MAY 28, 2008 CITY COUNCIL ADDENDUM
CERTIFICATION

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated May 28, 2008. 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

Edward Scott
City Controller

Date

5-23-08
ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, MAY 28, 2008
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 - 44

CONSENT ADDENDUM
Items 1 - 14

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier than 9:30 a.m.
Items 45 - 49, 51 - 53

To be considered after 12:00 noon
Item 50

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m.
Items 54 - 74
Addendum Item 15
ADDENDUM
CITY COUNCIL MEETING
MAY 28, 2008
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.

ADDITIONS:

CONSENT ADDENDUM

Aviation

Ambassador Aviation, Ltd.

1. * Authorize an amendment to the lease agreement with Ambassador Aviation, Ltd. and DalExec, L.L.C. (co-owners of Ambassador Aviation) to add eight years to the lease term, adjust rent escalators and grant an option to add approximately 12,000 square feet of land to the lease when it becomes available, in consideration of Ambassador Aviation, Ltd. and DalExec, L.L.C. commitment to expend not less than $1,000,000 on new capital improvements on the leased premises within ten years from the effective date of the lease amendment at Dallas Executive Airport - Estimated Annual Revenue $8,363

2. * Authorize a Chapter 380 economic development grant agreement with Ambassador Aviation, Ltd. and DalExec, L.L.C. in the amount of $750,000 in consideration of infrastructure development and other related costs associated with its expansion at Dallas Executive Airport, pursuant to the Public/Private Partnership Program - Not to exceed $750,000 - Financing: Public/Private Partnership Funds

Business Development & Procurement Services

3. Authorize a professional services contract for the planning and design of a South Dallas Fair Park Entertainment District - Mill City Renaissance Fund, Inc., only proposer - Not to exceed $148,500 - Financing: U.S. Department of Housing Urban Development Grant Funds

Department of Development Services

4. An ordinance amending Chapter 43 of the Dallas City Code to: (1) revise fees for newsrack licenses; (2) revise certain design and appearance standards and locational requirements for newsracks; (3) revise the boundaries of the “expanded central business district” multiple newsrack unit zone and require plans for the installation of multiple newsrack units in the zone; (4) provide for certain notices to be published in a newspaper of general circulation in the city; (5) authorize the city to contract for the installation, operation, maintenance, repair, removal, and replacement of multiple newsrack units in a multiple newsrack unit zone; (6) provide transitional provisions; and (7) amend Ordinance No. 26809 to reduce transitional license fees - Financing: No cost consideration to the City
ADDENDUM
CITY COUNCIL MEETING
MAY 28, 2008

ADDITIONS: (Continued)

CONSENT ADDENDUM (Continued)

Economic Development

5. Authorize a Chapter 380 economic development forgivable loan agreement with City Wide Community Development Corporation to acquire and demolish the Sunset Motel located at 4343 Lancaster Road and the Southern Comfort Motel located at 4411 Lancaster Road both in Dallas, Texas in the Lancaster Corridor to redevelop into two commercial buildings that will address a shortage of business rental space, provide a skills training facility and remove slum and blight from the area - Not to exceed $850,000 - Financing: Public/Private Partnership Funds

6. Authorize the release of a lien in the amount of $25,000 on real property held as collateral for a loan made by the South Dallas/Fair Park Trust Fund to Terrance Henderson d/b/a A Taste of New Orleans restaurant, 4837 Spring Avenue - Financing: No cost consideration to the City

Note: Item Nos. 7 and 8 must be considered collectively.

7. * Authorize (1) a development agreement with INCAP Master Development, LLC to provide funding for TIF-eligible project costs related to the horizontal development only (demolition and environmental remediation) of six structurally and functionally obsolete apartment complexes in anticipation of future vertical development and median improvements on Davis Street between Hampton and Montclair Roads in Tax Increment Financing Reinvestment Zone Number Sixteen (Davis Garden TIF District); and (2) the Davis Garden TIF District Board of Directors to dedicate up to $4,008,247 from future Davis Garden TIF revenues in accordance with the development agreement - Not to exceed $4,008,247 - Financing: Davis Garden TIF District Funds

8. * A resolution declaring the intent of Tax Increment Financing Reinvestment Zone Number Sixteen (Davis Garden TIF District) to reimburse INCAP Master Development, LLC up to $4,008,247 for certain TIF-eligible project costs related to the environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District - Financing: No cost consideration to the City
ADDENDUM
CITY COUNCIL MEETING
MAY 28, 2008

ADDITIONS: (Continued)

CONSENT ADDENDUM (Continued)

Environmental & Health Services

9. Authorize (1) the payment of General Obligation Homeless Bond funds to the Central Dallas Community Development Corporation for partial rehabilitation costs in connection with the CityWalk @ Akard Project located at 511 North Akard in exchange for the development of 50 units to be deed restricted for homeless and chronically homeless persons for a period of 30 years; and (2) an amendment to Resolution No. 07-1595, previously approved on May 23, 2007, to increase the number of units for the CityWalk @ Akard Project from 194 to 200 - Not to exceed $1,500,000 - Financing: 2005 Bond Funds

Park & Recreation

10. Authorize (1) a public hearing to be held on June 11, 2008 to receive comments on readopting and continuing in effect Chapter 12, "City Youth Program Standards of Care," of the Dallas City Code, to re-establish standards of care for certain city youth programs in compliance with State Law, and at the close of the hearing, (2) approval of an ordinance to readopt Chapter 12 of the Dallas City Code - Financing: No cost consideration to the City

Police

11. An ordinance amending Chapter 40B of the Dallas City Code to: (1) enhance record keeping requirements for secondary metals recyclers; (2) require photographs and thumbprints of sellers of regulated metal property; (3) require regulated metal property be paid for by check mailed to the seller, unless the seller holds a valid cash transaction card; (4) require regulated metal property to be delivered in a motor vehicle to a secondary metals recycler’s place of business; (5) require a five-day hold on purchased regulated metal property; (6) require proof of ownership or authority to sell catalytic converters; and (7) and make changes conforming to state law - Financing: No cost consideration to the City

Sanitation Services

12. An ordinance amending Chapter 18 of the Dallas City Code to adjust solid waste disposal charges - Estimated Annual Revenue: $297,566
ADDENDUM
CITY COUNCIL MEETING
MAY 28, 2008

ADDITIONS: (Continued)

CONSENT ADDENDUM (Continued)

Trinity River Corridor Project

13. Authorize settlement in lieu of proceeding further with condemnation for the acquisition of approximately 1,415 acres of land located near the intersection of Loop 12 and Pemberton Hill Road from Metropolitan Sand and Gravel Company, L.L.C. or its successor, and approximately 111 acres of land located near the intersection of Linfield Road and Hull Avenue from Weir Bros. Partners, L.L.C., for the Trinity River Corridor Project - $8,900,000 - Financing: 1998 Bond Funds ($1,500,000), 2006 Bond Funds ($5,200,000), and U.S. Army Corps of Engineers Project Cooperation Funds ($2,200,000)

Water Utilities

14. Authorize Supplemental Agreement No. 1 to the professional services contract with Finish Well Companies dba Global Bridgebuilders, formerly Diversity Management Strategies, LLC, (1) for the continuing assessment and development of a training program to enhance workforce diversity and employee productivity with the Water Utilities Department; and (2) perform assessments and develop training programs to enhance workforce diversity and employee productivity in additional departments - Not to exceed $246,800 from $72,000 to $318,800 - Financing: Water Utilities Current Funds ($96,800), Current Funds ($150,000) (subject to annual appropriations)

PUBLIC HEARINGS AND RELATED ACTIONS

Department of Development Services

DEVELOPMENT CODE AMENDMENTS - CONSENT

15. A public hearing to receive comments regarding consideration of amendments to Article IX, Thoroughfares, of Chapter 51A, the Dallas Development Code, to amend regulations pertaining to the effective date of street name changes and an ordinance granting the amendments
Recommendation of Staff and CPC: Approval
DCA078-004
CORRECTIONS:

Human Resources

30. Authorize the purchase of a contract with Lawson Software, Incorporated for the purchase and maintenance of the Lawson human resources and payroll software and end-user licenses to support the upgrade of the Human Resources Information System - Total not to exceed $40,000 - Financing: 2007 Equipment Acquisition Contractual Obligation

Notes

Department of Development Services

ZONING CASES - INDIVIDUAL

60. A public hearing to receive comments regarding an application to amend for and an ordinance granting an amendment to Zones 1A and 1B of Planned Development District No. 184 for office, retail and residential uses, on the northeast corner of Cedar Spring Road and Carlisle Street

Recommendation of Staff: Approval, subject to a conceptual plan, revised development plan, landscape plan and staff's recommended conditions

Recommendation of CPC: Denial

Z078-159(WE)

DELETIONS:

City Secretary’s Office

47. Consideration and appointment of a member to the Dallas/Fort Worth International Airport Board of Directors (Closed Session, if necessary, Personnel, Sec. 551.074, T.O.M.A) (List of nominees is available in the City Secretary's Office)

Department of Development Services

ZONING CASES - INDIVIDUAL

59. A public hearing to receive comments regarding an application for and an ordinance granting the creation of a new subdistrict in Planned Development District No. 298, the Bryan Place Special Purpose District, and an ordinance granting a Specific Use Permit for vehicle or engine repair or maintenance on property zoned Subdistrict 1 within Planned Development District No. 298, the Bryan Place Special Purpose District, on the northeast corner of Ross Avenue and McCoy Street

Recommendation of Staff: Denial

Recommendation of CPC: Approval of a new subdistrict, subject to conditions and approval of the Specific Use Permit for a four-year period, subject to a site plan and condition

Z078-131(JH)
DELETIONS: (Continued)

Department of Development Services (Continued)

ZONING CASES - INDIVIDUAL (Continued)

61. A public hearing to receive comments regarding an application for and an ordinance granting a Planned Development District for CS Commercial Service District Uses on property zoned an A(A) Agricultural District and a CS-D-1 Commercial Service District with the D-1 Liquor Control Overlay in the southwest quadrant of IH 20 and C. F. Hawn Freeway
Recommendation of Staff and CPC: Approval, subject to a development plan and conditions, with retention of the D-1 Liquor Control Overlay
Z067-270(RB)
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<th>DOLLARS</th>
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<td>REV</td>
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<td>NA</td>
<td>NA</td>
<td>Ambassador Aviation, Ltd.: Authorize an amendment to the lease agreement with Ambassador Aviation, Ltd. and DalExec, L.L.C. (co-owners of Ambassador Aviation) to add eight years to the lease term, adjust rent escalators and grant an option to add approximately 12,000 square feet of land to the lease when it becomes available, in consideration of Ambassador Aviation, Ltd. and DalExec, L.L.C. commitment to expend not less than $1,000,000 on new capital improvements on the leased premises within ten years from the effective date of the lease amendment at Dallas Executive Airport</td>
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<td>6</td>
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<td>$4,008,247.00</td>
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<td>9</td>
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<td>NA</td>
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<td>NA</td>
<td>Authorize a public hearing to be held on June 11, 2008 to receive comments on readopting and continuing in effect Chapter 12, &quot;City Youth Program Standards of Care,&quot; of the Dallas City Code, to re-establish standards of care for certain city youth programs in compliance with State Law; and, at the close of the hearing, approval of an ordinance to readopt Chapter 12 of the Dallas City Code.</td>
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<td>11</td>
<td>All</td>
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<td>13</td>
<td>4, 5</td>
<td>C</td>
<td>TRC</td>
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<td>$8,900,000.00</td>
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<td>14</td>
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<td>WTR, HRD</td>
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<td>$246,800.00</td>
<td>0.00%</td>
<td>77.42%</td>
<td>Authorize Supplemental Agreement No. 1 to the professional services contract with Finish Well Companies dba Global Bridgebuilders, formerly Diversity Management Strategies, LLC, for the continuing assessment and development of a training program to enhance workforce diversity and employee productivity with the Water Utilities Department; and perform assessments and develop training programs to enhance workforce diversity and employee productivity in additional departments.</td>
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**TOTAL** $15,505,047.00
Ambassador Aviation, Ltd.

* Authorize an amendment to the lease agreement with Ambassador Aviation, Ltd. and DalExec, L.L.C. (co-owners of Ambassador Aviation) to add eight years to the lease term, adjust rent escalators and grant an option to add approximately 12,000 square feet of land to the lease when it becomes available, in consideration of Ambassador Aviation, Ltd. and DalExec, L.L.C. commitment to expend not less than $1,000,000 on new capital improvements on the leased premises within ten years from the effective date of the lease amendment at Dallas Executive Airport - Estimated Annual Revenue $8,363

* Authorize a Chapter 380 economic development grant agreement with Ambassador Aviation, Ltd. and DalExec, L.L.C. in the amount of $750,000 in consideration of infrastructure development and other related costs associated with its expansion at Dallas Executive Airport, pursuant to the Public/Private Partnership Program - Not to exceed $750,000 - Financing: Public/Private Partnership Funds

BACKGROUND

Ambassador Aviation, Ltd. ("Ambassador") currently leases approximately 17.1 acres of land at Dallas Executive Airport. The lease commenced on April 1, 2000 and contains a thirty-year primary term which will expire on March 31, 2030. The lease currently contains one ten-year option to extend the lease to March 31, 2040. Ambassador currently pays annual rent to the City in the amount of $120,454. The lease contains rent escalations scheduled to occur in 2025 and upon commencement of the existing option period.
**BACKGROUND** (continued)

Ambassador currently has a $3.9 million capital improvement and maintenance commitment to be expended within twenty-five years; Ambassador, having already expended approximately $3.7 million of its obligation, with $200,000 remaining to be expended. As part of Ambassador's expansion plans at Dallas Executive Airport, Ambassador agrees to expend not less than $1 million on new facilities on the existing leased premises within ten years from the effective date of the lease amendment. In exchange, Ambassador requests the City add eight years to the lease term necessary to amortize their new investment and delete existing rent escalators scheduled to occur in 2025 and 2030, add new rent escalators to commence in 2038 (commencement of option period) and grant an option to lease an approximately 12,000 square feet of land when it becomes available for lease. The new rent escalators to occur in 2038 are based on the following: annual rent on existing T-hangars to the lesser of prevailing rental rates or $1.00 per square foot; annual rent on other facilities existing prior to lease amendment to lesser of prevailing rates or $2.30 per square foot and annual rent on all facilities constructed after the lease amendment to prevailing rental rates.

Upon approval of this agenda item, Ambassador's total financial commitment to Dallas Executive Airport will be $4.5 million in new capital improvements, which $3.3 million having already been expended, plus an additional revenue increase of $334,502 over the forty year term of the lease.

Title to all newly constructed improvements shall become the property of the City upon completion of construction.

In support of this project, staff proposes providing a Chapter 380 Economic development grant in the amount of $750,000 to offset development costs associated with the Ambassador Aviation, Ltd. and DalExec, L.L.C. expansion at Dallas Executive Airport. The grantee agrees, at its sole cost and expense, to construct two new hangars at a combined minimum cost of $750,000, reconstruct Saturn Drive into a taxilane, demolish T-hangar Rows 1 and 2, and loop the water main serving a hangar. All construction of the above infrastructure improvements and the two new hangars shall be completed to City standards and subject to City inspection and approval. The cost of the two new hangars required under the Chapter 380 Grant are in addition to, and are not to be credited to, the $1 million commitment required to be expended under the lease amendment.

**ESTIMATED SCHEDULE OF PROJECT**

<table>
<thead>
<tr>
<th>Begin Construction</th>
<th>Complete Construction</th>
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<tr>
<td>June 2008</td>
<td>May 2011</td>
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PRIOR ACTION / REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed to the Economic Development and Housing Committee on May 19, 2008.

Approved original lease on February 23, 2000, by Resolution No. 00-0697.

FISCAL INFORMATION

$8,363.00 - Estimated Annual Revenue
$750,000.00 - Public Private Partnership Funds

OWNER(S)

Ambassador Aviation, Ltd., a Texas limited partnership

G.P. Ambassador Aviation, L.L.C., General Partner
George S. Moussa, Manager
Stanley A. Moussa, Manager

DalExec, L.L.C., a Texas limited liability company
George S. Moussa, Manager

MAP

Attached.
Ambassador Aviation, Ltd. and DalExec, L.L.C.
WHEREAS, on April 1, 2000, Dallas Aircraft Services, Inc. entered into a lease (the "Lease"), having an effective date of April 1, 2000, of approximately 17.1 acres of land improved with T-hangars, box hangars, aircraft ramp, automobile parking and office space for aviation related purposes at Dallas Executive Airport authorized by the Dallas City Council on February 23, 2000, Resolution No. 00-0697; and,

WHEREAS, on November 11, 2004, the City consented to the assignment of the Lease to Ambassador Aviation, Ltd. and DalExec, L.L.C. ("Lessee"); and,

WHEREAS, the City and Lessee now desire to amend the Lease ("Lease Amendment") to accommodate Lessee's expansion plans at Dallas Executive Airport;

Now, Therefore,

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

Section 1. That the proposed Lease Amendment, is hereby approved and the City Manager is authorized to execute, on behalf of the City of Dallas, the Lease Amendment after approval as to form by the City Attorney.

Section 2. That the Lease Amendment shall contain the following:

(a) Lessee shall invest an additional $1 million in new hangar facilities within 10 years from the effective date of the Lease Amendment,

(b) The Lease primary term shall be extended an additional 8 years to March 31, 2038,

(c) Delete the existing rent escalators scheduled in years 2025 and 2030,

(d) Add rent escalators to occur in 2038 upon commencement of the option period,

   i. Rent on existing T-hangars to the lesser of annual prevailing rates or $1.00 per square foot
   ii. Rent on other facilities existing prior to the effective date of the Lease Amendment to lesser of annual prevailing rates or $2.30 per square foot
   iii. Rent on all facilities constructed after the effective date of the Lease Amendment to annual prevailing rates
(e) Grant option to add additional improved land to the Lease containing approximately 12,000 square feet when available at the current annual improved rental rate of $.17 per square foot under the same terms and conditions as the existing Lease. The exact location and size of the proposed option property is subject to a final survey and upon completion of such survey and acceptance by the Director of Aviation, the annual rent, as provided in this Section 2, shall be adjusted accordingly.

Section 3. That the City Controller be and is hereby authorized to deposit all revenues received under the Lease Amendment to: Aviation Operating Fund 0130; Dept. AVI; Unit 7722; Revenue Source 7814.

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.

Distribution: Aviation Department, Dan Weber, Dallas Love Field, Administration
Aviation Department, Brenda Hozak, Dallas Love Field, Administration
City Attorney Office, Bob Sims, 7DN
WHEREAS, the City of Dallas recognized the importance of its role in local economic development; and,

WHEREAS, the City of Dallas recognizes the importance of retaining and expanding its existing employment base; and,

WHEREAS, on April 9, 2008, the City Council authorized and elected to continue its participation in tax abatements and other incentive programs including programs for loans and grants for economic development and established Guidelines and Criteria for the Public/Private Partnership Program governing those economic development programs and incentive agreements to be entered into by the City as required by the Property Redevelopment and Tax Abatement Act, as amended, V.T.C.A. Tax code, Chapter 312 ("the Act") by Resolution No. 08-1050; and,

WHEREAS, the City of Dallas desires to enter into a Chapter 380 economic development grant agreement with Ambassador Aviation, Ltd. in consideration of its investment in real property improvements and infrastructure at Dallas Executive Airport;

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized, upon approval as to form by the City Attorney, to execute an economic development grant agreement with Ambassador Aviation, Ltd. and/or its affiliates in an amount not to exceed $750,000 in consideration of infrastructure improvements and other related costs associated with the company’s expansion at Dallas Executive Airport pursuant to the Public/Private Partnership Program.

Section 2. That the economic development program grant agreement shall be in an amount not to exceed $750,000 provided the company meets its obligations under the grant agreement with the City.

Section 3. That the City Controller is authorized to disburse funds in an amount not to exceed $750,000 from Fund 0352, Dept. ECO; Unit 9953; Obj. 4510; Activity PPPF; Encumbrance No. ECO9953H086; Program No. PPPF0002; Vendor No. VS0000025341.

Section 4. That this resolution take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and its accordingly so resolved.
Distribution:  
Office of Economic Development, Tenna Kirk, 5CS  
Office of Economic Development, Sajid Safdar, 2BN  
Aviation Department, Dan Weber, Dallas Love Field, Administration  
Aviation Department, Brenda Hozak, Dallas Love Field, Administration  
City Attorney Office, Bob Sims, 7DN  
City Attorney Office, Barbara Martinez, 7DN
SUBJECT

Authorize a professional services contract for the planning and design of a South Dallas Fair Park Entertainment District - Mill City Renaissance Fund, Inc., only proposer - Not to exceed $148,500 - Financing: U.S. Department of Housing Urban Development Grant Funds

BACKGROUND

Subsequent to a briefing to the City Council, the Intergovernmental Services Department applied for and was awarded a Housing and Urban Development Economic Development Initiative grant in the amount of $148,500.00 to be used for the planning and design of an Afro-Centric Cultural District.

As a parallel initiative to the Comprehensive Development Plan for Fair Park, a concurrent study by Hargraves Associates was conducted for a potential entertainment district in South Dallas Fair Park. This study evaluated the potential for a development focused on resident’s needs for entertainment and related retail goods and services. The study proposed that, once a prominent residential neighborhood, retail center, and entertainment district, the South Dallas Fair Park area has experienced decline and neglect of its infrastructure, housing, and businesses.

The vision for the Fair Park Entertainment District is to develop an Afro-Centric Cultural District that offers a mixture of entertainment, retail, restaurant and personal service business that will economically benefit:

- South Dallas Fair Park Neighborhood
- Creates Economic Synergy with Fair Park
- Home of the Texas State Fair
- Women’s Museum
- Cotton Bowl
BACKGROUND (Continued)

- Dallas Museum of Natural History
- Age of Steel Railroad Museum
- Museum of African American Life and Culture

Mill City Renaissance Fund, Inc. is a non-profit corporation. The recommendation is based on the firms qualifications, study approach and experience in conducting mixed-use development and added value under the following criteria:

- Completeness of proposal 40 points
- Experience in designed comparable projects 35 points
- Technical managerial and financial capacity 25 points

As part of the proposal process, 373 vendor notices were sent electronically by the City's web based procurement system. In an effort to secure more bids, notifications were sent by the Business Development and Procurement Services’ ResourceLINK Team (RLT) to 25 chambers of commerce and two advocacy groups (i.e. DFW Minority Business Council and Women’s Business Council – Southwest).

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On April 11, 2007, City Council authorize the acceptance of an Economic Development Initiative grant from the U.S. Department of Housing and Urban Development to be used for the planning and design of an Afro-Centric Cultural District to be located in the South Dallas/Fair Park area by Resolution #07-1156.

On October 1, 2003, City Council was briefed on the Fair Park Comprehensive Development Plan and South Dallas/Fair Park Entertainment District Study, which recommended a need for an Entertainment District and Afro-Centric Cultural District near the Fair Park area.

On June 26, 2002, City Council authorized a contract for the preparation of the Fair Park Comprehensive Development Plan by Resolution #02-1894.

FISCAL INFORMATION

$148,500.00 - U.S. Department of Housing Urban Development Grant Funds

M/WBE INFORMATION

133 - Vendors contacted
133 - No response
  0 - Response (Bid)
  0 - Response (No Bid)
  0 - Successful vendor
M/WBE INFORMATION (Continued)

373 M/WBE and Non-M/WBE vendors were contacted

The recommended awardee has fulfilled the good faith requirements set forth in the Good Faith Effort plan adopted by Council Resolution #84-3501 as amended.

PROPOSAL INFORMATION

The following proposal was from solicitation number BWZ0709 and opened on November 28, 2007. This professional services contract is being awarded to the only proposer.

*Denotes successful proposer

<table>
<thead>
<tr>
<th>Proposer</th>
<th>Address</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Mill City Renaissance Fund, Inc.</td>
<td>3814 S. Fitzhugh Avenue Dallas, Texas 75210</td>
<td>$148,500.00</td>
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OWNER

Mill City Renaissance Fund, Inc.

Roma Lewis, Acting President
Jim Slaughter, Secretary
Deric Hood, Treasurer
WHEREAS, the City recognizes the importance of its role in local economic development; and,

WHEREAS, the U.S. Department of Housing and Urban Development through its Economic Development Initiative (EDI) grant program has made funding available to the City of Dallas for planning and design of an Afro-Centric Cultural District; and,

WHEREAS, the City of Dallas has accepted the Economic Development Initiative grant from the U.S. Department of Housing and Urban Development to plan and design an Afro-Centric Cultural District; and,

WHEREAS, the City wishes to enter into an economic development grant agreement with Mill City Renaissance Fund, Inc. in an amount not to exceed $148,500 for development of South Dallas Fair Park Entertainment District in accordance with the Mill City Renaissance Fund Entertainment District Project; and,

WHEREAS, the establishment of the Mill City Entertainment District Project to be located along Second Avenue adjacent to Fair Park and the South Dallas Cultural Center, and extend down the seven block area between Fitzhugh and Scyene Rd. This section will consist mainly of restaurants, jazz, rhythm and blues entertainment businesses, and shops that cater to the tourist and entertainment trade. The overriding theme within the district will be African American cultural influence on the historical art, blues and jazz music era of Dallas, Texas; and,

WHEREAS, on April 11, 2007, City Council authorize the acceptance of an Economic Development Initiative grant from the U.S. Department of Housing and Urban Development to be used for the planning and design of an Afro-Centric Cultural District to be located in the South Dallas Fair Park area by Resolution #07-1156;

NOW, THEREFORE,

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

Section 1. That the City Manager is authorized to execute a professional services contract with Mill City Renaissance Fund, Inc., (VC0000002473) for the planning and design of a South Dallas Fair Park Entertainment District in an amount not to exceed $148,500.00, upon approval as to form by the City Attorney. If the service was bid or proposed on an as needed, unit price basis for performance of specified tasks, payment to Mill City Renaissance Fund, Inc. shall be based only on the amount of the services directed to be performed by the City and properly performed by Mill City Renaissance Fund, Inc. under the contract.
Section 2. That the City Controller is authorized to disburse funds from the following appropriation in an amount not to exceed $148,500.00:

<table>
<thead>
<tr>
<th>FUND</th>
<th>DEPT</th>
<th>UNIT</th>
<th>OBJECT</th>
<th>ACT</th>
<th>ENCUMBRANCE</th>
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<td>3202</td>
<td>3070</td>
<td>ECO4</td>
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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.

DISTRIBUTION:

Business Development and Procurement Services, 3FS
Office of Economic Development
City Attorney’s Office
SUBJECT
An ordinance amending Chapter 43 of the Dallas City Code to: (1) revise fees for newsrack licenses; (2) revise certain design and appearance standards and locational requirements for newsracks; (3) revise the boundaries of the “expanded central business district” multiple newsrack unit zone and require plans for the installation of multiple newsrack units in the zone; (4) provide for certain notices to be published in a newspaper of general circulation in the city; (5) authorize the city to contract for the installation, operation, maintenance, repair, removal, and replacement of multiple newsrack units in a multiple newsrack unit zone; (6) provide transitional provisions; and (7) amend Ordinance No. 26809 to reduce transitional license fees - Financing: No cost consideration to the City

BACKGROUND
This item amends Chapter 43 of the Dallas City Code by amending Section 43-115, Division 4 of Article VI to provide for regulation of newsracks. To offset costs of regulating the newsracks, the proposed amendment allows for a third party vendor to purchase, install, operate and maintain the multi-box newsrack units in the CBD/Victory Park multi-box newsracks zone and amends the fees accordingly. Additionally, the amendment changes the distance between freestanding and multi-box newsrack groups to 50 feet from 75 feet. Lastly, it eliminates specific color, size, shape or weight for freestanding newsracks outside of multi-box newsrack zones but maintains locational and placement criteria. All other requirements, regulations and processes remain unchanged from the current ordinance.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)
Briefed to the City Council on April 16, 2008.

FISCAL INFORMATION
No cost consideration to the City
ORDINANCE NO. _____________

An ordinance amending Article VI, Division 4 (composed of Sections 43-126.15 through 43-126.31) of CHAPTER 43, “STREETS AND SIDEWALKS,” of the Dallas City Code, as amended; defining terms; revising fees for newsrack licenses; revising certain design and appearance standards and locational requirements for newsracks; revising the boundaries of the “expanded central business district” multiple newsrack unit zone and requiring plans for the installation of multiple newsrack units in the zone; providing for certain notices to be published in a newspaper of general circulation in the city; authorizing the city to contract for the installation, operation, maintenance, repair, removal, and replacement of multiple newsrack units in a multiple newsrack unit zone; providing transitional provisions; amending Ordinance No. 26809 to reduce transitional license fees; providing a penalty not to exceed $500; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Division 4, “Newsracks,” (composed of Sections 43-126.15 through 43-126.31) of Article VI, "License for the Use of Public Right-of-way," of CHAPTER 43, "STREETS AND SIDEWALKS," of the Dallas City Code, as amended, is amended to read as follows:

"Division 4. Newsracks."

SEC. 43-126.15. PURPOSE AND INTENT.

This division only applies to newsracks located on the public right-of-way within the city of Dallas and provides administrative procedures for the grant of annual licenses regarding
newsracks to be located on the public right-of-way. This division regulates the placement of newsracks on the public right-of-way within the city. This division also ensures that newsracks do not create a hazard to persons or property, do not interfere with pedestrian or vehicular traffic, and are kept neat, clean, and in good repair.

**SEC. 43-126.16. DEFINITIONS.**

In this division, unless the context requires a different definition:

1. **BLOCK** means an area bounded by streets on all sides. If a street deadends, the terminus of the dead-end street will be treated as an intersecting street.

2. **BLOCKFACE** means the linear distance of lots along one side of a street between the two nearest intersecting streets. If a street deadends, the terminus of the dead-end street will be treated as an intersecting street.

3. **CITY CONTRACTOR** means a person who has a contract with the city for the installation, operation, maintenance, repair, removal, and replacement of multiple newsrack units in a multiple newsrack unit zone.

4. **CROSSWALK** has the meaning given that term in Section 541.302 of the Texas Transportation Code, as amended.

5. **DIRECTOR** means the director of development services, or a designee.

6. **FREESTANDING NEWSRACK** means a newsrack that is not a multiple newsrack unit or a part of a multiple newsrack unit.

7. **LICENSE** means permission granted under this division to a person to install, operate, or maintain a newsrack within the public right-of-way of the city for a specified period of time.

8. **LICENSEE** means the publisher, and any other person operating and maintaining a newsrack on behalf of a publisher, who is issued a license under this division to install, operate, or maintain a newsrack within the public right-of-way of the city.

9. **MULTIPLE NEWSRACK UNIT** means a single structure containing more than one newsrack that is installed by the city or a city contractor in a multiple newsrack unit zone.

10. **NEWSRACK** means any self-service or coin-operated container, rack, or structure used or maintained for the display, distribution, or sale of newspapers, periodicals, or other publications.
PERSON means an individual, assumed name entity, partnership, joint venture, association, corporation, or other legal entity.

PUBLISHER means any person who owns and/or distributes newspapers, periodicals, or other publications.

SPLIT-DOOR NEWSRACK means a freestanding newsrack or a newsrack space in a multiple newsrack unit that has been split into two separate distribution areas.

SEC. 43-126.17. LICENSE AND DECAL REQUIRED.

(a) A person commits an offense if:

(1) he installs, operates, or maintains a newsrack on any portion of a public right-of-way within the city that is open to vehicular traffic;

(2) without a license issued under this division, he installs, operates, or maintains a newsrack on a public right-of-way in the city that is not open to vehicular traffic;

(3) he installs, operates, or maintains on a public right-of-way a newsrack that does not display a valid decal issued under this division;

(4) he forges, alters, or counterfeits a newsrack decal required by this division or possesses a forged, altered, or counterfeited newsrack decal; or

(5) without the consent of the director, he defaces or removes a decal that is displayed on a newsrack as required by this division.

(b) It is a defense to prosecution under Subsection (a)(2) or (a)(3) of this section that the person was installing, operating, or maintaining the newsrack pursuant to a contract with the city for those services.

SEC. 43-126.18. LICENSE APPLICATION; ISSUANCE OF LICENSE; AND DISPLAY OF DECALS.

(a) A person who desires to install, operate, or maintain a newsrack on a public right-of-way that is not open to vehicular traffic shall submit an application for a newsrack license to the director on a form provided for that purpose. The applicant must be the person who will install, operate, or maintain the newsrack. The application must be verified and contain all of the following information:

(1) Name, address, telephone number, and signature of the applicant. If the applicant is a person other than the publisher, then the publisher must also sign the application, agreeing to be bound by the terms contained in the license.
(2) Name, address, and telephone number of the person the city may contact concerning installation, placement, operation, and maintenance of the applicant’s newsracks.

(3) Form of business of the applicant and, if the business is a corporation or association, a copy of the documents establishing the business.

(4) Number of newsracks the applicant wishes to install or operate in the city and a list indicating the proposed location (by blockface) of each newsrack, the name of the publication each newsrack will dispense, and whether the publication will be dispensed free or for a charge.

(5) Dimensional measurements of each style of any freestanding newsracks to be installed, with drawings or photographs.

(6) Proposed method of securing any freestanding newsracks.

(b) Following a review of the application, execution of the written agreement required under Section 43-126.19(b), payment of a nonrefundable $100 application processing fee, and payment of the annual fee for a newsrack license, the director shall, within 60 days following the date of receipt of an application for an initial license and within 30 days following the date of receipt of an application for a license renewal, issue a newsrack license to the applicant unless denial is required by Section 43-126.20.

(c) Upon issuance of a license for the installation, operation, and maintenance of newsracks and payment of the annual fee for the newsrack license, the director shall issue a decal for each newsrack permitted under the license, reflecting the license number and expiration date. A decal must be displayed on each permitted newsrack at all times, so that the decal is visible from the street.

(d) A decal issued to one person may not be transferred to another person. A decal issued for one newsrack may not be transferred to another newsrack without the approval of the director, except that a decal may be transferred to a replacement newsrack at the same location.

(e) If a decal is lost, stolen, or mutilated, the director may issue a duplicate decal, upon written request of the licensee, for a fee of $2.

(f) Before any newsrack not authorized under a newsrack license may be installed, operated, or maintained on the public right-of-way, the licensee must make a written request to the director for the additional newsrack, pay the required annual fee, and display a valid decal on the newsrack as required by this division.
(g) The director may (in accordance with procedures established by this division for the allocation of newsrack locations) approve changes to the location of a validly licensed newsrack, upon written request by a licensee, for no additional fee. An amendment that substantially changes the scope of a license (such as displaying, distributing, or selling in a newsrack a publication not specified in the license application for that newsrack) must be applied for in the same manner as the original license.

(h) A licensee shall notify the director within 10 days of any change in the address or telephone number of the publisher or of the person responsible for the installation, operation, or maintenance of the newsracks permitted under the license.

(i) A license issued to one person may not be transferred to another person. A newsrack location assigned to one person or publication may not be transferred to another person or publication without following the procedures established by this division for the allocation of newsrack locations.

SEC. 43-126.19. CONDITIONS OF A LICENSE AND ANNUAL FEES.

(a) It is a condition of a license that the installation, operation, and maintenance of each newsrack be in accordance with this division.

(b) Prior to the issuance of a license, the licensee shall execute a written agreement providing all of the following:

(1) The licensee will defend, indemnify, and hold whole and harmless the city of Dallas and its officers, agents, representatives, or employees against any and all claims, lawsuits, judgments, costs, or expenses (including attorney’s fees) for bodily injury, property damage, or other harm arising out of, or in any way related to, the licensee’s occupancy, maintenance, or use of the licensed area or the licensee’s placement, installation, operation, or maintenance of any newsrack. The indemnity must include claims for damages that any publicly or privately owned utility or communication company sustains arising from the licensee’s occupancy, maintenance, or use of the licensed area or the licensee’s placement, installation, operation, or maintenance of any newsrack.

(2) If the city of Dallas is ever made a defendant in any cause of action, directly or indirectly, based upon the licensee’s occupancy, maintenance, or use of the licensed area, or the licensee’s placement, installation, operation, or maintenance of any newsrack, the city shall have the right, at its option, to implead the licensee and its successors and assigns.

(3) The licensee will procure, prior to the issuance of a license, and keep in full force and effect at all times during the license term, commercial general liability insurance coverage (including, but not limited to, premises/operations, independent contractors, and contractual liability) protecting the city of Dallas against any and all claims for damages to persons or property as a result of, or arising out of, the licensee’s occupancy, maintenance, or use
of the licensed area or the licensee’s placement, installation, operation, or maintenance of any newsrack, with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 for each occurrence and $500,000 annual aggregate. The insurance policy must be written by an insurance company approved by the State of Texas and acceptable to the city and issued in a standard form approved by the Texas Department of Insurance. All provisions of the policy must be acceptable to the city and must name the city and its officers and employees as additional insureds and provide for 30 days written notice to the director of cancellation, non-renewal, or material change to the insurance policy.

(4) The license is subject to the rights of the city, public utilities, and franchisees in and to the public right-of-way and the rights of the city to make changes to the grade of any street, sidewalk, or parkway, and the licensee will never make a claim against the city for damages it might suffer by reason of the installation, construction, reconstruction, operation, or maintenance of any public improvement, utility, or communication facility on the licensed area.

(c) The annual license fee for a newsrack license is:

(1) $15 [65] for each freestanding newsrack located within a public right-of-way of the city; and

(2) $60 [179] for each newsrack space operated in a multiple newsrack unit, which amount includes $45 for rental of the newsrack space from the city or the city contractor.

(d) A licensee shall pay the annual license fee for a newsrack license to the director. The payment must be made on or before the issuance of a license. All sums due under this section must be deposited by the city controller and are subject to a $25 fee for each dishonored check. Except as specifically provided otherwise in this division, no license fees will be prorated upon termination of any license.

SEC. 43-126.20. DENIAL OR REVOCATION OF A LICENSE.

(a) The director shall deny a newsrack license if the director determines that the applicant has:

(1) made a false statement of a material fact on an application for a newsrack license;

(2) failed to provide the information requested on an application for a newsrack license;

(3) failed to execute a written agreement in accordance with Section 43-126.19(b);

(4) failed to pay the nonrefundable application fee or annual license fee at the time due; or
failed to comply with the requirements of this division or other applicable law.

(b) The director shall revoke a newsrack license if the director determines that the licensee has:

(1) made a false statement of a material fact on an application for a newsrack license;

(2) failed to comply with the requirements of the newsrack license, the written agreement executed under Section 43-126.19(b), this division, or any other applicable law;

(3) failed to maintain in full force and effect the insurance as required by this division; or

(4) failed to pay any fees required by this division at the time due.

(c) If the director determines that an applicant must be denied a newsrack license under this section, the director shall notify the person in writing that the application is denied and shall include in the notice the reason for denial and a statement informing the applicant of the right to appeal.

(d) If the director determines that a newsrack license must be revoked under this section, the director shall notify the licensee in writing that the license is revoked and shall include in the notice the reason for revocation and a statement informing the applicant of the right to appeal.

SEC. 43-126.21. APPEAL FROM LICENSE DENIAL OR REVOCATION.

(a) If the director denies the issuance or renewal of a license or revokes a license, the director shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the reason for denial, nonrenewal, or revocation and of the right to an appeal.

(b) Upon receipt of written notice of the denial, nonrenewal, or revocation, the applicant or licensee whose application for a license or license renewal has been denied or whose license has been revoked has the right to appeal to either the permit and license appeal board or the state district court.

(c) An appeal to a permit and license appeal board must be in accordance with Section 2-96 of this code. The filing of an appeal under this subsection stays the action of the director in revoking a license until a final decision is made by the permit and license appeal board. A revocation upheld by the board takes effect on the first midnight that is at least 24 hours after the board issues its decision.
(d) An appeal to the state district court must be filed within 30 days after receipt of notice of the director's decision. The applicant or licensee shall bear the burden of proof in court.

SEC. 43-126.22. EXPIRATION AND RENEWAL OF A LICENSE.

(a) A newsrack license expires and becomes invalid on August [June] 1 of each year, unless sooner terminated by the director in accordance with this division or by city council ordinance in accordance with the city charter. A licensee shall apply for renewal of a newsrack license at least 30 days, but not more than 90 days, before expiration of the license. An application for renewal must be made in accordance with the procedures established in Section 43-126.18.

(b) An existing licensee will be able to renew a license for the same newsrack locations until those newsrack locations are reallocated under a five-year lottery conducted under Section 43-126.23(c) or 43-126.29(h)(3), except that failure to timely renew a license in accordance with Subsection (a), or denial or revocation of a license, will result in the location for that newsrack being made available to other publishers.

(c) A licensee who timely applies for renewal of a license in accordance with Subsection (a) is not required to pay the $100 license application fee.

SEC. 43-126.23. ALLOCATION OF FREESTANDING NEWSRACK LOCATIONS.

(a) Initial allocation. Before June 1, 2009, the director shall allocate locations for freestanding newsracks in accordance with the following procedures:

(1) The director shall determine how many freestanding newsracks may be placed on a blockface in locations complying with this division.

(2) The director shall determine how many freestanding newsracks are being lawfully operated on the blockface. A freestanding newsrack will be considered as being lawfully operated on a particular blockface if it is designated as being located on that blockface in the most recent list of newsrack locations:

(A) provided to the director before May 28, 2008 [June 20, 2007] by a publisher holding a valid newsrack license issued by the city council or a valid temporary newsrack license issued by the director before May 28, 2008 [June 20, 2007]; or

(B) provided to the director by a publisher within 10 calendar days after the director’s issuance of a temporary newsrack license occurring on or after May 28, 2008 [June 20, 2007].

(3) If the number of lawfully-operated freestanding newsracks on the blockface exceeds the number of newsrack spaces allowed on the blockface under this division, the director shall conduct a lottery to determine the allocation of the newsrack spaces.
(4) The director shall place in a pool the names of all publications dispensed in the freestanding newsracks that are being lawfully operated on the blockface. If the same publication is being dispensed by more than one newsrack on the blockface, its name will be placed in the pool twice. The director shall draw from the pool a number of publication names equal to the number of newsrack spaces allowed under this division on that blockface. The director shall assign numbers to the names, beginning with the Number 1 for the first-drawn name and continuing in a sequential manner. The publications whose names are drawn will be allocated a newsrack space on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated a newsrack space through the lottery process will select locations on the blockface in the order in which their publication names were drawn, with Number 1 having first choice. The director shall draw the remaining publication names from the pool and assign them a number, beginning with the number following the one assigned to the last publication allocated a newsrack space on the blockface. These remaining publications will be allocated a newsrack space on the blockface (in the order drawn) only if any of the other publications originally allocated a newsrack space on the blockface do not want the space or do not qualify for the space. The publisher of any publication that is not allocated a newsrack space on the blockface shall remove the newsrack containing that publication within 10 days after the date the lottery is conducted.

(5) If the number of lawfully-operated freestanding newsracks on the blockface equals the number of newsrack spaces allowed on the blockface under this division, the publications dispensed in those lawfully-operated newsracks will each be allocated a newsrack space on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated newsrack spaces under this paragraph shall select locations on the blockface in the order in which their completed license applications are received by the director in compliance with this division, with the first received having first choice.

(6) If the number of lawfully-operated freestanding newsracks on the blockface is less than the number of newsrack spaces allowed on the blockface under this division, the publications dispensed in those lawfully-operated newsracks will each be allocated a newsrack space on the blockface as long as compliance with this division is maintained. The publishers of the existing publications allocated newsrack spaces under this paragraph shall select locations on the blockface in the order in which their completed license applications are received by the director in compliance with this division, with the first received having first choice. The remaining newsrack spaces will be allocated through the lottery process described in Subsection (b) of this section.

(b) Future allocation. After the initial allocation of newsrack locations under Subsection (a), whenever one or more freestanding newsrack spaces become available on a blockface, the director shall allocate the newsrack locations in accordance with the following procedures:

(1) The director shall, by personal service or by regular United States mail, notify all publishers that a lottery will be held to allocate the available freestanding newsrack spaces. The notice must:
(A) identify the number and location (by blockface) of the available newsrack spaces;

(B) state the date, time, and location of the lottery;

(C) state the date and time by which the director must receive all requests to have publications entered in the lottery and the address at which the requests must be received; and

(D) state any other information the director determines necessary to conduct the lottery.

(2) The director shall place in a pool the names of all publications for which requests to participate in the lottery were timely received. If the same publication was requested more than once, its name will be placed in the pool twice. The director shall draw from the pool a number of publication names equal to the number of newsrack spaces available on that blockface. The director shall assign numbers to the names, beginning with the Number 1 for the first-drawn name and continuing in a sequential manner. The publications whose names are drawn will be allocated a newsrack space on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated a newsrack space through the lottery process will select locations on the blockface in the order in which their publication names were drawn, with Number 1 having first choice. The director shall draw the remaining publication names from the pool and assign them a number, beginning with the number following the one assigned to the last publication allocated a newsrack space on the blockface. These remaining publications will be allocated a newsrack space on the blockface (in the order drawn) only if any of the other publications originally allocated a newsrack space on the blockface do not want the space or do not qualify for the space.

(c) Random five-year lottery. Five years after the initial allocation of newsrack spaces on a blockface and every five years thereafter, the director shall reallocate the newsrack spaces in accordance with the lottery procedures established in Subsection (b) of this section. The publisher of any publication that is not allocated a newsrack space on the blockface shall remove the newsrack containing that publication within 10 days after the date the lottery is conducted.

**SEC. 43-126.24. STANDARDS FOR INSTALLATION, OPERATION, AND MAINTENANCE OF NEWSRACKS.**

(a) Any newsrack that, in whole or part, rests on any public right-of-way within the city not open to vehicular traffic must:

(1) comply with all applicable city ordinances and state and federal laws; and

(2) not remain continuously empty of publications authorized under the newsrack license for more than 30 consecutive days.
(b) In addition to meeting the requirements of Subsection (a), any freestanding newsrack or multiple newsrack unit that, in whole or part, rests on any public right-of-way within the city not open to vehicular traffic must meet all of the following standards:

1. [Be one of the following designated newsrack models or an equivalent approved by the director:

   A. Rak Systems, Inc. Model 100B, if the newsrack is coin-operated; or

   B. Kaspar, Inc./Sho-Rack Model RB-7, if the newsrack only dispenses free publications.

2. Not display advertising, except that a logo or other information identifying the publication and coin operation information may appear on the newsrack. This information must be contained in an area not to exceed six inches high and 20 inches wide on the front, back, and/or sides of the newsrack.

3. If the newsrack will be located within any special district with an overall design theme that specifies particular colors or materials, then the newsrack material and color must conform to the special district design requirements. If design standards for a special district require that particular materials or colors be used for newsracks, the director shall notify any licensee with a newsrack in that district of the requirements.

4. Have a notice, not to exceed three inches high and five inches wide, in a readily visible place on the newsrack with the name of the distributor and a working telephone number of whom to call to report a malfunction or to obtain a refund if any coin return mechanism malfunctions. This separate notice is not required if the information required by this paragraph is included with the logo and information allowed under Paragraph (1) of this subsection.

5. Be maintained in a neat and clean condition and in good repair such that:

   A. the newsrack is reasonably free of dirt and grease;

   B. the newsrack is reasonably free of chipped, faded, peeling, and cracked paint in the visible painted areas;

   C. the newsrack is reasonably free of rust and corrosion in the visible unpainted metal areas;

   D. any clear plastic or glass parts through which the publications are viewed are unbroken and reasonably free of cracks, dents, blemishes, and discoloration;
any paper or cardboard parts or inserts are reasonably free of tears, peeling, or fading; and

no structural parts are broken or excessively misshapen.

Be of sufficient weight, or be anchored in a manner approved by the director to a heavy metal plate of sufficient weight, to prevent tipping over of the newsrack. A freestanding newsrack may not be anchored to the ground, sidewalk, trees, posts, poles, or streetscape furniture.

SEC. 43-126.25. LOCATIONAL REQUIREMENTS FOR NEWSRACKS.

(a) No freestanding newsrack or multiple newsrack unit may be located in a manner that:

(1) impairs or interferes with:

   (A) pedestrian traffic;

   (B) the ability to fully open a door to any building;

   (C) the loading or unloading of passengers from a bus or light rail vehicle; or

   (D) emergency access to a building or property by the police department, the fire department, or emergency medical services;

(2) reduces the clear, unimpeded sidewalk width to less than:

   (A) nine feet for sidewalks 14 feet or wider; or

   (B) three-fourths of the sidewalk width (but in no case less than three feet) for sidewalks less than 14 feet wide;

(3) obstructs the visibility of a fire hydrant, fire department inlet connection, fire protection system control valve, fire call box, police call box, traffic control signal box, or other emergency facility so that the emergency facility cannot be clearly seen from a public street or roadway open to motor vehicular traffic; or

(4) is determined by the director to endanger the safety of persons or property.

(b) On each blockface, freestanding newsracks must be placed together in groups, with not more than eight newsracks in each group. A distance of at least 50 [75] feet must separate each group of freestanding newsracks located on the same blockface.
(c) No more than eight newsracks (whether freestanding newsracks or newsrack spaces in multiple newsrack units) on any block may dispense the same publication, and no more than two newsracks (whether freestanding newsracks or newsrack spaces in multiple newsrack units) on any blockface may dispense the same publication. The same publication may not be dispensed in more than one newsrack space in a multiple newsrack unit or in an attached grouping of multiple newsrack units. Notwithstanding any provision of this subsection to the contrary, the same publication may be dispensed in a multiple newsrack unit in excess of the limits set forth in this subsection whenever the director:

1. determines it is necessary to fill vacant newsrack spaces in a multiple newsrack unit;

2. determines that there is a lack of demand for the vacant newsrack spaces by other publications; and

3. conducts a lottery in accordance with Section 43-126.29(h)(2) to allocate the vacant newsrack spaces.

(d) A freestanding newsrack or a multiple newsrack unit may not be located within:

1. any median or traffic island;

2. a visibility triangle as defined in Section 51A-4.602(d)(2) of this code;

3. the area contained within the projection of the width of a midblock crosswalk to the back of an adjacent sidewalk;

4. the area contained within the projection of the width of a building’s doorway to the curb face or pavement edge of any public street or roadway open to motor vehicular traffic;

5. two feet of a curb face or pavement edge of any public street or roadway open to motor vehicular traffic if the newsrack opens away from the curb face or pavement edge, except that if the curb face or pavement edge is adjacent to a designated no parking zone or area, then the newsrack may not be located within 1-1/2 feet of the curb face or pavement edge;

6. three feet of:

(A) any mailbox, water feature, art, monument, planter, kiosk, trash receptacle, drinking fountain, streetscape bench, or parking meter;

(B) a fire hydrant, fire department inlet connection, fire protection system control valve, fire call box, police call box, traffic control signal box, or other emergency facility; or
(C) a bench, shelter, informational sign, or ticketing equipment of a light rail system;

(7) five feet of a curb face or pavement edge of any public street or roadway open to motor vehicular traffic if the newsrack opens towards the curb face or pavement edge;

(8) six feet of a bicycle rack;

(9) seven feet of a bus stop sign, bus stop bench, or bus stop shelter; or

(10) 15 feet of the centerline of rail of any light rail system track.

(e) A freestanding newsrack may not be located within a multiple newsrack unit zone or within 50 feet of a multiple newsrack unit zone.

SEC. 43-126.26. DISPLAY AND DISTRIBUTION OF HARMFUL MATERIALS THROUGH NEWSRACKS.

A licensee shall not knowingly display, distribute, or sell any harmful matter, as defined in Section 43.24(a)(2) of the Texas Penal Code, as amended, through any newsrack licensed under this division.

SEC. 43-126.27. RESTORATION OF THE RIGHT-OF-WAY.

(a) Upon termination of a license, the licensee (or the director’s designee, who shall assess any costs to the licensee) shall remove a freestanding newsrack and restore the right-of-way to its original condition in a manner satisfactory to the director. A licensee shall remain liable for all license fees from the time a license is issued until such time as all freestanding newsracks are removed, the license area is restored to its original condition, and the license is properly terminated.

(b) Whenever a city contractor removes a multiple newsrack unit from the right-of-way for any reason, the city contractor shall restore the right-of-way to its original condition in a manner satisfactory to the director.

SEC. 43-126.28. REMOVAL OF NEWSRACKS AND PUBLICATIONS.

(a) If the director determines that a freestanding newsrack is not in compliance with the requirements of this division or that a newsrack space in a multiple newsrack unit is not being operated in compliance with the requirements of this division, the director shall send a “Notice of Intent to Remove” by personal service or by certified mail, return receipt requested, to the licensee. The notice must state the violation or violations that constitute the basis for the proposed removal of the licensee’s freestanding newsrack or the proposed removal of publications from the licensee’s newsrack space in a multiple newsrack unit, whichever is applicable, and suggest corrective action if applicable. The notice must specify the date, time, and place for a hearing to be held before removal.
(b) The hearing must be held not less than 10 days following service of notice. Prior to the hearing, the licensee may correct the violation or may file a written statement setting forth the reason or reasons why the newsrack or publications, whichever applies, should not be removed. At the hearing, the director or the director's designee shall hear evidence and determine whether the licensee’s freestanding newsrack complies with this division or whether the licensee’s newsrack space in a multiple newsrack unit is being operated in compliance with this division, whichever applies. If it is determined that a freestanding newsrack is not in compliance with this division, the newsrack must be removed by the licensee or otherwise brought into compliance. If it is determined that a newsrack space in a multiple newsrack unit is not being operated in compliance with this division, the licensee shall remove all publications from the newsrack space or otherwise bring the operation of the newsrack space into compliance. The decision of the director may be appealed to the city manager in accordance with Subsection (e) of this section. If, within 10 days after the date of the hearing or, if an appeal is filed, within 10 days after the date of the city manager renders a decision, the licensee has not removed the freestanding newsrack or the publications, whichever applies, or otherwise come into compliance with this division, the city may remove the newsrack or the publications and recover the costs of removal and storage from the licensee.

(c) The director may summarily remove or order any freestanding newsrack removed if it creates an imminent danger of personal injury or property damage. Promptly following the summary removal, the director shall notify the licensee by personal service or by certified mail, return receipt requested, of the removal, the reason for the removal, and the right to appeal the action to the city manager in accordance with Subsection (e). The licensee may recover any newsracks summarily removed upon reimbursement to the city for the costs of removal and storage. Any coins or publications contained in the newsrack will be returned to the licensee when the newsrack is returned. The licensee may return the freestanding newsrack to its original location upon correction of the violation (unless the location constituted a violation).

(d) Any newsrack or publication not claimed within 10 days after removal by the city may be disposed of by the city as unclaimed property.

(e) If the director orders removal of a freestanding newsrack or a publication under Subsection (b) or summarily removes a freestanding newsrack under Subsection (c), this action is final unless, within 10 days after the receipt of notice of the director's action, the affected licensee, publisher, or owner of the newsrack or publication, whichever applies, files with the city manager a written appeal. Within 15 days after the appeal is filed, the city manager or the city manager’s designee shall consider all the evidence in support of and against the action appealed and render a decision sustaining, modifying, or reversing all or part of the director’s action. The formal rules of evidence do not apply to an appeal hearing under this subsection, and the city manager or the city manager’s designee shall make a ruling on the basis of a preponderance of the evidence presented at the hearing. The decision of the city manager is final as to administrative remedies.
SEC. 43-126.29. MULTIPLE NEWSRACK UNIT ZONES.

(a) The city council may, by ordinance, establish zones within the city where the exclusive use of multiple newsrack units is required. A request for a multiple newsrack unit zone may be initiated by a city council member or by the signatures of at least 40 percent of the publishers lawfully operating freestanding newsracks in the proposed zone.

(b) Criteria that may be considered in establishing a multiple newsrack unit zone include, but are not limited to:

1. whether there is extensive availability and use of public transportation services and facilities in the proposed zone;
2. whether there is a large amount of pedestrian traffic in the proposed zone;
3. whether there is a proliferation of freestanding newsracks in the proposed zone;
4. whether limited space is available for freestanding newsracks in the proposed zone; and
5. whether the proposed zone is located in a distinct area with an established urban or neighborhood character.

(c) The following areas have been established by the city council as multiple newsrack unit zones:

1. Expanded Central Business District Zone, which is the area contained within the following boundaries:

   Dallas North Tollway [Oak Lawn Avenue] from Stemmons Freeway to Harry Hines Boulevard [Blackburn Street];

   Harry Hines Boulevard from the Dallas North Tollway to Field Street;

   Field Street from Harry Hines Boulevard to Woodall Rodgers Freeway;

   Woodall Rodgers Freeway [Blackburn Street] from Field Street [Oak Lawn Avenue] to Central Expressway;

   Central Expressway from Woodall Rodgers Freeway [Blackburn Street] to Julius Schepps Freeway;
Julius Schepps Freeway from Central Expressway to Interstate 30 [Gaston Avenue];

[Gaston Avenue from Julius Schepps Freeway to Malcolm X Boulevard;

Malcolm X Boulevard from Gaston Avenue to Interstate 30;]

Interstate 30 from Julius Schepps Freeway [Malcolm X Boulevard] to Stemmons Freeway; and

Stemmons Freeway from Interstate 30 to the Dallas North Tollway [Oak Lawn Avenue].

(2) Reserved.

(d) Before multiple newsrack units are installed in the Expanded Central Business District Zone and before an ordinance is adopted establishing any additional multiple newsrack unit zone, the director shall prepare a plan that includes:

(1) the number and proposed locations of the multiple newsrack units to be installed in the [proposed] zone;

(2) the design criteria for the multiple newsrack units to be installed in the [proposed] zone; and

(3) the number and location of existing freestanding newsracks in the [proposed] zone.

(e) After the plan is prepared, the director shall place on a city council agenda an item for council consideration of the installation of multiple newsrack units in the Expanded Central Business District Zone or the establishment of an additional proposed multiple newsrack unit zone, whichever applies. At least 10 days before the date of the council meeting at which the city council will consider the item, notice of the meeting must be sent by regular United States mail to:

(1) all publishers having current licenses with the city to operate newsracks in the public right-of-way; and

(2) all owners of property located within 200 feet of the Expanded Central Business District Zone or the proposed multiple newsrack unit zone, whichever applies, except that if more than 10 property owners are located within that distance, the director may, in lieu of mailing notices to the property owners, publish the notice in a newspaper of general circulation in the city at least 10 days before the date of the council meeting.
(f) The notice required in Subsection (e) must include the date, time, and location of the council meeting and a brief summary of the proposed plan for the multiple newsrack unit zone.

(g) After the installation of multiple newsrack units in the Expanded Central Business District Zone is approved by the city council or after a multiple newsrack unit zone is established by the city council, the city will install and maintain multiple newsrack units in the zone. A publisher shall only use a multiple newsrack unit provided by the city or a city contractor to dispense publications in a multiple newsrack unit zone, except that any freestanding newsrack lawfully operating on a blockface at the time the blockface is included in a multiple newsrack unit zone may continue to operate on the blockface until multiple newsrack units are actually installed on the blockface.

(h) The director shall allocate newsrack spaces in multiple newsrack units in accordance with the following procedures:

(1) **Initial allocation.**

   (A) The director shall determine how many newsrack spaces are available in multiple newsrack units placed on a blockface in compliance with this section.

   (B) The director shall determine how many freestanding newsracks are being lawfully operated on the blockface. A freestanding newsrack will be considered as being lawfully operated on a particular blockface if it is designated as being located on that blockface in the most recent list of newsrack locations provided to the director by a publisher holding a valid newsrack license issued by the city council or a valid temporary newsrack license issued by the director. The list must be received by the director before the date the city council adopts the particular multiple newsrack unit zone.

   (C) If the number of lawfully-operated freestanding newsracks on the blockface exceeds the number of newsrack spaces available in multiple newsrack units on the blockface, the director shall conduct a lottery to determine the allocation of the newsrack spaces.

   (D) The director shall place in a pool the names of all publications dispensed in the freestanding newsracks that are being lawfully operated on the blockface. If the same publication is being dispensed by more than one newsrack on the blockface, its name will be placed in the pool twice. The director shall draw from the pool a number of publication names equal to the number of newsrack spaces available in multiple newsrack units on that blockface. The director shall assign numbers to the names, beginning with the Number 1 for the first-drawn name and continuing in a sequential manner. The publications whose names are drawn will be allocated a newsrack space in a multiple newsrack unit on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated a newsrack space
through the lottery process will select locations in the multiple newsrack units on the blockface in the order in which their publication names were drawn, with Number 1 having first choice. The director shall draw the remaining publication names from the pool and assign them a number, beginning with the number following the one assigned to the last publication allocated a newsrack space in a multiple newsrack unit on the blockface. These remaining publications will be allocated a newsrack space in a multiple newsrack unit on the blockface (in the order drawn) only if any of the other publications originally allocated a newsrack space do not want the space or do not qualify for the space. The publisher of any publication that is not allocated a newsrack space in a multiple newsrack unit on the blockface shall remove the newsrack containing that publication within 10 days after the date the lottery is conducted.

(E) If the number of lawfully-operated freestanding newsracks on the blockface equals the number of newsrack spaces available in multiple newsrack units on the blockface, the publications dispensed in those lawfully-operated newsracks will each be allocated a newsrack space in a multiple newsrack unit on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated newsrack spaces under this paragraph shall select locations in the multiple newsrack units on the blockface in the order in which their completed license applications are received by the director in compliance with this division, with the first received having first choice.

(F) If the number of lawfully-operated freestanding newsracks on the blockface is less than the number of newsrack spaces available in multiple newsrack units on the blockface, the publications dispensed in those lawfully-operated newsracks will each be allocated a newsrack space in a multiple newsrack unit on the blockface as long as compliance with this division is maintained. The publishers of the existing publications allocated newsrack spaces under this paragraph shall select locations in a multiple newsrack unit on the blockface in the order in which their completed license applications are received by the director in compliance with this division, with the first received having first choice. The remaining newsrack spaces will be allocated through the lottery process described in Paragraph (2) of this subsection.

(2) Future allocation.

(A) Whenever one or more newsrack spaces become available in a multiple newsrack unit on a blockface, the director shall, by personal service or by regular United States mail, notify all publishers that a lottery will be held to allocate the available newsrack spaces. The notice must:

(i) identify the number and location (by blockface) of the available newsrack spaces;

(ii) state the date, time, and location of the lottery;
(iii) state the date and time by which the director must receive all requests to have publications entered in the lottery and the address at which the requests must be received; and

(iv) state any other information the director determines necessary to conduct the lottery.

(B) The director shall place in a pool the names of all publications for which requests to participate in the lottery were timely received. If the same publication was requested more than once, its name will be placed in the pool twice. The director shall draw from the pool a number of publication names equal to the number of newsrack spaces available in multiple newsrack units on that blockface. The director shall assign numbers to the names, beginning with the Number 1 for the first-drawn name and continuing in a sequential manner. The publications whose names are drawn will be allocated a newsrack space in a multiple newsrack unit on the blockface as long as compliance with this division is maintained. The publishers of the publications allocated a newsrack space through the lottery process will select locations in a multiple newsrack unit on the blockface in the order in which their publication names were drawn, with Number 1 having first choice. The director shall draw the remaining publication names from the pool and assign them a number, beginning with the number following the one assigned to the last publication allocated a newsrack space in a multiple newsrack unit on the blockface. These remaining publications will be allocated a newsrack space in a multiple newsrack unit on the blockface (in the order drawn) only if any of the other publications originally allocated a newsrack space do not want the space or do not qualify for the space.

(3) Random five-year lottery. Five years after the initial allocation of newsrack spaces in a multiple newsrack unit on a blockface and every five years thereafter, the director shall reallocate the newsrack spaces in accordance with the lottery procedures established in Paragraph (2) of this subsection. The publisher of any publication that is not allocated a newsrack space in a multiple newsrack space on a blockface shall remove any publications from any newsrack space on that blockface within 10 days after the date the lottery is conducted.

(i) A publisher allocated a newsrack space in a multiple newsrack unit in a zone shall install and maintain any coin-operated lock it requires to be on its assigned newsrack. The locking device must be approved by the director (or a city contractor, if applicable) and must not interfere with the use of the other newsracks in the multiple newsrack unit.

(j) The city may contract with another person for the installation, operation, maintenance, repair, removal, and replacement of multiple newsrack units in a multiple newsrack unit zone established under this section.
SEC. 43-126.30. SPLIT-DOOR NEWSRACKS.

(a) A freestanding newsrack or a newsrack space in a multiple newsrack unit may be split into two separate distribution areas in accordance with the requirements of this section.

(b) One-half of the split-door newsrack must be continuously used to display and dispense the primary publication authorized to be in the newsrack pursuant to a license issued under this division. The other half of the split-door newsrack may display and dispense the primary publication or any other publication published by the publisher of the primary publication, regardless of the frequency with which that other publication is issued.

(c) No additional license or license fee is required for a split-door newsrack, except that the city may charge to the publisher any cost of splitting a newsrack space in a multiple newsrack unit.

SEC. 43-126.31. VIOLATIONS; PENALTY.

(a) A person who installs, operates, or maintains a newsrack on a public right-of-way within the city in violation of this division or without a license issued under this division is guilty of an offense and, upon conviction, is subject to a fine not to exceed $500 for each day that the violation exists.

(b) It is a defense to prosecution under this section that the person was installing, operating, or maintaining the newsrack pursuant to a contract with the city for those services.

(c) The penalties provided for in Subsection (a) are in addition to any other enforcement remedies that the city may have under this division, other city ordinances, and state law."

SECTION 4. TRANSITIONAL PROVISIONS.

(A) Any person who, on May 28, 2008, holds a valid license issued by the city council, or a valid temporary license issued by the director, to install, operate, or maintain a newsrack within a public right-of-way in the city will have the expiration date of that newsrack license extended through July 31, 2008 (unless revoked sooner by the city council or the director, whichever applies) if, by June 2, 2008, the person has paid to the director all transitional fees (as amended by this ordinance) required by Section 4(A) of Ordinance No. 26809, passed by the city
council on June 20, 2007. Section 4(A) of Ordinance No. 26809 is hereby amended to reduce the transitional fee per newsrack from $30 to $9. Any licensee who, before the passage date of this ordinance, paid to the director a $30 transitional fee per newsrack may apply to the director for a refund of any excess payment or have the excess payment applied to a future license fee.

(B) Any person not holding a valid newsrack license on May 28, 2008 who applies for a newsrack license on or after May 28, 2008, and who pays a $2 transitional license fee per newsrack to the director, will receive a temporary newsrack license from the director that will expire on July 31, 2008, unless revoked sooner by the director.

(C) Each licensee shall apply for a new newsrack license in accordance with Division 4, Article VI, Chapter 43 of the Dallas City Code, as set forth in this ordinance, at least 30 days before the July 31, 2008 expiration date.

(D) Any newsrack locations approved in any existing license, in any temporary license issued on or after May 28, 2008, or in any new newsrack license issued under Division 4, Article VI, Chapter 43 of the Dallas City Code after July 31, 2008 are only tentatively approved until such time as the director makes the final allocation of newsrack locations on a blockface in accordance with the allocation procedures established in Division 4, Article VI, Chapter 43 of the Dallas City Code. If any of a licensee’s newsracks are required to be removed after an allocation is completed for a particular blockface, then the director shall give the licensee a prorated refund of the license fee paid for each newsrack that is required to be removed from the blockface.

(E) Each licensee is responsible for maintaining its newsracks in compliance with the locational restrictions contained in Division 4, Article VI, Chapter 43 of the Dallas City Code, as set forth in this ordinance, while final allocation of newsrack locations on a blockface is pending.
SECTION 5. That, effective August 1, 2008, Ordinance Nos. 19583, 19603, 24952, 24954, 25583, 25598, 25599, 25617, 25618, 25631, 25632, 25666, 25667, 25668, 25670, 25672, 25673, 25674, 25675, 25676, 25677, 25678, and 25679, and any other ordinance granting a license to install, operate, or maintain a newsrack within a public right-of-way in the city, are repealed and all licenses granted under those ordinances, and all temporary licenses granted by the director, to install, operate, or maintain newsracks within the public right-of-way are revoked.

SECTION 6. That Chapter 43 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 7. That the terms and provisions of this ordinance are severable and are governed by Sections 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 8. That this ordinance will take effect on June 2, 2008, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By ____________________________
   Assistant City Attorney

Passed ____________________________

LC/DCC/00440A
SUBJECT

Authorize a Chapter 380 economic development forgivable loan agreement with City Wide Community Development Corporation to acquire and demolish the Sunset Motel located at 4343 Lancaster Road and the Southern Comfort Motel located at 4411 Lancaster Road both in Dallas, Texas in the Lancaster Corridor to redevelop into two commercial buildings that will address a shortage of business rental space, provide a skills training facility and remove slum and blight from the area – Not to exceed $850,000 – Financing: Public/Private Partnership Funds

BACKGROUND

City Wide Community Development Corporation (CWCDC), formerly known as Neighborhood Vision Community Development Corporation, is a 501 (c) 3 non-profit corporation engaged in development and redevelopment activity throughout the City with a focus on Southeast Oak Cliff, primarily zip code 75216. CWCDC has joined the Urban League of Greater Dallas North Central Texas, Inc. (Urban League) in working to redevelop land in the 4300 and 4400 blocks of Lancaster Road in the Lancaster Corridor.

The Lancaster Corridor is a vital main street for South Central Dallas and is a high City Council priority for development and redevelopment options that will improve communities all along the corridor. The Sunset Motel and the Southern Comfort Motel were recently denied continued operation by the Board of Adjustments for non-compliance with a City Ordinance and have ceased operation. Both owners have independently contracted with CWCDC to sell their property. Redevelopment of both motel sites will be a collaboration with CWCDC and the Urban League to improve the Lancaster Corridor. CWCDC will develop a 30,000 square foot commercial building on the Southern Comfort Motel site.
BACKGROUND (continued)

CWCDC will transfer the title to the land at 4343 Lancaster Road to the Urban League for the development of a 50,000 square foot skills training facility on the adjacent site where the Sunset Motel is currently located.

Both motels are across the street from the North Texas Veterans Administration Medical Center (VA). The VA continues to expand and has expressed a need for additional administrative space.

Acquisition of the motels will remove properties that were undesirable and operating nuisance businesses to make way for development that will be more in line with the vision for the Lancaster Corridor.

The City Council is asked to consider authorizing a Chapter 380 economic development forgivable loan agreement with City Wide Community Development Corporation in the amount of $850,000 to acquire the Sunset Motel ($410,000) and the Southern Comfort Motel ($340,000) sites for future construction of commercial buildings, pay closing cost and demolish structures currently on the sites ($100,000). Loan forgiveness is subject to CWCDC in collaboration with the Urban League commencing commercial development on the Sunset Motel and Southern Comfort Motel sites within 24 months from the date of the loan agreement and demolition completed within 1 year from the date of the loan agreement.

City Wide Community Development Corporation has developed numerous multi-family and single family projects in Dallas. The Urban League is a long time national institution that addresses challenges facing disadvantaged groups in many areas, including employment, education, housing, health, community and economic development.

ESTIMATED SCHEDULE OF REDEVELOPMENT

Commence commercial construction within two years from date of loan agreement; complete demolition within one year from date of loan agreement; complete construction on each site within 5 years from date of loan agreement unless time is extended by the Director of the Department of Economic Development.

PRIOR ACTION / REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 19, 2008 a memo was submitted to the Economic Development Committee regarding a Chapter 380 economic development forgivable loan agreement with City Wide Community Development Corporation.

FISCAL INFORMATION

Public/Private Partnership Funds - $850,000
<table>
<thead>
<tr>
<th>OWNER</th>
<th>DEVELOPER</th>
</tr>
</thead>
</table>
| Sunset Motel Site  
City Wide CDC | Urban League of Greater Dallas |
| Sherman Roberts  
President/CEO | Beverly Mitchell Brooks, PhD  
President/CEO |
| Southern Comfort Motel Site  
City Wide CDC | City Wide CDC |
| Sherman Roberts  
President/CEO | Sherman Roberts  
President/CEO |

**MAP**

Attached.
WHEREAS, the City recognizes the importance of its role in local economic development; and

WHEREAS, the City seeks to spur acquisition and redevelopment of certain areas in the southern sector, including the Lancaster Corridor, to foster the public purpose of economic development; and

WHEREAS, on April 9, 2008, the City Council elected to continue its participation in economic development grants per Chapter 380 of the Texas Local Government Code with adoption of its Public Private Partnership Program guidelines criteria by Resolution No. 08-1050, as amended; and

WHEREAS, the City Wide Community Development Corporation seeks to acquire and redevelop two sites in the Lancaster Corridor; and

WHEREAS, the City Council has determined that the proposed project will foster the public purpose of economic development in accordance with the City Council’s goals as outlined in the City’s Public Private Partnership Program; and

WHEREAS, the City desires to enter into an economic development forgivable loan agreement with City Wide Community Development Corporation, 3440 S. Polk, Suite B, Dallas, Texas.

NOW, THEREFORE,

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

Section 1. That the City Manager, upon approval as to form by the City Attorney is hereby authorized to execute a Chapter 380 economic development forgivable loan agreement with City Wide Community Development Corporation related to the acquisition and demolition of the Sunset Motel and the Southern Comfort Motel for development of commercial buildings on the sites.

Section 2. That the economic development forgivable loan(s) with City Wide Community Development Corporation in an amount not to exceed $850,000 will be disbursed $340,000 upon the insured closing of the sale of real estate commonly known as a 4411 S. Lancaster Road, Dallas, Texas $410,000 upon the insured closing of the sale of real estate commonly known as 4343 S. Lancaster Road, Dallas, Texas and $100,000 for closing cost and demolition of improvements currently at each site.
Section 2. (continued)

Other terms of the loan documents shall include:

a. Borrower’s note payable to the City of Dallas will have a maturity date of 5 years; provided however, if the Borrower fails to commence redevelopment of the acquired properties within 2 years from the date of the loan agreement, or completes the construction of commercial buildings on each of the sites acquired with the loan proceeds, as evidenced by a certificate of occupancy having been obtained from the City of Dallas for each of the 2 structures to be constructed within 5 years from the date of the loan agreement, the entire amount of the loan becomes due and payable.

b. If Borrower fails to timely comply with requirements in Section 2(a) hereof, the City of Dallas has the option to require Borrower to convey to the City of Dallas fee simple title to the properties acquired with funds under the loan from the City of Dallas, free of any liens or encumbrances not acceptable to the City.

c. Borrower shall execute a first lien deed of trust on each property acquired for which acquisition, demolition, and closing costs have been expended from loan proceeds.

d. For Borrower to receive approval from the City to purchase a property or expend funds for other allowable costs, borrower must provide a property survey, title commitment, environmental assessment, and appraisal performed by an independent fee appraiser, acceptable to the City in the City's sole discretion. The City retains the right to conduct a review of the appraisal of the property for which approval is sought, and in no event will the City loan in excess of the appraised value of the property as determined by the City.

e. No approval by the City of the expenditure of any loan funds shall bind or obligate the City to approve any zoning or replat change that Borrower may request for the properties.

f. Borrower shall obtain approval from the City for permitted uses of the properties. “Permitted uses” includes those uses that are permitted under the Dallas Development Code on the property, but in no event may they include any use that requires a sexually oriented business license under Chapter 41A of the Dallas City Code, or a liquor store, a pawn shop, a body piercing studio, or a tattoo studio as those terms are defined by the Dallas Development Code.

g. As a certificate of occupancy has been obtained for a constructed structure or project on a property, Borrower will be released from the indebtedness on the note for the corresponding loan proceeds advanced.
Section 2. (continued)

h. Intermediate benchmarks for progress acceptable to the City of Dallas may be established in the loan documents.

Section 3. That the loan(s) {secured by liens on the real property} will provide for 0% annual interest and repayment in five (5) years from the date of each loan agreement, each portion forgivable if commercial development of the sites is commenced within 24 months of the date of each loan agreement and demolition completed within one (1) year of each loan agreement and both structures are completely constructed with certificates of occupancy issued within 5 years from the date of the forgivable loan agreement unless the time is extended by the Director of the City of Dallas Office of Economic Development.

Section 4. That the City Controller is hereby authorized to encumber and disburse funds from: Fund 0352, Department ECO, Unit 9992, Object 3562, Activity PPPF, Encumbrance No. ECO9992H085, Vendor No. VS 0000026872, in an amount not to exceed $850,000.

Section 5. That nothing in this resolution shall be construed as a binding contract or agreement upon the City and that there will be no liability or obligation on the city until final contract documents are approved and executed.

Section 6. 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: Office of Economic Development - Tenna Kirk, 5CS
Office of Economic Development – Sajid Safdar, 2CN
City Attorney's Office – Warren Ernst
KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: May 28, 2008

COUNCIL DISTRICT(S): 7

DEPARTMENT: Office of Economic Development

CMO: A. C. Gonzalez, 671-8925

MAPSCO: 47 N

SUBJECT

Authorize the release of a lien in the amount of $25,000 on real property held as collateral for a loan made by the South Dallas/Fair Park Trust Fund to Terrance Henderson d/b/a A Taste of New Orleans restaurant, 4837 Spring Avenue – Financing: No cost consideration to the City

BACKGROUND

The South Dallas/Fair Park Trust Fund assists neighborhoods in defined census tracts in the South Dallas/Fair Park Community through business assistance, community and economic development. Assistance is provided in the form of loans to businesses and grants to community based non-profit organizations, neighborhood groups and associations.

The South Dallas/Fair Park Trust Fund serves residents and businesses in the following 13 census tracts: 25, 27.01, 27.02, 28, 29, 34, 35, 36, 37, 38, 39.01, 39.02, and 40.

On March 1, 2003, Terrance Henderson, d/b/a A Taste of New Orleans, received a business loan from the South Dallas/Fair Park Trust Fund in the amount of $25,000. The purpose of the loan was for building improvements and working capital for the business. The loan was collateralized by a promissory note and a lien on real property located at 4837 Spring Avenue, Dallas, Texas 75210. The loan was paid in full on May 7, 2008.

PRIOR ACTION / REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 11, 2002, the South Dallas/Fair Park Trust Fund board approved a loan in the amount of $25,000 to Terrance Henderson d/b/a A Taste of New Orleans.
On August 28, 2002, the City Council authorized a loan agreement with Terrance Henderson d/b/a A Taste of New Orleans which will operate a full service food and beverage family style restaurant to be located at 4837 Spring Avenue in the South Dallas/Fair Park Trust Fund target area by Resolution No. 02-2377.

On May 19, 2008, a memo was submitted to the Economic Development Committee regarding a release of a lien in the amount of $25,000 on real property held as collateral for a loan made by the South Dallas/Fair Park Trust Fund to Terrance Henderson d/b/a A Taste of New Orleans restaurant located at 4837 Spring Avenue.

**FISCAL INFORMATION**

No cost consideration to the City

**MAP**

Attached.
Terrance Henderson d/b/a A Taste of New Orleans

4387 Spring Avenue
WHEREAS, on June 11, 2002 The South Dallas/Fair Park Trust Fund board approved a loan in the amount of $25,000 to Terrance Henderson d/b/a A Taste of New Orleans; and

WHEREAS, on August 28, 2002 the City Council authorized a loan agreement with Terrance Henderson d/b/a A Taste of New Orleans which will operate a full service food and beverage family style restaurant to be located at 4837 Spring Avenue in the South Dallas/Fair Park Trust Fund target area in the amount of $25,000 by Resolution No. 02-2377.

NOW, THEREFORE,

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

Section 1. That the City Manager upon approval as to form by the City Attorney is hereby authorized to cancel the secured promissory note and execute a release of lien on real property located at 4837 Spring Avenue, Dallas, Texas 75210.

Section 2. 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: Office of Economic Development - Tenna Kirk, 5CS
Office of Economic Development – Leo Hicks, 5CS
City Attorney's Office – Robert L. Sims, 7DN
**Subject**

**Davis Garden TIF District**

* Authorize (1) a development agreement with INCAP Master Development, LLC to provide funding for TIF-eligible project costs related to the horizontal development only (demolition and environmental remediation) of six structurally and functionally obsolete apartment complexes in anticipation of future vertical development and median improvements on Davis Street between Hampton and Montclair Roads in Tax Increment Financing Reinvestment Zone Number Sixteen (Davis Garden TIF District); and (2) the Davis Garden TIF District Board of Directors to dedicate up to $4,008,247 from future Davis Garden TIF revenues in accordance with the development agreement – Not to exceed $4,008,247 – Financing: Davis Garden TIF District Funds

* A resolution declaring the intent of Tax Increment Financing Reinvestment Zone Number Sixteen (Davis Garden TIF District) to reimburse INCAP Master Development, LLC up to $4,008,247 for certain TIF-eligible project costs related to the environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District – Financing: No cost consideration to the City

**Background**

Staff has been working with INCAP Master Development, LLC (INCAP) over the past year on a proposal for a project that consists of horizontal development and median improvements within the Davis Garden TIF District. The project is anticipated to entice future growth and expansion of residential and commercial activity within the TIF District.
Proposed terms state that the City of Dallas understands that INCAP makes no commitment to vertical development at the Project Sites.

Affiliates of INCAP Master Development, LLC have acquired six structurally and functionally obsolete apartment complexes located on approximately 30 acres of land within the Davis Garden TIF District. The entity is requesting $4,008,247 in TIF reimbursement for the environmental remediation and demolition of the obsolete apartment complexes and median improvements on Davis Street between Hampton Road and Montclair Avenue. The specific properties slated for environmental remediation and demolition and included in this request are:

1. **Chateau Crete Assembly**
   - Address: 1818, 1836, 1916, and 2002 Stevens Forest
   - Number of Acres: 4.372
   - Projected New Units: 240

2. **Acorn Tree Assembly**
   - Address: 2105 -2211 West Davis
   - Number of Acres: 8.973
   - Projected New Units: 162

3. **Cliffwood Assembly**
   - Address: 1836 West Davis
   - Number of Acres: 4.944
   - Projected New Units: 94

4. **King’s Highway Assembly**
   - Address: 1610, 1616, 1618, 1622, and 1630 King’s Highway
   - Number of Acres: 1.673
   - Projected New Units: 37

5. **Northhills Assembly**
   - Address: 640 North Plymouth and 2643 West Davis
   - Number of Acres: 6.533
   - Projected New Units: 370

6. **Kidd Springs Assembly**
   - Address: 829 and 901 Cedar Hill
   - Number of Acres: 3.543
   - Projected New Units: 112
BACKGROUND (continued)

INCAP will horizontally develop and prepare the properties only. There is no commitment for vertical development under this agreement. INCAP has indicated that the environmental remediation and demolition of the structurally and functionally obsolete apartment complexes will increase the current total assessed value of these properties from $21.1 million to a total assessed value of $39.2 million in the future (approximately $30.00 per square foot). The entity is currently negotiating with several developers as joint venture partners to redevelop the properties in accordance with the Davis Garden TIF District’s Final Plan.

Specific terms for the deal are included in the resolutions.

Under this proposed agreement, as TIF increment accrues after administrative costs are funded, 20% of all remaining increment will be set aside for the future provision of affordable housing in and within the one-mile area adjacent to the boundaries of the Davis Garden TIF District. The affordable housing set aside was negotiated since there is no commitment for vertical development (affordable housing units) on the six sites. Remaining tax increment will be allocated to the reimbursement of this agreement. The TIF subsidy shall not accrue interest.

ESTIMATED SCHEDULE OF PROJECT

A. Horizontal Development

1. Chateau Crete Assembly
   - Begin Environmental Remediation: N/A
   - Complete Environmental Remediation: N/A
   - Began Demolition: January 2008
   - Complete Demolition: May 2008

2. Acorn Tree Assembly
   - Began Environmental Remediation: February 2008
   - Completed Environmental Remediation: February 2008
   - Began Demolition: February 2008
   - Complete Demolition: May 2008

3. Cliffwood Assembly
   - Began Environmental Remediation: March 2008
   - Complete Environmental Remediation: April 2008
   - Began Demolition: April 2008
   - Complete Demolition: June 2008
### ESTIMATED SCHEDULE OF PROJECT (continued)

4. King’s Highway Assembly
   - Began Environmental Remediation: February 2008
   - Completed Environmental Remediation: March 2008
   - Began Demolition: March 2008
   - Completed Demolition: April 2008

5. Northhills Assembly
   - Begin Environmental Remediation: June 2008
   - Complete Environmental Remediation: November 2008
   - Begin Demolition: December 2008
   - Complete Demolition: December 2008

6. Kidd Assembly
   - Began Environmental Remediation: February 2008
   - Completed Environmental Remediation: April 2008
   - Began Demolition: April 2008
   - Complete Demolition: June 2008

### B. Median Improvements

1. Design, Review, and Permitting
   - Began Process: January 2008
   - Complete Process: December 2008

2. Construction of Median Improvements
   - Began Process: April 2008
   - Complete Process: December 2009

### PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 13, 2007, the City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Sixteen, the Davis Garden TIF District by Ordinance No. 26799.

On February 27, 2008, the City Council authorized the Final Project Plan and Reinvestment Zone Financing Plan for the Davis Garden TIF District by Ordinance No. 27090.

On May 19, 2008 a memo was submitted to the Economic Development Committee on the proposed development agreement with INCAP Master Development, LLC and pro forma information for the project.
PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS) (continued)

On May 23, 2008, the Davis Garden TIF Board of Directors provided a recommendation to the City Council for project approval and authorization of a Development Agreement between the City and INCAP Master Development, LLC, for the environmental remediation and demolition of the six structurally and functionally obsolete apartment complexes and median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District and for authority to dedicate future TIF revenues up to $4,008,247 for certain TIF-eligible public infrastructure improvements.

On April 7, 2008 the Economic Development Committee was briefed on the proposed development agreement with INCAP Master Development, LLC and pro forma information for the project.

**FISCAL INFORMATION**

$4,008,247 – Davis Garden TIF District Funds

<table>
<thead>
<tr>
<th>Council District 1</th>
<th>Council District 3</th>
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<tr>
<td>$2,250,052</td>
<td>$1,758,195</td>
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</tbody>
</table>

Total $4,008,247

**OWNER**

INCAP Master Development, LLC
A Texas Limited Liability Company

**DEVELOPER**

INCAP Master Development, LLC
A Texas Limited Liability Company

Michael Slaughter, Vice President

Alan McDonald, Vice President

**MAP**

Attached.
WHEREAS, the City recognizes the importance of its role in local economic development; and

WHEREAS, on June 13, 2007, Tax Increment Financing Reinvestment Zone Number Sixteen, (the “Davis Garden TIF District” a.k.a. “Twelve Hills TIF District”), in accordance with the Tax Increment Financing Act, as amended, V.T.C.A Texas Tax Code, Chapter 311) to promote development and redevelopment in the District through the use of tax increment financing by Ordinance No. 26799, as amended; and

WHEREAS, on February 27, 2008, the City Council authorized the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan by Ordinance No. 27090, as amended; and

WHEREAS, on May 23, 2008, the Davis Garden TIF District Board of Directors reviewed the proposed Project comprising environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and construction of median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District and recommended City Council consideration of a development agreement with INCAP Master Development, LLC and authority to dedicate future TIF revenues from the Davis Garden TIF District subject to INCAP Master Development, LLC providing a scope of services for the Project and itemization of $14.3 million in private soft costs per INCAP Master Development, LLC’s pro forma; and

WHEREAS, the horizontal development and median improvements are anticipated to entice future growth and expansion of residential and commercial activity within the City of Dallas; and

WHEREAS, in furtherance of the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan, the City desires to reimburse INCAP Master Development, LLC for the costs of environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and the construction of median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District as described in the Term Sheet attached hereto as Exhibit A.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:
Section 1. That the City Manager, upon approval as to form by the City Attorney is hereby authorized to execute a development agreement between INCAP Master Development, LLC and the City of Dallas, on behalf of the Davis Garden TIF District, thereby confirming the Davis Garden TIF District’s Board of Director’s dedication of future tax increment revenues in an amount not to exceed $4,008,247 to provide funding for TIF-eligible project costs as shown in the Term Sheet provided as Exhibit A. These projects include, but are not limited to median improvements; environmental remediation and demolition to implement the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan.

Section 2. That the facts and recitations contained in the preamble of this Resolution are hereby found and declared to be true and correct.

Section 3. That the City Controller is hereby authorized to encumber and disburse funds from: Davis Garden TIF District Fund - Fund 0060, Department ECO, Unit P437, Activity DGTI, Object 4420, Program No. DGTIF0001, CT ECOP437H087, Vendor No. VS0000028972, in an amount not to exceed $4,008,247.

Section 4. That INCAP Master Development, LLC shall demolish and complete environmental remediation for certain sites in the District and construct infrastructure improvements that may support future vertical development of the Project Sites, and up to $4,008,247 of the TIF-eligible project costs for the Davis Garden TIF District, may be paid from the Davis Garden TIF District Funds and/or in accordance with the terms of the development agreement described in hereof, but only to the extent such Davis Garden TIF District funds are available for such purpose. No interest will be paid on this award since funds are not advanced to the City for these improvements.

Section 5. That nothing in the resolution shall be construed to require the City to approve payment from any source of City funds other than the Davis Garden TIF District Fund and/or Tax Increment Bonds. Any funds expended under the development agreement that remain unpaid upon termination of the Davis Garden TIF District, due to lack or unavailability of Davis Garden TIF District Funds shall no longer be considered project costs of the Davis Garden TIF District or the City and the obligation of the Davis Garden TIF District to pay INCAP Master Development, LLC shall automatically expire.

Section 6. That in addition to the conditions set out in the Sections above, the Development Agreement is hereby expressly made subject to all of the following contingencies which must be performed or occur:

A. Developer/Owner shall invest a minimum of $30 million in private investments which is defined as including land acquisition and environmental remediation, demolition, and construction of median improvements.
Section 6 (continued)

B. Developer/Owner shall complete all environmental site assessments and all reports reasonably required by the City’s Office of Environmental Quality (OEQ) for the Project Sites by December 31, 2008. Developer/Owner shall take all necessary corrective action as required below to remediate contamination on the Project Sites by January 31, 2009:

(1) Conduct Phase I Environmental Site Assessments reasonably acceptable to the City and in accordance with the “all appropriate inquiry” standards in effect at the time the Environmental Site Assessments were/are conducted. (Per the interim and final all appropriate inquiry standards, Phase I Environmental Site Assessments complying with ASTM E1527-97, 00, or 05, satisfied the standards applicable to all appropriate inquiry depending on the time the Environmental Site Assessments were/are conducted.)

(2) Conduct such further environmental assessments as are reasonably necessary based on determination of recognized environmental conditions (RECs) disclosed in results of Phase I Environmental Site Assessments, recommendations of Developer/Owner’s consultant and City staff.

(3) If the results of the Environmental Site Assessments warrant, (i.e., if a REC is identified), apply for admission to and obtain a Certificate of Completion under the Voluntary Cleanup Program of the Texas Commission for Environmental Quality ("TCEQ"), such that no contamination exceeds Texas Risk Reduction Program rules applicable to residential land uses and that no post closure care, engineering or institutional control measures are required to protect human health and the environment.

(4) Conduct asbestos and lead based paint assessments and remediation in accordance with the applicable federal, state, and local laws.

C. Developer/Owner shall make no representations to potential buyers that TIF subsidies will be available for vertical development on the property or that Developer/Owner has influence over City Staff or City Officials for securing such subsidies or zoning changes, and Developer/Owner shall disclose to potential buyers that such TIF subsidies will be unavailable for vertical improvement until Developer/Owner has been fully reimbursed for its costs of preparing the sites for sale. Any additional TIF funding for vertical development must be approved by the Davis Garden TIF Board and City Council. Any subsequent development agreements, if any, must specify details of private construction and additional TIF-eligible project costs.
Section 6 (continued)

D. Developer/Owner shall obtain TIF Board approval for the design of all median improvements on West Davis Street.

E. Developer/Owner shall complete median improvements along Davis Street and obtain a final certificate of acceptance from the City’s Public Works and Transportation Department for the public infrastructure improvements by July 15, 2010.

F. Developer/Owner’s Project must be consistent in general form and character with the conceptual median improvement plan submitted with the TIF funding application. Any modification to the plan submitted with the TIF funding application must be approved by the Davis Garden TIF District Board of Directors.

G. Developer/Owner has and will continue to comply with the City’s Fair Share Agreement and the City’s Good Faith Effort Plan regarding M/WBE participation, including meeting with the City’s Business Procurement Office and following their guidance, before any demolition or construction bidding takes place.

The City’s established GFE Goals for public improvement projects, by contracting category, are:

- Construction: 25.00%
- Architectural & Engineering: 25.66%
- Other Professional Services: 36.30%
- Other Services: 23.80%
- Goods: 18.00%

The Fair Share participation goal on the private development portion shall be 25%. Please refer to Exhibit B the City’s Fair Share Guidelines.

In order to document the Minority/Women participation for the horizontal development and median improvements that comprise INCAP Master Development, LLC’s request for TIF funding, the Developer/Owner must submit semi-annual reports to the City showing the actual dollars awarded and their respective percentages. The initial report should include the period from the inception of the Developer/Owner's initial project to March 31, 2008. The document and any supplemental information must be submitted by April 18, 2008. Subsequent reports shall be submitted to the City on July 7th and January 7th of each year until the Project is complete.

H. Developer/Owner shall submit all required documentation as specified by the stated dates.
Section 7. That the following allocation methodology be used when allocating TIF increment, if and when it is available:

A. First Priority. The first funding priority of the District is the payment of administrative expenses of the City for personnel and related costs associated with the management of the Davis Garden TIF District.

B. Second Priority. After administrative expenses have been paid, 20% of all remaining annual TIF increment will be set aside for affordable housing.

C. TIF Subsidy Generally. In consideration of Developer’s investment in the Project, City agrees, subject to the conditions and limitations contained in this Agreement, to dedicate to Developer from future revenues available in the Tax Increment Fund $4,008,247 for the actual expenditures incurred for TIF-eligible Project Costs (the “TIF Subsidy”). The TIF Subsidy shall not accrue interest.

D. Availability of TIF Subsidy. The City agrees, subject to the conditions and limitations contained in this Agreement, to pay the Developer from the Tax Increment Fund from tax increments received and deposited therein during the life of the Davis Garden TIF District. The Developer agrees to look solely to the Tax Increment Fund, and not the City’s general fund or other funds, or City bond funds, for payment of the TIF Subsidy, which payments shall be made to the extent monies in the Tax Increment Fund are available and after the performance and observance of all of the requirements and conditions outlined herein and after all prior Davis Garden TIF District approved development agreements and administrative expenses and any other prior Davis Garden TIF District obligations have been paid. Currently the Davis Garden TIF District Board of Directors has not approved any other development agreements.

E. The TIF Subsidy Expires with the Term of the Davis Garden TIF District. Nothing in this Agreement shall be construed to require the City to approve payments from any source of City funds other than from the Tax Increment Fund or to require the City to issue TIF bonds in order to pay the Developer for the TIF Subsidy. The City’s obligation to pay the Developer the TIF Subsidy shall automatically expire upon the final allocation of any funds remaining in the Tax Increment Fund after the expiration of the term of the Davis Garden TIF District as provided in the ordinance creating same.

F. Conditions for Payment of the TIF Subsidy. Payment of the TIF Subsidy is further subject to:

(1) The availability of monies on deposit in the Tax Increment Fund; and
Section 7. (continued)

(2) The satisfaction of all of the prior obligations of the Tax Increment Fund, i.e. payment of administrative expenses and set-aside of affordable housing funds; as defined by Section 7, paragraphs A and B, above; and

(3) The Developer’s submission to the City of all required documentation as specified in Exhibit A by the requisite dates

G. Administration of Payments. Once the Developer is eligible for payment of the TIF subsidy pursuant to the requirements of the development agreement, payment of the TIF Subsidy will be administered annually. The frequency and amount of payments to the Developer under this Agreement shall coincide with the frequency and amount of payments made by the various taxing units into the Tax Increment Fund from fiscal year to fiscal year. Subject to all limitations and conditions precedent contained in this Resolution, the City agrees to pay the TIF Subsidy within thirty (30) days after receipt of all annual payments into the Tax Increment Fund. The City also reserves the right, when payments come into the Tax Increment Fund, to repay all or any portion of the TIF Subsidy at any given time.

H. Public Necessity. The City hereby declares that the payment of the TIF Subsidy outlined above is necessary to implement the Project Plan and that the TIF Subsidy constitutes a TIF-eligible Project Cost or other payment made at the discretion of the City Council that the City Council and the Davis Garden TIF District Board of Directors finds necessary or convenient to the implementation of the Davis Garden TIF District Project Plan.

I. Reallocation of TIF Subsidy. The Developer agrees and understands that in the event the Developer fails to complete the Project by the prescribed dates or such later date(s) approved by the City Council, the TIF Subsidy shall no longer be considered TIF-Eligible Project Costs of the Davis Garden TIF District and any obligation of the Davis Garden TIF District or the City to pay the Developer the TIF Subsidy shall automatically expire, with certain deadlines being subject to extension due to force majeure, as provided in the development agreement. Further, in the event of such expiration, the TIF Subsidy may be reallocated to other TIF projects upon approval by the Davis Garden TIF District Board of Directors.

J. Decrease in Appraised Value. If the appraised value of property in the TIF District decreases in value, the TIF Subsidy for that year may be reduced or unpaid.
Section 7 (continued)

K. Disagreement Over TIF Subsidy. In the event of a disagreement on how the Increment Allocation is calculated, the final determination of the amount of increment to be allocated to the Project shall be made by the Director of the City of Dallas Office of Economic Development.

Section 8. That the following additional Terms must be performed for reimbursement to occur:

A. Developer’s Fees. Developer/Owner shall submit a pro forma for the Project and/or Projects showing the cost of land acquisition, environmental remediation and demolition, the anticipated sales price for the land (if there is a pending sales contract for the property), and a rate of return with and without TIF funding. The developer’s fee shall not exceed 4% of the total project cost for the project. In addition, the cash on cash return on the Developer/Owner’s investment shall not exceed 12% annually on the horizontal development based on an initial pro forma as outlined in Exhibit C and page 5 of Exhibit D. Developer/Owner shall be required to provide the City evidence of its expenses and income when requested.

B. Design Review. There will be a design review process for the Project. Developer/Owner will be asked to meet with the TIF District’s TIF Board and/or Design Review Committee prior to beginning any construction.

C. TIF District Early Termination. If $100 million in new private investment, which includes acquisition costs, does not occur by December 13, 2013, the City may suspend the District’s ability to fund additional projects and terminate the District upon fulfillment of any obligations outstanding at that time.

Section 9. 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: Office of Economic Development - Tenna Kirk - 5CS
Office of Economic Development - Sajid Safdar, 2CN
City Attorney's Office - Barbara Martinez
City Attorney's Office - Sarah Hasib
March 26, 2008

INCAP Master Development, LLC
c/o INCAP Holdings, LLC
300 Crescent Court, Suite 1100
Dallas, Texas 75201

Attention: Alan P. McDonald

Alan:

The purpose of this nonbinding letter is to set out City staff’s commitment to recommend to the Davis Garden TIF District Board of Directors and the City Council the specific terms contained in this letter. The terms of this letter are related to 1) INCAP’s proposed environmental remediation and demolition of six structurally and functionally obsolete apartment complexes located on 30.08 acres within the boundaries of the Davis Garden TIF District, 2) INCAP’s proposed streetscape improvements on Davis Street between Hampton and Montclair Roads, and 3) City’s reimbursement of INCAP for certain TIF-Eligible Project Costs from future Davis Gardens TIF District revenues.

Please note that any recommendations of City staff are subject to all of the following:

1. Specific agreement between City Staff and INCAP on all proposed terms.

2. Approval by both the District’s TIF District Board of Directors and the City Council of an amendment to the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan to include $11.1 million for affordable housing in the TIF District budget or satisfaction of 20% affordable housing requirements either within the TIF District’s boundaries or off-site.

3. Approval and execution of a development agreement by the Davis Garden TIF District Board of Directors and the City Council.

Until all conditions noted above are met and mutually satisfactory definitive documents are executed and delivered, any party may discontinue negotiations hereunder and no party shall be bound. City staff expects to hold a meeting of the Davis Garden TIF District Board of Directors on or around March 28, 2008. Subject to a favorable review of the terms of this letter, the tentative City Council review date is April 9, 2008 to approve the development agreement between INCAP Master Development, LLC and the City of Dallas. This schedule is preliminary and subject to change.
The following are terms offered by City staff to you in connection with INCAP’s proposal:

**DEVELOPER/OWNER**
A Texas Partnership known as INCAP Master Development, LLC, ("Developer/Owner"), will control the Project defined below.

**PROJECT**
The Project ("Project") will include: (1) environmental remediation and demolition of six residential apartment complexes known as: Acorn Tree (2105 West Davis Street), Gulf Latin Church (2211 West Davis Street), Chateau Crete (1818, 1836, 1916 and 2002 Stevens Forest Drive), King’s Highway (1610, 1616, 1618, 1622, and 1630 King’s Highway), Kidd Springs (829 and 901 Cedar Hill Avenue), Cliffwood (1836 West Davis Street), and Northhills (640 North Plymouth and 2643 West Davis) (collectively, Sites") in preparation for town home, condominium, apartment, and/or mixed-use development at these Sites; and (2) streetscape improvements along Davis Street from Hampton Road to Montclair Avenue, street trees, plantings in the medians, decorative cross walks, and additional amenities located in the triangle bounded by 7th Street, West Davis Street, and Montclair Avenue. Sidewalks shall be measured from the back of the curb and include a 3-foot wide landscaping/pedestrian lighting zone adjacent to the curb and a pedestrian zone sidewalk.

Developer/Owner is seeking approximately $4 million for TIF-Eligible Project Costs, which includes demolition, environmental remediation, and streetscaping.

**Demolition, Environmental Remediation, & Streetscaping (TIF Eligible Project Costs)**

<table>
<thead>
<tr>
<th>Location</th>
<th>Cost</th>
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<tbody>
<tr>
<td>Chateau Crete</td>
<td>$400,468</td>
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<tr>
<td>Acorn Tree</td>
<td>$364,919</td>
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<td>$787,000</td>
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<tr>
<td>Kidd Springs</td>
<td>$612,550</td>
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<tr>
<td>Streetscaping along Davis St.</td>
<td>$1,000,001</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$4,008,247</strong></td>
</tr>
</tbody>
</table>

**TERMS AND POLICIES**

*City understands that Developer/Owner makes no commitment to vertical development at the Project Sites.*

Horizontal Development Costs incurred to prepare these properties for sale of approximately $4,008,247.00 and consisting of: (1) $1,575,612.70 in environmental remediation costs; (2) $1,432,633.30 in demolition costs; and (3) $1,000,001.00 in streetscape improvement costs along West Davis Street will be reimbursed by from future Davis Garden TIF District revenues. Developer/Owner must complete all Project elements and meet all of the requirements outlined in this letter prior to any reimbursement for the costs of streetscape improvements, environmental remediation, and demolition at the Project Sites. The Developer/Owner has
substantially completed demolition and environmental remediation on Acorn Tree and King's Highway and demolition on Chateau Crete (where no environmental remediation was required). The Developer/Owner will complete demolition and environmental remediation on Cliffwood, Northhills, and Kidd Springs, as well as infrastructure improvements along Davis Avenue by dates outlined below. The completion of Cliffwood, Northhills, and Kidd Springs and infrastructure improvements along Davis Avenue shall be construed as adequate consideration supporting the reimbursement of these properties along with Acorn Tree, King's Highway, and Chateau Crete.

Eligibility for Reimbursement for TIF-Eligible Project Costs

1. Streetscape Improvements. Developer/Owner must complete streetscape improvements along West Davis Street and receive a letter of acceptance for those improvements from the City’s Department of Public Works and Transportation by July 15, 2010. Developer/Owner will be eligible for reimbursement of the cost of the streetscape improvements in an amount not to exceed $1,000,001, subject to the availability of TIF funds and compliance with all terms of this letter.

2. Environmental Remediation and Demolition. Developer/Owner must complete environmental remediation and demolition of the Project Sites by December 31, 2008. Developer/Owner will be eligible for reimbursement of demolition and environmental remediation costs, subject to the availability of TIF funds and compliance with all terms of this letter.

3. If these dates are not met, no TIF funds will be paid and the Development Agreement will terminate. Time is of the essence and failure to meet such completion dates will be considered a material breach of the Development Agreement.

TIF Subsidy & Increment Allocation

1. First Priority. The first funding priority of the District is the payment of administrative expenses of the City for personnel and related costs associated with the management of the Davis Garden TIF District.

2. Second Priority. After administrative expenses have been paid, 20% of all remaining annual TIF increment will be set aside for affordable housing.

3. TIF Subsidy Generally. In consideration of Developer’s investment in the Project, City agrees, subject to the conditions and limitations contained in this Agreement, to dedicate to Developer from future revenues available in the Tax Increment Fund $4,008,247 for the actual expenditures incurred for TIF-eligible Project Costs (the “TIF Subsidy”). The TIF Subsidy shall not accrue interest.

4. Availability of TIF Subsidy. The City agrees, subject to the conditions and limitations contained in this Agreement, to pay the Developer from the Tax Increment Fund from tax increments received and deposited therein during the life of the Davis Garden TIF District. The Developer agrees to look solely to the Tax Increment Fund, and not the City’s general fund or other funds, or City bond funds, for payment of the TIF Subsidy, which payments shall be made to the
extent monies in the Tax Increment Fund are available and after the performance and observance of all of the requirements and conditions outlined herein and after all prior Davis Garden TIF District approved development agreements and administrative expenses and any other prior Davis Garden TIF District obligations have been paid. Currently the Davis Garden TIF District Board of Directors has not approved any other development agreements.

5. **The TIF Subsidy Expires with the Term of the Davis Garden TIF District.** Nothing in this Agreement shall be construed to require the City to approve payments from any source of City funds other than from the Tax Increment Fund or to require the City to issue TIF bonds in order to pay the Developer for the TIF Subsidy. The City's obligation to pay the Developer the TIF Subsidy shall automatically expire upon the final allocation of any funds remaining in the Tax Increment Fund after the expiration of the term of the Davis Garden TIF District as provided in the ordinance creating same.

6. **Conditions for Payment of the TIF Subsidy.** Payment of the TIF Subsidy is further subject to:

   a) The availability of monies on deposit in the Tax Increment Fund; and

   b) The satisfaction of all of the prior obligations of the Tax Increment Fund, i.e. payment of administrative expenses and set-aside of affordable housing funds; as defined by items 1. and 2. above; and

   c) The Developer's submission to the City of all required documentation as specified in this letter by the requisite dates.

7. **Priority for Payment.** Assuming all conditions for payment have been met, the City will administer the payment of the TIF Subsidy pursuant to an order of priority as specified herein. The TIF Subsidy for the Project is first in priority for payment among all Davis Garden TIF District development projects, subject only to the payment of District administrative expenses and the set-aside of funds for affordable housing.

8. **Administration of Payments.** Once the Developer is eligible for payment of the TIF subsidy pursuant to the requirements of the development agreement, payment of the TIF Subsidy will be administered annually. The frequency and amount of payments to the Developer under this Agreement shall coincide with the frequency and amount of payments made by the various taxing units into the Tax Increment Fund from fiscal year to fiscal year. Subject to all limitations and conditions precedent contained in this Agreement, the City agrees to pay the TIF Subsidy within thirty (30) days after receipt of all annual payments into the Tax Increment Fund. The City also reserves the right, when payments come into the Tax Increment Fund, to repay all or any portion of the TIF Subsidy at any given time.

9. **Public Necessity.** The City hereby declares that the payment of the TIF Subsidy outlined above is necessary to implement the Project Plan and that the TIF
Subsidy constitutes a TIF-eligible Project Cost or other payment made at
the discretion of the City Council that the City Council and the Davis Garden TIF
District Board of Directors finds necessary or convenient to the implementation
of the Davis Garden TIF District Project Plan.

10. Reallocation of TIF Subsidy. The Developer agrees and understands that in the
event the Developer fails to complete the Project by the prescribed dates or such
later date(s) approved by the City Council, the TIF Subsidy shall no longer be
considered TIF-Eligible Project Costs of the Davis Garden TIF District and any
obligation of the Davis Garden TIF District or the City to pay the Developer the
TIF Subsidy shall automatically expire, with certain deadlines being subject to
extension due to force majeure, as provided in the development agreement.
Further, in the event of such expiration, the TIF Subsidy may be reallocated to
other TIF projects upon approval by the Davis Garden TIF District Board of
Directors.

11. Decrease in Appraised Value. If the appraised value of property in the TIF
District decreases in value, the TIF Subsidy for that year may be reduced or
unpaid.

12. Disagreement Over TIF Subsidy. In the event of a disagreement on how the
Increment Allocation is calculated, the final determination of the amount of
increment to be allocated to the Project shall be made by the Director of the City
of Dallas Office of Economic Development.

General Horizontal Development Terms

Developer/Owner must comply with all of the following items related to horizontal development
in order to be eligible for TIF reimbursement:

1. TIF Board approval of the design of all streetscape improvements on West Davis Street.

2. Environmental remediation and demolition evidenced by the receipt of clearance exam
results and a demolition permit. The terms of environmental remediation and demolition
are outlined in the following section.

3. A minimum private investment of $30 million which is defined as including land
acquisition and environmental remediation, demolition, and construction of streetscape
improvements.

4. Developer/Owner shall make no representations to potential buyers that TIF subsidies
will be available for vertical development on the property or that Developer/Owner has
influence over City Staff or City Officials for securing such subsidies, and
Developer/Owner shall disclose to potential buyers that such TIF subsidies will be
unavailable for vertical improvement until Developer/Owner has been fully reimbursed
for its costs of preparing the sites for sale. Any additional TIF funding for vertical
development must be approved by the Davis Garden TIF Board and City Council. Any
subsequent development agreements must specify details of private construction and
additional TIF-eligible project costs.
5. A lighting plan for Davis Street improvements must be submitted to both the City’s Public Works and Transportation Department and the Office of Economic Development by December 31, 2009.

6. For public infrastructure improvements associated with the Project, a final certificate of acceptance must be issued by the City’s Public Works and Transportation Department by July 15, 2010.

7. An operating and maintenance agreement must be executed and funded for non-standard public improvements associated with the Project by July 15, 2010.

8. The Project must be consistent in general form and character with the conceptual streetscape improvement plan submitted with the TIF funding application. Any modification to the plan submitted with the TIF funding application must be approved by the TIF Board of Directors.

9. Developer/Owner will comply with the City’s Fair Share Agreement and the City’s Good Faith Effort Plan regarding M/WBE participation, including meeting with the City’s Business Procurement Office and following their guidance, before any demolition or construction bidding takes place.

The City’s established GFE Goals for public improvement projects, by contracting category, are:

- Construction: 25.00%
- Architectural & Engineering: 25.66%
- Other Professional Services: 36.30%
- Other Services: 23.80%
- Goods: 18.00%

The Fair Share participation goal on the private development portion shall be 25%. Please refer to Exhibit A, the City’s Fair Share Guidelines.

In order to document the Minority/Women participation for the horizontal development and streetscape improvements that comprise INCAP Master Development, LLC’s request for TIF funding, the Developer/Owner must submit semi-annual reports to the City showing the actual dollars awarded and their respective percentages. The initial report should include the period from the inception of the Developer/Owner’s initial project to March 31, 2008. The document and any supplemental information must be submitted by April 18, 2008. Subsequent reports shall be submitted to the City on July 7th and January 7th of each year until the Project is complete.

**Environmental Remediation and Demolition Terms**

City staff will recommend that demolition and environmental remediation expenses related to asbestos and lead-based paint issues incurred by Developer/Owner at the Project Sites prior to Developers/Owner’s application for TIF funding shall be a TIF-Eligible Project Cost, provided that Developer/Owner meets all of the conditions set forth in the development agreement.
All environmental site assessments and all reports reasonably required by the City’s Office of Environmental Quality (“OEQ”) for the Project Sites must be completed by December 31, 2008.

In order that environmental remediation and demolition expenditures are eligible for TIF reimbursement, Developer/Owner shall take all necessary corrective action as required below to remediate contamination on the Project Sites by January 31, 2009.

Developer/Owner is obligated to do the following, at a minimum:

(1) Conduct Phase I Environmental Site Assessments reasonably acceptable to the City and in accordance with the “all appropriate inquiry” standards in effect at the time the Environmental Site Assessments were/are conducted. (Per the interim and final all appropriate inquiry standards, Phase I Environmental Site Assessments complying with ASTM E1527-97, 00, or 05, satisfied the standards applicable to all appropriate inquiry depending on the time the Environmental Site Assessments were/are conducted.)

(2) Conduct such further environmental assessments as are reasonably necessary based on determination of recognized environmental conditions (RECs) disclosed in results of Phase I Environmental Site Assessments, recommendations of Developer/Owner’s consultant and City staff.

(3) If the results of the Environmental Site Assessments warrant, (i.e., if a REC is identified), apply for admission to and obtain a Certificate of Completion under the Voluntary Cleanup Program of the Texas Commission for Environmental Quality (“TCEQ”), such that no contamination exceeds Texas Risk Reduction Program rules applicable to residential land uses and that no post closure care, engineering or institutional control measures are required to protect human health and the environment.

(4) Conduct asbestos and lead based paint assessments and remediation in accordance with the applicable federal, state, and local laws.

All environmental remediation and demolition work, as well as all legal requirements, will be reviewed and approved by the City’s OEQ and detailed in the development agreement, which shall be completed prior to City Council consideration and approval.

Developer/Owner shall agree to defend, indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, to the extent arising out of or occasioned by (i) Developer/Owner's breach of any of the terms or provisions of this Agreement, or (ii) any negligent or strictly liable act or omission of Developer/Owner, its officers, agents, employees or subcontractors, in the performance under the development agreement.

**General TIF Policies and Terms**

The Developer/Owner should be aware of the conditions below.
1. **Developer's Fees.** Developer/Owner shall submit a pro forma for the Project and/or Projects showing the cost of land acquisition, environmental remediation and demolition, the anticipated sales price for the land (if there is a pending sales contract for the property), and a rate of return with and without TIF funding. The developer's fee shall not exceed 4% of the total project cost for the project. In addition, the cash on cash return on the Developer/Owner's investment shall not exceed 12% annually on the horizontal development based on an initial pro forma as outlined in Exhibit B and page 5 of Exhibit C. Developer/Owner shall be required to provide the City evidence of its expenses and income when requested.

2. **Reimbursement.** Reimbursement is subject to collection of the taxes on all property owned by an applicant developer, in addition to collection of tax increment in the remaining portions of the district. Nothing in this letter shall be construed to require the City to approve payment from any source of City funds other than the District’s Fund. Any funds under development agreements that have not been reimbursed upon termination of the District, due to lack of or unavailability of District funds, shall no longer be considered project costs of the District, and the obligation of the District or the City to pay Developer/Owner shall automatically expire.

3. **Developer/Owner Operating at Own Risk.** Developer/Owner acknowledges that TIF reimbursement of any work initiated prior to City Council approval of these terms may or may not be reimbursed with TIF funds.

4. **Timing.** Time is of the essence and Developer/Owner’s ability to timely perform is a material inducement to the City to provide financial incentives for the Project.

5. **Design Review.** There will be a design review process for the Project. Developer/Owner will be asked to meet with the TIF District’s TIF Board and/or Design Review Committee prior to beginning any construction.

6. **TIF District Early Termination.** If $100 million in new private investment, which includes acquisition costs, does not occur by December 13, 2013, the City may suspend the District’s ability to fund additional projects and terminate the District upon fulfillment of any obligations outstanding at that time.

7. **City Council.** Developer/Owner acknowledges and agrees that deadlines and additional conditions may be imposed by the City Council and, once established, will require further action of the City Council to modify such deadlines and additional conditions. Be aware that any change in the minimum private investment, scope of the project or timing of the project will require TIF Board and City Council approval. City commitments to the project may be re-evaluated at that time if project completion is delayed or the scope of the project is reduced in any manner. Through the City’s re-evaluation process, it may be determined that City’s commitment to the project should be terminated, that additional consideration is required to support the City’s commitment to the project, or that the City’s funding commitment should be reduced. The preceding list of City’s options is not exhaustive.
City staff will use reasonable efforts to present this nonbinding letter of intent to the Davis Garden TIF District Board and City Council as soon as reasonably practicable.

Nothing in the letter shall be construed as an obligation or commitment of the City to pay or reimburse Developer/Owner's costs or expenses incurred prior to consideration and approval of incentives by the TIF board and the City Council. Such obligations, if any, must be created by future TIF board and City Council action.

This letter supersedes all prior meetings and correspondence. Please call me if you have any questions or concerns. These terms reflect the TIF application and supplemental information you submitted.

We look forward to hearing back from you and hope that these terms are acceptable to Developer/Owner.

Sincerely,

Karl Zavitkovsky
Director
Office of Economic Development

cc: AC Gonzalez, Assistant City Manager
Vernae Martin, Assistant Director, Office of Economic Development
Telemachus Evans, Economic Development Analyst, Office of Economic Development
Pam Veshla, Economic Development Analyst, Office of Economic Development
Sarah Hasib, Assistant City Attorney, City Attorney's Office
Barbara Martinez, Assistant City Attorney, City Attorney's Office

Accepted by:

Alan McDonald
Vice President
INCAP Master Development, LLC

Date 3/26/08
Example

Fair Share Agreement
A. Agreement Summary and Introductions

1. THE XXXX TIF DISTRICT BOARD is committed to the inclusion of minority and women business enterprises in the construction and redevelopment of downtown Dallas.

2. As part of the Operating Plan with the City of Dallas, THE XXXX TIF DISTRICT BOARD has agreed to support the objectives of the City's Good Faith Effort Plan in addition to adopting the XXXX District’s Fair Share Agreement. The objectives of this agreement are (1) to provide minorities and women an equal opportunity for participation in construction and (2) to provide procedures for monitoring compliance with minority and women-owned business enterprise requirements. The XXXX District’s Fair Share Agreement also provides that to the degree reasonably possible, contractors with offices located in the City of Dallas be fully utilized.

3. The XXXX District’s Fair Share Agreement establishes a MINIMUM goal based upon 25% of private investment construction related contracts.

4. THE XXXX TIF DISTRICT BOARD intends that in addition to the participation of ethnic minorities that there be inclusion of women-owned business enterprises as well.

5. The inclusion of minority and women-owned businesses will be a consideration for TIF financing. Proposals exceeding the goals above will merit additional attention.

6. All firms or individuals seeking to do business with THE XXXX TIF DISTRICT BOARD who are engaged in design, development, construction, management, concessions, services, providing supplies, etc., must agree to be contractually obligated to fully comply with the objectives of the XXXX TIF District’s Fair Share Agreement.

7. The XXXX TIF District’s Fair Share Agreement and all relevant forms shall be included as an exhibit attachment to all Development Agreements.

8. Compliance monitoring of the Fair Share Agreement rest exclusively with THE CITY OF DALLAS.

B. Definitions and Interpretations
(a) "Minority/Women-owned Business Enterprise," or "M/WBE" means a small business concern: (1) which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

(b) "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated thereto.

(c) "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are:

1. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
2. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origin, regardless of race;
3. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
4. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Mariana Islands;
5. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh;
6. "Women," regardless of race, ethnicity, or origin; and
7. "Other," individuals found to be socially and economically disadvantaged by the Small Business Administration (SBA) pursuant to Section 8(a) of the Small Business Act.

THE CITY OF DALLAS makes a presumption that individuals in the above groups are socially and economically disadvantaged. THE CITY OF DALLAS may also determine, on a case-by-case basis, other individuals who are socially and economically disadvantaged.

Bona fide minority group membership shall be established on the basis of the individual's claim that he or she is a member of a minority group and is so regarded by the particular minority community. THE CITY OF DALLAS reserves the right to request all appropriate documentation, i.e., tribal roll number, birth certificate, visa, passport, etc., necessary to clearly support an individual's claim of "minority" status.

(d) "Control" means the primary power to direct the management of a business enterprise - specifically, the disadvantaged owner(s) must possess the power and ability to direct or cause the direction of the management and policies of the firm and to make the day-to-day, as well as major, decisions on matters of management, policy and operations.

C. Developer's M/WBE Responsibility

The Developer agrees to ensure that M/WBEs have the maximum practicable opportunity to participate in the performance of a Development Agreement with the CITY OF DALLAS. The Developer shall take all necessary and reasonable steps to ensure M/WBEs have the maximum opportunity to compete for and to perform work under any contract awarded.

D. Submission of M/WBE Utilization Forms And Related Documentation

(a) The Developer shall submit within 10 (ten)-calendar days after the bid opening an executed Intent To Perform As A Contractor/Subcontractor Form and the M/WBE Contractor/Supplier Report for each contractor/subcontractor, to the CITY OF DALLAS.

(b) The listing of a M/WBE by a Developer on the Intent To Perform as a Contractor/Subcontractor Form and the M/WBE Contractor/Supplier Report shall constitute a representation by the Developer to the CITY OF DALLAS that it believes selected M/WBE firm(s) are technically and financially qualified and available to perform the work. It shall also represent a commitment by the Developer that if it is awarded TIF Financing it will enter into a contract with such M/WBE (provided that the M/WBE is certified) for the work described and at the price set forth in both, the M/WBE Contractor/Supplier Report and the Intent To Perform as a Contractor/Sub-Contractor forms. No substitution(s) of M/WBE firms may be effected without prior written approval. If a Developer is a M/WBE and lists itself on the Schedule of M/WBE Participation, it is required to perform the work indicated with its own workforce.

(c) The Developer shall submit an interim M/WBE Contractor/Supplier Report to the CITY OF DALLAS six (6)
months after construction has begun and a final Report upon project completion.

E. Credit Towards Goals

(a) No credit toward meeting M/WBE goals will be allowed unless the M/WBE is determined to be eligible by the CITY OF DALLAS. Developers are strongly encouraged to contact the CITY OF DALLAS well in advance of the date set for receipt of offers in order to enable review of the proposed M/WBEs eligibility to participate in the M/WBE Program.

(b) Only expenditures to M/WBEs that perform a commercially useful function may be counted towards goals; i.e., work actually performed, supervised and managed by a certified M/WBE. A firm shall be presumed not to be performing a commercially useful function if it further contracts a significantly greater portion of the work that would be expected based on normal industry practice. The M/WBE may present evidence to the CITY OF DALLAS to rebut this presumption.

(c) The Developer may credit toward the M/WBE goal the full expenditures for materials and supplies provided that the M/WBE is the manufacturer. Only 60 (sixty) percent of the total dollar value may be credited for materials and supplies purchased from M/WBEs that are not manufacturers. In all instances, the M/WBE must actually provide the materials and supplies. None of the expenditures will be credited towards the M/WBE goals if the M/WBE performs no substantial service or is a passive conduit.

(d) 100 (one hundred) percent of the dollar value of the award/expenditure may be counted toward the goal if the M/WBE supplier is a manufacturer; i.e., produces materials from raw materials, or substantially alters materials before resale.

(e) The Developer may count towards its M/WBE goal 100 (one hundred) percent of the cost of materials or supplies it obtains for use under a Development Agreement if the materials or supplies are obtained from a M/WBE "regular dealer."

(f) Awards/Expenditures in Development Agreements with businesses that are joint ventures should be counted on the basis of percentage ownership of the eligible M/WBE in the joint venture. Where M/WBE ownership is 51 (fifty-one) percent or greater, 100 (one hundred) percent of the dollar value is counted. The eligibility of a joint venture will be determined on a project-by-project basis. Appropriate forms are available from the CITY OF DALLAS to be completed in order to determine eligibility.

(g) A Developer may count towards its M/WBE goals the following expenditures to M/WBE firms that are not manufacturers or regular dealers.

1. The fees charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Development Agreement, provided that the fee is determined by the CITY OF DALLAS to be reasonable and not excessive as compared with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in the materials and supplies.

3. The fees charged for providing any bonds or insurance specifically required for the performance of the Development Agreement.

F. Demonstration of Good Faith Effort

(a) If a Developer does not meet the M/WBE goals, it shall nevertheless be eligible for TIF Financing if it can demonstrate to the satisfaction of the CITY OF DALLAS that it has made a good faith effort to meet the M/WBE goals. In evaluating a Developer's good faith effort submission, the CITY OF DALLAS will only consider those documented efforts that occurred prior to receipt of bids.

(b) In the event that a firm submitted by a Developer cannot be certified, the Developer will be notified and given an opportunity to substitute that firm with another M/WBE firm. The Developer will have 10 (ten) calendar days from the date of notification to accomplish the substitution.

(c) In making a determination that the Developer has made a good faith effort to meet the M/WBE goals, the CITY OF DALLAS shall consider among other things it deems relevant, the criteria set forth below. The Developer shall furnish, as part of its M/WBE utilization information above, such specific documentation concerning the steps it has taken to obtain M/WBE participation, with a consideration of, by way of illustration and not limitation the following:

1. Whether the Developer attended any pre-bid or pre-proposal meetings scheduled by the CITY OF DALLAS to discuss, among other matters, M/WBE participation opportunities and acknowledged receipt of M/WBE certified vendor lists;
(2) Whether the Developer advertised in general circulation, trade association, and/or minority/women-focus media concerning contracting/subcontracting opportunities;

(3) Whether the Developer provided written notice to a reasonable number of M/WBEs that their interest in the Development Agreement was being solicited in sufficient time to allow M/WBEs to participate effectively;

(4) Whether the Developer followed up initial solicitations of interest by contacting M/WBEs to determine with certainty whether the M/WBEs were interested;

(5) Whether the Developer selected portions of the work to be performed by M/WBEs in order to increase the likelihood of meeting the M/WBE goals (including where appropriate, breaking down the Development Agreement into economically feasible contracts to facilitate M/WBE participation);

(6) Whether the Developer provided interested M/WBEs with adequate information about the plans, specifications, scope of work and requirements of the Development Agreement;

(7) Whether the Developer negotiated in good faith with interested M/WBEs, not rejecting M/WBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

(8) Whether the Developer made efforts to assist interested M/WBEs in obtaining bonding, lines of credit, insurance, etc., as required by the CITY OF DALLAS or the Developer;

(9) Whether the Developer effectively used the services of available minority and women, community organizations, Developer groups, local, State, and Federal business assistance Committees; and other organizations that provide assistance in the identification of M/WBEs; and

(10) Whether the Developer obtained written documentation from the CITY OF DALLAS or a bona fide surety indicating that bonding was denied and for what reason(s) prior to the M/WBE being rejected as a potential contractor/subcontractor for failing to obtain Developer-required bonding. Documentation furnished by a surety company will be subject to verification by the CITY OF DALLAS.

(d) In determining whether a Developer has demonstrated good faith, the CITY OF DALLAS will look not only at the different kinds of efforts that the Developer has made, but also the quantity and intensity of those efforts. Efforts that are merely pro-forma are not good faith efforts to meet the goals (even if they are sincerely motivated) if, given all relevant circumstances, the Developer’s efforts could not reasonably be expected to produce a level of M/WBE participation sufficient to meet the goals.

(e) Developers are reminded that the issue of whether or not the Developer has met or exceeded the established goals and/or demonstrated good faith efforts is considered a matter of the Developer’s responsibility. THE CITY OF DALLAS will only approve TIF Financing to Developers determined to be responsive and responsible.

G. Certification of M/WBEs

(a) All prospective M/WBEs must submit appropriate forms, available from THE XXXX TIF DISTRICT BOARD, to prove actual ownership and control by M/WBEs. All such firms shall cooperate in supplying additional information as requested by the CITY OF DALLAS OR THE XXXX TIF DISTRICT BOARD, which will determine the certification of eligible M/WBEs. Blank forms may be obtained from THE CITY OF DALLAS OR THE XXXX TIF DISTRICT BOARD.

(b) In the event the CITY OF DALLAS determines that a firm identified as a M/WBE does not qualify as a M/WBE, the Developer shall be informed and will be provided with an opportunity to substitute firms meeting the CITY OF DALLAS’ M/WBE eligibility criteria.

(c) Information concerning M/WBEs currently certified through the local centralized M/WBE Certification Program may be obtained from the CITY OF DALLAS. Notwithstanding other M/WBE certification or registration, firms identified to participate as M/WBEs on XXXX TIF financed projects are subject to a certification review process. Developers are reminded that only certified M/WBEs will count towards meeting the Fair Share goal. If Developers propose using a M/WBE not currently certified, it is strongly urged to contact the CITY OF DALLAS in advance of the date set for receipt of offers in order to enable review of the proposed M/WBEs eligibility.

H. M/WBE Modifications or Substitutions

In the event that a Developer wishes to modify its M/WBE participation after its offer is submitted and/or TIF Financing is awarded, the Developer must notify the CITY
OF DALLAS in writing and request approval of the modification. This will include any changes to items of work, material, services, or M/WBE firms that differ from those identified on the Intent to Perform as a Contractor/Subcontractor Form and the M/WBE Contractor/Supplier Report on file with the CITY OF DALLAS. The Developer must provide the CITY OF DALLAS with any and all documents and information as may be requested with respect to the requested modification. If the modification involves a substitution and if the CITY OF DALLAS approves it, the Developer must make every good faith effort to replace the M/WBE with another M/WBE. In the event that the Developer is unable to substitute with another M/WBE firm, such good faith efforts must be documented to the CITY OF DALLAS. The substitute M/WBE firm must be certified by the CITY OF DALLAS in order for the Developer to receive credit towards fulfilling its M/WBE participation goals for the Development Agreement.

I. **Banks and Financial Institutions**

The Developer is encouraged to utilize the services of minority and woman-owned banks and financial institutions.

J. **Sanctions for Noncompliance with The XXXX TIF District’s Fair Share Agreement Provisions**

Failure of the Developer to carry out the XXXX TIF District's Fair Share Agreement provisions shall constitute a breach of Development Agreement and may result in termination of the Development Agreement for default or such remedy, as the CITY OF DALLAS may deem appropriate. The willful making of false statements, attempting to use fronts or shams as certified firms, or providing incorrect information will warrant immediate termination of the Development Agreement or appropriate legal action. [Representation of minority participation is a material representation on which the CITY OF DALLAS relies on awarding TIF Financing.]

K. **Effective Date of the XXXX TIF District’s Fair Share Agreement**

The effective date for the XXXX TIF District's Fair Share Agreement shall be August 10, 2006 as directed by the XXXX TIF District Board of Directors. Any project receiving Board approval or requesting material changes on or after this date shall be required to meet the goals and objectives of the XXXX TIF District's Fair Share Agreement. Should the City of Dallas incorporate elements of this Fair Share Agreement into the Good Faith Effort Policy, including M/WBE goals for private investment, then this XXXX TIF District Fair Share Agreement shall no longer be in effect.
M/WBE CONTRACTOR/SUPPLIER REPORT

INSTRUCTIONS: An initial M/WBE Contractor/Supplier Report shall be submitted to the Office of Economic Development ten (10) days after the bid opening. An interim M/WBE Contractor/Supplier Report is due six (6) months after construction has commenced and the final Report upon project completion.

| CONTRACTOR: | PRIMARY CONTACT NAME: |
| PRIMARY CONTACT NUMBER: |
| ORIGINAL CONTRACT AMOUNT (non-TIF): |
| REPORT DATE: |

<table>
<thead>
<tr>
<th>M/WBE FIRM</th>
<th>TYPE OF SERVICE</th>
<th>TOTAL PLANNED CONTRACT AMOUNT</th>
<th>AMOUNT TO DATE</th>
<th>ACTUAL % TO DATE</th>
<th>LOCATION OF FIRM</th>
<th>NCTRCA CERTIFICATE #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

| TOTAL       |                      |                              |                |                  |                 |                     |

| M/WBE %     |                      |                              |                |                  |                 |                     |

Company Signature and Title
Res No 1_Exbt B - Fair Share Agreement Info 4-2-08

Date Signed 5/15/2008
.Intent to Perform as a Contractor/Subcontractor

All Minority and Women Business Enterprise (M/WBE) firms participating in the M/WBE Program must have current certification status recognized by the CITY OF DALLAS. This form shall be submitted to the Office of Economic Development.

1. The undersigned intends to perform work in connection with the above project as (check one):
   - [ ] An individual / sole proprietorship
   - [ ] a partnership
   - [ ] A corporation
   - [ ] a joint venture

2. The undersigned (check applicable statements):
   - [ ] Has current 8(a) status with the U.S. Small Business Administration. Attach 8(a) letter
   - [ ] Has been certified by NCTRCA (Certification #______________________). Attach Certification form
   - [ ] Is certified by another entity having equal certifying standards as NCTRCA. (Certification #______________________). Attach Certification form

3. The undersigned is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify “supply” or “install” or “both”):___________________________________________
   and at the following price $_________. With respect to the proposed sub-contractor described above,_____ % of the dollar value of such sub-contractor will be sublet and/or awarded to non-M/WBE Developers.

   By:_________________________________________________ PHONE:_________________ DATE: / / __
   (Name of M/WBE Firm) (Signature of Authorized Representative)

   By:_________________________________________________ PHONE:_________________ DATE: / / __
   (Name of Prime Firm) (Signature of Authorized Representative)
## Exhibit C - Pro Forma

### INCAP’s Proposed Horizontal Development Activities and Streetscape Improvements Along Davis Street

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Acquisition Costs</td>
<td>$24,959,612</td>
</tr>
<tr>
<td>Supplemental Non-Reimbursable Costs (Private)</td>
<td></td>
</tr>
<tr>
<td>Property Acquisition &amp; Closing Costs</td>
<td>$2,520,000</td>
</tr>
<tr>
<td>Consulting &amp; Planning Costs</td>
<td>$1,512,000</td>
</tr>
<tr>
<td>Property Repairs &amp; Maintenance</td>
<td>$2,040,000</td>
</tr>
<tr>
<td>Site Preparation Costs</td>
<td>$1,860,000</td>
</tr>
<tr>
<td>Administrative Costs</td>
<td>$576,822</td>
</tr>
<tr>
<td>Marketing</td>
<td>$120,000</td>
</tr>
<tr>
<td>Financing</td>
<td>$4,720,000</td>
</tr>
<tr>
<td>Property Taxes</td>
<td>$930,000</td>
</tr>
<tr>
<td>Demolition, Environmental Remediation, &amp; Streetscaping (TIF Eligible Project Costs)</td>
<td>$4,008,247</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$43,246,681</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Revenue</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anticipated Sales Price</td>
<td>$44,488,762</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$44,488,762</strong></td>
</tr>
</tbody>
</table>

### Revenue Summary Pre-TIF Reimbursement

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected Sales</td>
<td>$44,488,762</td>
</tr>
<tr>
<td>Land Acquisition Costs</td>
<td>($24,959,612)</td>
</tr>
<tr>
<td>Supplemental Non-Reimbursable Costs (Private)</td>
<td>($14,278,822)</td>
</tr>
<tr>
<td>Demolition, Environmental Remediation, &amp; Streetscaping (TIF Eligible Project Costs)</td>
<td>($4,008,247)</td>
</tr>
<tr>
<td><strong>Pre-TIF Reimbursement Gross Profit (Loss)</strong></td>
<td><strong>$1,242,081</strong></td>
</tr>
</tbody>
</table>

### Revenue Summary Post-TIF Reimbursement

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected Sales</td>
<td>$44,488,762</td>
</tr>
<tr>
<td>Land Acquisition Costs</td>
<td>($24,959,612)</td>
</tr>
<tr>
<td>Supplemental Non-Reimbursable Costs (Private)</td>
<td>($14,278,822)</td>
</tr>
<tr>
<td>Demolition, Environmental Remediation, &amp; Streetscaping (TIF Eligible Project Costs)</td>
<td>($4,008,247)</td>
</tr>
<tr>
<td>Anticipated TIF Reimbursement</td>
<td>$4,008,247</td>
</tr>
<tr>
<td><strong>Post-TIF Reimbursement Gross Profit (Loss)</strong></td>
<td><strong>$5,250,328</strong></td>
</tr>
</tbody>
</table>

**ROI without TIF Reimbursement**: 2.87%

**ROI with TIF Reimbursement**: 3.17%
Status of New TIF Districts:

Fort Worth Avenue

Twelve Hills

- Economic Development and Housing Committee
- April 16, 2007
Overview

- On March 26, 2007, the Finance & Audit Committee reviewed a proposed set of policy initiatives approved by the Joint Economic Development and Housing, and Transportation and Environment Committees that will:
  - Secure Dallas’ share of emerging market demand for dense, mixed-use development
  - Address a legacy of problems associated with deteriorated / dilapidated multifamily properties
  - Accomplish these two objectives while enhancing our fiscal position:
    - More revenue into the City’s General Fund quicker
    - Reduce City’s service costs

- Today we will be discussing two proposed new TIF Districts based on these policy initiatives:
  - Fort Worth Avenue TIF District; and
  - Twelve Hills TIF District
Following the March 26, 2007 briefing, on April 11, 2007, City Council approved raising the City’s “cap” on TIF and other reinvestment zones from 5% of the City’s taxable base to 10%. Prior to this action, the City was prohibited from creating new TIF Districts under its Financial Management Performance Criteria (FMPC).

The TIF Program was first implemented in the City of Dallas in 1988. Fourteen TIF Districts were created since then. The City continues to adjust policy to insure that the TIF program continues to serve evolving City financial needs.

As of 2006, the proportion of the City’s tax base contained in TIF Districts is 4.8% of the City’s tax base. The creation of two proposed TIF districts will raise the percentage to 5.3% based on 2007 projections. The proposed new districts raise the proportion of real property in reinvestment zones to 7% (the state cap is 15%).
Several enhancements to the TIF Program were recommended in the March 26 briefing:

- Accelerated delivery of property tax revenue to the General Fund by adjusting the City’s participation as development progresses.
- This chart shows the difference in cash to the City over the first five years of both proposed TIF Districts based on City participation rates – 1st generation TIF – 100% participation, 2nd generation TIF – 85% participation, New model – variable rate.
Several enhancements to the TIF Program were recommended in the March 26 briefing (continued):

- Significant (over $200 million) minimum project commitment required
- Early termination if negotiated private investment requirements are not met in five years
- TIF incentives cease when targeted return on investment is achieved based on project pro forma (12% target, but varies according to risk)
- Increased mix-use densities for sustainability
- Target redevelopment opportunities with continued focus on mixed-income affordability and relocation priorities
- Implementation of forwardDallas!
Provisions of the proposed TIF Districts were negotiated to follow these new guidelines:

- Both districts will receive a lower proportion of City property taxes over the early term of the TIF District to accelerate delivery of property tax revenue to the General Fund.
- Both have significant minimum project commitment (over $200 million) – in the La Reunion project – Fort Worth Avenue; and a variety of projects to be developed by the INCAP Fund – Twelve Hills.
- Both proposals include early termination if negotiated private investment requirements are not met in five years.
- Both Districts will include policies that cease TIF incentives when targeted return on investment numbers are achieved based on a negotiated rate based on project risk.
- Both proposals increase mix-use densities for sustainability.
- Both proposals target redevelopment opportunities and are committed to providing mixed-income affordability and relocation opportunities for current residents.
- Both proposals promote the implementation of forwardDallas!
The Fort Worth Avenue Development Group (FWADG) worked for the past two years to create community consensus on the redevelopment of the corridor. They worked with staff to develop PD 714 so that zoning provisions reflected the community vision for the neighborhood and developed a Preliminary TIF Project Plan and Reinvestment Zone Financing Plan for the 470-acre Fort Worth Avenue Corridor area.

The TIF proposal focuses on:

- Making a stronger connection between the historic residential neighborhoods in North Oak Cliff with Trinity Corridor, Downtown and Victory areas
- Confining the TIF boundaries to a tight area on either side of Fort Worth Avenue and Commerce Street west of the Trinity River and including larger sites with redevelopment potential such as City auto impound lot and main Post Office that are currently non-taxable for greater returns
- Creating sufficient residential density to support a potential DART Light Rail line in the area
Fort Worth Avenue TIF Proposal Boundary Map
Fort Worth Avenue TIF Proposal
Existing Conditions

- The neighborhood currently contains a large proportion of non-conforming uses, vacant land, underutilized commercial property, aging motor courts, and some deteriorated multi-family housing.
- Much of the infrastructure in the area is inadequate, and redevelopment will require environmental remediation.
- In 2005, City Council approved PD 714, which provided for mixed use redevelopment.

Aging motor courts

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Current uses
Fort Worth Avenue TIF Proposal
Existing Conditions (continued)

Commercial uses

Vacant Land

Skyline View from Auto Pound

Views of Downtown
To increase the immediate impact on the General Fund, TIF collections will be lower in the initial years:
- 0% in 2008
- 55% in 2009 and 2010
- 70% in 2011, 2012, and 2013
- 85% in 2014 through 2020
- 70% in 2021 & 2022, and
- 55% in 2023 and thereafter

The proposal includes a catalyst project (La Reunion) that will occur initially with a total anticipated private investment of over $200 million.

The district has provisions to be terminated early if an investment of at least $100 million does not occur in the first 5 years of the TIF District.

This TIF District will include policies that cease TIF incentives when a negotiated target rate of return is met and will require target occupancy levels to be met as a condition of TIF funding.
Fort Worth Avenue TIF Proposal
How the plan meets new TIF enhancements

La Reunion - Catalyst Project for the Fort Worth Avenue TIF District

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The implementation of the district will greatly increase residential and retail density in the corridor to support a potential DART rail line on Fort Worth Avenue/Commerce and connect the historic residential areas in North Oak Cliff to the Trinity River and the downtown.

Requires a minimum of 20% of new residential units built to meet affordable housing guidelines and requires a relocation assistance plan for displaced residents of the area.

This proposal supports the implementation of forwardDallas!

The expected return in initial private investment for each TIF dollar spent is $11.

A more detailed review of the TIF proposal and an analysis of how it meets guidelines is included in the Appendix.
INCAP Fund (INCAP) has been working over the last two years to develop a plan for replacing deteriorating apartment communities in the North Oak Cliff area with owner-occupied housing. Within the last six months, redevelopment plans were finalized and INCAP developed a Preliminary TIF Project Plan and Reinvestment Zone Financing Plan for the Twelve Hills area.

The TIF Plan focuses on:

- Making stronger connection between the historic neighborhoods in North Oak Cliff to Pinnacle Park to build on this major City investment
- Increasing and improving linkages to Coombs Creek, Stevens Park Golf Course, and Kidd Springs Park and including the addition of an open space preserve with Balcones escarpment near Pinnacle Park
- Creating new mixed-income communities that are integrated into existing residential neighborhoods and providing relocation assistance for residents that may be displaced
- Encouraging the redevelopment of aging and underutilized retail centers in the District
- Providing better connectivity between the commercial corridors and established residential neighborhoods
Twelve Hills TIF Proposal Boundary Map
Twelve Hills TIF Proposal
Existing Conditions

- The present conditions in the area include deteriorating multifamily, dilapidated buildings, and inadequate public infrastructure.

- Lack of pedestrian amenities and connectivity to parks and open space

- Aging and deteriorating multifamily

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Twelve Hills TIF Proposal
How the plan meets new TIF enhancements

- To increase the immediate impact on the General Fund, TIF collections will be lower in the initial years:
  - 0% in 2008
  - 55% in 2009 and 2010
  - 70% in 2011, 2012, and 2013
  - 85% in 2014 through 2020
  - 70% in 2021, 2022, and 2023
  - 55% in 2024 and thereafter
- The proposal includes a catalyst project INCAP (multiple sites), that will occur initially with a total anticipated private investment of over $200 million.
- The district has provisions to be terminated early if an investment of at least $100 million does not occur in the first 5 years of the TIF District.
- This TIF District will include policies that cease TIF incentives when a negotiated target rate of return is met and will require target occupancy levels to be met as a condition of TIF funding.
Catalyst Project – INCAP, Phase I. Initial redevelopment in the first three years of the TIF would include 583 residential units and 7,000 square feet of retail space. The estimated additional taxable value is $108.7 million.

Redevelopment concepts are shown below:
Twelve Hills TIF Proposal
How the plan meets new TIF enhancements
The implementation of the district will greatly increase residential and retail density in the corridor to support a potential DART rail line on Fort Worth Avenue/Commerce and connects the historic residential areas in North Oak Cliff to the Pinnacle Park employment/retail center.

Requires a minimum of 20% of new residential units built to meet affordable housing guidelines and requires a relocation assistance plan for displaced residents of the area.

This proposal supports the implementation of forwardDallas!

The expected return in initial private investment for each TIF dollar spent is $11.

A more detailed review of the TIF proposal and an analysis of how it meets guidelines is included in the Appendix.
Conclusion

The Forth Worth Avenue and Twelve Hills TIF proposals:

- Secure Dallas’ share of emerging market demand for dense, mixed-use development
- Address a legacy of problems associated with deteriorated / dilapidated multifamily properties
- Accomplish these two objectives while enhancing our fiscal position:
  - More revenue into the City’s General Fund more quickly
  - Reduce City’s service costs

Total projected redevelopment in the two TIFs: Over 12,000 residential units and over 1.8 million square feet of retail and other commercial space.
Next Steps

- On April 25, 2007, City Council will consider calling a public hearing for May 23, 2007 to consider the creation of the Fort Worth Avenue and Twelve Hills TIF Districts.
- Following the public hearing, City Council will consider an ordinance creating the TIF District, approving the Preliminary Plan, and establishing the TIF Board of Directors (with appointments to be filled at a later date).
Appendix – Detailed review of Fort Worth Avenue and Twelve Hills TIF Plans
Fort Worth Avenue TIF Proposal: Evaluation

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Points (Max)</th>
<th>Points Scored</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total new taxes generated by the District from all revenue sources exceed amount of taxes foregone - Direct monetary benefits to all taxing jurisdictions exceeds public funds invested during term of TIF District: Cash benefits to the City exceeds City expenditures - full points if within the term of the TIF; 10 fewer points for each 3 years without City payback</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Other taxing units participation</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Comprehensive Review of Project Pro Forma - including rental rates, land costs, site analysis, construction costs, other sources of funds and grants, operating expenses and rate of return for the developer</td>
<td>29</td>
<td>10</td>
</tr>
<tr>
<td>A minimum of $15 million in new private investment will occur within 3 years of adoption of TIF District</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>100</td>
<td>80</td>
</tr>
<tr>
<td><strong>Policy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provides affordable housing - 10 points max. (5 points for each 10% affordable units). A minimum of 10% affordable housing is required for each TIF District</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Plan provides Urban Design Guidelines and/or historic preservation guidelines, if applicable</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Provides preferential hiring for neighborhood residents for new jobs created</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Enhances public investments over $10 million made within last 5 years or expected within the next 5 years (i.e. DART Light Rail System, Trinity River, bond improvements)</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>Enhances core assets of City</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Provides direct benefits to distressed areas</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>Adds park or green space or to City/County Trail system and provides for ongoing maintenance of these amenities</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Complies with Fair Share Guidelines for private investment</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>100</td>
<td>90</td>
</tr>
<tr>
<td><strong>Grant Total: Financial &amp; Policy</strong></td>
<td>200</td>
<td>170</td>
</tr>
</tbody>
</table>

- The ranking of the proposed TIF based on the City’s criteria is shown on the table.
- The TIF Proposal scored 170 out of 200 possible points. This exceeds the 140 points needed for a staff recommendation.
Total new taxes generated by the proposed TIF exceed the amount of taxes forgone:

<table>
<thead>
<tr>
<th>Taxing Jurisdictions</th>
<th>Total Revenues to Taxing Jurisdictions and Fund During TIF Term</th>
<th>Less: Contribution to TIF Fund</th>
<th>Net Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Real Property Tax (to fund and to general revenues)</td>
<td>BPP Tax</td>
<td>Sales Tax</td>
</tr>
<tr>
<td>Participating Jurisdictions:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Dallas:</td>
<td>$84,434,130</td>
<td>$1,402,622</td>
<td>$19,927,325</td>
</tr>
<tr>
<td>Dallas County: 55%</td>
<td>$24,797,499</td>
<td>$411,438</td>
<td></td>
</tr>
<tr>
<td>Other Jurisdictions:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DISD</td>
<td>$173,986,161</td>
<td>$2,850,262</td>
<td></td>
</tr>
<tr>
<td>DISD</td>
<td></td>
<td>$488,571</td>
<td></td>
</tr>
<tr>
<td>DCCCD</td>
<td></td>
<td>$155,804</td>
<td></td>
</tr>
<tr>
<td>DART</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>% of Total Tax Revenue</td>
<td>87.69%</td>
<td>1.46%</td>
<td>10.85%</td>
</tr>
</tbody>
</table>

Notes:
1. All values are projections and expressed in year 2008 dollars with the exception of windfall values which are expressed in nominal dollars.
2. The legal TIF life will be set at 22 years. Based on projections, TIF collections will begin in 2009 and continue for 18 years, at which time the budget cap of $62,183,280 (2008 dollars) is expected to be reached. If the budget cap is not reached, TIF collections can continue through tax year 2029.
3. Forecasts project City participation for 18 years at varying rates and County participation for 18 years at 55%.
4. Windfall defined as total new tax revenue (RPT, BPP, and Sales) generated as a result of new development in TIF District as of the expiration of the TIF.
Fort Worth Avenue TIF Proposal
Planned Development

- Over a 22-year period, projected redevelopment includes approximately 1,032,910 square feet of retail, 231,367 square feet of office and 9,535 residential units.
- Additional taxable value attributed to new private investment is projected to be over $1.2 billion during the 22-year period with a TIF investment of $112 million, for a ratio of $11 private dollars invested for every $1 in TIF incentives.
- This TIF District helps implement part of the Fort Worth Avenue Corridor Land Use and Urban Design Plan.
Fort Worth Avenue TIF Proposal
Public Improvements

- The TIF investment in public infrastructure will encourage private redevelopment at a higher capacity and with additional public benefits that would not otherwise occur.
- Preliminary estimates for TIF public improvements total $112.2 million ($62.2 million in 2008 dollars) for:
  - Water, Wastewater & Storm Water
  - Paving, Streetscape & Utility Burial
  - Land Acquisition
  - Environmental Remediation & Demolition
  - Façade Restoration
  - Parks, Open Spaces, Trails & Gateways
  - Grants for high density projects
  - Administration
Revenues for this TIF District are estimated to be collected in 18 years although the TIF District will be set up for 22 years in case of shortfalls in the captured increment (the capture of TIF funds will be delayed for one year to allow the City to collect 100% of revenue for the general fund). During this initial year, the City’s general fund is projected to collect approximately $589,000.

In addition, with City participation being phased between 55% and 85% during the life of the TIF, there will be some additional revenue to the general fund throughout.

The estimated 2007 base real property value of the zone is approximately $79 million.

The City is expected to break even (direct monetary benefits exceeding public funds invested) within the life of the TIF. City contributions to the TIF fund result in public improvements.

In addition, its estimated the City’s general fund will have $55 million in added revenue during the life of the TIF District.
Financial benefits to all taxing jurisdictions from anticipated increases in real property, business personal property, and sales taxes is positive throughout the life of the TIF – net $305 million.

Pro Formas for initial projects are reasonable and TIF assistance is needed for development to occur.

A minimum of $15 million in new investment will occur within the first 3 years – the proposal estimates $363 million in new private investment during this period.

A total of 80 out of 100 possible financial criteria points.
Fort Worth Avenue TIF Proposal Policy Evaluation

- TIF projects will provide for 20% affordable housing
- Urban design guidelines have been developed through PD 714. More refined urban design guidelines will be developed through the TIF board of directors.
- Preferential hiring of neighborhood residents for new jobs created is incorporated in the TIF Plan.
- The TIF will enhance the Trinity River Corridor, a core asset of the City.
Fort Worth Avenue TIF Proposal Policy Evaluation (continued)

✓ The TIF provides direct benefits to distressed areas:
  ✓ Most of the area is in CDBG eligible census tract (20% or more of households below the poverty level)
  ✓ Physical blight, deteriorated conditions, and potential brownfields in most of the area.
✓ Adds green space with pocket parks, connections to Coombs Creek Trail, and other pedestrian connections.
✓ Fair Share Guidelines for private investment is incorporated in the TIF Plan.
  ❖ A total of 90 out of 100 possible policy criteria points
Fort Worth Avenue TIF Proposal Summary

- The TIF Proposal scored 170 out of 200 possible points. This exceeds the minimum 140 points needed for a Staff recommendation.
Twelve Hills TIF Proposal Evaluation

The ranking of the proposed TIF based on the City’s criteria is shown on the table.

✓The Twelve Hills TIF Proposal scored 140 out of 200 possible points. This meets the 140 points needed for a staff recommendation.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Points (Max)</th>
<th>Points Scored</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Financial</strong></td>
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</tr>
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<td>50</td>
<td>40</td>
</tr>
<tr>
<td>Other taxing units participation</td>
<td>15</td>
<td>5</td>
</tr>
<tr>
<td>Comprehensive Review of Project Pro Forma - including rental rates, land costs, site analysis, construction costs, other sources of funds and grants, operating expenses and rate of return for the developer</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>A minimum of $15 million in new private investment will occur within 3 years of adoption of TIF District</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>100</td>
<td>70</td>
</tr>
<tr>
<td><strong>Policy</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provides affordable housing - 10 points max. (5 points for each 10% affordable units). A minimum of 10% affordable housing is required for each TIF District</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Plan provides Urban Design Guidelines and/or historic preservation guidelines, if applicable</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Provides preferential hiring for neighborhood residents for new jobs created</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Enhances public investments over $10 million made within last 5 years or expected within the next 5 years (i.e. DART Light Rail System, Trinity River, bond improvements)</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>Enhances core assets of City</td>
<td>25</td>
<td>15</td>
</tr>
<tr>
<td>Provides direct benefits to distressed areas</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>Adds park or green space or to City/County Trail system and provides for ongoing maintenance of these amenities</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Complies with Fair Share Guidelines for private investment.</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td>100</td>
<td>70</td>
</tr>
<tr>
<td><strong>Grant Total : Financial &amp; Policy</strong></td>
<td>200</td>
<td>140</td>
</tr>
</tbody>
</table>
Twelve Hills TIF Proposal
Financial Evaluation

- Total new taxes generated by the proposed TIF exceed the amount of taxes forgone:

<table>
<thead>
<tr>
<th>Taxing Jurisdictions</th>
<th>Total Revenues to Taxing Jurisdictions During TIF Term</th>
<th>Less: Contribution to TIF Fund</th>
<th>Net Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Real Property Tax</td>
<td>BPP Tax</td>
<td>Sales Tax</td>
</tr>
<tr>
<td>Participating Jurisdictions:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Dallas: varies</td>
<td>$44,475,412</td>
<td>$129,342</td>
<td>$2,128,510</td>
</tr>
<tr>
<td>Dallas County: 55%</td>
<td>$13,353,236</td>
<td>$38,834</td>
<td>-</td>
</tr>
<tr>
<td>Other Jurisdictions:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DISD</td>
<td>$91,646,674</td>
<td>$266,625</td>
<td>-</td>
</tr>
<tr>
<td>DCHD</td>
<td>$15,491,984</td>
<td>$45,053</td>
<td>-</td>
</tr>
<tr>
<td>DCCCD</td>
<td>$4,940,357</td>
<td>$14,367</td>
<td>-</td>
</tr>
<tr>
<td>DART</td>
<td>-</td>
<td>-</td>
<td>$2,128,510</td>
</tr>
<tr>
<td>Total:</td>
<td>$169,907,663</td>
<td>$494,122</td>
<td>$4,257,019</td>
</tr>
</tbody>
</table>

| % of Total Tax Revenue | 97.28% | 0.28% | 2.44% | 100.00% |

Notes:
1. All values are projections and expressed in year 2008 dollars with the exception of windfall values which are expressed in nominal dollars.
2. The legal TIF life will be set at 22 years. Based on projections, TIF collections will begin in 2009 and continue for 17 years, at which time the budget cap of $32.4 million is expected to be reached. If the budget cap is not reached, TIF collections can continue through tax year 2029.
3. Forecasts project City participation for 17 years at 0% in 2008, 55% in 2009 and 2010, 70% in 2011, 2012, and 2013, 85% in 2014 through 2020, 70% in 2021, 2022, and 2023, and 55% in 2024 and 2025, and County participation for 17 years at 55%.
Twelve Hills TIF Proposal
Private Investment

- Over a 22-year period, projected redevelopment includes 472,000 square feet of retail and other commercial development, and 2,725 residential units including town homes, condos, and upgraded apartments.
- Additional taxable value attributed to new private investment is projected to be $599 million (2008 dollars) over the 22 year period.
- It is estimated that there will be adequate revenue from the TIF District to collect the needed increment over 17 years although the TIF District will be set up for 22 years in case of shortfalls in the captured increment (the capture of TIF funds will be delayed for one year to allow the City to collect 100% of revenue for the general fund). During this initial year, the City’s general fund is projected to collect approximately $769,000.
- In addition, with City participation being phased between 55% and 85% during the life of the TIF, there will be some additional revenue to the general fund throughout.
- The estimated 2007 base real property value of the zone is approximately $103 million.
The Twelve Hills TIF District represents the City’s effort to provide a model for redeveloping deteriorating multifamily and commercial corridors.

Much of the property in the Twelve Hills area corridors is in poor condition or structurally obsolete and negatively impacts surrounding stable neighborhoods.

The existing multi-family housing in the corridor was primarily built in the 1960s and does not seem to be sustainable. Opportunity exists to transition to more ownership units and higher quality rental, in conformance with the City’s Comprehensive Plan, ForwardDallas.

Staff reviewed the plan and found it to conform with the TIF guidelines.
Twelve Hills TIF Proposal
Public Improvements

- The TIF investment in public infrastructure will encourage private redevelopment in a capacity and with greater public benefits that would not otherwise occur.

- Preliminary estimates for TIF public improvements total $57.1 million ($32.4 million in 2008 dollars) for:
  - Water, Wastewater, Storm
  - Paving, Streetscape, and utility burial/relocation
  - Environmental Remediation and Demolition
  - Parks, Open Space, Trails, and Streetscapes
  - Façade Restoration
  - Administration
Twelve Hills TIF Proposal
Financial Evaluation

- The City contribution to the TIF fund is estimated at $26.6 million (2008 dollars) over the life of the TIF.
- The City would breakeven (direct monetary benefits exceeding public funds invested) by 2032 (within three years of the District’s expiration). City contributions to the TIF fund result in public improvements.
- County participation is assumed to be 0% in 2008 and 55% in 2009 and thereafter.
- Financial benefits to all taxing jurisdictions from anticipated increases in real property, business personal property, and sales taxes is positive throughout the life of the TIF – net $142.2 million (2008 dollars).
- In addition, it is estimated that the City’s general fund will have $20 million in added revenue during the life of the TIF District.
Twelve Hills TIF Proposal: Financial Evaluation (continued)

- Staff has reviewed the key projects at and has determined that TIF assistance is needed for development to occur given the cost of remediation for deteriorated apartments, infrastructure upgrades, and creating new street and pedestrian networks.
- A minimum of $15 million in new investment will occur within the first 3 years – the proposal estimates $108.7 million in new private investment during this period.

- A total of 70 out of 100 possible financial criteria points
Twelve Hills TIF Proposal Policy Evaluation

- Twenty percent of all new residential units will be affordable.
- Urban Design Guidelines will be developed.
- Preferential hiring of neighborhood residents for new jobs created is incorporated in the TIF plan.
- The TIF will enhance public investments over $10 million including City investment in Pinnacle Park.
- The TIF will enhance a core assets of the City, including:
  - Pinnacle Park
  - Stevens Park Golf Course;
  - Kidd Springs Park; and
  - Balcones escarpment near Pinnacle Park.
Twelve Hills TIF Proposal Policy Evaluation (continued)

- The TIF provides direct benefits to distressed areas:
  - Part of district is located in CDBG eligible census tract (20% or more of households below the poverty level)
  - District exhibits physical blight and deteriorated conditions
- Adds green space or to a trail system and provides for on-going maintenance – some green space and potential trail connections are contemplated for Coombs Creek and Stevens Park.
- Fair Share Guidelines for private investment is incorporated in the TIF plan.

- A total of 70 out of 100 possible policy criteria points
Twelve Hills TIF Proposal

Conclusion

- The TIF proposal scored 140 out of 200 possible points. This meets the 140 points needed for a Staff recommendation.
WHEREAS, the City recognizes the importance of its role in local economic development; and

WHEREAS, on June 13, 2007, Tax Increment Financing Reinvestment Zone Number Sixteen, (the “Davis Garden TIF District” a.k.a. “Twelve Hills TIF District”), in accordance with the Tax Increment Financing Act, as amended, V.T.C.A Texas Tax Code, Chapter 311) to promote development and redevelopment in the District through the use of tax increment financing by Ordinance No. 26799, as amended; and

WHEREAS, on February 27, 2008, the City Council authorized the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan by Ordinance No. 27090, as amended; and

WHEREAS, on May 23, 2008, the Davis Garden TIF District Board of Directors reviewed the proposed Project comprising environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and construction median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District and recommended City Council consideration of a development agreement with INCAP Master Development, LLC and authority to dedicate future TIF revenues from the Davis Garden TIF District subject to INCAP Master Development, LLC providing a scope of services for the Project and itemization of $14.3 million in private soft costs per INCAP Master Development, LLC’s pro forma; and

WHEREAS, the horizontal development and median improvements are anticipated to entice future growth and expansion of residential and commercial activity within the City of Dallas; and

WHEREAS, in furtherance of the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan, the City desires to reimburse INCAP Master Development, LLC for the costs of environmental remediation and demolition of six structurally and functionally obsolete apartment complexes and the construction of median improvements on Davis Street between Hampton and Montclair Roads in the Davis Garden TIF District as described in the Term Sheet attached hereto as Exhibit A.

NOW, THEREFORE,

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

Section 1. That there is the intent to use Tax Increment Financing Zone Number Sixteen (Davis Garden TIF District) TIF funds, if and when available to reimburse the total Davis Garden TIF District participation in the cost of median and other public improvements on Davis Street, environmental remediation, and demolition of six structurally and functionally obsolete apartment complexes shall not exceed an amount of $4,008,247 all in accordance with the terms of said development agreement.
Section 2. That the findings, determinations and certifications contained in the recitals above are incorporated herein for all purposes.

Section 3. That the issuer expects to incur debt as one or more series of obligation for the purpose of paying the costs of the Project. The following is a general functional description of the Project for which the expenditures to be reimbursed or paid and a statement of the maximum principal amount of debt expected to be issued for such reimbursement purposes.

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Debt To Be Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median and other public infrastructure improvements, environmental remediation and demolition within Reinvestment Zone Number Sixteen, (Davis Garden TIF District) as described in the Term Sheet attached hereto as Exhibit A</td>
<td>Not to exceed $4,008,247 as provided by the Project Plan and Reinvestment Zone Financing Plan and the Development Agreement</td>
</tr>
</tbody>
</table>

Section 4. That nothing in the resolution shall be construed to require the City to approve payment from any source of City funds other than the Davis Garden TIF District Fund and/or Tax Increment Bonds. Any funds expended under the development agreement that remain unpaid upon termination of the Davis Garden TIF District, due to lack or unavailability of Davis Garden TIF District Funds shall no longer be considered project costs of the Davis Garden TIF District or the City to pay INCAP Master Development, LLC shall automatically expire.

Section 5. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

Distribution: Office of Economic Development - Tenna Kirk - 5CS
Office of Economic Development - Sajid Safdar, 2CN
City Attorney's Office - Barbara Martinez
City Attorney's Office - Sarah Hasib
March 26, 2008

INCAP Master Development, LLC
c/o INCAP Holdings, LLC
300 Crescent Court, Suite 1100
Dallas, Texas 75201

Attention: Alan P. McDonald

Alan:

The purpose of this nonbinding letter is to set out City staff’s commitment to recommend to the Davis Garden TIF District Board of Directors and the City Council the specific terms contained in this letter. The terms of this letter are related to 1) INCAP’s proposed environmental remediation and demolition of six structurally and functionally obsolete apartment complexes located on 30.08 acres within the boundaries of the Davis Garden TIF District, 2) INCAP’s proposed streetscape improvements on Davis Street between Hampton and Montclair Roads, and 3) City’s reimbursement of INCAP for certain TIF-Eligible Project Costs from future Davis Gardens TIF District revenues.

Please note that any recommendations of City staff are subject to all of the following:

1. Specific agreement between City Staff and INCAP on all proposed terms.

2. Approval by both the District’s TIF District Board of Directors and the City Council of an amendment to the Davis Garden TIF District Project Plan and Reinvestment Zone Financing Plan to include $11.1 million for affordable housing in the TIF District budget or satisfaction of 20% affordable housing requirements either within the TIF District’s boundaries or off-site.

3. Approval and execution of a development agreement by the Davis Garden TIF District Board of Directors and the City Council.

Until all conditions noted above are met and mutually satisfactory definitive documents are executed and delivered, any party may discontinue negotiations hereunder and no party shall be bound. City staff expects to hold a meeting of the Davis Garden TIF District Board of Directors on or around March 28, 2008. Subject to a favorable review of the terms of this letter, the tentative City Council review date is April 9, 2008 to approve the development agreement between INCAP Master Development, LLC and the City of Dallas. This schedule is preliminary and subject to change.
The following are terms offered by City staff to you in connection with INCAP's proposal:

DEVELOPER/OWNER
A Texas Partnership known as INCAP Master Development, LLC, ("Developer/Owner"), will control the Project defined below.

PROJECT
The Project ("Project") will include: (1) environmental remediation and demolition of six residential apartment complexes known as: Acorn Tree (2105 West Davis Street), Gulf Latin Church (2211 West Davis Street), Chateau Crete (1818, 1836, 1916 and 2002 Stevens Forest Drive), King’s Highway (1610, 1616, 1618, 1622, and 1630 King’s Highway), Kidd Springs (829 and 901 Cedar Hill Avenue), Cliffwood (1836 West Davis Street), and Northhills (640 North Plymouth and 2643 West Davis) (collectively, Sites”) in preparation for town home, condominium, apartment, and/or mixed-use development at these Sites; and (2) streetscape improvements along Davis Street from Hampton Road to Montclair Avenue, street trees, plantings in the medians, decorative cross walks, and additional amenities located in the triangle bounded by 7th Street, West Davis Street, and Montclair Avenue. Sidewalks shall be measured from the back of the curb and include a 3-foot wide landscaping/pedestrian lighting zone adjacent to the curb and a pedestrian zone sidewalk.

Developer/Owner is seeking approximately $4 million for TIF-Eligible Project Costs, which includes demolition, environmental remediation, and streetscaping.

<table>
<thead>
<tr>
<th>Demolition, Environmental Remediation, &amp; Streetscaping (TIF Eligible Project Costs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chateau Crete</td>
</tr>
<tr>
<td>Acorn Tree</td>
</tr>
<tr>
<td>Cliffwood</td>
</tr>
<tr>
<td>King’s Highway</td>
</tr>
<tr>
<td>Northhills</td>
</tr>
<tr>
<td>Kidd Springs</td>
</tr>
<tr>
<td>Streetscaping along Davis St.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>

TERMS AND POLICIES

City understands that Developer/Owner makes no commitment to vertical development at the Project Sites.

Horizontal Development Costs incurred to prepare these properties for sale of approximately $4,008,247.00 and consisting of: (1) $1,575,612.70 in environmental remediation costs; (2) $1,432,633.30 in demolition costs; and (3) $1,000,001.00 in streetscape improvement costs along West Davis Street will be reimbursed by from future Davis Garden TIF District revenues. Developer/Owner must complete all Project elements and meet all of the requirements outlined in this letter prior to any reimbursement for the costs of streetscape improvements, environmental remediation, and demolition at the Project Sites. The Developer/Owner has
substantially completed demolition and environmental remediation on Acorn Tree and King's Highway and demolition on Chateau Crete (where no environmental remediation was required). The Developer/Owner will complete demolition and environmental remediation on Cliffwood, Northhills, and Kidd Springs, as well as infrastructure improvements along Davis Avenue by dates outlined below. The completion of Cliffwood, Northhills, and Kidd Springs and infrastructure improvements along Davis Avenue shall be construed as adequate consideration supporting the reimbursement of these properties along with Acorn Tree, King's Highway, and Chateau Crete.

**Eligibility for Reimbursement for TIF-Eligible Project Costs**

1. **Streetscape Improvements.** Developer/Owner must complete streetscape improvements along West Davis Street and receive a letter of acceptance for those improvements from the City’s Department of Public Works and Transportation by July 15, 2010. Developer/Owner will be eligible for reimbursement of the cost of the streetscape improvements in an amount not to exceed $1,000,001, subject to the availability of TIF funds and compliance with all terms of this letter.

2. **Environmental Remediation and Demolition.** Developer/Owner must complete environmental remediation and demolition of the Project Sites by December 31, 2008. Developer/Owner will be eligible for reimbursement of demolition and environmental remediation costs, subject to the availability of TIF funds and compliance with all terms of this letter.

3. If these dates are not met, no TIF funds will be paid and the Development Agreement will terminate. Time is of the essence and failure to meet such completion dates will be considered a material breach of the Development Agreement.

**TIF Subsidy & Increment Allocation**

1. **First Priority.** The first funding priority of the District is the payment of administrative expenses of the City for personnel and related costs associated with the management of the Davis Garden TIF District.

2. **Second Priority.** After administrative expenses have been paid, 20% of all remaining annual TIF increment will be set aside for affordable housing.

3. **TIF Subsidy Generally.** In consideration of Developer's investment in the Project, City agrees, subject to the conditions and limitations contained in this Agreement, to dedicate to Developer from future revenues available in the Tax Increment Fund $4,008,247 for the actual expenditures incurred for TIF-eligible Project Costs (the "TIF Subsidy"). The TIF Subsidy shall not accrue interest.

4. **Availability of TIF Subsidy.** The City agrees, subject to the conditions and limitations contained in this Agreement, to pay the Developer from the Tax Increment Fund from tax increments received and deposited therein during the life of the Davis Garden TIF District. The Developer agrees to look solely to the Tax Increment Fund, and not the City's general fund or other funds, or City bond funds, for payment of the TIF Subsidy, which payments shall be made to the
extent monies in the Tax Increment Fund are available and after the performance
and observance of all of the requirements and conditions outlined herein and
after all prior Davis Garden TIF District approved development agreements and
administrative expenses and any other prior Davis Garden TIF District obligations
have been paid. Currently the Davis Garden TIF District Board of Directors has
not approved any other development agreements.

5. The TIF Subsidy Expires with the Term of the Davis Garden TIF District. Nothing
in this Agreement shall be construed to require the City to approve payments
from any source of City funds other than from the Tax Increment Fund or to
require the City to issue TIF bonds in order to pay the Developer for the TIF
Subsidy. The City's obligation to pay the Developer the TIF Subsidy shall
automatically expire upon the final allocation of any funds remaining in the Tax
Increment Fund after the expiration of the term of the Davis Garden TIF District
as provided in the ordinance creating same.

6. Conditions for Payment of the TIF Subsidy. Payment of the TIF Subsidy is
further subject to:

(a) The availability of monies on deposit in the Tax Increment Fund; and

(b) The satisfaction of all of the prior obligations of the Tax Increment Fund,
i.e. payment of administrative expenses and set-aside of affordable
housing funds; as defined by items 1. and 2. above; and

(c) The Developer's submission to the City of all required documentation as
specified in this letter by the requisite dates.

7. Priority for Payment. Assuming all conditions for payment have been met, the
City will administer the payment of the TIF Subsidy pursuant to an order of
priority as specified herein. The TIF Subsidy for the Project is first in priority for
payment among all Davis Garden TIF District development projects, subject only
to the payment of District administrative expenses and the set-aside of funds for
affordable housing.

8. Administration of Payments. Once the Developer is eligible for payment of the
TIF subsidy pursuant to the requirements of the development agreement,
payment of the TIF Subsidy will be administered annually. The frequency and
amount of payments to the Developer under this Agreement shall coincide with
the frequency and amount of payments made by the various taxing units into the
Tax Increment Fund from fiscal year to fiscal year. Subject to all limitations and
conditions precedent contained in this Agreement, the City agrees to pay the TIF
Subsidy within thirty (30) days after receipt of all annual payments into the Tax
Increment Fund. The City also reserves the right, when payments come into the
Tax Increment Fund, to repay all or any portion of the TIF Subsidy at any given
time.

9. Public Necessity. The City hereby declares that the payment of the TIF Subsidy
outlined above is necessary to implement the Project Plan and that the TIF
Subsidy constitutes a TIF-eligible Project Cost or other payment made at the discretion of the City Council that the City Council and the Davis Garden TIF District Board of Directors finds necessary or convenient to the implementation of the Davis Garden TIF District Project Plan.

10. **Reallocation of TIF Subsidy.** The Developer agrees and understands that in the event the Developer fails to complete the Project by the prescribed dates or such later date(s) approved by the City Council, the TIF Subsidy shall no longer be considered TIF-Eligible Project Costs of the Davis Garden TIF District and any obligation of the Davis Garden TIF District or the City to pay the Developer the TIF Subsidy shall automatically expire, with certain deadlines being subject to extension due to force majeure, as provided in the development agreement. Further, in the event of such expiration, the TIF Subsidy may be reallocated to other TIF projects upon approval by the Davis Garden TIF District Board of Directors.

11. **Decrease in Appraised Value.** If the appraised value of property in the TIF District decreases in value, the TIF Subsidy for that year may be reduced or unpaid.

12. **Disagreement Over TIF Subsidy.** In the event of a disagreement on how the Increment Allocation is calculated, the final determination of the amount of increment to be allocated to the Project shall be made by the Director of the City of Dallas Office of Economic Development.

**General Horizontal Development Terms**

Developer/Owner must comply with all of the following items related to horizontal development in order to be eligible for TIF reimbursement:

1. TIF Board approval of the design of all streetscape improvements on West Davis Street.

2. Environmental remediation and demolition evidenced by the receipt of clearance exam results and a demolition permit. The terms of environmental remediation and demolition are outlined in the following section.

3. A minimum private investment of $30 million which is defined as including land acquisition and environmental remediation, demolition, and construction of streetscape improvements.

4. Developer/Owner shall make no representations to potential buyers that TIF subsidies will be available for vertical development on the property or that Developer/Owner has influence over City Staff or City Officials for securing such subsidies, and Developer/Owner shall disclose to potential buyers that such TIF subsidies will be unavailable for vertical improvement until Developer/Owner has been fully reimbursed for its costs of preparing the sites for sale. Any additional TIF funding for vertical development must be approved by the Davis Garden TIF Board and City Council. Any subsequent development agreements must specify details of private construction and additional TIF-eligible project costs.
5. A lighting plan for Davis Street improvements must be submitted to both the City's Public Works and Transportation Department and the Office of Economic Development by December 31, 2009.

6. For public infrastructure improvements associated with the Project, a final certificate of acceptance must be issued by the City's Public Works and Transportation Department by July 15, 2010.

7. An operating and maintenance agreement must be executed and funded for non-standard public improvements associated with the Project by July 15, 2010.

8. The Project must be consistent in general form and character with the conceptual streetscape improvement plan submitted with the TIF funding application. Any modification to the plan submitted with the TIF funding application must be approved by the TIF Board of Directors.

9. Developer/Owner will comply with the City's Fair Share Agreement and the City's Good Faith Effort Plan regarding M/WBE participation, including meeting with the City's Business Procurement Office and following their guidance, before any demolition or construction bidding takes place.

The City's established GFE Goals for public improvement projects, by contracting category, are:

- Construction: 25.00%
- Architectural & Engineering: 25.66%
- Other Professional Services: 36.30%
- Other Services: 23.80%
- Goods: 18.00%

The Fair Share participation goal on the private development portion shall be 25%. Please refer to Exhibit A, the City's Fair Share Guidelines.

In order to document the Minority/Women participation for the horizontal development and streetscape improvements that comprise INCAP Master Development, LLC's request for TIF funding, the Developer/Owner must submit semi-annual reports to the City showing the actual dollars awarded and their respective percentages. The initial report should include the period from the inception of the Developer/Owner's initial project to March 31, 2008. The document and any supplemental information must be submitted by April 18, 2008. Subsequent reports shall be submitted to the City on July 7th and January 7th of each year until the Project is complete.

**Environmental Remediation and Demolition Terms**

City staff will recommend that demolition and environmental remediation expenses related to asbestos and lead-based paint issues incurred by Developer/Owner at the Project Sites prior to Developers/Owner's application for TIF funding shall be a TIF-Eligible Project Cost, provided that Developer/Owner meets all of the conditions set forth in the development agreement.
All environmental site assessments and all reports reasonably required by the City's Office of Environmental Quality ("OEQ") for the Project Sites must be completed by December 31, 2008.

In order that environmental remediation and demolition expenditures are eligible for TIF reimbursement, Developer/Owner shall take all necessary corrective action as required below to remediate contamination on the Project Sites by January 31, 2009.

Developer/Owner is obligated to do the following, at a minimum:

1. Conduct Phase I Environmental Site Assessments reasonably acceptable to the City and in accordance with the “all appropriate inquiry” standards in effect at the time the Environmental Site Assessments were/are conducted. (Per the interim and final all appropriate inquiry standards, Phase I Environmental Site Assessments complying with ASTM E1527-97, 00, or 05, satisfied the standards applicable to all appropriate inquiry depending on the time the Environmental Site Assessments were/are conducted.)

2. Conduct such further environmental assessments as are reasonably necessary based on determination of recognized environmental conditions (RECs) disclosed in results of Phase I Environmental Site Assessments, recommendations of Developer/Owner's consultant and City staff.

3. If the results of the Environmental Site Assessments warrant, (i.e., if a REC is identified), apply for admission to and obtain a Certificate of Completion under the Voluntary Cleanup Program of the Texas Commission for Environmental Quality ("TCEQ"), such that no contamination exceeds Texas Risk Reduction Program rules applicable to residential land uses and that no post closure care, engineering or institutional control measures are required to protect human health and the environment.

4. Conduct asbestos and lead based paint assessments and remediation in accordance with the applicable federal, state, and local laws.

All environmental remediation and demolition work, as well as all legal requirements, will be reviewed and approved by the City's OEQ and detailed in the development agreement, which shall be completed prior to City Council consideration and approval.

Developer/Owner shall agree to defend, indemnify and hold City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, to the extent arising out of or occasioned by (i) Developer/Owner's breach of any of the terms or provisions of this Agreement, or (ii) any negligent or strictly liable act or omission of Developer/Owner, its officers, agents, employees or subcontractors, in the performance under the development agreement.

General TIF Policies and Terms

The Developer/Owner should be aware of the conditions below.
1. **Developer’s Fees.** Developer/Owner shall submit a pro forma for the Project and/or Projects showing the cost of land acquisition, environmental remediation and demolition, the anticipated sales price for the land (if there is a pending sales contract for the property), and a rate of return with and without TIF funding. The developer’s fee shall not exceed 4% of the total project cost for the project. In addition, the cash on cash return on the Developer/Owner’s investment shall not exceed 12% annually on the horizontal development based on an initial pro forma as outlined in Exhibit B and page 5 of Exhibit C. Developer/Owner shall be required to provide the City evidence of its expenses and income when requested.

2. **Reimbursement.** Reimbursement is subject to collection of the taxes on all property owned by an applicant developer, in addition to collection of tax increment in the remaining portions of the district. Nothing in this letter shall be construed to require the City to approve payment from any source of City funds other than the District’s Fund. Any funds under development agreements that have not been reimbursed upon termination of the District, due to lack of or unavailability of District funds, shall no longer be considered project costs of the District, and the obligation of the District or the City to pay Developer/Owner shall automatically expire.

3. **Developer/Owner Operating at Own Risk.** Developer/Owner acknowledges that TIF reimbursement of any work initiated prior to City Council approval of these terms may or may not be reimbursed with TIF funds.

4. **Timing.** Time is of the essence and Developer/Owner’s ability to timely perform is a material inducement to the City to provide financial incentives for the Project.

5. **Design Review.** There will be a design review process for the Project. Developer/Owner will be asked to meet with the TIF District’s TIF Board and/or Design Review Committee prior to beginning any construction.

6. **TIF District Early Termination.** If $100 million in new private investment, which includes acquisition costs, does not occur by December 13, 2013, the City may suspend the District’s ability to fund additional projects and terminate the District upon fulfillment of any obligations outstanding at that time.

7. **City Council.** Developer/Owner acknowledges and agrees that deadlines and additional conditions may be imposed by the City Council and, once established, will require further action of the City Council to modify such deadlines and additional conditions. Be aware that any change in the minimum private investment, scope of the project or timing of the project will require TIF Board and City Council approval. City commitments to the project may be re-evaluated at that time if project completion is delayed or the scope of the project is reduced in any manner. Through the City’s re-evaluation process, it may be determined that City’s commitment to the project should be terminated, that additional consideration is required to support the City’s commitment to the project, or that the City’s funding commitment should be reduced. The preceding list of City’s options is not exhaustive.
City staff will use reasonable efforts to present this nonbinding letter of intent to the Davis Garden TIF District Board and City Council as soon as reasonably practicable.

Nothing in the letter shall be construed as an obligation or commitment of the City to pay or reimburse Developer/Owner's costs or expenses incurred prior to consideration and approval of incentives by the TIF board and the City Council. Such obligations, if any, must be created by future TIF board and City Council action.

This letter supersedes all prior meetings and correspondence. Please call me if you have any questions or concerns. These terms reflect the TIF application and supplemental information you submitted.

We look forward to hearing back from you and hope that these terms are acceptable to Developer/Owner.

Sincerely,

Karl Zavitkovsky
Director
Office of Economic Development

cc: AC Gonzalez, Assistant City Manager
    Vernae Martin, Assistant Director, Office of Economic Development
    Telemachus Evans, Economic Development Analyst, Office of Economic Development
    Pam Veshia, Economic Development Analyst, Office of Economic Development
    Sarah Hasib, Assistant City Attorney, City Attorney's Office
    Barbara Martinez, Assistant City Attorney, City Attorney's Office

Accepted by:

Alan McDonald
Vice President
INCAP Master Development, LLC

Date 3/26/08
ADDENDUM ITEM # 9

KEY FOCUS AREA: A Cleaner, Healthier City Environment
AGENDA DATE: May 28, 2008
COUNCIL DISTRICT(S): 14
DEPARTMENT: Environmental & Health Services
CMO: David O. Brown, 670-3390
MAPSCO: 45K

SUBJECT
Authorize (1) the payment of General Obligation Homeless Bond funds to the Central Dallas Community Development Corporation for partial rehabilitation costs in connection with the CityWalk @ Akard Project located at 511 North Akard in exchange for the development of 50 units to be deed restricted for homeless and chronically homeless persons for a period of 30 years; and (2) an amendment to Resolution No. 07-1595, previously approved on May 23, 2007, to increase the number of units for the CityWalk @ Akard Project from 194 to 200 - Not to exceed $1,500,000 - Financing: 2005 Bond Funds

BACKGROUND
The Central Dallas Community Development Corporation (CDCDC) submitted an application for $1,000,000 in 2005 General Obligation Homeless Bonds to be used in connection with the development of 50 units for homeless and chronically homeless persons in the CityWalk @ Akard Project that was presented to the Health and Environmental Health Services Council Committee in 2006. The funds have not been required prior to this time. However, due to rising construction costs, the CDCDC has a gap in funding and requested an additional $500,000 for the 50 units in the CityWalk @ Akard Project to be deed restricted for homeless or chronically homeless persons. This $1,500,000 General Obligation Homeless Bond request was briefed to Neighborhood Quality Life Committee and was unanimously approved on February 12, 2008.

The City Council approved Resolution No. 06-0963, as amended by Resolution Nos. 06-2651, 07-1595, and 07-3008, which authorized a $750,000 Residential Development Acquisition Loan Program (RDALP) forgivable loan to CDCDC or another entity created by CDCDC for partial acquisition and soft costs associated the CityWalk @ Akard Project subject to 20-year deed restrictions requiring at least 51% of the 194 units in the CityWalk @ Akard Project to be rented to households with incomes at or below 80% of the area median income at affordable rental rates.
BACKGROUND (Continued)

This item is requesting that the City Council authorize the payment of $1,500,000 General Obligation Homeless Bonds in exchange for 50 units in the CityWalk @ Akard Project to be deed restricted for a period of 30 years and to amend previously approved Council Resolutions to increase the number of units for the CityWalk @ Akard Project from 194 to 200, to reflect the appropriate unit mix approved by Texas Department of Housing and Community Affairs. The approval will enable the CDCDC to develop 200 units of affordable housing. The CityWalk @ Akard Project will offer a mix of 180 units for tenants whose incomes are at or below 60% of the area median family income (AMFI), and 20 units for tenants whose incomes are at or below 30% AMFI, and 5 condominiums that will be for sale. The proposed mix of 200 units is 142 efficiencies, 33 one-bedrooms, 22 two-bedrooms and 3 lofts.

The project owner will conduct a survey of the needs of the tenants as each lease is signed and will provide some or all of the following social services at no cost to the tenants such as: health screenings, counseling/domestic crisis intervention, emergency assistance, computer education, adult education programs (such as: English Second Language, life skills and nutrition classes, etc.), and social and recreational activities. The project owner will advise the City of any vacancies and interview clients referred by the City on a priority basis.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The City Council amended Resolution Nos. 06-0963, previously approved on March 28, 2006, as amended by Resolution Nos. 06-2651 and 07-1595, to allow $750,000 in CDBG funds previously approved for principal reduction (acquisition) to also include expenditures for related soft costs; and extend the time frame to June 30, 2008 to allow the Central Dallas Community Development Corporation and JPMorgan Chase to enter into a loan renewal agreement for reduction of the principal balance of the Chase acquisition loan on October 10, 2007, by Resolution No. 07-3008.

The City Council approved the reduction of the number of units from 209 to 194 and to amend the terms of the City’s loan on May 23, 2007, by Resolution No. 07-1595.

The City Council approved the extension of the previous termination date of September 30, 2006 commitment for CityWalk @ Akard Project to a new termination date of September 30, 2007, by Resolution No. 06-2651.

The City Council approved support of the CDCDC CityWalk @ Akard Project for submission of the Texas Department of Housing and Community Affairs Project 9% tax credit application and authorized a $750,000 Residential Development Acquisition Loan Program on March 28, 2006, by Resolution No. 06-0963.
PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS) (Continued)

The City Council approved the pre-application waiver of the City’s multifamily policy for the CDCDC’s CityWalk @ Akard Project for submission of the Texas Department of Housing and Community Affairs Project 9% tax credit application on March 8, 2006, by Resolution No. 06-0871.

The Economic Development and Housing Committee was briefed on the CityWalk @ Akard Project for submission of the Texas Department of Housing and Community Affairs Project 9% tax credit application on March 6, 2006.

The City Council authorized Homeless Proposition - Proposition No. 14 for the November 8, 2005 ballot, which the City of Dallas residents approved, authorizing the issuance of general obligation bonds in the aggregate principal amount of $23,800,000 for Homeless Assistance Facilities.

FISCAL INFORMATION

$1,500,000 - 2005 Bond Funds
WHEREAS, on August 10, 2005, the City Council approved the FY 2005-06 Consolidated Plan which included $1,000,000 of Residential Development Acquisition Loan Program (RDALP) funding; and

WHEREAS, on November 8, 2005 the City of Dallas residents approved Proposition No. 14, authorizing the issuance of general obligation bonds in the aggregate principal amount of $23,800,000 for Homeless Assistance Facilities, including housing facilities for the homeless; and

WHEREAS, on March 8, 2006, the Dallas City Council approved Council agenda item No. 06-0871 approving the pre-application waiver for the Project; and

WHEREAS, on May 23, 2007, the Dallas City Council approved an amendment to Resolution No. 06-0963, previously approved on March 28, 2006, as amended by Resolution 06-2651, previously approved on September, 27, 2006, to reduce the number of units from 209 to 194, by Resolution No. 07-1595; and

WHEREAS, the City desires to authorize (1) the payment of General Obligation Homeless Bond funds, in the amount of $1,500,000 to the Central Dallas Community Development Corporation for rehabilitation costs in connection with the CityWalk @ Akard Project located at 511 North Akard in exchange for the development of 50 units to be deed restricted for homeless and chronically homeless persons; and (2) an amendment to Resolution 07-1595, previously approved on May 23, 2007 to increase the number of units for the CityWalk @ Akard Project from 194 to 200; and

WHEREAS, City of Dallas will hold a subordinate lien on the Property assigned to it by Central Dallas Community Development Corporation from Award Walk, L.P.;

NOW, THEREFORE;

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

Section 1. That the City of Dallas authorize an amendment to Resolution 07-1595, previously approved on May 23, 2007 to increase the number of units for the CityWalk @ Akard Project from 194 to 200.

Section 2. Subject to the approval and award of 9% tax credits and the execution and closing of the first lien lender’s loan for construction of the CityWalk @ Akard Project and following approval as to form by the City Attorney, the City Manager is hereby authorized to enter into a General Obligation Homeless Bond loan document with the Central Dallas Community Development Corporation for rehabilitation costs in connection with the CityWalk @ Akard Project located at 511 North Akard in exchange for the development of 50 units to be deed restricted for homeless and chronically homeless persons.
Section 3. That the City of Dallas approves and supports the $1,500,000 General Obligation Homeless Bond loan CityWalk @ Akard Project subject to the conditions set forth herein.

Section 4. The CityWalk @ Akard Project will include 50 subsidized units set aside for persons who are transitioning out of homelessness and the City of Dallas, in support of the development of housing for the homeless and subject to the execution of loan documents acceptable to City, and deed restrictions for a period of 30 years for the 50 homeless units.

Section 5. That the City Controller is hereby authorized to disburse bond funds from Fund 6S43, Dept. EHS, Unit P446, Object Code 3015, in an amount not to exceed $1,500,000 in accordance with the General Obligation Homeless bond loan documents approved by the City.

Section 6. That this resolution does not constitute a binding agreement upon the City or subject the City to any liability or obligation with respect to the RDALP loan or the use of Homeless Assistance Center General Obligation Bond Funds for the CityWalk @ Akard Project, until such time as the loan documents are duly approved by all parties and executed.

Section 7. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

DISTRIBUTION:

Environmental & Health Services
City Attorney's Office
Office of Financial Services/Community Development, 4FN
SUBJECT

Authorize (1) a public hearing to be held on June 11, 2008 to receive comments on readopting and continuing in effect Chapter 12, "City Youth Program Standards of Care," of the Dallas City Code, to re-establish standards of care for certain city youth programs in compliance with State Law; and, at the close of the hearing, (2) approval of an ordinance to readopt Chapter 12 of the Dallas City Code - Financing: No cost consideration to the City

BACKGROUND

Section 42.041(b)(14) of the Texas Human Resources Code, as amended, allows city-sponsored youth recreation programs to be exempted from the state's day care licensing laws if the city adopts standards of care for those programs and complies with other requirements of that legislation. One requirement is that the City Council hold a public hearing annually on the city's youth program standards of care and adopt an ordinance re-establishing and continuing in effect the standards.

**BACKGROUND (continued)**

The Director of the Park and Recreation Department implements, administers, and enforces Chapter 12, which applies to youth programs sponsored by the City, whether offered after school, during the summer, or during holidays. A coordinator initiates an inspection report for each program to confirm that standards of care are being met.

The youth program coordinators and leaders must meet certain qualifications pertaining to age, education, and experience and are provided orientation and training relating to working with children.

Each program must operate with a participant to leader ratio of 20:1 and must follow guidelines pertaining to safety, fire, and health as set forth in the standards of care.

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

This item has no prior action.

**FISCAL INFORMATION**

No cost consideration to the City.
WHEREAS, the City of Dallas has a long history of providing recreational programs for youth ages five through thirteen years, which programs contribute to the overall well-being of the city’s youth and families; and

WHEREAS, the City found it necessary to adopt standards of care for those youth programs in compliance with the requirements of Section 42.041(b)(14) of the Texas Human Resources Code, as amended, in order to exempt those programs from state child care licensing requirements; and

WHEREAS, Section 42.041(b)(14) of the Texas Human Resources Code, as amended, requires the City to annually readopt the standards of care for city-sponsored youth programs after holding a public hearing; Now, Therefore,

BE IT RESOLVED BY THE PARK AND RECREATION BOARD AND THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That a public hearing on readopting and continuing in effect Chapter 12, "City Youth Program Standards of Care," of the Dallas City Code, which establishes standards of care for certain city youth programs sponsored by the City of Dallas, will be held on Wednesday, June 11, 2008.

SECTION 2. That an ordinance readopting and continuing in effect Chapter 12, "City Youth Program Standards of Care," of the Dallas City Code, to re-establish standards of care for certain city-sponsored youth programs in compliance with State Law, will be considered by the Council on Wednesday, June 11, 2008.

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.

Distribution:
Park and Recreation Department, 6FN
City Attorney’s Office, 7DN
SUBJECT

An ordinance amending Chapter 40B of the Dallas City Code to: (1) enhance record keeping requirements for secondary metals recyclers; (2) require photographs and thumbprints of sellers of regulated metal property; (3) require regulated metal property to be paid for by check mailed to the seller, unless the seller holds a valid cash transaction card; (4) require regulated metal property to be delivered in a motor vehicle to a secondary metals recycler’s place of business; (5) require a five-day hold on purchased regulated metal property; (6) require proof of ownership or authority to sell catalytic converters; and (7) make changes conforming to state law - Financing: No cost consideration to the City.

BACKGROUND

The proposed ordinance contains amendments to Chapter 40B, “SECONDARY METALS RECYCLERS,” of the Dallas City Code, that would strengthen the City's current regulation of secondary metals recyclers and enhance the City's ability to prevent and recover stolen property. The ordinance would enhance record keeping requirements for secondary metals recyclers, including requiring photographs and thumbprints of sellers of regulated metal property. The ordinance would require regulated metal property to be paid for by check mailed to the seller, unless the seller holds a valid cash transaction card issued by the secondary metals recycler. The ordinance would require regulated metal property to be delivered in a motor vehicle to a secondary metals recycler’s place of business and would require a five-day hold on purchased regulated metal property. The ordinance would require sellers to provide proof of ownership or authority to sell catalytic converters and would also make changes to conform Chapter 40B to state law. Failure to comply with the proposed ordinance amendments would result in a penalty not to exceed $500.

The ordinance will take effect on June 2, 2008, except that the requirements relating to payments by check will take effect on July 15, 2008.
PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed to the City Council on May 7, 2008.

FISCAL INFORMATION

No cost consideration to the City.
An ordinance amending CHAPTER 40B, “SECONDARY METALS RECYCLERS,” of the Dallas City Code, as amended; defining terms; enhancing recordkeeping requirements for secondary metals recyclers; requiring photographs and thumbprints of sellers of regulated metal property; requiring regulated metal property to be paid for by check mailed to the seller, unless the seller holds a valid cash transaction card; requiring regulated metal property to be delivered in a motor vehicle to a secondary metals recycler’s place of business; requiring a five-day hold on purchased regulated metal property; requiring proof of ownership or authority to sell catalytic converters; making changes conforming to state law; providing a penalty not to exceed $500; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That CHAPTER 40B, “SECONDARY METALS RECYCLERS,” of the Dallas City Code, as amended, is amended to read as follows:

“CHAPTER 40B
SECONDARY METALS RECYCLERS

ARTICLE I.

GENERAL.

SEC. 40B-1. PURPOSE.

This chapter is an exercise of the city's police power to promote, through regulation of secondary metals recyclers, the recovery of stolen property. This chapter provides licensing and recordkeeping requirements and enforcement procedures that will enable the police department to identify and recover public and private property composed of certain metals that may have been illegally appropriated.
SEC. 40B-2. DEFINITIONS.

In this chapter:

(1) CASH TRANSACTION CARD means a card issued to a seller by a secondary metals recycler in compliance with Section 40B-6(f) of this chapter that allows a secondary metals recycler to pay a seller for regulated metal property in cash instead of by check.

(2) CATALYTIC CONVERTER means a device used to reduce the toxicity of emissions from an internal combustion engine through the use of a catalyst (typically a platinum-iridium catalyst) that converts the toxic combustion by-products into less toxic gases or products.

(3) CHECK means a check, draft, or other negotiable or nonnegotiable order of withdrawal that is drawn against funds held by a financial institution.

(4) CHIEF means the chief of police for the city of Dallas or a designated representative.

(5) FERROUS METAL means a metal that contains significant quantities of iron or steel.

(6) HOLD NOTICE means written notification by the chief to a secondary metals recycler stating that the secondary metals recycler may not sell, redeem, or dispose of certain regulated metal property that the chief has reasonable cause to believe has been stolen.

(7) LICENSEE means a person in whose name a license has been issued under this chapter or a person listed as an applicant on the application for a license.

(8) NONFERROUS METAL means a metal that does not contain significant quantities of iron or steel, including, but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(9) PERSON means an individual, partnership, corporation, joint venture, trust, association, and any other legal entity.

(10) PERSONAL IDENTIFICATION CERTIFICATE means a personal identification card issued by the Texas Department of Public Safety under Chapter 521, Subchapter E of the Texas Transportation Code, as amended, or a similar card or certificate issued by another state.
PURCHASE TRANSACTION means a transaction in which a secondary metals recycler gives consideration in exchange for regulated metal property.

REGULATED METAL PROPERTY means any item composed in whole or in part of any ferrous or nonferrous metal, other than an item composed in whole of tin.

SECONDARY METALS RECYCLER means any person who:

(A) is engaged in the business of purchasing, collecting, or soliciting regulated metal property; or

(B) operates or maintains a facility where regulated metal property is purchased or kept for shipment, sale, transfer, or salvage.

SELLER means any person who, in a purchase transaction, receives consideration from a secondary metals recycler in exchange for regulated metal property.

THUMBPRINT IMPRESSION means an intentional recording of the friction ridge detail on the volar pads of the thumb.

SEC. 40B-3. RECORDS REQUIRED.

(a) A secondary metals recycler shall maintain an accurate and legible record of each purchase transaction. Each transaction must be recorded and filed separately.

(b) The record of each purchase transaction must be in English and contain the following information:

(1) the name and street address of the secondary metals recycler;

(2) the name or initials of the individual recording the information required by this section for the secondary metals recycler;

(3) the seller’s name, street address, sex, and birthdate and the identifying number from the seller’s driver’s license issued by a state in the United States, United States military identification card, [passport,] or personal identification certificate;

(4) the make, model, and license plate number of the [any] motor vehicle in which the regulated metal property is delivered in a purchase transaction, along with a clear digital still photograph of the motor vehicle and any trailer attached to the motor vehicle;

(5) the place, date, and time of the purchase transaction;

(6) the weight, quantity, or volume and a description, made in accordance with the custom of the trade, of the regulated metal property purchased, along with a clear digital still photograph of the regulated metal property;
(7) a general description of the predominant types of regulated metal property purchased in the purchase transaction;

(8) the amount of consideration given in a purchase transaction for the regulated metal property and:

(A) if the seller was paid by check, a copy of the check; or

(B) if the seller was paid in cash, a copy of the seller’s cash transaction card;

(9) written documentation evidencing that the seller is the legal owner, or is lawfully entitled to sell, the regulated metal property or a signed statement from the seller [in a purchase transaction] affirming a legal right of ownership and the right to sign over title to the regulated metal property offered for sale; [and]

(10) a clear digital still photograph [—videotape, or similar likeness] of the seller, taken at the time of the purchase transaction, that clearly depicts the seller’s facial features; and

(11) a clear and legible thumbprint impression of the seller.

(c) A person selling or attempting to sell regulated metal property to a secondary metals recycler shall:

(1) display to the secondary metals recycler the person’s driver’s license issued by a state in the United States, United States military identification card, [passport,] or personal identification certificate; [and]

(2) provide to the secondary metals recycler the make, model, and license plate number of the motor vehicle used to deliver the regulated metal property; and

(3) sign a written statement provided by the secondary metals recycler affirming that the person is the legal owner of, or is lawfully entitled to sell, the regulated material offered for sale.

(d) The secondary metals recycler or the recycler’s agent shall visually verify the accuracy of the identification presented by the seller at the time of each purchase of regulated metal property and make a copy of the identification to be maintained by the secondary metals recycler in the record of the purchase transaction.

(e) A secondary metals recycler shall maintain on file the information required by this section for not less than three [one] years after [from] the date of the purchase transaction. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler’s place of business during the usual and customary business hours of the secondary metals recycler.
The recordkeeping requirements of this section, other than Subsections (b)(7) and (b)(10), do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions and recordkeeping requirements are provided by Chapter 1956, Subchapter A of the Texas Occupations Code, as amended:

1. Copper or brass material in excess of 50 pounds.
2. Bronze material.
3. Aluminum material in excess of 40 pounds.

It is a defense to prosecution under Subsection (b)(10) of this section that:

1. A photograph of the seller, taken within the preceding six months, was currently on file with the secondary metals recycler; and
2. At the time of the purchase transaction, the secondary metals recycler, or an employee of the secondary metals recycler, visually verified that the seller was actually the person depicted in the file photograph.

SEC. 40B-4. NOTICE TO SELLERS.

(a) A secondary metals recycler shall at all times maintain in a prominent place in the secondary metals recycler’s place of business, in open view to a seller of regulated metal property, a notice in two-inch lettering that:

1. Contains the following or similar language approved by the chief: “A PERSON ATTEMPTING TO SELL ANY REGULATED METAL PROPERTY MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP REQUIRED BY CITY OF DALLAS ORDINANCE [.]”; and
2. States the usual business hours of the secondary metals recycler.

(b) The notice required by this section may be contained on a sign that contains another notice required by law to be displayed by the secondary metals recycler.

SEC. 40B-5. FACSIMILE, TELECOPIER, OR SIMILAR EQUIPMENT REQUIRED.

A secondary metals recycler shall maintain at its place of business, or otherwise have immediate access to, a facsimile, telecopier, or other equipment of similar function on which notifications of stolen property or other notifications relating to regulated metal property may be expeditiously received from the police department. The equipment must be operable at all times during the usual and customary business hours of the secondary metals recycler. The secondary metals recycler shall maintain the facsimile number or other access number of the equipment on file with the chief and shall notify the chief within 24 hours after any change in the number.
SEC. 40B-6.  RESTRICTIONS ON THE PURCHASE OF REGULATED METAL PROPERTY.

(a) A secondary metals recycler shall conduct all purchase transactions only between the hours of 7:00 a.m. and 7:00 p.m.

(b) A secondary metals recycler shall not purchase any item of regulated metal property from:

(1) an intoxicated person; or

(2) a person who does not deliver the item of regulated metal property to the secondary metals recycler’s place of business in a motor vehicle or in a trailer attached to a motor vehicle.

(c) A secondary metals recycler shall not purchase any of the following items of regulated metal property without obtaining proof that the seller owns the property (such as by a receipt or bill of sale) or proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property and the seller is authorized to sell the item of regulated metal property on behalf of the person, business, or entity owning the property:

(1) A manhole cover.

(2) An electric light pole or other utility structure and its fixtures and hardware.

(3) A guard rail.

(4) A street sign, traffic sign, or traffic signal and its fixtures and hardware.

(5) Communication, transmission, and service wire.

(6) A funeral marker or funeral vase.

(7) An historical marker.

(8) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.

(9) Any metal item that is marked with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad.

(10) A copper or aluminum condensing or evaporator coil from a heating or air conditioning unit.
(11) An aluminum or stainless steel container or bottle designed to hold propane for fueling fork lifts.

(12) A catalytic converter or any part of a catalytic converter.

(d) A secondary metals recycler shall maintain on file the information required by Subsection (c) of this section for not less than three [one] years after [from] the date of the purchase of the item of regulated metal property. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler’s place of business during the usual and customary business hours of the secondary metals recycler.

(e) Except as provided in Subsection (f) of this section, a secondary metals recycler may not give any form of cash consideration in a purchase transaction for regulated metal property, but must pay the seller for the purchased regulated metal property by mailing a check to the seller at the seller’s street address as listed in the record of the purchase transaction. A copy of the check must be maintained on file with the purchase transaction record [The requirements of Subsections (c) and (d) of this section do not apply to purchase transactions involving regulated metal property composed solely of the following nonferrous metal materials for which definitions, recordkeeping requirements, and other regulations are provided by Chapter 1956, Subchapter A of the Texas Occupations Code, as amended:]

(1) Copper or brass material in excess of 50 pounds.

(2) Bronze material.

(3) Aluminum material in excess of 40 pounds.

(f) A secondary metals recycler may give cash consideration in a purchase transaction for regulated metal property if the seller presents the secondary metals recycler with a valid cash transaction card and all of the following requirements are met:

(1) The cash transaction card must be issued or renewed by the secondary metals recycler giving the cash consideration.

(2) A secondary metals recycler may only issue or renew a cash transaction card to a seller after receiving an application containing:

(A) the seller’s name, street address, sex, and birthdate and the identifying number from (and a copy of) the seller’s driver’s license issued by a state in the United States, United States military identification card, or personal identification certificate;

(B) a clear digital still photograph of the seller, taken at the time of application, that clearly depicts the seller’s facial features; and

(C) a clear and legible thumbprint impression of the seller.
(3) The secondary metals recycler may only issue or renew a cash transaction card by mailing it to the seller at the seller’s street address listed in the application for the card.

(4) The cash transaction card must contain the name and street address of the seller, a clear digital photograph of the seller, and the expiration date of the card, which date may not exceed one year from the date of issuance.

(5) The cash transaction card must be laminated or made of a rigid plastic or other durable material that will preserve the legibility of the information contained on the card.

(6) The cash transaction card may not be transferable to another person and may only be accepted by the secondary metals recycler issuing or renewing the card.

(7) A secondary metals recycler shall maintain on file each application for a cash transaction card and a copy of each issued or renewed cash transaction card for not less than three years after the date of the application, issuance, or renewal of the card, whichever is later. A secondary metals recycler shall make these records available for inspection by any police officer, upon request, at the secondary metals recycler’s place of business during the usual and customary business hours of the secondary metals recycler.

SEC. 40B-7. FIVE-DAY [72-HOUR] HOLD ON REGULATED METAL PROPERTY; SEGREGATION, LABELING, AND INSPECTION OF REGULATED METAL PROPERTY; EXCEPTIONS.

(a) Except as provided in Subsection (c) of this section, a secondary metals recycler shall retain possession of purchased regulated metal property at the secondary metals recycler’s local place of business and withhold the property from alteration, processing, resale, or salvage use for five days [72 hours] after purchase, unless the property is released sooner by written order of the chief or by order of a court of competent jurisdiction.

(b) Except as provided in Subsection (c) of this section, a secondary metals recycler shall segregate all regulated metal property purchased from a seller from regulated metal property purchased from other sellers and attach to the property, or to the container in which the property is held, a label indicating the name of the seller, the date on which the property was purchased, and the number of the receipt on which the purchase information is recorded. If in any single purchase transaction there are multiple items of regulated metal property of the same general type, only one representative item from each type of regulated property must be segregated and labeled in accordance with this subsection.

(c) The hold, segregation, and labeling requirements of Subsections (a) and (b) of this section do not apply to any item of regulated metal property composed solely of ferrous metal material, unless the secondary metals recycler has received notice that the chief has, in accordance with this subsection, designated the item or type of item as being subject to those requirements. The chief shall periodically review theft statistics on ferrous regulated metal property and establish a list of items or types of items that the chief determines are subject to the requirements of Subsection (a) and (b). A current list must be maintained on file in the chief’s
office, or in another designated office of the police department, so that it may be inspected by the public during the city’s normal business hours. Notice of the list must be given to secondary metals recyclers in accordance with schedules and procedures established by the chief. A secondary metals recycler is presumed to have received notice of the list if the police department transmits the list to the facsimile number or access number provided by the secondary metals recycler under Section 40B-5 of this chapter.

(d) While in possession of purchased regulated metal property, a secondary metals recycler shall make the property available for inspection by any police officer at the secondary metals recycler’s place of business during the usual and customary business hours of the secondary metals recycler.

SEC. 40B-8. HOLD ON STOLEN REGULATED METAL PROPERTY; HOLD NOTICE.

(a) Whenever a police officer has reasonable cause to believe that certain items of regulated metal property in the possession of a secondary metals recycler are stolen, the chief may issue a hold notice. The hold notice must:

(1) identify those items of regulated metal property alleged to be stolen and subject to hold; and

(2) inform the secondary metals recycler of the restrictions imposed on the regulated metal property under Subsection (b) of this section.

(b) A secondary metals recycler may not, for 60 days after the date of receiving a hold notice under this section, process or remove from the secondary metals recycler’s place of business any regulated metal property identified in the hold notice, unless the property is released sooner by the chief or by order of a court of competent jurisdiction. At the expiration of the hold period, the hold is automatically released, and the secondary metals recycler may dispose of the regulated metal property unless otherwise directed by a court of competent jurisdiction.

[(c) This section does not apply to items of regulated metal property composed solely of the following nonferrous metal materials for which definitions and hold notice requirements are provided by Chapter 1956, Subchapter A of the Texas Occupations Code, as amended:

(1) Copper or brass material in excess of 50 pounds.

(2) Bronze material.

(3) Aluminum material in excess of 40 pounds.]
SEC. 40B-9.  OFFENSES; DEFENSES; PENALTY.

(a) A person who violates any provision of this chapter, or who fails to perform a duty required of him under this chapter, commits an offense. A person is guilty of a separate offense for each item of regulated metal property involved in a violation of this chapter. An offense under this chapter is punishable by a fine not to exceed $500.

(b) It is a defense to prosecution under this chapter that the regulated metal property involved:

(1) was purchased from a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization or association or from any organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended;

(2) was purchased from any public officer acting in an official capacity as a trustee in bankruptcy, executor, administrator, or receiver; from any public official acting under judicial process or authority; or from a sale on the execution, or by virtue, of any process issued by a court;

(3) consists of aluminum food or beverage containers, used food or beverage containers, or similar food or beverage containers for the purpose of recycling, other than beer or beverage kegs; or

(4) was purchased from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.

(c) The culpable mental state required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code.

ARTICLE II.

LICENSING OF SECONDARY METALS RECYCLERS.

SEC. 40B-10.  LICENSE REQUIRED.

(a) A person commits an offense if, without a license issued under this article, he:

(1) purchases regulated metal property in the city for resale or salvage use;

(2) operates a business establishment in the city that purports to purchase regulated metal property for resale or salvage use; or

(3) in any other manner conducts business in the city as a secondary metals recycler.
(b) An application for a license must be made on a form provided by the chief. Each applicant must be qualified according to the provisions of this chapter.

(c) A person who wishes to purchase regulated metal property for resale or salvage use must sign the application as applicant. If the person is a legal entity, including but not limited to a corporation, partnership, association, or joint venture, each individual who has a 20 percent or greater interest in the business must sign the application for a license as an applicant. Each applicant must meet the requirements of Section 40B-11(a), and each applicant will be considered a licensee if a license is granted.

(d) It is a defense to prosecution under this section that, at the time of the alleged offense, the person was purchasing regulated metal property for resale or salvage use under the specific authority of a valid license issued by the State of Texas (other than a certificate of registration issued under Chapter 1956, Texas Occupations Code, as amended) or the United States government. A license must still be obtained under this section for those activities conducted by a secondary metals recycler that are not specifically authorized by a state or federal license.

SEC. 40B-11. ISSUANCE OF LICENSE; POSTING.

(a) The chief shall issue a license to an applicant within 30 days after receipt of an application unless it is determined that one or more of the following is true:

(1) An applicant is under 18 years of age.

(2) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse.

(3) An applicant failed to answer or falsely answered a question or request for information on the application form provided.

(4) An applicant or an applicant's spouse has been convicted of two or more offenses under this chapter, other than the offense of conducting business as a secondary metals recycler without a license, within two years immediately preceding the application. The fact that a conviction is being appealed has no effect.

(5) An applicant has not obtained a certificate of occupancy for the premises in which the applicant intends to do business, or the business or its location would otherwise be in violation of the Dallas Development Code or any other applicable city ordinance or state or federal law.

(6) The license fee required by this chapter has not been paid.
(7) An applicant has been convicted of a felony or a Class A misdemeanor involving theft or fraud, including but not limited to theft, robbery, burglary, forgery, criminal simulation, deceptive business practices, securing execution of document by deception, or any other similar state or federal criminal offense, and three years have not elapsed since the termination of any sentence, parole, or probation; the fact that a conviction is being appealed has no effect. If three years have elapsed, the chief shall, in accordance with Section 53.023 of the Texas Occupations Code, as amended, determine the present fitness of the applicant to be licensed from the information and evidence presented with the application.

(8) An applicant has been convicted of an offense under any federal or state law providing recordkeeping or licensing requirements for persons purchasing or selling regulated metal property, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(b) The license, if granted, must state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the premises for which the license is granted. A license issued pursuant to this chapter is valid only for the location stated in the application. Should any licensee move a place of business from the place stated on the license to a new location, the licensee shall give the chief prior written notice and present the license to the chief to have the change of location noted on the license.

(c) A license must be posted in a conspicuous place at or near the entrance to the licensed premises so that it may be easily read at any time.

(d) If the chief determines that issuance or renewal of a license should be denied, the chief shall send to the applicant or licensee by certified mail, return receipt requested, a written statement of the reasons for the denial and of the applicant or licensee’s right to appeal.

SEC. 40B-12. FEES.

The annual fee for a license issued under this article is $245.

SEC. 40B-13. EXPIRATION OF LICENSE.

Each license will expire one year from the date of issuance and may be renewed only by making application as provided in Section 40B-10. To ensure reissuance of a license prior to expiration, application for renewal should be made at least 30 days before the expiration date.

SEC. 40B-14. SUSPENSION.

(a) The chief shall suspend a license for a definite period of time, not exceeding 30 days, if the chief determines that a licensee, an individual who is a business associate of the licensee in the same or a related business or a corporate officer of the licensee, or an employee of the licensee:
(1) committed, in the aggregate, two or more violations of this chapter within any six-month period; or

(2) intentionally or knowingly impeded or refused to allow an inspection by the chief authorized under this chapter.

(b) The chief shall send to the licensee by certified mail, return receipt requested, a written statement of the reasons for the suspension, the date the suspension is to begin, the duration of the suspension, and the licensee’s right to appeal.

(c) A licensee whose license is suspended may not operate as a secondary metals recycler inside the city during the period of suspension.

SEC. 40B-15. REVOCATION.

(a) The chief shall revoke a license if it is determined that one or more of the following is true:

(1) A licensee has given a false statement as to a material matter submitted to the chief during the application process.

(2) A licensee, an individual who is a business associate of the licensee in the same or a related business or a corporate officer of the licensee, or an employee of the licensee has been convicted within a two-year period of three or more offenses under this chapter. If a conviction is appealed, the time period between conviction and final disposition on appeal of the conviction is not included in calculating the two-year period if the conviction is affirmed.

(3) A licensee has been convicted of any felony or of a Class A misdemeanor involving theft or fraud, including but not limited to theft, robbery, burglary, forgery, criminal simulation, deceptive business practices, securing execution of document by deception, or any other similar state or federal criminal offense, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(4) A licensee has been convicted of an offense under any federal or state law providing recordkeeping or licensing requirements for persons purchasing or selling regulated metal property, and three years have not elapsed since the termination of any sentence, parole, or probation. The fact that a conviction is being appealed has no effect.

(5) A cause for suspension under Section 40B-14 has occurred and the license has already been suspended at least once within the preceding 12 months.

(6) The licensee does not qualify for a license under Section 40B-11(a).

(b) The chief shall send to the licensee by certified mail, return receipt requested, a written statement of the reasons for the revocation and of the licensee’s right to appeal.
(c) When the chief revokes a license, the revocation will continue for one year, and the licensee may not be issued a license for one year from the date revocation became final. If, subsequent to revocation, the chief finds that the basis for the revocation action has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became final. If the license was revoked under Subsection (a)(3) or (a)(4) of this section, an applicant may not be granted another license within three years of the termination of any sentence, parole, or probation.

SEC. 40B-16. APPEAL.

If the chief denies issuance or renewal of a license, or suspends or revokes a license, the aggrieved party may appeal the decision of the chief to a permit and license appeal board in accordance with Section 2-96 of this code. The action of the chief is final unless a timely appeal is made. The filing of an appeal stays the action of the chief in suspending or revoking a license until the permit and license appeal board makes a final decision.

SEC. 40B-17. TRANSFER OF LICENSE.

A licensee shall not:

1. transfer a license issued under this chapter to another; or

2. operate a business engaged in the purchase of regulated metal property for resale or salvage use under the authority of a license at any location other than the address designated in the license application.”

SECTION 2. That the provisions of Sections 40B-6(e) and (f) of the Dallas City Code, as set forth in this ordinance, and any other provisions of this ordinance relating to the requirement that purchased regulated metal property be paid for by a check mailed to the seller unless the seller has a valid cash transaction card, will not be enforced until July 15, 2008.

SECTION 3. That CHAPTER 40B of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.
SECTION 5. That this ordinance will take effect on June 2, 2008, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By ____________________________
Assistant City Attorney

Passed ____________________________

LC/DCC/00441A
SUBJECT

An ordinance amending Chapter 18 of the Dallas City Code to adjust solid waste disposal charges - Estimated Annual Revenue: $297,566

BACKGROUND

The McCommas Bluff Landfill receives 1,500 customers daily and processes an average 7,000 tons per day of residential and commercial wastes. The daily fuel usage for the heavy and light equipment needed to manage this site is affected by the rising cost of diesel. Commercial customers provide 70% of the landfill operating costs through the disposal fee, or "gate rate", which is currently $18/ton. This action increases the gate rate to $19/ton to compensate for the rising operational costs primarily associated with fuel price increases. The estimated revenue impact for the remaining months of FY08 is $297,566, while the full year impact for FY09 is estimated to be $1,368,486. City staff will continue to monitor both operational costs and market conditions on a month-to-month basis, and will recommend further adjustments, if appropriate.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Adjusted solid waste fees for FY07-08 by Ordinance No. 26960.

Briefed City Council on FY09 Budget May 7, 2008.

Briefed City Council on FY09 Budget April 16, 2008.

Briefed City Council on FY09 Budget February 20, 2008.


FISCAL INFORMATION

Estimated Annual Revenue - $297,566
ORDINANCE NO. ______________

An ordinance amending Section 18-11 of CHAPTER 18, "MUNICIPAL SOLID WASTES," of the Dallas City Code, as amended; adjusting landfill disposal service charges; providing a penalty not to exceed $2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Subsection (b) of Section 18-11, "Specifying Charges for Disposal of Solid Waste Materials," of Article I, "Collection and Disposal," of CHAPTER 18, "MUNICIPAL SOLID WASTES," of the Dallas City Code, as amended, is amended to read as follows:

“(b) The following disposal service charges are established for disposing of municipal solid waste at city landfill sites:

(1) Passenger cars, station wagons, pickups, and trailers less than 15 feet long that are used by Dallas city residents to haul their own waste from their residences to a city landfill site - no charge. (A current, valid Texas driver's license showing a Dallas address or a current Dallas water utilities bill is required as proof of residency.)

(2) Except as provided in Subsections (b)(3) and (c), the charge for all materials accepted at a city landfill site is $19 \[18\] per ton based on the landfill weighing system, with a minimum charge of $19 \[18\] for any load that is less than one ton.

(3) Except as provided in Subsection (c), whenever the landfill weighing system is inoperable, the following fees will be charged for materials accepted at a city landfill:

(A) Passenger cars, station wagons, and pickups that are used by persons other than Dallas city residents to haul their own waste from their residences to a city landfill site - $33.75 per load.
(B) Commercial pickups - $33.75 per load.
(C) Trucks or trailers with a cargo bed length of less than 15 feet - $78.75 per load.
(D) Trucks or trailers with a cargo bed length of 15 feet or greater - $168.75 per load.
(E) Roll-off containers, whether open top or compactor - $180 per load.
(F) Compactor trucks - $225 per load.

(4) A fee of $40 per load will be charged for the use of city equipment, when available, to off-load bundled waste by pulling it with cables, chains, or other devices. City equipment will be used at the customer’s own risk, with the city assuming no liability for any resulting damage. Non-city vehicles are prohibited from pulling loads off of other vehicles at a city landfill site.

(5) The fee for use of the city’s mechanical tipper to off-load tractor trailer loads is $75 per use.

(6) Collection vehicles not constructed with an enclosed transport body must use nets, tarpaulins, or other devices to prevent accidental spillage. A cover fee of $10 will be charged for any collection vehicle (other than a pickup truck) that enters the landfill without being so equipped.

(7) Tires exceeding 25 inches in diameter will not be accepted at a city landfill site.

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

SECTION 3. That CHAPTER 18 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.
SECTION 5. That this ordinance will take effect on July 1, 2008, and it is accordingly so
ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By____________________________________
   Assistant City Attorney

Passed_________________________________

LC/DCC/00442A
ADDENDUM ITEM # 13

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: May 28, 2008
COUNCIL DISTRICT(S): 4, 5
DEPARTMENT: Trinity River Corridor Project
CMO: Jill A. Jordan, P.E., 670-5299

SUBJECT

Authorize settlement in lieu of proceeding further with condemnation for the acquisition of approximately 1,415 acres of land located near the intersection of Loop 12 and Pemberton Hill Road from Metropolitan Sand and Gravel Company, L.L.C. or its successor, and approximately 111 acres of land located near the intersection of Linfield Road and Hull Avenue from Weir Bros. Partners, L.L.C., for the Trinity River Corridor Project - $8,900,000 - Financing: 1998 Bond Funds ($1,500,000), 2006 Bond Funds ($5,200,000), and U.S. Army Corps of Engineers Project Cooperation Funds ($2,200,000)

BACKGROUND

This item authorizes a settlement for the acquisition of approximately 1415 acres of unimproved land located near the intersection of Loop 12 and Pemberton Hill Road from Metropolitan Sand & Gravel Co., L.L.C., or its successor and approximately 111 acres of unimproved land located near Linfield Road and Hull Avenue from Weir Bros. Partners, L.L.C. Acquisition of this property will serve multiple components of the Trinity River Corridor Project, including the Texas Horse Park, Dallas Floodway Extension Project for environmental mitigation, the Trinity Trail system, and the Great Trinity Forest. The acquisition will be funded with 1998 Bond Funds, 2006 Bond Funds, and U.S. Army Corps of Engineers Project Cooperation Fund received in accordance with the Project’s Local Cooperation Agreement between the City of Dallas and USACE.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)


Authorized acquisition of the approximately 1415 acres from Metropolitan Sand & Gravel Co., L.L.C. on February 13, 2008, by Resolution No. 08-0398.

City Council was briefed in executive session on April 23, 2008.
FISCAL INFORMATION

1998 Bond Funds - $1,500,000
2006 Bond Funds - $5,200,000
U.S. Army Corps of Engineers Project Cooperation Funds - $2,200,000

OWNERS

Metropolitan Sand & Gravel Co., L.L.C.
Linda Kahn, Managing Member

Weir Bros. Partners, L.L.C.
Al Weir, President

MAPS

Attached
A RESOLUTION AUTHORIZING A SETTLEMENT OF A CONDEMNATION SUIT AND A CONDEMNATION ACTION.

WHEREAS, the City is currently involved in a condemnation lawsuit, Cause No. cc-04-07686-C, in County Court at Law No. 3, Dallas County, Texas, styled City of Dallas v. Weir Brothers Partners, L.L.C., for the acquisition of approximately 60.91 acres of land as authorized by Resolution No. 04-1416 on April 28, 2004; and

WHEREAS, the City is currently attempting to acquire, including through the exercise of eminent domain, if necessary, approximately 1,415 acres of land owned by Metropolitan Sand and Gravel Co., L.L.C., as authorized by Resolution No. 08-0398 on February 13, 2008; and

WHEREAS, the City Council desires to authorize the City Attorney to enter into a settlement of these matters; NOW, THEREFORE;

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

SECTION 1: That, for the purposes of this resolution, the following definitions of terms shall apply:

CONDEMNATION SUIT means Cause No. cc-04-07686-c, in County Court at Law No. 3, Dallas County, Texas, styled City of Dallas v. Weir Brothers Partners, L.L.C.

CONDEMNATION ACTION means the acquisition of approximately 1,415 acres owned by Metropolitan Sand and Gravel Co., L.L.C., including through the use of eminent domain if necessary, authorized by Resolution No. 08-0398 on February 13, 2008.

METROPOLITAN TRACT means the tract(s) of land, approximately 1,415 acres in extent, owned by Metropolitan Sand and Gravel Co., L.L.C., and the subject of the CONDEMNATION ACTION, as described in Exhibit A, attached hereto and made a part hereof for all purposes.

NORTHERN TRACT means the tract(s) of land, approximately 300 acres in extent, owned by Metropolitan Sand and Gravel Co., L.L.C., and being a part of the METROPOLITAN TRACT as depicted on Exhibit B, attached hereto and made a part hereof for all purposes.

LINFIELD TRACT means the approximately 111 acres of land comprised of the 60.91 acres of land sought to be acquired by the City in the CONDEMNATION SUIT, together with the 50.296 acre remainder tract, which are depicted on Exhibit B, and described in Exhibit C, attached hereto and made a part hereof for all purposes.
PROJECT means the Dallas Floodway Extension Segment of the Trinity River Corridor Project.

SETTLEMENT AMOUNT means $8,900,000.

SECTION 2. That the City Attorney is authorized to settle the CONDEMNATION SUIT for an amount not to exceed the sum of $2,700,000, for which the City shall receive fee simple title to the entire LINFIELD TRACT.

SECTION 3. That the City Attorney is authorized to settle the CONDEMNATION ACTION for an amount not to exceed the sum of $6,200,000, for which the City shall receive fee simple title to the NORTHERN TRACT. In addition, the City shall accept the transfer, assignment and conveyance of the remainder of the METROPOLITAN TRACT in fee simple for no consideration other than settlement of the lawsuits, the donative intent of the grantor, and/or $10. The grantor may reserve the rights to any oil, gas or other minerals that can be produced through a well-bore, but the grantor shall not retain any surface rights as to the METROPOLITAN TRACT, and the City shall receive 10 percent of any future royalties as to the METROPOLITAN TRACT received by Weir Brothers Partners, L.L.C., Metropolitan Sand & Gravel Co., L.L.C., and their successors and assigns.

SECTION 4. That the City Attorney is authorized to assume on behalf of the City the responsibility for the costs to remediate those environmental conditions on the METROPOLITAN TRACT and the LINFIELD TRACT known by the City as of the date the settlement is closed, and to waive any right to contribution for those costs from Metropolitan Sand and Gravel Co., L.L.C. and Weir Brothers Partners, L.L.C., including their officers, successors, and assigns.

SECTION 5. That the PROJECT is a municipal public purpose and use and the City hereby determines that public necessity requires that it should acquire the METROPOLITAN TRACT and the LINFIELD TRACT for the PROJECT.

SECTION 6. That the City Attorney and the City Manager are authorized to prepare and, upon approval as to form and content, execute such documents as may be necessary to effect the settlement described herein, forwarding same, as applicable, to a title insurance company for preparation of the necessary instrument for closing of the land conveyances and, subsequent to closing, filing such documents with the County Clerk and returning same to the City Secretary for permanent record.

SECTION 7. That the City is to have possession of the METROPOLITAN TRACT and the LINFIELD TRACT at closing, subject to those exceptions, reservations and interests approved by the City Attorney and City Manager.
SECTION 8. That the settlement of each of the matters described herein may be conditioned on settlement of other matters and actions currently pending with Metropolitan Sand and Gravel Co., L.L.C., Weir Brothers Partners, L.L.C. and related entities.

SECTION 9. That the City Controller is further authorized to draw checks for the SETTLEMENT AMOUNT, closing costs, title policy premiums, litigation expenses, and expert witness expenses incurred for the litigation or settlement of these matters, payable out of designated funds as follows: $2,200,000 payable out of Fund No. TP14, Unit N962, Department PBW, Program No. PB98N962, Object 4210, Activity TRPP, Encumbrance No. PBW98N962I1; $1,300,000 payable out of Fund No. 5P14, Unit N966, Department PBW, Program No. PB98N966, Object 4210, Encumbrance No. PBW98N962I1; $200,000 payable out of Fund No. 5P14, Unit N966, Department PBW, Program No. PB98N966, Object 4210, Activity TRPP, Encumbrance No. PKR08018988; $2,000,000 payable out of Fund No. 7T00, Unit T291, Department PKR, Program No. PK06T291, Object 4210, Activity PKLA, Encumbrance No. PKR08018988; $3,200,000 payable out of Fund No. 7T00, Unit T220, Department PKR, Program No. PK06T220, Object 4210, Activity PKLA, Encumbrance No. PKR08018988.

SECTION 10. 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: Chris Bowers
Assistant City Attorney
FIELD NOTES FOR 527.27 ACRES OR 22,968,075 SQUARE FEET OF LAND
BEING OUT OF THAT CERTAIN TRACT OF LAND KNOWN AS TRACT NO. 4
AND DESCRIBED IN QUIT CLAIM DEEDS DATED DECEMBER 17, 1998 TO
METROPOLITAN SAND AND GRAVEL CO., L.L.C., RECORDED IN VOLUME
98253, PAGE 01933 AND VOLUME 98253, PAGE 01948, DEED RECORDS
DALLAS COUNTY, TEXAS (D.R.D.C.T.), BEING IN CITY BLOCK NOS. 6239,
6257, AND 7948, CITY OF DALLAS, LOCATED IN THE PATRICK MCCLARY
SURVEY, ABSTRACT NO. 953, JOHN BEEMAN SURVEY, ABSTRACT NO. 97,
I.L. HILL SURVEY, ABSTRACT NO. 648, CORNELIUS COX SURVEY,
ABSTRACT NO. 284 AND ISAAC ELAM SURVEY, ABSTRACT NO. 443, DALLAS
COUNTY, TEXAS. (Bearings are referenced to the Texas Coordinate System, North
Central Zone, North American datum of 1983).

BEGINNING at a 1/2 inch iron rod found in the common line of said Isaac Elam
and Cornelius Cox surveys for the southwest corner of a tract of land described in warranty
deed dated September 6, 2000 to Mario Lira and Mario A. Lira recorded in Volume
200028, Page 04492, D.R.D.C.T. in City Block No. 6257;

THENCE N 88°52'54" E, along the south line of said Mario Lira and Mario A. Lira tract,
a distance of 450.19 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set in
the northwest right of way line of State Highway Loop 12 and described in the following
right of way deeds to the State of Texas: dated July 7, 1943 and recorded in Volume
2429, Page 538; dated July 1, 1943 and recorded in Volume 2429, Page 533; dated
August 12, 1943 and recorded in Volume 2435, Page 217; dated July 7, 1943 and
recorded in Volume 2435, Page 214; dated July 22, 1947 and recorded in Volume 2899,
Page 368; dated October 15, 1947 and recorded in Volume 2916, Page 544; dated
December 18, 1939 and recorded in Volume 2191, Page 380; dated January 14, 1947 and
recorded in Volume 2849, Page 448; dated January 14, 1947 and recorded in Volume
2849, Page 453; dated July 3, 1943 and recorded in Volume 2435, Page 218, D.R.D.C.T.
for a corner of the herein described tract, said 5/8 inch iron rod with cap being in a non-
tangent curve to the left whose center bears S 19°24'46" E, 2,984.79 feet and from which
a found 1/2 inch iron rod bears S 78°20' W, 6.9 feet;

THENCE in a southwesterly direction, along the northwest right of way line of said State
Highway Loop 12, with said non-tangent curve to the left, having a radius of 2984.79
feet, an arc length of 279.69 feet, a central angle of 05°22'08" and a chord which bears
S67°54'10"W, 279.58 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set
for a corner of the herein described tract, from which a found Type I Concrete Monument
beats S 61°48’ W, 0.9 feet;
TRACT 1
TRINITY RIVER FLOODWAY
527.27 ACRES
CITY BLOCK NOS. 6239, 6257, AND 7948

THENCE S 65°13'07" W, continuing along the northwesterly right of way line of said State Highway Loop 12, a distance of 1,860.95 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI" set for a corner of the herein described tract;

THENCE N 24°46'53" W, continuing along the northwest right of way line of said State Highway Loop 12, a distance of 25.00 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI" set for a corner of the herein described tract;

THENCE S 65°13'07" W, continuing along the northwest right of way line of said State Highway Loop 12, a distance of 1,675.00 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI" set for a corner of the herein described tract;

THENCE S 45°25'11" W, continuing along the northwest right of way line of said State Highway Loop 12, a distance of 132.85 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI" set for a corner of the herein described tract;

THENCE S 65°13'07" W, continuing along the northwest right of way line of said State Highway Loop 12, a distance of 412.75 feet to a point on the gradient boundary line of the Trinity River for a corner of the herein described tract;

THENCE along the gradient boundary line of said Trinity River as surveyed by William C. Boden, Licensed State Land Surveyor during July, 2003 the following courses and distances:

N 22°17'21" W, a distance of 78.49 feet;
N 11°35'27" W, a distance of 216.03 feet;
N 01°26'36" W, a distance of 254.12 feet;
N 02°01'06" E, a distance of 181.74 feet;
N 15°21'57" E, a distance of 222.69 feet;
N 17°47'53" E, a distance of 196.32 feet;
N 20°46'12" E, a distance of 156.81 feet;
N 30°25'53" E, a distance of 212.27 feet;
TRACT 1
TRINITY RIVER FLOODWAY
527.27 ACRES
CITY BLOCK NOS. 6239, 6257 AND 7948

N 20°43'35" E, a distance of 173.23 feet;
N 33°13'27" E, a distance of 197.87 feet;
N 11°36'20" E, a distance of 152.13 feet;
N 37°09'05" E, a distance of 118.08 feet;
N 26°38'26" E, a distance of 169.96 feet;
N 24°05'34" E, a distance of 129.61 feet;
N 18°02'56" E, a distance of 103.30 feet;
N 36°06'17" E, a distance of 163.28 feet;
N 19°26'10" E, a distance of 246.16 feet;
N 19°50'22" E, a distance of 170.33 feet;
N 25°21'41" E, a distance of 195.91 feet;
N 23°31'45" E, a distance of 179.88 feet;
N 19°05'49" E, a distance of 123.20 feet;
N 04°04'10" E, a distance of 150.80 feet;
N 12°18'29" E, a distance of 90.08 feet;
N 15°31'56" E, a distance of 152.39 feet;
N 06°46'21" E, a distance of 149.26 feet;
N 13°42'59" E, a distance of 130.33 feet;
TRACT 1
TRINITY RIVER FLOODWAY
527.27 ACRES
CITY BLOCK NOS. 6239, 6257 AND 7948

N 00°18'39" E, a distance of 258.04 feet;
N 05°22'20" W, a distance of 218.99 feet;
N 10°04'04" E, a distance of 205.39 feet;
N 05°21'40" W, a distance of 99.55 feet;
N 16°59'25" W, along the gradient boundary line of said Trinity River, a distance of 242.84 feet to a point for the most southerly corner of a tract of described in an agreed judgment dated December 20, 1989 to the City of Dallas recorded in Volume 90020, Page 1793, D.R.D.C.T. in City Block No. 7948 and a corner of the herein described tract;

THENCE N 15°36'58" E, along the easterly line of said City of Dallas tract, a distance of 1,019.78 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set for the point of curvature of a curve to the right;

THENCE in a northeasterly direction, continuing along the easterly line of said City of Dallas tract, with said curve to the right, having a radius of 3,725.00 feet, an arc length of 1,757.26 feet, a central angle of 27°01'45" and a chord which bears N 29°07'51" E, 1,741.01 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set for the point of tangency;

THENCE N 42°38'43" E, continuing along the easterly line of said City of Dallas tract, a distance of 507.05 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set in the southwest line of a tract of land and described in warranty deed dated October 15, 1959 to Dallas, Power And Light Company recorded in Volume 5212, Page 435, D.R.D.C.T. in City Block No. 6239 for a corner of the herein described tract;

THENCE S 45°00'00" E, along the southwest line of said Dallas, Power And Light Company tract, a distance of 201.73 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set for the southwest corner of said Dallas, Power And Light Company tract and a corner of the herein described tract;
TRACT 1
TRINITY RIVER FLOODWAY
527.27 ACRES
CITY BLOCK NOS. 6239, 6257 AND 7948

THENCE N 89°32'59" E, along the south line of said Dallas, Power And Light Company tract, a distance of 2,672.68 feet to a 5/8 inch iron rod with cap stamped “LCI” set in the existing west line of Pemberton Hill Road (width varies, no record deed found) for the northeast corner of the herein described tract, from which a found 1/2 inch iron pipe bears S 89°32'59" W, 3.73 feet;

THENCE S 00°24'42" E, along the existing west line of said Pemberton Hill Road, a distance of 3,284.01 feet to a 5/8 inch iron rod with cap stamped “LCI” set in the north right of way line of Elam Road (60 feet wide) per Volume 2234, Page 336, D.R.D.C.T. for a corner of the herein described tract;

THENCE S 88°51'37" W, along the north right of way line of said Elam Road a distance of 1,985.98 feet to a 5/8 inch iron rod with cap stamped “LCI” set for an interior corner of the herein described tract;

THENCE S 01°05'58" E, along the west line of said Elam Road, at a distance of 30.00 feet pass a found 5/8 inch iron rod and continuing along the west line of said Mario Lira and Mario A. Lira tract a total distance of 2,651.97 feet to the POINT OF BEGINNING and containing 527.27 acres or 22,968,075 square feet of land.

Metes and Bounds description contains a mathematical calculated closure of 1/3,054.931.

February 17, 2004
Landtech Consultants, Inc.

Paul P. Kwan
Reg. Prof. Land Surveyor No. 4313

42fn1431.03
Dwg. No. 1431-D-2085
Job No. 0220299.00
Exhibit A

TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

FIELD NOTES FOR 887.78 ACRES OR 38,671,805 SQUARE FEET OF LAND BEING OUT OF THAT CERTAIN TRACT OF LAND KNOWN AS TRACT NO. 4 AND DESCRIBED IN QUIT CLAIM DEEDS DATED DECEMBER 17, 1998 TO METROPOLITAN SAND AND GRAVEL Co., L.L.C., RECORDED IN VOLUME 98253, PAGE 01933 AND VOLUME 98253, PAGE 01948, DEED RECORDS DALLAS COUNTY, TEXAS (D.R.D.C.T.), BEING IN CITY BLOCK NOS. 6258, 6259 AND 7972, CITY OF DALLAS, LOCATED IN THE ISAAC ELAM SURVEY, ABSTRACT NO. 443, ELIZABETH CROCKETT SURVEY, ABSTRACT NO. 231 AND GIDEON PEMBERTON SURVEY, ABSTRACT NO. 1155, DALLAS COUNTY, TEXAS. (Bearings are referenced to the Texas Coordinate System, North Central Zone, North American datum of 1983).

COMMENCING at a 5/8 inch iron rod with cap stamped “CTY” Dallas found in the common line of said Gideon Pemberton Survey and George Markham Survey, same being in the east line of a tract of land described in deed dated February 28, 1916 to Rudolph Vonasch recorded in Volume 671, Page 290, D.R.D.C.T., in City Block No. 6259; said point being the southwest corner of a tract of land described in warranty deed dated October 18, 1996 to Herman Nethery recorded in Volume 96211, Page 00765, D.R.D.C.T., in City Block No. 6263 and the northwest corner of a tract of land described in warranty deed dated October 15, 1914 to Rudolph Vonasch recorded in Volume 629, Page 687, D.R.D.C.T., in City Block No. 6263;

THENCE S 00°45’27” E, along the common line of said Gideon Pemberton and George Markham Surveys, the west line of said Rudolph Vonasch tract recorded in Volume 629, Page 687, D.R.D.C.T. and the east line of said Rudolph Vonasch tract recorded in Volume 671, Page 290, D.R.D.C.T., a distance of 9.87 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set for the southeast corner of said Rudolph Vonasch tract recorded in Volume 671, Page 290, D.R.D.C.T. and the POINT OF BEGINNING of the herein described tract;

THENCE S 00°45’27” E, continuing along the common line of said Gideon Pemberton and George Markham surveys, the east line of said Elizabeth Crockett Survey, the west line of said Rudolph Vonasch tract recorded in Volume 629, Page 687, D.R.D.C.T., a distance of 2,959.43 feet to a point on the gradient boundary line of the Trinity River for the southeast corner of the herein described tract;

THENCE along the gradient boundary line of said Trinity River as surveyed by William C. Boden, Licensed State Land Surveyor during July, 2003 the following courses and distances:

S 71°46’02” W, a distance of 14.51 feet;
TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

S 69°39'35" W, a distance of 174.08 feet;
S 57°38'58" W, a distance of 258.68 feet;
S 54°47'54" W, a distance of 243.94 feet;
S 56°34'54" W, a distance of 146.19 feet;
S 47°19'07" W, a distance of 290.19 feet;
S 52°35'22" W, a distance of 156.89 feet;
S 55°40'53" W, a distance of 169.41 feet;
S 69°58'08" W, a distance of 254.32 feet;
S 85°43'37" W, a distance of 185.24 feet;
N 86°23'29" W, a distance of 209.74 feet;
S 89°58'39" W, a distance of 255.04 feet;
N 85°10'30" W, a distance of 217.60 feet;
N 86°48'58" W, a distance of 228.68 feet;
S 82°31'49" W, a distance of 257.72 feet;
S 86°25'00" W, a distance of 251.23 feet;
S 89°08'26" W, a distance of 346.69 feet;
N 88°35'07" W, a distance of 279.52 feet;
N 72°32'42" W, a distance of 159.04 feet;
TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

N 66°40'07" W, a distance of 187.12 feet;
N 81°56'28" W, a distance of 296.06 feet;
N 58°40'17" W, a distance of 175.04 feet;
N 52°51'48" W, a distance of 236.24 feet;
N 50°56'08" W, a distance of 254.40 feet;
N 46°12'42" W, a distance of 267.52 feet;
N 70°35'36" W, a distance of 315.15 feet;
S 85°19'21" W, a distance of 304.15 feet;
S 79°51'19" W, a distance of 291.29 feet;
S 79°33'51" W, a distance of 289.33 feet;
N 73°21'11" W, a distance of 283.83 feet;
N 70°55'12" W, a distance of 230.39 feet;
N 73°24'39" W, a distance of 273.94 feet;
N 72°47'32" W, a distance of 256.93 feet;
N 88°00'36" W, a distance of 299.52 feet;
S 88°57'41" W, a distance of 71.72 feet;
N 62°00'51" W, a distance of 50.51 feet;
N 49°10'33" W, a distance of 262.22 feet;
TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

THENCE N 22°17'55'' W, a distance of 286.78 feet;

THENCE N 10°55'15'' E, a distance of 153.09 feet;

THENCE N 00°43'53'' W, a distance of 368.28 feet;

THENCE N 04°23'50'' E, a distance of 592.22 feet;

THENCE N 21°20'58'' E, a distance of 120.05 feet;

THENCE N 34°39'07'' W, a distance of 117.32 feet;

THENCE N 10°15'55'' W, a distance of 233.47 feet;

THENCE N 28°27'52'' W, a distance of 284.76 feet;

THENCE N 24°00'45'' W, a distance of 442.88 feet;

THENCE N 22°17'21'' W, along the gradient boundary line of said Trinity River, a distance of 166.44 feet to a 5/8 inch iron rod with aluminum cap stamped "LCI" set in the southeast right of way line of State Highway Loop 12 and described in the following right of way deeds to the State of Texas: dated July 7, 1943 and recorded in Volume 2429, Page 538; dated July 1, 1943 and recorded in Volume 2429, Page 533; dated August 12, 1943 and recorded in Volume 2435, Page 217; dated July 7, 1943 and recorded in Volume 2435, Page 214; dated July 22, 1947 and recorded in Volume 2899, Page 368; dated October 15, 1947 and recorded in Volume 2916, Page 544; dated December 18, 1939 and recorded in Volume 2191, Page 380; dated January 14, 1947 and recorded in Volume 2849, Page 448; dated January 14, 1947 and recorded in Volume 2849, Page 453; dated July 3, 1943 and recorded in Volume 2435, Page 218, D.R.D.C.T. for the northwest comer of the herein described tract;

THENCE N 65°13'07'' E, along the southeast right of way line of said State Highway Loop 12, a distance of 421.46 feet to a 5/8 inch iron rod with aluminum cap stamped "LCT" set for a corner of the herein described tract;

THENCE N 85°01'03'' E, continuing along the southeast right of way line of said State Highway Loop 12, a distance of 132.85 feet to a 5/8 inch iron rod with aluminum cap stamped "LCT" set for a corner of the herein described tract;
TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

THENCE N 65°13'07" E, continuing along the southeast right of way line of said State Highway Loop 12, a distance of 1,675.00 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set for a corner of the herein described tract, from which a found Type I Concrete Monument bears, N 56°02' E, 2.5 feet;

THENCE N 24°46'53" W, continuing along the southeast right of way line of said State Highway Loop 12, a distance of 25.00 feet to a found Type I Concrete Monument for a corner of the herein described tract;

THENCE N 65°13'07" E, continuing along the southeast right of way line of said State Highway Loop 12, a distance of 1,860.95 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set for the point of curvature of a curve to the right, from which a found Type I Concrete Monument bears S 65°13" W, 1.0 feet;

THENCE in a northeasterly direction, continuing along the southeast right of way line of said State Highway Loop 12, with said curve to the right, having a radius of 2,744.79 feet, an arc length of 1,147.76 feet, a central angle of 23°57'52" and a chord which bears N 77°11'52" E, 1,139.42 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set for the point of tangency, from which a found Type I Concrete Monument bears, N 89°11' E, 0.7 feet;

THENCE N 89°10'38" E, along the south right of way line of State Highway Loop 12, a distance of 727.72 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set in the common line of said Isaac Elam and Gideon Pemberton Surveys for a corner of the herein described tract;

THENCE N 00°28'06" W, along the common line of said Isaac Elam and Gideon Pemberton surveys, a distance of 34.00 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set in the south right of way line of said State Highway Loop 12 for a corner of the herein described tract;

THENCE N 89°10'38" E, continuing along the south right of way line of said State Highway Loop 12, at a distance of 1,809.38 feet pass a found Type I Concrete Monument marking TxDOT stationing 200+00 and continuing a total distance of 2,632.94 feet to a 5/8 inch iron rod with aluminum cap stamped "LCl" set for the northwest corner of said Rudolph Vonasch tract recorded in Volume 671, Page 290, D.R.D.C.T. and the northeast corner of the herein described tract;
TRACT 2
TRINITY RIVER FLOODWAY
887.78 ACRES
CITY BLOCK NOS. 6258, 6259 AND 7972

THENCE S 00°45’27” E, along the west line of said Rudolph Vonasch tract recorded in Volume 671, Page 290, D.R.D.C.T. a distance of 2,007.73 feet to a 5/8 inch iron rod with aluminum cap stamped “LCI” set for the southwest corner of said Rudolph Vonasch tract and a corner of the herein described tract;

THENCE N 88°46’50” E, along the south line of said Rudolph Vonasch tract, a distance of 20.00 feet to the POINT OF BEGINNING and containing 887.78 acres or 38,671,805 square feet of land.

Metes and Bounds description contains a mathematical calculated closure of 1/551,626.

February 17, 2004
Landtech Consultants, Inc.

Paul P. Kwan
Reg. Prof. Land Surveyor No. 4313

42fn1431.04
Dwg. No. 1431-D-2085
Job No. 0220299.00
Exhibit B
Exhibit C

Field Notes Describing A 111.206 Acre Tract of Land
to be acquired in City of Dallas Block 6100
from the Weir Brothers Partnership, L.L.C.

BEING a 4,844,152 Square Foot (111.206 Acre) tract lying in the Robinson T. Smith Survey, Abstract No. 1376, and the Dugald M. McFarland Survey, Abstract No. 985, and being all of that property conveyed to the Weir Brothers Partnership from the Union Pacific Railroad Company by Deed dated July 2, 2002 and recorded in Volume 2002137, Page 00834 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a ¼" Iron Pipe found at the most Easterly corner of a 10.00 acre tract of land conveyed to TAMCO Asphalt Products of Texas, Inc. by the Certainteed Corporation by Deed dated March 29, 1985 and recorded in Volume 85080, Page 2621 of the Deed Records of Dallas County, same being an inside corner of the herein described tract of land:

THENCE North 30°45'17" West with the Northeast line of said TAMCO tract a distance of 435.37 feet to its most Northerly corner, being also an inside corner of the herein described tract, from which a 5/8" dia. Iron Rod bears South 89°18'35" West a distance of 0.23 feet:

THENCE South 59°14 '34" West with the Northwest line of said TAMCO Tract, pass at 1,000.00 feet the most Westerly corner of said TAMCO tract, from which a ½" Iron Rod bears North 51°51'13" West a distance of 0.29 feet, and continuing for a total distance of 1,189.73 feet to a 5/8" Iron Rod with cap marked "Dallas" (hereinafter called "5/8" I.R. w/cap") set at an outside corner of this tract, being also an inside corner of the parcel called "Save and Except" to the Union Pacific Railroad Company in the before mentioned deed from the railroad to the Weir Brothers Partnership, L.L.C.:

THENCE North 32°57'57" West with the common line between said Union Pacific Railroad property the herein described tract a distance of 650.00 feet to a 5/8" I.R. w/cap set at the beginning of a Curve to the Left:

THENCE Northwesterly, continuing with said common line between the Union Pacific Railroad property and the herein described tract, along said Curve, having a Radius of 530.00 feet, a Central Angle of 18°29'56", an Arc Length of 171.12 feet and a Chord which bears North 42°12'55" West a distance of 170.38 feet to a 5/8" I.R. w/cap set at the beginning of a Curve to the Right:

THENCE Northwesterly, continuing with said common line between the Union Pacific Railroad property and the herein described tract and along said Curve, having a Radius of 530.00 feet, a Central Angle of 38°27'53", an Arc Length of 355.81 feet and a Chord which bears North 32°13'59" West a distance of 349.16 feet to a 5/8" I.R. w/cap set at the beginning of a Curve to the Right:
THENCE Northwesterly, continuing with said common line between the Union Pacific Railroad property and the herein described tract and along said Curve, having a Radius of 2,766.42 feet, a Central Angle of 3°19'30", an Arc Length of 160.55 feet and a Chord which bears North 11°20'15" West a distance of 160.52 feet to a 5/8" I.R. w/cap set at the Point of Tangency:

THENCE North 9°40'30" West, continuing with said common line between the Union Pacific Railroad property and the herein described tract, a distance of 916.08 feet to a 5/8" I.R. w/cap set at the Northwest corner of the herein described tract, being also the Northwest corner of a tract of land conveyed to the Houston and Texas Central Railroad Company by Deed dated December 4, 1896 and recorded in Volume 208, Page 181 of the Dallas County Deed Records, and being also the Southwest corner of a tract of land conveyed to the City of Dallas by Deed dated January 14, 1993 and recorded in Volume 93080, Page 2009 of the Dallas County Deed Records:

THENCE South 77°00'00" East with the common line between said City of Dallas tract and the herein described tract a distance of 2,042.46 feet to a 5/8" I.R. w/cap set on the boundary line between said Dugald M. McFarland Abstract and the Robinson T. Smith Abstract:

THENCE North 59°00'00" East with the common line between said Abstracts a distance of 313.34 feet to a point on the Gradient Boundary line of the Trinity River, as established by William C. Boden during July, 2003:

THENCE Southeasterly along said Gradient Boundary Line the following courses and distances:

- South 52°00'00" East, 140.18 feet:
- South 79°00'00" East, 228.36 feet:
- North 64°00'00" East, 138.00 feet:
- North 66°00'00" East, 146.06 feet:
- North 72°00'00" East, 189.08 feet:
- North 82°00'00" East, 124.94 feet:
- North 85°00'00" East, 152.08 feet:
- North 87°00'00" East, 165.22 feet:
- North 86°00'00" East, 104.04 feet:
- South 83°00'00" East, 191.87 feet:
- South 81°00'00" East, 254.35 feet:
- North 88°00'00" East, 119.85 feet:
- South 80°00'00" East, 240.27 feet:
Field Notes Describing A 111.206 Acre Tract of Land to be acquired in City of Dallas Block 6100 from the Weir Brothers Partnership, L.L.C.

North 87°00'00" East, 190.17 feet:

THENCE North 89°00'00" East, continuing with the said Gradient Boundary Line of the Trinity River a distance of 182.12 feet to the Northeast corner of a tract of land conveyed to the City of Dallas by Agreed Judgment rendered in County Court at Law Number 3, and recorded in Volume 193, Page 1795 of the Records of the County Court:

THENCE South 59°36'36" West, departing the said Gradient Boundary Line of the Trinity River, and with the common line of said City of Dallas tract a distance of 3,636.38 feet to a 5/8" I.R. w/cap set at the most easterly corner of a tract of land conveyed to the City of Dallas by the Union Pacific Railroad Company for the construction of improvements to Linfield Road, as recorded in Instrument Number 200503532890 of the Deed Records of Dallas County:

THENCE North 30°43'39" West with the Northeast line of said Linfield Road tract a distance of 45.80 feet to a 5/8" I.R. w/cap set at the intersection with the Southeast line of said TAMCO tract, being also the most Northerly corner of said Linfield Road tract and an interior corner of the herein described tract of land:

THENCE North 59°14'27" East with the Southeast line of said TAMCO tract a distance of 582.74 feet to the POINT OF BEGINNING, containing 111.206 acres of land.

BASIS OF BEARINGS: Bearings are based on field observations using the North Texas Cooperative Real Time Kinematic Virtual Reference Station Global Positioning System survey instruments and procedures, North American Datum of 1983.

[Signature]

5-21-08
SUBJECT

Authorize Supplemental Agreement No. 1 to the professional services contract with Finish Well Companies dba Global Bridgebuilders, formerly Diversity Management Strategies, LLC, (1) for the continuing assessment and development of a training program to enhance workforce diversity and employee productivity with the Water Utilities Department; and (2) perform assessments and develop training programs to enhance workforce diversity and employee productivity in additional departments - Not to exceed $246,800 from $72,000 to $318,800 - Financing: Water Utilities Current Funds ($96,800), Current Funds ($150,000) (subject to annual appropriations)

BACKGROUND

Phase 1 of the Water Utilities Diversity Process Initiative began in August 2007. The original contract included benchmarking of workforce diversity practices, conducting focus group meetings, and training of approximately 1,400 employees through the supervisory level. Findings from the extensive diversity process assessment revealed a need for managerial training and the development of an Employee Advisory Council to ensure proper development of a diversity management plan.

This Supplemental Agreement No. 1 focuses on the managerial employees’ training and development needs. Tasks will include interviewing all managers/assistant managers and executives in order to identify gaps between reporting levels and to educate management staff on building and fostering an inclusive work environment. Part of the objective is to create an Employee Advisory Council whose purpose is to provide insight and support to the departmental management team members for the development and implementation of a diversity management plan. The desired result is to improve organizational performance through the encouragement of employee and team contributions, which ultimately leads to improved workforce diversity and employee productivity.
BACKGROUND (continued)

Additionally, part of this supplemental agreement is to include funding for additional departments. The Diversity Process Assessment includes interviewing employees of all levels in the organization in order to identify gaps between reporting levels and to gain insight into what we may or may not be doing to foster a diverse and inclusive working environment. This effort results in a comprehensive plan for the development and implementation of a diversity management plan to educate staff on key focus areas to enhance workforce diversity and employee productivity. The action plan will build workforce diversity excellence with a goal of becoming a benchmark for workforce diversity practices and will incorporate a variety of activities that will provide insight and support to department management and team members.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Council authorized a professional services contract for assessment and development of a training program to enhance workforce diversity and employee productivity with Diversity Management Strategies, LLC, on November 12, 2007, by Resolution No. 07-3367.

FISCAL INFORMATION

$96,800.00 - Water Utilities Current Funds
$150,000.00 - Current Funds (subject to annual appropriations)

M/WBE INFORMATION

Attached

ETHNIC COMPOSITION

Finish Well Companies dba Global Bridgebuilders

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OWNER

Finish Well Companies dba Global Bridgebuilders

Skot Welch, Principal
GOOD FAITH EFFORT PLAN SUMMARY

PROJECT: Authorize Supplemental Agreement No. 1 to the professional services contract with Finish Well Companies dba Global Bridgebuilders, formerly Diversity Management Strategies, LLC, (1) for the continuing assessment and development of a training program to enhance workforce diversity and employee productivity with the Water Utilities Department; and (2) perform assessments and develop training programs to enhance workforce diversity and employee productivity in additional departments - Not to exceed $246,800 from $72,000 to $318,800 - Financing: Water Utilities Current Funds ($96,800), Current Funds ($150,000) (subject to appropriations)

Finish Well Companies dba Global Bridgebuilders is a non-local, non-minority firm, has signed the "Good Faith Effort" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

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LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

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TOTAL M/WBE PARTICIPATION

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<td><strong>$246,800.00</strong></td>
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</tbody>
</table>
WHEREAS, the Water Utilities Diversity Process Initiative began in August 2007; and,

WHEREAS, the first phase was completed for the training of over 1,400 employees including supervisors in the department; and,

WHEREAS, it is desired to implement an assessment and develop a training program to enhance workforce diversity and employee productivity in additional departments; and,

WHEREAS, it is desired to accelerate diversity improvements by providing specific Managerial training along with the design and development of an Employee Advisory Council; and,

WHEREAS, it is also recommended that the assessment and training program be further expanded to other departments; Now, Therefore,

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

Section 1. That the proposed Supplemental Agreement No. 1 be accepted and that the contract be revised accordingly (1) for the continuing assessment and development of a training program to enhance workforce diversity and employee productivity with the Water Utilities Department; and (2) perform assessments and develop training programs to enhance workforce diversity and employee productivity in additional departments with Finish Well Companies dba Global Bridgebuilders, formerly Diversity Management Strategies, LLC, in a total amount not to exceed $246,800.00, from $72,000.00 to $318,800.00.

Section 2. That the City Manager is hereby authorized to execute the contract after it has been approved as to form by the City Attorney.

Section 3. That the City Controller is hereby authorized to make payments in accordance with the terms of the contract in an amount not to exceed $246,800.00, as follows:

<table>
<thead>
<tr>
<th>FUND</th>
<th>DEPT</th>
<th>UNIT</th>
<th>OBJ</th>
<th>ENCUMBRANCE</th>
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<td>PERSKWELCH09</td>
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<td>$150,000</td>
</tr>
</tbody>
</table>

(subject to annual appropriations)
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.

DISTRIBUTION: Water-Administration, 4AN, Cheryl Glenn
Water-Business, 4AN, James Carrigan
Office of Financial Services, 4FN, Jeanne Chipperfield
ADDITION ITEM # 15

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: May 28, 2008

COUNCIL DISTRICT(S): All

DEPARTMENT: Department of Development Services

CMO: A. C. Gonzalez, 671-8925

MAPSCO: N/A

SUBJECT

A public hearing to receive comments regarding consideration of amendments to Article IX, Thoroughfares, of Chapter 51A, the Dallas Development Code, to amend regulations pertaining to the effective date of street name changes and an ordinance granting the amendments

Recommendation of Staff and CPC: Approval

DCA078-004
HONORABLE MAYOR & CITY COUNCIL  
WEDNESDAY, MAY 28, 2008  
ACM: A. C. Gonzalez  

FILE NUMBER: DCA 078-004  
DATE INITIATED: November 28, 2007  

TOPIC: Effective Date of Street Name Changes  

CITY COUNCIL DISTRICTS: All  
CENSUS TRACTS: All  

PROPOSAL: To amend Article IX, Thoroughfares, of Chapter 51A, the Dallas Development Code, to amend regulations pertaining to the effective date of street name changes.  

SUMMARY: The proposed amendments would enable the City Council to set the effective date of a street name change. Currently the Code requires that the street name change take effect 60 days from the date of adoption. The City Plan Commission recommendation also changes the notification requirements to require notification of adjacent property owners 30 days prior to the City Plan Commission hearing.  

CPC RECOMMENDATION: Approval  
ZOAC RECOMMENDATION: Approval  
STAFF RECOMMENDATION: Approval
BACKGROUND

- Currently the Development Code requires that street name changes become effective 60 days after adoption by the City Council.

- On November 28, 2007, City Council considered a request to change the name of Motor Street, east of Stemmons Freeway, to Medical District Drive. Council closed the public hearing and approved that proposal with the ordinance adopting the street name change to come back in October of 2008. This was done to give the businesses impacted by the street name change more time than 60 days to prepare for the street name change and use up promotional and mailing materials that included the previous street name.

- As a result of this, City Council requested that staff bring forward for consideration an amendment to the development code to allow council to set an effective date for a street name change.

- At the City Plan Commission and Zoning Ordinance Advisory Committee meetings concern was also expressed about only providing 15 days notice prior to the City Plan Commission hearing. It was felt that this was inadequate notice given the direct impact on property owners and also tenants. Since mailed notices go to property owners, it was also seen as advantageous to allow additional time so that information could filter out to the tenants. CPC also recommended that signs must be posted 30 days prior to the City Plan Commission hearing in order to help insure that tenants and renters had adequate notice independent of the mailed notices.

PROPOSAL

Staff is proposing that Section 51A-9.309, “Effective Date of Name Change,” of Division 51A-9.300, “Street Naming and Name Change Process,” of Article IX, “Thoroughfares,” of Chapter 51A, "Dallas Development Code be amended to read as follows:

“Providing that all required fees have been paid by the applicant, a name change approved by the city council takes effect 60 days after the date of its approval unless city council sets a later effective date [providing that all required fees have been paid by the applicant].”

In addition the City Plan Commission recommended the following notice provisions:

Subdivision Review Committee Meeting – 15 day newspaper notice, 15 day property owner notice, 15 day notification sign posting required prior to the meeting. Currently there are no notice provisions for the Subdivision Review Committee Meeting.

City Plan Commission Public Hearing - 30 day newspaper notice, 30 day property owner notice, 30 day notification sign posting required prior to the public hearing. Currently there is a 15 day notice provision for the City Plan Commission hearing.
City Council Public Hearing - 15 day newspaper notice, 15 day property owner notice, 15 day notification sign posting required prior to the meeting. This is the same provision as currently required for the City Council hearing.

**ZOAC ACTION**

On December 20, 2007 the Zoning Ordinance Advisory Committee voted 6 to 0 to recommend approval of the proposal with instructions to staff to review the notification requirements.

In Favor
- Chris Buehler
- Ann Bagley
- Robert Ekblad
- Jack Craycroft
- Jim Rogers
- Mark Wilson

**CPC ACTION (May 15, 2008)**

**Motion:** It was moved to recommend approval of amendments to Article IX, Thoroughfares, of Chapter 51A, the Dallas Development Code, to amend regulations pertaining to the effective date of street name changes and also to require a 15 day notice prior to the Subdivision Review Committee meeting and a 30 day notice prior to the City Plan Commission public hearing.

Maker: Buehler
Second: Bagley

Result: Carried: 15 to 0
For: 15 - Prothro, Strater, Gary, Davis, Rodgers, Lozano, Bagley, Jones-Dodd, Weiss, Lueder, Buehler, Wolfish, Ekblad, Emmons, Alcantar

Against: 0
Absent: 0
Vacancy: 0

Speakers: None
ORDINANCE NO. __________

An ordinance amending Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51A-9.305, 51A-9.306, 51A-9307, and 51A-9.309; providing increased public notice of street name changes; allowing street name changes to take effect more than 60 days after city council approval; providing a penalty not to exceed $2,000; providing a saving clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

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


"SEC. 51A-9.305. REVIEW OF APPLICATION.

(a) Within 10 working days after receipt of a complete application for a street name change, the subdivision administrator shall request comment regarding the potential impacts of the name change on the operations of the following city departments and other affected entities:

(1) Department of street services.

(2) Office of financial services.

(3) Fire department."
(4) Department of development services.

(5) Police department.

(6) Public works and transportation department.

(7) Water utilities department.

(8) Department of sanitation services.

(9) Department of code compliance.

(10) Contiguous municipalities if any property abutting the street is within the contiguous municipality.

(11) Dallas County Historical Commission.

(12) TXU Electric, or its successor.

(13) TXU Gas, or its successor.

(14) Southwestern Bell Telephone Company, or its successor.

(15) U.S. Postal Service.

(b) The subdivision administrator shall formulate a recommendation on the proposed street name change based upon his own review of the application, the standards in Section 51A-9.304, and the comments received from those listed in Subsection (a). The subdivision administrator shall set a date for review of the application before the subdivision review committee of the city plan commission.

(c) Notice of the public hearing before the subdivision review committee must be advertised in the official newspaper of the city no fewer than 15 days before the date of the hearing. The subdivision administrator must also send written notice of the public hearing to abutting property owners as ownership appears on the last approved ad valorem tax roll no fewer than 15 days before the date of the hearing. Notification signs must be posted along the street for no fewer than 15 days before the date of the hearing.

(d) The subdivision review committee shall formulate a recommendation based upon their review of the application, the standards contained in Section 51A-9.304, and the recommendation of the subdivision administrator."

“SEC. 51A-9.306. HEARING BEFORE THE CITY PLAN COMMISSION.

(a) After review of the application by the subdivision review committee, the subdivision administrator shall set the application for hearing by the city plan commission.

(b) Notice of the public hearing before the city plan commission must be advertised in the official newspaper of the city no fewer than 30 days before the date of the hearing. The subdivision administrator must also send written notice of the public hearing to abutting property owners as ownership appears on the last approved ad valorem tax roll no fewer than 30 days before the date of the hearing. Notification signs must be posted along the street for no fewer than 30 days before the date of the hearing.

(c) The city plan commission shall make a recommendation to the city council of either approval or denial of the application based upon the testimony presented at the public hearing, the recommendations of the subdivision review committee and the subdivision administrator, and the standards contained in Section 51A-9.304.”


(a) If the city plan commission recommends denial of a street name change, the action of the city plan commission is final unless the applicant files a request for appeal to the city council within 10 days of the hearing at which the action was taken. The request for appeal must be in writing and must be submitted to the subdivision administrator.
(b) The subdivision administrator shall schedule a city council hearing on all applications for street name change in which the commission recommends approval, and in all applications in which the commission recommends denial if an appeal is requested in accordance with this section. [Notification procedures contained in Section 51A-9.306 must be followed for a public hearing before the city council.]

(c) Notice of the public hearing before the city council must be advertised in the official newspaper of the city no fewer than 15 days before the date of the hearing. The subdivision administrator must also send written notice of the public hearing to abutting property owners as ownership appears on the last approved ad valorem tax roll no fewer than 15 days before the date of the hearing. Notification signs must be posted along the street for no fewer than 15 days before the date of the hearing.

(d) The favorable vote of three-fourths of all members of the city council is required if:

1. the street name change has been recommended for denial by the city plan commission; or

2. a written protest against the street name change has been signed by the owners of 20 percent of all lots abutting the street.

(e) The city council shall either approve or deny the application based upon the testimony presented at the public hearing, the recommendations of the city plan commission, the subdivision review committee, and the subdivision administrator, and the standards contained in Section 51A-9.304."


"Providing that all required fees have been paid by the applicant, a name change approved by the city council takes effect 60 days after the date of its approval unless city council sets a later effective date [providing that all required fees have been paid by the applicant]."

SECTION 5. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed $2,000.
SECTION 6. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 7. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 8. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By__________________________________
Assistant City Attorney

Passed______________________________
REVISED AGENDA ITEM # 15

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: May 28, 2008

COUNCIL DISTRICT(S): 14

DEPARTMENT: Convention and Event Services

CMO: Ramon F. Miguez, P.E., 670-3308

MAPSCO: N/A

SUBJECT

Authorize the acceptance of an Economic Development Initiative grant award from the U.S. Department of Housing and Urban Development for improvements to Pearl Street Plaza (removal of the food kiosk on Pearl Street Plaza and associated costs) to purchase a hydraulic lift, tables, chairs, trash and recycling receptacles and planters for Shed 2 at the Dallas Farmers Market; and execution of the grant agreement - $149,115 - Financing: U.S. Department of Housing and Urban Development Grant Funds

BACKGROUND

On September 22, 2004, the City Council authorized a contract with Boka Powell, LLC to develop an Economic Development Strategic Plan for the Dallas Farmers Market.

On May 12, 2004 2005, the U.S. Department of Housing and Urban Development notified the City of Dallas of a grant award for capital improvements and equipment purchases at the Dallas Farmers Market.

The Economic Development Strategic Plan was completed and presented to the City Council Economic Development and Housing Committee on April 17, 2006 and accepted by City Council on April 26, 2006. At this same meeting, the City Council authorized Supplemental Agreement No. 1 to the contract with Boka Powell, LLC for architectural and engineering services for improvements to Shed 2.

On June 13, 2007, the City Council authorized a construction contract with Phillips May Corporation for renovation of Shed 2 in the Dallas Farmers Market to include new tenant storefront entries, building insulation, utility upgrades, public restrooms, and a climate control system. These improvements will support approximately 50 food and food related product vendors and a limited number of non-food related products, including home and garden gifts and other artisan products.
BACKGROUND (Continued)

This action will accept a grant to provide additional capital improvements and equipment purchases at the Dallas Farmers Market to include: improvements to Pearl Street Plaza (removal of the food kiosk on Pearl Street Plaza and associated costs) in accordance with the Master Plan for the Market, to purchase a hydraulic lift, tables, chairs, trash and recycling receptacles and planters for Shed 2.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a contract with Boka Powell, LLC to develop an Economic Development Strategic Plan for the Dallas Farmers Market on September 22, 2004, by Resolution No. 04-2756.

Presented Economic Development Strategic Plan for the Dallas Farmers Market to the City Council Economic Development and Housing Committee on April 17, 2006.

Accepted Economic Development Strategic Plan for the Dallas Farmers Market on April 26, 2006, by Resolution No. 06-1258.

Authorized Supplemental Agreement No. 1 to the contract with Boka Powell, LLC for architectural and engineering services for improvements to Shed 2 and adjacent areas at the Dallas Farmers Market on April 26, 2006, by Resolution No. 06-1194.

Presented an update to the Economic Development Strategic Plan for Dallas Farmers Market to the City Council Economic Development and Housing Committee on February 5, 2007.

Authorized a construction contract with Phillips May Corporation for improvements to Shed 2 on June 13, 2007, by Resolution No. 07-1766

FISCAL INFORMATION

U.S. Department of Housing and Urban Development - $149,115
WHEREAS, on May 12, 2004 2005, the U.S. Department of Housing and Urban Development authorized in the Consolidated Appropriations Act of 2004 (PL 108-199) Economic Development Initiative (EDI) funds for the City of Dallas, Farmers Market for renovations in the amount of $149,115 (Grant Number: B-04-SP-TX-0767; and

WHEREAS, the grant funds are restricted to construction, rehabilitation, property acquisition and other “hard cost” activities as opposed to service or program delivery costs, and

WHEREAS, the Dallas Farmers Market has identified specific projects meeting this criteria,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the City Manager be and is hereby authorized to accept the U.S. Department of Housing and Urban Development (HUD), Economic Development Initiative (EDI) grant in the amount of $149,115 and execute any and all grant agreement documents related to the award with the U.S. Department of Housing and Urban Development, subject to approval as to form by the City Attorney.

Section 2. That the City Manager is hereby authorized to establish appropriations in the amount of $149,115, in Fund F195, Dept. Economic Development Initiative, Unit 0782, Object 4599.

Section 3. That the City Controller be authorized to receive these funds in the amount of $149,115, Fund F195, Dept. Economic Development Initiative, Unit 0782, Revenue Code 6506.

Section 4. That the City Controller be authorized to disburse funds from Fund F195, Dept. Economic Development Initiative, Unit 0782, Object 4599, in an amount not to exceed $149,115.

Section 5. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.
SUBJECT

Authorize the purchase a contract with Lawson Software, Incorporated for the purchase and maintenance of the Lawson human resources and payroll software and end-user licenses to support the upgrade of the Human Resources Information System - Total not to exceed $40,000 - Financing: 2007 Equipment Acquisition Contractual Obligation

BACKGROUND

The City's uses Lawson software application for its human resources and payroll information database. Lawson's end-user licensing support ensures the City's and employee access to the HRIS. Software maintenance includes service pack patches and access to system upgrades.

Lawson's current application, version 8.03, is scheduled for decommission on May 31, 2009. To maintain support and business operations, the City must upgrade (though an implementation) to Lawson System Foundations 9 (LSF9), the vendor's most current supportable human resources and payroll application. The purchase of the licenses for the applications the first step towards implementation of 9.0. Lawson is the sole authorized provider in the United States for the Lawson System Foundation 9.0 software application and the only vendor authorized to provide maintenance support for the Lawson software products.

City Council's approval of this item authorizes a Support Agreement contract with Lawson Software, Inc for the purchase and maintenance of end-user licenses to support the upgrade of the Human Resources Information System.
PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 22, 2007, City Council authorized a thirty-six month contract renewal with Lawson Software, Inc., for on-going support of the human resources and payroll software and end-user licenses to support the Human Resources Information System – Resolution No. 07-2412

On September 27, 2006, City Council authorized contract renewal with Lawson Software, Inc. for on-going support of the human resources and payroll software and end-user licenses to support the Human Resources Information System - Resolution No. 06-2658

On November 9, 2005, City Council authorized the final year of initial sixty-month contract (approved November 14, 2001 – Resolution 013387) with Lawson Associates to provide annual support for the Human Resources Information System - Resolution No. 05-3307

On September 22, 2004, City Council authorized third year of sixty month contract (approved November 14, 2001 – Resolution 013387) with Lawson Associates to provide annual support of Human Resources Information System – Resolution No. 04-2858

On September 24, 2003, City Council authorized continuation of existing agreements with Deloitte & Touche, LLP, Lawson, Kronos, and BSI for hosting, maintenance and support of the Human Resources Information System – Resolution No. 03257

On September 24, 2003, City Council authorized acceptance of one-time credit of $75,000 from Deloitte & Touche, LLP, and $25,309 from Lawson Associates, Inc., to reduce fiscal year payments for services related to hosting, maintenance, and support of the Human Resources Information System - Resolution No. 03-2588

On August 13, 2003, City Council authorized amendment to contract with Lawson Associates, Inc., to terminate the annual support of services relative to the e-Recruiting application of the Human Resources Information System - Resolution No. 03-2160

On November 13, 2002, City Council authorized the second amendment with contract with Deloitte & Touche, in association with Lawson Associates, Inc., Kronos Incorporated and Business Software, Inc, to provide annual hosting and maintenance for the Human Resources Information System - Resolution No. 02-3258

On June 26, 2002, City Council authorized the first amendment to the contract with Lawson to provide for web based enrollment by retirees for health benefits in the Human Resources Information System - Resolution No. 02-1956
PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS) (continued)

On November 14, 2001, City Council authorized contracts with Deloitte & Touche, LLP, in association with Lawson Associates, Inc., Kronos Incorporated, and Business Software, Inc. for the implementation, software licensing, hosting and maintenance of a Human Resources Information System - Resolution No. 01-3387

FISCAL INFORMATION

$40,000  - 2007 Equipment Acquisition Contractual Obligation Notes

M/WBE INFORMATION

All services will be provided in-house Lawson Software, Inc.  There are no subcontracting opportunities available.

ETHNIC COMPOSITION

Lawson Associates, Inc.

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Female</th>
<th>Male</th>
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<td>786</td>
</tr>
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<td>Other</td>
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<td>62</td>
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OWNER(S)

Lawson Associates, Inc. is a publicly traded company (NASDAQ): SWSN; LWSN

Harry Debes, President & CEO
Robert Schriesheim, Executive Vice President & CFO
Bruce McPheeters, Senior Vice President, General Counsel & Corporate Secretary
WHEREAS, in 2001, pursuant to the competitive bid laws of the State of Texas, the City of Dallas requested competitively sealed proposals for the implementation of a Human Resources Information System (HRIS); and the subsequent approval and contract awards included HRIS licensing, annual software and technical and support; and

WHEREAS, Lawson Software, Inc. was selected as the vendor to provide the software to serve as the centralized database for all human resources and payroll information; and

WHEREAS, Lawson Software, Inc. is sole-source provider for Lawson software maintenance and licensing support; and

WHEREAS, the City is retaining Lawson software as the City's centralized database for human resources and payroll information.

NOW THEREFORE,
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1. That the firm of Lawson Software, Inc. is hereby designated as the vendor to provide software maintenance and licenses support services for the Human Resources Information System (HRIS) for the City of Dallas.

Section 2. That the City Manager or designee be and is hereby authorized to contract with Lawson for purchase and maintenance of end-user licenses to support the upgrade of the Human Resources Information System (HRIS).

Section 3. That the City Controller is authorized to disburse funds in an amount not to exceed $40,000 from Fund 0598, Dept PER, Unit E290, Object 3070, Activity TECH to Lawson Software, Inc., Vendor #500398, Encumbrance # PERLSN2008LSF9.

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.

Distribution:
Human Resources - 6AS
City Attorney - 7DN
Communication and Information Services - 4DS
Office of Financial Services - 4FN
A public hearing to receive comments regarding an application to amend for and an ordinance granting an amendment to Zones 1A and 1B of Planned Development District No. 184 for office, retail and residential uses, on the northeast corner of Cedar Spring Road and Carlisle Street.

Recommendation of Staff: Approval, subject to a conceptual plan, revised development plan, landscape plan and staff’s recommended conditions.

Recommendation of CPC: Denial

Z078-159(WE)
FILE NUMBER: Z078-159(WE)  DATE FILED: February 23, 2008

LOCATION: Carlisle Street and Cedar Springs Road, northeast corner

COUNCIL DISTRICT: 14  MAPSCO: 45 - B

SIZE OF REQUEST: Approx. 2.3085 acres  CENSUS TRACT: 18.00

APPLICANT/ OWNER: CFRI-FOCH Cedar Springs hotel, L.P.

REPRESENTATIVE: Jackson Walker, LLP, Suzan Kedron

REQUEST: An application to amend Zones 1A and 1B of Planned Development District No. 184 for office, retail and residential uses.

SUMMARY: The purpose of this request is to allow for the construction of a mixed use development that consists of a hotel, restaurant and multifamily uses. The proposed development will have approximately 198,875 square feet of hotel space, 21,392 square feet of restaurant and spa space, 90 multiple family units, and between 2 to 3 brownstone units that will be oriented towards the Katy Trail.

CPC RECOMMENDATION: Denial

STAFF RECOMMENDATION: Approval, subject to a conceptual plan, revised development plan, landscape plan and staff’s recommended conditions
BACKGROUND INFORMATION:

- The applicant’s request for an amendment to Zones 1A and 1B of Planned Development District No. 184 for office, residential and retail uses will allow for the construction of a mixed use development. The mixed development will allow for the construction of a 5-story luxury hotel, an 15-story residential tower, 2 to 3 brownstone units, and a restaurant and spa use.

- The applicant is also proposing to create a single development zone to construct the mixed use development and increase the maximum structure height from 196 feet to 271 feet. Currently, PDD No. 184 allows for a maximum structure height of 196 feet in Zones 1A and 1B. The additional height will allow for the construction of the residential tower.

- The proposed development will have three separate designated ingress and egress locations: 1) the driveway on Carlisle Street will be designated for the hotel guests and may have valet parking for the hotel guests, 2) the driveway on Cedar Springs Road will be used by the residents and will have valet parking for guests of the residents, and 3) the 2nd driveway on Carlisle Street is a service entrance/exit for the mixed use development.

Zoning History: There have been three recent zoning changes request in the area.

1. Z067-275 On February 27, 2008, the City Council denied a Planned Development Subdistrict for HC Heavy Commercial Subdistrict uses within Planned Development District No. 193, on property zoned a GR General Retail Subdistricts and an HC Heavy Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District in the area generally located on both sides of Routh Street at the terminus of Katy Trail.

2. Z045-138 On April 27, 2005, the City Council approved a Planned Development Subdistrict for O-2 Office Subdistrict uses and a Retirement Housing Community within Planned Development District No. 193, the Oak Lawn Special Purpose District, on property zoned an O-2 Office Subdistrict within Planned Development District No. 193 in the area generally located south of the intersection of Cedar Springs/Bowen Street and Turtle Creek Blvd.

3. Z034-284 On October 13, 2004, the City Council approved a Planned Development Subdistrict for GR General Retail Subdistrict uses and a bank with a drive-in
window service, subject to a development plan, landscape plan and conditions on property zoned a GR General Retail Subdistrict within Planned Development District No. 193, the Oak lawn Special Purpose District in the general area bounded by Cedar Springs Road, Carlisle Road and Routh Street.

**Thoroughfares/Streets:**

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<th>Type</th>
<th>Existing ROW</th>
<th>Proposed ROW</th>
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</thead>
<tbody>
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<td>Cedar Springs Road</td>
<td>Collector</td>
<td>100 ft.</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Carlisle Street</td>
<td>Minor Arterial</td>
<td>50 ft.</td>
<td>50 ft.</td>
</tr>
</tbody>
</table>

**Land Use:**

<table>
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<th>Site</th>
<th>Zoning</th>
<th>Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>O-2 w/in PDD No. 193</td>
<td>Katy Trail, Undeveloped</td>
</tr>
<tr>
<td>South</td>
<td>O-2 w/in PDD No. 193</td>
<td>Multifamily and restaurant</td>
</tr>
<tr>
<td>East</td>
<td>PDD No. 184, Zone 2</td>
<td>Multifamily</td>
</tr>
<tr>
<td>West</td>
<td>HC w/in PDD No. 193</td>
<td>Art supply store, Storage facility, Restaurant</td>
</tr>
</tbody>
</table>

**Comprehensive Plan:** The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies that support the applicant’s request for a mixed use development.

The applicant is proposing to construct the mixed use development as a safe place for guest and residents to conduct businesses in and around the Dallas area. The proposed development will create an urban feel along Cedar Springs Road with an additional 30-foot setback from the street curb to the proposed residential tower. The hotel portion of the development will be restricted by the height zones that are illustrated on the development plan that shows a maximum height of 95 feet. The maximum structure height of the brownstones are 85 feet.

**Urban Design Element**

**Goal 5.1** Promote a sense of place, safety and workability

Policy 5.1.2 Define urban character in Downtown and urban cores
Goal 5.2 Strengthen community and neighborhood identity
Policy 5.2.4 Enhance retail, industrial and business operations

Area Plans:

The Oak Lawn Special Purpose District and the Oak Lawn Plan include the following objectives:

1. To achieve buildings more urban in form.
2. To promote and protect an attractive street level pedestrian environment with continuous street frontage activities in retail areas.
3. To encourage the placement of off-street parking underground or within buildings similar in appearance to non-parking buildings.
4. To promote development appropriate to the character of nearby neighborhood uses by imposing standards sensitive to scale and adjacency issues.
5. To use existing zoned development densities as a base from which to plan, while providing bonuses to encourage residential development in commercial areas.
6. To discourage variances or zoning changes which would erode the quantity or quality of single-family neighborhoods, or would fail to adhere to the standards for multiple-family neighborhoods and commercial areas.
7. To promote landscape/streetscape quality and appearance.

The applicant's request complies with all of the above mentioned objectives except for item #6, by providing a structure more in urban form that provides a quality pedestrian environment and conceals parking. The applicant’s conditions include provisions intended to address the scale of the project relative to the adjacent uses, however the scale of the proposed residential tower at the applicant’s proposed height is not compatible with the adjacent uses. The property is currently zoned for an O-2 Office District, including “limited uses” and a maximum of 25,000 square feet of floor area of bar and restaurant uses and retail uses (with separate entrances allowed) and the applicant is proposing greater structure height than is currently allowed. The proposal does not comply with objective 6 above.

STAFF ANALYSIS:

Land Use Compatibility: The 2.3085 acre site fronts on several street frontages and is undeveloped. The site is currently being used for a staging area for the construction of an 8-story luxury residential/restaurant use that is located on the southeast corner of Carlisle Street and Cedar Springs Road. The applicant's
request for an amendment to Zones 1A and 1B of Planned Development District No. 184 for office residential and retail uses are threefold: 1) to combine Zones 1A and 1B into a single development zone, 2) increase the maximum structure height from 196 feet to 271 feet, and 3) to increase the maximum permitted floor area for all buildings form 341,000 square feet to 441,000 square feet. The applicant proposes to combine Zones 1A and 1B into a single zone to allow for the construction of a mixed use development that will consist of a 5-story luxury hotel, a 15-story residential tower, 2 to 3 brownstone units, and a restaurant and spa use. The mixed use development will limit the maximum allowable structure height within the proposed development by designating several height zones.

The proposed mixed-use development will contain a multi-level parking structure with approximately 2 levels below grade and 4 levels above grade with a hotel and residential amenity deck above the parking structure with a 15-story residential tower with some limited retail. A pool deck is proposed to be constructed on top of the above-grade parking structure.

In addition, the development will have three main design components. First, the development will include a 5-story hotel limited to a maximum height of 95 feet. The hotel will act as the base for the second design component which is a 15-story residential tower, which begins on the 8th floor of the development and will not exceed the maximum proposed structure height of 271 feet. The applicant has received a determination of no hazard to air navigation letter from the Federal Aviation Administration regarding the maximum development height of 299 feet (see attached Aviation Administration letter). The third and final design component is the development of 2 to 3 brownstone units that will face the Katy Trail. The maximum height of the brownstones is limited to 85 feet.

The development plan identifies the major design components and the heights to which each area is restricted (see attached development plan). In addition, the proposed development will be designed to accommodate limited accessory and restaurant uses. The maximum square feet of floor area proposed for the accessory and restaurant uses is approximately 21,392 square feet. The accessory uses will be constructed on the 6th and 7th floor and will accommodate the residents and hotel guests. There will be two restaurants within the mixed use development and are located on the 1st and 7th floor. The 7th floor is considered the hotel and residential amenity deck.

Moreover, the applicant has requested an additional 1.0 FAR floor area ratio bonus (which equates to approximately 100,000 square feet of floor area) to the proposed mixed use development. The additional bonus reflects the applicant’s desire to incorporate LEED design standards into the mixed use development as well as provide a below grade parking structure. By incorporating LEED standards into the design, the applicant wants to become the first mixed use LEED certified development in North America for a hotel/residential use. The maximum permitted floor area for all buildings in Zone 1 will increase from 341,000 square feet to
441,000 square feet. The applicant has proposed the following maximum square feet of floor area for each use:

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum Square footage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotel</td>
<td>198,875</td>
</tr>
<tr>
<td>Multiple Family</td>
<td>220,500</td>
</tr>
<tr>
<td>Restaurant/Spa</td>
<td>21,392</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>440,767</strong></td>
</tr>
</tbody>
</table>

The proposed mixed use development has also identified three driveway approaches: 2 on Carlisle Street and 1 on Cedar Springs Road. The main driveway approach off of Carlisle Street will provide access only to the hotel guests through an internal motor court area. This main access serves two functions as it relates to the drop-off areas; 1) to the hotel lobby area and 2) to the resident’s lobby area (excluding the brownstones). Even though there is a separate driveway access off of Cedar Springs Road, the residents can use the main driveway access off of Carlisle Street to enter their residence. The 2nd driveway access on Carlisle Street will be used for all loading and unloading to the hotel and residential tower.

As mentioned above, the residents have a separate designated driveway access off of Cedar Springs Road. This access is also an internal circular drive that is designed to have valet parking. The residents living in the brownstones will have access only through this driveway approach.

The surrounding land uses consist primarily of offices, residential and retail uses. The residential uses are primarily on the east side of Cedar Springs Road, north of the Katy Trail. The request site is contiguous to a 5-story multiple family use that is located within Zone 2 of PDD No. 184. On the south side of Carlisle Street, east of Cedar Springs Road, is an existing 7-story multiple family use, with Phase II, of an 8-story multiple family and restaurant use, under construction. The two multiple family uses are zoned for a maximum structure height of 100 feet and 240 feet, respectively.

On the west side of the request site, across Cedar Springs Road, are various uses that consist of office, mini-storage and restaurant uses. These uses are primarily developed as 2 to 3 stories and are zoned for a maximum height of 240 feet. Over the past 2 to 3 years, there have been several zoning change requests to allow for an increase in the height and density regulations in the Uptown area.

The applicant and their representative conducted several meetings with the adjacent community to discuss the proposed development. The dialogue between the two parties was very productive and resulted in the applicant agreeing to following conditions: lower the initial structure height from 299 feet to 271 feet, reduce the additional 100,000 square feet of floor area to 85,000 square feet, prohibit compact
car spaces within the development, provide all off-street parking below grade with the exception of approximately 20 off-street parking spaces being located above grade, and increasing the off-street parking requirements for multiply family uses from 1-1/2 parking spaces per dwelling unit to 2.0 parking spaces per dwelling unit. These additional conditions have been added to staff’s Proposed Development conditions.

Staff can support the additional provisions the applicant has offered for the proposed development except for the structure’s height. Staff believes the height should be limited to 240 feet unless the applicant agrees to Silver LEED certification.

### Development Standards:

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>SETBACKS</th>
<th>Density</th>
<th>Height</th>
<th>Lot Coverage</th>
<th>Special Standards</th>
<th>PRIMARY Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Front</td>
<td>Side</td>
<td>Rear</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PDD No. 184, Zone 1A &amp; 1B - existing</td>
<td>25' Cedar Springs, 22' Carlisle St.</td>
<td>20'/0'/10'</td>
<td>Zone 1A &amp; 1B - 341,000 sq. ft.</td>
<td>Zone 1A &amp; 1B - 71%</td>
<td>Proximity Slope; U-form setback; Tower spacing; Visual Intrusion</td>
<td>Office, retail</td>
</tr>
<tr>
<td>Applicant’s Proposal</td>
<td>25' Cedar Springs, 22' Carlisle St.</td>
<td>20'/0'/10'</td>
<td>Zone 1A &amp; 1B - 441,000 sq. ft.</td>
<td>20'</td>
<td>Zone 1 - 71%</td>
<td>Proximity Slope; U-form setback; Tower spacing; Visual Intrusion</td>
</tr>
<tr>
<td>Staff’s Recommendation</td>
<td>25' Cedar Springs, 22' Carlisle St.</td>
<td>20'/0'/10'</td>
<td>Zone 1A &amp; 1B - 341,000 sq. ft.</td>
<td>240'</td>
<td>Zone 1 - 71%</td>
<td>Proximity Slope; U-form setback; Tower spacing; Visual Intrusion</td>
</tr>
</tbody>
</table>

**Note:** The uses that are permitted in Zone 1A and 1B is an O-2 Office District, including “limited uses” and a maximum of 25,000 square feet of floor area of bar and restaurant uses and retail uses (with separate entrances allowed). Also, the maximum FAR permitted in an O-2 District is 4:1. An additional .5:1 FAR is allowed where there is a minimum 1:1 component of residential use.

**Landscaping:** The landscaping requirements in the original conditions stated that a detailed landscape plan using the guidelines of the Oak Lawn Forum plan must be approved by the City Plan Commission on or before the time of approval of each phase of the detailed development plan. The City Arborist has reviewed the approved detailed development plan as well as the Oak Lawn Forum Plan to determine the specific landscape requirements.

In reviewing both documents, staff concluded that the applicant’s submitted landscape plan will meet, in spirit, the landscaping requirements for an O-2 Office Subdistrict in Part 1 of Planned Development District 193, the Oak Lawn Special Purpose District as well as comply with the landscaping regulations under the tree mitigation and tree preservation provisions in Article X.

**Public Works and Transportation Department:** The Public Works and Transportation Department has reviewed the applicant’s request and have made
specific recommendations to the roadway improvements on Carlisle Street and Cedar Springs Road. Based on a review of the revised development plan, the applicant has met the requirements stated by the Public Works and Transportation Department.

**CPC Action** (April 3, 2008)

**Motion:** It was moved to recommend denial of an amendment to Zones 1A and 1B of Planned Development District No. 184 for office, retail and residential uses on the northeast corner of Cedar Springs Road and Carlisle Street.

Maker: Emmons  
Second: Rodgers  
Result: Carried: 9 to 5

For: 9 - Gary, Rodgers, Lozano, Bagley, Jones-Dodd, Weiss, Buehler, Wolfish, Emmons

Against: 5 - Prothro, Davis, Lueder, Ekblad, Alcantar

Absent: 1 - Strater  
Vacancy: 0

**Notices:**  
Area: 500  
Mailed: 49

**Replies:**  
For: 9  
Against: 9

**Speakers:**  
For: Richard Doherty, 10940 Wilshire Blvd., Los Angeles, CA, 90024  
Andrew Bennett, 6104 Shadycliff Dr., Dallas, TX, 75240  
Suzan Kedron, 901 Main St., Dallas, TX, 75202  
Nancy Allen, 2801 Turtle Creek Blvd., Dallas, TX, 75219  
Chris Mechyra, 1309 Main St., Dallas, TX, 75202

Against: Harriet Rubin, 2714 Turtle Creek Cr., Dallas, TX, 75219  
Jonathan Bailey, 2706 Turtle Creek Cr., Dallas, TX, 75219  
Linda Marcus, 2814 Park Bridge Ct., Dallas, TX, 75219  
Cay Kolb, 4402 Rawlins, Dallas, TX, 75219
LIST OF OFFICERS
CFRI-FOCH CEDAR SPRINGS HOTEL, L.P.

- David Thurman  Partner
- Richard Doherty  Partner
- Timothy Shine  Partner
- Hugh Scott  Partner
Federal Aviation Administration
Air Traffic Airspace Branch, ASW-520
2601 Meacham Blvd.
Fort Worth, TX 76137-0520

Aeronautical Study No.
2007-ASW-6757-OE

Issued Date: 02/04/2008

David Thurman
Foch Investments
10940 Wilshire Blvd Suite 1600
Los Angeles, CA 90024

** DETERMINATION OF NO HAZARD TO AIR NAVIGATION **

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure: Building St Regis Hotel and Residences
Location: Dallas, TX
Latitude: 32-48-05.13N NAD 83
Longitude: 96-48-19.74W
Heights: 310 feet above ground level (AGL)
770 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the structure would not be a hazard to air navigation provided the following condition(s) is(are) met:

As a condition to this Determination, the structure is marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights - Chapters 4,5(Red),&12.

It is required that the enclosed FAA Form 7460-2, Notice of Actual Construction or Alteration, be completed and returned to this office any time the project is abandoned or:

_____ At least 10 days prior to start of construction (7460-2, Part I)
____X___ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

See attachment for additional condition(s) or information.

Any height exceeding 310 feet above ground level (770 feet above mean sea level), will result in a substantial adverse effect and would warrant a Determination of Hazard to Air Navigation.

This determination expires on 08/04/2009 unless:

(a) extended, revised or terminated by the issuing office.
(b) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within
6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE POSTMARKED OR DELIVERED TO THIS OFFICE AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE.

This determination is subject to review if an interested party files a petition that is received by the FAA on or before March 05, 2008. In the event a petition for review is filed, it must contain a full statement of the basis upon which it is made and be submitted in triplicate to the Manager, Airspace and Rules Division - Room 423, Federal Aviation Administration, 800 Independence Ave., Washington, D.C. 20591.

This determination becomes final on March 15, 2008 unless a petition is timely filed. In which case, this determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review. For any questions regarding your petition, please contact Office of Airspace and Rules via telephone -- 202-267-8783 - or facsimile 202-267-9328.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

This aeronautical study considered and analyzed the impact on existing and proposed arrival, departure, and en route procedures for aircraft operating under both visual flight rules and instrument flight rules; the impact on all existing and planned public-use airports, military airports and aeronautical facilities; and the cumulative impact resulting from the studied structure when combined with the impact of other existing or proposed structures. The study disclosed that the described structure would have no substantial adverse effect on air navigation.

An account of the study findings, aeronautical objections received by the FAA during the study (if any), and the basis for the FAA's decision in this matter can be found on the following page(s).

A copy of this determination will be forwarded to the Federal Communications Commission if the structure is subject to their licensing authority.

If we can be of further assistance, please contact Bruce Beard, at (817)838-1996. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2007-ASW-6757-OE.
SEC. 51P-184.101. LEGISLATIVE HISTORY.

PD 184 was established by Ordinance No. 18445, passed by the Dallas City Council on October 31, 1984. Ordinance No. 18445 amended Ordinance No. 10962, Chapter 51 of the Dallas City Code, as amended. Ordinance No. 18445 was amended by Ordinance No. 18643, passed by the Dallas City Council on March 27, 1985; Ordinance No. 22098, passed by the Dallas City Council on June 22, 1994; and Ordinance No. 23975, passed by the Dallas City Council on August 11, 1999. (Ord. Nos. 10962; 18445; 18643; 22098; 23975; 25508)

SEC. 51P-184.102. PROPERTY LOCATION AND SIZE.

PD 184 is established on property generally located at the northeast corner of Carlisle Street and Cedar Springs Road. The size of PD 184 is approximately 3.9785 acres. (Ord. Nos. 18445; 25508)

Applicant’s proposal

SEC. 51P-184.103. ZONE 1 PURPOSE.

The standards of Zone 1 complement the development pattern in the area and recognize the area’s unique identity as a bridge between Oak Lawn and the Turtle Creek Corridor. The objectives of these standards are as follows:

1. To promote the health, safety, welfare, convenience, and enjoyment of the public.

2. To achieve buildings more urban in form.

3. To promote a pedestrian environment that connects to public open space.

4. To encourage development that complements nearby properties.

5. To encourage the placement of off-street parking underground.

6. To achieve buildings efficient in design and use of space while providing view corridors, light, and air to nearby properties.

7. To achieve buildings that reduce natural resource consumption, enhance occupant comfort and health, lower utility consumption, minimize strain on local infrastructures, and improve quality of life.

8. To create development flexibility that promotes active pedestrian use.
SEC. 51P-184.103. DEFINITIONS AND INTERPRETATIONS.

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

(b) In Zone 1:

(1) GRADE means the average of the finished ground surface elevations measured at the highest and lowest exterior corners of the structure. Finished ground surface elevation does not include landscape features, berms, or other fill material.

(2) HEIGHT means the vertical distance measured from the grade to:

(i) for a structure with a gable, hip, gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure;

(ii) for a structure with a dome roof, the midpoint of the vertical dimension of the dome; and

(iii) for any other structure, the highest point of the structure.

[c] Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51. (Ord. 25508)

SEC. 51P-184.104. CONCEPTUAL PLAN.

Development and use of the Property must comply with the conceptual plan (Exhibit B (184A, which replaces the [A] conceptual plan, [which was] approved by the city council on March 20, 1985, is labelled Exhibit 184A). The conceptual plan divides the Property into Zones 1[1A, 1B] and 2. (Ord. Nos. 18643; 23975; 25508.

SEC. 51P-184.105. DETAILED DEVELOPMENT PLAN.

(a) Zone[s] 1 [1A and 1B]. Development and use of the Property must comply with the development plan. [Development and use of Zones 1 1A and 1B must comply with the development plan (Exhibit 184[B]). If there is a conflict between the text of this article and the development plan, the text of this article controls.

(b) Zone 2. Within six months of the date of the passage of Ordinance No. 18445, as amended, a detailed development plan for either the entire PD, or a designated first phase of development, must be submitted to the city plan commission for approval prior to the issuance of a building permit for the Property. The detailed development plan must comply with the conceptual plan and this article. If a development plan is submitted for a designated first phase of development only, a subsequent
development plan must be submitted for each subsequent phase of development. Each subsequent development plan must comply with the conceptual plan and must be approved by the city plan commission prior to the issuance of a building permit for that phase of development. [(Ord. Nos. 23975; 25508)]

SEC. 51P-184.106. PERMITTED USES.

The only permitted uses on the Property are as follows:

(1) Zone[s] 1 [1A and 1B]. All uses permitted in an O-2 Office District, including “limited uses” and a maximum of 25,000 square feet of floor area of bar and restaurant uses and retail uses (with separate entrances allowed from the motor court only).

(2) Zone 2. Residential uses allowed in the MF-3 Multiple-Family District. [(Ord. Nos. 23975; 25508)]

SEC. 51P-184.107. MAXIMUM PERMITTED HEIGHTS.

(a) Except as provided in this subsection, maximum permitted height for Zone 1[A] is as follows:

(1) For a parking structure, 15 feet above grade only to accommodate the slope of the lot.

Staff’s Recommendation

(2) For all other structures, 240 feet or as shown the development plan, whichever is less.

Applicant’s proposal

(2) For all other structures, 271 feet or as shown the development plan, whichever is less.

[b) Maximum permitted height for Zone 1B is 196 feet.]

(b) Maximum permitted height for Zone 2 is 100 feet. (Ord. Nos. 23975; 25508)

SEC. 51P-184.108. FLOOR AREA.

(a) Maximum permitted floor area for all buildings in Zone[s] 1[1A and 1B] combined is 426,000 square feet.

(b) Maximum permitted floor area for all buildings in Zone 2 is 138,000 square feet.

(c) Total maximum floor area for all buildings on the Property is 564,000 square feet. [(Ord. Nos. 23975; 25508)]
SEC. 51P-184.109. MAXIMUM LOT COVERAGE.

(a) Maximum lot coverage in Zone[s] 1[A and 1B combined] is 71 percent (excluding parking structures).

(b) Maximum lot coverage in Zone 2 is 60 percent (excluding parking structures).

[Ord. Nos. 23975; 25508]

SEC. 51P-184.110. SETBACKS.

(a) In general. Setbacks are measured from the existing right-of-way lines and are shown on the conceptual plan for all buildings and structures in this PD.

(b) Zone[s] 1[A and 1B].

   (1) Minimum front yard is 25 feet on Cedar Springs Road and 22 feet on Carlisle Street.

   (2) Minimum rear yard from the Katy Trail right-of-way is 10 feet.

   (3) Minimum side yard is 20 feet.

(c) Zone 2.

   (1) Minimum front yard is 25 feet.

   (2) Minimum rear yard is 10 feet.

   (3) Minimum side yard is 10 feet (except that, along the line dividing Zone 2 from Zone[s] 1[A and 1B], the setback is zero).

[Ord. Nos. 23975; 25508]

SEC. 51P-184.111. SIGNS.

(a) Except as provided in this subsection, In Zone[s] 1[A and 1B], all signs must comply with the sign provisions for business districts in the Dallas Development Code.

   (1) Attached signs.

      (a) Attached signs may not exceed 125 feet above grade.

      (b) Attached signs may not face the Katy Trail.

      (c) Maximum effective area of all attached signs combined is 750 square feet
(2) Non-premise signs. Non-premise signs are prohibited.

(3) Monument signs. On Carlisle Street, the maximum height of monument sign is 15 feet above grade.

(b) In Zone 2, all signs must comply with the sign provisions for non-business districts in the Dallas Development Code. [(Ord. Nos. 23075; 25508)]

SEC. 51P-184.112. PARKING.

(a) Zones 1[1A and 1B].

(1) For office uses, one off-street parking space per 370 square feet of floor area of office use is required.

(2) For retail uses, one off-street parking space per 200 square feet of floor area of retail use is required.

(3) For residential uses, one off-street parking space per 500 square feet of floor area of residential use is required. (See the following paragraph for the requirements for hotel, [and] motel [uses] and multiple family uses.)

(4) For hotel and motel uses, one off-street parking space is required for each unit for units one to 250; 3/4 spaces for each unit for units 251 to 500; and 1/2 space for all units over 500. No off-street parking is required for accessory meeting rooms.

(5) For bar and restaurant uses, a bar and restaurant use in conjunction with a hotel/motel use requires one off-street parking space for each 200 square feet of floor area; otherwise, a bar and restaurant use requires one space for each 100 square feet of floor area.

(6) For multiple-family uses, a minimum of two off-street parking spaces is required per dwelling unit, with at least 0.25 of the off-street parking spaces left unassigned for guest parking.

(7) Except as provided, [F]or all other uses, off-street parking must be provided in accordance with Chapter 51.

i. For multiple family uses, compact car parking spaces are prohibited

ii. Except for 25 parking spaces, all off-street parking spaces must be provided below grade.
Staff’s Recommendation – Staff recommends provisions in the Development Code 

[(8) A property owner may charge a fee on a daily, hourly or other basis for the use of required off-street parking.]

Applicant’s proposal

(8) Except for multifamily uses, a property owner may charge a fee on a daily, hourly or other basis for the use of required off-street parking.

(b) Zone 2.

(1) For office uses, one off-street parking space per 370 square feet of floor area of office use is required.

(2) For retail uses, one off-street parking space per 200 square feet of floor area of retail use is required.

(3) For residential uses, one off-street parking space per 500 square feet of floor area of residential use is required.

SEC. 51P-184.113. OFF-STREET LOADING.

The off-street loading required for Zone[s] 1[A and B] is as set forth in Chapter 51, except that all off-street loading may be medium or small size spaces with a minimum of one space being of medium size. Bar and restaurant uses in Zone[s] 1[A and B] operated in conjunction with hotel and motel uses will be considered as hotel and motel floor area for off-street loading and will not be considered as a separate use for this purpose. [(Ord. Nos. 23975; 25508)]

SEC. 51P-184.114. ACCESS.

Zone 1.

(a) Except as provided in Section 118, there must be no vehicular access to the Property from Cedar Springs Road, or to Cedar Springs Road from the Property, except by right turn movements. [(Ord. Nos. 23975; 25508)]

Zone 2.

(b) There must be no vehicular access to the Property from Cedar Springs Road, or to Cedar Springs Road from the Property, except by right turn movements. [(Ord. Nos. 23975; 25508)]
SEC. 51P-184.115. RESIDENTIAL REQUIREMENT.

A minimum of 97,393 square feet of floor area of residential uses must be built on the Property before a certificate of occupancy will be issued for any nonresidential use on the Property. [(Ord. Nos. 23975; 25508)]

SEC. 51P-184.116. CONSTRUCTION STANDARDS.

(a) The following conditions apply to the construction of the development.

(b) Any glass used in any structure on the Property must not exceed 27 percent reflectivity in accordance with standards of the American Society of Testing Manufacturers.

(c) Any aboveground parking structures must have an exterior material that is consistent, in the opinion of the building official, with the exterior material of the main nonresidential buildings. [(Ord. Nos. 23975; 25508)]

SEC. 51P-184.117. LANDSCAPING AND SCREENING.

(a) Zone 1.

   (1) In general. Except as provided in this section, landscaping must comply with the approved landscape plan.

   (2) Timing. Except as provided in this paragraph, landscaping must be provided in accordance with the landscape plan before the final inspection of any structure on the lot. If development is in phases, the landscaping for each phase must be provided in accordance with the landscape plan before the final inspection in that phase.

   (4) Tree mitigation. Tree mitigation and preservation must be provided in accordance with Article X.

   (5) Minor amendment. A minor amendment to the landscape plan is not required for relocation of up to four trees.

   (6) Screening. Surface parking must be screened from view from the street by walls and/or landscaping. [A detailed landscape plan using the guidelines of the Oak Lawn Forum Plan must be approved by the city plan commission on or before the time of approval of each phase of the detailed development plan.]

(b) Zone 2.

   (1) Surface parking must be screened from view from the street by walls and/or landscaping. A detailed landscape plan using the guidelines of the Oak Lawn
Forum Plan must be approved by the city plan commission on or before the time of approval of each phase of the detailed development plan. [Landscaping for Zone[s] 1-1A and 1B] must be provided as shown on the landscape plan (Exhibit 184C). (Ord. Nos. 23975; 25508)]

SEC. 51P-184.118. ZONE 1 ENVIRONMENTAL PERFORMANCE STANDARDS.

(a) In general. Except as provided in this section for Zone 1, see Article VI.

(b) LEED certification.

(1) A United States Green Building Council’s Leadership in Energy and Environmental Design (LEED) checklist, effective May 1, 2004, must be submitted with an application for a building permit for development of a new structure within Zone 1, indicating how development will comply with a certified designation (26 to 32 project points). The development plans submitted for a building permit must be certified by a LEED accredited professional. A building permit may not be issued unless the building official determines that the project is consistent with the standards and criteria for a LEED certified designation.

(2) If during development within Zone 1, the developer is unable to achieve all of the green building rating system points identified on the checklist set forth in Paragraph (1), the developer must replace any points not achieved with other green building rating system points acceptable under the United States Green Building Council’s LEED rating system.

(3) All supporting documentation and templates related to the points previously approved by the city for the LEED certified level designation must be submitted with an application for a certificate of occupancy. A certificate of occupancy may not be issued until a LEED accredited professional designated by the department of development services certifies that the building complies with the LEED certified designation (26 to 32 points).

(4) LEED certification is only required for new structures within Zone 1. If an existing building is being repaired, renovated, or expanded, LEED certification is not required.

SEC. 51P-184.119. TRAFFIC IMPROVEMENTS.

(a) Before a certificate of occupancy is issued for any nonresidential use other than a bar or restaurant, the following conditions must have occurred.

(1) A 10-foot-wide deceleration lane on Cedar Springs Road into the Property must be constructed.
(2) An additional 10-foot-wide lane for right turn movements from Carlisle Street onto Cedar Springs Road must be constructed for a length of at least 100 feet from the corner.

(b) Except as provided in Subsection (c), there shall be no vehicular access by left turn to the Property from Cedar Springs Road or to Cedar Springs Road from the Property.

(c) Zone 1. If the Property is developed with a hotel, motel, and related uses and/or bar or restaurant uses, vehicular access by left turn onto the Property from Cedar Springs Road is permitted if a lane for left turn movements from southbound Cedar Springs Road onto the Property is constructed. If such a left turn lane is constructed, the curb cut for a driveway from the Property to Cedar Springs Road must be enlarged to at least 14 feet and a median must be constructed in the driveway to prevent left turns from the Property onto southbound Cedar Springs Road.

(d) Zone 2. If the Property is developed with a hotel, motel, and related uses and/or bar or restaurant uses, vehicular access by left turn onto the Property from Cedar Springs Road is permitted if a lane for left turn movements from southbound Cedar Springs Road onto the Property is constructed. If such a left turn lane is constructed, the curb cut for a driveway from the Property to Cedar Springs Road must be enlarged to at least 30 feet and a median must be constructed in the driveway to prevent left turns from the Property onto southbound Cedar Springs Road.

[If the Property is developed with a hotel, motel, and related uses and/or bar or restaurant uses, vehicular access by left turn onto the Property from Cedar Springs Road is permitted if a lane for left turn movements from southbound Cedar Springs Road onto the Property is constructed. If such a left turn lane is constructed, the curb cut for a driveway from the Property to Cedar Springs Road must be enlarged to at least 30 feet and a median must be constructed in the driveway to prevent left turns from the Property onto southbound Cedar Springs Road. (Ord. Nos. 23975; 25508)]

SEC 51P-184.120 KATY TRAIL

Before the issuance of a certificate of occupancy in Zone 1, public access must be provided from Zone 1 of the Property to the Katy Trail via sidewalk, bridge, or easement. Plans and specifications for the connection to the Katy Trail must be approved by the Director of Parks and Recreation before its construction.

SEC. 51P-184.121[19]. GENERAL REQUIREMENTS.

(a) Development of this PD must comply with the requirements of all ordinances and regulations of the city.
(b) All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications, and completed to the satisfaction of the director of public works and transportation.

(c) The building official shall not issue a building permit or certificate of occupancy for a use in this PD until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the city. [(Ord. Nos. 23975; 25508; 26102)]

SEC. 51P-184.122 ZONING MAP.

PD 184 is located on Zoning Map No. I-7.
EXISTING LANDSCAPE PLAN
## Notification List of Property Owners

### Z078-159 (WE)(CS)

60 Property Owners Notified

<table>
<thead>
<tr>
<th>Label #</th>
<th>Address</th>
<th>Owner</th>
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<tbody>
<tr>
<td>1</td>
<td>2728 CEDAR SPRINGS</td>
<td>FOCH SBE DALLAS PTNRS LLC</td>
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Thursday, February 14, 2008
Al Romero
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N Pk Lovefied Comm Civic League
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United HOA
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Hector Garcia  
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Friends of State-Thomas  
Judy Hearst  
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Dallas, TX 75201

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Julie Morris  
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Dallas, TX 75201

Harwood International, Inc.  
Jerry Jackson  
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Junius Heights HOA  
Kara Kunkel  
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Dallas, TX 75214

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Hanne Klein  
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Dallas, TX 75204

La Tour HA  
Marla McDonald  
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Chuck Cole  
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Robert Weiss, V.P Admin.  
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Dallas, TX 75219

Oak Lawn Comm. Prosecutor  
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Orion Real Estate Group  
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Dallas, TX 75354

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3310 Fairmount  
Dallas, TX 75201

Preston Hollow Asso  
M Thomas Lardner  
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Dallas, TX 75209

Raleighs-Hall Group  
Frank M Stick  
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Dallas, TX 75219

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Mitchell L Stone  
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Trust For Public Land  
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Dallas, TX 75201