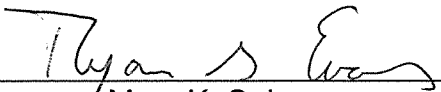



**APRIL 8, 2009 CITY COUNCIL ADDENDUM
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated April 8, 2009. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



Mary K. Suhm
City Manager

4-3-09
Date



Edward Scott
City Controller

4/3/09
Date

RECEIVED

2009 APR -3 PM 1:39

CITY SECRETARY
DALLAS, TEXAS

**ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, APRIL 8, 2009
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TX 75201
9:00 A.M.**

REVISED ORDER OF BUSINESS

Agenda items for which individuals have registered to speak will be considered no earlier than the time indicated below:

9:00 a.m. **INVOCATION AND PLEDGE OF ALLEGIANCE**

OPEN MICROPHONE

CLOSED SESSION

MINUTES

Item 1

CONSENT AGENDA

Items 2 - 34

CONSENT ADDENDUM

Items 1 - 3

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier
than 9:30 a.m.

Item 35
Addendum Items 4 -5

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m.

Items 36 - 37

**ADDENDUM
CITY COUNCIL MEETING
APRIL 8, 2009
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.**

ADDITIONS:

Closed Session

Attorney Briefings (Sec. 551.071 T.O.M.A.)

- Legal issues regarding the W. W. Samuell Permanent Foundation, Samuell Trust Fund, park properties devised under the will of Dr. W. W. Samuell, and related matters

CONSENT ADDENDUM

City Attorney's Office

1. Authorize **(1)** settlement of the lawsuit styled Virginia Aerospace, LLC and Love Terminal Partners, L.P. v. City of Dallas, Cause No. 08-15110-E in an amount not to exceed \$1,875,000; and **(2)** an increase in appropriations in an amount not to exceed \$1,903,125 in the Aviation Capital Construction Fund - Not to exceed \$1,903,125 (\$1,875,000 plus title expenses and closing costs not to exceed \$28,125) - Financing: Aviation Capital Construction Funds
2. Authorize Supplemental Agreement No. 5 to the professional services contract with the law firm of Vinson & Elkins LLP for additional legal services necessary in connection with litigation and related matters involving Dallas Love Field and the Wright Amendment compromise - Not to exceed \$85,000, from \$1,935,000 to \$2,020,000 - Financing: Aviation Current Funds

Economic Development

3. Authorize a Chapter 380 Economic Development grant with the Urban Land Institute to conduct an Advisory Services Panel to develop a framework for future economic development and investment in Southwest Center Mall - Not to exceed \$120,000 - Financing: Public/Private Partnership Funds

ITEMS FOR INDIVIDUAL CONSIDERATION

City Attorney's Office

4. An ordinance amending Ordinance No. 27440 (which adopted amendments to Chapter 41, "Smoking," of the Dallas City Code) to extend its April 10, 2009 effective date to a later designated date certain - Financing: No cost consideration to the City

**ADDENDUM
CITY COUNCIL MEETING
APRIL 8, 2009**

ADDITIONS: (Continued)

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

ITEMS FOR FURTHER CONSIDERATION

Human Resources

5. Authorize an contract with ~~amendment to the sixty-month contract with TRISTAR Risk Management, for workers' compensation and third party liability claims administration, to oversee Injury Management Organization's (IMO) implementation and administration of the Certified Network~~ for a workers' compensation Certified Network for the period of May 1, 2009 through November 30, 2010 - Not to exceed \$855,000, ~~from \$11,971,853 to \$12,826,853~~ - Financing: Current Funds (subject to annual appropriations)

ADDENDUM DATE April 8, 2009

ITEM		IND		DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
#	OK	DEF								
1				N/A	C	ATT, AVI	\$1,903,125.00	NA	NA	Authorize settlement of the lawsuit styled Virginia Aerospace, LLC and Love Terminal Partners, L.P. v. City of Dallas, Cause No. 08-15110-E
2				N/A	C	ATT, AVI	\$85,000.00	100.00%	0.00%	Authorize Supplemental Agreement No. 5 to the professional services contract with the law firm of Vinson & Elkins LLP for additional legal services necessary in connection with litigation and related matters involving Dallas Love Field and the Wright Amendment compromise
3				8	C	ECO	\$120,000.00	NA	NA	Authorize a Chapter 380 Economic Development grant with the Urban Land Institute to conduct an Advisory Services Panel to develop a framework for future economic development and investment in Southwest Center Mall
4				All	I	ATT	NC	NA	NA	An ordinance amending Ordinance No. 27440 (which adopted amendments to Chapter 41, "Smoking," of the Dallas City Code) to extend its April 10, 2009 effective date to a later designated date certain
5				N/A	I	HRD	\$855,000.00	NA	NA	Authorize an <u>contract with amendment</u> to the sixty-month contract with TRISTAR Risk Management, for workers' compensation and third party liability claims administration, to oversee Injury Management Organization's (IMO) implementation and administration of the Certified Network <u>for a workers' compensation Certified Network</u> for the period of May 1, 2009 through November 30, 2010

TOTAL \$2,963,125.00

ADDENDUM ITEM # 1

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: April 8, 2009

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Attorney's Office
Aviation

CMO: Thomas P. Perkins, Jr., 670-3491
Ramon F. Miguez, P.E., 670-3308

MAPSCO: N/A

SUBJECT

Authorize **(1)** settlement of the lawsuit styled Virginia Aerospace, LLC and Love Terminal Partners, L.P. v. City of Dallas, Cause No. 08-15110-E in an amount not to exceed \$1,875,000; and **(2)** an increase in appropriations in an amount not to exceed \$1,903,125 in the Aviation Capital Construction Fund - Not to exceed \$1,903,125 (\$1,875,000 plus title expenses and closing costs not to exceed \$28,125) - Financing: Aviation Capital Construction Funds

BACKGROUND

Plaintiffs filed a lawsuit against the City seeking restitution for rental payments, operating expenses and improvements made to their leased premises at Love Field. Plaintiffs are represented by Munsch, Hardt, Kopf & Harr, P.C.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Council is scheduled to be briefed in Closed Session on April 1, 2009.

FISCAL INFORMATION

Funding for this item is budgeted in the current fiscal year.

\$1,903,125 (\$1,875,000 plus title expenses and closing costs not to exceed \$28,125) - Aviation Capital Construction Funds

April 8, 2009

WHEREAS, a lawsuit styled Virginia Aerospace, LLC and Love Terminal Partners, L.P. v. City of Dallas, Cause No. 08-15110-E, was filed by Plaintiffs seeking restitution from the City of Dallas for rental payments, operating expenses and improvements made to their leased premises at Love Field; and

WHEREAS, Plaintiffs, Virginia Aerospace, LLC and Love Terminal Partners, L.P., through their attorney, Munsch, Hardt, Kopf & Harr, P.C., has agreed to settle this lawsuit for the amount of \$1,875,000; **Now, Therefore,**

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

SECTION 1. That the terms of the compromise settlement agreement in the lawsuit styled Virginia Aerospace, LLC and Love Terminal Partners, L.P. v. City of Dallas, Cause No. 08-15110-E, including a payment to Virginia Aerospace, LLC and Love Terminal Partners, L.P. in the amount of \$1,875,000, are hereby approved.

SECTION 2. That the City Controller is authorized to increase appropriations by \$1,903,125 in Aviation Capital Construction Fund 0131, Unit 8712, Object Code 4210 for land acquisition.

SECTION 3. That the City Controller is authorized to pay to Plaintiffs Virginia Aerospace, LLC and Love Terminal Partners, L.P., the amount of \$1,875,000, and to pay to Republic Title Company an amount for title expenses and closing costs not to exceed \$28,125, from Fund 0131, Department AVI, Unit 8712, Obj. 4210, Encumbrance No. CTAVI8712VIRAERO, Vendor AVIVAERO for title expenses and closing costs.

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.

ADDENDUM ITEM # 2

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: April 8, 2009

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Attorney's Office
Aviation

CMO: Thomas P. Perkins, Jr., 670-3491
Ramon F. Miguez, P.E., 670-3308

MAPSCO: N/A

SUBJECT

Authorize Supplemental Agreement No. 5 to the professional services contract with the law firm of Vinson & Elkins LLP for additional legal services necessary in connection with litigation and related matters involving Dallas Love Field and the Wright Amendment compromise - Not to exceed \$85,000, from \$1,935,000 to \$2,020,000 - Financing: Aviation Current Funds

BACKGROUND

The additional legal services of the law firm of Vinson & Elkins LLP have been necessary for representing the City and its elected officials in connection with litigation involving Dallas Love Field and the Wright Amendment compromise, including the following lawsuits: (1) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Cause No. 06-10182-E; (2) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Cause No. 06-11650-E; (3) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Civil Action No. 3:06-CV-1279-D; (4) Small Community Airlines, Inc. v. City of Dallas, et al., Cause No. 07-02540-E; (5) Virginia Aerospace, L.L.C. et al. v. City of Dallas, No. 08-15110-E; (6) City of Dallas v. Virginia Aerospace, L.L.C., et al., No. JE-0802085-P; and (7) such additional litigation and related matters involving Dallas Love Field and the Wright Amendment compromise as may be assigned to Vinson & Elkins LLP by the City Attorney.

The original professional services contract with the law firm of Vinson & Elkins LLP, in the amount of \$25,000, was authorized by Administrative Action No. 06-1920, on July 27, 2006.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On October 25, 2006, the City Council authorized Supplemental Agreement No. 1 to the professional services contract in the amount of \$250,000, increasing the contract from \$25,000 to \$275,000, by Resolution No. 06-2964.

PRIOR ACTION/REVIEW (Council, Boards, Commissions) (continued)

On February 14, 2007, the City Council authorized Supplemental Agreement No. 2 to the professional services contract in the amount of \$600,000, increasing the contract from \$275,000 to \$875,000, by Resolution No. 07-0533.

On June 13, 2007, the City Council authorized Supplemental Agreement No. 3 to the professional services contract in the amount of \$800,000, increasing the contract from \$875,000 to \$1,675,000, by Resolution No. 07-1727.

On June 25, 2008, the City Council authorized Supplemental Agreement No. 4 to the professional services contract in the amount of \$260,000, increasing the contract from \$1,675,000 to \$1,935,000, by Resolution No. 08-1773.

Council was briefed in Closed Session on April 1, 2009.

FISCAL INFORMATION

\$85,000 – Aviation Current Funds

M/WBE INFORMATION

The recommended awardee has fulfilled the good faith requirements set forth in the Business Inclusion and Development (BID) Plan adopted by Council Resolution No. 08-2826 as amended.

ETHNIC COMPOSITION

Vinson & Elkins LLP

White Male	447	White Female	190
African-American Male	12	African-American Female	15
Hispanic Male	18	Hispanic Female	17
Other Male	22	Other Female	19

OWNER

Vinson & Elkins LLP

Ben Brooks, Partner

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize Supplemental Agreement No. 5 to the professional services contract with the law firm of Vinson & Elkins LLP for additional legal services necessary in connection with litigation and related matters involving Dallas Love Field and the Wright Amendment compromise - Not to exceed \$85,000, from \$1,935,000 to \$2,020,000 - Financing: Aviation Current Funds

Vinson & Elkins LLP is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.

max_length=12

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	<u>Amount</u>	<u>Percent</u>
Local contracts	\$85,000.00	100.00%
Non-local contracts	\$0.00	0.00%
TOTAL THIS ACTION	\$85,000.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	<u>This Action</u>		<u>Participation to Date</u>	
	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
African American	\$0.00	0.00%	\$0.00	0.00%
Hispanic American	\$0.00	0.00%	\$0.00	0.00%
Asian American	\$0.00	0.00%	\$0.00	0.00%
Native American	\$0.00	0.00%	\$0.00	0.00%
WBE	\$0.00	0.00%	\$0.00	0.00%
Total	\$0.00	0.00%	\$0.00	0.00%

April 8, 2009

WHEREAS, the City of Dallas is or has been involved in the following lawsuits related to Dallas Love Field and the Wright Amendment compromise: (1) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Cause No. 06-10182-E; (2) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Cause No. 06-11650-E; (3) Love Terminal Partners, L.P. et al. v. City of Dallas, Texas, et al., Civil Action No. 3:06-CV-1279-D; (4) Small Community Airlines, Inc. v. City of Dallas, et al., Cause No. 07-02540-E; (5) Virginia Aerospace, L.L.C. et al. v. City of Dallas, No. 08-15110-E; and (6) City of Dallas v. Virginia Aerospace, L.L.C., et al., No. JE-0802085-P; and

WHEREAS, pursuant to Administrative Action No. 06-1920, approved on July 27, 2006, the City entered into a professional services contract with the law firm of Vinson & Elkins LLP, in an amount not to exceed \$25,000, for legal services necessary to represent the City and its elected officials in the above-referenced lawsuits, and in such additional litigation and related matters involving Dallas Love Field and the Wright Amendment compromise as may be assigned to the firm by the City Attorney; and

WHEREAS, on October 25, 2006, pursuant to Resolution No. 06-2964, the City entered into a Supplemental Agreement No. 1 to the professional services contract with the law firm of Vinson & Elkins LLP, in an amount not to exceed \$250,000, increasing the original contract amount as supplemented from \$25,000 to \$275,000; and

WHEREAS, on February 14, 2007, pursuant to Resolution No. 07-0533, the City entered into a Supplemental Agreement No. 2 to the professional services contract with the law firm of Vinson & Elkins LLP, in an amount not to exceed \$600,000, increasing the original contract amount as supplemented from \$275,000 to \$875,000; and

WHEREAS, on June 13, 2007, pursuant to Resolution No. 07-1727, the City entered into a Supplemental Agreement No. 3 to the professional services contract with the law firm of Vinson & Elkins LLP, in an amount not to exceed \$800,000, increasing the original contract amount as supplemented from \$875,000 to \$1,675,000; and

WHEREAS, on June 25, 2008, pursuant to Resolution No. 08-1773, the City entered into a Supplemental Agreement No. 4 to the professional services contract with the law firm of Vinson & Elkins LLP, in an amount not to exceed \$260,000, increasing the original contract amount as supplemented from \$1,675,000 to \$1,935,000; and

WHEREAS, the legal services of the law firm of Vinson & Elkins LLP continue to be necessary for representation of the City and its elected officials in some of the above-referenced lawsuits; **Now, Therefore,**

April 8, 2009

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

SECTION 1. That, following approval as to form by the City Attorney, the City Manager is hereby authorized to enter into Supplemental Agreement No. 5 to the professional services contract with the law firm of Vinson & Elkins LLP for additional legal services and related expenses necessary in the above-referenced lawsuits, and any other proceedings related to the subject matter of these lawsuits, or involving Dallas Love Field and the Wright Amendment compromise, as assigned to the firm by the City Attorney, in an amount not to exceed \$85,000, increasing the original contract amount as supplemented from \$1,935,000 to \$2,020,000.

SECTION 2. That the City Controller is authorized to disburse additional periodic payments in an amount not to exceed \$85,000 to Vinson & Elkins LLP in accordance with the terms of the contract and Supplemental Agreement No. 5, from Fund 0130, Department AVI, Unit 7710, Obj. 3070, Encumbrance No. AVI7710VINS-4, Vendor No. 341246.

SECTION 3. 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.

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: April 8, 2009
COUNCIL DISTRICT(S): 8
DEPARTMENT: Office of Economic Development
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 63 X

SUBJECT

Authorize a Chapter 380 Economic Development grant with the Urban Land Institute to conduct an Advisory Services Panel to develop a framework for future economic development and investment in Southwest Center Mall - Not to exceed \$120,000 - Financing: Public/Private Partnership Funds

BACKGROUND

The City of Dallas wishes to participate in a Chapter 380 grant in accordance with the Public/Private Partnership Program to promote the City's Economic Development Program pursuant to Chapter 380 of the Texas Local Government Code that makes loans and grants that will stimulate business and commercial activity in Dallas with the Urban Land Institute through an advisory services panel focused on Southwest Center Mall.

The Urban Land Institute (ULI) is an education and research organization that fosters and encourages high standards of land use planning and development. Established in 1936, ULI is recognized as one of North America's most respected and widely quoted sources of objective information on urban planning, growth, and development. The members of this panel will be selected from the ULI membership for their expertise relevant to the problems and opportunities facing this project. All panel members donate their time, effort, and expertise to the Advisory Services program as a personal contribution to further the Institute's work and objectives.

The Advisory Services Panel will meet over a period of five days. Day one will consist of a briefing and site tour; day two is reserved for interviews of local resource people. The report is prepared over the next two days and presented on Friday. In 2006, the City of Dallas was the lead project sponsor for a previous ULI panel that examined the Inland Port area.

BACKGROUND (Continued)

The focus of this Advisory Services Panel will be redevelopment opportunities at Southwest Center Mall.

The mall has lost two anchor department stores and has less than 50% occupancy in its in-line shops, while retailers have positioned off-site to the south, west and east of the mall, limiting potential mall tenants.

The Advisory Services Panel will evaluate the redevelopment potential of the mall and explore alternate uses or reuses for the anchor stores. This includes developing a framework for retail and nonretail uses, the feasibility of creating a mixed-use center, and suggesting civic and public uses that might be needed in the immediate area and could be accommodated at Southwest Center Mall. These recommendations will support increased investment in the City of Dallas and Southwest Center Mall.

As the project and financial sponsor of the panel, the City of Dallas will provide \$120,000 to ULI for the week long Advisory Services panel. It is anticipated that ULI will commence the panel on June 14th.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On April 6, 2009, the Economic Development Committee was briefed on the Chapter 380 Economic Development grant agreement with ULI to conduct an Advisory Services Panel related to Southwest Center Mall.

FISCAL INFORMATION

\$120,000 - Public/Private Partnership Funds

OWNER(S)

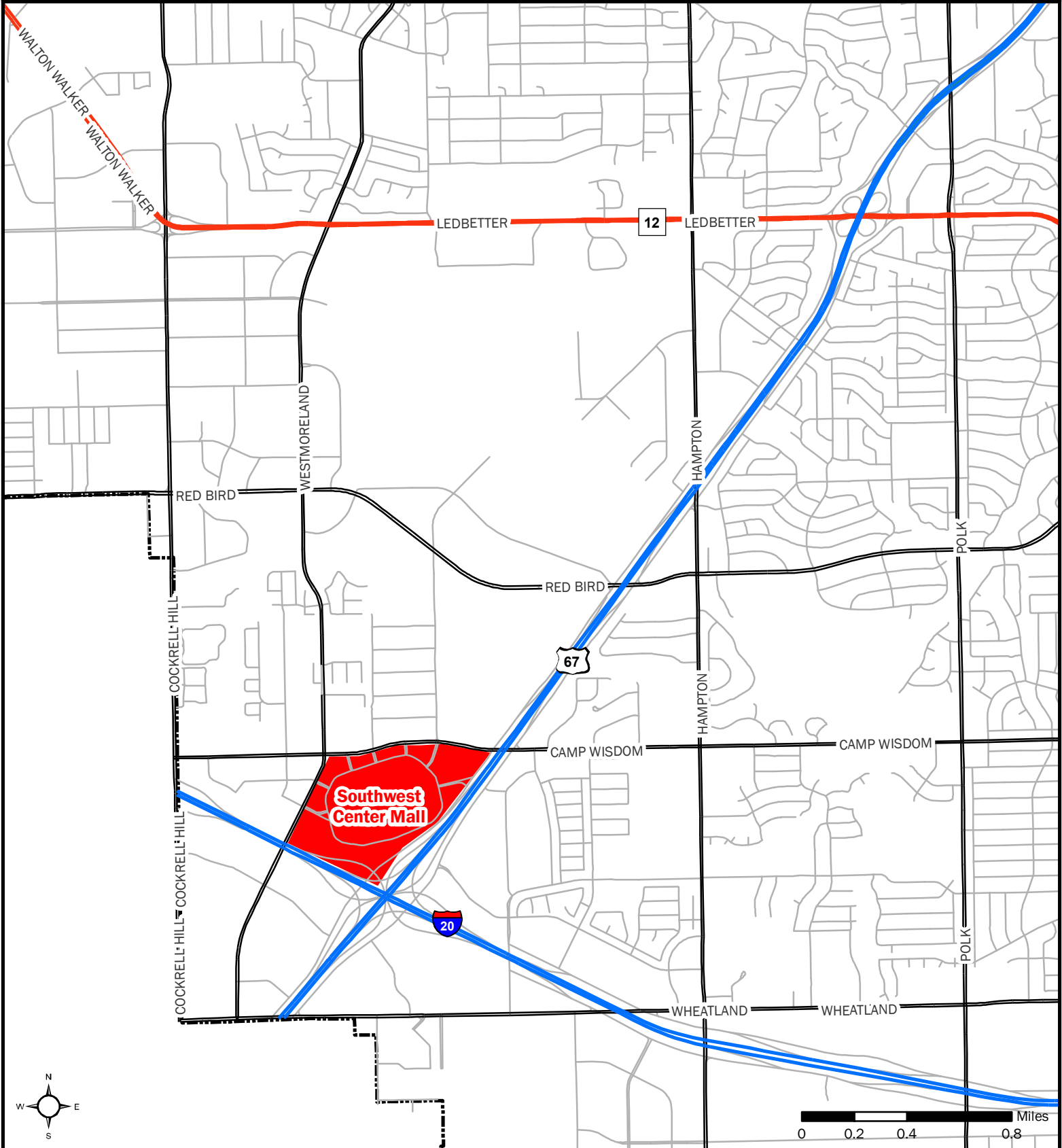
Southwest Center Mall

John Sorel, Managing Director, Madison Realty Capital
Jeff Stollenwerck, Senior Vice President, Sears
Bill Dillard, Chief Executive Officer, Dillard's
Bob Grapski, Vice President Real Estate, Burlington Coat Factory
Duane Vaughan, Executive Vice President, Macys
Steve Rosenberg, Principal, Aspen Penneys

MAP

Attached.

Southwest Center Mall



City of Dallas
Office of Economic Development



Research & Information Division
(214) 670-1685
<http://www.Dallas-EcoDev.org>

Created 3/26/2009 - SWC Mall Council.TCG

Legend

- Freeway
- Tollway
- Highway

- Arterial
- Local Street
- City of Dallas

Source: City of Dallas, 2009

April 8, 2009

WHEREAS, the City, pursuant to Resolution No. 08-1050 approved by the City Council on April 9, 2008: (1) adopted revised Public/Private Partnership Program - Guidelines and Criteria, which established certain guidelines and criteria for the use of City incentive programs for private development projects; and (2) established programs for making loans and grants of public money to promote local economic development and to stimulate business and commercial activity in the City of Dallas pursuant to the Economic Development Programs provisions under Chapter 380 of the Texas Local Government Code, (the "Act"); and

WHEREAS, consistent with the authority granted under the Act and the City's Program for Loans and Grants (Public/Private Partnership Program), it is in the best interest of the City to enter into this Agreement as a part of the City's ongoing program to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, Southwest Center Mall, located in Southern Dallas, is no longer a vibrant retail center; and

WHEREAS, the Urban Land Institute (ULI) is one of North America's most respected sources of objective information on urban planning, growth, and development; and

WHEREAS, the Urban Land Institute conducts five-day Advisory Services Panels to provide benefits to the general public through improved planning and utilization of urban land; and

WHEREAS, in furtherance of the Public/Private Partnership program and provisions under the Act, or as an additional program, and to promote within the city: (1) development and diversification of the economy, (2) elimination of unemployment and underemployment, and (3) development and expansion of commerce, the City desires to provide an economic incentive and enter into an economic development grant agreement for such with ULI to develop a framework to redevelop Southwest Center Mall, focusing on increasing investment and job creation; and

WHEREAS, the City of Dallas desires assistance in the redevelopment of Southwest Center Mall; and

WHEREAS, the City of Dallas desires to utilize the services of a ULI Advisory Services Panel to assist in the redevelopment of Southwest Center Mall to trigger economic development and provide retail services for this relatively underserved area of Dallas.

NOW, THEREFORE,

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

April 8, 2009

Section 1. That the City Manager, upon approval as to the form by the City Attorney is hereby authorized to enter into an Economic Development Program grant with the Urban Land Institute to conduct a five-day advisory services panel beginning on June 14, 2009.

Section 2. That the City Controller is hereby authorized to make payments in accordance with the terms of the contract, in an amount not to exceed \$120,000 from Fund 0352, Department ECO, Unit. 9992, Object. 3070, Activity PPPF, CT ECO9992F047, Vendor No. 070137.

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

Distribution: Office of Economic Development – Tenna Kirk, 5CS
 Office of Economic Development – Heather Lepaska, 5CS
 City Attorney's Office – Barbara Martinez

KEY FOCUS AREA: A Cleaner, Healthier City Environment
AGENDA DATE: April 8, 2009
COUNCIL DISTRICT(S): All
DEPARTMENT: City Attorney's Office
CMO: Thomas P. Perkins, Jr., 670-3491
MAPSCO: N/A

SUBJECT

An ordinance amending Ordinance No. 27440 (which adopted amendments to Chapter 41, "Smoking," of the Dallas City Code) to extend its April 10, 2009 effective date to a later designated date certain - Financing: No cost consideration to the City

BACKGROUND

On December 10, 2008, the city council adopted Ordinance No. 27440, which amended Chapter 41, "Smoking," of the Dallas City Code to: (1) prohibit smoking in all indoor and enclosed areas in the city and within 15 feet of any entrance to an indoor or enclosed area; (2) provide certain defenses; (3) provide signage and other requirements; (4) provide for enforcement of smoking violations against both the person smoking and the owner, operator, or person in control of the establishment or area where smoking is prohibited; and (5) provide a penalty of \$200. Ordinance No. 27440 will go into effect on April 10, 2009. Several bars and other establishments affected by these smoking regulations have requested the city council to extend the effective date of Ordinance No. 27440 for six months to allow them time to construct outdoor patio areas to accommodate their smoking customers. The proposed ordinance would extend the effective date to October 10, 2009.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Ordinance No. 27440 was passed by the city council on December 10, 2008.

FISCAL INFORMATION

No cost consideration to the City.

ORDINANCE NO. _____

An ordinance amending Ordinance No. 27440 (which adopted amendments to CHAPTER 41, “SMOKING,” of the Dallas City Code) to extend its April 10, 2009 effective date to October 10, 2009; providing a saving clause; and providing an effective date.

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

SECTION 1. That Section 4 of Ordinance No. 27440, passed by the city council on December 10, 2008, is amended to read as follows:

“SECTION 4. That this ordinance will take effect on October [~~April~~] 10, 2009, and it is accordingly so ordained.”

SECTION 2. That Ordinance No. 27440 will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That this ordinance will take effect on April 8, 2009, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/UC/0144U

ADDENDUM ITEM # 5

KEY FOCUS AREA: Make Government More Efficient, Effective and Economical

AGENDA DATE: April 8, 2009

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Human Resources

CMO: Mary K. Suhm, 670-5306

MAPSCO: N/A

SUBJECT

~~Authorize an contract with amendment to the sixty-month contract with TRISTAR Risk Management, for workers' compensation and third party liability claims administration, to oversee Injury Management Organization's (IMO) implementation and administration of the Certified Network for a workers' compensation Certified Network for the period of May 1, 2009 through November 30, 2010 - Not to exceed \$855,000, from \$11,971,853 to \$12,826,853 - Financing: Current Funds (subject to annual appropriations)~~

BACKGROUND

Due to the continued increase in workers' compensation costs and lost time days, the State of Texas made it possible through House Bill 7 (HB7) for employers/carriers to enter into a Certified Network with IMO. This network allows the City a cost avoidance of \$1,000,335 in claims cost for the period of May 1, 2009 through November 30, 2010.

There are only 19 months remaining in the original 60 month contract. This action will allow our current cost containment subcontractor, IMO, to continue the current cost avoidance that has effectively reduced cost since 2005. The claims cost has remained relatively level since the contract period with TRISTAR and IMO.

On December 1, 2005, the City entered a five-year contract with TRISTAR Risk Management for \$11,971,853 to provide workers' compensation third party claims administration. Injury Management Organization (IMO) currently provides cost containment and bill review services to the City as a subcontractor to TRISTAR Risk Management.

- ~~● TRISTAR determines eligibility of claims and extent of injuries, makes payment recommendations~~
- ~~● TRISTAR is required to provide legal representation for workers' compensation issues and subcontracts this service to Harris & Harris~~
- ~~● TRISTAR is required to provide medical cost containment services. These services are currently subcontracted through Injury Management Organization~~

BACKGROUND (Continued)

(IMO)

- TRISTAR/IMO, during the first two contract years, assisted the City with a \$3.8M (26%) cost avoidance in workers' compensation claims
 - IMO provides medical utilization, pre-authorization, bill review, medical peer review, medical and telephonic case management
 - IMO current cost containment strategies do not include but will in the Network:
 - Quality Improvement Programs
 - Performance Based Report Cards on accountability for satisfaction of care, quality medical care and return-to-work outcomes
 - Quality Medical Care using evidence based guidelines (Official Disability and Return-To-Work Guidelines)
 - IMO is 1 of 34 Certified Networks in Texas
 - IMO is an MWBE organization
- TRISTAR determines eligibility of claims and extent of injuries, makes payment recommendations
- TRISTAR is required to provide legal representation for workers' compensation issues and subcontracts this service to Harris & Harris
 - Due to legislative changes which increased medical care costs, the City's cost increased by \$1.2 M (12%)
- ~~TRISTAR/IMO, during the first two contract years, assisted the City with a \$3.8M (26%) cost avoidance in workers' compensation claim~~

~~The City entered into a five-year contract with TRISTAR Risk Management for \$11,971,853 to provide workers' compensation third party claims administration effective December 1, 2005. TRISTAR, during the first two contract years, assisted the City with a \$3.8M (26%) cost avoidance in workers' compensation claims.~~

~~(26%) cost avoidance in workers' compensation claims~~

- o ~~Due to legislative changes which increased medical care costs, the City's cost increased by \$1.2M (12%)~~

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

City Council authorized a five year contract with TRISTAR Risk Management for workers' compensation and third party liability administration on September 14, 2005, by Resolution No. 05-2676.

On March 25, 2009, this item was deferred by Mayor Tom Leppert.

FISCAL INFORMATION

\$855,000 - Current Funds (subject to appropriations)

April 8, 2009

WHEREAS, the City of Dallas ~~awarded a sixty-month service contract for workers' compensation, third party liability claims administration and related cost containment services to TRISTAR Risk Management by Resolution No. 05-2676~~ desires to contract with Injury Management Organization (IMO) for a workers' compensation Certified Network at a cost not to exceed \$855,000 for the period of May 1, 2009 through November 30, 2009; and

WHEREAS, the City of Dallas ~~desires to increase the contract cost for implementation and administration of the Certified Network at a cost of \$855,000; from \$11,971,853 to \$12,826,853, for the period of May 1, 2009 through November 30, 2010~~ awarded a sixty-month service contract for workers' compensation, third party liability claims administration and related cost containment services to TRISTAR Risk Management by Resolution No. 05-2676; and

WHEREAS, The City of Dallas desires to continue workers' compensation, third party liability claims and related cost containment services with TRISTAR Risk Management for the contract term not to exceed ~~\$12,826,853~~ \$11,971,853; and

WHEREAS, the State changed its laws and the cost of medical care continues to rise.

NOW THEREFORE,

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

Section 1. That the ~~amendment to the sixty-month contract between City and TRISTAR to oversee Injury Management Organization's (IMO) implementation and administration of the Certified Network as required by law for workers' compensation and related cost containment services not to exceed \$855,000, increase contract amount from \$11,971,853 to \$12,826,853.~~ contract between the City and Injury Management Organization for a Certified Network as a required by law for workers' compensation not to exceed \$855,000, for the period of May 1, 2009 through November 30, 2010.

Section 2. That the City Manager be and is hereby authorized to enter into a contract when a contract is required for the preceding purchase and the City Controller is authorized to disburse funds accordingly.

Section 3. That the City Controller be authorized to disburse funds in an amount not to exceed \$855,000 for the period of May 1, 2009 through November 30, 2010; subject to annual appropriations, from Fund 0189, Agency ORM, Unit 3801, Object 3070; Encumbrance ~~ORMTPAFY08~~ IMOFY09, ~~TRISTAR Risk Management (514733)~~ Injury Management Organization (345669).

April 8, 2009

Section 4. That the City Council of the City of Dallas determines that the provision of benefits through a Certified Workers' Compensation Network is available to the employees of the City of Dallas and is practical for the City of Dallas.

Section 5. 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.

Distribution:

Human Resources - 6AN

City Attorney - 7DN