast and called out, no vote may be changed except through a reconsideration in accordance with Section 5(C) of these rules. Votes called out in error must be corrected immediately on the public record. Votes registered improperly in the minutes may be corrected by following the procedure set forth in Section 12 of these rules.

## SECTION 12. MINUTES.

- (A) Within five [~~working~~] days after [~~of~~] any meeting, a list of members absent from the meeting, and a draft of the minutes from that meeting must be filed in the office of the city secretary (or the Commission secretary in the case of a task force or committee meeting). [[~~(~~City Code, Sec. 8-8.~~)~~]]
- (B) The draft of the minutes shall be distributed to the Commission no later than the second official meeting after that meeting.
- (C) Corrections to the minutes may be submitted to the secretary of the Commission at any time up until the second official meeting after the meeting at which the draft was distributed.
- (D) Unless the corrections address changes in the registration of votes or changes in the wording of a motion, the secretary shall incorporate the changes.
- (E) If corrections address changes in the registration of votes or changes in the wording of a motion, the secretary shall prepare the portion of the official record relied on in the preparation of the draft and present it to the Commission. The Commission shall vote, after hearing the record, whether to accept the correction as submitted, modify the correction, or let the minutes stand.
- (F) The approved minutes shall be filed in the office of the city secretary within five [~~working~~] days after [~~of~~] the meeting at which the minutes were approved. [City Code, Sec. 8-8.]

## SECTION 13. ENFORCEMENT.

Members, citizens, and other visitors shall be removed from the meeting for failure to comply with decisions of the chair or continued violations of the rules of the Commission or the City Code. If the chair fails to act, any member may move to require the chair to enforce the rules, and the affirmative vote of a majority of the Commission shall require the chair to act. [City Code, Ch. 8, Sec. 8-22(f) and 8-25(c).]

## SECTION 14. TASK FORCES.

- (A) Purpose.
  - (1) Task forces provide technical expertise to property owners so that renovations, alterations, and new construction will be historically appropriate, consistent with the preservation criteria, and in keeping with the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.
  - (2) Task forces make recommendations to the Commission on applications for predesignation certificates of appropriateness, certificates of

appropriateness (other than routine maintenance), and certificates for demolition or removal~~[-and certificates of eligibility]~~.

- (B) Creation. The Commission shall ~~[may]~~ create task forces as needed. All task forces must be listed on the Commission's website. The Commission may add or delete task forces from this list without the approval of City Council. Additional task forces subject to the rules in this section may be created and added to these lists without city council approval. Task forces may be deleted upon a two-thirds vote of the Commission. The task forces of the Commission as of *insert date of passage* are:

- (1) Central Business District, Harwood Street, West End, Deep Ellum, and Individual Landmarks.
- (2) Fair Park.
- (3) Peak's Suburban and LaVista Court.
- (4) Swiss Avenue and Munger Place.
- (5) South Boulevard-Park Row.
- (6) State Thomas and Wilson Block.
- (7) Wheatley Place and Tenth Street.
- (8) Winnetka Heights and Lake Cliff.
- (9) Junius Heights.
- (10) Cemeteries and Open Spaces.

- (C) Nominees.

- (1) The city staff will assemble a list of nominees to the task forces. Nominees will be solicited from, but not limited to, neighborhood associations, current task force members, the associations listed in Section 51A-3.103(a)(2) of the Dallas Development Code, and other community associations.
- (2) All nominees shall ~~[must]~~ submit an application to the Commission. Professional nominees shall ~~[must]~~ also submit a resume to the Commission. The resume, if required, and the application must be submitted to the Commission prior to appointment.

- (D) Qualifications. Regular and alternate members of task forces shall ~~[must]~~ meet the qualifications for service in Section 8-1.4(a)(4) (no litigation or claims against the city), (5) (no interest in litigation or claims against the city), (6) (not in arrears

on any city taxes, water service charges, or other obligations owed the city), and (7) (creditable record of service) of the Dallas City Code. Regular and alternate members of task forces shall [must] meet, at the time of appointment and during the entire period of service, all qualifications for appointment.

(E) Appointment.

- (1) All appointments to task forces, other than ex-officio members, must be approved by the Commission.
- (2) The Director of the Department of Development Services, with the assistance of the Director of the Department of Code Enforcement, will assign the ex-officio members to the task forces.
- (3) Any vacant position on a task force must be filled by the same process for original appointment, regardless of when the vacancy arises.

(F) Membership.

- (1) The membership of each task force is to be composed of seven regular members. ~~[must include:]~~

- (a) All task forces other than the Fair Park task force and Cemeteries and Open Spaces task force shall consist of:~~[two residents or property owners from each historic district within the task force area (except]~~

- (i) four residents or property owners ~~[for South Boulevard Park Row) (except four residents or property owners for Fair Park) (except four residents or property owners]~~ from the historic districts within the task force area ~~[collectively for the Central Business District, Harwood Street, West End, Deep Ellum, and Individual Landmarks task force)];~~

- ~~[(b)]~~ (ii) one architect; and

- ~~[(c)]~~ (iii) two professionals in the fields of history, art, architecture, architectural history, urban history, urban planning, urban design, historic real estate development, landscape architecture, real estate appraisal, archeology, or historic preservation.

- (b) The Fair Park task force has unique constraints and requirements because Fair Park has a single owner, the City of Dallas; it is a national historic landmark; and it is a state archeological landmark. The Fair Park task force shall consist of:

- (i) a representative of the State Fair of Texas,

- (ii) a representative of Friends of Fair Park,
  - (iii) a representative of one other stakeholder or tenant of Fair Park, and
  - (iv) four professionals with experience in historic preservation who practice in the fields of architecture, historic preservation, engineering, landscape architecture, architectural history, urban design and planning, archeology, or historic real estate development. Of the professional members, at least two must have architectural or engineering training and at least two must have demonstrated active professional historic preservation expertise. One professional member may satisfy more than one of the minimum requirements for professional members.
- (c) The Cemeteries and Open Spaces task force shall consist of:
- (i) a representative of the park and recreation department or a member of the park board;
  - (ii) two members who either own property adjacent to a cemetery or open space that has been designated a city historic district or that are associated with a cemetery or open space that has been designated a city historic district; and
  - (iii) four professionals with experience in historic preservation who practice in the fields of architecture, historic preservation, engineering, landscape architecture, architectural history, urban design and planning, archeology, or historic real estate development. Of the professional members, at least two must have architectural or engineering training and at least two must have demonstrated active professional historic preservation expertise. One professional member may satisfy more than one of the minimum requirements for professional members.
- (2) At least two of the architects or professionals, as listed above in Subsections (F)(1)(a)(ii[b]) and (iii[e]), must not be a resident or own property within the task force area.
  - (3) In addition to the regular members, two alternate members may be appointed to serve in the absence of the regular members. Of the alternate members appointed to serve on the Fair Park task force, one must be a

representative of a stakeholder as described in Subsection (F)(1)(b)(i) and one must be a professional with experience in historic preservation in one of the fields listed in Subsection (F)(1)(b)(iv).

- (4) A code compliance officer and a member of city staff will serve as ex-officio members to each task force.
- (5) Members of the Commission may not serve on task forces.
- (6) A person may serve on more than one task force (provided the person meets the requirements for service).
- (7) Each task force member shall ~~[must]~~ provide a phone number that may be made available to the public.
- (8) For ~~[the Central Business District, Harwood Street, West End, Deep Ellum, and Individual Landmarks task force; the Fair Park task force; and the State Thomas and Wilson Block]~~ task forces~~;~~ for nonresidential districts, representatives from the entities that use or are located in these districts may also be considered “residents or property owners.”

(G) Officers.

- (1) The task force chair shall ~~[must]~~ be elected by the regular members at the first meeting after appointment of the task force. If the task force fails to elect a task force chair, the chair of the Commission shall ~~[will]~~ select a task force chair.
- (2) The task force chair shall ~~[must]~~:
  - (a) enforce rules of order and decorum.
  - (b) encourage regular attendance by task force members, and ensure that attendance records are kept by city staff.
  - (c) sign the task force recommendation reports.
  - (d) ensure that meetings are recorded using audio cassettes or other appropriate electronic media or that [the] minutes of the task force meeting are kept by city staff.
  - (e) ensure that site visits are made when necessary.
- (3) The task force shall ~~[may]~~ elect a vice-chair ~~[and secretary]~~. In [The task force may assign appropriate duties to] the absence of the chair, the vice-chair shall exercise the powers of the chair [and secretary].

(H) Terms.

- (1) Appointments are approved for a two-year period running concurrently with the terms of the members of the Commission. Members of the task forces must reapply every two years concurrently with appointment of the Commission.
- (2) A member may remain on the task force until that member is reappointed or replaced. ~~[A person who has served as a regular task force member for four consecutive two-year terms is ineligible to serve on that same task force until at least one term has elapsed. In determining whether a full term has been served, the definition of "term" that applies to city council members in Chapter III, Section 3A(c) of the city charter, will apply to task force members.]~~
- (3) A task force member who fails to perform the duties required or fails to comply with the rules of conduct in Section 7 may be discharged at any time by a two-thirds vote of ~~[all members of]~~ the ~~[entire]~~ Commission.

(I) Quorum.

- (1) A quorum consists of a simple majority of the appointed task force members.
- (2) If the task force is unable to obtain a quorum, the task force chair may reschedule the meeting. If the meeting is not rescheduled, the task force members present shall ~~[must]~~ complete the task force recommendation report, noting that the task force was unable to obtain a quorum, and the individual task force members' comments may be forwarded to the Commission as comments only. Failure of a task force to obtain a quorum does not prevent the Commission from taking action on an application.

(J) Attendance.

- (1) The Commission may remove a task force member in accordance with Section 14(H)(3) for failure to perform his or her duties if the task force member is absent from an excessive number of task force meetings. ~~[A task force member who is absent from more than 25 percent of the regularly scheduled meetings in any 12-month period, whether excused or not, shall forfeit membership on the task force.]~~
- (2) If the Commission removes a task force member due to an excessive number of absences, the Commission shall fill the position for the remainder of the term by appointing a new task force member.
- (3) A member is counted as present if a regularly scheduled meeting is canceled.

~~[(3) A position on a task force that has been forfeited due to insufficient attendance shall be filled for the remainder of the term by appointment of the Commission.]~~

(2[4]) The record of a member's absences will begin with the first regular meeting after the 15th day from the date the member received notice of appointment.

(5) Attendance rules do not apply to alternate members. ~~[If a task force schedules a site visit, a member will be counted absent unless the member attends both the site visit and the meeting, or the member represents that a personal inspection has been made of each location and attends the meeting.]~~

(K) Meetings.

(1) Each task force shall ~~[must]~~ have a regularly scheduled monthly meeting, except that a task force need not meet if it has no business.

(2) Each task force, after consultation with city staff, shall set a regular, fixed meeting date, time, and location.

(3) Special meetings may be called by the task force chair when necessary.

(4) All task force meetings (special and regular) are open to the public. All task force meetings (special and regular) must comply with the Texas Open Meetings Act.

(5) City staff shall ~~[must]~~ notify any interested person or association of the date, time, and place of each task force regular and special meeting.

(6) Task force meetings shall ~~[must]~~ be conducted in accordance with "Robert's Rules of Order." ~~[All persons present at task force meetings must:~~

~~(a) preserve order and decorum.~~

~~(b) not delay or interrupt the proceedings.~~

~~(c) obey the orders of the task force chair.~~

~~(d) accord the utmost courtesy to each other, city employees, and the public.~~

~~(e) refrain from rude and derogatory remarks, reflection as to integrity, abusive comments, and statements as to motives and personalities.]~~

(L) Agendas.

- (1) City staff shall ~~[must]~~ supply an agenda to the task force, the designated contact person for the appropriate neighborhood ~~[and/]~~or neighborhood association, and any persons who request to receive task force agendas.
- (2) The task force, with the assistance of c[City] staff will identify the sections of the historic district ordinance and the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties relevant to each item at the meeting.
- (3) The task force agenda must be posted on a bulletin board at a place convenient to the public in the city hall in accordance with the Texas Open Meetings Act, and on the City's website.

(M) Task force recommendation reports and minutes.

- (1) Every task force member who is present at a meeting shall ~~[must]~~ vote, except that a task force member may not vote if the task force member would be prevented from voting by Section 12A-3, "Improper Economic Benefit," of the Dallas City Code if the task force member were considered as a "city official." Ownership of property in the historic district does not constitute a financial interest in the case, unless the property is the subject of the application being considered.
- (2) ~~[The task force recommendation must be made independently of the city staff recommendation. It is the city staff's role to provide technical information and analysis at the task force meeting.]~~
- (3) If a quorum is present, t[The task force chair shall ~~[must]~~ complete a written task force recommendation report on each application. The official task force recommendation report must indicate:
- (a) The date, time, and location of the meeting.
  - (b) The task force members present.
  - (c) Whether a quorum was obtained.
  - (d) Whether a site visit was made.
  - (e) The votes of the members.
  - (f) The recommendation of the task force.
  - (g) The basis for the recommendation of the task force.
  - (h) Any dissenting opinions.

- (i) The name and address of any party who spoke in favor of, or in opposition to, any application.
  - (j) Task force members may attach individual comments to the task force recommendation report. An individual comment must be provided separately from the report, clearly indicating that it is an individual comment from the named member.
- (3) If a quorum is not present, the task force chair may reschedule the meeting. If the meeting is not rescheduled, the task force members present shall prepare comments. The lack of an official task force recommendation does not prevent the Commission from taking action on an application. The comments must indicate:
- (a) The date, time, and location of the meeting.
  - (b) The task force members present.
  - (c) That an insufficient number of members were present to provide an official task force recommendation and that the report is only an informal recommendation.
  - (d) Whether a site visit was made.
  - (e) The comments of the task force members.
  - (f) The basis for the comments of the task force members.
  - (g) Any dissenting opinions.
  - (h) The name and address of any party who spoke in favor of, or in opposition to, each application.
  - (i) Task force members may attach individual comments to the comment report. An individual comment must be provided separately from the report, clearly indicating that it is an individual comment from the named member.
- (4) Each task force shall ~~[must]~~ keep minutes of its meetings or record its meetings using audio cassettes or other appropriate electronic media. ~~[City staff will prepare the minutes for each task force.]~~
- (5) All actions of the task force are public. Task ~~[and copies of the minutes and task]~~ force recommendation reports and comments must be made available by the city staff to the public upon request. Recordings of task force meetings, or meeting minutes, as applicable, must be available for public inspection and copying in compliance with the Texas Public

Information Act. At the earliest possible time, City staff ~~shall~~ [must] send a copy of the task force recommendation report and the city staff recommendation to the property owner and the designated contact person for the appropriate neighborhood ~~[and]~~ or neighborhood association.

- (6) Task forces are advisory to the Commission. As such, actions taken or recommendations made by a task force are not binding on the Commission.

(N) Training.

- (1) The Commission, with the assistance of preservation professionals and city staff, ~~shall~~ [must] provide training and reference notebooks to task force members at least once per ~~term~~ [year].
- (2) No person may serve on a task force until the person has received an initial briefing, directed to the level of expertise of the member on historic preservation, that includes at least the following topics: the city of Dallas historic district enabling ordinance, the historic district ordinance governing the task force's district, the Secretary of the Interior's Standards, the rules of procedure for the task force, and the Texas Open Meetings Act ~~[been supplied with appropriate materials for his or her education]~~. Staff shall provide an information packet for the briefing that includes copies of all of these regulations. The briefing may be provided by city staff or the chair of that task force.

- (O) Unfair advancement of private interests. A task force member may not use his or her position to unfairly advance or impede personal interests by granting or securing, or by attempting to grant or secure for any person (including himself or herself) any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to every other person or organization.

SECTION 15. COMMITTEES.

- (A) Standing Committees. The designation committee is a standing committee~~[s- of the Commission are:~~
- ~~(1) Designation.~~
  - ~~(2) Endangered neighborhoods.~~
  - ~~(3) Evaluation and research.~~
  - ~~(4) Historic sites.~~
  - ~~(5) Public information.~~
  - ~~(6) Preservation incentives.~~

~~(7)~~ ~~Publicly owned sites~~].

~~[(B)~~ ~~Other committees. Committees other than standing]~~ Other committees may be appointed from time to time by the Commission.

~~(B[6])~~ Committee rules.

- (1) Each committee shall determine its meeting times. The date, time, and place of each regular committee meeting must be published in the Commission's agenda. Special committee meetings must be posted on the city's bulletin board and on the city's website in accordance with the Texas Open Meetings Act.
- (2) All committee meetings (special and regular) are open to the public. All committee meetings (special and regular) must comply with the Texas Open Meetings Act.
- (3) Each committee must keep minutes of its meetings or record its meetings using audio cassettes or other appropriate electronic media.
- (4) All actions of a committee are public. Committee recommendation reports must be made available by the city staff to the public upon request. Recordings of committee meetings, or meeting minutes, as applicable, must be available for public inspection and copying in compliance with the Texas Public Information Act.
- (5) A committee may be discharged by a two-thirds vote of the entire Commission.
- ~~(6[3])~~ Any item may be taken from a committee and considered by the Commission upon a majority vote of the Commission.
- ~~(7[4])~~ A committee shall undertake its duties as directed by the Commission.
- ~~(8[5])~~ Committees are advisory to the Commission. Actions taken or recommendations made by a committee are not binding on the Commission.

~~(C[8])~~ Committee Creation, Membership, and Appointment [of Committees].

- (1) All committees are created and appointments approved by the Commission.
- (2) Members of the Commission may serve as voting committee members.

- (3) Members and alternates of committees, and the chair of each, are appointed by the chair of the Commission subject to the approval of the Commission. A potential nominee to a committee [foree] must fill out the Commission-approved service form and these forms must be furnished to the Commission at the time of the nomination. ~~[Members of committees must be voted on, if at all, as a group and not individually. If no objection is raised within 30 days of the appointments, the]~~ A[a]ppointments are approved for a two-year period that runs concurrently with the terms of the members of the Commission. Any vacant position on a committee must be filled by this process, regardless of when the vacancy arises.
- (D) Attendance. The chair of the committee may ask the Commission for a committee member's removal for an excessive lack of attendance. The Commission may remove the committee member by a two-thirds vote.
- (E) Qualifications. Regular and alternate members of committees shall meet the qualifications for service in Section 8-1.4(a)(4) (no litigation or claims against the city), (5) (no interest in litigation or claims against the city), (6) (not in arrears on any city taxes, water service charges, or other obligations owed the city), and (7) (creditable record of service) of the Dallas City Code. Regular and alternate members of task forces shall meet, at the time of appointment and during the entire period of service, all qualifications for appointment.
- (F) Officers.
- (1) The chair of each committee shall:
- (a) enforce rules of order and decorum.
- (b) encourage regular attendance by committee members, and ensure that attendance records are kept by city staff.
- (c) ensure that committee meetings are recorded using audio cassettes or other appropriate electronic media or that minutes of each meeting are kept by city staff.
- (2) Each committee shall elect a vice-chair. In the absence of the chair, the vice-chair shall exercise the powers of the chair.
- (G) Quorum. A quorum exists when there are physically present a simple majority of the number of members officially appointed to a committee, regardless of the total number of members actually provided for the committee.
- (H) Agendas. The committee agenda must be posted on a bulletin board at a place convenient to the public in the city hall in accordance with the Texas Open Meetings Act and on the City's website.

## SECTION 16. DESIGNATION COMMITTEE.

(A) General. Except as modified in this section, the rules governing committees in Section 15 apply to the designation committee.

(B) Purpose.

- (1) The designation committee identifies historic properties and neighborhoods that merit designation as city historic districts.
- (2) The designation committee provides guidance to property owners and neighborhood activists in the preparation of designation reports.
- (3) The designation committee makes recommendations to the Commission concerning the establishment of city historic districts and their preservation criteria.
- (4) The designation committee makes recommendations concerning changes to existing preservation criteria.

(C) Meetings.

- (1) The designation committee, after consultation with city staff, shall set a monthly meeting date, time, and location.
- (2) Special meetings may be called by the designation committee chair when necessary.

(D) Designation committee reports.

- (1) Every designation committee member who is present at a meeting must vote, except that a committee member may not vote if the committee member lives within the notification area.
- (2) The designation committee chair must complete a written designation committee recommendation report before an item is forwarded to the Commission. The designation committee recommendation report must indicate:
  - (a) the date, time, and location of the meeting;
  - (b) the members present;
  - (c) the votes of the members;
  - (d) the recommendation of the designation committee;
  - (e) the basis for the recommendation of the designation committee;

- (f) any dissenting opinions; and
- (g) the name and address of each party who spoke in favor of, or in opposition to, each recommendation.

SECTION 17. OTHER RULES OF PROCEDURE.

Unless otherwise specified in these rules, the proceedings of the Commission shall in all cases be governed by rules of order as set forth in the most recent edition of "Robert's Rules of Order."[-] [[{City Code, Ch. 8, Sec. 8-5.}] ]

SECTION 18[7]. AMENDMENTS TO RULES OF PROCEDURE.

These rules may be amended, supplemented, or changed from time to time by a majority vote of the Commission in conformance with the Dallas City Code, as amended.

# Memorandum



CITY OF DALLAS

DATE February 13, 2009

TO Members of the Economic Development Committee:  
Ron Natinsky (Chair), Tennell Atkins (Vice Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane, Mitchell Rasansky, Linda Koop, and Steve Salazar

SUBJECT Downtown Supergraphics Update.

The current supergraphic provisions will sunset on February 27, 2009. On August 27, 2008 City Council voted to extend the current program to February 27, 2009 with instructions to staff to develop a proposal to expand the current program and bring those recommendations back to City Council for consideration.

Staff has conducted additional research on other cities programs to allow large signs and staff has developed alternatives for consideration. However, the Development Code and the City Plan Commission's rules of procedure require any such proposals to be routed through the Special Sign District Advisory Committee (SSDAC), the Zoning Ordinance Advisory Committee (ZOAC) and the City Plan Commission prior to being forwarded to City Council.

ZOAC has conducted three separate public meetings since December on supergraphics, including a joint meeting with SSDAC, but has not yet forwarded a recommendation to the City Plan Commission. Prior to December, ZOAC was completing proposals on downtown videoboards and the relocation of billboards.

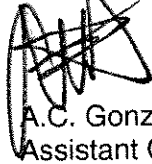
Since the current provisions will sunset on February 27, 2009, City Council has two options. The first would be to let the supergraphic program sunset. This would require that all signs be removed until such time as a proposal can be forwarded to City Council to reinstate an amended program. The second alternative would be for Council to adopt a resolution suspending enforcement of the sunset provisions until such time as a proposal can be forwarded to City Council to reinstate an amended program. A draft of such a resolution is attached for your review. Staff anticipates that the proposal could be forwarded to City Council on or before June 10, 2009.



SUBJECT

Downtown Supergraphics Update.  
Page 2 of 2

Please contact me if you need additional information.



A.C. Gonzalez  
Assistant City Manager

C: Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
Deborah A. Watkins, City Secretary  
Thomas P. Perkins, Jr., City Attorney  
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Ramon F. Miguez, P.E., Assistant City Manager  
David K. Cook, Chief Financial Officer  
Theresa O'Donnell, Director of Development Services  
Helena Stevens Thompson, Assistant to the City Manager



## COUNCIL CHAMBER

February 25, 2009

**WHEREAS**, Section 51A-7.930(m) of the Dallas Development Code provides that the supergraphic sign program for the Downtown Special Provision Sign District expires on February 27, 2009 unless reenacted with amendment prior to that date; and

**WHEREAS**, Section 51A-7.930(l) of the Dallas Development Code provides that all supergraphic signs must be removed by February 27, 2009; and

**WHEREAS**, the city is currently considering amendments to Section 51A-7.930 of the Dallas Development Code to extend the supergraphic sign program for the Downtown Special Provision Sign District; and

**WHEREAS**, the city council finds that it is in the public interest to preserve the status quo by temporarily suspending enforcement of Section 51A-7.93(l) of the Dallas Development Code pending reenactment of the supergraphic sign program for the Downtown Special Provision Sign District; Now, Therefore,

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

**SECTION 1.** That for a period beginning on the effective date of this resolution until the effective date of an ordinance amending Section 51A-7.930 of the Dallas Development Code all city departments are directed to suspend enforcement of Section 51A-7.930(l) of the Dallas Development Code by not requiring the removal of supergraphic signs.

**SECTION 2.** That for a period beginning on the effective date of this resolution until the effective date of an ordinance amending Section 51A-7.930 of the Dallas Development Code, the Building Official is directed to continue allowing supergraphic sign messages to be replaced every four months as required by Section 51A-7.930(h) of the Dallas Development Code.

**SECTION 3.** That the city manager and the city plan commission are directed to expedite their performance of appropriate analyses, calling or conducting of necessary hearings, evaluation of alternatives, and preparation of recommendations as to what amendments, if any, should be made to Section 51A-7.930 of the Dallas Development Code and submit those recommendations to city council by no later than June 10, 2009.

APPROVED

HEAD OF DEPARTMENT

APPROVED

DIRECTOR OF FINANCE

APPROVED

CITY MANAGER

**SECTION 4.** That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By \_\_\_\_\_  
Assistant City Attorney

APPROVED \_\_\_\_\_ APPROVED \_\_\_\_\_ APPROVED \_\_\_\_\_  
HEAD OF DEPARTMENT DIRECTOR OF FINANCE CITY MANAGER

Zoning Case No.

# Memorandum



DATE February 13, 2009

TO Members of the Economic Development Committee: Ron Natinsky (Chair), Tennell Atkins (Vice Chair), Jerry R. Allen, Dwaine Caraway, Sheffie Kadane, Linda Koop, Mitchell Rasansky and Steve Salazar

SUBJECT **Authorize a development agreement with LUI2 Dallas Oak Lawn VI, L.P. in an amount not to exceed \$1,605,000 – Design District TIF District; Agenda Item, February 25, 2009.**

This action will authorize a development agreement with LUI2 Dallas Oak Lawn VI, L.P. to provide funding for the design, engineering, professional services, and construction of public infrastructure improvements for the Design District Hotel Project located in the Design District TIF District.

The owner/developer is LUI2 Dallas Oak Lawn VI, L.P. ("Owner"), a limited partnership affiliated with The Lionstone Group based in Houston and local partner Pegasus Ablon Properties. Michael Ablon, principal and leader of the Pegasus Ablon management team, has experience with mixed-use projects in Victory and Uptown Dallas. His team is currently leading the major phases of the "1525 Turtle Creek at the District" TIF project.

The Design District Hotel will be a boutique style hotel located at 1605 and 1615 N. Stemmons Expressway at the Edison Street gateway to the Design District. The project will involve demolition of existing office/showroom buildings and construction of a new hotel containing approximately 100,000 square feet of building space; 190 hotel rooms; 3,000 square feet of retail space, and 250 structured parking spaces. The hotel brand is not yet finalized and is subject to the approval of the Director of the Office of Economic Development.

The total anticipated private investment, including acquisition, hard, and soft costs is approximately \$36,300,000.

TIF funding has been requested for water, wastewater, and drainage improvements along Edison Street and a portion of Turtle Creek Boulevard. The utility improvements are necessary not only to serve the hotel project but to provide district capacity needed to enable future development of other properties in the District consistent with the TIF Project Plan. Streetscape improvements are also proposed for Edison Street

On February 2, 2009, the Design District TIF District Board of Directors reviewed the proposed Design District Hotel project and recommended, subject to review

of project design plans by the Design Review Committee of the TIF District Board of Directors, City Council authorization of funding of public improvements associated with the project, in an amount not to exceed \$1,605,000.

<b>TIF Category</b>	<b>Estimated Amount</b>
<b>Water, wastewater, and storm</b>	<b>\$1,455,000</b>
<b>Paving and streetscape</b>	<b>\$150,000</b>
<b>Total</b>	<b>\$1,605,000</b>
Expenditures may be shifted from one TIF-eligible category to another as long as the total amount of TIF funding does not exceed \$1,605,000.	

**Project summary:**

Total square footage required	97,000 (minimum) hotel with or without retail uses
Developer fee and reimbursable amounts	3.0%
Required private investment – site acquisition, and hard costs of construction	\$26,000,000
Total project cost including site acquisition, hard costs of construction, all soft costs, and TIF expenses/other public.	\$37,955,173
TIF funding	\$1,605,000
% TIF funds to total project cost	4.0%
Return on cost with TIF funds	6.03%
Return on cost without TIF funds	3.06%

**Schedule of Project**

Begin Construction      June 2010  
 Complete Construction      September 2011

**Owner**

**LUI2 Dallas Oak Lawn VI, L.P.**

Thomas G. Bacon, Manager

**Pegasus Ablon Properties**

Michael E. Ablon, Principal

**Developer**

**LUI2 Dallas Oak Lawn VI, L.P.**

Thomas G. Bacon, Manager

**Pegasus Ablon Properties**

Michael E. Ablon, Principal

**Fiscal Information**

\$1,605,000 Design District TIF District Funds

**Council District(s)**

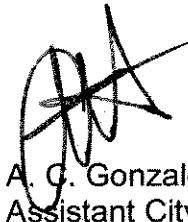
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**STAFF**

Karl Stundins, Manager, Area Redevelopment Division  
Sue Hounsel, Senior Coordinator

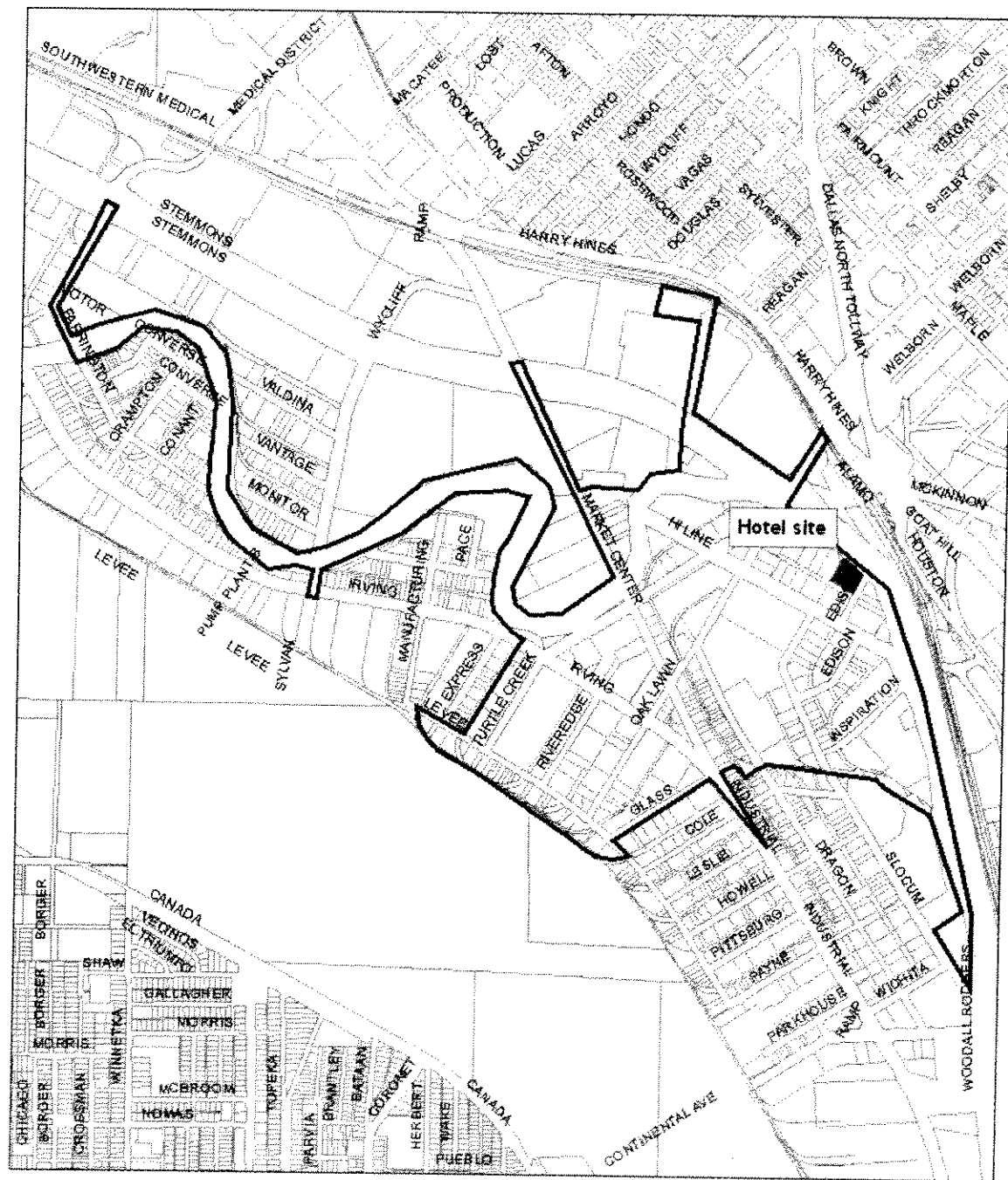
**RECOMMENDATION**

Staff recommends approval. Please contact me if you have any questions.



A. C. Gonzalez  
Assistant City Manager

- C: The Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
Deborah Watkins, City Secretary  
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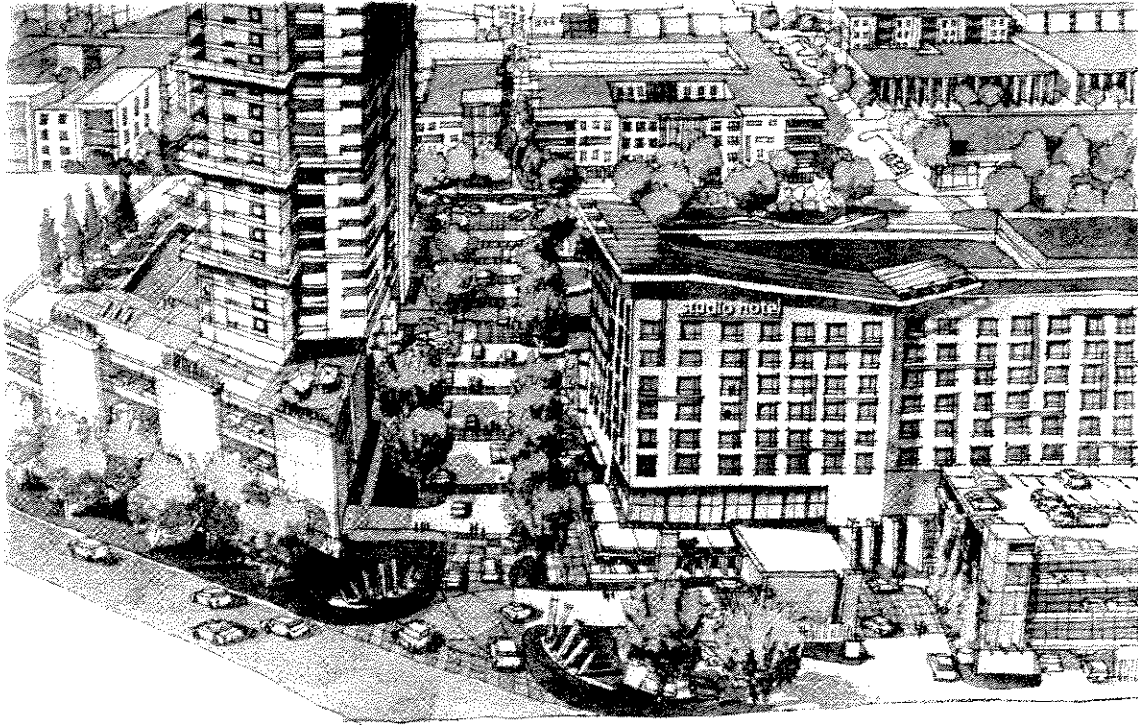
Design District Hotel  
 Project Location  
 Design District TIF

□ TIF Boundary

Office of Economic  
 Development  
 January 2009



**Design District Hotel conceptual elevation:**



## Project Proforma

Note: Use 5-year average for sales assumptions

<u>Hotel Room Breakdown</u>	<u># of Rooms</u>	<u>Total SF</u>	<u>5 year average room rate</u>
Total/Avg	190	100,000	\$165
<u>Retail Breakdown</u>	<u>Total SF</u>		
Total/Avg	3,000		
Note: No value attributed to retail for calculation purposes			
<u>Other Income:</u>	<u>SF</u>		<u>\$ per SF</u>
Total/Avg	0		\$0

<u>Project Costs</u>	
<b>Hard Cost Total</b>	<b>\$27,462,000</b>
Hard Cost (includes FFE)	\$26,194,000
Contingency (approx 5%)	\$1,268,000
<b>Soft Cost</b>	<b>\$4,161,000</b>
Permits/Licenses/fees	\$90,000
Design & predevel	\$810,000
Developer fee/reimb	\$992,000
Const management	\$699,000
Preopening	\$630,000
Legal	\$225,000
Closing costs	\$450,000
Lender origination fees	\$265,000
<b>Public Improvements</b>	<b>\$1,604,303</b>
Financing	\$1,905,000
Acquisition	\$2,822,870
<b>Total Project Cost</b>	<b>\$37,955,173</b>

Total Annual Profit (revenue minus direct expenses; avg occupancy of 70%)	\$5,939,000
Management Fee	\$505,000
Taxes and Insurance	\$1,131,000
	\$1,636,000
NOI	\$4,303,000
CAP RATE	9% 10% 11%
	\$47,811,111 \$43,030,000 \$39,118,182

Total Project Cost (no City \$)	\$37,955,173
Total Project Cost (w/ \$1.605M TIF Funds, NPV = \$1.168M)	\$36,786,887

TIF assistance of \$1,605,000			
NPV - Hotel (paid over 7 years, beginning in year 3)			
	\$0		Year 1
	\$0		Year 2
	\$239,759	\$202,738	Year 3
	\$243,635	\$397,551	Year 4
	\$247,568	\$584,745	Year 5
	\$251,561	\$764,616	Year 6
	\$255,613	\$937,446	Year 7
	\$259,726	\$1,103,509	Year 8
	\$107,139	\$1,168,286	Year 9

# Memorandum



DATE February 13, 2009

TO Members of the Economic Development Committee:  
Ron Natinsky (Chair), Tennell Atkins (Vice Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane, Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Summary of FY 2008 Activity in Dallas TIF Districts – TIF Annual Report Items for the Dallas City Council, February 25, 2009 Agenda**

## **Background**

During FY 2008, most of the 16 TIF Districts experienced increased activity and growth in property values. Overall taxable value increased by 21.7% (\$1,121,193,488) from last year compared to 0.2% for the City as a whole. Districts with the largest increases were Sports Arena, 52.1%; Cedars, 32.3%; and Oak Cliff Gateway, 28.3%.

Overall TIF District property value growth since inception and 2008 is 135.7%. For the original seven TIF Districts created between 1988 and 1998, overall value grew 203.4%. The Sports Arena TIF District had the highest rate of overall growth rate, 3396% above the base year. The Cityplace and State-Thomas TIF Districts, now maturing, had increases from the base year 968.4% and 833.2% respectively. The State-Thomas TIF District, the first created by the City, officially closed with the 2008 calendar year. Newer TIF Districts created after 2005, had an overall value growth of 89.2%. Among those, Southwestern Medical and the Downtown Connection TIF Districts had the highest increase, 213.2% and 174.4% respectively.

Total TIF expenditures or allocations of \$547 million leveraged nearly \$7.663 billion in added or anticipated property value in TIF Districts since the inception of each TIF District. This is an 1400% return on each public dollar allocated for TIF projects. Stated another way, for every TIF dollar committed, \$14 was returned in private investment. This return does not include the amount of increased sales tax, hotel/motel taxes and personal property taxes, nor does it include the taxes paid to the various taxing jurisdictions, including the Dallas Independent School District (DISD). We estimate the amount of additional taxes paid to DISD for increased property value in Dallas TIF Districts is \$37.9 million for the fiscal year 2008 alone.

**TIF District Property Value Growth from Inception to 2008**

TIF District	Initial (Base)	2007 Taxable Value	2008 Taxable Value	2007 vs 2008 (% Change)	Initial vs 2008 (% Change)
<b>TIF Districts created between 1988-1998</b>					
State-Thomas	\$47,506,802	\$445,014,047	\$443,347,063	-0.4%	833.2%
Cityplace	\$45,065,342	\$452,905,123	\$481,468,434	6.3%	968.4%
Oak Cliff Gateway	\$38,570,128	\$76,125,212	\$97,653,772	28.3%	153.2%
Cedars	\$35,300,760	\$62,805,631	\$83,067,265	32.3%	135.3%
City Center	\$876,220,937	\$1,463,525,217	\$1,506,003,339	2.9%	71.9%
Farmers Market	\$27,706,851	\$96,388,948	\$111,587,540	15.8%	302.7%
Sports Arena	\$16,423,773	\$377,444,236	\$574,257,867	52.1%	3396.5%
<b>Subtotal</b>	<b>\$1,086,794,593</b>	<b>\$2,974,208,414</b>	<b>\$3,297,385,280</b>	<b>10.9%</b>	<b>203.4%</b>
<b>TIF Districts created after 2005</b>					
Design District	\$141,852,062	\$177,595,830	\$235,021,240	32.3%	65.7%
Vickery Meadow	\$161,270,320	\$176,462,500	\$257,289,280	45.8%	59.5%
Southwestern Medical	\$20,936,690	\$42,813,280	\$65,570,940	53.2%	213.2%
Downtown Connection	\$561,696,137	\$989,101,177	\$1,541,454,353	55.8%	174.4%
Deep Ellum <sup>(1)</sup>	\$107,990,540	\$124,590,053	\$153,421,797	23.1%	42.1%
Grand Park South	\$44,850,019	\$53,312,126	\$55,936,058	4.9%	24.7%
Skillman Corridor	\$335,957,311	\$425,807,364	\$440,650,892	3.5%	31.2%
Fort Worth Avenue	\$86,133,447	\$86,133,447	\$96,663,511	12.2%	12.2%
Davis Garden	\$123,544,402	\$123,544,402	\$151,368,730	22.5%	22.5%
<b>Subtotal</b>	<b>\$1,584,230,928</b>	<b>\$2,199,360,179</b>	<b>\$2,997,376,801</b>	<b>44.8%</b>	<b>100.0%</b>
<b>Total All Districts</b>	<b>\$2,671,025,521</b>	<b>\$5,173,568,593</b>	<b>\$6,294,762,081</b>	<b>21.7%</b>	<b>135.7%</b>

(1) Accounts added to Deep Ellum TIF boundary expansion that have 2008 as base yr have been excluded from the above totals.

Although most new taxable value growth in TIF Districts is captured to fund public improvements in those Districts, there has been some added benefit to the City's general fund. The State-Thomas TIF District reached its budget cap early, has stopped collecting increment, and is estimated to contribute \$2.89 million to the City for tax year 2008. Districts created in 2005 and later have varied City participation ranging from 55-90% of total taxes and some have delayed increment collection in the initial years, allowing some new growth into the general fund. Estimated 2008 and projected 2009-2010 increment collection and new general fund revenue is shown below:

#### Estimated TIF District Increment Collection and Added General Fund Revenue

Tax Year	City Center & Downtown Connection TIFs	Non-Downtown TIFs	Total All Districts
2008 Total Increment	\$12,891,976	\$19,434,972	\$32,326,948
2008 (City) Increment	\$10,834,185	\$10,292,443	\$21,126,628
2008 new City General Fund	\$1,203,798	\$4,682,040	\$5,885,838
2009 Projected Total Increment	\$14,239,673	\$19,029,832	\$33,269,505
2009 Projected (City) Increment	\$12,028,511	\$12,330,344	\$24,358,855
2009 Projected new City General Fund	\$1,336,501	\$7,883,213	\$9,219,714
2010 Projected Total Increment	\$15,981,225	\$25,464,245	\$41,445,470
2010 Projected (City) Increment	\$13,498,192	\$17,098,001	\$30,596,193
2010 Projected new City General Fund	\$1,499,799	\$10,523,645	\$12,023,444

*Total increment is estimated TIF collections for all participating taxing jurisdictions.*

*City Increment is the estimated City contribution to the TIF Funds.*

*New City General Fund is the estimated added revenue from increased property value not captured by TIF Funds.*

TIF Districts have also been catalysts for improving the real estate market in areas that were lagging, drawing new residents into the City's core, and creating new mixed-use neighborhoods. As of FY 2008, approximately 11,238 new residential units were completed in the City's sixteen TIF Districts, an additional 5,876 are under construction, and another 9,120 units are planned. Over 3.7 million square feet of new or redeveloped retail, office, and other commercial space has been completed in the sixteen TIF Districts. Over 5.3 million square feet of commercial space is under construction and another 3.7 million square feet of space is planned. New hotel construction includes 2,772 completed rooms, 420 under construction, and another 275 rooms planned.

During FY 2008, an estimated 4,015 dilapidated multi-family units were demolished in TIF districts. Redevelopment of the former apartment sites is either underway or in the planning stages.

The following table summarizes new development in downtown and non-downtown TIF Districts. The two downtown TIFs, City Center and Downtown Connection, comprised 24.6% of constructed or planned residential units, 28.4% of commercial space and 85% of completed or planned hotel rooms.

#### New Residential and Commercial Development in TIF Districts

Development	City Center & Downtown Connection TIFs	Non- Downtown TIFs	Total All Districts
<b>Residential Units</b>			
Completed	3,291	7,947	11,238
Under Construction	1,772	4,104	5,876
Planned	1,369	7,751	9,120
<b>Resid. Total</b>	<b>6,432</b>	<b>19,802</b>	<b>26,234</b>
<b>Commercial (retail, office, other com.) Square Footage</b>			
Completed	923,100	2,783,964	3,707,064
Under Construction	1,177,500	4,145,383	5,322,883
Planned	1,449,215	2,279,781	3,728,996
<b>Com. Total</b>	<b>3,549,815</b>	<b>9,209,128</b>	<b>12,758,943</b>
<b>Hotel Rooms</b>			
Completed	2,521	251	2,772
Under Construction	170	250	420
Planned	275	0	275
<b>Hotel Total</b>	<b>2,966</b>	<b>501</b>	<b>3,467</b>

### Major TIF-Related Projects Completed or Approved in FY 2008

Project	District	Description	Value	TIF Investment
<b>Completed in FY 2007</b>				
Grand Bank - Lake Cliff Tower*	Oak Cliff Gateway	3,000 sf. Commercial	\$2,000,000	\$0
Joule Hotel	City Center	114 hotel rooms; 15,000 sf. Retail	\$24,000,000	\$8,500,000
2100 Downtown Townhomes Ph I	Farmers Market	7 townhomes	\$2,100,000	\$0
Cirque**	Sports Arena	252 apartments; 11,000 sf retail	\$65,642,570	\$0
<b>Approved in FY 2008</b>				
Olympia Arts	Deep Ellum	18,000 sf. Retail. Office, warehouse	\$1,200,000	\$515,000
City Lights I***	Deep Ellum	350 resid. units; 110,000 sf. Retail	\$75,000,000	\$5,000,000
INCAP Ph I	Davis Garden	Preparation for future development - environmental remediation, demolition, median improvements	\$43,246,681	\$4,008,247
Blackburn St Median Improvements	Cityplace	Blackburn Street, from Noble Ave. to Cole Ave.	\$113,000	\$50,000
Bishop Colorado Retail	Oak Cliff Gateway	15,000 sf. Retail	\$3,200,000	\$350,000

\*Infrastructure funded as a part of the \$4.1 million for Lake Cliff Tower

\*\*Sports Arena TIF funds were dedicated for infrastructure in the District, not individual projects

\*\*\*The developer will fund a garage for the Latino Cultural Center, not tied to the development project, that will be eligible for reimbursement from Deep Ellum TIF funds

Construction activity in TIF Districts is on-going; however, current economic conditions will likely slow growth in the next couple years. Major TIF-related projects that completed construction in FY 2008, with a combined value over \$98 million, include the Grand Bank at Lake Cliff Tower in the Oak Cliff Gateway TIF District, the Joule Hotel in the City Center TIF District, 2100 Downtown Townhomes Phase I in the Farmers Market TIF District, and the Cirque in the Sports Arena TIF District.

City Council also authorized development agreements for several new projects in the City's sixteen TIF Districts. These anticipated projects will have an estimated value of \$123 million at completion. Recently approved projects may have greater difficulty moving forward in today's financial market.

State law requires the preparation of an annual report for each TIF District that summarizes the activities of each area. The state requirements for this report are minimal. In order to better explain the progress of each TIF District, staff has

created a report that shows additional information. The reports include the following information:

- Mission Statement for the TIF District
- Accomplishments to Date
- Project Status – Type and amount of new development by project including private investment, new residential units, commercial space created, TIF investment, completion (or expected completion) date
- Other District-wide initiatives, where applicable
- Map of the TIF District
- Taxable value and increment revenue summary – what is the captured appraised value for the District and the expected increment collection
- Objectives and Success Indicators for the TIF District
- Summary of City Council actions related to the TIF District
- TIF Project Plan budget status – projected increment revenues to retire TIF fund obligations, expenditures, and the total plan budget
- M/WBE participation in TIF Contracts
- Bond sales and repayment, where applicable
- FY 2009 Work Program

The Annual Reports, upon adoption by City Council, will be submitted to the other taxing jurisdictions participating financially in each District and to the Texas Attorney General and state Comptroller.

### **Financing**

No cost consideration to the City.

### **Recommendation**

Staff recommends City Council approval of all the TIF Annual Reports.

Should you have any questions, please contact me at (214) 670-3314.



A.C. Gonzalez  
Assistant City Manager

TIF District FY 2008 Summary - Annual Reports  
February 13, 2009  
Page 7 of 7

C: The Honorable Mayor and Members of the City Council  
Mary K. Suhm, City Manager  
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Hammond Perot, Assistant Director, Office of Economic Development  
Helena Stevens-Thompson, Assistant to the City Manager



# Memorandum



DATE February 13, 2009

TO Members of the Economic Development Committee: Ron Natinsky (Chair), Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane, Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **New Markets Tax Credit Consultant Selection**

This memo is a follow-up to the January 20, 2009 briefing, Using New Market Tax Credits to Increase Investment in Southern Dallas, and the February 11<sup>th</sup> Council Agenda item related to the creation of a Certified Development Entity (CDE) and New Markets Tax Credit (NMTC) Allocation application approval.

As you know, the Office of Economic Development will be applying for a New Markets Tax Credit allocation in the FY09 funding cycle. The NMTC program permits taxpayers to receive a credit against Federal income taxes for making qualified equity investments in designated Community Development Entities. These investments must be used by the CDE for projects and investments in low-income communities, and the City believes the allocation would be beneficial by providing additional opportunities for development in low-income areas. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year credit allowance period.

Because the application process is highly competitive and the application process is very thorough, it would benefit the City to enlist the services of a qualified consulting team. To assist in the allocation application process, OED issued a Request for Proposals (RFP) on January 15, 2009 to provide technical and strategic support for the application.

A five member evaluation committee was selected from the following departments: Economic Development (2), Housing (2) and Planning and Development Services (1).

The successful proposer was selected by the committee on the basis of the following criteria:

- Responsiveness to the Request for Proposal – 30%
- Statement of Qualifications – 10%
- Business Inclusion & Development Plan – 15%
- Insurance coverage – 5%
- References and previous success in obtaining allotments for other cities– 20%
- Capability to deliver strategic and technical support on time – 20%

Through procurement's outreach, almost 700 notifications were sent out to notify vendors and interested parties of the RFP. This number includes 162 M/WBE vendors.

The city received three responsive proposals from the RFP. Proposals were opened on January 29, 2009. This service contract is being awarded in its entirety to the most advantageous proposer.

<u>Proposers</u>	<u>Address</u>	<u>Score</u>
*S. B. Friedman & Company	221 North LaSalle Street Suite 820 Chicago, IL 60601	72.9
Strategic Development Solutions	11150 West Olympic Boulevard Suite 910 Los Angeles, CA 90064	53.0
Arnall Golden Gregory, LLP	171 17 <sup>th</sup> Street, NW Suite 2100 Atlanta, GA 30363	44.4
Virchow, Krause & Company, LLP	Ten Terrace Madison, WI 53718	Non-responsive**

\*Denotes successful proposer

\*\* Virchow, Krause & Company, LLP was deemed non-responsive for failure to agree to contract terms.

S.B. Friedman & Co. is based out of Chicago, and assisted the City of Chicago in obtaining its \$100 million NMTC allocation. S.B. Friedman & Co. will provide initial strategic support to advantageously position the NMTC application; assist in developing an investment strategy and products; develop financial models; provide guidelines to determine appropriate historical activities to develop a track record of serving low-income communities; and assist in indentifying capital sources and how to structure the tax credit between investor, CDE and borrower/investee.

The maximum contract amount would be \$75,000. The source of funding is Public Private Partnership funding.

Should you have any questions, please contact me at (214) 670-3314.



A.C. Gonzalez  
Assistant City Manager

C:     The Honorable Mayor and Members of the City Council  
          Mary K. Suhm, City Manager  
          Deborah Watkins, City Secretary  
          Tom Perkins, City Attorney  
          Craig Kinton, City Auditor  
          Judge C. Victor Lander, Judiciary  
          Ryan S. Evans, First Assistant City Manager  
          Forest Turner, Interim Assistant City Manager  
          Ramon Miguez, P.E., Assistant City Manager  
          Jill A. Jordan, P.E., Assistant City Manager  
          Jeanne Chipperfield, Director, Budget & Management Services  
          David Cook, Chief Financial Officer  
          Jerry Killingsworth, Director, Housing Department  
          Karl Zavitkovsky, Director, Office of Economic Development  
          Hammond Perot, Assistant Director, Office of Economic Development  
          Helena Stevens-Thompson, Assistant to the City Manager



# Memorandum



CITY OF DALLAS

DATE February 13, 2009

TO Members of the Economic Development Committee: Ron Natinsky (Chair),  
Tennell Atkins (Vice-Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane,  
Mitchell Rasansky, Linda Koop, Steve Salazar

SUBJECT **Downtown Connection TIF Plan Amendment - Additional Assistance for  
Affordable Housing.**

## **BACKGROUND**

On June 8, 2005, the City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Eleven (Downtown Connection TIF District) by Ordinance No. 26020, as amended to focus on catalyst projects to create a greater density and critical mass of development within the Main Street core area. The recommended Plan Amendment will further contribute to the objectives of the Downtown Connection TIF District to develop downtown as a vibrant, destination neighborhood.

On February 12, 2009, the Downtown Connection TIF District Board of Directors approved amending the Project Plan and Reinvestment Zone Financing Plan (the "Project Plan") and the Affordable Housing Program within, to permit economic development grants for additional assistance to projects providing affordable housing units above the minimum (ten percent) requirement.

Projects assisted with TIF funds and developed in the Downtown Connection TIF District as rental housing must set aside, at a minimum, ten percent of the residential units with the project as affordable housing for a period of 15 years. The proposed plan amendment is to encourage the construction of additional affordable housing units within the Downtown Connection TIF District area,

The modifications to the Downtown Connection TIF District Project Plan and the Affordable Housing Program within, include: (1) permitting additional assistance for affordable housing to those projects providing more affordable housing units than the minimum ten percent requirement; (2) extending the eligibility dates for additional affordable housing assistance to projects which are approved by City Council on or before December 31, 2011; and (3) to update the household income limit charts contained within.

On February 25, 2009, the City Council will consider amending the Downtown Connection TIF District Project Plan and the Affordable Housing Policy within.

**FISCAL INFORMATION**

No cost consideration to the City

**COUNCIL DISTRICT**

2, 14

**DEVELOPER INFORMATION**

N/A

**STAFF**

Vernae Martin, Assistant Director  
Bryan Haywood, Manager

**PROGRAM DESCRIPTION**

Attached.

**MAP**

Attached.

**RECOMMENDATION**

Staff recommends approval of the subject item. Please contact me if you have any questions.



A.C. Gonzalez  
Assistant City Manager

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Karl Zavitkovsky Director, Office of Economic Development  
Hammond Perot, Assistant Director, Office of Economic Development  
Verna Martin, Assistant Director, Office of Economic Development  
Helena Stevens-Thompson, Assistant to the City Manager

**APPENDIX C**  
**AFFORDABLE HOUSING PROGRAM**

**I. GENERAL REQUIREMENTS AND DEFINITIONS**

A. Downtown Connection TIF District Affordable Housing Requirement. Ten percent of all housing units to be constructed in the Downtown Connection TIF District assisted with TIF funds must comply with the Affordable Housing criteria (hereinafter defined) as established by the City of Dallas. The Affordable Housing requirements as described herein shall be set out in the Development Agreement as a condition of TIF assistance for residential projects in the Downtown Connection TIF District. TIF subsidies shall not be payable unless and until the Affordable Housing requirements have been met by the owner/developer.

BD. "Affordable" or "Affordable Housing" is defined herein as residential units that are occupied by a household that is either Low- or Moderate-Income. Low Income Households ("LIH") are those whose income at the time of initial occupancy is, according to family size, 50 percent or below of the annual median family (or household) income ("AMFI") for the Dallas Metropolitan Statistical Area ("MSA") as determined annually by the U.S. Department of Housing and Urban Development ("HUD"), with adjustments for family size and published as its "Dallas, Texas – HUD Metro Fair Market Rent Area" ,median family income table. Moderate Income Households ("MIH") are those at 80 percent to 51 percent of AMFI for the Dallas MSA per HUD with adjustments for family size. The income limits for ~~2007~~2008 are as follows:

Household Size	Income at 100% of AMFI	Income at 80% of AMFI	Income at 50% of AMFI
1 Person	\$46,550	\$37,240	\$23,300
2 Person	\$53,200	\$42,560	\$26,600
3 Person	\$59,850	\$47,880	\$29,950
4 Person	\$66,500	\$53,200	\$33,250
5 Person	\$71,800	\$57,450	\$35,900

CB. Rental Affordable Housing. Owners/developers of projects assisted with TIF funds and developed in the Downtown Connection TIF District as rental housing must set aside, ten percent of the residential units within the project as Affordable Housing for a period of 15 years (the "Affordability Period") pursuant to the requirements of Option 1 (described herein).

DG. Owner-occupied/Condominium Affordable Housing. Owners/developers of projects assisted with TIF funds in the Downtown Connection TIF District developed for owner-occupancy (e.g. condominium or townhouse

projects) must set aside ten percent of the residential units within the project as Affordable Housing for a term of 40 years. Owners/developers may select one of three options to comply with the Affordable Housing requirement. The owner/developer must select one of these options no later than six months prior to the date agreed for the issuance of a certificate of occupancy for the project as described in the Development Agreement. The options are:

1. Provide the Affordable Housing units in the property that is to be assisted with Downtown Connection TIF District funds; or
2. Pay a Release Fee, as described herein, to the City of Dallas (Downtown Connection TIF District); or
3. Transfer the Affordable Housing units (as determined by the applicable set aside requirement for the TIF-assisted project) to another property within the downtown freeway loop bounded generally by Central Expressway, I-30, I-35 and Woodall Rodgers Freeway (the "Central Business District" or "CBD"), the "Transfer Option".

In addition:

1. Affordable Housing that is for purchase by a LIH or MIH qualifies as aAffordable hHousing only if the housing purchased from the owner/developer has a purchase price by the initial LIH or MIH that does not exceed a sales price, exclusive of closing costs, of up to \$140,000 per unit. However, the required ten percent of residential units set aside as Affordable within a project by the owner/developer may be priced up to \$190,000 if homeownership loans up to \$40,000 and HOME Investment Partnership Program and Community Development Block Grants up to \$10,000 (see Downtown Connection TIF District Plan for additional loan and grant information) are available to LIH and MIH to assist in securing an Affordable housing unit. Resale is restricted to subsequent LIHs and MIHs.
2. Affordable Housing that is for rent to LIHs or MIHs qualifies as Affordable Housing only if rents do not exceed 30% of the household income for the unit:

<u>Unit Type</u>	<u>**Monthly Maximum Rents</u>		
	<u>30% of 80% of AMFI</u> <u>(Including Utilities)</u>	<u>***Utility</u> <u>Allowance</u>	<u>Monthly Maximum Rent</u> <u>(Excluding Utilities)</u>
Efficiency	\$ 931.00	\$115	\$816.00
1 Bedroom	\$ 998.00	\$144	\$854.00
2 Bedroom	\$1,197.00	\$177	\$1,020.00

#### **EXHIBIT A**

3 Bedroom	\$1,383.00	\$212	\$1,171.00
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(Effective April 12, 2008)

- \* Income limits are for 2008 and are subject to change annually upon notification from HUD. Figures listed are actual calculated figures. HUD allows for rounding to the nearest \$50 in determining eligibility.
- \*\* Rents assume 1.5 persons per bedroom
- \*\*\* Utility allowances are based on HUD's Section 8 allowances and assume that units are all electric; tenant pays for electric and water/sewer/trash collection; and the landlord furnishes the kitchen range and refrigerator.

3. The City's Director of the Office of Economic Development may, with the concurrence of Dallas County, approve increases in these maximum purchase prices or rent limits in writing upon a showing of good cause (example: HUD updates/ changes in MSA median family income) and in his sole judgment.

E. **Additional Assistance for Affordable Housing.** On a case-by case basis, additional TIF subsidies may be available to assist with meeting the affordable housing goals of the Downtown Connection TIF District. Additional subsidies may be made available to TIF-eligible projects which will provide affordable housing units above the minimum requirement (10%) of affordable units.

H. ~~Additional Assistance for Affordable Housing.~~ On a case-by-case basis, additional TIF subsidies may be available to assist with meeting the Affordable Housing Requirement if Option One (see below) is chosen. Such funds may be available if approved by City Council on or before December 31, 2008~~2011~~. Consideration may be given for an extension of the additional assistance for affordable housing based on the findings of a twelve month review. The amount of TIF subsidy will be determined by the cost of providing the affordable units as follows:

**For-Sale Projects** - Subtract \$190,000 from the market rate unit price of those units to be dedicated as Affordable units within the project. The difference/delta is the amount of Affordable housing assistance as described in the following example:

If each of the units dedicated as affordable units have comparable market unit prices of \$255,000 and there are 250 total units, 25 affordable, then the assistance would be \$1,625,000 [ $\$255,000 - \$190,000 = \$65,000 \times 25 = \$1,625,000$ ]. Note that in this example, each of the Affordable units are the same size and have been

attributed the same value. For an actual project, it is anticipated that each unit will have a unique market price.

**Rental Project** - Subtract the monthly HUD standard Affordable unit rent from the monthly market unit rent; multiply by 12 and then divide by the capitalization rate (as determined by the Director of the Office of Economic Development) ~~x 10% of total units within the project x 15 years~~. The market rent calculations are to be based on the actual units to be dedicated as affordable units. The calculation will not include adjustments for appreciation in market or affordable incomes/rents over time. As an example:

If each of the units dedicated as Affordable units have comparable market rental rates of \$1,600 per month (assumption: each is two bedroom, 1,000 square feet and would rent for \$1.60 per square foot), there are 250 total units, 25 affordable, and the Affordable rental rate is \$1,028 per month, ~~then the one year difference in providing the Affordable units instead of market rate units would be \$171,600. Using the current capitalization rate, in this example the 1-year15-year difference, the assistance request, would be capitalized at a rate of 7 percent. In this example, the assistance request would be \$2,451,429. (\$171,600/ 7%) \$2,574,000 [\$1,600 - \$1,028 = \$572 x 25 units x 12 month x 15 years].~~ Also, it should be noted that in this example, each of the Affordable units are the same size and have been attributed the same rental rate. For an actual project, it is anticipated that each unit will have a unique market price.

Market rate units will be analyzed for reasonableness based on comparable project proformas. Assistance for Affordable housing will be in the form of TIF subsidies as such funds become available and in accordance with all TIF District policies and procedures. The assistance for Affordable housing will be calculated in current dollars; no net present value (NPV) adjustments will be made.

If at any time during the affordable set-aside period after the TIF subsidy has been paid, the owner/developer chooses to pay a release fee or transfer the units to an alternative property (see options two and three below), an amortized recapture of the Additional Assistance for Affordable Housing shall apply.

- FE. **Marketing.** Owners/developers shall market their residential properties pursuant to an Affirmative Fair Housing and Marketing Plan approved by City and shall make available to all prospective tenants information pertaining to the City of Dallas' Downtown Homeownership Loan Program including contact information on all residential marketing materials.

GF. Monitoring/Reporting Requirements. Owners/developers shall comply with all program requirements developed by the City to enforce the Affordable Housing requirements described herein. Owner/developer shall monitor and report to the City on the Affordable Housing provided in the property or in a substitute property pursuant to the Transfer Option to ensure such property is occupied by income-eligible households throughout the Affordability Period. The reporting requirements in **Exhibit A** shall be completed by the owner/developer and submitted to the Department of Housing, with copy to the Office of Economic Development, semi-annually, for the term of the Affordability Period.

HG. Use of Funds. Downtown Connection TIF District Affordable Housing funds will be used for various forms of Affordable Housing subsidies as described in the Downtown Connection TIF District Project and Financing Plan including:

1. Homeownership Loans for LIHs and MIHs
2. Developer Loans/Grants
3. Additional subsidies for projects specifically targeting LIHs within the CBD.
4. Additional subsidies for projects providing affordable housing units above the minimum 10 percent requirement.

**II. OPTION ONE: PROVIDE AFFORDABLE HOUSING UNITS WITHIN THE PROJECT ASSISTED WITH DOWNTOWN CONNECTION TIF DISTRICT FUNDS**

- A. This option may be selected for a TIF-assisted rental housing or owner-occupied (condominium or townhouse) project. If Option One is selected for the TIF-assisted project, the owner/developer shall set aside ten percent of the residential units within his or her project as Affordable Housing.
- B. Prior to the sale of any of the Affordable Housing units in a condominium or townhouse project, the owner/developer shall secure deed restrictions on each of the affordable units to ensure purchase and subsequent resale of the unit only to LIHs or MIHs. The deed restrictions shall be for a 40 year term and in the form required by the City, executed by the property owner, consented to in writing by all lienholders, and recorded in the real property records of the county in which the property is located. Such deed restrictions shall govern the sale and resale of such units as Affordable, use and occupancy as the purchaser's principal residence, and maintenance of such units during the term of the deed restrictions.
- C. A portion of the Downtown Connection TIF District subsidy provided as part of the financing of the development of a rental project to a developer shall be a loan with the owner/developer executing a note payable to the City of Dallas in the amount of the TIF subsidy and secured by a deed of

trust lien on or pledge of the project's real property to ensure the continued provision of Affordable Housing in the property in the event of sale or transfer of the property during the Affordability Period. The owner/developer of the project shall also execute deed restrictions on the property that provide that 10% of the project units will meet the Affordable Housing requirements. Such deed restrictions shall be for a 15 year term and in the form required by the City, executed by the property owner, consented to in writing by all lienholders, and recorded in the real property records of the county in which the property is located. Should the property be converted to owner-occupied housing during the fifteen year period, the property owner may choose to pay the release fee (see option two) at the time of conversion. The release fee may be reduced by the loss in revenue that resulted in providing the affordable housing units during the rental period.

### **III. OPTION TWO: PAY THE RELEASE FEE**

- A. Under this option, owners/developers of owner-occupied (condominium or townhouse) projects shall pay a Release Fee as determined by the applicable set aside requirement for Affordable units in lieu of providing the Affordable units within the project.
- B. The total Release Fee shall be an amount equal to fifty percent of the property's median sales price for the market units in the project multiplied by the number of set-aside units required for the property (For example: An owner of a project that has 150 units and a median market-rate unit sales price of \$350,000 would pay a Release Fee equal to: 50% x \$350,000 x 15 set aside units, or \$2,625,000).
- C. The median unit price shall be determined by a certified price list to be provided to the City on the date on which the certificate of occupancy is issued.
- D. The Release Fee shall be paid to the City of Dallas in part at the time residential units in the property are sold in the amount of one percent of the median price of each unit at the closing of the sale of each unit. The balance of the Release Fee shall be finally due and payable to the City no later than eighteen months after the certificate of occupancy has been issued for the Project. The Developer shall have paid the total Release Fee by this date whether or not all the residential units have been sold.
- E. Release Fees will be deposited into the Downtown Connection TIF District fund and earmarked for Affordable Housing development in the Downtown Connection TIF District along with the \$3,000,000 previously set aside for this program.

### **IV. OPTION THREE: TRANSFER AFFORDABLE HOUSING UNITS TO ANOTHER PROPERTY WITHIN THE CBD**

#### **EXHIBIT A**

- A. The owner/developer shall provide the same number of units required in the TIF-assisted project to be designated for Affordable Housing in an alternative downtown project within the CBD, subject to the approval of the Director of the Office of Economic Development and Dallas County.
- B. Transfer Provision Criteria. The alternative downtown project (the "Transfer Property") providing the required number of affordable housing units must:
1. be located within the CBD (stronger consideration will be given to projects within or adjacent to the Main Street core area);
  2. contain a minimum of 25 residential units;
  3. have no more than 430% of the building's residential units as Affordable units;
  4. have a minimum of 550 square feet of rentable, livable area;
  5. be disbursed among the building floors and have comparable views as the market rate units;
  6. be commensurate in quality to the building's market-rate units;
  7. remain affordable for fifteen (15) years;
  8. obtain a certificate of occupancy on the building, including all Affordable units prior to the disbursement of any TIF funds related to the TIF assisted project.
- C. Transfer Provision Enforcement Instruments. A portion of the Downtown Connection TIF District subsidy provided as part of the financing of the development of a project shall be in the form of a loan secured with a note and deed of trust lien on the TIF-assisted property by the owner to enforce the continued provision of Affordable Housing in the Transfer Property in the event of sale or transfer of either the TIF-subsidized property or the Transfer Property during the Affordability Period. The owner/developer of the project shall also execute deed restrictions on the TIF-subsidized property to enforce the requirement that the number of affordable units required in the TIF-assisted project are actually provided in the Transfer property. Such deed restrictions shall be approved by the City, contain the consent of the owner/developer's lien holder, be recorded in the real property records of the county in which the property is located and continue for a period 15 years.
- D. Monitoring of the Transfer Provision. Two copies of the monitoring report shall be provided to the City of Dallas twice a year. The copies shall be submitted to the Department of Housing and the Office of Economic Development. The reports shall verify the incomes of the individuals/households in the alternative affordable units and shall also include the price for which each unit was rented.
- E. Adjustments to Increase Effectiveness. Adjustments may be made to the Affordable Housing Policy, subject to the consent of the Dallas County,

should such changes improve the effectiveness of implementing and providing affordable housing in downtown Dallas.

- F. Default or Violation of Obligation. Any violation of the deed restrictions or other failure to maintain the Affordable units in the Transfer Property in the alternative downtown project will be considered a default of the development agreement.

# AFFORDABLE HOUSING SEMI-ANNUAL OCCUPANCY REPORT

Date of Report:

I certify that the information contained in this report is correct.

Date \_\_\_\_\_

## Program Area

### Downtown Connection TIF District

