MARCH 22, 2017 CITY COUNCIL AGENDA
CERTIFICATION

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Agenda dated March 22, 2017. 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.

T.C. Broadnax
City Manager

3/3/2017
Date

M. Elizabeth Reich
Elizabeth Reich
Chief Financial Officer

3-3-17
Date

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2017 MAR -3 PM 5:12
CITY SECRETARY
DALLAS, TEXAS

COUNCIL AGENDA

March 22, 2017
Date

(For General Information and Rules of Courtesy, Please See Opposite Side.)
(La Información General Y Reglas De Cortesía Que Deben Observarse
Durante Las Asambleas Del Consejo Municipal Aparecen En El Lado Opuesto, Favor De Leerlas.)

General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on Time Warner City Cable Channel 16. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 by 5:00 p.m. of the last regular business day preceding the meeting. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

If you need interpretation in Spanish language, please contact the City Secretary's Office at 214-670-3738 with a 48 hour advance notice.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-3738 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. ***The Council agenda is available in alternative formats upon request***.

If you have any questions about this agenda or comments or complaints about city services, call 311.

Rules of Courtesy

City Council meetings bring together citizens of many varied interests and ideas. To insure fairness and orderly meetings, the Council has adopted rules of courtesy which apply to all members of the Council, administrative staff, news media, citizens and visitors. These procedures provide:

- That no one shall delay or interrupt the proceedings, or refuse to obey the orders of the presiding officer.
- All persons should refrain from private conversation, eating, drinking and smoking while in the Council Chamber.
- Posters or placards must remain outside the Council Chamber.
- No cellular phones or audible beepers allowed in Council Chamber while City Council is in session.

"Citizens and other visitors attending City Council meetings shall observe the same rules of propriety, decorum and good conduct applicable to members of the City Council. Any person making personal, impertinent, profane or slanderous remarks or who becomes boisterous while addressing the City Council or while attending the City Council meeting shall be removed from the room if the sergeant-at-arms is so directed by the presiding officer, and the person shall be barred from further audience before the City Council during that session of the City Council. If the presiding officer fails to act, any member of the City Council may move to require enforcement of the rules, and the affirmative vote of a majority of the City Council shall require the presiding officer to act." Section 3.3(c) of the City Council Rules of Procedure.

Información General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes. Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación *Time Warner City Cable* Canal 16. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 5:00 pm del último día hábil anterior a la reunión. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Si necesita interpretación en idioma español, por favor comuníquese con la oficina de la Secretaria del Ayuntamiento al 214-670-3738 con notificación de 48 horas antes.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-3738 (aparato auditivo V/TDD). La Ciudad de Dallas está comprometida a cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilties Act*. ***La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita***.

Si tiene preguntas sobre esta agenda, o si desea hacer comentarios o presentar quejas con respecto a servicios de la Ciudad, llame al 311.

Reglas de Cortesía

Las asambleas del Ayuntamiento Municipal reúnen a ciudadanos de diversos intereses e ideologías. Para asegurar la imparcialidad y el orden durante las asambleas, el Ayuntamiento ha adoptado ciertas reglas de cortesía que aplican a todos los miembros del Ayuntamiento, al personal administrativo, personal de los medios de comunicación, a los ciudadanos, y a visitantes. Estos reglamentos establecen lo siguiente:

- Ninguna persona retrasará o interrumpirá los procedimientos, o se negará a obedecer las órdenes del oficial que preside la asamblea.
- Todas las personas deben de abstenerse de entablar conversaciones, comer, beber y fumar dentro de la cámara del Ayuntamiento.
- Anuncios y pancartas deben permanecer fuera de la cámara del Ayuntamiento.
- No se permite usar teléfonos celulares o enlaces electrónicos (*pagers*) audibles en la cámara del Ayuntamiento durante audiencias del Ayuntamiento Municipal.

"Los ciudadanos y visitantes presentes durante las asambleas del Ayuntamiento Municipal deben de obedecer las mismas reglas de comportamiento, decoro y buena conducta que se aplican a los miembros del Ayuntamiento Municipal. Cualquier persona que haga comentarios impertinentes, utilice vocabulario obsceno o difamatorio, o que al dirigirse al Ayuntamiento lo haga en forma escandalosa, o si causa disturbio durante la asamblea del Ayuntamiento Municipal, será expulsada de la cámara si el oficial que esté presidiendo la asamblea así lo ordena. Además, se le prohibirá continuar participando en la audiencia ante el Ayuntamiento Municipal. Si el oficial que preside la asamblea no toma acción, cualquier otro miembro del Ayuntamiento Municipal puede tomar medidas para hacer cumplir las reglas establecidas, y el voto afirmativo de la mayoría del Ayuntamiento Municipal precisará al oficial que esté presidiendo la sesión a tomar acción." Según la sección 3.3(c) de las reglas de procedimientos del Ayuntamiento.

Handgun Prohibition Notice for Meetings of Government Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapitulo h, capitulo 411, código del gobierno (ley sobre licencias para portar pistolas), no *puede ingresar a esta propiedad con una pistola oculta."*

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapitulo h, capitulo 411, código del gobierno (ley sobre licencias para portar pistolas), no *puede ingresar a esta propiedad con una pistola a la vista."*

AGENDA
CITY COUNCIL MEETING
WEDNESDAY, MARCH 22, 2017
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	
	MINUTES	Item 1
	CONSENT AGENDA	Items 2 - 40
	ITEMS FOR INDIVIDUAL CONSIDERATION	
No earlier than 9:15 a.m.		Items 41 - 46
	PUBLIC HEARINGS AND RELATED ACTIONS	
1:00 p.m.		Items 47 - 63

NOTE: A revised order of business may be posted prior to the date of the council meeting if necessary.

AGENDA

CITY COUNCIL MEETING

MARCH 22, 2017

CITY OF DALLAS

1500 MARILLA

COUNCIL CHAMBERS, CITY HALL

DALLAS, TEXAS 75201

9:00 A. M.

Invocation and Pledge of Allegiance (Council Chambers)

Agenda Item/Open Microphone Speakers

VOTING AGENDA

1. Approval of Minutes of the February 22, 2017 City Council Meeting

CONSENT AGENDA

Aviation

2. Authorize **(1)** acceptance of the FY 2017 grant (Grant No. M1718 DLEX) from the Texas Department of Transportation Aviation Division for the Routine Airport Maintenance Program at Dallas Executive Airport in an amount not to exceed $50,000 or 50% of eligible project costs whichever is less; **(2)** provide a local cash match in the amount of $50,000 for airport maintenance projects; and **(3)** execution of the grant agreement - Total not to exceed $100,000 - Financing: Aviation Current Funds ($50,000) (subject to appropriations) and Texas Department of Transportation Grant Funds ($50,000)

3. Authorize Supplemental Agreement No. 4 to the professional services contract with Garver, LLC for design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II, and Taxiway Mike Phase II at Dallas Love Field - Not to exceed $1,737,770, from $3,456,534 to $5,194,304 - Financing: Aviation Capital Construction Funds ($698,258), Aviation Near Term Passenger Facility Charge Funds ($250,000) and Federal Aviation Administration Airport Improvement Program Grant Funds ($789,512)

CONSENT AGENDA (Continued)

Business Development & Procurement Services

4. Authorize a one-year service contract for airfield paint removal, striping, and painting services at Dallas Love Field - Hi-Lite Airfield Services, LLC, through the Texas Association of School Boards (BuyBoard) - Not to exceed $998,532 - Financing: Aviation Current Funds (subject to appropriations)

5. Authorize a two-year service contract for the rental of vehicles and equipment - Herc Rentals, Inc. in the amount of $4,192,108, Enterprise Rent-A Car dba EAN Holdings, LLC in the amount of $1,554,264, Four Seasons Equipment, Inc. in the amount of $1,258,350, Landmark Equipment, Inc. in the amount of $1,187,473, Holt Texas, LTD in the amount of $777,880, Kirby-Smith Machinery, Inc. in the amount of $767,126, Sunbelt Rentals in the amount of $687,865, United Rentals (North America), Inc. in the amount of $349,543, and Metro Golf Cars in the amount of $87,646, lowest responsible bidders of nine - Total not to exceed $10,862,255 - Financing: Current Funds (subject to annual appropriations)

6. Authorize a three-year service contract for barricade services - Dallas Lite and Barricade, Inc., lowest responsible bidder of two - Not to exceed $201,882 - Financing: Current Funds ($12,700), Water Utilities Current Funds ($118,012), and Stormwater Drainage Management Current Funds ($71,170) (subject to annual appropriations)

7. Authorize a three-year service contract to develop and administer promotional examinations for Police and Fire-Rescue - Industrial/Organizational Solutions, Inc., most advantageous proposer of four - Not to exceed $328,785 - Financing: Current Funds (subject to annual appropriations)

8. Authorize a three-year service contract, with two one-year renewal options, for actuarial analysis services for Risk Management - Bickmore, most advantageous proposer of eight - Not to exceed $81,600 - Financing: Current Funds (subject to annual appropriations)

9. Authorize the first of two one-year renewal options to the service contract with Harris Corporation formerly known as Exelis, Inc. for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field - Not to exceed $181,832 - Financing: Aviation Current Funds (subject to appropriations)

10. Authorize an increase to the master agreement with Taser International, Inc. for the purchase of electronic control weapons and accessories for Police - Not to exceed $320,869, from $1,283,564 to $1,604,433 - Financing: Current Funds

11. Authorize **(1)** Supplemental Agreement No. 1 to increase the consulting contract with Deloitte Consulting, LLP for actuarial services related to the Dallas Police and Fire Pension System in the amount of $759,000, from $414,000 to $1,173,000; and **(2)** an increase in appropriations in the amount of $759,000 in the City Controller's Office FY 2016-17 budget, from $4,682,481 to $5,441,481 - Not to exceed $759,000 - Financing: Contingency Reserve Funds

CONSENT AGENDA (Continued)

City Secretary's Office

12. A resolution authorizing an increase in the joint elections agreement and election services contract between the City of Dallas and Collin County for the November 8, 2016 special election - Not to exceed $120, from $16,000 to $16,120 - Financing: Current Funds

Code Compliance

13. Authorize payment for an asbestos abatement/demolition notification program for a four-year term as required by the Texas Department of State Health Services - Not to exceed $150,000 - Financing: Current Funds (subject to annual appropriations)

Economic Development

14. Authorize a second amendment of the development agreement with TEOF Hotel LP, for the Plaza Hotel redevelopment project to extend the project's completion deadline by one year, from July 31, 2016 to July 31, 2017 - Financing: No cost consideration to the City

Housing/Community Services

15. Authorize **(1)** the first amendment to the Contract No. 2017-049838-001 with the Department of State Health Services for the Women, Infants, and Children (WIC) Program to **(a)** amend the contract number from Contract No. 2017-049838-001 to Contract No. 2017-049838-001A; **(b)** revise the budget and extend the term of the contract from September 30, 2017 to September 30, 2018 to allow for successful completion of the WIC Project for FY 2017 and FY 2018 grant allocations; **(c)** accept additional grant funds in the amount of $26,000 for FY 2017 allocation for the WIC Summer Food Service Program for the period October 1, 2016 through September 30, 2017; **(d)** accept grant funds for FY 2018 allocation for continuation of the Special Supplemental Nutrition Program for the WIC Program in the amount of $15,056,672 for the period October 1, 2017 through September 30, 2018; and **(2)** execution of the amendment and all terms, conditions, and documents required by the contract - Not to exceed $15,082,672, from $15,055,566 to $30,138,238 - Financing: Department of State Health Services Grant Funds

CONSENT AGENDA (Continued)

Mobility and Street Services

16. Authorize **(1)** an Interlocal Agreement with the Texas Department of Transportation to provide cost reimbursement for material and labor costs incurred by the City for intersection and traffic signal improvements at the following five off-system locations: Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road and Royal Lane and Skillman Road; **(2)** the receipt and deposit of funds from the Texas Department of Transportation in the amount of $101,280; and **(3)** the establishment of appropriations in the amount of $101,280 in the Texas Department of Transportation Grant Fund - Not to exceed $101,280 - Financing: Texas Department of Transportation Grant Funds

17. Authorize payment to Dallas Area Rapid Transit for operation and maintenance costs for the Dallas Streetcar System (Union Station to Bishop Arts District) for Fiscal Year 2017 - Not to exceed $975,000 - Financing: Current Funds

18. Authorize a professional services contract with Huitt-Zollars, Inc. for the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75 - Not to exceed $307,935 - Financing: 2012 Bond Funds ($288,896) and Water Utilities Capital Construction Funds ($19,039)

19. Authorize a construction contract with Ark Contracting Services, LLC, lowest responsible bidder of four, for the reconstruction of alley paving, storm drainage, drive approaches, and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for the Merrifield Road Dead End Turnaround Project (list attached) - Not to exceed $4,174,616 - Financing: 2012 Bond Funds ($1,658,794), 2006 Bond Funds ($163,430), General Obligation Commercial Paper Funds ($234,200), Water Utilities Capital Improvement Funds ($2,094,667) and Water Utilities Capital Construction Funds ($23,525)

Office of Cultural Affairs

20. Authorize a contract with One Thirty Productions for cultural services for the period April 1, 2017 through September 30, 2017 - Not to exceed $62,260 - Financing: Current Funds

Office of Financial Services

21. Authorize an amendment to the five-year master municipal lease agreement for the financing of personal property purchases - Banc of America Public Capital Corp. - Financing: No cost consideration to the City

CONSENT AGENDA (Continued)

Park & Recreation

22. Authorize **(1)** approval of the terms for the Development Agreement between the Pacific Plaza LLC and Parks for Downtown Dallas collectively the "Developer" and the City for the design and construction of a public park currently named Pacific Plaza; **(2)** approval of an Operating Endowment Agreement between the City and Developer; and **(3)** recommendation to City Council for approval of both the Development and Operating Endowment Agreements, as approved as to form by the City Attorney's Office - Financing: No cost consideration to the City

23. Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of three, for structural and miscellaneous repairs to the Kleberg/Rylie Recreation Center located at 1515 Edd Road - Not to exceed $157,951 - Financing: Park and Recreation Program Funds

24. Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of two, for structural repairs to the Southern Skates Roller Rink Facility located at 2939 East Ledbetter Road - Not to exceed $150,220 - Financing: Southern Skates Roller Rink Funds

25. Authorize a contract with JC Commercial, Inc., best value proposer of six, for construction of a new maintenance facility at Luna Vista Golf Course located at 11223 Luna Vista Road - Not to exceed $1,147,477 - Financing: 2003 Bond Funds ($287,837), 2006 Bond Funds ($812,490), and General Obligation Commercial Paper Funds ($47,150)

26. Authorize an increase in the contract with Phoenix I Restoration and Construction, Ltd., for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center located at 2750 Bachman Drive - Not to exceed $113,763, from $606,258 to $720,021 - Financing: 2006 Bond Funds

Sanitation Services

27. Authorize ordinances granting five franchises for solid waste collection and hauling, pursuant to Chapter XIV, of the City Charter, and Chapter 18, Article IV, of the Dallas City Code (list attached) - Estimated Annual Revenue: $22,002

Sustainable Development and Construction

28. Authorize acquisition from Sylvia Covington, of approximately 71,824 square feet of land located in Kaufman County for the Lake Tawakoni 144-inch Transmission Pipeline Project - Not to exceed $97,000 ($93,900, plus closing costs and title expenses not to exceed $3,100) - Financing: Water Utilities Capital Construction Funds

CONSENT AGENDA (Continued)

Sustainable Development and Construction (Continued)

29. An ordinance granting a private license to AT&T Communications of the Southwest, Inc. for the use of subsurface space of approximately 404 square feet to maintain and utilize a 24 inch steel pipe for underground electrical wiring under a portion of Haskell Avenue right-of-way, near its intersection with Bryan Street - Revenue: $1,000 annually, plus the $20 ordinance publication fee

30. An ordinance granting a private license to JLB Fitzhugh, LP, for the use of a total of approximately 4,681 square feet of subsurface and surface space to install, maintain, and utilize a subsurface conduit, seventy-one trees, forty-one post lights, eight string lights, concrete pavers, a sculpture, two accent lights, landscaping and irrigation, under, on and over a portion of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street rights-of-way, near its intersection with Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street - Revenue: $1,000 annually and $800 one-time fee, plus the $20 ordinance publication fee

31. An ordinance granting a private license to Supreme Bright Dallas, LLC for the use of approximately 48 square feet of aerial space to occupy, maintain and utilize one canopy without premise over a portion of Commerce Street right-of-way, near its intersection with Ervay Street - Revenue: $100 one-time fee, plus the $20 ordinance publication fee

32. An ordinance granting a revocable license to 2823 Main, LLC for the use of a total of approximately 168 square feet of aerial space to install, maintain, and utilize two canopies without premise sign, over a portion of Main Street right-of-way, near its intersection with Malcolm X Boulevard - Revenue: $200 one-time fee, plus the $20 ordinance publication fee

33. An ordinance abandoning portions of Fielder Court and Log Cabin Avenue to the Board of Regents of The University of Texas System, the abutting owner, containing a total of approximately 41,370 square feet of land, located near the intersection of Maple Avenue and Mockingbird Lane, and authorizing the quitclaim - Revenue: $661,920, plus the $20 ordinance publication fee

34. An ordinance abandoning a portion of a sanitary sewer easement to the City of Dallas, the abutting owner, containing approximately of 311,123 square feet of land, located near the intersection of Central Expressway and Simpson Stuart Road - Revenue: $5,400, plus the $20 ordinance publication fee

35. An ordinance abandoning portions of a water easement and sanitary sewer easement to CAPREF Walnut Hill LLC, the abutting owner, containing a total of approximately 2,097 square feet of land, located near the intersection of Walnut Hill Lane and North Central Expressway - Revenue: $5,400, plus the $20 ordinance publication fee

CONSENT AGENDA (Continued)

Sustainable Development and Construction (Continued)

36. An ordinance abandoning a drainage easement and two water easements to Quiktrip Corporation, the abutting owner, containing a total of approximately 6,270 square feet of land, located near the intersection of Buckner and Samuell Boulevards - Revenue: $5,400, plus the $20 ordinance publication fee

Trinity Watershed Management

37. Authorize **(1)** the rejection of bids for Erosion Control Improvements Group 10; and **(2)** the re-advertisement for new bids - Financing: No cost consideration to the City

38. Authorize **(1)** the rejection of bids for Erosion Control Improvements Group 11; and **(2)** the re-advertisement for new bids - Financing: No cost consideration to the City

39. Authorize Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc. for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway - Not to exceed $179,818, from $640,498 to $820,316 - Financing: 1998 Bond Funds ($52,258) and Stormwater Drainage Management Current Funds ($127,560)

Water Utilities

40. Authorize an amendment to an Interlocal Agreement between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District, to extend the term of the contract by ten-years, with four ten-year extension options, for continuation of the reimbursement to the City of Grapevine for Dallas' cost share for the administration of the Lake Grapevine Reservoir Accounting Plan - Not to exceed $60,000 - Financing: Water Utilities Current Funds (subject to annual appropriations)

ITEMS FOR INDIVIDUAL CONSIDERATION

City Secretary’s Office

41. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

42. A resolution designating absences by Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young as being for "Official City Business" - Financing: No cost consideration to the City

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

City Manager's Office

43. An ordinance amending Chapter 2, “Administration,” Chapter 12A, “Code of Ethics,” and Chapter 15A, “Elections,” of the Dallas City Code; **(1)** adding city officials and former city officials to purchase by certain persons prohibited; **(2)** providing that city officials have a fiduciary duty to the city; **(3)** adding standards of behavior and civility of city officials; **(4)** clarifying and adding definitions; **(5)** expanding the definition of official or city official to include the chief financial officer, department directors’ supervisors, and citizen volunteers on committees or task forces formed by boards and commissions; **(6)** providing for a general recusal and disclosure provision that is applicable to Article II of Chapter 12A; **(7)** providing for disclosure of conflicts on zoning applications; **(8)** changing provisions that are outdated; **(9)** adding additional reporting provisions related to gifts received by city officials or employees; **(10)** providing rules regarding donations; **(11)** clarifying provisions relating to the representation of private interests of a city official or employee before the city; **(12)** regulating the use of public property and resources for campaign expenditures; **(13)** providing for restrictions on the use of electronic devices and social media during executive sessions; **(14)** prohibiting city officials and city employees from receiving tax credits or grants unless the incentive is available to the general public; **(15)** adding a duty to report a violation of Chapter 12A; **(16)** providing for restrictions on lobbying before city council, any city department, board or commission; **(17)** providing that no former city official or city employee shall knowingly disclose to a member of the public any discussion that was lawfully closed to the public; **(18)** adding persons who are required to register as lobbyists; **(19)** providing that any protest given to or received from bidders on pending contracts will be shared with city councilmembers; **(20)** providing restrictions on ex parte communications; **(21)** requiring the Chief Financial Officer and executive general managers to complete a financial disclosure report; **(22)** broadening the jurisdiction of the ethics advisory commission; **(23)** providing the ethics advisory commission the power to issue subpoenas for an evidentiary hearing; **(24)** providing for a provision regarding complaints received by the City Auditor’s Office; **(25)** providing factors to take into consideration in determining sanctions; **(26)** imposing additional types of sanctions; **(27)** creating a violation if any person interferes with an investigation of an alleged violation; **(28)** providing for an ethics pledge that all city officials shall sign and file with the city secretary; **(29)** creating a City Ethics Officer to promote culture of ethics within the city; **(30)** requiring all new city officials and new city employees to receive ethics training within 30 days after being appointed to office or hired by the city; **(31)** requiring all current city officials and current city employees to receive training at least once every two years; and **(32)** adding a new article regarding the permissible and impermissible expenses of city-funded officeholder accounts - Financing: No cost consideration to the City

44. A resolution adopting policy guidelines regarding the solicitation, acceptance, and reporting of gifts by city employees - Financing: No cost consideration to the City

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

ITEMS FOR FURTHER CONSIDERATION

Intergovernmental Services

45. A resolution adopting the City's Federal Legislative Program for the 115th Session of the United States Congress - Financing: No cost consideration to the City

Mayor and City Council

46. Authorize a resolution condemning violence and hate speech and expressing solidarity with Muslims and all those targeted for their ethnicity, race or religion - Financing: No cost consideration to the City (via Council Members Griggs, Medrano, Young, Clayton, Kingston)

PUBLIC HEARINGS AND RELATED ACTIONS

Sustainable Development and Construction

ZONING CASES - CONSENT

47. A public hearing to receive comments regarding an application for and an ordinance granting an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District, on the northwest line of McKinney Avenue, northeast of Bowen Street
Recommendation of Staff and CPC: Approval, subject to a development plan and conditions
Z156-278(WE)

48. A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for a Tower/Antenna for Cellular Communication on property zoned an R-7.5(A) Single Family District on the east side of Namur Street, south of Scyene Road
Recommendation of Staff and CPC: Approval for a ten-year period with eligibility for automatic renewals for additional ten-year periods, subject to a site plan, elevation, and conditions
Z156-337(SH)

49. A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2142 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 100,000 square feet or more on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay on the north side of Samuell Boulevard, west of South Buckner Boulevard
Recommendation of Staff and CPC: Approval for a five-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions
Z167-139(OTH)

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

Sustainable Development and Construction (Continued)

ZONING CASES - CONSENT (Continued)

50. A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District on the south side of Elm Street, east of North Good Latimer Expressway
Recommendation of Staff and CPC: Approval for a three-year period, subject to a revised site plan and conditions
Z167-142(PD)

ZONING CASES - UNDER ADVISEMENT - INDIVIDUAL

51. A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and deed restrictions on the southwest corner of Great Trinity Forest Way and North Jim Miller Road
Recommendation of Staff: Approval for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions
Recommendation of CPC: Approval for a three-year period, subject to conditions
Z156-310(OTH)
Note: This item was considered by the City Council at public hearings on January 11, 2017, February 8, 2017, and February 22, 2017, and was held under advisement until March 22, 2017, with the public hearing open

52. A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the northeast corner of Great Trinity Forest Way (Loop 12) and Jim Miller Road
Recommendation of Staff: Approval for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to site plan and conditions
Recommendation of CPC: Approval for a two-year period, subject to site plan and conditions
Note: This item was considered by the City Council at a public hearing on February 8, 2017, and was deferred until March 22, 2017, with the public hearing open
Z167-104(WE)

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

Sustainable Development and Construction (Continued)

DESIGNATED ZONING CASES - INDIVIDUAL

53. A public hearing to receive comments regarding an application for and an ordinance granting the creation of new subareas within Neighborhood Stabilization Overlay No. 7 (the Woodland Drive NSO) on property zoned an R-10(A) Single Family District and on both sides of Deloache Avenue, between Preston Road and Edgemere Road
Recommendation of Staff and CPC: Approval
Z167-148(DL)

FLOODPLAIN APPLICATIONS

Trinity Watershed Management

54. A public hearing to receive comments regarding the application for and approval of the fill permit and removal of the floodplain (FP) prefix from approximately 0.788 acres of the current 7.298 acres of land, located at 1717 West Northwest Highway, within the floodplain of Elm Fork of the Trinity River, Fill Permit 15-06 - Financing: No cost consideration to the City

MISCELLANEOUS HEARINGS

Mobility and Street Services

55. A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to delete Live Oak Street from Harwood Street to Pacific Avenue/Saint Paul Street; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City

56. A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to reduce the right-of-way on **(1)** Harwood Street between Commerce Street and Jackson Street from 85 feet of right-of-way to 64 feet of right-of-way; and **(2)** Harwood Street between Jackson Street and IH-30 from 78-130 feet of right-of-way to 64-68 feet of right-of-way; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City

Office of Financial Services

57. A public hearing to receive comments on the FY 2017-18 Operating, Capital, and Grant/Trust budgets - Financing: No cost consideration to the City

58. A public hearing to receive comments on the Proposed Reprogramming Budget No. 1 to the FY 2016-17 Action Plan for U.S. Department of Housing and Urban Development Grant Funds - Financing: No cost consideration to the City

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

MISCELLANEOUS HEARINGS - DESIGNATED PUBLIC SUBSIDY MATTERS

Economic Development

59. A public hearing to receive comments concerning the application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,705,000 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the Silver Gardens Apartments, an existing senior apartment community comprised of 202 units for seniors, located at 2620 Ruidosa Avenue, Dallas, Texas, 75228 and, at the close of the public hearing, authorize: **(1)** DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and rehabilitation of 202 units for seniors by Dominium Development & Acquisition, LLC ("Dominium"), on behalf of Dallas Leased Housing Associates IV, LLP (the "Applicant"), referred to as the Silver Gardens; and **(2)** a resolution to support the TDHCA's award of Low Income Housing Tax Credits for the acquisition and rehabilitation of the existing Silver Gardens housing development located at 2620 Ruidosa Avenue, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 Texas Administrative Code (TAC) §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City

Note: Agenda Item Nos. 60, 61 and 62 must be considered collectively.

60. A public hearing to receive comments concerning an application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,579,038 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the tentatively designated as Flora Street Lofts, a new construction apartment community comprised of 52 units for families, located at 2121 Flora Street, and at the close of the public hearing, authorization will be granted for: **(1)** DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and new construction of 52 units for families by La Reunion TX and GREENarc Corp, Flora Street Lofts, Ltd. (the "Applicant"), tentatively designated as the Flora Street Lofts; and **(2)** to provide a resolution supporting the TDHCA's award of Low Income Housing Tax Credits for the acquisition and new construction of the Flora Street Lofts development located at 2121 Flora Street, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 Texas Administrative Code (TAC) §10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City

PUBLIC HEARINGS AND RELATED ACTIONS (Continued)

MISCELLANEOUS HEARINGS - DESIGNATED PUBLIC SUBSIDY MATTERS (Continued)

Economic Development (Continued)

Note: Agenda Item Nos. 60, 61 and 62 must be considered collectively.

61. Authorize a development agreement with Flora Street Lofts, Ltd. and Green Arc Corporation, its limited partner, to assist the development of the Flora Lofts Project located at 2121 Flora Street in the Arts District - Not to exceed $4,577,916 in the form of a TIF grant supporting affordable housing - Financing: City Center TIF District Funds (subject to future appropriations from future tax increments)

62. Authorize a conditional grant agreement with Flora Street Lofts, Ltd. for construction of Flora Lofts, a 52-unit multifamily new construction project located at 2121 Flora Street, conditioned upon 2017 4% LIHTC award - Not to exceed $2,500,000 - Financing: General Obligation Commercial Paper Funds

MISCELLANEOUS HEARINGS - UNDER ADVISEMENT

Mobility and Street Services

63. A benefit assessment hearing to receive comments on street paving, drainage, water and wastewater main improvements, and alley paving for Project Group 12-3004; and at the close of the hearing, authorize an ordinance levying benefit assessments~~, and a construction contract with MACVAL Associates, LLC, lowest responsible bidder of five~~ (list attached)~~ - Not to exceed $873,052~~ - Financing: No cost consideration to the City ~~2012 Bond Funds ($712,610), Water Utilities Capital Construction Funds ($96,681) and Water Utilities Capital Improvement Funds ($63,761)~~

Alley Reconstruction Groups 12-2040 and 12-2045
and Paving Improvements
Agenda Item # 19

Paving Improvements	**Council District**
Merrifield Road Dead End Turnaround	3
Alley Reconstruction Group 12-2040	
Alley between Azalea Lane and Royalton Drive from Azalea Lane to Tibbs Street	11
Alley between Azalea Lane and Currin Drive from St. Judes Drive to St. Michaels Drive	11
Alley between Lavendale Avenue and Royalton Drive from Tibbs Street to Lavendale Avenue	11
Alley between Lavendale Avenue and Azalea Lane from Camellia Drive to Tibbs Street	11
Alley between Lavendale Avenue and Royal Lane from Hillcrest Road to St. Judes Drive	11
Alley between Lavendale Avenue and Royal Lane from Tibbs Street to Edgemere Road	11
Alley between Lavendale Avenue and Royal Lane from Royal Lane to Tibbs Street	11
Alley Reconstruction Group 12-2045	
Alley between Brookview Drive and Gloster Road from Manchester Drive to Rockbrook Drive	13
Alley between Caruth Boulevard and Colgate Avenue from Durham Street to Boedeker Street	13

Franchises for Solid Waste Collection and Hauling
Agenda Item # 27

Franchise Haulers	**Estimated Annual Franchise Revenue**
American Roll-Off & Recycling LLC dba American Waste Disposal	$9,600.00
Custom Recycling Solutions, LLC	$5,520.00
JLH Removal LLC dba Bin There Dump That Dallas	$5,760.00
T & R EXCAVATION, INC.	$ 200.00
The Demo Company, LLC	$ 922.00
Total	$22,002.00

Project Group 12-3004
Agenda Item # 63

Project	**Limits**	**Council District**
Stevens Street	from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street	9
Alley southwest and parallel to Shoreview Road	from Forest Trail to Eagle Trail to Nimrod Trail	10

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt. Code §551.087]

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
1			All	V	NA	NA	NA	NA	Approval of Minutes of the February 22, 2017 City Council Meeting
2			3	C	AVI	$50,000.00	NA	NA	Authorize (1) acceptance of the FY 2017 grant (Grant No. M1718 DLEX) from the Texas Department of Transportation Aviation Division for the Routine Airport Maintenance Program at Dallas Executive Airport in an amount not to exceed $50,000 or 50% of eligible project costs whichever is less; (2) provide a local cash match in the amount of $50,000 for airport maintenance projects; and (3) execution of the grant agreement - Total not to exceed $100,000 - Financing: Aviation Current Funds ($50,000) (subject to appropriations) and Texas Department of Transportation Grant Funds ($50,000)
3			2	C	AVI	$698,258.00	96.27%	35.42%	Authorize Supplemental Agreement No. 4 to the professional services contract with Garver, LLC for design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II, and Taxiway Mike Phase II at Dallas Love Field - Not to exceed $1,737,770, from $3,456,534 to $5,194,304 - Financing: Aviation Capital Construction Funds ($698,258), Aviation Near Term Passenger Facility Charge Funds ($250,000) and Federal Aviation Administration Airport Improvement Program Grant Funds ($789,512)
4			2	C	PBD, AVI	$998,531.84	NA	NA	Authorize a one-year service contract for airfield paint removal, striping, and painting services at Dallas Love Field - Hi-Lite Airfield Services, LLC, through the Texas Association of School Boards (BuyBoard) - Not to exceed $998,532 - Financing: Aviation Current Funds (subject to appropriations)
5			All	C	PBD, EBS	$10,862,254.20	92.86%	0.81%	Authorize a two-year service contract for the rental of vehicles and equipment - Herc Rentals, Inc. in the amount of $4,192,108, Enterprise Rent-A Car dba EAN Holdings, LLC in the amount of $1,554,264, Four Seasons Equipment, Inc. in the amount of $1,258,350, Landmark Equipment, Inc. in the amount of $1,187,473, Holt Texas, LTD in the amount of $777,880, Kirby-Smith Machinery, Inc. in the amount of $767,126, Sunbelt Rentals in the amount of $687,865, United Rentals (North America), Inc. in the amount of $349,543, and Metro Golf Cars in the amount of $87,646, lowest responsible bidders of nine - Total not to exceed $10,862,255 - Financing: Current Funds (subject to annual appropriations)
6			All	C	PBD, STS, TWM, WTR	$201,881.35	100.00%	0.00%	Authorize a three-year service contract for barricade services - Dallas Lite and Barricade, Inc., lowest responsible bidder of two - Not to exceed $201,882 - Financing: Current Funds ($12,700), Water Utilities Current Funds ($118,012), and Stormwater Drainage Management Current Funds ($71,170) (subject to annual appropriations)
7			All	C	PBD, CVS, FIR, POL	$328,785.00	0.00%	0.00%	Authorize a three-year service contract to develop and administer promotional examinations for Police and Fire-Rescue - Industrial/Organizational Solutions, Inc., most advantageous proposer of four - Not to exceed $328,785 - Financing: Current Funds (subject to annual appropriations)
8			All	C	PBD, ORM	$81,600.00	0.00%	0.00%	Authorize a three-year service contract, with two one-year renewal options, for actuarial analysis services for Risk Management - Bickmore, most advantageous proposer of eight - Not to exceed $81,600 - Financing: Current Funds (subject to annual appropriations)
9			2	C	PBD, AVI	$181,832.00	0.00%	0.00%	Authorize the first of two one-year renewal options to the service contract with Harris Corporation formerly known as Exelis, Inc. for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field - Not to exceed $181,832 - Financing: Aviation Current Funds (subject to appropriations)
10			All	C	PBD, POL	$320,868.43	0.00%	0.00%	Authorize an increase to the master agreement with Taser International, Inc. for the purchase of electronic control weapons and accessories for Police - Not to exceed $320,869, from $1,283,564 to $1,604,433 - Financing: Current Funds
11			All	C	PBD, CON	$759,000.00	100.00%	0.00%	Authorize (1) Supplemental Agreement No. 1 to increase the consulting contract with Deloitte Consulting, LLP for actuarial services related to the Dallas Police and Fire Pension System in the amount of $759,000, from $414,000 to $1,173,000; and (2) an increase in appropriations in the amount of $759,000 in the City Controller's Office FY 2016-17 budget, from $4,682,481 to $5,441,481 - Not to exceed $759,000 - Financing: Contingency Reserve Funds
12			N/A	C	SEC	$119.44	NA	NA	A resolution authorizing an increase in the joint elections agreement and election services contract between the City of Dallas and Collin County for the November 8, 2016 special election - Not to exceed $120, from $16,000 to $16,120 - Financing: Current Funds

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
13			All	C	CCS	$150,000.00	NA	NA	Authorize payment for an asbestos abatement/demolition notification program for a four-year term as required by the Texas Department of State Health Services - Not to exceed $150,000 - Financing: Current Funds (subject to annual appropriations)
14			2	C	ECO	NC	NA	NA	Authorize a second amendment of the development agreement with TEOF Hotel LP, for the Plaza Hotel redevelopment project to extend the project's completion deadline by one year, from July 31, 2016 to July 31, 2017 - Financing: No cost consideration to the City
15			All	C	HOU	GT	NA	NA	Authorize (1) the first amendment to the Contract No. 2017-049838-001 with the Department of State Health Services for the Women, Infants, and Children (WIC) Program to (a) amend the contract number from Contract No. 2017-049838-001 to Contract No. 2017-049838-001A; (b) revise the budget and extend the term of the contract from September 30, 2017 to September 30, 2018 to allow for successful completion of the WIC Project for FY 2017 and FY 2018 grant allocations; (c) accept additional grant funds in the amount of $26,000 for FY 2017 allocation for the WIC Summer Food Service Program for the period October 1, 2016 through September 30, 2017; (d) accept grant funds for FY 2018 allocation for continuation of the Special Supplemental Nutrition Program for the WIC Program in the amount of $15,056,672 for the period October 1, 2017 through September 30, 2018; and (2) execution of the amendment and all terms, conditions, and documents required by the contract - Not to exceed $15,082,672, from $15,055,566 to $30,138,238 - Financing: Department of State Health Services Grant Funds
16			5, 7, 10, 12	C	STS	GT	NA	NA	Authorize (1) an Interlocal Agreement with the Texas Department of Transportation to provide cost reimbursement for material and labor costs incurred by the City for intersection and traffic signal improvements at the following five off-system locations: Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road and Royal Lane and Skillman Road; (2) the receipt and deposit of funds from the Texas Department of Transportation in the amount of $101,280; and (3) the establishment of appropriations in the amount of $101,280 in the Texas Department of Transportation Grant Fund - Not to exceed $101,280 - Financing: Texas Department of Transportation Grant Funds
17			1, 2	C	STS	$975,000.00	NA	NA	Authorize payment to Dallas Area Rapid Transit for operation and maintenance costs for the Dallas Streetcar System (Union Station to Bishop Arts District) for Fiscal Year 2017 - Not to exceed $975,000 - Financing: Current Funds
18			14	C	STS, WTR	$307,934.50	100.00%	33.19%	Authorize a professional services contract with Huitt-Zollars, Inc. for the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75 - Not to exceed $307,935 - Financing: 2012 Bond Funds ($288,896) and Water Utilities Capital Construction Funds ($19,039)
19			3, 11, 13	C	STS, WTR	$4,174,616.00	36.77%	25.39%	Authorize a construction contract with Ark Contracting Services, LLC, lowest responsible bidder of four, for the reconstruction of alley paving, storm drainage, drive approaches, and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for the Merrifield Road Dead End Turnaround Project - Not to exceed $4,174,616 - Financing: 2012 Bond Funds ($1,658,794), 2006 Bond Funds ($163,430), General Obligation Commercial Paper Funds ($234,200), Water Utilities Capital Improvement Funds ($2,094,667) and Water Utilities Capital Construction Funds ($23,525)
20			N/A	C	OCA	$62,260.00	NA	NA	Authorize a contract with One Thirty Productions for cultural services for the period April 1, 2017 through September 30, 2017 - Not to exceed $62,260 - Financing: Current Funds
21			N/A	C	OFS	NC	NA	NA	Authorize an amendment to the five-year master municipal lease agreement for the financing of personal property purchases - Banc of America Public Capital Corp. - Financing: No cost consideration to the City
22			14	C	PKR	NC	NA	NA	Authorize (1) approval of the terms for the Development Agreement between the Pacific Plaza LLC and Parks for Downtown Dallas collectively the "Developer" and the City for the design and construction of a public park currently named Pacific Plaza; (2) approval of an Operating Endowment Agreement between the City and Developer; and (3) recommendation to City Council for approval of both the Development and Operating Endowment Agreements, as approved as to form by the City Attorney's Office - Financing: No cost consideration to the City
23			8	C	PKR	$157,951.00	25.65%	25.65%	Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of three, for structural and miscellaneous repairs to the Kleberg/Rylie Recreation Center located at 1515 Edd Road - Not to exceed $157,951 - Financing: Park and Recreation Program Funds

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
24			4	C	PKR	$150,220.00	29.15%	29.15%	Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of two, for structural repairs to the Southern Skates Roller Rink Facility located at 2939 East Ledbetter Road - Not to exceed $150,220 - Financing: Southern Skates Roller Rink Funds
25			6	C	PKR	$1,147,477.00	21.61%	30.54%	Authorize a contract with JC Commercial, Inc., best value proposer of six, for construction of a new maintenance facility at Luna Vista Golf Course located at 11223 Luna Vista Road - Not to exceed $1,147,477 - Financing: 2003 Bond Funds ($287,837), 2006 Bond Funds ($812,490), and General Obligation Commercial Paper Funds ($47,150)
26			6	C	PKR	$113,762.53	100.00%	44.12%	Authorize an increase in the contract with Phoenix I Restoration and Construction, Ltd., for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center located at 2750 Bachman Drive - Not to exceed $113,763, from $606,258 to $720,021 - Financing: 2006 Bond Funds
27			N/A	C	SAN	REV $22,002	NA	NA	Authorize ordinances granting five franchises for solid waste collection and hauling, pursuant to Chapter XIV, of the City Charter, and Chapter 18, Article IV, of the Dallas City Code - Estimated Annual Revenue: $22,002
28			Outside	C	DEV, WTR	$97,000.00	NA	NA	Authorize acquisition from Sylvia Covington, of approximately 71,824 square feet of land located in Kaufman County for the Lake Tawakoni 144-inch Transmission Pipeline Project - Not to exceed $97,000 ($93,900, plus closing costs and title expenses not to exceed $3,100) - Financing: Water Utilities Capital Construction Funds
29			14	C	DEV	REV $1,000	NA	NA	An ordinance granting a private license to AT&T Communications of the Southwest, Inc. for the use of subsurface space of approximately 404 square feet to maintain and utilize a 24 inch steel pipe for underground electrical wiring under a portion of Haskell Avenue right-of-way, near its intersection with Bryan Street - Revenue: $1,000 annually, plus the $20 ordinance publication fee
30			2	C	DEV	REV $1,800	NA	NA	An ordinance granting a private license to JLB Fitzhugh, LP, for the use of a total of approximately 4,681 square feet of subsurface and surface space to install, maintain, and utilize a subsurface conduit, seventy-one trees, forty-one post lights, eight string lights, concrete pavers, a sculpture, two accent lights, landscaping and irrigation, under, on and over a portion of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street rights-of-way, near its intersection with Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street - Revenue: $1,000 annually and $800 one-time fee, plus the $20 ordinance publication fee
31			14	C	DEV	REV $100	NA	NA	An ordinance granting a private license to Supreme Bright Dallas, LLC for the use of approximately 48 square feet of aerial space to occupy, maintain and utilize one canopy without premise over a portion of Commerce Street right-of-way, near its intersection with Ervay Street - Revenue: $100 one-time fee, plus the $20 ordinance publication fee
32			2	C	DEV	REV $200	NA	NA	An ordinance granting a revocable license to 2823 Main, LLC for the use of a total of approximately 168 square feet of aerial space to install, maintain, and utilize two canopies without premise sign, over a portion of Main Street right-of-way, near its intersection with Malcolm X Boulevard - Revenue: $200 one-time fee, plus the $20 ordinance publication fee
33			2	C	DEV	REV $661,920	NA	NA	An ordinance abandoning portions of Fielder Court and Log Cabin Avenue to the Board of Regents of The University of Texas System, the abutting owner, containing a total of approximately 41,370 square feet of land, located near the intersection of Maple Avenue and Mockingbird Lane, and authorizing the quitclaim - Revenue: $661,920, plus the $20 ordinance publication fee
34			8	C	DEV, SAN	REV $5,400	NA	NA	An ordinance abandoning a portion of a sanitary sewer easement to the City of Dallas, the abutting owner, containing approximately of 311,123 square feet of land, located near the intersection of Central Expressway and Simpson Stuart Road - Revenue: $5,400, plus the $20 ordinance publication fee
35			13	C	DEV	REV $5,400	NA	NA	An ordinance abandoning portions of a water easement and sanitary sewer easement to CAPREF Walnut Hill LLC, the abutting owner, containing a total of approximately 2,097 square feet of land, located near the intersection of Walnut Hill Lane and North Central Expressway - Revenue: $5,400, plus the $20 ordinance publication fee
36			7	C	DEV	REV $5,400	NA	NA	An ordinance abandoning a drainage easement and two water easements to Quiktrip Corporation, the abutting owner, containing a total of approximately 6,270 square feet of land, located near the intersection of Buckner and Samuell Boulevards - Revenue: $5,400, plus the $20 ordinance publication fee
37			1, 3, 4, 9, 10	C	TWM	NC	NA	NA	Authorize (1) the rejection of bids for Erosion Control Improvements Group 10; and (2) the re-advertisement for new bids - Financing: No cost consideration to the City
38			1, 10, 11	C	TWM	NC	NA	NA	Authorize (1) the rejection of bids for Erosion Control Improvements Group 11; and (2) the re-advertisement for new bids - Financing: No cost consideration to the City

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
39			1, 2, 4, 6	C	TWM, OEQ	$179,818.00	NA	NA	Authorize Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc. for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway - Not to exceed $179,818, from $640,498 to $820,316 - Financing: 1998 Bond Funds ($52,258) and Stormwater Drainage Management Current Funds ($127,560)
40			Outside	C	WTR	$60,000.00	NA	NA	Authorize an amendment to an Interlocal Agreement between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District, to extend the term of the contract by ten-years, with four ten-year extension options, for continuation of the reimbursement to the City of Grapevine for Dallas' cost share for the administration of the Lake Grapevine Reservoir Accounting Plan - Not to exceed $60,000 - Financing: Water Utilities Current Funds (subject to annual appropriations)
41			N/A	I	SEC	NC	N/A	N/A	Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)
42			N/A	I	SEC	NC	NA	NA	A resolution designating absences by Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young as being for "Official City Business" - Financing: No cost consideration to the City
43			N/A	I	CMO	NC	NA	NA	An ordinance amending Chapter 2, "Administration," Chapter 12A, "Code of Ethics," and Chapter 15A, "Elections," of the Dallas City Code; (1) adding city officials and former city officials to purchase by certain persons prohibited; (2) providing that city officials have a fiduciary duty to the city; (3) adding standards of behavior and civility of city officials; (4) clarifying and adding definitions; (5) expanding the definition of official or city official to include the chief financial officer, department directors' supervisors, and citizen volunteers on committees or task forces formed by boards and commissions; (6) providing for a general recusal and disclosure provision that is applicable to Article II of Chapter 12A; (7) providing for disclosure of conflicts on zoning applications; (8) changing provisions that are outdated; (9) adding additional reporting provisions related to gifts received by city officials or employees; (10) providing rules regarding donations; (11) clarifying provisions relating to the representation of private interests of a city official or employee before the city; (12) regulating the use of public property and resources for campaign expenditures; (13) providing for restrictions on the use of electronic devices and social media during executive sessions; (14) prohibiting city officials and city employees from receiving tax credits or grants unless the incentive is available to the general public; (15) adding a duty to report a violation of Chapter 12A; (16) providing for restrictions on lobbying before city council, any city department, board or commission; (17) providing that no former city official or city employee shall knowingly disclose to a member of the public any discussion that was lawfully closed to the public; (18) adding persons who are required to register as lobbyists; (19) providing that any protest given to or received from bidders on pending contracts will be shared with city councilmembers; (20) providing restrictions on ex parte communications; (21) requiring the Chief Financial Officer and executive general managers to complete a financial disclosure report; (22) broadening the jurisdiction of the ethics advisory commission; (23) providing the ethics advisory commission the power to issue subpoenas for an evidentiary hearing; (24) providing for a provision regarding complaints received by the City Auditor's Office; (25) providing factors to take into consideration in determining sanctions; (26) imposing additional types of sanctions; (27) creating a violation if any person interferes with an investigation of an alleged violation; (28) providing for an ethics pledge that all city officials shall sign and file with the city secretary; (29) creating a City Ethics Officer to promote culture of ethics within the city; (30) requiring all new city officials and new city employees to receive ethics training within 30 days after being appointed to office or hired by the city; (31) requiring all current city officials and current city employees to receive training at least once every two years; and (32) adding a new article regarding the permissible and impermissible expenses of city-funded officeholder accounts - Financing: No cost consideration to the City
44			N/A	I	CMO	NC	NA	NA	A resolution adopting policy guidelines regarding the solicitation, acceptance, and reporting of gifts by city employees - Financing: No cost consideration to the City
45			N/A	I	IGS	NC	NA	NA	A resolution adopting the City's Federal Legislative Program for the 115th Session of the United States Congress - Financing: No cost consideration to the City
46			N/A	I	MCC	NC	NA	NA	Authorize a resolution condemning violence and hate speech and expressing solidarity with Muslims and all those targeted for their ethnicity, race or religion - Financing: No cost consideration to the City (via Council Members Griggs, Medrano, Young, Clayton, Kingston)
47			14	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District, on the northwest line of McKinney Avenue, northeast of Bowen Street
48			7	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for a Tower/Antenna for Cellular Communication on property zoned an R-7.5(A) Single Family District on the east side of Namur Street, south of Scyene Road

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
49			7	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2142 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 100,000 square feet or more on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay on the north side of Samuell Boulevard, west of South Buckner Boulevard
50			2	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District on the south side of Elm Street, east of North Good Latimer Expressway
51			8	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and deed restrictions on the southwest corner of Great Trinity Forest Way and North Jim Miller Road
52			8	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the northeast corner of Great Trinity Forest Way (Loop 12) and Jim Miller Road
53			13	PH	DEV	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting the creation of new subareas within Neighborhood Stabilization Overlay No. 7 (the Woodland Drive NSO) on property zoned an R-10(A) Single Family District and on both sides of Deloache Avenue, between Preston Road and Edgemere Road
54			6	PH	TWM	NC	NA	NA	A public hearing to receive comments regarding the application for and approval of the fill permit and removal of the floodplain (FP) prefix from approximately 0.788 acres of the current 7.298 acres of land, located at 1717 West Northwest Highway, within the floodplain of Elm Fork of the Trinity River, Fill Permit 15-06 - Financing: No cost consideration to the City
55			14	PH	STS, PKR	NC	NA	NA	A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to delete Live Oak Street from Harwood Street to Pacific Avenue/Saint Paul Street; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City
56			2, 14	PH	STS, ECO	NC	NA	NA	A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to reduce the right-of-way on (1) Harwood Street between Commerce Street and Jackson Street from 85 feet of right-of-way to 64 feet of right-of-way; and (2) Harwood Street between Jackson Street and IH-30 from 78-130 feet of right-of-way to 64-68 feet of right-of-way; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City
57			N/A	PH	OFS	NC	NA	NA	A public hearing to receive comments on the FY 2017-18 Operating, Capital, and Grant/Trust budgets - Financing: No cost consideration to the City
58			N/A	PH	OFS	NC	NA	NA	A public hearing to receive comments on the Proposed Reprogramming Budget No. 1 to the FY 2016-17 Action Plan for U.S. Department of Housing and Urban Development Grant Funds - Financing: No cost consideration to the City

AGENDA DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
59			9	PH	ECO	NC	NA	NA	A public hearing to receive comments concerning the application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,705,000 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the Silver Gardens Apartments, an existing senior apartment community comprised of 202 units for seniors, located at 2620 Ruidosa Avenue, Dallas, Texas, 75228 and, at the close of the public hearing, authorize: (1) DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and rehabilitation of 202 units for seniors by Dominium Development & Acquisition, LLC ("Dominium"), on behalf of Dallas Leased Housing Associates IV, LLP (the "Applicant"), referred to as the Silver Gardens; and (2) a resolution to support the TDHCA's award of Low Income Housing Tax Credits for the acquisition and rehabilitation of the existing Silver Gardens housing development located at 2620 Ruidosa Avenue, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 Texas Administrative Code (TAC) §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City
60			14	PH	ECO	NC	NA	NA	A public hearing to receive comments concerning an application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,579,038 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the tentatively designated as Flora Street Lofts, a new construction apartment community comprised of 52 units for families, located at 2121 Flora Street, and at the close of the public hearing, authorization will be granted for: (1) DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and new construction of 52 units for families by La Reunion TX and GREENarc Corp, Flora Street Lofts, Ltd. (the "Applicant"), tentatively designated as the Flora Street Lofts; and (2) to provide a resolution supporting the TDHCA's award of Low Income Housing Tax Credits for the acquisition and new construction of the Flora Street Lofts development located at 2121 Flora Street, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 Texas Administrative Code (TAC) §10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City
61			14	PH	ECO	$4,577,916.00	NA	NA	Authorize a development agreement with Flora Street Lofts, Ltd. and Green Arc Corporation, its limited partner, to assist the development of the Flora Lofts Project located at 2121 Flora Street in the Arts District - Not to exceed $4,577,916 in the form of a TIF grant supporting affordable housing - Financing: City Center TIF District Funds (subject to future appropriations from future tax increments)
62			14	PH	HOU, ECO	$2,500,000.00	NA	NA	Authorize a conditional grant agreement with Flora Street Lofts, Ltd. for construction of Flora Lofts, a 52-unit multifamily new construction project located at 2121 Flora Street, conditioned upon 2017 4% LIHTC award - Not to exceed $2,500,000 - Financing: General Obligation Commercial Paper Funds
63			9, 10	PH	STS, WTR	NC	100.00%	26.19%	A benefit assessment hearing to receive comments on street paving, drainage, water and wastewater main improvements, and alley paving for Project Group 12-3004; and at the close of the hearing, authorize an ordinance levying benefit assessments~~, and a construction contract with MACVAL Associates, LLC, lowest responsible bidder of five - Not to exceed $873,052~~ - Financing: No cost consideration to the City ~~2012 Bond Funds ($712,610), Water Utilities Capital Construction Funds ($96,681) and Water Utilities Capital Improvement Funds ($63,761)~~

TOTAL $29,137,085.29

AGENDA ITEM # 2

KEY FOCUS AREA: Public Safety

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 3

DEPARTMENT: Aviation

CMO: Theresa O'Donnell, 670-3309

MAPSCO: 63L

SUBJECT

Authorize **(1)** acceptance of the FY 2017 grant (Grant No. M1718 DLEX) from the Texas Department of Transportation Aviation Division for the Routine Airport Maintenance Program at Dallas Executive Airport in an amount not to exceed $50,000 or 50% of eligible project costs whichever is less; **(2)** provide a local cash match in the amount of $50,000 for airport maintenance projects; and **(3)** execution of the grant agreement - Total not to exceed $100,000 - Financing: Aviation Current Funds ($50,000) (subject to appropriations) and Texas Department of Transportation Grant Funds ($50,000)

BACKGROUND

The Routine Airport Maintenance Program (RAMP) is a State assisted airport maintenance program through a grant reimbursement that will enable the City of Dallas - Department of Aviation to conduct needed repairs on the airport for annual maintenance. Some of the examples of these programs in the RAMP include Runway crack seal and Ramp area crack seal. The primary objective of the project is:

- Conduct repairs as needed under the Routine Airport Maintenance Program under the guidelines of Texas Department of Transportation (TxDOT).

TxDOT will determine if the repairs are within the scope of eligible projects for the TxDOT Grant for Routine Airport Maintenance Program Funds and will participate in an amount equal to 50% of the eligible project costs with TxDOT reimbursement not to exceed $50,000.00.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized grant reimbursement for the RAMP projects for fiscal year 2015, on May 13, 2015, by Resolution No. 15-0834.

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

Authorized grant reimbursement for the RAMP projects for fiscal year 2016, on May 25, 2016, by Resolution No. 16-0794.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

$50,000.00 - Aviation Current Funds (subject to annual appropriations)
$50,000.00 - Texas Department of Transportation Grant Funds

March 22, 2017

WHEREAS, the City of Dallas intends to enhance the city's economic vibrancy; particularly within the city's southern sector; and,

WHEREAS, Dallas Executive Airport has proven to be a significant economic generator within the city's southern sector; and,

WHEREAS, it is desirable to maintain the airport infrastructure to provide a safe and attractive environment for aircraft owners and operators to conduct business at Dallas Executive Airport; and,

WHEREAS, the City of Dallas & Texas Department of Transportation (TxDOT) participated in the RAMP program for fiscal year 2016 and accept reimbursement funds from TxDOT for eligible costs for routine airport maintenance at Dallas Executive Airport per the agreement; and,

WHEREAS, the total maintenance cost estimated for fiscal year 2017 agreement to be up to $100,000.00 and the City of Dallas will be responsible for the total project costs with a reimbursement by TxDOT of 50% of the total project cost up to and not to exceed $50,000.00; and,

WHEREAS, that TxDOT has indicated the routine airport maintenance is a program that is eligible for state funding through their Grant for Routine Airport Maintenance Program (RAMP) and will participate in an amount equal to 50% of the eligible costs, not to exceed $50,000.00.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to **(1)** apply for and accept the FY 2017 grant (Grant No. M1718 DLEX) from the Texas Department of Transportation Aviation Division in an amount not to exceed $50,000.00 or 50% of eligible costs, whichever is less, related to the Routine Annual Maintenance Program (RAMP); **(2)** provide a local cash match in the amount of $50,000.00 for airport maintenance projects; and **(3)** execute the grant agreement, subject to the approval of the City Attorney.

Section 2. That the Chief Financial Officer is hereby authorized to receive and deposit the grant reimbursement funds in an amount not to exceed $50,000.00 in the Aviation Grant Fund S311, Dept. AVI, Unit 2766, Revenue Source 6516.

Section 3. That the City Manager is hereby authorized to establish appropriations in the Aviation Grant Fund S311, Dept. AVI, Unit 2766, Object Code 3099 for the amount that is approved by TxDOT for reimbursement for fiscal year 2017.

Section 4. That the Chief Financial Officer is hereby authorized to reimburse Aviation Operating Fund 0130, Dept. AVI, Unit 7731, Object 5011 from Fund S311, Dept. AVI, Unit 2766, Object Code 3099 for the amount that is approved by TxDOT Routine Airport Maintenance Program (RAMP) for annual reimbursement not to exceed $50,000.00 annually.

Section 5. That the City Manager is hereby authorized to reimburse the granting agency any expenditure identified as ineligible and notify the appropriate City Council Committee of expenditures identified as ineligible not later than 30 days after the reimbursement.

Section 6. That the City Manager shall keep the appropriate City Council Committee informed of all final granting agency monitoring reports not later than thirty (30) days after the receipt of the report.

Section 7. 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.

AGENDA ITEM # 3

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Aviation

CMO: Theresa O'Donnell, 670-3309

MAPSCO: 34E

SUBJECT

Authorize Supplemental Agreement No. 4 to the professional services contract with Garver, LLC for design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II, and Taxiway Mike Phase II at Dallas Love Field - Not to exceed $1,737,770, from $3,456,534 to $5,194,304 - Financing: Aviation Capital Construction Funds ($698,258), Aviation Near Term Passenger Facility Charge Funds ($250,000) and Federal Aviation Administration Airport Improvement Program Grant Funds ($789,512)

BACKGROUND

This action will authorize Supplemental Agreement No. 4 to the professional services contract with Garver, LLC for design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Phase II.

The Program's 2015 fiscal year Airfield Pavement Rehabilitation and Reconstruction Project includes the reconstruction of a portion of Taxiway Bravo and new construction of a portion of Taxiway Mike Phase II, which requires engineering design services.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a professional services contract with Garver, LLC to provide design and preparation of construction documents for the Airfield Pavement Repairs on March 25, 2015, by Resolution No. 15-0491.

Authorized Supplemental Agreement No. 2 to the professional services contract with Garver, LLC for construction administration and management for the Airfield Pavement Repairs at Dallas Love Field on September 14, 2016, by Resolution No. 16-1512.

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

Authorized Supplemental Agreement No. 3 to the professional services contract with Garver, LLC for on-site construction administration and construction observation services for the Taxiway Echo Intersection Improvements and the Taxiway Bravo projects at Dallas Love Field on September 28, 2016, by Resolution No. 16-1581.

Authorized acceptance of a grant and deposit of reimbursement funds from the Federal Aviation Administration (FAA) (Grant No. 3-48-0062-51-2016/CFDA No. 20.016) for Rehabilitation of Taxiway B from RWY 13L to 18-36 project to the Aviation Airport Improvement Program Grant Fund F491, on November 9, 2016, by Resolution No. 16-1796.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

$698,258.00 - Aviation Capital Construction Funds
$250,000.00 - Aviation Near Term Passenger Facility Charge Funds
$789,512.00 - Federal Aviation Administration Airport Improvement Program Grant Funds

Design and construction documents	$1,323,890.00
Supplemental Agreement No. 1	$ 48,840.00
Supplemental Agreement No. 2	$ 314,464.00
Supplemental Agreement No. 3	$1,769,340.00
Supplemental Agreement No. 4 (this action)	$1,737,770.00
Total	$5,194,304.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Garver, LLC

Hispanic Female	1	Hispanic Male	8
African-American Female	3	African-American Male	6
Other Female	7	Other Male	8
White Female	94	White Male	308

OWNER

Garver, LLC

Daniel H. Williams, President
Brock E. Hoskins, Senior Vice President
Herbert J. Parker, Senior Vice President

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize Supplemental Agreement No. 4 to the professional services contract with Garver, LLC for design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II, and Taxiway Mike Phase II at Dallas Love Field - Not to exceed $1,737,770, from $3,456,534 to $5,194,304 - Financing: Aviation Capital Construction Funds ($698,258), Aviation Near Term Passenger Facility Charge Funds ($250,000) and Federal Aviation Administration Airport Improvement Program Grant Funds ($789,512)

Garver, LLC is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$1,672,970.00	96.27%
Non-local contracts	$64,800.00	3.73%
TOTAL THIS ACTION	$1,737,770.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
EJES, Inc	BMDB53984Y1017	$197,986.28	11.83%
STL Engineers	HFDB85904Y0617	$73,820.00	4.41%
Arredondo, Zepeda & Brunz, LLC	HMDB34314Y0617	$130,000.00	7.77%
Total Minority - Local		$401,806.28	24.02%

Non-Local Contractors / Sub-Contractors

Non-local	Certification	Amount	Percent
Williams CM Group	WFDB16721Y0717	$64,800.00	100.00%
Total Minority - Non-local		$64,800.00	100.00%

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$197,986.28	11.39%	$356,860.07	6.87%
Hispanic American	$203,820.00	11.73%	$412,560.71	7.94%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$64,800.00	3.73%	$1,070,212.50	20.60%
Total	$466,606.28	26.85%	$1,839,633.28	35.42%

March 22, 2017

WHEREAS, on March 25, 2015, Resolution No. 15-0491 authorized a professional services contract with Garver, LLC to provide design and preparation of construction documents for the Airfield pavement repairs in the amount of $1,323,890.00; and,

WHEREAS, on October 23, 2015, Administrative Action No. 15-7086 authorized Supplemental Agreement No. 1 to the professional services contract with Garver, LLC to complete a field investigation and prepare construction documents for isolated full-depth concrete repairs on the airfield at Dallas Love Field in the amount of $48,840.00, from $1,323,890.00 to $1,372,730.00; and,

WHEREAS, on September 14, 2016, Resolution No. 16-1512 authorized Supplemental Agreement No. 2 to the professional services contract with Garver, LLC for construction administration and management for the Airfield Pavement Repairs at Dallas Love Field in the amount of $314,464.00, from $1,372,730.00 to $1,687,194.00; and,

WHEREAS, on September 28, 2016, Resolution No. 16-1581 authorized Supplemental Agreement No. 3 to the professional services contract with Garver, LLC for on-site construction administration and construction observation services for the Taxiway Echo Intersection Improvements and the Taxiway Bravo projects in the amount of $1,769,340.00, increasing the amount from $1,687,194.00 to $3,456,534.00; and,

WHEREAS, on November 9, 2016, Resolution No. 16-1796 authorized the acceptance of a grant and deposit of reimbursement funds from the Federal Aviation Administration (FAA) (Grant No. 3-48-0062-51-2016/CFDA No. 20.016) for Rehabilitation of Taxiway B from RWY 13L to 18-36 project to the Aviation Airport Improvement Program Grant Fund F491 in the amount of $789,512.00; and,

WHEREAS, it is now necessary to execute Supplemental Agreement No. 4 to the professional services contract with Garver, LLC to provide engineering planning services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II and Taxiway Mike Phase II at Dallas Love Field in an amount not to exceed $1,737,770.00, increasing the amount from $3,456,534.00 to $5,194,304.00.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to execute Supplemental Agreement No. 4 to the professional services contract with Garver, LLC to provide design, planning, engineering, and construction document services for the Love Field Pavement Rehabilitation and Reconstruction Project, Taxiway Bravo Phase II, and Taxiway Mike Phase II, in an amount not to exceed $1,737,770.00, increasing the amount from $3,456,534.00 to $5,194,304.00.

Section 2. That the City will apply for grant funds from the Federal Aviation Administration (FAA) at a later date for Taxiway Mike Phase II Project and upon approval and deposit of the grant funds, the Chief Financial Officer is authorized to reclassify eligible design, planning, engineering, and construction document costs to the Aviation Grant Fund F515, Dept. AVI, Unit W153, Object Code 4111 from Aviation Capital Construction Fund 0131, Department AVI, Unit W153, Object Code 4111 in an amount not to exceed $698,258.00.

Section 3. That the City Manager is hereby authorized to establish appropriations in the Aviation Grant Fund F491, Dept. AVI, Unit W121, Object Code 4111 in an amount not to exceed $789,512.00 for the Taxiway B from RWY 13L to 18-36 Project.

Section 4. That the City Manager is hereby authorized to establish appropriations in the Aviation Near Term Passenger Facility Charge Fund A477, Dept. AVI, Unit W121, Object Code 3099 in an amount not to exceed $250,000.00 for the Taxiway Bravo from RWY 13L to 18-36 project.

Section 5. That the City will apply for future Passenger Facility Charge (PFC) funding for the eligible design, planning and construction document costs for the Taxiway B from RWY 13L to 18-36 project; and upon the approval of PFC by the FAA for this project, the City Manager is authorized to increase appropriations of the Passenger Facility Charge Fund 0477, Dept. AVI, Unit 0781, Object Code 3099 by $250,000.00 and transfer to the Aviation Near Term Passenger Facility Charge Fund A477, Dept. AVI, Unit W121, Object Code 5011.

Section 6. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $1,737,770.00 to be paid to Garver, LLC in accordance with the terms and conditions of the contract, as follows:

Taxiway Mike Phase II Project

Aviation Capital Construction Fund
Fund 0131, Dept. AVI, Unit W153, Act. AAIP, Object Code 4111
Program: AVIW153, Encumbrance No. CTAVIW153GARFY17,
Commodity Code 92500, Vendor No. VS0000016343,
in an amount not to exceed: $ 698,258.00

Rehabilitate Taxiway Bravo from RWY 13L to 18-36 Project

Aviation Grant Fund No. 3-48-0062-51-2016/CFDA No. 20.16
Fund F491, Dept. AVI, Unit W121, Act. AAIP, Object Code 4111
Program: AVIW121, Encumbrance No. CTAVIW121TWYBFY17,
Commodity Code 92500, Vendor No. VS0000016343,
in an amount not to exceed: $ 789,512.00

Aviation Near Term Passenger Facility Charge Fund

Fund A477, Dept. AVI, Unit W121, Act. AAIP, Object Code 4111
Program: AVIW121, Encumbrance No. CTAVIW121TWYBFY17,
Commodity Code 92500, Vendor No. VS0000016343,
in an amount not to exceed: $ 250,000.00

Total $1,737,770.00

Section 7. That the City Manager is hereby authorized to reimburse to the granting agency expenditures identified as ineligible. The City Manager shall notify the appropriate City Council Committee of expenditures identified as ineligible not later than 30 days after the reimbursement.

Section 8. That the City Manager shall keep the appropriate City Council Committee informed of all final granting agency monitoring reports not later than 30 days after the receipt of the report.

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.

AGENDA ITEM # 4

KEY FOCUS AREA: Public Safety

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Business Development & Procurement Services
Aviation

CMO: Elizabeth Reich, 670-7804
Theresa O'Donnell, 670-3309

MAPSCO: 34 K

SUBJECT

Authorize a one-year service contract for airfield paint removal, striping, and painting services at Dallas Love Field - Hi-Lite Airfield Services, LLC, through the Texas Association of School Boards (BuyBoard) - Not to exceed $998,532 - Financing: Aviation Current Funds (subject to appropriations)

BACKGROUND

This action does not encumber funds; the purpose of a service contract is to establish firm pricing for services, for a specific term, which are ordered on an as needed basis.

This service contract will provide airfield paint removal, striping, and painting services at Dallas Love Field. A recent Federal Aviation Administration (FAA) inspection found certain markings that require updating. Per FAA guidelines, repairs will be done at the next reasonable closure which is April 8 through April 16. This contract will allow for removal of old markings, resurfacing, and repainting of the approaches to the runways.

The Texas Association of School Boards (BuyBoard), conforms to the requirements of Texas Statutes that are applicable for competitive bids and proposals, in accordance with the Interlocal Cooperation Act, Chapter 791, Texas Government Code. In addition, BuyBoard receives bids from manufacturers and dealers throughout the United States.

The recommended vendor meets the wage floor rate of $10.37 approved by City Council on November 10, 2015, by Resolution No. 15-2141.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 26, 2015, City Council authorized a one-year service contract for airfield marking, striping and painting services for Aviation by Resolution No. 15-1517.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$998,531.84 - Aviation Current Funds (subject to appropriations)

ETHNIC COMPOSITION

Hi-Lite Airfield Services, LLC

White Male	91	White Female	11
Black Male	5	Black Female	1
Hispanic Male	3	Hispanic Female	0
Other Male	0	Other Female	0

OWNER

Hi-Lite Airfield Services, LLC

John S. McNeely, President
Richard C. McNeely III, Vice President
Kelly J. Spinner, Secretary
Theodore Misiewicz, Treasurer

March 22, 2017

WHEREAS, on August 26, 2015, City Council authorized a one-year service contract for airfield marking, striping and painting services for Aviation by Resolution No. 15-1517;

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 service contract with Hi-Lite Airfield Services, LLC (VS88417) through the Texas Association of School Boards (BuyBoard) for airfield paint removal, striping, and painting services at Dallas Love Field for a term of one year in an amount not to exceed $998,531.84, 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 Hi-Lite Airfield Services, LLC shall be based only on the amount of the services directed to be performed by the City and properly performed by Hi-Lite Airfield Services, LLC under the contract.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $998,531.84 (subject to appropriations) from Service Contract number MASCAVIFY17PAINTING.

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.

AGENDA ITEM # 5

KEY FOCUS AREA:	E-Gov
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	All
DEPARTMENT:	Business Development & Procurement Services Equipment & Building Services
CMO:	Elizabeth Reich, 670-7804 Jill A. Jordan, P.E., 670-5299
MAPSCO:	N/A

SUBJECT

Authorize a two-year service contract for the rental of vehicles and equipment - Herc Rentals, Inc. in the amount of $4,192,108, Enterprise Rent-A Car dba EAN Holdings, LLC in the amount of $1,554,264, Four Seasons Equipment, Inc. in the amount of $1,258,350, Landmark Equipment, Inc. in the amount of $1,187,473, Holt Texas, LTD in the amount of $777,880, Kirby-Smith Machinery, Inc. in the amount of $767,126, Sunbelt Rentals in the amount of $687,865, United Rentals (North America), Inc. in the amount of $349,543, and Metro Golf Cars in the amount of $87,646, lowest responsible bidders of nine - Total not to exceed $10,862,255 - Financing: Current Funds (subject to annual appropriations)

BACKGROUND

This action does not encumber funds; the purpose of a service contract is to establish firm pricing for services, for a specific term, which are ordered on an as needed basis.

This service contract will enable City departments to rent various types of vehicles and equipment on an as needed basis to perform day-to-day construction, operational, and emergency services citywide. This service contract is advantageous to the City because it provides immediate access to a variety of equipment without the purchase, inventory, depreciation, and maintenance cost associated with ownership of the equipment.

BACKGROUND (Continued)

The types of equipment include, but are not limited to:

- Excavators
- Backhoe tractor loaders
- Graders and tractors
- Flat-bed trucks
- Pick-up trucks
- Cargo and passenger vans
- Compact and full size vehicles

This service contract also makes available smaller construction and maintenance equipment such as concrete mixers, jackhammers, boring machines, air compressors, walk behind rollers, and trenchers. The vendors are responsible for the maintenance, repair, or replacement of all wear items such as brakes and clutches, relieving the City of these routine repairs.

As part of the solicitation process and in an effort to increase competition, Business Development and Procurement Services (BDPS) used its procurement system to send out 1,861 email bid notifications to vendors registered under respective commodities. To further increase competition, BDPS uses historical solicitation information, the internet, and vendor contact information obtained from user departments to contact additional vendors by phone. Additionally, in an effort to secure more bids, BDPS' ResourceLINK Team (RLT) sent notifications to 25 chambers of commerce, the DFW Minority Business Council, and the Women's Business Council – Southwest, to ensure maximum vendor outreach.

The recommended vendors meet the wage floor rate of $10.37 approved by City Council on November 10, 2015, by Resolution No. 15-2141.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 13, 2012, City Council authorized a two-year service contract for vehicle and equipment rental by Resolution No. 12-1514.

On September 12, 2012, City Council authorized a two-year service contract for rental of bulldozers and water trucks by Resolution No. 12-2224.

On September 24, 2014, City Council authorized a two-year service contract for the rental of vehicles and equipment by Resolution No. 14-1627.

On September 28, 2016, City Council authorized Supplemental Agreement No. 1 to increase the service contract for the rental of vehicles and equipment by Resolution No. 16-1556.

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

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$10,862,254.20 - Current Funds (subject to annual appropriations)

M/WBE INFORMATION

192 -Vendors contacted
191 - No response
1 - Response (Bid)
0 - Response (No bid)
1 - Successful vendor

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

ETHNIC COMPOSITION

Herc Rentals, Inc.

White Male	14	White Female	1
Black Male	3	Black Female	0
Hispanic Male	2	Hispanic Female	0
Other Male	1	Other Female	0

Enterprise Rent-A Car dba EAN Holdings, LLC

White Male	80	White Female	25
Black Male	79	Black Female	31
Hispanic Male	36	Hispanic Female	5
Other Male	5	Other Female	4

Four Seasons Equipment, Inc.

White Male	16	White Female	1
Black Male	1	Black Female	0
Hispanic Male	4	Hispanic Female	0
Other Male	0	Other Female	0

ETHNIC COMPOSITION (Continued)

Landmark Equipment, Inc.

White Male	42	White Female	8
Black Male	4	Black Female	1
Hispanic Male	7	Hispanic Female	0
Other Male	0	Other Female	0

Holt Texas, LTD

White Male	189	White Female	24
Black Male	31	Black Female	3
Hispanic Male	53	Hispanic Female	9
Other Male	15	Other Female	2

Kirby-Smith Machinery, Inc.

White Male	28	White Female	3
Black Male	2	Black Female	0
Hispanic Male	5	Hispanic Female	0
Other Male	0	Other Female	0

Sunbelt Rentals

White Male	138	White Female	8
Black Male	17	Black Female	0
Hispanic Male	42	Hispanic Female	1
Other Male	6	Other Female	0

United Rentals (North America), Inc.

White Male	141	White Female	18
Black Male	11	Black Female	0
Hispanic Male	30	Hispanic Female	2
Other Male	6	Other Female	1

Metro Golf Cars

White Male	14	White Female	5
Black Male	1	Black Female	0
Hispanic Male	26	Hispanic Female	1
Other Male	0	Other Female	0

BID INFORMATION

Business Development and Procurement Services received the following bids from solicitation number BN1605. We opened them on August 5, 2016. We recommend the City Council award this service contract to the lowest responsive and responsible bidders by line. Information related to this solicitation is available upon request.

*Denotes successful bidders

Bidders	Address	Amount of Bid
*Herc Rentals, Inc.	8200 John Carpenter Frwy. Dallas, TX 75247	Multiple Lines
*Enterprise Rent-A Car dba EAN Holdings, LLC	10966 Harry Hines Blvd. Dallas, TX 75220	Multiple Lines
*Four Seasons Equipment, Inc.	5524 Ledbetter Dr. Dallas, TX 75236	Multiple Lines
*Landmark Equipment, Inc.	1351 South Loop 12 Irving, TX 75060	Multiple Lines
*Holt Texas, LTD	2000 East Airport Frwy. Irving, TX 75062	Multiple Lines
*Kirby-Smith Machinery, Inc.	8505 South Central Expwy. Dallas, TX 75241	Multiple Lines
*Sunbelt Rentals	2341 Deerfield Dr. Fort Mill, SC 29715	Multiple Lines
*United Rentals (North America), Inc.	1350 South Loop 12 Irving, TX 75060	Multiple Lines
*Metro Golf Cars	4063 S. Freeway Fort Worth, TX 76110	Multiple Lines

OWNERS

Herc Rentals, Inc.

Lawrence Silber, President
Jason Oosterbeek, Vice President
Mary Ann Waryjas, Secretary
Mustally Hussein, Treasurer

OWNERS (Continued)

Enterprise Rent-A Car dba EAN Holdings, LLC

Brent Russell, President
Todd Burkman, Vice President
Thomas Berutti, Treasurer

Four Seasons Equipment, Inc.

Dave Keim, President
Dale DuBord, Vice President
Brian Emr, Secretary
Robert Carpenter, Treasurer

Landmark Equipment, Inc.

Mike Lyle, President

Holt Texas, LTD

Peter M. Holt, President

Kirby-Smith Machinery, Inc.

Ed Kirby, President
David Cooper, Vice President
Celise Blewitt, Secretary
J.D. Young, Treasurer

Sunbelt Rentals

Brendan Horgan, Chief Executive Officer
Francis Hassis, Executive Vice President
Kurt Kenkel, Secretary
John Schoenberger, Treasurer

United Rentals (North America), Inc.

Michael J. Kneeland, President
William B. Plummer, Vice President
Joli Gross, Secretary
Irene Moshouris, Treasurer

OWNERS (Continued)

Metro Golf Cars

Beverly Werner, President
Ben King, Vice President
Laura King, Secretary

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a two-year service contract for the rental of vehicles and equipment - Herc Rentals, Inc. in the amount of $4,192,108, Enterprise Rent-A Car dba EAN Holdings, LLC in the amount of $1,554,264, Four Seasons Equipment, Inc. in the amount of $1,258,350, Landmark Equipment, Inc. in the amount of $1,187,473, Holt Texas, LTD in the amount of $777,880, Kirby-Smith Machinery, Inc. in the amount of $767,126, Sunbelt Rentals in the amount of $687,865, United Rentals (North America), Inc. in the amount of $349,543, and Metro Golf Cars in the amount of $87,646, lowest responsible bidders of nine - Total not to exceed $10,862,255 - Financing: Current Funds (subject to annual appropriations)

Herc Rentals, Inc., Enterprise Rent-A Car dba EAN Holdings, LLC, Four Seasons Equipment, Inc., Landmark Equipment, Inc., Holt Texas, LTD, Kirby-Smith Machinery, Inc., United Rentals (North America), Inc. are local, non-minority firms, have signed the "Business Inclusion & Development" documentation, and propose to use their own workforces. Sunbelt Rentals is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce. Metro Golf Cars is a non-local, minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.
PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$10,086,743.20	92.86%
Total non-local contracts	$775,511.00	7.14%
TOTAL CONTRACT	$10,862,254.20	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

Non-local	Certification	Amount	Percent
Metro Golf Cars	WFWB60659N0918	$87,646.00	11.30%
Total Minority - Non-local		$87,646.00	11.30%

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$87,646.00	0.81%
Total	$0.00	0.00%	$87,646.00	0.81%

WHEREAS, on June 13, 2012, City Council authorized a two-year service contract for vehicle and equipment rental by Resolution No. 12-1514; and,

WHEREAS, on September 12, 2012, City Council authorized a two-year service contract for rental of bulldozers and water trucks by Resolution No. 12-2224; and,

WHEREAS, on September 24, 2014, City Council authorized a two-year service contract for the rental of vehicles and equipment by Resolution No. 14-1627; and,

WHEREAS, on September 28, 2016, City Council authorized Supplemental Agreement No. 1 to increase the service contract for the rental of vehicles and equipment by Resolution No. 16-1556;

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 service contract with Herc Rentals, Inc. (146874) in the amount of $4,192,108.00, Enterprise Rent-A Car dba EAN Holdings, LLC (VC13560) in the amount of $1,554,263.20, Four Seasons Equipment, Inc. (502821) in the amount of $1,258,350.00, Landmark Equipment, Inc. (502100) in the amount of $1,187,473.00, Holt Texas, LTD (506724) in the amount of $777,880.00, Kirby-Smith Machinery, Inc. (502341) in the amount of $767,126.00, Sunbelt Rentals (507070) in the amount of $687,865.00, United Rentals (North America), Inc. (VS0000003745) in the amount of $349,543.00, and Metro Golf Cars (144807) in the amount of $87,646.00, for the rental of vehicles and equipment for a term of two years in a total amount not to exceed $10,862,254.20, 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 Herc Rentals, Inc., Enterprise Rent-A Car dba EAN Holdings, LLC, Four Seasons Equipment, Inc., Landmark Equipment, Inc., Holt Texas, LTD, Kirby-Smith Machinery, Inc., Sunbelt Rentals, United Rentals (North America), Inc., and Metro Golf Cars shall be based only on the amount of the services directed to be performed by the City and properly performed by Herc Rentals, Inc., Enterprise Rent-A Car dba EAN Holdings, LLC, Four Seasons Equipment, Inc., Landmark Equipment, Inc., Holt Texas, LTD, Kirby-Smith Machinery, Inc., Sunbelt Rentals, United Rentals (North America), Inc., and Metro Golf Cars under the contract.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $10,862,254.20 (subject to annual appropriations) from Service Contract number BN1605.

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.

AGENDA ITEM # 6

KEY FOCUS AREA:	Public Safety
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	All
DEPARTMENT:	Business Development & Procurement Services Mobility and Street Services Trinity Watershed Management Water Utilities
CMO:	Elizabeth Reich, 670-7804 Jill A. Jordan, P.E., 670-5299 Mark McDaniel, 670-3256
MAPSCO:	N/A

SUBJECT

Authorize a three-year service contract for barricade services - Dallas Lite and Barricade, Inc., lowest responsible bidder of two - Not to exceed $201,882 - Financing: Current Funds ($12,700), Water Utilities Current Funds ($118,012), and Stormwater Drainage Management Current Funds ($71,170) (subject to annual appropriations)

BACKGROUND

This action does not encumber funds; the purpose of a service contract is to establish firm pricing for services, for a specific term, which are ordered on an as needed basis.

This service contract will provide barricade services including rental, delivery, setup, and removal during the repair and maintenance activities on City streets. Barricading major thoroughfares in conformance with the Texas Manual on Uniform Traffic Controls is essential to protect the safety of the general public and City workers/contractors. This service contract will allow for scheduled and emergency barricading rental services.

In this solicitation, Business Development and Procurement Services required bidders to submit a response using unit pricing. This bid resulted in a 5 percent increase over comparable unit prices for the bid awarded in 2015.

As part of the solicitation process and in an effort to increase competition, Business Development and Procurement Services (BDPS) used its procurement system to send out 814 email bid notifications to vendors registered under respective commodities.

BACKGROUND (Continued)

To further increase competition, BDPS uses historical solicitation information, the internet, and vendor contact information obtained from user departments to contact additional vendors by phone. Additionally, in an effort to secure more bids, BDPS' ResourceLINK Team (RLT) sent notifications to 25 chambers of commerce, the DFW Minority Business Council, and the Women's Business Council – Southwest, to ensure maximum vendor outreach.

The recommended vendor meets the wage floor rate of $10.37 approved by City Council on November 10, 2015, by Resolution No. 15-2141.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On April 24, 2013, City Council authorized a two-year service contract for barricade services by Resolution No. 13-0695.

On March 25, 2015, City Council authorized a two-year service contract for barricade services by Resolution No. 15-0475.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$ 12,699.74 - Current Funds (subject to annual appropriations)
$118,012.10 - Water Utilities Current Funds (subject to annual appropriations)
$ 71,169.51 - Stormwater Drainage Management Current Funds (subject to annual appropriations)

M/WBE INFORMATION

168 - Vendors contacted
168 - No response
0 - Response (Bid)
0 - Response (No bid)
0 - Successful

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

ETHNIC COMPOSITION

Dallas Lite and Barricade, Inc.

White Male	36	White Female	8
Black Male	20	Black Female	0
Hispanic Male	13	Hispanic Female	6
Other Male	0	Other Female	0

BID INFORMATION

Business Development and Procurement Services received the following bids from solicitation number BQ1705. We opened them on December 2, 2016. We recommend the City Council award this service contract in its entirety to the lowest responsive and responsible bidder.

*Denotes successful bidder

Bidders	**Address**	**Amount of Bid**
*Dallas Lite and Barricade, Inc.	1607 Ft. Worth Ave. Dallas, TX 75208	$201,881.35
Eagle Barricade, LLC	2029 McKenzie Dr. Suite 100 Carrollton, TX 75006	$741,733.69

OWNER

Dallas Lite and Barricade, Inc.

Shane D. Howell, President
Jay Galler, Vice President
Lori Garcia, Secretary

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a three-year service contract for barricade services - Dallas Lite and Barricade, Inc., lowest responsible bidder of two - Not to exceed $201,882 - Financing: Current Funds ($12,700), Water Utilities Current Funds ($118,012), and Stormwater Drainage Management Current Funds ($71,170) (subject to annual appropriations)

Dallas Lite and Barricade, Inc. is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.
PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$201,881.35	100.00%
Total non-local contracts	$0.00	0.00%
TOTAL CONTRACT	$201,881.35	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

WHEREAS, on April 24, 2013, City Council authorized a two-year service contract for barricade services by Resolution No. 13-0695; and,

WHEREAS, on March 25, 2015, City Council authorized a two-year service contract for barricade services by Resolution No. 15-0475;

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 service contract with Dallas Lite and Barricade, Inc. (053684) for barricade services for a term of three years in an amount not to exceed $201,881.35, 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 Dallas Lite and Barricade, Inc. shall be based only on the amount of the services directed to be performed by the City and properly performed by Dallas Lite and Barricade, Inc. under the contract.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $201,881.35 (subject to annual appropriations) from Service contract number BQ1705.

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.

AGENDA ITEM # 7

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): All

DEPARTMENT: Business Development & Procurement Services
Civil Service
Fire
Police

CMO: Elizabeth Reich, 670-7804
T.C. Broadnax, 670-3297
Eric Campbell, 670-3255

MAPSCO: N/A

SUBJECT

Authorize a three-year service contract to develop and administer promotional examinations for Police and Fire-Rescue - Industrial/Organizational Solutions, Inc., most advantageous proposer of four - Not to exceed $328,785 - Financing: Current Funds (subject to annual appropriations)

BACKGROUND

This action does not encumber funds; the purpose of a service contract is to establish firm pricing for services, for a specific term, which are ordered on an as needed basis.

The purpose of this service contract is to allow for the development and administration of promotional examinations for Police and Fire-Rescue.

Civil Service is responsible for the examination process for eight promotional Fire-Rescue ranks and three promotional Police ranks. Both departments have vacancies beyond their normal attrition in all ranks, and the eligible lists from which to promote candidates have expired. Civil Service has five staff members dedicated to police and fire testing. Seven exams are planned for 2017. Five of the tests have an assessment center component in addition to a written multiple-choice examination. The services are needed to help Civil Service staff develop and administer these tests, and to expedite them when needed, so that Police and Fire-Rescue can fill their vacancies.

BACKGROUND (Continued)

A nine member committee from the following departments reviewed and evaluated the proposals:

- Civil Service (2)
- Fire-Rescue (2)
- Police (2)
- Aviation (1)
- Business Development and Procurement Services (2)*

*Business Development and Procurement Services only evaluated cost and the Business Inclusion and Development Plan.

The committee selected the successful respondent on the basis of demonstrated competence and qualifications under the following criteria:

- Methodology 35%
- Cost 30%
- Experience and capability 20%
- Business Inclusion and Development Plan 15%

As part of the solicitation process and in an effort to increase competition, Business Development and Procurement Services (BDPS) used its procurement system to send out 1,219 email bid notifications to vendors registered under respective commodities. To further increase competition, BDPS uses historical solicitation information, the internet, and vendor contact information obtained from user departments to contact additional vendors by phone. Additionally, in an effort to secure more bids, BDPS' ResourceLINK Team (RLT) sent notifications to 25 chambers of commerce, the DFW Minority Business Council, and the Women's Business Council – Southwest, to ensure maximum vendor outreach.

The recommended vendor meets the wage floor rate of $10.37 approved by City Council on November 10, 2015, by Resolution No. 15-2141.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item was provided to the Public Safety Committee on February 27, 2017.

FISCAL INFORMATION

$328,785.00 - Current Funds (subject to annual appropriations)

M/WBE INFORMATION

217 - Vendors Contacted
217 - No Response
0 - Response (bid)
0 - Response (no bid)
0 - Successful

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

ETHNIC COMPOSITION

Industrial/Organizational Solutions, Inc.

White Male	13	White Female	26
Black Male	1	Black Female	0
Hispanic Male	0	Hispanic Female	0
Other Male	0	Other Female	5

PROPOSAL INFORMATION

Business Development and Procurement Services received the following proposals from solicitation number BRZ1705. We opened them on December 16, 2016. We recommend the City Council award this service contract to the most advantageous proposer by group.

*Denotes successful proposer

Proposers	Address	Score	Amount
*Industrial/ Organizational Solutions, Inc.	1127 S. Mannheim Rd. Suite 203 Westchester, IL 60154	Group 1 - 88.3% Group 2 - 88.7%	$231,510.00 $ 97,275.00
Morris & McDaniel, Inc.	117 S. Saint Asaph St. Alexandria, VA 22314	Group 1 - 79.1% Group 2 - No Bid	$295,000.00
Ergometrics & Applied Personnel Research, Inc.	18730 33rd Ave. West Lynnwood, WA 98037	Group 1 - 64.8% Group 2 - 65.3%	$387,150.00 $154,800.00
Cooperative Personnel Services dba CPS HR Consulting	241 Lathrop Way Sacramento, CA 95815	Group 1 - 64.4% Group 2 - 64.8%	$452,481.30 $191,163.20

OWNER

Industrial/Organizational Solutions, Inc.

Chad C. Legel, President
Brian J. O'Sullivan, Vice President
Mark W. Tawney, Vice President

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a three-year service contract to develop and administer promotional examinations for Police and Fire-Rescue - Industrial/Organizational Solutions, Inc., most advantageous proposer of four - Not to exceed $328,785 - Financing: Current Funds (subject to annual appropriations)

Industrial/Organizational Solutions, Inc. is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.

PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$0.00	0.00%
Total non-local contracts	$328,785.00	100.00%
TOTAL CONTRACT	$328,785.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

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

Section 1. That the City Manager is authorized to execute a service contract with Industrial/Organizational Solutions, Inc. (VS0000014784) to develop and administer promotional examinations for Police and Fire-Rescue for a term of three years in an amount not to exceed $328,785.00, 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 Industrial/Organizational Solutions, Inc. shall be based only on the amount of the services directed to be performed by the City and properly performed by Industrial/Organizational Solutions, Inc. under the contract.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $328,785.00 (subject to annual appropriations) from Service Contract number MASC CVS CVS1413E934.

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.

AGENDA ITEM # 8

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): All

DEPARTMENT: Business Development & Procurement Services
Office of Risk Management

CMO: Elizabeth Reich, 670-7804
Jeanne Chipperfield, 670-7804

MAPSCO: N/A

SUBJECT

Authorize a three-year service contract, with two one-year renewal options, for actuarial analysis services for Risk Management - Bickmore, most advantageous proposer of eight - Not to exceed $81,600 - Financing: Current Funds (subject to annual appropriations)

BACKGROUND

This service contract will provide actuarial analysis services for Risk Management on an annual basis. The actuarial services will include independent reviews of the City's self-funded worker's compensation, general liability, and auto liability exposures. The analysis will assist the City by forecasting future events and planning for the future by providing extensive actuarial services to include annual cost factors and trend analysis, as well as quarterly reviews.

A five member evaluation committee from the following departments reviewed and evaluated the proposals:

- Controller's Office (1)
- Park and Recreation (1)
- Office of Risk Management (1)
- Human Resources (1)
- Business Development and Procurement Services (1)*

*Business Development and Procurement Services only evaluated the proposed cost.

BACKGROUND (Continued)

The committee selected the successful respondent on the basis of the demonstrated competence and qualifications under the following criteria:

- Overall approach and methodology 40 Points
- Cost 30 Points
- Capability and expertise 30 Points

As part of the solicitation process and in an effort to increase competition, Business Development and Procurement Services (BDPS) used its procurement system to send out 912 email bid notifications to vendors registered under respective commodities. To further increase competition, BDPS uses historical solicitation information, the internet, and vendor contact information obtained from user departments to contact additional vendors by phone. Additionally, in an effort to secure more bids, BDPS' ResourceLINK Team (RLT) sent notices to 25 chambers of commerce, the DFW Minority Business Council, and the Women's Business Council - Southwest, to ensure maximum vendor outreach.

The recommended vendor meets the wage floor rate of $10.37 approved by City Council on November 10, 2015, by Resolution No. 15-2141.

PRIOR ACTION/REVIEW (COUNCIL BOARDS, COMMISSIONS)

On January 8, 2014, City Council authorized a three-year service contract, with two one-year renewal options, for consulting, technical assistance, and actuarial services for Risk Management by Resolution No. 14-0104.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$81,600.00 - Current Funds (subject to annual appropriations)

M/WBE INFORMATION

153 - Vendors contacted
153 - No response
0 - Response (Bid)
0 - Response (No bid)
0 - Successful

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

ETHNIC COMPOSITION

Bickmore

White Male	24	White Female	44
Black Male	0	Black Female	3
Hispanic Male	3	Hispanic Female	9
Other Male	8	Other Female	11

PROPOSAL INFORMATION

Business Development and Procurement Services received the following proposals from solicitation number BKZ1701. We opened them on December 2, 2016. The most advantageous proposer also ranked the highest in overall approach, methodology, capability, and expertise. We recommend the City Council award this service contract in its entirety to the most advantageous proposer.

*Denotes successful proposer

Proposers	Address	Score	Amount
*Bickmore	1750 Creekside Oaks Dr. Suite 200 Sacramento, CA 95833	88.35%	$ 81,600.00
SG Risk, LLC	1050 Wall Street West Suite 610 Lyndhurst, NJ 07071	82.75%	$ 59,925.00
Merlinos & Associates, Inc.	3274 Medlock Bridge Rd. Peachtree Corners, GA 30092	77.38%	$102,000.00
Oliver Wyman Actuarial Consulting, Inc.	500 Dallas St. Suite 1500 Dallas, TX 77002	73.77%	$120,000.00
AMI Risk Consultants, Inc.	1336 SW 146th Ct. Miami, FL 33184	72.37%	$105,000.00
Aon Risk Consultant Services Southwest, Inc.	2711 N. Haskell Ave. Suite 800 Dallas, TX 75204	71.72%	$118,500.00

PROPOSAL INFORMATION (Continued)

Proposers	Address	Score	Amount
Deloitte Consulting, LLP	2200 Ross Ave. Suite 1600 Dallas, TX 75201	58.55%	$285,000.00
Arthur J. Gallagher & Co.	5420 LBJ Frwy. Suite 400 Dallas, TX 75240	57.49%	$360,000.00

OWNER

Bickmore

Jeffrey C. Grubb, President
Michael Harrington, Vice President
Robert L. Kramer, Secretary

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a three-year service contract, with two one-year renewal options, for actuarial analysis services for Risk Management - Bickmore, most advantageous proposer of eight - Not to exceed $81,600 - Financing: Current Funds (subject to annual appropriations)

Bickmore is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.
PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$0.00	0.00%
Total non-local contracts	$81,600.00	100.00%
TOTAL CONTRACT	$81,600.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

WHEREAS, on January 8, 2014, City Council authorized a three-year service contract, with two one-year renewal options, for consulting, technical assistance, and actuarial services for Risk Management by Resolution No. 14-0104;

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 service contract with Bickmore (VS0000080364) for actuarial analysis services for Risk Management for a term of three years, with two one-year renewal options, in an amount not to exceed $81,600.00, 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 Bickmore shall be based only on the amount of the services directed to be performed by the City and properly performed by Bickmore under the contract.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $81,600.00 (subject to annual appropriations) from Service Contract number MASC BICKFY173860.

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.

AGENDA ITEM # 9

KEY FOCUS AREA:	E-Gov
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	2
DEPARTMENT:	Business Development & Procurement Services Aviation
CMO:	Elizabeth Reich, 670-7804 Theresa O'Donnell, 670-3309
MAPSCO:	34E

SUBJECT

Authorize the first of two one-year renewal options to the service contract with Harris Corporation formerly known as Exelis, Inc. for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field - Not to exceed $181,832 - Financing: Aviation Current Funds (subject to appropriations)

BACKGROUND

This action does not encumber funds; the purpose of a service contract is to establish firm pricing for services, for a specific term, which are ordered on an as needed basis.

This renewal option will allow the City to continue the maintenance of hardware and associated software licenses for airport noise and flight track monitoring at Dallas Love Field. The data generated by this system assists Aviation staff in understanding aircraft generated noise exposure surrounding the airport (noise contours) and allows for printed aircraft flight tracks and other customized operational reports. This information is used to support the operations of the airport and the Aviation Department by providing data to effectively respond to citizen inquiries about aircraft generated noise.

This monitoring system, which is internet-based, receives data from remote noise monitoring sensors and from a multi-sensor data feed monitors, and verifies compliance with the Dallas Love Field Voluntary Noise Control Program. The remote noise monitoring sensors are installed at various locations within neighborhoods around the airport.

Maintenance under this service contract includes technical support and upgrades to current releases of software and patches.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 25, 2013, City Council authorized a three-year service contract, with two one-year renewal options, to continue maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field by Resolution No. 13-1667.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$181,832.00 - Aviation Current Funds (subject to appropriations)

ETHNIC COMPOSITION

Harris Corporation

White Male	170	White Female	83
Black Male	14	Black Female	26
Hispanic Male	9	Hispanic Female	7
Other Male	34	Other Female	12

OWNER

Harris Corporation

William Brown, President

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize the first of two one-year renewal options to the service contract with Harris Corporation formerly known as Exelis, Inc. for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field - Not to exceed $181,832 - Financing: Aviation Current Funds (subject to appropriations)

Harris Corporation is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.
PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$0.00	0.00%
Non-local contracts	$181,832.00	100.00%
TOTAL THIS ACTION	$181,832.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

WHEREAS, on September 25, 2013, City Council authorized a three-year service contract, with two one-year renewal options, to continue maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field in the amount of $509,327.00, by Resolution No. 13-1667; and,

WHEREAS, on December 18, 2015, Administrative Action No. 15-7380 authorized Supplemental Agreement No. 1 to increase the service contract for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field in the amount of $20,805.75, increasing the service contract amount from $509,327.00 to $530,137.75; and,

WHEREAS, on October 28, 2016, Administrative Action No. 16-7118 authorized Supplemental Agreement No. 2 to increase the service contract for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field in the amount of $46,999.25, increasing the service contract amount from $530,137.75 to $577,137.00;

NOW, THEREFORE,

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

Section 1. That following approval as to form by the City Attorney, the City Manager is hereby authorized to execute the first of two one-year renewal options to the service contract with Harris Corporation formerly known as Exelis, Inc. (203021) for maintenance of hardware and associated software licenses for airport noise and flight tracking monitoring at Dallas Love Field in an amount not to exceed $181,832.00.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $181,832.00 (subject to appropriations) from Service Contract number BU1319.

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.

AGENDA ITEM # 10

KEY FOCUS AREA:	Public Safety
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	All
DEPARTMENT:	Business Development & Procurement Services Police
CMO:	Elizabeth Reich, 670-7804 Eric Campbell, 670-3255
MAPSCO:	N/A

SUBJECT

Authorize an increase to the master agreement with Taser International, Inc. for the purchase of electronic control weapons and accessories for Police - Not to exceed $320,869, from $1,283,564 to $1,604,433 - Financing: Current Funds

BACKGROUND

This action does not encumber funds; the purpose of a master agreement is to establish firm pricing for goods, for a specific term, which are ordered on an as needed basis.

The original contract allowed for the purchase of a limited amount of electronic control weapons. The increase to the master agreement will continue to provide electronic control weapons and accessories for Police (DPD). This purchase complies with DPD's less lethal policy and ensures all current and future patrol officers are issued an electronic control weapon. An electronic control weapon is deployed from a hand held device which allows the officer to safely incapacitate a combative person.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 24, 2014, City Council authorized a five-year master agreement for electronic control weapons and related equipment by Resolution No. 14-1641.

Information about this item was provided to the Public Safety Committee on February 13, 2017.

FISCAL INFORMATION

$320,868.43 - Current Funds

ETHNIC COMPOSITION

Taser International, Inc.

White Male	308	White Female	162
Black Male	7	Black Female	3
Hispanic Male	44	Hispanic Female	62
Other Male	33	Other Female	25

OWNER

Taser International, Inc.

Luke Larson, President
Josh Isner, Vice President
Doug Klint, Secretary
Dan Behrendt, Treasurer

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize an increase to the master agreement with Taser International, Inc. for the purchase of electronic control weapons and accessories for Police - Not to exceed $320,869, from $1,283,564 to $1,604,433 - Financing: Current Funds

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

PROJECT CATEGORY: Goods

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$0.00	0.00%
Non-local contracts	$320,868.43	100.00%
TOTAL THIS ACTION	$320,868.43	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

WHEREAS, on September 24, 2014, City Council authorized a five-year master agreement for electronic control weapons and related equipment by Resolution No. 14-1641;

NOW, THEREFORE,

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

Section 1. That following approval as to form by the City Attorney, the City Manager is hereby authorized to increase the master agreement with Taser International, Inc. (517440) for electronic control weapons and accessories for Police, in an amount not to exceed $320,868.43, increasing the master agreement from $1,283,564.08 to $1,604,432.51.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $320,868.43 from Master Agreement number BT1501.

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.

AGENDA ITEM # 11

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): All

DEPARTMENT: Business Development & Procurement Services
City Controller

CMO: Elizabeth Reich, 670-7804

MAPSCO: N/A

SUBJECT

Authorize **(1)** Supplemental Agreement No. 1 to increase the consulting contract with Deloitte Consulting, LLP for actuarial services related to the Dallas Police and Fire Pension System in the amount of $759,000, from $414,000 to $1,173,000; and **(2)** an increase in appropriations in the amount of $759,000 in the City Controller's Office FY 2016-17 budget, from $4,682,481 to $5,441,481 - Not to exceed $759,000 - Financing: Contingency Reserve Funds

BACKGROUND

This Supplemental Agreement No. 1 to the consulting contract allows for actuarial review and recommendations for changes to the City's public safety employee retirement benefits program.

On September 21, 2016, the City of Dallas entered into a contract with Deloitte Consulting, LLP (Deloitte) to provide actuarial services related to the Dallas Police and Fire Pension System (DPFP). The City has a need to continue to retain Deloitte's services as it moves forward in analyzing changes to the plan. Services under this contract may include:

- Analyzing options
- Advising the City on potential future alternatives
- Attending additional stakeholder meetings
- Other actuarial services related to the work and analysis already performed by Deloitte

Since much of the additional services rely on Deloitte's documented understanding of the actuarial results of DPFP's actuaries, Segal Consulting, it would not be feasible for another firm to attempt to replicate the analysis already conducted. For this reason, Deloitte is uniquely qualified to continue to provide actuarial services and advice to the City.

BACKGROUND (Continued)

In accordance with Administrative Directive 4-5, Paragraph 9.3.5, Special Needs Justification was approved to contract with Deloitte Consulting, LLP.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item was provided to the Budget, Finance, and Audit Committee on March 21, 2016.

On March 23, 2016, City Council authorized a consulting contract for actuarial services related to the Dallas Police and Fire Pension System by Resolution No. 16-0492.

Information about this item was provided to the Budget, Finance, and Audit Committee on September 19, 2016.

On September 21, 2016, City Council authorized a consulting contract for actuarial services related to the Dallas Police and Fire Pension System by Resolution No. 16-1531.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$759,000.00 - Contingency Reserve Funds

ETHNIC COMPOSITION

Deloitte Consulting, LLP

White Male	186	White Female	110
Black Male	14	Black Female	15
Hispanic Male	22	Hispanic Female	12
Other Male	359	Other Female	73

OWNER

Deloitte Consulting, LLP

Janet Footty, Chief Executive Officer

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize **(1)** Supplemental Agreement No.1 to increase the consulting contract with Deloitte Consulting, LLP for actuarial services related to the Dallas Police and Fire Pension System in the amount of $759,000, from $414,000 to $1,173,000; and **(2)** an increase in appropriations in the amount of $759,000 in the City Controller's Office FY 2016-17 budget, from $4,682,481 to $5,441,481 - Not to exceed $759,000 - Financing: Contingency Reserve Funds

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

PROJECT CATEGORY: Other Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$759,000.00	100.00%
Non-local contracts	$0.00	0.00%
TOTAL THIS ACTION	$759,000.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$0.00	0.00%	$0.00	0.00%

March 22, 2017

WHEREAS, on March 23, 2016, City Council authorized a consulting contract for actuarial services related to the Dallas Police and Fire Pension System by Resolution No. 16-0492; and,

WHEREAS, on September 21, 2016, City Council authorized a consulting contract for actuarial services related to the Dallas Police and Fire Pension System by Resolution No. 16-1531;

NOW, THEREFORE,

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

Section 1. That following approval as to form by the City Attorney, the City Manager is hereby authorized to execute Supplemental Agreement No. 1 to increase the consulting contract with Deloitte Consulting, LLP (516612) for actuarial services related to the Dallas Police and Fire Pension System, in an amount not to exceed $759,000.00, increasing the contract from $414,000.00 to $1,173,000.00.

Section 2. That the Chief Financial Officer is hereby authorized to transfer funds in an amount not to exceed $759,000.00 from Fund 0001, Dept. NBG, Unit 1000, Revenue Source RTRF, to Fund 0001, Dept. CCO, Unit 1272, Revenue Source 9229; and a clearing entry in the same amount, to Fund 0001, Dept. CCO, BSA 0991 (Debit) and to Fund 0001, Dept. BMS, BSA 0950 (Credit).

Section 3. That the City Manager is hereby authorized to increase the City Controller's Office appropriations by $759,000.00, from $4,682,481.00 to $5,441,481.00 in Fund 0001, Dept. CCO, Unit 1272, Object 3070; increase total General Fund expenditure appropriations by $759,000.00, from $1,229,838,885.00 to $1,230,597,885.00; and increase total General Fund revenue appropriations by $759,000.00, from $1,229,838,885.00 to $1,230,597,885.00.

Section 4. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $759,000.00 from Consulting Contract number MASC-CCO-00000000418.

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

AGENDA ITEM # 12

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Secretary

CMO: Rosa A. Rios, 670-3738

MAPSCO: N/A

SUBJECT

A resolution authorizing an increase in the joint elections agreement and election services contract between the City of Dallas and Collin County for the November 8, 2016 special election - Not to exceed $120, from $16,000 to $16,120 - Financing: Current Funds

BACKGROUND

Chapter 31, Subchapter D, of the Texas Election Code provides the City may contract with the county elections administrator for certain election services. The elections administrator first provides an estimate to each participating jurisdiction which is required to be paid in advance. Following the election, the elections administrator performs an election audit and will either (1) bill each participating jurisdiction for any additional amount owed, less the cost estimate paid; or (2) issue a refund in the event the cost estimate paid by participating jurisdictions exceeded the actual cost.

The Dallas City Council approved a joint election agreement and election services contract between the City of Dallas and Collin County for the conduct of the joint election at an estimated cost of $16,000. On January 31, 2017, the city was notified by the Collin County Elections Administrator their final audit of the November 8, 2016 special election indicated the total cost of the election, to be paid by the city, was $16,119.44. Less the amount paid, the city is showing to have a balance owed in the amount of $120. According to Collin County, those additional costs were due to supplies, early voting and administrative expenses.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 28, 2016, City Council authorized a joint election agreement and election services contract between the City of Dallas and Collin County, in an amount not to exceed $16,000, to cover the "estimated" costs for the conduct of a special election subsequently held on Tuesday, November 8, 2016, by Resolution No. 16-1629.

FISCAL INFORMATION

$119.44 - Current Funds

March 22, 2017

WHEREAS, the City Council ordered a general election to be held on Tuesday, November 8, 2016; and

WHEREAS, the City of Dallas and the other jurisdictions holding elections on November 8, 2016 desired to hold the elections jointly in accordance with Chapter 271 of the Texas Election Code; and

WHEREAS, the City had contracted with the Collin County Elections Administrator for election services for the November 8, 2016 special election in accordance with Subchapter D of Chapter 31 of the Texas Election Code; and

WHEREAS, the City Council on September 28, 2016 authorized the contract between City of Dallas and the Collin County Elections Administrator for the estimated cost of election services in the amount of $16,000 for the November 8, 2016 special election, by Resolution No. 16-1629; and

WHEREAS, the Collin County Elections Administrator on January 31, 2017, having conducted its audit, notified the City Secretary's Office of additional election services costs for the November 8, 2016 special election for a grand total cost of $16,119.44; which necessitates an increase in the election services contract with the Collin County Elections Administrator; **Now, Therefore,**

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

Section 1. That the City Manager is hereby authorized to increase the joint elections agreement and election services contract between the City of Dallas and Collin County, in an amount not to exceed $119.44, from $16,000.00 to $16,119.44.

Section 2. That the Chief Financial Officer is hereby authorized to disperse a total amount not to exceed $16,119.44 from Fund 0001, Department SEC, Unit 1190, Object Code 3070, Encumbrance No. 17SEC1190NOV08COL, Vendor 214184 for deposit in the election services contract fund as the City's estimated share of the costs of the general, special and runoff elections.

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.

SUMMARY OF COSTS FOR THE CITY OF DALLAS

SUPPLY COST	$765.48
EQUIPMENT RENTAL COST	$1,766.50
EARLY VOTING	$4,272.60
ELECTION DAY	$937.50
ADMINISTRATIVE EXPENSES	$18.00
TABULATION/CENTRALIZED COSTS	$6,893.96
Total	$14,654.04
10% Administrative Fee	$1,465.40
Total	**$16,119.44**
Less Chk# 1076260	**$14,151.16**
Amount Due County	**$1,968.28**

City of Dallas Reconciliation	
Allocated by City Council 9/28/16	$16,000.00
Less paid by City of Dallas (Check #1076260)	(14,151.16)
Remaining balance	$1,848.84
County Audit Results/Total Cost	$16,119.44
Less paid by City of Dallas (Check #1076260)	(14,151.16)
Additional payment/Audit Results	$1,968.28
Apply remaining balance	$1,848.84
Additional Allocation Needed	**$119.44**

ACTUAL COSTS FOR THE CITY OF DALLAS

November 8, 2016

Exhibit "C"

SUPPLY COST

Number of Early Voting Locations 1
Number of Election Day Locations 3

		Units	Cost Dallas/County
Early Voting Mail Ballots	$1.20 each	1103	$1,323.60
Precinct Ballot Setup	$10.00 each	0	$0.00
Precinct Ballots	$0.1870 each	50	$9.35
Early voting and election day kits	$25.00 each	4	$100.00
Central Counting kit and supplies	$50.00 each	1	$50.00
County Precinct Maps	$12.00 each	4	$48.00

Total	$1,530.95
Number of Entities Sharing Costs	2
SubTotal	$765.48
Grand Total	**$765.48**

EQUIPMENT RENTAL COST

Number of Early Voting Locations 1
Number of Election Day Locations 3

		Units	Cost Dallas/County
Voting Machines R6	$200.00 each	6	$1,200.00
Voting Machines R7	$150.00 each	6	$900.00
Transfer Cases	$5.00 each	3	$15.00
Metal Signs	$1.00 each	8	$8.00
Wood Signs	$2.00 each	4	$8.00
EV Security Cabinet	$200.00 each	1	$200.00
Early Voting Cabinet	$50.00 each	1	$50.00
ED Security Cabinet	$200.00 each	3	$600.00
Drayage Per Location	$138.00 each	4	$552.00

Total	$3,533.00
Number of Entities Sharing Costs	2
SubTotal	$1,766.50
Grand Total	**$1,766.50**

EARLY VOTING

Number of Early Voting Locations	1
Workers each location	4

		Units	Cost Dallas/County
Mailed Ballot Kits	$1.00 each	1103	$1,103.00
Postage for Ballots	$0.88 each	940	$827.20
Assemble EV Location	$50.00 each	1	$50.00
Total Judge Hours	$12.00 hour	80	$960.00
Overtime Judge Hours	$18.00 hour	60	$1,080.00
Total Alt. Judge & Clerk Hours	$10.00 hour	240	$2,400.00
Overtime Alt. Judge & Clerk Hours	$15.00 hour	140	$2,100.00
Pickup & Delivery of Supplies	$25.00 each	1	$25.00

Total	$8,545.20
Number of Entities Sharing Costs	2
SubTotal	$4,272.60
Grand Total	**$4,272.60**

ELECTION DAY

Number of Election Day Locations	3
Workers each Location	4

		Units	Cost Dallas/County
Total Judge Hours	$12.00 each	45	$540.00
Total Alt. Judge & Clerk Hours	$10.00 each	126	$1,260.00
Pickup & Delivery of Supplies	$25.00 each	3	$75.00

Total	$1,875.00
Number of Entities Sharing Costs	2
SubTotal	$937.50
Grand Total	**$937.50**

ADMINISTRATIVE EXPENSES

Number of Early Voting Locations	1
Number of Election Day Locations	3

		Units	Cost Dallas/County
Process Pollworker Checks	$1.50 each	16	$24.00
Process Election Judge Notices	$1.50 each	8	$12.00

Total	$36.00
Number of Entities Sharing Costs	2
SubTotal	$18.00
Grand Total	**$18.00**

TABULATION

Tabulation Network	$4,000.00
Programming w/Audio	$23,409.72
Election Night Support	$1,800.00
Notice of Inspection/Tabulation Test	$1,503.00
Total	$30,712.72

CENTRALIZED COSTS

Early Voting Ballot Board	$12,141.00
Cost for Central Count Workers	$1,912.50
FICA on Election Workers	$12,017.18
IT Election Day Support	$8,874.80
Early Voting Personnel in McKinney	$10,484.50
Early Voting Equipment	$1,600.00
Warehouse Gas Mileage	$688.77
Sample Ballots	$1,666.35
County Overtime	$44,530.50
Warehouse Temporaries	$10,267.41
FICA for County Employees	$2,983.54
Total	$107,166.55

Total for Tabulation & Centralized Costs **$137,879.27**

Proportionate Sharing based on Registered Voters: 540,084

City of Dallas - 28,967 **5% of Total = $6,893.96**

AGENDA ITEM # 13

KEY FOCUS AREA: Clean, Healthy Environment

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): All

DEPARTMENT: Code Compliance

CMO: Joey Zapata, 670-3009

MAPSCO: N/A

SUBJECT

Authorize payment for an asbestos abatement/demolition notification program for a four-year term as required by the Texas Department of State Health Services - Not to exceed $150,000 - Financing: Current Funds (subject to annual appropriations)

BACKGROUND

This agenda item will provide payment for a four-year term for the City of Dallas to participate in an asbestos abatement/demolition notification program. The Texas Department of State Health Services Demolition/Renovation Notification Program combines the requirements of the National Emission Standards for Hazardous Air Pollutants (NESHAP) and the Texas Asbestos Health Protection Rules. Both of these regulations require written notification be submitted before beginning demolition projects which may include the disturbance of any asbestos-containing building material. Participation by the City of Dallas is required and this item authorizes payment to the Texas Department of State Health Services for asbestos abatement/demolition notifications submitted. Notification and payment to the Texas Department of State Health Services is required for the following demolition structure types: residential structures surveyed, city-owned and commercial structures.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

Current Funds - $150,000.00 (subject to annual appropriations)

March 22, 2017

WHEREAS, the Texas Department of State Health Services Demolition/Renovation Notification Program combines the requirements of the National Emission Standards for Hazardous Air Pollution (NESHAP) and the Texas Asbestos Health Protection Rules; and

WHEREAS, the City is required to provide written notification to the Texas Department of State Health Services for any structure that is being surveyed for asbestos prior to demolition.

NOW, THEREFORE,

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

Section 1. That the City Manager is authorized to provide payment for a four year term to the Texas Department of State Health Services (214083) for asbestos abatement/demolition notification services in an amount not to exceed $150,000.00.

Section 2. That the Chief Financial Officer is authorized to disburse funds as follows (subject to annual appropriations):

FUND	DEPT	UNIT	OBJ	MASC	AMOUNT	VENDOR
0001	CCS	3041	3095	MASCCCSASBESTOS	$150,000.00	214083

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.

AGENDA ITEM # 14

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Office of Economic Development

CMO: Mark McDaniel, 670-3256

MAPSCO: 45 Q, U

SUBJECT

Authorize a second amendment of the development agreement with TEOF Hotel LP, for the Plaza Hotel redevelopment project to extend the project's completion deadline by one year, from July 31, 2016 to July 31, 2017 – Financing: No cost consideration to the City

BACKGROUND

This item amends the development agreement to allow TEOF Hotel LP additional time to obtain a certificate of occupancy and complete the public improvements associated with the project by 07/31/2017 for the redevelopment of the Plaza Hotel. Primary request for the extension is due to the interval time from the City's Housing and Urban Development Application (HUD) to HUD approving the Promissory Note on May 4, 2015 delayed construction. The property is open and the Cedars TIF Board of Directors recommends approval of the deadline extension.

The Lorenzo Hotel (Plaza Hotel Project) includes the following improvements at 1011 South Akard Street and South Akard Street and West Griffin Street: (1) conversion of a previously vacant 12-story hotel into a 220 room full service hotel with an outdoor pool and amenity area; and (2) infrastructure, streetscaping, and landscaping improvements that will consist of the construction of new sidewalks, the replacement and repair of existing sidewalks, and the planting of native plants and trees along South Akard Street and West Griffin Street. The project utilizes shipping containers to create approximately 1,800 square feet of commercial space at the northwest corner of South Akard and West Griffin Streets. Design aspects of the project have been reviewed by the City Design Studio and Peer Review Committee.

The anticipated total project cost is approximately $34,085,071 and consists of the following components: (i) land acquisition costs of approximately $6,500,000; (ii) hard construction costs of approximately $16,767,733; (iii) soft costs of approximately $6,781,267; (iv) furniture, fixtures and equipment costs of approximately $2,751,000; and (v) public improvement costs and contingences of approximately $1,285,071.

ESTIMATED PROJECT SCHEDULE

Began Hotel Renovation	December 2014
Complete Hotel Renovation	July 2017
Began Public Infrastructure Improvements	October 2016
Complete Public Infrastructure Improvements	July 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 9, 1992, City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Four (Cedars TIF District) by Ordinance No. 21492, as amended.

On April 9, 1997, City Council authorized the Final Project Plan and Reinvestment Zone Financing Plan for the Cedars TIF District by Ordinance No. 23092, as amended.

On September 5, 2013, the Cedars TIF Board of Directors reviewed the proposed infrastructure, streetscaping, and landscaping improvements at 1011 South Akard Street as well as along South Akard Street and West Griffin Street in the Cedars TIF District and recommended City Council consider a development agreement between the City of Dallas and TEOF Hotel LP for approval to dedicate an amount not to exceed $2,285,071 in future TIF revenues from the Cedars TIF District for certain TIF-eligible public improvements.

On September 25, 2013, City Council authorized (1) a development agreement with TEOF Hotel LP to dedicate future TIF revenues for eligible project costs related to infrastructure, streetscaping and landscaping improvements at 1011 South Akard Street as well as along South Akard Street and West Griffin Street in Tax Increment Financing Zone Number Four (Cedars TIF District); and (2) the Cedars TIF District Board of Directors to dedicate up to $2,285,071 from future Cedars TIF District revenues in accordance with the development agreement in an amount not to exceed $2,285,071 by Resolution Nos. 13-1711 and 13-1712.

On June 9, 2014, the Cedars TIF Board of Directors recommended City Council consideration and approval of amendment to the development agreement with TEOF Hotel LP.

On November 12, 2014, City Council authorized Resolution No. 14-1890 to extend the deadline to complete and receive a Certificate of Occupancy for the commercial/retail structure(s) that will be constructed on the southeast corner of the hotel's parking lot from July 31, 2015 to July 31, 2016.

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

On December 5, 2016, Cedars TIF Board, recommended City Council consideration of second amendment of the development agreement to extend completion deadlines by one year.

Information about this item will be provided to the Economic Development Committee on March 20, 2017

FISCAL INFORMATION

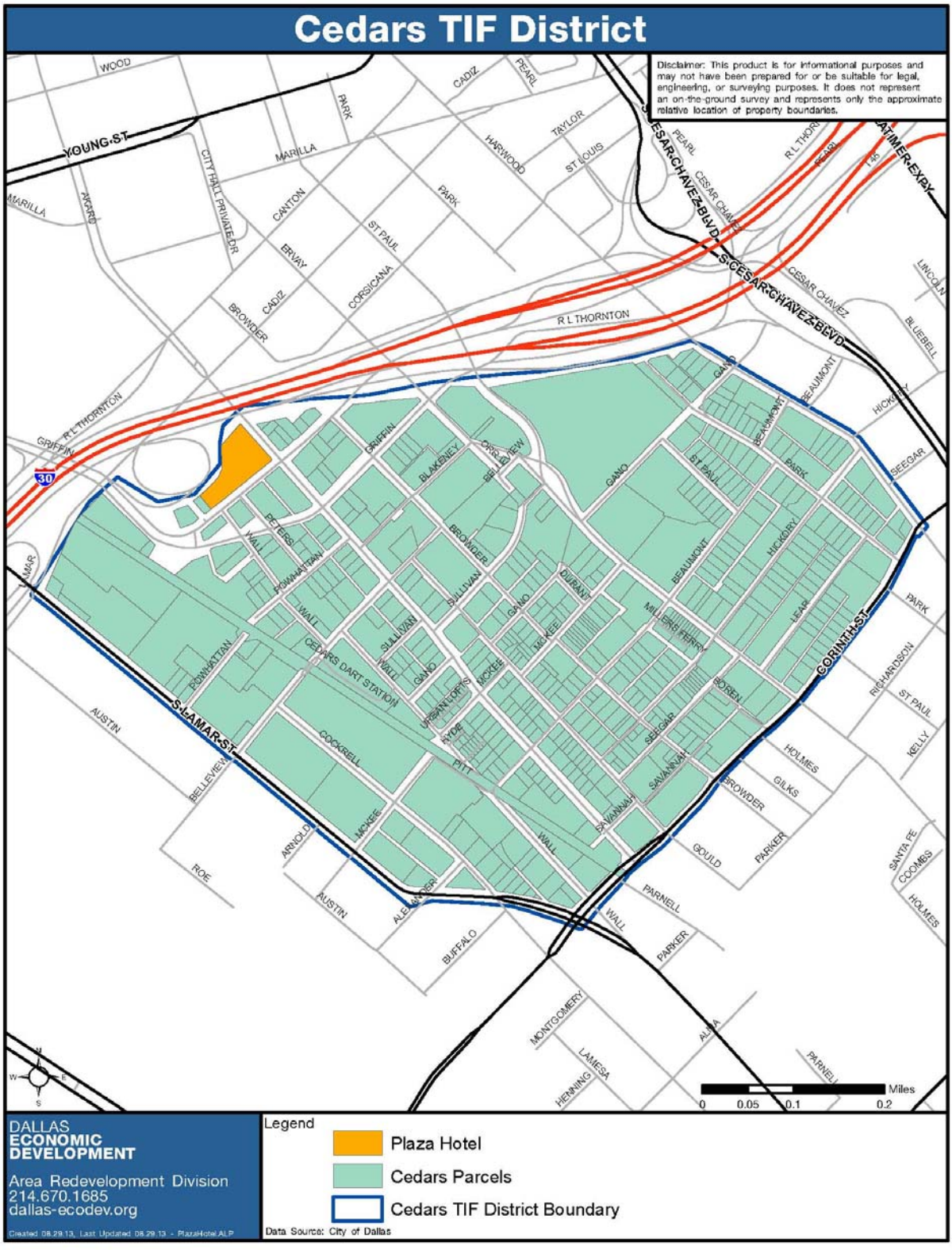
No cost consideration to the City

OWNER	**DEVELOPER**
TEOF Hotel LLC **A Texas limited liability company**	**TEOF Hotel LP** **A Texas limited liability company**
John Greenan, Manager	Larry Hamilton, Manager

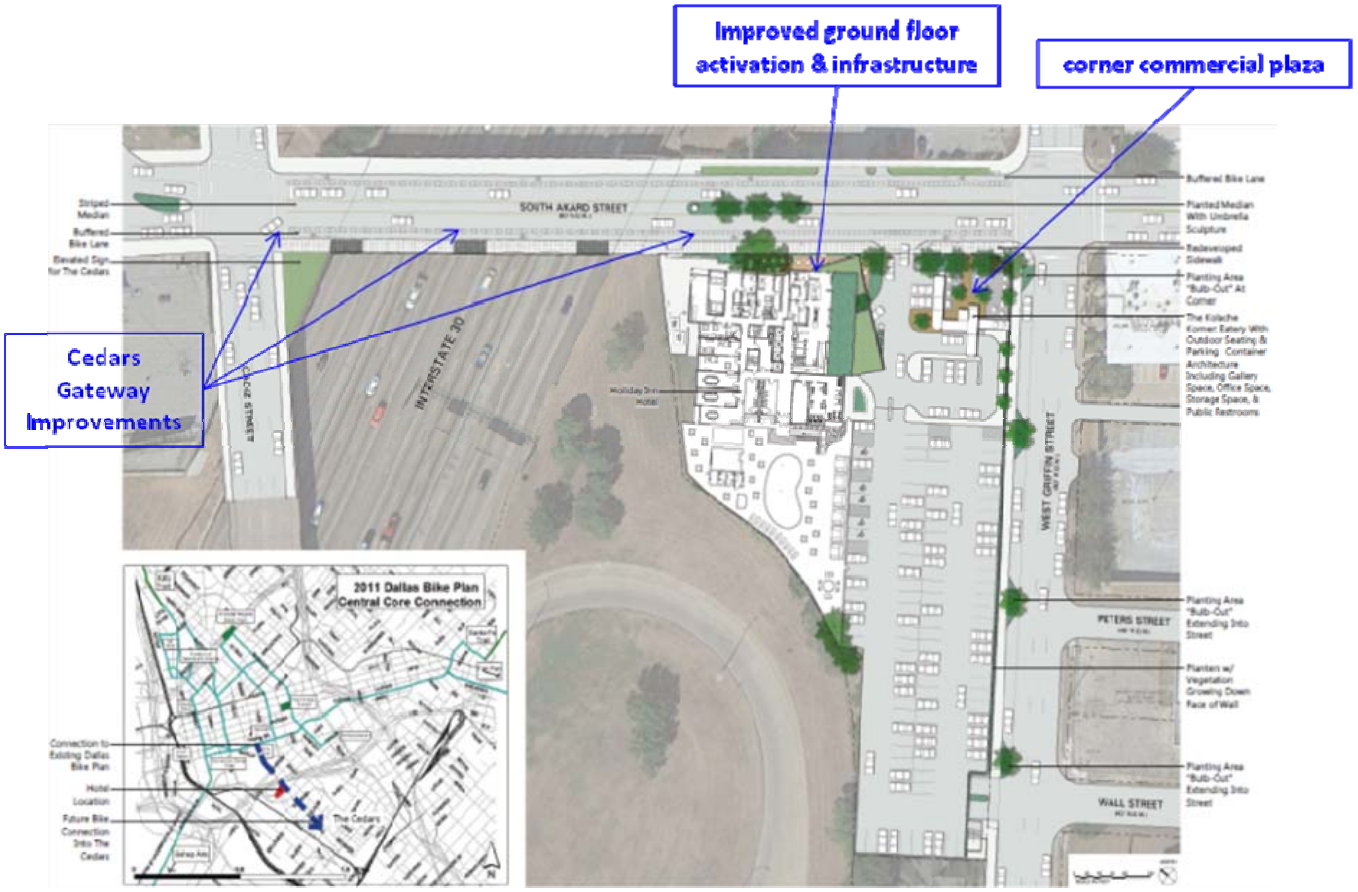
MAP(S)

Attached.

Location Map



Conceptual Site Plan (Exhibit A)



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

WHEREAS, on December 9, 1992, City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Four ("Cedars TIF District") in accordance with the Tax Increment Financing Act, as amended, V.T.C.A Texas Tax Code, Chapter 311 (the "Act") to promote development and redevelopment in the District through the use of tax increment financing by Ordinance No. 21492, as amended; and

WHEREAS, on April 9, 1997, City Council authorized the Final Project Plan and Reinvestment Zone Financing Plan for the Cedars TIF District by Ordinance No. 23092, as amended; and

WHEREAS, on September 25, 2013, City Council authorized (1) a development agreement with TEOF Hotel LP to dedicate future TIF revenues for eligible project costs related to infrastructure, streetscaping and landscaping improvements at 1011 South Akard Street as well as along South Akard Street and West Griffin Street in Tax Increment Financing Zone Number Four (Cedars TIF District); and (2) the Cedars TIF District Board of Directors to dedicate up to $2,285,071 from future Cedars TIF District revenues in accordance with the development agreement in an amount not to exceed $2,285,071 by Resolution Nos. 13-1711 and 13-1712; and as amended by Resolution No. 14-1890; and

WHEREAS, on November 12, 2014, City Council authorized Resolution No. 14-1890 to: (1) extend the deadline to complete and receive a Certificate of Occupancy for the commercial/retail structure(s) that will be constructed on the southeast corner of the hotel's parking lot from July 31, 2015 to July 31, 2016; (2) extend the deadline to complete and receive a Certificate of Occupancy for the renovated hotel from July 31, 2015 to July 31, 2016; (3) extend the deadline to complete all public infrastructure improvements at 1011 South Akard Street as well as along South Akard Street and West Griffin Street and receive a certificate of acceptance from the City's Department of Public Works and Transportation from July 31, 2015 to July 31, 2016, for all infrastructure improvements that are to be reimbursed with TIF funds; (4) extend the deadline to execute and fund an operating and maintenance agreement for non-standard public improvements associated with the Project from July 31, 2015 to July 31, 2016; (5) require the Developer/Owner to secure an Ascend Collection Hotel or an equivalent brand for the hotel's operator as approved by the Director of the Office of Economic Development by April 1, 2015; (6) authorize the City to reimburse the Developer/Owner up to $1,000,000 for expenditures related to the Project's public infrastructure improvements pursuant to a monthly draw schedule approved by the Director of the Office of Economic Development and/or submission of invoices for work completed, subject to the availability of funding in the Cedars TIF District Fund; and (7) allow upon project completion, reimbursement of TIF-eligible project costs in five annual payments in the amount of $257,014, subject to the availability of funding in the Cedars TIF District Fund; and

March 22, 2017

WHEREAS, on December 5, 2016, Cedars TIF Board, recommended City Council consideration of an amendment to the development agreement to allow an extension of deadlines by one year.

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 second amendment to the development agreement with TEOF Hotel LP, for the Plaza Hotel project originally approved by City Council on November 12, 2014, by Resolution No. 14-1890, as amended, to extend the project's completion deadline by one year, from July 31, 2016 to July 31, 2017.

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 with exception of the amendment described above, all other requirements of the Plaza Hotel Development Agreement executed on November 12, 2014, by Resolution No. 14-1890 shall remain in full force and effect.

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.

AGENDA ITEM # 15

KEY FOCUS AREA: Clean, Healthy Environment

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): All

DEPARTMENT: Housing/Community Services

CMO: Alan Sims, Chief of Neighborhood Plus, 670-1611

MAPSCO: N/A

SUBJECT

Authorize **(1)** the first amendment to the Contract No. 2017-049838-001 with the Department of State Health Services for the Women, Infants, and Children (WIC) Program to **(a)** amend the contract number from Contract No. 2017-049838-001 to Contract No. 2017-049838-001A; **(b)** revise the budget and extend the term of the contract from September 30, 2017 to September 30, 2018 to allow for successful completion of the WIC Project for FY 2017 and FY 2018 grant allocations; **(c)** accept additional grant funds in the amount of $26,000 for FY 2017 allocation for the WIC Summer Food Service Program for the period October 1, 2016 through September 30, 2017; **(d)** accept grant funds for FY 2018 allocation for continuation of the Special Supplemental Nutrition Program for the WIC Program in the amount of $15,056,672 for the period October 1, 2017 through September 30, 2018; and **(2)** execution of the amendment and all terms, conditions, and documents required by the contract - Not to exceed $15,082,672, from $15,055,566 to $30,138,238 - Financing: Department of State Health Services Grant Funds

BACKGROUND

Since 1974, the Department of State Health Services (DSHS) has funded the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in Dallas. The WIC Program provides nutritious food, nutrition education, breastfeeding promotion and support, and referrals to health and social services. The program serves infants, children under age 5, and pregnant, postpartum and breastfeeding women. WIC is a United States Department of Agriculture program administered in Texas by the Department of State Health Services. In Dallas County, the WIC Program is administered by the City of Dallas, Housing/Community Services Department.

BACKGROUND (Continued)

This item authorizes the acceptance of additional grant funds, increasing the total contract budget by $15,082,672. Twenty-six thousand dollars ($26,000) of these funds are for expenditures associated with the FY 2017 WIC Summer Food Service Program (SFSP), i.e., salaries of temporary staff, office supplies to include trash receptacles, liners, plastic ware, and insulated coolers for the fourteen (14) WIC clinics providing the SFSP. The remaining funds in the amount of $15,056, 672 are the FY 2018 allocation for the continuation of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) for the period October 1, 2017 through September 30, 2018. The total expenditures are not to exceed $30,138,238.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a contract for the Special Supplemental Nutrition Program for Women, Infants, and Children Program in the amount of $15,055,556 on October 11, 2016, by Resolution No. 16-1657.

Information about this item will be provided to the Housing Committee on March 20, 2017.

FISCAL INFORMATION

$15,082,672 - Department of State Health Services Grant Funds

March 22, 2017

WHEREAS, on October 11, 2016, City Council authorized a contract for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program in the amount of $15,055,566, by Resolution No. 16-1657; and

WHEREAS, there is a continued need for the Special Supplemental Nutrition Program for Women, Infants and Children, funded through the Department of State Health Services; and

WHEREAS, the Department of State Health Services and the City desire to revise the budget for the WIC Program from $15,055,566 to $30,138,238 of which $15,081,566 is allocated toward FY 2017 and $15,056,672 is allocated toward FY 2018 WIC Program; and

WHEREAS, the Department of State Health Services has awarded the City with additional grant funds as part of the budget revision in the amount of $15,082,672 ($26,000 for FY 2016-17 WIC Summer Food Program and $15,056,672 for FY 2017-18 WIC Program allocation) for the continuation of the City of Dallas WIC Program; and

WHEREAS, the City of Dallas will benefit in this contract amendment that includes two years of WIC Program grant allocation, FY 2017 grant allocation and the new FY 2018 grant allocation.

NOW, THEREFORE,

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

Section 1. That following approval as to form by the City Attorney, the City Manager is hereby authorized to **(1)** amend the contract (Contract No. 2017-049838-001 and CFDA No. 10.557) with the Department of State Health Services for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program to **(a)** amend the contract number from Contract No. 2017-049838-001 to Contract No. 2017-049838-001A; **(b)** revise the budget and extend the term of the contract from September 30, 2017 to September 30, 2018 to allow for successful completion of the WIC Project for FY 2017 and FY 2018 grant allocations; **(c)** accept additional grant funds in the amount of $26,000 for FY 2017 allocation for the WIC Summer Food Service Program for the period October 1, 2016 through September 30, 2017; **(d)** accept grant funds for FY 2018 allocation for continuation of the Special Supplemental Nutrition Program for the WIC Program in the amount of $15,056,672 for the period October 1, 2017 through September 30, 2018, in an amount not to exceed $15,056,672, increasing the total contract amount by $15,082,672 from $15,055,566 to $30,138,238; and **(2)** execute the amendment and all terms, conditions, and documents required by the contract.

Section 2. That the Chief Financial Officer is hereby authorized to receive and deposit additional grant funds from the Department of State Health Services in Fund F495, Dept. HOU, Unit 2029, Revenue Source 6509, in an amount not to exceed $26,000.

Section 3. That the City Manager is hereby authorized to increase appropriations in an amount not to exceed $26,000, from $15,055,566 to $15,081,566 in Fund F495, Dept. HOU, Unit 2029, using specified Object Codes, according to the attached Schedule.

Section 4. That the Chief Financial Officer is hereby authorized to disburse grant funds from the Department of State Health Services in Fund F495, Dept. HOU, using specified Object Codes, according to the attached Schedule, in an amount not to exceed $26,000.

Section 5. That the Chief Financial Officer is hereby authorized to receive and deposit grant funds for FY 2018 allocation from the Department of State Health Services in Fund F518, Dept. HOU, Units 2903-2910, Revenue Source 6509, in an amount not to exceed $15,056,672.

Section 6. That the City Manager is hereby authorized to establish appropriations for the FY 2018 allocation in an amount not to exceed $15,056,672 in Fund F518, Dept. HOU, Units 2903-2910, using specified Object Codes, according to the attached Schedule.

Section 7. That the Chief Financial Officer is hereby authorized to disburse grant funds from the Department of State Health Services for the FY 2018 allocation in Fund F518, Dept. HOU, Units 2903-2910, using specified Object Codes, according to the attached Schedule, in an amount not to exceed $15,056,672.

Section 8. That the City Manager is hereby authorized to reimburse to the Department of State Health Services any expenditure identified as ineligible. The City Manager shall notify the appropriate City Council Committee of expenditures identified as ineligible not later than 30 days after the reimbursement.

Section 9. That the City Manager shall keep the appropriate City Council Committee informed of all final granting agency monitoring reports not later than 30 days after the receipt of the report.

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.

SCHEDULE
Department of State Health Services
Special Supplemental Nutrition Program for Women, Infants, and Children
October 1, 2016 through September 30, 2017

Fund F495, Dept. HOU, Unit 2029 (Extra Funds), Revenue Source 6509

Object Code	Description	Amount
3994	Temporary Help	$24,000
3099	Misc. Special Services	$ 2,000
	Total	**$26,000**

SCHEDULE

Department of State Health Services
Special Supplemental Nutrition Program for Women, Infants, and Children
October 1, 2017 through September 30, 2018
Fund F518, Dept. HOU, Unit 2903, (Admin Only), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$7,297,860
1111	Cell Phone Reimbursement	7,680
1201	Overtime	155,000
1203	Service Incentive Pay	60,000
1301	Pension	1,079,225
1303	Life Insurance	4,512
1304	Health Insurance	1,011,500
1306	FICA (Medicare Only)	109,048
1309	Health & Wellness	4,375
2110	Office Supplies	90,000
2140	Light & Power	101,106
2160	Fuel Supplies	7,000
2170	Water & Sewage	2,500
2181	Fleet Fuel & Lube	700
2200	Chemical/Med/Surgical	137,200
2252	Meter Postage Fund	800
2261	Educational & Recreational Supplies	2,800
2710	Furniture & Fixtures	5,000
3050	Communications	60,000
3053	Communications Circuits	40,000
3085	Freight	1,000
3090	City Forces	2,500
3091	Custodial Services	70,000
3099	Misc. Special Services	27,328
3130	Copy Machine Rental	35,000
3330	Rents	1,609,580
3340	Membership Dues	525
3361	Professional Development	22,200
3363	Reimbursement Personal Vehicle Use	22,200
3364	Personnel Development	5,000
3410	Equip & Automotive Rental	1,000
3429	Blackberry Fees	1,200
3430	Computer Services	20,000
3434	Programming	370,000
3651	General Fund Cost Reimbursement	50,000
3851	Pension Bond Debt Service	188,668
	Subtotal	**$12,602,507**

SCHEDULE
Department of State Health Services
Special Supplemental Nutrition Program for Women, Infants, and Children
October 1, 2017 through September 30, 2018

Fund F518, Dept. HOU, Unit 2904 (BFPC), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$1,066,732
1301	Pension	$ 152,862
1303	Life Insurance	$ 840
1304	Health Insurance	$ 215,845
1306	FICA (Medicare Only)	$ 15,468
1309	Health & Wellness	$ 875
2110	Supplies	$ 2,518
2200	Chem/Med/Surgical	$ 9,519
3361	Professional Development	$ 2,570
	Subtotal	**$1,467,229**

Fund F518, Dept. HOU, Unit 2905 (RD), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$ 131,774
1301	Pension	$ 18,883
1303	Life Insurance	$ 48
1304	Health Insurance	$ 12,334
1306	FICA (Medicare Only)	$ 1,911
1309	Health & Wellness	$ 50
	Subtotal	**$ 165,000**

Fund F518, Dept. HOU, Unit 2906 (LC), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$ 154,111
1301	Pension	$ 22,084
1303	Life Insurance	$ 72
1304	Health Insurance	$ 18,501
1306	FICA (Medicare Only)	$ 2,235
1309	Health & Wellness	$ 75
3361	Professional Development	$ 2,922
	Subtotal	**$ 200,000**

SCHEDULE
Department of State Health Services
Special Supplemental Nutrition Program for Women, Infants, and Children
October 1, 2017 through September 30, 2018

Fund F518, Dept. HOU, Unit 2907 (LCC), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$ 241,500
1301	Pension	$ 34,607
1303	Life Insurance	$ 96
1304	Health Insurance	$ 24,668
1306	FICA (Medicare Only)	$ 3,502
1309	Health & Wellness	$ 100
2110	Supplies	$ 4,830
2140	Light & Power	$ 3,750
2200	Chemical/Med/Surgical	$ 4,500
3330	Rents	$ 76,349
3361	Professional Development	$ 3,098
	Subtotal	**$ 397,000**

Fund F518, Dept. HOU, Unit 2908 (Training Center), Revenue Source 6509

Object Code	Description	Amount
3330	Rents	$ 86,336
3099	Misc. Special Services	$ 1,000
	Subtotal	**$ 87,336**

Fund F518, Dept. HOU, Unit 2909 (Dietetic Intern), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$ 25,500
1301	Pension	$ 3,654
1303	Life Insurance	$ 24
1304	Health Insurance	$ 6,167
1306	FICA (Medicare Only)	$ 370
1309	Health & Wellness	$ 25
3361	Professional Development	$ 1,860
	Subtotal	**$ 37,600**

SCHEDULE
Department of State Health Services
Special Supplemental Nutrition Program for Women, Infants, and Children
October 1, 2017 through September 30, 2018

Fund F518, Dept. HOU, Unit 2910 (Innovation Center), Revenue Source 6509

Object Code	Description	Amount
1101	Salaries	$ 56,846
1301	Pension	$ 8,146
1303	Life Insurance	$ 96
1304	Health Insurance	$ 24,668
1306	FICA (Medicare Only)	$ 824
1309	Health & Wellness	$ 100
2110	Supplies	$ 4,684
3361	Professional Development	$ 4,636
	Subtotal	**$ 100,000**
	FY 2017-18 Total	**$15,056,672**

AGENDA ITEM # 16

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 5, 7, 10, 12

DEPARTMENT: Mobility and Street Services

CMO: Jill A. Jordan, P.E., 670-5299

MAPSCO: 17G Y 28E 57B 654Z

SUBJECT

Authorize **(1)** an Interlocal Agreement with the Texas Department of Transportation to provide cost reimbursement for material and labor costs incurred by the City for intersection and traffic signal improvements at the following five off-system locations: Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road and Royal Lane and Skillman Road; **(2)** the receipt and deposit of funds from the Texas Department of Transportation in the amount of $101,280; and **(3)** the establishment of appropriations in the amount of $101,280 in the Texas Department of Transportation Grant Fund - Not to exceed $101,280 - Financing: Texas Department of Transportation Grant Funds

BACKGROUND

The City of Dallas was awarded grant funding totaling $6.17 million from the 2014 Highway Safety Improvement Program (HSIP) administered by the Texas Department of Transportation (TxDOT) to upgrade several high-accident intersections in the City of Dallas.

TxDOT will begin construction at five (5) of the above intersections: Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road, and Royal Lane and Skillman Road. The intersection improvements at the five off-system intersections will include upgrades to pedestrian features, signage, pavement markings and reconstruction of traffic signals.

To remain consistent with other equipment in the city-wide system, the City of Dallas will provide labor and material for installation of traffic signal controllers, controller cabinets, traffic signs and other traffic control equipment for the project. TxDOT has agreed to reimburse the City for 100% of the above costs which includes labor and materials.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

ESTIMATED SCHEDULE OF PROJECT

Began Design	December 2015
Complete Design	March 2017
Begin Construction	June 2017
Complete Construction	October 2019

FISCAL INFORMATION

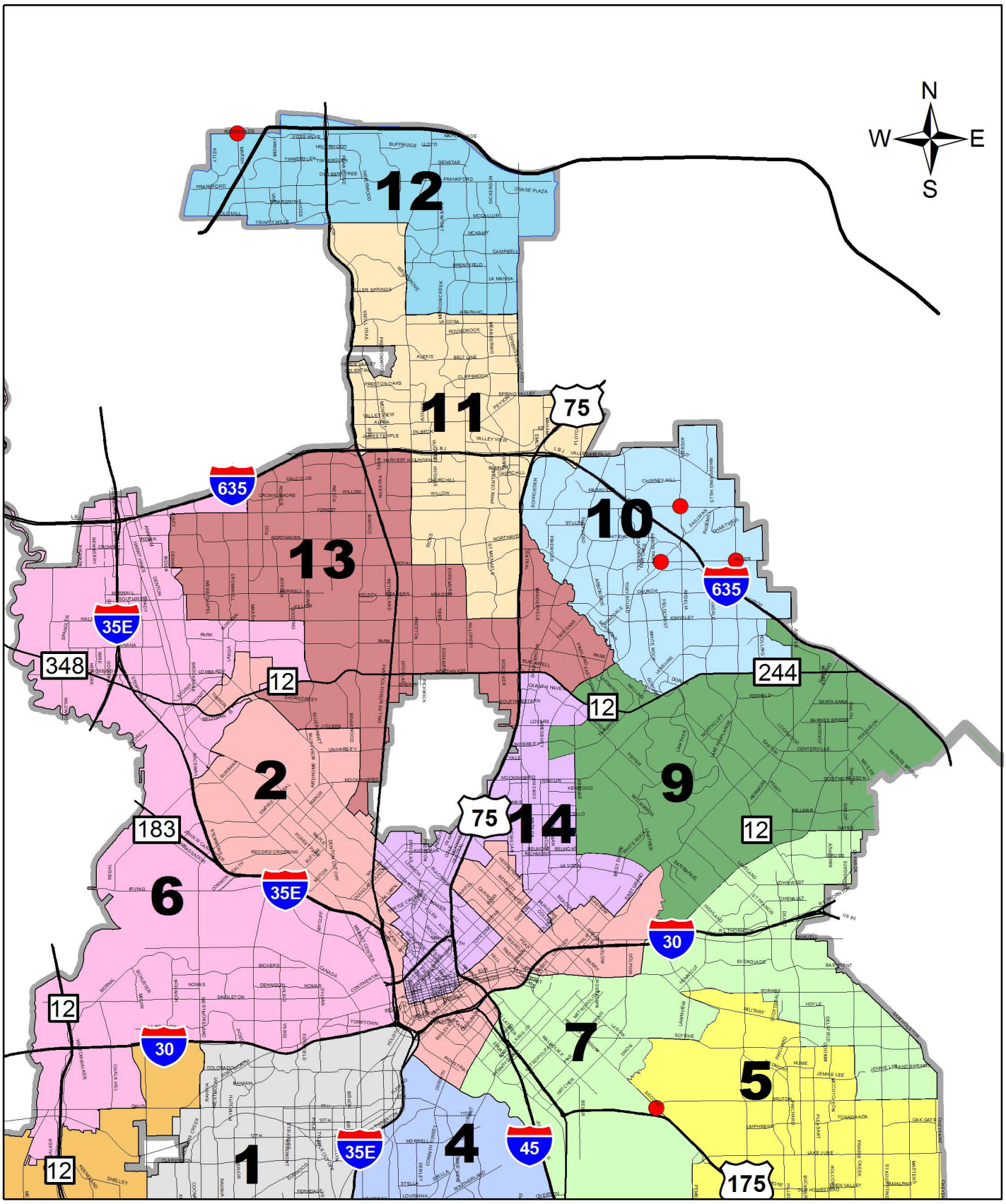
Texas Department of Transportation Grant Funds - $101,279.40

Council District	Amount
5	$ 10,127.94
7	$ 10,127.94
10	$ 60,767.64
12	$ 20,255.88
Total	$101,279.40

MAP

Attached

2014 HSIP SUBMITTAL FOR 2017 LET 5 SIGNALS



MAPSCO PAGE 17G, 17Y, 28E, 57B, 654Z

Map by Street Services December 2015

March 22, 2017

WHEREAS, the Texas Department of Transportation (TxDOT) will provide reimbursement to the City of Dallas for material and labor costs incurred for improvements at five intersections, including upgrades to the traffic signals, specifically at Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road, and Royal Lane and Skillman Road; and,

WHEREAS, TxDOT will reimburse 100% of labor and material costs in an amount not to exceed $101,279.40; and,

WHEREAS, the City of Dallas desires to enter into an agreement with TxDOT to receive cost reimbursement for material and labor costs incurred for traffic signal improvements at Marsh Lane and Rosemeade Parkway, Bruton Road and Second Avenue, Forest Lane and Audelia Road, Plano Road and Miller Road, and Royal Lane and Skillman Road.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to execute an Interlocal Agreement with the Texas Department of Transportation (TxDOT) through a grant from the Department of Transportation Federal Highway Administration (CFDA 20.205) Agreement numbers CSJ #0918-46-280 (Marsh Lane and Rosemeade Parkway), CSJ #0918-47-121 (Bruton Road and Second Avenue), CSJ #0918-47-122 (Forest Lane and Audelia Road), CSJ #0918-47-126 (Plano Road and Miller Road) and CSJ #0918-47-129 (Royal Lane and Skillman Road), after it has been approved as to form by the City Attorney. The agreement remains effective as long as the project is incomplete or unless otherwise terminated or modified.

Section 2. That the Chief Financial Officer is hereby authorized to receive and deposit all reimbursements from TxDOT pertaining to this project in an amount not to exceed $101,279.40 in Fund F8FU, Dept. STS, Unit 88FU, Revenue Source 6506.

Section 3. That the City Manager is hereby authorized to establish an appropriation in the amount of $101,279.40 in Fund F8FU, Dept. STS, Unit 88FU, Act. THRG Obj. 4820, Major Program STSMJR, Program TPF8FU17.

Section 4. That the Chief Financial Officer is hereby authorized to disburse funds from Fund F8FU, Dept. STS, Unit 88FU, Act. THRG Obj. 4820, Major Program STSMJR, Program TPF8FU17, in an amount not to exceed $101,279.40.

Section 5. That the City Manager is hereby authorized to reimburse the granting agency any expenditures identified as ineligible and notify the appropriate City Council Committee of expenditures identified as ineligible not later than 30 days after the reimbursement.

Section 6. That the City Manager shall keep the appropriate City Council Committee informed of all final granting agency monitoring reports not later than 30 days after the receipt of the report.

Section 7. 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.

AGENDA ITEM # 17

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 1, 2

DEPARTMENT: Mobility and Street Services

CMO: Jill A. Jordan, P.E., 670-5299

MAPSCO: 44Z 45P S T W 54 D

SUBJECT

Authorize payment to Dallas Area Rapid Transit for operation and maintenance costs for the Dallas Streetcar System (Union Station to Bishop Arts District) for Fiscal Year 2017 - Not to exceed $975,000 - Financing: Current Funds

BACKGROUND

The City maintains several Interlocal Agreements (ILA) with the North Central Texas Council of Governments (NCTCOG), Federal Transit Administration (FTA), Texas Department of Transportation (TxDOT), and with Dallas Area Rapid Transit (DART) pertaining to the Dallas Streetcar System. These ILA's established the City of Dallas as the owner of the Dallas Streetcar and allow for the City to rely on technical expertise from DART to operate and maintain the Dallas Streetcar.

On May 28, 2014, City Council authorized the City Manager to negotiate an ILA with DART for the operation and maintenance (O&M) of the Dallas Streetcar Starter System (Union Station to Methodist Hospital) by Resolution No. 14-0831. This ILA, which was executed by the City Manager on September 19, 2014, and executed by DART on January 27, 2015, further defined roles and responsibilities for the ongoing O&M of the streetcar system.

On June 15, 2016, City Council authorized an amendment to the ILA to also include the operation and maintenance of the extensions to the streetcar system, by Resolution No. 16-0980. As expected, the City and DART continue to operate based on the terms outlined in this ILA.

The City annual budget for FY 2016-17 included $975,000 for Streetcar O&M while DART budgeted $546,526 for O&M. In accordance with the ILA, DART covers the O&M costs and then invoices the City on a monthly basis. If approved, this action will authorize the payment of funds for O&M up to the allocated amount of $975,000.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 28, 2014, City Council authorized the City Manager to negotiate an Interlocal Agreement (ILA) with DART to detail agency roles and responsibilities related to operation and maintenance of the TIGER Grant-funded Dallas Streetcar Project (Union Station to North Oak Cliff), by Resolution No. 14-0831.

On June 15, 2016, City Council authorized an amendment to the above ILA to also include the operation and maintenance of the extensions to the streetcar system, by Resolution No. 16-0980.

On June 15, 2016, City Council authorized payment to Dallas Area Rapid Transit for the operation and maintenance of the Dallas Streetcar System for FY 2016 in an amount not to exceed $875,000.00, by Resolution No. 16-0981.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

Current Funds - $975,000.00

Council District	Amount
1	$877,500.00
2	$ 97,500.00
Total	$975,000.00

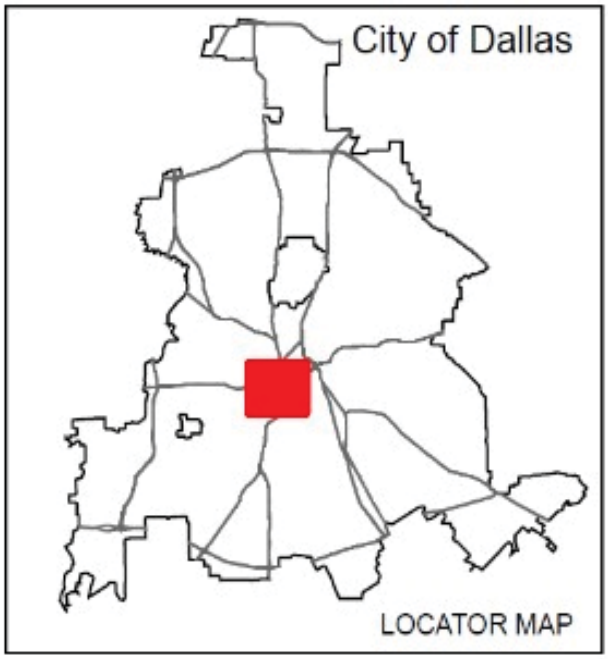
MAP

Attached

Dallas Modern Streetcar Extensions

Districts: 1, 2

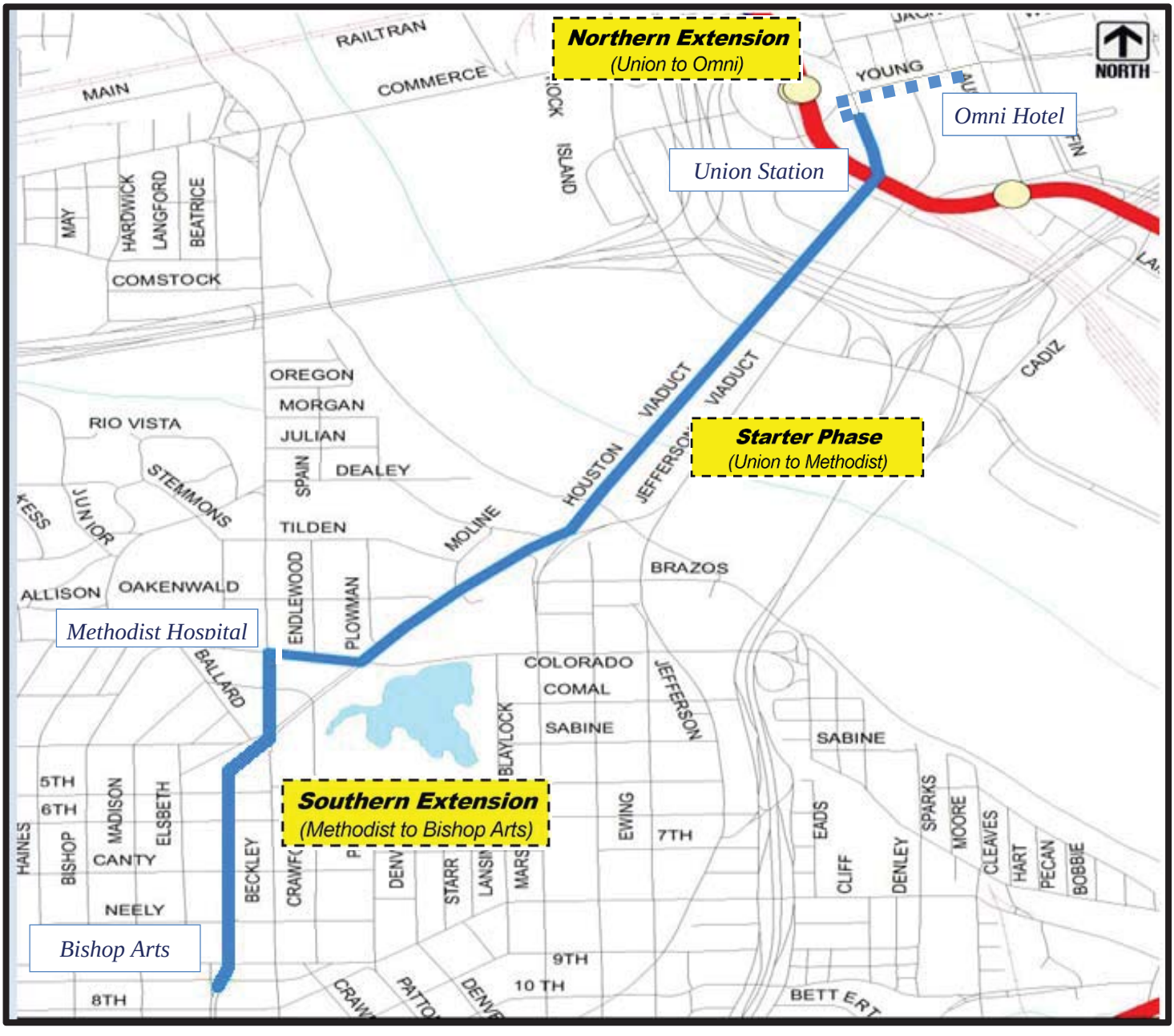
MAPSCO: 44 Z, 45 P, S, T, W, 54 D



LEGEND

STREETCAR ROUTE =

DART TRAIN ROUTE =



March 22, 2017

WHEREAS, the City of Dallas, Dallas Area Rapid Transit (DART), North Central Texas Council of Governments (NCTCOG) and Texas Department of Transportation (TxDOT) have entered into interlocal agreements (ILA) related to the funding, construction, and operation of the Dallas Streetcar System; and,

WHEREAS, on April 27, 2011, City Council authorized an ILA with NCTCOG and DART to detail agency roles and responsibilities related to the financial commitment for operation and maintenance of the Dallas Streetcar Starter System (Union Station to Methodist Hospital), by Resolution No. 11-1185; and,

WHEREAS, on May 28, 2014, City Council authorized an ILA with DART to detail agency roles and responsibilities related to operation and maintenance (O&M) of the Dallas Streetcar Starter System (Union Station to Methodist Hospital), by Resolution No. 14-0831; and,

WHEREAS, on June 15, 2016, City Council authorized the City Manager to execute an amended said ILA with DART for the operation and maintenance of the Dallas Streetcar System including the southern and northern extensions of the Dallas Streetcar System, two additional vehicles, and any additional Streetcar vehicles ordered in the future, by Resolution No. 16-0980; and,

WHEREAS, the City's adopted annual budget for fiscal year 2016-2017 included up to $975,000 to reimburse DART for the operation and maintenance of the Dallas Streetcar System.

Now, Therefore,

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

Section 1. That the City hereby authorizes payment to Dallas Area Rapid Transit for the operation and maintenance of the Dallas Streetcar System for FY 2017 in an amount not to exceed $975,000.00.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in accordance with the terms and conditions of the contract from:

Current Funds
Fund: 0001, Department BMS, Unit 1991
Object: 3070, Program #PBPRP629, CT# PBWPRP629II
Vendor No. 232802, in an amount not to exceed $ 975,000

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.

AGENDA ITEM # 18

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	14
DEPARTMENT:	Mobility and Street Services Water Utilities
CMO:	Jill A. Jordan, P.E., 670-5299 Mark McDaniel, 670-3256
MAPSCO:	35Q R V

SUBJECT

Authorize a professional services contract with Huitt-Zollars, Inc. for the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75 - Not to exceed $307,935 - Financing: 2012 Bond Funds ($288,896) and Water Utilities Capital Construction Funds ($19,039)

BACKGROUND

Knox Street from the Katy Trail to US 75 was funded in the 2012 Bond Program for complete street improvements. On August 24, 2016, a public hearing was conducted and Resolution No. 16-1378 authorized a thoroughfare plan amendment to change the functional and dimensional classifications of Knox Street from Travis Street to McKinney Avenue from a four-lane undivided roadway (M-4-U) within 60-feet of right-of-way to a special three-lane undivided roadway (SPCL 3U) within 60-feet of right-of-way.

This action will authorize a professional services contract with Huitt-Zollars, Inc. for the engineering design of Knox Street from the Katy Trail to US 75 complete street improvements determined through a comprehensive 2-year planning process with extensive community involvement. The improvements will consist of modifying the existing roadway to eliminate one lane of traffic and convert the existing four-lane undivided thoroughfare to a two-lane roadway with a center turn lane, and include pull-in parking and sidewalk modifications on the south side of Knox Street. Other improvements will include storm sewer inlet adjustments, water and wastewater replacements, landscaping, irrigation, benches, trash receptacles, bike racks, traffic signal, pedestrian lighting and utility modifications.

ESTIMATED SCHEDULE OF PROJECT

Begin Design	April 2017
Complete Design	December 2017
Begin Construction	April 2018
Complete Construction	March 2019

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The City Plan Commission Transportation Committee acted on the thoroughfare plan amendment for the conversion of Knox Street between Travis Street and McKinney Avenue from a four-lane undivided roadway to a three-lane undivided roadway on January 21, 2016, and followed staff recommendation of approval.

The City Plan Commission acted on this item on February 4, 2016, held under advisement; March 4, 2016, held under advisement; May 19, 2016, held under advisement; and July 21, 2016, and followed staff recommendation of approval.

A public hearing was conducted to authorize a thoroughfare plan amendment to change the functional and dimensional classifications of Knox Street between Travis Street and McKinney Avenue from a four-lane undivided roadway (M-4-U) within 60-feet of right-of-way to a special three-lane undivided roadway (SPCL 3U) within 60-feet of right-of-way on August 24, 2016, by Resolution No. 16-1378.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

2012 Bond Funds - $288,895.50
Water Utilities Capital Construction Funds - $19,039.00

Design (this action)	$ 307,934.50
Construction	
Paving & Drainage - STS	$1,869,354.80 (est.)
Water & Wastewater - DWU	$ 157,354.70 (est.)
Total	$2,334,644.00 (est.)

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Huitt-Zollars, Inc.

Hispanic Female	9	Hispanic Male	12
African-American Female	7	African-American Male	2
Other Female	2	Other Male	6
White Female	29	White Male	49

OWNER

Huitt-Zollars, Inc.

John Ho, P.E., Vice President

MAP

Attached.

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a professional services contract with Huitt-Zollars, Inc. for the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75 - Not to exceed $307,935 - Financing: 2012 Bond Funds ($288,896) and Water Utilities Capital Construction Funds ($19,039)

Huitt-Zollars, Inc. is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.
PROJECT CATEGORY: Architecture & Engineering

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$307,934.50	100.00%
Total non-local contracts	$0.00	0.00%
TOTAL CONTRACT	$307,934.50	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
Urban Engineers Group, Inc.	HFDB47619Y0817	$48,200.00	15.65%
HVJ North Texas	IMDB60714N0617	$6,000.00	1.95%
Lim & Associates, Inc.	PMDB90825Y0617	$48,005.00	15.59%
Total Minority - Local		$102,205.00	33.19%

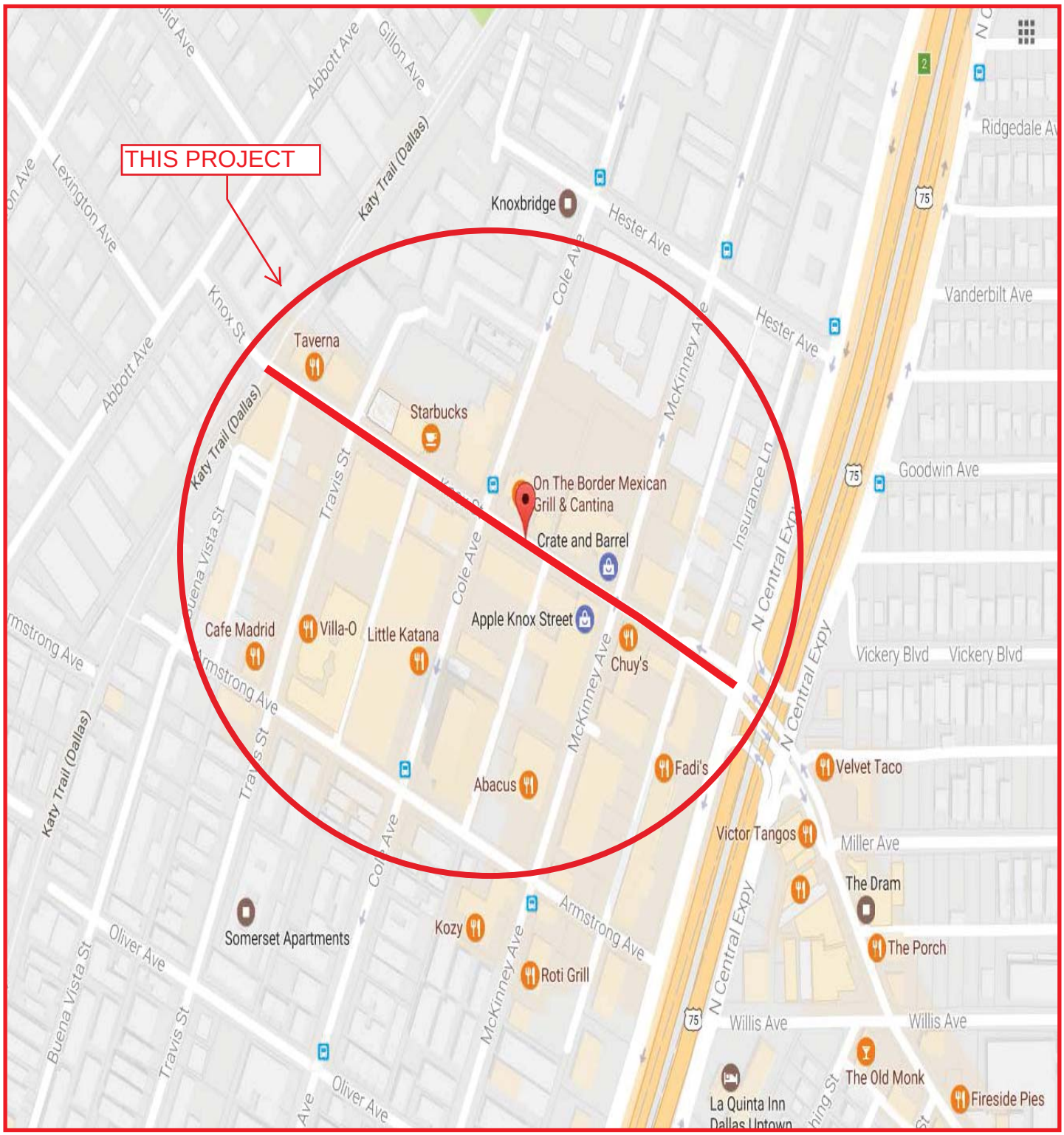
Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$48,200.00	15.65%	$48,200.00	15.65%
Asian American	$54,005.00	17.54%	$54,005.00	17.54%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$102,205.00	33.19%	$102,205.00	33.19%

KNOX STREET FROM KATY TRAIL TO US 75



MAPSCO 35Q, 35R, 35V

March 22, 2017

WHEREAS, the City Plan Commission Transportation Committee acted on the Thoroughfare Plan Amendment for the conversion of Knox Street between Travis Street and McKinney Avenue from a four-lane undivided roadway to a three-lane undivided roadway on January 21, 2016, and followed staff recommendation of approval; and

WHEREAS, the City Plan Commission acted on this item on February 4, 2016, held under advisement; March 4, 2016, held under advisement; May 19, 2016, held under advisement; and July 21, 2016, and followed staff recommendation of approval; and

WHEREAS, on August 24, 2016, Resolution No. 16-1378 authorized a thoroughfare plan amendment to change the functional and dimensional classifications of Knox Street between Travis Street and McKinney Avenue from a four-lane undivided roadway (M-4-U) within 60-feet of right-of-way to a special three-lane undivided roadway (SPCL 3U) within 60-feet of right-of-way; and

WHEREAS, Huitt-Zollars, Inc. was selected to provide the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to execute a professional services contract with Huitt-Zollars, Inc. for the engineering design of complete street improvements for Knox Street from the Katy Trail to US 75, in an amount not to exceed $307,934.50, after it has been approved as to form by the City Attorney.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in accordance with the terms and conditions of the contract from:

Street and Transportation Improvements Fund	
Fund 3U22, Department STS, Unit S408, Act. CPST	
Obj. 4111, Program #PB12S408, CT STS12S408F1	
Vendor #090025, in an amount not to exceed	$288,895.50
Water Construction Fund	
Fund 0102, Department DWU, Unit CW42	
Obj. 4111, Program #717179, CT PBW717179EN	
Vendor #090025, in an amount not to exceed	$ 11,423.40

Wastewater Construction Fund	
Fund 0103, Department DWU, Unit CS42	
Obj. 4111, Program #717180, CT PBW717180EN	
Vendor #090025, in an amount not to exceed	$ 7,615.60
Total amount not to exceed	$307,934.50

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.

AGENDA ITEM # 19

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	3, 11, 13
DEPARTMENT:	Mobility and Street Services Water Utilities
CMO:	Jill A. Jordan, P.E., 670-5299 Mark McDaniel, 670-3256
MAPSCO:	24U 25F G H 26E W 61B-J

SUBJECT

Authorize a construction contract with Ark Contracting Services, LLC, lowest responsible bidder of four, for the reconstruction of alley paving, storm drainage, drive approaches, and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for the Merrifield Road Dead End Turnaround Project (list attached) - Not to exceed $4,174,616 - Financing: 2012 Bond Funds ($1,658,794), 2006 Bond Funds ($163,430), General Obligation Commercial Paper Funds ($234,200), Water Utilities Capital Improvement Funds ($2,094,667) and Water Utilities Capital Construction Funds ($23,525)

BACKGROUND

Alley Reconstruction Groups 12-2040 and 12-2045 were approved in the 2012 Bond Program. On September 25, 2013, Resolution No. 13-1731 authorized professional services contracts for the engineering design services with ARS Engineers, Inc. for Alley Reconstruction Group 12-2040 and Multatech Engineering, Inc. for Alley Reconstruction Group 12-2045. Engineering design was provided by The Courtland Group for the Merrifield Road Dead End Turnaround Project. This action will authorize a construction contract for the reconstruction of alley paving, storm drainage, drive approaches, and wastewater main and adjustment improvements for Alley Reconstruction Group 12-2040, which consists of the alley between Azalea Lane and Royalton Drive from Azalea Lane to Tibbs Street; the alley between Azalea Lane and Currin Drive from Saint Judes Drive to Michaels Drive; the alley between Lavendale Avenue and Royalton Drive from Tibbs Street to Lavendale Avenue; the alley between Lavendale Avenue and Azalea Lane from Camellia Drive to Tibbs Street; the alley between Lavendale Avenue and Royal Lane from Hillcrest Road to Saint Judes Drive; the alley between Lavendale Avenue and Royal Lane from Tibbs Street to Edgemere Road; and the alley between Lavendale Avenue and Royal Lane from Royal Lane to Tibbs Street, and Alley Reconstruction Group 12-4045, which consists of the alley

BACKGROUND (Continued)

between Brookview Drive and Gloster Road from Manchester Drive to Rockbrook Drive; and the alley between Caruth Boulevard and Colgate Avenue from Durham Street to Boedeker Street.

Alley Reconstruction Groups 12-2040 and 12-2045 include the construction of reinforced concrete alley pavement, storm drainage, drive approaches and wastewater main and adjustment improvements. The Merrifield Road Dead End Turnaround Project includes the construction of an 11-inch thick reinforced concrete pavement and other miscellaneous items necessary to complete the project.

The construction of Merrifield Road ended at approximately 3825 feet north of Mountain Creek Parkway to allow for extending Merrifield Road to Grady Niblo Road. However, trucks turning at the dead end of Merrifield Road have damaged the median and a section of the existing pavement. It is now necessary to construct a turnaround at the Merrifield Road dead end to provide easy turning for trucks and other motorists.

Ark Contracting Services, LLC has no completed contractual activities with the City of Dallas within the past three years.

ESTIMATED SCHEDULE OF PROJECT

Alley Reconstruction Group 12-2040

Began Design	November 2013
Completed Design	November 2016
Begin Construction	May 2017
Complete Construction	August 2018

Alley Reconstruction Group 12-2045

Began Design	November 2013
Completed Design	November 2016
Begin Construction	May 2017
Complete Construction	August 2018

Merrifield Road Dead End Turnaround

Began Design	Designed by the Developer
Completed Design	November 2016
Begin Construction	May 2017
Complete Construction	August 2018

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized an infrastructure cost participation agreement between the City of Dallas and The Courtland Group on June 28, 2000, by Resolution No. 00-2141.

Authorized a construction contract with Mario Sinacola and Sons Excavating, Inc. for the Merrifield Road Extension on October 10, 2012, by Resolution No. 12-2547.

Authorized a professional services contract with ARS Engineers, Inc. for engineering design services on September 25, 2013, by Resolution No. 13-1731.

Authorized a professional services contract with Multatech Engineering, Inc. for engineering design services on September 25, 2013, by Resolution No. 13-1731.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

2006 Bond Funds - $163,430
2012 Bond Funds - $1,658,794
2012 Bond Program (General Obligation Commercial Paper Funds) - $234,200
Water Utilities Capital Improvement Funds - $2,094,667
Water Utilities Capital Construction Funds - $23,525

Alley Reconstruction Group 12-2040

Design - STS	$ 274,101.89
Design - DWU	$ 60,275.00

Alley Reconstruction Group 12-2045

Design - STS	$ 63,953.00
Design - DWU	$ 18,332.00

Merrifield Road Dead End Turnaround

Design - (by the developer)	$ 0.00

Construction (this action)	
Paving & Drainage - STS	$2,056,424.00
Wastewater - DWU	$2,118,192.00
Total Project Cost	$4,591,277.89

FISCAL INFORMATION (Continued)

Council District	Amount
3	$ 902,509.00
11	$3,108,677.00
13	$ 163,430.00
Total	$4,174,616.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Ark Contracting Services, LLC

Hispanic Female	0	Hispanic Male	131
African-American Female	0	African-American Male	0
Other Female	0	Other Male	0
White Female	5	White Male	21

BID INFORMATION

The following bids with quotes were received and opened on December 23, 2016:

*Denotes successful bidder(s)

BIDDERS	BID AMOUNT
*Ark Contracting Services, LLC 420 S. Dick Price Road Kennedale, Texas 76060	$4,174,616.00
Vescorp Construction	$4,724,055.72
Camino Construction, LP	$4,994,856.00
Jeske Construction Company	$5,468,823.00

Original estimate: STS - $1,955,095.85
WTR - $1,357,999.00

Total $3,313,094.85

OWNER

Ark Contracting Services, LLC

Steven C. Bowman, President

MAPS

Attached.

Alley Reconstruction Groups 12-2040 and 12-2045
and Paving Improvements

Paving Improvements	**Council District**
Merrifield Road Dead End Turnaround	3
Alley Reconstruction Group 12-2040	
Alley between Azalea Lane and Royalton Drive from Azalea Lane to Tibbs Street	11
Alley between Azalea Lane and Currin Drive from St. Judes Drive to St. Michaels Drive	11
Alley between Lavendale Avenue and Royalton Drive from Tibbs Street to Lavendale Avenue	11
Alley between Lavendale Avenue and Azalea Lane from Camellia Drive to Tibbs Street	11
Alley between Lavendale Avenue and Royal Lane from Hillcrest Road to St. Judes Drive	11
Alley between Lavendale Avenue and Royal Lane from Tibbs Street to Edgemere Road	11
Alley between Lavendale Avenue and Royal Lane from Royal Lane to Tibbs Street	11
Alley Reconstruction Group 12-2045	
Alley between Brookview Drive and Gloster Road from Manchester Drive to Rockbrook Drive	13
Alley between Caruth Boulevard and Colgate Avenue from Durham Street to Boedeker Street	13

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a construction contract with Ark Contracting Services, LLC, lowest responsible bidder of four, for the reconstruction of alley paving, storm drainage, drive approaches, and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for the Merrifield Road Dead End Turnaround Project (list attached) - Not to exceed $4,174,616 - Financing: 2012 Bond Funds ($1,658,794), 2006 Bond Funds ($163,430), General Obligation Commercial Paper Funds ($234,200), Water Utilities Capital Improvement Funds ($2,094,667) and Water Utilities Capital Construction Funds ($23,525)

Ark Contracting, Inc. is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.
PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$1,535,000.00	36.77%
Total non-local contracts	$2,639,616.00	63.23%
TOTAL CONTRACT	$4,174,616.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
J & A Trucking	HMMB64410N0317	$260,000.00	16.94%
Reyes Group, Ltd.	HMMB45079Y0818	$20,000.00	1.30%
J. E. Guzman Construction	HMMB64868N0417	$10,000.00	0.65%
LKT & Associates	WFDB26473Y1016	$300,000.00	19.54%
Magnum Manhole & Underground	WFDB06880Y0617	$50,000.00	3.26%
Total Minority - Local		$640,000.00	41.69%

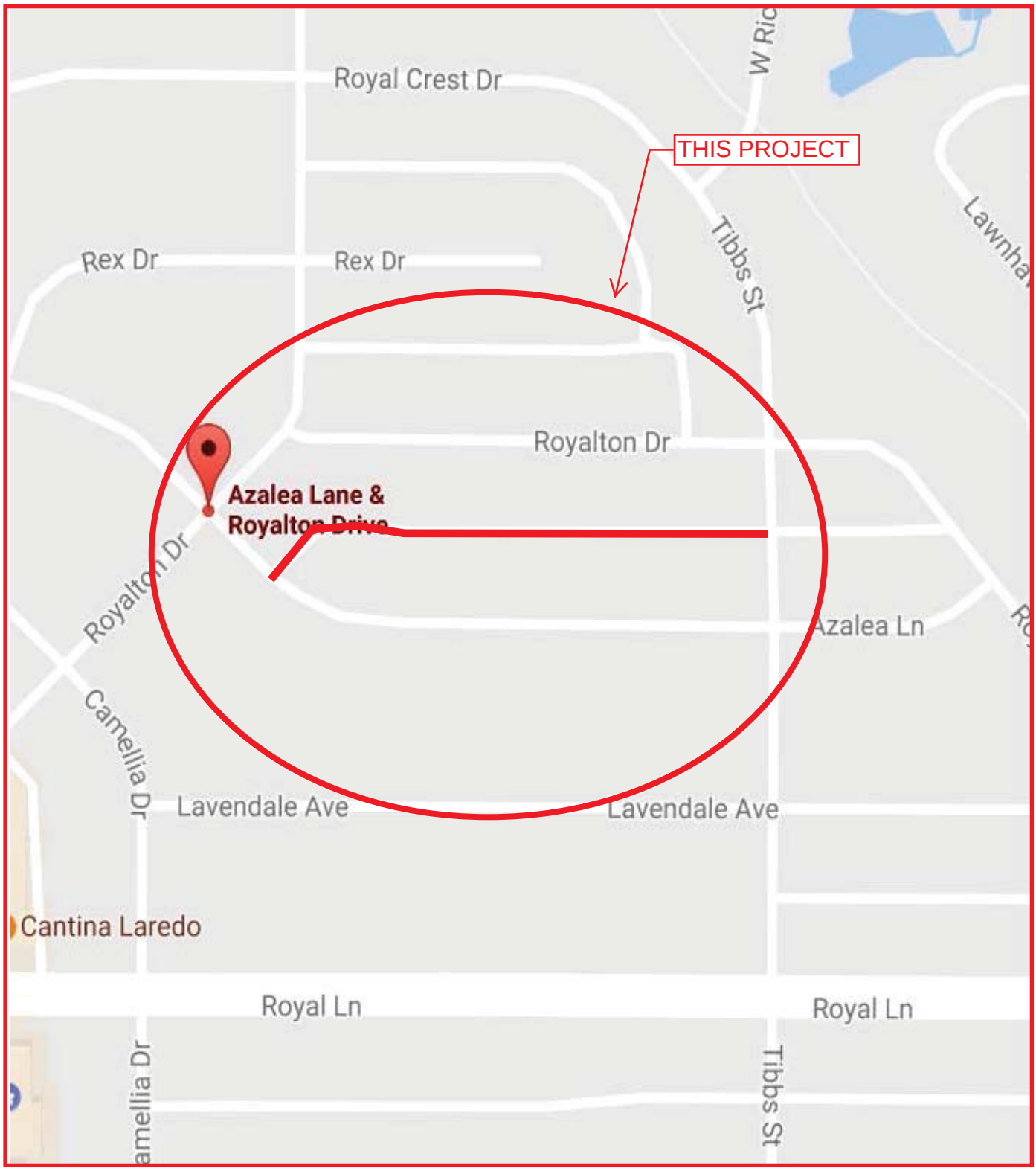
Non-Local Contractors / Sub-Contractors

Non-local	Certification	Amount	Percent
Viking Fence Company	HMMB31501N0617	$20,000.00	0.76%
Cowtown Redi Mix	WFWB06682Y0916	$360,000.00	13.64%
ANA Consultants, LLC	WFDB96312Y0617	$30,000.00	1.14%
Brock Environmental	WFWB96114Y1118	$10,000.00	0.38%
Total Minority - Non-local		$420,000.00	15.91%

TOTAL M/WBE CONTRACT PARTICIPATION

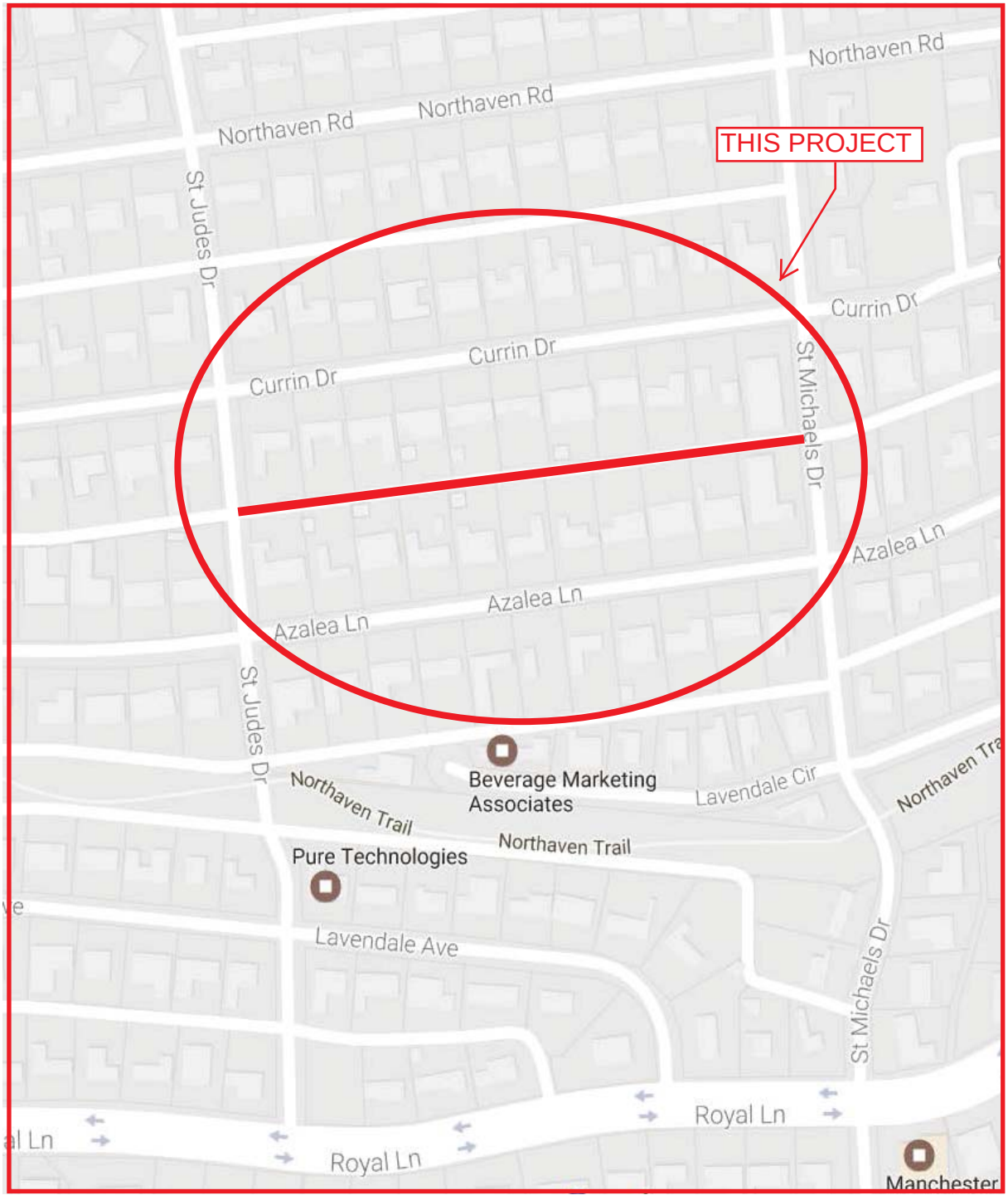
	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$290,000.00	18.89%	$310,000.00	7.43%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$350,000.00	22.80%	$750,000.00	17.97%
Total	$640,000.00	41.69%	$1,060,000.00	25.39%

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN AZALEA LANE AND ROYALTON DRIVE
FROM AZALEA LANE TO TIBBS STREET



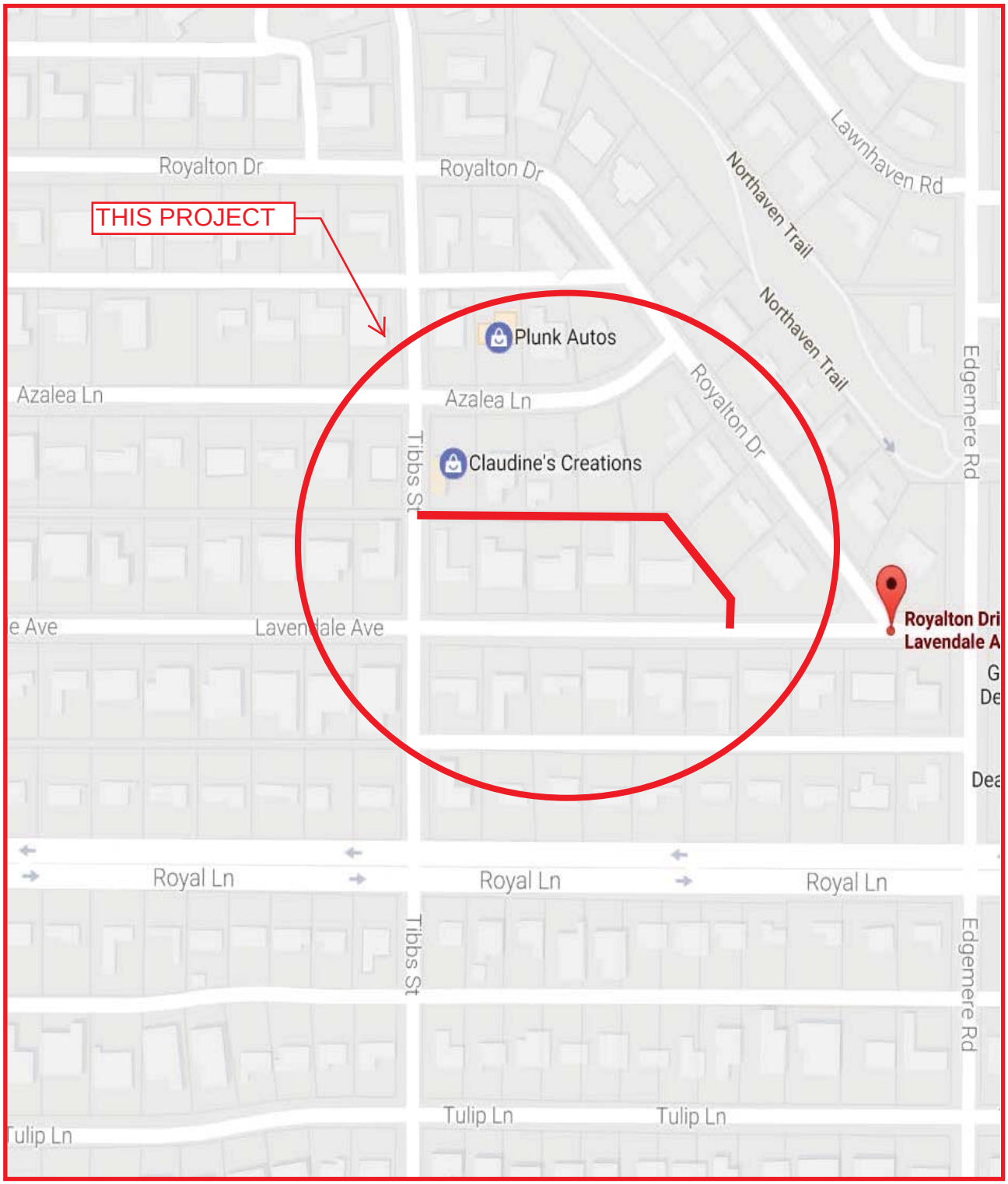
MAPSCO 25F, 25G

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN AZALEA LANE AND CURRIN DRIVE
FROM ST. JUDES DRIVE TO ST. MICHAELS DRIVE



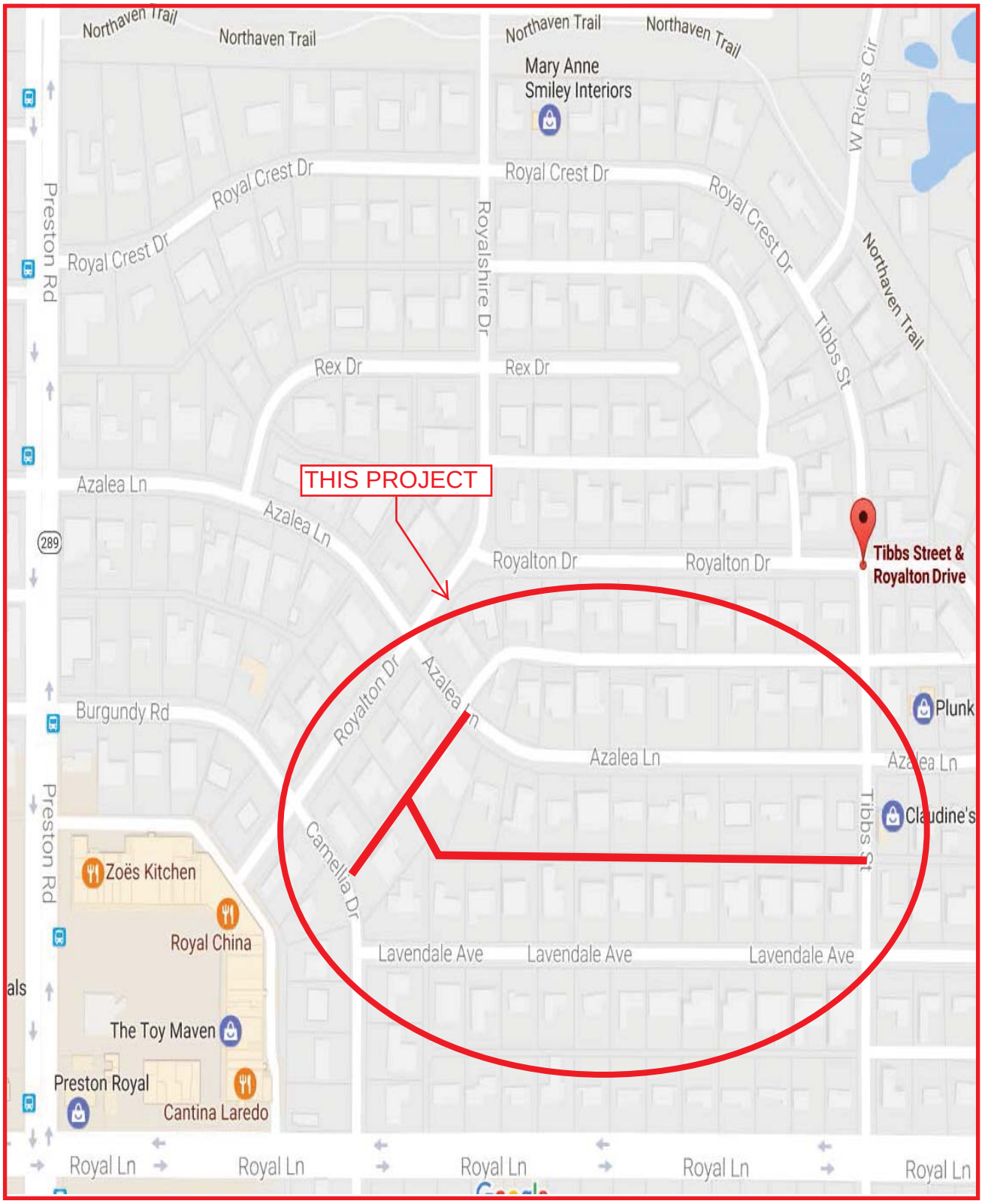
MAPSCO 25H 26E

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN LAVENDALE AVENUE AND ROYALTON DRIVE FROM TIBBS STREET TO LAVENDALE AVENUE



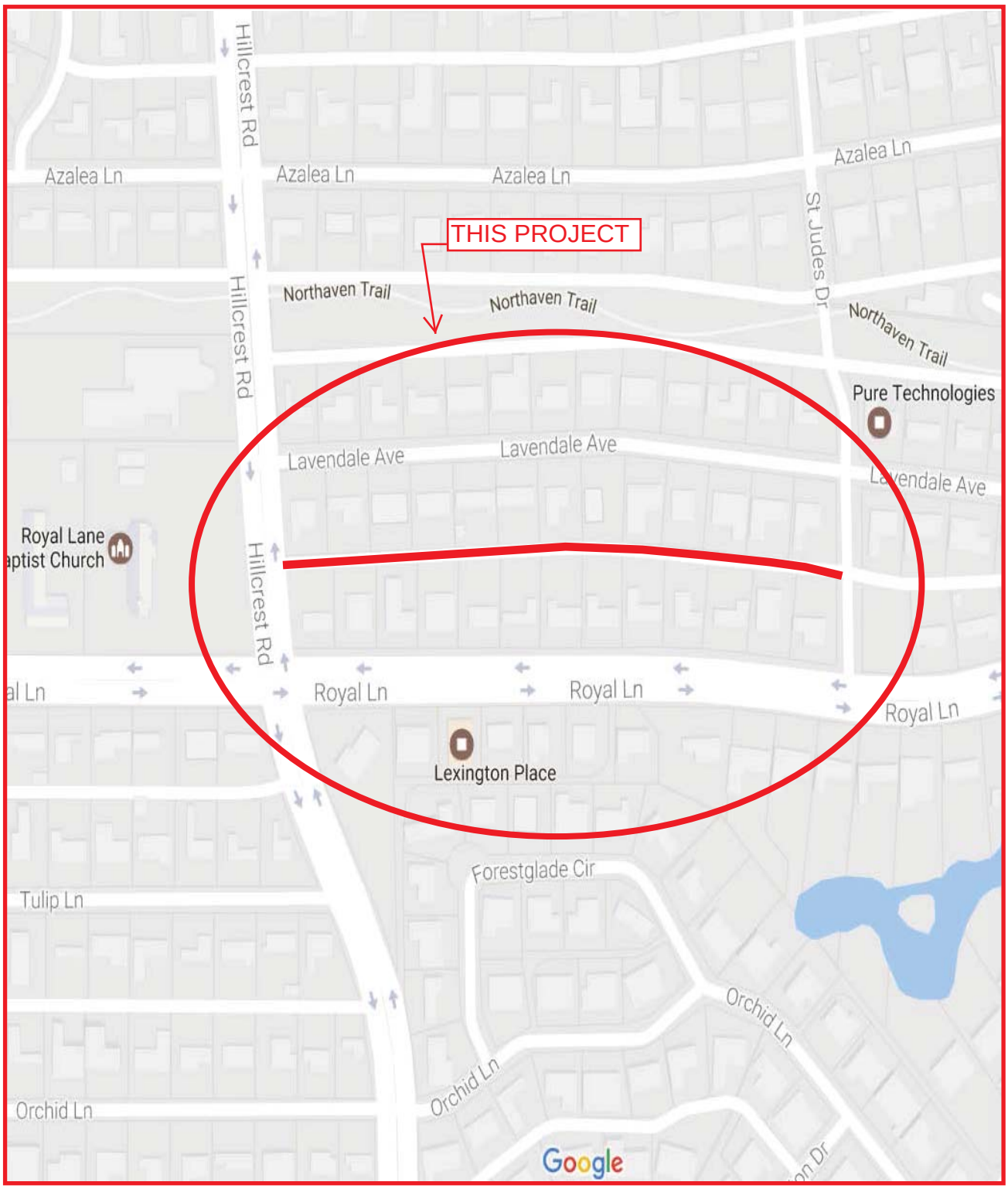
MAPSCO 25G

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN LAVENDALE AVENUE AND AZALEA LANE
FROM CAMELLIA DRIVE TO TIBBS STREET



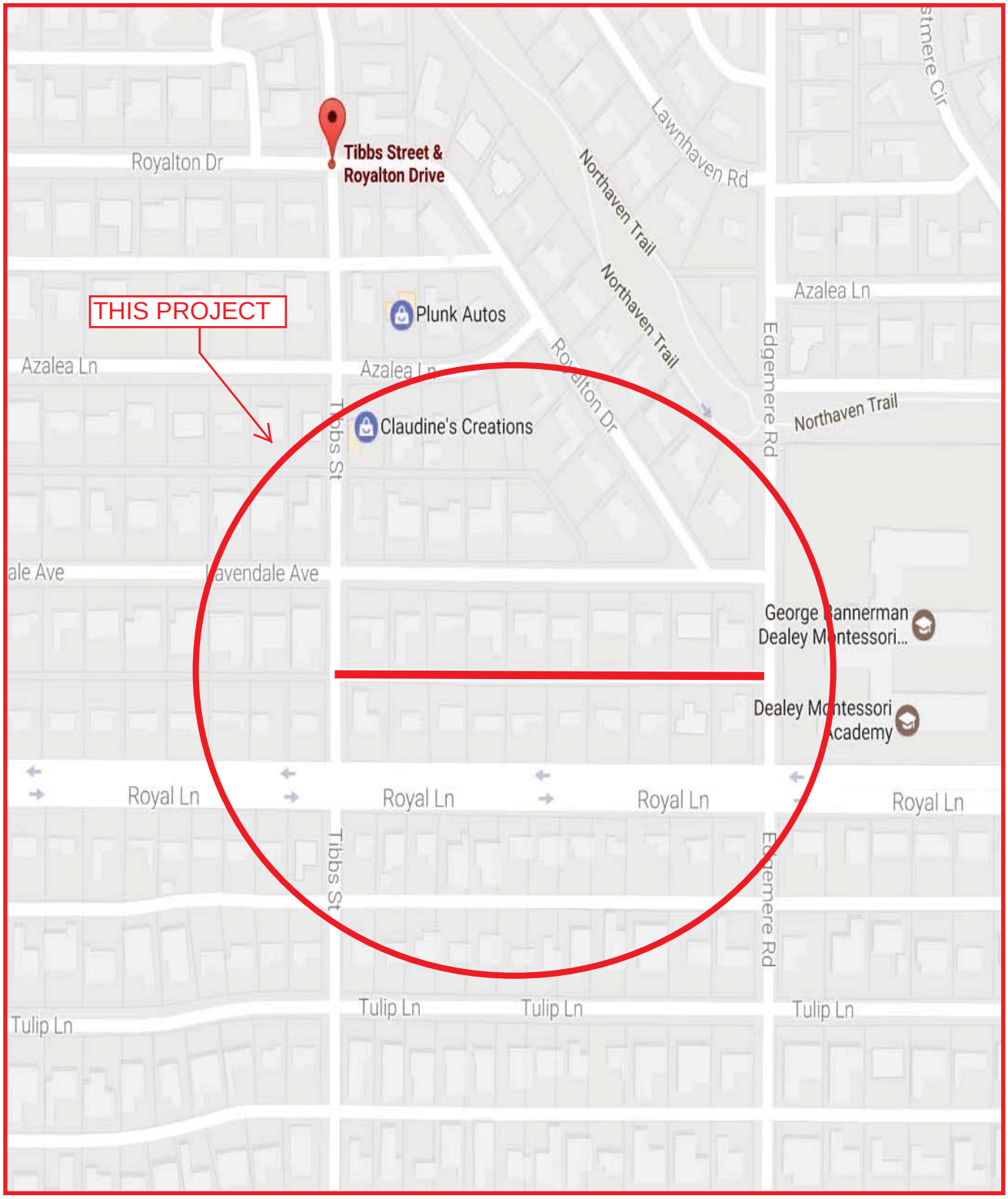
MAPSCO 25F 25G

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN LAVENDALE AVENUE AND ROYAL LANE
FROM HILLCREST ROAD TO ST. JUDES DRIVE



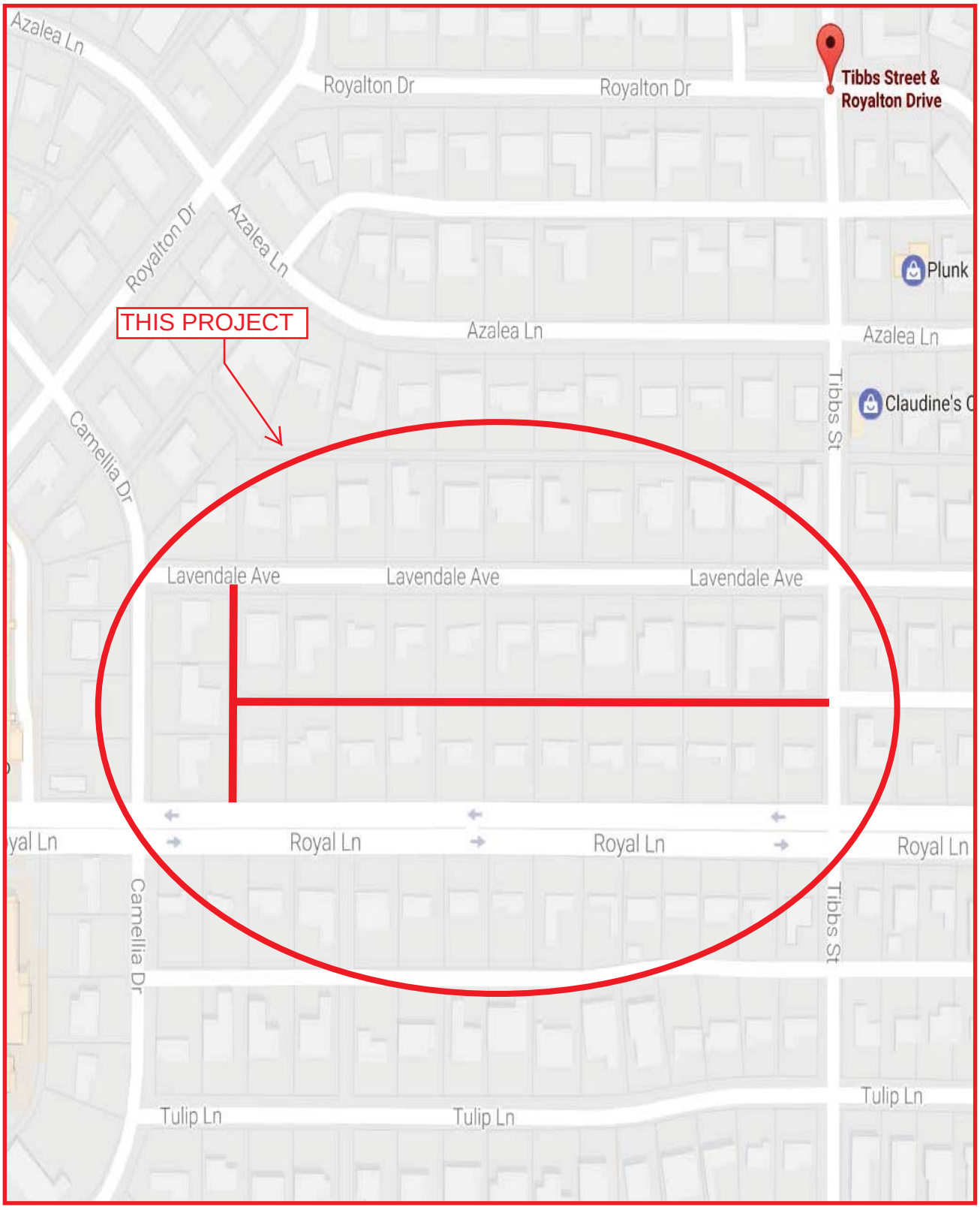
MAPSCO 25H

ALLEY RECONSRUCTION GROUP 12-2040
ALLEY BETWEEN LAVENDALE AVENUE AND ROYAL LANE
FROM TIBBS STREET TO EDGEMERE ROAD



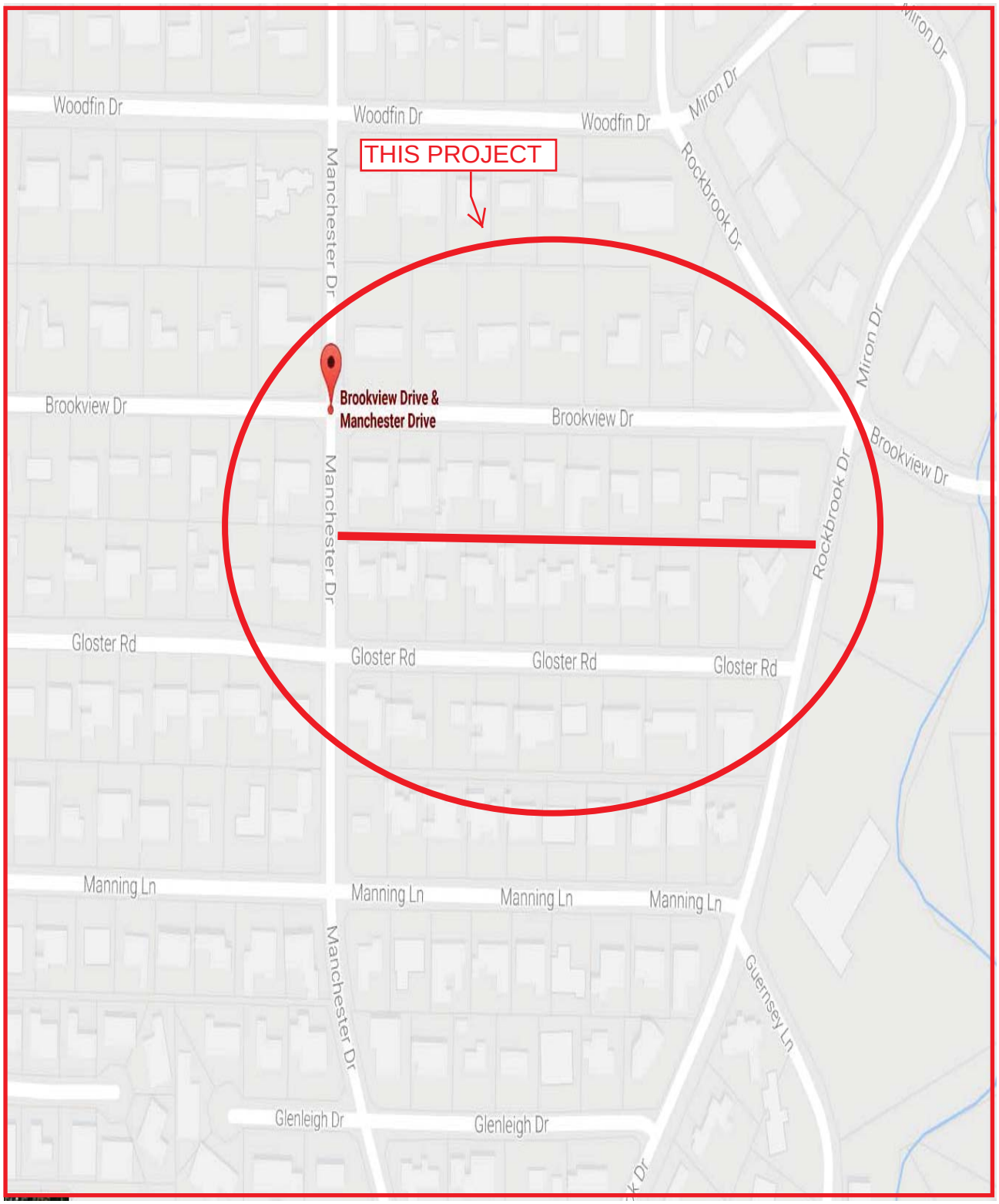
MAPSCO 25G

ALLEY RECONSTRUCTION GROUP 12-2040
ALLEY BETWEEN LAVENDALE AVENUE AND ROYAL LANE
FROM ROYAL LANE TO TIBBS STREET



MAPSCO 25F, 25G

ALLEY RECONSTRUCTION GROUP 12-2045
ALLEY BETWEEN BROOKVIEW DRIVE AND GLOSTER ROAD
FROM MANCHESTER DRIVE TO ROCKBROOK DRIVE



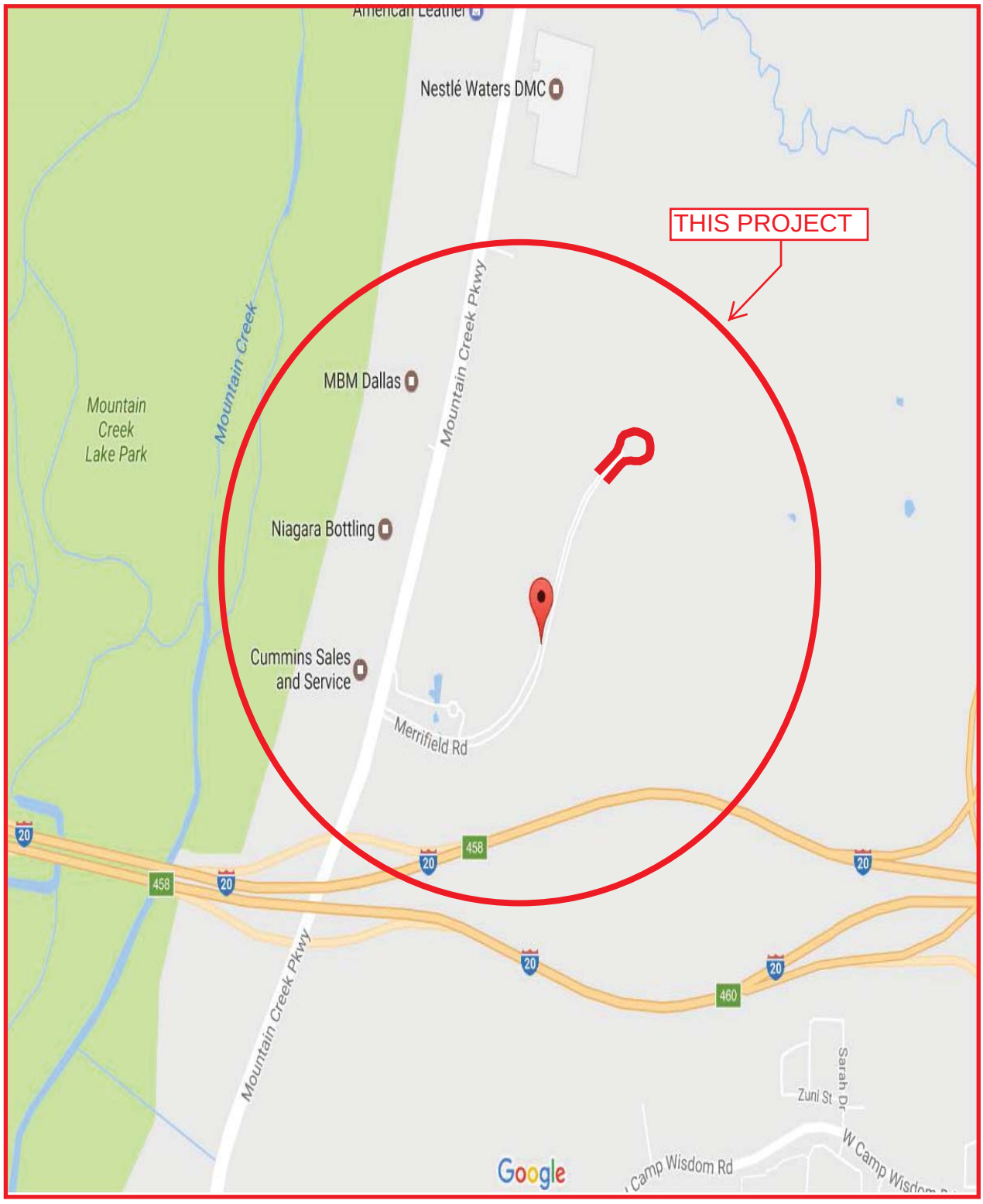
MAPSCO 24U

ALLEY RECONSTRUCTION GROUP 12-2045
ALLEY BETWEEN CARUTH BOULEVARD AND COLGATE AVENUE FROM DURHAM STREET TO BOEDEKER STREET



MAPSCO 26W

PAVING IMPROVEMENTS
MERRIFIELD ROAD DEAD END TURNAROUND



MAPSCO 61B-J

March 22, 2017

WHEREAS, on June 28, 2000, Resolution No. 00-2141 authorized an infrastructure cost participation agreement between the City of Dallas and The Courtland Group in the amount of $7,000,000.00; and,

WHEREAS, on October 10, 2012, Resolution No. 12-2547 authorized a construction contract with Mario Sinacola and Sons Excavating, Inc. for the construction of the Merrifield Road Extension Project in the amount of $1,519,172.69; and,

WHEREAS, on September 25, 2013, Resolution No. 13-1731 authorized a professional services contract with ARS Engineers, Inc. for the engineering design services for Street Reconstruction Group 12-2040, in the amount of $307,376.89; and,

WHEREAS, on September 25, 2013, Resolution No. 13-1731 authorized a professional services contract with Multatech Engineering, Inc. for the engineering design services for Alley Reconstruction Group 12-2045, in the amount of $82,285.00; and,

WHEREAS, on November 11, 2014, Administrative Action No. 14-7193 authorized Supplemental Agreement No. 1 to the professional services contract with ARS Engineers, Inc. to provide additional engineering design services for Alley Reconstruction Group 12-2040 in the amount of $4,530.00, from $307,376.89 to $311,906.89; and,

WHEREAS, on December 9, 2015, Administrative Action No. 15-7452 authorized Supplemental Agreement No. 2 to the professional services contract with ARS Engineers, Inc. to provide additional engineering design services for Alley Reconstruction Group 12-2040 in the amount of $31,370.00, from $311,906.89 to $343,276.89; and,

WHEREAS, bids were received on December 23, 2016, for the reconstruction of alley paving, storm drainage, drive approaches and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for Merrifield Road Dead End Turnaround Project, as follows:

BIDDERS	**BID AMOUNT**
Ark Contracting Services, LLC	$4,174,616.00
Vescorp Construction	$4,724,055.72
Camino Construction, LP	$4,994,856.00
Jeske Construction Company	$5,468,823.00

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to enter into a construction contract with Ark Contracting Services, LLC for the reconstruction of alley paving, storm drainage, drive approaches and wastewater main and adjustment improvements for Alley Reconstruction Groups 12-2040 and 12-2045, and paving improvements for Merrifield Road Dead End Turnaround Project in the amount of exceed $4,174,616.00, this being the lowest responsible bid received as indicated by the tabulation of bids, after it has been approved as to form by the City Attorney.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in accordance with the terms and conditions of the contract from:

Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S217, Act. AREC Obj. 4510, Program #PB12S217, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$	153,498.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S218, Act. AREC Obj. 4510, Program #PB12S218, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$	191,377.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S277, Act. AREC Obj. 4510, Program #PB12S277, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$	275,408.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S278, Act. AREC Obj. 4510, Program #PB12S278, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$	263,853.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S279, Act. AREC Obj. 4510, Program #PB12S279, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$	174,758.00

Section 2. (continued)

Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S280, Act. AREC Obj. 4510, Program #PB12S280, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$ 139,956.00
Street and Transportation Improvements Fund Fund 4U22, Department STS, Unit S281, Act. AREC Obj. 4510, Program #PB12S281, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$ 234,200.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S223, Act. AREC Obj. 4510, Program #PB12S223, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$ 247,320.00
Street and Transportation Improvements Fund Fund 3U22, Department STS, Unit S226, Act. AREC Obj. 4510, Program #PB12S226, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$ 212,624.00
Street and Transportation Improvements Fund Fund 1T22, Department STS, Unit U794, Act. THRF Obj. 4510, Program #PB06U794, CT STS12S217F1 Vendor #VS0000017816, in amount not to exceed	$ 163,430.00
Wastewater Capital Improvement Fund Fund 3116, Department DWU, Unit PS42 Obj. 4560, Program #716024, CT PBW716024CP Vendor #VS0000017816, in amount not to exceed	$2,094,667.00
Wastewater Construction Fund Fund 0103, Department DWU, Unit CS42 Obj. 3222, Program #716024X, CT PBW716024EN Vendor #VS0000017816, in amount not to exceed	$ 23,525.00
Total amount not to exceed	$4,174,616.00

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.

AGENDA ITEM # 20

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Cultural Affairs

CMO: Joey Zapata, 670-1204

MAPSCO: N/A

SUBJECT

Authorize a contract with One Thirty Productions for cultural services for the period April 1, 2017 through September 30, 2017 - Not to exceed $62,260 - Financing: Current Funds

BACKGROUND

This action authorizes a contract with One Thirty Productions to produce and present four plays at the Bath House Cultural Center, a series of plays in the black box theaters at the Fretz Park, Hampton-Illinois, and Lochwood branches of the Dallas Public Library, and the annual Festival of Independent Theatres. One Thirty Productions specializes in programming for senior citizens. They are most known for their matinee series of plays for local seniors who have limited access to transportation, or who otherwise cannot attend evening events. One Thirty has served as a cultural partner for the Office of Cultural Affairs, through the Bath House Cultural Center, since 2007, providing specialized programming for local senior citizens.

One Thirty Productions will present productions of "Grace and Glorie", "Tea For Three", "It's a Wonderful Life", and "Trip To Bountiful" at the Bath House Cultural Center. The library series will include productions of "Mr. Williams and Miss Wood", "Children's Literature for Adults", "Famous Texas Writers and Some Not So Famous!", and "Cherchez la femme".

The Festival of Independent Theatres (FIT) was created by the Bath House Cultural Center in 1999 as an outlet for smaller theater companies without a permanent performance space to produce seldom seen, new, or avant-garde works. FIT exists to promote awareness and growth of Dallas area theater through collaboration, participation and cultivation. One Thirty Productions will present their own productions and produce other events and programming in conjunction with other local artistic and cultural organizations.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Arts, Culture and Libraries Committee on March 20, 2017.

FISCAL INFORMATION

$62,260.00 - Current Funds

ETHNIC COMPOSITION

One Thirty Productions (Board)

Hispanic Male - 2
White Female - 2

OWNER

One Thirty Productions

Gene Raye Price, Chair

March 22, 2017

WHEREAS, the City of Dallas seeks to provide artistic and cultural programs for residents and visitors in local city neighborhoods utilizing black box theaters at the Fretz Park, Hampton-Illinois, and Lochwood branches of the Dallas Public Library, and the annual Festival of Independent Theatres; and

WHEREAS, the City seeks to continue producing the annual Festival of Independent Theatres at the Bath House Cultural Center; and

WHEREAS, One Thirty Productions has served as cultural partner for the Office of Cultural Affairs, through the Bath House Cultural Center, since 2007, providing specialized programming for local senior citizens.

Now, Therefore,

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

Section 1. That following approval as to form by the City Attorney, the City Manager is hereby authorized to execute a contract with One Thirty Productions for cultural services to the Office of Cultural Affairs.

Section 2. That the Chief Financial Officer is hereby authorized to disburse payments to One Thirty Productions in an amount not to exceed $62,260.00 from Fund 0001, Dept. OCA, Unit 4833, Object 3089, Encumbrance OCA4833V176, Vendor VC0000008742.

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.

AGENDA ITEM # 21

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Elizabeth Reich, 670-7804

MAPSCO: N/A

SUBJECT

Authorize an amendment to the five-year master municipal lease agreement for the financing of personal property purchases - Banc of America Public Capital Corp. - Financing: No cost consideration to the City

BACKGROUND

On August 26, 2015, pursuant to Resolution No. 15-1523, the City Council approved a five (5) year master municipal lease agreement for certain City equipment purchases. The use of a tax-exempt master lease line of credit permits more cost efficient use of financing as funds are borrowed to closely match the amount and timing of the payment for equipment. Interest rates are comparable to tax-exempt short-term note issuance. The initial and annual costs of the program are less than other types of debt issuance, such as tax-exempt commercial paper. There are no fees for financial advisory, rating agency, paying agent, or liquidity facility services since the master lease is considered a private placement. The only expense associated with the program is for legal services using the City's outside contracted bond counsel, such as reviewing the master lease agreement and issuing an opinion that the lease is a tax-exempt obligation.

The original master municipal lease agreement provided that swap index interest rates would change based on the index published by the Federal Reserve. The Federal Reserve now no longer provides such rate index. The amendment to the master municipal lease agreement will identify the Intercontinental Exchange, Inc., instead of the Federal Reserve as the source of the swap index used in the calculation of the lease term interest rate. In the future, if the Intercontinental Exchange, Inc. no longer publishes the swap interest rate basis, then, in such event, Banc of America Public Capital Corporation and the City, acting through the City Manager, will determine an alternative source of the rate change by letter agreement.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 14, 2011, City Council authorized a three-year master municipal lease agreement for the financing of personal property purchases by Resolution No. 11-3344.

On August 26, 2015, City Council authorized a five-year master municipal lease agreement for the financing of personal property purchases by Resolution No. 15-1523.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

No cost consideration to the City.

M/WBE INFORMATION

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

ETHNIC COMPOSITION

Banc of America Public Capital Corp.

White Male	725	White Female	769
Black Male	203	Black Female	667
Hispanic Male	227	Hispanic Female	458
Other Male	101	Other Female	133

OWNER

Banc of America Public Capital Corp.

Christopher Giuliano, President
Brad Koster, Secretary

March 22, 2017

RESOLUTION AUTHORIZING AND APPROVING AN AMENDMENT TO THE MASTER MUNICIPAL LEASE AGREEMENT AND AUTHORIZING AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, on August 26, 2015, City Council authorized a five-year master municipal lease agreement for the purchase of personal property by Resolution No. 15-1523; and

WHEREAS, the master municipal lease agreement provides that the Federal Reserve will publish the swap rate interest rate index; and

WHEREAS, the Federal Reserve no longer publishes the swap interest rate index information and another source needs to be agreed to by the parties; and

WHEREAS, since changes to the terms of the master municipal lease agreement may not be made without a written amendment agreed to by the parties, an amendment to the five-year master municipal lease agreement for the financing of personal property purchases is necessary to effectuate a change in the source of the swap interest rate index.

NOW, THEREFORE,

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

Section 1. That the City Council authorizes the City Manager to execute an amendment to the five (5) year master municipal lease agreement, subject to the approval of the City Attorney as to form, for the financing of personal property purchases that authorizes a change in the language identifying the source of the swap index from the Federal Reserve in Publication H.15 to the Intercontinental Exchange, Inc. to be used in the calculation of the lease term interest rate.

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.

Bank of America

Amendment Number 1 to Master Equipment
Lease/Purchase Agreement dated May 24, 2016

This Amendment, made this 22nd day of February, 2017 to the Master Equipment Lease/Purchase Agreement dated May 24, 2016 (“Agreement”) between Banc of America Public Capital Corp ("Lessor") and City of Dallas (“Lessee”)

W I T N E S S E T H :

WHEREAS, Lessor and Lessee are parties to the Agreement; and

WHEREAS, Lessor and Lessee desire to amend certain provisions of the Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual obligations hereinafter contained, and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

1. Section 1.13 of the Agreement is hereby deleted and replaced with the following.

Lease Term Interest Rate. The interest rate per annum on the Lease Proceeds as set forth on each Schedule A hereto as adjusted pursuant to the provisions of Section 4.5 hereof. The Lease Term Interest Rate shall be determined based on the following formula:

a) for Lease Terms up to 36 months, 2-year Swap Index X 64.1% plus 0.595;

b) for Lease Terms up to 60 months, 3-year Swap Index X 64.1% plus 0.677;

c) for Lease Terms up to 84 months, 4-year Swap Index X 64.1% plus 0.755; and

d) for Lease Terms up to 120 months, 6-year Swap Index X 64.1% plus 0.970

where the “Swap Index” shall be the swap rate for the applicable terms above as reported by Intercontinental Exchange, Inc. within 15 business days preceding the date of execution of the relevant Schedule A. The Lease Term Interest Rate formulae set forth above are subject to annual review on the anniversary dates of this Agreement and any adjustments thereto shall (i) be subject to the mutual agreement of the parties, and (ii) be made to the Lease Term Interest Rate formulae set forth above in the event any material change shall occur in the financial markets after the date of this Agreement, including but not limited to any governmental action or other event which materially adversely affects the extension of credit by banks, leasing companies or other lending institutions. If, during its annual review, Lessee determines that there will be an adjustment to the Lease Term Interest Rate formulae set forth above, Lessor shall provide Lessee with fifteen (15) days advance written notice of such adjustment before such adjustment becomes effective under this Agreement. If Intercontinental Exchange, Inc. website discontinues such announcement or posting of interest rate swaps, a comparable source of information shall be substituted by letter agreement approved and executed by Purchasing and Lessor, as represented by the Lessee’s City Manager.

2. Except as amended hereby, the Agreement shall remain in full force and effect and is in all respects hereby ratified and affirmed. Capitalized terms not otherwise defined herein shall have the meanings ascribed them in the Agreement.

IN WITNESS WHEREOF, the parties hereunto have caused this instrument to be executed by their duly authorized officers as of the day and year first above written.

Banc of America Public Capital Corp (Lessor)	City of Dallas (Lessee)
By: _____	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____

AGENDA ITEM # 22

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 45-L

SUBJECT

Authorize **(1)** approval of the terms for the Development Agreement between the Pacific Plaza LLC and Parks for Downtown Dallas collectively the "Developer" and the City for the design and construction of a public park currently named Pacific Plaza; **(2)** approval of an Operating Endowment Agreement between the City and Developer; and **(3)** recommendation to City Council for approval of both the Development and Operating Endowment Agreements, as approved as to form by the City Attorney's Office - Financing: No cost consideration to the City

BACKGROUND

Pacific Plaza was identified as one of three proposed core park sites in the 2004 Downtown Parks Master Plan, which was adopted by the Park and Recreation Board and City Council in 2004. Five tracts of land, totaling 3.2 acres, were purchased in partnership with the Trust for Public Land ("TPL") between 2005 and 2008 for $9.1M. The land is currently used as a surface parking lot with approximately 300 spaces leased to the Parking Company of America. This lease can be terminated without cause prior to the commencement of construction.

In 2013, the Park and Recreation Department updated the 2004 Downtown Parks Master Plan (with funding provided by The Belo Foundation and Maureen H. and Robert W. Decherd) and again identified Pacific Plaza as one of four priority parks to be developed for the citizens of Dallas. The Belo Foundation, which funded the development of Belo Garden in 2012, and the schematic and design development plan for Carpenter Plaza in 2015, was renamed Parks for Downtown Dallas (PfDD) in October 2015. Parks for Downtown Dallas has also funded the conceptual plan for the proposed Harwood Park in 2016.

BACKGROUND (Continued)

For Pacific Plaza, the Developer funded a schematic design and the Live Oak Street closure traffic study at a cost of $476,000. Schematic design was undertaken by SWA, landscape architects, between March and October 2016, incorporating input from three public input meetings, two held on March 29, and one on September 22. The Park and Recreation Board approved the schematic design agreement with Developer on June 2, 2016, and a final schematic plan was provided to the Park and Recreation Department in October 2016.

On December 7, 2016, the Developer offered to fund the construction of Pacific Plaza without any financial contribution from the City of Dallas, from a future bond program. On December 15, 2016 Park and Recreation Board unanimously authorized staff to enter into final negotiations with the Developer for a development agreement and an endowment agreement to provide supplemental funding for the annual operation and maintenance of Pacific Plaza.

This agenda item action will authorize a Development Agreement with the Developer for the design and development of the proposed Pacific Plaza and an Operation Endowment Agreement. This 3.2 acre park will enhance the quality of life for those who live, work, and visit downtown Dallas. The establishment of this park, in association with other downtown parks, will help stimulate economic development in the downtown area.

The Development Agreement will be subject to the following terms:

1. Developer will fund improvements up to $15 million.
2. Developer will manage the design and construction of improvements at Pacific Plaza and will be subject to the City Representative's (Park and Recreation Department Director) review and approval.
3. Development agreement commences on execution and terminates one year after completion of construction and issuance of final acceptance letter from the City.
4. Required environmental clean-up of site, if needed, shall be the responsibility of the City, with an amount not to exceed $2M.
5. Any contracts entered into by the Developer under agreements for design or construction of the park shall (1) contain insurance provisions with limits acceptable to the City; (2) release, indemnify and hold the City harmless; (3) obligate the contractor or firm to comply with all applicable state, federal, and local laws; and (4) comply with the City's Business Inclusion and Development Plan (BID Plan) to facilitate M/WBE participation.
6. City representative will review and approve design development and construction documents, and the City representative has right to inspect construction.
7. After completion of construction and acceptance by the City representative, Pacific Plaza will be turned over to the City for maintenance and operation.

BACKGROUND (Continued)

The Development Agreement will be subject to the following terms: (continued)

8. There is no connection to, or contingency based upon future bond program match funding.
9. There is a proposed separate Operating Endowment Agreement that addresses the establishment by the Developer of a $1M permanent endowment fund for Pacific Plaza.
10. Naming Rights (these are also included in the separate Operating Endowment Agreement):
11. Developer reserves the right to name the Park if name is other than Pacific Plaza, subject to the approval of the Park and Recreation Board.
12. Developer is authorized to solicit contributions from donors for naming rights.
13. If another donor provides a minimum of $10M, unless a different amount is agreed between the parties, to name the Park. Park name will be subject to Developer and Park and Recreation Board approvals.
14. Components of the Park can be named subject to Developer and Park and Recreation Board approvals.
15. Naming rights proceeds, if raised, will be used only for Downtown Parks – first for construction of the four new priority parks (Pacific Plaza, Carpenter Plaza, Harwood Park and West End Plaza) and then for permanent endowments benefiting new or existing Downtown parks.

The Operating Agreement will be subject to the following terms:

1. Developer will deposit $1M in a separate account upon execution of the Agreement.
2. Funds will be maintained by the Developer.
3. On an annual basis, 4.5% of the fund as of December 31 will be disbursed to the City on October 1 of the following year once Park has been declared complete by Developer and the City.
4. The 4.5% distribution may be used to offset expenses related to the day-to-day operations and maintenance of Pacific Plaza.
5. The duration of the Operating Endowment Agreement commences on execution and will terminate when all funds in the operating endowment account are expended.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The Park and Recreation Board was briefed on the development status of Pacific Plaza on December 5, 2013, May 22, 2014, and August 7, 2014.

The Park and Recreation Board was briefed on February 18 and October 20, 2016 on Downtown Parks, including Pacific Plaza.

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

The Park and Recreation Board approved the schematic design agreement on June 2, 2016.

On December 15, 2016, Park and Recreation Board unanimously authorized staff to enter into final negotiations with Developer for (1) a Development Agreement and (2) an Operating Endowment Agreement to offset funding for the annual operation and maintenance of Pacific Plaza.

The Park and Recreation Board was briefed on February 16, 2017 on the proposed deal points for the Development Agreement and Operating Endowment Agreement.

On February 23, 2017, the Park and Recreation Board authorized the development agreement.

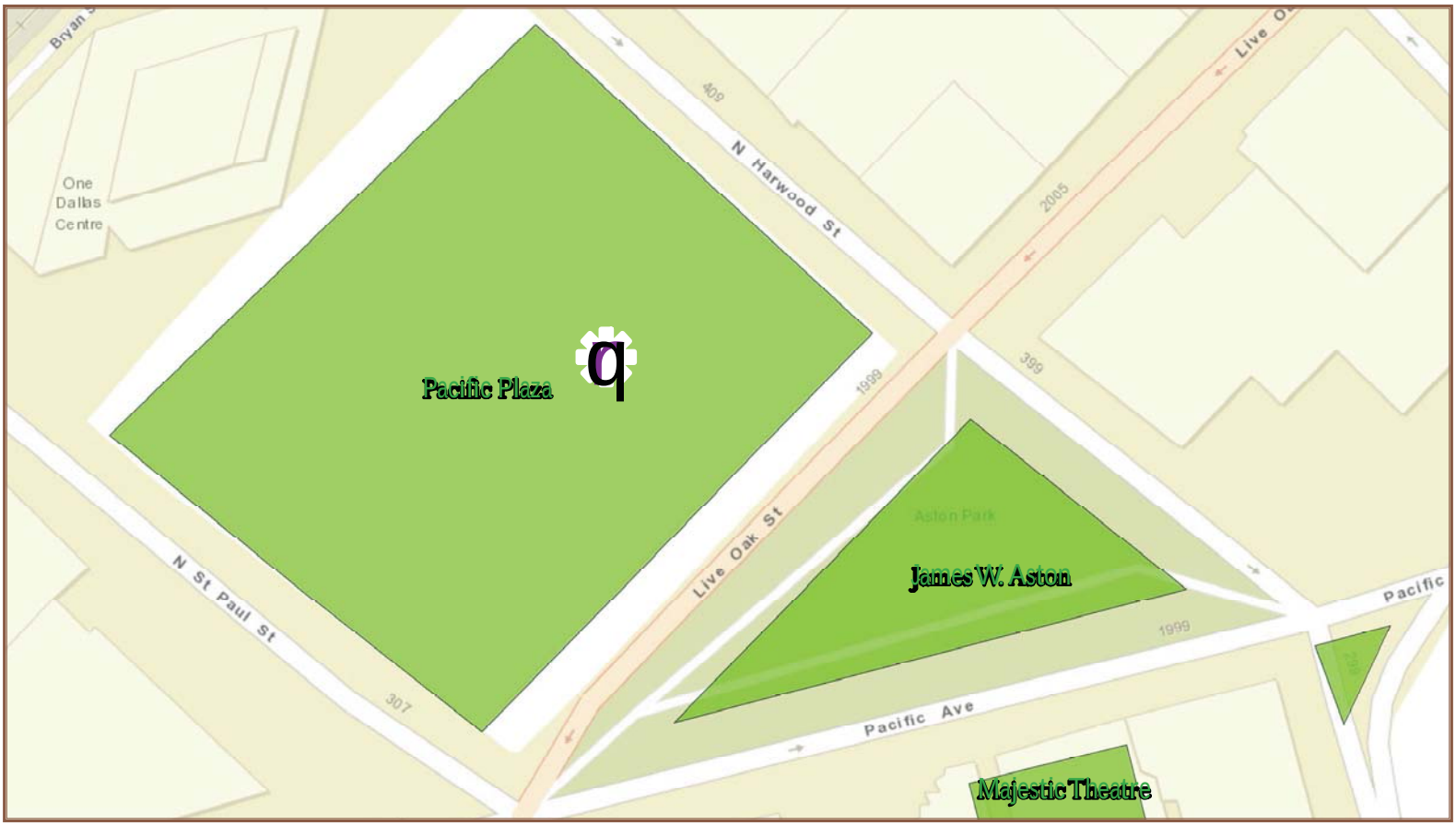
Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

This action has no cost consideration to the City. Pacific Plaza LLC ("Pacific LLC") will provide 100% funding to develop Pacific Plaza.

MAP

Attached



0 25 50 100 150 Feet

February 23, 2017

Pacific Plaza
(401 North Harwood Street)

Mapsco
45 L

District
14

March 22, 2017

WHEREAS, the City Charter provides for the Park and Recreation Board to grant contracts and agreements within park facilities with such terms and conditions as it shall deem proper; and

WHEREAS, the City of Dallas Park and Recreation Department (City) and Pacific Plaza, LLC (Pacific LLC) and Parks for Downtown Dallas (PfDD Foundation), collectively the "Developer", desires to enter into a (1) Development Agreement and (2) Operation Endowment Agreement for fundraising, designing, constructing, and providing an operating endowment for Pacific Plaza; and

WHEREAS, the City desires to have Developer design and construct park improvements and manage an operating endowment to offset operating and maintenance expenses at Pacific Plaza during the Term of the Agreements for use and enjoyment of all city of Dallas citizens.

Now, Therefore,

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

Section 1. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute (1) a Development Agreement and (2) an Operating Endowment Agreement with the Developer for the development and operating endowment for Pacific Plaza.

Section 2. That the duration of the Development Agreement will commence on execution and terminate one year after completion of construction and issuance of final acceptance letter from the City.

Section 3. That the duration of the Operating Endowment Agreement will commence on execution and terminate when all funds in the Operating Endowment Account are expended.

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.

AGENDA ITEM # 23

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 8

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 69A M

SUBJECT

Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of three, for structural and miscellaneous repairs to the Kleberg/Rylie Recreation Center located at 1515 Edd Road - Not to exceed $157,951 - Financing: Park and Recreation Program Funds

BACKGROUND

On November 18, 2016, three proposals were received for structural and miscellaneous repairs to the Kleberg/Rylie Recreation Center. DENCO CS Construction dba DENCO Construction Specialists was selected as the best value proposer for the Base Price and Alternate Nos. 1 and 2, in the amount of $157,951.

Proposals based on Request for Competitive Sealed Proposals (RFCSP) are evaluated on pre-set criteria which include cost, qualifications of the prime contractor, construction amount and schedule ratings, which are based on mathematical formulas, with the best price and best schedule being given the highest scores. Ratings "1" to "10" are given for each criterion with "10" being the best rating. These ratings are multiplied by the weighting to obtain the score for each criterion.

The following is a list of the rating criteria and values for each criterion:

Rating Criteria	Value
1. Proposed Construction Contract Award	40%
2. Qualifications/Experience/References for Prime Firm	15%
3. Subcontractor Experience	20%
4. Business Inclusion and Development Plan	15%
5. Financial Sufficiency	5%
6. Schedule/Time of Completion	5%
	100%

ESTIMATED SCHEDULE OF PROJECT

Began Design	August 2015
Completed Design	November 2016
Begin Construction	April 2017
Complete Construction	November 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 3, 2015, the Park and Recreation Board authorized proceeding with construction advertisement.

On February 23, 2017, the Park and Recreation Board authorized award of the contract.

Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

Park and Recreation Program Funds - $157,951

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

DENCO CS Construction dba DENCO Construction Specialists

White Male	18	White Female	2
Black Male	1	Black Female	0
Hispanic Male	24	Hispanic Female	2
Other Male	1	Other Female	0

PROPOSAL INFORMATION

The following three proposals were received and opened on November 18, 2016:

*Denotes the successful proposer

Proposers	Base Price	Alter. Nos. 1 & 2**	Total	Scores
*DENCO CS Construction dba DENCO Construction Specialists 5525 Lyons Road, Garland, Texas	$139,777	$18,174	$157,951	3390
3i General Contracting Services, LLC	$337,284	$26,235	$363,519	3330
Going Forward, Inc.	$281,650	$38,700	$320,350	2965

**Alternate No. 1 - provides for the removal and replacement of entry store front.
**Alternate No. 2 - provides for the removal and replacement portions of cracked concrete sidewalk.

Note: The best and final offer from DENCO CS Construction dba DENCO Construction Specialists for Base Price and Alternate Nos. 1 and 2 was for $157,951.

OWNER

DENCO CS Construction dba DENCO Construction Specialists

Mark Boland, President
Steve Smith, Vice President

MAP

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of three, for structural and miscellaneous repairs to the Kleberg/Rylie Recreation Center located at 1515 Edd Road - Not to exceed $157,951 - Financing: Park and Recreation Program Funds

DENCO CS Construction dbd DENCO Construction Specialists is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractor.
PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$40,510.00	25.65%
Total non-local contracts	$117,441.00	74.35%
TOTAL CONTRACT	$157,951.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

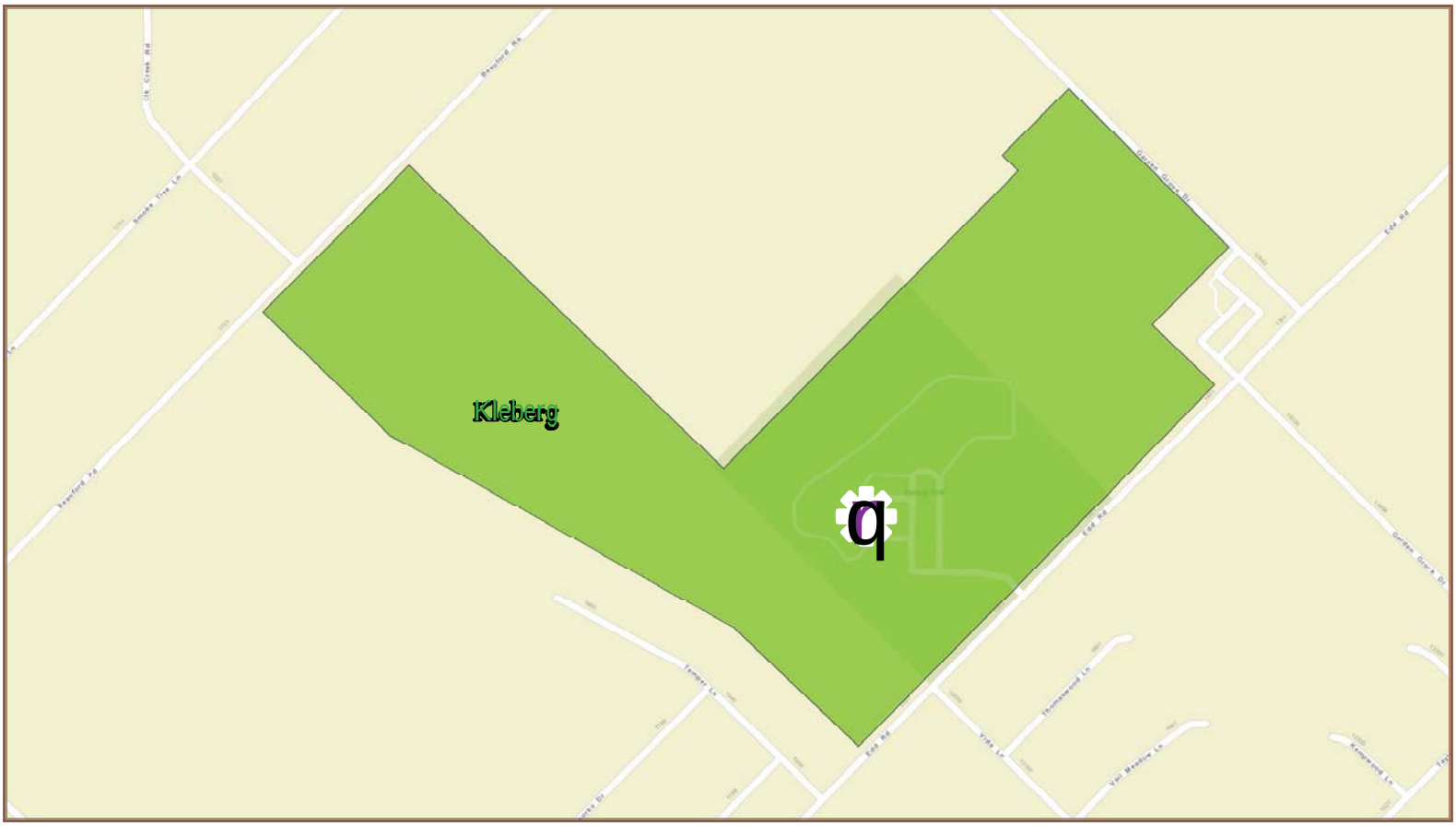
Local	Certification	Amount	Percent
OAC Construction	HMMB64794N0417	$40,510.00	100.00%
Total Minority - Local		$40,510.00	100.00%

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$40,510.00	100.00%	$40,510.00	25.65%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$40,510.00	100.00%	$40,510.00	25.65%



0 125 250 500 750 Feet

February 23, 2017

Kleberg Rylie Recreation Center
(1515 Edd Rd)

Mapsco
69 A M

District
8

WHEREAS, on November 18, 2016, three proposals were received for structural and miscellaneous repairs at Kleberg/Rylie Recreation Center located at 1515 Edd Road; and

Proposers	**Base Price**	**Alter. Nos. 1 & 2****	**Total**	**Scores**
DENCO CS Construction dba DENCO Construction Specialists	$139,777	$18,174	$157,951	3390
3i General Contracting Services, LLC	$337,284	$26,235	$363,519	3330
Going Forward, Inc.	$281,650	$38,700	$320,350	2965

**Alternate No. 1 - provides for the removal and replacement of entry store front.
**Alternate No. 2 - provides for the removal and replacement portions of cracked concrete sidewalk.

Note: The best and final offer from DENCO CS Construction dba DENCO Construction Specialists for Base Price and Alternate Nos. 1 and 2 was for $157,951.

WHEREAS, it has been determined that acceptance of the best and final offer from DENCO CS Construction dba DENCO Construction Specialists, in an amount not to exceed $157,951 is the best value for the City of Dallas.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to enter into a contract with DENCO CS Construction dba DENCO Construction Specialists for structural and miscellaneous repairs, in an amount not to exceed $157,951.

SECTION 2. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute a contract with DENCO CS Construction dba DENCO Construction Specialists, after approval as to form by the City Attorney.

SECTION 3. That the Chief Financial Officer is hereby authorized to disburse an amount not to exceed $157,951 to DENCO CS Construction dba DENCO Construction Specialists from Park and Recreation Program Fund, Fund 0395, Department PKR, Unit 5012, Object 3210, Activity PK09, Program PKP854, CT-PKR-17019973, Commodity 91200, Vendor VS0000062071.

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.

AGENDA ITEM # 24

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 4

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 66 A, B, E, F

SUBJECT

Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of two, for structural repairs to the Southern Skates Roller Rink Facility located at 2939 East Ledbetter Road - Not to exceed $150,220 - Financing: Southern Skates Roller Rink Funds

BACKGROUND

On November 18, 2016, two proposals were received for structural repairs to the Southern Skates Roller Rink Facility. DENCO CS Construction dba DENCO Construction Specialists was selected as the best value proposer for the Base Price and Alternate Nos. 1 and 2, in the amount of $150,220.

Proposals based on Request for Competitive Sealed Proposals (RFCSP) are evaluated on pre-set criteria which include cost, qualifications of the prime contractor, construction amount and schedule ratings, which are based on mathematical formulas, with the best price and best schedule being given the highest scores. Ratings "1" to "10" are given for each criterion with "10" being the best rating. These ratings are multiplied by the weighting to obtain the score for each criterion.

The following is a list of the rating criteria and values for each criterion:

Rating Criteria	Value
1. Proposed Construction Contract Award	40%
2. Qualifications/Experience/References for Prime Firm	15%
3. Subcontractor Experience	20%
4. Business Inclusion and Development Plan	15%
5. Financial Sufficiency	5%
6. Schedule/Time of Completion	5%
	100%

ESTIMATED SCHEDULE OF PROJECT

Began Design	June 2015
Completed Design	November 2016
Begin Construction	April 2017
Complete Construction	November 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 3, 2015, the Park and Recreation Board authorized proceeding with construction advertisement.

On February 23, 2017, the Park and Recreation Board authorized award of the contract.

Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

Southern Skates Roller Rink Funds - $150,220 (Project #0327-15-0128-001)

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

DENCO CS Construction dba DENCO Construction Specialists

White Male	18	White Female	2
Black Male	1	Black Female	0
Hispanic Male	24	Hispanic Female	2
Other Male	1	Other Female	0

PROPOSAL INFORMATION

The following two proposals were received and opened on November 18, 2016:

*Denotes the successful proposer

Proposers	Base Price	Alternate Nos. 1 and 2**	Total	Scores
*DENCO CS Construction dba DENCO Construction Specialists 5525 Lyons Road, Garland, Texas	$131,092	$19,128	$150,220	3370
Going Forward, LLC	$209,850	$16,200	$226,050	3110

**Alternate No. 1 - provides for restroom repairs.
**Alternate No. 2 - provides for cleaning of concrete panels and re-painting of stripe at perimeter of building.

Note: The best and final offer from DENCO CS Construction dba DENCO Construction Specialists for Base Price and Alternate Nos. 1 and 2 was for $150,220.

OWNER

DENCO CS Construction dba DENCO Construction Specialists

Mark Boland, President
Steve Smith, Vice President

MAP

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a contract with DENCO CS Construction dba DENCO Construction Specialists, best value proposer of two, for structural repairs to the Southern Skates Roller Rink Facility located at 2939 East Ledbetter Road - Not to exceed $150,220 - Financing: Southern Skates Roller Rink Funds

DENCO CS Construction dbd DENCO Construction Specialists is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.
PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$43,793.00	29.15%
Total non-local contracts	$106,427.00	70.85%
TOTAL CONTRACT	$150,220.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
OAC Construction	HMMB64794N0417	$43,793.00	100.00%
Total Minority - Local		$43,793.00	100.00%

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$43,793.00	100.00%	$43,793.00	29.15%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$0.00	0.00%
Total	$43,793.00	100.00%	$43,793.00	29.15%



0 65 130 260 390 Feet

February 23, 2017

Southern Skates Roller Rink
(2939 East Ledbetter Rd)

Mapsco
66 A,B,E,F

District
4

March 22, 2017

WHEREAS, on November 18, 2016, two proposals were received for structural repairs at Southern Skates Roller Rink Facility located at 2939 East Ledbetter Road; and

Proposers	**Base Price**	**Alter. Nos. 1 & 2****	**Total**	**Scores**
DENCO CS Construction dba DENCO Construction Specialists	$131,092	$19,128	$150,220	3370
Going Forward, LLC	$209,850	$16,200	$226,050	3110

**Alternate No. 1 - provides for restroom repairs.
**Alternate No. 2 - provides for cleaning of concrete panels and re-painting of stripe at perimeter of building.

Note: The best and final offer from DENCO CS Construction dba DENCO Construction Specialists for Base Price and Alternate Nos. 1 and 2 was for $150,220.

WHEREAS, it has been determined that acceptance of the best and final offer from DENCO CS Construction dba DENCO Construction Specialists, in an amount not to exceed $150,220 is the best value for the City of Dallas.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to enter into a contract with DENCO CS Construction dba DENCO Construction Specialists for structural repairs, in an amount not to exceed $150,220.

SECTION 2. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute a contract with DENCO CS Construction dba DENCO Construction Specialists, after approval as to form by the City Attorney.

SECTION 3. That the Chief Financial Officer is hereby authorized to disburse an amount not to exceed $150,220 to DENCO CS Construction dba DENCO Construction Specialists from Southern Skates Roller Rink Fund, Fund 0327, Department PKR, Unit 0128, Object 3210, Activity PK09, Program PKP0128, CT-PKR- 17019974, Commodity 91200, Vendor VS0000062071.

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.

AGENDA ITEM # 25

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 6

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 22J

SUBJECT

Authorize a contract with JC Commercial, Inc., best value proposer of six, for construction of a new maintenance facility at Luna Vista Golf Course located at 11223 Luna Vista Road - Not to exceed $1,147,477 - Financing: 2003 Bond Funds ($287,837), 2006 Bond Funds ($812,490), and General Obligation Commercial Paper Funds ($47,150)

BACKGROUND

On December 9, 2016, six proposals were received for construction of a new maintenance facility at the Luna Vista Golf Course located at 11223 Luna Vista Road. JC Commercial, Inc. was selected as the best value proposer for the Base Price and Alternate Nos. 1 and 2, in the amount of $1,147,477.

Proposals based on Request for Competitive Sealed Proposals (RFCSP) are evaluated on pre-set criteria which include cost, qualifications of the prime contractor, construction amount and schedule ratings, which are based on mathematical formulas, with the best price and best schedule being given the highest scores. Ratings "1" to "10" are given for each criterion with "10" being the best rating. These ratings are multiplied by the weighting to obtain the score for each criterion.

The following is a list of the rating criteria and values for each criterion:

Rating Criteria	Value
1. Proposed Construction Contract Award	40%
2. Qualifications/Experience/References for Prime Firm	15%
3. Subcontractor Experience	20%
4. Business Inclusion and Development Plan	15%
5. Financial Sufficiency	5%
6. Schedule/Time of Completion	5%
	100%

ESTIMATED SCHEDULE OF PROJECT

Began Design	January 2013
Completed Design	July 2015
Begin Construction	April 2017
Complete Construction	November 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 18, 2016, the Park and Recreation Board authorized proceeding with construction advertisement.

On February 23, 2017, the Park and Recreation Board authorized award of the contract.

Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

2003 Bond Funds - $287,836.81
2006 Bond Funds - $812,490.19
2006 Bond Program (General Obligation Commercial Paper Funds) - $47,150.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

JC Commercial, Inc.

White Male	14	White Female	5
Black Male	0	Black Female	0
Hispanic Male	2	Hispanic Female	0
Other Male	0	Other Female	0

PROPOSAL INFORMATION

The following six proposals were received and opened on December 9, 2016:

*Denotes the successful proposer

Proposers	Base Price	Alter. Nos. 1 & 2**	Total	Scores
*JC Commercial, Inc. 1801 Lakepointe Drive Lewisville, Texas 75057	$949,777	$197,700	$1,147,477	3783.75
MART, Inc.	$997,000	$233,000	$1,230,000	3296.25
Ehrlich Design Builders, Inc.	$871,885	$160,311	$1,032,196	3091.25
3i General Contracting Services, LLC	$1,217,310	$203,707	$1,421,017	3062.50
DENCO CS Construction dba DENCO Construction Specialists	$841,777	$233,331	$1,075,108	2768.75
Equistar Construction & Design	$1,503,300	$259,000	$1,762,300	1228.50

**Alternate No. 1 - provides for installation of civil fire lane paving demolition and replacement.
**Alternate No. 2 - provides for balance of fire alarm system.

Note: The best and final offer from JC Commercial, Inc. for Base Price and Alternate Nos. 1 and 2 was for $1,147,477.

OWNER

JC Commercial, Inc.

Larry Wagnor, President
Trey Wagnor, Vice President
Shannon Capezzuto, Secretary
Holyn Bradford, Treasurer

MAP

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a contract with JC Commercial, Inc., best value proposer of six, for construction of a new maintenance facility at Luna Vista Golf Course located at 11223 Luna Vista Road - Not to exceed $1,147,477 - Financing: 2003 Bond Funds ($287,837), 2006 Bond Funds ($812,490), and General Obligation Commercial Paper Funds ($47,150)

JC Commercial, Inc., is a non-local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY

	Amount	Percent
Total local contracts	$247,970.00	21.61%
Total non-local contracts	$899,507.00	78.39%
TOTAL CONTRACT	$1,147,477.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
West Side Construction, Inc.	HMDB21926Y1017	$165,000.00	66.54%
Posada's Painting	HMDB34145Y0417	$39,000.00	15.73%
Flores Technical Services	HMDB41849Y1117	$6,625.00	2.67%
Universal Fence Company	WFDB97666Y0517	$4,175.00	1.68%
American Striping Company	WFDB57733Y0517	$1,670.00	0.67%
Total Minority - Local		$216,470.00	87.30%

Non-Local Contractors / Sub-Contractors

Non-local	Certification	Amount	Percent
Blue Star Electric	WFWB4143Y1018	$90,500.00	10.06%
Golden Mechanical	WFWB05729Y1218	$28,750.00	3.20%
Paragon Fire Protection	WFWB4738N0417	$14,205.00	1.58%
TBS Specialties Direct	WFWB05988N0718	$500.00	0.06%
Total Minority - Non-local		$133,955.00	14.89%

TOTAL M/WBE CONTRACT PARTICIPATION

	Local	Percent	Local & Non-Local	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$210,625.00	84.94%	$210,625.00	18.36%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$5,845.00	2.36%	$139,800.00	12.18%
Total	$216,470.00	87.30%	$350,425.00	30.54%



0 280 560 1,120 1,680 Feet

February 23, 2017

Luna Vista Golf Course
(11223 Luna Rd)

Mapsco
22 J

District
6

March 22, 2017

WHEREAS, on December 9, 2016, six proposals were received for construction of a new maintenance facility at the Luna Vista Golf Course located at 11223 Luna Vista Road; and

Proposers	**Base Price**	**Alter. Nos. 1 & 2****	**Total**	**Scores**
JC Commercial, Inc.	$949,777	$197,700	$1,147,477	3783.75
MART, Inc.	$997,000	$233,000	$1,230,000	3296.25
Ehrlich Design Builders, Inc.	$871,885	$160,311	$1,032,196	3091.25
3i General Contracting Services, LLC	$1,217,310	$203,707	$1,421,017	3062.50
DENCO CS Construction dba DENCO Construction Specialists	$841,777	$233,331	$1,075,108	2768.75
Equistar Construction & Design	$1,503,300	$259,000	$1,762,300	1228.50

**Alternate No. 1 - provides for installation of civil fire lane paving demolition and replacement.
**Alternate No. 2 - provides for balance of fire alarm system.

Note: The best and final offer from JC Commercial, Inc. for Base Price and Alternate Nos. 1 and 2 was for $1,147,477.

WHEREAS, it has been determined that acceptance of the best and final offer from JC Commercial, Inc., in an amount not to exceed $1,147,477 is the best value for the City of Dallas.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to enter into a contract with JC Commercial, Inc. for a new maintenance facility at Luna Vista Golf Course, in an amount not to exceed $1,147,477.

SECTION 2. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute a contract with JC Commercial, Inc., after approval as to form by the City Attorney.

SECTION 3. That the Chief Financial Officer is hereby authorized to disburse the amount not to exceed $1,147,477 to JC Commercial, Inc., as follows:

(2006) Park and Recreation Facilities Improvement Fund Fund 3T00, Department PKR, Unit T046, Object 4310 Activity CCSS, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$125,000.00
(2006) Park and Recreation Facilities Improvement Fund Fund 4T00, Department PKR, Unit T046, Object 4310 Activity CCSS, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$47,150.00
(2003) Major Recreational Facilities Improvement Fund Fund 4R00, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$12,146.92
(2003) Neighborhood Park and Recreation Facilities Fund Fund 5R05, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$34,239.72
(2003) Major Recreation Facilities Improvement Fund Fund 6R00, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$49,887.35
(2003) Neighborhood Park and Recreation Facilities Fund Fund 6R05, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$191,562.82
(2006) Park and Recreation Facilities Improvement Fund Fund 2T00, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$597,098.44
(2006) Park and Recreation Facilities Improvement Fund Fund 1T00, Department PKR, Unit P761, Object 4310 Activity AISF, Program PKP761, CT-PKR17019975 Commodity 91200, Vendor VS0000012563	$90,391.75
Total amount not to exceed	$1,147,477.00

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.

AGENDA ITEM # 26

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 6

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 33B, C

SUBJECT

Authorize an increase in the contract with Phoenix I Restoration and Construction, Ltd., for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center located at 2750 Bachman Drive - Not to exceed $113,763, from $606,258 to $720,021 - Financing: 2006 Bond Funds

BACKGROUND

On May 25, 2016, a contract was awarded to Phoenix I Restoration and Construction, Ltd. for renovations at Bachman Recreation Center located at 2750 Bachman Drive, in an amount not to exceed $576,240.00.

On November 10, 2016, Administrative Action No. 16-0946 authorized Change Order No. 1 to the contract with Phoenix I Restoration and Construction, Ltd. for modifications of roof perimeter, deletion of drain bowl installation and removal of four trees and wood deck repair at Bachman Recreation Center, in an amount not to exceed $34,099.44, making a revised contract amount of $610,339.44.

On January 24, 2017, Administrative Action No. 17-0149 authorized Change Order No. 2 to the contract with Phoenix I Restoration and Construction, Ltd. for a decrease in the contract to include a credit for omitted sealant at exterior joints between wall system and foundation, metal roof deck, removal of one roof drain, and other miscellaneous costs at Bachman Recreation Center, in an amount not to exceed ($4,081.76), making a revised contract amount of $606,257.68.

This action will authorize Change Order No. 3 to the contract with Phoenix I Restoration and Construction, Ltd., in an amount not to exceed $113,762.53, from $606,257.68 to $720,020.21 for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center.

ESTIMATED SCHEDULE OF PROJECT

Begin Construction	April 2017
Complete Construction	August 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The Park and Recreation Board authorized the advertisement for a Request for Competitive Sealed Proposals on February 4, 2016.

The Park and Recreation Board authorized award of the contract on May 5, 2016.

Information about this item was provided to the Quality of Life & Environment Committee on May 23, 2016.

The Park and Recreation Board authorized Change Order No. 3 on February 16, 2017.

Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

2006 Bond Funds - $113,762.53

Construction Contract	$576,240.00
Change Order No. 1	$34,099.44
Change Order No. 2	($4,081.76)
Change Order No. 3 (this action)	$113,762.53
Total amount	$720,020.21

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Phoenix I Restoration and Construction, Ltd.

White Male	32	White Female	7
Hispanic Male	81	Hispanic Female	1
Black Male	0	Black Female	0
Other Male	0	Other Female	0

OWNER

Phoenix I Restoration and Construction, Ltd.

Dale Sellers, President

MAP

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize an increase in the contract with Phoenix I Restoration and Construction, Ltd., for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center located at 2750 Bachman Drive - Not to exceed $113,763, from $606,258 to $720,021 - Financing: 2006 Bond Funds

Phoenix I Restoration and Construction, Ltd. is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use their own workforce.

PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$113,762.53	100.00%
Non-local contracts	$0.00	0.00%
TOTAL THIS ACTION	$113,762.53	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

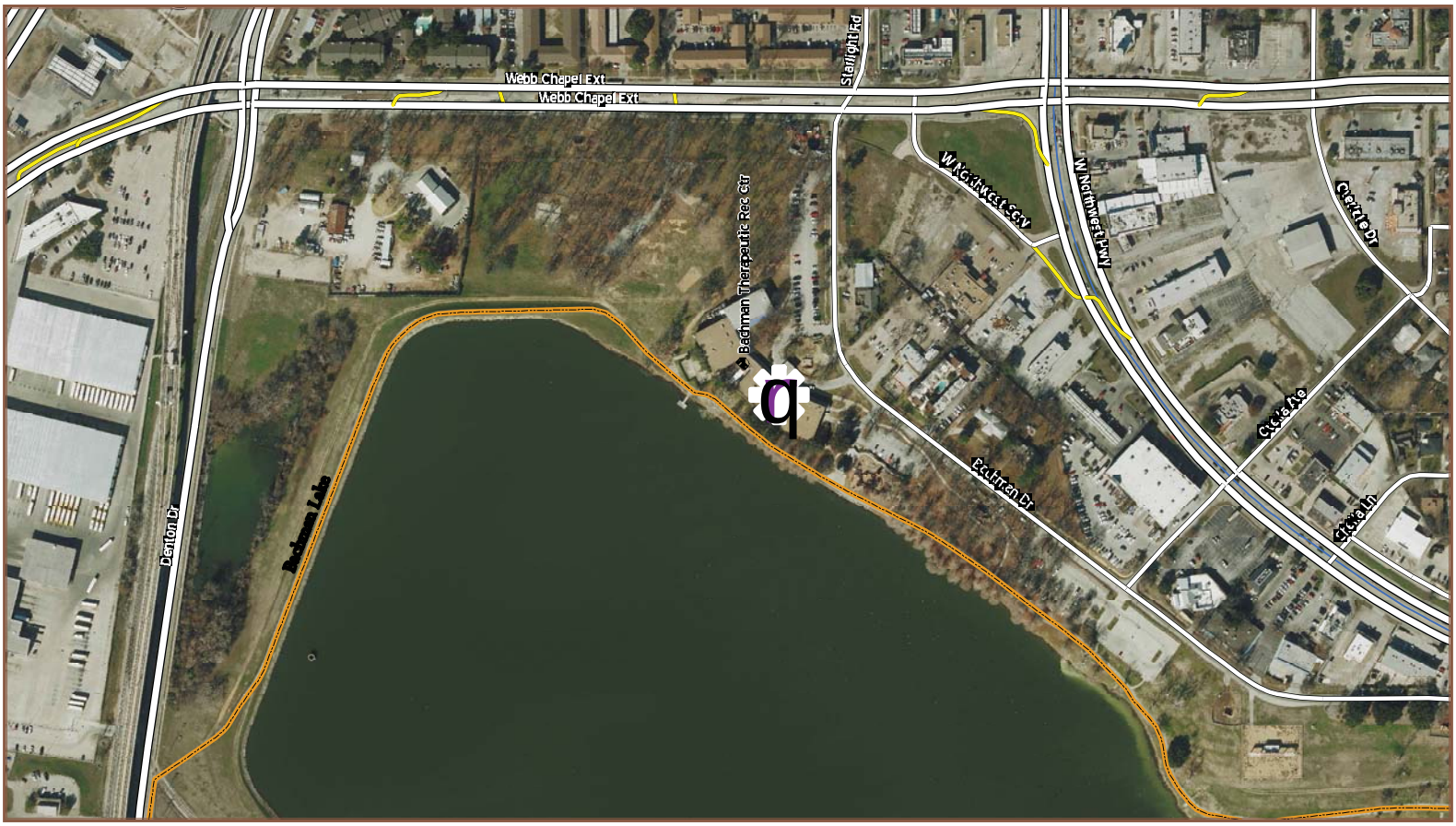
None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$0.00	0.00%	$0.00	0.00%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$0.00	0.00%	$317,657.94	44.12%
Total	$0.00	0.00%	$317,657.94	44.12%



0 112.5 225 450 675 Feet

May 5, 2016

Bachman Recreation Center
(2750 Bachman Dr)

Mapsco
33 B, C

District
6

March 22, 2017

WHEREAS, on May 25, 2016, a contract was awarded to Phoenix I Restoration and Construction, Ltd. for renovations at Bachman Recreation Center located at 2750 Bachman Drive, in an amount not to exceed $576,240.00; and

WHEREAS, on November 10, 2016, Administrative Action No. 16-0946 authorized Change Order No. 1 to the contract with Phoenix I Restoration and Construction, Ltd. for modifications of roof perimeter, deletion of drain bowl installation and removal of four trees and wood deck repair at Bachman Recreation Center, in an amount not to exceed $34,099.44, increasing the contract amount from $576,240.00 to $610,339.44; and

WHEREAS, on January 24, 2017, Administrative Action No. 17-0149 authorized Change Order No. 2 to the contract with Phoenix I Restoration and Construction, Ltd. for a decrease in the contract to include a credit for omitted sealant at exterior joints between wall system and foundation, metal roof deck, removal of one roof drain, and other miscellaneous costs at Bachman Recreation Center, in an amount not to exceed ($4,081.76), decreasing the contract amount from $610,339.44 to $606,257.68; and

WHEREAS, this action will authorize Change Order No. 3 to the contract with Phoenix I Restoration and Construction, Ltd., in an amount not to exceed $113,762.53, increasing the contract from $606,257.68 to $720,020.21 for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to enter into Change Order No. 3 to the contract with Phoenix I Restoration and Construction, Ltd. for the replacement of flooring on pool deck and locker/shower areas at Bachman Recreation Center, in an amount not to exceed $113,762.53, increasing the contract from $606,257.68 to $720,020.21.

SECTION 2. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute Change Order No. 3 with Phoenix I Restoration and Construction, Ltd., after approval as to form by the City Attorney.

SECTION 3. That the Chief Financial Officer is hereby authorized to disburse an amount not to exceed $113,762.53 to Phoenix I Restoration and Construction, Ltd., as follows:

(2006) Park and Recreation Facilities Improvement Fund Fund 7T00, Department PKR, Unit T013, Object 4310 Activity MMCF, Program PK06T013, CT-PKR16019547 Commodity 91200, Vendor VC0000003594	$79,063.46
(2006) Park and Recreation Facilities Improvement Fund Fund 2T00, Department PKR, Unit T013, Object 4310 Activity MMCF, Program PK06T013, CT-PKR16019547 Commodity 91200, Vendor VC0000003594	$34,699.07
Total amount not to exceed	$113,762.53

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.

AGENDA ITEM # 27

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Sanitation Services

CMO: Joey Zapata, 670-3009

MAPSCO: N/A

SUBJECT

Authorize ordinances granting five franchises for solid waste collection and hauling, pursuant to Chapter XIV, of the City Charter, and Chapter 18, Article IV, of the Dallas City Code (list attached) - Estimated Annual Revenue: $22,002

BACKGROUND

Each solid waste hauler operating in Dallas must apply for and receive a franchise to operate a solid waste collection service in the city. For a company to be submitted to City Council for franchise consideration, Sanitation Services requires the company to meet certain preliminary minimum provisions before a franchise application will be considered. Preliminary provisions include providing proof of meeting minimum insurance requirements, confirmation that the company is registered to do business in the State of Texas, the company's intent to pick up and haul solid waste in the City of Dallas, a list of vehicles that are Code compliant, payment of all city taxes (if applicable) and no past history by principals of the company operating a franchised hauling business as a principal that went out of business owing the City franchise fees or disposal fees. These businesses have met all of the preliminary requirements to be considered for a franchise ordinance.

These franchise ordinances, like the franchisees adopted on January 25, 2017, require the City to approve transfer of ownership or sale of assets in accordance with the City Charter, has tightened reporting and payment provisions for franchisees, requires strict compliance with annual certificate of insurance renewal submissions, is for a franchise term of 5 years, and allows the Council to amend the franchise if needed, more easily and has a clearer acceptance process.

There are currently 215 approved franchise ordinances in Dallas. As part of the franchise agreement, franchisees shall pay a fee of not less than four percent of the gross receipts resulting from the operation of the solid waste collection service within the City.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 27, 2006, City Council authorized an amendment to the Dallas City Code to include a franchise fee method for regulating solid waste haulers by Ordinance No. 26480.

On October 12, 2015, the Quality of Life & Environment Committee was provided information regarding changes to ordinances related to new solid waste collection and hauling franchise agreements.

Information about this item will be provided to the Budget, Finance, and Audit Committee on March 20, 2017.

FISCAL INFORMATION

$22,002.00 - Estimated Annual Revenue

Franchises for Solid Waste Collection and Hauling

Franchise Haulers	**Estimated Annual Franchise Revenue**
American Roll-Off & Recycling LLC dba American Waste Disposal	$9,600.00
Custom Recycling Solutions, LLC	$5,520.00
JLH Removal LLC dba Bin There Dump That Dallas	$5,760.00
T & R EXCAVATION, INC.	$ 200.00
The Demo Company, LLC	$ 922.00
Total	$22,002.00

02-17-2017

ORDINANCE NO. _____

An ordinance granting a franchise to American Roll-Off & Recycling LLC dba American Waste Disposal, a Texas limited liability company, with its principal address at 814 Rachelle Drive, Red Oak, Texas 75154-5220, pursuant to Chapter XIV of the Dallas City Charter and Chapter 18 of Article IV of the Dallas City Code, to own, operate and maintain a solid waste collection service within the City of Dallas; providing for its terms and conditions; providing for liquidated damages for failure to adhere to the terms and conditions in the franchise ordinance; providing for payment of a franchise fee; providing for the payment of the publication fee; providing for the filing of an acceptance by Franchisee; and providing an effective date.

WHEREAS, safe and responsible solid waste collection, transport, and processing is necessary for the protection of the public health and a compelling governmental interest;

WHEREAS, solid waste haulers often use heavy equipment that contributes substantially to damage and wear and tear of the public ways, necessitating expenditures of City of Dallas resources for the maintenance and repair of those public ways, for which the City of Dallas is entitled to reasonable compensation and reimbursement;

WHEREAS, the franchise and regulation of solid waste collection, transport, and processing is necessary and furthers a compelling public interest;

WHEREAS, the City of Dallas is authorized to grant one or more non-exclusive franchises for the provision of solid waste collection service to premises within the City of Dallas; and

WHEREAS, the city council of the City of Dallas is of the opinion that the granting of the franchise on the terms and conditions set forth in this ordinance is in the public interest and in the interest of the City of Dallas and its residents. Now, Therefore,

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

SECTION 1. Preamble. That the declarations contained in the preamble to this ordinance are material and are hereby repeated and incorporated herein as a part of this ordinance as though they were fully set forth in this Section 1.

SECTION 2. Definitions. That for the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given in this ordinance. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word “shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. Words defined elsewhere in this ordinance shall be accorded that meaning throughout this ordinance. Words not defined shall be given their common and ordinary meaning.

(a) AFFILIATE and AFFILIATED means any entity controlling, controlled by, or under common control with the franchisee.

(b) AUTHORIZED AREA means the entire area from time to time within the corporate limits of the City of Dallas.

(c) CITY means the City of Dallas, a municipal corporation, a political subdivision of the State of Texas.

(d) CITY CHARTER means the city's organic law, equivalent to a constitution, which defines the city's existence and prescribes the powers, duties, and organization of the city's governmental structure.

(e) CITY CODE means the ordinances of the city codified into the Dallas City Code, The Revised Code of Civil and Criminal Ordinances of the City of Dallas, Texas (1960 Edition, 1997 Printing), as amended from time to time.

(f) CITY MANAGER means the city manager or the city manager's designated assistant or representative.

(g) CONTROL (and its variants) means actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of franchisee; (ii) an agreement of the holders of voting stock or rights of franchisee which effectively vests or assigns policy decision-making in any person or entity other than franchisee; or (iii) a sale, assignment or transfer of any shares or interest in franchisee which results in a change in the control of franchisee.

(h) COUNCIL means the governing body of city. This section does not authorize delegation of any decision or function that is required by the city charter or state law to be made by the council. In any case in which a hearing is held pursuant to this ordinance, the council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

Unless otherwise stated in this ordinance or prohibited by the city charter or state law, the council may delegate to the city manager or the director the exercise of any and all of the powers conferred upon city by its charter or by general law relating to the administration and enforcement of this ordinance and to franchisee's exercise of the rights and privileges conferred in this ordinance.

(i) DIRECTOR means the director of the department of sanitation services, or the director's designated representative.

(j) FRANCHISE means the grant of the non-exclusive permission and privilege to use public ways under this ordinance, and all of the incidental rights and obligations as described by this ordinance.

(k) FRANCHISEE means American Roll-Off & Recycling LLC dba American Waste Disposal, a Texas limited liability company, the grantee of rights under this ordinance; or the successor, transferee, or assignee of this ordinance.

(l) PUBLIC WAYS means all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated for the benefit of all utilities. Public ways does not include property of city which is not a dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated for the benefit of all utilities.

(M) SOLID WASTE COLLECTION SERVICE means the term as defined in Section 18-29(5) of the Dallas City Code.

(n) THIS ORDINANCE means this document.

SECTION 3. Granting of franchise. That subject to all the terms and conditions contained in this ordinance, the Texas Constitution, the city charter, the city code, other city ordinances as from time to time may be in effect, and applicable federal law, city hereby grants

franchisee non-exclusive permission and privilege solely for the purpose of operating and maintaining a solid waste collection service in, over, along and across the public ways in the authorized area. This grant is subject to the following additional conditions:

(a) Franchisee purpose. Franchisee accepts the grant set forth above and agrees to operate and maintain the solid waste collection service in the authorized area in accordance with the terms and provisions of this ordinance.

(b) Other services. By granting this ordinance, city is not authorizing any non-solid waste collection service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by franchisee which are not solid waste collection services. Franchisee shall immediately notify city if it provides any non-solid waste collection services within the authorized area.

(c) No priority. This ordinance does not establish any priority for the use of the public ways by franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public ways. In the event of any dispute as to the priority of use of the public ways, the first priority shall be to the public generally, the second priority to city, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the city manager in the exercise of the city's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

(d) City's use of public ways. Franchisee acknowledges that by this ordinance it obtains no rights to use or further use of the public ways other than those expressly granted in this ordinance. Franchisee acknowledges and accepts at its own risk, provided that city has the

legal authority for the use or uses in question, that city may make use in the future of the public ways in which the solid waste collection service is located in a manner inconsistent with franchisee's use of such public ways for the solid waste collection service, and in that event franchisee shall not be entitled to compensation from city unless compensation is available to all users of the public ways which are affected in a similar manner and are similarly situated in relevant respects with the franchisee.

(e) Emergencies. City may temporarily suspend the operation of the solid waste collection service of franchisee in the event of a public emergency or calamity as determined by city. In such event, neither city nor any agent, contractor, or employee of city shall be liable to franchisee or its customers or third parties for any damages caused them or the solid waste collection system. Where reasonably possible, prior notice shall be given to franchisee. In any event, notice of such action shall be given to franchisee after such action is taken.

(g) Compliance with law and standards of operation. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

(h) Other approvals and authorizations. This ordinance does not relieve and franchisee shall comply with any obligation to obtain permits, licenses and other approvals from city or other units of government, which are required for the operation and maintenance of the solid waste collection service.

(i) City's right of eminent domain reserved. Nothing in this ordinance shall limit any right city may have to acquire by eminent domain any property of franchisee.

(j) Taxes, fees and other assessments. Nothing in this ordinance shall be construed to limit the authority of city to impose a tax, fee, or other assessment of any kind on any person. Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its solid waste collection service.

(k) Disputes among public ways users. Franchisee shall respect the rights and property of city and other authorized users of the public ways. Disputes between franchisee and other similar franchisees over use of public ways shall be submitted to the director for resolution; provided, however, that franchisee reserves its rights to submit such disputes directly to a court of competent jurisdiction.

SECTION 4. Service requirements.

(a) It is expressly understood and agreed that franchisee has the non-exclusive right, to the extent permitted by this ordinance, to collect and transport solid waste within the authorized area where the individuals or companies contract with franchisee for those services, excluding residential service (other than apartment complexes and motels). Notwithstanding the exclusion for residential service, city reserves the right during the term of this franchise ordinance to collect and transport solid waste and other materials from any source whatsoever, including but not limited to apartment complexes, motels, and any commercial venue without any amendment or modification of this franchise ordinance. Franchisee shall, at its own expense, furnish personnel and equipment to collect and transport, solid waste and shall establish and maintain the contracted solid waste collection service in an efficient and businesslike manner.

(b) All vehicles used by franchisee for the collection and transportation of solid waste shall display a decal issued by the director in or upon a conspicuous place on the vehicle, in accordance with the applicable requirements of the city code. All vehicles shall be covered at all times while loaded and in transit to prevent the spillage of solid waste onto the public ways or properties adjacent to the public ways. Any spillage will be promptly recovered by franchisee. All vehicles and containers owned by franchisee shall be clearly marked with franchisee's name in letters not less than four inches in height. All vehicles shall be cleaned and maintained by franchisee so as to be in good repair, of good appearance and, when idle, free of solid waste residue as may cause odor, provide a breeding place for vectors, or otherwise create a nuisance. In addition, franchisee shall comply with the requirements for solid waste collection vehicles and containers contained in Sections 18-45 and 18-50 (b) of the Dallas City Code.

(c) Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the public ways and other facilities that are damaged as a result of the negligence of franchisee, its officers, agents, or employees, during franchisee's operations pursuant to this ordinance.

(d) Franchisee will comply with all rules, regulations, laws and ordinances pertaining to the disposal of solid waste as directed by the city or by other responsible governmental agencies having jurisdiction. must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill, pursuant to Chapter 18 of the city code, as amended. Disposal of all solid waste collected by franchisee from premises within the authorized area must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill in accordance with the Dallas City Code.

SECTION 5. Indemnity and insurance.

(a) **INDEMNIFICATION OF CITY. FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:**

(1) 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, THAT MAY ARISE OUT OF OR BE OCCASIONED BY FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH THAT ARE CONTRIBUTED TO BY THE NEGLIGENCE OF ONE OR MORE INDEMNITEES, PROVIDED, HOWEVER, THAT INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT THROUGH WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS

PROVIDED UNDER TEXAS LAW, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER FRANCHISEE OR CITY UNDER TEXAS LAW; THE ABOVE INDEMNIFICATION SHALL NOT, HOWEVER, APPLY TO ANY JUDGMENT OF LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY; AND

(2) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, PENALTIES, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES, WHICH MAY BE IMPOSED UPON OR ASSERTED AGAINST THE INDEMNITEES BECAUSE OF ANY VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY FRANCHISEE, ITS OFFICERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION; AND FRANCHISEE SHALL PAY ALL JUDGMENTS, WITH COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT WHICH MAY BE OBTAINED AGAINST CITY RELATED TO ANY SUCH CLAIM. UPON THE WRITTEN REQUEST OF CITY, FRANCHISEE SHALL IMMEDIATELY, AT ITS SOLE COST AND EXPENSE, CAUSE ANY LIEN COVERING CITY'S PROPERTY AS DESCRIBED IN THIS SUBPARAGRAPH TO BE DISCHARGED OR BONDED.

(3) THIS SUBSECTION SHALL NOT BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF CITY AND FRANCHISEE AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

(b) Franchisee's assumption of risk. Franchisee undertakes and assumes for its officers, employees, agents, contractors, and subcontractors (collectively "Franchisee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about any city-owned or controlled property, including the public ways, **AND FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM AN INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.**

(c) Defense of city. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, franchisee shall, upon notice from any of the indemnitees, at franchisee's sole cost and expense, (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants, and the associated costs of document production), resist and defend the same with

legal counsel selected by franchisee and consented to by city, such consent not to be unreasonably withheld; provided, however, that franchisee shall not admit liability in any such matter on behalf of the indemnitees without city's written consent and provided further that the indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of franchisee and execution of any settlement agreement on behalf of the city by the city attorney, and further provided that for the search, review, and production of documents, the city attorney may elect to handle some or all of the process in-house at the expense of the franchisee.

(d) Expenses. The indemnitees shall give franchisee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 5. Nothing herein shall be deemed to prevent the indemnitees from participating in the defense of any litigation by their own counsel at their own expense. Franchisee shall pay all expenses incurred by the indemnitees in participating in the defense, provided that the participation has been requested or required by franchisee in conducting the defense. These expenses may include out-of-pocket expenses reasonably and necessarily incurred, such as attorney fees and the reasonable value of any services rendered by city's counsel and the actual expenses of the indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by the indemnitees in connection with such suits, actions or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by franchisee.

(e) Insurance required. Not later than the effective date of this ordinance, franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit A, attached to and made a part of this ordinance. The insurance

shall be written by companies approved by the State of Texas and acceptable to city. The insurance shall be evidenced by the delivery to city of policies of insurance, including all endorsements executed by the insurer or its authorized agent stating coverages, limits, exclusions, deductibles, and expiration dates, which demonstrate compliance with all applicable provisions of the insurance laws and rules in the State of Texas. **THIS ORDINANCE SHALL NOT TAKE EFFECT UNTIL THE INSURANCE POLICY HAS BEEN DELIVERED TO CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.** If satisfactory evidence of the required insurance is not submitted within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

(f) Changes in insurance coverage. Franchisee shall provide the city with true and complete copies of all changes to insurance policies, including any cancellation, coverage change, or termination notice, or any replacement insurance, before these changes become effective. Certificates of insurance reflecting the annual renewal, replacement insurance or coverage changes must be submitted when such policies become effective to provide evidence of continuing insurance coverage. Although certificates are routinely accepted as substitutes for copies of insurance policies, the city shall have the right to access and copy any such policy of insurance**.** The director may prevent franchisee from operating a solid waste collection service under this franchise until satisfactory evidence of insurance coverage required under this section is presented to the director.

(g) Adjustments to insurance requirements. City reserves the right to review the insurance requirements stated in Exhibit A during the effective period of this ordinance and to recommend to the council reasonable adjustments in the insurance requirements contained in the

city code prior to the anniversary renewal of the insurance when deemed necessary and prudent by city's Office of Risk Management. Any adjustments shall be mutually agreeable to city and franchisee, and based upon changes in statutory law, court decisions, or the claims history of the industry as well as franchisee. When any insurance coverage limit changes are agreed, franchisee shall pay any resulting increase in cost due to the changes.

(g) Liability of franchisee. Approval, disapproval, or failure to act by city regarding any insurance supplied or not supplied by franchisee shall not relieve franchisee of full responsibility or liability for damages and accidents as set forth in this ordinance. The bankruptcy, insolvency, or denial of liability by any insurer of franchisee shall not exonerate franchisee from the liability obligations of franchisee provided for under this ordinance.

SECTION 6. Fees, payments and compensation.

(a) Compensation required. Because the special use of the public ways by franchisee and the special business purpose for which the public ways are being used requires rental compensation for the rights and privileges granted under this ordinance, franchisee shall pay city throughout the term of this ordinance a fee in an amount equal to four percent of franchisee's gross receipts, calculated monthly and payable based on the gross receipts realized during the calendar month immediately preceding the calendar month in which the payment is due (hereinafter called the "franchise fee").

(b) Payment procedures. Franchisee shall pay the franchise fee to city each month during the term of this ordinance. The monthly payment required by this ordinance shall be due and payable by certified check, electronic funds transfer, or other means that provide immediately available funds on the day the payment is due not later than 3:00 p.m. of the thirtieth (30th) calendar day following the end of each calendar month. If the thirtieth (30th)

calendar day following the end of a calendar month falls on a Saturday, Sunday, or official city holiday, then the payment is due on the business day prior to the due date, and in the month of February, the payment is due on February 28th. Subject to applicable law, the compensation set forth in this Section 6 shall be exclusive of and in addition to all special assessments and taxes of whatever nature, including, but not limited to, ad valorem taxes. In the event any monthly payment or partial payment is received by the city later than 10 days after the due date, franchisee shall pay interest on the past due amount at the rate prescribed in Section 2-1.1 of the Dallas City Code. Payment shall be accompanied by a monthly report certified by an officer of franchisee showing the total gross receipts of the preceding calendar month. The monthly report shall also include a detailed breakdown of gross receipts and the computation of the payment amount.

(c) Annual report. Franchisee shall file with city by February 1 of each calendar year an annual report showing the total gross receipts of the preceding calendar year along with the information required under Section 18-41 of the Dallas City Code. Such annual report shall include a detailed breakdown of gross receipts and the computation of the payment amount.

(d) City audit. City may audit franchisee (or any affiliate of franchisee who has information directly pertaining to gross receipts) as often as is reasonably necessary to verify the accuracy of the franchise fees paid to city. All books, records, accounts, or other documents in paper or electronic form, necessary for the audit shall be made available by franchisee at a single location in the Dallas-Fort Worth metropolitan area. Any net undisputed amount due to city, plus interest at the rate prescribed in Section 2-1.1 of the Dallas City Code, c, calculated from the date each portion of the underpayment was originally due until the date franchisee remits the underpayment to the city, shall be paid by franchisee within 45 days after city's submitting an

invoice for the underpayment to franchisee with reasonable detail supporting the amount claimed. If the amount of the underpayment exceeds five percent of the total franchise fee owed for the audit period, franchisee shall pay city's audit costs as well. City's right to audit and franchisee's obligation to retain records related to the franchise fee shall be limited to the previous two calendar years preceding the date that written notice of intent to audit is served.

SECTION 7. Term; performance evaluation.

(a) Term and extensions. The term of this ordinance shall be five (5) years from the effective date of this ordinance.

(b) Franchisee rights upon termination. Subject to applicable law, this ordinance and all rights, permissions, and privileges of franchisee under this ordinance shall automatically terminate on the expiration of the term of this ordinance, unless extended by mutual agreement, court order, or applicable law.

(c) Performance evaluation. In order to: (i) assure that franchisee is complying with the terms of this ordinance, as it may be from time to time amended, and (ii) promote a sharing of information between city and franchisee, city may schedule a performance evaluation no more often than every five years during the term of this ordinance, subject to Subsection (d) of this section, in accordance with the following process:

(1) At least 90 days prior to each performance evaluation, city shall notify franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by franchisee pursuant to Subsection (c)(2)(D) below. Unless specifically waived by the council, attendance of franchisee's duly authorized representative at these meetings is mandatory.

(2) Within 60 days from receipt of notification, franchisee shall file a report with city that is sworn to by a representative of franchisee knowledgeable of the operations of franchisee within the authorized area, in reasonable detail, specifically addressing, at a minimum, the following areas:

(A) compliance of franchisee's vehicles with solid waste and air quality requirements;

(B) customer service, including but not limited to a listing of customer complaints and their resolution;

(C) history in regard to prompt and accurate payment of franchise fees;

(D) any other topic deemed material or relevant by city for its enforcement of this ordinance.

(3) All reports to be prepared under this subsection and submitted by franchisee shall be based upon information for at least the most recent five-year period, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than six months before the time of the performance evaluation.

(4) Following receipt of the report, but not less than 30 days prior to the performance evaluation, city may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. Franchisee shall make reasonable effort to provide such additional information to city prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, franchisee shall notify city in writing explaining the reasons for any delay. The city may authorize a delay of the performance evaluation for a reasonable time to allow franchisee to submit the additional documentation.

(5) The council shall hear any interested persons during such performance evaluation. Franchisee shall be entitled to all the rights of due process consistent with city proceedings, including but not limited to, the right to be heard, the right to present evidence, and the right to ask questions of witnesses.

(6) Upon request of city, franchisee shall assist city in notifying customers of the evaluation session. The actual costs associated with the notification, in an amount not to exceed $1,000.00, shall be borne by franchisee.

(d) Additional performance evaluations. Notwithstanding Subsection (c), the council may initiate and conduct such additional performance evaluations regarding franchisee's performance under this ordinance as the council, in its sole discretion, may deem justified or necessary under the circumstances. Franchisee shall be given reasonable notice of the date, time, and location of any such additional performance evaluations.

SECTION 8. Transfers of ownership and control.

(a) Franchisee ownership, management and operation.

(1) Only franchisee and its affiliates, if any, shall operate, manage, and maintain the solid waste collection service. As provided in Chapter XIV, Section 2(5) of the Dallas City Charter, no franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred, or conveyed to any other person, firm, corporation, or other business entity without the consent of the city first had and obtained by ordinance or resolution, unless otherwise specifically provided in this franchise ordinance. If the purchaser is the holder of a like franchise, the franchise purchased shall be canceled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the city council when permission for merger is granted. Franchisee shall not directly or indirectly transfer or assign, in whole or in part, the

operation, management, ownership, or maintenance of the solid waste collection service without the prior written consent of the council as provided in Subsections 8(b) and 8(c) below.

(2) This section shall not apply to franchisee's employment contracts and other personnel decisions, nor shall it prohibit franchisee from contracting for or subcontracting, in whole or in part, any operational, management or maintenance functions in connection with the solid waste collection service, so long as franchisee does not relinquish its decision making authority over, or its responsibilities under, this ordinance for any particular function; nor shall it prohibit franchisee from complying with this ordinance or other requirements of federal, state, or local laws and regulations.

(3) Franchisee shall provide the director written notice, within five calendar days after its occurrence, of any change in the corporate or business structure, change in the chief executive or the top executive structure, change in the board of directors, or other change in the corporate or business method of governance of franchisee, regardless of whether or not it results in a transfer or assignment of the franchise or a transfer of control or ownership of franchisee.

(b) Transfer and assignment procedures. This ordinance or the solid waste collection service shall not be transferred or assigned, by operation of law or otherwise, nor shall title to franchisee's rights and obligations under this ordinance or to the solid waste collection service pass to or vest in any person, other than for mortgaging or financing of solid waste collection operations or to an affiliate of franchisee under the conditions described below, without the prior written consent of the council. This ordinance shall not be leased or subleased without the prior written consent of the council. The procedures related to transfer or assignment are as follows:

(1) The council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for

any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The director shall be advised in writing of a transfer solely for security purposes at least 60 days before such transfer occurs.

(2) Franchisee may, without additional approval by the council, transfer or assign this ordinance to an affiliate provided that the affiliate: (i) assumes all of franchisee's obligations and liabilities under this ordinance occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this ordinance; and (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of franchisee. The director shall be advised in writing of such transfer and of the affiliate's qualifications at least 60 days before such transfer occurs. The city shall be reimbursed any reasonable, documented costs it incurs in connection with such transfer, including the expenses of any investigation or litigation respecting a proposed or consummated transfer, up to a maximum of $10,000.00.

(c) Transfer of control. There shall be no transfer of or acquisition of control of franchisee without the prior written consent of the council.

(d) Schedule of ownership. Franchisee represents and warrants that its current ownership is as set forth on Exhibit C, attached to and made a part of this ordinance, and that it has full legal and equitable title to the solid waste collection service as of the effective date of this ordinance.

(e) Applications for consent/procedure/restrictions. If franchisee seeks to obtain the consent of the council to any transactions or matters described in this section, franchisee shall submit an application for such consent to the city and shall submit or cause to be submitted to the city such additional documents and information as the director may request that are reasonably

related to the transaction, including the purchase price of the solid waste collection service, and the legal, financial, and technical qualifications of the proposed transferee or new controlling entity.

(1) The council shall have 120 days from the date of submission of a complete and accurate application to act upon the application for consent. If the council fails to act upon such application for consent within 120 days, such application shall be deemed as consented to unless city and franchisee otherwise agree to an extension of time.

(2) The council shall not unreasonably withhold its consent to any proposed transaction. The council may: (i) grant its consent outright, (ii) grant such consent with conditions, which conditions it finds are necessary to ensure performance of franchisee or its successor under this Ordinance, or (iii) deny consent.

(3) Nothing in any approval by the city under this section shall be construed to waive or release any rights of city in and to the public ways, public places of city or property owned by city.

(4) Nothing in any approval by city under this section shall be construed as a waiver or release of any of city's police powers, or as an exercise of eminent domain.

(5) City's granting of consent in any one instance shall not require it to grant consent in other instances.

(6) Franchisee shall reimburse city for the incidental costs incurred by city in considering any request of franchisee under this section. Such reimbursement shall not exceed $10,000.00, shall be supported by invoices, and shall not include any costs or expenses incurred by city in defending any denial of the request; provided, however, that city does not waive its

right to request that its attorney's fees and other costs be reimbursed by court order in any litigation related to denial of a request under this section.

(f) City approval requirements. Before any transfer, assignment, sale, foreclosure, or other change of control described under this section becomes effective and before the council shall consider giving its consent, the proposed transferee, assignee, purchaser, buyer, foreclosing party, or other person or entity seeking to obtain the rights and obligations under this ordinance through a change of control shall provide the director: (i) an agreement and acceptance in writing to comply with all terms of this ordinance, as amended; (ii) all evidence of insurance required under this ordinance, as amended; (iii) the legal name and address of the transferee, and all persons sharing control of the transferee, with a full description of their experience in the solid waste disposal industry, as well as the name and address of the person to be contacted for notices; (iv) payment of outstanding franchise fees and any other fees, taxes, and payments, including fees, interest, and penalties, due from franchisee to the city; and (iv) evidence satisfactory to the director that transferee has the legal, technical, and financial ability to properly perform and discharge all obligations and liabilities of this ordinance.

(g) Transfer of control requirements. In the event of a transfer of control, before such transfer becomes effective and before the council shall consider giving its consent, the proposed transferee shall agree in writing to not take any action that will keep franchisee from complying with this ordinance.

SECTION 9. Defaults.

(a) Events of default. The occurrence of any one or more of the following events at any time during the term of this ordinance shall constitute an event of default by franchisee under this ordinance:

(1) The failure or refusal by franchisee to pay the franchise fee when due as prescribed by this ordinance, or any failure to perform on any agreed or court-mandated extension or modification of such payment obligation.

(2) Franchisee's material violation of or failure to comply with any provision or condition of Article IV of Chapter 18 of the Dallas City Code relating to solid waste collection service franchisees or any other applicable provision or condition of the city code.

(3) Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this ordinance, or franchisee's failure or refusal to perform any obligation contained in this ordinance.

(4) Franchisee's failure or refusal to pay or cause to be paid any of city's governmentally-imposed taxes of any kind whatsoever, including but not limited to real estate taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

(5) The entry of any judgment against franchisee in which another party becomes entitled to possession of substantially all of franchisee's assets of the solid waste collection service, for which change in possession the consent of the council has not been obtained, and such judgment is not stayed pending rehearing or appeal for 45 or more days following entry of the judgment.

(6) The dissolution or termination, as a matter of law, of franchisee without the prior consent or approval of city, which approval, if formally requested, shall not unreasonably be withheld.

(7) Franchisee's filing of a voluntary petition in bankruptcy; being adjudicated insolvent; obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of franchisee, or any of franchisee's property or this ordinance or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay franchisee's debts as they become due such that franchisee is unable to meet its obligations under this ordinance.

(8) Franchisee attempts to dispose of any of the facilities or property of its solid waste collection service with the intent of preventing city from purchasing it as provided for in this ordinance.

(9) Franchisee engages in any fraudulent or deceitful conduct with city or its customers.

(10) Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this ordinance, or in connection with any report of gross income as required by this ordinance.

(11) Any director, officer, employee, or agent of franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this ordinance.

(12) Franchisee's failure or refusal to comply with or a violation of any applicable local, state, or federal law or regulation.

(b) Default procedures. Upon the occurrence of an event of default which can be cured by the immediate payment of money to city or a third party, franchisee shall have 30 days from written notice of the occurrence of the event of default from the director to cure the default before city may exercise any of the default remedies provided for in Section 10. Upon the occurrence of an event of default by franchisee which cannot be cured by the immediate payment of money to city or a third party, franchisee shall have 60 days from the date of written notice from city to franchisee of the occurrence of the event of default to cure the event of default before city may exercise any of its rights or remedies provided for in Section 10, unless the director, the city manager, or the council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an event of default is not cured within the time period allowed for curing the event of default, as provided above, the event of default becomes, without additional notice, an uncured event of default, which shall entitle city to exercise the remedies provided for in Section 10.

SECTION 10. Remedies.

(a) Default remedies. Upon the occurrence of any uncured event of default as described in Section 9, the director shall report the occurrence of same to the city manager and the council. The council shall be entitled in its sole discretion and upon recommendation of the director and the city manager to exercise any or all of the following cumulative remedies:

(1) Exercise its rights to impose liquidated damages as described in Subsection (e).

(2) Authorize the city attorney to commence an action against franchisee at law or in equity, or both, including an action for monetary damages and specific performance.

(3) Suspend the franchise granted under this ordinance.

(4) Revoke the franchise granted under this ordinance.

(b) Suspension procedure. Upon the occurrence of an uncured event of default, the director may suspend the operation of the solid waste collection service doing business under this ordinance. If the director determines that suspension of the franchise is necessary to cure an event of default, the director shall comply with the procedures established in Section 18-37 of the Dallas City Code.

(c) Revocation procedure. Upon the occurrence of an uncured event of default, the council shall have the right to revoke this ordinance. Upon revocation, the rights, permissions, and privileges comprising the franchise granted under this ordinance shall be automatically deemed null and void and shall have no further force or effect and the provisions that are contractual in nature which are also included as a part of this ordinance are hereby automatically terminated, except that franchisee shall retain the obligation to report gross income and make franchisee fee payments covering the period prior to the effective date of the revocation. Upon revocation, city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, prior to any council hearing to formally consider revocation of the franchise granted under this ordinance, the director shall notify franchisee in writing at least 10 days in advance of the council hearing at which the issue of revocation shall be considered and decided. Franchisee shall have the right to appear before the council in person or by legal counsel and raise any objections or defenses franchisee may have that are relevant to the proposed revocation. In addition, the following procedures shall apply in regard to the revocation hearing:

(1) The council shall hear and consider the issue of revocation, shall hear any person interested in the issue, and shall determine, in its sole discretion, whether or not any violation by franchisee has occurred justifying a revocation of the franchise.

(2) At such hearing, franchisee shall be provided due process, including the right to be heard, to ask questions of witnesses, and to present evidence.

(3) Upon completion of the hearing described above, the council shall render a decision. Within a reasonable time, the director shall transmit a copy of the decision to franchisee. Franchisee shall be bound by the council's decision, unless it appeals the decision to a court of competent jurisdiction within 15 days after the date of the decision. Franchisee reserves the right to challenge both the decision itself and the fairness of the process followed by the city in the proceeding.

(4) The council reserves the right, in its sole discretion, to impose liquidated damages or to pursue other remedies as provided in this Section 10 in lieu of a revocation.

(d) Letter of credit. As security for the faithful performance by franchisee of the provisions of this ordinance and compliance with all orders, permits, and directions of city and the payment of all claims, liens, fees, liquidated damages, and taxes to city, franchisee shall deposit with city, no later than the effective date of this ordinance, an unconditional and irrevocable letter of credit in a penal amount equal to one month's franchise fee payment. The initial value of the letter of credit shall be established on the basis of the monthly franchise fee that would have been paid on the previous calendar year's monthly average gross receipts on a cash basis from any source derived at any location regardless of whether those receipts were earned entirely within the authorized area. The letter of credit shall be updated annually in January of each calendar year during the term of this ordinance. The value of the annually updated letter of credit will be equal to the average monthly franchise fee payment submitted by franchisee as required in this ordinance during the previous calendar year. The letter of credit must be issued by a federally-chartered or state-chartered financial institution with a principal

office or branch located in Dallas County and otherwise acceptable to the council, on terms acceptable to the council and approved by the city attorney. The letter of credit shall expressly provide that partial draws are permitted and that a draft thereon to the order of the city will be honored upon presentation to the issuing financial institution at a principal office or branch located within Dallas County of a letter of demand from city delivered in person or by courier delivery. The letter of demand must be signed by a person purporting to be the city's chief financial officer, city manager, or director. No supporting documents will be required and no other language, other than a demand to pay and a recitation of title, will be required as conditions for permitting the draw. Failure to timely deposit the letter of credit, or the failure to maintain the letter(s) of credit in the full amount required under this subsection and in effect during the entire term of this ordinance, or any renewal or extension of this ordinance, shall constitute a material breach of the terms of this ordinance.

(1) If franchisee fails to make timely payment to city or its designee of any amount due as a result of this ordinance or fails to make timely payment to city of any taxes due; or fails to repay city for damages and costs, including attorney's fees; or fails to comply with any provision of this ordinance which city reasonably determines can be remedied by an expenditure of monies, city may draw upon the letter of credit an amount sufficient to repay city with interest as set forth in this ordinance, if not otherwise specified by law..

(2) Within three days after a drawing upon the letter of credit, city shall send written notification of the amount, date, and purpose of the drawing to franchisee by certified mail, return receipt requested.

(3) If, at the time of a draw by city, the aggregate amount realized from the letter of credit is insufficient to provide the total payment toward which the draw is directed, the

balance of such payment, plus accrued interest, shall constitute an obligation of franchisee to city until paid. If the interest rate is not set forth in this ordinance or set by laws, then interest shall be the prime rate as established in the Wall Street Journal on the day before city sends notice to franchisee of its intent to drawn the letter of credit.

(4) No later than 30 days after mailing of notification to franchisee of a draw pursuant to Subsection (d)(2) above, franchisee shall cause the letter of credit to be restored to the full amount required under this ordinance. Failure to timely restore the letter of credit shall constitute a material breach of the terms of this ordinance.

(5) The rights reserved to city with respect to this letter of credit are in addition to all other rights and remedies of city, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other rights city may have.

(e) Liquidated damages. The parties agree that: (1) the harm or damage caused by any material breach of this franchise, other than the failure to pay franchise fees, is of a kind that is difficult or incapable of estimation; and (2) the amount of liquidated damages stipulated in the ordinance is a reasonable forecast of just compensation. Therefore, in addition to the other remedies provided for in this Section 10, liquidated damages in the amounts set forth below may be assessed by the council upon franchisee, following the notice and opportunity to cure procedures in Subsection (f) below, for failure or refusal to comply with any material term or condition of this ordinance or for any other uncured event of default. In the event the council determines that franchisee has committed, continued, or permitted a material failure or refusal of compliance or other uncured event of default that has not been cured as provided in this ordinance, franchisee shall pay $2,000 per day for each day or part of a day that the material

failure or refusal or other uncured event of default is committed, continued, or permitted, unless the council at the time of imposition of the civil penalty determines that good cause justifies a lesser penalty, based upon the surrounding circumstances, frequency, number, and seriousness of the material violations or uncured events of default in question and the public interest served by imposing a lesser civil penalty.

(f) Liquidated damages procedure. Liquidated damages may be assessed by the council in accordance with the following procedure:

(1) Following notice from the director, which notice, at the director's election, may be combined with the notice described in Section (9)(b), franchisee shall meet with the director to attempt to resolve any disagreements on whether liquidated damages should be assessed or what liquidated damages should be recommended to the council. If there is no resolution of the issue within 15 days after the mailing of the notice, then the director shall present the director's recommendation regarding liquidated damages to the city manager for review and concurrence. If the city manager concurs in the director's recommendation that liquidated damages should be assessed, the matter shall be presented to the council. The director shall notify franchisee of the recommendation of the city manager to the council, the time and date of the proposed hearing concerning the issue of liquidated damages, and a statement that franchisee has a right to appear and be heard before the council on the matter. In order to appear before and be heard by the council, franchisee must comply with applicable council procedures which can be obtained from the city secretary.

(2) Upon presentation of the recommendations of the director and the city manager, the council may decide on one or more of the following courses of action:

(A) to authorize the city attorney to proceed against franchisee under Section 10(a)(2);

(B) to assess liquidated damages in the amount provided above for the applicable material violation or uncured event of default. Council may provide for a lesser amount and may suspend all or part of said assessment upon reasonable conditions for any reasonable period, up to the end of the franchise;

(C) to determine that liquidated damages are not justified under the circumstances and assess no damages; or

(D) to remand the matter to the city manager or the director for further investigation, consideration, and recommendation to the council.

(3) Assessment of liquidated damages by the council shall be a monetary obligation of franchisee to city in the amount determined by the council and shall be paid in full by franchisee within 15 business days after the date of assessment by the council.

(4) The procedures stated in this Subsection (f) do not apply to the council's determination to require the payment of money, in lieu of other available remedies, in a revocation proceeding under Subsection (b)(4).

(g) Remedies cumulative. Subject to applicable law, the rights and remedies of city set forth in this Section 10 shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the council determines that a violation by franchisee was franchisee's fault and within its control, the council may pursue any or all of the remedies provided in Section 10. The remedies of city created under this ordinance shall be cumulative to the maximum extent permitted by law. The exercise by city of any one or more remedies under this ordinance shall not preclude the exercise by city, at the same or different times, of any other

remedies for the same material uncured event of default. Notwithstanding any provision of this ordinance, however, city shall not recover both liquidated damages and actual damages for the same violation, breach, non-compliance, or material uncured event of default.

(h) Curable violations. Franchisee shall not be found in violation of this ordinance or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of franchisee or occurs as a result of circumstances beyond its control, and, if curable, is promptly cured. Franchisee shall not be excused by mere economic hardship nor by the negligence or malfeasance of its directors, officers or employees.

(i) City right to purchase. In the event city revokes the franchise granted under this ordinance for cause, terminates the franchise as provided in Subsection (j) below, or denies renewal of the franchise granted under this ordinance, city shall have the right (but not the obligation) subject to the applicable provisions of city charter, directly or as an intermediary, to purchase the assets of the solid waste collection system through its authority under, and procedures applicable to, eminent domain.

(j) Termination in the public interest. Nothing in this section shall be construed as affecting the right of the council under the city charter to terminate this ordinance without cause in the public interest when it is deemed inconsistent with the public use of city's public ways or is deemed to cause or constitute a nuisance.

SECTION 11. Providing Information.

(a) Complete and accurate books required. Franchisee shall keep complete and accurate books of account and records of its solid waste collection service business and operations under and in connection with this ordinance in accordance with generally accepted accounting principles and generally accepted government auditing standards.

(b) City review of documentation. City may fully review such of franchisee's books, accounts, documents, and other records of franchisee or franchisee's affiliates during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this ordinance. All books, accounts, documents, and other records shall be made available at a single location in the Dallas-Fort Worth metropolitan area. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records; where possible, such items shall be made available in a CD-ROM disk or other similar platform in a format that is readable by city's computers. The reviewable items shall include, but shall not be limited to, records required to be kept by franchisee pursuant to law and the financial information underlying the written report accompanying the franchise fee. To the extent permitted by law, city agrees to treat any information disclosed by franchisee under this section as confidential, if and only to the extent that franchisee provides prior written notice that specific information is confidential as trade secrets or proprietary competitive information. Blanket or overly broad claims of confidentiality will be of no effect.

(c) Additional reports. Franchisee shall, when required by the council, the city manager, or the director, report to city any reasonably requested information relating to franchisee or the affiliates or necessary for the administration of this ordinance. The director shall have the right to establish formats for these additional reports, determine the time for these reports and the frequency with which these reports, if any, are to be made, and require that any reports be made under oath.

SECTION 12. General.

(a) Entire agreement. This ordinance (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between city and franchisee, superseding all oral or written previous negotiations or agreements between city and franchisee relating to matters set forth in this ordinance. This ordinance can be amended by an ordinance enacted by the council. Such action by council does not require the hearing procedures for revocation set forth in Subsection 10(4)(b) of this ordinance, but only the posting of an agenda item and the opportunity for speakers to be heard on the item.

(b) Notices. Except as otherwise provided in Subsection 12(c) of this ordinance, any notice, payment, statement, or demand required or permitted to be given under this ordinance by either party to the other may be effected by any of the means described in Subsection 12(d) of this ordinance. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If to City:

City Manager
City of Dallas
Dallas City Hall
1500 Marilla – Room 4/F/North
Dallas, Texas 75201

With a copy to:

Director
Department of Sanitation Services
3112 Canton Street, Suite 200
Dallas, Texas 75226

If to Franchisee:

Marco Lozano
American Roll-off & Recycling LLC
814 Rachelle Drive
Red Oak, Texas 75154-5220

Either city or franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this Subsection 12(b) Any notice given by either city or franchisee must be signed by an authorized representative.

(c) Notice of claim. This ordinance is subject to the provisions of Section 2-86 of the Dallas City Code, relating to requirements for filing a notice of a breach of contract claim against city. Section 2-86 of the Dallas City Code is expressly incorporated by reference and made a part of this ordinance as if written word for word in this ordinance. Contractor shall comply with the requirements of Section 2-86 as a precondition of any claim against city relating to or arising out of this ordinance.

(d) Delivery of notices. Notices required to be given under this ordinance may be transmitted in any of the following four ways:

(1) By personal delivery, in which case they are deemed given when delivered.

(2) By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.

(3) By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three calendar days after having been deposited in the U.S. Mail.

(4) By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

(e) City/franchisee meetings. Franchisee shall meet with the director, the city manager or the council at reasonable times to discuss any aspect of this ordinance or the services or facilities of franchisee. At all meetings, franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at city's offices unless otherwise agreed.

(f) Legal construction. This ordinance shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. Exclusive venue for any litigation that may be filed in connection with this ordinance shall be in Dallas County, Texas. This ordinance is not a contract for goods or services within the meaning of Texas Local Government Code §§271.151 *et seq*.

(g) No inducement. Franchisee, by accepting this ordinance, acknowledges that it has not been induced to accept this ordinance by any promise, oral or written, by or on behalf of city or by any third person regarding any term or condition not expressed in this ordinance. Franchisee further pledges that no promise or inducement, oral or written, has been made to any city employee or official regarding the grant, receipt or award of this ordinance.

(h) Franchisee acknowledgement. Franchisee further acknowledges by acceptance of this ordinance that it has carefully read the terms and conditions of this ordinance and accepts the obligations imposed by the terms and conditions herein.

(i) No waiver by city. No failure by city to insist upon the strict performance of any covenant, provision, term or condition of this ordinance, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this ordinance, but each and every covenant, provision, term or condition of this ordinance shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(j) Governmental licenses. Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the solid waste collection service in accordance with this ordinance.

(k) Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this ordinance.

(l) City retained powers. In addition to all rights provided in this ordinance, city reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, city code, and city ordinances which city is allowed to exercise.

(m) Material misinformation. The provision of information by franchisee or any of its affiliates to city in connection with any matters under this ordinance which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this ordinance and shall be subject to the remedies provided in Section 10. Each day that franchisee or an affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this ordinance.

(n) Hearing procedures. The following additional procedures shall apply to any hearing held in connection with any action taken by the council in connection with this ordinance:

(1) The council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

(2) The hearing shall afford franchisee rudimentary due process. The council may by resolution establish other procedural matters in connection with the hearing.

(o) Acceptance. Upon adoption of this ordinance, franchisee agrees to be bound by all the terms and conditions contained herein, as evidenced by filing the original with the city secretary and a copy with the director, in writing, within 30 days after the date the council approves this ordinance, an unconditional acceptance of the ordinance and promise to comply with and abide by all its provisions, terms, and conditions. The form of unconditional acceptance and promise, attached to and made a part of this ordinance as Exhibit B, shall be sworn to, by, or on behalf of franchisee before a notary public. If within 30 days after the date the council approves the ordinance, franchisee fails to (1) submit and file the properly executed acceptance, (2) pay all taxes due , and (3) submit the letter of credit and required certificate of insurance, then this ordinance and the rights, permissions, and privileges granted under this ordinance shall be null and void and shall have no force or effect, unless franchisee evidences such failure was due to clerical error by someone other than franchisee or its affiliates and then acts promptly to remedy the third party's clerical error. The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the acceptance required by this subsection is filed as provided herein.

(p) Time is of the essence. Whenever this ordinance shall set forth any time for an act to be performed by or on behalf of franchisee, such time shall be deemed of the essence and any failure of franchisee to perform within time allotted shall always be sufficient grounds for city to invoke an appropriate remedy, including possible revocation of the ordinance.

(q) Force majeure. The time within which franchisee shall be required to perform any act under this ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of franchisee. Notwithstanding anything contained anywhere else in this ordinance, franchisee shall not be excused from performance of any of its obligations under this ordinance by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

(r) Recognition of rights. Franchisee agrees that by adopting this ordinance, neither city nor franchisee have waived any rights, claims, or defenses they may have with respect to city's rights to impose the requirements contained in this ordinance in whole or in part upon franchisee.

(s) Police powers.

(1) In accepting this ordinance, franchisee acknowledges that its rights under this ordinance are subject to the police power of city to adopt and enforce general ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by city pursuant to such powers. Any conflict between the provisions of this ordinance and any other present or future lawful exercise of city’s police powers shall be resolved in favor of the latter.

(2) Franchisee recognizes the right of city to make reasonable amendments to this ordinance; except that city shall not make amendments materially adversely affecting franchisee except under a proper exercise of city's police powers, with notice to franchisee and an opportunity to be heard in a regular public meeting of the council considering the ordinance or amendment. Franchisee acknowledges that this is the extent of its rights to a hearing respecting franchise ordinance amendments under the charter

(3) Franchisee also recognizes city's right to impose such other regulations of general applicability as shall be determined by city to be conducive to the safety, welfare, and accommodation of the public.

(t) No presumption of renewal. This ordinance and the grant contained herein do not imply, grant, or infer any renewal rights in favor of franchisee or its affiliates.

(u) Recognition of city charter. Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this ordinance are subject to the applicable provisions of Chapter XIV of the Dallas City Charter. Any request by franchisee for an amendment to this ordinance shall be subject to review by the city attorney for compliance with the applicable provisions of the city charter.

SECTION 13. Outstanding license fees. This ordinance shall not take effect until all fees still owed to city from the existing license previously issued to franchisee for solid waste collection, hauling, and disposal service under provisions of the city code applicable to solid waste collection, hauling, and disposal licenses are paid in full. If the previous license fees owed to city are not paid by franchisee within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the previous license fees have been paid in full.

SECTION 14. Ordinance effective date. Subject to the provisions of Subsection 5(e), Subsection 12(o), and Section 13, 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 (the "effective date"), and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Passed ___March 22, 2017_____

Exhibit A

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to FRANCHISEE'S right to maintain reasonable deductibles, FRANCHISEE shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at FRANCHISEE'S sole expense, insurance coverage in the following type(s) and amounts:
Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence.

REQUIRED PROVISIONS

FRANCHISEE agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
(i) Sanitation Services, Attention: Assistant Director, 3112 Canton, Suite 200, Dallas, Texas 75226 and
(ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
d. Provide that the FRANCHISEE'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
e. Provide that all provisions of this franchise concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

CITY NOT LIABLE

Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the FRANCHISEE or its subcontractors shall not relieve the FRANCHISEE of full responsibility or liability for damages and accidents as set forth in the franchise documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the FRANCHISEE from liability.

Exhibit B

Acceptance

American Roll-Off & Recycling LLC dba American Waste Disposal, a Texas limited liability company, unconditionally accepts and agrees to be bound by all the terms, covenants, and conditions contained in the Solid Waste Collection Service franchise ordinance, Ordinance No. _____, passed on March 22, 2017.

Dated: ____ day of _____, 2017.

FRANCHISEE:

American Roll-Off & Recycling LLC dba American Waste Disposal
a Texas limited liability company

By: _____
Marco A. Lozano, Owner

State of Texas
County of _____

This instrument was acknowledged before me on _____, 2017 by Marco A. Lozano, Owner, of American Roll-Off & Recycling LLC dba American Waste Disposal, a Texas limited liability company, on behalf of said company.

(Seal)

_____
Notary Public's Signature

Exhibit C
Affidavit of Ownership or Control

02-17-2017

ORDINANCE NO. _____

An ordinance granting a franchise to Custom Recycling Solutions, LLC, a Texas limited liability company, with its principal address at 893 S. Munson Road, Royse City, Texas 75189-6355, pursuant to Chapter XIV of the Dallas City Charter and Chapter 18 of Article IV of the Dallas City Code, to own, operate and maintain a solid waste collection service within the City of Dallas; providing for its terms and conditions; providing for liquidated damages for failure to adhere to the terms and conditions in the franchise ordinance; providing for payment of a franchise fee; providing for the payment of the publication fee; providing for the filing of an acceptance by Franchisee; and providing an effective date.

WHEREAS, safe and responsible solid waste collection, transport, and processing is necessary for the protection of the public health and a compelling governmental interest;

WHEREAS, solid waste haulers often use heavy equipment that contributes substantially to damage and wear and tear of the public ways, necessitating expenditures of City of Dallas resources for the maintenance and repair of those public ways, for which the City of Dallas is entitled to reasonable compensation and reimbursement;

WHEREAS, the franchise and regulation of solid waste collection, transport, and processing is necessary and furthers a compelling public interest;

WHEREAS, the City of Dallas is authorized to grant one or more non-exclusive franchises for the provision of solid waste collection service to premises within the City of Dallas; and

WHEREAS, the city council of the City of Dallas is of the opinion that the granting of the franchise on the terms and conditions set forth in this ordinance is in the public interest and in the interest of the City of Dallas and its residents. Now, Therefore,

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

SECTION 1. Preamble. That the declarations contained in the preamble to this ordinance are material and are hereby repeated and incorporated herein as a part of this ordinance as though they were fully set forth in this Section 1.

SECTION 2. Definitions. That for the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given in this ordinance. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word “shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. Words defined elsewhere in this ordinance shall be accorded that meaning throughout this ordinance. Words not defined shall be given their common and ordinary meaning.

(a) AFFILIATE and AFFILIATED means any entity controlling, controlled by, or under common control with the franchisee.

(b) AUTHORIZED AREA means the entire area from time to time within the corporate limits of the City of Dallas.

(c) CITY means the City of Dallas, a municipal corporation, a political subdivision of the State of Texas.

(d) CITY CHARTER means the city's organic law, equivalent to a constitution, which defines the city's existence and prescribes the powers, duties, and organization of the city's governmental structure.

(e) CITY CODE means the ordinances of the city codified into the Dallas City Code, The Revised Code of Civil and Criminal Ordinances of the City of Dallas, Texas (1960 Edition, 1997 Printing), as amended from time to time.

(f) CITY MANAGER means the city manager or the city manager's designated assistant or representative.

(g) CONTROL (and its variants) means actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of franchisee; (ii) an agreement of the holders of voting stock or rights of franchisee which effectively vests or assigns policy decision-making in any person or entity other than franchisee; or (iii) a sale, assignment or transfer of any shares or interest in franchisee which results in a change in the control of franchisee.

(h) COUNCIL means the governing body of city. This section does not authorize delegation of any decision or function that is required by the city charter or state law to be made by the council. In any case in which a hearing is held pursuant to this ordinance, the council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

Unless otherwise stated in this ordinance or prohibited by the city charter or state law, the council may delegate to the city manager or the director the exercise of any and all of the powers conferred upon city by its charter or by general law relating to the administration and enforcement of this ordinance and to franchisee's exercise of the rights and privileges conferred in this ordinance.

(i) DIRECTOR means the director of the department of sanitation services, or the director's designated representative.

(j) FRANCHISE means the grant of the non-exclusive permission and privilege to use public ways under this ordinance, and all of the incidental rights and obligations as described by this ordinance.

(k) FRANCHISEE means Custom Recycling Solutions, LLC, a Texas limited liability company, the grantee of rights under this ordinance; or the successor, transferee, or assignee of this ordinance.

(l) PUBLIC WAYS means all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated for the benefit of all utilities. Public ways does not include property of city which is not a dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated for the benefit of all utilities.

(M) SOLID WASTE COLLECTION SERVICE means the term as defined in Section 18-29(5) of the Dallas City Code.

(n) THIS ORDINANCE means this document.

SECTION 3. Granting of franchise. That subject to all the terms and conditions contained in this ordinance, the Texas Constitution, the city charter, the city code, other city ordinances as from time to time may be in effect, and applicable federal law, city hereby grants

franchisee non-exclusive permission and privilege solely for the purpose of operating and maintaining a solid waste collection service in, over, along and across the public ways in the authorized area. This grant is subject to the following additional conditions:

(a) Franchisee purpose. Franchisee accepts the grant set forth above and agrees to operate and maintain the solid waste collection service in the authorized area in accordance with the terms and provisions of this ordinance.

(b) Other services. By granting this ordinance, city is not authorizing any non-solid waste collection service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by franchisee which are not solid waste collection services. Franchisee shall immediately notify city if it provides any non-solid waste collection services within the authorized area.

(c) No priority. This ordinance does not establish any priority for the use of the public ways by franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public ways. In the event of any dispute as to the priority of use of the public ways, the first priority shall be to the public generally, the second priority to city, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the city manager in the exercise of the city's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

(d) City's use of public ways. Franchisee acknowledges that by this ordinance it obtains no rights to use or further use of the public ways other than those expressly granted in this ordinance. Franchisee acknowledges and accepts at its own risk, provided that city has the

legal authority for the use or uses in question, that city may make use in the future of the public ways in which the solid waste collection service is located in a manner inconsistent with franchisee's use of such public ways for the solid waste collection service, and in that event franchisee shall not be entitled to compensation from city unless compensation is available to all users of the public ways which are affected in a similar manner and are similarly situated in relevant respects with the franchisee.

(e) Emergencies. City may temporarily suspend the operation of the solid waste collection service of franchisee in the event of a public emergency or calamity as determined by city. In such event, neither city nor any agent, contractor, or employee of city shall be liable to franchisee or its customers or third parties for any damages caused them or the solid waste collection system. Where reasonably possible, prior notice shall be given to franchisee. In any event, notice of such action shall be given to franchisee after such action is taken.

(g) Compliance with law and standards of operation. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

(h) Other approvals and authorizations. This ordinance does not relieve and franchisee shall comply with any obligation to obtain permits, licenses and other approvals from city or other units of government, which are required for the operation and maintenance of the solid waste collection service.

(i) City's right of eminent domain reserved. Nothing in this ordinance shall limit any right city may have to acquire by eminent domain any property of franchisee.

(j) Taxes, fees and other assessments. Nothing in this ordinance shall be construed to limit the authority of city to impose a tax, fee, or other assessment of any kind on any person. Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its solid waste collection service.

(k) Disputes among public ways users. Franchisee shall respect the rights and property of city and other authorized users of the public ways. Disputes between franchisee and other similar franchisees over use of public ways shall be submitted to the director for resolution; provided, however, that franchisee reserves its rights to submit such disputes directly to a court of competent jurisdiction.

SECTION 4. Service requirements.

(a) It is expressly understood and agreed that franchisee has the non-exclusive right, to the extent permitted by this ordinance, to collect and transport solid waste within the authorized area where the individuals or companies contract with franchisee for those services, excluding residential service (other than apartment complexes and motels). Notwithstanding the exclusion for residential service, city reserves the right during the term of this franchise ordinance to collect and transport solid waste and other materials from any source whatsoever, including but not limited to apartment complexes, motels, and any commercial venue without any amendment or modification of this franchise ordinance. Franchisee shall, at its own expense, furnish personnel and equipment to collect and transport, solid waste and shall establish and maintain the contracted solid waste collection service in an efficient and businesslike manner.

(b) All vehicles used by franchisee for the collection and transportation of solid waste shall display a decal issued by the director in or upon a conspicuous place on the vehicle, in accordance with the applicable requirements of the city code. All vehicles shall be covered at all times while loaded and in transit to prevent the spillage of solid waste onto the public ways or properties adjacent to the public ways. Any spillage will be promptly recovered by franchisee. All vehicles and containers owned by franchisee shall be clearly marked with franchisee's name in letters not less than four inches in height. All vehicles shall be cleaned and maintained by franchisee so as to be in good repair, of good appearance and, when idle, free of solid waste residue as may cause odor, provide a breeding place for vectors, or otherwise create a nuisance. In addition, franchisee shall comply with the requirements for solid waste collection vehicles and containers contained in Sections 18-45 and 18-50 (b) of the Dallas City Code.

(c) Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the public ways and other facilities that are damaged as a result of the negligence of franchisee, its officers, agents, or employees, during franchisee's operations pursuant to this ordinance.

(d) Franchisee will comply with all rules, regulations, laws and ordinances pertaining to the disposal of solid waste as directed by the city or by other responsible governmental agencies having jurisdiction. must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill, pursuant to Chapter 18 of the city code, as amended. Disposal of all solid waste collected by franchisee from premises within the authorized area must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill in accordance with the Dallas City Code.

SECTION 5. Indemnity and insurance.

(a) **INDEMNIFICATION OF CITY. FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:**

(1) 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, THAT MAY ARISE OUT OF OR BE OCCASIONED BY FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH THAT ARE CONTRIBUTED TO BY THE NEGLIGENCE OF ONE OR MORE INDEMNITEES, PROVIDED, HOWEVER, THAT INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT THROUGH WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS

PROVIDED UNDER TEXAS LAW, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER FRANCHISEE OR CITY UNDER TEXAS LAW; THE ABOVE INDEMNIFICATION SHALL NOT, HOWEVER, APPLY TO ANY JUDGMENT OF LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY; AND

(2) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, PENALTIES, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES, WHICH MAY BE IMPOSED UPON OR ASSERTED AGAINST THE INDEMNITEES BECAUSE OF ANY VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY FRANCHISEE, ITS OFFICERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION; AND FRANCHISEE SHALL PAY ALL JUDGMENTS, WITH COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT WHICH MAY BE OBTAINED AGAINST CITY RELATED TO ANY SUCH CLAIM. UPON THE WRITTEN REQUEST OF CITY, FRANCHISEE SHALL IMMEDIATELY, AT ITS SOLE COST AND EXPENSE, CAUSE ANY LIEN COVERING CITY'S PROPERTY AS DESCRIBED IN THIS SUBPARAGRAPH TO BE DISCHARGED OR BONDED.

(3) THIS SUBSECTION SHALL NOT BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF CITY AND FRANCHISEE AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

(b) Franchisee's assumption of risk. Franchisee undertakes and assumes for its officers, employees, agents, contractors, and subcontractors (collectively "Franchisee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about any city-owned or controlled property, including the public ways, **AND FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM AN INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.**

(c) Defense of city. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, franchisee shall, upon notice from any of the indemnitees, at franchisee's sole cost and expense, (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants, and the associated costs of document production), resist and defend the same with

legal counsel selected by franchisee and consented to by city, such consent not to be unreasonably withheld; provided, however, that franchisee shall not admit liability in any such matter on behalf of the indemnitees without city's written consent and provided further that the indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of franchisee and execution of any settlement agreement on behalf of the city by the city attorney, and further provided that for the search, review, and production of documents, the city attorney may elect to handle some or all of the process in-house at the expense of the franchisee.

(d) Expenses. The indemnitees shall give franchisee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 5. Nothing herein shall be deemed to prevent the indemnitees from participating in the defense of any litigation by their own counsel at their own expense. Franchisee shall pay all expenses incurred by the indemnitees in participating in the defense, provided that the participation has been requested or required by franchisee in conducting the defense. These expenses may include out-of-pocket expenses reasonably and necessarily incurred, such as attorney fees and the reasonable value of any services rendered by city's counsel and the actual expenses of the indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by the indemnitees in connection with such suits, actions or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by franchisee.

(e) Insurance required. Not later than the effective date of this ordinance, franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit A, attached to and made a part of this ordinance. The insurance

shall be written by companies approved by the State of Texas and acceptable to city. The insurance shall be evidenced by the delivery to city of policies of insurance, including all endorsements executed by the insurer or its authorized agent stating coverages, limits, exclusions, deductibles, and expiration dates, which demonstrate compliance with all applicable provisions of the insurance laws and rules in the State of Texas. **THIS ORDINANCE SHALL NOT TAKE EFFECT UNTIL THE INSURANCE POLICY HAS BEEN DELIVERED TO CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.** If satisfactory evidence of the required insurance is not submitted within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

(f) Changes in insurance coverage. Franchisee shall provide the city with true and complete copies of all changes to insurance policies, including any cancellation, coverage change, or termination notice, or any replacement insurance, before these changes become effective. Certificates of insurance reflecting the annual renewal, replacement insurance or coverage changes must be submitted when such policies become effective to provide evidence of continuing insurance coverage. Although certificates are routinely accepted as substitutes for copies of insurance policies, the city shall have the right to access and copy any such policy of insurance**.** The director may prevent franchisee from operating a solid waste collection service under this franchise until satisfactory evidence of insurance coverage required under this section is presented to the director.

(g) Adjustments to insurance requirements. City reserves the right to review the insurance requirements stated in Exhibit A during the effective period of this ordinance and to recommend to the council reasonable adjustments in the insurance requirements contained in the

city code prior to the anniversary renewal of the insurance when deemed necessary and prudent by city's Office of Risk Management. Any adjustments shall be mutually agreeable to city and franchisee, and based upon changes in statutory law, court decisions, or the claims history of the industry as well as franchisee. When any insurance coverage limit changes are agreed, franchisee shall pay any resulting increase in cost due to the changes.

(g) Liability of franchisee. Approval, disapproval, or failure to act by city regarding any insurance supplied or not supplied by franchisee shall not relieve franchisee of full responsibility or liability for damages and accidents as set forth in this ordinance. The bankruptcy, insolvency, or denial of liability by any insurer of franchisee shall not exonerate franchisee from the liability obligations of franchisee provided for under this ordinance.

SECTION 6. Fees, payments and compensation.

(a) Compensation required. Because the special use of the public ways by franchisee and the special business purpose for which the public ways are being used requires rental compensation for the rights and privileges granted under this ordinance, franchisee shall pay city throughout the term of this ordinance a fee in an amount equal to four percent of franchisee's gross receipts, calculated monthly and payable based on the gross receipts realized during the calendar month immediately preceding the calendar month in which the payment is due (hereinafter called the "franchise fee").

(b) Payment procedures. Franchisee shall pay the franchise fee to city each month during the term of this ordinance. The monthly payment required by this ordinance shall be due and payable by certified check, electronic funds transfer, or other means that provide immediately available funds on the day the payment is due not later than 3:00 p.m. of the thirtieth (30th) calendar day following the end of each calendar month. If the thirtieth (30th)

calendar day following the end of a calendar month falls on a Saturday, Sunday, or official city holiday, then the payment is due on the business day prior to the due date, and in the month of February, the payment is due on February 28th. Subject to applicable law, the compensation set forth in this Section 6 shall be exclusive of and in addition to all special assessments and taxes of whatever nature, including, but not limited to, ad valorem taxes. In the event any monthly payment or partial payment is received by the city later than 10 days after the due date, franchisee shall pay interest on the past due amount at the rate prescribed in Section 2-1.1 of the Dallas City Code. Payment shall be accompanied by a monthly report certified by an officer of franchisee showing the total gross receipts of the preceding calendar month. The monthly report shall also include a detailed breakdown of gross receipts and the computation of the payment amount.

(c) Annual report. Franchisee shall file with city by February 1 of each calendar year an annual report showing the total gross receipts of the preceding calendar year along with the information required under Section 18-41 of the Dallas City Code. Such annual report shall include a detailed breakdown of gross receipts and the computation of the payment amount.

(d) City audit. City may audit franchisee (or any affiliate of franchisee who has information directly pertaining to gross receipts) as often as is reasonably necessary to verify the accuracy of the franchise fees paid to city. All books, records, accounts, or other documents in paper or electronic form, necessary for the audit shall be made available by franchisee at a single location in the Dallas-Fort Worth metropolitan area. Any net undisputed amount due to city, plus interest at the rate prescribed in Section 2-1.1 of the Dallas City Code, c, calculated from the date each portion of the underpayment was originally due until the date franchisee remits the underpayment to the city, shall be paid by franchisee within 45 days after city's submitting an

invoice for the underpayment to franchisee with reasonable detail supporting the amount claimed. If the amount of the underpayment exceeds five percent of the total franchise fee owed for the audit period, franchisee shall pay city's audit costs as well. City's right to audit and franchisee's obligation to retain records related to the franchise fee shall be limited to the previous two calendar years preceding the date that written notice of intent to audit is served.

SECTION 7. Term; performance evaluation.

(a) Term and extensions. The term of this ordinance shall be five (5) years from the effective date of this ordinance.

(b) Franchisee rights upon termination. Subject to applicable law, this ordinance and all rights, permissions, and privileges of franchisee under this ordinance shall automatically terminate on the expiration of the term of this ordinance, unless extended by mutual agreement, court order, or applicable law.

(c) Performance evaluation. In order to: (i) assure that franchisee is complying with the terms of this ordinance, as it may be from time to time amended, and (ii) promote a sharing of information between city and franchisee, city may schedule a performance evaluation no more often than every five years during the term of this ordinance, subject to Subsection (d) of this section, in accordance with the following process:

(1) At least 90 days prior to each performance evaluation, city shall notify franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by franchisee pursuant to Subsection (c)(2)(D) below. Unless specifically waived by the council, attendance of franchisee's duly authorized representative at these meetings is mandatory.

(2) Within 60 days from receipt of notification, franchisee shall file a report with city that is sworn to by a representative of franchisee knowledgeable of the operations of franchisee within the authorized area, in reasonable detail, specifically addressing, at a minimum, the following areas:

(A) compliance of franchisee's vehicles with solid waste and air quality requirements;

(B) customer service, including but not limited to a listing of customer complaints and their resolution;

(C) history in regard to prompt and accurate payment of franchise fees;

(D) any other topic deemed material or relevant by city for its enforcement of this ordinance.

(3) All reports to be prepared under this subsection and submitted by franchisee shall be based upon information for at least the most recent five-year period, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than six months before the time of the performance evaluation.

(4) Following receipt of the report, but not less than 30 days prior to the performance evaluation, city may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. Franchisee shall make reasonable effort to provide such additional information to city prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, franchisee shall notify city in writing explaining the reasons for any delay. The city may authorize a delay of the performance evaluation for a reasonable time to allow franchisee to submit the additional documentation.

(5) The council shall hear any interested persons during such performance evaluation. Franchisee shall be entitled to all the rights of due process consistent with city proceedings, including but not limited to, the right to be heard, the right to present evidence, and the right to ask questions of witnesses.

(6) Upon request of city, franchisee shall assist city in notifying customers of the evaluation session. The actual costs associated with the notification, in an amount not to exceed $1,000.00, shall be borne by franchisee.

(d) Additional performance evaluations. Notwithstanding Subsection (c), the council may initiate and conduct such additional performance evaluations regarding franchisee's performance under this ordinance as the council, in its sole discretion, may deem justified or necessary under the circumstances. Franchisee shall be given reasonable notice of the date, time, and location of any such additional performance evaluations.

SECTION 8. Transfers of ownership and control.

(a) Franchisee ownership, management and operation.

(1) Only franchisee and its affiliates, if any, shall operate, manage, and maintain the solid waste collection service. As provided in Chapter XIV, Section 2(5) of the Dallas City Charter, no franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred, or conveyed to any other person, firm, corporation, or other business entity without the consent of the city first had and obtained by ordinance or resolution, unless otherwise specifically provided in this franchise ordinance. If the purchaser is the holder of a like franchise, the franchise purchased shall be canceled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the city council when permission for merger is granted. Franchisee shall not directly or indirectly transfer or assign, in whole or in part, the

operation, management, ownership, or maintenance of the solid waste collection service without the prior written consent of the council as provided in Subsections 8(b) and 8(c) below.

(2) This section shall not apply to franchisee's employment contracts and other personnel decisions, nor shall it prohibit franchisee from contracting for or subcontracting, in whole or in part, any operational, management or maintenance functions in connection with the solid waste collection service, so long as franchisee does not relinquish its decision making authority over, or its responsibilities under, this ordinance for any particular function; nor shall it prohibit franchisee from complying with this ordinance or other requirements of federal, state, or local laws and regulations.

(3) Franchisee shall provide the director written notice, within five calendar days after its occurrence, of any change in the corporate or business structure, change in the chief executive or the top executive structure, change in the board of directors, or other change in the corporate or business method of governance of franchisee, regardless of whether or not it results in a transfer or assignment of the franchise or a transfer of control or ownership of franchisee.

(b) Transfer and assignment procedures. This ordinance or the solid waste collection service shall not be transferred or assigned, by operation of law or otherwise, nor shall title to franchisee's rights and obligations under this ordinance or to the solid waste collection service pass to or vest in any person, other than for mortgaging or financing of solid waste collection operations or to an affiliate of franchisee under the conditions described below, without the prior written consent of the council. This ordinance shall not be leased or subleased without the prior written consent of the council. The procedures related to transfer or assignment are as follows:

(1) The council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for

any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The director shall be advised in writing of a transfer solely for security purposes at least 60 days before such transfer occurs.

(2) Franchisee may, without additional approval by the council, transfer or assign this ordinance to an affiliate provided that the affiliate: (i) assumes all of franchisee's obligations and liabilities under this ordinance occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this ordinance; and (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of franchisee. The director shall be advised in writing of such transfer and of the affiliate's qualifications at least 60 days before such transfer occurs. The city shall be reimbursed any reasonable, documented costs it incurs in connection with such transfer, including the expenses of any investigation or litigation respecting a proposed or consummated transfer, up to a maximum of $10,000.00.

(c) Transfer of control. There shall be no transfer of or acquisition of control of franchisee without the prior written consent of the council.

(d) Schedule of ownership. Franchisee represents and warrants that its current ownership is as set forth on Exhibit C, attached to and made a part of this ordinance, and that it has full legal and equitable title to the solid waste collection service as of the effective date of this ordinance.

(e) Applications for consent/procedure/restrictions. If franchisee seeks to obtain the consent of the council to any transactions or matters described in this section, franchisee shall submit an application for such consent to the city and shall submit or cause to be submitted to the city such additional documents and information as the director may request that are reasonably

related to the transaction, including the purchase price of the solid waste collection service, and the legal, financial, and technical qualifications of the proposed transferee or new controlling entity.

(1) The council shall have 120 days from the date of submission of a complete and accurate application to act upon the application for consent. If the council fails to act upon such application for consent within 120 days, such application shall be deemed as consented to unless city and franchisee otherwise agree to an extension of time.

(2) The council shall not unreasonably withhold its consent to any proposed transaction. The council may: (i) grant its consent outright, (ii) grant such consent with conditions, which conditions it finds are necessary to ensure performance of franchisee or its successor under this Ordinance, or (iii) deny consent.

(3) Nothing in any approval by the city under this section shall be construed to waive or release any rights of city in and to the public ways, public places of city or property owned by city.

(4) Nothing in any approval by city under this section shall be construed as a waiver or release of any of city's police powers, or as an exercise of eminent domain.

(5) City's granting of consent in any one instance shall not require it to grant consent in other instances.

(6) Franchisee shall reimburse city for the incidental costs incurred by city in considering any request of franchisee under this section. Such reimbursement shall not exceed $10,000.00, shall be supported by invoices, and shall not include any costs or expenses incurred by city in defending any denial of the request; provided, however, that city does not waive its

right to request that its attorney's fees and other costs be reimbursed by court order in any litigation related to denial of a request under this section.

(f) City approval requirements. Before any transfer, assignment, sale, foreclosure, or other change of control described under this section becomes effective and before the council shall consider giving its consent, the proposed transferee, assignee, purchaser, buyer, foreclosing party, or other person or entity seeking to obtain the rights and obligations under this ordinance through a change of control shall provide the director: (i) an agreement and acceptance in writing to comply with all terms of this ordinance, as amended; (ii) all evidence of insurance required under this ordinance, as amended; (iii) the legal name and address of the transferee, and all persons sharing control of the transferee, with a full description of their experience in the solid waste disposal industry, as well as the name and address of the person to be contacted for notices; (iv) payment of outstanding franchise fees and any other fees, taxes, and payments, including fees, interest, and penalties, due from franchisee to the city; and (iv) evidence satisfactory to the director that transferee has the legal, technical, and financial ability to properly perform and discharge all obligations and liabilities of this ordinance.

(g) Transfer of control requirements. In the event of a transfer of control, before such transfer becomes effective and before the council shall consider giving its consent, the proposed transferee shall agree in writing to not take any action that will keep franchisee from complying with this ordinance.

SECTION 9. Defaults.

(a) Events of default. The occurrence of any one or more of the following events at any time during the term of this ordinance shall constitute an event of default by franchisee under this ordinance:

(1) The failure or refusal by franchisee to pay the franchise fee when due as prescribed by this ordinance, or any failure to perform on any agreed or court-mandated extension or modification of such payment obligation.

(2) Franchisee's material violation of or failure to comply with any provision or condition of Article IV of Chapter 18 of the Dallas City Code relating to solid waste collection service franchisees or any other applicable provision or condition of the city code.

(3) Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this ordinance, or franchisee's failure or refusal to perform any obligation contained in this ordinance.

(4) Franchisee's failure or refusal to pay or cause to be paid any of city's governmentally-imposed taxes of any kind whatsoever, including but not limited to real estate taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

(5) The entry of any judgment against franchisee in which another party becomes entitled to possession of substantially all of franchisee's assets of the solid waste collection service, for which change in possession the consent of the council has not been obtained, and such judgment is not stayed pending rehearing or appeal for 45 or more days following entry of the judgment.

(6) The dissolution or termination, as a matter of law, of franchisee without the prior consent or approval of city, which approval, if formally requested, shall not unreasonably be withheld.

(7) Franchisee's filing of a voluntary petition in bankruptcy; being adjudicated insolvent; obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of franchisee, or any of franchisee's property or this ordinance or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay franchisee's debts as they become due such that franchisee is unable to meet its obligations under this ordinance.

(8) Franchisee attempts to dispose of any of the facilities or property of its solid waste collection service with the intent of preventing city from purchasing it as provided for in this ordinance.

(9) Franchisee engages in any fraudulent or deceitful conduct with city or its customers.

(10) Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this ordinance, or in connection with any report of gross income as required by this ordinance.

(11) Any director, officer, employee, or agent of franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this ordinance.

(12) Franchisee's failure or refusal to comply with or a violation of any applicable local, state, or federal law or regulation.

(b) Default procedures. Upon the occurrence of an event of default which can be cured by the immediate payment of money to city or a third party, franchisee shall have 30 days from written notice of the occurrence of the event of default from the director to cure the default before city may exercise any of the default remedies provided for in Section 10. Upon the occurrence of an event of default by franchisee which cannot be cured by the immediate payment of money to city or a third party, franchisee shall have 60 days from the date of written notice from city to franchisee of the occurrence of the event of default to cure the event of default before city may exercise any of its rights or remedies provided for in Section 10, unless the director, the city manager, or the council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an event of default is not cured within the time period allowed for curing the event of default, as provided above, the event of default becomes, without additional notice, an uncured event of default, which shall entitle city to exercise the remedies provided for in Section 10.

SECTION 10. Remedies.

(a) Default remedies. Upon the occurrence of any uncured event of default as described in Section 9, the director shall report the occurrence of same to the city manager and the council. The council shall be entitled in its sole discretion and upon recommendation of the director and the city manager to exercise any or all of the following cumulative remedies:

(1) Exercise its rights to impose liquidated damages as described in Subsection (e).

(2) Authorize the city attorney to commence an action against franchisee at law or in equity, or both, including an action for monetary damages and specific performance.

(3) Suspend the franchise granted under this ordinance.

(4) Revoke the franchise granted under this ordinance.

(b) Suspension procedure. Upon the occurrence of an uncured event of default, the director may suspend the operation of the solid waste collection service doing business under this ordinance. If the director determines that suspension of the franchise is necessary to cure an event of default, the director shall comply with the procedures established in Section 18-37 of the Dallas City Code.

(c) Revocation procedure. Upon the occurrence of an uncured event of default, the council shall have the right to revoke this ordinance. Upon revocation, the rights, permissions, and privileges comprising the franchise granted under this ordinance shall be automatically deemed null and void and shall have no further force or effect and the provisions that are contractual in nature which are also included as a part of this ordinance are hereby automatically terminated, except that franchisee shall retain the obligation to report gross income and make franchisee fee payments covering the period prior to the effective date of the revocation. Upon revocation, city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, prior to any council hearing to formally consider revocation of the franchise granted under this ordinance, the director shall notify franchisee in writing at least 10 days in advance of the council hearing at which the issue of revocation shall be considered and decided. Franchisee shall have the right to appear before the council in person or by legal counsel and raise any objections or defenses franchisee may have that are relevant to the proposed revocation. In addition, the following procedures shall apply in regard to the revocation hearing:

(1) The council shall hear and consider the issue of revocation, shall hear any person interested in the issue, and shall determine, in its sole discretion, whether or not any violation by franchisee has occurred justifying a revocation of the franchise.

(2) At such hearing, franchisee shall be provided due process, including the right to be heard, to ask questions of witnesses, and to present evidence.

(3) Upon completion of the hearing described above, the council shall render a decision. Within a reasonable time, the director shall transmit a copy of the decision to franchisee. Franchisee shall be bound by the council's decision, unless it appeals the decision to a court of competent jurisdiction within 15 days after the date of the decision. Franchisee reserves the right to challenge both the decision itself and the fairness of the process followed by the city in the proceeding.

(4) The council reserves the right, in its sole discretion, to impose liquidated damages or to pursue other remedies as provided in this Section 10 in lieu of a revocation.

(d) Letter of credit. As security for the faithful performance by franchisee of the provisions of this ordinance and compliance with all orders, permits, and directions of city and the payment of all claims, liens, fees, liquidated damages, and taxes to city, franchisee shall deposit with city, no later than the effective date of this ordinance, an unconditional and irrevocable letter of credit in a penal amount equal to one month's franchise fee payment. The initial value of the letter of credit shall be established on the basis of the monthly franchise fee that would have been paid on the previous calendar year's monthly average gross receipts on a cash basis from any source derived at any location regardless of whether those receipts were earned entirely within the authorized area. The letter of credit shall be updated annually in January of each calendar year during the term of this ordinance. The value of the annually updated letter of credit will be equal to the average monthly franchise fee payment submitted by franchisee as required in this ordinance during the previous calendar year. The letter of credit must be issued by a federally-chartered or state-chartered financial institution with a principal

office or branch located in Dallas County and otherwise acceptable to the council, on terms acceptable to the council and approved by the city attorney. The letter of credit shall expressly provide that partial draws are permitted and that a draft thereon to the order of the city will be honored upon presentation to the issuing financial institution at a principal office or branch located within Dallas County of a letter of demand from city delivered in person or by courier delivery. The letter of demand must be signed by a person purporting to be the city's chief financial officer, city manager, or director. No supporting documents will be required and no other language, other than a demand to pay and a recitation of title, will be required as conditions for permitting the draw. Failure to timely deposit the letter of credit, or the failure to maintain the letter(s) of credit in the full amount required under this subsection and in effect during the entire term of this ordinance, or any renewal or extension of this ordinance, shall constitute a material breach of the terms of this ordinance.

(1) If franchisee fails to make timely payment to city or its designee of any amount due as a result of this ordinance or fails to make timely payment to city of any taxes due; or fails to repay city for damages and costs, including attorney's fees; or fails to comply with any provision of this ordinance which city reasonably determines can be remedied by an expenditure of monies, city may draw upon the letter of credit an amount sufficient to repay city with interest as set forth in this ordinance, if not otherwise specified by law..

(2) Within three days after a drawing upon the letter of credit, city shall send written notification of the amount, date, and purpose of the drawing to franchisee by certified mail, return receipt requested.

(3) If, at the time of a draw by city, the aggregate amount realized from the letter of credit is insufficient to provide the total payment toward which the draw is directed, the

balance of such payment, plus accrued interest, shall constitute an obligation of franchisee to city until paid. If the interest rate is not set forth in this ordinance or set by laws, then interest shall be the prime rate as established in the Wall Street Journal on the day before city sends notice to franchisee of its intent to drawn the letter of credit.

(4) No later than 30 days after mailing of notification to franchisee of a draw pursuant to Subsection (d)(2) above, franchisee shall cause the letter of credit to be restored to the full amount required under this ordinance. Failure to timely restore the letter of credit shall constitute a material breach of the terms of this ordinance.

(5) The rights reserved to city with respect to this letter of credit are in addition to all other rights and remedies of city, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other rights city may have.

(e) Liquidated damages. The parties agree that: (1) the harm or damage caused by any material breach of this franchise, other than the failure to pay franchise fees, is of a kind that is difficult or incapable of estimation; and (2) the amount of liquidated damages stipulated in the ordinance is a reasonable forecast of just compensation. Therefore, in addition to the other remedies provided for in this Section 10, liquidated damages in the amounts set forth below may be assessed by the council upon franchisee, following the notice and opportunity to cure procedures in Subsection (f) below, for failure or refusal to comply with any material term or condition of this ordinance or for any other uncured event of default. In the event the council determines that franchisee has committed, continued, or permitted a material failure or refusal of compliance or other uncured event of default that has not been cured as provided in this ordinance, franchisee shall pay $2,000 per day for each day or part of a day that the material

failure or refusal or other uncured event of default is committed, continued, or permitted, unless the council at the time of imposition of the civil penalty determines that good cause justifies a lesser penalty, based upon the surrounding circumstances, frequency, number, and seriousness of the material violations or uncured events of default in question and the public interest served by imposing a lesser civil penalty.

(f) Liquidated damages procedure. Liquidated damages may be assessed by the council in accordance with the following procedure:

(1) Following notice from the director, which notice, at the director's election, may be combined with the notice described in Section (9)(b), franchisee shall meet with the director to attempt to resolve any disagreements on whether liquidated damages should be assessed or what liquidated damages should be recommended to the council. If there is no resolution of the issue within 15 days after the mailing of the notice, then the director shall present the director's recommendation regarding liquidated damages to the city manager for review and concurrence. If the city manager concurs in the director's recommendation that liquidated damages should be assessed, the matter shall be presented to the council. The director shall notify franchisee of the recommendation of the city manager to the council, the time and date of the proposed hearing concerning the issue of liquidated damages, and a statement that franchisee has a right to appear and be heard before the council on the matter. In order to appear before and be heard by the council, franchisee must comply with applicable council procedures which can be obtained from the city secretary.

(2) Upon presentation of the recommendations of the director and the city manager, the council may decide on one or more of the following courses of action:

(A) to authorize the city attorney to proceed against franchisee under Section 10(a)(2);

(B) to assess liquidated damages in the amount provided above for the applicable material violation or uncured event of default. Council may provide for a lesser amount and may suspend all or part of said assessment upon reasonable conditions for any reasonable period, up to the end of the franchise;

(C) to determine that liquidated damages are not justified under the circumstances and assess no damages; or

(D) to remand the matter to the city manager or the director for further investigation, consideration, and recommendation to the council.

(3) Assessment of liquidated damages by the council shall be a monetary obligation of franchisee to city in the amount determined by the council and shall be paid in full by franchisee within 15 business days after the date of assessment by the council.

(4) The procedures stated in this Subsection (f) do not apply to the council's determination to require the payment of money, in lieu of other available remedies, in a revocation proceeding under Subsection (b)(4).

(g) Remedies cumulative. Subject to applicable law, the rights and remedies of city set forth in this Section 10 shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the council determines that a violation by franchisee was franchisee's fault and within its control, the council may pursue any or all of the remedies provided in Section 10. The remedies of city created under this ordinance shall be cumulative to the maximum extent permitted by law. The exercise by city of any one or more remedies under this ordinance shall not preclude the exercise by city, at the same or different times, of any other

remedies for the same material uncured event of default. Notwithstanding any provision of this ordinance, however, city shall not recover both liquidated damages and actual damages for the same violation, breach, non-compliance, or material uncured event of default.

(h) Curable violations. Franchisee shall not be found in violation of this ordinance or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of franchisee or occurs as a result of circumstances beyond its control, and, if curable, is promptly cured. Franchisee shall not be excused by mere economic hardship nor by the negligence or malfeasance of its directors, officers or employees.

(i) City right to purchase. In the event city revokes the franchise granted under this ordinance for cause, terminates the franchise as provided in Subsection (j) below, or denies renewal of the franchise granted under this ordinance, city shall have the right (but not the obligation) subject to the applicable provisions of city charter, directly or as an intermediary, to purchase the assets of the solid waste collection system through its authority under, and procedures applicable to, eminent domain.

(j) Termination in the public interest. Nothing in this section shall be construed as affecting the right of the council under the city charter to terminate this ordinance without cause in the public interest when it is deemed inconsistent with the public use of city's public ways or is deemed to cause or constitute a nuisance.

SECTION 11. Providing Information.

(a) Complete and accurate books required. Franchisee shall keep complete and accurate books of account and records of its solid waste collection service business and operations under and in connection with this ordinance in accordance with generally accepted accounting principles and generally accepted government auditing standards.

(b) City review of documentation. City may fully review such of franchisee's books, accounts, documents, and other records of franchisee or franchisee's affiliates during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this ordinance. All books, accounts, documents, and other records shall be made available at a single location in the Dallas-Fort Worth metropolitan area. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records; where possible, such items shall be made available in a CD-ROM disk or other similar platform in a format that is readable by city's computers. The reviewable items shall include, but shall not be limited to, records required to be kept by franchisee pursuant to law and the financial information underlying the written report accompanying the franchise fee. To the extent permitted by law, city agrees to treat any information disclosed by franchisee under this section as confidential, if and only to the extent that franchisee provides prior written notice that specific information is confidential as trade secrets or proprietary competitive information. Blanket or overly broad claims of confidentiality will be of no effect.

(c) Additional reports. Franchisee shall, when required by the council, the city manager, or the director, report to city any reasonably requested information relating to franchisee or the affiliates or necessary for the administration of this ordinance. The director shall have the right to establish formats for these additional reports, determine the time for these reports and the frequency with which these reports, if any, are to be made, and require that any reports be made under oath.

SECTION 12. General.

(a) Entire agreement. This ordinance (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between city and franchisee, superseding all oral or written previous negotiations or agreements between city and franchisee relating to matters set forth in this ordinance. This ordinance can be amended by an ordinance enacted by the council. Such action by council does not require the hearing procedures for revocation set forth in Subsection 10(4)(b) of this ordinance, but only the posting of an agenda item and the opportunity for speakers to be heard on the item.

(b) Notices. Except as otherwise provided in Subsection 12(c) of this ordinance, any notice, payment, statement, or demand required or permitted to be given under this ordinance by either party to the other may be effected by any of the means described in Subsection 12(d) of this ordinance. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If to City:

City Manager
City of Dallas
Dallas City Hall
1500 Marilla – Room 4/F/North
Dallas, Texas 75201

With a copy to:

Director
Department of Sanitation Services
3112 Canton Street, Suite 200
Dallas, Texas 75226

If to Franchisee:

Reynaldo Sanchez, President
Custom Recycling Solutions, LLC
893 S. Munson Road
Royse City, Texas 75189-6355

Either city or franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this Subsection 12(b) Any notice given by either city or franchisee must be signed by an authorized representative.

(c) Notice of claim. This ordinance is subject to the provisions of Section 2-86 of the Dallas City Code, relating to requirements for filing a notice of a breach of contract claim against city. Section 2-86 of the Dallas City Code is expressly incorporated by reference and made a part of this ordinance as if written word for word in this ordinance. Contractor shall comply with the requirements of Section 2-86 as a precondition of any claim against city relating to or arising out of this ordinance.

(d) Delivery of notices. Notices required to be given under this ordinance may be transmitted in any of the following four ways:

(1) By personal delivery, in which case they are deemed given when delivered.

(2) By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.

(3) By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three calendar days after having been deposited in the U.S. Mail.

(4) By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

(e) City/franchisee meetings. Franchisee shall meet with the director, the city manager or the council at reasonable times to discuss any aspect of this ordinance or the services or facilities of franchisee. At all meetings, franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at city's offices unless otherwise agreed.

(f) Legal construction. This ordinance shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. Exclusive venue for any litigation that may be filed in connection with this ordinance shall be in Dallas County, Texas. This ordinance is not a contract for goods or services within the meaning of Texas Local Government Code §§271.151 *et seq*.

(g) No inducement. Franchisee, by accepting this ordinance, acknowledges that it has not been induced to accept this ordinance by any promise, oral or written, by or on behalf of city or by any third person regarding any term or condition not expressed in this ordinance. Franchisee further pledges that no promise or inducement, oral or written, has been made to any city employee or official regarding the grant, receipt or award of this ordinance.

(h) Franchisee acknowledgement. Franchisee further acknowledges by acceptance of this ordinance that it has carefully read the terms and conditions of this ordinance and accepts the obligations imposed by the terms and conditions herein.

(i) No waiver by city. No failure by city to insist upon the strict performance of any covenant, provision, term or condition of this ordinance, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this ordinance, but each and every covenant, provision, term or condition of this ordinance shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(j) Governmental licenses. Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the solid waste collection service in accordance with this ordinance.

(k) Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this ordinance.

(l) City retained powers. In addition to all rights provided in this ordinance, city reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, city code, and city ordinances which city is allowed to exercise.

(m) Material misinformation. The provision of information by franchisee or any of its affiliates to city in connection with any matters under this ordinance which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this ordinance and shall be subject to the remedies provided in Section 10. Each day that franchisee or an affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this ordinance.

(n) Hearing procedures. The following additional procedures shall apply to any hearing held in connection with any action taken by the council in connection with this ordinance:

(1) The council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

(2) The hearing shall afford franchisee rudimentary due process. The council may by resolution establish other procedural matters in connection with the hearing.

(o) Acceptance. Upon adoption of this ordinance, franchisee agrees to be bound by all the terms and conditions contained herein, as evidenced by filing the original with the city secretary and a copy with the director, in writing, within 30 days after the date the council approves this ordinance, an unconditional acceptance of the ordinance and promise to comply with and abide by all its provisions, terms, and conditions. The form of unconditional acceptance and promise, attached to and made a part of this ordinance as Exhibit B, shall be sworn to, by, or on behalf of franchisee before a notary public. If within 30 days after the date the council approves the ordinance, franchisee fails to (1) submit and file the properly executed acceptance, (2) pay all taxes due , and (3) submit the letter of credit and required certificate of insurance, then this ordinance and the rights, permissions, and privileges granted under this ordinance shall be null and void and shall have no force or effect, unless franchisee evidences such failure was due to clerical error by someone other than franchisee or its affiliates and then acts promptly to remedy the third party's clerical error. The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the acceptance required by this subsection is filed as provided herein.

(p) Time is of the essence. Whenever this ordinance shall set forth any time for an act to be performed by or on behalf of franchisee, such time shall be deemed of the essence and any failure of franchisee to perform within time allotted shall always be sufficient grounds for city to invoke an appropriate remedy, including possible revocation of the ordinance.

(q) Force majeure. The time within which franchisee shall be required to perform any act under this ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of franchisee. Notwithstanding anything contained anywhere else in this ordinance, franchisee shall not be excused from performance of any of its obligations under this ordinance by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

(r) Recognition of rights. Franchisee agrees that by adopting this ordinance, neither city nor franchisee have waived any rights, claims, or defenses they may have with respect to city's rights to impose the requirements contained in this ordinance in whole or in part upon franchisee.

(s) Police powers.

(1) In accepting this ordinance, franchisee acknowledges that its rights under this ordinance are subject to the police power of city to adopt and enforce general ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by city pursuant to such powers. Any conflict between the provisions of this ordinance and any other present or future lawful exercise of city’s police powers shall be resolved in favor of the latter.

(2) Franchisee recognizes the right of city to make reasonable amendments to this ordinance; except that city shall not make amendments materially adversely affecting franchisee except under a proper exercise of city's police powers, with notice to franchisee and an opportunity to be heard in a regular public meeting of the council considering the ordinance or amendment. Franchisee acknowledges that this is the extent of its rights to a hearing respecting franchise ordinance amendments under the charter

(3) Franchisee also recognizes city's right to impose such other regulations of general applicability as shall be determined by city to be conducive to the safety, welfare, and accommodation of the public.

(t) No presumption of renewal. This ordinance and the grant contained herein do not imply, grant, or infer any renewal rights in favor of franchisee or its affiliates.

(u) Recognition of city charter. Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this ordinance are subject to the applicable provisions of Chapter XIV of the Dallas City Charter. Any request by franchisee for an amendment to this ordinance shall be subject to review by the city attorney for compliance with the applicable provisions of the city charter.

SECTION 13. Outstanding license fees. This ordinance shall not take effect until all fees still owed to city from the existing license previously issued to franchisee for solid waste collection, hauling, and disposal service under provisions of the city code applicable to solid waste collection, hauling, and disposal licenses are paid in full. If the previous license fees owed to city are not paid by franchisee within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the previous license fees have been paid in full.

SECTION 14. Ordinance effective date. Subject to the provisions of Subsection 5(e), Subsection 12(o), and Section 13, 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 (the "effective date"), and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Passed ___March 22, 2017_____

Exhibit A

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to FRANCHISEE'S right to maintain reasonable deductibles, FRANCHISEE shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at FRANCHISEE'S sole expense, insurance coverage in the following type(s) and amounts:
Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence.

REQUIRED PROVISIONS

FRANCHISEE agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
(i) Sanitation Services, Attention: Assistant Director, 3112 Canton, Suite 200, Dallas, Texas 75226 and
(ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
d. Provide that the FRANCHISEE'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
e. Provide that all provisions of this franchise concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

CITY NOT LIABLE

Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the FRANCHISEE or its subcontractors shall not relieve the FRANCHISEE of full responsibility or liability for damages and accidents as set forth in the franchise documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the FRANCHISEE from liability.

Exhibit B

Acceptance

Custom Recycling Solutions, LLC, a Texas limited liability company, unconditionally accepts and agrees to be bound by all the terms, covenants, and conditions contained in the Solid Waste Collection Service franchise ordinance, Ordinance No. _____, passed on March 22, 2017.

Dated: ____ day of _____, 2017.

FRANCHISEE:

Custom Recycling Solutions, LLC
a Texas limited liability company

By: _____
Reynaldo Sanchez, President and
Managing Member

State of Texas
County of _____

This instrument was acknowledged before me on _____, 2017 by Reynaldo Sanchez, President and Managing Member, of Custom Recycling Solutions, LLC, a Texas limited liability company, on behalf of said company.

(Seal)

_____
Notary Public's Signature

Exhibit C
Affidavit of Ownership or Control

02-17-2017

ORDINANCE NO. _____

An ordinance granting a franchise to JLH Removal LLC dba Bin There Dump That Dallas, a Texas limited liability company, with its principal address at 4417 Marathon Blvd., Austin, Texas 78756-3428, pursuant to Chapter XIV of the Dallas City Charter and Chapter 18 of Article IV of the Dallas City Code, to own, operate and maintain a solid waste collection service within the City of Dallas; providing for its terms and conditions; providing for liquidated damages for failure to adhere to the terms and conditions in the franchise ordinance; providing for payment of a franchise fee; providing for the payment of the publication fee; providing for the filing of an acceptance by Franchisee; and providing an effective date.

WHEREAS, safe and responsible solid waste collection, transport, and processing is necessary for the protection of the public health and a compelling governmental interest;

WHEREAS, solid waste haulers often use heavy equipment that contributes substantially to damage and wear and tear of the public ways, necessitating expenditures of City of Dallas resources for the maintenance and repair of those public ways, for which the City of Dallas is entitled to reasonable compensation and reimbursement;

WHEREAS, the franchise and regulation of solid waste collection, transport, and processing is necessary and furthers a compelling public interest;

WHEREAS, the City of Dallas is authorized to grant one or more non-exclusive franchises for the provision of solid waste collection service to premises within the City of Dallas; and

WHEREAS, the city council of the City of Dallas is of the opinion that the granting of the franchise on the terms and conditions set forth in this ordinance is in the public interest and in the interest of the City of Dallas and its residents. Now, Therefore,

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

SECTION 1. Preamble. That the declarations contained in the preamble to this ordinance are material and are hereby repeated and incorporated herein as a part of this ordinance as though they were fully set forth in this Section 1.

SECTION 2. Definitions. That for the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given in this ordinance. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word “shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. Words defined elsewhere in this ordinance shall be accorded that meaning throughout this ordinance. Words not defined shall be given their common and ordinary meaning.

(a) AFFILIATE and AFFILIATED means any entity controlling, controlled by, or under common control with the franchisee.

(b) AUTHORIZED AREA means the entire area from time to time within the corporate limits of the City of Dallas.

(c) CITY means the City of Dallas, a municipal corporation, a political subdivision of the State of Texas.

(d) CITY CHARTER means the city's organic law, equivalent to a constitution, which defines the city's existence and prescribes the powers, duties, and organization of the city's governmental structure.

(e) CITY CODE means the ordinances of the city codified into the Dallas City Code, The Revised Code of Civil and Criminal Ordinances of the City of Dallas, Texas (1960 Edition, 1997 Printing), as amended from time to time.

(f) CITY MANAGER means the city manager or the city manager's designated assistant or representative.

(g) CONTROL (and its variants) means actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of franchisee; (ii) an agreement of the holders of voting stock or rights of franchisee which effectively vests or assigns policy decision-making in any person or entity other than franchisee; or (iii) a sale, assignment or transfer of any shares or interest in franchisee which results in a change in the control of franchisee.

(h) COUNCIL means the governing body of city. This section does not authorize delegation of any decision or function that is required by the city charter or state law to be made by the council. In any case in which a hearing is held pursuant to this ordinance, the council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

Unless otherwise stated in this ordinance or prohibited by the city charter or state law, the council may delegate to the city manager or the director the exercise of any and all of the powers conferred upon city by its charter or by general law relating to the administration and enforcement of this ordinance and to franchisee's exercise of the rights and privileges conferred in this ordinance.

(i) DIRECTOR means the director of the department of sanitation services, or the director's designated representative.

(j) FRANCHISE means the grant of the non-exclusive permission and privilege to use public ways under this ordinance, and all of the incidental rights and obligations as described by this ordinance.

(k) FRANCHISEE means JLH Removal LLC dba Bin There Dump That Dallas, a Texas limited liability company, the grantee of rights under this ordinance; or the successor, transferee, or assignee of this ordinance.

(l) PUBLIC WAYS means all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated for the benefit of all utilities. Public ways does not include property of city which is not a dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated for the benefit of all utilities.

(M) SOLID WASTE COLLECTION SERVICE means the term as defined in Section 18-29(5) of the Dallas City Code.

(n) THIS ORDINANCE means this document.

SECTION 3. Granting of franchise. That subject to all the terms and conditions contained in this ordinance, the Texas Constitution, the city charter, the city code, other city ordinances as from time to time may be in effect, and applicable federal law, city hereby grants

franchisee non-exclusive permission and privilege solely for the purpose of operating and maintaining a solid waste collection service in, over, along and across the public ways in the authorized area. This grant is subject to the following additional conditions:

(a) Franchisee purpose. Franchisee accepts the grant set forth above and agrees to operate and maintain the solid waste collection service in the authorized area in accordance with the terms and provisions of this ordinance.

(b) Other services. By granting this ordinance, city is not authorizing any non-solid waste collection service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by franchisee which are not solid waste collection services. Franchisee shall immediately notify city if it provides any non-solid waste collection services within the authorized area.

(c) No priority. This ordinance does not establish any priority for the use of the public ways by franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public ways. In the event of any dispute as to the priority of use of the public ways, the first priority shall be to the public generally, the second priority to city, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the city manager in the exercise of the city's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

(d) City's use of public ways. Franchisee acknowledges that by this ordinance it obtains no rights to use or further use of the public ways other than those expressly granted in this ordinance. Franchisee acknowledges and accepts at its own risk, provided that city has the

legal authority for the use or uses in question, that city may make use in the future of the public ways in which the solid waste collection service is located in a manner inconsistent with franchisee's use of such public ways for the solid waste collection service, and in that event franchisee shall not be entitled to compensation from city unless compensation is available to all users of the public ways which are affected in a similar manner and are similarly situated in relevant respects with the franchisee.

(e) Emergencies. City may temporarily suspend the operation of the solid waste collection service of franchisee in the event of a public emergency or calamity as determined by city. In such event, neither city nor any agent, contractor, or employee of city shall be liable to franchisee or its customers or third parties for any damages caused them or the solid waste collection system. Where reasonably possible, prior notice shall be given to franchisee. In any event, notice of such action shall be given to franchisee after such action is taken.

(g) Compliance with law and standards of operation. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

(h) Other approvals and authorizations. This ordinance does not relieve and franchisee shall comply with any obligation to obtain permits, licenses and other approvals from city or other units of government, which are required for the operation and maintenance of the solid waste collection service.

(i) City's right of eminent domain reserved. Nothing in this ordinance shall limit any right city may have to acquire by eminent domain any property of franchisee.

(j) Taxes, fees and other assessments. Nothing in this ordinance shall be construed to limit the authority of city to impose a tax, fee, or other assessment of any kind on any person. Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its solid waste collection service.

(k) Disputes among public ways users. Franchisee shall respect the rights and property of city and other authorized users of the public ways. Disputes between franchisee and other similar franchisees over use of public ways shall be submitted to the director for resolution; provided, however, that franchisee reserves its rights to submit such disputes directly to a court of competent jurisdiction.

SECTION 4. Service requirements.

(a) It is expressly understood and agreed that franchisee has the non-exclusive right, to the extent permitted by this ordinance, to collect and transport solid waste within the authorized area where the individuals or companies contract with franchisee for those services, excluding residential service (other than apartment complexes and motels). Notwithstanding the exclusion for residential service, city reserves the right during the term of this franchise ordinance to collect and transport solid waste and other materials from any source whatsoever, including but not limited to apartment complexes, motels, and any commercial venue without any amendment or modification of this franchise ordinance. Franchisee shall, at its own expense, furnish personnel and equipment to collect and transport, solid waste and shall establish and maintain the contracted solid waste collection service in an efficient and businesslike manner.

(b) All vehicles used by franchisee for the collection and transportation of solid waste shall display a decal issued by the director in or upon a conspicuous place on the vehicle, in accordance with the applicable requirements of the city code. All vehicles shall be covered at all times while loaded and in transit to prevent the spillage of solid waste onto the public ways or properties adjacent to the public ways. Any spillage will be promptly recovered by franchisee. All vehicles and containers owned by franchisee shall be clearly marked with franchisee's name in letters not less than four inches in height. All vehicles shall be cleaned and maintained by franchisee so as to be in good repair, of good appearance and, when idle, free of solid waste residue as may cause odor, provide a breeding place for vectors, or otherwise create a nuisance. In addition, franchisee shall comply with the requirements for solid waste collection vehicles and containers contained in Sections 18-45 and 18-50 (b) of the Dallas City Code.

(c) Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the public ways and other facilities that are damaged as a result of the negligence of franchisee, its officers, agents, or employees, during franchisee's operations pursuant to this ordinance.

(d) Franchisee will comply with all rules, regulations, laws and ordinances pertaining to the disposal of solid waste as directed by the city or by other responsible governmental agencies having jurisdiction. must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill, pursuant to Chapter 18 of the city code, as amended. Disposal of all solid waste collected by franchisee from premises within the authorized area must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill in accordance with the Dallas City Code.

SECTION 5. Indemnity and insurance.

(a) **INDEMNIFICATION OF CITY. FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:**

(1) 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, THAT MAY ARISE OUT OF OR BE OCCASIONED BY FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH THAT ARE CONTRIBUTED TO BY THE NEGLIGENCE OF ONE OR MORE INDEMNITEES, PROVIDED, HOWEVER, THAT INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT THROUGH WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS

PROVIDED UNDER TEXAS LAW, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER FRANCHISEE OR CITY UNDER TEXAS LAW; THE ABOVE INDEMNIFICATION SHALL NOT, HOWEVER, APPLY TO ANY JUDGMENT OF LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY; AND

(2) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, PENALTIES, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES, WHICH MAY BE IMPOSED UPON OR ASSERTED AGAINST THE INDEMNITEES BECAUSE OF ANY VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY FRANCHISEE, ITS OFFICERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION; AND FRANCHISEE SHALL PAY ALL JUDGMENTS, WITH COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT WHICH MAY BE OBTAINED AGAINST CITY RELATED TO ANY SUCH CLAIM. UPON THE WRITTEN REQUEST OF CITY, FRANCHISEE SHALL IMMEDIATELY, AT ITS SOLE COST AND EXPENSE, CAUSE ANY LIEN COVERING CITY'S PROPERTY AS DESCRIBED IN THIS SUBPARAGRAPH TO BE DISCHARGED OR BONDED.

(3) THIS SUBSECTION SHALL NOT BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF CITY AND FRANCHISEE AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

(b) Franchisee's assumption of risk. Franchisee undertakes and assumes for its officers, employees, agents, contractors, and subcontractors (collectively "Franchisee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about any city-owned or controlled property, including the public ways, **AND FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM AN INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.**

(c) Defense of city. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, franchisee shall, upon notice from any of the indemnitees, at franchisee's sole cost and expense, (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants, and the associated costs of document production), resist and defend the same with

legal counsel selected by franchisee and consented to by city, such consent not to be unreasonably withheld; provided, however, that franchisee shall not admit liability in any such matter on behalf of the indemnitees without city's written consent and provided further that the indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of franchisee and execution of any settlement agreement on behalf of the city by the city attorney, and further provided that for the search, review, and production of documents, the city attorney may elect to handle some or all of the process in-house at the expense of the franchisee.

(d) Expenses. The indemnitees shall give franchisee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 5. Nothing herein shall be deemed to prevent the indemnitees from participating in the defense of any litigation by their own counsel at their own expense. Franchisee shall pay all expenses incurred by the indemnitees in participating in the defense, provided that the participation has been requested or required by franchisee in conducting the defense. These expenses may include out-of-pocket expenses reasonably and necessarily incurred, such as attorney fees and the reasonable value of any services rendered by city's counsel and the actual expenses of the indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by the indemnitees in connection with such suits, actions or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by franchisee.

(e) Insurance required. Not later than the effective date of this ordinance, franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit A, attached to and made a part of this ordinance. The insurance

shall be written by companies approved by the State of Texas and acceptable to city. The insurance shall be evidenced by the delivery to city of policies of insurance, including all endorsements executed by the insurer or its authorized agent stating coverages, limits, exclusions, deductibles, and expiration dates, which demonstrate compliance with all applicable provisions of the insurance laws and rules in the State of Texas. **THIS ORDINANCE SHALL NOT TAKE EFFECT UNTIL THE INSURANCE POLICY HAS BEEN DELIVERED TO CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.** If satisfactory evidence of the required insurance is not submitted within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

(f) Changes in insurance coverage. Franchisee shall provide the city with true and complete copies of all changes to insurance policies, including any cancellation, coverage change, or termination notice, or any replacement insurance, before these changes become effective. Certificates of insurance reflecting the annual renewal, replacement insurance or coverage changes must be submitted when such policies become effective to provide evidence of continuing insurance coverage. Although certificates are routinely accepted as substitutes for copies of insurance policies, the city shall have the right to access and copy any such policy of insurance**.** The director may prevent franchisee from operating a solid waste collection service under this franchise until satisfactory evidence of insurance coverage required under this section is presented to the director.

(g) Adjustments to insurance requirements. City reserves the right to review the insurance requirements stated in Exhibit A during the effective period of this ordinance and to recommend to the council reasonable adjustments in the insurance requirements contained in the

city code prior to the anniversary renewal of the insurance when deemed necessary and prudent by city's Office of Risk Management. Any adjustments shall be mutually agreeable to city and franchisee, and based upon changes in statutory law, court decisions, or the claims history of the industry as well as franchisee. When any insurance coverage limit changes are agreed, franchisee shall pay any resulting increase in cost due to the changes.

(g) Liability of franchisee. Approval, disapproval, or failure to act by city regarding any insurance supplied or not supplied by franchisee shall not relieve franchisee of full responsibility or liability for damages and accidents as set forth in this ordinance. The bankruptcy, insolvency, or denial of liability by any insurer of franchisee shall not exonerate franchisee from the liability obligations of franchisee provided for under this ordinance.

SECTION 6. Fees, payments and compensation.

(a) Compensation required. Because the special use of the public ways by franchisee and the special business purpose for which the public ways are being used requires rental compensation for the rights and privileges granted under this ordinance, franchisee shall pay city throughout the term of this ordinance a fee in an amount equal to four percent of franchisee's gross receipts, calculated monthly and payable based on the gross receipts realized during the calendar month immediately preceding the calendar month in which the payment is due (hereinafter called the "franchise fee").

(b) Payment procedures. Franchisee shall pay the franchise fee to city each month during the term of this ordinance. The monthly payment required by this ordinance shall be due and payable by certified check, electronic funds transfer, or other means that provide immediately available funds on the day the payment is due not later than 3:00 p.m. of the thirtieth (30th) calendar day following the end of each calendar month. If the thirtieth (30th)

calendar day following the end of a calendar month falls on a Saturday, Sunday, or official city holiday, then the payment is due on the business day prior to the due date, and in the month of February, the payment is due on February 28th. Subject to applicable law, the compensation set forth in this Section 6 shall be exclusive of and in addition to all special assessments and taxes of whatever nature, including, but not limited to, ad valorem taxes. In the event any monthly payment or partial payment is received by the city later than 10 days after the due date, franchisee shall pay interest on the past due amount at the rate prescribed in Section 2-1.1 of the Dallas City Code. Payment shall be accompanied by a monthly report certified by an officer of franchisee showing the total gross receipts of the preceding calendar month. The monthly report shall also include a detailed breakdown of gross receipts and the computation of the payment amount.

(c) Annual report. Franchisee shall file with city by February 1 of each calendar year an annual report showing the total gross receipts of the preceding calendar year along with the information required under Section 18-41 of the Dallas City Code. Such annual report shall include a detailed breakdown of gross receipts and the computation of the payment amount.

(d) City audit. City may audit franchisee (or any affiliate of franchisee who has information directly pertaining to gross receipts) as often as is reasonably necessary to verify the accuracy of the franchise fees paid to city. All books, records, accounts, or other documents in paper or electronic form, necessary for the audit shall be made available by franchisee at a single location in the Dallas-Fort Worth metropolitan area. Any net undisputed amount due to city, plus interest at the rate prescribed in Section 2-1.1 of the Dallas City Code, c, calculated from the date each portion of the underpayment was originally due until the date franchisee remits the underpayment to the city, shall be paid by franchisee within 45 days after city's submitting an

invoice for the underpayment to franchisee with reasonable detail supporting the amount claimed. If the amount of the underpayment exceeds five percent of the total franchise fee owed for the audit period, franchisee shall pay city's audit costs as well. City's right to audit and franchisee's obligation to retain records related to the franchise fee shall be limited to the previous two calendar years preceding the date that written notice of intent to audit is served.

SECTION 7. Term; performance evaluation.

(a) Term and extensions. The term of this ordinance shall be five (5) years from the effective date of this ordinance.

(b) Franchisee rights upon termination. Subject to applicable law, this ordinance and all rights, permissions, and privileges of franchisee under this ordinance shall automatically terminate on the expiration of the term of this ordinance, unless extended by mutual agreement, court order, or applicable law.

(c) Performance evaluation. In order to: (i) assure that franchisee is complying with the terms of this ordinance, as it may be from time to time amended, and (ii) promote a sharing of information between city and franchisee, city may schedule a performance evaluation no more often than every five years during the term of this ordinance, subject to Subsection (d) of this section, in accordance with the following process:

(1) At least 90 days prior to each performance evaluation, city shall notify franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by franchisee pursuant to Subsection (c)(2)(D) below. Unless specifically waived by the council, attendance of franchisee's duly authorized representative at these meetings is mandatory.

(2) Within 60 days from receipt of notification, franchisee shall file a report with city that is sworn to by a representative of franchisee knowledgeable of the operations of franchisee within the authorized area, in reasonable detail, specifically addressing, at a minimum, the following areas:

(A) compliance of franchisee's vehicles with solid waste and air quality requirements;

(B) customer service, including but not limited to a listing of customer complaints and their resolution;

(C) history in regard to prompt and accurate payment of franchise fees;

(D) any other topic deemed material or relevant by city for its enforcement of this ordinance.

(3) All reports to be prepared under this subsection and submitted by franchisee shall be based upon information for at least the most recent five-year period, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than six months before the time of the performance evaluation.

(4) Following receipt of the report, but not less than 30 days prior to the performance evaluation, city may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. Franchisee shall make reasonable effort to provide such additional information to city prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, franchisee shall notify city in writing explaining the reasons for any delay. The city may authorize a delay of the performance evaluation for a reasonable time to allow franchisee to submit the additional documentation.

(5) The council shall hear any interested persons during such performance evaluation. Franchisee shall be entitled to all the rights of due process consistent with city proceedings, including but not limited to, the right to be heard, the right to present evidence, and the right to ask questions of witnesses.

(6) Upon request of city, franchisee shall assist city in notifying customers of the evaluation session. The actual costs associated with the notification, in an amount not to exceed $1,000.00, shall be borne by franchisee.

(d) Additional performance evaluations. Notwithstanding Subsection (c), the council may initiate and conduct such additional performance evaluations regarding franchisee's performance under this ordinance as the council, in its sole discretion, may deem justified or necessary under the circumstances. Franchisee shall be given reasonable notice of the date, time, and location of any such additional performance evaluations.

SECTION 8. Transfers of ownership and control.

(a) Franchisee ownership, management and operation.

(1) Only franchisee and its affiliates, if any, shall operate, manage, and maintain the solid waste collection service. As provided in Chapter XIV, Section 2(5) of the Dallas City Charter, no franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred, or conveyed to any other person, firm, corporation, or other business entity without the consent of the city first had and obtained by ordinance or resolution, unless otherwise specifically provided in this franchise ordinance. If the purchaser is the holder of a like franchise, the franchise purchased shall be canceled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the city council when permission for merger is granted. Franchisee shall not directly or indirectly transfer or assign, in whole or in part, the

operation, management, ownership, or maintenance of the solid waste collection service without the prior written consent of the council as provided in Subsections 8(b) and 8(c) below.

(2) This section shall not apply to franchisee's employment contracts and other personnel decisions, nor shall it prohibit franchisee from contracting for or subcontracting, in whole or in part, any operational, management or maintenance functions in connection with the solid waste collection service, so long as franchisee does not relinquish its decision making authority over, or its responsibilities under, this ordinance for any particular function; nor shall it prohibit franchisee from complying with this ordinance or other requirements of federal, state, or local laws and regulations.

(3) Franchisee shall provide the director written notice, within five calendar days after its occurrence, of any change in the corporate or business structure, change in the chief executive or the top executive structure, change in the board of directors, or other change in the corporate or business method of governance of franchisee, regardless of whether or not it results in a transfer or assignment of the franchise or a transfer of control or ownership of franchisee.

(b) Transfer and assignment procedures. This ordinance or the solid waste collection service shall not be transferred or assigned, by operation of law or otherwise, nor shall title to franchisee's rights and obligations under this ordinance or to the solid waste collection service pass to or vest in any person, other than for mortgaging or financing of solid waste collection operations or to an affiliate of franchisee under the conditions described below, without the prior written consent of the council. This ordinance shall not be leased or subleased without the prior written consent of the council. The procedures related to transfer or assignment are as follows:

(1) The council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for

any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The director shall be advised in writing of a transfer solely for security purposes at least 60 days before such transfer occurs.

(2) Franchisee may, without additional approval by the council, transfer or assign this ordinance to an affiliate provided that the affiliate: (i) assumes all of franchisee's obligations and liabilities under this ordinance occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this ordinance; and (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of franchisee. The director shall be advised in writing of such transfer and of the affiliate's qualifications at least 60 days before such transfer occurs. The city shall be reimbursed any reasonable, documented costs it incurs in connection with such transfer, including the expenses of any investigation or litigation respecting a proposed or consummated transfer, up to a maximum of $10,000.00.

(c) Transfer of control. There shall be no transfer of or acquisition of control of franchisee without the prior written consent of the council.

(d) Schedule of ownership. Franchisee represents and warrants that its current ownership is as set forth on Exhibit C, attached to and made a part of this ordinance, and that it has full legal and equitable title to the solid waste collection service as of the effective date of this ordinance.

(e) Applications for consent/procedure/restrictions. If franchisee seeks to obtain the consent of the council to any transactions or matters described in this section, franchisee shall submit an application for such consent to the city and shall submit or cause to be submitted to the city such additional documents and information as the director may request that are reasonably

related to the transaction, including the purchase price of the solid waste collection service, and the legal, financial, and technical qualifications of the proposed transferee or new controlling entity.

(1) The council shall have 120 days from the date of submission of a complete and accurate application to act upon the application for consent. If the council fails to act upon such application for consent within 120 days, such application shall be deemed as consented to unless city and franchisee otherwise agree to an extension of time.

(2) The council shall not unreasonably withhold its consent to any proposed transaction. The council may: (i) grant its consent outright, (ii) grant such consent with conditions, which conditions it finds are necessary to ensure performance of franchisee or its successor under this Ordinance, or (iii) deny consent.

(3) Nothing in any approval by the city under this section shall be construed to waive or release any rights of city in and to the public ways, public places of city or property owned by city.

(4) Nothing in any approval by city under this section shall be construed as a waiver or release of any of city's police powers, or as an exercise of eminent domain.

(5) City's granting of consent in any one instance shall not require it to grant consent in other instances.

(6) Franchisee shall reimburse city for the incidental costs incurred by city in considering any request of franchisee under this section. Such reimbursement shall not exceed $10,000.00, shall be supported by invoices, and shall not include any costs or expenses incurred by city in defending any denial of the request; provided, however, that city does not waive its

right to request that its attorney's fees and other costs be reimbursed by court order in any litigation related to denial of a request under this section.

(f) City approval requirements. Before any transfer, assignment, sale, foreclosure, or other change of control described under this section becomes effective and before the council shall consider giving its consent, the proposed transferee, assignee, purchaser, buyer, foreclosing party, or other person or entity seeking to obtain the rights and obligations under this ordinance through a change of control shall provide the director: (i) an agreement and acceptance in writing to comply with all terms of this ordinance, as amended; (ii) all evidence of insurance required under this ordinance, as amended; (iii) the legal name and address of the transferee, and all persons sharing control of the transferee, with a full description of their experience in the solid waste disposal industry, as well as the name and address of the person to be contacted for notices; (iv) payment of outstanding franchise fees and any other fees, taxes, and payments, including fees, interest, and penalties, due from franchisee to the city; and (iv) evidence satisfactory to the director that transferee has the legal, technical, and financial ability to properly perform and discharge all obligations and liabilities of this ordinance.

(g) Transfer of control requirements. In the event of a transfer of control, before such transfer becomes effective and before the council shall consider giving its consent, the proposed transferee shall agree in writing to not take any action that will keep franchisee from complying with this ordinance.

SECTION 9. Defaults.

(a) Events of default. The occurrence of any one or more of the following events at any time during the term of this ordinance shall constitute an event of default by franchisee under this ordinance:

(1) The failure or refusal by franchisee to pay the franchise fee when due as prescribed by this ordinance, or any failure to perform on any agreed or court-mandated extension or modification of such payment obligation.

(2) Franchisee's material violation of or failure to comply with any provision or condition of Article IV of Chapter 18 of the Dallas City Code relating to solid waste collection service franchisees or any other applicable provision or condition of the city code.

(3) Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this ordinance, or franchisee's failure or refusal to perform any obligation contained in this ordinance.

(4) Franchisee's failure or refusal to pay or cause to be paid any of city's governmentally-imposed taxes of any kind whatsoever, including but not limited to real estate taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

(5) The entry of any judgment against franchisee in which another party becomes entitled to possession of substantially all of franchisee's assets of the solid waste collection service, for which change in possession the consent of the council has not been obtained, and such judgment is not stayed pending rehearing or appeal for 45 or more days following entry of the judgment.

(6) The dissolution or termination, as a matter of law, of franchisee without the prior consent or approval of city, which approval, if formally requested, shall not unreasonably be withheld.

(7) Franchisee's filing of a voluntary petition in bankruptcy; being adjudicated insolvent; obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of franchisee, or any of franchisee's property or this ordinance or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay franchisee's debts as they become due such that franchisee is unable to meet its obligations under this ordinance.

(8) Franchisee attempts to dispose of any of the facilities or property of its solid waste collection service with the intent of preventing city from purchasing it as provided for in this ordinance.

(9) Franchisee engages in any fraudulent or deceitful conduct with city or its customers.

(10) Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this ordinance, or in connection with any report of gross income as required by this ordinance.

(11) Any director, officer, employee, or agent of franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this ordinance.

(12) Franchisee's failure or refusal to comply with or a violation of any applicable local, state, or federal law or regulation.

(b) Default procedures. Upon the occurrence of an event of default which can be cured by the immediate payment of money to city or a third party, franchisee shall have 30 days from written notice of the occurrence of the event of default from the director to cure the default before city may exercise any of the default remedies provided for in Section 10. Upon the occurrence of an event of default by franchisee which cannot be cured by the immediate payment of money to city or a third party, franchisee shall have 60 days from the date of written notice from city to franchisee of the occurrence of the event of default to cure the event of default before city may exercise any of its rights or remedies provided for in Section 10, unless the director, the city manager, or the council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an event of default is not cured within the time period allowed for curing the event of default, as provided above, the event of default becomes, without additional notice, an uncured event of default, which shall entitle city to exercise the remedies provided for in Section 10.

SECTION 10. Remedies.

(a) Default remedies. Upon the occurrence of any uncured event of default as described in Section 9, the director shall report the occurrence of same to the city manager and the council. The council shall be entitled in its sole discretion and upon recommendation of the director and the city manager to exercise any or all of the following cumulative remedies:

(1) Exercise its rights to impose liquidated damages as described in Subsection (e).

(2) Authorize the city attorney to commence an action against franchisee at law or in equity, or both, including an action for monetary damages and specific performance.

(3) Suspend the franchise granted under this ordinance.

(4) Revoke the franchise granted under this ordinance.

(b) Suspension procedure. Upon the occurrence of an uncured event of default, the director may suspend the operation of the solid waste collection service doing business under this ordinance. If the director determines that suspension of the franchise is necessary to cure an event of default, the director shall comply with the procedures established in Section 18-37 of the Dallas City Code.

(c) Revocation procedure. Upon the occurrence of an uncured event of default, the council shall have the right to revoke this ordinance. Upon revocation, the rights, permissions, and privileges comprising the franchise granted under this ordinance shall be automatically deemed null and void and shall have no further force or effect and the provisions that are contractual in nature which are also included as a part of this ordinance are hereby automatically terminated, except that franchisee shall retain the obligation to report gross income and make franchisee fee payments covering the period prior to the effective date of the revocation. Upon revocation, city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, prior to any council hearing to formally consider revocation of the franchise granted under this ordinance, the director shall notify franchisee in writing at least 10 days in advance of the council hearing at which the issue of revocation shall be considered and decided. Franchisee shall have the right to appear before the council in person or by legal counsel and raise any objections or defenses franchisee may have that are relevant to the proposed revocation. In addition, the following procedures shall apply in regard to the revocation hearing:

(1) The council shall hear and consider the issue of revocation, shall hear any person interested in the issue, and shall determine, in its sole discretion, whether or not any violation by franchisee has occurred justifying a revocation of the franchise.

(2) At such hearing, franchisee shall be provided due process, including the right to be heard, to ask questions of witnesses, and to present evidence.

(3) Upon completion of the hearing described above, the council shall render a decision. Within a reasonable time, the director shall transmit a copy of the decision to franchisee. Franchisee shall be bound by the council's decision, unless it appeals the decision to a court of competent jurisdiction within 15 days after the date of the decision. Franchisee reserves the right to challenge both the decision itself and the fairness of the process followed by the city in the proceeding.

(4) The council reserves the right, in its sole discretion, to impose liquidated damages or to pursue other remedies as provided in this Section 10 in lieu of a revocation.

(d) Letter of credit. As security for the faithful performance by franchisee of the provisions of this ordinance and compliance with all orders, permits, and directions of city and the payment of all claims, liens, fees, liquidated damages, and taxes to city, franchisee shall deposit with city, no later than the effective date of this ordinance, an unconditional and irrevocable letter of credit in a penal amount equal to one month's franchise fee payment. The initial value of the letter of credit shall be established on the basis of the monthly franchise fee that would have been paid on the previous calendar year's monthly average gross receipts on a cash basis from any source derived at any location regardless of whether those receipts were earned entirely within the authorized area. The letter of credit shall be updated annually in January of each calendar year during the term of this ordinance. The value of the annually updated letter of credit will be equal to the average monthly franchise fee payment submitted by franchisee as required in this ordinance during the previous calendar year. The letter of credit must be issued by a federally-chartered or state-chartered financial institution with a principal

office or branch located in Dallas County and otherwise acceptable to the council, on terms acceptable to the council and approved by the city attorney. The letter of credit shall expressly provide that partial draws are permitted and that a draft thereon to the order of the city will be honored upon presentation to the issuing financial institution at a principal office or branch located within Dallas County of a letter of demand from city delivered in person or by courier delivery. The letter of demand must be signed by a person purporting to be the city's chief financial officer, city manager, or director. No supporting documents will be required and no other language, other than a demand to pay and a recitation of title, will be required as conditions for permitting the draw. Failure to timely deposit the letter of credit, or the failure to maintain the letter(s) of credit in the full amount required under this subsection and in effect during the entire term of this ordinance, or any renewal or extension of this ordinance, shall constitute a material breach of the terms of this ordinance.

(1) If franchisee fails to make timely payment to city or its designee of any amount due as a result of this ordinance or fails to make timely payment to city of any taxes due; or fails to repay city for damages and costs, including attorney's fees; or fails to comply with any provision of this ordinance which city reasonably determines can be remedied by an expenditure of monies, city may draw upon the letter of credit an amount sufficient to repay city with interest as set forth in this ordinance, if not otherwise specified by law..

(2) Within three days after a drawing upon the letter of credit, city shall send written notification of the amount, date, and purpose of the drawing to franchisee by certified mail, return receipt requested.

(3) If, at the time of a draw by city, the aggregate amount realized from the letter of credit is insufficient to provide the total payment toward which the draw is directed, the

balance of such payment, plus accrued interest, shall constitute an obligation of franchisee to city until paid. If the interest rate is not set forth in this ordinance or set by laws, then interest shall be the prime rate as established in the Wall Street Journal on the day before city sends notice to franchisee of its intent to drawn the letter of credit.

(4) No later than 30 days after mailing of notification to franchisee of a draw pursuant to Subsection (d)(2) above, franchisee shall cause the letter of credit to be restored to the full amount required under this ordinance. Failure to timely restore the letter of credit shall constitute a material breach of the terms of this ordinance.

(5) The rights reserved to city with respect to this letter of credit are in addition to all other rights and remedies of city, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other rights city may have.

(e) Liquidated damages. The parties agree that: (1) the harm or damage caused by any material breach of this franchise, other than the failure to pay franchise fees, is of a kind that is difficult or incapable of estimation; and (2) the amount of liquidated damages stipulated in the ordinance is a reasonable forecast of just compensation. Therefore, in addition to the other remedies provided for in this Section 10, liquidated damages in the amounts set forth below may be assessed by the council upon franchisee, following the notice and opportunity to cure procedures in Subsection (f) below, for failure or refusal to comply with any material term or condition of this ordinance or for any other uncured event of default. In the event the council determines that franchisee has committed, continued, or permitted a material failure or refusal of compliance or other uncured event of default that has not been cured as provided in this ordinance, franchisee shall pay $2,000 per day for each day or part of a day that the material

failure or refusal or other uncured event of default is committed, continued, or permitted, unless the council at the time of imposition of the civil penalty determines that good cause justifies a lesser penalty, based upon the surrounding circumstances, frequency, number, and seriousness of the material violations or uncured events of default in question and the public interest served by imposing a lesser civil penalty.

(f) Liquidated damages procedure. Liquidated damages may be assessed by the council in accordance with the following procedure:

(1) Following notice from the director, which notice, at the director's election, may be combined with the notice described in Section (9)(b), franchisee shall meet with the director to attempt to resolve any disagreements on whether liquidated damages should be assessed or what liquidated damages should be recommended to the council. If there is no resolution of the issue within 15 days after the mailing of the notice, then the director shall present the director's recommendation regarding liquidated damages to the city manager for review and concurrence. If the city manager concurs in the director's recommendation that liquidated damages should be assessed, the matter shall be presented to the council. The director shall notify franchisee of the recommendation of the city manager to the council, the time and date of the proposed hearing concerning the issue of liquidated damages, and a statement that franchisee has a right to appear and be heard before the council on the matter. In order to appear before and be heard by the council, franchisee must comply with applicable council procedures which can be obtained from the city secretary.

(2) Upon presentation of the recommendations of the director and the city manager, the council may decide on one or more of the following courses of action:

(A) to authorize the city attorney to proceed against franchisee under Section 10(a)(2);

(B) to assess liquidated damages in the amount provided above for the applicable material violation or uncured event of default. Council may provide for a lesser amount and may suspend all or part of said assessment upon reasonable conditions for any reasonable period, up to the end of the franchise;

(C) to determine that liquidated damages are not justified under the circumstances and assess no damages; or

(D) to remand the matter to the city manager or the director for further investigation, consideration, and recommendation to the council.

(3) Assessment of liquidated damages by the council shall be a monetary obligation of franchisee to city in the amount determined by the council and shall be paid in full by franchisee within 15 business days after the date of assessment by the council.

(4) The procedures stated in this Subsection (f) do not apply to the council's determination to require the payment of money, in lieu of other available remedies, in a revocation proceeding under Subsection (b)(4).

(g) Remedies cumulative. Subject to applicable law, the rights and remedies of city set forth in this Section 10 shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the council determines that a violation by franchisee was franchisee's fault and within its control, the council may pursue any or all of the remedies provided in Section 10. The remedies of city created under this ordinance shall be cumulative to the maximum extent permitted by law. The exercise by city of any one or more remedies under this ordinance shall not preclude the exercise by city, at the same or different times, of any other

remedies for the same material uncured event of default. Notwithstanding any provision of this ordinance, however, city shall not recover both liquidated damages and actual damages for the same violation, breach, non-compliance, or material uncured event of default.

(h) Curable violations. Franchisee shall not be found in violation of this ordinance or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of franchisee or occurs as a result of circumstances beyond its control, and, if curable, is promptly cured. Franchisee shall not be excused by mere economic hardship nor by the negligence or malfeasance of its directors, officers or employees.

(i) City right to purchase. In the event city revokes the franchise granted under this ordinance for cause, terminates the franchise as provided in Subsection (j) below, or denies renewal of the franchise granted under this ordinance, city shall have the right (but not the obligation) subject to the applicable provisions of city charter, directly or as an intermediary, to purchase the assets of the solid waste collection system through its authority under, and procedures applicable to, eminent domain.

(j) Termination in the public interest. Nothing in this section shall be construed as affecting the right of the council under the city charter to terminate this ordinance without cause in the public interest when it is deemed inconsistent with the public use of city's public ways or is deemed to cause or constitute a nuisance.

SECTION 11. Providing Information.

(a) Complete and accurate books required. Franchisee shall keep complete and accurate books of account and records of its solid waste collection service business and operations under and in connection with this ordinance in accordance with generally accepted accounting principles and generally accepted government auditing standards.

(b) City review of documentation. City may fully review such of franchisee's books, accounts, documents, and other records of franchisee or franchisee's affiliates during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this ordinance. All books, accounts, documents, and other records shall be made available at a single location in the Dallas-Fort Worth metropolitan area. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records; where possible, such items shall be made available in a CD-ROM disk or other similar platform in a format that is readable by city's computers. The reviewable items shall include, but shall not be limited to, records required to be kept by franchisee pursuant to law and the financial information underlying the written report accompanying the franchise fee. To the extent permitted by law, city agrees to treat any information disclosed by franchisee under this section as confidential, if and only to the extent that franchisee provides prior written notice that specific information is confidential as trade secrets or proprietary competitive information. Blanket or overly broad claims of confidentiality will be of no effect.

(c) Additional reports. Franchisee shall, when required by the council, the city manager, or the director, report to city any reasonably requested information relating to franchisee or the affiliates or necessary for the administration of this ordinance. The director shall have the right to establish formats for these additional reports, determine the time for these reports and the frequency with which these reports, if any, are to be made, and require that any reports be made under oath.

SECTION 12. General.

(a) Entire agreement. This ordinance (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between city and franchisee, superseding all oral or written previous negotiations or agreements between city and franchisee relating to matters set forth in this ordinance. This ordinance can be amended by an ordinance enacted by the council. Such action by council does not require the hearing procedures for revocation set forth in Subsection 10(4)(b) of this ordinance, but only the posting of an agenda item and the opportunity for speakers to be heard on the item.

(b) Notices. Except as otherwise provided in Subsection 12(c) of this ordinance, any notice, payment, statement, or demand required or permitted to be given under this ordinance by either party to the other may be effected by any of the means described in Subsection 12(d) of this ordinance. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If to City:

City Manager
City of Dallas
Dallas City Hall
1500 Marilla – Room 4/F/North
Dallas, Texas 75201

With a copy to:

Director
Department of Sanitation Services
3112 Canton Street, Suite 200
Dallas, Texas 75226

If to Franchisee:

John C. Hunt, Member
JLH Removal LLC dba Bin There Dump That Dallas
4417 Marathon Blvd.
Austin, Texas 78756-3428

Either city or franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this Subsection 12(b) Any notice given by either city or franchisee must be signed by an authorized representative.

(c) Notice of claim. This ordinance is subject to the provisions of Section 2-86 of the Dallas City Code, relating to requirements for filing a notice of a breach of contract claim against city. Section 2-86 of the Dallas City Code is expressly incorporated by reference and made a part of this ordinance as if written word for word in this ordinance. Contractor shall comply with the requirements of Section 2-86 as a precondition of any claim against city relating to or arising out of this ordinance.

(d) Delivery of notices. Notices required to be given under this ordinance may be transmitted in any of the following four ways:

(1) By personal delivery, in which case they are deemed given when delivered.

(2) By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.

(3) By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three calendar days after having been deposited in the U.S. Mail.

(4) By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

(e) City/franchisee meetings. Franchisee shall meet with the director, the city manager or the council at reasonable times to discuss any aspect of this ordinance or the services or facilities of franchisee. At all meetings, franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at city's offices unless otherwise agreed.

(f) Legal construction. This ordinance shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. Exclusive venue for any litigation that may be filed in connection with this ordinance shall be in Dallas County, Texas. This ordinance is not a contract for goods or services within the meaning of Texas Local Government Code §§271.151 *et seq*.

(g) No inducement. Franchisee, by accepting this ordinance, acknowledges that it has not been induced to accept this ordinance by any promise, oral or written, by or on behalf of city or by any third person regarding any term or condition not expressed in this ordinance. Franchisee further pledges that no promise or inducement, oral or written, has been made to any city employee or official regarding the grant, receipt or award of this ordinance.

(h) Franchisee acknowledgement. Franchisee further acknowledges by acceptance of this ordinance that it has carefully read the terms and conditions of this ordinance and accepts the obligations imposed by the terms and conditions herein.

(i) No waiver by city. No failure by city to insist upon the strict performance of any covenant, provision, term or condition of this ordinance, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this ordinance, but each and every covenant, provision, term or condition of this ordinance shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(j) Governmental licenses. Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the solid waste collection service in accordance with this ordinance.

(k) Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this ordinance.

(l) City retained powers. In addition to all rights provided in this ordinance, city reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, city code, and city ordinances which city is allowed to exercise.

(m) Material misinformation. The provision of information by franchisee or any of its affiliates to city in connection with any matters under this ordinance which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this ordinance and shall be subject to the remedies provided in Section 10. Each day that franchisee or an affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this ordinance.

(n) Hearing procedures. The following additional procedures shall apply to any hearing held in connection with any action taken by the council in connection with this ordinance:

(1) The council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

(2) The hearing shall afford franchisee rudimentary due process. The council may by resolution establish other procedural matters in connection with the hearing.

(o) Acceptance. Upon adoption of this ordinance, franchisee agrees to be bound by all the terms and conditions contained herein, as evidenced by filing the original with the city secretary and a copy with the director, in writing, within 30 days after the date the council approves this ordinance, an unconditional acceptance of the ordinance and promise to comply with and abide by all its provisions, terms, and conditions. The form of unconditional acceptance and promise, attached to and made a part of this ordinance as Exhibit B, shall be sworn to, by, or on behalf of franchisee before a notary public. If within 30 days after the date the council approves the ordinance, franchisee fails to (1) submit and file the properly executed acceptance, (2) pay all taxes due, and (3) submit the letter of credit and required certificate of insurance, then this ordinance and the rights, permissions, and privileges granted under this ordinance shall be null and void and shall have no force or effect, unless franchisee evidences such failure was due to clerical error by someone other than franchisee or its affiliates and then acts promptly to remedy the third party's clerical error. The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the acceptance required by this subsection is filed as provided herein.

(p) Time is of the essence. Whenever this ordinance shall set forth any time for an act to be performed by or on behalf of franchisee, such time shall be deemed of the essence and any failure of franchisee to perform within time allotted shall always be sufficient grounds for city to invoke an appropriate remedy, including possible revocation of the ordinance.

(q) Force majeure. The time within which franchisee shall be required to perform any act under this ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of franchisee. Notwithstanding anything contained anywhere else in this ordinance, franchisee shall not be excused from performance of any of its obligations under this ordinance by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

(r) Recognition of rights. Franchisee agrees that by adopting this ordinance, neither city nor franchisee have waived any rights, claims, or defenses they may have with respect to city's rights to impose the requirements contained in this ordinance in whole or in part upon franchisee.

(s) Police powers.

(1) In accepting this ordinance, franchisee acknowledges that its rights under this ordinance are subject to the police power of city to adopt and enforce general ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by city pursuant to such powers. Any conflict between the provisions of this ordinance and any other present or future lawful exercise of city’s police powers shall be resolved in favor of the latter.

(2) Franchisee recognizes the right of city to make reasonable amendments to this ordinance; except that city shall not make amendments materially adversely affecting franchisee except under a proper exercise of city's police powers, with notice to franchisee and an opportunity to be heard in a regular public meeting of the council considering the ordinance or amendment. Franchisee acknowledges that this is the extent of its rights to a hearing respecting franchise ordinance amendments under the charter

(3) Franchisee also recognizes city's right to impose such other regulations of general applicability as shall be determined by city to be conducive to the safety, welfare, and accommodation of the public.

(t) No presumption of renewal. This ordinance and the grant contained herein do not imply, grant, or infer any renewal rights in favor of franchisee or its affiliates.

(u) Recognition of city charter. Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this ordinance are subject to the applicable provisions of Chapter XIV of the Dallas City Charter. Any request by franchisee for an amendment to this ordinance shall be subject to review by the city attorney for compliance with the applicable provisions of the city charter.

SECTION 13. Outstanding license fees. This ordinance shall not take effect until all fees still owed to city from the existing license previously issued to franchisee for solid waste collection, hauling, and disposal service under provisions of the city code applicable to solid waste collection, hauling, and disposal licenses are paid in full. If the previous license fees owed to city are not paid by franchisee within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the previous license fees have been paid in full.

SECTION 14. Ordinance effective date. Subject to the provisions of Subsection 5(e), Subsection 12(o), and Section 13, 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 (the "effective date"), and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Passed ___March 22, 2017_____

Exhibit A

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to FRANCHISEE'S right to maintain reasonable deductibles, FRANCHISEE shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at FRANCHISEE'S sole expense, insurance coverage in the following type(s) and amounts:
Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence.

REQUIRED PROVISIONS

FRANCHISEE agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
(i) Sanitation Services, Attention: Assistant Director, 3112 Canton, Suite 200, Dallas, Texas 75226 and
(ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
d. Provide that the FRANCHISEE'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
e. Provide that all provisions of this franchise concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

CITY NOT LIABLE

Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the FRANCHISEE or its subcontractors shall not relieve the FRANCHISEE of full responsibility or liability for damages and accidents as set forth in the franchise documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the FRANCHISEE from liability.

Exhibit B

Acceptance

JLH Removal LLC dba Bin There Dump That Dallas, a Texas limited liability company, unconditionally accepts and agrees to be bound by all the terms, covenants, and conditions contained in the Solid Waste Collection Service franchise ordinance, Ordinance No. _____, passed on March 22, 2017.

Dated: ____ day of _____, 2017.

FRANCHISEE:

JLH Removal LLC dba Bin There Dump That Dallas
a Texas limited liability company

By: _____
John C. Hunt, Member

State of Texas
County of _____

This instrument was acknowledged before me on _____, 2017, by John C. Hunt, Member, of JLH Removal LLC dba Bin There Dump That Dallas, a Texas limited liability company, on behalf of said company.

(Seal)

_____
Notary Public's Signature

Exhibit C
Affidavit of Ownership or Control

02-17-2017

ORDINANCE NO. _____

An ordinance granting a franchise to T & R EXCAVATION, INC., a Texas corporation, with its principal address at 3529 Peoria Street, Dallas, Texas 75212-2155, pursuant to Chapter XIV of the Dallas City Charter and Chapter 18 of Article IV of the Dallas City Code, to own, operate and maintain a solid waste collection service within the City of Dallas; providing for its terms and conditions; providing for liquidated damages for failure to adhere to the terms and conditions in the franchise ordinance; providing for payment of a franchise fee; providing for the payment of the publication fee; providing for the filing of an acceptance by Franchisee; and providing an effective date.

WHEREAS, safe and responsible solid waste collection, transport, and processing is necessary for the protection of the public health and a compelling governmental interest;

WHEREAS, solid waste haulers often use heavy equipment that contributes substantially to damage and wear and tear of the public ways, necessitating expenditures of City of Dallas resources for the maintenance and repair of those public ways, for which the City of Dallas is entitled to reasonable compensation and reimbursement;

WHEREAS, the franchise and regulation of solid waste collection, transport, and processing is necessary and furthers a compelling public interest;

WHEREAS, the City of Dallas is authorized to grant one or more non-exclusive franchises for the provision of solid waste collection service to premises within the City of Dallas; and

WHEREAS, the city council of the City of Dallas is of the opinion that the granting of the franchise on the terms and conditions set forth in this ordinance is in the public interest and in the interest of the City of Dallas and its residents. Now, Therefore,

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

SECTION 1. Preamble. That the declarations contained in the preamble to this ordinance are material and are hereby repeated and incorporated herein as a part of this ordinance as though they were fully set forth in this Section 1.

SECTION 2. Definitions. That for the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given in this ordinance. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word “shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. Words defined elsewhere in this ordinance shall be accorded that meaning throughout this ordinance. Words not defined shall be given their common and ordinary meaning.

(a) AFFILIATE and AFFILIATED means any entity controlling, controlled by, or under common control with the franchisee.

(b) AUTHORIZED AREA means the entire area from time to time within the corporate limits of the City of Dallas.

(c) CITY means the City of Dallas, a municipal corporation, a political subdivision of the State of Texas.

(d) CITY CHARTER means the city's organic law, equivalent to a constitution, which defines the city's existence and prescribes the powers, duties, and organization of the city's governmental structure.

(e) CITY CODE means the ordinances of the city codified into the Dallas City Code, The Revised Code of Civil and Criminal Ordinances of the City of Dallas, Texas (1960 Edition, 1997 Printing), as amended from time to time.

(f) CITY MANAGER means the city manager or the city manager's designated assistant or representative.

(g) CONTROL (and its variants) means actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of franchisee; (ii) an agreement of the holders of voting stock or rights of franchisee which effectively vests or assigns policy decision-making in any person or entity other than franchisee; or (iii) a sale, assignment or transfer of any shares or interest in franchisee which results in a change in the control of franchisee.

(h) COUNCIL means the governing body of city. This section does not authorize delegation of any decision or function that is required by the city charter or state law to be made by the council. In any case in which a hearing is held pursuant to this ordinance, the council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

Unless otherwise stated in this ordinance or prohibited by the city charter or state law, the council may delegate to the city manager or the director the exercise of any and all of the powers conferred upon city by its charter or by general law relating to the administration and enforcement of this ordinance and to franchisee's exercise of the rights and privileges conferred in this ordinance.

(i) DIRECTOR means the director of the department of sanitation services, or the director's designated representative.

(j) FRANCHISE means the grant of the non-exclusive permission and privilege to use public ways under this ordinance, and all of the incidental rights and obligations as described by this ordinance.

(k) FRANCHISEE means T & R EXCAVATION, INC., a Texas corporation, the grantee of rights under this ordinance; or the successor, transferee, or assignee of this ordinance.

(l) PUBLIC WAYS means all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated for the benefit of all utilities. Public ways does not include property of city which is not a dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated for the benefit of all utilities.

(M) SOLID WASTE COLLECTION SERVICE means the term as defined in Section 18-29(5) of the Dallas City Code.

(n) THIS ORDINANCE means this document.

SECTION 3. Granting of franchise. That subject to all the terms and conditions contained in this ordinance, the Texas Constitution, the city charter, the city code, other city ordinances as from time to time may be in effect, and applicable federal law, city hereby grants franchisee non-exclusive permission and privilege solely for the purpose of operating and

maintaining a solid waste collection service in, over, along and across the public ways in the authorized area. This grant is subject to the following additional conditions:

(a) Franchisee purpose. Franchisee accepts the grant set forth above and agrees to operate and maintain the solid waste collection service in the authorized area in accordance with the terms and provisions of this ordinance.

(b) Other services. By granting this ordinance, city is not authorizing any non-solid waste collection service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by franchisee which are not solid waste collection services. Franchisee shall immediately notify city if it provides any non-solid waste collection services within the authorized area.

(c) No priority. This ordinance does not establish any priority for the use of the public ways by franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public ways. In the event of any dispute as to the priority of use of the public ways, the first priority shall be to the public generally, the second priority to city, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the city manager in the exercise of the city's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

(d) City's use of public ways. Franchisee acknowledges that by this ordinance it obtains no rights to use or further use of the public ways other than those expressly granted in this ordinance. Franchisee acknowledges and accepts at its own risk, provided that city has the legal authority for the use or uses in question, that city may make use in the future of the public

ways in which the solid waste collection service is located in a manner inconsistent with franchisee's use of such public ways for the solid waste collection service, and in that event franchisee shall not be entitled to compensation from city unless compensation is available to all users of the public ways which are affected in a similar manner and are similarly situated in relevant respects with the franchisee.

(e) Emergencies. City may temporarily suspend the operation of the solid waste collection service of franchisee in the event of a public emergency or calamity as determined by city. In such event, neither city nor any agent, contractor, or employee of city shall be liable to franchisee or its customers or third parties for any damages caused them or the solid waste collection system. Where reasonably possible, prior notice shall be given to franchisee. In any event, notice of such action shall be given to franchisee after such action is taken.

(g) Compliance with law and standards of operation. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

(h) Other approvals and authorizations. This ordinance does not relieve and franchisee shall comply with any obligation to obtain permits, licenses and other approvals from city or other units of government, which are required for the operation and maintenance of the solid waste collection service.

(i) City's right of eminent domain reserved. Nothing in this ordinance shall limit any right city may have to acquire by eminent domain any property of franchisee.

(j) Taxes, fees and other assessments. Nothing in this ordinance shall be construed to limit the authority of city to impose a tax, fee, or other assessment of any kind on any person.

Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its solid waste collection service.

(k) Disputes among public ways users. Franchisee shall respect the rights and property of city and other authorized users of the public ways. Disputes between franchisee and other similar franchisees over use of public ways shall be submitted to the director for resolution; provided, however, that franchisee reserves its rights to submit such disputes directly to a court of competent jurisdiction.

SECTION 4. Service requirements.

(a) It is expressly understood and agreed that franchisee has the non-exclusive right, to the extent permitted by this ordinance, to collect and transport solid waste within the authorized area where the individuals or companies contract with franchisee for those services, excluding residential service (other than apartment complexes and motels). Notwithstanding the exclusion for residential service, city reserves the right during the term of this franchise ordinance to collect and transport solid waste and other materials from any source whatsoever, including but not limited to apartment complexes, motels, and any commercial venue without any amendment or modification of this franchise ordinance. Franchisee shall, at its own expense, furnish personnel and equipment to collect and transport, solid waste and shall establish and maintain the contracted solid waste collection service in an efficient and businesslike manner.

(b) All vehicles used by franchisee for the collection and transportation of solid waste shall display a decal issued by the director in or upon a conspicuous place on the vehicle, in accordance with the applicable requirements of the city code. All vehicles shall be covered at all

times while loaded and in transit to prevent the spillage of solid waste onto the public ways or properties adjacent to the public ways. Any spillage will be promptly recovered by franchisee. All vehicles and containers owned by franchisee shall be clearly marked with franchisee's name in letters not less than four inches in height. All vehicles shall be cleaned and maintained by franchisee so as to be in good repair, of good appearance and, when idle, free of solid waste residue as may cause odor, provide a breeding place for vectors, or otherwise create a nuisance. In addition, franchisee shall comply with the requirements for solid waste collection vehicles and containers contained in Sections 18-45 and 18-50 (b) of the Dallas City Code.

(c) Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the public ways and other facilities that are damaged as a result of the negligence of franchisee, its officers, agents, or employees, during franchisee's operations pursuant to this ordinance.

(d) Franchisee will comply with all rules, regulations, laws and ordinances pertaining to the disposal of solid waste as directed by the city or by other responsible governmental agencies having jurisdiction. must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill, pursuant to Chapter 18 of the city code, as amended. Disposal of all solid waste collected by franchisee from premises within the authorized area must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill in accordance with the Dallas City Code.

SECTION 5. Indemnity and insurance.

(a) **INDEMNIFICATION OF CITY. FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:**

(1) 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, THAT MAY ARISE OUT OF OR BE OCCASIONED BY FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH THAT ARE CONTRIBUTED TO BY THE NEGLIGENCE OF ONE OR MORE INDEMNITEES, PROVIDED, HOWEVER, THAT INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT THROUGH WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS

PROVIDED UNDER TEXAS LAW, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER FRANCHISEE OR CITY UNDER TEXAS LAW; THE ABOVE INDEMNIFICATION SHALL NOT, HOWEVER, APPLY TO ANY JUDGMENT OF LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY; AND

(2) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, PENALTIES, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES, WHICH MAY BE IMPOSED UPON OR ASSERTED AGAINST THE INDEMNITEES BECAUSE OF ANY VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY FRANCHISEE, ITS OFFICERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION; AND FRANCHISEE SHALL PAY ALL JUDGMENTS, WITH COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT WHICH MAY BE OBTAINED AGAINST CITY RELATED TO ANY SUCH CLAIM. UPON THE WRITTEN REQUEST OF CITY, FRANCHISEE SHALL IMMEDIATELY, AT ITS SOLE COST AND EXPENSE, CAUSE ANY LIEN COVERING CITY'S PROPERTY AS DESCRIBED IN THIS SUBPARAGRAPH TO BE DISCHARGED OR BONDED.

(3) THIS SUBSECTION SHALL NOT BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF CITY AND FRANCHISEE AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

(b) Franchisee's assumption of risk. Franchisee undertakes and assumes for its officers, employees, agents, contractors, and subcontractors (collectively "Franchisee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about any city-owned or controlled property, including the public ways, **AND FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM AN INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.**

(c) Defense of city. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, franchisee shall, upon notice from any of the indemnitees, at franchisee's sole cost and expense, (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants, and the associated costs of document production), resist and defend the same with

legal counsel selected by franchisee and consented to by city, such consent not to be unreasonably withheld; provided, however, that franchisee shall not admit liability in any such matter on behalf of the indemnitees without city's written consent and provided further that the indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of franchisee and execution of any settlement agreement on behalf of the city by the city attorney, and further provided that for the search, review, and production of documents, the city attorney may elect to handle some or all of the process in-house at the expense of the franchisee.

(d) Expenses. The indemnitees shall give franchisee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 5. Nothing herein shall be deemed to prevent the indemnitees from participating in the defense of any litigation by their own counsel at their own expense. Franchisee shall pay all expenses incurred by the indemnitees in participating in the defense, provided that the participation has been requested or required by franchisee in conducting the defense. These expenses may include out-of-pocket expenses reasonably and necessarily incurred, such as attorney fees and the reasonable value of any services rendered by city's counsel and the actual expenses of the indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by the indemnitees in connection with such suits, actions or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by franchisee.

(e) Insurance required. Not later than the effective date of this ordinance, franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit A, attached to and made a part of this ordinance. The insurance

shall be written by companies approved by the State of Texas and acceptable to city. The insurance shall be evidenced by the delivery to city of policies of insurance, including all endorsements executed by the insurer or its authorized agent stating coverages, limits, exclusions, deductibles, and expiration dates, which demonstrate compliance with all applicable provisions of the insurance laws and rules in the State of Texas. **THIS ORDINANCE SHALL NOT TAKE EFFECT UNTIL THE INSURANCE POLICY HAS BEEN DELIVERED TO CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.** If satisfactory evidence of the required insurance is not submitted within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

(f) Changes in insurance coverage. Franchisee shall provide the city with true and complete copies of all changes to insurance policies, including any cancellation, coverage change, or termination notice, or any replacement insurance, before these changes become effective. Certificates of insurance reflecting the annual renewal, replacement insurance or coverage changes must be submitted when such policies become effective to provide evidence of continuing insurance coverage. Although certificates are routinely accepted as substitutes for copies of insurance policies, the city shall have the right to access and copy any such policy of insurance**.** The director may prevent franchisee from operating a solid waste collection service under this franchise until satisfactory evidence of insurance coverage required under this section is presented to the director.

(g) Adjustments to insurance requirements. City reserves the right to review the insurance requirements stated in Exhibit A during the effective period of this ordinance and to recommend to the council reasonable adjustments in the insurance requirements contained in the

city code prior to the anniversary renewal of the insurance when deemed necessary and prudent by city's Office of Risk Management. Any adjustments shall be mutually agreeable to city and franchisee, and based upon changes in statutory law, court decisions, or the claims history of the industry as well as franchisee. When any insurance coverage limit changes are agreed, franchisee shall pay any resulting increase in cost due to the changes.

(g) Liability of franchisee. Approval, disapproval, or failure to act by city regarding any insurance supplied or not supplied by franchisee shall not relieve franchisee of full responsibility or liability for damages and accidents as set forth in this ordinance. The bankruptcy, insolvency, or denial of liability by any insurer of franchisee shall not exonerate franchisee from the liability obligations of franchisee provided for under this ordinance.

SECTION 6. Fees, payments and compensation.

(a) Compensation required. Because the special use of the public ways by franchisee and the special business purpose for which the public ways are being used requires rental compensation for the rights and privileges granted under this ordinance, franchisee shall pay city throughout the term of this ordinance a fee in an amount equal to four percent of franchisee's gross receipts, calculated monthly and payable based on the gross receipts realized during the calendar month immediately preceding the calendar month in which the payment is due (hereinafter called the "franchise fee").

(b) Payment procedures. Franchisee shall pay the franchise fee to city each month during the term of this ordinance. The monthly payment required by this ordinance shall be due and payable by certified check, electronic funds transfer, or other means that provide immediately available funds on the day the payment is due not later than 3:00 p.m. of the thirtieth (30th) calendar day following the end of each calendar month. If the thirtieth (30th)

calendar day following the end of a calendar month falls on a Saturday, Sunday, or official city holiday, then the payment is due on the business day prior to the due date, and in the month of February, the payment is due on February 28th. Subject to applicable law, the compensation set forth in this Section 6 shall be exclusive of and in addition to all special assessments and taxes of whatever nature, including, but not limited to, ad valorem taxes. In the event any monthly payment or partial payment is received by the city later than 10 days after the due date, franchisee shall pay interest on the past due amount at the rate prescribed in Section 2-1.1 of the Dallas City Code. Payment shall be accompanied by a monthly report certified by an officer of franchisee showing the total gross receipts of the preceding calendar month. The monthly report shall also include a detailed breakdown of gross receipts and the computation of the payment amount.

(c) Annual report. Franchisee shall file with city by February 1 of each calendar year an annual report showing the total gross receipts of the preceding calendar year along with the information required under Section 18-41 of the Dallas City Code. Such annual report shall include a detailed breakdown of gross receipts and the computation of the payment amount.

(d) City audit. City may audit franchisee (or any affiliate of franchisee who has information directly pertaining to gross receipts) as often as is reasonably necessary to verify the accuracy of the franchise fees paid to city. All books, records, accounts, or other documents in paper or electronic form, necessary for the audit shall be made available by franchisee at a single location in the Dallas-Fort Worth metropolitan area. Any net undisputed amount due to city, plus interest at the rate prescribed in Section 2-1.1 of the Dallas City Code, c, calculated from the date each portion of the underpayment was originally due until the date franchisee remits the underpayment to the city, shall be paid by franchisee within 45 days after city's submitting an

invoice for the underpayment to franchisee with reasonable detail supporting the amount claimed. If the amount of the underpayment exceeds five percent of the total franchise fee owed for the audit period, franchisee shall pay city's audit costs as well. City's right to audit and franchisee's obligation to retain records related to the franchise fee shall be limited to the previous two calendar years preceding the date that written notice of intent to audit is served.

SECTION 7. Term; performance evaluation.

(a) Term and extensions. The term of this ordinance shall be five (5) years from the effective date of this ordinance.

(b) Franchisee rights upon termination. Subject to applicable law, this ordinance and all rights, permissions, and privileges of franchisee under this ordinance shall automatically terminate on the expiration of the term of this ordinance, unless extended by mutual agreement, court order, or applicable law.

(c) Performance evaluation. In order to: (i) assure that franchisee is complying with the terms of this ordinance, as it may be from time to time amended, and (ii) promote a sharing of information between city and franchisee, city may schedule a performance evaluation no more often than every five years during the term of this ordinance, subject to Subsection (d) of this section, in accordance with the following process:

(1) At least 90 days prior to each performance evaluation, city shall notify franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by franchisee pursuant to Subsection (c)(2)(D) below. Unless specifically waived by the council, attendance of franchisee's duly authorized representative at these meetings is mandatory.

(2) Within 60 days from receipt of notification, franchisee shall file a report with city that is sworn to by a representative of franchisee knowledgeable of the operations of franchisee within the authorized area, in reasonable detail, specifically addressing, at a minimum, the following areas:

(A) compliance of franchisee's vehicles with solid waste and air quality requirements;

(B) customer service, including but not limited to a listing of customer complaints and their resolution;

(C) history in regard to prompt and accurate payment of franchise fees;

(D) any other topic deemed material or relevant by city for its enforcement of this ordinance.

(3) All reports to be prepared under this subsection and submitted by franchisee shall be based upon information for at least the most recent five-year period, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than six months before the time of the performance evaluation.

(4) Following receipt of the report, but not less than 30 days prior to the performance evaluation, city may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. Franchisee shall make reasonable effort to provide such additional information to city prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, franchisee shall notify city in writing explaining the reasons for any delay. The city may authorize a delay of the performance evaluation for a reasonable time to allow franchisee to submit the additional documentation.

(5) The council shall hear any interested persons during such performance evaluation. Franchisee shall be entitled to all the rights of due process consistent with city proceedings, including but not limited to, the right to be heard, the right to present evidence, and the right to ask questions of witnesses.

(6) Upon request of city, franchisee shall assist city in notifying customers of the evaluation session. The actual costs associated with the notification, in an amount not to exceed $1,000.00, shall be borne by franchisee.

(d) Additional performance evaluations. Notwithstanding Subsection (c), the council may initiate and conduct such additional performance evaluations regarding franchisee's performance under this ordinance as the council, in its sole discretion, may deem justified or necessary under the circumstances. Franchisee shall be given reasonable notice of the date, time, and location of any such additional performance evaluations.

SECTION 8. Transfers of ownership and control.

(a) Franchisee ownership, management and operation.

(1) Only franchisee and its affiliates, if any, shall operate, manage, and maintain the solid waste collection service. As provided in Chapter XIV, Section 2(5) of the Dallas City Charter, no franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred, or conveyed to any other person, firm, corporation, or other business entity without the consent of the city first had and obtained by ordinance or resolution, unless otherwise specifically provided in this franchise ordinance. If the purchaser is the holder of a like franchise, the franchise purchased shall be canceled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the city council when permission for merger is granted. Franchisee shall not directly or indirectly transfer or assign, in whole or in part, the

operation, management, ownership, or maintenance of the solid waste collection service without the prior written consent of the council as provided in Subsections 8(b) and 8(c) below.

(2) This section shall not apply to franchisee's employment contracts and other personnel decisions, nor shall it prohibit franchisee from contracting for or subcontracting, in whole or in part, any operational, management or maintenance functions in connection with the solid waste collection service, so long as franchisee does not relinquish its decision making authority over, or its responsibilities under, this ordinance for any particular function; nor shall it prohibit franchisee from complying with this ordinance or other requirements of federal, state, or local laws and regulations.

(3) Franchisee shall provide the director written notice, within five calendar days after its occurrence, of any change in the corporate or business structure, change in the chief executive or the top executive structure, change in the board of directors, or other change in the corporate or business method of governance of franchisee, regardless of whether or not it results in a transfer or assignment of the franchise or a transfer of control or ownership of franchisee.

(b) Transfer and assignment procedures. This ordinance or the solid waste collection service shall not be transferred or assigned, by operation of law or otherwise, nor shall title to franchisee's rights and obligations under this ordinance or to the solid waste collection service pass to or vest in any person, other than for mortgaging or financing of solid waste collection operations or to an affiliate of franchisee under the conditions described below, without the prior written consent of the council. This ordinance shall not be leased or subleased without the prior written consent of the council. The procedures related to transfer or assignment are as follows:

(1) The council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for

any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The director shall be advised in writing of a transfer solely for security purposes at least 60 days before such transfer occurs.

(2) Franchisee may, without additional approval by the council, transfer or assign this ordinance to an affiliate provided that the affiliate: (i) assumes all of franchisee's obligations and liabilities under this ordinance occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this ordinance; and (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of franchisee. The director shall be advised in writing of such transfer and of the affiliate's qualifications at least 60 days before such transfer occurs. The city shall be reimbursed any reasonable, documented costs it incurs in connection with such transfer, including the expenses of any investigation or litigation respecting a proposed or consummated transfer, up to a maximum of $10,000.00.

(c) Transfer of control. There shall be no transfer of or acquisition of control of franchisee without the prior written consent of the council.

(d) Schedule of ownership. Franchisee represents and warrants that its current ownership is as set forth on Exhibit C, attached to and made a part of this ordinance, and that it has full legal and equitable title to the solid waste collection service as of the effective date of this ordinance.

(e) Applications for consent/procedure/restrictions. If franchisee seeks to obtain the consent of the council to any transactions or matters described in this section, franchisee shall submit an application for such consent to the city and shall submit or cause to be submitted to the city such additional documents and information as the director may request that are reasonably

related to the transaction, including the purchase price of the solid waste collection service, and the legal, financial, and technical qualifications of the proposed transferee or new controlling entity.

(1) The council shall have 120 days from the date of submission of a complete and accurate application to act upon the application for consent. If the council fails to act upon such application for consent within 120 days, such application shall be deemed as consented to unless city and franchisee otherwise agree to an extension of time.

(2) The council shall not unreasonably withhold its consent to any proposed transaction. The council may: (i) grant its consent outright, (ii) grant such consent with conditions, which conditions it finds are necessary to ensure performance of franchisee or its successor under this Ordinance, or (iii) deny consent.

(3) Nothing in any approval by the city under this section shall be construed to waive or release any rights of city in and to the public ways, public places of city or property owned by city.

(4) Nothing in any approval by city under this section shall be construed as a waiver or release of any of city's police powers, or as an exercise of eminent domain.

(5) City's granting of consent in any one instance shall not require it to grant consent in other instances.

(6) Franchisee shall reimburse city for the incidental costs incurred by city in considering any request of franchisee under this section. Such reimbursement shall not exceed $10,000.00, shall be supported by invoices, and shall not include any costs or expenses incurred by city in defending any denial of the request; provided, however, that city does not waive its

right to request that its attorney's fees and other costs be reimbursed by court order in any litigation related to denial of a request under this section.

(f) City approval requirements. Before any transfer, assignment, sale, foreclosure, or other change of control described under this section becomes effective and before the council shall consider giving its consent, the proposed transferee, assignee, purchaser, buyer, foreclosing party, or other person or entity seeking to obtain the rights and obligations under this ordinance through a change of control shall provide the director: (i) an agreement and acceptance in writing to comply with all terms of this ordinance, as amended; (ii) all evidence of insurance required under this ordinance, as amended; (iii) the legal name and address of the transferee, and all persons sharing control of the transferee, with a full description of their experience in the solid waste disposal industry, as well as the name and address of the person to be contacted for notices; (iv) payment of outstanding franchise fees and any other fees, taxes, and payments, including fees, interest, and penalties, due from franchisee to the city; and (iv) evidence satisfactory to the director that transferee has the legal, technical, and financial ability to properly perform and discharge all obligations and liabilities of this ordinance.

(g) Transfer of control requirements. In the event of a transfer of control, before such transfer becomes effective and before the council shall consider giving its consent, the proposed transferee shall agree in writing to not take any action that will keep franchisee from complying with this ordinance.

SECTION 9. Defaults.

(a) Events of default. The occurrence of any one or more of the following events at any time during the term of this ordinance shall constitute an event of default by franchisee under this ordinance:

(1) The failure or refusal by franchisee to pay the franchise fee when due as prescribed by this ordinance, or any failure to perform on any agreed or court-mandated extension or modification of such payment obligation.

(2) Franchisee's material violation of or failure to comply with any provision or condition of Article IV of Chapter 18 of the Dallas City Code relating to solid waste collection service franchisees or any other applicable provision or condition of the city code.

(3) Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this ordinance, or franchisee's failure or refusal to perform any obligation contained in this ordinance.

(4) Franchisee's failure or refusal to pay or cause to be paid any of city's governmentally-imposed taxes of any kind whatsoever, including but not limited to real estate taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

(5) The entry of any judgment against franchisee in which another party becomes entitled to possession of substantially all of franchisee's assets of the solid waste collection service, for which change in possession the consent of the council has not been obtained, and such judgment is not stayed pending rehearing or appeal for 45 or more days following entry of the judgment.

(6) The dissolution or termination, as a matter of law, of franchisee without the prior consent or approval of city, which approval, if formally requested, shall not unreasonably be withheld.

(7) Franchisee's filing of a voluntary petition in bankruptcy; being adjudicated insolvent; obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of franchisee, or any of franchisee's property or this ordinance or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay franchisee's debts as they become due such that franchisee is unable to meet its obligations under this ordinance.

(8) Franchisee attempts to dispose of any of the facilities or property of its solid waste collection service with the intent of preventing city from purchasing it as provided for in this ordinance.

(9) Franchisee engages in any fraudulent or deceitful conduct with city or its customers.

(10) Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this ordinance, or in connection with any report of gross income as required by this ordinance.

(11) Any director, officer, employee, or agent of franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this ordinance.

(12) Franchisee's failure or refusal to comply with or a violation of any applicable local, state, or federal law or regulation.

(b) Default procedures. Upon the occurrence of an event of default which can be cured by the immediate payment of money to city or a third party, franchisee shall have 30 days from written notice of the occurrence of the event of default from the director to cure the default before city may exercise any of the default remedies provided for in Section 10. Upon the occurrence of an event of default by franchisee which cannot be cured by the immediate payment of money to city or a third party, franchisee shall have 60 days from the date of written notice from city to franchisee of the occurrence of the event of default to cure the event of default before city may exercise any of its rights or remedies provided for in Section 10, unless the director, the city manager, or the council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an event of default is not cured within the time period allowed for curing the event of default, as provided above, the event of default becomes, without additional notice, an uncured event of default, which shall entitle city to exercise the remedies provided for in Section 10.

SECTION 10. Remedies.

(a) Default remedies. Upon the occurrence of any uncured event of default as described in Section 9, the director shall report the occurrence of same to the city manager and the council. The council shall be entitled in its sole discretion and upon recommendation of the director and the city manager to exercise any or all of the following cumulative remedies:

(1) Exercise its rights to impose liquidated damages as described in Subsection (e).

(2) Authorize the city attorney to commence an action against franchisee at law or in equity, or both, including an action for monetary damages and specific performance.

(3) Suspend the franchise granted under this ordinance.

(4) Revoke the franchise granted under this ordinance.

(b) Suspension procedure. Upon the occurrence of an uncured event of default, the director may suspend the operation of the solid waste collection service doing business under this ordinance. If the director determines that suspension of the franchise is necessary to cure an event of default, the director shall comply with the procedures established in Section 18-37 of the Dallas City Code.

(c) Revocation procedure. Upon the occurrence of an uncured event of default, the council shall have the right to revoke this ordinance. Upon revocation, the rights, permissions, and privileges comprising the franchise granted under this ordinance shall be automatically deemed null and void and shall have no further force or effect and the provisions that are contractual in nature which are also included as a part of this ordinance are hereby automatically terminated, except that franchisee shall retain the obligation to report gross income and make franchisee fee payments covering the period prior to the effective date of the revocation. Upon revocation, city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, prior to any council hearing to formally consider revocation of the franchise granted under this ordinance, the director shall notify franchisee in writing at least 10 days in advance of the council hearing at which the issue of revocation shall be considered and decided. Franchisee shall have the right to appear before the council in person or by legal counsel and raise any objections or defenses franchisee may have that are relevant to the proposed revocation. In addition, the following procedures shall apply in regard to the revocation hearing:

(1) The council shall hear and consider the issue of revocation, shall hear any person interested in the issue, and shall determine, in its sole discretion, whether or not any violation by franchisee has occurred justifying a revocation of the franchise.

(2) At such hearing, franchisee shall be provided due process, including the right to be heard, to ask questions of witnesses, and to present evidence.

(3) Upon completion of the hearing described above, the council shall render a decision. Within a reasonable time, the director shall transmit a copy of the decision to franchisee. Franchisee shall be bound by the council's decision, unless it appeals the decision to a court of competent jurisdiction within 15 days after the date of the decision. Franchisee reserves the right to challenge both the decision itself and the fairness of the process followed by the city in the proceeding.

(4) The council reserves the right, in its sole discretion, to impose liquidated damages or to pursue other remedies as provided in this Section 10 in lieu of a revocation.

(d) Letter of credit. As security for the faithful performance by franchisee of the provisions of this ordinance and compliance with all orders, permits, and directions of city and the payment of all claims, liens, fees, liquidated damages, and taxes to city, franchisee shall deposit with city, no later than the effective date of this ordinance, an unconditional and irrevocable letter of credit in a penal amount equal to one month's franchise fee payment. The initial value of the letter of credit shall be established on the basis of the monthly franchise fee that would have been paid on the previous calendar year's monthly average gross receipts on a cash basis from any source derived at any location regardless of whether those receipts were earned entirely within the authorized area. The letter of credit shall be updated annually in January of each calendar year during the term of this ordinance. The value of the annually updated letter of credit will be equal to the average monthly franchise fee payment submitted by franchisee as required in this ordinance during the previous calendar year. The letter of credit must be issued by a federally-chartered or state-chartered financial institution with a principal

office or branch located in Dallas County and otherwise acceptable to the council, on terms acceptable to the council and approved by the city attorney. The letter of credit shall expressly provide that partial draws are permitted and that a draft thereon to the order of the city will be honored upon presentation to the issuing financial institution at a principal office or branch located within Dallas County of a letter of demand from city delivered in person or by courier delivery. The letter of demand must be signed by a person purporting to be the city's chief financial officer, city manager, or director. No supporting documents will be required and no other language, other than a demand to pay and a recitation of title, will be required as conditions for permitting the draw. Failure to timely deposit the letter of credit, or the failure to maintain the letter(s) of credit in the full amount required under this subsection and in effect during the entire term of this ordinance, or any renewal or extension of this ordinance, shall constitute a material breach of the terms of this ordinance.

(1) If franchisee fails to make timely payment to city or its designee of any amount due as a result of this ordinance or fails to make timely payment to city of any taxes due; or fails to repay city for damages and costs, including attorney's fees; or fails to comply with any provision of this ordinance which city reasonably determines can be remedied by an expenditure of monies, city may draw upon the letter of credit an amount sufficient to repay city with interest as set forth in this ordinance, if not otherwise specified by law..

(2) Within three days after a drawing upon the letter of credit, city shall send written notification of the amount, date, and purpose of the drawing to franchisee by certified mail, return receipt requested.

(3) If, at the time of a draw by city, the aggregate amount realized from the letter of credit is insufficient to provide the total payment toward which the draw is directed, the

balance of such payment, plus accrued interest, shall constitute an obligation of franchisee to city until paid. If the interest rate is not set forth in this ordinance or set by laws, then interest shall be the prime rate as established in the Wall Street Journal on the day before city sends notice to franchisee of its intent to drawn the letter of credit.

(4) No later than 30 days after mailing of notification to franchisee of a draw pursuant to Subsection (d)(2) above, franchisee shall cause the letter of credit to be restored to the full amount required under this ordinance. Failure to timely restore the letter of credit shall constitute a material breach of the terms of this ordinance.

(5) The rights reserved to city with respect to this letter of credit are in addition to all other rights and remedies of city, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other rights city may have.

(e) Liquidated damages. The parties agree that: (1) the harm or damage caused by any material breach of this franchise, other than the failure to pay franchise fees, is of a kind that is difficult or incapable of estimation; and (2) the amount of liquidated damages stipulated in the ordinance is a reasonable forecast of just compensation. Therefore, in addition to the other remedies provided for in this Section 10, liquidated damages in the amounts set forth below may be assessed by the council upon franchisee, following the notice and opportunity to cure procedures in Subsection (f) below, for failure or refusal to comply with any material term or condition of this ordinance or for any other uncured event of default. In the event the council determines that franchisee has committed, continued, or permitted a material failure or refusal of compliance or other uncured event of default that has not been cured as provided in this ordinance, franchisee shall pay $2,000 per day for each day or part of a day that the material

failure or refusal or other uncured event of default is committed, continued, or permitted, unless the council at the time of imposition of the civil penalty determines that good cause justifies a lesser penalty, based upon the surrounding circumstances, frequency, number, and seriousness of the material violations or uncured events of default in question and the public interest served by imposing a lesser civil penalty.

(f) Liquidated damages procedure. Liquidated damages may be assessed by the council in accordance with the following procedure:

(1) Following notice from the director, which notice, at the director's election, may be combined with the notice described in Section (9)(b), franchisee shall meet with the director to attempt to resolve any disagreements on whether liquidated damages should be assessed or what liquidated damages should be recommended to the council. If there is no resolution of the issue within 15 days after the mailing of the notice, then the director shall present the director's recommendation regarding liquidated damages to the city manager for review and concurrence. If the city manager concurs in the director's recommendation that liquidated damages should be assessed, the matter shall be presented to the council. The director shall notify franchisee of the recommendation of the city manager to the council, the time and date of the proposed hearing concerning the issue of liquidated damages, and a statement that franchisee has a right to appear and be heard before the council on the matter. In order to appear before and be heard by the council, franchisee must comply with applicable council procedures which can be obtained from the city secretary.

(2) Upon presentation of the recommendations of the director and the city manager, the council may decide on one or more of the following courses of action:

(A) to authorize the city attorney to proceed against franchisee under Section 10(a)(2);

(B) to assess liquidated damages in the amount provided above for the applicable material violation or uncured event of default. Council may provide for a lesser amount and may suspend all or part of said assessment upon reasonable conditions for any reasonable period, up to the end of the franchise;

(C) to determine that liquidated damages are not justified under the circumstances and assess no damages; or

(D) to remand the matter to the city manager or the director for further investigation, consideration, and recommendation to the council.

(3) Assessment of liquidated damages by the council shall be a monetary obligation of franchisee to city in the amount determined by the council and shall be paid in full by franchisee within 15 business days after the date of assessment by the council.

(4) The procedures stated in this Subsection (f) do not apply to the council's determination to require the payment of money, in lieu of other available remedies, in a revocation proceeding under Subsection (b)(4).

(g) Remedies cumulative. Subject to applicable law, the rights and remedies of city set forth in this Section 10 shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the council determines that a violation by franchisee was franchisee's fault and within its control, the council may pursue any or all of the remedies provided in Section 10. The remedies of city created under this ordinance shall be cumulative to the maximum extent permitted by law. The exercise by city of any one or more remedies under this ordinance shall not preclude the exercise by city, at the same or different times, of any other

remedies for the same material uncured event of default. Notwithstanding any provision of this ordinance, however, city shall not recover both liquidated damages and actual damages for the same violation, breach, non-compliance, or material uncured event of default.

(h) Curable violations. Franchisee shall not be found in violation of this ordinance or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of franchisee or occurs as a result of circumstances beyond its control, and, if curable, is promptly cured. Franchisee shall not be excused by mere economic hardship nor by the negligence or malfeasance of its directors, officers or employees.

(i) City right to purchase. In the event city revokes the franchise granted under this ordinance for cause, terminates the franchise as provided in Subsection (j) below, or denies renewal of the franchise granted under this ordinance, city shall have the right (but not the obligation) subject to the applicable provisions of city charter, directly or as an intermediary, to purchase the assets of the solid waste collection system through its authority under, and procedures applicable to, eminent domain.

(j) Termination in the public interest. Nothing in this section shall be construed as affecting the right of the council under the city charter to terminate this ordinance without cause in the public interest when it is deemed inconsistent with the public use of city's public ways or is deemed to cause or constitute a nuisance.

SECTION 11. Providing Information.

(a) Complete and accurate books required. Franchisee shall keep complete and accurate books of account and records of its solid waste collection service business and operations under and in connection with this ordinance in accordance with generally accepted accounting principles and generally accepted government auditing standards.

(b) City review of documentation. City may fully review such of franchisee's books, accounts, documents, and other records of franchisee or franchisee's affiliates during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this ordinance. All books, accounts, documents, and other records shall be made available at a single location in the Dallas-Fort Worth metropolitan area. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records; where possible, such items shall be made available in a CD-ROM disk or other similar platform in a format that is readable by city's computers. The reviewable items shall include, but shall not be limited to, records required to be kept by franchisee pursuant to law and the financial information underlying the written report accompanying the franchise fee. To the extent permitted by law, city agrees to treat any information disclosed by franchisee under this section as confidential, if and only to the extent that franchisee provides prior written notice that specific information is confidential as trade secrets or proprietary competitive information. Blanket or overly broad claims of confidentiality will be of no effect.

(c) Additional reports. Franchisee shall, when required by the council, the city manager, or the director, report to city any reasonably requested information relating to franchisee or the affiliates or necessary for the administration of this ordinance. The director shall have the right to establish formats for these additional reports, determine the time for these reports and the frequency with which these reports, if any, are to be made, and require that any reports be made under oath.

SECTION 12. General.

(a) Entire agreement. This ordinance (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between city and franchisee, superseding all oral or written previous negotiations or agreements between city and franchisee relating to matters set forth in this ordinance. This ordinance can be amended by an ordinance enacted by the council. Such action by council does not require the hearing procedures for revocation set forth in Subsection 10(4)(b) of this ordinance, but only the posting of an agenda item and the opportunity for speakers to be heard on the item.

(b) Notices. Except as otherwise provided in Subsection 12(c) of this ordinance, any notice, payment, statement, or demand required or permitted to be given under this ordinance by either party to the other may be effected by any of the means described in Subsection 12(d) of this ordinance. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If to City:

City Manager
City of Dallas
Dallas City Hall
1500 Marilla – Room 4/F/North
Dallas, Texas 75201

With a copy to:

Director
Department of Sanitation Services
3112 Canton Street, Suite 200
Dallas, Texas 75226

If to Franchisee:

Tomas Reyes, President
T & R EXCAVATION, INC.
3529 Peoria Street
Dallas, Texas 75212-2155

Either city or franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this Subsection 12(b) Any notice given by either city or franchisee must be signed by an authorized representative.

(c) Notice of claim. This ordinance is subject to the provisions of Section 2-86 of the Dallas City Code, relating to requirements for filing a notice of a breach of contract claim against city. Section 2-86 of the Dallas City Code is expressly incorporated by reference and made a part of this ordinance as if written word for word in this ordinance. Contractor shall comply with the requirements of Section 2-86 as a precondition of any claim against city relating to or arising out of this ordinance.

(d) Delivery of notices. Notices required to be given under this ordinance may be transmitted in any of the following four ways:

(1) By personal delivery, in which case they are deemed given when delivered.

(2) By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.

(3) By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three calendar days after having been deposited in the U.S. Mail.

(4) By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

(e) City/franchisee meetings. Franchisee shall meet with the director, the city manager or the council at reasonable times to discuss any aspect of this ordinance or the services or facilities of franchisee. At all meetings, franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at city's offices unless otherwise agreed.

(f) Legal construction. This ordinance shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. Exclusive venue for any litigation that may be filed in connection with this ordinance shall be in Dallas County, Texas. This ordinance is not a contract for goods or services within the meaning of Texas Local Government Code §§271.151 *et seq*.

(g) No inducement. Franchisee, by accepting this ordinance, acknowledges that it has not been induced to accept this ordinance by any promise, oral or written, by or on behalf of city or by any third person regarding any term or condition not expressed in this ordinance. Franchisee further pledges that no promise or inducement, oral or written, has been made to any city employee or official regarding the grant, receipt or award of this ordinance.

(h) Franchisee acknowledgement. Franchisee further acknowledges by acceptance of this ordinance that it has carefully read the terms and conditions of this ordinance and accepts the obligations imposed by the terms and conditions herein.

(i) No waiver by city. No failure by city to insist upon the strict performance of any covenant, provision, term or condition of this ordinance, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this ordinance, but each and every covenant, provision, term or condition of this ordinance shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(j) Governmental licenses. Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the solid waste collection service in accordance with this ordinance.

(k) Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this ordinance.

(l) City retained powers. In addition to all rights provided in this ordinance, city reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, city code, and city ordinances which city is allowed to exercise.

(m) Material misinformation. The provision of information by franchisee or any of its affiliates to city in connection with any matters under this ordinance which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this ordinance and shall be subject to the remedies provided in Section 10. Each day that franchisee or an affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this ordinance.

(n) Hearing procedures. The following additional procedures shall apply to any hearing held in connection with any action taken by the council in connection with this ordinance:

(1) The council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

(2) The hearing shall afford franchisee rudimentary due process. The council may by resolution establish other procedural matters in connection with the hearing.

(o) Acceptance. Upon adoption of this ordinance, franchisee agrees to be bound by all the terms and conditions contained herein, as evidenced by filing the original with the city secretary and a copy with the director, in writing, within 30 days after the date the council approves this ordinance, an unconditional acceptance of the ordinance and promise to comply with and abide by all its provisions, terms, and conditions. The form of unconditional acceptance and promise, attached to and made a part of this ordinance as Exhibit B, shall be sworn to, by, or on behalf of franchisee before a notary public. If within 30 days after the date the council approves the ordinance, franchisee fails to (1) submit and file the properly executed acceptance, (2) pay all taxes due, and (3) submit the letter of credit and required certificate of insurance, then this ordinance and the rights, permissions, and privileges granted under this ordinance shall be null and void and shall have no force or effect, unless franchisee evidences such failure was due to clerical error by someone other than franchisee or its affiliates and then acts promptly to remedy the third party's clerical error. The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the acceptance required by this subsection is filed as provided herein.

(p) Time is of the essence. Whenever this ordinance shall set forth any time for an act to be performed by or on behalf of franchisee, such time shall be deemed of the essence and any failure of franchisee to perform within time allotted shall always be sufficient grounds for city to invoke an appropriate remedy, including possible revocation of the ordinance.

(q) Force majeure. The time within which franchisee shall be required to perform any act under this ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of franchisee. Notwithstanding anything contained anywhere else in this ordinance, franchisee shall not be excused from performance of any of its obligations under this ordinance by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

(r) Recognition of rights. Franchisee agrees that by adopting this ordinance, neither city nor franchisee have waived any rights, claims, or defenses they may have with respect to city's rights to impose the requirements contained in this ordinance in whole or in part upon franchisee.

(s) Police powers.

(1) In accepting this ordinance, franchisee acknowledges that its rights under this ordinance are subject to the police power of city to adopt and enforce general ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by city pursuant to such powers. Any conflict between the provisions of this ordinance and any other present or future lawful exercise of city’s police powers shall be resolved in favor of the latter.

(2) Franchisee recognizes the right of city to make reasonable amendments to this ordinance; except that city shall not make amendments materially adversely affecting franchisee except under a proper exercise of city's police powers, with notice to franchisee and an opportunity to be heard in a regular public meeting of the council considering the ordinance or amendment. Franchisee acknowledges that this is the extent of its rights to a hearing respecting franchise ordinance amendments under the charter

(3) Franchisee also recognizes city's right to impose such other regulations of general applicability as shall be determined by city to be conducive to the safety, welfare, and accommodation of the public.

(t) No presumption of renewal. This ordinance and the grant contained herein do not imply, grant, or infer any renewal rights in favor of franchisee or its affiliates.

(u) Recognition of city charter. Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this ordinance are subject to the applicable provisions of Chapter XIV of the Dallas City Charter. Any request by franchisee for an amendment to this ordinance shall be subject to review by the city attorney for compliance with the applicable provisions of the city charter.

SECTION 13. Outstanding license fees. This ordinance shall not take effect until all fees still owed to city from the existing license previously issued to franchisee for solid waste collection, hauling, and disposal service under provisions of the city code applicable to solid waste collection, hauling, and disposal licenses are paid in full. If the previous license fees owed to city are not paid by franchisee within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the previous license fees have been paid in full.

SECTION 14. Ordinance effective date. Subject to the provisions of Subsection 5(e), Subsection 12(o), and Section 13, 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 (the "effective date"), and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Passed ___March 22, 2017_____

Exhibit A

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to FRANCHISEE'S right to maintain reasonable deductibles, FRANCHISEE shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at FRANCHISEE'S sole expense, insurance coverage in the following type(s) and amounts:
Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence.

REQUIRED PROVISIONS

FRANCHISEE agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
(i) Sanitation Services, Attention: Assistant Director, 3112 Canton, Suite 200, Dallas, Texas 75226 and
(ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
d. Provide that the FRANCHISEE'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
e. Provide that all provisions of this franchise concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

CITY NOT LIABLE

Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the FRANCHISEE or its subcontractors shall not relieve the FRANCHISEE of full responsibility or liability for damages and accidents as set forth in the franchise documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the FRANCHISEE from liability.

Exhibit B

Acceptance

T & R EXCAVATION, INC., a Texas corporation, unconditionally accepts and agrees to be bound by all the terms, covenants, and conditions contained in the Solid Waste Collection Service franchise ordinance, Ordinance No. _____, passed on March 22, 2017.

Dated: ____ day of _____, 2017.

FRANCHISEE:

T & R EXCAVATION, INC.
a Texas corporation

By: _____
Tomas Reyes, President

State of Texas
County of _____

This instrument was acknowledged before me on _____, 2017, by Tomas Reyes, President, of T & R EXCAVATION, INC., a Texas corporation, on behalf of said corporation.

(Seal)

_____
Notary Public's Signature

Exhibit C
Affidavit of Ownership or Control

02-17-2017

ORDINANCE NO. _____

An ordinance granting a franchise to The Demo Company, LLC, a Texas limited liability company, with its principal address at 2342 Fabens Road #200, Dallas, Texas 75229-7804, pursuant to Chapter XIV of the Dallas City Charter and Chapter 18 of Article IV of the Dallas City Code, to own, operate and maintain a solid waste collection service within the City of Dallas; providing for its terms and conditions; providing for liquidated damages for failure to adhere to the terms and conditions in the franchise ordinance; providing for payment of a franchise fee; providing for the payment of the publication fee; providing for the filing of an acceptance by Franchisee; and providing an effective date.

WHEREAS, safe and responsible solid waste collection, transport, and processing is necessary for the protection of the public health and a compelling governmental interest;

WHEREAS, solid waste haulers often use heavy equipment that contributes substantially to damage and wear and tear of the public ways, necessitating expenditures of City of Dallas resources for the maintenance and repair of those public ways, for which the City of Dallas is entitled to reasonable compensation and reimbursement;

WHEREAS, the franchise and regulation of solid waste collection, transport, and processing is necessary and furthers a compelling public interest;

WHEREAS, the City of Dallas is authorized to grant one or more non-exclusive franchises for the provision of solid waste collection service to premises within the City of Dallas; and

WHEREAS, the city council of the City of Dallas is of the opinion that the granting of the franchise on the terms and conditions set forth in this ordinance is in the public interest and in the interest of the City of Dallas and its residents. Now, Therefore,

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

SECTION 1. Preamble. That the declarations contained in the preamble to this ordinance are material and are hereby repeated and incorporated herein as a part of this ordinance as though they were fully set forth in this Section 1.

SECTION 2. Definitions. That for the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given in this ordinance. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; words in the singular number include the plural number; and the use of any gender shall be applicable to all genders whenever the tense requires. The word “shall" is mandatory and not merely directory. The word "may" is not mandatory and is merely permissive. Words defined elsewhere in this ordinance shall be accorded that meaning throughout this ordinance. Words not defined shall be given their common and ordinary meaning.

(a) AFFILIATE and AFFILIATED means any entity controlling, controlled by, or under common control with the franchisee.

(b) AUTHORIZED AREA means the entire area from time to time within the corporate limits of the City of Dallas.

(c) CITY means the City of Dallas, a municipal corporation, a political subdivision of the State of Texas.

(d) CITY CHARTER means the city's organic law, equivalent to a constitution, which defines the city's existence and prescribes the powers, duties, and organization of the city's governmental structure.

(e) CITY CODE means the ordinances of the city codified into the Dallas City Code, The Revised Code of Civil and Criminal Ordinances of the City of Dallas, Texas (1960 Edition, 1997 Printing), as amended from time to time.

(f) CITY MANAGER means the city manager or the city manager's designated assistant or representative.

(g) CONTROL (and its variants) means actual working control, by whatever means exercised. Without limiting the generality of the foregoing, for the purposes hereof, a change in control shall be deemed to have occurred at any point in time when there is: (i) a change in working or effective voting control, in whatever manner effectuated, of franchisee; (ii) an agreement of the holders of voting stock or rights of franchisee which effectively vests or assigns policy decision-making in any person or entity other than franchisee; or (iii) a sale, assignment or transfer of any shares or interest in franchisee which results in a change in the control of franchisee.

(h) COUNCIL means the governing body of city. This section does not authorize delegation of any decision or function that is required by the city charter or state law to be made by the council. In any case in which a hearing is held pursuant to this ordinance, the council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

Unless otherwise stated in this ordinance or prohibited by the city charter or state law, the council may delegate to the city manager or the director the exercise of any and all of the powers conferred upon city by its charter or by general law relating to the administration and enforcement of this ordinance and to franchisee's exercise of the rights and privileges conferred in this ordinance.

(i) DIRECTOR means the director of the department of sanitation services, or the director's designated representative.

(j) FRANCHISE means the grant of the non-exclusive permission and privilege to use public ways under this ordinance, and all of the incidental rights and obligations as described by this ordinance.

(k) FRANCHISEE means The Demo Company, LLC, a Texas limited liability company, the grantee of rights under this ordinance; or the successor, transferee, or assignee of this ordinance.

(l) PUBLIC WAYS means all dedicated rights-of-way, streets, highways, and alleys for use by the general public and easements dedicated for the benefit of all utilities. Public ways does not include property of city which is not a dedicated public way, street, highway, or alley or available for use by the general public or easements not dedicated for the benefit of all utilities.

(M) SOLID WASTE COLLECTION SERVICE means the term as defined in Section 18-29(5) of the Dallas City Code.

(n) THIS ORDINANCE means this document.

SECTION 3. Granting of franchise. That subject to all the terms and conditions contained in this ordinance, the Texas Constitution, the city charter, the city code, other city ordinances as from time to time may be in effect, and applicable federal law, city hereby grants

franchisee non-exclusive permission and privilege solely for the purpose of operating and maintaining a solid waste collection service in, over, along and across the public ways in the authorized area. This grant is subject to the following additional conditions:

(a) Franchisee purpose. Franchisee accepts the grant set forth above and agrees to operate and maintain the solid waste collection service in the authorized area in accordance with the terms and provisions of this ordinance.

(b) Other services. By granting this ordinance, city is not authorizing any non-solid waste collection service to be provided and does not waive and specifically retains any right to regulate and receive compensation as allowed by law for services offered by franchisee which are not solid waste collection services. Franchisee shall immediately notify city if it provides any non-solid waste collection services within the authorized area.

(c) No priority. This ordinance does not establish any priority for the use of the public ways by franchisee or by any present or future recipients of franchise agreements, franchisees, permit holders, or other users of the public ways. In the event of any dispute as to the priority of use of the public ways, the first priority shall be to the public generally, the second priority to city, the third priority to the State of Texas and its political subdivisions in the performance of their various functions, and thereafter, as between recipients of franchise agreements, franchisees and other state or local permit holders, as determined by the city manager in the exercise of the city's powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

(d) City's use of public ways. Franchisee acknowledges that by this ordinance it obtains no rights to use or further use of the public ways other than those expressly granted in this ordinance. Franchisee acknowledges and accepts at its own risk, provided that city has the

legal authority for the use or uses in question, that city may make use in the future of the public ways in which the solid waste collection service is located in a manner inconsistent with franchisee's use of such public ways for the solid waste collection service, and in that event franchisee shall not be entitled to compensation from city unless compensation is available to all users of the public ways which are affected in a similar manner and are similarly situated in relevant respects with the franchisee.

(e) Emergencies. City may temporarily suspend the operation of the solid waste collection service of franchisee in the event of a public emergency or calamity as determined by city. In such event, neither city nor any agent, contractor, or employee of city shall be liable to franchisee or its customers or third parties for any damages caused them or the solid waste collection system. Where reasonably possible, prior notice shall be given to franchisee. In any event, notice of such action shall be given to franchisee after such action is taken.

(g) Compliance with law and standards of operation. Franchisee shall be subject to and comply with all applicable local, state, and federal laws, including the rules and regulations of any and all agencies thereof, whether presently in force or whether enacted or adopted at any time in the future.

(h) Other approvals and authorizations. This ordinance does not relieve and franchisee shall comply with any obligation to obtain permits, licenses and other approvals from city or other units of government, which are required for the operation and maintenance of the solid waste collection service.

(i) City's right of eminent domain reserved. Nothing in this ordinance shall limit any right city may have to acquire by eminent domain any property of franchisee.

(j) Taxes, fees and other assessments. Nothing in this ordinance shall be construed to limit the authority of city to impose a tax, fee, or other assessment of any kind on any person. Franchisee shall pay all fees necessary to obtain and maintain all applicable federal, state, and local licenses, permits, and authorizations required for the construction, installation, upgrading, maintenance, or operation of its solid waste collection service.

(k) Disputes among public ways users. Franchisee shall respect the rights and property of city and other authorized users of the public ways. Disputes between franchisee and other similar franchisees over use of public ways shall be submitted to the director for resolution; provided, however, that franchisee reserves its rights to submit such disputes directly to a court of competent jurisdiction.

SECTION 4. Service requirements.

(a) It is expressly understood and agreed that franchisee has the non-exclusive right, to the extent permitted by this ordinance, to collect and transport solid waste within the authorized area where the individuals or companies contract with franchisee for those services, excluding residential service (other than apartment complexes and motels). Notwithstanding the exclusion for residential service, city reserves the right during the term of this franchise ordinance to collect and transport solid waste and other materials from any source whatsoever, including but not limited to apartment complexes, motels, and any commercial venue without any amendment or modification of this franchise ordinance. Franchisee shall, at its own expense, furnish personnel and equipment to collect and transport, solid waste and shall establish and maintain the contracted solid waste collection service in an efficient and businesslike manner.

(b) All vehicles used by franchisee for the collection and transportation of solid waste shall display a decal issued by the director in or upon a conspicuous place on the vehicle, in accordance with the applicable requirements of the city code. All vehicles shall be covered at all times while loaded and in transit to prevent the spillage of solid waste onto the public ways or properties adjacent to the public ways. Any spillage will be promptly recovered by franchisee. All vehicles and containers owned by franchisee shall be clearly marked with franchisee's name in letters not less than four inches in height. All vehicles shall be cleaned and maintained by franchisee so as to be in good repair, of good appearance and, when idle, free of solid waste residue as may cause odor, provide a breeding place for vectors, or otherwise create a nuisance. In addition, franchisee shall comply with the requirements for solid waste collection vehicles and containers contained in Sections 18-45 and 18-50 (b) of the Dallas City Code.

(c) Franchisee expressly agrees to assume liability and responsibility for all costs of repair to the public ways and other facilities that are damaged as a result of the negligence of franchisee, its officers, agents, or employees, during franchisee's operations pursuant to this ordinance.

(d) Franchisee will comply with all rules, regulations, laws and ordinances pertaining to the disposal of solid waste as directed by the city or by other responsible governmental agencies having jurisdiction. must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill, pursuant to Chapter 18 of the city code, as amended. Disposal of all solid waste collected by franchisee from premises within the authorized area must be made at an approved solid waste disposal, collection, or processing facility, transfer station or landfill in accordance with the Dallas City Code.

SECTION 5. Indemnity and insurance.

(a) **INDEMNIFICATION OF CITY. FRANCHISEE SHALL, AT ITS SOLE COST AND EXPENSE, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, BOARDS, COMMISSIONS, EMPLOYEES, AGENTS, ATTORNEYS, AND CONTRACTORS (HEREINAFTER REFERRED TO AS "INDEMNITEES"), FROM AND AGAINST:**

(1) 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, THAT MAY ARISE OUT OF OR BE OCCASIONED BY FRANCHISEE'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS FRANCHISE, OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION OF FRANCHISEE, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS, IN THE OPERATION OR MAINTENANCE OF THE SOLID WASTE COLLECTION SERVICE, OR IN THE DISPOSAL, HANDLING, OR TRANSFER OF ANY SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE; FRANCHISEE'S OBLIGATION TO DEFEND AND INDEMNIFY INDEMNITEES UNDER THIS SUBPARAGRAPH SHALL EXTEND TO CLAIMS, LOSSES, AND OTHER MATTERS COVERED UNDER THIS SUBPARAGRAPH THAT ARE CONTRIBUTED TO BY THE NEGLIGENCE OF ONE OR MORE INDEMNITEES, PROVIDED, HOWEVER, THAT INDEMNITY WILL BE REDUCED BY THE PROPORTIONATE AMOUNT THROUGH WHICH THE INDEMNITEE CONTRIBUTED TO THE LIABILITY, AS

PROVIDED UNDER TEXAS LAW, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER FRANCHISEE OR CITY UNDER TEXAS LAW; THE ABOVE INDEMNIFICATION SHALL NOT, HOWEVER, APPLY TO ANY JUDGMENT OF LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY; AND

(2) ANY AND ALL LIABILITY, OBLIGATION, DAMAGES, FINES, PENALTIES, CLAIMS, SUITS, JUDGMENTS, ACTIONS, LIENS, AND LOSSES, WHICH MAY BE IMPOSED UPON OR ASSERTED AGAINST THE INDEMNITEES BECAUSE OF ANY VIOLATION OF ANY STATE OR FEDERAL LAW OR REGULATION GOVERNING THE SOLID WASTE COLLECTION SERVICE OR RELATED TO THE COLLECTION, DISPOSAL, TRANSFER, OR HANDLING BY FRANCHISEE, ITS OFFICERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, OF SOLID WASTE COLLECTED THROUGH THE SOLID WASTE COLLECTION SERVICE REGARDLESS OF WHETHER OR NOT THE NEGLIGENCE, FAULT, OR OTHER WRONGFUL CONDUCT OF THE INDEMNITEES CONTRIBUTED TO ANY VIOLATION; AND FRANCHISEE SHALL PAY ALL JUDGMENTS, WITH COSTS, ATTORNEY'S FEES, AND EXPENSES AWARDED IN SUCH JUDGMENT WHICH MAY BE OBTAINED AGAINST CITY RELATED TO ANY SUCH CLAIM. UPON THE WRITTEN REQUEST OF CITY, FRANCHISEE SHALL IMMEDIATELY, AT ITS SOLE COST AND EXPENSE, CAUSE ANY LIEN COVERING CITY'S PROPERTY AS DESCRIBED IN THIS SUBPARAGRAPH TO BE DISCHARGED OR BONDED.

(3) THIS SUBSECTION SHALL NOT BE CONSTRUED TO WAIVE ANY GOVERNMENTAL IMMUNITY FROM SUIT OR LIABILITY AVAILABLE TO CITY UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS SUBSECTION ARE SOLELY FOR THE BENEFIT OF CITY AND FRANCHISEE AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

(b) Franchisee's assumption of risk. Franchisee undertakes and assumes for its officers, employees, agents, contractors, and subcontractors (collectively "Franchisee" for the purpose of this subsection), all risk of dangerous conditions, if any, on or about any city-owned or controlled property, including the public ways, **AND FRANCHISEE HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE INDEMNITEES FOR PERSONAL INJURY OR PROPERTY DAMAGE TO ANY PERSON (OTHER THAN FROM AN INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT) ARISING OUT OF FRANCHISEE'S OPERATION, MAINTENANCE, OR CONDITION OF THE SOLID WASTE COLLECTION SERVICE OR FRANCHISEE'S FAILURE TO COMPLY WITH ANY FEDERAL, STATE OR LOCAL STATUTE, ORDINANCE OR REGULATION.**

(c) Defense of city. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified hereunder, franchisee shall, upon notice from any of the indemnitees, at franchisee's sole cost and expense, (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses, and consultants, and the associated costs of document production), resist and defend the same with

legal counsel selected by franchisee and consented to by city, such consent not to be unreasonably withheld; provided, however, that franchisee shall not admit liability in any such matter on behalf of the indemnitees without city's written consent and provided further that the indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of franchisee and execution of any settlement agreement on behalf of the city by the city attorney, and further provided that for the search, review, and production of documents, the city attorney may elect to handle some or all of the process in-house at the expense of the franchisee.

(d) Expenses. The indemnitees shall give franchisee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 5. Nothing herein shall be deemed to prevent the indemnitees from participating in the defense of any litigation by their own counsel at their own expense. Franchisee shall pay all expenses incurred by the indemnitees in participating in the defense, provided that the participation has been requested or required by franchisee in conducting the defense. These expenses may include out-of-pocket expenses reasonably and necessarily incurred, such as attorney fees and the reasonable value of any services rendered by city's counsel and the actual expenses of the indemnitees' agents, employees or expert witnesses, and disbursements and liabilities assumed by the indemnitees in connection with such suits, actions or proceedings but shall not include attorney's fees for services that are unnecessarily duplicative of services provided the Indemnitees by franchisee.

(e) Insurance required. Not later than the effective date of this ordinance, franchisee shall procure, pay for, and maintain insurance coverage in at least the minimum amounts and coverages described in Exhibit A, attached to and made a part of this ordinance. The insurance

shall be written by companies approved by the State of Texas and acceptable to city. The insurance shall be evidenced by the delivery to city of policies of insurance, including all endorsements executed by the insurer or its authorized agent stating coverages, limits, exclusions, deductibles, and expiration dates, which demonstrate compliance with all applicable provisions of the insurance laws and rules in the State of Texas. **THIS ORDINANCE SHALL NOT TAKE EFFECT UNTIL THE INSURANCE POLICY HAS BEEN DELIVERED TO CITY AND NO OFFICER OR EMPLOYEE SHALL HAVE AUTHORITY TO WAIVE THIS REQUIREMENT.** If satisfactory evidence of the required insurance is not submitted within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

(f) Changes in insurance coverage. Franchisee shall provide the city with true and complete copies of all changes to insurance policies, including any cancellation, coverage change, or termination notice, or any replacement insurance, before these changes become effective. Certificates of insurance reflecting the annual renewal, replacement insurance or coverage changes must be submitted when such policies become effective to provide evidence of continuing insurance coverage. Although certificates are routinely accepted as substitutes for copies of insurance policies, the city shall have the right to access and copy any such policy of insurance**.** The director may prevent franchisee from operating a solid waste collection service under this franchise until satisfactory evidence of insurance coverage required under this section is presented to the director.

(g) Adjustments to insurance requirements. City reserves the right to review the insurance requirements stated in Exhibit A during the effective period of this ordinance and to recommend to the council reasonable adjustments in the insurance requirements contained in the

city code prior to the anniversary renewal of the insurance when deemed necessary and prudent by city's Office of Risk Management. Any adjustments shall be mutually agreeable to city and franchisee, and based upon changes in statutory law, court decisions, or the claims history of the industry as well as franchisee. When any insurance coverage limit changes are agreed, franchisee shall pay any resulting increase in cost due to the changes.

(g) Liability of franchisee. Approval, disapproval, or failure to act by city regarding any insurance supplied or not supplied by franchisee shall not relieve franchisee of full responsibility or liability for damages and accidents as set forth in this ordinance. The bankruptcy, insolvency, or denial of liability by any insurer of franchisee shall not exonerate franchisee from the liability obligations of franchisee provided for under this ordinance.

SECTION 6. Fees, payments and compensation.

(a) Compensation required. Because the special use of the public ways by franchisee and the special business purpose for which the public ways are being used requires rental compensation for the rights and privileges granted under this ordinance, franchisee shall pay city throughout the term of this ordinance a fee in an amount equal to four percent of franchisee's gross receipts, calculated monthly and payable based on the gross receipts realized during the calendar month immediately preceding the calendar month in which the payment is due (hereinafter called the "franchise fee").

(b) Payment procedures. Franchisee shall pay the franchise fee to city each month during the term of this ordinance. The monthly payment required by this ordinance shall be due and payable by certified check, electronic funds transfer, or other means that provide immediately available funds on the day the payment is due not later than 3:00 p.m. of the thirtieth (30th) calendar day following the end of each calendar month. If the thirtieth (30th)

calendar day following the end of a calendar month falls on a Saturday, Sunday, or official city holiday, then the payment is due on the business day prior to the due date, and in the month of February, the payment is due on February 28th. Subject to applicable law, the compensation set forth in this Section 6 shall be exclusive of and in addition to all special assessments and taxes of whatever nature, including, but not limited to, ad valorem taxes. In the event any monthly payment or partial payment is received by the city later than 10 days after the due date, franchisee shall pay interest on the past due amount at the rate prescribed in Section 2-1.1 of the Dallas City Code. Payment shall be accompanied by a monthly report certified by an officer of franchisee showing the total gross receipts of the preceding calendar month. The monthly report shall also include a detailed breakdown of gross receipts and the computation of the payment amount.

(c) Annual report. Franchisee shall file with city by February 1 of each calendar year an annual report showing the total gross receipts of the preceding calendar year along with the information required under Section 18-41 of the Dallas City Code. Such annual report shall include a detailed breakdown of gross receipts and the computation of the payment amount.

(d) City audit. City may audit franchisee (or any affiliate of franchisee who has information directly pertaining to gross receipts) as often as is reasonably necessary to verify the accuracy of the franchise fees paid to city. All books, records, accounts, or other documents in paper or electronic form, necessary for the audit shall be made available by franchisee at a single location in the Dallas-Fort Worth metropolitan area. Any net undisputed amount due to city, plus interest at the rate prescribed in Section 2-1.1 of the Dallas City Code, c, calculated from the date each portion of the underpayment was originally due until the date franchisee remits the underpayment to the city, shall be paid by franchisee within 45 days after city's submitting an

invoice for the underpayment to franchisee with reasonable detail supporting the amount claimed. If the amount of the underpayment exceeds five percent of the total franchise fee owed for the audit period, franchisee shall pay city's audit costs as well. City's right to audit and franchisee's obligation to retain records related to the franchise fee shall be limited to the previous two calendar years preceding the date that written notice of intent to audit is served.

SECTION 7. Term; performance evaluation.

(a) Term and extensions. The term of this ordinance shall be five (5) years from the effective date of this ordinance.

(b) Franchisee rights upon termination. Subject to applicable law, this ordinance and all rights, permissions, and privileges of franchisee under this ordinance shall automatically terminate on the expiration of the term of this ordinance, unless extended by mutual agreement, court order, or applicable law.

(c) Performance evaluation. In order to: (i) assure that franchisee is complying with the terms of this ordinance, as it may be from time to time amended, and (ii) promote a sharing of information between city and franchisee, city may schedule a performance evaluation no more often than every five years during the term of this ordinance, subject to Subsection (d) of this section, in accordance with the following process:

(1) At least 90 days prior to each performance evaluation, city shall notify franchisee of the date, time and location of the evaluation. Such notice shall include specification of any additional information to be provided by franchisee pursuant to Subsection (c)(2)(D) below. Unless specifically waived by the council, attendance of franchisee's duly authorized representative at these meetings is mandatory.

(2) Within 60 days from receipt of notification, franchisee shall file a report with city that is sworn to by a representative of franchisee knowledgeable of the operations of franchisee within the authorized area, in reasonable detail, specifically addressing, at a minimum, the following areas:

(A) compliance of franchisee's vehicles with solid waste and air quality requirements;

(B) customer service, including but not limited to a listing of customer complaints and their resolution;

(C) history in regard to prompt and accurate payment of franchise fees;

(D) any other topic deemed material or relevant by city for its enforcement of this ordinance.

(3) All reports to be prepared under this subsection and submitted by franchisee shall be based upon information for at least the most recent five-year period, inclusive of the most current quarter available. No report under this subsection shall be based upon data that ends more than six months before the time of the performance evaluation.

(4) Following receipt of the report, but not less than 30 days prior to the performance evaluation, city may request additional information, clarification or detailed documentation concerning those topics identified for inclusion in the performance evaluation. Franchisee shall make reasonable effort to provide such additional information to city prior to the meeting. In the event that the information cannot be made available prior to the performance evaluation, franchisee shall notify city in writing explaining the reasons for any delay. The city may authorize a delay of the performance evaluation for a reasonable time to allow franchisee to submit the additional documentation.

(5) The council shall hear any interested persons during such performance evaluation. Franchisee shall be entitled to all the rights of due process consistent with city proceedings, including but not limited to, the right to be heard, the right to present evidence, and the right to ask questions of witnesses.

(6) Upon request of city, franchisee shall assist city in notifying customers of the evaluation session. The actual costs associated with the notification, in an amount not to exceed $1,000.00, shall be borne by franchisee.

(d) Additional performance evaluations. Notwithstanding Subsection (c), the council may initiate and conduct such additional performance evaluations regarding franchisee's performance under this ordinance as the council, in its sole discretion, may deem justified or necessary under the circumstances. Franchisee shall be given reasonable notice of the date, time, and location of any such additional performance evaluations.

SECTION 8. Transfers of ownership and control.

(a) Franchisee ownership, management and operation.

(1) Only franchisee and its affiliates, if any, shall operate, manage, and maintain the solid waste collection service. As provided in Chapter XIV, Section 2(5) of the Dallas City Charter, no franchise, nor the assets held by the franchise holder, may be sold, assigned, transferred, or conveyed to any other person, firm, corporation, or other business entity without the consent of the city first had and obtained by ordinance or resolution, unless otherwise specifically provided in this franchise ordinance. If the purchaser is the holder of a like franchise, the franchise purchased shall be canceled and merged into the franchise held by the purchaser upon terms and conditions as may be set out by the city council when permission for merger is granted. Franchisee shall not directly or indirectly transfer or assign, in whole or in part, the

operation, management, ownership, or maintenance of the solid waste collection service without the prior written consent of the council as provided in Subsections 8(b) and 8(c) below.

(2) This section shall not apply to franchisee's employment contracts and other personnel decisions, nor shall it prohibit franchisee from contracting for or subcontracting, in whole or in part, any operational, management or maintenance functions in connection with the solid waste collection service, so long as franchisee does not relinquish its decision making authority over, or its responsibilities under, this ordinance for any particular function; nor shall it prohibit franchisee from complying with this ordinance or other requirements of federal, state, or local laws and regulations.

(3) Franchisee shall provide the director written notice, within five calendar days after its occurrence, of any change in the corporate or business structure, change in the chief executive or the top executive structure, change in the board of directors, or other change in the corporate or business method of governance of franchisee, regardless of whether or not it results in a transfer or assignment of the franchise or a transfer of control or ownership of franchisee.

(b) Transfer and assignment procedures. This ordinance or the solid waste collection service shall not be transferred or assigned, by operation of law or otherwise, nor shall title to franchisee's rights and obligations under this ordinance or to the solid waste collection service pass to or vest in any person, other than for mortgaging or financing of solid waste collection operations or to an affiliate of franchisee under the conditions described below, without the prior written consent of the council. This ordinance shall not be leased or subleased without the prior written consent of the council. The procedures related to transfer or assignment are as follows:

(1) The council's written consent shall not be required for a transfer solely for security purposes (such as the grant of a mortgage or security interest), but shall be required for

any realization on the security by the recipient, such as a foreclosure on a mortgage or security interest. The director shall be advised in writing of a transfer solely for security purposes at least 60 days before such transfer occurs.

(2) Franchisee may, without additional approval by the council, transfer or assign this ordinance to an affiliate provided that the affiliate: (i) assumes all of franchisee's obligations and liabilities under this ordinance occurring both before and after the transfer or assignment; (ii) agrees to comply with all provisions of this ordinance; and (iii) has the legal, technical and financial ability to properly perform and discharge such obligations and liabilities, which abilities are each at least as great as those of franchisee. The director shall be advised in writing of such transfer and of the affiliate's qualifications at least 60 days before such transfer occurs. The city shall be reimbursed any reasonable, documented costs it incurs in connection with such transfer, including the expenses of any investigation or litigation respecting a proposed or consummated transfer, up to a maximum of $10,000.00.

(c) Transfer of control. There shall be no transfer of or acquisition of control of franchisee without the prior written consent of the council.

(d) Schedule of ownership. Franchisee represents and warrants that its current ownership is as set forth on Exhibit C, attached to and made a part of this ordinance, and that it has full legal and equitable title to the solid waste collection service as of the effective date of this ordinance.

(e) Applications for consent/procedure/restrictions. If franchisee seeks to obtain the consent of the council to any transactions or matters described in this section, franchisee shall submit an application for such consent to the city and shall submit or cause to be submitted to the city such additional documents and information as the director may request that are reasonably

related to the transaction, including the purchase price of the solid waste collection service, and the legal, financial, and technical qualifications of the proposed transferee or new controlling entity.

(1) The council shall have 120 days from the date of submission of a complete and accurate application to act upon the application for consent. If the council fails to act upon such application for consent within 120 days, such application shall be deemed as consented to unless city and franchisee otherwise agree to an extension of time.

(2) The council shall not unreasonably withhold its consent to any proposed transaction. The council may: (i) grant its consent outright, (ii) grant such consent with conditions, which conditions it finds are necessary to ensure performance of franchisee or its successor under this Ordinance, or (iii) deny consent.

(3) Nothing in any approval by the city under this section shall be construed to waive or release any rights of city in and to the public ways, public places of city or property owned by city.

(4) Nothing in any approval by city under this section shall be construed as a waiver or release of any of city's police powers, or as an exercise of eminent domain.

(5) City's granting of consent in any one instance shall not require it to grant consent in other instances.

(6) Franchisee shall reimburse city for the incidental costs incurred by city in considering any request of franchisee under this section. Such reimbursement shall not exceed $10,000.00, shall be supported by invoices, and shall not include any costs or expenses incurred by city in defending any denial of the request; provided, however, that city does not waive its

right to request that its attorney's fees and other costs be reimbursed by court order in any litigation related to denial of a request under this section.

(f) City approval requirements. Before any transfer, assignment, sale, foreclosure, or other change of control described under this section becomes effective and before the council shall consider giving its consent, the proposed transferee, assignee, purchaser, buyer, foreclosing party, or other person or entity seeking to obtain the rights and obligations under this ordinance through a change of control shall provide the director: (i) an agreement and acceptance in writing to comply with all terms of this ordinance, as amended; (ii) all evidence of insurance required under this ordinance, as amended; (iii) the legal name and address of the transferee, and all persons sharing control of the transferee, with a full description of their experience in the solid waste disposal industry, as well as the name and address of the person to be contacted for notices; (iv) payment of outstanding franchise fees and any other fees, taxes, and payments, including fees, interest, and penalties, due from franchisee to the city; and (iv) evidence satisfactory to the director that transferee has the legal, technical, and financial ability to properly perform and discharge all obligations and liabilities of this ordinance.

(g) Transfer of control requirements. In the event of a transfer of control, before such transfer becomes effective and before the council shall consider giving its consent, the proposed transferee shall agree in writing to not take any action that will keep franchisee from complying with this ordinance.

SECTION 9. Defaults.

(a) Events of default. The occurrence of any one or more of the following events at any time during the term of this ordinance shall constitute an event of default by franchisee under this ordinance:

(1) The failure or refusal by franchisee to pay the franchise fee when due as prescribed by this ordinance, or any failure to perform on any agreed or court-mandated extension or modification of such payment obligation.

(2) Franchisee's material violation of or failure to comply with any provision or condition of Article IV of Chapter 18 of the Dallas City Code relating to solid waste collection service franchisees or any other applicable provision or condition of the city code.

(3) Franchisee's material violation of or failure to comply with any of the other terms, covenants, representations, or warranties contained in this ordinance, or franchisee's failure or refusal to perform any obligation contained in this ordinance.

(4) Franchisee's failure or refusal to pay or cause to be paid any of city's governmentally-imposed taxes of any kind whatsoever, including but not limited to real estate taxes, sales taxes, and personal property taxes on or before the due date for same; provided, however, franchisee shall not be in default under this subsection with respect to the non-payment of taxes which are being disputed in good faith in accordance with applicable law.

(5) The entry of any judgment against franchisee in which another party becomes entitled to possession of substantially all of franchisee's assets of the solid waste collection service, for which change in possession the consent of the council has not been obtained, and such judgment is not stayed pending rehearing or appeal for 45 or more days following entry of the judgment.

(6) The dissolution or termination, as a matter of law, of franchisee without the prior consent or approval of city, which approval, if formally requested, shall not unreasonably be withheld.

(7) Franchisee's filing of a voluntary petition in bankruptcy; being adjudicated insolvent; obtaining an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. §301); filing any petition or failing to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeking or consenting to or acquiescing in the appointment of any bankruptcy trustee, receiver, master, custodian or liquidator of franchisee, or any of franchisee's property or this ordinance or of any and all of the revenues, issues, earnings, profits or income thereof; making an assignment for the benefit of creditors (except secured creditors); or failing to pay franchisee's debts as they become due such that franchisee is unable to meet its obligations under this ordinance.

(8) Franchisee attempts to dispose of any of the facilities or property of its solid waste collection service with the intent of preventing city from purchasing it as provided for in this ordinance.

(9) Franchisee engages in any fraudulent or deceitful conduct with city or its customers.

(10) Franchisee knowingly or intentionally makes a false statement or a misrepresentation as to a material matter in the application for or in the negotiation of this ordinance, or in connection with any report of gross income as required by this ordinance.

(11) Any director, officer, employee, or agent of franchisee is convicted of the offense of bribery or fraud connected with or resulting from the granting, term extension, or renewal of this ordinance.

(12) Franchisee's failure or refusal to comply with or a violation of any applicable local, state, or federal law or regulation.

(b) Default procedures. Upon the occurrence of an event of default which can be cured by the immediate payment of money to city or a third party, franchisee shall have 30 days from written notice of the occurrence of the event of default from the director to cure the default before city may exercise any of the default remedies provided for in Section 10. Upon the occurrence of an event of default by franchisee which cannot be cured by the immediate payment of money to city or a third party, franchisee shall have 60 days from the date of written notice from city to franchisee of the occurrence of the event of default to cure the event of default before city may exercise any of its rights or remedies provided for in Section 10, unless the director, the city manager, or the council authorizes a longer cure period upon a showing of good cause to extend the cure period. If an event of default is not cured within the time period allowed for curing the event of default, as provided above, the event of default becomes, without additional notice, an uncured event of default, which shall entitle city to exercise the remedies provided for in Section 10.

SECTION 10. Remedies.

(a) Default remedies. Upon the occurrence of any uncured event of default as described in Section 9, the director shall report the occurrence of same to the city manager and the council. The council shall be entitled in its sole discretion and upon recommendation of the director and the city manager to exercise any or all of the following cumulative remedies:

(1) Exercise its rights to impose liquidated damages as described in Subsection (e).

(2) Authorize the city attorney to commence an action against franchisee at law or in equity, or both, including an action for monetary damages and specific performance.

(3) Suspend the franchise granted under this ordinance.

(4) Revoke the franchise granted under this ordinance.

(b) Suspension procedure. Upon the occurrence of an uncured event of default, the director may suspend the operation of the solid waste collection service doing business under this ordinance. If the director determines that suspension of the franchise is necessary to cure an event of default, the director shall comply with the procedures established in Section 18-37 of the Dallas City Code.

(c) Revocation procedure. Upon the occurrence of an uncured event of default, the council shall have the right to revoke this ordinance. Upon revocation, the rights, permissions, and privileges comprising the franchise granted under this ordinance shall be automatically deemed null and void and shall have no further force or effect and the provisions that are contractual in nature which are also included as a part of this ordinance are hereby automatically terminated, except that franchisee shall retain the obligation to report gross income and make franchisee fee payments covering the period prior to the effective date of the revocation. Upon revocation, city shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the revocation. Notwithstanding the above, prior to any council hearing to formally consider revocation of the franchise granted under this ordinance, the director shall notify franchisee in writing at least 10 days in advance of the council hearing at which the issue of revocation shall be considered and decided. Franchisee shall have the right to appear before the council in person or by legal counsel and raise any objections or defenses franchisee may have that are relevant to the proposed revocation. In addition, the following procedures shall apply in regard to the revocation hearing:

(1) The council shall hear and consider the issue of revocation, shall hear any person interested in the issue, and shall determine, in its sole discretion, whether or not any violation by franchisee has occurred justifying a revocation of the franchise.

(2) At such hearing, franchisee shall be provided due process, including the right to be heard, to ask questions of witnesses, and to present evidence.

(3) Upon completion of the hearing described above, the council shall render a decision. Within a reasonable time, the director shall transmit a copy of the decision to franchisee. Franchisee shall be bound by the council's decision, unless it appeals the decision to a court of competent jurisdiction within 15 days after the date of the decision. Franchisee reserves the right to challenge both the decision itself and the fairness of the process followed by the city in the proceeding.

(4) The council reserves the right, in its sole discretion, to impose liquidated damages or to pursue other remedies as provided in this Section 10 in lieu of a revocation.

(d) Letter of credit. As security for the faithful performance by franchisee of the provisions of this ordinance and compliance with all orders, permits, and directions of city and the payment of all claims, liens, fees, liquidated damages, and taxes to city, franchisee shall deposit with city, no later than the effective date of this ordinance, an unconditional and irrevocable letter of credit in a penal amount equal to one month's franchise fee payment. The initial value of the letter of credit shall be established on the basis of the monthly franchise fee that would have been paid on the previous calendar year's monthly average gross receipts on a cash basis from any source derived at any location regardless of whether those receipts were earned entirely within the authorized area. The letter of credit shall be updated annually in January of each calendar year during the term of this ordinance. The value of the annually updated letter of credit will be equal to the average monthly franchise fee payment submitted by franchisee as required in this ordinance during the previous calendar year. The letter of credit must be issued by a federally-chartered or state-chartered financial institution with a principal

office or branch located in Dallas County and otherwise acceptable to the council, on terms acceptable to the council and approved by the city attorney. The letter of credit shall expressly provide that partial draws are permitted and that a draft thereon to the order of the city will be honored upon presentation to the issuing financial institution at a principal office or branch located within Dallas County of a letter of demand from city delivered in person or by courier delivery. The letter of demand must be signed by a person purporting to be the city's chief financial officer, city manager, or director. No supporting documents will be required and no other language, other than a demand to pay and a recitation of title, will be required as conditions for permitting the draw. Failure to timely deposit the letter of credit, or the failure to maintain the letter(s) of credit in the full amount required under this subsection and in effect during the entire term of this ordinance, or any renewal or extension of this ordinance, shall constitute a material breach of the terms of this ordinance.

(1) If franchisee fails to make timely payment to city or its designee of any amount due as a result of this ordinance or fails to make timely payment to city of any taxes due; or fails to repay city for damages and costs, including attorney's fees; or fails to comply with any provision of this ordinance which city reasonably determines can be remedied by an expenditure of monies, city may draw upon the letter of credit an amount sufficient to repay city with interest as set forth in this ordinance, if not otherwise specified by law..

(2) Within three days after a drawing upon the letter of credit, city shall send written notification of the amount, date, and purpose of the drawing to franchisee by certified mail, return receipt requested.

(3) If, at the time of a draw by city, the aggregate amount realized from the letter of credit is insufficient to provide the total payment toward which the draw is directed, the

balance of such payment, plus accrued interest, shall constitute an obligation of franchisee to city until paid. If the interest rate is not set forth in this ordinance or set by laws, then interest shall be the prime rate as established in the Wall Street Journal on the day before city sends notice to franchisee of its intent to drawn the letter of credit.

(4) No later than 30 days after mailing of notification to franchisee of a draw pursuant to Subsection (d)(2) above, franchisee shall cause the letter of credit to be restored to the full amount required under this ordinance. Failure to timely restore the letter of credit shall constitute a material breach of the terms of this ordinance.

(5) The rights reserved to city with respect to this letter of credit are in addition to all other rights and remedies of city, whether reserved by this ordinance or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other rights city may have.

(e) Liquidated damages. The parties agree that: (1) the harm or damage caused by any material breach of this franchise, other than the failure to pay franchise fees, is of a kind that is difficult or incapable of estimation; and (2) the amount of liquidated damages stipulated in the ordinance is a reasonable forecast of just compensation. Therefore, in addition to the other remedies provided for in this Section 10, liquidated damages in the amounts set forth below may be assessed by the council upon franchisee, following the notice and opportunity to cure procedures in Subsection (f) below, for failure or refusal to comply with any material term or condition of this ordinance or for any other uncured event of default. In the event the council determines that franchisee has committed, continued, or permitted a material failure or refusal of compliance or other uncured event of default that has not been cured as provided in this ordinance, franchisee shall pay $2,000 per day for each day or part of a day that the material

failure or refusal or other uncured event of default is committed, continued, or permitted, unless the council at the time of imposition of the civil penalty determines that good cause justifies a lesser penalty, based upon the surrounding circumstances, frequency, number, and seriousness of the material violations or uncured events of default in question and the public interest served by imposing a lesser civil penalty.

(f) Liquidated damages procedure. Liquidated damages may be assessed by the council in accordance with the following procedure:

(1) Following notice from the director, which notice, at the director's election, may be combined with the notice described in Section (9)(b), franchisee shall meet with the director to attempt to resolve any disagreements on whether liquidated damages should be assessed or what liquidated damages should be recommended to the council. If there is no resolution of the issue within 15 days after the mailing of the notice, then the director shall present the director's recommendation regarding liquidated damages to the city manager for review and concurrence. If the city manager concurs in the director's recommendation that liquidated damages should be assessed, the matter shall be presented to the council. The director shall notify franchisee of the recommendation of the city manager to the council, the time and date of the proposed hearing concerning the issue of liquidated damages, and a statement that franchisee has a right to appear and be heard before the council on the matter. In order to appear before and be heard by the council, franchisee must comply with applicable council procedures which can be obtained from the city secretary.

(2) Upon presentation of the recommendations of the director and the city manager, the council may decide on one or more of the following courses of action:

(A) to authorize the city attorney to proceed against franchisee under Section 10(a)(2);

(B) to assess liquidated damages in the amount provided above for the applicable material violation or uncured event of default. Council may provide for a lesser amount and may suspend all or part of said assessment upon reasonable conditions for any reasonable period, up to the end of the franchise;

(C) to determine that liquidated damages are not justified under the circumstances and assess no damages; or

(D) to remand the matter to the city manager or the director for further investigation, consideration, and recommendation to the council.

(3) Assessment of liquidated damages by the council shall be a monetary obligation of franchisee to city in the amount determined by the council and shall be paid in full by franchisee within 15 business days after the date of assessment by the council.

(4) The procedures stated in this Subsection (f) do not apply to the council's determination to require the payment of money, in lieu of other available remedies, in a revocation proceeding under Subsection (b)(4).

(g) Remedies cumulative. Subject to applicable law, the rights and remedies of city set forth in this Section 10 shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. If the council determines that a violation by franchisee was franchisee's fault and within its control, the council may pursue any or all of the remedies provided in Section 10. The remedies of city created under this ordinance shall be cumulative to the maximum extent permitted by law. The exercise by city of any one or more remedies under this ordinance shall not preclude the exercise by city, at the same or different times, of any other

remedies for the same material uncured event of default. Notwithstanding any provision of this ordinance, however, city shall not recover both liquidated damages and actual damages for the same violation, breach, non-compliance, or material uncured event of default.

(h) Curable violations. Franchisee shall not be found in violation of this ordinance or any other applicable law or regulation, and shall suffer no penalties or damages as a result, if the violation occurs without fault of franchisee or occurs as a result of circumstances beyond its control, and, if curable, is promptly cured. Franchisee shall not be excused by mere economic hardship nor by the negligence or malfeasance of its directors, officers or employees.

(i) City right to purchase. In the event city revokes the franchise granted under this ordinance for cause, terminates the franchise as provided in Subsection (j) below, or denies renewal of the franchise granted under this ordinance, city shall have the right (but not the obligation) subject to the applicable provisions of city charter, directly or as an intermediary, to purchase the assets of the solid waste collection system through its authority under, and procedures applicable to, eminent domain.

(j) Termination in the public interest. Nothing in this section shall be construed as affecting the right of the council under the city charter to terminate this ordinance without cause in the public interest when it is deemed inconsistent with the public use of city's public ways or is deemed to cause or constitute a nuisance.

SECTION 11. Providing Information.

(a) Complete and accurate books required. Franchisee shall keep complete and accurate books of account and records of its solid waste collection service business and operations under and in connection with this ordinance in accordance with generally accepted accounting principles and generally accepted government auditing standards.

(b) City review of documentation. City may fully review such of franchisee's books, accounts, documents, and other records of franchisee or franchisee's affiliates during normal business hours on a non-disruptive basis and with such advance notice as is reasonably necessary to monitor compliance with the terms of this ordinance. All books, accounts, documents, and other records shall be made available at a single location in the Dallas-Fort Worth metropolitan area. Books, accounts, documents, and other records that are kept on an electronic basis shall also be made available on the same basis as the paper books, accounts, documents, and other records; where possible, such items shall be made available in a CD-ROM disk or other similar platform in a format that is readable by city's computers. The reviewable items shall include, but shall not be limited to, records required to be kept by franchisee pursuant to law and the financial information underlying the written report accompanying the franchise fee. To the extent permitted by law, city agrees to treat any information disclosed by franchisee under this section as confidential, if and only to the extent that franchisee provides prior written notice that specific information is confidential as trade secrets or proprietary competitive information. Blanket or overly broad claims of confidentiality will be of no effect.

(c) Additional reports. Franchisee shall, when required by the council, the city manager, or the director, report to city any reasonably requested information relating to franchisee or the affiliates or necessary for the administration of this ordinance. The director shall have the right to establish formats for these additional reports, determine the time for these reports and the frequency with which these reports, if any, are to be made, and require that any reports be made under oath.

SECTION 12. General.

(a) Entire agreement. This ordinance (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement and the rights, privileges, and permissions between city and franchisee, superseding all oral or written previous negotiations or agreements between city and franchisee relating to matters set forth in this ordinance. This ordinance can be amended by an ordinance enacted by the council. Such action by council does not require the hearing procedures for revocation set forth in Subsection 10(4)(b) of this ordinance, but only the posting of an agenda item and the opportunity for speakers to be heard on the item.

(b) Notices. Except as otherwise provided in Subsection 12(c) of this ordinance, any notice, payment, statement, or demand required or permitted to be given under this ordinance by either party to the other may be effected by any of the means described in Subsection 12(d) of this ordinance. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three days after mailing.

If to City:

City Manager
City of Dallas
Dallas City Hall
1500 Marilla – Room 4/F/North
Dallas, Texas 75201

With a copy to:

Director
Department of Sanitation Services
3112 Canton Street, Suite 200
Dallas, Texas 75226

If to Franchisee:

David Boroughs, President
The Demo Company, LLC
2342 Fabens Road #200
Dallas, Texas 75229-7804

Either city or franchisee may change its address or personnel for the receipt of notices at any time by giving notice of the change to the other party as provided in this Subsection 12(b) Any notice given by either city or franchisee must be signed by an authorized representative.

(c) Notice of claim. This ordinance is subject to the provisions of Section 2-86 of the Dallas City Code, relating to requirements for filing a notice of a breach of contract claim against city. Section 2-86 of the Dallas City Code is expressly incorporated by reference and made a part of this ordinance as if written word for word in this ordinance. Contractor shall comply with the requirements of Section 2-86 as a precondition of any claim against city relating to or arising out of this ordinance.

(d) Delivery of notices. Notices required to be given under this ordinance may be transmitted in any of the following four ways:

(1) By personal delivery, in which case they are deemed given when delivered.

(2) By delivery to Federal Express, United Parcel Service, or other nationally recognized overnight courier service, in which case they shall be deemed given when received for such service.

(3) By being deposited in the U.S. Mail, by registered or certified mail, return receipt requested, postage prepaid, in which case notice shall be deemed given three calendar days after having been deposited in the U.S. Mail.

(4) By facsimile or electronic mail transmission where the sender's transmittal log shows successful transmission to all the recipients (with any replacement transmission as a recipient shall request) and with a hard copy on the same date or the next day mailed to all by first class mail, postage prepaid, in which case notice shall be deemed given on the date of facsimile or electronic mail transmission.

(e) City/franchisee meetings. Franchisee shall meet with the director, the city manager or the council at reasonable times to discuss any aspect of this ordinance or the services or facilities of franchisee. At all meetings, franchisee shall make available personnel qualified for the issues to be discussed and such meetings shall be at city's offices unless otherwise agreed.

(f) Legal construction. This ordinance shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. Exclusive venue for any litigation that may be filed in connection with this ordinance shall be in Dallas County, Texas. This ordinance is not a contract for goods or services within the meaning of Texas Local Government Code §§271.151 *et seq*.

(g) No inducement. Franchisee, by accepting this ordinance, acknowledges that it has not been induced to accept this ordinance by any promise, oral or written, by or on behalf of city or by any third person regarding any term or condition not expressed in this ordinance. Franchisee further pledges that no promise or inducement, oral or written, has been made to any city employee or official regarding the grant, receipt or award of this ordinance.

(h) Franchisee acknowledgement. Franchisee further acknowledges by acceptance of this ordinance that it has carefully read the terms and conditions of this ordinance and accepts the obligations imposed by the terms and conditions herein.

(i) No waiver by city. No failure by city to insist upon the strict performance of any covenant, provision, term or condition of this ordinance, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this ordinance, but each and every covenant, provision, term or condition of this ordinance shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(j) Governmental licenses. Franchisee shall, at its expense, obtain and maintain all additional governmental regulatory licenses necessary to operate the solid waste collection service in accordance with this ordinance.

(k) Severability. If any section, paragraph, or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this ordinance.

(l) City retained powers. In addition to all rights provided in this ordinance, city reserves all rights and powers conferred by federal law, the Texas Constitution, Texas statutes and decisions, the City Charter, city code, and city ordinances which city is allowed to exercise.

(m) Material misinformation. The provision of information by franchisee or any of its affiliates to city in connection with any matters under this ordinance which contains an untrue statement of a material fact or omits a material fact necessary to make the information not misleading shall constitute a violation of this ordinance and shall be subject to the remedies provided in Section 10. Each day that franchisee or an affiliate fails to correct an untrue statement of a material fact or the omission of a material fact necessary to make the information not misleading shall constitute a separate violation of this ordinance.

(n) Hearing procedures. The following additional procedures shall apply to any hearing held in connection with any action taken by the council in connection with this ordinance:

(1) The council may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the council or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution.

(2) The hearing shall afford franchisee rudimentary due process. The council may by resolution establish other procedural matters in connection with the hearing.

(o) Acceptance. Upon adoption of this ordinance, franchisee agrees to be bound by all the terms and conditions contained herein, as evidenced by filing the original with the city secretary and a copy with the director, in writing, within 30 days after the date the council approves this ordinance, an unconditional acceptance of the ordinance and promise to comply with and abide by all its provisions, terms, and conditions. The form of unconditional acceptance and promise, attached to and made a part of this ordinance as Exhibit B, shall be sworn to, by, or on behalf of franchisee before a notary public. If within 30 days after the date the council approves the ordinance, franchisee fails to (1) submit and file the properly executed acceptance, (2) pay all taxes due, and (3) submit the letter of credit and required certificate of insurance, then this ordinance and the rights, permissions, and privileges granted under this ordinance shall be null and void and shall have no force or effect, unless franchisee evidences such failure was due to clerical error by someone other than franchisee or its affiliates and then acts promptly to remedy the third party's clerical error. The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the acceptance required by this subsection is filed as provided herein.

(p) Time is of the essence. Whenever this ordinance shall set forth any time for an act to be performed by or on behalf of franchisee, such time shall be deemed of the essence and any failure of franchisee to perform within time allotted shall always be sufficient grounds for city to invoke an appropriate remedy, including possible revocation of the ordinance.

(q) Force majeure. The time within which franchisee shall be required to perform any act under this ordinance shall be extended by a period of time equal to the number of days due to a force majeure. The term “force majeure” shall mean delays due to acts of God, inability to obtain governmental approvals, governmental restrictions, war, act of terrorism, civil disturbances, fire, unavoidable casualty, or other similar causes beyond the control of franchisee. Notwithstanding anything contained anywhere else in this ordinance, franchisee shall not be excused from performance of any of its obligations under this ordinance by the negligence or malfeasance of its directors, officers, or employees or by mere economic hardship.

(r) Recognition of rights. Franchisee agrees that by adopting this ordinance, neither city nor franchisee have waived any rights, claims, or defenses they may have with respect to city's rights to impose the requirements contained in this ordinance in whole or in part upon franchisee.

(s) Police powers.

(1) In accepting this ordinance, franchisee acknowledges that its rights under this ordinance are subject to the police power of city to adopt and enforce general ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by city pursuant to such powers. Any conflict between the provisions of this ordinance and any other present or future lawful exercise of city’s police powers shall be resolved in favor of the latter.

(2) Franchisee recognizes the right of city to make reasonable amendments to this ordinance; except that city shall not make amendments materially adversely affecting franchisee except under a proper exercise of city's police powers, with notice to franchisee and an opportunity to be heard in a regular public meeting of the council considering the ordinance or amendment. Franchisee acknowledges that this is the extent of its rights to a hearing respecting franchise ordinance amendments under the charter

(3) Franchisee also recognizes city's right to impose such other regulations of general applicability as shall be determined by city to be conducive to the safety, welfare, and accommodation of the public.

(t) No presumption of renewal. This ordinance and the grant contained herein do not imply, grant, or infer any renewal rights in favor of franchisee or its affiliates.

(u) Recognition of city charter. Franchisee recognizes, accepts and agrees that the terms, conditions and provisions of this ordinance are subject to the applicable provisions of Chapter XIV of the Dallas City Charter. Any request by franchisee for an amendment to this ordinance shall be subject to review by the city attorney for compliance with the applicable provisions of the city charter.

SECTION 13. Outstanding license fees. This ordinance shall not take effect until all fees still owed to city from the existing license previously issued to franchisee for solid waste collection, hauling, and disposal service under provisions of the city code applicable to solid waste collection, hauling, and disposal licenses are paid in full. If the previous license fees owed to city are not paid by franchisee within 30 days after the date the council approves this ordinance, then this ordinance shall be considered null and void and shall have no force or effect.

The director may prevent franchisee from operating a solid waste collection service under this franchise or reapplying for a new franchise until the previous license fees have been paid in full.

SECTION 14. Ordinance effective date. Subject to the provisions of Subsection 5(e), Subsection 12(o), and Section 13, 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 (the "effective date"), and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Passed ___March 22, 2017_____

Exhibit A

INSURANCE COVERAGE REQUIRED

SECTION C. Subject to FRANCHISEE'S right to maintain reasonable deductibles, FRANCHISEE shall obtain and maintain in full force and effect for the duration of this contract and any extension hereof, at FRANCHISEE'S sole expense, insurance coverage in the following type(s) and amounts:
Business Automobile Liability Insurance covering owned, hired, and non-owned vehicles, with a minimum combined bodily injury (including death) and property damage limit of $500,000 per occurrence.

REQUIRED PROVISIONS

FRANCHISEE agrees that with respect to the above required insurance, all insurance contracts and certificate(s) of insurance will contain and state, in writing, the following required provisions:
a. Name the City of Dallas and its officers, employees and elected representatives as additional insureds to all applicable coverages.
b. State that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to:
(i) Sanitation Services, Attention: Assistant Director, 3112 Canton, Suite 200, Dallas, Texas 75226 and
(ii) Director, Office of Risk Management, 1500 Marilla, 6A-South, Dallas, Texas 75201.
c. Waive subrogation against the City of Dallas, its officers and employees, for bodily injury (including death), property damage or any other loss.
d. Provide that the FRANCHISEE'S insurance is primary insurance as respects the CITY, its officers, employees and elected representatives.
e. Provide that all provisions of this franchise concerning liability, duty and standard of care, together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

CITY NOT LIABLE

Approval, disapproval or failure to act by the CITY regarding any insurance supplied by the FRANCHISEE or its subcontractors shall not relieve the FRANCHISEE of full responsibility or liability for damages and accidents as set forth in the franchise documents. Neither shall the bankruptcy, insolvency nor denial of liability by the insurance company exonerate the FRANCHISEE from liability.

Exhibit B

Acceptance

The Demo Company, LLC, a Texas limited liability company, unconditionally accepts and agrees to be bound by all the terms, covenants, and conditions contained in the Solid Waste Collection Service franchise ordinance, Ordinance No. _____, passed on March 22, 2017.

Dated: ____ day of _____, 2017.

FRANCHISEE:

The Demo Company, LLC
a Texas limited liability company

By: _____
David Boroughs, President
and Manager

State of Texas
County of _____

This instrument was acknowledged before me on _____, 2017 by David Boroughs, President and Manager, of The Demo Company, LLC, a Texas limited liability company, on behalf of said company.

(Seal)

_____
Notary Public's Signature

Exhibit C
Affidavit of Ownership or Control

AGENDA ITEM # 28

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): Outside City Limits

DEPARTMENT: Sustainable Development and Construction
Water Utilities

CMO: Mark McDaniel, 670-3256

MAPSCO: N/A

SUBJECT

Authorize acquisition from Sylvia Covington, of approximately 71,824 square feet of land located in Kaufman County for the Lake Tawakoni 144-inch Transmission Pipeline Project - Not to exceed $97,000 ($93,900, plus closing costs and title expenses not to exceed $3,100) - Financing: Water Utilities Capital Construction Funds

BACKGROUND

This item authorizes the acquisition of approximately 71,824 square feet of land with a single family dwelling located in Kaufman County. This property will be used for the construction of a 144-inch raw water transmission line for the Lake Tawakoni 144-inch Transmission Pipeline Project. The consideration is based on an independent appraisal. The relocation benefits are estimated to be $76,686.

This acquisition is part of the right-of-way required to construct approximately 32 miles of pipeline from Lake Tawakoni to the Interim Balancing Reservoir located in Terrell, TX and then to the Eastside Water Treatment Plant located in Sunnyvale, TX. The new raw water pipeline will augment the existing 72-inch and 84-inch pipelines. The construction of this pipeline will give Dallas Water Utilities the ability to utilize the full capacity of both the Lake Tawakoni and the Lake Fork raw water supply to meet the current city needs and future water demands.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

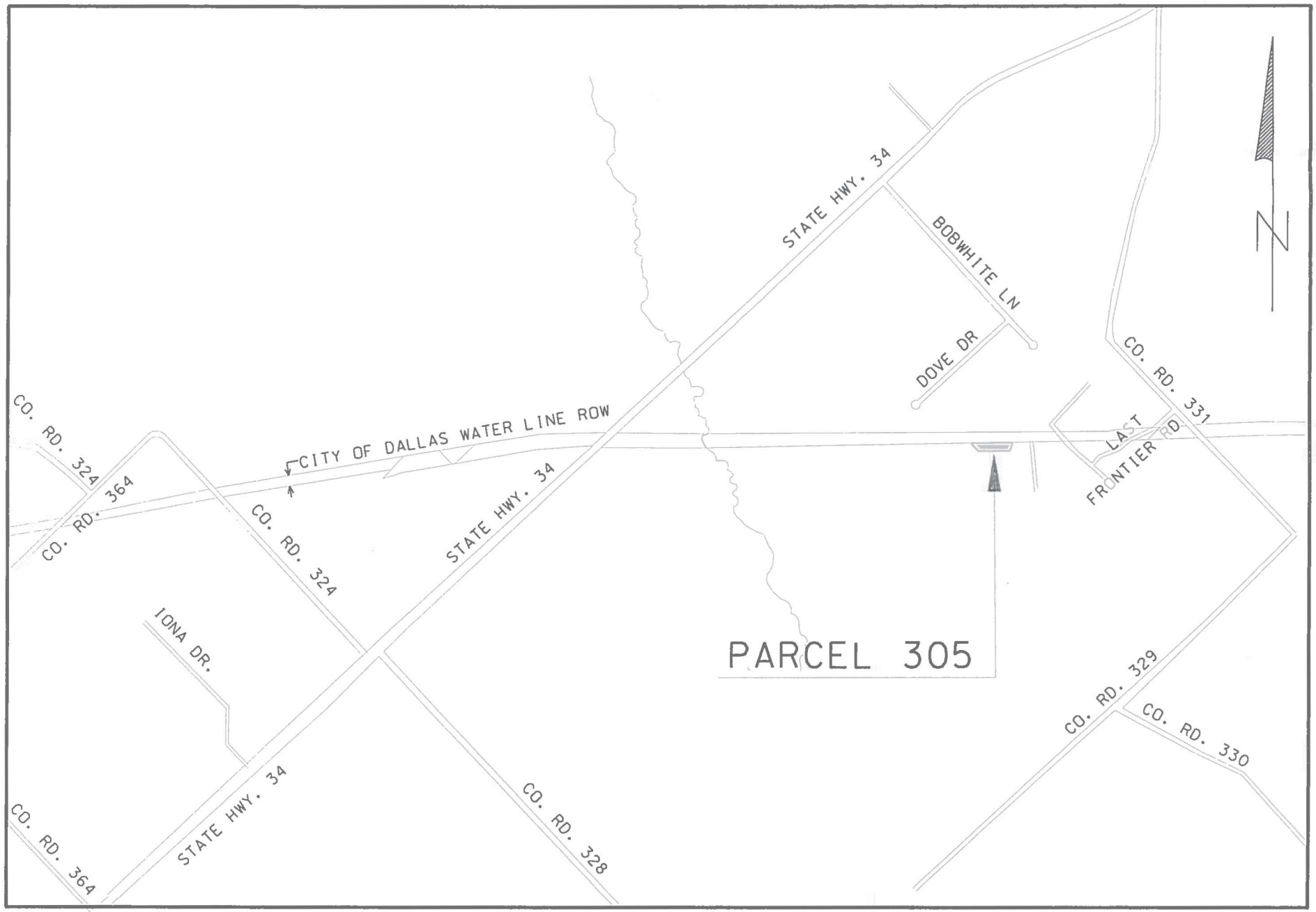
Water Utilities Capital Construction Funds - $97,000 ($93,900, plus closing costs and title expenses not to exceed $3,100)

OWNER

Sylvia Covington

MAP

Attached



VICINITY MAP

APPROXIMATE SCALE 1" = 2000'

March 22, 2017

A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS PURCHASE FOR PUBLIC USE.

DEFINITIONS: For the purposes of this resolution, the following definitions of terms shall apply:

"CITY": The City of Dallas

"PROPERTY": Approximately 71,824 square feet of land located in Kaufman County, Texas, and being the same property more particularly described in "Exhibit A", attached hereto and made a part hereof for all purposes, and any and all improvements, rights and appurtenances appertaining thereto.

"PROJECT": Lake Tawakoni 144-inch Transmission Pipeline

"USE": The installation, use, and maintenance of a pipeline or lines for the transmission of treated water together with such appurtenant facilities as may be necessary, provided, however, to the extent fee title to the PROPERTY is acquired, such title and the PROPERTY shall not be limited to or otherwise deemed restricted to the USE herein provided.

"PROPERTY INTEREST": Fee Simple Title, subject to the exceptions, reservations, covenants, conditions and/or interests, if any, provided in the form instrument more particularly described in Exhibit "B" attached hereto and made a part hereof for all purposes.

"OWNER": Sylvia Covington, provided, however, that the term "OWNER" as used in this resolution means all persons having an ownership interest, regardless of whether those persons are actually named herein.

"PURCHASE AMOUNT": $93,900

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed $3,100

"AUTHORIZED AMOUNT": Not to exceed $97,000

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

SECTION 1. That the USE of the PROPERTY for the PROJECT is a public use.

SECTION 2. That public necessity requires that CITY acquire the PROPERTY INTEREST in the PROPERTY for the PROJECT.

SECTION 3. That the City Manager, and/or the City Manager's designees, is hereby authorized and directed to consummate and accept the purchase, grant, and conveyance to CITY of the PROPERTY INTEREST in and to the PROPERTY pursuant to the conveyancing instrument substantially in the form described in Exhibit "B", attached hereto and made a part hereof for all purposes, and approved as to form by the City Attorney and to execute, deliver and receive such other usual and customary documents necessary, appropriate and convenient to consummating this transaction.

SECTION 4. That to the extent the PROPERTY is being purchased wholly or partly with bond proceeds CITY has obtained an independent appraisal of the PROPERTY'S market value.

SECTION 5. That OWNER has been provided with a copy of the Landowner's Bill of Rights as contemplated by applicable state statute.

SECTION 6. That in the event this acquisition closes, the Chief Financial Officer is authorized and directed to draw a warrant in favor of the OWNER, or the then current owner of record, or the title company closing the transaction described herein in the PURCHASE AMOUNT and CLOSING COSTS AND TITLE EXPENSES payable out of Water Utilities Capital Construction Funds, Fund No. 0102, Department DWU, Unit CW20, Activity RWPT, Program No. 704041, Object 4210, Encumbrance No. CT-DWU704041JJ. The PURCHASE AMOUNT, CLOSING COSTS and TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

SECTION 7. That CITY is to have possession and/or use, as applicable, of the PROPERTY at closing; and CITY will pay any title expenses and closing costs. All costs and expenses described in this section shall be paid from the previously described funds.

SECTION 8. 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:
LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN KAUFMAN COUNTY, TEXAS
Parcel: 305

BEING a 1.649 acre tract of land in the A. Maxamilia Survey, Abstract No. 311, in Kaufman County, Texas, and being part of a called 3.5763 acre tract of land described in Warranty Deed (with Vendor's Lien) to Lester B. Covington and wife, Sylvia Covington, dated August 10, 1982, as recorded in Volume 726, Page 470, Deed Records of Kaufman County, Texas, (D.R.K.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the west corner of said Covington tract, being the north corner of a called 4.141 acre tract of land described as Tract II in Warranty Deed to North Texas Municipal Water District, dated June 29, 2006, as recorded in Volume 2918, Page 503, D.R.K.C.T., and being in the southeast line of Lot 47 of the Quail Hollow Subdivision, as recorded in Cabinet 1, Slide 781, Plat Records of Kaufman County, Texas;

THENCE North 44 degrees 04 minutes 31 seconds East, with the northwest line of said Covington tract and the southeast line of said Lot 47, a distance of 24.90 feet to a 1/2-inch iron rod with red cap stamped "DAL-TECH" (hereinafter referred to as "with cap") set at the northwest corner of said Covington tract and the southwest corner of a City of Dallas Water Line Right-of-Way (variable width Right-of-Way) as recorded in Volume 435, Page 507, D.R.K.C.T.,

THENCE North 85 degrees 59 minutes 31 seconds East, departing the southeast line of said Lot 47 and with the north line of said Covington tract and the south line of said City of Dallas Water Line Right-of-Way, a distance of 601.51 feet to a1/2-inch iron rod with cap set at the northeast corner of said Covington tract and the northwest corner of a tract of land described in Special Warranty Deed to Henry Oluwarotimi Sunday Somoye, as recorded in Volume 3041, Page 366, D.R.K.C.T.;

THENCE South 13 degrees 01 minute 01 second West, with the east line of said Covington tract and the west line of said Somoye tract, a distance of 135.96 feet to a1/2-inch iron rod with cap set;

THENCE South 85 degrees 59 minutes 31 seconds West, departing the east line of said Covington tract and the west line of said Somoye tract, a distance of 473.68 feet to a1/2-inch iron rod with cap set in the southwest line of said Covington tract and the northeast line of said Tract II;

THENCE North 47 degrees 13 minutes 56 seconds West, with the southwest line of said Covington tract and the northeast line of said Tract II, a distance of 155.58 feet to the POINT OF BEGINNING and containing 71,824 square feet or 1.649 acres of land.

FIELD NOTES APPROVED:

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN
KAUFMAN COUNTY, TEXAS
Parcel: 305

All bearings for this tract refer to the NAD-83 Texas State Plane Coordinate System, North Central Zone 4202, according to measurements made at NGS continuously operating reference stations Collin CORS ARP, Dallas CORS ARP, Kaufman CORS ARP, Tyler CORS ARP, and Paris CORS ARP. The Kaufman County scale factor of 1.000114077 as published by the Texas Department of Transportation, Dallas District was used for this project.

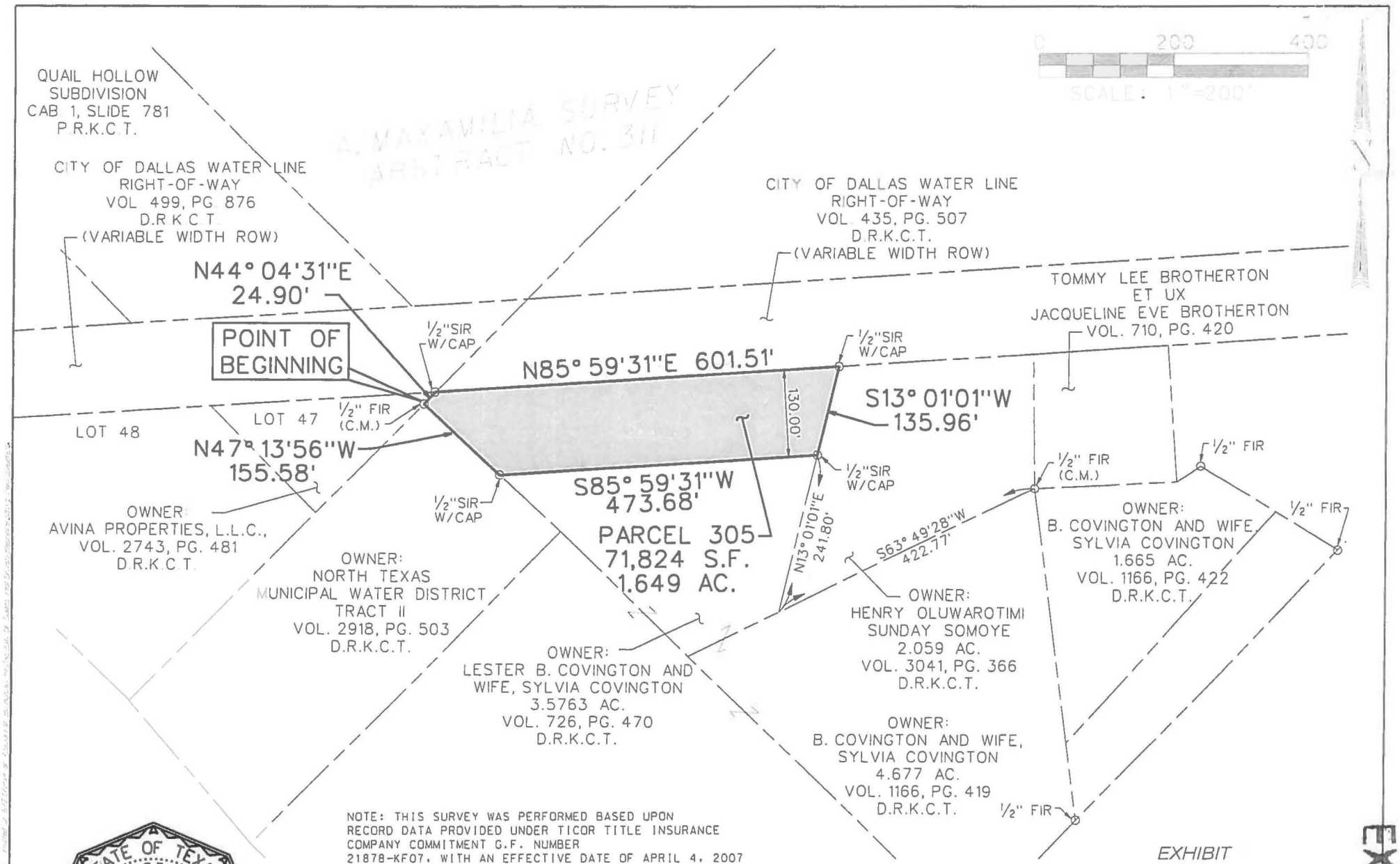
A plat of even survey date herewith accompanies this legal description.

Company Name: DAL-TECH Engineering, Inc.
TBPLS Firm No. 10123500

By: _____ Date: 10.24.14

Surveyor's Name: Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504

STATE OF TEXAS
REGISTERED
PATRICK J. BALDASARO
5504
PROFESSIONAL
LAND SURVEYOR



NOTE: THIS SURVEY WAS PERFORMED BASED UPON RECORD DATA PROVIDED UNDER TICOR TITLE INSURANCE COMPANY COMMITMENT G.F. NUMBER 21878-KF07, WITH AN EFFECTIVE DATE OF APRIL 4, 2007

STATE OF TEXAS
REGISTERED
PATRICK J. BALDASARO
5504
PROFESSIONAL
LAND SURVEYOR

LEGEND:

	S.F.	SQUARE FEET
	C.M.	CONTROL MONUMENT
O	FIR	FOUND IRON ROD
O	FIP	FOUND IRON PIPE
O	1/2"SIR W/CAP	1/2" SET IRON ROD WITH A RED PLASTIC CAP STAMPED "DAL-TECH" OR "DTE"
O	SX	SET "X" CUT IN CONCRETE
O	FPK	FOUND PK. NAIL
O	SPK	SET PK. NAIL

ALL BEARINGS FOR THIS TRACT REFER TO THE NAD-83 TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, ACCORDING TO MEASUREMENTS MADE AT NGS CONTINUOUSLY OPERATING REFERENCE STATIONS COLLIN CORS ARP, DALLAS CORS ARP, KAUFMAN CORS ARP, TYLER CORS ARP, AND PARIS CORS ARP. THE KAUFMAN COUNTY SCALE FACTOR OF 1.000114077 AS PUBLISHED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, DALLAS DISTRICT WAS USED FOR THIS PROJECT.

EXHIBIT
OF A
RIGHT-OF-WAY ACQUISITION
SITUATED IN THE
A. MAXAMILIA SURVEY, ABSTRACT NO. 311
KAUFMAN COUNTY, TEXAS
FOR THE
CITY OF DALLAS
BY

DAL-TECH ENGINEERING, INC., 17400 DALLAS PKWY., SUITE 110
DALLAS, TEXAS 75287, TEL. (972)250-2727, FAX (972)250-1774

EXHIBIT A

EXHIBIT B

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED

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

That Sylvia Covington, a widow and the Estate of Lester B. Covington (hereinafter called "Grantor" whether one or more natural persons or legal entities) of the County of Dallas, State of Texas, for and in consideration of the sum of NINETY THREE THOUSAND NINE HUNDRED AND 00/100 DOLLARS ($93,900.00) to the undersigned in hand paid by the **City of Dallas, 1500 Marilla Street, Dallas, Texas, 75201**, a Texas municipal corporation (hereinafter called "City"), the receipt of which is hereby acknowledged and confessed, has granted, sold and conveyed and does hereby grant, sell and convey unto City, its successors and assigns, all of the property described in Exhibit "A", attached hereto and made a part hereof by reference for all purposes.

SPECIAL PROVISIONS: This conveyance is made and accepted subject to the reservations provided in Exhibit B which is attached hereto and incorporated herein for all purposes.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto City, its successors and assigns forever, and Grantor binds Grantor and Grantor's heirs, executors, administrators or successors, to Warrant and Forever Defend all and singular the said premises unto City, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

EXECUTED this _____ day of _____, _____.

_____
Sylvia Covington

* * * * * * * * * * * * * * * * * * * *

STATE OF TEXAS '
COUNTY OF KAUFMAN '

This instrument was acknowledged before me on _____
by Sylvia Covington.

_____
Notary Public, State of TEXAS

* * * * * * * * * * * * * * * * * * * *

After recording return to:
City of Dallas
Department of Sustainable Development and Construction
Real Estate Division
320 East Jefferson Boulevard, Room 203
Dallas, Texas 75203
attn: Christian Roman

Warranty Deed Log No. 40843

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN KAUFMAN COUNTY, TEXAS
Parcel: 305

BEING a 1.649 acre tract of land in the A. Maxamilia Survey, Abstract No. 311, in Kaufman County, Texas, and being part of a called 3.5763 acre tract of land described in Warranty Deed (with Vendor's Lien) to Lester B. Covington and wife, Sylvia Covington, dated August 10, 1982, as recorded in Volume 726, Page 470, Deed Records of Kaufman County, Texas, (D.R.K.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the west corner of said Covington tract, being the north corner of a called 4.141 acre tract of land described as Tract II in Warranty Deed to North Texas Municipal Water District, dated June 29, 2006, as recorded in Volume 2918, Page 503, D.R.K.C.T., and being in the southeast line of Lot 47 of the Quail Hollow Subdivision, as recorded in Cabinet 1, Slide 781, Plat Records of Kaufman County, Texas;

THENCE North 44 degrees 04 minutes 31 seconds East, with the northwest line of said Covington tract and the southeast line of said Lot 47, a distance of 24.90 feet to a 1/2-inch iron rod with red cap stamped "DAL-TECH" (hereinafter referred to as "with cap") set at the northwest corner of said Covington tract and the southwest corner of a City of Dallas Water Line Right-of-Way (variable width Right-of-Way) as recorded in Volume 435, Page 507, D.R.K.C.T.,

THENCE North 85 degrees 59 minutes 31 seconds East, departing the southeast line of said Lot 47 and with the north line of said Covington tract and the south line of said City of Dallas Water Line Right-of-Way, a distance of 601.51 feet to a1/2-inch iron rod with cap set at the northeast corner of said Covington tract and the northwest corner of a tract of land described in Special Warranty Deed to Henry Oluwarotimi Sunday Somoye, as recorded in Volume 3041, Page 366, D.R.K.C.T.;

THENCE South 13 degrees 01 minute 01 second West, with the east line of said Covington tract and the west line of said Somoye tract, a distance of 135.96 feet to a1/2-inch iron rod with cap set;

THENCE South 85 degrees 59 minutes 31 seconds West, departing the east line of said Covington tract and the west line of said Somoye tract, a distance of 473.68 feet to a1/2-inch iron rod with cap set in the southwest line of said Covington tract and the northeast line of said Tract II;

THENCE North 47 degrees 13 minutes 56 seconds West, with the southwest line of said Covington tract and the northeast line of said Tract II, a distance of 155.58 feet to the POINT OF BEGINNING and containing 71,824 square feet or 1.649 acres of land.

FIELD NOTES APPROVED: 11/6/14

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN
KAUFMAN COUNTY, TEXAS
Parcel: 305

All bearings for this tract refer to the NAD-83 Texas State Plane Coordinate System, North Central Zone 4202, according to measurements made at NGS continuously operating reference stations Collin CORS ARP, Dallas CORS ARP, Kaufman CORS ARP, Tyler CORS ARP, and Paris CORS ARP. The Kaufman County scale factor of 1.000114077 as published by the Texas Department of Transportation, Dallas District was used for this project.

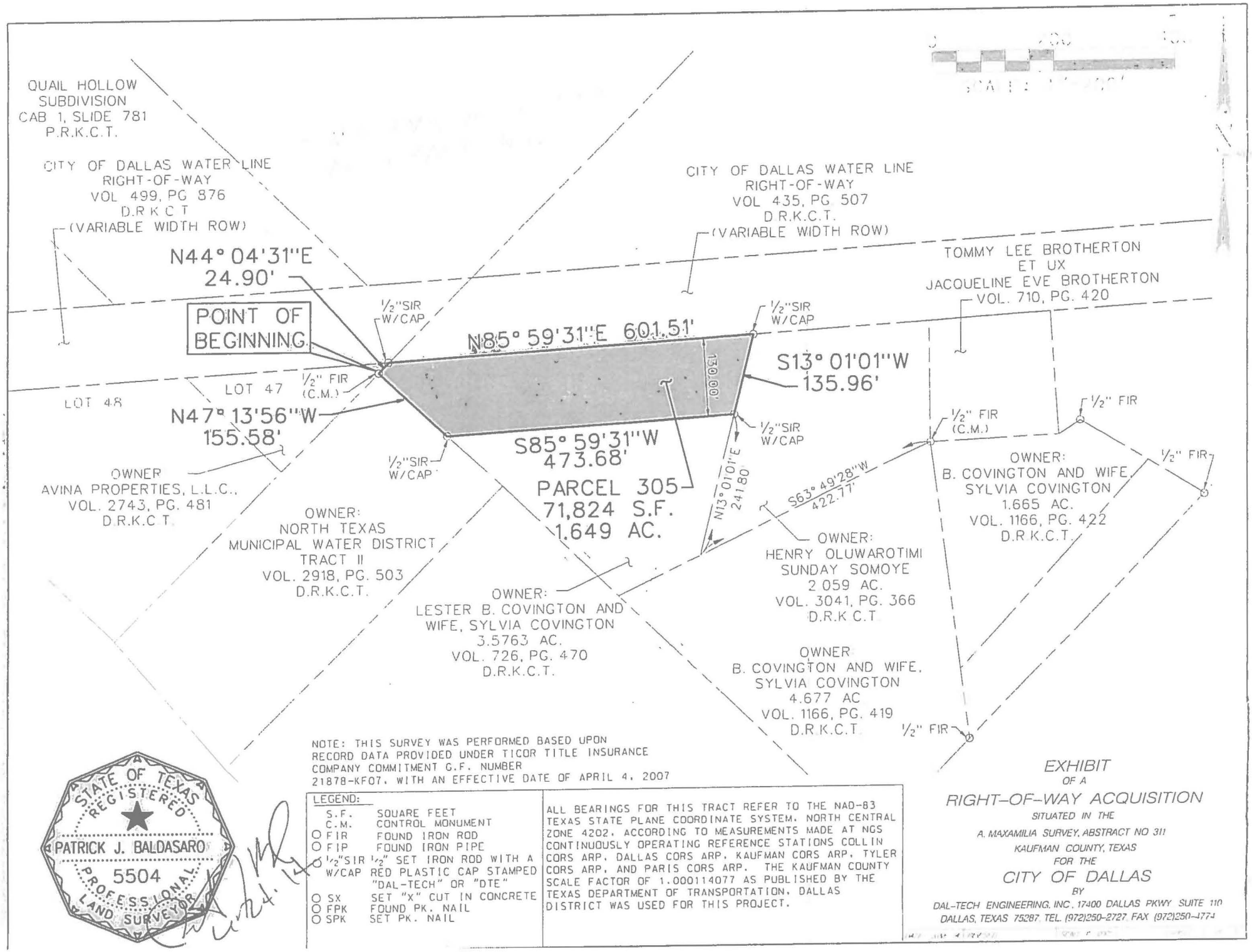
A plat of even survey date herewith accompanies this legal description.

Company Name: DAL-TECH Engineering, Inc.
TBPLS Firm No. 10123500

By: _____ Date: 10.24.14

Surveyor's Name: Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504





NOTE: THIS SURVEY WAS PERFORMED BASED UPON RECORD DATA PROVIDED UNDER TICOR TITLE INSURANCE COMPANY COMMITMENT G.F. NUMBER 21878-KF07, WITH AN EFFECTIVE DATE OF APRIL 4, 2007

STATE OF TEXAS
REGISTERED
PATRICK J. BALDASARO
5504
PROFESSIONAL
LAND SURVEYOR

LEGEND:

S.F.	SQUARE FEET
C.M.	CONTROL MONUMENT
O FIR	FOUND IRON ROD
O FIP	FOUND IRON PIPE
O 1/2"SIR W/CAP	1/2" SET IRON ROD WITH A RED PLASTIC CAP STAMPED "DAL-TECH" OR "DTE"
O SX	SET "X" CUT IN CONCRETE
O FPK	FOUND PK. NAIL
O SPK	SET PK. NAIL

ALL BEARINGS FOR THIS TRACT REFER TO THE NAD-83 TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, ACCORDING TO MEASUREMENTS MADE AT NGS CONTINUOUSLY OPERATING REFERENCE STATIONS COLLIN CORS ARP, DALLAS CORS ARP, KAUFMAN CORS ARP, TYLER CORS ARP, AND PARIS CORS ARP. THE KAUFMAN COUNTY SCALE FACTOR OF 1.000114077 AS PUBLISHED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, DALLAS DISTRICT WAS USED FOR THIS PROJECT.

EXHIBIT
OF A
RIGHT-OF-WAY ACQUISITION
SITUATED IN THE
A. MAXAMILIA SURVEY, ABSTRACT NO 311
KAUFMAN COUNTY, TEXAS
FOR THE
CITY OF DALLAS
BY

DAL-TECH ENGINEERING, INC., 17400 DALLAS PKWY SUITE 110
DALLAS, TEXAS 75287, TEL. (972)250-2727, FAX (972)250-1774

EXHIBIT "B"

EASEMENT – ACCESS
[Specific Location]

Grantor, for Grantor and Grantor's heirs, successors and assigns ("the holder of the easement") does hereby reserve an easement over, on and across the property described in Attachment "1", attached hereto and made a part hereof by reference for all purposes, (the "Easement Area") to provide free and uninterrupted pedestrian, vehicular and utility access to and from Grantor's adjoining or abutting property, being more fully described in Attachment "2", attached hereto and made a part hereof by reference for all purposes, (the "Dominant Estate Property") and portions thereof, in a manner as not to endanger or interfere with the safe, efficient and/or convenient use of and activity on the property described in Exhibit "A" by City.

The easement is appurtenant to and runs with the Dominant Estate Property and all portions of it, whether or not the easement is referenced in any conveyance of the Dominant Estate Property or any portion of it. The easement binds and inures to the benefit of Grantor and City and their respective heirs, successors, and assigns.

The easement is perpetual.

This easement is nonexclusive, and City reserves for City and City's successors and assigns the right to convey the same or similar easement or other rights or easements to others. Notwithstanding any provision of this easement reservation to the contrary, City and City's successors and assigns shall in all respects and at all times have the superior and paramount right of use, access and control of the Easement Property, without any liability for damages, destruction or injury to any improvements located in the easement, from time to time.

Professionally engineered plans and specifications bearing the seal of a professional engineer currently registered in the State of Texas showing any and all improvements desired by the holder of the easement, including without limitation, fill or removal of soil within the easement, paving, support, protection of City's uses, utility lines, structures and facilities, must be submitted to and approved in writing by the City of Dallas Water Department ("DWU") in advance of any construction by the holder of the easement. No vehicle, equipment or machinery exceeding a total weight of 15,000 lbs may come on the easement or any use be allowed to exist that would exceed said weight limit at any time during normal use unless confined to the designated access points on improvements the plans and specifications for which are structurally designed and constructed with supporting appurtenances that meet or exceed H20 highway design capacity and that protect the City's facilities from all imposed loading. The parties acknowledge and agree that the paramount consideration in the evaluation of any proposed improvements is to fully and completely accommodate City's uses (current, anticipated, and/or potential) of the property described in Exhibit "A" and any facilities it may install. Consequently, City's determinations in this regard are conclusive and final. All such improvements and maintenance of the Easement Property will be at the sole expense of the holder of the easement and must be constructed in a good and workmanlike manner in

conformity with the approved plans and specifications. The holder of the easement will maintain the Easement Property in a neat, clean and safe condition at all times.

The holder of the easement agrees to indemnify, defend and hold City and City's successors in interest harmless from any loss, attorney's fees, court and other costs, expenses or claims attributable to any breach or default of any provision of this easement by the holder and/or any negligent act or omission by the holder with regard to this easement. In the event the holder of the easement shall place any unpermitted structure, improvement, use or material within the Easement Property and fails to remove same immediately upon receipt of notice from City, City shall have the right, but not the obligation, to remove such structure, improvement, use and/or material, and the holder of the easement shall reimburse City for any and all costs connected with such action immediately upon demand.

Exhibit A

Attachment No. 1

FIELD NOTES
DESCRIBING A TRACT OF LAND TO BE ACQUIRED FOR A 20' ACCESS EASEMENT FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN
KAUFMAN COUNTY, TEXAS
Parcel: 305ACE

BEING a 0.1079 acre tract of land in the A. Maxamilia Survey, Abstract No. 311, in Kaufman County, Texas, and being part of a called 3.5763 acre tract of land described in Warranty Deed (with Vendor's Lien) to Lester B. Covington and wife, Sylvia Covington, dated August 10, 1982, as recorded in Volume 726, Page 470, Deed Records of Kaufman County, Texas, (D.R.K.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the northeast corner of said Covington tract, being the northwest corner of a called 2.059 acre tract of land described in Special Warranty Deed to Henry Oluwarotimi Sunday Somoye, as recorded in Volume 3041, Page 366, D.R.K.C.T., and being in the south line of City of Dallas Water Line Right-of-Way, as recorded in Volume 435, Page 507, D.R.K.C.T.;

THENCE South 13 degrees 01 minute 01 second West, departing said south line and with the east line of said Covington tract and the west line of said Somoye tract, a distance of 20.92 feet to a 1/2-inch iron rod with red cap stamped "DAL-TECH" (hereinafter referred to as "with cap") set;

THENCE South 85 degrees 59 minutes 31 seconds West, departing said east and west lines, a distance of 232.05 feet to a 1/2-inch iron rod with cap set;

THENCE North 04 degrees 00 minute 29 seconds West, a distance of 20.00 feet to a 1/2-inch iron rod with cap set in the south line of said City of Dallas Water Line Right-of-Way and the north line of said Covington tract;

THENCE North 85 degrees 59 minutes 31 seconds East, with said north and south lines, a distance of 238.18 feet to the POINT OF BEGINNING and containing 4,702 square feet or 0.1079 acres of land.

All bearings for this tract refer to the NAD-83 Texas State Plane Coordinate System, North Central Zone 4202, according to measurements made at NGS continuously operating reference stations Collin CORS ARP, Dallas CORS ARP, Kaufman CORS ARP, Tyler CORS ARP, and Paris CORS ARP. The Kaufman County scale factor of 1.000114077 as published by the Texas Department of Transportation, Dallas District was used for this project.

A plat of even survey date herewith accompanies this legal description.

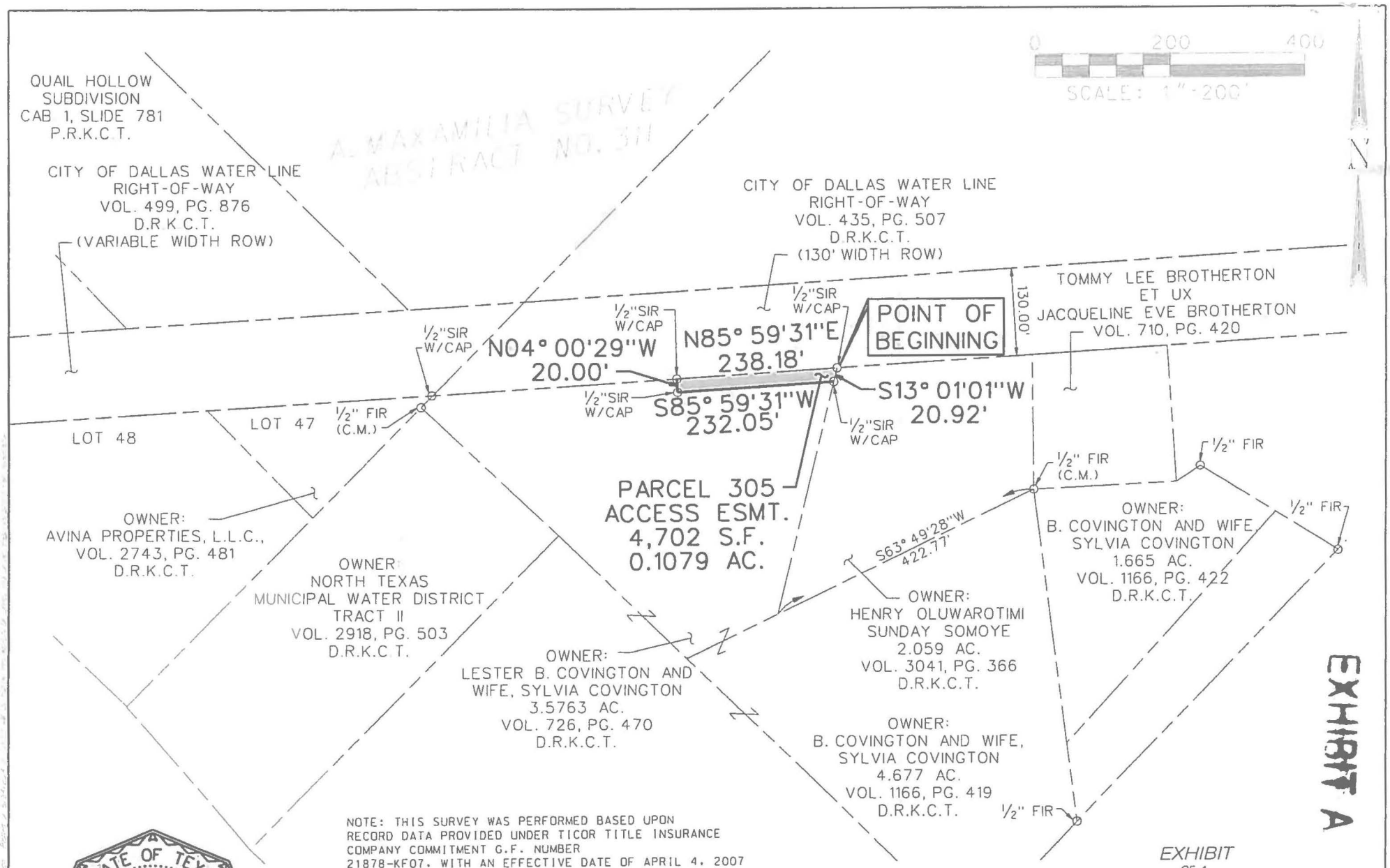
FIELD NOTES APPROVED: 7/6/14

Company Name: DAL-TECH Engineering, Inc.
TBPLS Firm No. 10123500

By: _____ Date: 6-24-14

STATE OF TEXAS REGISTERED PATRICK J. BALDASARO 5504 PROFESSIONAL LAND SURVEYOR

Surveyor's Name: Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504



NOTE: THIS SURVEY WAS PERFORMED BASED UPON RECORD DATA PROVIDED UNDER TICOR TITLE INSURANCE COMPANY COMMITMENT G.F. NUMBER 21878-KF07. WITH AN EFFECTIVE DATE OF APRIL 4, 2007

LEGEND:

S.F.	SQUARE FEET
C.M.	CONTROL MONUMENT
O FIR	FOUND IRON ROD
O FIP	FOUND IRON PIPE
O ½"SIR W/CAP	½" SET IRON ROD WITH A RED PLASTIC CAP STAMPED "DAL-TECH" OR "DTE"
O SX	SET "X" CUT IN CONCRETE
O FPK	FOUND PK. NAIL
O SPK	SET PK. NAIL

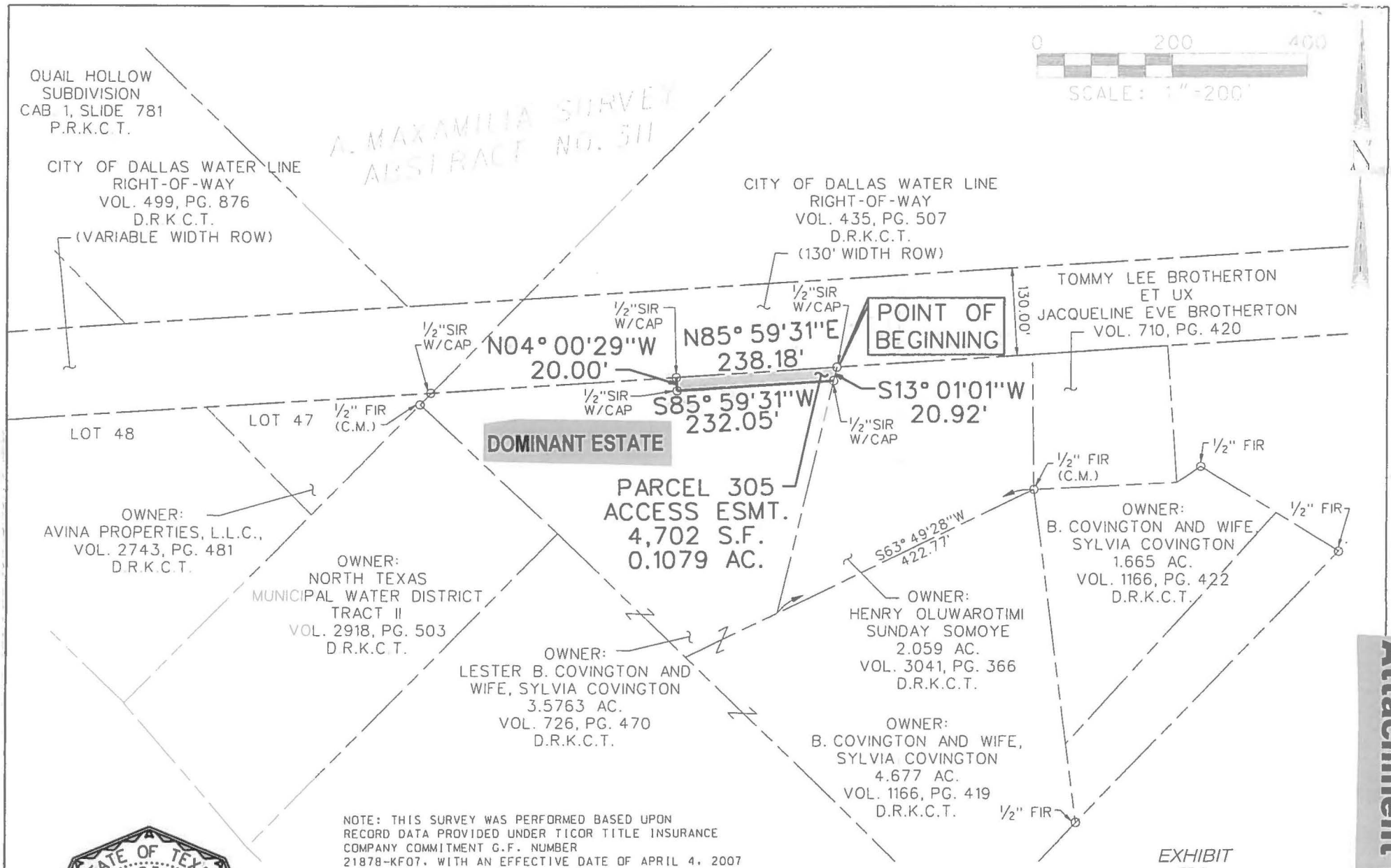
ALL BEARINGS FOR THIS TRACT REFER TO THE NAD-83 TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, ACCORDING TO MEASUREMENTS MADE AT NGS CONTINUOUSLY OPERATING REFERENCE STATIONS COLLIN CORS ARP, DALLAS CORS ARP, KAUFMAN CORS ARP, TYLER CORS ARP, AND PARIS CORS ARP. THE KAUFMAN COUNTY SCALE FACTOR OF 1.000114077 AS PUBLISHED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, DALLAS DISTRICT WAS USED FOR THIS PROJECT.

STATE OF TEXAS REGISTERED PATRICK J. BALDASARO 5504 PROFESSIONAL LAND SURVEYOR

12-4-14

EXHIBIT
OF A
ACCESS EASEMENT
SITUATED IN THE
A. MAXAMILIA SURVEY, ABSTRACT NO 311
KAUFMAN COUNTY, TEXAS
FOR THE
CITY OF DALLAS

BY
DAL-TECH ENGINEERING, INC., 17400 DALLAS PKWY., SUITE 110
DALLAS, TEXAS 75287, TEL. (972)250-2727, FAX (972)250-1774



NOTE: THIS SURVEY WAS PERFORMED BASED UPON RECORD DATA PROVIDED UNDER TICOR TITLE INSURANCE COMPANY COMMITMENT G.F. NUMBER 21878-KF07, WITH AN EFFECTIVE DATE OF APRIL 4, 2007

STATE OF TEXAS
REGISTERED
PATRICK J. BALDASARO
5504
PROFESSIONAL
LAND SURVEYOR

12-14

LEGEND:		
S.F.	SQUARE FEET	ALL BEARINGS FOR THIS TRACT REFER TO THE NAD-83 TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, ACCORDING TO MEASUREMENTS MADE AT NGS CONTINUOUSLY OPERATING REFERENCE STATIONS COLLIN CORS ARP, DALLAS CORS ARP, KAUFMAN CORS ARP, TYLER CORS ARP, AND PARIS CORS ARP. THE KAUFMAN COUNTY SCALE FACTOR OF 1.000114077 AS PUBLISHED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, DALLAS DISTRICT WAS USED FOR THIS PROJECT.
C.M.	CONTROL MONUMENT	
O FIR	FOUND IRON ROD	
O FIP	FOUND IRON PIPE	
O ½"SIR W/CAP	½" SET IRON ROD WITH A RED PLASTIC CAP STAMPED "DAL-TECH" OR "DTE"	
O SX	SET "X" CUT IN CONCRETE	
O FPK	FOUND PK. NAIL	
O SPK	SET PK. NAIL	

EXHIBIT
OF A
ACCESS EASEMENT
SITUATED IN THE
A. MAXAMILIA SURVEY, ABSTRACT NO 311
KAUFMAN COUNTY, TEXAS
FOR THE
CITY OF DALLAS
BY

DAL-TECH ENGINEERING, INC., 17400 DALLAS PKWY, SUITE 110
DALLAS, TEXAS 75287, TEL. (972)250-2727 FAX (972)250-4774

Attachment No. 2

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN KAUFMAN COUNTY, TEXAS
Parcel: 305

BEING a 1.649 acre tract of land in the A. Maxamilia Survey, Abstract No. 311, in Kaufman County, Texas, and being part of a called 3.5763 acre tract of land described in Warranty Deed (with Vendor's Lien) to Lester B. Covington and wife, Sylvia Covington, dated August 10, 1982, as recorded in Volume 726, Page 470, Deed Records of Kaufman County, Texas, (D.R.K.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found at the west corner of said Covington tract, being the north corner of a called 4.141 acre tract of land described as Tract II in Warranty Deed to North Texas Municipal Water District, dated June 29, 2006, as recorded in Volume 2918, Page 503, D.R.K.C.T., and being in the southeast line of Lot 47 of the Quail Hollow Subdivision, as recorded in Cabinet 1, Slide 781, Plat Records of Kaufman County, Texas;

THENCE North 44 degrees 04 minutes 31 seconds East, with the northwest line of said Covington tract and the southeast line of said Lot 47, a distance of 24.90 feet to a 1/2-inch iron rod with red cap stamped "DAL-TECH" (hereinafter referred to as "with cap") set at the northwest corner of said Covington tract and the southwest corner of a City of Dallas Water Line Right-of-Way (variable width Right-of-Way) as recorded in Volume 435, Page 507, D.R.K.C.T.,

THENCE North 85 degrees 59 minutes 31 seconds East, departing the southeast line of said Lot 47 and with the north line of said Covington tract and the south line of said City of Dallas Water Line Right-of-Way, a distance of 601.51 feet to a1/2-inch iron rod with cap set at the northeast corner of said Covington tract and the northwest corner of a tract of land described in Special Warranty Deed to Henry Oluwarotimi Sunday Somoye, as recorded in Volume 3041, Page 366, D.R.K.C.T.;

THENCE South 13 degrees 01 minute 01 second West, with the east line of said Covington tract and the west line of said Somoye tract, a distance of 135.96 feet to a1/2-inch iron rod with cap set;

THENCE South 85 degrees 59 minutes 31 seconds West, departing the east line of said Covington tract and the west line of said Somoye tract, a distance of 473.68 feet to a1/2-inch iron rod with cap set in the southwest line of said Covington tract and the northeast line of said Tract II;

THENCE North 47 degrees 13 minutes 56 seconds West, with the southwest line of said Covington tract and the northeast line of said Tract II, a distance of 155.58 feet to the POINT OF BEGINNING and containing 71,824 square feet or 1.649 acres of land.

FIELD NOTES APPROVED: 11/6/14

EXHIBIT A

FIELD NOTES
DESCRIBING A TRACT OF LAND FOR FEE SIMPLE ACQUISITION OF RIGHT-OF-WAY FOR THE LAKE TAWAKONI RAW WATER TRANSMISSION MAIN
KAUFMAN COUNTY, TEXAS
Parcel: 305

All bearings for this tract refer to the NAD-83 Texas State Plane Coordinate System, North Central Zone 4202, according to measurements made at NGS continuously operating reference stations Collin CORS ARP, Dallas CORS ARP, Kaufman CORS ARP, Tyler CORS ARP, and Paris CORS ARP. The Kaufman County scale factor of 1.000114077 as published by the Texas Department of Transportation, Dallas District was used for this project.

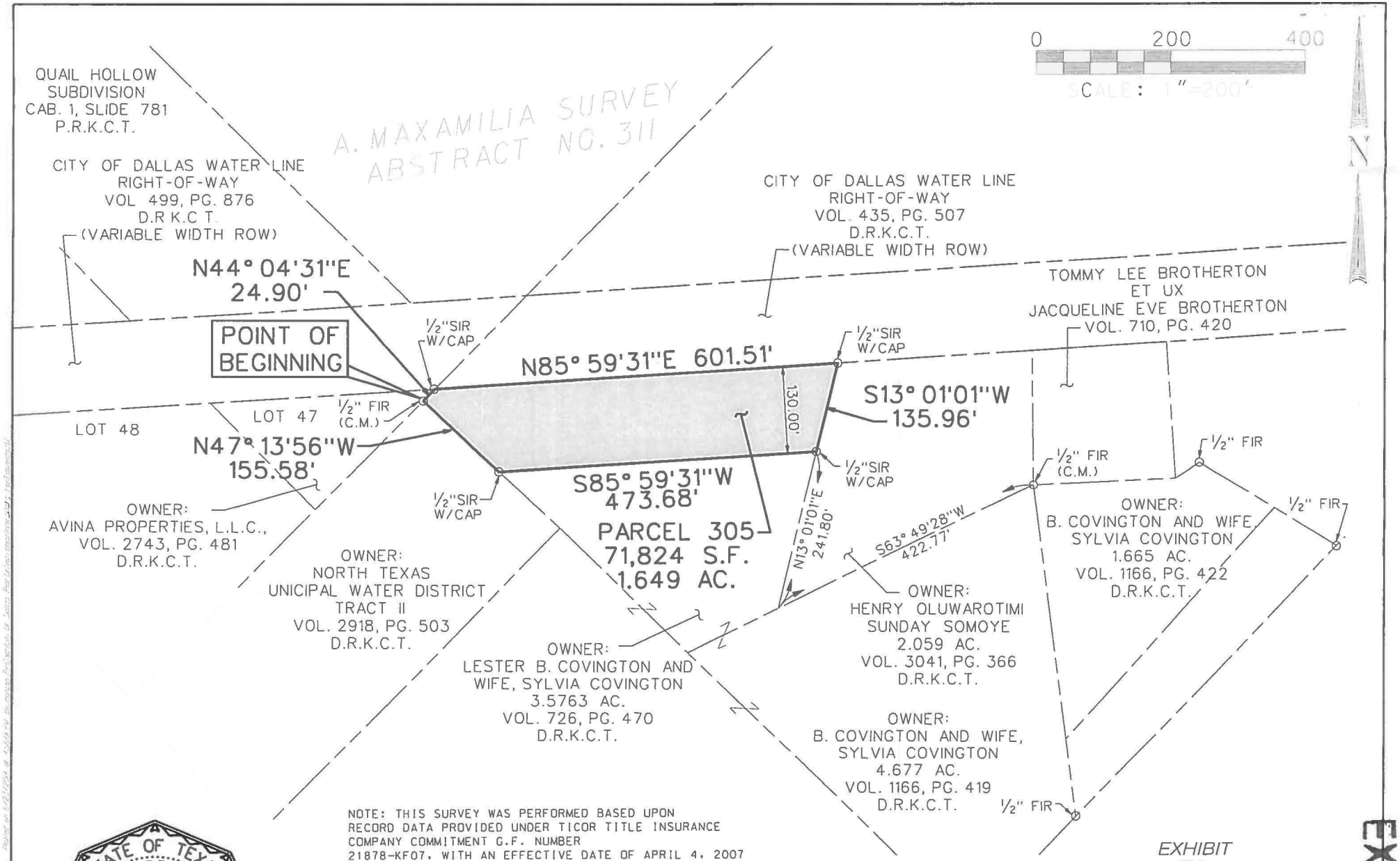
A plat of even survey date herewith accompanies this legal description.



Company Name: DAL-TECH Engineering, Inc.
TBPLS Firm No. 10123500

By: _____ Date: 10.24.14

Surveyor's Name: Patrick J. Baldasaro
Registered Professional Land Surveyor
Texas No. 5504



NOTE: THIS SURVEY WAS PERFORMED BASED UPON RECORD DATA PROVIDED UNDER TICOR TITLE INSURANCE COMPANY COMMITMENT G.F. NUMBER 21878-KF07, WITH AN EFFECTIVE DATE OF APRIL 4, 2007

STATE OF TEXAS
REGISTERED
PATRICK J. BALDASARO
5504
PROFESSIONAL
LAND SURVEYOR

LEGEND:

	S.F.	SQUARE FEET
	C.M.	CONTROL MONUMENT
O	FIR	FOUND IRON ROD
O	FIP	FOUND IRON PIPE
O	½"SIR W/CAP	½" SET IRON ROD WITH A RED PLASTIC CAP STAMPED "DAL-TECH" OR "DTE"
O	SX	SET "X" CUT IN CONCRETE
O	FPK	FOUND PK. NAIL
O	SPK	SET PK. NAIL

ALL BEARINGS FOR THIS TRACT REFER TO THE NAD-83 TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202, ACCORDING TO MEASUREMENTS MADE AT NGS CONTINUOUSLY OPERATING REFERENCE STATIONS COLLIN CORS ARP, DALLAS CORS ARP, KAUFMAN CORS ARP, TYLER CORS ARP, AND PARIS CORS ARP. THE KAUFMAN COUNTY SCALE FACTOR OF 1.000114077 AS PUBLISHED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, DALLAS DISTRICT WAS USED FOR THIS PROJECT.

EXHIBIT
OF A
RIGHT-OF-WAY ACQUISITION
SITUATED IN THE
A. MAXAMILIA SURVEY, ABSTRACT NO. 311
KAUFMAN COUNTY, TEXAS
FOR THE
CITY OF DALLAS
BY

DAL-TECH ENGINEERING, INC., 17400 DALLAS PKWY., SUITE 110
DALLAS, TEXAS 75287, TEL. (972)250-2727, FAX (972)250-1774

DATE: JUNE 14 | REVISED: | SCALE: 1" = 200' | SHEET 3 OF 3

EXHIBIT A

AGENDA ITEM # 29

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45H

SUBJECT

An ordinance granting a private license to AT&T Communications of the Southwest, Inc. for the use of subsurface space of approximately 404 square feet to maintain and utilize a 24 inch steel pipe for underground electrical wiring under a portion of Haskell Avenue right-of-way, near its intersection with Bryan Street - Revenue: $1,000 annually, plus the $20 ordinance publication fee

BACKGROUND

This item grants a private license to AT&T Communications of the Southwest, Inc. for the use of subsurface space approximately 404 square feet to maintain and utilize a 24 inch steel pipe for underground electrical wiring under a portion of Haskell Avenue right-of-way, near its intersection with Bryan Street. The use of this area will not impede pedestrian or vehicular traffic.

The licensee will indemnify the City and carry general liability insurance naming the City as an additional insured.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $1,000 annually, plus the $20 ordinance publication fee

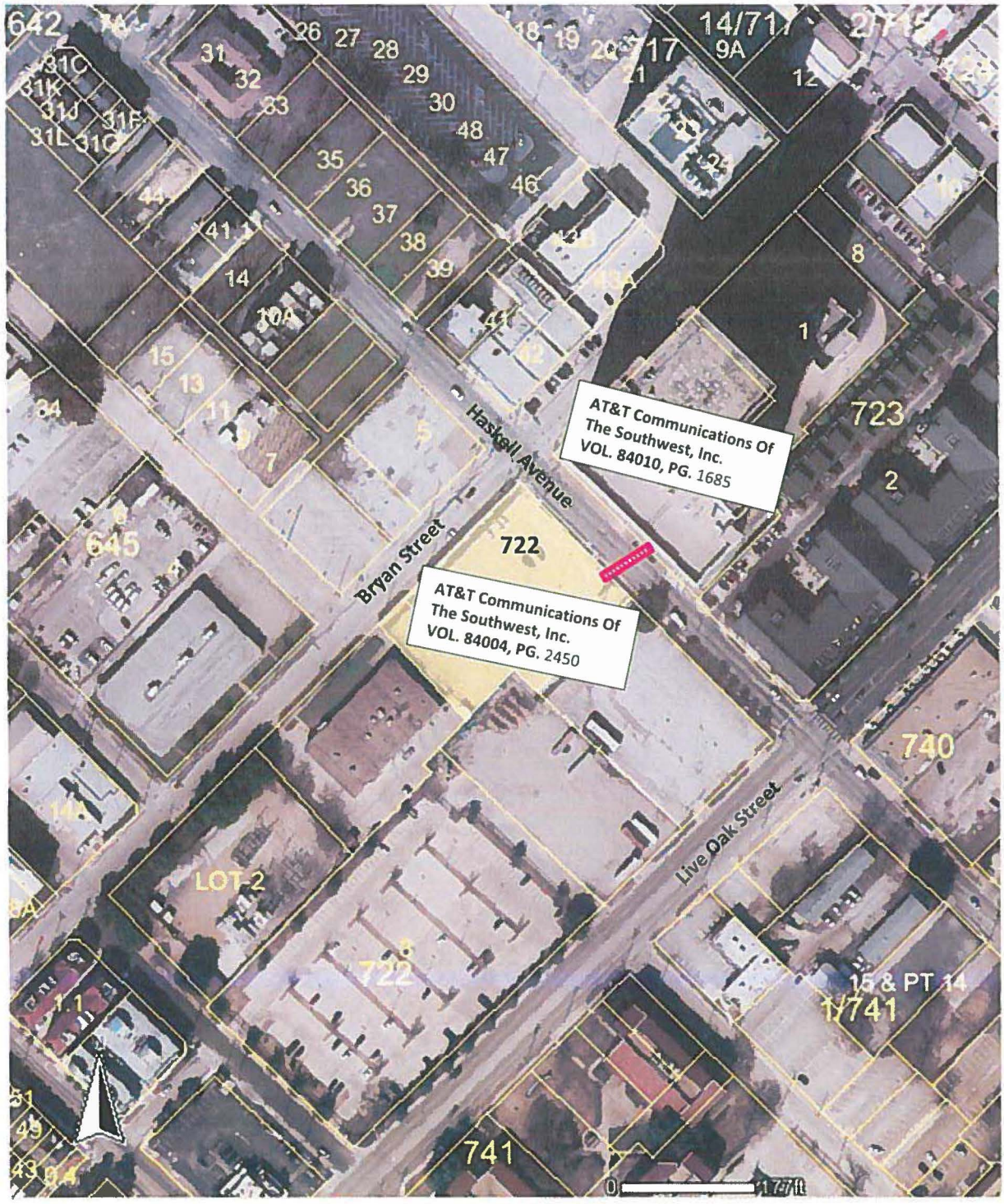
OWNER

AT&T Communications of the Southwest, Inc.

John Donovan, President

MAP

Attached



LICENSING AREA

ORDINANCE NO. _____

An ordinance granting a private license to AT&T Communication of the Southwest, Inc. to occupy, maintain, and utilize a subsurface portion of Haskell Avenue right-of-way located near the intersection of Bryan and Live Oak Streets adjacent to City Block 11/723 within the limits hereinafter more fully described, for the purpose of occupying, maintaining and utilizing a 24 inch steel pipe subsurface with 10, 4 inch conduits for underground electrical wiring; providing for the terms and conditions of this license; providing for the annual compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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

SECTION 1. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to AT&T Communications of the Southwest, Inc., a Delaware corporation, its successors and assigns, hereinafter referred to as "**GRANTEE**", to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas the sum of **ONE THOUSAND AND NO/100 ($1,000.00) DOLLARS** annually for the license herein granted, said sum to become due and payable on the 2nd day of January each year, in advance, during the term hereof; provided, however, that the first payment due hereunder in the sum of **ONE THOUSAND AND NO/100 ($1,000.00) DOLLARS** shall be paid prior to the final passage of this ordinance and shall cover the consideration for 2017. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. Should **GRANTEE** fail to pay the above stated annual fee within sixty (60) days of the due date, the Director of

Department of Sustainable Development and Construction may terminate this license. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in Fund 0001, Department DEV, Unit 1181, Revenue Source 8200. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of $25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: to occupy, maintain and utilize subsurface a 24 inch steel pipe underground with 10, 4 inch conduits for underground electrical wiring.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right by resolution duly passed by said Governing body, to terminate and cancel this license, upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of

Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

a) **GRANTEE** shall obtain a right-of-way permit prior to beginning any work in the right-of-way.

b) **GRANTEE** acknowledges there are is a 18" water main and a 8" wastewater main crossing perpendicular for this development. Engineer should pothole existing water/wastewater mains to accurately determine location. AT&T Communications of the Southwest, Inc. should provide adequate access to water and wastewater pipes for Dallas Water Utilities.

c) **GRANTEE** acknowledges ATMOS Energy has active facilities that are in the area and will be responsible for cost to relocate facilities if in conflict with existing facilities.

SECTION 8. Upon the effectiveness of this ordinance, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 9. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 10. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or designee. Such assignment shall recite that it is subject to the terms, restriction and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area, and a copy of the assignment, along with the assignee's written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or designee, may terminate this license.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the fee pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

EXHIBIT A

SUB-SURFACE
PRIVATE LICENSE AGREEMENT
HASKELL AVENUE
LYING IN BLOCK 722 AND ADJACENT TO BLOCK 11/723
JOHN GRIGSBY SURVEY, ABSTRACT No. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being a 404 square feet tract or parcel of land situated in the John Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas, being a part of Haskell Avenue (a variable width right-of-way, dedicated by Volume 76182, Page 502 and Volume 45, Page 56, Deed Records, Dallas County, Texas, no right-of-way dedication found, by use and occupation for the remainder of the right-of-way), between Bryan Street and Live Oak Street, lying adjacent in Block 722 and adjacent to Block 11/723, and being a part of a tract of land conveyed to AT&T Communications of the Southwest by Quitclaim Deed recorded in Volume 84004, Page 2450, Deed Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at the intersection of the northwest line of said Haskell Avenue (55' wide at this point) and the southeast line of Bryan Street (70' right-of-way), said intersection being the west corner of a tract of land conveyed to AT&T Communications of the Southwest by Quitclaim Deed recorded in Volume 84010, Page 1685, Deed Records, Dallas County, Texas;

THENCE South 44° 54' 00" East along the northwest line of said Haskell Avenue and southwest line of said AT&T tract (Volume 84010, Page 1685) a distance of 211.94 feet to a chiseled "X" in concrete set for corner and the **POINT OF BEGINNING**;

THENCE South 44° 54' 00" East along the common line between said Haskell Avenue and said AT&T tract (Volume 84010, Page 1685) a distance of 6.22 feet to a chiseled "X" in concrete set for corner;

THENCE South 60° 16' 26" West, departing the common line of said Haskell Avenue, passing at a distance of 56.99 feet the existing southwest line of said Haskell Avenue and northeast line of a tract of land conveyed to AT&T Communications of the Southwest, Inc. by Quitclaim Deed recorded in Volume 84004, Page 2450, Deed Records, Dallas County, Texas, and continuing a total distance of 67.40 feet to a chiseled "X" in concrete set for corner in the proposed southwest line of said Haskell Avenue;

THENCE North 44° 53' 23" West along said proposed line a distance of 6.22 feet to a chiseled "X" in concrete set for corner;

THENCE North 60° 16' 26" East, departing the proposed line of said Haskell Avenue, passing at a distance of 10.41 feet the existing common line between said Haskell Avenue and said AT&T tract (Volume 84004, Page 2450), and continuing a total distance of 67.40 feet to the **POINT OF BEGINNING** and containing 404 square feet or 0.009 acres, more or less.

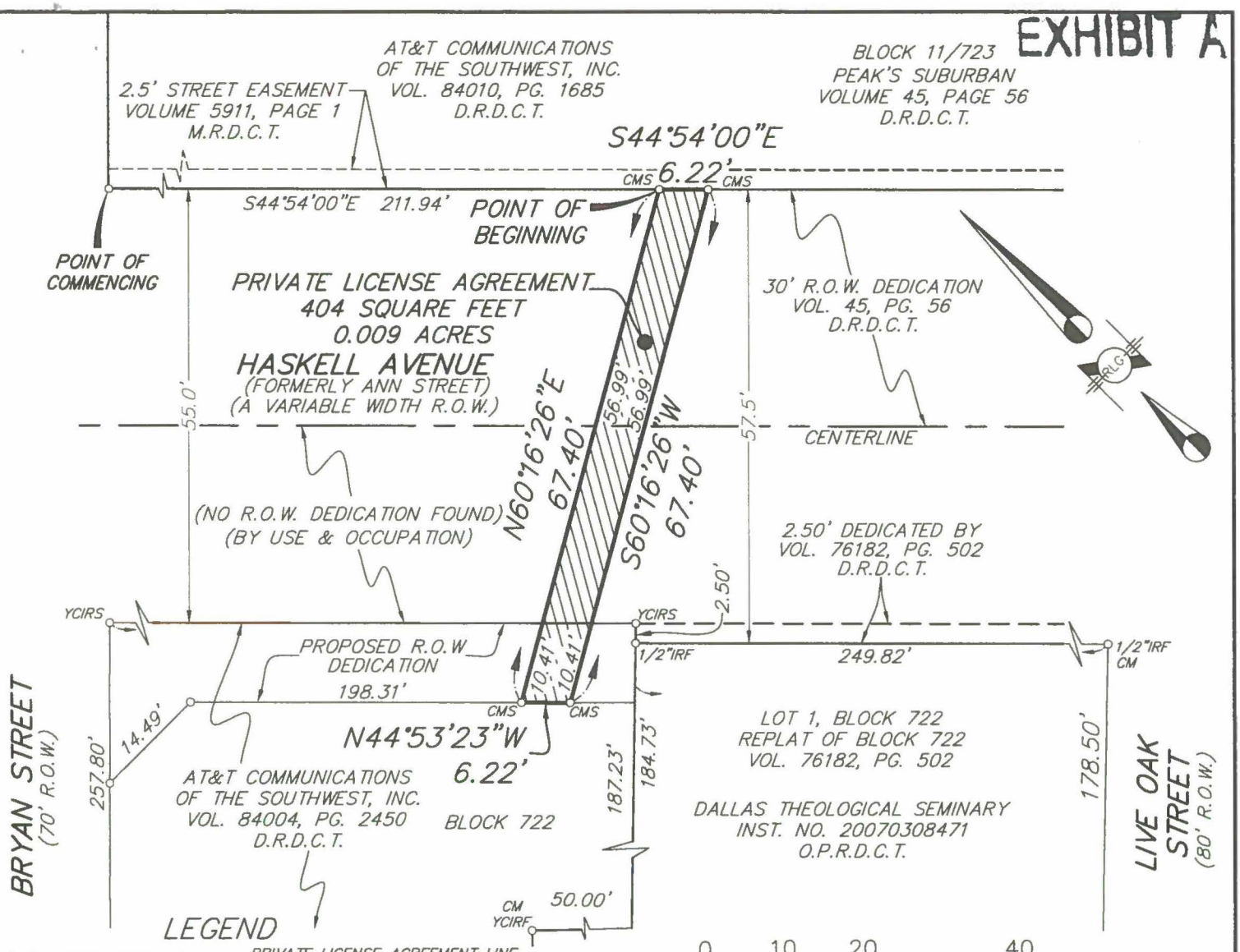
BASIS OF BEARINGS: THE NORTHWEST LINE OF BRYAN STREET (SOUTH 45° 00' 00" WEST) ACCORDING TO THE PLAT RECORDED IN INSTRUMENT NO. 200900248318, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS.

STATE OF TEXAS
REGISTERED
G. RICHARD BUSBY
4111
PROFESSIONAL
LAND SURVEYOR

G. Richard Busby R.P.L.S. No. 4111
6/1/2015

(For SPRG use only)
Reviewed By: David Scott
Date: 9.14.16
SPRG NO.: 3438

EXHIBIT A



LEGEND

———	..... PRIVATE LICENSE AGREEMENT LINE
———	..... LOT LINE
- - - - - - - - - - -	..... EASEMENT LINE
YCIRS	..... 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RLG INC" SET
IRS / IRF	..... IRON ROD SET / FOUND
CM	..... CONTROLLING MONUMENT
D.C.T.	..... DALLAS COUNTY, TX
O.P.R.	..... OFFICIAL PUBLIC RECORDS
D.R.	..... DEED RECORDS
VOL.	..... VOLUME
PG.	..... PAGE
R.O.W.	..... RIGHT-OF-WAY
CMS	..... CHISELED "X" SET

0 10 20 40

(FEET)

1 inch = 20 ft.

STATE OF TEXAS REGISTERED G. RICHARD BUSBY 4111 PROFESSIONAL LAND SURVEYOR

BASIS OF BEARINGS: THE NORTHWEST LINE OF BRYAN STREET (SOUTH 45° 00' 00" WEST) ACCORDING TO THE PLAT RECORDED IN INSTRUMENT NO. 200900248318, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS.

CONTROLLING MONUMENTS: AS SHOWN

G. Richard Busby R.P.L.S. NO. 4111
6/1/2015

RAYMOND L. GOODSON JR., INC.
5445 LA SIERRA, STE 300, LB 17
DALLAS, TX. 75231-4138
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REG #100341-00

SUB-SURFACE PRIVATE LICENSE AGREEMENT

HASKELL AVENUE

LYING IN BLOCK 722 AND ADJACENT TO BLOCK 11/723
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(For SPRG use only)
Reviewed By: David Scott
Date: 9-4-16
SPRG NO.: 3438

SCALE	1" = 20'	DATE	06-01-2015	SHEET	2 OF 2
JOB NO.	14005.10	E-FILE	14005.10LA	DWG NO.	26,173X

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

(a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.

(b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

(c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured 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 use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 per occurrence and $500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.

(d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.

(e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

(f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.

(g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

(h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

AGENDA ITEM # 30

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 35V

SUBJECT

An ordinance granting a private license to JLB Fitzhugh, LP, for the use of a total of approximately 4,681 square feet of subsurface and surface space to install, maintain, and utilize a subsurface conduit, seventy-one trees, forty-one post lights, eight string lights, concrete pavers, a sculpture, two accent lights, landscaping and irrigation, under, on and over a portion of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street rights-of-way, near its intersection with Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street - Revenue: $1,000 annually and $800 one-time fee, plus the $20 ordinance publication fee

BACKGROUND

This item grants a private license to JLB Fitzhugh, LP for the use of a total of approximately 4,681 square feet of subsurface and surface space to install, maintain, and utilize a subsurface conduit, seventy-one trees, forty-one post lights, eight string lights, concrete pavers, a sculpture, two accent lights, landscaping and irrigation, under, on and over a portion of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street rights-of-way, near its intersection with Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street. The use of this area will not impede pedestrian or vehicular traffic.

The licensee will indemnify the City and carry general liability insurance naming the City as an additional insured.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $1,000 annually and $800 one-time fee, plus the $20 ordinance publication fee

OWNER

JLB Fitzhugh, LP

JLB Fitzhugh GP LLC

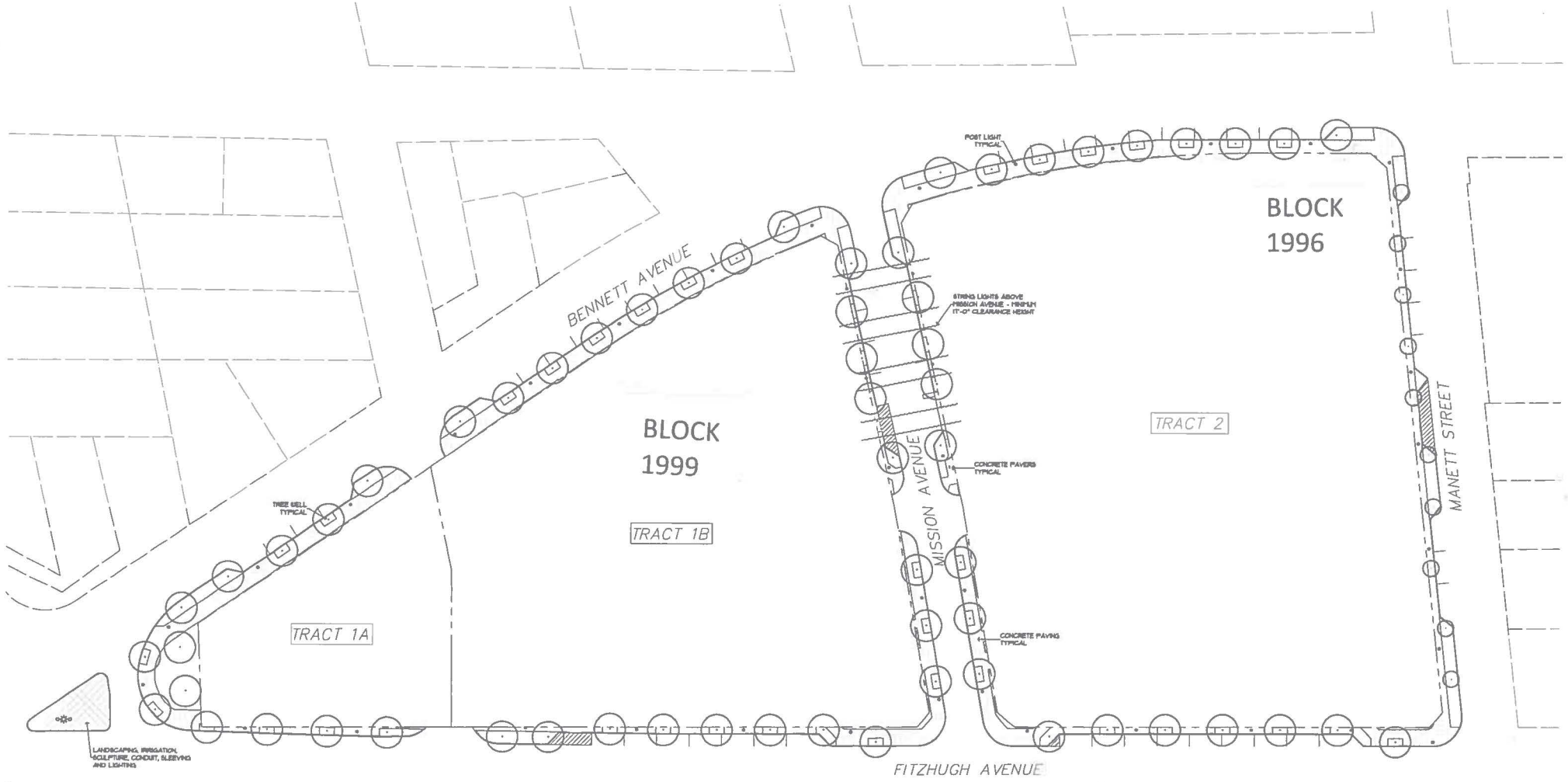
CH Realty VII-JLB MF Dallas Fitzhugh, LP

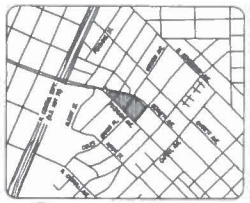
JLB Dallas Fitzhugh GP LLC

Bay W. Miltenberger, Manager

MAP

Attached





Vicinity Map

LEGEND

- CONCRETE PAVING
- CONCRETE PAVERS
- POST LIGHT (41 EACH)
- STRING LIGHTS (8 EACH) (17'-0" MINIMUM CLEARANCE HEIGHT)
- ACCENT LIGHT (3 EACH)
- TREE WELL (48 EACH)
- CANOPY TREE (61 EACH)
- SMALL TREE (19 EACH)
- LANDSCAPING, IRRIGATION SCULPTURE, CONDUIT, LIGHTING, SLEEVING
- SCULPTURE FEATURE

LICENSE AGREEMENT

JLB FITZHUGH ADDITION

LOT 1A, BLOCK A/1999, LOT 1A, BLOCK B/1999 AND LOT 4A, BLOCK C/1999
BEING A REPLAT OF LOTS 1-4, BLOCK A/1996, BON VIEW PLACE
& LOTS 2-7, BLOCK A/1999 & LOTS 1-10, LOTS 14 & 15, BLOCK B/1999 &
LOTS 4 THROUGH 6, BLOCK C/1999, ALCOTT'S FITZHUGH HEIGHTS ADDITION
AND THE ABANDONED RIGHT-OF-WAY OF BENNETT AVENUE & HOPKER STREET
JOHN GRIGSBY SURVEY, ABSTRACT NO. 498
CITY OF DALLAS, DALLAS COUNTY, TEXAS

0 15 30 60 90

File Name: Fitzhugh & Bennett construction fay-exhibit.dwg
Plot Date: 01/19/2017 - 01:26pm

ORDINANCE NO. _____

An ordinance granting a private license to JLB Fitzhugh, LP, to occupy, maintain and utilize portions of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street rights-of-way located near the intersection of Fitzhugh and Bennett Avenues and Mission Avenue and Manett Street, adjacent to City Blocks A/1999 and B/1999 within the limits hereinafter more fully described, for the purpose of installing, maintaining, and utilizing a subsurface conduit, seventy-one trees, forty-one post lights, eight string lights, concrete pavers, a sculpture, two accent lights, landscaping and irrigation; providing for the terms and conditions of this license; providing for the one-time fee and annual compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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

SECTION 1. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to JLB Fitzhugh, LP, a Texas limited liability company, its successors and assigns, hereinafter referred to as **"GRANTEE"**, to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas the sum of **ONE THOUSAND AND NO/100 ($1,000.00) DOLLARS** annually for the license herein granted for the subsurface conduit, said sum to become due and payable on the 2nd day of January each year, in advance, during the term hereof; provided,

however, that the first payment due hereunder in the sum of **ONE THOUSAND AND NO/100 ($1,000.00) DOLLARS** shall be paid prior to the final passage of this ordinance and shall cover the consideration for 2017. In addition, in accordance with special fees established by Section 43-115.1 of the Dallas City Code **GRANTEE** shall pay to the City of Dallas a one-time license fee in the sum of **EIGHT HUNDRED AND NO/100 ($800.00) DOLLARS,** for the license herein granted for seventy-one (71) trees, forty-one (41) post lights, eight (8) string lights, concrete pavers, a sculpture, two (2) accent lights, landscaping and irrigation, said sum to be paid prior to the final passage of this ordinance and shall cover the total consideration for the license term. Such annual and one-time fee consideration, collectively, shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. Should **GRANTEE** fail to pay the above stated annual fee within sixty (60) days of the due date, the Director of Department of Sustainable Development and Construction may terminate this license. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in Fund 0001, Department DEV, Unit 1181, Revenue Source 8200. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of $25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: install, use and maintain a subsurface conduit, seventy-one (71) trees, forty-one (41) post lights, eight (8) string lights, concrete pavers, a sculpture, two (2) accent lights, landscaping and irrigation.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right by resolution duly passed by said Governing Body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

a) **GRANTEE** shall ensure continuous and level sidewalks shall occur across all curb cuts.

b) **GRANTEE** shall ensure no items be placed within eighteen inches of the curb. Any items placed within eighteen inches of the curb shall not impede the ability to place governmental signage or equipment. If designed concrete, pavers or other specialty materials are used for the sidewalk, they are not allowed within 18 inches of the curb or they have the ability to be easily removed or have sign post placed. On-street parking shall not be removed or obstructed from the use without approval of the City of Dallas and installation of required signage.

c) **GRANTEE** acknowledges that Atmos has active facilities in the area. If conflicts exist **GRANTEE** will be responsible for cost to relocate those facilities.

d) **GRANTEE** acknowledges that Time Warner Cable (TWC) has aerial and/or underground facilities in the affected area. TWC reserves the right to have access to any applicable utility easements on the property for the purpose of future construction or maintenance. The **GRANTEE** of said property may also be responsible for the relocation/removal of any structure interfering with access to these easements, if necessary. **GRANTEE** must call 1-800-DIG-TESS to have facilities marked and located within affected easements before excavations are begun.

e) **GRANTEE** acknowledges that AT&T has facilities in the affected area and will perform all necessary locates prior to any digging. All personnel performing any function that might damage AT&T property is responsible for any damages that may occur.

SECTION 8. That upon the effectiveness of this ordinance, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 9. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 10. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or designee. Such assignment shall recite that it is subject to the terms, restriction and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area, and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Sustainable Development and Construction within 10 days of such

assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or designee, may terminate this license.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the fee for the year 2017, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

SUBSURFACE LICENSE AREA
PART OF MISSION AVENUE
ADJACENT TO BLOCKS A/1999 AND B/1999
J. GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

EXHIBIT A-TRACT 1

BEING a 92 square foot tract of land situated in the J. Grigsby Survey, Abstract No. 495, City of Dallas, Dallas County, Texas, the subject tract being part of Mission Avenue, a 45 foot public right-of-way created by the plat of Alcott's Fitzhugh Heights Addition, recorded in Volume 2, Page 154, Deed Records, Dallas County, Texas (DRDCT), with the subject tract being more particularly described as follows:

COMMENCING at an "X" found in concrete on the northwest line Mission Avenue and the southeast line of a part of "Tract 2" as conveyed by Special Warranty Deed to JLB Fitzhugh L.P., recorded in Instrument Number 201500029186 OPRDCT, for the east corner of Lot 6, Block B/1999, Alcott's Fitzhugh Heights Addition, and for the south corner of Lot 7;

THENCE N 32°26'05" E, 36.85 feet along the northwest line of Mission Avenue and the southeast line of said Lot 7, Block B/1999 and said Tract 2 to a point for the POINT OF BEGINNING of the subject tract;

THENCE N 32°26'05" E, 2.04 feet along the southeast line of said Lot 7 and said Tract 2 and the northwest line of Mission Avenue to a point for corner;

THENCE S 46°51'10" E, 46.18 feet through and across Mission Avenue to a point on the southeast line of Mission Avenue and the northwest line of Lot 4, Block A/1999, being a part of "Tract 3" as conveyed by Special Warranty Deed to JLB Fitzhugh L.P., recorded in Instrument Number 201500029186, Official Public Records, Dallas County, Texas (OPRDCT);

THENCE S 32°26'05" W, 2.04 feet along the southeast line of Mission Avenue, and along the northwest line of said Lot 4 and said Tract 3 to a point for corner, and from which a 1/2" iron rod with plastic cap stamped "SPIARSENG" found for a bend point bears S 32°26'05" W, 38.32 feet;

THENCE N 46°51'10" W, 46.18 feet through and across Mission Avenue to the POINT OF BEGINNING with the subject tract containing 92 square feet or 0.0021 acres of land.

(For SPRG use only)
Reviewed By: David Scott
Date: 10·31·16
SPRG No: 3856

A plat of even date accompanies this legal description.

Basis of bearing: State Plane Coordinate System, Texas North Central Zone (4202), North American Datum 83, (CORS96)

STATE OF TEXAS
REGISTERED
DARREN K. BROWN
5252
PROFESSIONAL
LAND SURVEYOR

DARREN K. BROWN, R.P.L.S. 5252

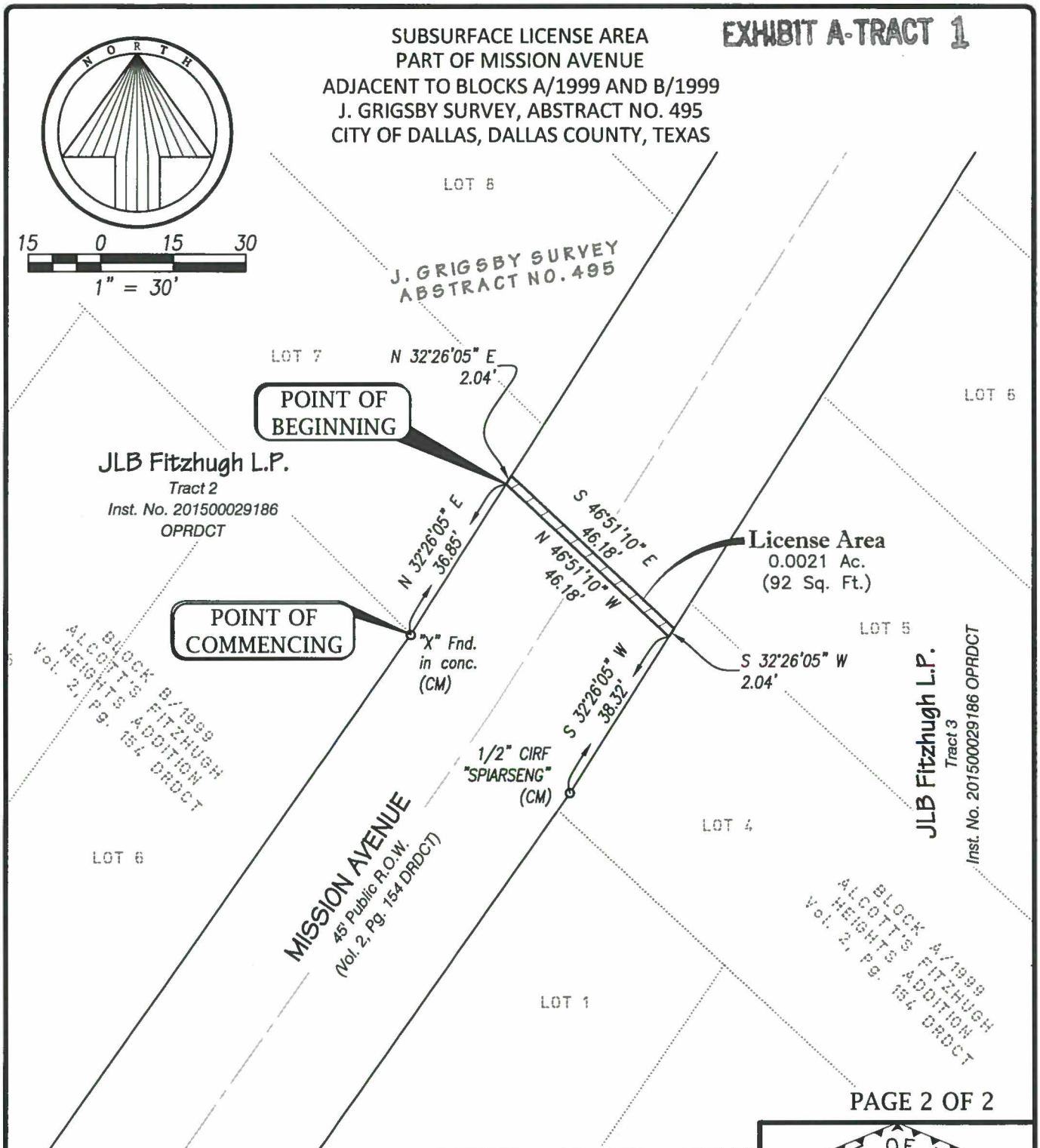
SPIARS ENGINEERING
765 Custer Road, Suite 100 • Plano, TX 75075 • (972) 422-0077
TBPE No. F-2121 • TBPLS No. F-10045100

Drawn By:	Checked By:	Scale	Date	Job No.
ED	DKB		3/28/16	14-095

Drawing: G:\2014 JOBS\14-095 JLB Fitzhugh\ADMIN - SURVEY\DWG\14-095 Subsurface license area exhibit.dwg Saved By: Edavis Save Time: 9/19/2016 1:11:30 PM Plotted by: Edavis Plot Date: 10/10/2016 1:23 PM

SUBSURFACE LICENSE AREA
PART OF MISSION AVENUE
ADJACENT TO BLOCKS A/1999 AND B/1999
J. GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

EXHIBIT A-TRACT 1



(For SPRG use only)

Reviewed By: David Scott

Date: 10.3.16

SPRG No: 3856

A legal description of even date accompanies this plat.

Basis of bearing: State Plane Coordinate System, Texas North Central Zone (4202), North American Datum 83, (CORS96)

STATE OF TEXAS
REGISTERED
DARREN K. BROWN
5252
PROFESSIONAL
LAND SURVEYOR

DARREN K. BROWN, R.P.L.S. 5252

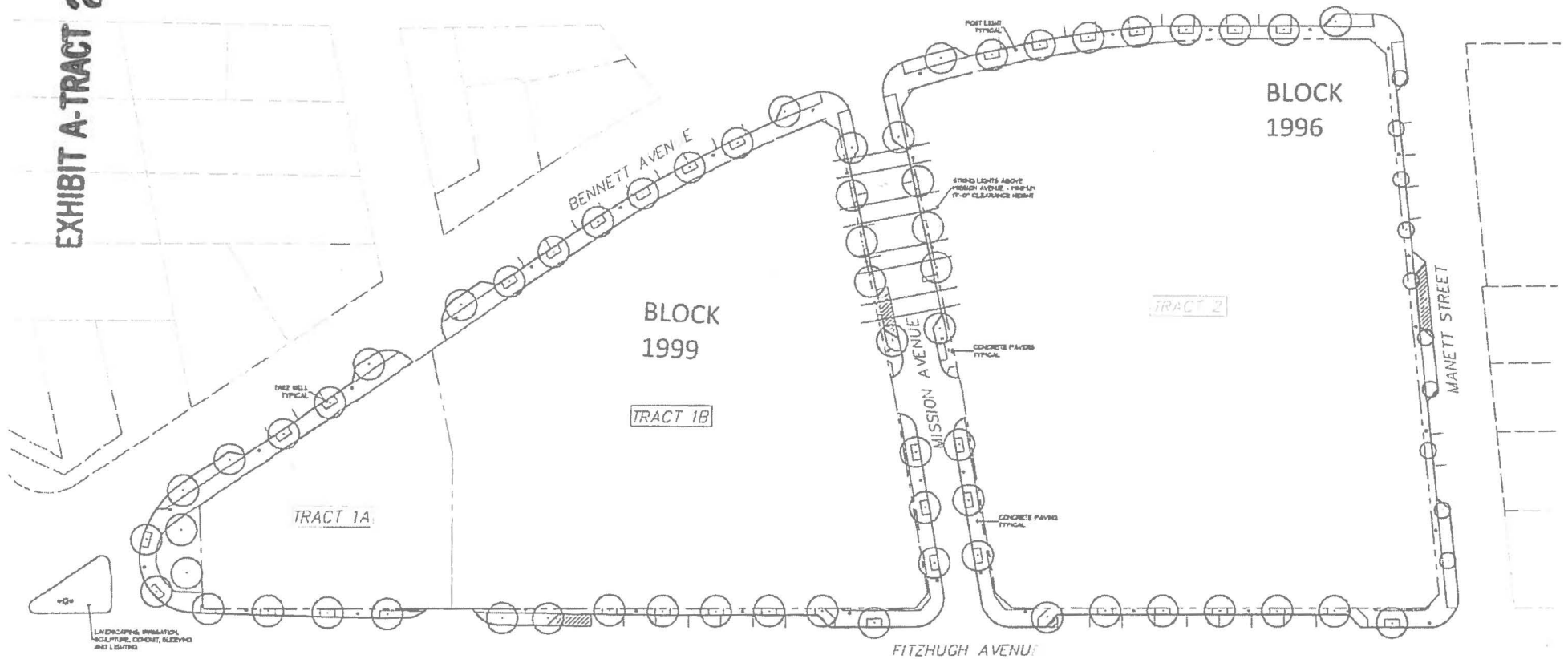
SPIARS ENGINEERING
765 Custer Road, Suite 100 • Plano, TX 75075 • (972) 422-0077
TBPE No. F-2121 • TBPLS No. F-10048100

Drawn By:	Checked By:	Scale	Date	Job No.
ED	DKB	1" = 30'	3/28/16	14-095

Drawing: G:\2014 JOBS\14-095 JLB Fitzhugh\ADMIN - SURVEY\DWG\14-095 Subsurface license area exhibit.dwg Saved By: Edavis Save Time: 9/19/2016 1:11:30 PM Plotted by: Edavis Plot Date: 10/10/2016 1:23 PM

EXHIBIT A-TRACT 2

EXHIBIT A-TRACT 2





Vicinity Map

LEGEND

CONCRETE PAVING
CONCRETE PAVERS
POST LIGHT (4) EACH
STRING LIGHTS (8 EACH) (17'-0" MINIMUM CLEARANCE HEIGHT)
ACCENT LIGHT (7) EACH
TREE WELL (48) EACH
CANOPY TREE (40) EACH
SMALL TREE (10) EACH
LANDSCAPING, IRRIGATION, SCULPTURE, CONDUIT, LIGHTING, SLEEVING
SCULPTURE PEDESTAL

LICENSE AGREEMENT

JLB FITZHUGH ADDITION

LOT 1A, BLOCK A/1999, LOT 1A, BLOCK B/1999 AND LOT 4A, BLOCK C/1999 BEING A REPLAT OF LOTS 1-4, BLOCK A/1999, RICH VIEW PLACE & LOTS 2-1, BLOCK A/1999 & LOTS 1-10, LOTS 14 & 15, BLOCK B/1999 & LOTS 4 THROUGH 6, BLOCK C/1999, ALCOTT'S FITZHUGH HEIGHTS ADDITION AND THE ABANDONED RIGHT-OF-WAY OF DENNETT AVENUE & HOPER STREET JOHN GRIGSBY SURVEY, ABSTRACT NO. 498 CITY OF DALLAS, DALLAS COUNTY, TEXAS

0 15 30 60 90

Landscape Island (triangle at Bennett/Fitzhugh): 1357 sq. ft.
Tree Wells (5x10 +/- landscape area only): 2580 sq. ft.
Concrete Paver: 292 sq. ft.
Aerial License Area – 360 sq. ft. (8 sting lights at 45 sq. ft. per area)

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

(a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.

(b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

(c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured 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 use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 per occurrence and $500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.

(d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.

(e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

(f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.

(g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

(h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

AGENDA ITEM # 31

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45Q

SUBJECT

An ordinance granting a private license to Supreme Bright Dallas, LLC for the use of approximately 48 square feet of aerial space to occupy, maintain and utilize one canopy without premise over a portion of Commerce Street right-of-way, near its intersection with Ervay Street - Revenue: $100 one-time fee, plus the $20 ordinance publication fee

BACKGROUND

This item grants a private license to Supreme Bright Dallas, LLC for the use of approximately 48 square feet of aerial space to occupy, maintain and utilize one canopy without premise over a portion of Commerce Street right-of-way, near its intersection with Ervay Street. The use of this area will not impede pedestrian or vehicular traffic.

The licensee will indemnify the City and carry general liability insurance naming the City as an additional insured.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $100 one-time fee, plus the $20 ordinance publication fee

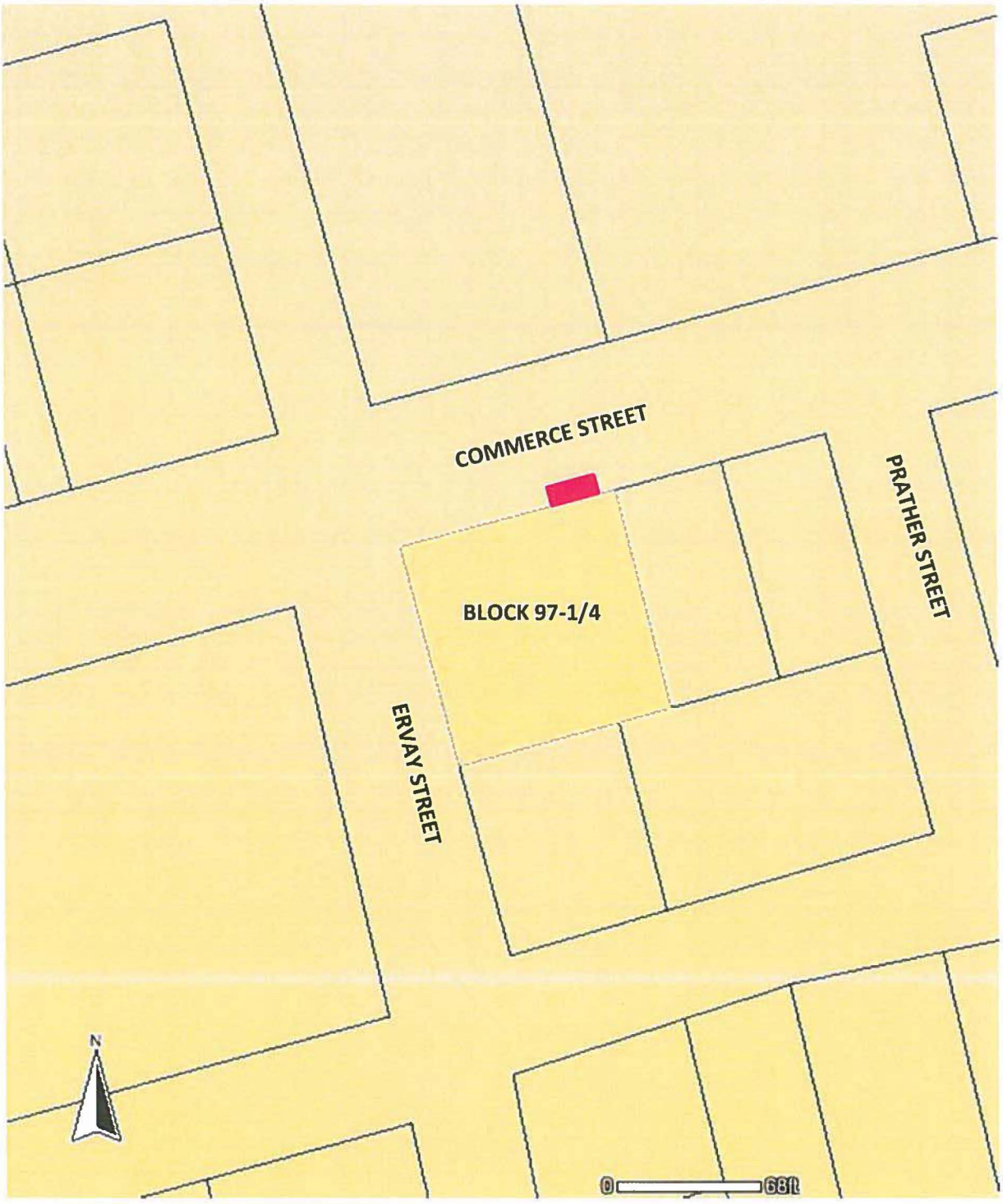
OWNER

Supreme Bright Dallas, LLC

Mehul Patel, Managing Member

MAP

Attached



LICENSE AREA

ORDINANCE NO. _____

An ordinance granting a private license to Supreme Bright Dallas, LLC to occupy, maintain and utilize aerial space over a portion of Commerce Street right-of-way located near its intersection with Ervay Street adjacent to City Block 97 ¼ within the limits hereinafter more fully described, for the purpose of installing and maintaining one canopy without premise; providing for the terms and conditions of this license; providing for the one-time fee to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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

SECTION 1. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to Supreme Bright Dallas, LLC, a Texas limited liability company, its successors and assigns, hereinafter referred to as **"GRANTEE"**, to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas a one-time license fee in the sum of **ONE HUNDRED AND NO/100 ($100.00) DOLLARS**, for the license herein granted, said sum to be paid prior to the final passage of this ordinance and shall cover the consideration for the license term, in accordance with the special fees established by Section 43-115.1 of the Dallas City Code. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in Fund 0001, Department DEV, Unit 1181, Revenue Source 8200. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of $25.00 for each dishonored check.

Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: occupy, maintain and utilize one canopy without premise.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose**.** The Governing Body of the City of Dallas reserves the right by resolution duly passed by said Governing Body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

a) **GRANTEE** shall obtain a right-of-way permit from Mobility and Street Services Department, 214-948-4688, prior to any field work in the right-of-way. Right-of-way permit application will require a drawing (plan and profile) of each proposed canopy and detailing the connection method and height above the surface.

b) **GRANTEE** shall adhere to Texas Accessibility Standard Requirements administered by the Texas Department of Licensing and Regulation (TDLR) and Americans with Disability Act (ADA) requirements.

SECTION 8. That upon the effectiveness of this ordinance, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 9. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 10. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or designee. Such assignment shall recite that it is subject to the terms, restriction and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Sustainable Development and Construction within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or designee, may terminate this license.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the fee pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

Exhibit A

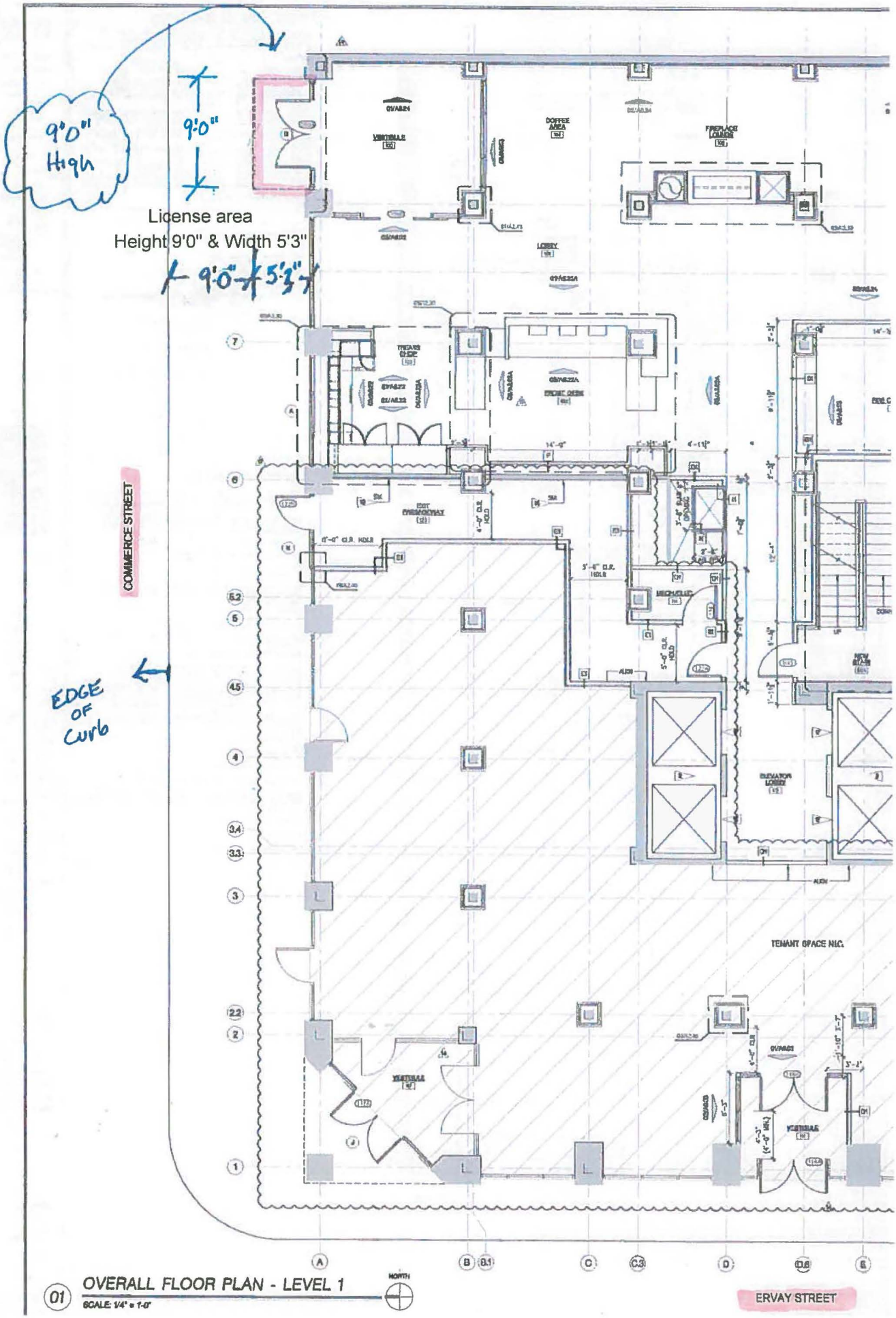

9'0" High
9'0"
License area
Height 9'0" & Width 5'3"
9'0" 5'3"
COMMERCE STREET
EDGE OF Curb
TENANT SPACE N1C.
ERVAY STREET
01 OVERALL FLOOR PLAN - LEVEL 1
SCALE: 1/4" = 1'-0"
NORTH

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

(a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.

(b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

(c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured 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 use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 per occurrence and $500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.

(d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.

(e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

(f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.

(g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

(h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

AGENDA ITEM # 32

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45M

SUBJECT

An ordinance granting a revocable license to 2823 Main, LLC for the use of a total of approximately 168 square feet of aerial space to install, maintain, and utilize two canopies without premise sign, over a portion of Main Street right-of-way, near its intersection with Malcolm X Boulevard - Revenue: $200 one-time fee, plus the $20 ordinance publication fee

BACKGROUND

This item grants a private license to 2823 Main, LLC for the use of a total of approximately 168 square feet of aerial space to install, maintain, and utilize two canopies without premise sign over a portion of Main Street right-of-way, near its intersection with Malcolm X Boulevard. The use of this area will not impede pedestrian or vehicular traffic.

The licensee will indemnify the City and carry general liability insurance naming the City as an additional insured.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $200 one-time fee, plus the $20 ordinance publication fee

OWNER

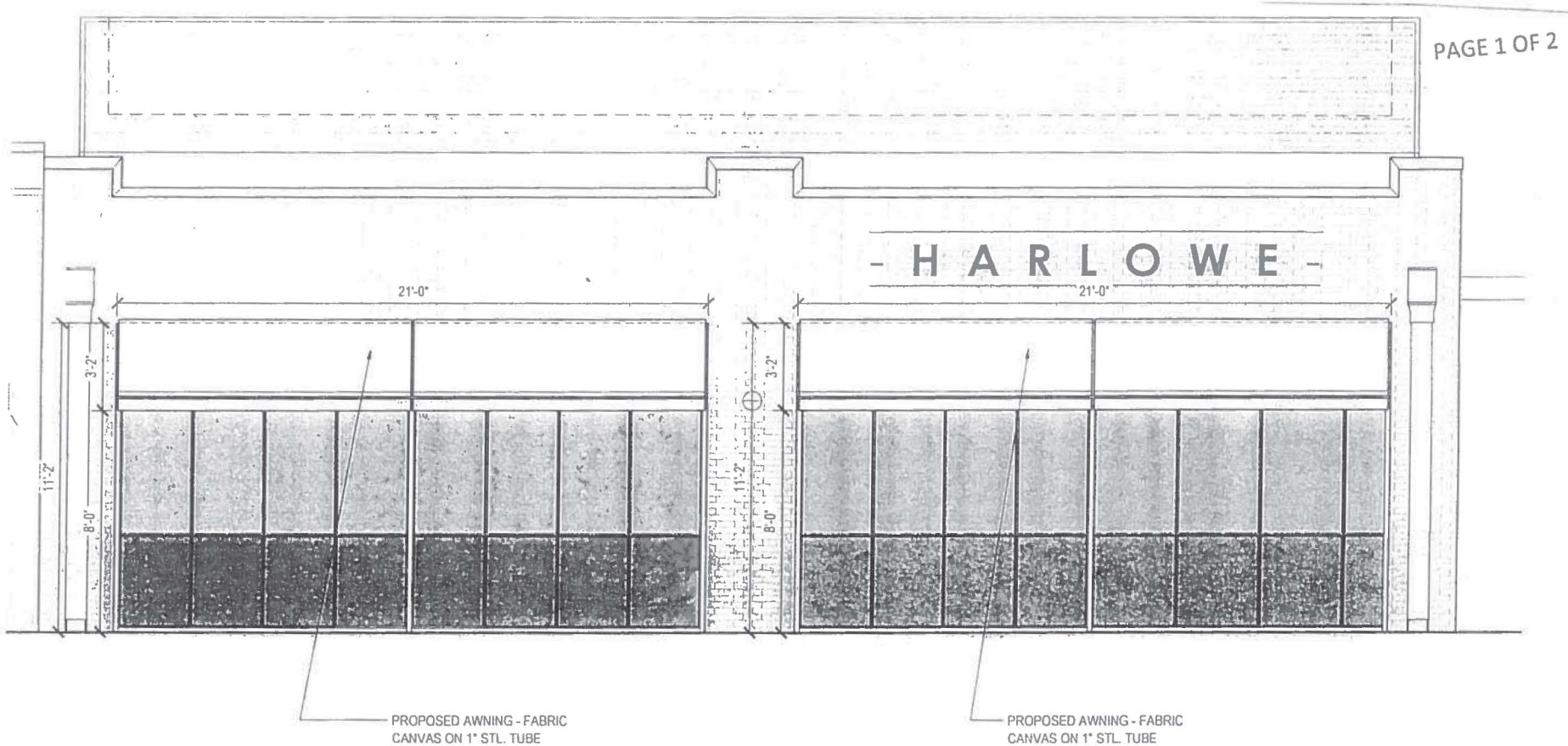
2823 Main, LLC

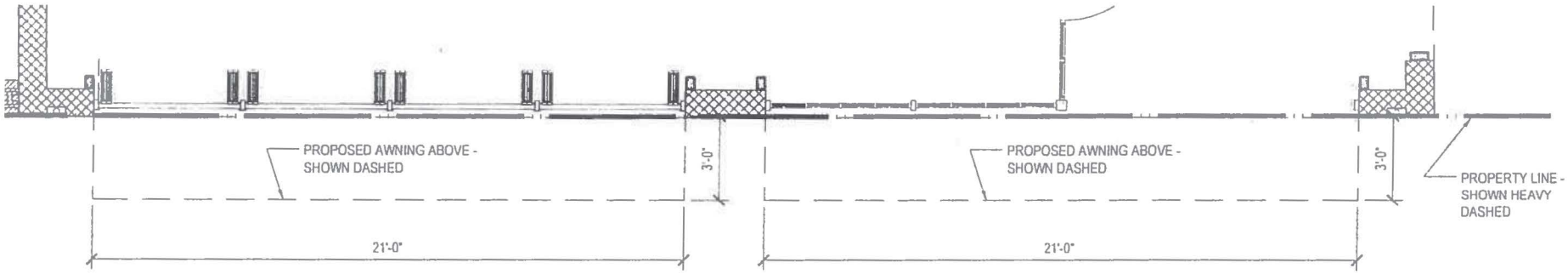
Andrew Popp, Manager

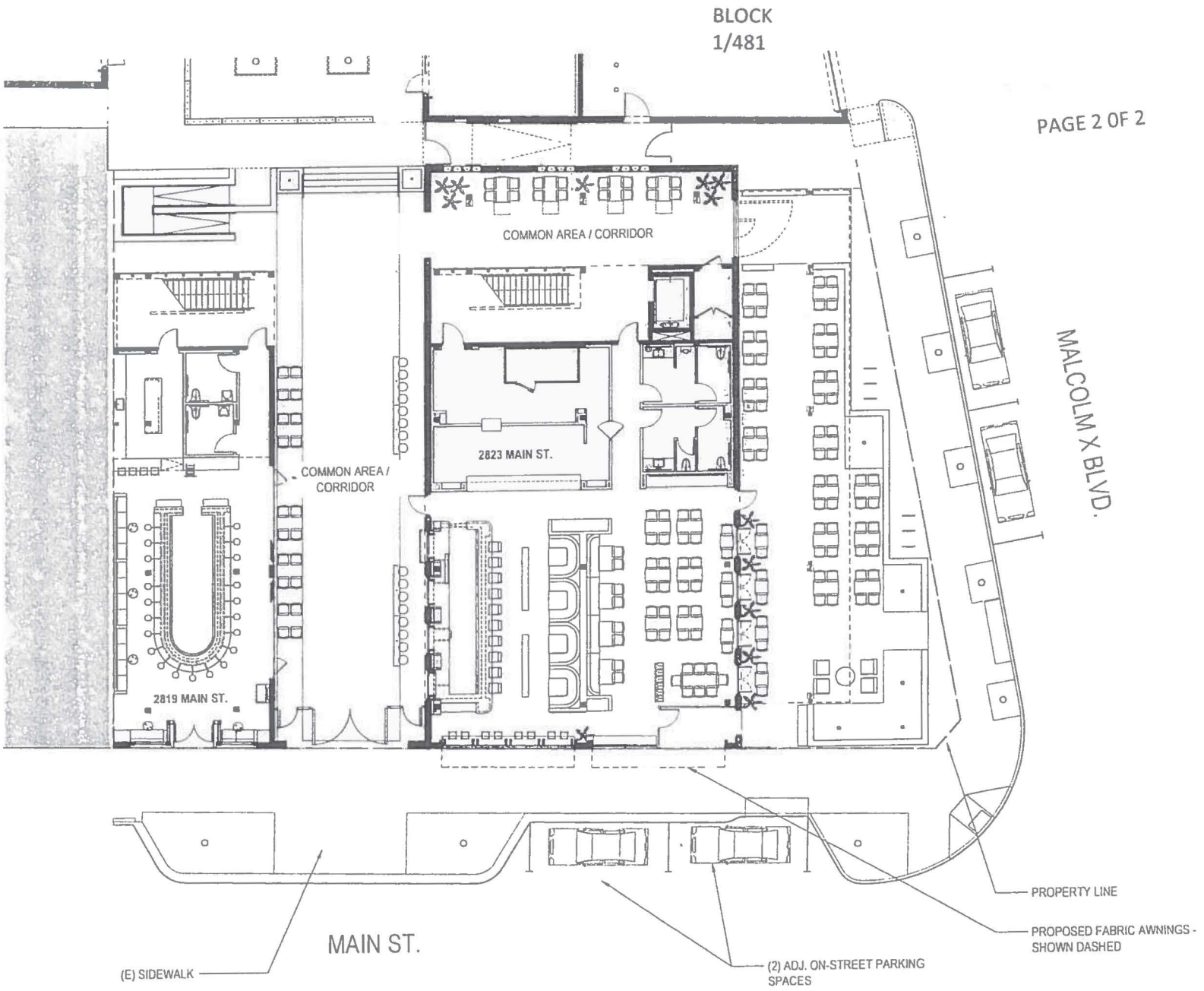
MAPS

Attached

BLOCK
1/481


- H A R L O W E -
21'-0"
21'-0"
3'-2"
3'-2"
11'-2"
11'-2"
8'-0"
8'-0"
PROPOSED AWNING - FABRIC CANVAS ON 1" STL. TUBE
PROPOSED AWNING - FABRIC CANVAS ON 1" STL. TUBE


PROPOSED AWNING ABOVE - SHOWN DASHED
PROPOSED AWNING ABOVE - SHOWN DASHED
3'-0"
3'-0"
PROPERTY LINE - SHOWN HEAVY DASHED
21'-0"
21'-0"


BLOCK
1/481
COMMON AREA / CORRIDOR
2823 MAIN ST.
COMMON AREA /
CORRIDOR
2819 MAIN ST.
MALCOLM X BLVD.
PROPERTY LINE
PROPOSED FABRIC AWNINGS -
SHOWN DASHED
MAIN ST.
(E) SIDEWALK
(2) ADJ. ON-STREET PARKING
SPACES

ORDINANCE NO. _____

An ordinance granting a revocable license to 2823 Main, LLC to occupy, maintain and utilize a portion of Main Street right-of-way located near its intersection with Malcolm X Boulevard in City Block 1/481 within the limits hereinafter more fully described, for the purpose of installing, maintaining, and utilizing two canopies without premise sign; providing for the terms and conditions of this license; providing for the one-time fee compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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

SECTION 1. That a revocable license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to 2823 Main, LLC, a Texas limited liability company, its successors and assigns, hereinafter referred to as **"GRANTEE"**, to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of nine (9) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas a one-time license fee in the sum of **TWO HUNDRED AND NO/100 ($200.00) DOLLARS**, for the license herein granted, said sum to be paid prior to the final passage of this ordinance and shall cover the consideration for the license term, in accordance with the special fees established by Section 43-115.1 of the Dallas City Code. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in Fund 0001, Department DEV, Unit 1181, Revenue Source 8200. In the event **GRANTEE's** check for the license fee is dishonored, **GRANTEE** shall pay to the City a processing fee of $25.00 for each dishonored check.

Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: install, maintain and utilize two canopies without premise sign.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right to terminate and cancel this license, at will, by resolution passed by said Governing Body. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed area at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

a) **GRANTEE** acknowledges that Time Warner Cable existing facilities will remain and **GRANTEE** must pay for the relocation of any existing facilities, if relocation becomes necessary in the future.

SECTION 8. That upon the effectiveness of this ordinance, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 9. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 10. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or designee. Such assignment shall recite that it is subject to the terms, restriction and conditions contained in this ordinance. The assignee shall deliver evidence of ownership of property abutting the licensed area, and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Sustainable Development and Construction within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or designee, may terminate this license.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the fee pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

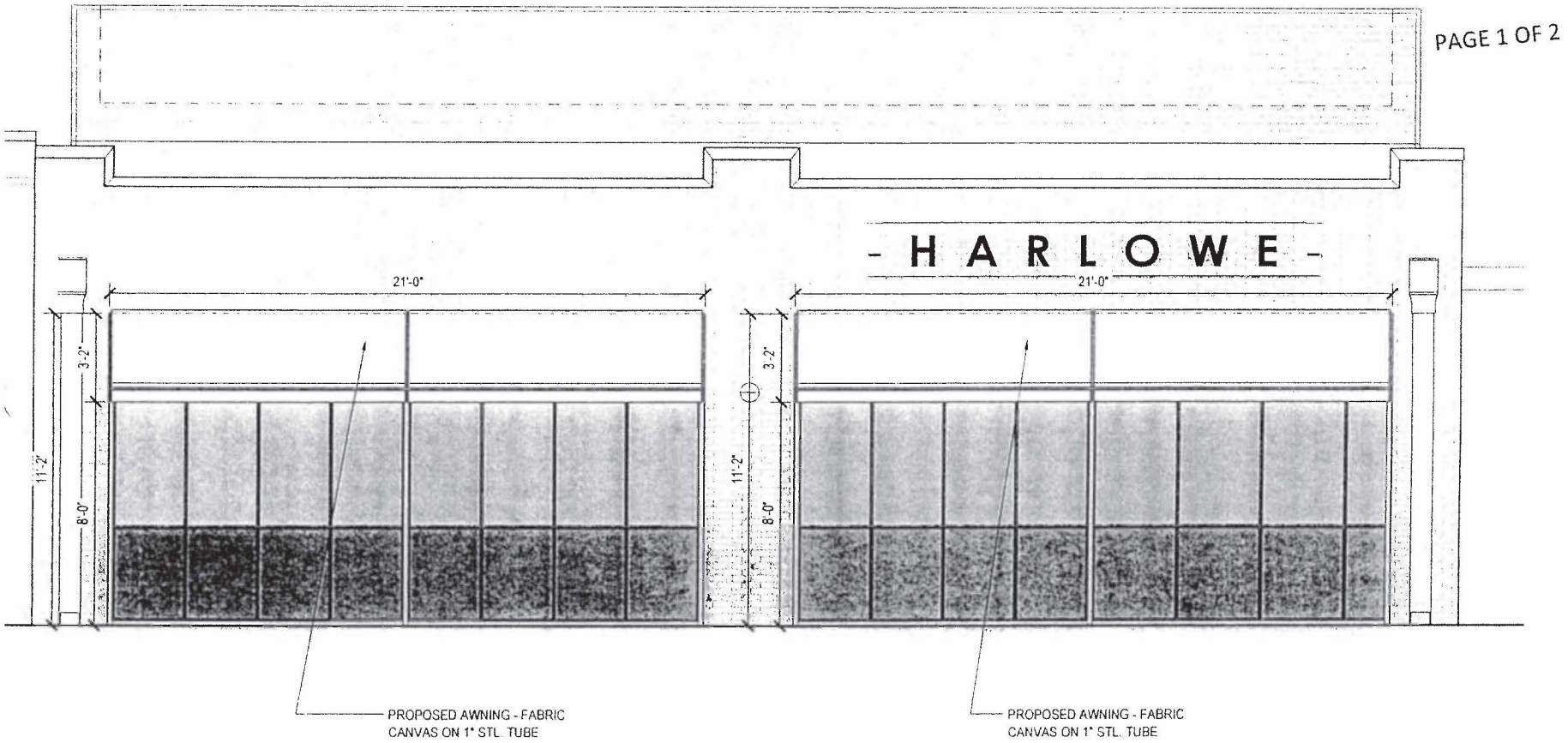
DAVID COSSUM
Director of Department of Sustainable Development and Construction

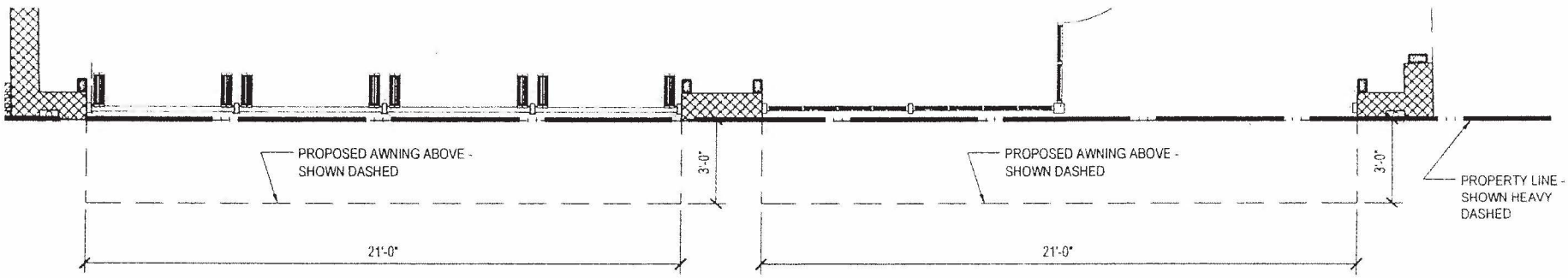
BY _____
Assistant Director

Passed_____.

BLOCK
1/481

EXHIBIT A





BLOCK
1/481

EXHIBIT A

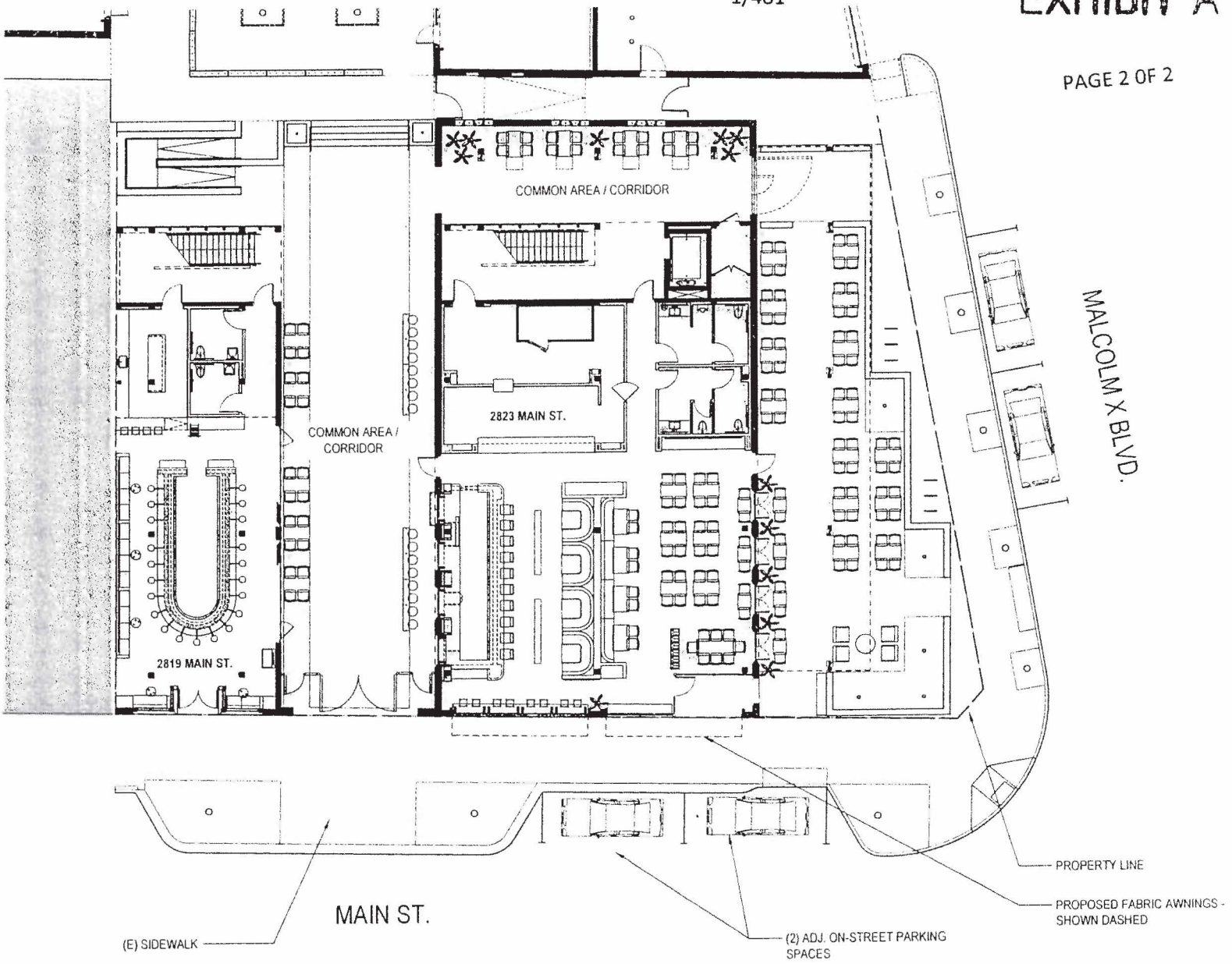


EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

(a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.

(b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

(c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured 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 use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 per occurrence and $500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.

(d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.

(e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

(f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.

(g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

(h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

AGENDA ITEM # 33

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 34P

SUBJECT

An ordinance abandoning portions of Fielder Court and Log Cabin Avenue to the Board of Regents of The University of Texas System, the abutting owner, containing a total of approximately 41,370 square feet of land, located near the intersection of Maple Avenue and Mockingbird Lane, and authorizing the quitclaim - Revenue: $661,920, plus the $20 ordinance publication fee

BACKGROUND

This item authorizes the abandonment of portions of Fielder Court and Log Cabin Avenue to the Board of Regents of The University of Texas System, the abutting owner. The area will be included with the property of the abutting owner for use of an existing student housing campus. The abandonment fee is based on an independent appraisal.

Notices were sent to 10 property owners located within 300 feet of the proposed abandonment area. There were no responses received in opposition to this request.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $661,920, plus the $20 ordinance publication fee

OWNER

Board of Regents of The University of Texas System, for the use and benefit of The University of Texas Southwestern Medical Center at Dallas

Paul L. Foster, Chairman

MAP

Attached



Abandonment area =

ORDINANCE NO. _____

An ordinance providing for the abandonment of portions of Fielder Court and Log Cabin Avenue located adjacent to City Blocks B/2368 and B/2369 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to the Board of Regents of The University of Texas System, providing for the terms and conditions of the abandonment and quitclaim made herein; providing for barricading; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of the Board of Regents of The University of Texas System, an agency of the state of Texas, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of Fielder Court and Log Cabin Avenue are not needed for public use, and same should be abandoned and quitclaimed to **GRANTEE**, as hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the public will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the tracts of land described in Exhibit A, which is attached hereto and made a part hereof for all purposes, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **SIX HUNDRED SIXTY-ONE THOUSAND NINE HUNDRED TWENTY AND NO/100 DOLLARS ($661,920.00)** paid by **GRANTEE**, and the further consideration described in Sections 8, 9, and 10, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all of its right, title and interest in and to the certain tracts of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction-Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to

that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, to the extent allowed by law, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the areas described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the areas set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE**, its successors and assigns, agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. **GRANTEE**, its successors and assigns, hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended.

References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall file a final replat of the adjoining properties within one year of the passage of the ordinance. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned area is located after its approval by the City Plan Commission of the City of Dallas.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the passage of this ordinance, close, barricade and/or place signs in the areas described in Exhibit A in accordance with detailed plans approved by the Director of Department of Sustainable Development and Construction. **GRANTEE's** responsibility for keeping the areas described in Exhibit A closed, barricaded and/or the signs in place shall continue until the street improvements and intersection returns are removed by **GRANTEE**, its successors and assigns, to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance, and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney.

The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

EXHIBIT A

STREET RIGHT-OF-WAY ABANDONMENT
LOG CABIN AVENUE
BLOCK B/2369
MILES BENNETT SURVEY, ABSTRACT No. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being a 22,230 square foot tract of land situated in the Miles Bennett Survey, Abstract No. 52, City of Dallas, Dallas County, Texas, being a part of Lots 9 & 10, Block B/2369, Official City Block Number, Forest Park Addition, an addition to the City of Dallas created by the plat recorded in Volume 241, Page 41 of the Deed Records of Dallas County, Texas, all of that tract of land conveyed to the public for street purposes (Log Cabin Avenue, 30' right-of-way) by Mrs. Jennie K. Sawyer according to the deed recorded in Volume 1129, Page 510, Deed Records of Dallas County, Texas, and a 12 feet wide strip of land, east of and adjacent to said conveyance by Sawyer which is in the presently occupied right-of-way of said Log Cabin Avenue (no deed found), and being more particularly described as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner at the intersection of the southwesterly right-of-way line of Maple Avenue (60' right-of-way, Volume 241, Page 41) and said southeasterly right-of-way line of Log Cabin Avenue, said rod being North 45° 02' 47" West 670.00 feet from a found Hilti nail (controlling monument) at the intersection of the said southwesterly right-of-way line of Maple Avenue and the northwesterly right-of-way line of Bomar Avenue (60' right-of-way, Volume 241, Page 41 and Volume 4346, Page 542, Deed Records, Dallas County, Texas);

THENCE South 44° 53' 03" West, along said southeasterly right-of-way line of Log Cabin Avenue and a tract of land conveyed to Board of Regents of the University of Texas System by Special Warranty Deed recorded in Volume 99218, Page 5105, Deed Records, Dallas County, Texas, a distance of 741.00 feet to a point for corner, said point being the terminus of said Log Cabin Avenue;

THENCE North 45° 02' 47" West, parallel to said southwesterly right-of-way line of Maple Avenue, along said terminus and said Board of Regents tract, a distance of 30.00 feet to a point for corner in the northwesterly right-of-way line of said Log Cabin Avenue;

THENCE North 44° 53' 03" East, along said northwesterly right-of-way line of Log Cabin Avenue and said Board of Regents tract, a distance of 741.00 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner in said southwesterly right-of-way line of Maple Avenue;

(For SPRG use only)
Reviewed By: JL
Date: 5-9-16
SPRG NO.: 3373

EXHIBIT A-TRACT 1

STREET RIGHT-OF-WAY ABANDONMENT
LOG CABIN AVENUE
BLOCK B/2369
MILES BENNETT SURVEY, ABSTRACT No. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE South 45° 02' 47" East, along said southwesterly right-of-way line of Maple Avenue, a distance of 30.00 feet to the **POINT OF BEGINNING** and containing 22,230 square feet or 0.5103 acres, more or less.

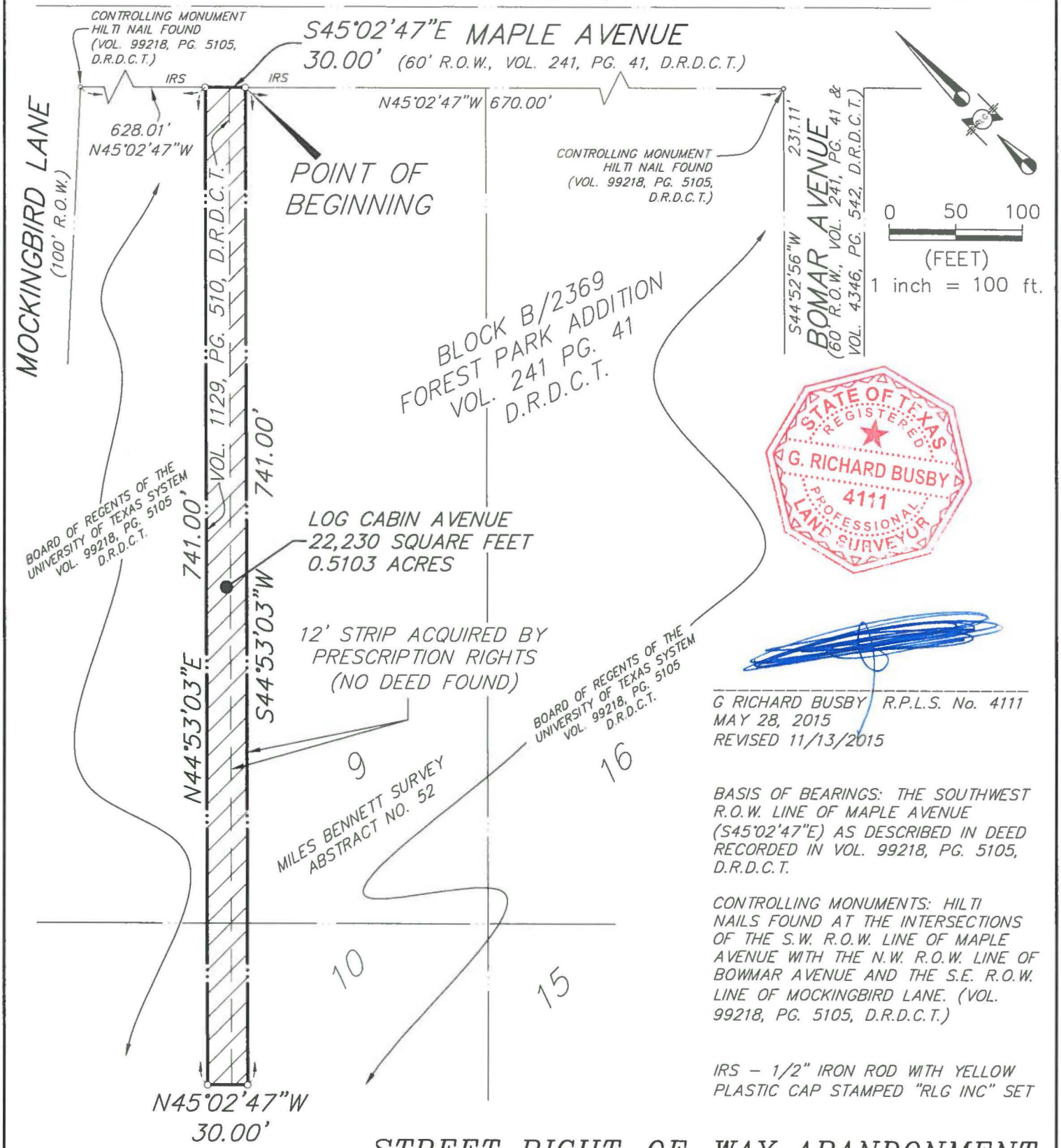
BASIS OF BEARINGS: THE SOUTHWEST RIGHT-OF-WAY LINE OF MAPLE AVENUE (S45°02'47"E) AS DESCRIBED IN DEED RECORDED IN VOL. 99218, PG. 5105, D.R.D.C.T.

CONTROLLING MONUMENTS: HILTI NAILS FOUND AT THE INTERSECTIONS OF THE S.W. RIGHT-OF-WAY LINE OF MAPLE AVENUE WITH THE N.W. RIGHT-OF-WAY LINE OF BOWMAR AVENUE AND THE S.E. RIGHT-OF-WAY LINE OF MOCKINGBIRD LANE. (VOL. 99218, PG. 5105, D.R.D.C.T.)



G. Richard Busby R.P.L.S. No. 4111
May 28, 2015
Revised November 13, 2015

(For SPRG use only)
Reviewed By: JL
Date: 5-9-16
SPRG NO.: 3373



STATE OF TEXAS
REGISTERED
G. RICHARD BUSBY
4111
PROFESSIONAL
LAND SURVEYOR

G RICHARD BUSBY R.P.L.S. No. 4111
MAY 28, 2015
REVISED 11/13/2015

BASIS OF BEARINGS: THE SOUTHWEST R.O.W. LINE OF MAPLE AVENUE (S45°02'47"E) AS DESCRIBED IN DEED RECORDED IN VOL. 99218, PG. 5105, D.R.D.C.T.

CONTROLLING MONUMENTS: HILTI NAILS FOUND AT THE INTERSECTIONS OF THE S.W. R.O.W. LINE OF MAPLE AVENUE WITH THE N.W. R.O.W. LINE OF BOWMAR AVENUE AND THE S.E. R.O.W. LINE OF MOCKINGBIRD LANE. (VOL. 99218, PG. 5105, D.R.D.C.T.)

IRS – 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RLG INC" SET

RAYMOND L. GOODSON, JR., INC.
5445 LA SIERRA
SUITE 300 L.B.17
DALLAS, TX. 75231-4138
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REC #100341-00

STREET RIGHT-OF-WAY ABANDONMENT
LOG CABIN AVENUE
BLOCK B/2369

MILES BENNETT SURVEY, ABSTRACT NO. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

(For SPRG use only)
Reviewed By: JL
Date: 5-9-16
SPRG NO.: 3373

SCALE 1" = 100'		DATE 05-28-2015		SHEET	3 OF 3
JOB NO.	15038	E-FILE	15038B.dwg	DWG NO.	22,579X

EXHIBIT A-TRACT 2

STREET RIGHT-OF-WAY ABANDONMENT
FIELDER COURT
BLOCK B/2368
MILES BENNETT SURVEY, ABSTRACT No. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being a 19,140 square foot tract of land situated in the Miles Bennett Survey, Abstract No. 52, City of Dallas, Dallas County, Texas, adjacent to City Block B/2368, official City Block Number and being all of Fielder Court (44' right-of-way, formerly Maple Court) as created by plat of Maple Court No. 2, an addition to the City of Dallas recorded in Volume 3, Page 245 of the Map Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner at the intersection of the southwesterly right-of-way line of Maple Avenue (60' right-of-way) and the northwesterly right-of-way line of said Fielder Court, said rod being the east corner of Lot 4, Block B/2368, said Maple Court No. 2 addition, said rod being South 45° 02' 47" East 141.65 feet from a found Hilti nail (controlling monument) at the intersection of the southwesterly right-of-way line of said Maple Avenue and the southeasterly right-of-way line of Mockingbird Lane (100' right-of-way);

THENCE South 45° 02' 47" East, along the southwesterly right-of-way line of said Maple Avenue, a distance of 44.01 feet to a 1/2" iron rod with yellow plastic cap stamped "RLG INC" set for corner at the intersection of the southwesterly right-of-way line of said Maple Avenue and the southeasterly right-of-way line of said Fielder Court, said rod being the north corner of Lot 13, Block B/2368, said Maple Court No. 2 addition;

THENCE South 45° 56' 28" West, along the southeasterly right-of-way line of said Fielder Court and the northwesterly line of said Lot 13 and Lots 12, 11 and 10, said Block B/2368, as conveyed to Board of Regents of the University of Texas System by Special Warranty Deed recorded in Volume 99218, Page 5105, Deed Records, Dallas County, Texas, a distance of 435.00 feet to a point for corner, said point being the terminus of said Fielder Court and the west corner of said Lot 10 and being in the northeast line of Lot 8, Block B/2368, Forest Park Addition, an addition to the City of Dallas as recorded in Volume 241, Page 41, Deed Records, Dallas County, Texas;

THENCE North 45° 02' 47" West, along said terminus, the northeast line of said Lot 8 and said Board of Regents tract, a distance of 44.01 feet to a point for corner in the northwesterly right-of-way line of said Fielder Court, said point being the south corner of Lot 9, Block B/2368, said Maple Court No. 2 Addition;

(For SPRG use only)	
Reviewed By:	JL
Date:	5-9-16
SPRG NO.:	3374

22,578X

STREET RIGHT-OF-WAY ABANDONMENT
FIELDER COURT
BLOCK B/2368
MILES BENNETT SURVEY, ABSTRACT No. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE North 45° 56' 28" East along said northwesterly right-of-way line of said Fielder Court and the southeasterly line of said Lot 9 and Lots 8, 7, 6, 5 and 4, said Block B/2368, as conveyed to said Board of Regents by said Special Warranty Deed, a distance of 435.00 feet to the **POINT OF BEGINNING**, containing 19,140 square feet or 0.4394 acres, more or less;

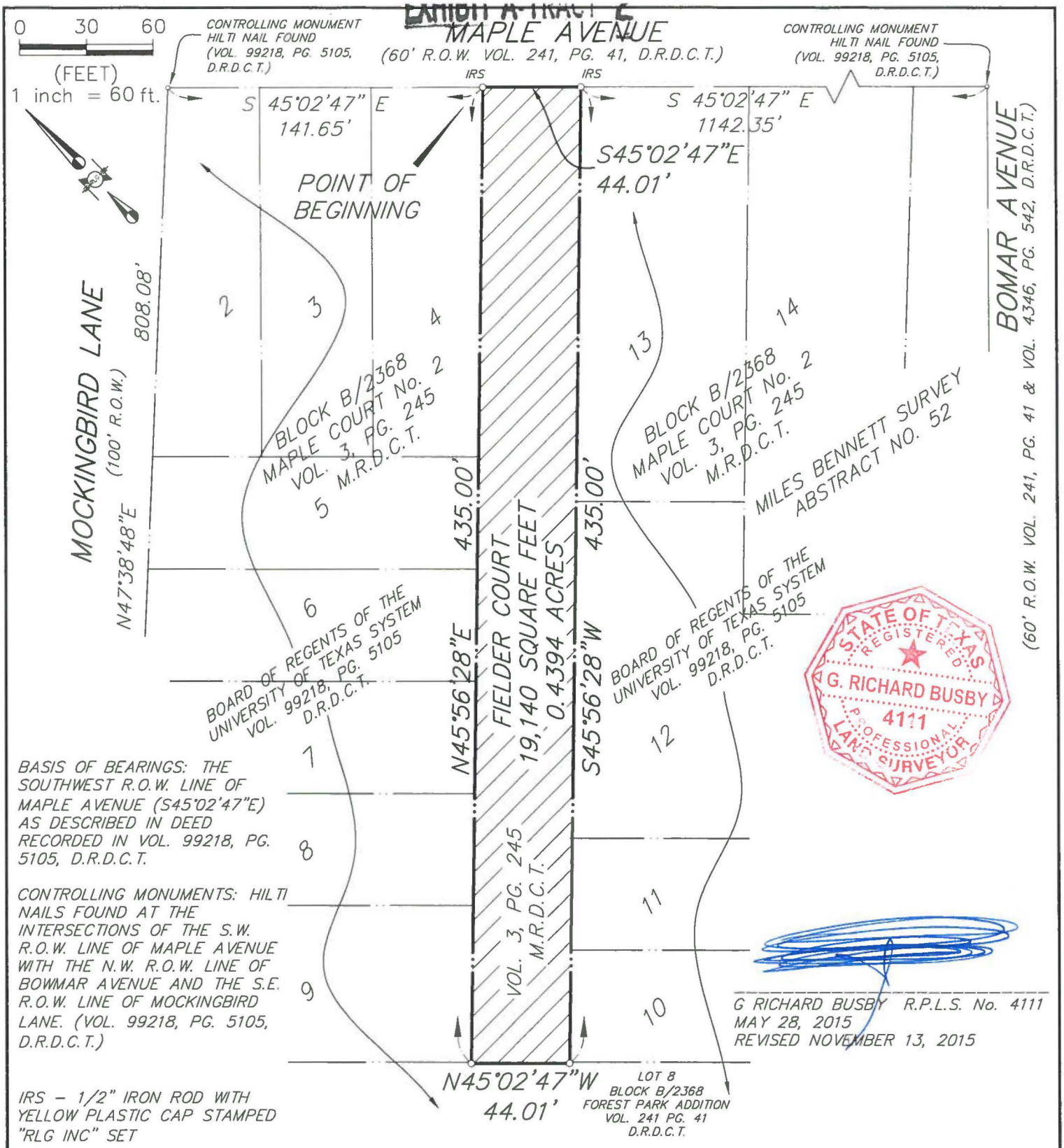
BASIS OF BEARINGS: THE SOUTHWEST RIGHT-OF-WAY LINE OF MAPLE AVENUE (S45°02'47"E) AS DESCRIBED IN DEED RECORDED IN VOL. 99218, PG. 5105, D.R.D.C.T.

CONTROLLING MONUMENTS: HILTI NAILS FOUND AT THE INTERSECTIONS OF THE S.W. RIGHT-OF-WAY LINE OF MAPLE AVENUE WITH THE N.W. RIGHT-OF-WAY LINE OF BOWMAR AVENUE AND THE S.E. RIGHT-OF-WAY LINE OF MOCKINGBIRD LANE. (VOL. 99218, PG. 5105, D.R.D.C.T.)



G. Richard Busby R.P.L.S. No. 4111
May 28, 2015
Revised November 13, 2015

(For SPRG use only)	
Reviewed By:	JL
Date:	5-9-16
SPRG NO.:	3374



BASIS OF BEARINGS: THE SOUTHWEST R.O.W. LINE OF MAPLE AVENUE (S45°02'47"E) AS DESCRIBED IN DEED RECORDED IN VOL. 99218, PG. 5105, D.R.D.C.T.

CONTROLLING MONUMENTS: HILTI NAILS FOUND AT THE INTERSECTIONS OF THE S.W. R.O.W. LINE OF MAPLE AVENUE WITH THE N.W. R.O.W. LINE OF BOWMAR AVENUE AND THE S.E. R.O.W. LINE OF MOCKINGBIRD LANE. (VOL. 99218, PG. 5105, D.R.D.C.T.)

IRS – 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RLG INC" SET

G RICHARD BUSBY R.P.L.S. No. 4111
MAY 28, 2015
REVISED NOVEMBER 13, 2015

STREET RIGHT-OF-WAY ABANDONMENT
FIELDER COURT
BLOCK B/2368

MILES BENNETT SURVEY, ABSTRACT NO. 52
CITY OF DALLAS, DALLAS COUNTY, TEXAS

RAYMOND L. GOODSON, JR., INC.
5445 LA SIERRA
SUITE 300 L.B.17
DALLAS, TX. 75231-4138
214-739-8100
rlg@rlginc.com
TEXAS PE REG #F-493
TBPLS REG #100341-00

(For SPRG use only)
Reviewed By: JL
Date: 5-9-16
SPRG NO.: 3374

SCALE	1" = 60'	DATE	05-28-2015	SHEET	3 OF 3
JOB NO.	15038	E-FILE	15038A.dwg	DWG NO.	22,578X

AGENDA ITEM # 34

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	8
DEPARTMENT:	Sustainable Development and Construction Sanitation Services
CMO:	Mark McDaniel, 670-3256 Joey Zapata, 670-3009
MAPSCO:	67M

SUBJECT

An ordinance abandoning a portion of a sanitary sewer easement to the City of Dallas, the abutting owner, containing approximately of 311,123 square feet of land, located near the intersection of Central Expressway and Simpson Stuart Road - Revenue: $5,400, plus the $20 ordinance publication fee

BACKGROUND

This item authorizes the abandonment of portion of a sanitary sewer easement to the City of Dallas, the abutting owner. The area will be included with the property of the abutting owner to eliminate an existing easement that is no longer in service as part of the McCommas Bluff Landfill project. The cost for this abandonment is the minimum processing fee pursuant to the Dallas City Code, therefore, no appraisal is required.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $5,400, plus the $20 ordinance publication fee

MAP

Attached



N
W
E
S

ABANDONMENT AREA
Sanitary Sewer Easement

ORDINANCE NO. _____

An ordinance providing for the abandonment and relinquishment of a portion of a sanitary sewer easement, located in City Block 8003 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to the City of Dallas; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of City of Dallas, a Texas municipal corporation; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said sanitary sewer easement is no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the City of Dallas hereby abandons and relinquishes all of its right, title and interest in and to the tract of land described in Exhibit A, attached hereto and made a part hereof; subject, however, to the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 ($5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Section 8, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to the certain tract of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to transfer the monetary consideration set forth in Section 2, plus publication fee in the amount of **TWENTY AND NO/100 ($20.00) DOLLARS**, from Fund 0440, Department SAN, Unit 3591, Object 3090, to the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment, relinquishment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the areas described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area described in Exhibit A, which **GRANTEE,** its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE,** its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended.

References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 10. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
SOL **Assistant Director**

Passed _____.

EXHIBIT A

Description Of A 311,123 Square Foot (7.1424 Acre)
Sanitary Sewer Easement
Lying In Block 8003 To Be Abandoned

Being a portion of a 30-foot wide sanitary sewer easement conveyed to the City of Dallas by centerline description as recorded in Volume 73136, Page 2413 of the Deed Records of Dallas County, Texas (DRDCT), lying in unplatted land (currently being platted as the "McCommas Bluff Landfill Addition, An Industrial Subdivision," S134-212) and said easement lying in the Levi Dixon Survey, Abstract No. 330, Dallas County, Texas, City Block 8003, and lying in a tract of land conveyed to the City of Dallas from Joe Simpkins, et al, recorded in Volume 80111, Page 2361 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), and being more particularly described as follows:

Note: Easement corners are not monumented.

BEGINNING at the intersection of the centerline of said easement with the Northeast line of a sanitary sewer easement to be created by said McCommas Bluff Landfill Addition (N=6935885.30, E=2514008.65), from which a 5/8-inch diameter Iron Rod lying at the most Southerly corner of a tract of land conveyed to Casa Flora, Incorporated, as recorded in Volume 2000216, Page 8746 of the Deed Records of Dallas County, Texas, (said corner lying on the Northeast line of the Union Pacific Railroad (successor in title to the Houston & Texas Central Railroad) Right-of-Way (200 feet in width as recorded in Volume P, Page 258, D.R.D.C.T.)) bears South 60°11'35" West a distance of 1,185.05 feet, and a 5/8-inch iron rod found at the most Easterly corner of a tract of land conveyed to Environmental Investments, LP by deed recorded in Volume 2004, Page 5612 of the Deed Records of Dallas County, Texas lies at a distance of 58.02 feet on the same bearing (Controlling Monument, N=6935301.41, E=2512979.39);

THENCE over and across a portion of said City of Dallas property by centerline description, the following courses and distances:

North 60°11'35" East, a distance of 1,322.85 feet;
North 59°42'02" East, a distance of 2,330.18 feet;
North 81°32'10" East, a distance of 5,338.24 feet;
North 81°34'09" East, a distance of 1,036.00 feet;
North 81°45'12" East, a distance of 144.22 feet;



Scott Holt

EXHIBIT A

Description Of A 311,123 Square Foot (7.1424 Acre)
Sanitary Sewer Easement
Lying In Block 8003 To Be Abandoned

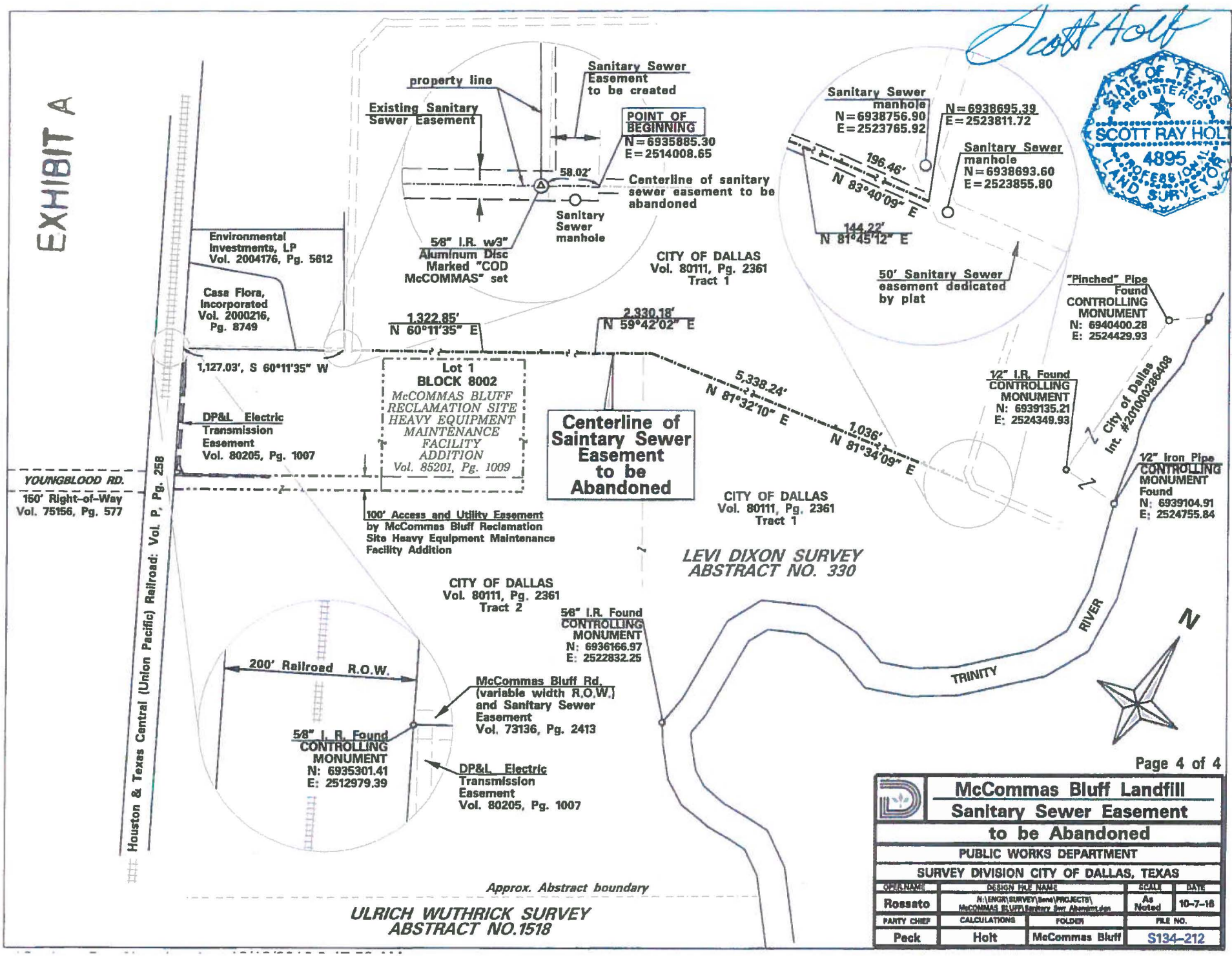
THENCE North 83°40'09" East, a distance of 196.46 feet (N=6938695.39, E=2523811.72) at the intersection with the West line of a 50-foot wide wastewater easement to be created by said McCommas Bluff Landfill Addition, containing 311,123 square feet (7.1424 Acres).

BASIS OF BEARINGS: Bearings are based on the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983 (2011).

Scott Holt

12/12/2014

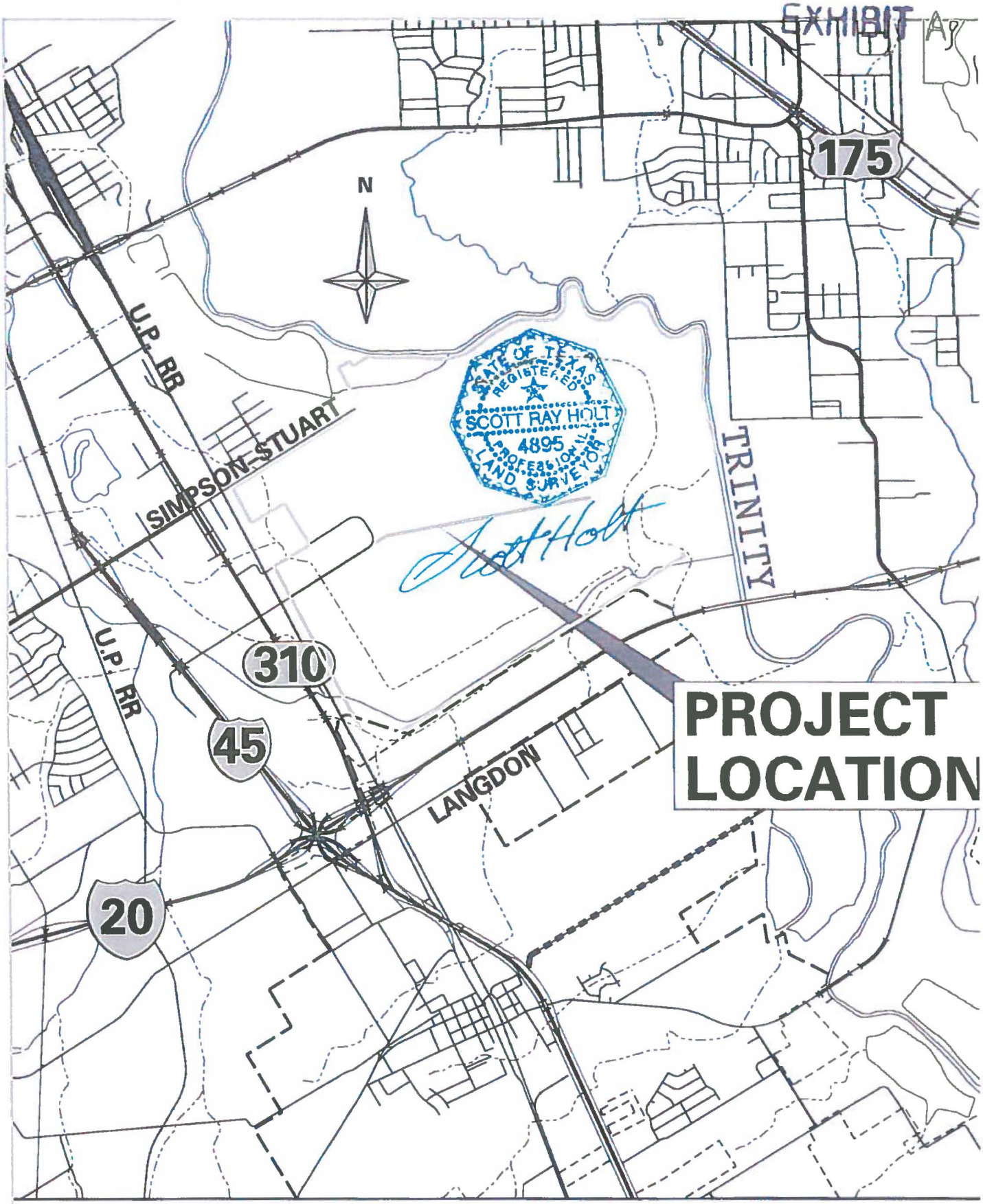




Scott Holt

STATE OF TEXAS REGISTERED SCOTT RAY HOLT 4895 PROFESSIONAL LAND SURVEYOR

McCommas Bluff Landfill Sanitary Sewer Easement to be Abandoned			
PUBLIC WORKS DEPARTMENT			
SURVEY DIVISION CITY OF DALLAS, TEXAS			
DRAWN BY	DESIGN FILE NAME	SCALE	DATE
Rossato	N:\ENGR\SURVEY\Done\PROJECTS\McCOMMAS BLUFF\Sanitary Swr Abandmt.dgn	As Noted	10-7-16
PARTY CHIEF	CALCULATIONS	FOLDER	FILE NO.
Peck	Holt	McCommas Bluff	S134-212



LOCATOR MAP

...\Sanitary Swr Abandmt.dgn 12/12/2016 10:13:50 AM

AGENDA ITEM # 35

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 13

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 26P

SUBJECT

An ordinance abandoning portions of a water easement and sanitary sewer easement to CAPREF Walnut Hill LLC, the abutting owner, containing a total of approximately 2,097 square feet of land, located near the intersection of Walnut Hill Lane and North Central Expressway - Revenue: $5,400, plus the $20 ordinance publication fee

BACKGROUND

This item authorizes the abandonment of portions of a water easement and a sanitary sewer easement to CAPREF Walnut Hill LLC, the abutting owner. The area will be included with the property of the abutting owner for the construction of a shopping center. The cost for this abandonment is the minimum processing fee pursuant to the Dallas City Code, therefore, no appraisal is required.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $5,400, plus the $20 ordinance publication fee

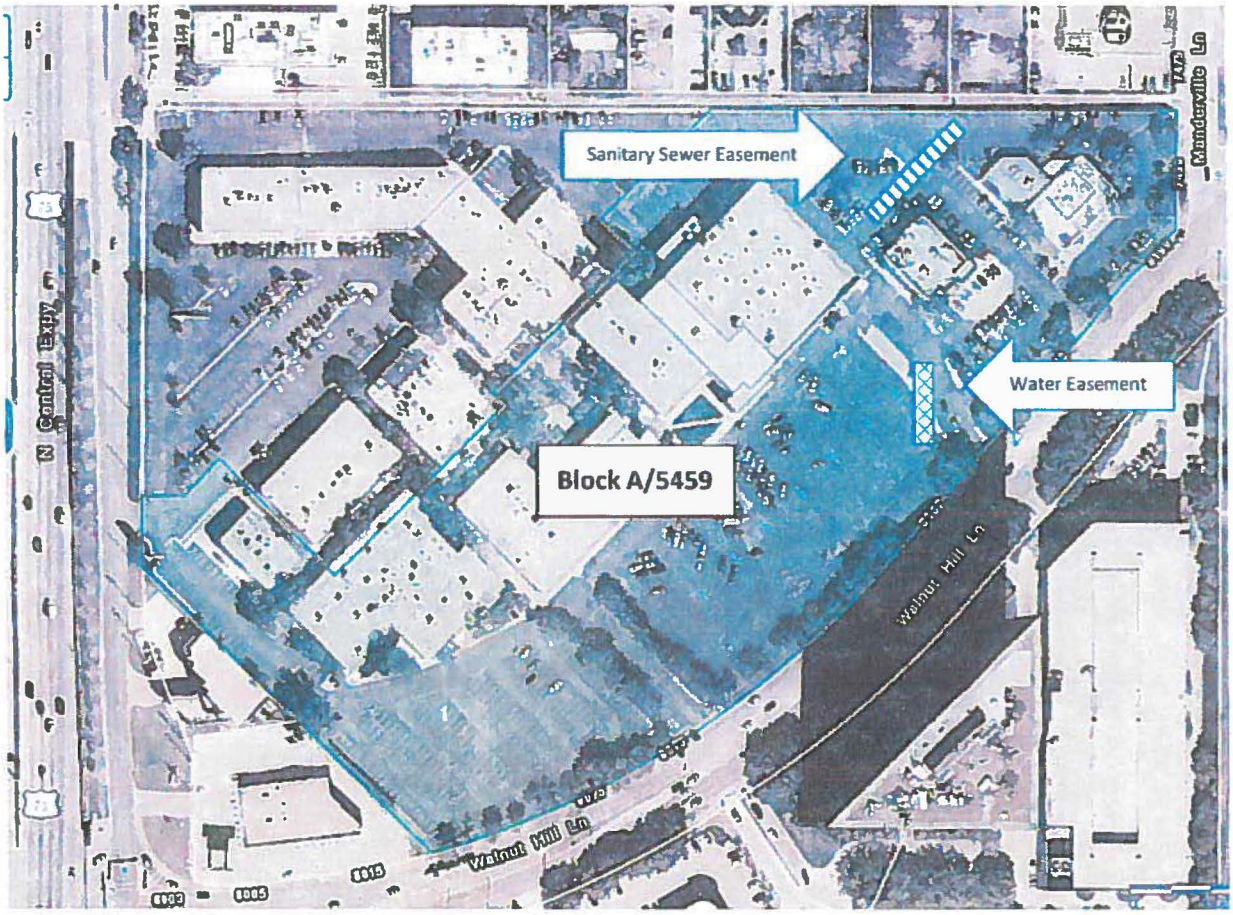
OWNER

CAPREF Walnut Hill LLC

Todd Minnis, Manager

MAP

Attached



N
W E
S

ABANDONMENT AREA
Sanitary Sewer Easement

ABANDONMENT AREA
Water Easement

ORDINANCE NO. _____

An ordinance providing for the abandonment and relinquishment of portions of a water easement and a sanitary sewer easement, located in City Block A/5459 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to CAPREF Walnut Hill LLC; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement to the City of Dallas and relocation of existing facilities; providing for the indemnification of the City of Dallas against damages arising out of the abandonments herein; providing for the consideration to be paid to the City of Dallas; providing a future effective date for the abandonment, relinquishment and quitclaim made herein; providing for the payment of the publication fee; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of CAPREF Walnut Hill LLC, a Delaware limited liability company; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said easements are no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the City of Dallas hereby abandons and relinquishes all of its right, title and interest in and to the tracts of land described in Exhibit A, attached hereto and made a part hereof; subject, however, to the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 ($5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8 and 9, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to the certain tracts or parcels of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment, relinquishment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the areas described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the areas set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE,** its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended.

References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said portions of a water easement and a sanitary sewer easement shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement, to be provided by **GRANTEE** and acceptable to the Director of Department of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Department of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Department of Sustainable Development and Construction. **GRANTEE** will grant the new easement at no cost consideration to the City and all work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 10. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 11. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

10' WATER EASEMENT ABANDONMENT

EXHIBIT A-TRACT 1

Part of City Block A/5459
The Corner at Walnut Hill and Central Expressway, Installment I
Neal McCraney Survey, Abstract No. 996,
City of Dallas, Dallas County, Texas

DESCRIPTION, of a 642 square foot (0.015 acre) tract of land situated in the Neal McCraney Survey, Abstract No. 996, Dallas County, Texas; said tract being part of City Block A/5459, The Corner at Walnut Hill and Central Expressway, Installment I, an addition to the City of Dallas, Dallas County, Texas according to the plat recorded in Volume 76202, Page 1 of the Deed Records of Dallas County, Texas; said tract also being part of that certain tract of land described as Phase 1 in Special Warranty Deed to Capref Walnut Hill, LLC recorded in Instrument Number 201400271484 of the Official Public Records of Dallas County, Texas; said tract also being a portion of a 10-foot water easement recorded in Volume 76202, Page 1 of said Deed Records; said 642 square foot tract of land being more particularly described as follows:

COMMENCING, at a 5/8-inch iron rod with "KADLECK 3952" cap found at the northwest corner of the intersection at Walnut Hill Lane (a 100-foot right-of-way) and Manderville Lane (a 60-foot right-of-way); said point being the most northerly southeast corner of said Block A/5459 and the beginning of a curve to the left;

THENCE, in a southwesterly direction, along said curve to the left, the northwest line of said Walnut Hill Lane and the southeast line of said Block A/5459, having a central angle of 05 degrees, 47 minutes, 33 seconds, a radius of 1,329.56 feet, a chord bearing and distance of South 42 degrees, 44 minutes, 07 seconds West, 134.36 feet, an arc distance of 134.42 feet to a point;

THENCE, South 39 degrees, 50 minutes, 21 seconds West, continuing along the said northwest line of Walnut Hill Lane and the said southeast line of Block A/5459, a distance of 193.68 feet to a point;

THENCE, North 50 degrees, 09 minutes, 39 seconds West, departing the said northwest line of Walnut Hill Lane the said southeast line of Block A/5459, a distance of 34.41 feet to the **POINT OF BEGINNING**; said point being in the east line of an existing 10-foot water easement recorded in Volume 76202, Page 1 of said Deed Records;

THENCE, over and across said Block A/5459, the following four (4) calls:

South 59 degrees, 36 minutes, 22 seconds West, a distance of 10.00 feet to a point for corner in the west line of said existing 10-foot water easement;

North 30 degrees, 23 minutes, 38 seconds West, along said west line of the existing 10-foot water easement, a distance of 64.23 feet to a point for corner;

North 59 degrees, 36 minutes, 22 seconds East, a distance of 10.00 feet to a point for corner in the said east line of the existing 10-foot water easement;

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	12/16/16
SPRG NO:	3963

10' WATER EASEMENT ABANDONMENT

EXHIBIT A-TRACT 1

Part of City Block A/5459
The Corner at Walnut Hill and Central Expressway, Installment I
Neal McCraney Survey, Abstract No. 996,
City of Dallas, Dallas County, Texas

South 30 degrees, 23 minutes, 38 seconds East, along the said east line of the existing 10-foot water easement, a distance of 64.23 feet to the **POINT OF BEGINNING**;

CONTAINING: 642 square feet or 0.015 acres of land, more or less.

BASIS OF BEARING: Bearing system for this survey is based on the North American Datum of 1983, Texas State Plane Coordinate System, North Central Texas, Zone 4202. Distances shown have been adjusted to surface by applying the Dallas County TxDOT combination factor of 1.000136506.

(A survey plat of even survey date herewith accompanies this description.)

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the easement abandonment tract described.



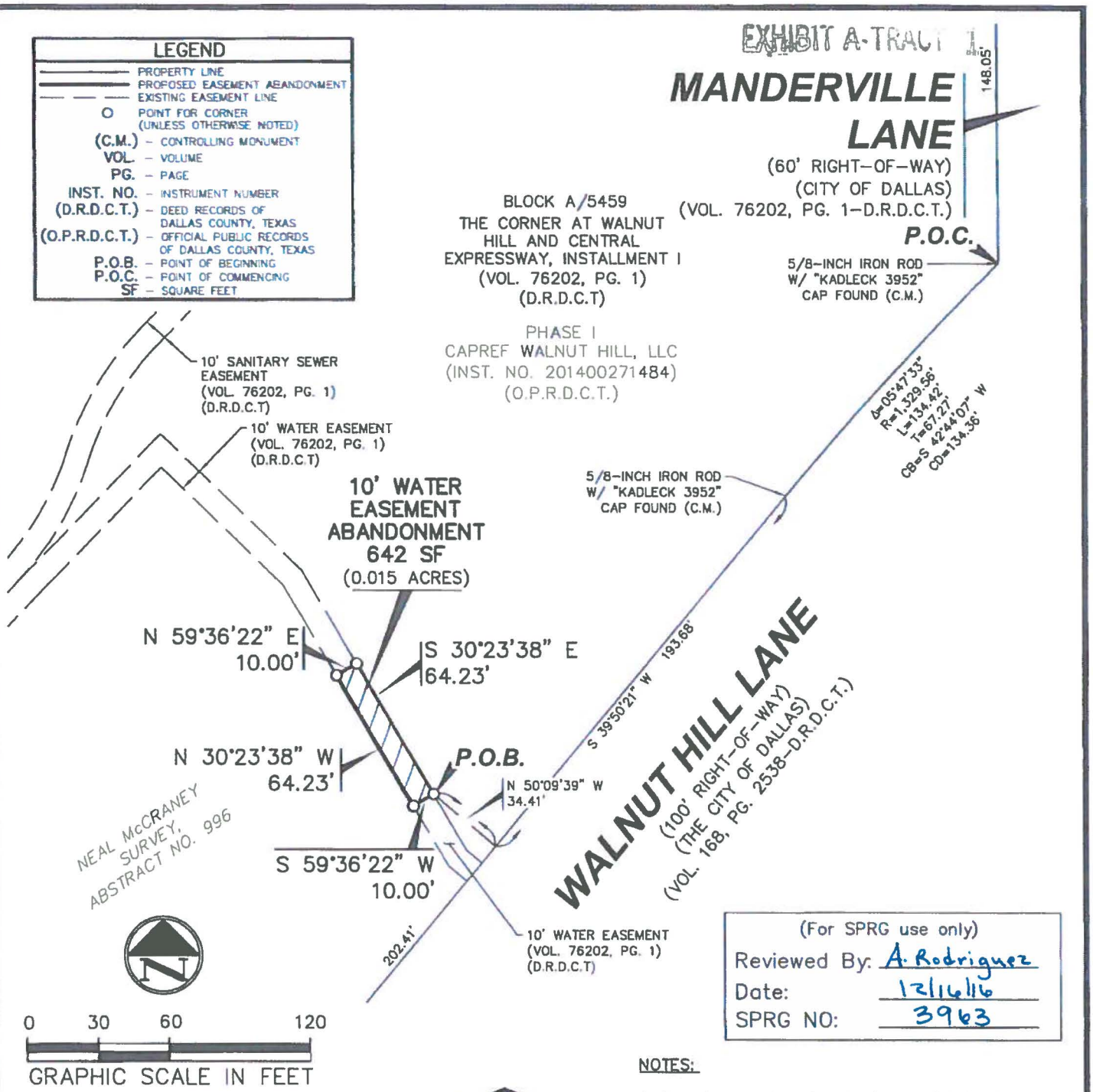
10/6/16

Kyle Coleman Harris Date
Registered Professional Land Surveyor No. 6266
Pacheco Koch, LLC
7557 Rambler Road, Suite 1400, Dallas TX 75231
(972) 235-3031
TX Reg. Surveying Firm LS-10193805

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3610-15.167EX19.dwg cm

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	12/16/16
SPRG NO:	3963

EXHIBIT A-TRACT 1



(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 12/16/16
SPRG NO: 3963

NOTES:

1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
2. Bearing system for this survey is based on the North American Datum of 1983, Texas State Plane Coordinate System, North Central Texas, Zone 4202. Distances shown have been adjusted to surface by applying the Dallas County TxDOT combination factor of 1.000136506.

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the easement abandonment tract described.

10/6/16

Kyle Coleman Harris
Registered Professional
Land Surveyor No. 6266

Date

STATE OF TEXAS
REGISTERED
KYLE COLEMAN HARRIS
6266
PROFESSIONAL
LAND SURVEYOR

Pacheco Koch
7557 RAMBLER ROAD, SUITE 1400
DALLAS, TX 75231 972.235.3031
TX REG. ENGINEERING FIRM F-14439
TX REG. SURVEYING FIRM LS-10193805

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
CM	MWW	1"=60'	OCT. 2016	3610-15.167

10' WATER EASEMENT ABANDONMENT

PART OF CITY BLOCK A/5459,
THE CORNER AT WALNUT HILL AND CENTRAL EXPRESSWAY, INSTALLMENT I
NEAL McCRANEY SURVEY, ABSTRACT NO. 996,
CITY OF DALLAS, DALLAS COUNTY, TEXAS
SHEET 3 OF 3

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10' SANITARY SEWER EASEMENT ABANDONMENT

EXHIBIT A-TRACT 2

Part of City Block A/5459
The Corner at Walnut Hill and Central Expressway, Installment I
Neal McCraney Survey, Abstract No. 996,
City of Dallas, Dallas County, Texas

DESCRIPTION, of a 1,455 square foot (0.033 acre) tract of land situated in the Neal McCraney Survey, Abstract No. 996, Dallas County, Texas; said tract being part of City Block A/5459, The Corner at Walnut Hill and Central Expressway, Installment I, an addition to the City of Dallas, Dallas County, Texas according to the plat recorded in Volume 76202, Page 1 of the Deed Records of Dallas County, Texas; said tract also being part of that certain tract of land described as Phase 1 in Special Warranty Deed to Capref Walnut Hill, LLC recorded in Instrument Number 201400271484 of the Official Public Records of Dallas County, Texas; said tract also being a portion of a 10-foot sanitary sewer easement recorded in Volume 76202, Page 1 of said Deed Records; said 1,455 square foot tract of land being more particularly described as follows:

COMMENCING, at a 5/8-inch iron rod with "KADLECK 3952" cap found at the northwest corner of the intersection at Walnut Hill Lane (a 100-foot right-of-way) and Manderville Lane (a 60-foot right-of-way); said point being the most northerly southeast corner of said Block A/5459 and the beginning of a curve to the left;

THENCE, in a southwesterly direction, along said curve to the left, the northwest line of said Walnut Hill Lane and the southeast line of said Block A/5459, having a central angle of 05 degrees, 47 minutes, 33 seconds, a radius of 1,329.56 feet, a chord bearing and distance of South 42 degrees, 44 minutes, 07 seconds West, 134.36 feet, an arc distance of 134.42 feet to a point;

THENCE, South 39 degrees, 50 minutes, 21 seconds West, continuing along the said northwest line of Walnut Hill Lane and the said southeast line of Block A/5459, a distance of 94.82 feet to a point;

THENCE, North 50 degrees, 09 minutes, 39 seconds West, departing the said northwest line of Walnut Hill Lane and the said southeast line of Block A/5459, a distance of 243.65 feet to the **POINT OF BEGINNING**; said point also being in the south line of an existing 10-foot sanitary sewer easement recorded in Volume 76202, Page 1 of said Deed Records;

THENCE, over and across said Block A/5459, the following four (4) calls:

North 43 degrees, 53 minutes, 38 seconds West, a distance of 10.00 feet to a point for corner in the north line of said existing 10-foot sanitary sewer easement;

North 44 degrees, 06 minutes, 22 seconds East, along the said north line of the existing 10-foot sanitary sewer easement, a distance of 145.54 feet to a point for corner at the terminus of said existing 10-foot sanitary sewer easement;

South 45 degrees, 53 minutes, 38 seconds East, along the terminus of said existing 10-foot sanitary sewer easement, a distance of 10.00 feet to a point for corner;

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	12/16/16
SPRG NO:	3960

10' SANITARY SEWER EASEMENT ABANDONMENT

Part of City Block A/5459
The Corner at Walnut Hill and Central Expressway, Installment I
Neal McCraney Survey, Abstract No. 996,
City of Dallas, Dallas County, Texas

EXHIBIT A-TRACT 2

South 44 degrees, 06 minutes, 22 seconds West, along the said south line of the existing 10-foot sanitary sewer easement, a distance of 145.54 feet to the **POINT OF BEGINNING;**

CONTAINING: 1,455 square feet or 0.033 acres of land, more or less.

BASIS OF BEARING: Bearing system for this survey is based on the North American Datum of 1983, Texas State Plane Coordinate System, North Central Texas, Zone 4202. Distances shown have been adjusted to surface by applying the Dallas County TxDOT combination factor of 1.000136506.

(A survey plat of even survey date herewith accompanies this description.)

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the easement abandonment tract described.



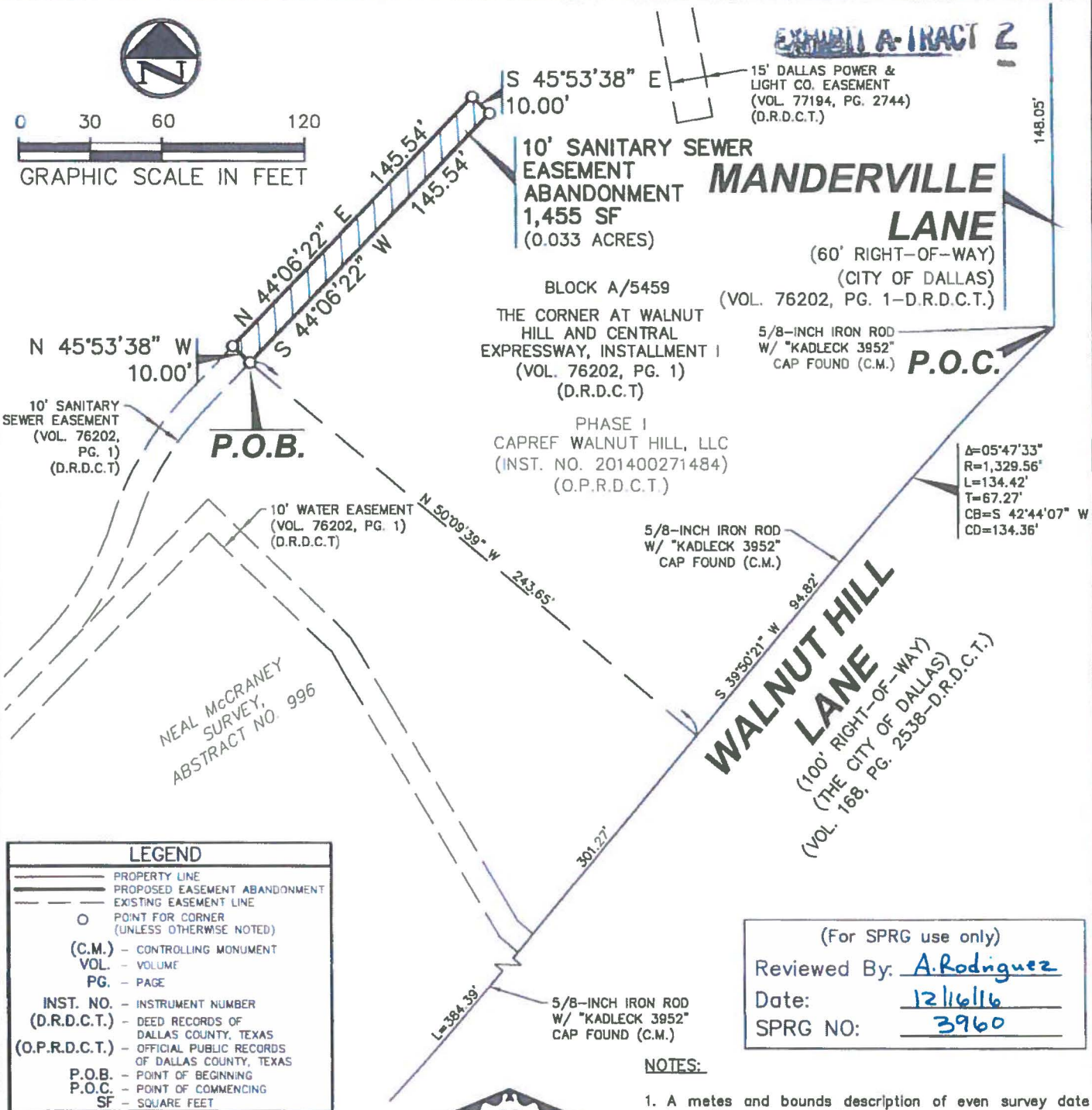
10/6/16

Kyle Coleman Harris Date
Registered Professional Land Surveyor No. 6266
Pacheco Koch, LLC
7557 Rambler Road, Suite 1400, Dallas TX 75231
(972) 235-3031
TX Reg. Surveying Firm LS-10193805

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(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 12/16/16
SPRG NO: 3960

EXHIBIT A-TRACT 2



LEGEND

———	PROPERTY LINE
═══	PROPOSED EASEMENT ABANDONMENT
— — —	EXISTING EASEMENT LINE
O	POINT FOR CORNER (UNLESS OTHERWISE NOTED)
(C.M.)	CONTROLLING MONUMENT
VOL.	VOLUME
PG.	PAGE
INST. NO.	INSTRUMENT NUMBER
(D.R.D.C.T.)	DEED RECORDS OF DALLAS COUNTY, TEXAS
(O.P.R.D.C.T.)	OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING
SF	SQUARE FEET

(For SPRG use only)
Reviewed By: A.Rodriguez
Date: 12/16/16
SPRG NO: 3960

NOTES:

1. A metes and bounds description of even survey date herewith accompanies this plat of survey.
2. Bearing system for this survey is based on the North American Datum of 1983, Texas State Plane Coordinate System, North Central Texas, Zone 4202. Distances shown have been adjusted to surface by applying the Dallas County TxDOT combination factor of 1.000136506.

The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the easement abandonment tract described.

10/6/16

Kyle Coleman Harris
Registered Professional
Land Surveyor No. 6266

Date

STATE OF TEXAS
REGISTERED
KYLE COLEMAN HARRIS
6266
PROFESSIONAL
LAND SURVEYOR

Pacheco Koch
7557 RAMBLER ROAD, SUITE 1400
DALLAS, TX 75231 972.235.3031
TX REG. ENGINEERING FIRM F-14439
TX REG. SURVEYING FIRM LS-10193805

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
CM	MWW	1"=60'	OCT. 2016	3610-15.167

10' SANITARY SEWER EASEMENT ABANDONMENT

PART OF CITY BLOCK A/5459,
THE CORNER AT WALNUT HILL AND CENTRAL EXPRESSWAY, INSTALLMENT I
NEAL McCRANEY SURVEY, ABSTRACT NO. 996,
CITY OF DALLAS, DALLAS COUNTY, TEXAS
SHEET 3 OF 3

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AGENDA ITEM # 36

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 7

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 48G

SUBJECT

An ordinance abandoning a drainage easement and two water easements to Quiktrip Corporation, the abutting owner, containing a total of approximately 6,270 square feet of land, located near the intersection of Buckner and Samuell Boulevards - Revenue: $5,400, plus the $20 ordinance publication fee

BACKGROUND

This item authorizes the abandonment of a drainage easement and two water easements to Quiktrip Corporation, the abutting owner. The area will be included with the property of the abutting owner for the construction of a new convenience store with multi-pump gas station. The cost for this abandonment is the minimum processing fee pursuant to the Dallas City Code, therefore, no appraisal is required.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee March 20, 2017.

FISCAL INFORMATION

Revenue - $5,400, plus the $20 ordinance publication fee

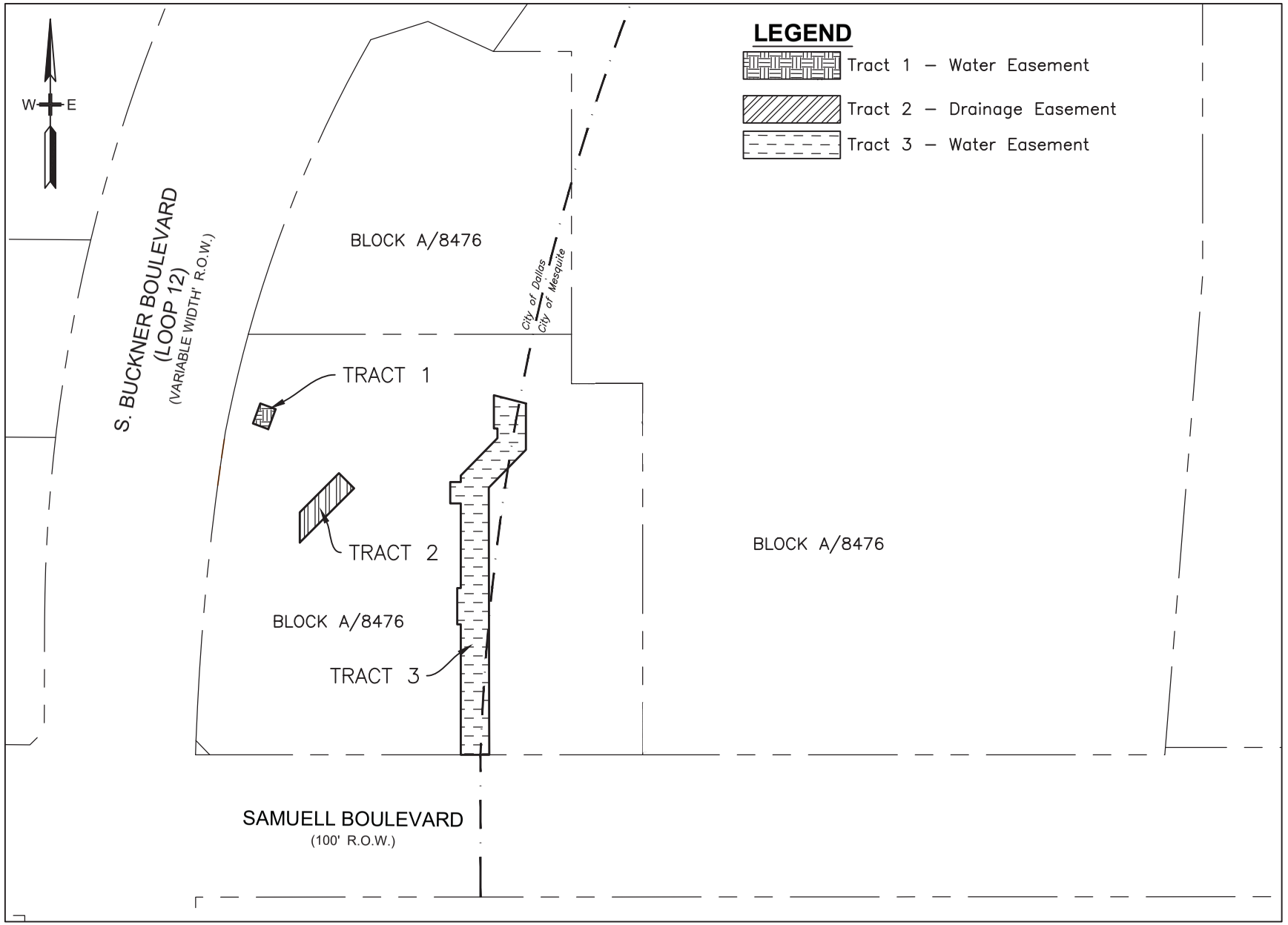
OWNER

Quiktrip Corporation

Christopher E. Cadieux, President

MAP

Attached


LEGEND
Tract 1 – Water Easement
Tract 2 – Drainage Easement
Tract 3 – Water Easement
W
E
S. BUCKNER BOULEVARD
(LOOP 12)
(VARIABLE WIDTH' R.O.W.)
BLOCK A/8476
City of Dallas
City of Mesquite
TRACT 1
TRACT 2
TRACT 3
BLOCK A/8476
BLOCK A/8476
SAMUELL BOULEVARD
(100' R.O.W.)

ORDINANCE NO. _____

An ordinance providing for the abandonment and relinquishment of a portion a drainage easement and two water easements, located adjacent to City Block A/8476 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Quiktrip Corporation; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement, if needed, to the City of Dallas and the relocation of existing facilities; providing for the indemnification of the City of Dallas against damages arising out of the abandonments herein; providing for the consideration to be paid to the City of Dallas; providing a future effective date for the abandonment, relinquishment and quitclaim made herein; providing for the payment of the publication fee; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Quiktrip Corporation, a Oklahoma corporation; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of easements are no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the City of Dallas hereby abandons and relinquishes all of its right, title and interest in and to the tracts of land described in Exhibit A- Tracts I, II and III, attached hereto and made a part hereof; subject, however, to the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 ($5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8, 9 and 10, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to the certain tracts or parcels of land hereinabove described in Exhibit A - Tracts I, II and III. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment, relinquishment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the areas described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the areas set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE**, its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance"

under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That as a condition of this abandonment, relinquishment and quitclaim made herein, **GRANTEE** shall execute and complete the terms of a Private Development Contract (P-Contract) with the City and retain the drainage and water easements until the mains are abandoned or relocated.

SECTION 10. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said portions of drainage and water easements shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement, if needed to be provided by **GRANTEE** and acceptable to the Director of Department of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Department of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Department of Sustainable Development and Construction. **GRANTEE** will grant the new easement, if needed, at no cost consideration to the City and all work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee shall deliver to **GRANTEE** a certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

EXHIBIT A - TRACT I

DRAINAGE EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOTS 1 AND 2, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 696 square foot tract of land located in the City of Dallas, Dallas County, Texas, part of the William Chenault Survey, Abstract No. 276, being a portion of an existing Drainage Easement created and located on Lots 1 & 2, Block A/ 8476, Buckner Crossing, an addition to the City of Dallas and the City of Mesquite according to the plat thereof as recorded as Instrument No. 200900038099, Official Public Records, Dallas County, Texas, , said 696 square foot tract being part of that tract of land conveyed to QuikTrip Corporation by Special Warranty Deeds recorded as Instrument Nos. 201600042661 & 201600113407, Official Public Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at an "X" in concrete found in the north right-of-way line of Samuell Boulevard, being the most southerly southwest corner of Lot 2, Block A, said Buckner Crossing, being the southeast end of a right-of-way corner clip at the intersection of the north right-of-way line of Samuell Boulevard (variable width R.O.W.) and the east right-of-way line of Buckner Boulevard (Loop 12, a variable width R.O.W.)

THENCE, along the south line of said Buckner Crossing and the north right-of-way line of Samuell Boulevard, North 89 degrees 32 minutes 31 seconds East, a distance of 36.62 feet to a point in the east line of an existing Water, Wastewater and Drainage easement as shown on said Buckner Crossing addition plat, from which a 1/2" iron rod found with cap stamped "RPLS 5310" bears North 89 degrees 32 minutes 31 seconds East, a distance of 177.38 feet;

THENCE, departing the north right-of-way of Samuell Boulevard, over and across said Lot 2 as follows:

North 00 degrees 08 minutes 51 seconds West, a distance of 9.13 feet;
North 22 degrees 41 minutes 46 seconds East, a distance of 67.57 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 77.89 feet to the **POINT OF BEGINNING**, being the south corner of said Drainage Easement;

THENCE, along the west line of said Drainage Easement, North 00 degrees 27 minutes 29 seconds West, a distance of 21.21 feet;

THENCE, along the northwest line of said Drainage Easement, North 44 degrees 32 minutes 31 seconds East, a distance of 38.89 fee to the north corner of said Drainage Easement;

THENCE, along the northeast line of said Drainage Easement, South 45 degrees 27 minutes 29 seconds East, a distance of 15.00 feet;

THENCE, along the southeast line of said Drainage Easement, South 44 degrees 32 minutes 31 seconds West, a distance of 53.89 feet to the **POINT OF BEGINNING** and containing 696 square feet or 0.0160 acres of land more or less.

NOTE: Bearings based on the recorded plat for Buckner Crossing, Instrument No. 200900038099, Official Public Records, Dallas County, Texas. North right-of-way line of Samuell Boulevard held as North 89 degrees 32 minutes 31 seconds East.

2/27/17
William J. Johnson
Registered Professional
Land Surveyor No. 5426

STATE OF TEXAS
REGISTERED
WILLIAM J. JOHNSON
5426
PROFESSIONAL
LAND SURVEYOR

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/2017
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EXHIBIT A - TRACT I

DRAINAGE EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOTS 1 AND 2, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

0 30' 60'

SCALE: 1"=60'

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 00°08'51" W	9.13'
L2	N 00°27'29" W	21.21'
L3	N 44°32'31" E	38.89'
L4	S 45°27'29" E	15.00'
L5	S 44°32'31" W	53.89'

LEGEND

5/8" I.R.S.	5/8" IRON ROD SET WITH PLASTIC CAP STAMPED "SCI"
(C.M.)	CONTROLLING MONUMENT
D.R.D.C.T.	DEED RECORDS, DALLAS COUNTY, TEXAS
I.R.F.	IRON ROD FOUND
I.R.F.C.	IRON ROD FOUND WITH CAP
FND	FOUND
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS, DALLAS, COUNTY, TEXAS
PG.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING

BASIS OF BEARINGS
NORTH R.O.W. LINE OF SAMUELL BLVD.=N 89°32'31" E
(INST. NO. 200900038099, O.P.R.D.C.T.)

BUCKNER BOULEVARD (LOOP 12)
(VARIABLE-WIDTH R.O.W.)
VOL. 2180, PG. 51, D.R.D.C.T.

11.5' X 15' WATER EASEMENT INST. #200900038099 O.P.R.D.C.T.

NEC BUCKNER & SAMUELL, L.P.
INST. NO. 201500162862
O.P.R.D.C.T.

WATER EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

(DEED LINE)

PART OF LOT 3
BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

QUIKTRIP CORPORATION
INST. NO. 201600042661
O.P.R.D.C.T.
WILLIAM CHENAULT SURVEY
ABSTRACT No. 276

LINE OF RESPONSIBILITY BETWEEN THE CITY OF DALLAS AND THE CITY OF MESQUITE (INST. NO. 200900038099 O.P.R.D.C.T.)

MUTUAL ACCESS EASEMENT
INST.# 20080284013 &
INST# 200900189358
O.P.R.D.C.T.

LOT 1
BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

NEC BUCKNER & SAMUELL, L.P.
INST. NO. 201500162862
O.P.R.D.C.T.

MUTUAL ACCESS EASEMENT
INST.# 20080284013 &
INST.# 200900189358
O.P.R.D.C.T.

"X" FND (CM)

DRAINAGE EASEMENT
696 SQUARE FEET
(0.0160 ACRE)
INST. # 200900038099,
O.P.R.D.C.T. ABANDONED
BY THIS DOCUMENT

P.O.B.

77.89'
N 00°27'29" W

LOT 2, BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

QUIKTRIP CORPORATION
INST. NO. 201600113407
O.P.R.D.C.T.

WATER, WASTEWATER, & DRAINAGE EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

DRAINAGE EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

CITY OF DALLAS
CITY OF MESQUITE

(DEED LINE)

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

67.57'
N 22°41'56" E

1/2" I.R.F.C. (C.M.)

1/2" I.R.F.C. (C.M.)

P.O.C.
"X" FND (CM)

N 89°32'31" E
36.62'

N 89°32'31" E 177.38'
(LINE OF DIRECTIONAL CONTROL)

PEDESTRIAN EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

CITY OF DALLAS
CITY OF MESQUITE

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

(APPROXIMATE SURVEY LINE)
WILLIAM CHENAULT SURVEY ABSTRACT No. 276
DAVID BADGELEY SURVEY ABSTRACT No. 65

SAMUELL BOULEVARD
(VARIABLE-WIDTH R.O.W.)
VOL. 1949, PG. 195, D.R.D.C.T.

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/2017
SPRG NO. 3817

STATE OF TEXAS
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LAND SURVEYOR

2/27/17
William J. Johnson
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EXHIBIT A - TRACT II

WATER EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOTS 1, 2 AND 3, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 5,402 square foot tract of land located in the City of Dallas and the City of Mesquite, Dallas County, Texas, part of the William Chenault Survey, Abstract No. 276, being a portion of an existing Water Easement created and located on Lots 1, 2 and 3, Block A/8476, Buckner Crossing, an addition to the City of Dallas and the City of Mesquite according to the plat thereof as recorded as Instrument No. 200900038099, Official Public Records, Dallas County, Texas, said 5,402 square foot tract of land being part of those tracts conveyed to QuikTrip Corporation by Special Warranty Deeds recorded as Instrument Nos. 201600113407 & 201600042661, Official Public Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at an "X" in concrete found in the north right-of-way line of Samuell Boulevard, being the most southerly southwest corner of said Lot 2, being the southeast end of a right-of-way corner clip at the intersection of the north right-of-way line of Samuell Boulevard (variable width R.O.W.) and the east right-of-way line of Buckner Boulevard (Loop 12, a variable width R.O.W.)

THENCE, along the south line of said Lot 1 and the north right-of-way line of Samuell Boulevard, North 89 degrees 32 minutes 31 seconds East, a distance of 176.27 feet the **POINT OF BEGINNING**, being in the west line of said existing Water Easement, from which a 1/2" iron rod with cap stamped "RPLS 5310" found for the southeast corner of said Lot 2 bears North 89 degrees 32 minutes 31 seconds East, a distance of 37.73 feet;

THENCE, departing the north right-of-way line of Samuell Boulevard, over and across said Lots 1, 2 and 3 and along the west line of said Water Easement as follows:
North 00 degrees 27 minutes 29 seconds West, a distance of 91.63 feet;
South 89 degrees 32 minutes 31 seconds West, a distance of 2.50 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 25.50 feet;
North 89 degrees 32 minutes 31 seconds East, a distance of 2.50 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 59.49 feet;
South 89 degrees 32 minutes 31 seconds West, a distance of 7.41 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 15.00 feet;
North 89 degrees 32 minutes 31 seconds East, a distance of 7.41 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 4.64 feet;
North 44 degrees 00 minutes 17 seconds East, a distance of 36.77 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 6.84 feet;
South 89 degrees 32 minutes 31 seconds West, a distance of 2.50 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 23.31 feet;

THENCE, departing the west line of said Water Easement, South 76 degrees 02 minutes 27 seconds East, a distance of 23.23 feet to a point in the east line of said Water Easement;

THENCE, along the east line of said Water Easement over and across said Lots 1, 2 and 3 as follows:
South 00 degrees 27 minutes 29 seconds East, a distance of 32.54 feet;

THENCE, South 44 degrees 00 minutes 17 seconds West, a distance of 37.22 feet;

THENCE, South 00 degrees 33 minutes 14 seconds East, a distance of 187.76 feet;

THENCE, South 89 degrees 32 minutes 31 seconds West, a distance of 20.00 feet to the **POINT OF BEGINNING** and containing 5,402 square feet or 0.1240 acres of land more or less.

NOTE: Bearings based on the recorded plat for Buckner Crossing, Instrument No. 200900038099, Official Public Records, Dallas County, Texas. North right-of-way line of Samuell Boulevard held as North 89 degrees 32 minutes 31 seconds East.

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/2017
SPRG NO. 3814

2/27/17
William J. Johnson
Registered Professional
Land Surveyor No. 5426

STATE OF TEXAS
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WILLIAM J. JOHNSON
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EXHIBIT A - TRACT II

WATER EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOTS 1, 2 AND 3, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

0 30' 60'

SCALE: 1"=60'

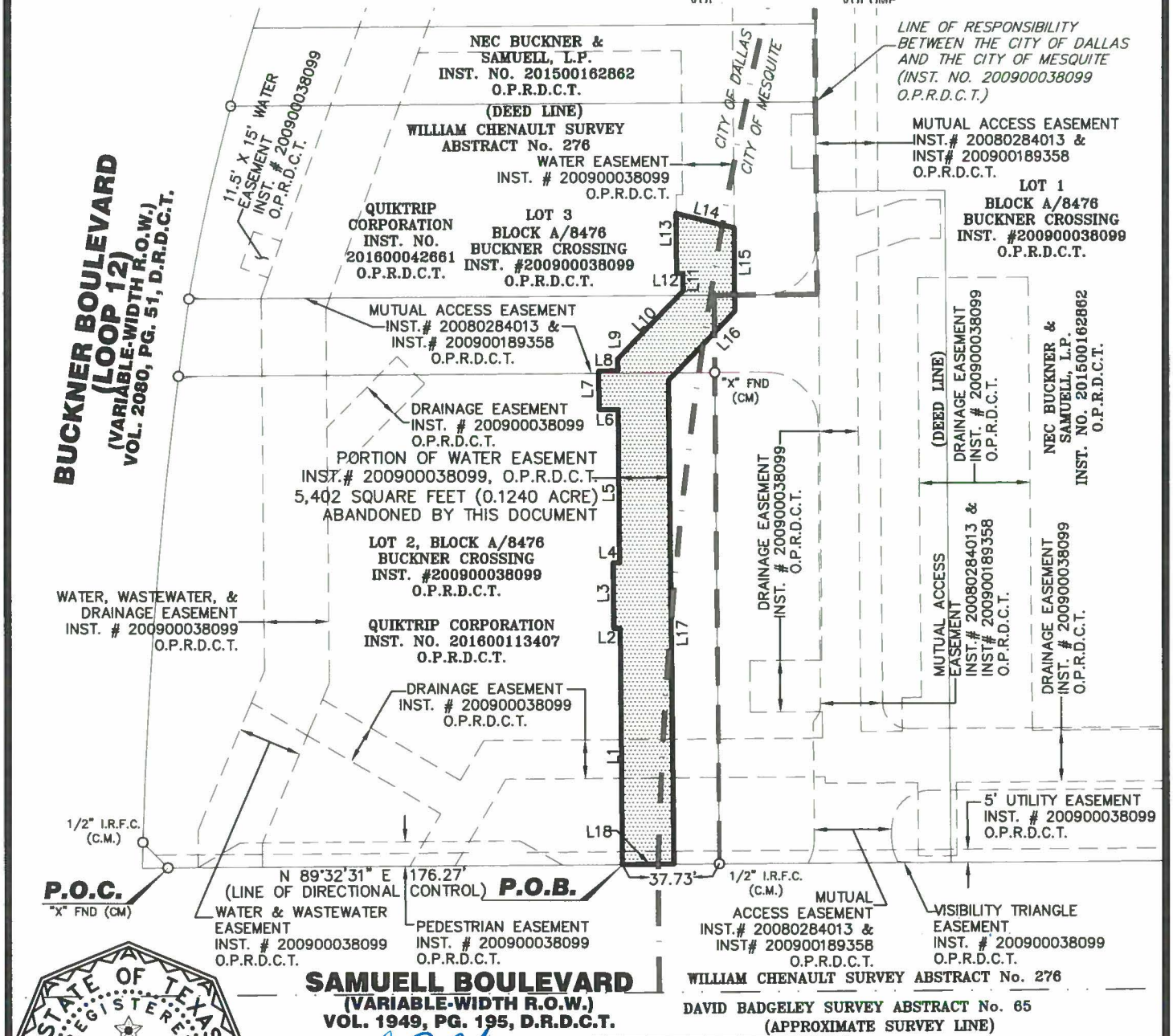
SEE LINE TABLE ON SHEET 3

BASIS OF BEARINGS
NORTH R.O.W. LINE OF SAMUELL BLVD.
N 89°32'31" E
(INST. NO. 200900038099, O.P.R.D.C.T.)

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/2017
SPRG NO. 3814

LEGEND

5/8" I.R.S.	5/8" IRON ROD SET WITH PLASTIC CAP STAMPED "SCI"
(CM)	CONTROLLING MONUMENT
D.R.D.C.T.	DEED RECORDS, DALLAS COUNTY, TEXAS
FND.	FOUND
I.R.F.	IRON ROD FOUND
I.R.F.C.	IRON ROD FOUND WITH CAP
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS, DALLAS, COUNTY, TEXAS
PG.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING
VOL	VOLUME



STATE OF TEXAS
REGISTERED
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2/27/17

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EXHIBIT A - TRACT II

WATER EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOTS 1, 2 AND 3, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 00°27'29" W	91.63'
L2	S 89°32'31" W	2.50'
L3	N 00°27'29" W	25.50'
L4	N 89°32'31" E	2.50'
L5	N 00°27'29" W	59.49'
L6	S 89°32'31" W	7.41'
L7	N 00°27'29" W	15.00'
L8	N 89°32'31" E	7.41'
L9	N 00°27'29" W	4.64'
L10	N 44°00'17" E	36.77'
L11	N 00°27'29" W	6.84'
L12	S 89°32'31" W	2.50'
L13	N 00°27'29" W	23.31'
L14	S 76°02'27" E	23.23'
L15	S 00°27'29" E	32.54'
L16	S 44°00'17" W	37.22'
L17	S 00°33'14" E	187.76'
L18	S 89°32'31" W	20.00'

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/17
SPRG NO. 3814

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EXHIBIT A - TRACT III

WATER EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOT 3, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 172 square foot tract of land located in the City of Dallas, Dallas County, Texas, part of the William Chenault Survey, Abstract No. 276, being a portion of an existing Water Easement created and located on Lot 3, Block A/8476, Buckner Crossing, an addition to the City of Dallas and the City of Mesquite according to the plat thereof as recorded as Instrument No. 200900038099, Official Public Records, Dallas County, Texas, said 172 square foot tract being part of that tract of land conveyed to QuikTrip Corporation by Special Warranty Deed recorded as Instrument No. 201600042661, Official Public Records, Dallas County, Texas, and being more particularly described as follows:

COMMENCING at an "X" in concrete found in the north right-of-way line of Samuell Boulevard, being the most southerly southwest corner of Lot 2, Block A/8476, said Buckner Crossing, being the southeast end of a right-of-way corner clip at the intersection of the north right-of-way line of Samuell Boulevard (variable width R.O.W.) and the east right-of-way line of Buckner Boulevard (Loop 12, a variable width R.O.W.)

THENCE, along the south line of said Buckner Crossing and the north right-of-way line of Samuell Boulevard, North 89 degrees 32 minutes 31 seconds East, a distance of 11.62 feet to a point in the west line of an existing Water, Wastewater and Drainage easement as shown on said Buckner Crossing addition plat, from which a 1/2" iron rod found with cap stamped "RPLS 5310" bears North 89 degrees 32 minutes 31 seconds East, a distance of 202.38 feet;

THENCE, departing the north right-of-way of Samuell Boulevard, over and across said Lots 2, 1 & 3 as follows:

North 00 degrees 01 minutes 39 seconds West, a distance of 14.39 feet;
North 22 degrees 41 minutes 56 seconds East, a distance of 67.42 feet;
North 00 degrees 27 minutes 29 seconds West, a distance of 144.77 feet;
North 19 degrees 50 minutes 54 seconds East, a distance of 8.18 feet to the **POINT OF BEGINNING**, being the southeast corner of said Water Easement;

THENCE, along the south line of said Water Easement, North 70 degrees 09 minutes 06 seconds West, a distance of 11.50 feet to the southwest corner of said Water Easement;

THENCE, along the west line of said Water Easement, North 19 degrees 50 minutes 54 seconds East, a distance of 15.00 feet to the northwest corner of said Water Easement;

THENCE, along the north line of said Water Easement, South 70 degrees 09 minutes 06 seconds East, a distance of 11.50 feet to the northeast corner of said Water Easement;

THENCE, along the east line of said Water Easement, South 19 degrees 50 minutes 54 seconds West, a distance of 15.00 feet to the **POINT OF BEGINNING** and containing 172 square feet or 0.0040 acres of land more or less.

NOTE: Bearings based on the recorded plat for Buckner Crossing, Instrument No. 200900038099, Official Public Records, Dallas County, Texas. North right-of-way line of Samuell Boulevard held as North 89 degrees 32 minutes 31 seconds East.

2/27/17
William J. Johnson
Registered Professional
Land Surveyor No. 5426

STATE OF TEXAS
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EXHIBIT A - TRACT III

WATER EASEMENT ABANDONMENT
BUCKNER CROSSING
PART OF LOT 3, BLOCK A/8476
WILLIAM CHENAULT SURVEY, ABSTRACT NO. 276
CITY OF DALLAS, DALLAS COUNTY, TEXAS

0 30' 60'

SCALE: 1"=60'

FOR SPRG USE ONLY
REVIEWED BY: JD
DATE: 2/27/2017
SPRG NO. 3815

LINE TABLE

NUMBER	DIRECTION	DISTANCE
L1	N 89°32'31" E	11.62'
L2	N 00°01'39" W	14.39'
L3	N 19°50'54" E	8.18'
L4	N 70°09'06" W	11.50'
L5	N 19°50'54" E	15.00'
L6	S 70°09'06" E	11.50'
L7	S 19°50'54" W	15.00'

LEGEND

5/8" I.R.S.	5/8" IRON ROD SET WITH PLASTIC CAP STAMPED "SCI"
(CM)	CONTROLLING MONUMENT
D.R.D.C.T.	DEED RECORDS, DALLAS COUNTY, TEXA
FND	FOUND
I.R.F.	IRON ROD FOUND
I.R.F.C.	IRON ROD FOUND WITH CAP
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS, DALLAS, COUNTY, TEXAS
PG.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCING
VOL.	VOLUME

BASIS OF BEARINGS
NORTH R.O.W. LINE
OF SAMUELL BLVD.
N 89°32'31" E
(INST. NO. 200900038099,
O.P.R.D.C.T.)

NEC BUCKNER &
SAMUELL, L.P.
INST. NO. 201500162862
O.P.R.D.C.T.

WATER EASEMENT
INST. # 200900038099
(DEED LINE) O.P.R.D.C.T.

LINE OF RESPONSIBILITY BETWEEN THE CITY OF DALLAS AND THE CITY OF MESQUITE (INST. NO. 200900038099 O.P.R.D.C.T.)

WILLIAM CHENAULT SURVEY
ABSTRACT No. 276
PART OF LOT 3, BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

MUTUAL ACCESS EASEMENT
INST.# 20080284013 &
INST# 200900189358
O.P.R.D.C.T.

LOT 1
BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

QUIKTRIP CORPORATION
INST. NO. 201600042661
O.P.R.D.C.T.

11.5' X 15' WATER EASEMENT
172 SQUARE FEET (0.0040 ACRE)
INST. # 200900038099 O.P.R.D.C.T.
ABANDONED BY THIS DOCUMENT

L4 L5 L6 L7

P.O.B.

L3

MUTUAL ACCESS EASEMENT
INST.# 20080284013 &
INST.# 200900189358
O.P.R.D.C.T.

NEC BUCKNER &
SAMUELL, L.P.
INST. NO.
201500162862
O.P.R.D.C.T.

"X" FND (CM)

BUCKNER BOULEVARD
(LOOP 12)
(VARIABLE-WIDTH R.O.W.)
VOL. 2080, PG. 51, D.R.D.C.T.

N 00°27'29" W 144.77'

DRAINAGE EASEMENT
INST. # 200900038099,
O.P.R.D.C.T.

LOT 2, BLOCK A/8476
BUCKNER CROSSING
INST. #200900038099
O.P.R.D.C.T.

QUIKTRIP CORPORATION
INST. NO. 201600113407
O.P.R.D.C.T.

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

(DEED LINE)

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

CITY OF DALLAS
CITY OF MESQUITE

WATER, WASTEWATER, &
DRAINAGE EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

DRAINAGE EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

N 22°41'56" E 67.42'

1/2" I.R.F.C.
(CM)

1/2" I.R.F.C.
(CM)

L2

L1

P.O.C.
"X" FND (CM)

N 89°32'31" E 202.38'
(LINE OF DIRECTIONAL CONTROL)

PEDESTRIAN EASEMENT
INST. # 200900038099
O.P.R.D.C.T.

DRAINAGE EASEMENT
INST.# 200900038099,
O.P.R.D.C.T.

CITY OF DALLAS
CITY OF MESQUITE

SAMUELL BOULEVARD
(VARIABLE-WIDTH R.O.W.)
VOL. 1949, PG. 195, D.R.D.C.T.

(APPROXIMATE SURVEY LINE)
WILLIAM CHENAULT SURVEY ABSTRACT No. 276
DAVID BADGELEY SURVEY ABSTRACT No. 65

STATE OF TEXAS
REGISTERED
WILLIAM J. JOHNSON
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PROFESSIONAL
LAND SURVEYOR

2/27/17

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AGENDA ITEM # 37

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 1, 3, 4, 9, 10

DEPARTMENT: Trinity Watershed Management

CMO: Mark McDaniel, 670-3256

MAPSCO: 27F K 36R 44Y 63D G U 64F N

SUBJECT

Authorize **(1)** the rejection of bids for Erosion Control Improvements Group 10; and **(2)** the re-advertisement for new bids - Financing: No cost consideration to the City

BACKGROUND

This action will authorize the rejection of bids for the Erosion Control Improvements Group 10 that includes the installation of gabion walls, retaining walls, gabion mattresses, slope and channel improvements to protect structures and minimize creek bank erosion along various creeks throughout the city. These projects were funded in the 2012 Bond Program.

On January 20, 2017, four bids were received for the project including Austin Filter Systems, Inc. who was the apparent low bidder.

This action authorizes the rejection of the bids for Erosion Control Improvements Group 10 due to low bidder's total amount exceeding the available funding.

This project will be combined with other erosion control projects and provide improved pricing through the advantage of economy of scale.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

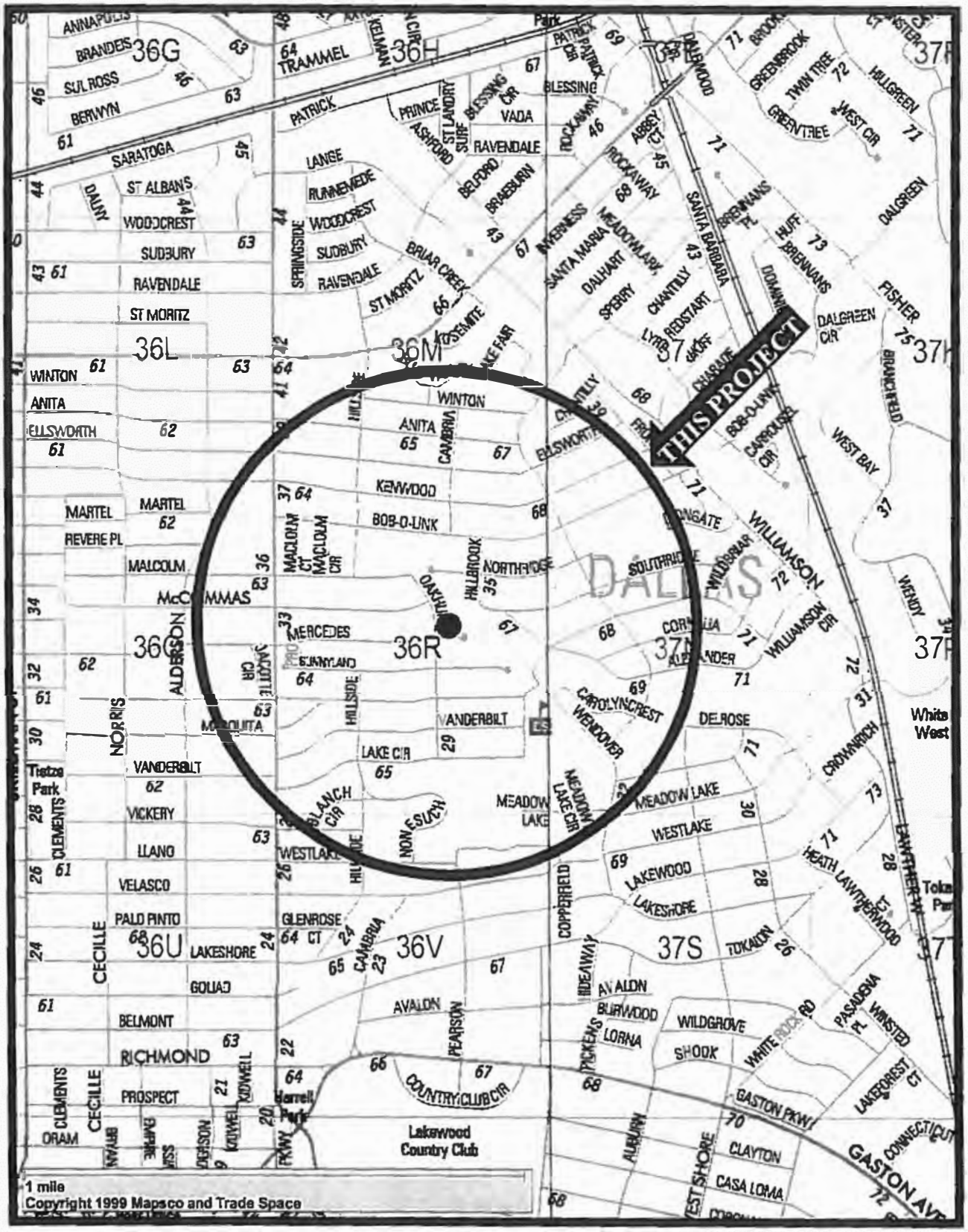
FISCAL INFORMATION

No cost consideration to the City.

MAPS

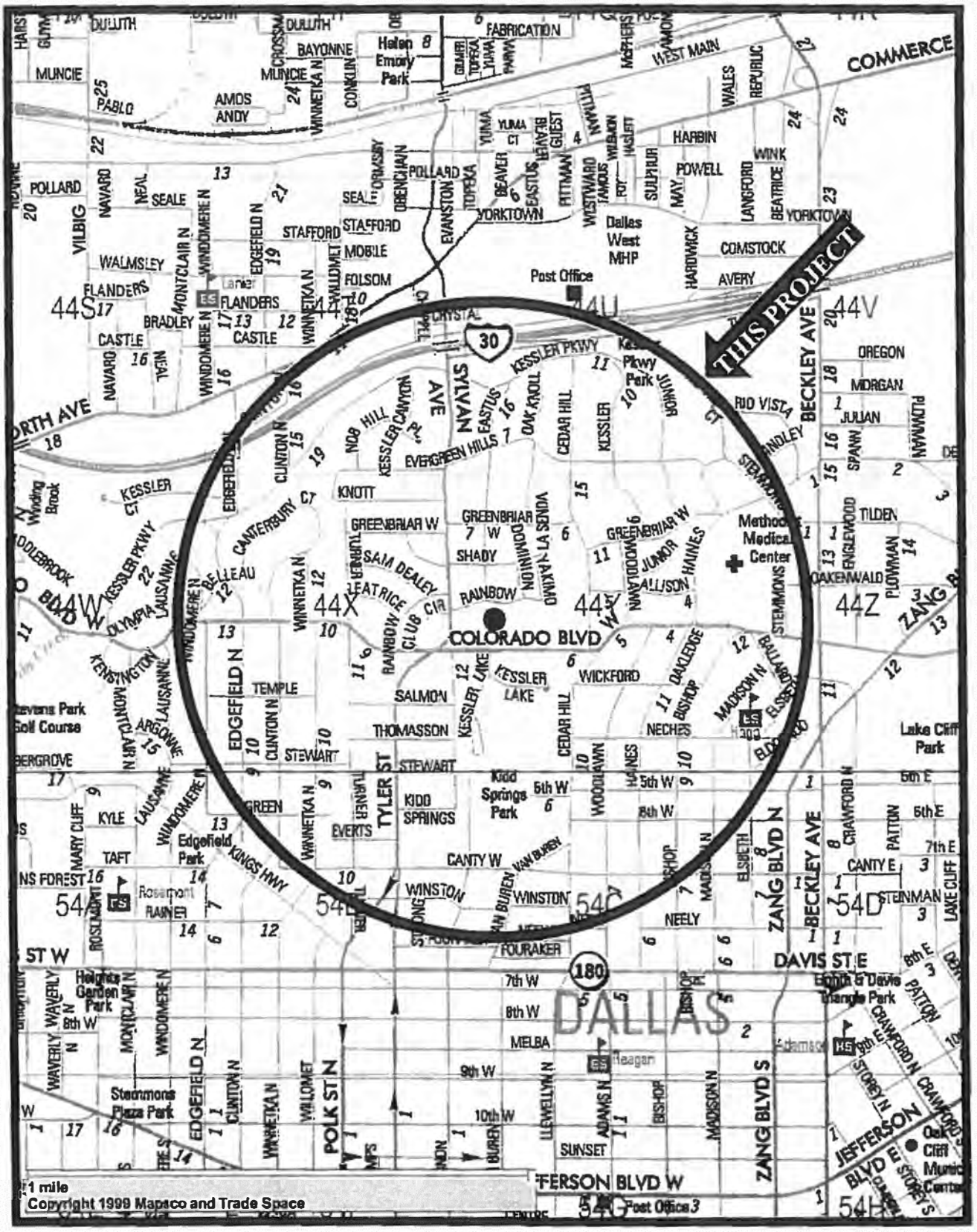
Attached

EC Group 10: Map 1 of 6



Mapsco 36-R

EC Group 10: Map 2 of 6



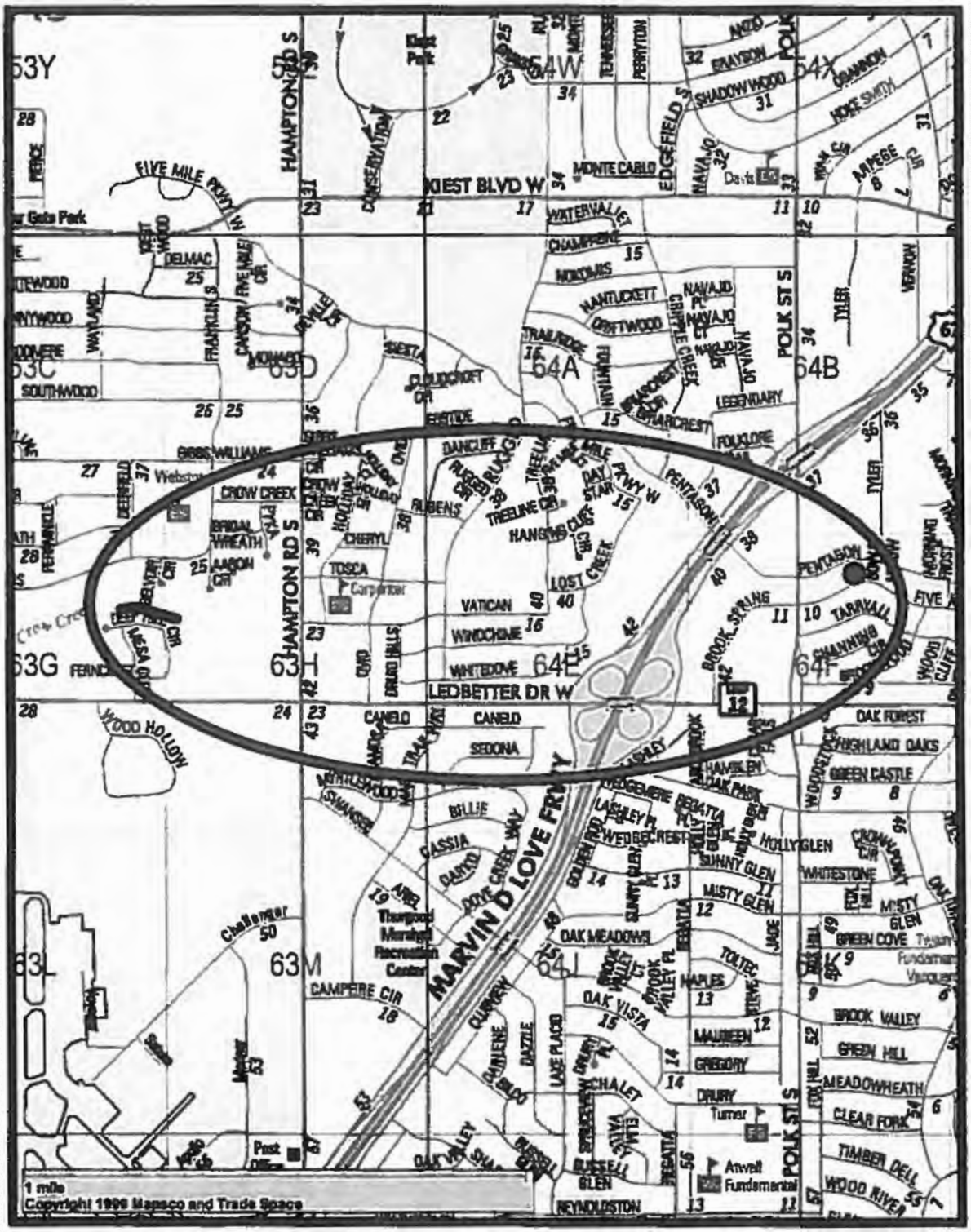
Mapsco 44-Y

EC Group 10: Map 3 of 6



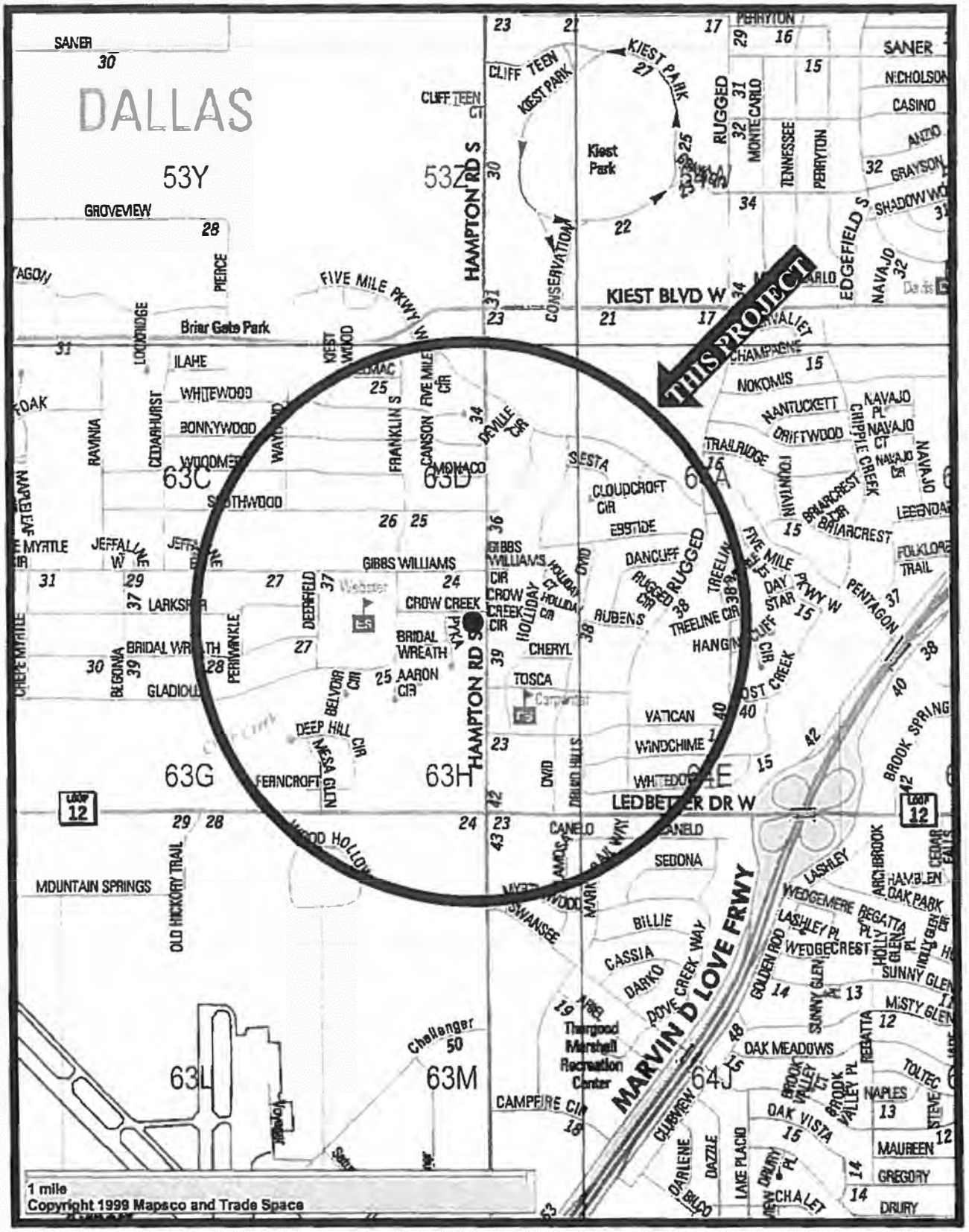
MAPSCO 27-F, K

EC Group 10: Map 4 of 6



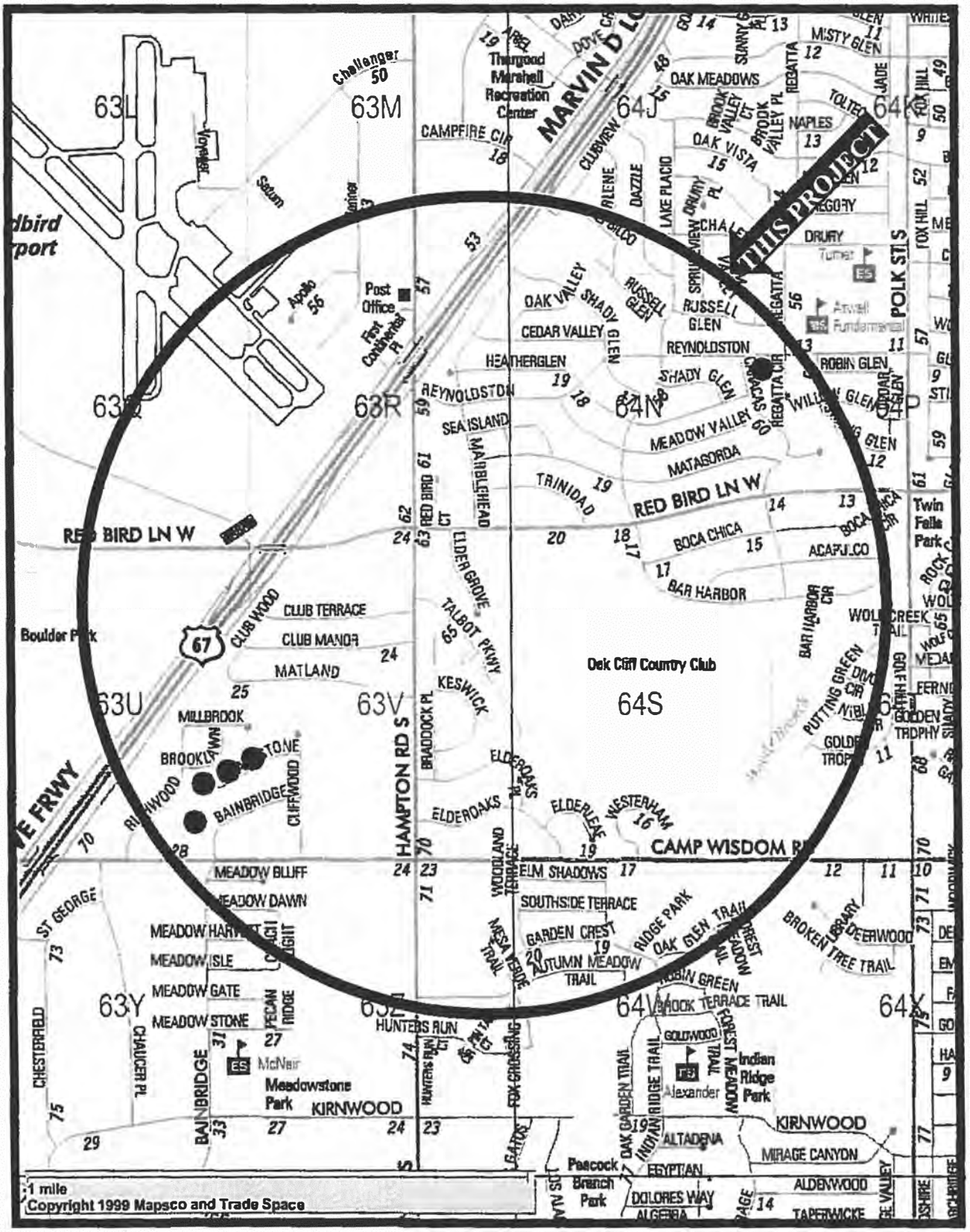
Mapsco 63-G & 64-F

EC Group 10: Map 5 of 6



Mapsco 63-D

EC Group 10: Map 6 of 6



Mapsco 63-U & 64-N

March 22, 2017

WHEREAS, bids were received on January 20, 2017 for the Erosion Control Improvements Group 10; and

WHEREAS, the proposals submitted were significantly higher than the available funding; and

WHEREAS, it has been determined that it is in the best interest of the City of Dallas to reject all bids received and re-advertise for new bids.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to reject the bids received for the Erosion Control Improvements Group 10 and is hereby granted permission to re-advertise.

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.

AGENDA ITEM # 38

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 1, 10, 11

DEPARTMENT: Trinity Watershed Management

CMO: Mark McDaniel, 670-3256

MAPSCO: 15C 16W 26G 27S 53K

SUBJECT

Authorize **(1)** the rejection of bids for Erosion Control Improvements Group 11; and **(2)** the re-advertisement for new bids - Financing: No cost consideration to the City

BACKGROUND

This action will authorize the rejection of bids for the Erosion Control Improvements Group 11, which comprises the construction of five (5) erosion control improvement projects that include the installation of gabion walls, retaining walls, gabion mattresses, slope and channel improvements to protect structures and minimize creek bank erosion along various creeks throughout the city. These projects were funded in the 2012 Bond Program.

On January 13, 2017, five bids were received for the project including Ark Contracting Services who was the apparent low bidder.

This action authorizes the rejection of the bids for Erosion Control Improvements Group 11 because the apparent low bidder's total bid amount exceeded the available funding.

This project will be combined with other erosion control projects and provide improved pricing through the advantage of economy of scale.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

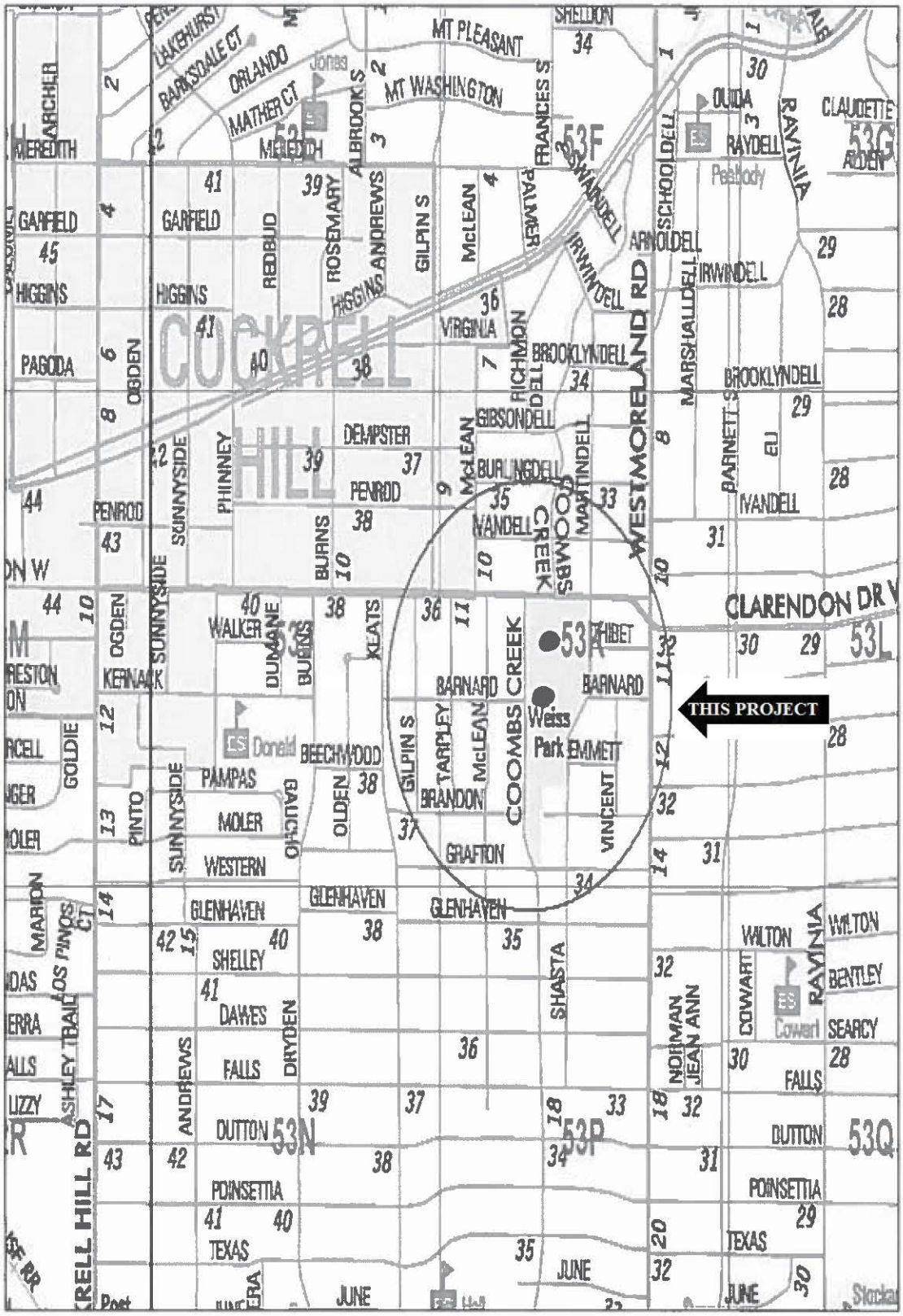
FISCAL INFORMATION

No cost consideration to the City.

MAPS

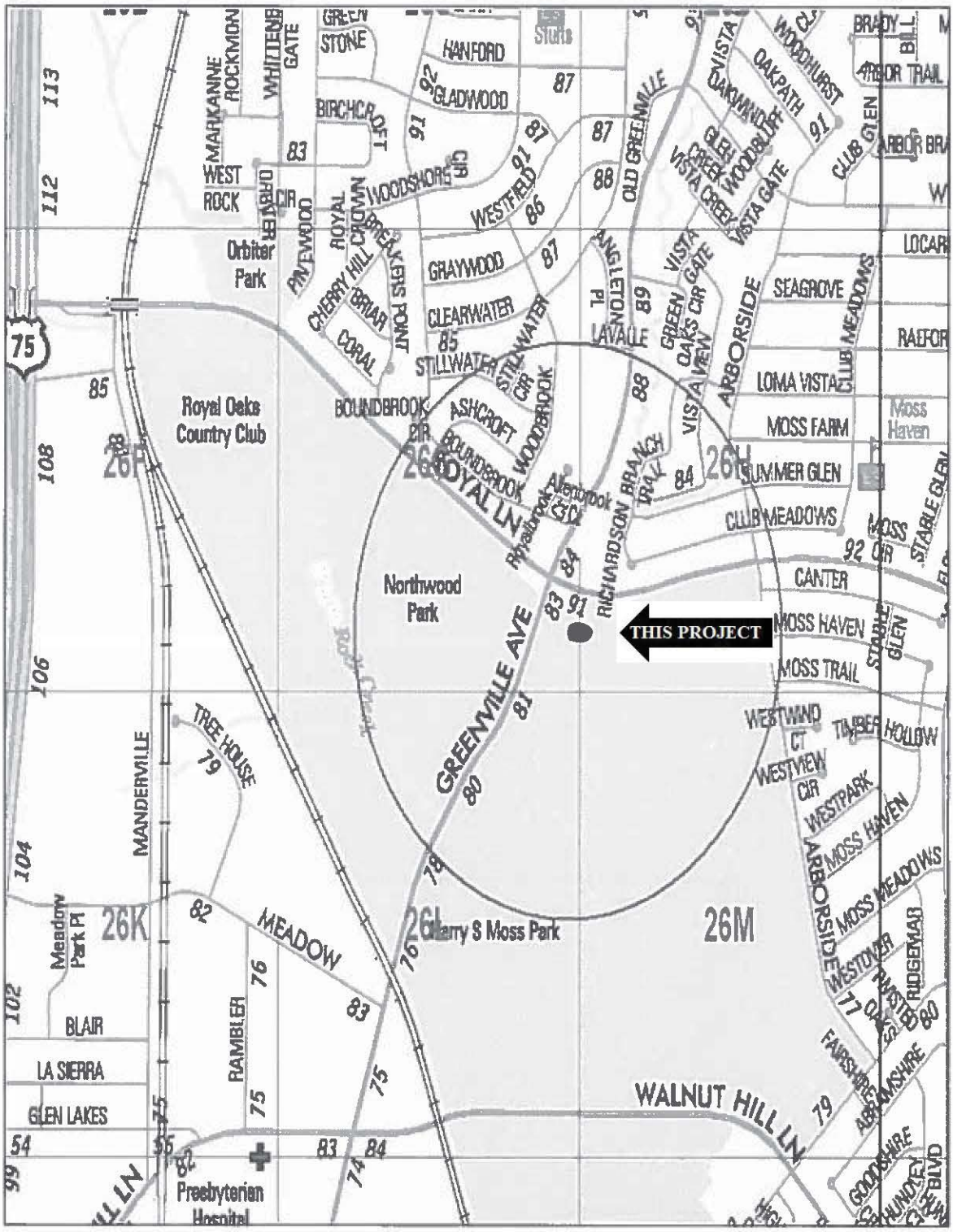
Attached

Erosion Control Group 11



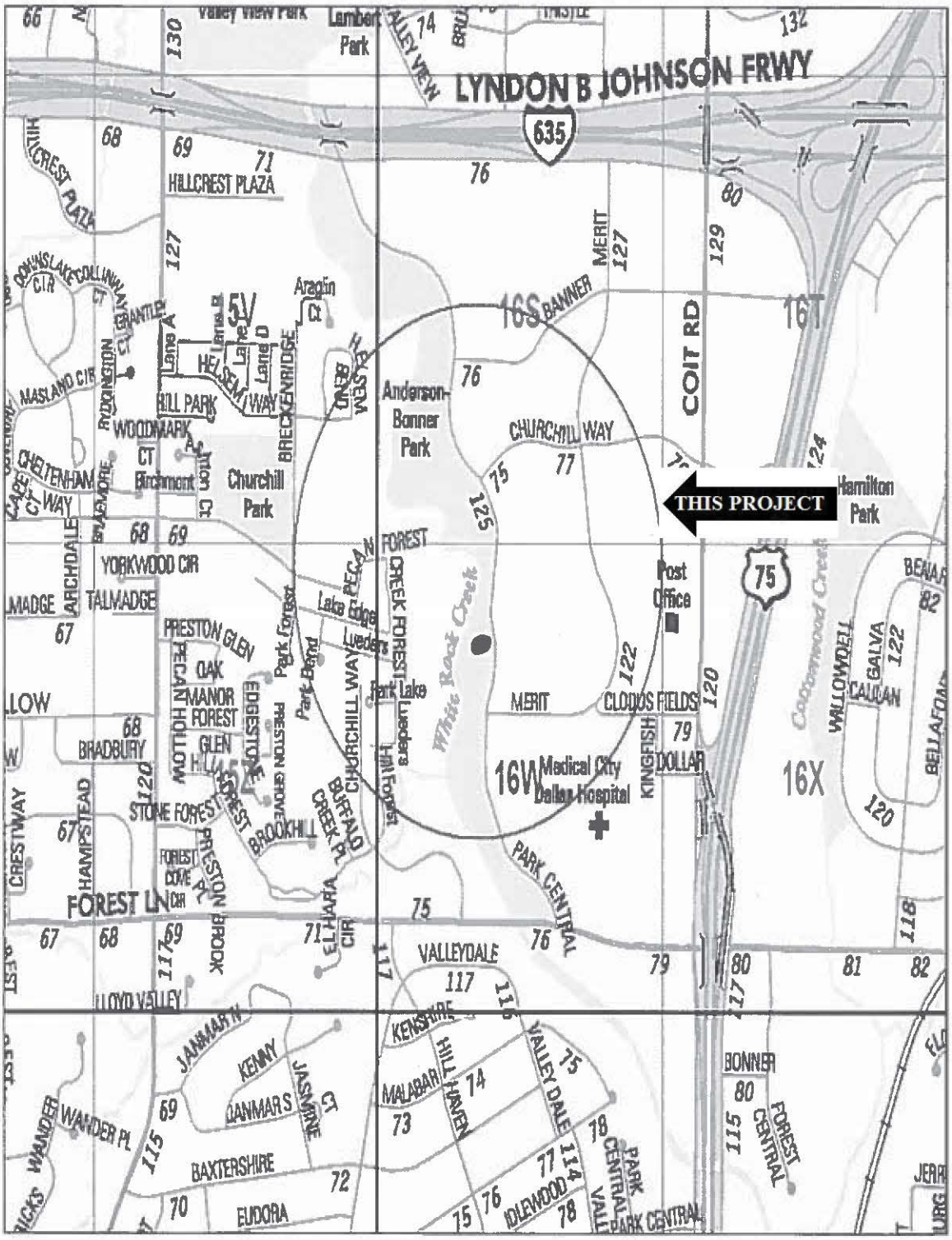
Mapsco 53-K

Erosion Control Group 11



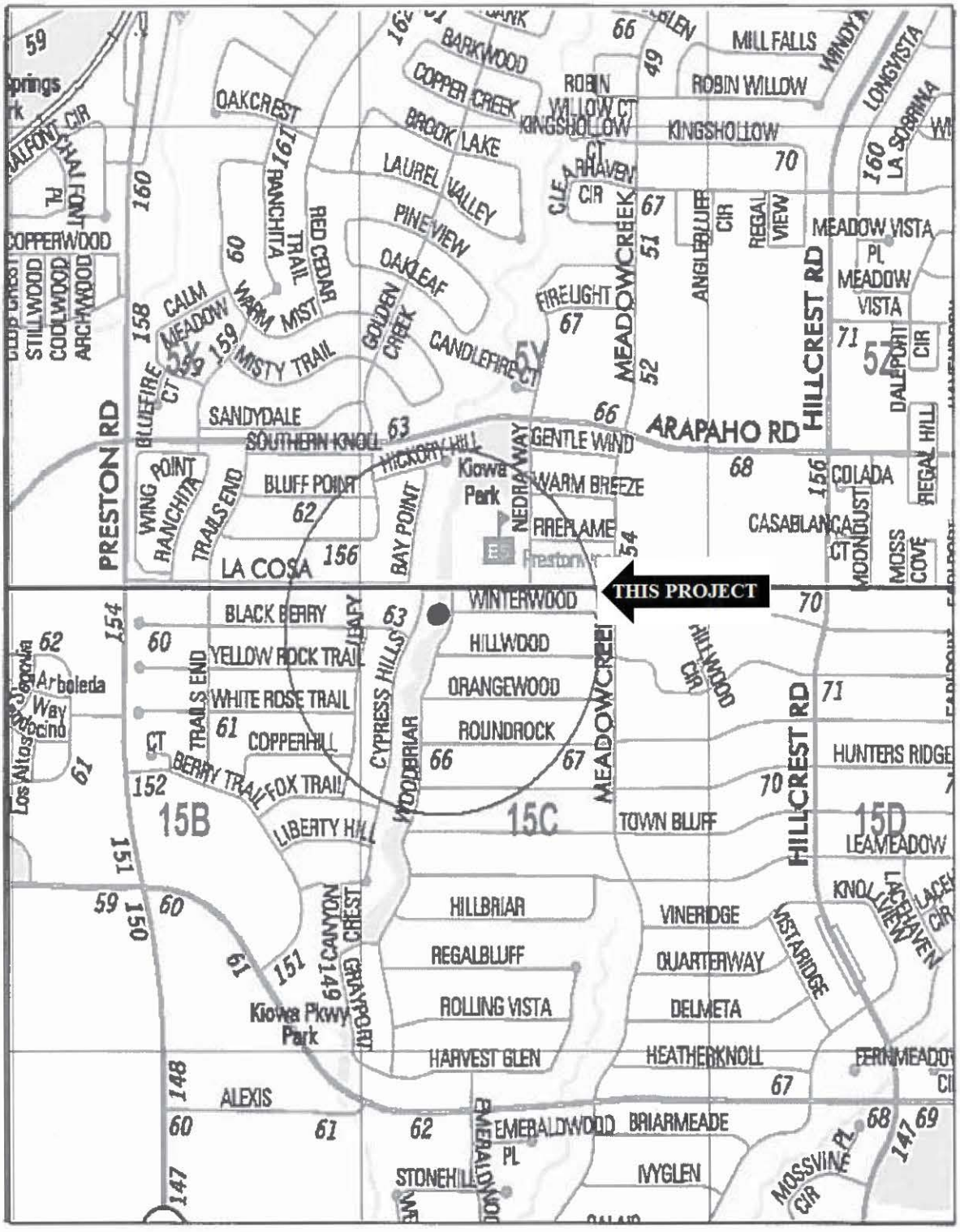
Mapsco 26-G

Erosion Control Group 11



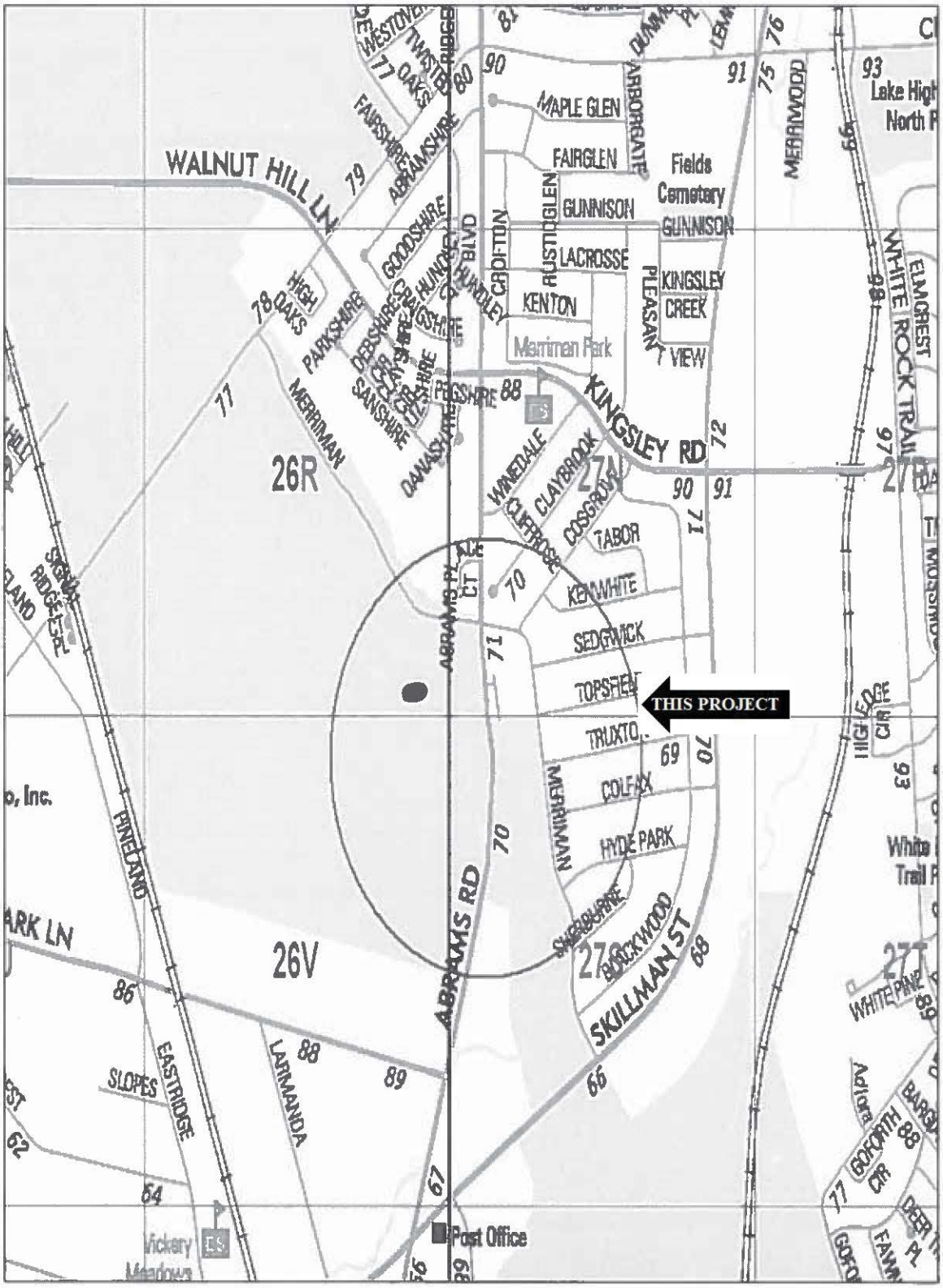
Mapsco 16-W

Erosion Control Group 11



Mapsco 15-C

Erosion Control Group 11



Mapsco 27-S

March 22, 2017

WHEREAS, bids were received on January 13, 2017 for the Erosion Control Improvements Group 11; and

WHEREAS, the proposals submitted were significantly higher than the available funding; and

WHEREAS, it has been determined that it is in the best interest of the City of Dallas to reject all bids received and re-advertise for new bids.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to reject the bids received for the Erosion Control Improvements Group 11 and is hereby granted permission to re-advertise.

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.

AGENDA ITEM # 39

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 1, 2, 4, 6

DEPARTMENT: Trinity Watershed Management
Office Of Environmental Quality

CMO: Mark McDaniel, 670-3256
Jill A. Jordan, P.E., 670-5299

MAPSCO: 32 D H 43 A B C D E F G H 44 A E F G K L M R V 45 N S W X Y 55 B C

SUBJECT

Authorize Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc. for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway - Not to exceed $179,818, from $640,498 to $820,316 - Financing: 1998 Bond Funds ($52,258) and Stormwater Drainage Management Current Funds ($127,560)

BACKGROUND

The City of Dallas has been operating and maintaining the levee system since the time it was originally built, and currently owns most of the parcels within the Dallas Floodway. Primary usage of the Dallas Floodway has been water conveyance. Capital improvement plans for the Dallas Floodway include flood risk reduction, ecosystem restoration, transportation and recreation amenities. Completing surveys, platting and environmental services are necessary to facilitate future project development.

Additional professional land surveying services will be required to file the Dallas Floodway Final Plat in fourteen separate phases as requested by the City to support regulatory compliance. A limited area of Volatile Organic Compound (VOC) affected groundwater was identified within a portion of the Dallas Floodway during the initial site investigation activities and this area was entered into the Texas Commission on Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP). The area of VOC affected groundwater requires additional environmental services to develop documentation to obtain a TCEQ VCP Certificate of Completion.

BACKGROUND (Continued)

This action will authorize Halff Associates, Inc. to perform additional surveying and environmental services.

ESTIMATED SCHEDULE OF PROJECT

Began MSD Design	August 2014
Complete MSD and Plat	December 2017

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a professional services contract with Halff Associates, Inc. for surveying, plating, environmental services, and preparation of a municipal setting designation application for the Dallas Floodway on March 26, 2014, by Resolution No. 14-0561.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

1998 Bond Funds - $ 52,258.00
Stormwater Drainage Management Current Funds - $127,560.00

Council District	Amount
1	$ 26,972.70
2	$ 26,972.70
4	$ 17,981.80
6	$107,890.80
Total	$179,818.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Halff Associates, Inc.

Hispanic Female	24	Hispanic Male	83
African-American Female	8	African-American Male	15
Other Female	8	Other Male	16
White Female	106	White Male	343

OWNER

Halff Associates, Inc.

Kent Belaire, Vice President

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc. for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway - Not to exceed $179,818, from $640,498 to $820,316 - Financing: 1998 Bond Funds ($52,258) and Stormwater Drainage Management Current Funds ($127,560)

Halff Associates, Inc. is a local, non-minority firm, has signed the "Business Inclusion & Development" documentation, and proposes to use the following sub-contractors.

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	Amount	Percent
Local contracts	$176,818.00	98.33%
Non-local contracts	$3,000.00	1.67%
TOTAL THIS ACTION	$179,818.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

Local	Certification	Amount	Percent
Garcia Land Data Inc.	HMMB64109N0217	$33,931.00	19.19%
Total Minority - Local		$33,931.00	19.19%

Non-Local Contractors / Sub-Contractors

Non-local	Certification	Amount	Percent
Sunbelt Industrial Services	WFWB64135Y0217	$3,000.00	100.00%
Total Minority - Non-local		$3,000.00	100.00%

TOTAL M/WBE PARTICIPATION

	This Action		Participation to Date	
	Amount	Percent	Amount	Percent
African American	$0.00	0.00%	$0.00	0.00%
Hispanic American	$33,931.00	18.87%	$109,400.00	13.34%
Asian American	$0.00	0.00%	$0.00	0.00%
Native American	$0.00	0.00%	$0.00	0.00%
WBE	$3,000.00	1.67%	$16,500.00	2.01%
Total	$36,931.00	20.54%	$125,900.00	15.35%

March 22, 2017

WHEREAS, on March 26, 2014, Resolution No. 14-0561 authorized a professional services contract with Halff Associates, Inc., for surveying, platting, environmental services, and the preparation of a municipal setting designation application of the Dallas Floodway in the amount of $640,497.75; and,

WHEREAS, it is now necessary to authorize Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc., for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway, in an amount not to exceed $179,818.00, increasing the contract from $640,497.75 to $820,315.75.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to execute Supplemental Agreement No. 1 to the professional services contract with Halff Associates, Inc., for additional surveying, environmental services and preparation of a Municipal Setting Designation and the Final Plat for the Dallas Floodway, in an amount not to exceed $179,818.00, increasing the contract from $640,497.75 to $820,315.75, after it has been approved as to form by the City Attorney.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in accordance with the terms and conditions of the contract from:

Trinity River Corridor Project Funds Fund 5P14, Dept. TWM, Unit N963, Act. TRPP Obj. 4114, Program PB98N963, CT PBW98N963F1 Vendor # 089861, in an amount not to exceed	$52,258.00
Stormwater Drainage Management Current Funds Fund 0061, Dept. SDM, Unit 4792, Act. SD01 Object 3070, Program No. PB98N963, CT SDM4792BM35 Vendor # 089861, in an amount not to exceed	$127,560.00
Total amount not to exceed	$179,818.00

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.

AGENDA ITEM # 40

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): Outside City Limits

DEPARTMENT: Water Utilities

CMO: Mark McDaniel, 670-3256

MAPSCO: Outside City Limits

SUBJECT

Authorize an amendment to an Interlocal Agreement between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District, to extend the term of the contract by ten-years, with four ten-year extension options, for continuation of the reimbursement to the City of Grapevine for Dallas' cost share for the administration of the Lake Grapevine Reservoir Accounting Plan - Not to exceed $60,000 - Financing: Water Utilities Current Funds (subject to annual appropriations)

BACKGROUND

The City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District (District) each owns a water right authorizing storage in, and diversion from the Lake Grapevine Reservoir. In the late 1980s, the City of Dallas and the City of Grapevine initiated litigation against the Dallas County Park Cities Municipal Utility District, disputing water rights in Lake Grapevine Reservoir. The dispute was ongoing and was resolved in 2001 through a mutual agreement between all parties. As terms of the settlement, the Texas Commission on Environmental Quality ruled in the best interest of all parties involved that a reservoir accounting plan must be implemented.

In 2001, the City of Dallas, City of Grapevine and the District entered into a settlement agreement to resolve their previous conflicts. In 2003, the City of Dallas, City of Grapevine and the District entered into an Interlocal Agreement for a Lake Grapevine Reservoir Accounting Plan to monitor the use of water from Lake Grapevine Reservoir. The cost of the maintenance of the accounting plan is shared equally between the City of Dallas, City of Grapevine and the District. After the expiration of the 2003 Interlocal Agreement, a new agreement was executed in 2013. The 2013 Interlocal Agreement has expired; however, the accounting is required to continue. The City of Grapevine has proposed an amendment to the 2013 Interlocal Agreement, to extend its term to 10 years, with four additional 10 year extensions, by mutual consent.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSION)

Council authorized settlement agreement between the City of Dallas, City of Grapevine and the District on June 27, 2001, by Resolution No. 01-2110.

Council authorized an agreement between the City of Dallas, City of Grapevine and Dallas County Park Cities Municipal Utility District to implement the Lake Grapevine Reservoir Accounting Plan and to reimburse the City of Grapevine for the City of Dallas' cost share of the agreement on September 10, 2003, by Resolution No. 03-2467.

Council authorized an Interlocal Agreement between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District for continuation of the reimbursement to the City of Grapevine for Dallas' cost share for the administration of the Lake Grapevine Reservoir Accounting Plan on May 22, 2013, by Resolution No. 13-0856.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

FISCAL INFORMATION

$60,000.00 – Water Utilities Current Funds (subject to annual appropriations)

March 22, 2017

WHEREAS, the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District are holders of water rights in Lake Grapevine Reservoir; and,

WHEREAS, the Texas Commission on Environmental Quality has approved a Lake Grapevine Reservoir Accounting Plan, which provides for the apportionment of the Lake Grapevine water supply between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District; and,

WHEREAS, the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District desire to enter into an amendment to the Interlocal Agreement, to continue the administration of the Lake Grapevine Reservoir Accounting Plan.

Now, Therefore,

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

Section 1. That the City Manager is authorized to amend the Interlocal Agreement between the City of Dallas, City of Grapevine and the Dallas County Park Cities Municipal Utility District, to extend the term of the contract by ten-years, with four ten-year extension options, for continuation of the reimbursement to the City of Grapevine for Dallas' cost share for administration of the Lake Grapevine Reservoir.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed $60,000 from the Water Utilities Current Fund subject to annual appropriations as follows:

FUND	DEPT	UNIT	OBJ	ENCUMBRANCE	VENDOR
0100	DWU	7030	3070	MASCCTDWU7030E1717	264280

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.

DEPARTMENT: City Secretary

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

SUBJECT

Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

AGENDA ITEM # 42

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Secretary

CMO: Rosa A. Rios, 670-3738

MAPSCO: N/A

SUBJECT

A resolution designating absences by Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young as being for "Official City Business" - Financing: No cost consideration to the City

BACKGROUND

Chapter III, Section 4(e) of the Dallas City Charter provides in part, "If any city council member, including the mayor, misses more than 10 percent of the total number of regular meetings held by the city council during any compensation year, then the city council member's compensation...for that year will be reduced proportionately by the percentage of meetings missed.... Meetings missed by a city council member while he or she is on the official business of the city council and at the direction of the city council will not be counted towards the percentage of missed meetings for which compensation reduction is required... but will be counted as though the member had attended the meetings that are missed while so engaged in city business."

Section 4.11(b) of the City Council Rules of Procedure provides that an absence by a council member for (1) attending a meeting or conference of a professional organization of or association of municipalities or municipal officers, (2) testifying at a legislative hearing at the request of the mayor, the city council, the chair of the council's legislative affairs committee or the city manager, or (3) attending a meeting of a board, commission, or committee to which the council member has been appointed by the mayor or the city council, will automatically be deemed to be for "official city business at the direction of the city council" and will not be counted against a city council member for purposes of determining the council member's annual compensation.

BACKGROUND (Continued)

Section 4.11(c) of the City Council Rules of Procedure provides that, in addition to those absences automatically considered to be on "official city business at the direction of the city council" under Section 4.11(b) above, the city council may by resolution designate whenever a council member's absence is for official city business and not counted as a missed meeting for purposes of determining the council member's annual compensation under Chapter III, Section 4 of the Dallas City Charter.

The proposed resolution authorizes and directs the city secretary to amend the minutes of city council meetings, without further city council action or approval, to reflect when the absences by designated council members have been deemed by the city council to be for "official city business."

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

No cost consideration to the City.

March 22, 2017

WHEREAS, Chapter III, Section 4(e) of the Dallas City Charter provides in part, "If any city council member, including the mayor, misses more than 10 percent of the total number of regular meetings held by the city council during any compensation year, then the city council member's compensation... for that year will be reduced proportionately by the percentage of meetings missed.... Meetings missed by a city council member while he or she is on the official business of the city council and at the direction of the city council will not be counted towards the percentage of missed meetings for which compensation reduction is required... but will be counted as though the member had attended the meetings that are missed while so engaged in city business"; and

WHEREAS, Section 4.11(b) of the City Council Rules of Procedure provides that an absence by a council member for (1) attending a meeting or conference of a professional organization of or association of municipalities or municipal officers, (2) testifying at a legislative hearing at the request of the mayor, the city council, the chair of the council's legislative affairs committee or the city manager, or (3) attending a meeting of a board, commission, or committee to which the council member has been appointed by the mayor or the city council, will automatically be deemed to be for "official city business at the direction of the city council" and will not be counted against a city council member for purposes of determining the council member's annual compensation; and

WHEREAS, Section 4.11(c) of the City Council Rules of Procedure provides that, in addition to those absences automatically considered to be on "official city business at the direction of the city council" under Section 4.11(b) referenced above, the city council may by resolution designate whenever a council member's absence is for official city business and not counted as a missed meeting for purposes of determining the council member's annual compensation under Chapter III, Section 4 of the Dallas City Charter; and

WHEREAS, Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young participated in event(s) and/or meeting(s), as described in **Exhibit A** attached, which required them to miss all or part of one or more city council meeting(s) or committee meeting(s) on the date(s) noted;

Now, Therefore,

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

March 22, 2017

SECTION 1. That, in accordance with Chapter III, Section 4(e) of the Dallas City Charter and Section 4.11(c) of the City Council Rules of Procedure, the event(s) and/or meeting(s) described in **Exhibit A,** attached, are hereby deemed to be for "official city business," and any absences from city council meeting(s) and/or city council committee meeting(s), on the date(s) noted in **Exhibit A**, by Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young because of their participation in any event(s) and/or meeting(s) will not be counted against them in determining their annual compensation under Chapter III, Section 4 of the Dallas City Charter.

SECTION 2. That, in accordance with Section 4.11(a) of the City Council Rules of Procedure, the City Secretary shall maintain a record of the absence on official city business so that such absence(s) will not count against Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young in determining their annual compensation under Chapter III, Section 4 of the Dallas City Charter.

SECTION 3. That the City Secretary is authorized and directed to amend the minutes of each city council meeting held on the date(s) specified in Exhibit A, if applicable, to reflect that the absence(s) by Councilmember Casey Thomas, Councilmember Carolyn King Arnold and Councilmember Tiffinni A. Young as described in Exhibit A, were for "official city business," and no further city council action or approval of those minutes is required.

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.

EXHIBIT A
CITY COUNCIL MEMBER(S)
REQUEST ABSENCE AS OFFICIAL CITY BUSINESS

COUNCILMEMBER	DATE	MEETING(S) MISSED	PURPOSE/LOCATION	ABSENCE TYPE
Carolyn King Arnold	2/21/2017	Economic Development Committee (Tour only)	Unscheduled constituent meeting; preparation to chair the Housing Committee meeting	Absent more than 50%
Tiffinni A. Young	2/13/2017	Public Safety Committee	Attending 2nd Annual District 7 Senior Sweets & Treats Valentine's Luncheon	Absent more than 50%
Casey Thomas	2/27/2017	Transportation & Trinity River Project Committee	Attending TLBC 2017 African American Legislative Summit Austin, TX	Absent more than 50%

AGENDA ITEM # 43

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Manager's Office

CMO: T.C. Broadnax, 670-3297

MAPSCO: N/A

SUBJECT

An ordinance amending Chapter 2, "Administration," Chapter 12A, "Code of Ethics," and Chapter 15A, "Elections," of the Dallas City Code; **(1)** adding city officials and former city officials to purchase by certain persons prohibited; **(2)** providing that city officials have a fiduciary duty to the city; **(3)** adding standards of behavior and civility of city officials; **(4)** clarifying and adding definitions; **(5)** expanding the definition of official or city official to include the chief financial officer, department directors' supervisors, and citizen volunteers on committees or task forces formed by boards and commissions; **(6)** providing for a general recusal and disclosure provision that is applicable to Article II of Chapter 12A; **(7)** providing for disclosure of conflicts on zoning applications; **(8)** changing provisions that are outdated; **(9)** adding additional reporting provisions related to gifts received by city officials or employees; **(10)** providing rules regarding donations; **(11)** clarifying provisions relating to the representation of private interests of a city official or employee before the city; **(12)** regulating the use of public property and resources for campaign expenditures; **(13)** providing for restrictions on the use of electronic devices and social media during executive sessions; **(14)** prohibiting city officials and city employees from receiving tax credits or grants unless the incentive is available to the general public; **(15)** adding a duty to report a violation of Chapter 12A; **(16)** providing for restrictions on lobbying before city council, any city department, board or commission; **(17)** providing that no former city official or city employee shall knowingly disclose to a member of the public any discussion that was lawfully closed to the public; **(18)** adding persons who are required to register as lobbyists; **(19)** providing that any protest given to or received from bidders on pending contracts will be shared with city councilmembers; **(20)** providing restrictions on ex parte communications; **(21)** requiring the Chief Financial Officer and executive general managers to complete a financial disclosure report; **(22)** broadening the jurisdiction of the ethics advisory commission; **(23)** providing the ethics advisory commission the power to issue subpoenas for an evidentiary hearing; **(24)** providing for a provision regarding complaints received by the City Auditor's Office; **(25)** providing factors to take into consideration in determining sanctions; **(26)** imposing additional types of sanctions; **(27)** creating a violation if any person interferes with an investigation of an alleged violation;

SUBJECT (Continued)

(28) providing for an ethics pledge that all city officials shall sign and file with the city secretary; **(29)** creating a City Ethics Officer to promote culture of ethics within the city; **(30)** requiring all new city officials and new city employees to receive ethics training within 30 days after being appointed to office or hired by the city; **(31)** requiring all current city officials and current city employees to receive training at least once every two years; and **(32)** adding a new article regarding the permissible and impermissible expenses of city-funded officeholder accounts - Financing: No cost consideration to the City

BACKGROUND

The City's Code of Ethics serves as a "road map" for all city officials and employees to conduct the City's business in an independent, impartial manner and ensure the public trust and responsible stewardship of public resources. The Ethics Code also provides a process for interested parties who believe there has been a violation under the Code of Ethics to file complaint with the city.

Chapter 12A, "Code of Ethics", originally adopted by the City Council in 2000, has been amended from time to time as needs arose; however, a complete review of the ordinance had not been undertaken since its adoption. At the request of the Mayor and City Council, the Ethics Advisory Commission undertook a year long process to review the Ethics Code and related provisions. The recommended changes are intended to strengthen the Ethics Code and create a culture of ethics at Dallas City Hall by incorporating best practices from other cities; clarifying confusing or ambiguous provisions; and improving the ethics complaint process. Input and feedback was provided by the Mayor and City Councilmembers, city officials, and city staff.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 28, 2016, the Ethics Advisory Commission completed its year-long review process and forwarded to the City Council's Ad Hoc Administrative Committee recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A of the Dallas City Code and the recommended Employee Gift Policy, which is adopted via resolution.

On November 14, 2016, the Ad Hoc Administrative Committee was briefed on the Ethics Advisory Commission's recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A of the Dallas City Code and the recommended Employee Gift Policy. The Ad Hoc Administrative Committee recommended the amendments to the City Code and Employee Gift Policy be presented to the full City Council.

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

On January 4, 2017, the City Council was briefed on the Ethics Advisory Commission's recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and the recommended Employee Gift Policy.

On January 20, 2017, the Ethics Advisory commission reviewed and considered City Councilmembers' proposed changes to the draft ordinance amending the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and Employee Gift Policy.

On March 1, 2017, the City Council was briefed on the revised recommendations from the Ethics Advisory Commission regarding proposed changes to the draft ordinance amending Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and Employee Gift Policy.

FISCAL INFORMATION

No cost consideration to the City.

2/24/2017

ORDINANCE NO. _____

An ordinance amending Chapter 2, "Administration," of the Dallas City Code by amending Section 2-37.9; amending Chapter 12A, "Code of Ethics," of the Dallas City Code by repealing and reserving Section 12A-22; amending Sections 12A-1, 12A-2, 12A-3, 12A-4, 12A-5, 12A-6, 12A-7, 12A-9, 12A-10, 12A-11, 12A-12, 12A-13, 12A-15.1, 12A-15.3, 12A-15.4, 12A-15.8, 12A-15.9, 12A-18, 12A-19, 12A-21, 12A-25, 12A-26, 12A-27, 12A-28, 12A-30, 12A-37, 12A-38.1, and 12A-42; adding Sections 12A-1.1, 12A-1.2, 12A-5.1, 12A-12.1, 12A-35.1, 12A-37.1, 12A-41, 12A-42.1, 12A-44, and 12A-45; amending Chapter 15A, "Elections," of the Dallas City Code by amending the title of Article I-a; adding Article I-b; amending Sections 15A-1, 15A-7.1, and 15A-7.2; adding city officials and former city officials to purchase by certain persons prohibited; providing that city officials have a fiduciary duty to the city; clarifying and adding definitions; expanding the definition of official or city official to include the chief financial officer, department directors' supervisors, and citizen volunteers on committees or task forces formed by boards and commissions; adding standards of behavior and civility of city officials; providing for a general recusal and disclosure provision that is applicable to Article II of Chapter 12A; providing for disclosure of conflicts on zoning applications; changing provisions that are outdated; adding additional reporting provisions related to gifts received by city officials or employees; providing rules regarding donations; clarifying provisions relating to the representation of private interests of a city official or employee before the city; regulating the use of public property and resources for campaign expenditures; providing for restrictions on the use of electronic devices and social media during executive sessions; prohibiting city officials and

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city employees, and their family members, from receiving tax credits or grants unless the incentive is available to the general public; adding a duty to report a violation of Chapter 12A; providing for restrictions on lobbying before city council, any city department, board or commission; providing that no former city official or city employee shall knowingly disclose to a member of the public any discussion that was lawfully closed to the public; adding persons who are required to register as lobbyists; providing that any protest given to or received from bidders on pending contracts will be shared with city councilmembers; providing restrictions on ex parte communications; requiring the chief financial officer and executive general managers to complete a financial disclosure report; broadening the jurisdiction of the ethics advisory commission; providing the ethics advisory commission the power to issue subpoenas for an evidentiary hearing; providing for a provision regarding complaints received by the City Auditor's Office; providing factors to take into consideration in determining sanctions; imposing additional types of sanctions; creating a violation if any person interferes with an investigation of an alleged violation; providing for an ethics pledge that all city officials shall sign and file with the city secretary; creating a city ethics officer to promote culture of ethics within the city; requiring all new city officials and new city employees to receive ethics training within 30 days after being appointed to office or hired by the city; requiring all current city officials and current city employees to receive training at least once every two years; adding a new article regarding the permissible and impermissible expenses of city-funded officeholder accounts; 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:

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SECTION 1. That Section 2-37.9, "Purchase by Certain Persons Prohibited," of Division 2, "Sale of Unclaimed and Surplus Property," of Article IV, "Purchasing," of Chapter 2, "Administration," of the Dallas City Code is amended to read as follows:

"**SEC. 2-37.9. PURCHASE BY CERTAIN PERSONS PROHIBITED.**

(a) The following persons shall not, directly or indirectly, submit a bid for, purchase, or acquire ownership of, personal property sold pursuant to the provisions of this article:

(1) City employees who work in the city manager's office or in the department designated by the city manager to enforce and administer this article.

(2) The person who determines that the property is surplus, obsolete, worn out, or useless.

(3) City officials, as defined in Paragraph 12A-2(24) of the Dallas City Code.

(4) Former city officials, as defined in Paragraph 12A-2(20) of the Dallas City Code, for one year after termination of their service with the city.

(b) In addition to other penalties, a person who violates this section forfeits his employment."

SECTION 2. That Section 12A-1, "Statement of Purpose and Principles of Conduct," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-1. STATEMENT OF PURPOSE AND PRINCIPLES OF CONDUCT.**

(a) Purpose. It is hereby declared to be the policy of the city that the proper operation of democratic government requires that:

(1) city officials and employees be independent, impartial, and responsible only to the people of the city;

(2) governmental decisions and policy be made using the proper procedures of the governmental structure;

(3) no city official or employee have any financial interest, direct or indirect, or engage in any business, transaction, or professional activity or incur any obligation of any

nature that is in conflict with the proper discharge of the city official's or employee's [~~his or her~~] duties in the public interest;

(4) public office not be used for personal gain; and

(5) the city council at all times be maintained as a nonpartisan body.

(b) Principles of conduct.

[~~(1)~~] The city council further believes that an elected or appointed official of the city assumes a public trust and should recognize the importance of high ethical standards within the organization they lead or support. Essential values and ethical behaviors that an elected or appointed official should exemplify include the following:

(1[~~A~~]) Commitment beyond self.

(2[~~B~~]) Obedience and commitment beyond the law.

(3[~~C~~]) Commitment to the public good.

(4[~~D~~]) Respect for the value and dignity of all individuals.

(5[~~E~~]) Accountability to the public.

(6[~~F~~]) Truthfulness.

(7[~~G~~]) Fairness.

(8[~~H~~]) Responsible application of resources.

[~~(2) In keeping with the values set forth in Subsection (b)(1), and to assist in the fulfillment of responsibilities to the individuals and communities served, each elected or appointed official should subscribed to the following principles.~~

~~(A) To conduct himself or herself and to operate with integrity and in a manner that merits the trust and support of the public.~~

~~(B) To uphold all applicable laws and regulations, going beyond the letter of the law to protect and/or enhance the city's ability to accomplish its mission.~~

~~(C) To treat others with respect, doing for and to others what the official would have done for and to him or her in similar circumstances.~~

~~(D) To be a responsible steward of the taxpayer resources.~~

~~(E) To take no actions that could benefit the official personally at the~~

~~unwarranted expense of the city, avoiding even the appearance of a conflict of interest, and to exercise prudence and good judgment at all times.~~

~~(F) To carefully consider the public perception of personal and professional actions and the effect such actions could have, positively or negatively, on the city's reputation both in the community and elsewhere.~~

~~(G) To strive for personal and professional growth to improve effectiveness as an elected or appointed official.~~]

(c) Implementation. To implement the purpose [~~policy and principles~~] set forth in this section, the city council has determined that it is advisable to enact this code of ethics for all city officials, [~~and~~] employees, and persons doing business with the city [~~whether elected or appointed, paid or unpaid, advisory or administrative~~], to serve as a standard [~~not only as a guide~~] for official conduct and [~~of the city's public servants, but also~~] as a basis for discipline [~~for those who refuse to abide by its terms~~].

(d) No cause of action. This section is a statement of purpose and principles only. Nothing in this section may be used to create a cause of action under this chapter."

SECTION 3. That Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-1.1, "Fiduciary Duty," to read as follows:

"**SEC. 12A-1.1. FIDUCIARY DUTY.**

A city official, in the performance of that person's official duties, shall fulfill the city official's fiduciary duty to the city."

SECTION 4. That Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-1.2, "Standards of Behavior; Standards of Civility," to read as follows:

"**SEC. 12A-1.2. STANDARDS OF BEHAVIOR; STANDARDS OF CIVILITY.**

(a) Standards of behavior. City officials shall comply with the following standards of behavior:

(1) To conduct themself and to operate with integrity and in a manner that merits the trust and support of the public.

(2) To uphold all applicable laws and regulations, going beyond the letter of

the law to protect and/or enhance the city's ability to accomplish its mission.

(3) To treat others with respect, doing for and to others what the official would have done for and to him or her in similar circumstances.

(4) To be a responsible steward of the taxpayer resources.

(5) To take no actions that could benefit the official personally at the unwarranted expense of the city, avoiding even the appearance of a conflict of interest, and to exercise prudence and good judgment at all times.

(6) To carefully consider the public perception of personal and professional actions and the effect such actions could have, positively or negatively, on the city's reputation both in the community and elsewhere.

(7) To strive for personal and professional growth to improve effectiveness as an elected or appointed official.

(b) Standards of civility. City officials shall comply to the following standards of civility in their interactions with city officials, city employees, citizens, and persons doing business with the city:

(1) City officials shall accord the utmost respect and courtesy to each other, city officials, city employees, citizens, and persons doing business with the city.

(2) City officials shall not discriminate against any person because of the person's race, color, age, religion, marital status, sexual orientation, gender identity and expression, genetic characteristics, national origin, disability, military or veteran status, sex, or political opinions or affiliations.

(3) City officials shall not make comments or take actions that are abusive; belligerent; crude; derogatory; disparaging; impertinent; personal attacks upon the character, integrity, or motives of others; profane; rude; slanderous; or threatening.

(4) City officials shall preserve order and decorum in meetings in accordance with Roberts Rules of Order and the applicable rules of procedure of the city council, board, or commission.

(5) City officials shall treat city employees as professionals and specifically shall not:

(A) interfere with the work of city employees.

(B) impair the ability of city employees to implement city council

policies.

(C) influence city employees in the making of recommendations or decisions.

(D) criticize a city employee's performance in public.

(E) berate nor admonish city employees.

(6) City officials shall work through the city manager, city secretary, city attorney, or city auditor and the applicable department director to obtain information or request assistance with projects, rather than contacting city employees directly. This provision does not apply to professional and administrative assistants to the mayor and city council.

(7) Because independent advice from boards and commissions is essential to the public decision-making process, city councilmembers shall not:

(A) use their position to influence the deliberations or decisions of boards and commissions.

(B) appoint city council office staff members to boards and commissions.

(C) demand that board or commission members vote as requested by the city councilmember or threaten board or commission members with removal.

This provision does not prohibit city council members from receiving information from or providing information to a board or commission member, working together with board and commission members on projects, or expressing their opinions to board and commission members."

SECTION 5. That Subsection (12), "Confidential Government Information," of Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(12) CONFIDENTIAL GOVERNMENT INFORMATION includes:

(A) all information held by the city that is not available to the public under the Texas Open Records Act;

(B) any information from a meeting closed to the public pursuant to the Texas Open Meetings Act; [~~and~~]

(C) any information protected by attorney-client, attorney work product, or

other applicable legal privilege; and

(D) any research, opinions, advice, recommendations, reasoning, or conclusions in a draft document concerning city business or city policy that has not yet been released to the public in accordance with established city procedures."

SECTION 6. That Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (15.1), "Doing Business with the City," to read as follows:

"(15.1) DOING BUSINESS WITH THE CITY means any person, either individually or as the officer or principal of an entity, who submits a bid or proposal, or negotiates or enters into any city contract, whether or not the contract is required by state law to be competitively bid."

SECTION 7. That Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (16.1), "Donation," to read as follows:

"(16.1) DONATION means a voluntary transfer of property (including the payment of money) or the conferral of a benefit having pecuniary value (such as the rendition of services or the forbearance of collection on a debt) to the city, unless consideration of equal or greater value is received by the donor."

SECTION 8. That Subsection (20), "Former City Official or Employee," of Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(20) FORMER CITY OFFICIAL OR EMPLOYEE means a person who terminates [~~whose~~] official duties as a city official or employee [~~are terminated on or after January 1, 2001~~]."

SECTION 9. That Subsection (22), "Indirect Ownership," of Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(22) INDIRECT OWNERSHIP. A person who holds a financial interest in a business entity in a name other than that person's own [~~has "indirect ownership" of an equity of interest in a business entity where the interest is held through a series of business entities, some of which~~

~~own interest in others~~]."

SECTION 10. That Subsection (24), "Official or City Official," of Section 12A-2, "Definitions," of Article I, "Declaration of Policy," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(24) OFFICIAL or CITY OFFICIAL includes the following persons, except when used in Article III-A (lobbyist regulations):

(A) City council members.

(B) Municipal judges.

(C) The city manager, the first assistant city manager, and all assistant city managers.

(D) The city auditor and the first assistant city auditor.

(E) The city attorney and the first assistant city attorney.

(F) The city secretary and the first assistant city secretary.

(G) All department directors <u>and their supervisors</u>.

(H) Members of all boards, commissions, committees, and other bodies created by the city council pursuant to city ordinance or federal or state law, including bodies that are only advisory in nature.

(I) City council appointed members of boards of entities that were not created by the city council.

<u>(J) Chief financial officer.</u>

<u>(K) For purposes of Chapter 12A only, a citizen volunteer on committees or task forces formed by boards and commissions.</u>"

SECTION 11. That Section 12A-3, "Improper Economic Benefit," of Article II, "Present

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City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-3. IMPROPER FINANCIAL INTEREST** [~~**ECONOMIC BENEFIT**~~]

(a) Economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that the city official or employee [~~he or she~~] knows is likely to affect particularly the economic interests of:

(1) the official or employee;

(2) the official's or employee's outside client;

(3) the official's or employee's outside employer;

(4) a business entity in which the official or employee knows that the official or employee [~~he or she~~] holds an economic interest;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which that person [~~he or she~~] holds an economic interest;

(6) a business entity for which the city official or employee serves as an officer or director or in any other policymaking position; or

(7) a person or business entity:

(A) from whom, within the past 12 months, the official or employee, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official or employee, directly or indirectly, is engaged in negotiations pertaining to a business opportunity

(b) Substantial economic interests affected. To avoid the appearance and risk of impropriety, a city official or employee shall not take any official action that the city official or employee [~~he or she~~] knows is likely to affect particularly the substantial economic interests of:

(1) the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity;

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(2) the official's or employee's domestic partner;

(3) an outside employer of the official's or employee's parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or domestic partner, but only if the official or employee knows the family member or domestic partner has a substantial economic interest in the outside employer;

(4) a business entity in which the official or employee knows that a substantial economic interest is held by the official's or employee's [~~his or her~~]:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner;

(5) a business entity that the official or employee knows is an affiliated business or partner of a business entity in which a substantial economic interest is held by the official's or employee's [~~his or her~~]:

(A) parent, child, spouse, or other family member within the first degree of consanguinity or affinity; or

(B) domestic partner; or

(6) a person or business entity:

(A) from whom, within the past 12 months, the official's or employee's spouse or domestic partner, directly or indirectly, has:

(i) solicited an offer of employment;

(ii) received and not rejected an offer of employment; or

(iii) accepted an offer of employment; or

(B) with whom the official's or employee's spouse or domestic partner, directly or indirectly, is engaged in negotiations pertaining to a business opportunity.

[~~(c) Recusal and disclosure. A city official or employee whose conduct or action on a matter would violate Subsection (a) or (b) must recuse himself or herself. From the time that the conflict is recognized, the city official or employee shall:~~

~~(1) immediately refrain from further participation in the matter, including discussions with any persons likely to consider the matter; and~~

~~(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.~~

~~(d)~~ Additional recusal and disclosure requirements. ~~In addition to the requirements of Subsection (c):~~

~~(1) a supervised employee shall promptly bring his or her conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;~~

~~(2) the park and recreation director shall promptly bring his or her conflict to the attention of the park and recreation board;~~

~~(3) the civil service director shall promptly bring his or her conflict to the attention of the civil service board;~~

~~(4) the employees' retirement fund administrator shall promptly bring his or her conflict to the attention of the board of trustees of the employees' retirement fund;~~

~~(5) a municipal judge shall promptly bring his or her conflict to the attention of the administrative municipal judge;~~

~~(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring his or her conflict to the attention of the city council;~~

~~(7) a board or commission member shall promptly disclose his or her conflict to the board or commission of which he or she is a member and shall not be present during any discussion or voting on the matter; and~~

~~(8) a city council member shall promptly disclose his or her conflict to the city council and shall not be present during any discussion or voting on the matter.~~]

(c[~~e~~]) Disclosure requirements relating to offers of employment. Whenever a city employee who is a department director or of higher rank receives an offer of employment from any person or business entity that the employee knows had an economic interest in any discretionary contract with the city in which the employee personally participated within the preceding 12 months, the employee shall, immediately upon receiving the offer, disclose the offer, whether rejected or not, to the appropriate supervisory person or body designated under Section 12A-12.1(b) [~~Subsection (d)~~]. Unless recusal is required under Section 12A-12.1(a) [~~Subsection (c)~~], the employee may continue to personally participate, on the behalf of the city, in contracts and other matters in which the person or entity making the employment offer has an economic interest.

(d[~~f~~]) Board of directors of a reinvestment zone.

(1) Notwithstanding any other provision of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) own property within that reinvestment zone; and

(B) participate in discussions and voting on matters before the board of directors that may indirectly affect the member's property within the reinvestment zone, but must adhere to the recusal and disclosure requirements in Section 12A-12.1 [~~Subsections (c) and (d) of this section~~] on matters before the board of directors that may directly affect the member's property.

(2) For purposes of this subsection, a matter directly affects a member's property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the member's property.

(e[~~g~~]) City officials and employees serving in policymaking positions for business entities at the direction of the city. The restrictions and requirements of Subsection[~~s~~] (a)(6) and Section 12A-12.1 of this chapter[~~, (c), and (d) of this section~~] do not apply to an official or employee of the city serving as an officer or director or in any other policymaking position for a business entity when taking official action on behalf of the city on matters concerning that business entity, if the official or employee:

(1) was appointed by the mayor, city council, or city manager to represent the city as an officer or director or in any other policymaking position for the business entity; and

(2) has no economic interest in the business entity or in the matter on which the action is being taken.

(f[~~h~~]) Municipal management district boards. The restrictions and requirements of this section do not apply to a member of a municipal management district board.

(g) Disclosure of conflicts.

(1) Any applicant seeking city council, city plan commission, board of adjustment, or landmark commission approval on any zoning application shall file a disclosure statement along with the zoning application at the time of application.

(2) The disclosure statement must name any city official or city employee known by the zoning applicant to have a conflict of interest in the matter, along with a statement of the nature of the conflict of interest. "Conflict of interest" means any interest under this chapter that would prevent the city official or city employee from voting on or participating in the application.

(3) Failure to disclose a known conflict of interest is a violation of this chapter."

SECTION 12. That Section 12A-4, "Unfair Advancement of Private Interests," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is retitled as Section 12A-4, "Unfair Advancement of Private Interests; Nepotism."

SECTION 13. That Subparagraph (A) of Paragraph (4), "Appointment or Employment of Relatives," of Subsection (b), "Special Rules," of Section 12A-4, "Unfair Advancement of Private Interests; Nepotism," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(A) A city official or employee shall not appoint, or take any action to influence the appointment of, that person's [~~his or her~~] domestic partner or any relative within the first degree of consanguinity or affinity to the ethics advisory commission or to any quasi-judicial board or commission within the city. [~~Any person who, before June 28, 2000, was appointed to a quasi-judicial board or commission within the city by a city official or employee who was either a domestic partner or a relative within the first degree of consanguinity or affinity may:~~

~~(i) complete his or her term on the board or commission; and~~

~~(ii) continue to be reappointed to that board or commission by the domestic partner or relative until the maximum number of terms allowed under Section 8-1.5 of the city code have been served.~~]"

SECTION 14. That Subsection (c), "Recusal and Disclosure," of Section 12A-4, "Unfair Advancement of Private Interests; Nepotism," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(c) Recusal and disclosure. A city official or employee whose conduct would violate Subsection (b)(4) of this section shall adhere to the recusal and disclosure requirements in Section[~~s~~] 12A-12.1 [~~12A-3(c) and (d)~~] of this chapter."

SECTION 15. That Subsection (d), "Board of Directors of a Reinvestment Zone," of Section 12A-4, "Unfair Advancement of Private Interests; Nepotism," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(d) Board of directors of a reinvestment zone.

(1) Notwithstanding Subsections (b)(1) and (b)(2) of this section, a member of the board of directors of a reinvestment zone established under the Tax Increment Financing Act, as amended, may:

(A) acquire property within that reinvestment zone; and

(B) participate in discussions and voting on matters before the board of directors that may indirectly affect the acquired property, but must adhere to the recusal and disclosure requirements in Section[~~s~~] 12A-12.1 [~~12A-3(c) and (d)~~] of this chapter on matters before the board of directors that may directly affect the acquired property.

(2) For purposes of this subsection, a matter directly affects a member's acquired property in the reinvestment zone if the matter involves a project in the reinvestment zone that is:

(A) financed with tax increment funds; and

(B) located within 200 feet of the acquired property."

SECTION 16. That Section 12A-5, "Gifts," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

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"**SEC. 12A-5. GIFTS.**

(a) General rule.

(1) A city official or employee shall not solicit, accept, or agree to accept any gift or benefit that:

(A[1]) reasonably tends to influence or reward official conduct; or

(B[2]) the official or employee knows is intended to influence or reward the discharge of official duties.

(2) A person or business entity shall not knowingly offer any gift or benefit to a city official or employee that:

(A) reasonably tends to influence or reward official conduct; or

(B) the person or business entity knows is intended to influence or reward the discharge of official duties.

(3) Gifts must comply with city policies.

(b) Reporting of g[G]ifts over $250. All city officials and employees required to file a financial disclosure statement under Section 12A-19 of this chapter shall report all gifts over $250 in the financial disclosure statement.

(1) City officials and employees receiving a gift must report the gift to the city manager or the city manager's designee on a form to be provided by the city manager or the city manager's designee. The report must include the date of the gift; the identity of the person or business entity making the gift; the city official or employee receiving the gift; a description of the gift; and the estimated monetary value of the gift. The report must be filed within 30 days after receipt of the gift. This report is required in addition to any other documentation required for the gift.

(2) Reporting is not required for gifts with a monetary value of less than $250, except that reporting is required for gifts from a single source in a single year with a cumulative value of $250 or more.

(3) Reporting is not required for gifts from a relative or person with whom the city official or employee has a personal, professional, or business relationship independent of the city official's or employee's status with the city.

(c) Special applications. Subsections (a)(1) and (a)(2) do not include:

(1) reimbursement of reasonable expenses for travel authorized in accordance with city policies;

(2) a public award or reward for meritorious service or professional achievement, provided that the award or reward is reasonable in light of the occasion;

(3) a loan from a lending institution made in its regular course of business on the same terms generally available to the public;

(4) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants;

(5) admission to an event in which the city official or employee is participating in connection with official duties; or

(6) gifts, tickets, meals, travel, lodging, entertainment, and honoraria accepted by a city official or employee in accordance with policies established by city council resolution.

(d) Campaign contribution exception. The general rule stated in Subsection (a) does not apply to a campaign contribution received and reported in compliance with the Texas Election Code."

SECTION 17. That Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-5.1, "Donations to the City of Money, Real Estate, Products, and Services," to read as follows:

"**SEC. 12A-5.1. DONATIONS TO THE CITY OF MONEY, REAL ESTATE, PRODUCTS, AND SERVICES.**

(a) Purpose and procedures.

(1) Donations of money, real estate, products, and services to the city allow citizens to make valuable contributions to city programs, and should be encouraged. Persons and business entities making donations should not, however, expect any reward, reciprocal benefit, or influence.

(2) Donations should be documented to ensure transparency of government, enable measurement of the value and usefulness of the donation, and allow for audits of donations.

(3) For long-term or complex projects and projects involving professional services, an agreement should be created to document the scope of goods or services to be donated and to document which party retains ownership of intellectual property. Where donation will lead to city expenditures, expenditures should go through the procurement process if required by city code or state law.

(b) General rule.

(1) A city official, city employee, or city department shall not solicit, accept, or agree to accept any donation to the city of money, real estate, products, or services that:

(A) reasonably tends to influence or reward official conduct; or

(B) the official, employee, or department knows is intended to influence or reward the discharge of official duties.

(2) A person or business entity shall not knowingly offer any donation to the city of money, real estate, products, or services that:

(A) reasonably tends to influence or reward official conduct; or

(B) the person or business entity knows is intended to influence or reward the discharge of official duties.

(c) Reporting.

(1) City officials, city employees, and city departments receiving a donation to the city of money, real estate, products, or services shall report the donation to the city manager or the city manager's designee on a form to be provided by the city manager or the city manager's designee. The report must include the date of the donation; the identity of the person or business entity making the donation; the city official, city employee, or city department receiving the donation; a description of the donation; the estimated monetary value of the donation; the intended use of the donation; and the actual use of the donation. The report must be filed within 30 days after receipt of the donation. This report is required in addition to any other documentation required for the donation.

(2) The individual or department that receives the donation is responsible for reporting the donation.

(3) Reporting is not required for donations to the city of money, real estate, products, or services with a monetary value of less than $1,000, except that reporting is required for donations from a single source in a single year with a cumulative value of $1,000 or more.

(d) Management. Donations to the city of money, real estate, products, and services must be administratively managed in compliance with duly adopted policies.

(e) Exceptions. This section does not apply to gifts made to a city official or city employee in compliance with Section 12A-5. This section does not apply to the items listed in Subsections 12A-5(c) and (d) as exceptions to the gift policy."

SECTION 18. That Section 12A-6, "Confidential Information," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is

amended by adding a new Subsection (c), "Disclosure of a Closed Meeting," to read as follows:

"(c) Disclosure of a closed meeting.

(1) A city official or city employee shall not knowingly disclose to a member of the public the certified agenda, the recording, or the discussion had within a meeting that was lawfully closed to the public, unless the disclosure is made with lawful authority.

(2) City officials and city employees shall not use electronic devices (cellphones, pads, laptop computers, etc.) during a meeting that was lawfully closed to the public."

SECTION 19. That Section 12A-7, "Representation of Private Interests," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended as follows:

"**SEC. 12A-7. REPRESENTATION OF PRIVATE INTERESTS.**

(a) Representation before the city.

(1) General rule.

(A) Representation for compensation. A city official or employee shall not represent, for compensation, any person, group, or entity (other than themselves or the city official's or employee's spouse, minor children, or domestic partner) before the city. For purposes of this subsection, "compensation" means money or any other thing of value that is received or is to be received in return for or in connection with such representation.

(B) Representation without compensation. A city official or employee who is a member of a board, commission, or body shall not represent any person, group, or entity before:

(i) that city official's or employee's board, commission, or body;

(ii) city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or body; or

(iii) a board, commission, or body that has appellate jurisdiction over the board, commission, or body of which the city official or employee is a member, if any issue relates to the official's or employee's duties.

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(2) Exceptions. The prohibitions in Subsection (a) do not apply to:

(A) A person who is classified as a city official only because that person is an appointed member of a board, commission, or body may represent for compensation a person, group, or entity before the city so long as the representation is not before the board, commission, or body that the person is a member.

(B) If the representation is before a board, commission, or body of which the city official or employee is a member is only advisory in nature.

(C) An employee who is a duly designated representative of an association of municipal employees may represent that association before the city if otherwise permissible by state law.

[~~(a) Representation by a member of a board, commission, or other city body. A city official or employee who is a member of a board, commission, or other city body shall not represent any person, group, or entity:~~

~~(1) before that board, commission, or body; or~~

~~(2) unless the board, commission, or body of which the city official or employee is a member is only advisory in nature:~~

~~(A) before city staff having responsibility for making recommendations to, or taking any action on behalf of, that board, commission, or body; or~~

~~(B) before a board, commission, or other city body that has appellate jurisdiction over the board, commission, or body of which the city official or employee is a member, if any issue relates to the official's or employee's duties.~~

~~(b) Representation before the city.~~

~~(1) General rule. A city official or employee shall not represent for compensation any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) before the city. For purposes of this subsection, "compensation" means money or any other thing of value that is received, or is to be received, in return for or in connection with such representation.~~

~~(2) Exceptions. The rule stated in Subsection (b)(1) does not prohibit:~~

~~(A) a person who is classified as a city official only because he or she is an appointed member of a board, commission, or other city body from representing for compensation a person, group, or entity before the city unless such representation is a violation of Subsection (a) of this section; or~~

~~(B) an employee who is a duly designated representative of an association of municipal employees from representing that association before the city if otherwise permissible under state law.~~]

(3) Prestige of office and improper influence. In connection with the representation of private interests before the city, a city official or employee shall not:

(A) assert the prestige of the official's or employee's city position for the purpose of advancing private interests; or

(B) state or imply that the official or employee [~~he or she~~] is able to influence city action on any basis other than the merits.

(b[~~c~~]) Representation in litigation adverse to the city.

(1) Officials and employees (other than board and commission members). A city official or employee, other than a person who is classified as an official only because that person [~~he or she~~] is an appointed member of a board, commission, or [~~other city~~] body, shall not represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city. This rule does not prohibit an employee who is a duly designated representative of an association of municipal employees from such representation if otherwise permissible under state law.

(2) Board and commission members. A person who is classified as a city official only because that person [~~he or she~~] is an appointed member of a board, commission, or other city body shall not represent any person, group, or entity (other than himself or herself or his or her spouse, minor children, or domestic partner) in any litigation to which the city is a party, if the interests of that person, group, or entity are adverse to the interests of the city and the matter is substantially related to the official's duties to the city.

(3) Affiliates of officials and employees. Subject to applicable professional ethical standards, the restrictions stated in Subsections (b[~~c~~])(1) and (b[~~c~~])(2) do not apply to representation by a partner or other affiliate of a city official or employee so long as the city official or employee does not participate in any manner whatsoever in the partner's or affiliate's representation.

(c[~~d~~]) Representation in municipal court. No member of the city council may engage in the practice of law in or before the municipal courts of the city.

(d[~~e~~]) Municipal management district boards. The restrictions stated in Subsection[~~s~~] (a) [~~and (b)(1)~~] of this section do not apply to a member of a municipal management district board."

SECTION 20. That Section 12A-9, "Public Property and Resources," of Article II,

"Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-9 PUBLIC PROPERTY AND RESOURCES.**

(a) A city official or employee shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for private purposes (including political purposes), except:

(1) pursuant to duly adopted city policies; or

(2) to the extent and according to the terms that those resources are generally available to the public.

(b) A city councilmember shall not use, request, or permit the use of city facilities, personnel, equipment, or supplies for any campaign expenditure, campaign contribution, political advertising, or campaign communication as defined in Title 15, "Regulating Political Funds and Campaigns," of the Texas Election Code, as amended, and Texas Election Commission rules, regulations, and opinions.

(c) City officials and city employees may not apply for or obtain an incentive offered by the city, including grants, loans, tax abatements, and tax credits, unless the incentive is available to the general public, the application is evaluated under the same criteria that apply to the general public, and the incentive is subject to the same terms and conditions that apply to the general public."

SECTION 21. That Subsection (a), "City Officials," of Section 12A-10, "Political Activity," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(a) City officials. In any election, except the city official's [~~his or her~~] own, a city official shall not:

(1) use the prestige of the city official's position with the city on behalf of a candidate, political party, or political committee, except that:

(A) a city official is not prohibited from lending the city official's [~~his or her~~] name so long as the office held with the city is not mentioned in connection with the endorsement; and

(B) a city council member is not prohibited from lending his or her name and official city title in connection with any election [~~for public office or in connection with any election~~] ordered by the city of Dallas on a proposition or measure;"

(2) serve as the designated campaign treasurer for a candidate under the Texas Election Code; or

(3) solicit or receive contributions for a candidate, political party, or political committee, except that a city official is not prohibited from serving on a steering committee to plan a program of solicitation and listing the member's name without reference to the office held when the committee as a whole is listed."

SECTION 22. That Subsection (g), "Charter Provisions," of Section 12A-10, "Political Activity," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(g) Charter provisions. A city official or employee shall comply with the provisions governing political activity set forth in Chapter XVI, Section 16 of the city charter [~~, as those provisions have been judicially interpreted in Wachsman v. City of Dallas, 704 F.2d 160 (5th Cir. 1983)~~]."

SECTION 23. That Section 12A-11, "Action of Others," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-11 ACTION OF OTHERS.**

(a) Violations by other persons. A city official or employee shall not knowingly assist or induce, or attempt to assist or induce, any person to violate any provision of this chapter.

(b) Using others to engage in forbidden conduct. A city official or employee shall not violate any provision of this chapter through the acts of another.

(c) Participation in ethics violations. No person shall intentionally or knowingly induce, attempt to induce, conspire with, aid or assist, or attempt to aid or assist another person to engage in conduct violative of this chapter.

(d) Duty to report violations. Persons shall immediately report any conduct that the person knows to be a violation of this chapter. Failure to report a violation of this chapter is a violation of this chapter. Any person who knowingly fails to report a violation of this chapter

shall be subject to sanctions described in this chapter. For purposes of this section, a report made to the fraud, waste or abuse hotline shall be considered to be a report under this section."

SECTION 24. That Subsection (b), "Additional Restrictions Relating to City Contracts," of Section 12A-12, "Prohibited Interests in Contracts," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(b) Additional restrictions relating to city contracts. A city official or employee may not, while in the service or employment of the city, either individually or as the officer or principal of an [~~a private business~~] entity:

(1) submit a bid or proposal [~~, on behalf of the city official or employee or on behalf of a private business entity,~~] to make any city contract, whether or not the contract is required by state law to be competitively bid; or

(2) negotiate or enter into any city contract [~~, on behalf of the city official or employee or on behalf of a private business entity,~~] whether or not the contract is required by state law to be competitively bid."

SECTION 25. That Section 12A-12, "Prohibited Interests in Contracts," of Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (d) to read as follows:

"(d) Restrictions relating to the first year of employment. During the first year of city service, a city official or city employee shall not participate in the making or awarding of a contract, or attempt to use their official position to influence a city decision relating to a contract if a party to the contract is a person or entity by whom the city official or city employee was employed within one year before beginning city service."

SECTION 26. That Article II, "Present City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-12.1, "Recusal and Disclosure," to read as follows:

"**SEC. 12A-12.1. RECUSAL AND DISCLOSURE.**

(a) General rule. A city official or employee whose conduct or action on a matter would violate any section in Article II of this chapter must recuse themself [~~himself or herself~~]. From the time that the conflict is recognized, the city official or employee shall:

(1) immediately refrain from further participation in the matter, including discussions with any other persons likely to consider the matter; and

(2) promptly file with the city secretary a written statement disclosing the conflict on a form provided by the city secretary.

(b) Additional recusal and disclosure requirements. In addition to the requirements of Subsection (a):

(1) A supervised employee shall promptly bring that person's conflict to the attention of a supervisor, who will then, if necessary, reassign responsibility for handling the matter to another person;

(2) the park and recreation director shall promptly bring that person's conflict to the attention of the park and recreation board;

(3) the civil service director shall promptly bring that person's conflict to the attention of the civil service board;

(4) the employees' retirement fund administrator shall promptly bring that person's conflict to the attention of the board of trustees of the employees' retirement fund;

(5) a municipal judge shall promptly bring that person's conflict to the attention of the administrative municipal judge;

(6) the city manager, city attorney, city secretary, city auditor, and administrative municipal judge shall promptly bring that person's conflict to the attention of the city council;

(7) a board or commission member shall promptly disclose that member's conflict to the board or commission of which that person is a member and shall not be present during any discussion or voting on the matter; and

(8) a city council member shall promptly disclose that member's conflict to the city council and shall not be present during any discussion or voting on the matter."

SECTION 27. That Section 12A-13, "Continuing Confidentiality," of Article III, "Former City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-13. CONTINUING CONFIDENTIALITY.**

(a) Improper disclosure or use. A former city official or employee shall not use or disclose confidential government information acquired during service as a city official or

employee. This rule does not prohibit:

(1) any disclosure that is no longer confidential government information;

(2) the confidential reporting of illegal or unethical conduct to authorities designated by law; or

(3) any disclosure, not otherwise prohibited by law, in furtherance of public safety.

(b) Disclosure of a closed meeting. A former city official or city employee shall not knowingly disclose to a member of the public the certified agenda, the recording, or the discussion had within a meeting that was lawfully closed to the public, unless the disclosure is made with lawful authority."

SECTION 28. That Section 12A-15.1, "Reserved," of Article III, "Former City Officials and Employees," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-15.1 RESTRICTIONS ON LOBBYING [~~RESERVED~~].**

(a) A city council member shall be prohibited from registering as a lobbyist and from lobbying city council, or any city department, board, or commission for one year after leaving service with the city.

(b) A city official other than a city council member who is a member of a board or commission shall be prohibited from lobbying that board or commission for one year after the city official's service on that board or commission ended.

(c) A city employee, including city employees who are city officials, shall be prohibited from registering as a lobbyist and from lobbying city council, or any city department, board, or commission for one year after leaving employment with the city.

(d) Nothing in this section shall be construed to prohibit a person from lobbying on behalf of another government agency if they are employed by that governmental agency."

SECTION 29. That Section 12A-15.3, "Persons Required to Register as Lobbyists," of Article III-A, "Lobbyists," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-15.3. PERSONS REQUIRED TO REGISTER AS LOBBYISTS.**

(a) Except as provided by Section 12A-15.4, a person must register with the city secretary if the person:

(1) receives compensation of $200 or more in a calendar quarter for lobbying;

(2) receives reimbursement of $200 or more in a calendar quarter for lobbying; or

(3) lobbies as the agent or employee of a person who:

(A) receives compensation of $200 or more in a calendar quarter for lobbying;

(B) receives reimbursement of $200 or more in a calendar quarter for lobbying.

(b) A lobbying firm that is not required to register under Subsection (a) of this section may register as a lobbyist with the city secretary if the lobbying firm has more than one employee who is required to register under Subsection (a). A lobbying firm that chooses to register under this subsection for all of its employees that are lobbyists, instead of having them register individually, will be deemed to be a "registrant" and "a person required to register" for all purposes of this article and will be subject to all requirements, procedures, and penalties applicable to a "registrant" and "person required to register," as those terms are used in this article.

(c) An attorney who is representing a client must register as a lobbyist if the attorney meets the compensation or reimbursement standards of Subsection (a). A law firm whose attorneys would be required to register as lobbyists under this provision may register as a lobbying firm instead of the individual attorneys.

(d) A person who is representing an association of city employees or an association of former city employees must register as a lobbyist if the person meets the compensation or reimbursement standards of Subsection (a) or if the person is representing the association on a pro bono basis."

SECTION 30. That Section 12A-15.4, "Exceptions," of Article III-A, "Lobbyists," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(a) The following persons are not required to register or file an activity report under this article:

(1) A person who owns, publishes, or is employed by a newspaper, any other regularly published periodical, a radio station, a television station, a wire service, or any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to

influence official action relating to municipal questions, provided that the person does not engage in other activities that require registration under this article. This exception does not apply if a person's relation to the news media is only incidental to a lobbying effort or if a position taken or advocated by a media outlet directly impacts, affects, or seeks to influence a municipal question in which the media outlet has a direct or indirect economic interest.

(2) A person whose only lobbying activity is to encourage or solicit the members, employees, or owners (including shareholders) of an entity by whom the person is compensated to communicate directly with one or more city officials to influence municipal questions.

(3) A governmental entity and its officials and employees, provided the communications relate solely to subjects of governmental interest concerning the governmental entity and the city.

(4) A person who neither knows nor has reason to know that a municipal question is pending at the time of contact with a city official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a city official and the person then engages in additional lobbying of the same official or other city officials with respect to that municipal question.

(5) A [~~An attorney or other~~] person whose contact with a city official is made solely as part of resolving a dispute with the city, provided that the contact is solely with city officials who do not vote on or have final authority over any municipal question involved.

(6) An agent or employee of a lobbying firm or other registrant, provided that the lobbying firm or other registrant files a registration statement or activity report for the period in question fully disclosing all relevant information known to the agent or employee.

(7) An individual who engages in lobbying, but who does not receive compensation or reimbursement for lobbying with respect to any client.

(8) A neighborhood association, crime watch group, or homeowners association or its members when lobbying on a municipal question that affects the group or association as a whole.

(b) If, after notification by the city secretary that registration is required, a person claims an exception under this section, that person shall file an affidavit with the city secretary stating the basis for the exception within 14 days after the notification. If, after notification by the city secretary that registration is required, the person determines that registration is required, the person must register within 14 days after the notification."

SECTION 31. That Subsection (g), "Lobbying by Bidders and Proposers on City Contracts," of Section 12A-15.8, "Restricted Activities," of Article III-A, "Lobbyists," of

Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(g) Lobbying by bidders and proposers on city contracts.

(1) A person responding to a request for bids or request for proposals on a city contract shall not [~~(either personally or through a representative, employee, or agent)~~] lobby a city council member either directly or indirectly (through a representative, employee, or agent) from the time the advertisement or public notification of the request for bids or request for proposals is made until the time the contract is awarded by the city council.

(2) A city council member shall not discuss a request for bids or a request for proposals on a city contract either directly (with the person or entity submitting the bid or proposal) or indirectly (with a lobbyist, representative, employee, or agent of the person or entity submitting the bid or proposal) from the time the advertisement or public notification of the request for bids or request for proposals is made until the time the contract is awarded by the city council. The department issuing the request for bids or request for proposals shall forward to all city councilmembers any protest received and any response to that protest before city council considers awarding that city contract.

(3) This subsection does not prohibit a bidder or proposer from speaking at the city council meeting where the award of the contract is considered."

SECTION 32. That Section 12A-15.8, "Restricted Activities," of Article III-A, "Lobbyists," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (h), "Campaign Managers," to read as follows:

"(h) Campaign managers. A person who served as a campaign manager or campaign treasurer for a person who was elected as a city councilmember may not (either personally or through a representative, employee, or agent) lobby a city councilmember or a city official for one year after the date of the city council election. A "campaign manager" is any person who directs day-to-day operations of the campaign or determines the strategies or policies of the campaign. [*The effective date of this Subsection (h) will be July 1, 2017.*]"

SECTION 33. That Subsection (b), "Oral Lobbying Contacts," of Section 12A-15.9, "Identification of Clients," of Article III-A, "Lobbyists," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(b) Oral lobbying contacts. Any person who makes an oral lobbying contact with a city official shall, [~~on the request of the official~~] at the time of the lobbying contact, state whether the person is registered under this article and identify each client on whose behalf the lobbying contact is made."

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SECTION 34. That Section 12A-18, "Participation in Ethics Violations," of Article V, "Participation in Ethics Violations," of Chapter 12A, "Code of Ethics," of the Dallas City Code is replaced as follows:

"**SEC. 12A-18. EX PARTE COMMUNICATIONS.**

No person shall, directly or indirectly, communicate with any city official of any quasi-judicial city board or commission as to any adjudicative matter which is, or which may reasonably be expected to be, pending before the board or commission, unless a full disclosure of the communication is simultaneously made available to every other party to the matter. This prohibition does not apply to any communication by a city employee with the city board or commission in the performance of the city employee's official duties."

SECTION 35. That Paragraph (1), "Designated City Officials and Designated City Employees," of Subsection (a), "Who Must File," of Section 12A-19, "Financial Disclosure Report," of Article VI, "Financial Disclosure," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(1) Designated city officials and designated city employees. Before initially accepting appointment or assuming the duties of office, and annually thereafter, the following city officials and employees shall file with the city secretary a complete, sworn financial disclosure report complying with Subsection (b) of this section:

(A) City of Dallas appointed members to the following boards, commissions, and committees:

(i) Board of adjustment and board of adjustment alternate members.

(ii) Building inspection advisory, examining, and appeals board.

(iii) Business development corporation board.

(iv) City plan and zoning commission.

(v) Civil service board and civil service board adjunct members.

(vi) Community development commission.

(vii) Dallas Area Rapid Transit board.

(viii) Dallas-Fort Worth international airport board.

(ix) Ethics advisory commission.

(x) Fire code advisory and appeals board.

(xi) Housing finance corporation board.

(xii) Landmark commission and landmark commission alternate members.

(xiii) Park and recreation board.

(xiv) Permit and license appeal board.

(xv) All reinvestment zone boards.

(xvi) All municipal management district boards.

(B) The first assistant city attorney.

(C) The city auditor and city secretary, and their first assistants.

(D) Assistant city managers.

(E) Municipal judges.

(F) Chief financial officer."

SECTION 36. That Subsection (d) of Section 12A-21, "Traveling Reporting Requirements," of Article VI, "Financial Disclosure," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(d) The following persons are required to report under this section:

(1) City council members.

(2) The city manager, city attorney, city secretary, and city auditor, and their first assistants.

(3) Municipal judges.

(4) Members of boards and commissions.

(5) Assistant city managers.

(6) Department directors, [~~and~~] their assistants, and their supervisors, including the civil service director, the park and recreation director, [~~and~~] their assistants, and their supervisors.

(7) Chief financial officer."

SECTION 37. That Section 12A-22, "Items Received on Behalf of the City," of Article VI, "Financial Disclosure," of Chapter 12A, "Code of Ethics," of the Dallas City Code is repealed and shall be indicated as "Reserved" as follows:

"**SEC. 12A-22. RESERVED [~~ITEMS RECEIVED ON BEHALF OF THE CITY~~].**

[~~A city official or employee who accepts on behalf of the city any item by way of gift or loan valued over $250 shall, within 30 days after the acceptance of the gift or loan, report that fact and deliver the item to the city manager, who shall have the item appropriately inventoried as city property.~~]"

SECTION 38. That Subsection (a), "Jurisdiction," of Section 12A-25, "Jurisdiction and Powers," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(a) Jurisdiction.

(1) The ethics advisory commission shall have jurisdiction to review and make findings concerning any alleged violation of the laws, ordinances, and rules listed in Paragraph (2) of this section [~~this chapter~~] by any person subject to those laws, ordinances, or rules [~~provisions~~], including but not limited to current city officials and employees, former city officials and employees, and persons doing business with the city[~~, if a complaint is filed within one year after the date of the alleged violation~~].

(2) The ethics advisory commission may consider violations of the following laws, ordinances, and rules:

(A) Section 8-22, "Board Members," of Article V, "Code of Conduct," of Chapter 8, "Boards and Commissions," of the Dallas City Code;

(B) Chapter 12A, "Code of Ethics," of the Dallas City Code;

(C) Chapter 15A, "Elections," of the Dallas City Code, except to the extent that Chapter 15A is administered and enforced by the Texas Ethics Commission;

(D) the second sentence of Chapter XVI, Section 16(a) of the city charter, which reads "No officer or employee of the city shall directly or indirectly, in any way be required to contribute to any political campaign, political party, organization which supports candidates for public office, or for any partisan political purpose whatsoever;"

(E) Chapter XXII, Section 11, "Financial Interest of Employee or Officer Prohibited," of the city charter;

(F) Chapter XXIV, Section 1, "No Officer or Employee to Accept Gift, Etc., From Public Utility," of the city charter;

(G) Texas Local Government Code Chapter 145, "Financial Disclosure by and Standards of Conduct for Local Government Officers," as amended;

(H) Texas Local Government Code Chapter 171, "Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments," as amended;

(I) Texas Local Government Code Chapter 176, "Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to certain Information," as amended;

(J) Section 212.017, "Conflict of Interest; Penalty," of Texas Local Government Code Chapter 212, "Municipal Regulation of Subdivisions and Property Development," as amended;

(K) Texas Penal Code Chapter 36, "Bribery and Corrupt Influence," as amended;

(L) Texas Penal Code Section 39.02, "Abuse of Official Capacity," as amended;

(M) Texas Penal Code Section 39.03, "Official Oppression," as amended;

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(N) Texas Penal Code Section 39.06, "Misuse of Official Information," as amended;

(O) conflicts of interest and gift regulations applicable to local government recipients of federal grants, including Subsection (c) of Section 200.318 of Title 2 of the Code of Federal Regulations, as amended; and

(P) any other city rule or city code or city charter provision pertaining to the ethical conduct of city officials or employees.

(3) The commission may not consider any alleged violation that occurred [~~before January 1, 2001 or~~] more than one year before the date of the filing of a complaint. The city secretary shall not accept or process any complaint that is filed more than one year after the date of the violation alleged in the complaint."

SECTION 39. That Paragraph (6) of Subsection (c), "Powers," of Section 12A-25, "Jurisdiction and Powers," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(6) To make notifications, extend deadlines, and conduct investigations of violations within the jurisdiction of the Ethics Advisory Commission."

SECTION 40. That Section 12A-25, "Jurisdiction and Powers," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (d), "Subpoenas," to read as follows:

"(d) Subpoenas.

(1) The ethics advisory commission shall have the power to issue subpoenas for the attendance of witnesses or subpoenas for the production of documents or other evidence that the ethics advisory commission deems necessary for an evidentiary hearing. The ethics advisory commission may issue a subpoena only after a written request to appear or provide documents or other evidence has not been complied with and after consultation with the city attorney.

(2) A party to an ethics complaint (either the complaining party or the party complained against) may request that the ethics advisory commission issue a subpoena. The ethics advisory commission may issue the requested subpoena for good cause upon a showing of

the need for the witness, documents, or other evidence. The ethics advisory commission may refuse the requested subpoena upon a finding that good cause does not exist.

(3) A person may object to a subpoena within seven working days after receiving the subpoena. Objections to subpoenas must be in writing and submitted to the city secretary, and copied to the party who requested the subpoena, if any. The party who requested the subpoena shall have three working days after receipt of the objections to respond in writing to the city secretary. The ethics advisory commission shall rule on the objection. Failure to object to a subpoena waives any objection to the subpoena.

(4) Refusal to appear or to produce any document or other evidence after receiving a subpoena pursuant to this section is a violation of this chapter subject to sanctions as described in Section 2-9."

SECTION 41. That Section 12A-26, "Complaints," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-26. COMPLAINTS.**

(a) Filing. Except for an ethics advisory commission member, any person who is a [~~any~~] resident of the city, a [~~any~~] person doing business or attempting to do business with the city, or a [~~any~~] city official or employee, either at the time the alleged violation of this chapter occurred or at the time the complaint is submitted, who believes there has been a violation of this chapter may file a complaint with the city secretary on a form provided by the city secretary. The complaint must contain the following information and items:

(1) The name, address, email address, and telephone number of the complainant.

(2) The name, address (if known), email address (if known), and telephone number (if known) of each person who allegedly committed the violation.

(3) A statement of the facts on which the complaint is based, including the exact date or dates of the alleged violation.

(4) Identification of the ethics laws, ordinances, and rules [~~provision or provisions~~] allegedly violated, using either a citation to the applicable section [~~and paragraph of~~

~~this chapter~~] or a description containing substantially the same language as the ethics laws, ordinances, and rules [~~provision or provisions~~].

(5) Copies of the documents or other evidence, if any, referenced in the complaint or in the complainant's possession that support the complaint attached to the complaint.

(6) The names, addresses, email addresses (if known), and telephone numbers of witnesses, if any, that can offer testimony in support of the complaint.

(7) Other sources of evidence, if any, that the complainant recommends should be considered by the ethics advisory commission.

(8) An affidavit in which the complainant swears or affirms, under the penalty of perjury, that:

(A) the complaint states a violation of this chapter;

(B) the complaint is not being presented for any improper purpose, such as to harass, cause unnecessary delays, or needlessly increase the cost of defense to the person charged in the complaint; and

(C) either:

(i) all information submitted in and with the complaint is true and correct; or

(ii) to the best of the complainant's knowledge, formed after an inquiry reasonable under the circumstances, the factual contentions in the complaint are supported by credible evidence submitted in and with the complaint.

(b) Format of evidence. If a complainant or a person charged in a complaint submits evidence in an electronic, mechanical, or other format that the city secretary's office cannot duplicate or display, that office shall request that person to provide the evidence in a format that the office can duplicate or display. If that person fails to provide the evidence to the city secretary's office in a format that the office can duplicate or display within seven days after the office has made a request, then the evidence may not be presented to or considered by the ethics advisory commission or a panel of the commission.

(c) Acceptance of complaint. Upon receiving a complaint, the city secretary shall determine if it is complete. A complaint is complete if it contains the information described in (a)(1), (2), (3), (4), (5), and (8). If the complaint is complete, the city secretary shall proceed as described in this section. If the complaint is incomplete, the city secretary shall, in writing, notify the complainant that the complaint is incomplete and state which required information was not provided. The complainant shall have 20 days after the date the city secretary sends notice to the complainant to provide the required information to the city secretary, or the complaint is deemed

abandoned and may not be processed in accordance with this chapter.

(d) Confidentiality of complaints.

(1) No city official or employee shall reveal information relating to the filing or processing of a complaint, except as required for the performance of official duties or as required by law.

(2) Ex parte communications by or to members of the ethics advisory commission are prohibited by Section 12A-27(c) of this chapter.

(3) All papers and communications relating to a complaint must be treated as confidential unless required to be made public under the Public Information Act (Chapter 552, Texas Government Code) or other applicable law.

(e) Notification. The city secretary shall promptly forward a copy of a complete complaint to the chair of the ethics advisory commission and to the person charged in the complaint. The person charged in the complaint shall have the opportunity to submit a sworn statement, together with such other information that person [~~he or she~~] feels is relevant. Copies of all information provided to the ethics advisory commission by the complainant and the person charged in the complaint must be distributed to all parties to the complaint within 10 days after the ethics advisory commission receives the information.

(f) False accusations and responses. The city secretary shall, in writing, advise the person filing the complaint that falsely accusing someone of a violation of this chapter may result in criminal prosecution of anyone who knowingly makes a false accusation. The city secretary shall, in writing, advise the person charged in the complaint that falsely responding to a complaint may result in criminal prosecution of anyone who knowingly makes a false response.

(g) Complaints received by the City Auditor's Office. If the City Auditor determines that a complaint it receives through the Fraud, Waste and Abuse hotline states a violation of this chapter, the City Auditor may refer the complaint to the city secretary for direct review by a preliminary panel, pursuant to Section 12A-26(g), as amended. If the City Auditor receives the complaint anonymously, then the City Auditor shall act as the complainant for purposes of the preliminary panel review and shall not be subject to:

(1) Section 12A-26(a)(8), as amended, regarding a complainant affidavit;

(2) Section 12A-26(f), as amended, regarding false accusations; and

(3) Section 12A-40.1, as amended, regarding frivolous complaints.

(h[~~g~~]) Preliminary Panel Process [~~Summary dismissal~~].

(1) Within 30 days after receipt of a complete complaint, either the chair or vice chair, selected on a rotational basis and subject to availability, and two commission

members, selected by lot by the city secretary and subject to availability, shall make all reasonable effort to make a preliminary finding as to whether or not the complaint states a claim under this chapter and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry, including an assessment of the credibility of the evidence, that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under this chapter.

(2) If the preliminary finding is that the complaint does not state a claim under this chapter or does not have just cause, based upon the statements and evidence submitted, the complaint must be dismissed. A determination that a complaint be dismissed can only be made upon the affirmative vote of at least two of the three preliminary panel members. Written notice of the dismissal must be sent to both the person who made the complaint and the person about whom the complaint was made, identifying the reason or reasons for dismissal.

(3) The chair is recused from serving on a preliminary panel for any complaint filed against the mayor, except that the chair may participate in discussions and voting on a complaint against the mayor when it is being considered by the commission as a whole. If the chair, the vice chair, or both are unable to serve on a preliminary panel, the appropriate number of ethics commission members shall be selected by lot by the city secretary as substitutes on the panel. The preliminary panel must always have three members."

SECTION 42. That Subsection (a), "Evidentiary Hearing," of Section 12A-27, "Hearing Procedures," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(a) Evidentiary hearing. If a complaint is not summarily dismissed under Section 12A-26(h[~~g~~]), it will be pursued further at a hearing before the ethics advisory commission. Not less than 10 days before the hearing, the city secretary shall, by certified mail or personal service, give written notice of the hearing to both the person who made the complaint and the person about whom the complaint was made. If a person entitled to notice under this subsection consents in writing, the city secretary may give written notice by facsimile, email, or first class U.S. mail. The notice must state the specific provision or provisions of this chapter alleged in the complaint to have been violated, as determined by the preliminary panel."

SECTION 43. That Subsection (a), "Hearing on Complaints," of Section 12A-28, "Hearing Rules," of Article VII, "Ethics Advisory Commission," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"(a) Hearings on complaints. The rules contained in this section apply to all hearings of the ethics advisory commission on complaints not summarily dismissed under Section 12A-

26(h[~~g~~]).”

SECTION 44. That Subsection (a) of Section 12A-30, “Referral of Matter for Appropriate Action; Recommendation of Sanctions,” of Article VII, “Ethics Advisory Commission,” of Chapter 12A, “Code of Ethics,” of the Dallas City Code is amended by adding a new Paragraph (5) to read as follows:

“(5) If the complaint involved a person who is not a current or former city official or a current or former city employee, the matter will be referred to the city council.”

SECTION 45. That Subsection (b) of Section 12A-30, “Referral of Matter for Appropriate Action; Recommendation of Sanctions,” of Article VII, “Ethics Advisory Commission,” of Chapter 12A, “Code of Ethics,” of the Dallas City Code is amended to read as follows:

“(b) When referring a matter under Subsection (a), the ethics advisory commission may recommend any sanction or penalty authorized under Article VIII of this chapter. In recommending a sanction or penalty, the commission shall take into consideration the factors listed in Section 12A-37.1(a). [~~the following sanctions:~~

~~(1) Letter of notification. A letter of notification may be recommended when the commission finds that a violation of this chapter was clearly unintentional or when the action or conduct found to have been a violation of this chapter was performed by the official or employee in reliance on a public written opinion of the city attorney. A letter of notification must advise the official or employee to whom the letter is directed of any steps to be taken to avoid future violations.~~

~~(2) Letter of admonition. A letter of admonition may be recommended when the commission finds that the violation of this chapter was minor and/or may have been unintentional, but where the circumstances call for a more substantial response than a letter of notification.~~

~~(3) Reprimand. A reprimand may be recommended when the commission finds that a violation of this chapter was committed intentionally or through disregard of this chapter.~~

~~(4) Removal or suspension from office. Removal from office or suspension from office may be recommended when the commission finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter. The commission may include the length of any suspension in its recommendation.~~

~~(5)~~ ~~Miscellaneous. The commission may recommend any enforcement remedy or penalty authorized under Article VIII of this chapter.~~]"

SECTION 46. That Article VIII, "Enforcement, Culpable Mental State, and Penalties," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-35.1, "Violations; Penalty," to read as follows:

"**SEC. 12A-35.1. VIOLATIONS; PENALTY.**

A person who violates any of the laws, ordinances, and rules listed in Section 12A-25(a)(2), or who fails to perform an act required of the person by any of the laws, ordinances, and rules listed in Section 12A-25(a)(2), commits a violation of this chapter."

SECTION 47. That Section 12A-37, "Disciplinary Action," of Article VIII, "Enforcement, Culpable Mental State, and Penalties," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended to read as follows:

"**SEC. 12A-37. DISCIPLINARY ACTION.**

(a) An employee who fails to comply with this chapter or who violates this chapter may be disciplined in accordance with city personnel rules and procedures. Where no specific appeal procedure is otherwise prescribed, an appeal by an employee will be to the trial board.

(b) If a city council member fails to comply with this chapter or violates this chapter, the matter must be decided by the city council in accordance with the city charter.

(c) If a member of a board or commission fails to comply with this chapter or violates this chapter, the matter must be decided by the city council in accordance with the city charter.

(d) If the civil service director, the park and recreation director, or the employees' retirement fund administrator fails to comply with this chapter or violates this chapter they may be disciplined in accordance with the personnel rules and the matter must be decided by their respective boards.

(e) If the city manager, city attorney, city auditor, city secretary, or a municipal judge fails to comply with this chapter or violates this chapter they may be disciplined in accordance with the personnel rules and the matter must be decided by the city council.

(f) If a former city official or former city employee fails to comply with this chapter or violates this chapter, the matter must be decided by the city council.

(g) If a person who is not a current or former city official or a current or former city

employee fails to comply with this chapter or violates this chapter, the matter must be decided by city council."

SECTION 48. That Article VIII, "Enforcement, Culpable Mental State, and Penalties," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-37.1, "Sanctions," to read as follows:

"**SEC. 12A-37.1 SANCTIONS.**

(a) In determining sanctions based on a recommendation of the ethics advisory commission, the person or entity authorized by Subsection 12A-30(a) to impose the sanction shall take into consideration the recommendation of the ethics advisory commission and the following factors:

(1) The culpability of the person charged.

(2) The harm to public or private interests resulting from the violation.

(3) The necessity of preserving public trust in the city.

(4) Whether there is evidence of a pattern of disregard for ethical standards.

(5) Whether remedial action has been taken that will mitigate the adverse effects of the violation.

(b) For current city employees, the sanctioning person shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The sanctioning person may require a city employee to attend ethics training.

(2) Referral for damages or injunction. The sanctioning person may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The sanctioning person may refer the violation to the Dallas Police Department, if the sanctioning entity finds that the violation warrants criminal prosecution.

(c) For the civil service director, the park and recreation director, or the employees' retirement fund administrator, the sanctioning entity shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The sanctioning entity may require the person

to attend ethics training.

(2) Referral for damages or injunction. The sanctioning entity may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The sanctioning entity may refer the violation to the Dallas Police Department, if the sanctioning entity finds that the violation warrants criminal prosecution

(d) For the city manager, city attorney, city auditor, city secretary, or a municipal judge, the city council shall take appropriate action in accordance with the personnel rules, and may impose any of the following additional sanctions:

(1) Referral to ethics training. The city council may require the person to attend ethics training.

(2) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(3) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution.

(e) For a city council member, a board or commission member, a former city official, or a former city employee, the city council may impose any of the following sanctions:

(1) Letter of notification. The city council may issue a letter of notification if the city council finds that a violation of this chapter was clearly unintentional. A letter of notification must advise the person of any steps to be taken to avoid future violations.

(2) Letter of admonition. The city council may issue a letter of admonition if the city council finds that the violation of this chapter was minor, but where the circumstances call for a more substantial response than a letter of notification.

(3) Referral to ethics training. The city council may require a current city official to attend ethics training.

(4) Reprimand. The city council may issue a reprimand if the city council finds that a violation of this chapter was not minor and was committed intentionally or through reckless disregard of this chapter.

(5) Resolution of censure. The city council may adopt a resolution of censure if the city council finds that a serious or repeated violation of this chapter has been committed intentionally or through reckless disregard of this chapter and the violation substantially

threatens the public trust.

(6) Voiding of prior actions. The city council may, to the extent allowed by law, void any prior city council or city board or commission action that approved any decision, agreement, award, or contract if the action was taken as a result of a violation of this chapter and the interests of the city require voiding of the prior action.

(7) Suspension from office. The city council may suspend a current city official other than a city council member from office for a period determined by the city council if the city council finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter. Any proceedings for suspension of a current city official shall be in compliance with the city charter and state law.

(8) Removal from office. The city council may remove a current city official, including a city council member, from office if the city council finds that a serious or repeated violation of this chapter was committed intentionally or through culpable disregard of this chapter and future violations are likely to occur. Any proceedings for removal of a current city official from office shall be in compliance with the city charter and state law.

(9) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(10) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution.

(f) For a person who is not a current or former city official or a current or former city employee (e.g. lobbyists, people doing business with the city, citizens), the city council may impose any of the following sanctions:

(1) Letter of notification. The city council may issue a letter of notification if the city council finds that a violation of this chapter was clearly unintentional. A letter of notification must advise the person of any steps to be taken to avoid future violations.

(2) Letter of admonition. The city council may issue a letter of admonition if the city council finds that the violation of this chapter was minor, but where the circumstances call for a more substantial response than a letter of notification.

(3) Reprimand. The city council may issue a reprimand if the city council finds that a violation of this chapter was not minor and was committed intentionally or through reckless disregard of this chapter.

(4) Resolution of censure. The city council may adopt a resolution of censure if the city council finds that a serious or repeated violation of this chapter has been committed intentionally or through reckless disregard of this chapter and the violation substantially

threatens the public trust.

(5) Disqualification from contracting or lobbying. The city council may, to the extent allowed by law, prohibit the person from entering into contracts with the city or from lobbying before the city on behalf of clients. The scope and duration of the disqualification shall be determined by the city council.

(6) Voiding of prior actions. The city council may, to the extent allowed by law, void any prior city council or city board or commission action that approved any decision, agreement, award, or contract if the action was taken as a result of a violation of this chapter and the interests of the city require voiding of the prior action.

(7) Referral for damages or injunction. The city council may refer the violation to the city attorney for an action to recover damages to the city or to enjoin prohibited actions.

(8) Referral for criminal prosecution. The city council may refer the violation to the Dallas Police Department, if the city council finds that the violation warrants criminal prosecution."

SECTION 49. That Article VIII, "Enforcement, Culpable Mental State, and Penalties," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-38.1, "Interference With an Investigation," to read as follows:

"**SEC. 12A-38.1. INTERFERENCE WITH AN INVESTIGATION.**

A person commits an offense if the person interferes with any investigation of an alleged violation of this chapter in any manner, including seeking to persuade or coerce others to withhold their cooperation."

SECTION 50. That Section 12A-41, "Other Ethical Obligations," of Article IX, "Administrative Procedures," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Subsection (c) to read as follows:

"(c) The imposition of sanctions under Section 12A-37.1 does not preclude criminal prosecution for the act under city ordinance or state or federal law. A violation of this chapter shall not be prosecuted in municipal court if the violation can be prosecuted by the district attorney under state law or by the United States attorney under federal law."

SECTION 51. That Subsection (a) of Section 12A-42, "Dissemination of Code of Ethics," of Article IX, "Administrative Procedures," of Chapter 12A, "Code of Ethics," of the

Dallas City Code is amended to read as follows:

"(a) Within 30 days after entering upon the duties of his or her position, every new official or employee must be furnished with a copy of this chapter. [~~Before January 1, 2001, and periodically thereafter as appropriate,~~ t]The city secretary shall provide a copy of this chapter to every city official.[~~, and~~] T[~~t~~]he city manager, city attorney, city secretary, city auditor, park and recreation director, civil service director, and employees' retirement fund administrator shall provide a copy of this chapter to every city employee under their [~~each's~~] supervision. [~~Within 30 days after entering upon the duties of his or her position, every new city official or employee must be furnished with a copy of this chapter.~~] Each city official and employee shall acknowledge, in writing, the receipt of a copy of this chapter. Copies of this chapter must be made readily available to the public."

SECTION 52. That Article IX, "Administrative Procedures," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-42.1, "Ethics Pledge," to read as follows:

"**SEC. 12A-42.1. ETHICS PLEDGE.**

All city officials, prior to their appointment shall sign the following ethics pledge and file it with the city secretary:

"I have received a copy of Dallas City Code Chapter 12A, "Code of Ethics." I have read and understand the code of ethics. I understand that the code of ethics is binding on me, and therefore I agree to comply with the code of ethics. I understand that the code of ethics imposes restrictions on present city officials, former city officials, lobbyists, and persons doing business with the city. I agree to participate in periodic ethics training. I agree to seek advice from the city attorney when necessary to ensure compliance with the code of ethics. I agree that I will not violate the code of ethics, participate in violations of the code of ethics, or fail to report violations of the code of ethics. I understand that violation of the code of ethics, participation in a violation of the code of ethics, and failure to report a violation of the code of ethics may result in severe consequences."

SECTION 53. That Article IX, "Administrative Procedures," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-44, "City Ethics Officer," to read as follows:

"**SEC. 12A-44. CITY ETHICS OFFICER.**

(a) The city manager shall appoint a city ethics officer. The duties of the city ethics officer shall include, but not be limited to, the following:

(1) Promoting a culture of ethics within the city.

(2) Training all city officials, city employees, and departmental ethics liaisons on ethical conduct and the requirements of the code of ethics.

(3) Assisting the city council, ethics advisory commission, and city manager on matters of ethics, including proposing amendments to the code of ethics.

(4) Notifying all city departments of any significant amendments to the code of ethics.

(5) Assisting the ethics advisory commission and the city council in the enforcement of the code of ethics.

(6) Preparing and submitting an annual report to the city council detailing the activities of the city ethics officer during the prior year."

SECTION 54. That Article IX, "Administrative Procedures," of Chapter 12A, "Code of Ethics," of the Dallas City Code is amended by adding a new Section 12A-45, "Ethics Training," to read as follows:

"**SEC. 12A-45. ETHICS TRAINING.**

(a) All new city officials and new city employees shall receive ethics training within 30 days after being appointed to office or hired by the city. All current city officials and current city employees shall receive ethics training at least once every two years.

(b) All city officials who are leaving city service shall receive ethics information concerning requirements for former city officials before the city official ends their city service. All city employees who are terminating their employment shall receive ethics information concerning requirements for former city employees before the city employee ends their employment with the city.

(c) The city secretary shall provide all lobbying registrants with ethics information within 30 days after registration. Each registrant shall provide their individual lobbyists with a copy of the ethics information.

(d) At least annually, the ethics advisory commission shall, with the assistance of the city attorney's office, distribute a plain-language guide to the code of ethics to all city officials, city employees, and registered lobbyists.

(e) The Business Development and Procurement Services Office shall publish on the city's website information as to how this chapter applies to consultants or contractors and to city officials and city employees who work with consultants or contractors.

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(f) This ethics training and information required by this section shall be made available in a format and medium as determined by the city ethics officer. The ethics training and information required by this section shall be subject to approval as to form by the City Attorney. Ethics training and information must be structured to ensure that participants have the necessary knowledge to accomplish the statement of purpose in this chapter and comply with all applicable ethics laws.

(g) Failure to receive ethics training, documents, or notices required by this section does not waive that person's duty to comply with this code of ethics or waive enforcement of this chapter."

SECTION 55. That Section 15A-1, "Definitions," of Article I, "Campaign Contributions," of Chapter 15A, "Elections," of the Dallas City Code is amended to read as follows:

"**SEC. 15A-1. DEFINITIONS.**

The terms used in this article have the meanings ascribed to them in Chapter 251, Texas Election Code, or as defined in this section.

(1) CITY-FUNDED OFFICEHOLDER ACCOUNT means, for the purposes of this chapter, an individual attributable Mayor/Council account that is funded from the city budget and intended for use by a city councilmember to cover the expenses of holding office."

SECTION 56. That Article I-a, "Officeholder Contributions," of Chapter 15A, "Elections," of the Dallas City Code is retitled as Article I-a, "Officeholder Campaign Contributions."

SECTION 57. That Section 15A-7.1, "Use of Officeholder Contributions," of Article I-a, "Officeholder Campaign Contributions," of Chapter 15A, "Elections," of the Dallas City Code is amended to read as follows:

"**SEC. 15A-7.1. USE OF OFFICEHOLDER CAMPAIGN CONTRIBUTIONS.**

(a) An officeholder who lawfully accepts officeholder campaign contributions, as defined in the Texas Election Code, shall not use more than $100 in officeholder campaign

contributions per city election for campaign expenditures for the officeholder's campaign for election to the city council.

(b) For the purpose of this section an initial election and a runoff election are separate elections.

(c) It is a defense to prosecution under Subsection (a) of this section that the officeholder campaign contribution was used for a campaign expenditure before March 1, 2015."

SECTION 58. That Section 15A-7.2, "Enforcement," of Article I-a, "Officeholder Campaign Contributions," of Chapter 15A, "Elections," of the Dallas City Code is amended to read as follows:

"**SEC. 15A-7.2 ENFORCEMENT.**

(a) If the city secretary receives a written complaint alleging a violation of this article, the city secretary shall forward this information to the city attorney for investigation and appropriate enforcement action, if warranted.

(b) The Ethics Advisory Commission shall have jurisdiction to consider a violation of this article pursuant to the procedures detailed in Chapter 12A."

SECTION 59. That Chapter 15A, "Elections," of the Dallas City Code is amended by adding Article I-b, "City-Funded Officeholder Accounts," to read as follows:

"**ARTICLE I-b.**
CITY-FUNDED OFFICEHOLDER ACCOUNTS.

SEC. 15A-7.3. PURPOSE.

(a) The purpose of this article is to:

(1) ensure that city-funded officeholder accounts are used only for public purposes;

(2) ensure that city-funded officeholder accounts are not used as a gift or transfer of public funds to individuals or entities;

(3) prohibit the use of city-funded officeholder accounts for campaign purposes; and

(4) ensure the city-funded officeholder accounts are used in compliance with Texas Election Commission rules, regulations, and opinions.

SEC. 15A-7.4. USE OF CITY-FUNDED OFFICEHOLDER ACCOUNTS.

(a) Compliance with procurement requirements. Expenses from city-funded officeholder accounts must comply with the city's administrative directive and state law regarding procurements.

(b) Test for allowable expenses. City-funded officeholder accounts may only be used for official city business. An expense is for official city business if the expense:

(1) serves a public purpose of the city of Dallas, rather than serving a personal purpose or campaign purpose;

(2) helps to defray the cost of holding public office;

(3) is a reasonable amount for the goods or services purchased;

(4) is not a prohibited gift or transfer of public funds to an individual or entity; and

(5) is consistent with Texas Election Commission rules, regulations, and opinions for non-campaign expenses of officeholders.

(c) Opinions. City councilmembers may request an opinion from the city attorney pursuant to Section 12A-33 as to whether an expense is allowed under this article and Chapter 12A. An opinion issued under this subsection is not binding on the Texas Election Commission.

(d) Permissible expenses. The following list illustrates permissible expenses for city-funded officeholder accounts (this is not an exhaustive list):

(1) Office supplies and equipment used in the city councilmember's office.

(2) Duplicating, printing, postage, courier service, and express mail expenses.

(3) Reimbursement for use of personal vehicles that are consistent with administrative directives.

(4) Telephone and cell phone expenses.

(5) Conferences, seminars, and training expenses.

(6) Reimbursement for mileage charges for use of city vehicles.

(7) Membership dues or fees in community service or civic organizations.

(8) Business entertainment expenses that are consistent with administrative directives.

(9) Ceremonial and protocol items.

(10) Supplemental temporary help and overtime.

(11) Reimbursement of travel expenses that are consistent with administrative directives.

(12) Newsletters to constituents that are not campaign communications, and determined by Texas Election Commission rules, regulations, or opinions.

(13) Nonpolitical advertising.

(14) An individual ticket for a city council member to events that are related to city business where the council member is attending as a representative of the city.

(e) Impermissible expenses. The following list illustrates impermissible expenses for city-funded officeholder accounts (this is not an exhaustive list):

(1) Purchase of city property, including unclaimed or surplus city property, and including any furniture or equipment used in the city councilmember's office, for personal use by a current city councilmember or a former city councilmember.

(2) Membership dues or fees in athletic clubs, social clubs, or any other organization not allowed by administrative directives.

(3) Any type of sponsorship of city or non-city events, such as purchasing a table at a fundraiser event or providing funds in exchange for being listed as an event sponsor.

(4) Purchase of food, drink, decorations, caterers, audio-visual, or supplies for non-city events.

(5) Hiring individuals or entities to provide products or services, such as improvements to a park or purchase of street furniture, that are not related to the cost of holding public office.

(6) Promotional items intended primarily to promote the public image of the city councilmember.

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(7) Expenses to acquire or manage software used to maintain mail or email lists of constituents for personal or campaign purposes.

(8) Any campaign expenditure, campaign contribution, political advertising, or campaign communication as defined in Title 15, "Regulating Political Funds and Campaigns," of the Texas Election Code and Texas Election Commission rules, regulations, and opinions.

(9) Use of city employees or city supplies for campaign purposes or for the personal business of the city councilmember.

(f) Deficits and surpluses.

(1) Expenditures from a city-funded officeholder account may not exceed the amount allocated by the city manager for that city-funded officeholder account. City councilmembers who exceed the budgeted amount of their city-funded officeholder account shall be personally liable for the amount exceeded.

(2) Funds may not be transferred from one city-funded officeholder account to another city-funded officeholder account.

(3) Any surplus remaining in a city-funded officeholder account at the end of a fiscal year reverts to the fund from which the monies were appropriated.

(g) Campaign contributions and donations.

(1) Campaign contributions may not be deposited into the city-funded officeholder account. Instead, campaign contributions should be deposited into a campaign account maintained by the city councilmember separate from the city financial system.

(2) Donations made to the city may not be earmarked for use by specific city councilmembers. Donations to the city must comply with Section 12A-5.1.

(h) Reporting.

(1) City councilmembers must file an annual statement with the City Secretary itemizing expenses paid from city-funded officeholder accounts during the prior fiscal year. The annual statement must be on a form provided by the City Secretary and filed with the City Secretary no later than 5:00 p.m. on April 30 or when the councilmember vacates office, whichever is sooner. If April 30 is a Saturday, Sunday, city holiday, or furlough day, the deadline is extended to 5:00 p.m. of the next business day. The annual statement must include to whom the expense was paid, the date the expense was paid, a description of the expense, and the dollar amount of the expense.

(2) These reporting requirements are in addition to any reporting requirements set out in the Dallas City Code or state law.

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SEC. 15A-7.5. ENFORCEMENT.

(a) If the city secretary receives a written complaint alleging a violation of this article, the city secretary shall forward this information to the city attorney for investigation and appropriate enforcement action, if warranted.

(b) The Ethics Advisory Commission shall have juridiction to consider a violation of this article pursuant to the procedures detailed in Chapter 12A.

(c) A person commits an offense if that person discriminates against, harasses, threatens, harms, damages, penalizes, or otherwise retaliates against any person for refusing to violate this article; filing a complaint alleging a violation of this article; or for testifying, assisting, or participating in an investigation, proceeding, or hearing under this article."

SECTION 60. That, unless specifically provided otherwise by this ordinance or by state law, a person violating a provision of this ordinance is, upon conviction, punishable by a fine not to exceed $500.

SECTION 61. That Chapters 2, 12A, and 15A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 62. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 63. 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 64. 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.

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APPROVED AS TO FORM:

LARRY E. CASTO, City Attorney

By_____
Assistant City Attorney

Passed_____

DRAFT

AGENDA ITEM # 44

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Manager's Office

CMO: T.C. Broadnax, 670-3297

MAPSCO: N/A

SUBJECT

A resolution adopting policy guidelines regarding the solicitation, acceptance, and reporting of gifts by city employees - Financing: No cost consideration to the City

BACKGROUND

The City Council has adopted a Code of Ethics, Chapter 12A, Dallas City Code, as amended, that provides general rules for the acceptance of gifts by city officials and employees. Section 12A-5(c)(6) at Chapter 12A, "CODE OF ETHICS," of the Dallas City Code, as amended, allows city officials and employees to accept gifts, tickets, meals, travel, lodging, entertainment, and honoraria in accordance with policies established by city council resolution. This policy sets forth guidelines to provide further guidance to city employees regarding the solicitation and acceptance of gifts, tickets, meals, travel, lodging, entertainment and honoraria.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 28, 2016, the Ethics Advisory Commission completed its year-long review process and forwarded to the City Council's Ad Hoc Administrative Committee recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A of the Dallas City Code and the recommended Employee Gift Policy which is adopted via resolution.

On November 14, 2016, the Ad Hoc Administrative Committee was briefed on the Ethics Advisory Commission's recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A of the Dallas City Code and the recommended Employee Gift Policy. The Ad Hoc Administrative Committee recommended the amendments to the City Code and employee gift policy be presented to the full City Council.

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

On January 4, 2017, the City Council was briefed on the Ethics Advisory Commission's recommended amendments to the Code of Ethics, Chapter 12A, Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and the recommended Employee Gift Policy.

On January 20, 2017, the Ethics Advisory commission reviewed and considered City Councilmembers' proposed changes to the draft ordinance amending the Code of Ethics, Chapter 12A; Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and employee gift policy.

On March 1, 2017, the City Council was briefed on the revised recommendations from the Ethics Advisory Commission regarding proposed changes to the draft ordinance amending Code of Ethics, Chapter 12A; Administration Chapter 2A, and Elections Chapter 15A Dallas City Code and employee gift policy.

FISCAL INFORMATION

No cost consideration to the City.

March 22, 2017

WHEREAS, the city council has adopted a Code of Ethics, Chapter 12A, Dallas City Code, as amended, that provides general rules for the solicitation, acceptance, and reporting of certain gifts, including, but not limited to, tickets, meals, travel, entertainment, and honoraria, by city officials and employees under limited circumstances and conditions; and

WHEREAS, in accordance with state law, public employees, including city employees, may solicit and accept certain gifts, including, but not limited to, tickets, meals, travel, entertainment, and honoraria, under limited circumstances and conditions; provided the gift is not being offered, solicited, or accepted as consideration for the public employee's decision, opinion, recommendation, vote, or other exercise of discretion as a public employee; and

WHEREAS, pursuant to Resolution No. 08-1723, as amended by Resolution Nos. 09-2836 and 10-0847, the city council has adopted guidelines to provide practical guidance for city officials regarding the solicitation, acceptance, and reporting of gifts; and

WHEREAS, it is necessary to provide practical guidance to city employees regarding the solicitation, acceptance, and reporting of gifts; **Now, Therefore,**

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

Section 1. That the attached guidelines regarding the solicitation, acceptance, and reporting of gifts by city employees is hereby adopted.

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.

GIFT POLICY FOR CITY EMPLOYEES

This is the policy governing the acceptance of gifts given to city employees, including gifts of tickets, meals, travel, lodging, entertainment, and honoraria. It is the policy of the City of Dallas to provide and promote a professional and ethical environment for its employees. This policy applies to all City of Dallas employees. Failure to comply with this policy may result in disciplinary action, in accordance with the Personnel Rules, up to and including termination of employment with the City of Dallas.

GENERAL GUIDELINES

1. See Dallas City Code Section 12A-2(6) for the definition of "benefit." See Dallas City Code Section 12A-2(21) for the definition of "gift." In this policy, the term "gift" includes "benefits." "Honoraria" are payments or in-kind gifts made for a service, such as making a speech.

    a. Gifts should be distinguished from donations. Gifts are given to individual employees and used by that employee. Donations are given to the city and used by the city. This policy does not apply to donations. See Dallas City Code Chapter 12A for rules for donations.

2. The following items are not considered gifts, and are not subject to reporting requirements:

    a. A loan from a lending institution if it is made in the regular course of business and on the same terms generally available to the public.

    b. A scholarship or fellowship based on the same criteria and awarded on the same terms applied to other applicants.

    c. Gifts from a family member or a person with whom the employee has a personal, professional, or business relationship that is completely independent of the employee's status with the city. The gift can be accepted only if the gift would have been given even if the city employee did not work for the city.

3. Whenever possible, gifts should be approved in advance by the employee's supervisor. Also, if an employee has questions about whether a gift may be accepted, the employee should discuss it with their supervisor. If the supervisor is uncertain about a gift, the supervisor should contact the City Attorney's Office. An employee who disclosed all relevant facts, and who reasonably and in good faith relied on the supervisor's good faith determination, will not be found to have violated this policy.

4. Ceremonial and protocol gifts received by a city employee on behalf of the city must be delivered to the city manager within 30 days after receipt and inventoried as city property in accordance with Section 12A-22 of the Dallas City Code.

5. Employees must also comply with departmental rules regarding gifts, if any. If there is a conflict between this gift policy and a departmental rule, this gift policy controls.

6. Any gift that could be perceived by the public as an attempt to influence or reward the employee in the performance of their duties should be politely declined. When in doubt, it is better to politely decline a gift.

7. An employee who does not wish to accept a gift in order to avoid the appearance of impropriety can return the gift to the giver; donate the gift to the city; donate the gift to another governmental entity with authority to accept the gift; or donate the gift to a recognized tax-exempt charitable organization. A description of the gift, the estimated value, and the disposition of the gift must be documented and retained by the department.

8. Employees should never solicit gifts for themselves or for the employee's parent, child, spouse, domestic partner, or family member of the first degree of consanguinity or affinity.

9. Gifts, including tickets, meals, travel, lodging, and entertainment, that cannot be accepted by an employee cannot be given to another person, including family members, as a means to circumvent this gift policy.

10. The following gifts, including tickets, meals, travel, lodging, or entertainment, shall not be accepted:

a. Any gift that reasonably tends to influence or reward official action, or that the employee knows is intended to influence or reward the discharge of official duties.

b. Any gift that the employee knows is given in exchange for taking official action, refraining from taking official action, or exercising official discretion.

c. Any gift from a person that the employee knows is interested in a matter that is currently pending with the employee's department.

d. Any gift from a person that the employee knows is currently subject to enforcement proceedings, inspections, or investigations by the employee's department.

e. An employee who conducts inspections, investigations, provides advice, or renders decisions in quasi-judicial hearings shall not accept any gift from a person that the employee knows is an interested party, an agent of an interested party, or a representative of an interested party in that quasi-judicial hearing.

f. An employee who makes recommendations on, grants, or denies applications shall not accept any gift from a person that the employee knows is an applicant, agent of that applicant, or representative of that applicant.

g. Any cash, check, gift card, negotiable instrument, or security.

h. Honoraria given in consideration for services the employee was required to provide as a part of the employee's job duties.

GIFTS

11. If gifts with monetary value are given to employees because of their employment with the city, the gifts may be accepted by employees under the following conditions, unless prohibited under Section 6 or Section 10:

a. Individual employees may accept gifts with a nominal estimated value. Gifts have a nominal estimated value if they have an estimated value of less than $25 or a cumulative estimated value of less than $50 from a single source in a calendar year. Examples include items such as plaques, caps, key rings, mugs, tee shirts, flowers, and small amounts of food, if these gifts are given infrequently.

b. A public award for meritorious service or professional achievement if the award is reasonable in light of the occasion.

TICKETS

12. If tickets with monetary value are given to employees because of their employment with the city, the tickets may be accepted by employees under the following conditions, unless prohibited under Section 6 or Section 10:

a. Tickets to events where the employee is performing ceremonial duties or attending as an official representative of the city.

b. Tickets to fundraiser and charity events that benefit city facilities and programs under the jurisdiction of the employee's department.

c. Tickets to events at city-owned facilities for which the employee has oversight responsibilities.

d. No more than two tickets per event may be accepted. One of the tickets must be used by the employee.

i. This rule does not apply if an entire city department or all employees are given tickets to an event, such as discount tickets for all employees to State Fair.

ii. This rule does not apply if a category or section of employees are given tickets to an event, such as tickets given to all department directors or tickets given to all employees with a department section.

iii. This rule does not apply to blocks of complimentary tickets given to a department director for distribution to the general public in accordance with any requirements of the event sponsor, if the department director does not give employees and their family members priority access to the tickets.

e. Tickets shall not be transferred or sold, except that tickets may be transferred to another employee from the same department who can also represent the city, if the transfer is approved in writing by the employee's supervisor.

f. Complimentary annual memberships and season tickets shall not be accepted.

g. If the employee knows that the tickets are offered to the employee at a reduced price or under different conditions from tickets purchased by members of the public because of the employee's employment with the city, employees shall not purchase those tickets as a means to circumvent this gift policy. This provision does not prohibit the city from making discount tickets available to employees.

MEALS, TRAVEL, LODGING, OR ENTERTAINMENT

13. Meals, travel, lodging, and entertainment may be accepted, unless prohibited under Section 10, in connection with a conference, seminar, trade show, or event that is related to the employee's job duties; where the employee is a speaker or presenter; or for training or education that is also being given to other groups who are not employees. Attendance must be approved in accordance with the City's Administrative Directive on travel. Costs must be reasonable and comparable to the costs incurred by other persons attending who are not employees.

REPORTING REQUIREMENTS

14. These reporting requirements are in addition to any reporting requirements for city employees set out in the Dallas City Code or state law.

15. Employees must file an annual gift disclosure statement with the City Manager or his designee itemizing each ticket, meal, travel, lodging, or entertainment accepted with an estimated value of $50 or more, or cumulative tickets, meals, travel, lodging, or

entertainment from a single source in a calendar year with an estimated value of $100 or more. Nominal value gifts described in Section 11 do not need to be reported.

a. The annual gift disclosure statement must be on a form provided by the City Manager and filed with the City Manager or his designee by no later than 5:00 p.m. on April 30. If April 30 is a Saturday, Sunday, city holiday, or furlough day, the deadline is extended to 5:00 p.m. of the next business day.

b. The annual gift disclosure statement must include to whom the gift was given, the date the gift was given, the person or entity giving the gift, a description of the gift, and the estimated value of the gift.

c. An annual gift disclosure statement is not required if the city employee did not receive any reportable gifts.

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AGENDA ITEM # 45

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Intergovernmental Services

CMO: T.C. Broadnax, 670-3297

MAPSCO: N/A

SUBJECT

A resolution adopting the City's Federal Legislative Program for the 115th Session of the United States Congress - Financing: No cost consideration to the City

BACKGROUND

The City of Dallas adopts a federal legislative program every two years at the beginning of the Congressional session. The agenda includes general statements regarding the City's legislative focus and a comprehensive list of legislative Initiatives on which the City of Dallas will be focused during the session.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized adoption of the Federal Legislative Program for the 110th Session of Congress on February 28, 2007, by Resolution No. 07-0711.

The Legislative Ad Hoc Committee was briefed on February 3, 2009.

Authorized adoption of the Federal Legislative Program, for the 111th Session of Congress on February 11, 2009, by Resolution No. 09-0423.

The Legislative Ad Hoc Committee was briefed on January 28, 2011.

Authorized adoption of the Federal Legislative Program for the 112th Session of Congress on February 23, 2011, by Resolution No. 11-0542.

The Legislative Ad Hoc Committee was briefed on February 11, 2013.

Authorized adoption of the Federal Legislative Program for the 113th Session of Congress on February 20, 2013, by Resolution No. 13-0357.

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

The Legislative Ad Hoc Committee was briefed on February 9, 2015.

Authorized adoption of the Federal Legislative Program for the 114th Session of Congress on February 25, 2015, by Resolution No. 15-0375.

The Legislative Ad Hoc Committee will be briefed on February 13, 2017.

On February 22, 2017, this item was deferred by Councilmember Kleinman.

FISCAL INFORMATION

No cost consideration to the City

March 22, 2017

WHEREAS, the 115th Session of the United States Congress convened on January 3, 2017; and

WHEREAS, the 115th Congress will consider many issues that affect local governments; and

WHEREAS, the City of Dallas wishes to express its desires and concerns regarding federal issues by adopting a legislative program; and

WHEREAS, the City of Dallas has developed recommendations for the federal legislative agenda.

NOW, THEREFORE,

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

SECTION 1. That the City of Dallas' Federal Legislative Program for the 115th Session of the United States Congress is hereby adopted.

SECTION 2. That the City Manager is directed to communicate the items included in the federal legislative program to members of the United States Congress.

SECTION 3. That the City Manager is directed to support legislation that upholds the City of Dallas home-rule authority, as well as oppose legislation that diminishes that authority.

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.

AGENDA ITEM # 46

KEY FOCUS AREA: Public Safety

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Mayor and City Council

CMO: T.C. Broadnax, 670-3297

MAPSCO: N/A

SUBJECT

Authorize a resolution condemning violence and hate speech and expressing solidarity with Muslims and all those targeted for their ethnicity, race or religion - Financing: No cost consideration to the City (via Council Members Griggs, Medrano, Young, Clayton, Kingston)

BACKGROUND

The City of Dallas is an open and inclusive city that welcomes residents and visitors from all walks of life. The recent travel ban and escalation of hateful rhetoric against Muslims, immigrants and people of color does not reflect the values that the City of Dallas upholds. The Dallas City Council condemns hate speech and violent action and reaffirms the inalienable rights of every person to live and practice their faith without fear.

FISCAL INFORMATION

No cost consideration to the City.

Memorandum

RECEIVED
2017 FEB 22 AM 10: 51
CITY SECRETARY
DALLAS, TEXAS

CITY OF DALLAS

DATE: February 22, 2017
TO: Honorable Mayor Michael S. Rawlings
FROM: Philip T. Kingston
SUBJECT: Muslim Anti-Discrimination Resolution

Please place the attached resolution on the next available council agenda for consideration and adoption pursuant to City Council Rule 6.2.

March 22, 2017

WHEREAS, the United States was founded by immigrants, many fleeing religious persecution, who enshrined freedom of religion as one of our nation's fundamental legal and ethical principles; and

WHEREAS, the history of Islam in the United States began even before its founding when African Muslims were enslaved and brought to the Americas, where they later helped in numerous ways to build this country, including sacrificing their lives on the line in every major war from the Revolutionary War on; and

WHEREAS, there are more than 3 million Muslims living in the United States today, and approximately 84,000 living in the City of Dallas, making invaluable contributions to our economy, our social and political life, and our culture; and

WHEREAS, there has been an unprecedented backlash since 9/11 in the form of hate crimes and employment discrimination toward Arab and Muslim Americans and those perceived as Muslims; and

WHEREAS, Arab and Muslim Americans, and those perceived as Muslims, are frequently the targets of abusive and discriminatory police practices sanctioned by the state including surveillance in their neighborhoods and places of worship; and

WHEREAS, we are saddened and outraged at the recent escalation of hateful rhetoric against Muslims, those perceived to be Muslims, immigrants, and all people of color, and we are particularly concerned to see political figures and elected government officials leading this escalation and using it in order to gain power; and

WHEREAS, in the face of extreme bigotry and violence, Muslim communities and their leaders are using the language and teachings of Islam to promote peace and justice and service, and their institutions are continuing to play an essential societal role providing charitable and humanitarian services to those in need; and

WHEREAS, we, as elected representatives of the people, have a special responsibility not to stay silent in the face of hate violence and discrimination against any of our constituents or countrymen.

NOW, THEREFORE,

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

Section 1. That approval of this resolution condemns all hateful speech and violent action directed at Muslims, those perceived to be Muslims, immigrants and people of color.

Section 2. That this resolution categorically rejects political tactics that use fear to manipulate voters or to gain power or influence.

Section 3. That this resolution commits to pursuing a policy agenda that affirms civil and human rights, and ensures that those targeted on the basis of race, religion or immigration status can turn to government without fear of recrimination.

Section 4. That this resolution reaffirms the value of a pluralistic society, the beauty of a culture composed of multiple cultures, and the inalienable right of every person to live and practice their faith without fear.

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

AGENDA ITEM # 47

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45 B

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District, on the northwest line of McKinney Avenue, northeast of Bowen Street

Recommendation of Staff and CPC: Approval, subject to a development plan and conditions

Z156-278(WE)

HONORABLE MAYOR & CITY COUNCIL WEDNESDAY, MARCH 22, 2017
ACM: Mark McDaniel

FILE NUMBER:	Z156-278(WE)	**DATE FILED:**	June 10, 2016
LOCATION:	Northwest line of McKinney Avenue, northeast of Bowen Street		
COUNCIL DISTRICT:	14	**MAPSCO:**	45-B
SIZE OF REQUEST:	Approx. 0.623 acres	**CENSUS TRACT:**	18.00

APPLICANT: Dallas CF Hospitality Associates, LLC

OWNER: W & K Real Estate Partners, Inc., a Texas Corporation

REPRESENTATIVE: Dallas Cothrum
MASTERPLAN

REQUEST: An application for an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District.

SUMMARY: The purpose of the request is threefold: 1) expand the maximum floor area of all uses combined, 2) reduce a portion of the rear yard setback, and 3) eliminate the design standards for the parking structure. The proposed expansion will not increase the structure height, but will allow for certain design features to be increased as a result of a larger footprint.

CPC RECOMMENDATION: **Approval**, subject to a development plan and conditions.

STAFF RECOMMENDATION: **Approval**, subject to a development plan and conditions.

BACKGROUND INFORMATION:

- On January 28, 2015, the City Council approved Planned Development Subdistrict No. 111 for LC Light Commercial subdistrict uses on property zoned an LC Light Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District.

- The request for an amendment to, and expansion of, Planned Development Subdistrict No. 111 is threefold: 1) expand the maximum floor area of all uses combined, 2) reduce a portion of the rear yard setback, and 3) eliminate the design standards for the parking structure.

- The applicant proposes to increase the floor area by 106,052 square feet, and increase the number of rooms from 128 to 264. In addition, due to the increase in the hotel's footprint, the maximum floor area for the meeting space will increase from 3,000 square feet to 7,000 square feet and the maximum combined floor area for nonresidential uses in conjunction with a hotel or motel use increase from 7,000 square feet to 9,475 square feet, excluding the meeting rooms.

- PDS No. 111 permitted the development of a two-story above-ground parking structure that had to comply with several design standards. As a result of the increase in land area, the applicant will provide all off-street parking underground; therefore removing the conditions that reference the design standards for the parking structure.

- The loading and unloading area will be located in the rear of the proposed development, which is adjacent to an existing alley. The loading and unloading area will not be visible from the adjacent residential uses.

- The request site is surrounded by several multiple family and office uses. There is currently a mixed use development that is under construction that will consist of multiple family uses, non-residential uses and a museum and trolley barn for the McKinney Avenue Transit Authority [PDS No. 113].

Zoning History: There have been two zoning changes requested in the area during the past five years.

1. Z134-280 On January 28, 2015, the City Council approved a Planned Development Subdistrict for LC Light Commercial subdistrict uses on property zoned an LC Light Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District on the northwest side of McKinney Avenue, northeast of Bowen Street. [request site]

2. Z134-333 On February 25, 2015, the City Council approved a Planned Development Subdistrict for LC Light Commercial Subdistrict Uses on property zoned an LC Light Commercial Subdistrict within Planned Development District No. 193, the Oak Lawn Special Purpose District on the northeast Line of Bowen Street, between McKinney Avenue and Oak Grove Avenue

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW	Proposed ROW
McKinney Avenue	Minor Arterial	60 ft.	60 ft.

Land Use:

	Zoning in PD No. 193	Land Use
Site	LC, PDS No. 111	Undeveloped, Office
Northeast	LC	Multiple Family
Southeast	PDS No. 113	Mixed use
Northwest	MF-2	Multiple Family
Southwest	LC, PDS No. 35	Office, Multiple family

Comprehensive Plan: The *fowardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *fowardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

The proposed mixed use development will continue the pedestrian walkability along McKinney Street as well as provide an option for hotel near the downtown area. The applicant will meet the landscape requirements in accordance with PDD No. 193. The proposed hotel use will be developed near the downtown area were redevelopment activity is occurring with the development of multiple family and non-residential uses [PDS No. 113], which is southeast of the request site, across the McKinney Avenue. The design and landscape provisions in PDD No. 193 are intended to promote pedestrian walkability and activity along the street edge.

Land Use

GOAL 1.1 ALIGN LAND USE STRATEGIES WITH ECONOMIC DEVELOPMENT PRIORITIES

Policy 1.1.5 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics. Acknowledge the importance of neighborhoods to the city's long-term health and vitality.

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 proposed changes to PDS No. 111 will meet most of the objectives that are outlined in the criteria above. The applicant will maintain the urban fabric of the development by designing the building close to the street edge. In addition, to promote walkability along McKinney Avenue, the applicant has established design guidelines for transparency for street-level structures, and for hotel or motel room fenestrations and for the vertical plane of the hotel tower. The applicant will build an underground parking structure in lieu of constructing a two-story above grade parking structure. All required off-street parking will be in the underground parking structure.

However, to comply with a portion of objective #5 as it relates to the providing bonuses to encourage residential development in commercial areas, the applicant would have to include residential uses within the development. The proposed development does not comply with encouraging residential development in commercial areas. The characteristics of the boutique hotel are in line with the Oak Lawn Forum's Plan and the urban form of the building will allow for an easy integration along McKinney Ave.

STAFF ANALYSIS:

Land Use Compatibility: The 27,177 square foot site is partially undeveloped. The portion of the request site, which includes the expansion area, is developed with a two-story office building. The applicant proposes to raze the structure to expand the floor area of a previously approved 89,250 square foot hotel use. The request for an amendment to, and expansion of Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses is threefold: 1) expand the maximum floor area of all uses combined, 2) reduce a portion of the rear yard setback, and 3) eliminate to design standards for the parking structure.

The increase to the overall combined floor area of the proposed development should not negatively impact the surrounding land uses. The expansion of the proposed development will include the property to the north and comply with a majority of the development standards that were approved for PDS No. 111. With respect to incorporating a larger building footprint, 1) the number the rooms will increase from 128 to 254 rooms, 2) the overall floor area will increase from 89,250 square feet to 195,302 square feet, 3) a portion of the rear setback will be reduced from 20 feet to 10 feet for the structure exceeding 50 feet in height, and 4) provide all parking underground. In addition, the design guidelines to limit the intrusion into the adjacent multiple family units will remain. The applicant has worked with the adjacent residents to incorporate additional provisions in the conditions that reflect the proposed outdoor pool. The outdoor pool area will be located on the top level of the hotel, but the minimum distance requirement of the outdoor pool from McKinney Avenue was changed. Also, additional screening provisions were added to absorb the sound from the pool area.

With respect to the increase in the total buildable area, the overall floor area ratio increased from 5.67:1 to 6.70:1. In addition, the proposed hotel development is limited to a maximum structure height to 155 feet, with 12 feet of mechanical overruns. Planned Development Subdistrict No. 113, which is across McKinney Avenue, was approved for a maximum floor area ratio of 5.78:1 and a maximum structure height of 240 feet.

In maintaining the urban fabric of the development, the applicant will retain the design standards for the hotel or motel use or restaurant use in conjunction with a hotel or motel use along McKinney Avenue, which requires a minimum transparency for street-level structures of 75 percent, excluding openings for a parking structure. The City Plan Commission recommended increasing the maximum combined floor area for nonresidential uses in conjunction with a hotel or motel use from 7,000 square feet to 12,265 square feet. The increase in floor area for non-residential uses will allow for a larger kitchen area for the various restaurants that are being proposed in the hotel.

The chart below shows a comparison between the existing PDS No. 111 development standards and the proposed amendment to the development standards. The LC Light Commercial Subdistrict currently permits the development of residential and retail uses at a maximum height of 240 feet.

Development Standards:

	PDS No. 111	Proposed amendment to and expansion of PDS No. 111
Total Land area	15,725 sq. ft.	27,177 sq. ft.
Front Yard	17' (special hotel use) 25' above 38'	No change
Side Yard	0'	No change
Rear Yard	10' up to 50'; 20' above 44' or max width of 35 % of structure	10' up to 50'; 10' above 50' or max width of 38 % of structure
Lot coverage	82.5% Above 38' lot coverage is 54% (hotel use only)	No change
FAR	5.67:1 (0.31:1 non-res)	6.70:1
Height	155' per the PD conditions	No change
Density	128 rooms	264 rooms
Uses	Same uses with special requirements for hotel use.	No change
Parking	Per 193 Hotel use all parking within a structure, No parking directly accessed from McKinney, Special valet requirements. Hotel 0.85/room; restaurant with Hotel 1 space/175 s.f.; loading within building	All off street parking will be underground. Access to the parking garage is on McKinney Avenue; No parking directly accessed from McKinney Avenue; Loading /unloading is from the ally; Special valet requirements. Hotel 0.85/room; restaurant with Hotel 1 space/175 s.f.; loading within building
Landscaping and sidewalk	Per PD No.193	No change

Note: All other uses will have the same development standards as LC Subdistrict

Landscaping: Landscaping will be maintained in accordance with Part 1 of Planned Development District No. 193.

Traffic: The Engineering Division of the Sustainable Development and Construction Department has reviewed the applicant's request Traffic Impact Analysis Report and determined that it will not impact the surrounding street system for the proposed development.

The City Plan Commission recommended reducing the off-street parking requirements for a hotel use from one space per 0.85 guest rooms/suites to one space per 0.75 guest rooms/suites. The applicant's request for a parking reduction is based on published data in the Institute of Transportation Engineers (ITE) Parking Generation manual (4th Edition), that indicates the peak parking demand for urban hotels is 0.64 spaces per room on weekdays and 0.90 spaces per room on weekends, inclusive of parking for

ancillary uses such as restaurants, meeting rooms, etc. Based upon the anticipated size of the proposed hotel development (in round numbers - 250 rooms, 10,000 SF of restaurant/bar), the parking spaces required by the adjusted parking rates will accommodate the anticipated peak parking demand based upon the ITE rates.

The Engineering Division of the Sustainable Development and Construction Department has reviewed the additional information and has no objections to the reduction in the parking ratio for the hotel//motel use.

CPC Action (January 19, 2017)

Motion: In considering an application for an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District, on the northwest line of McKinney Avenue, northeast of Bowen Street, it was moved to **hold** this case under advisement until February 2, 2017.

Maker: Shidid
Second: Murphy
Result: Carried: 15 to 0

For: 15 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon, Mack, Haney, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: 0
Absent: 0
Vacancy: 0

Notices: Area: 500 Mailed: 402
Replies: For: 3 Against: 0

Speakers: None

CPC Action (February 2, 2017)

***De minimus* Significate Change Motion:** In considering the requirement in Section 5(m)(1)(B) of the CPC Rules of Procedure, the finding is it does not apply because the impact of the proposed change to the parking in the commission's judgment is *de minimus* in nature.

Maker: Ridley
Second: Anglin
Result: Carried: 11 to 2
For: 11 - Anglin, Rieves, Houston*, Davis, Shidid, Anantasomboon, Haney, Housewright, Schultz, Ridley, Tarpley

Against: 2 - Jung, Peadon
Absent: 2 - Mack, Murphy
Vacancy: 0

*out of the room, shown voting in favor

Motion: It was moved to recommend **approval** of an amendment to, and an expansion of, Planned Development Subdistrict No. 111 for LC Light Commercial Subdistrict uses, subject to a development plan and revised conditions with the following modifications: 1) Under SEC. S-111.109. OFF-STREET PARKING AND LOADING, (b) Hotel or motel use. (1) Off-street parking, reduce the minimum required off-street parking from one space per 0.85 guest rooms/suites to one space per 0.75 guest rooms/suites and 2) Under SEC. S-111.108. YARD, LOT, AND SPACE REGULATIONS, (c) Hotel or motel use. (5) Floor area, (C) Nonresidential floor area, change the maximum combined floor area for nonresidential uses in conjunction with a hotel or motel use to 12,265 square feet on property zoned an LC Light Commercial Subdistrict and Planned Development Subdistrict No. 111 within Planned Development District No. 193, the Oak Lawn Special Purpose District, on the northwest line of McKinney Avenue, northeast of Bowen Street.

Maker: Ridley
Second: Schultz
Result: Carried: 13 to 0

For: 13 - Anglin, Rieves, Houston*, Davis, Shidid, Anantasomboon, Haney, Jung, Housewright, Schultz, Peadon, Ridley, Tarpley

Against: 0
Absent: 2 - Mack, Murphy
Vacancy: 0

*out of the room, shown voting in favor

Notices: Area: 500 Mailed: 402
Replies: For: 3 Against: 0

Speakers: For: Dallas Cothrum, 900 Jackson St., Dallas, TX, 75202
Against: None

LIST OF OFFICERS
W & K Real Estate Partners, Inc.

- Peter A. Kraus President

LIST OF OFFICERS
Dallas CF Hospitality Associates, LLC.

- Rabinder Pal Singh Manager

CPC PROPOSED AMENDMENT TO PDS No. 111 CONDITIONS

SEC. S-111.101. LEGISLATIVE HISTORY.

PD Subdistrict 111 was established by Ordinance No. 29622, passed by the Dallas City Council on January 28, 2015.

SEC. S-111.102. PROPERTY LOCATION AND SIZE.

PD Subdistrict 111 is established on property located on McKinney Avenue, northeast of Bowen Street. The size of PD Subdistrict 111 is approximately [~~15,725~~] 27,177 square feet of land.

SEC. S-111.103. DEFINITIONS AND INTERPRETATIONS.

(a) Unless otherwise stated, the definitions and interpretations in Chapter 51 and Part I of this article apply to this division. If there is a conflict, this division controls. If there is a conflict between Chapter 51 and Part I of this article, Part I of this article controls.

(b) In this division, SUBDISTRICT means a subdistrict of PD 193.

(c) Unless otherwise stated, all references to articles, divisions, or sections in this division are to articles, divisions, or sections in Chapter 51.

(d) This subdistrict is considered to be a nonresidential zoning district.

SEC. S-111.104. EXHIBIT.

The following exhibit is incorporated into this division: Exhibit S-111A: development plan.

SEC. S-111.105. DEVELOPMENT PLAN.

(a) In general. Except as provided in this section, no development plan is required, and the provisions of Section 51-4.702 regarding submission of or amendments to a development plan, site analysis plan, development schedule, and landscape plan do not apply.

(b) Hotel or motel use. For a hotel or motel use, development and use of the Property must comply with the development plan (Exhibit S-111A). If there is a conflict between the text of this division and the development plan, the text of this division controls.

SEC. S-111.106. MAIN USES PERMITTED.

The only main uses permitted in this subdistrict are those main uses permitted in the LC Light Commercial Subdistrict, subject to the same conditions applicable in the LC Light Commercial Subdistrict, as set out in Part I of this article. For example, a use permitted in the LC Light Commercial Subdistrict only by specific use permit (SUP) is permitted in this subdistrict only by SUP; a use subject to development impact review (DIR) in the LC Light Commercial Subdistrict is subject to DIR in this Subdistrict; etc.

SEC. S-111.107. ACCESSORY USES.

(a) As a general rule, an accessory use is permitted in any subdistrict in which the main use is permitted. Some specific accessory uses, however, due to their unique nature, are subject to additional regulations in Section 51P-193.108. For more information regarding accessory uses, consult Section 51P-193.108.

(b) The following accessory uses are not permitted in this subdistrict:

-- Amateur communication tower.
-- Open storage.
-- Private stable.

SEC. S-111.108. YARD, LOT, AND SPACE REGULATIONS.

(Note: The yard, lot, and space regulations in this section must be read together with the yard, lot, and space regulations in Part I of this article. If there is a conflict between this section and Part I of this article, this section controls.)

(a) In general. Except as provided in this section, the yard, lot, and space regulations for the LC Light Commercial Subdistrict apply.

(b) Floor area. Maximum floor area for all uses combined is [~~89,250~~] 195,302 square feet.

(c) Hotel or motel use.

(1) Front yard.

(A) In general. Except as provided in this paragraph, minimum front yard is 17 feet.

(B) Urban form. Along McKinney Avenue, minimum front yard setback above 38 feet in height is 25 feet.

(2) Side yard. No minimum side yard is required.

(3) Rear yard.

(A) Structures 50 feet in height or less. Minimum rear yard is 10 feet.

(B) Structures greater than 50 feet in height.

(i) In general. Minimum rear yard is [~~20~~]10 feet.

(ii) Structure width. Within 50 feet of the northwest Property line, maximum structure width is [~~35~~] 38 percent of the width of the lot.

(4) Density. Maximum number of guest rooms/suites is [~~128~~] 264.

(5) Floor area.

(A) Hotel or motel use. Maximum floor area ratio is [~~85,000~~] 195,302 square feet or 6.70:1 for a hotel or motel and related uses, including restaurant uses, meeting space and nonresidential floor area.

(B) Meeting space. Maximum floor area for meeting space in conjunction with a hotel or motel use is [~~3,000~~] 7,000 square feet.

(C) Nonresidential floor area. Maximum combined floor area for nonresidential uses in conjunction with a hotel or motel use is [~~7,000~~] 12,265 square feet, [~~including meeting space~~].

(6) Height.

(A) Except as provided in this paragraph, maximum structure height is 155 feet, measured from grade along McKinney Avenue.

(B) Structures listed in Section 51P-193.123(2)(a) may project up to 12 feet above the maximum structure height.

(7) Lot coverage.

(A) In general. Except as provided in this paragraph, maximum lot coverage is 82.5 percent. Aboveground parking structures are included in lot coverage calculations; surface parking lots and underground parking structures are not.

(B) Urban form. Above 50 feet in height, maximum lot coverage is [~~54~~] 55 percent, measured from grade along from McKinney Avenue.

(d) ~~Outdoor swimming pools~~. **Roof top restaurant and outdoor pool.**

(1) Outdoor swimming pools must be located a minimum of [~~75~~] 60 feet from the northwest Property line.

(2) A minimum [~~10~~] 12-foot-high solid screening wall or other solid structure is required between an outdoor swimming pool and roof top restaurant and the northwest Property line. [~~The minimum 10-foot-high solid screening wall or other solid screening structure must be located on the same level as the pool~~.] A minimum six (6) foot tall glass or similar material wind/sound barrier is required along the southwest

Property in those areas not enclosed by a 12-foot high solid screening wall or other solid structure. A sound absorbing landscape buffer consisting of evergreen shrubs or other evergreen plant material is required along the southwest Property line. Use of the outdoor pool is prohibited between sunset and sunrise and the water surface of the pool must be covered with a sound absorbing pool cover during the times the pool is required to be closed. Access to the outdoor pool and pool deck is prohibited between the hours of 10:30 p.m. and 8:00 a.m. by the use of control access door/gates and/or fences as required. No dance floor is allowed on the outdoor pool deck or within the roof top restaurant.

SEC. S-111.109. OFF-STREET PARKING AND LOADING.

(a) In general. Except as provided in this section, consult Part I of this article for the specific off-street parking and loading requirements for each use.

(b) Hotel or motel use.

(1) Off-street parking. Minimum required off-street parking is one space per 0.[~~8~~]75 guest rooms/suites.

(2) Valet parking.

(A) Vehicle queuing, drop-off, and pick-up are not permitted within the public right-of-way.

(B) Valet parking, drop-off, and pick-up must be located within a parking structure.

(C) Packed parking is allowed for valet parking only.

(3) Parking structure.

(A) Off-street parking located on the Property must be within a parking structure located below grade.

~~(B) At grade off-street parking may not be accessed from McKinney Avenue.~~

~~(C) [A parking structure may not exceed two stories in height, measured at grade along McKinney Avenue.]~~

(D) Access to the alley is prohibited except for high clearance vehicles. This allowed access is limited to egress only entry through a solid door which must remain closed except during the exiting of a vehicle.

(4) Loading areas. Loading areas must be enclosed on all four sides and accessed with a gated entry that remains closed except during deliveries.

(c) Restaurant use.

(1) Minimum required off-street parking is one space per 175 square feet of floor area.

(2) Valet parking, drop-off, and pick-up must be located within a parking structure.

(3) Loading areas must be enclosed on all four sides and accessed with a gated entry that remains closed except during deliveries.

SEC S-111.110. ENVIRONMENTAL PERFORMANCE STANDARDS.

(a) Except as provided in this section, see Article VI.

(b) Outside live music is not allowed.

(c) Outside amplified sound is not allowed.

SEC. S-111.111. LANDSCAPING.

(a) Landscaping and screening must be provided in accordance with Part I of this article.

(b) Plant materials must be maintained in a healthy, growing condition.

SEC. S-111.112. DESIGN STANDARDS FOR HOTEL OR MOTEL USE STREET FRONTAGES.

(a) Purpose. Continuous facades along pedestrian oriented streets often have negative impacts on community aesthetics, pedestrian circulation, and the scale and rhythm of streetscapes. The design standards in this section are intended to mitigate the negative impact of monotonous, blank, or inactive facades, while allowing creativity, flexibility, and variety in design.

[(b) ~~Parking structures.~~]

~~(1) [Except as provided in this subsection, all aboveground parking structures must comply with Section 51P-193.127(a).]~~

~~(2) [Parking structure facades must include at least one of the following: heavy gauge metal screen, pre-cast concrete panels, laminated glass, photovoltaic panels, or other elements.]~~

~~(3) [Aboveground parking structures must have a solid wall or panel on each level with a minimum height of 36 inches to block light spillage from headlights.]~~

~~(4) [Parking structures over one story that front on a public right-of-way must have the following additional design standards on the facade facing the public right-of-way:]~~

~~(A) [Each story must be differentiated horizontally to minimize the vertical plane of the parking structure facade using changes in wall materials, garage screening materials, or offsets or projections from the face of the adjacent story by a minimum of six inches.]~~

~~(B) [The horizontal plane of the facade wall of each parking structure story may not exceed 60 feet without a change in material, color, offset, or projection.]~~

(c) Hotel or motel use or restaurant use in conjunction with a hotel or motel use. Along McKinney Avenue, minimum transparency for street-level structures is 75 percent, excluding openings for a parking structure.

(d) Hotel or motel room fenestrations. Hotel or motel use fenestrations located within 50 feet of the northwest Property line must be designed to restrict the view from the hotel or motel use to the property located across the alley from the hotel or motel use. View restrictions may be accomplished using inset fenestrations, translucent glazing, or mounted architectural elements, which would direct views away from property across the alley.

(e) Vertical plane of the hotel tower. Any continuous vertical plane of a hotel or motel use must be altered vertically at a minimum of every 30 feet in elevation using openings, architectural components, articulation in wall detailing, change in texture, or change in color or materials, or a combination of these techniques.

SEC. S-111.113. SIGNS.

Signs must comply with the provisions for business zoning districts in Article VII.

SEC. S-111.114. ADDITIONAL PROVISIONS.

(a) Sidewalks must continue at a level walking surface adjacent to curb-cuts to give priority to the pedestrian.

(b) Exterior building construction is only allowed between 7 a.m. and 7 p.m., Monday through Friday.

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

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

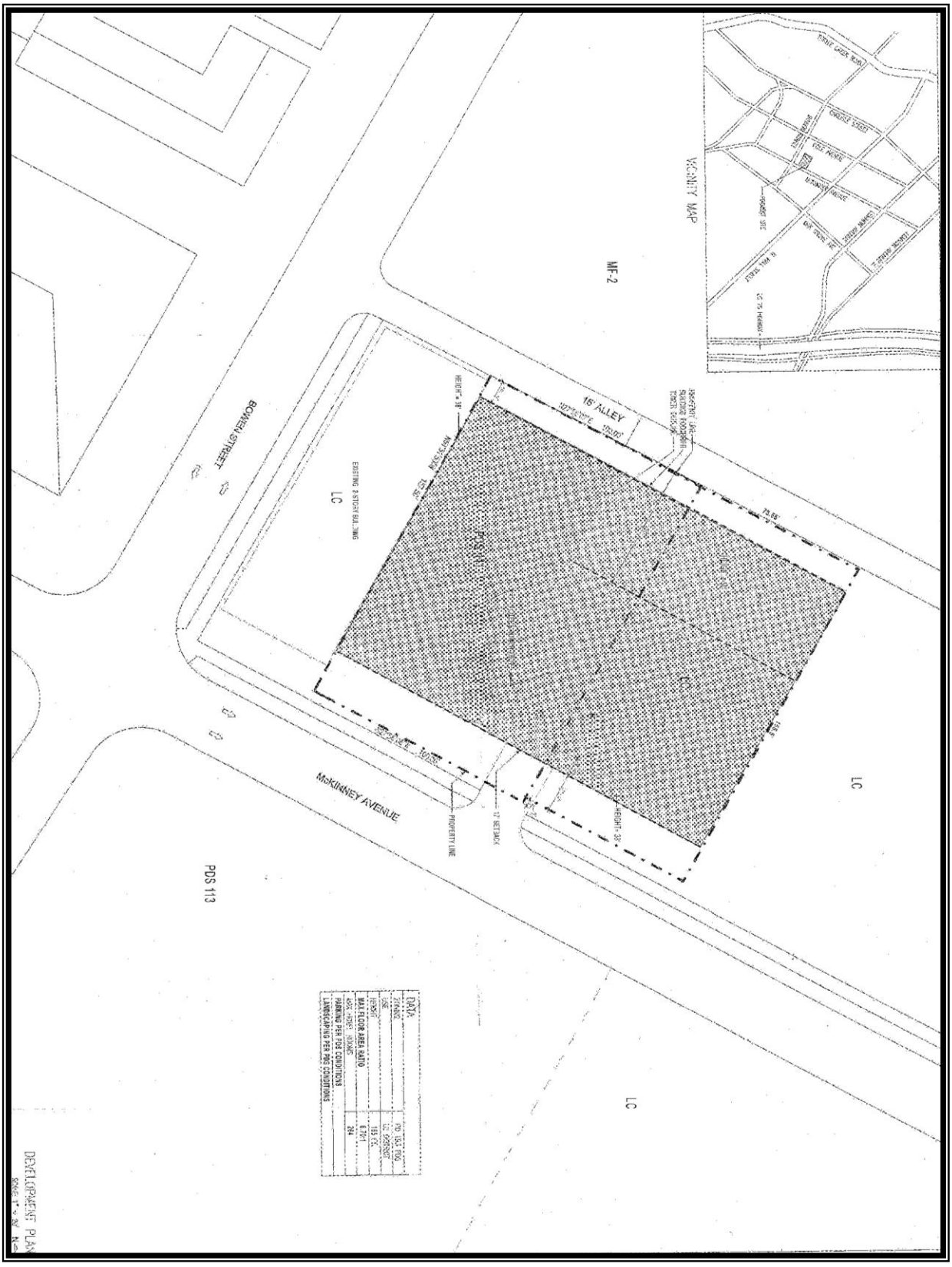
(e) Development and use of the Property must comply with Part I of this article.

SEC. S-111.115. COMPLIANCE WITH CONDITIONS.

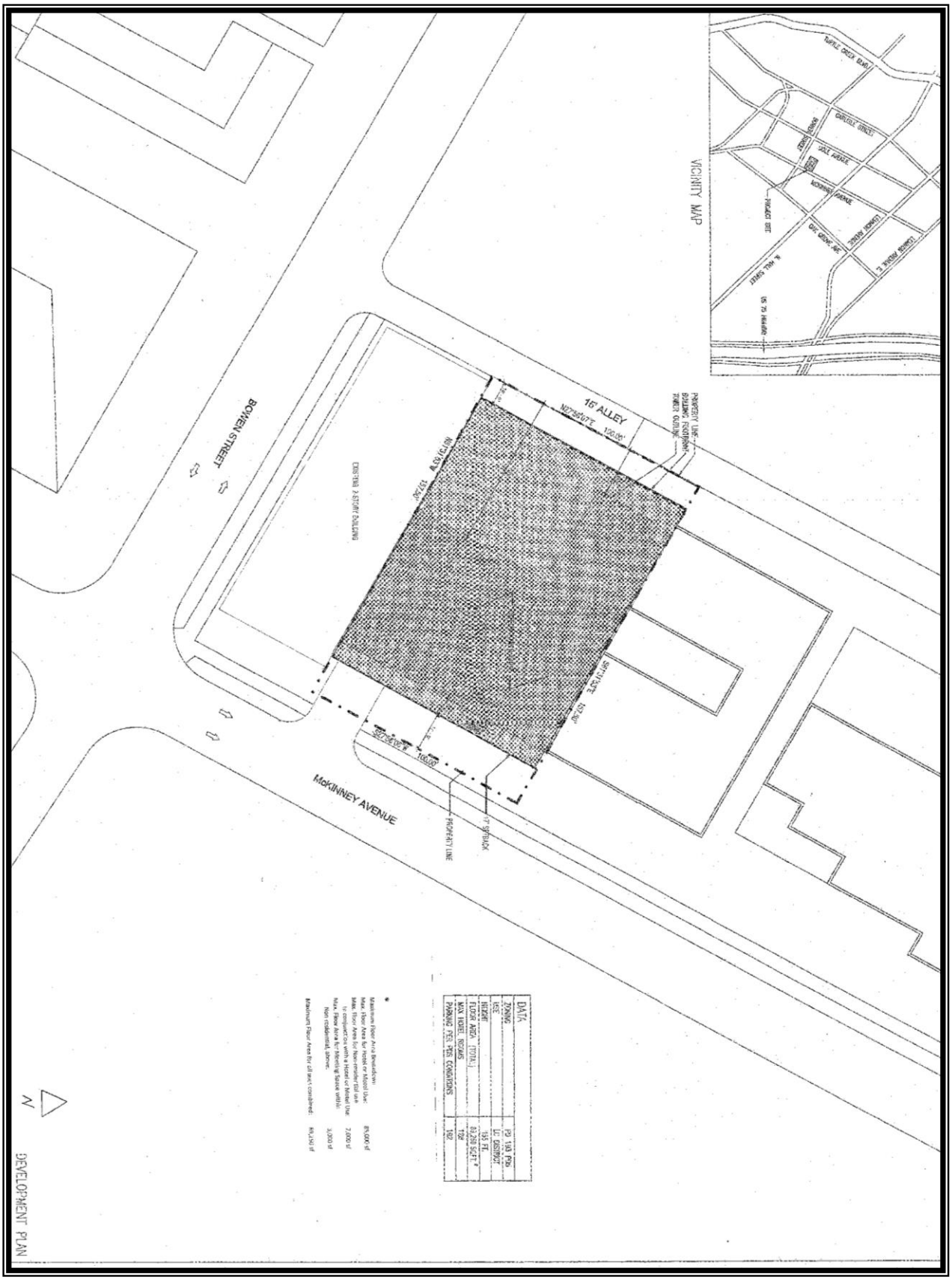
(a) All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard city specifications, and completed to the satisfaction of the city.

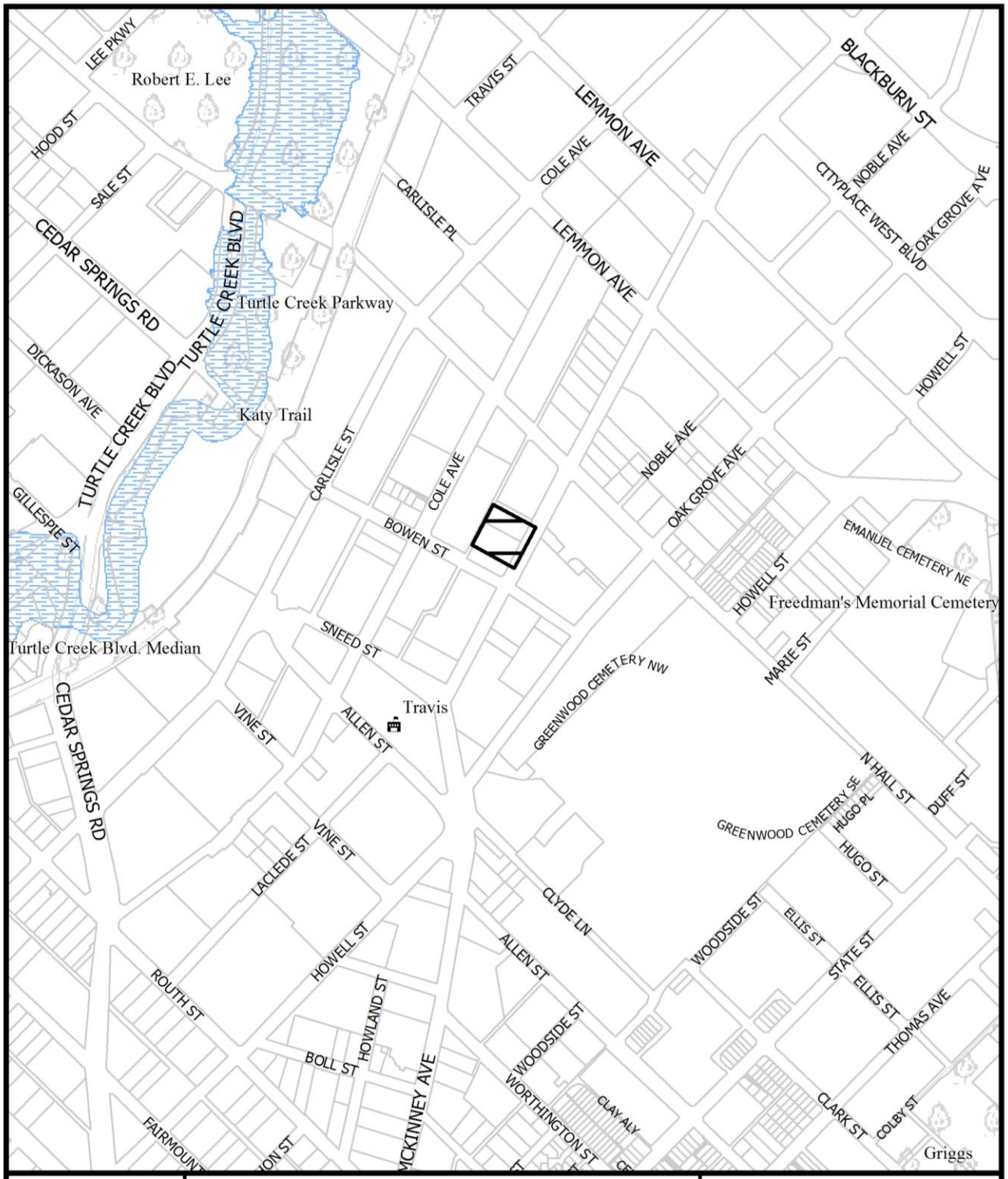
(b) The building official shall not issue a building permit to authorize work, or a certificate of occupancy to authorize the operation of a use, in this subdistrict until there has been full compliance with this division, the Dallas Development Code, the construction codes, and all other ordinances,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

PROPOSED DEVELOPMENT PLAN



EXISTING DEVELOPMENT PLAN



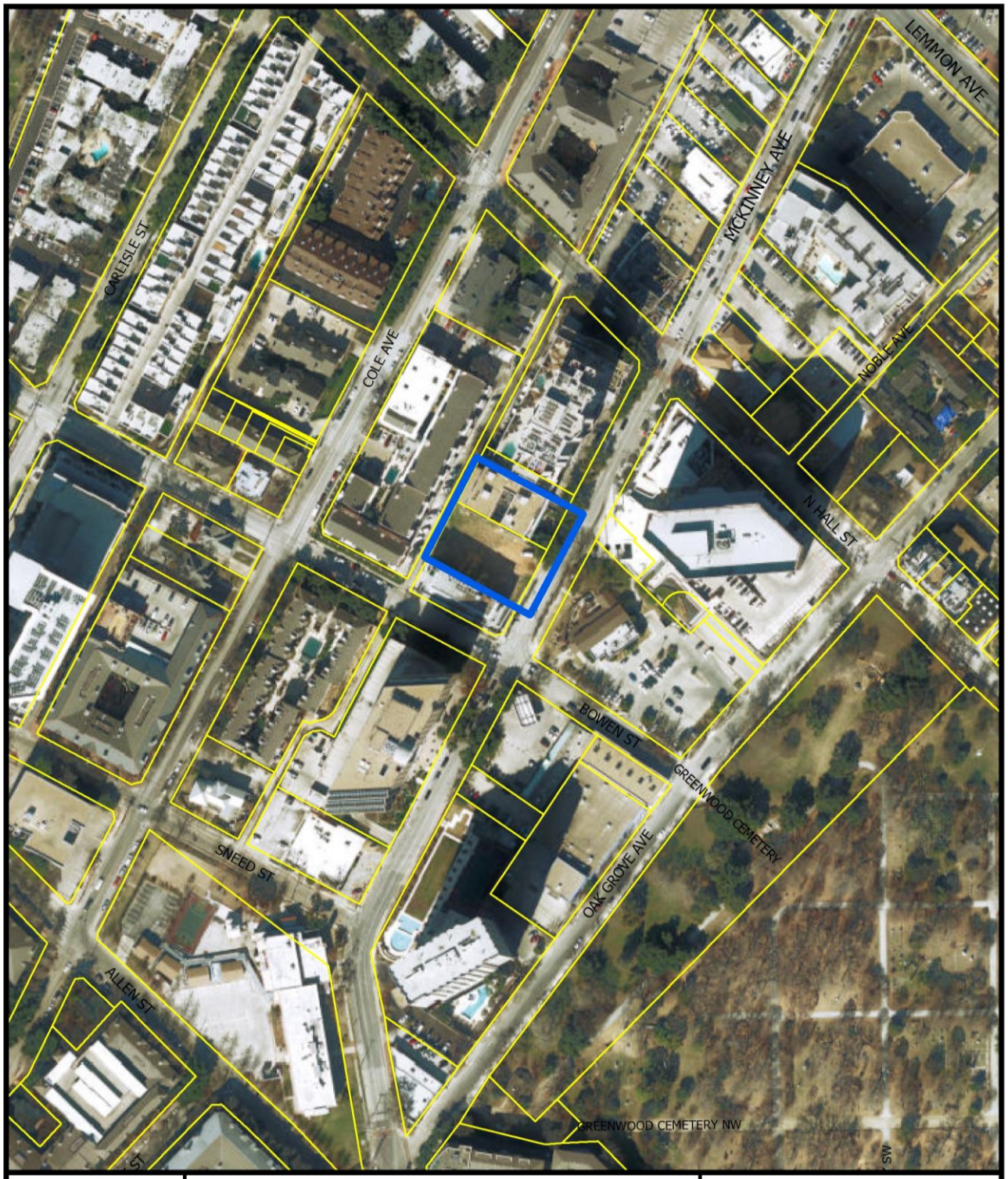


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VICINITY MAP

Case no: Z156-278

Date: 1/5/2017

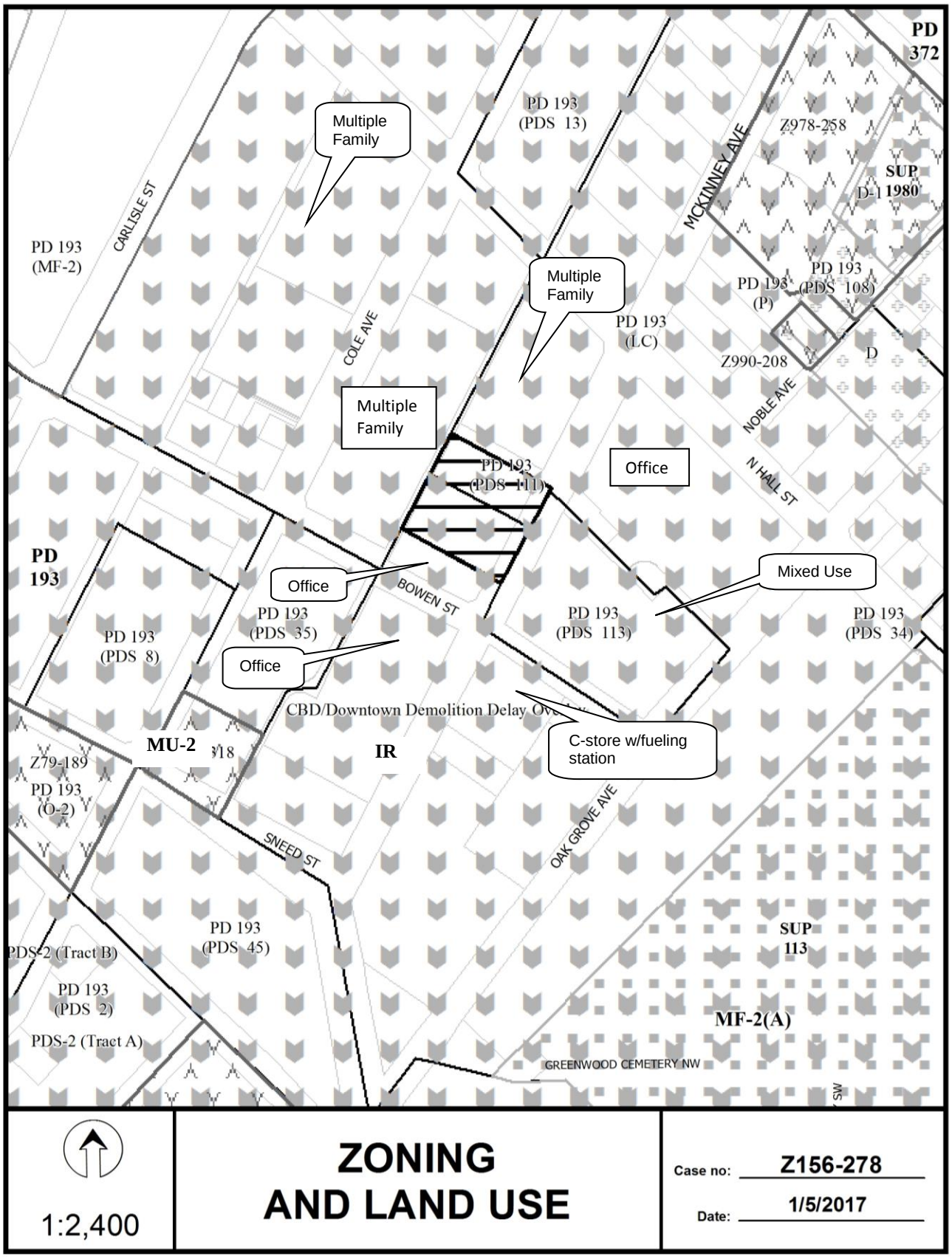


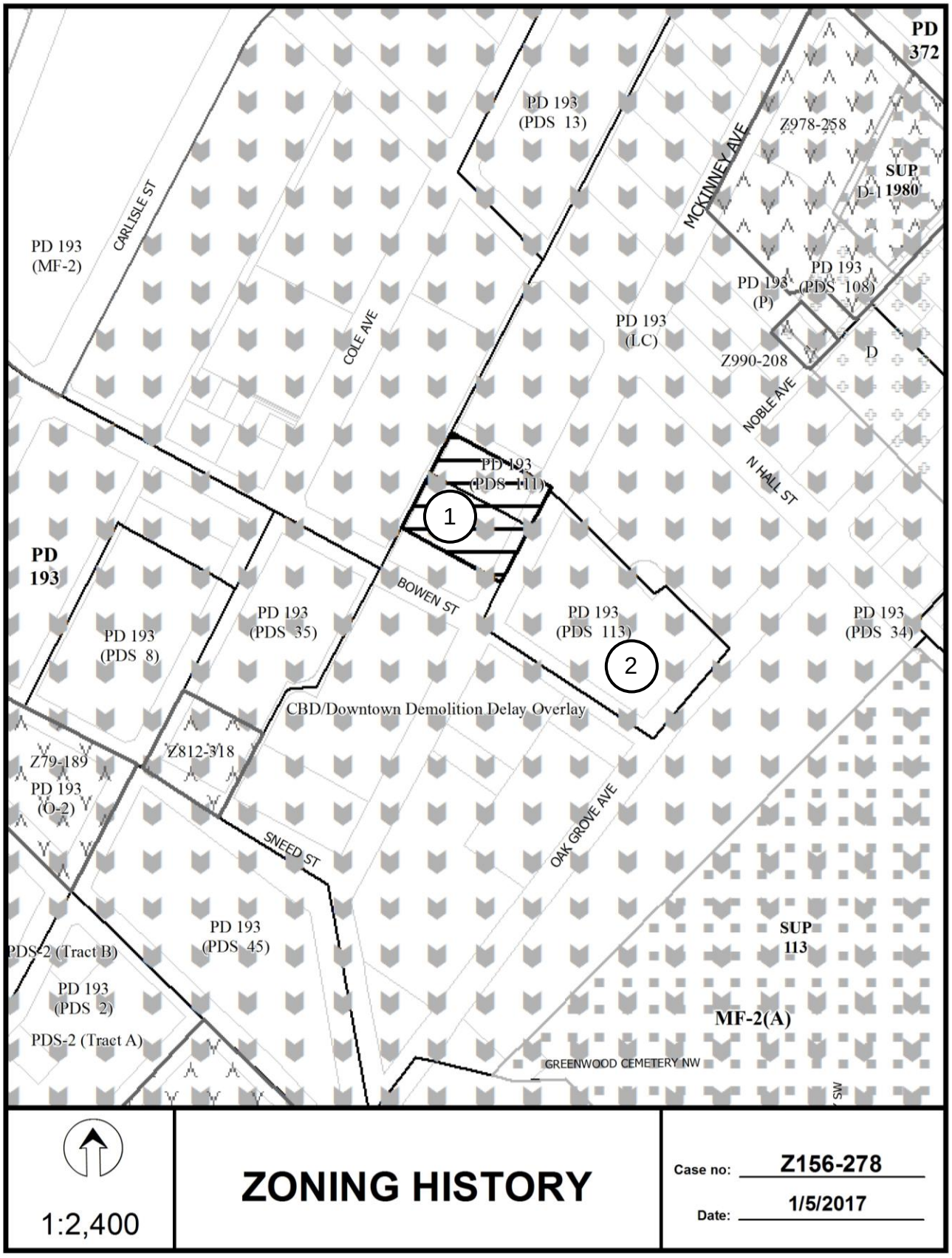
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AERIAL MAP

Case no: Z156-278

Date: 1/5/2017


PD 372
Multiple Family
PD 193 (PDS 13)
Z978-258
SUP D-1 1980
MCKINNEY AVE
CARLISLE ST
PD 193 (MF-2)
Multiple Family
PD 193 (P)
PD 193 (PDS 108)
PD 193 (LC)
COLE AVE
Z990-208
D
Multiple Family
NOBLE AVE
PD 193 (PDS 111)
Office
N HALL ST
PD 193
Office
Mixed Use
BOWEN ST
PD 193 (PDS 35)
PD 193 (PDS 113)
PD 193 (PDS 34)
PD 193 (PDS 8)
Office
CBD/Downtown Demolition Delay Ov
MU-2
IR
C-store w/fueling station
Z79-189
PD 193 (O-2)
OAK GROVE AVE
SNEED ST
PD 193 (PDS 45)
SUP 113
PDS-2 (Tract B)
PD 193 (PDS 2)
MF-2(A)
PDS-2 (Tract A)
GREENWOOD CEMETERY NW
1:2,400
ZONING AND LAND USE
Case no: Z156-278
Date: 1/5/2017


PD 372
PD 193 (PDS 13)
Z978-258
MCKINNEY AVE
SUP D-1 1980
CARLISLE ST
PD 193 (MF-2)
PD 193 (P)
PD 193 (PDS 108)
COLE AVE
PD 193 (LC)
Z990-208
D
NOBLE AVE
N HALL ST
PD 193 (PDS 111)
1
PD 193
BOWEN ST
PD 193 (PDS 35)
PD 193 (PDS 113)
PD 193 (PDS 34)
PD 193 (PDS 8)
2
CBD/Downtown Demolition Delay Overlay
Z812-318
Z79-189
PD 193 (O-2)
SNEED ST
OAK GROVE AVE
PD 193 (PDS 45)
SUP 113
PDS-2 (Tract B)
PD 193 (PDS 2)
MF-2(A)
PDS-2 (Tract A)
GREENWOOD CEMETERY NW
1:2,400
ZONING HISTORY
Case no: Z156-278
Date: 1/5/2017

CPC RESPONSES



402	Property Owners Notified (52 parcels)
3	Replies in Favor (4 parcels)
0	Replies in Opposition (0 parcels)
500'	Area of Notification
2/2/2017	Date

Z156-278
CPC

N
W E
S

1:2,400

Notification List of Property

Z156-278

402 Property Owners Notified ***3 Property Owners in Favor*** ***0 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
	1	3207	MCKINNEY AVE	DALLAS CF HOSPITALITY
	2	3219	MCKINNEY AVE	W&K REAL ESTATE PTNRS INC
	3	3100	OAK GROVE AVE	GREENWOOD CEMETERY ASSN
	4	3124	MCKINNEY AVE	MCKINNEY AVENUE
	5	3120	MCKINNEY AVE	MCKINNEY AVENUE
	6	3153	OAK GROVE AVE	MCKINNEY AVENUE TRANSIT
	7	3101	MCKINNEY AVE	YOUNG CANNON PROPERTIES LP
	8	3131	MCKINNEY AVE	3131 MCKINNEY INC
	9	3111	COLE AVE	ANDERSON MICHAEL J
	10	3107	COLE AVE	BOUCHER DANIEL D
	11	3112	BOWEN ST	KASNETZ ANDREW B TRUSTEE
	12	3205	COLE AVE	KASNETZ ANDREW B TRUSTEE
	13	3205	COLE AVE	KASNETZ ANDREW B
	14	2910	N HALL ST	OAK GROVE HOTEL GROUP LP
	15	2916	N HALL ST	GIBON MCCROREY HOLDINGS LLC
	16	3307	NOBLE AVE	PORTOLANI FAMILY LP
	17	3300	MCKINNEY AVE	REGISTER CHARLES
	18	3312	MCKINNEY AVE	HUGHES HULL HOLDINGS LLC
	19	3317	MCKINNEY AVE	PDC INTERESTS LLC
	20	3309	MCKINNEY AVE	RACHOFSKY M J TRUST ETAL
	21	3104	N HALL ST	KENSINGTON CARLISLE LLC
	22	2828	N HALL ST	DENNING JEREMY & DEANNA
O	23	3232	MCKINNEY AVE	GAEDEKE HOLDINGS II LTD
	24	3230	MCKINNEY AVE	LISAR INC
	25	3230	MCKINNEY AVE	LISAR INC
	26	3128	MCKINNEY AVE	AZIZA INVESTMENTS INC

02/01/2017

Reply	*Label #*	*Address*		*Owner*
O	27	3006	COLE AVE	ROCKLAND LP
	28	3100	CARLISLE ST	HART TAYLOR LLC
	29	3015	COLE AVE	POST APARTMENT HOMES LP
O	30	3207	COLE AVE	WARNICK HAROLD B
	31	3207	COLE AVE	STANIS GRANT
	32	3207	COLE AVE	HANSEN SARAH M LIFE ESTATE
	33	3207	COLE AVE	PAYNE NORRIS SHELDON & MARGARET L
	34	3207	COLE AVE	LOUKAIDES ALEXANDER
	35	3227	MCKINNEY AVE	FATH DALLAS RESIDENCES LP
	36	3203	MCKINNEY AVE	DFW MAPLE LEAF PTNRS LLC
	37	3324	MCKINNEY AVE	3324 MCKINNEY AVE APTS INV LLC
	38	3321	OAK GROVE AVE	DEARING GEORGE C
	39	3321	OAK GROVE AVE	GAY DONNA BERNARD
	40	3321	OAK GROVE AVE	LAMB MICHAEL D
	41	3321	OAK GROVE AVE	MANRIQUE RAUL E CUBILLAS
	42	3321	OAK GROVE AVE	GODFREY DANIEL E
	43	3321	OAK GROVE AVE	HUTCHINSON JEFFREY KEITH
	44	3321	OAK GROVE AVE	MAHMALKIS REAL ESTATE & INVESTMENTS LLC
	45	3321	OAK GROVE AVE	CONNER CRAIG
	46	3321	OAK GROVE AVE	DEMIRANDA KATE MCNAB
	47	3321	OAK GROVE AVE	PERRY BRIAN
	48	3321	OAK GROVE AVE	NOBLE JEFFREY S
	49	3321	OAK GROVE AVE	REDINGER SARA J
	50	3321	OAK GROVE AVE	MAHMALKIS REAL ESTATE INVESTMENTS LLC
	51	3321	OAK GROVE AVE	JERNIGAN BRUCE ALLLEN
	52	3321	OAK GROVE AVE	MCMAHON NENA L
	53	3321	OAK GROVE AVE	BORG STEPHEN W
	54	3321	OAK GROVE AVE	MINTER STEVEN S
	55	3321	OAK GROVE AVE	GOODING BRAD E
	56	3208	COLE AVE	DILLING CAITLIN C

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Reply	*Label #*	*Address*		*Owner*
	57	3208	COLE AVE	PINKER MARC
	58	3208	COLE AVE	JAMES KIM
	59	3208	COLE AVE	WOODALL MARK E &
	60	3208	COLE AVE	PLESNARSKI WILLIAM
	61	3208	COLE AVE	SEMMA JOSEPH JR
	62	3208	COLE AVE	EVANGELISTA LUCAS
	63	3208	COLE AVE	PAK CHRISTOPHER
	64	3208	COLE AVE	DYNAN THOMAS & CAROLINE M
	65	3208	COLE AVE	WICKER MALLORIE
	66	3208	COLE AVE	CAHILL HEATHER
	67	3208	COLE AVE	ARNOLD NANCY G
	68	3208	COLE AVE	HANNA MARY C
	69	3208	COLE AVE	WIDENER MICHAEL LEE & INNA
	70	3208	COLE AVE	DUELKS BRADFORD B
	71	3208	COLE AVE	GONZALEZ RAY L
	72	3208	COLE AVE	SAKHAI MARYAM
	73	3208	COLE AVE	PATEL CHIRAG
	74	3208	COLE AVE	VARGHESE THOMAS
	75	3208	COLE AVE	STEPHENS CHARLES
	76	3208	COLE AVE	KOJDER JESSICA
	77	3208	COLE AVE	MITTEN JENNIFER
	78	3208	COLE AVE	THAKRAR ANISH
	79	3208	COLE AVE	HAYES JILL BETH
	80	3208	COLE AVE	PAPE AUTUMN R
	81	3208	COLE AVE	DEMIRKOL HANDE
	82	3208	COLE AVE	LIU JINGCHAO
	83	3208	COLE AVE	KRACKE KIM B
	84	3208	COLE AVE	MINGLE DANIEL
	85	3208	COLE AVE	BELL THERESA MARIE
	86	3208	COLE AVE	KNOTT LAURA G
	87	3208	COLE AVE	CURRA CHRISTOPHER J
	88	3208	COLE AVE	DURBIN LUCY

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Reply	*Label #*	*Address*		*Owner*
	89	3208	COLE AVE	HOUCK TROY
	90	3208	COLE AVE	WOODS JOSEPH D
	91	3208	COLE AVE	NEUNERT CINDY E
	92	3208	COLE AVE	PIERCE ROGER A
	93	3208	COLE AVE	HARE JAMIE
	94	3208	COLE AVE	LATHAM KATHLEEN
	95	3208	COLE AVE	HERNANDEZCARDENAS ANA V
	96	3208	COLE AVE	EGGEBRECHT DARREN W
	97	3208	COLE AVE	CALEGARI MAUD B
	98	3208	COLE AVE	PFITZINGER BRIAN S
	99	3208	COLE AVE	CHARUWORN NART
	100	3208	COLE AVE	FEDERAL NATIONAL MORTGAGE ASSOCIATION
	101	3208	COLE AVE	HARLOW CHARLES J
	102	3208	COLE AVE	DAVIS JENNIFER
	103	3208	COLE AVE	MARSHALL KELLY S
	104	3208	COLE AVE	GREEN MARY POLK
	105	3208	COLE AVE	WOODALL KATHERINE ANN
	106	3208	COLE AVE	LAU HOWARD
	107	3208	COLE AVE	HURTADO ANDREA
	108	3230	COLE AVE	BHAMIDIPATI PRABHAKAR
	109	3230	COLE AVE	GARLICK RYAN M
	110	3230	COLE AVE	WOODWARD LOIS N
	111	3230	COLE AVE	WEBER KARIN
	112	3230	COLE AVE	WILLIAMS STEVE F
	113	3230	COLE AVE	LUNA JOHN B
	114	3230	COLE AVE	WANG NING &
	115	3230	COLE AVE	WILLIAMS CURTIS A
	116	3230	COLE AVE	ARMSTRONG ADAM
	117	3230	COLE AVE	COSTA FRANCESCO
	118	3230	COLE AVE	KLUGE DENNIS L &
	119	3230	COLE AVE	POSGATE LOUIS &

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Reply	*Label #*	*Address*		*Owner*
	120	3230	COLE AVE	PETERSON DAVID J &
	121	3230	COLE AVE	HESS DOUGLAS ALLEN
	122	3230	COLE AVE	RIVERA FRANK
	123	3215	COLE AVE	L1 PROPERTIES LLC
	124	3215	COLE AVE	HARRISON SUZANNE & JAMES M
	125	3209	COLE AVE	LOPEZ ROLAND V
	126	3209	COLE AVE	GONZALEZ DEVIN
	127	3215	COLE AVE	OLIVERI CHARLES
	128	3215	COLE AVE	OLIVERI CHARLES W SR
	129	3215	COLE AVE	MCBEE DAVID H
	130	3209	COLE AVE	BRIDGE TOWER DALLAS ONE LLC
	131	3215	COLE AVE	CONERLY BRITNEY M
	132	3209	COLE AVE	HERNANDEZ GUILLERMO A & GABRIELA
	133	3209	COLE AVE	LOGSDON JAMES J JR & LAURA S
	134	3215	COLE AVE	VIOLI MICHAEL &
	135	3209	COLE AVE	MORROW SAMUEL S
	136	3215	COLE AVE	BRAY STEVEN A
	137	3030	MCKINNEY AVE	ROBINSON INDUSTRIES, INC
	138	3030	MCKINNEY AVE	BRINKMAN JEANNIE &
	139	3030	MCKINNEY AVE	AMMON SUSAN
	140	3030	MCKINNEY AVE	DOTY YVONNE D
	141	3030	MCKINNEY AVE	HALYBURTON WILLIAM D & KRISTY
	142	3030	MCKINNEY AVE	HAYS RAYMOND R & DINAH D
	143	3030	MCKINNEY AVE	NEUSE JASPER MICHAEL
	144	3030	MCKINNEY AVE	PIONONO INVESTMENTS LLC
	145	3030	MCKINNEY AVE	KLEINE WILLIAMS D & ANN
	146	3030	MCKINNEY AVE	BROSI SCOTT C &
	147	3030	MCKINNEY AVE	FRANK ROBERT C JR & SELENA M
	148	3030	MCKINNEY AVE	GARCIA RICARDO LUIS & VERONICA M
	149	3030	MCKINNEY AVE	SIMPSON ANN
	150	3030	MCKINNEY AVE	HAIRE SCOTT L

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Reply	*Label #*	*Address*		*Owner*
	151	3030	MCKINNEY AVE	PHILLIPS WAYNE D
	152	3030	MCKINNEY AVE	STEELE JOHN RODMAN EST OF &
	153	3030	MCKINNEY AVE	SAHWANI DIANA
	154	3030	MCKINNEY AVE	ROMBERG BERTHOLD &
	155	3030	MCKINNEY AVE	MURRAY JANE E
	156	3030	MCKINNEY AVE	MULLICAN MARY A
	157	3030	MCKINNEY AVE	VU CHI T
	158	3030	MCKINNEY AVE	AVIRETT TIMOTHY T
	159	3030	MCKINNEY AVE	GARRETT JESSICA L
	160	3030	MCKINNEY AVE	OLKKOLA EDWARD E
	161	3030	MCKINNEY AVE	KLEIN HANNE
	162	3030	MCKINNEY AVE	DYKES DONALD E
	163	3030	MCKINNEY AVE	GOLDFARB FAMILY TRUST U A
	164	3030	MCKINNEY AVE	PEPMILLER DELMAR D &
	165	3030	MCKINNEY AVE	CARNEY TIMOTHY
	166	3030	MCKINNEY AVE	SAMARA KENNETH J
	167	3030	MCKINNEY AVE	BAILEY KATHLEEN C LIVING TRUST
	168	3030	MCKINNEY AVE	BATCHELOR JAMES F &
	169	3030	MCKINNEY AVE	ESTRADA ROBERT A & CATHERINE BERNELL
	170	3030	MCKINNEY AVE	GRIFFIN ELIZABETH R
	171	3030	MCKINNEY AVE	ESTELLHANCOCK MARITA
	172	3030	MCKINNEY AVE	BAKER DONNA LYNN
	173	3030	MCKINNEY AVE	L & E PROPERTIES LLC
	174	3030	MCKINNEY AVE	ISMAIL SALIM & SHIREEN SALIM
	175	3030	MCKINNEY AVE	WALKER DAVID G
	176	3030	MCKINNEY AVE	HARLAN ELIZABETH B
	177	3030	MCKINNEY AVE	GWYN JAMES W & V MARIE
	178	3030	MCKINNEY AVE	SEAMAN GARY L & CAROLYN K
	179	3030	MCKINNEY AVE	LITTLE WILLIAM H & LORI G
	180	3030	MCKINNEY AVE	SPIEGELMAN WILLARD
	181	3030	MCKINNEY AVE	MALKA MICHAEL A

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Reply	*Label #*	*Address*		*Owner*
	182	3030	MCKINNEY AVE	CARPENTER SUSAN
	183	3030	MCKINNEY AVE	DONALDSON NIGEL A
	184	3030	MCKINNEY AVE	KEARNEY BARBARA
	185	3030	MCKINNEY AVE	SANDKNOP RYAN
	186	3030	MCKINNEY AVE	LAMB SHELLY S
	187	3030	MCKINNEY AVE	MOSSER ROBERT E & ROBERT J
	188	3030	MCKINNEY AVE	MCKEE JOHN
	189	3030	MCKINNEY AVE	BALL JEANNIE C
	190	3030	MCKINNEY AVE	KHOSHNOUDI AHMAD &
	191	3030	MCKINNEY AVE	WOOD ELLEN
	192	3030	MCKINNEY AVE	MCDONALD MARLA
	193	3030	MCKINNEY AVE	HALLIDAY EDWIN JAY & LYNN MARY
	194	3030	MCKINNEY AVE	WANSTRATH LAURA
	195	3030	MCKINNEY AVE	BRITTINGHAM GUILLERMO M &
	196	3030	MCKINNEY AVE	DUFFIELD ANNE E
	197	3030	MCKINNEY AVE	SCHROEDER PATRICIA C REVOCABLE TR
	198	3030	MCKINNEY AVE	DIPASQUA ALPHONSO &
	199	3030	MCKINNEY AVE	MILES JANIS C
	200	3030	MCKINNEY AVE	CARUSO RONALD
	201	3030	MCKINNEY AVE	THOMAS JOHN C & DEBRA
	202	3030	MCKINNEY AVE	FRANKEL DOUGLAS &
	203	3030	MCKINNEY AVE	GILHOOLY STEPHEN
	204	3030	MCKINNEY AVE	FREEMAN REVOCABLE TRUST THE
	205	3030	MCKINNEY AVE	ASANTE MOLEFI KETE & ANA
	206	3030	MCKINNEY AVE	SELLARS JOHN P
	207	3030	MCKINNEY AVE	HARRIS CURTIS D &
	208	3030	MCKINNEY AVE	BROOKSHIER FAMILY TRUST
	209	3030	MCKINNEY AVE	BERNSTEIN BASIL
	210	3030	MCKINNEY AVE	MUIR J DUNCAN
	211	3030	MCKINNEY AVE	PRICE SANDRA NELSON
	212	3030	MCKINNEY AVE	SUCRE RICHARD & ANGELA

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Reply	*Label #*	*Address*		*Owner*
	213	3030	MCKINNEY AVE	GREEN RAY E
	214	3030	MCKINNEY AVE	BOLAND THOMAS C & DEBRA A
	215	3030	MCKINNEY AVE	CUNNINGHAM GENE M
	216	3030	MCKINNEY AVE	BRYAN BARRY
	217	3030	MCKINNEY AVE	KHOSHNOUDI BAHAR
	218	3030	MCKINNEY AVE	BROWN WILLIAM T II
	219	3030	MCKINNEY AVE	AVANCE PROPERTIES LLC
	220	3030	MCKINNEY AVE	HARRIS ELIZABETH K
	221	3030	MCKINNEY AVE	FISCHER REVOCABLE TRUST
	222	3030	MCKINNEY AVE	LADD DENNIS MICHAEL &
	223	3030	MCKINNEY AVE	ASCENZO DANIEL
	224	3030	MCKINNEY AVE	LADD DENNIS &
	225	3030	MCKINNEY AVE	AHNERT EDWARD F &
	226	3030	MCKINNEY AVE	TRIMBLE RODNEY B
	227	3030	MCKINNEY AVE	BARNES JOSEPH ANTHONY &
	228	3030	MCKINNEY AVE	WHITWELL STEPHEN
	229	3030	MCKINNEY AVE	SCHMIDT KEITH A
	230	3030	MCKINNEY AVE	BARNES MITZI T
	231	3030	MCKINNEY AVE	RAMSEY CHARLES E JR MARITAL TRUST
	232	3030	MCKINNEY AVE	KELLY MICHAEL J
	233	3030	MCKINNEY AVE	HAKIM CAMILLE A &
	234	3030	MCKINNEY AVE	DOLAN F PETER & MARCY HEIDISH
	235	3030	MCKINNEY AVE	FELSTED KAREN E
	236	3030	MCKINNEY AVE	FARROWGILLIESPIE ALAN C
	237	3030	MCKINNEY AVE	FRANKS ROBERT C &
	238	3030	MCKINNEY AVE	HARGROVE T GEDDIE
	239	3030	MCKINNEY AVE	BARTON STANLEY & LINDA
	240	3030	MCKINNEY AVE	PUTNAM DONOVAN &
	241	3030	MCKINNEY AVE	APPERSON MARK W
	242	3030	MCKINNEY AVE	COLLINS FLOYD W
	243	3030	MCKINNEY AVE	ROGERS CULLEN A &

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Reply	*Label #*	*Address*		*Owner*
	244	3030	MCKINNEY AVE	CORTEZ CARLOS R
	245	3030	MCKINNEY AVE	MCLAUGHLIN KATHLEEN
	246	3030	MCKINNEY AVE	BIRKNER JOHN H
	247	3030	MCKINNEY AVE	SHELMIRE SUSAN
	248	3030	MCKINNEY AVE	JORDAN STEVEN C
	249	3030	MCKINNEY AVE	HAKIM CAMILLE & HAIFA TR
	250	3030	MCKINNEY AVE	BERG ALAN G
	251	3030	MCKINNEY AVE	BUTTS KELEM B &
	252	3030	MCKINNEY AVE	HEPFNER JAMES P
	253	3030	MCKINNEY AVE	ROBERTSON REBEL LEA &
	254	3030	MCKINNEY AVE	PETERS JEFF & CAROL
	255	3030	MCKINNEY AVE	MILDEBRATH MARK E & DANA
	256	3030	MCKINNEY AVE	NELSON RANDALL & KIMBERLY
	257	3030	MCKINNEY AVE	BERGNER JOHN F &
	258	3030	MCKINNEY AVE	STEWART JEFFREY G
	259	3030	MCKINNEY AVE	ZIELKE PETER B
	260	3030	MCKINNEY AVE	PETERS JEFF & CAROL
	261	3030	MCKINNEY AVE	HAWLEY JOHN R & MARCIA H
	262	3030	MCKINNEY AVE	SKYLINE TRUST
	263	3030	MCKINNEY AVE	SKYLINE TRUST
	264	3030	MCKINNEY AVE	SKYLINE TRUST
	265	3100	COLE AVE	AFTABROUSHADR KAMBIZ
	266	3100	COLE AVE	ALLSION CHRIS
	267	3100	COLE AVE	RAFFEL SCOTT J & KATHY E
	268	3100	COLE AVE	ZHANG HELEN X Y
	269	3100	COLE AVE	BRANT SARAH M
	270	3100	COLE AVE	LARKIN WILLIAM A
	271	3100	COLE AVE	PALETTI SONIA
	272	3100	COLE AVE	NICOLLE BRYCE DAUVERGNE
	273	3100	COLE AVE	CHESNUT JOHN
	274	3100	COLE AVE	SMITH HOLLY F

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Reply	*Label #*	*Address*		*Owner*
	275	3100	COLE AVE	REYES ROBERT M
	276	3100	COLE AVE	TEJURA SEEMA V
	277	3100	COLE AVE	RAFEA VEEDA
	278	3100	COLE AVE	ZERR JOSEPH
	279	3100	COLE AVE	KJELDGAARD DAVID
	280	3100	COLE AVE	TOMASZCZUK KATY &
	281	3100	COLE AVE	DRAPER DUANE D &
	282	3100	COLE AVE	SPADE PHILIP FREDERICK
	283	3100	COLE AVE	LINSCOTT WHITNEY K
	284	3100	COLE AVE	WHEAT DAVID G
	285	3100	COLE AVE	BRAY CHASE LANDON
	286	3100	COLE AVE	LEE BIK HAN & LEE SAI SHEK
	287	3100	COLE AVE	BENAVIDES MICHAEL L
	288	3100	COLE AVE	RIOS SANDRA B
	289	3100	COLE AVE	GAMINI MORTEZA & BORTAY
	290	3100	COLE AVE	SKAINES JONATHAN B
	291	3100	COLE AVE	LOZANO JAVIER ALBERTO NEYRA & YEAL JOSEPH GARCIA
	292	3100	COLE AVE	ANDERSON JONATHAN D & TARA L
	293	3100	COLE AVE	OREILLEY KATHLEEN
	294	3100	COLE AVE	SALANON EMANUEL JOEL
	295	3100	COLE AVE	GARCIA EDWARD I
	296	3100	COLE AVE	AHN SAM
	297	3100	COLE AVE	MILLIET MARK JOSEPH
	298	3100	COLE AVE	MAYES EVAN Z
	299	3100	COLE AVE	REISMAN MARK L
	300	3100	COLE AVE	PHILLIPS THOMAS L
	301	3100	COLE AVE	ROSENBAUM RICO
	302	3100	COLE AVE	BAYS VANCE J
	303	3100	COLE AVE	CLIFT SUSANNE A & KEVIN
	304	3100	COLE AVE	VONBORSIG MICHAEL A
	305	3100	COLE AVE	LIN CONSTANCE LEECHEN

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Reply	*Label #*	*Address*		*Owner*
	306	3100	COLE AVE	BATA INVESTMENTS LLC
	307	3100	COLE AVE	DEMEIS DANIEL G
	308	3210	CARLISLE ST	PAGE ANTHONY R
	309	3210	CARLISLE ST	DAVIS JAMES KYLE &
	310	3210	CARLISLE ST	GIORDANO JOHN V
	311	3210	CARLISLE ST	CHOI YUN H
	312	3210	CARLISLE ST	ENGWICHT JACKIE L & CORY J
	313	3210	CARLISLE ST	TURNBULL RANDALL C &
	314	3210	CARLISLE ST	HARVEY DEAN & CATHY
	315	3210	CARLISLE ST	TORCHIO PAOLO
	316	3210	CARLISLE ST	CHAKAL NAVDEEP S &
	317	3210	CARLISLE ST	ATALLAH RABIH
	318	3210	CARLISLE ST	SWANK JENNIFER MICHELLE & RYAN PAUL
	319	3210	CARLISLE ST	WENTWORTH BARBARA
	320	3210	CARLISLE ST	NICKS CHRISTOPHER STEPHEN & LYNN HOLLEY
	321	3210	CARLISLE ST	DEFARRO GIANPAOLO &
	322	3210	CARLISLE ST	ZIMMERMAN KATHERYN
	323	3210	CARLISLE ST	JEFFREY B JOHNS 2007 TRUST
	324	3210	CARLISLE ST	NORTH TIMOTHY G &
	325	3210	CARLISLE ST	DAVIS JON C
	326	3210	CARLISLE ST	FOX MICHAEL & JULIANNE
	327	3210	CARLISLE ST	HORTON LANCE
	328	3210	CARLISLE ST	MCKAY JOHN K & ANN
	329	3210	CARLISLE ST	STOJANOVIC VESNA
	330	3210	CARLISLE ST	SICHENZIO RICHARD &
	331	3210	CARLISLE ST	GOODWIN BOBBY A &
	332	3210	CARLISLE ST	BALDOR JORGE L
	333	3210	CARLISLE ST	RUSCHHAUPT REED
	334	3210	CARLISLE ST	DUNTON STACY
	335	3210	CARLISLE ST	STANFORD CHRISTIN C & ERIK

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Reply	*Label #*	*Address*		*Owner*
	336	3210	CARLISLE ST	LYNCH DAVID E
	337	3210	CARLISLE ST	WOODARD BRYAN T
	338	3210	CARLISLE ST	LUONG PHUONG M
	339	3210	CARLISLE ST	FLOWERS ROBERT R
	340	3210	CARLISLE ST	THOMAS JONATHAN S & CYNTHIA L
	341	3210	CARLISLE ST	BURNS MICHAEL R &
	342	3210	CARLISLE ST	LOCKE KELLY
	343	3210	CARLISLE ST	BENTOW JASON
	344	3210	CARLISLE ST	LYONS KEVIN & MEGAN
	345	3210	CARLISLE ST	HARMAN ROBERT KING & LINDA ANNE
	346	3210	CARLISLE ST	MINK JUSTIN
	347	3210	CARLISLE ST	PRESSLER FAMILY TRUST
	348	3210	CARLISLE ST	ALVAREZ PEDRO JR &
	349	3210	CARLISLE ST	HENRY MOLLIE MAILMAN &
	350	3210	CARLISLE ST	GEIKEN CHAD D
	351	3210	CARLISLE ST	WILLIAMS MITCHELL A
	352	3210	CARLISLE ST	WCISLO BRIAN &
	353	3210	CARLISLE ST	CUMMINS CHRISTINA LYNN
	354	3210	CARLISLE ST	SLAVIN DIERDRE
	355	3210	CARLISLE ST	WELLS CORY
	356	3210	CARLISLE ST	POTTER JEFFREY &
	357	3210	CARLISLE ST	HAWKINS DWAYNE W
	358	3210	CARLISLE ST	LAVENDER RACHEL LAUREN
	359	3210	CARLISLE ST	HUANG THERESA T
	360	3210	CARLISLE ST	KAUFMAN CAPITAL LLC
	361	3210	CARLISLE ST	ATKINS JOSEPH B JR &
	362	3210	CARLISLE ST	WALKER PHILIP & JULIE
	363	3210	CARLISLE ST	TERRY JASON E
	364	3210	CARLISLE ST	THIRD & WILLIS LLC
	365	3210	CARLISLE ST	HASS RACHEL
	366	3210	CARLISLE ST	MIRE DENNIS

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Reply	*Label #*	*Address*		*Owner*
	367	3210	CARLISLE ST	YOUNG AMY C
	368	3210	CARLISLE ST	SMITH EDWARD A
	369	3210	CARLISLE ST	HAMM PHILIP
	370	3210	CARLISLE ST	POWELL ADAM J
	371	3235	COLE AVE	COOKE AMY M
	372	3235	COLE AVE	NGUYEN THONG
	373	3235	COLE AVE	MOSCA CELESTE ALISA
	374	3235	COLE AVE	
	375	3235	COLE AVE	HALL DOUGLAS K
	376	3235	COLE AVE	SHEINBERG DARREN
	377	3235	COLE AVE	THIGPEN THOMAS
	378	3235	COLE AVE	CHAPMAN ALBERT J III
	379	3235	COLE AVE	WELLS ALEX L
	380	3235	COLE AVE	HALLOCK KEITH R JR
	381	3235	COLE AVE	KNOWLTON KELLY
	382	3235	COLE AVE	MAJOR DAVID P
	383	3235	COLE AVE	MALLOY BETHANY E
	384	3235	COLE AVE	THOMPSON SCOTT JAY
	385	3235	COLE AVE	DEERING CHRISTOPHER
	386	3235	COLE AVE	HALL DAVID JR
	387	3235	COLE AVE	LINNSTAEDTER LEAH NICOLE
	388	3235	COLE AVE	ELCHAMMAS MANAR
	389	3235	COLE AVE	WHITE STEVEN M & TERESA J
	390	3235	COLE AVE	ALIMCHANDANI NEERAJ
	391	3235	COLE AVE	LITOFF AUSTIN
	392	3235	COLE AVE	LECOVER MATTHEW L
	393	3235	COLE AVE	KUO ANDY
	394	3235	COLE AVE	FICKE GEOFFREY E
	395	3235	COLE AVE	AN JADHAVJI INVESTMENTS LLC
	396	3235	COLE AVE	BARNEY JOHN DAVID
	397	3235	COLE AVE	TAYLOR RYAN
	398	3235	COLE AVE	SANTAULARIA JOSEPH W

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Reply	*Label #*	*Address*		*Owner*
	399	3235	COLE AVE	VANN RHONDA H
	400	3235	COLE AVE	CROSSETT MATTHEW ADAM &
	401	3235	COLE AVE	FIORE ANGELA M
	402	3235	COLE AVE	MAIONE MICHAEL

AGENDA ITEM # 48

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 7

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 49 Y

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for a Tower/Antenna for Cellular Communication on property zoned an R-7.5(A) Single Family District on the east side of Namur Street, south of Scyene Road

Recommendation of Staff and CPC: Approval for a ten-year period with eligibility for automatic renewals for additional ten-year periods, subject to a site plan, elevation, and conditions

Z156-337(SH)

HONORABLE MAYOR & CITY COUNCIL **WEDNESDAY, MARCH 22, 2017**

ACM: Mark McDaniel

FILE NUMBER:	Z156-337(SH)	**DATE FILED:**	August 15, 2016
LOCATION:	East side of Namur Street, south of Scyene Road		
COUNCIL DISTRICT:	7	**MAPSCO:**	49Y
SIZE OF REQUEST:	Approx. 2.25 acres	**CENSUS TRACT:**	176.05

APPLICANT: Eco-Site, Inc.

OWNER: Kwickpick Grocery, Inc.

REPRESENTATIVE: Dave Kirk

REQUEST: An application for a Specific Use Permit for a Tower/Antenna for Cellular Communication on property zoned an R-7.5(A) Single Family District.

SUMMARY: The applicant proposes to construct a stealth monopole tower for cellular communication. The tower will be a maximum height of 100 feet and will include a ten-foot lightning rod for a total height not to exceed 110 feet above ground level.

CPC RECOMMENDATION: **Approval** for a ten-year period with eligibility for automatic renewals for additional ten-year periods, subject to a site plan, elevation, and conditions

STAFF RECOMMENDATION: **Approval** for a ten-year period with eligibility for automatic renewals for additional ten-year periods, subject to a site plan, elevation, and conditions

BACKGROUND INFORMATION:

- The area of request is approximately 2.25 acres of undeveloped land and will contain a 2,500-square-foot lease area that will be improved with a stealth monopole tower for cellular communication.

- The proposed stealth monopole tower will be a maximum height of 100 feet and will include a 10-foot lightning rod for a total height not to exceed 110 feet above ground level.

- The Specific Use Permit allows this additional use of the property and does not change the existing R-7.5(A) zoning. The uses permitted by the present zoning will continued to be allowed.

- The surrounding area is predominately comprised of retail uses to the north with residential uses bordering the site to the east, south, and west. There are some undeveloped parcels immediately adjoining the subject site to the north and south.

Zoning History: There have not been any zoning change requests in the area within the past five years.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW
Namur Street	Local	30 feet

Land Use:

	Zoning	Land Use
Site	R-7.5(A)	Undeveloped
North	CR-D	Retail uses and undeveloped land
East	R-7.5(A)	Residential uses
South	R-7.5(A)	Residential uses and undeveloped land
West	R-7.5(A)	Residential uses

COMPREHENSIVE PLAN: The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

There are no goals or policies supporting or opposing the request.

STAFF ANALYSIS:

Land Use Compatibility: The area of request is approximately 2.25 acres of undeveloped land and will contain a 2,500-square-foot lease area that will be improved with a stealth monopole tower for cellular communication. The monopole tower will be a maximum height of 100 feet and will include a 10-foot lightning rod for a total height not to exceed 110 feet above ground level. Access to the 50-foot by 50-foot lease area will be provided from Namur Street via a 12-foot wide gravel road and the development will be served by one parking space, which will be located interior to the lease area. In addition to the proposed T-Mobile equipment pad, the site plan depicts two additional lease areas for other carriers to collocate in the future.

The applicant has indicated that no existing structures will be used for the installation of the monopole tower. The applicant asserts that the area to be developed will allow wireless telephone providers the necessary infrastructure for attaching their equipment to transmit and receive radio signals to and from their customers.

The area adjacent to the request site is predominately comprised of retail uses to the north with residential uses bordering the site to the east, south, and west. There are some undeveloped parcels immediately adjoining the subject site to the north and south.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

The applicant's request is consistent with the intent of the Dallas Development Code which stipulates that a monopole cellular tower is exempt from residential proximity slope height restrictions if an SUP is required for the monopole cellular use and the impact of the tower height on an adjacent residential district is considered in the SUP process. Although the subject site is adjacent to residential uses, the proposed monopole tower will enhance the vital communication service throughout the area. Also, the use does not generate any significant traffic thus posing no detriment to pedestrians in the area. In order to mitigate the impact of the proposed tower on the adjacent residential uses, an eight-foot tall wooden fence will be installed along the perimeter of the lease area and shrubs will be planted to screen a portion of the equipment.

Development Standards:

DISTRICT	SETBACKS		Lot Area	Height	Lot Coverage	Special Standards	PRIMARY Uses
	Front	Side/Rear					
R-7.5(A) Residential	25'	5'/5'	7,500	30'	45% res 25% non-res	Proximity Slope Visual Intrusion	Residential

Landscaping and Screening: As depicted on the site plan, the applicant is proposing to install landscaping around the site's perimeter to screen the equipment and provide a buffer from the adjacent residential uses located across Namur Street. In addition to the landscaping, the proposed lease area will be enclosed by an eight-foot tall wooden fence and secured by a 12-foot tall access gate.

Traffic: The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined that it will not impact the surrounding street system for the proposed development.

Parking: Parking will be provided in accordance to the parking requirements in the Dallas Development Code, as amended, which is one space if the cellular communication tower/antenna has an auxiliary building housing electronic and communication equipment ("auxiliary building") greater than a 120 square feet. The applicant is providing one parking space within the interior of the lease area.

Notification Area: On January 13, 2016, the City Council approved an amendment to the Development Code regarding tower/antenna for cellular communication use. One provision pertains to the notification area and requires written notification of the public hearing on an application for an SUP for a tower/antenna for cellular communication to all real property within 500 feet of the building site on which the tower/ antenna for cellular communication will be located.

As a result of the amendment, the SUP will be placed on the larger 2.25-acre tract of land, and the notification area will extend from this boundary rather than from border of the 2,500-square foot lease area of the tower/antenna for cellular communication.

CPC Action (February 2, 2017)

Motion: It was moved to recommend **approval** a Specific Use Permit for a tower/antenna for Cellular Communication for a ten-year period with eligibility for automatic renewals for additional ten-year periods, subject to a site plan, elevation and conditions on property zoned R-7.5(A) Single Family District on the east side of Namur Street, south of Scyene Road.

Maker: Houston
Second: Shidid
Result: Carried: 14 to 0

For: 14 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon*, Haney, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: 0
Absent: 1 - Mack
Vacancy: 0

*out of the room, shown voting in favor

Notices: Area: 500 Mailed: 53
Replies: For: 1 Against: 1

Speakers: None

LIST OF OFFICERS
Eco-Site, Inc.

Principals, Board of Directors:

- Mark Fielder
- Barry Boniface
- Ryan Leach of MSouth, a 50% owner of Eco-Site Investor, LLC
- Russ Cassella, of Project Echo, LLC, a 50% owner of Eco-Site Investor, LLC

Officers:

- Dale Carey – Chairman of the Board
- Bob Glosson – President and Chief Operating Officer
- Rich Stern – Executive Vice President and Secretary

CPC PROPOSED SUP CONDITIONS

1. **USE:** The only use authorized by this specific use permit is a tower/antenna for cellular communication.

2. **SITE PLAN AND ELEVATION:** Use and development of the Property must comply with the attached site plan and elevation.

3. **TIME LIMIT:** This specific use permit expires on (ten years from the passage of the ordinance), but is eligible for automatic renewal for additional 10-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for application for automatic renewal is strictly enforced.)

4. **MONOPOLE CELLULAR TOWER:** The pole portion of a stealth monopole cellular tower may not exceed 42 inches in diameter.

5. **FENCE:** The proposed lease area will be enclosed by an eight-foot tall wooden fence and secured by a 12-foot tall access gate in the location shown on the attached site plan.

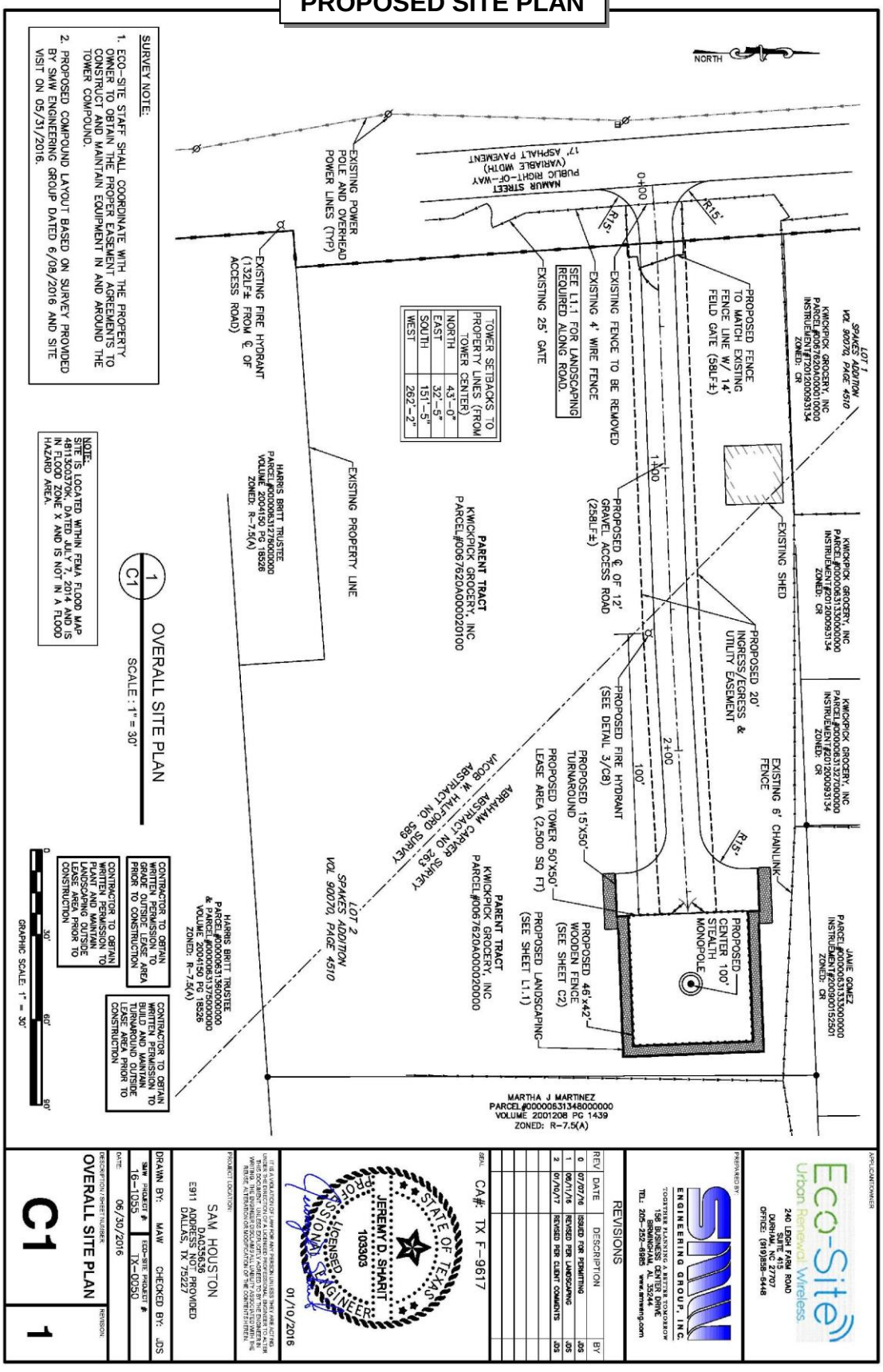
6. **HEIGHT:** The tower/antenna for cellular communication may not exceed 100 feet in height, with a 10-foot lightning rod, for a total height not to exceed 110 feet above ground level.

7. **SHARED USE WITH OTHER CARRIERS**: Any tower/antenna for cellular communication over 65 feet in height must be constructed to support the antenna arrays for at least two other wireless communications carriers, and the tower/antenna for cellular communication must be made available to other carriers upon reasonable terms.

8. **MAINTENANCE:** The Property must be properly maintained in a state of good repair and neat appearance.

9. **GENERAL REQUIREMENTS:** Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

PROPOSED SITE PLAN



SURVEY NOTE:

1. ECO-SITE STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY SMW ENGINEERING GROUP DATED 6/08/2016 AND SITE VISIT ON 05/31/2016.

NOTE:
SITE IS LOCATED WITHIN FEMA FLOOD MAP 48113C0370K, DATED JULY 7, 2014 AND IS IN FLOOD ZONE X AND IS NOT IN A FLOOD HAZARD AREA.

APPLICANT/OWNER
Eco-Site
Urban Renewal Wireless.
240 LEIGH FARM ROAD
SUITE 103
DURHAM, NC 27707
OFFICE: (919)858-5448

PREPARED BY
SMW
ENGINEERING GROUP, INC.
TOGETHER FOR BUSINESS
1136 BUSINESS CENTER DRIVE
BIRMINGHAM, AL 35244
TEL: 205-255-6885
www.smwengrg.com

REV	DATE	DESCRIPTION	BY
0	07/07/16	ISSUED FOR PERMITTING	JDS
1	08/11/16	REVISED PER LANDSCAPING	JDS
2	01/10/17	REVISED PER CLIENT COMMENTS	JDS

REVISIONS

SEAL
CA#: TX F-9617

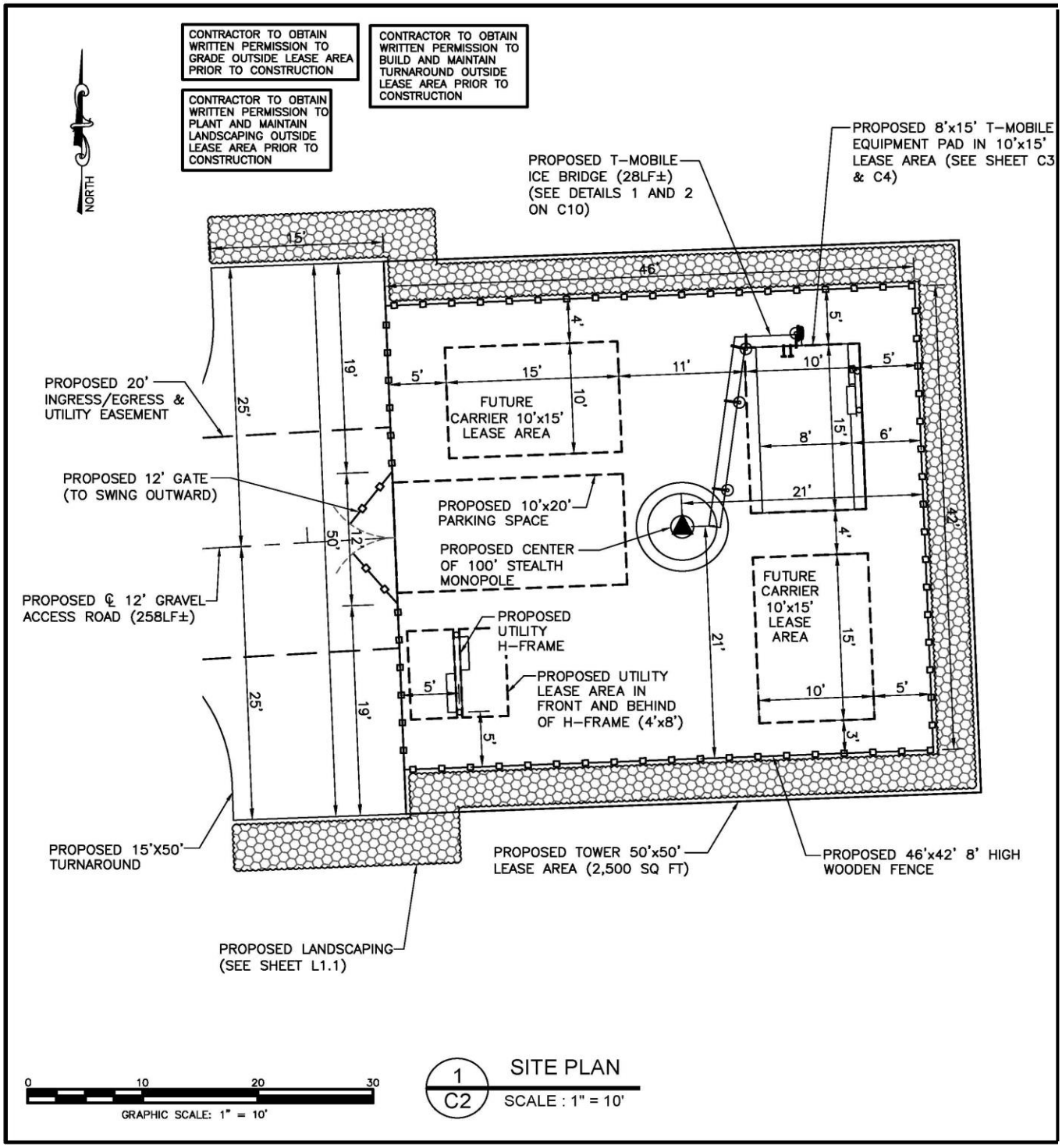
STATE OF TEXAS
JEREMY D. SHARIT
103303
LICENSED
PROFESSIONAL ENGINEER
01/10/2016

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED ENGINEER, TO ALTER THIS DOCUMENT. IF THIS DOCUMENT IS ALTERED, THE ENGINEER IN RESPONSIBLE CHARGE SHALL ATTACH A DESCRIPTION OF THE ALTERATION OR MODIFICATION OF THE CONTENTS HEREIN.

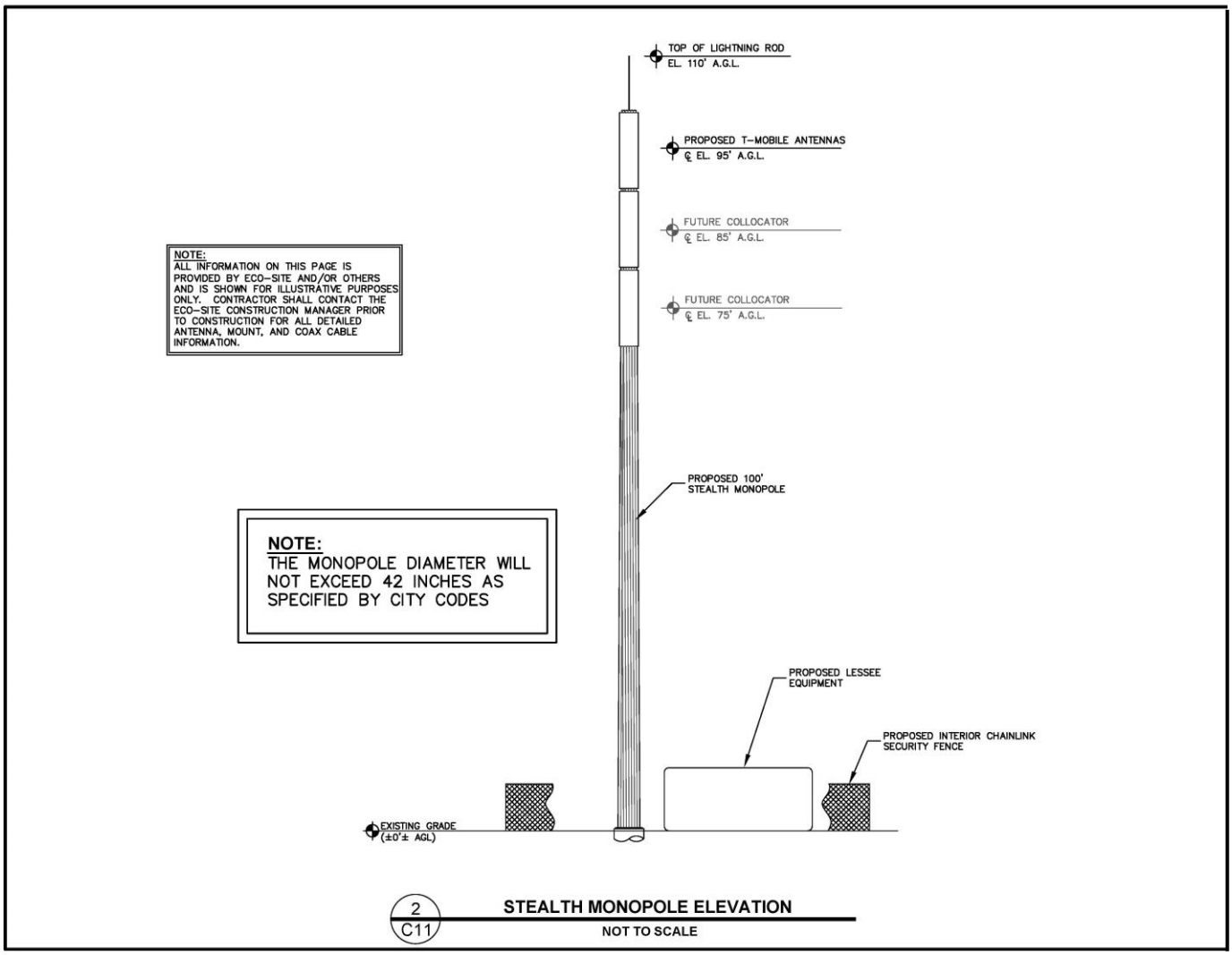
PROJECT LOCATION:
SAM HOUSTON
DA0356536
E911 ADDRESS NOT PROVIDED
DALLAS, TX 75227

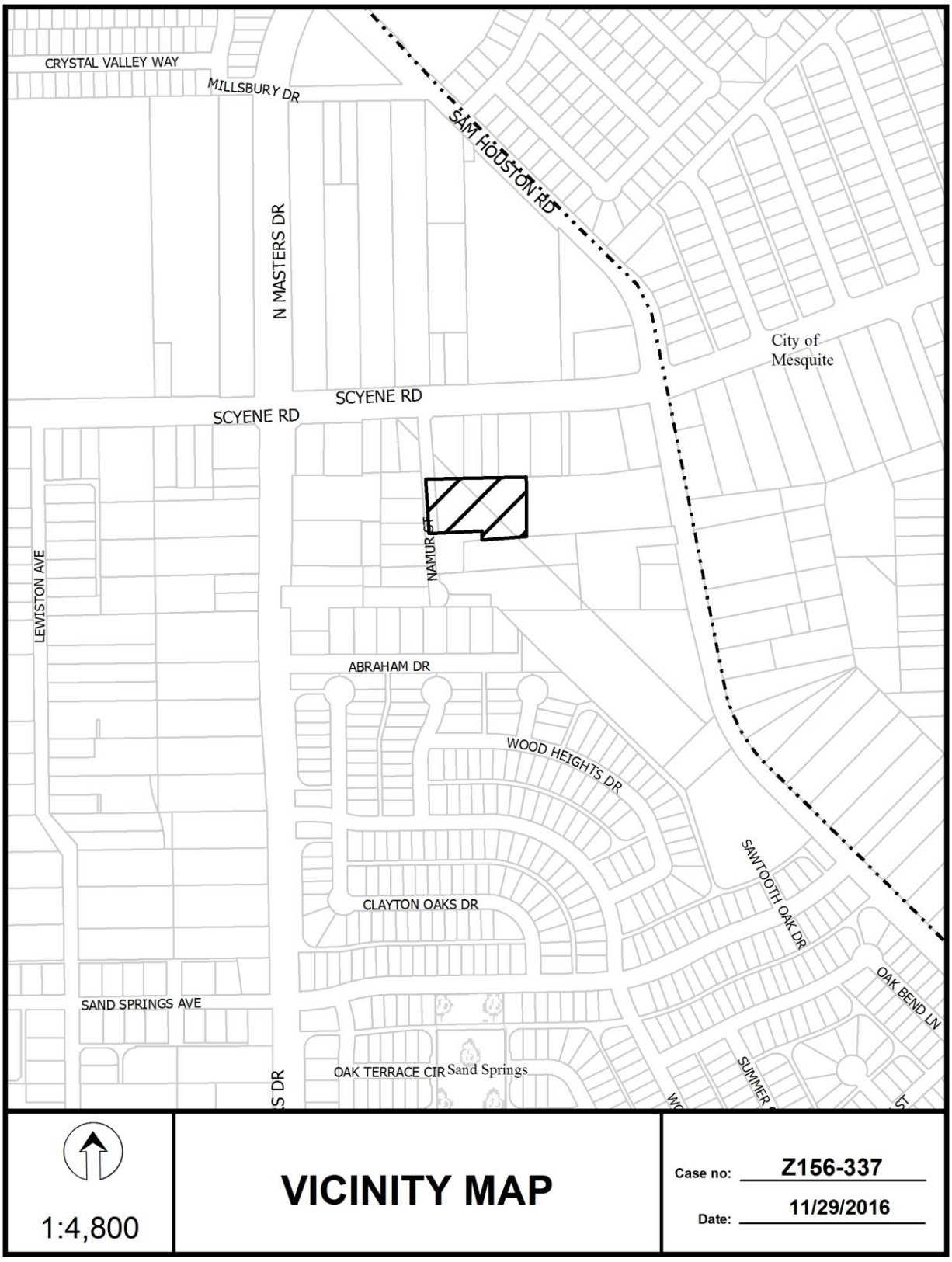
DRAWN BY: MAW CHECKED BY: JDS
SMW PROJECT #: 16-1055
ECO-SITE PROJECT #: TX-0050
DATE: 06/30/2016
DESCRIPTION / SHEET NUMBER: OVERALL SITE PLAN
REVISION: 1
C1

50' X 50' LEASE AREA



PROPOSED ELEVATION




CRYSTAL VALLEY WAY
MILLSBURY DR
SAM HOUSTON RD
N MASTERS DR
City of Mesquite
SCYENE RD
SCYENE RD
NAMUR ST
LEWISTON AVE
ABRAHAM DR
WOOD HEIGHTS DR
SAWTOOTH OAK DR
CLAYTON OAKS DR
OAK BEND LN
SAND SPRINGS AVE
OAK TERRACE CIR
Sand Springs
1:4,800
VICINITY MAP
Case no: Z156-337
Date: 11/29/2016

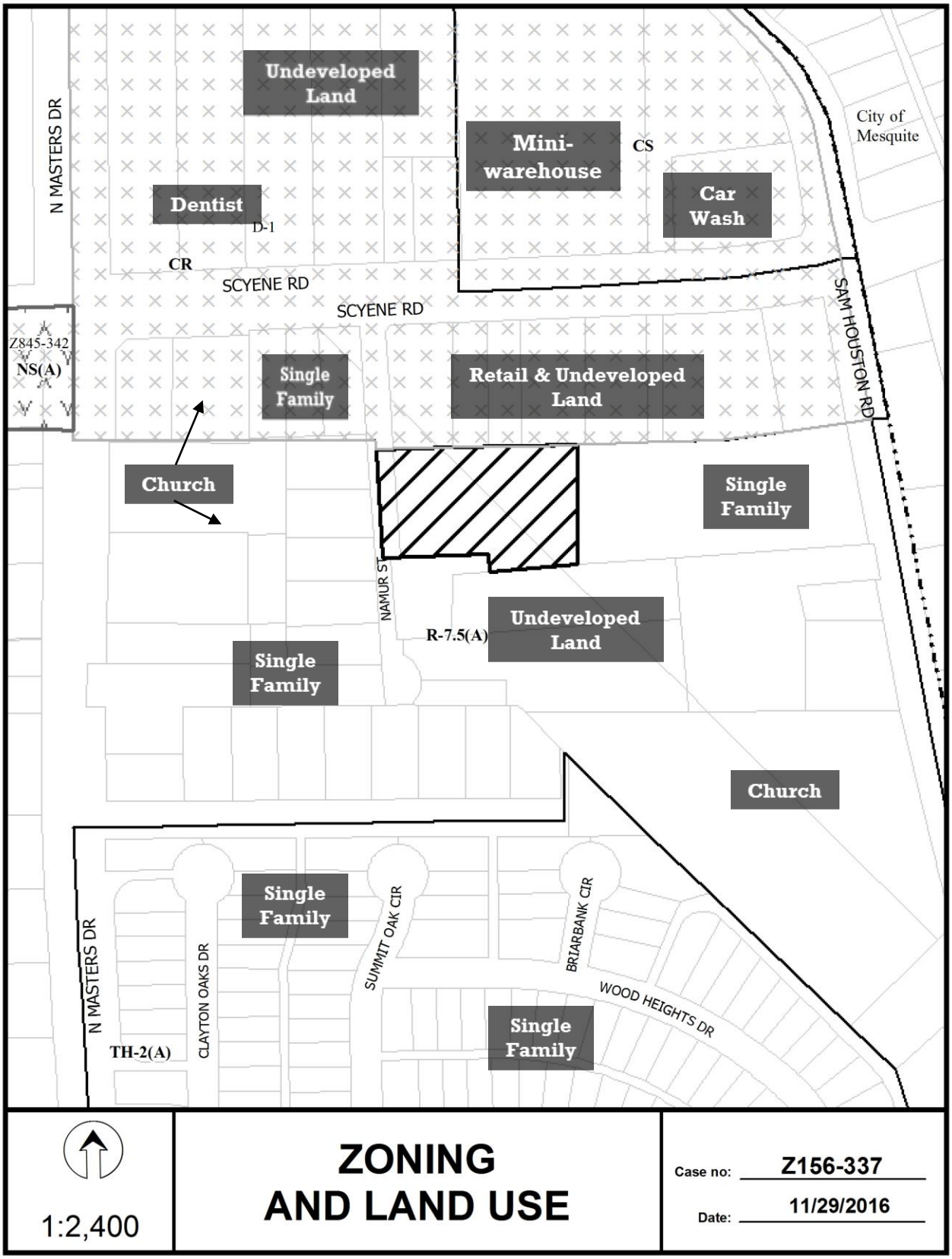


1:2,400

AERIAL MAP

Case no: Z156-337

Date: 11/29/2016


Undeveloped Land
Mini-warehouse
CS
City of Mesquite
N MASTERS DR
Dentist
D-1
Car Wash
CR
SCYENE RD
SCYENE RD
SAM HOUSTON RD
Z845-342
NS(A)
Single Family
Retail & Undeveloped Land
Church
Single Family
NAMUR ST
R-7.5(A)
Undeveloped Land
Single Family
Church
Single Family
SUMMIT OAK CIR
BRIARBANK CIR
N MASTERS DR
CLAYTON OAKS DR
WOOD HEIGHTS DR
TH-2(A)
Single Family
1:2,400
ZONING AND LAND USE
Case no: Z156-337
Date: 11/29/2016

CPC RESPONSES



02/01/2017

Reply List of Property Owners

Z156-337

53 Property Owners Notified ***1 Property Owners in Favor*** ***1 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
O	1	10310	SCYENE RD	KWICKPICK GROCERY INC
	2	2825	NAMUR ST	BESHERSE W O
	3	2804	N MASTERS DR	ZETINOBONILLA SANTOS G
	4	2900	N MASTERS DR	GRAGG FREEMAN O JR
	5	10202	SCYENE RD	RANGEL MARISOL RODRIGUEZ &
	6	2820	N MASTERS DR	COX WESLEY S
	7	10222	SCYENE RD	GARCIA GABRIEL &
	8	2909	NAMUR ST	HERNANDEZ VICTORIANO
	9	2829	NAMUR ST	ALBARRAN HERIBERTO ALFARO
	10	2917	NAMUR ST	JORDAN JULIA
	11	2825	NAMUR ST	BESHERSE AGNES ESTATE OF
	12	2901	NAMUR ST	ALBARRAN JOSE LUIS ALFARO
	13	10230	SCYENE RD	JB CARICSON LLC
	14	10226	SCYENE RD	GARCIA GABRIEL &
	15	2817	NAMUR ST	MUNOZ JOSE SANTOS & ELVIA
	16	2830	NAMUR ST	BRITT HARRIS TRUSTEE
	17	2802	N MASTERS DR	HANEY THOMAS N
	18	10213	ABRAHAM DR	GONZALES JUAN JOSE JR
	19	10223	ABRAHAM DR	PLEITEZ FELIZ A O &
X	20	10229	ABRAHAM DR	MOJICA ESMERALDA
	21	10235	ABRAHAM DR	MUNOZ JOSE SANTOS &
	22	10305	ABRAHAM DR	JACKSON RONALD D
	23	10311	ABRAHAM DR	RAMOS GERARDO &
	24	10317	ABRAHAM DR	RUBIO PLACIDO
	25	10323	ABRAHAM DR	GLASSCOCK JOE
	26	10350	SCYENE RD	EXPERIENCE CARPET INSTALLERS INC

02/01/2017

Reply	*Label #*	*Address*		*Owner*
	27	10320	SCYENE RD	GOMEZ JAMIE
	28	10336	SCYENE RD	SAI MITHAI BHAKTA INC
	29	2911	SAM HOUSTON RD	MARTINEZ MARTHA J
	30	2835	SAM HOUSTON RD	RAMIREZ FIDEL LOMAS &
	31	2907	SAM HOUSTON RD	DELONG CHARLES F ESTATE
	32	2901	SAM HOUSTON RD	RAMIREZ FIDEL
	33	2818	NAMUR ST	STRINGER GLINDORA
	34	2801	SAM HOUSTON RD	GRACE ASSEMBLY OF GOD
	35	10333	ABRAHAM DR	S & P INVESTMENTS
	36	10209	SCYENE RD	POOLE ANNE FRANCES
	37	10221	SCYENE RD	PAYMA KHAJEHNOORI FAMILYTRUST
	38	10305	SCYENE RD	TAMEZ HECTOR &
	39	10351	SCYENE RD	MILLWEE STEPHEN M
	40	10210	SCYENE RD	CLEAR SUMMIT INVESTMENTS
	41	2910	N MASTERS DR	CASTILLO MAGDA
	42	2907	NAMUR ST	IGLESIA NUEVA VIDA PENTECOSTES
	43	10300	SCYENE RD	SPAKES MARTY CALVIN
	44	2744	CLAYTON OAKS DR	CABELLO ROGELIO
	45	2743	SUMMIT OAK CIR	MUNOZ J SANTOS
	46	2742	SUMMIT OAK CIR	VALDERAS JOHNNY & DONNA
	47	2738	SUMMIT OAK CIR	MOSBY TINA
	48	2715	BRIARBANK CIR	CASTLE ANTONIO
	49	2719	BRIARBANK CIR	BRIARBANK CIRCLE PROPERTY TRUST
	50	2716	BRIARBANK CIR	GUERRERO TOMAS &
	51	10215	SCYENE RD	FARAN DENTAL ASSOCIATES
	52	10331	SCYENE RD	SCYENE STORAGE LP
	53	10349	SCYENE RD	QUARTERHORSE CO LTD

AGENDA ITEM # 49

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 7

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 48 G

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2142 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 100,000 square feet or more on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay on the north side of Samuell Boulevard, west of South Buckner Boulevard
Recommendation of Staff and CPC: Approval for a five-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions
Z167-139(OTH)

HONORABLE MAYOR & CITY COUNCIL **WEDNESDAY, MARCH 22, 2017**

ACM: Mark McDaniel

FILE NUMBER: Z167-139(OTH) **DATE FILED:** November 21, 2016

LOCATION: North side of Samuell Boulevard, west of South Buckner Boulevard

COUNCIL DISTRICT: 7 **MAPSCO:** 48-G

SIZE OF REQUEST: ± 11.777 acres **CENSUS TRACT:** 122.07

APPLICANT: Sam's Real Estate Business Trust

REPRESENTATIVE: Myron Dornic, Jackson Walker, L.L.P.

OWNER: WM Dallas Portfolio, LP

REQUEST: An application to renew Specific Use Permit No. 2142 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 100,000 square feet or more on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay.

SUMMARY: The applicant proposes to continue the sale of beer and wine in conjunction with an existing general merchandise or food store [Sam's Club].

CPC RECOMMENDATION: **Approval** for a five-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions.

STAFF RECOMMENDATION: **Approval** for a five-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions.

GUIDING CRITERIA FOR STAFF RECOMMENDATION:

- The property is currently developed with a general merchandise or food store greater than 100,000 square feet. The applicant wishes to continue the sale of beer and wine on the property. The property is surrounded by retail development.

- The original Specific Use Permit was issued on March 25, 2015 for a two year period. The SUP expires on March 25, 2017.

- The property is surrounded by retail uses including vehicle service center, a bazaar, a bar and restaurant to the north; a motor vehicle fueling station (under construction) to the east undeveloped and the City of Mesquite to the east; institutional [Buckner Children's Home], undeveloped, and single family to the south; and retail to the west [Walmart Store].

Surrounding Zoning History:

1. **Z145-325** On December 9, 2015, the City Council denied a request to remove the D-1 Liquor Control Overlay and approved a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned an RR-D-1 Regional Retail District with a D-1 Liquor Control Overlay, for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to a site plan and conditions.

2. **Z145-275** On September 22, 2015, the City Council approved an amendment to Specific Permit No. 2048 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 100,000 square feet or more on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay.

3. **Z145-258** On August 12, 2015, the City Council approved the renewal of Specific Use Permit No. 1975 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned an RR Regional Retail District with a D-1 Liquor Control Overlay.

4. **Z123-278** On September 25, 2013 the City Council approved a Specific Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store 100,000 square feet or greater on property zoned an RR-D-1 Regional Retail District with a D-1 Liquor Control Overlay.

5. Z112-138 On April 11, 2012, the City Council approved an amendment to Planned Development District No. 605 with a D-1 Liquor Control Overlay and a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store use greater than 3,500 square feet on the south side of Samuell Boulevard, west of South Buckner Blvd. The SUP expired on April 11, 2016.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW
South Buckner Boulevard	Principal Arterial	Variable ROW
Samuell Boulevard	Collector	120 feet

Surrounding Land Uses:

	Zoning	Land Use
Site	RR-D-1	Retail uses
North	RR-D-1	Retail, vehicle service center, restaurant,
East	RR-D-1, SUP No. 1975 & SUP No. 2177	Motor vehicle fueling station and undeveloped
South	R-7.5(A) PD No. 605	Undeveloped and Single Family,
West	RR-D-1 & SUP No. 2048	Retail uses

STAFF ANALYSIS:

Comprehensive Plan:

The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

The *fowardDallas! Comprehensive Plan* outlines several goals and policies to support the applicant's request:

Land Use Element

GOAL 1.1 Align Land Use Strategies with Economic Development Priorities

Policy 1.1.5 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics.

Land Use Compatibility:

The property is surrounded by retail uses including vehicle service center, a bazaar, a bar and restaurant to the north; a motor vehicle fueling station (under construction), undeveloped, and the City of Mesquite to the east; institutional, undeveloped, and single family to the south; and retail to the west.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

The continued sale of alcoholic beverages in conjunction with the existing general merchandise or food store is compatible with the surrounding uses and provides goods and services to the neighborhood. The site plan and continued review for automatic renewal will help to ensure the property does not become a detriment to the neighborhood.

Development Standards:

District	Setbacks		Density/ FAR	Height	Lot Coverage	Special Standards	Primary Uses
	Front	Side/Rear					
RR Regional retail	15'	20' adjacent to residential OTHER: No Min.	1.5 FAR overall 0.5 office	70' 5 stories	80%	Proximity Slope U-form setback Visual Intrusion	Retail & personal service, office

Parking:

Pursuant to the Dallas Development Code, the off-street parking requirement for a general merchandise or food store use is one space per 300 square feet of floor area. Therefore, the ±136,638 square-foot store requires 455 parking spaces. The applicant is providing 637 parking spaces as shown on the site plan.

Landscaping:

No new development is proposed. Therefore, no additional landscaping is required. Any new development on the property will require landscaping per Article X of the Dallas Development Code.

Site Plan:
The site plan is not being changed and the applicant complies with the site plan as approved by City Council.

Police Records:

The following is a summary of the incidents occurred from March 15, 2015 to December 28, 2016:

Offenses	2015-2016
Accident MV	5
Aggravated Assault	1
Assault	3
Criminal Mischief/Vandalism	5
Criminal Trespass	1
Embezzlement	1
Forge & Counterfeit	1
Found	3
Injured Occupational	1
Lost	1
Miscellaneous	22
Offense Against a child	1
Other thefts	5
Robbery-Individual	2
Theft/BMV	12
Theft/Shoplift	3
UUMV	2
Total	69

CPC ACTION:
February 2, 2017

Motion: It was moved to recommend **approval** of the renewal of Specific Use Permit No. 2142 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 100,000 square feet or more for a five-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions on property zoned a RR Regional Retail District with a D-1 Liquor Control Overlay on the north side of Samuell Boulevard, west of South Buckner Boulevard.

Maker: Houston
Second: Shidid
Result: Carried: 14 to 0

For: 14 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon*, Haney, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley
Against: 0
Absent: 1 - Mack
Vacancy: 0

*out of the room, shown voting in favor

Notices:	Area:	400	Mailed:	28
Replies:	For:	0	Against:	0

CPC Recommended Conditions
Z167-139(OTH)

1. USE: The only use authorized by this specific use permit is the sale of alcoholic beverages in conjunction with a general merchandise or food store use 100,000 square feet or more.

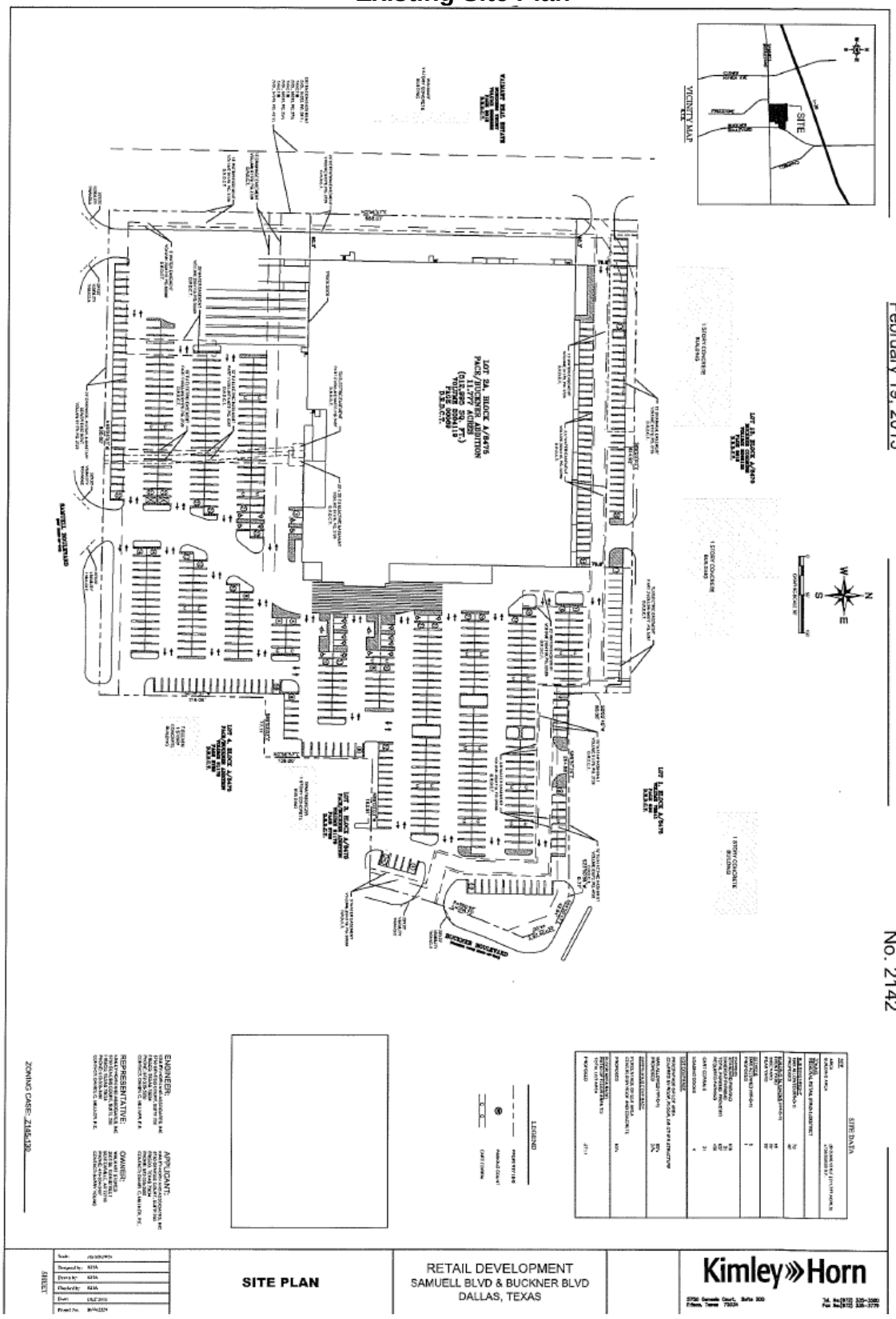
2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

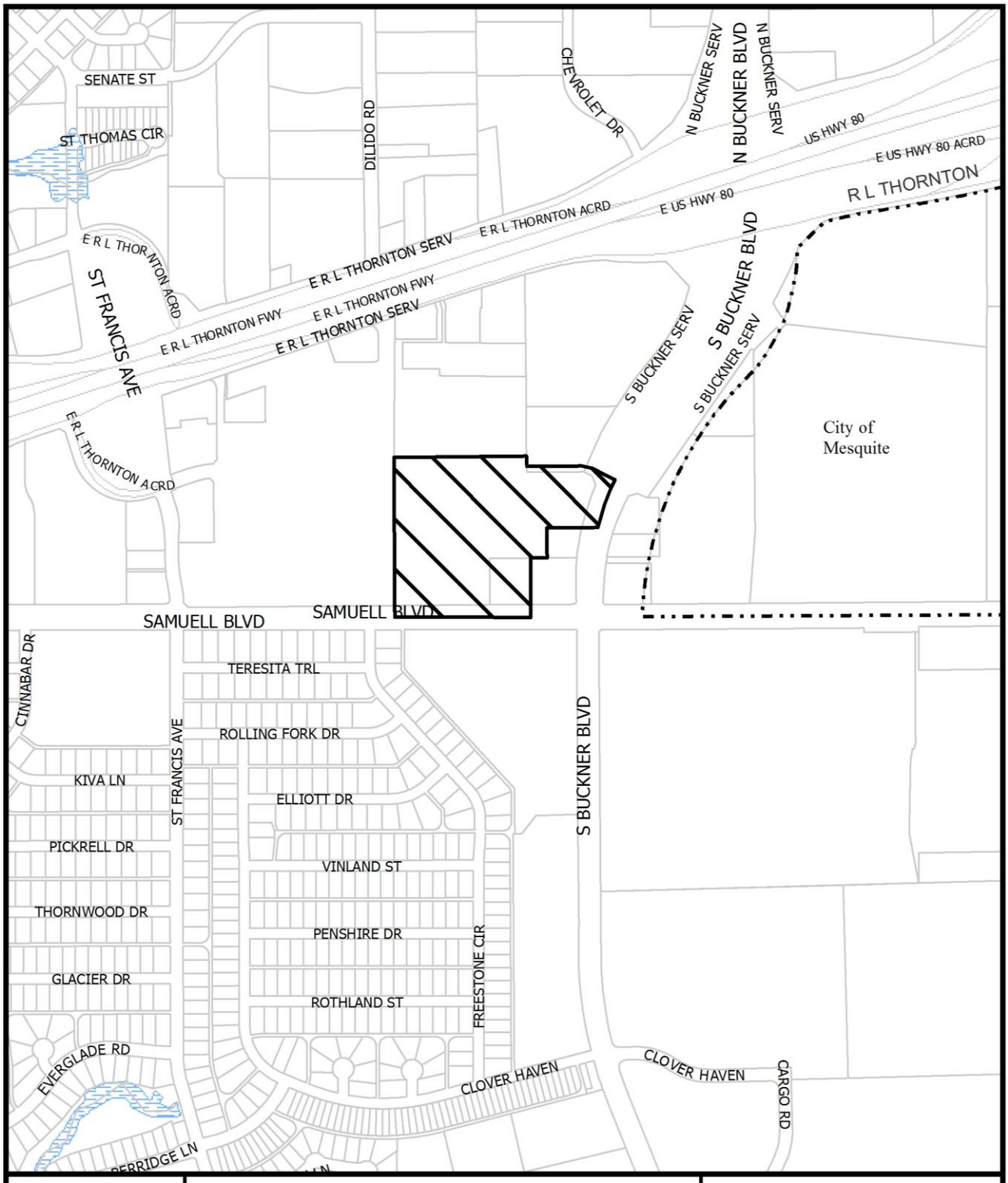
3. TIME LIMIT: This specific use permit expires on (five years), but is eligible for automatic renewal for additional five-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced.) ~~March 25, 2017.~~

4. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

5. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

Existing Site Plan





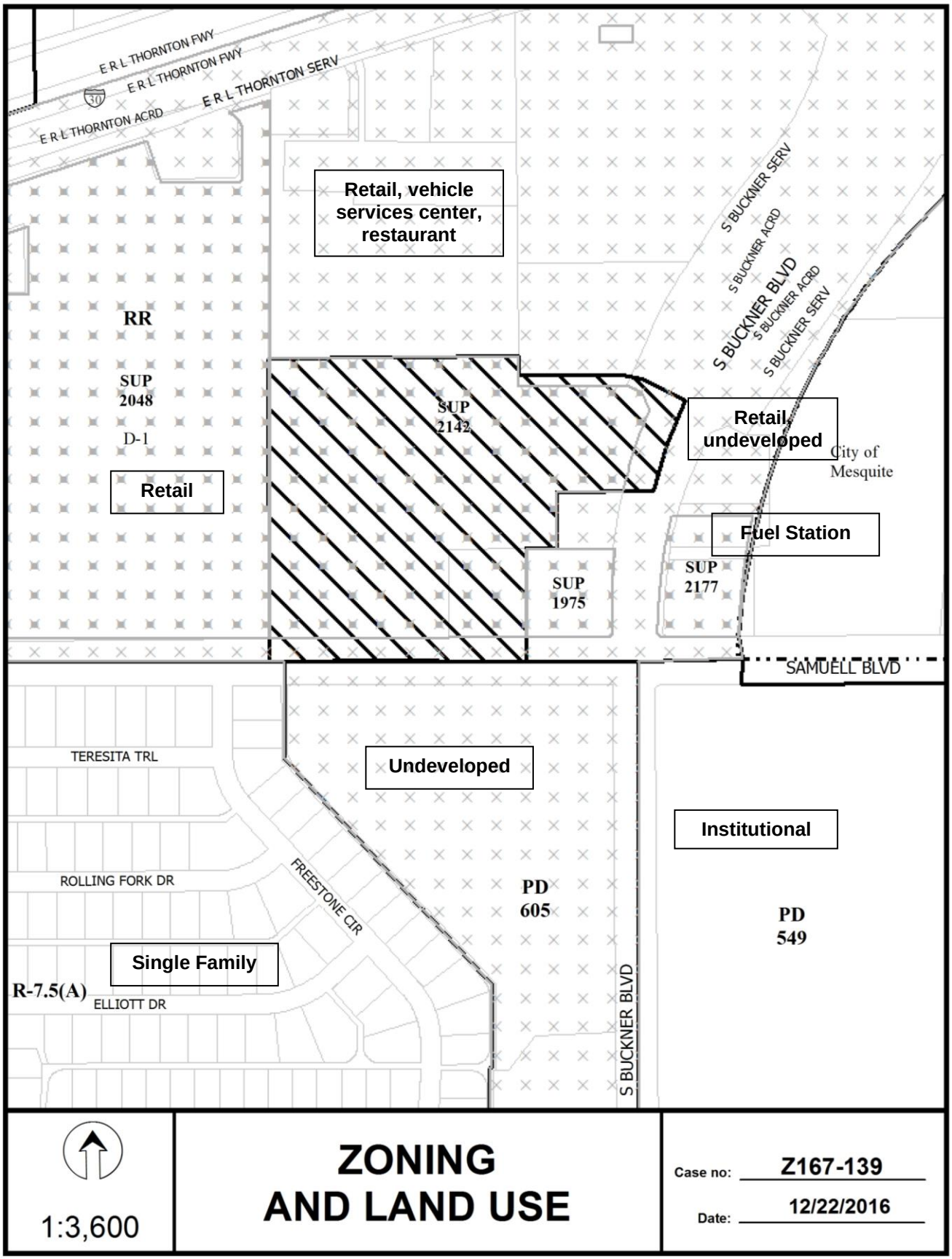
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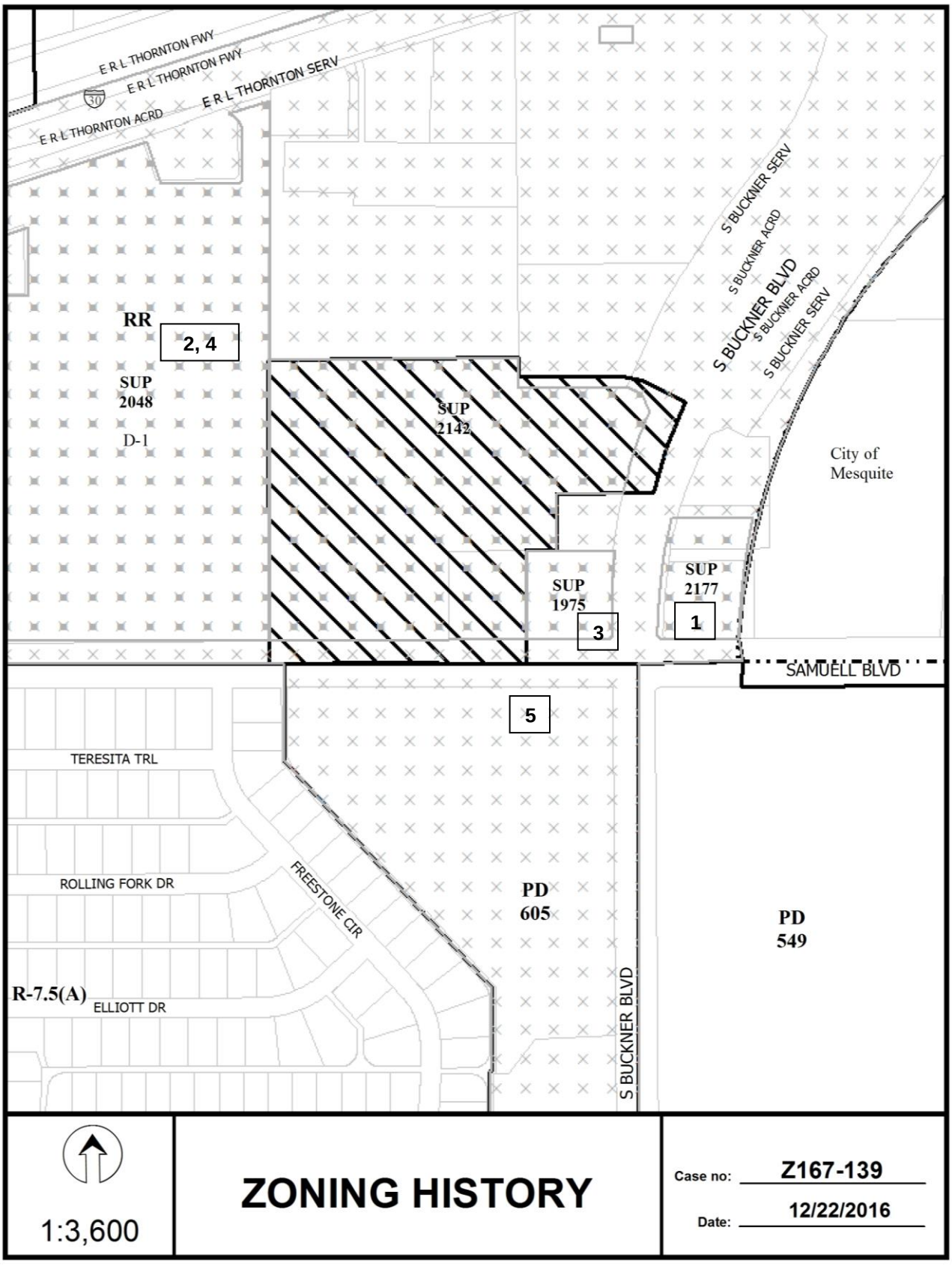
VICINITY MAP

Case no: Z167-139

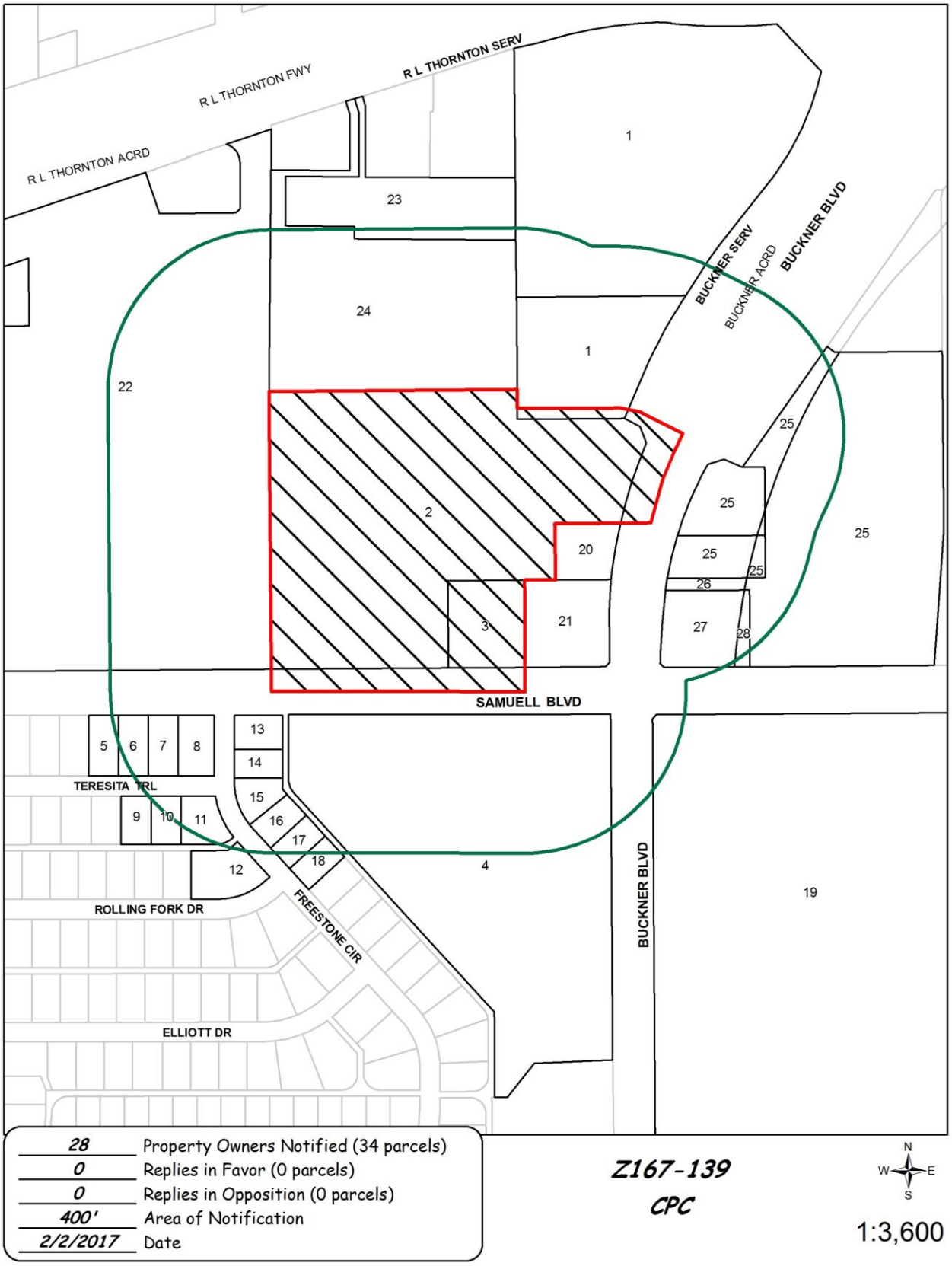
Date: 12/22/2016


E R L THORNTON SERV
E R L THORNTON FWY
E R L THORNTON FWY
E R L THORNTON SERV
E R L THORNTON ACRD
30
S BUCKNER SERV
S BUCKNER ACRD
S BUCKNER ACRD
S BUCKNER SERV
City of Mesquite
SAMUELL BLVD
SAMUELL BLVD
TERESITA TRL
ROLLING FORK DR
FREESTONE CIR
ELLIOTT DR
S BUCKNER BLVD
S BUCKNER BLVD
1:3,600
AERIAL MAP
Case no: Z167-139
Date: 12/22/2016


E R L THORNTON FWY
E R L THORNTON FWY
E R L THORNTON ACRD
E R L THORNTON SERV
Retail, vehicle services center, restaurant
S BUCKNER SERV
S BUCKNER ACRD
S BUCKNER BLVD
S BUCKNER ACRD
S BUCKNER SERV
RR
SUP 2048
D-1
SUP 2142
Retail, undeveloped
City of Mesquite
Retail
Fuel Station
SUP 1975
SUP 2177
SAMUELL BLVD
TERESITA TRL
Undeveloped
Institutional
ROLLING FORK DR
FREESTONE CIR
PD 605
PD 549
Single Family
R-7.5(A)
ELLIOTT DR
S BUCKNER BLVD
1:3,600
ZONING AND LAND USE
Case no: Z167-139
Date: 12/22/2016


E R L THORNTON FWY
E R L THORNTON FWY
E R L THORNTON ACRD
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S BUCKNER SERV
S BUCKNER ACRD
S BUCKNER BLVD
S BUCKNER ACRD
S BUCKNER SERV
RR
2, 4
SUP 2048
D-1
SUP 2142
City of Mesquite
SUP 1975
3
SUP 2177
1
SAMUELL BLVD
5
TERESITA TRL
ROLLING FORK DR
FREESTONE CIR
PD 605
PD 549
R-7.5(A)
ELLIOTT DR
S BUCKNER BLVD
1:3,600
ZONING HISTORY
Case no: Z167-139
Date: 12/22/2016

CPC RESPONSES



02/01/2017

Reply List of Property Owners

Z167-139

28 Property Owners Notified ***0 Property Owners in Favor*** ***0 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
	1	9334	E R L THORNTON FWY	SBLFT/OF I LTD
	2	5555	S BUCKNER BLVD	WM DALLAS PORTFOLIO LP
	3	5655	BUCKNER BLVD	SAMS REAL EST BUSINESSTR
	4	5204	S BUCKNER BLVD	HEB GROCERY COMPANY LP
	5	7147	TERESITA TRL	WHITEHEAD KELLY JOE
	6	7153	TERESITA TRL	ADEYOJU EMMANUEL ETUX
	7	7159	TERESITA TRL	MURILLO PABLO JR
	8	7165	TERESITA TRL	MARSHALL LENWOOD &
	9	7154	TERESITA TRL	HILL CE ESTER & EUNICE
	10	7160	TERESITA TRL	TAING AN & PHA
	11	7166	TERESITA TRL	OSBORNE KENNETH L
	12	7177	ROLLING FORK DR	NEWMAN TERENCE T
	13	5430	FREESTONE CIR	MARQUEZ MARTINA
	14	5424	FREESTONE CIR	PERRY ELLEN MARIE
	15	5418	FREESTONE CIR	COMBEST KENNETH ROYCE
	16	5412	FREESTONE CIR	RAMOS FE DALIDA
	17	5406	FREESTONE CIR	WAITS TATIANA ALEXANDER
	18	5330	FREESTONE CIR	CARR MARGARET
	19	5202	S BUCKNER BLVD	BUCKNER BAPTIST
	20	5525	S BUCKNER BLVD	WHATABURGER OF MESQUITE
	21	5501	S BUCKNER BLVD	7-ELEVEN INC
	22	9100	E R L THORNTON FWY	WAL MART REAL EST BUS TR
	23	9222	E R L THORNTON FWY	IACONO ELANA FAMILY LTD
	24	9208	E R L THORNTON FWY	BUCKNER JUBILEE INVESTMENTS
	25	5361	SAMUELL BLVD	NEC BUCKNER & SAMUEL LP
	26	5361	SAMUELL BLVD	BC RETAIL INVESTMENT LP

02/01/2017

Reply	*Label #*	*Address*		*Owner*
	27	5500	S BUCKNER BLVD	QUIKTRIP CORPORATION
	28	5500	S BUCKNER BLVD	RESOURCE ONE CREDIT UNION

AGENDA ITEM # 50

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 2

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45 M

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District on the south side of Elm Street, east of North Good Latimer Expressway

Recommendation of Staff and CPC: Approval for a three-year period, subject to a revised site plan and conditions

Z167-142(PD)

HONORABLE MAYOR & CITY COUNCIL **WEDNESDAY, MARCH 22, 2017**

ACM: Mark McDaniel

FILE NUMBER: Z167-142(PD) **DATE FILED:** November 29, 2016

LOCATION: South side of Elm Street, east of North Good Latimer Expressway

COUNCIL DISTRICT: 2 **MAPSCO:** 45-M

SIZE OF REQUEST: ± 2,500 square feet **CENSUS TRACT:** 204.00

APPLICANT: Twilite on Elm, LLC

REPRESENTATIVE: Jason Marshall

OWNER: 42 Deep Ellum, LP

REQUEST: An application for the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District.

SUMMARY: The applicant proposes to continue the operation of a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue use in the approximately 2,500-square-foot existing area [Twilite Lounge].

CPC RECOMMENDATION: **Approval** for a three-year period, subject to a revised site plan and conditions.

STAFF RECOMMENDATION: **Approval** for a three-year period, subject to a revised site plan and conditions.

BACKGROUND INFORMATION:

- On June 14, 2006, the City Council approved an amendment to Planned Development District No. 269, which requires a Specific Use Permit for an alcoholic beverage establishment use limited to a bar, lounge or tavern and an inside commercial amusement use limited to a live music venue.

- On February 27, 2013, the City Council approved Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern for a two year period.

- The Certificate of Occupancy for the alcoholic beverage establishment limited to a bar, lounge or tavern and to add commercial amusement (inside) limited to a live music venue [Twilite Lounge] was received on April 11, 2013.

- On January 28, 2015, the City Council approved an amendment to and the renewal of SUP No. 2019 to add commercial amusement (inside) limited to a live music venue. The time period was two years.

- On November 29, 2016, staff received the SUP renewal application; however, staff held the application to ensure compliance with the site plan.

Zoning History:

There have been eight zoning cases in the immediate area relevant to this request.

1. **Z101-187:** On May 25, 2011, the City Council approved renewal of SUP No. 1757 for a bar, lounge, or tavern and an inside commercial amusement use for a live music venue on property for a three-year period.

2. **Z112-206:** On August 22, 2012, the City Council approved SUP No. 1982 for a bar, lounge, or tavern and an inside commercial amusement limited to a dance hall for a one-year period.

3. **Z101-242:** On January 23, 2013, the City Council approved SUP No. 1694 for a bar, lounge or tavern and an inside commercial amusement use limited to a live music venue for a five-year period.

4. **Z123-299:** On October 8, 2013, the City Council approved SUP No. 2050 for bar, lounge or tavern for a two-year period.

5. **Z101-345:** On November 7, 2011, the City Council approved renewal of SUP No. 1784 for a bar, lounge, or tavern for a three-year period.

6. **Z101-242:** On October 26, 2011, the City Council approved SUP No. 1913 for a bar, lounge or tavern for a two-year period.

7. **Z123-137:** On February 27, 2013, the City Council approved SUP No. 2019 for a bar, lounge, or tavern for a two-year period [subject site].

8. **Z145-114:** On January 28, 2015, the City Council approved an amendment to and the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and to add commercial amusement (inside) limited to a live music venue [subject site].

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW	Proposed ROW
Elm Street	Local	70 ft.	70 ft.

Traffic:

The Engineering Division of the Sustainable Development and Construction Department reviewed the original SUP request and determined that the existing development would not have a negative impact on the surrounding street system and the Engineering Division maintains this recommendation.

Parking:

PDD No. 269 gives a credit for the first 2,500 square feet of bar, lounge, or tavern and inside commercial amusement uses when located on the first floor in an original building. Therefore, the proposed bar, lounge or tavern and commercial amusement (inside) limited to a live music venue use which does not exceed 2,500 square feet, will not require any off-street parking. It has historically been recognized that Deep Ellum serves as an entertainment and retail destination that often finds patrons traversing the area on foot. As a result, the area's surface parking lots and on-street meters provide for parking options.

Land Use:

	Zoning	Land Use
Site	PDD No. 269; SUP No. 2019	Bar, Lounge, tavern & live music venue
North	PDD No. 269; H/51	Open-enrollment charter school; retail
East	PDD No. 269	Retail
South	PDD No. 269	Retail
West	PDD No. 269; SUP No. 1913	Bar, Lounge, tavern

COMPREHENSIVE PLAN: The *fowardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *fowardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request. The Plan identifies the request site as being in an Urban Mixed Use Building Block.

The request site is consistent with the goals and objectives of the comprehensive plan.

LAND USE

URBAN DESIGN

GOAL 5.3 ESTABLISHING WALK-TO CONVENIENCE

Policy 5.3.1 Encourage a balance of land uses within walking distance of each other.

STAFF ANALYSIS:

Land Use Compatibility: The ±2,500-square foot request site is developed with a ±1,500-square foot building which includes a 300 square foot covered patio and 700-square foot uncovered patio. The applicant proposes to operate a bar, lounge or tavern and commercial amusement (inside) limited to a live music venue within the existing building and to utilize the patio in conjunction with the main use. The applicant intends to operate between 11:00 am and 2:00 am (the next day), Monday through Sunday, consistent with other bar, lounge or tavern uses in the area.

North of the subject site is an open-enrollment charter school and retail uses; retail uses are located on the east and south; and a bar lounge or tavern use is to the west. Unlike other areas within the City, Chapter 6 does not require PDD No. 269, to prohibit alcohol beverage establishments within a minimum distance near schools.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

The request is consistent with the established development pattern of PDD No. 269, the Deep Ellum/Near East Side District. This area is composed of an eclectic mix of retail stores, tattoos parlors, residential units, arts, and entertainment venues. The request is compatible with the surrounding uses. The relatively short time period for the SUP and the required review for renewal will help prevent the use from becoming detrimental.

Site Plan:

The applicant was not in compliance with the Council approved plan when staff conducted the site visit. The applicant submitted a revised site plan detailing a 300 square foot cover over an existing 1,000 square foot uncovered patio.

Landscaping:

The site is in compliance with Article X and the applicant's request will not trigger further landscape requirements as no new construction is proposed on the site. New construction would require landscaping in accordance with the provisions of Planned Development District No. 269.

Police Report:

The following police report shows activity at the request site for the past three years. There were no incidents of crime reported during 2013 through 2014.

January 1, 2016 - December 22, 2016

IncidentNum	Date1	Time1	Address	UCR_Offense	ZipCode
274985-2016	11/17/2016	0:30	2640 ELM ST	OTHER THEFTS	75226
260307-2016	10/30/2016	0:00	2640 ELM ST	OTHER THEFTS	75226
224013-2016	9/17/2016	6:10	2640 ELM ST	ROBBERY-INDIVIDUAL	75226

January 1, 2015 – December 30, 2015

IncidentNum	Date1	Time1	Address	UCR_Offense
052560-2015	3/9/2015	10:00	2640 ELM ST	CRIMINAL TRESPASS

The Twilight Lounge
List of Partners/Principles/Officers

Applicant/Tenant: Twilite on Elm, LLC a Texas Limited Liability Company
Corporate Address: 2640 Elm St., Dallas, Texas 75226

Members:
Daniel A. Balis
5932 Llano
Dallas, TX 75206

William J. Barr
9353 Highedge Circle
Dallas, TX 75238

Benjamin Scott Meek
3919 Gilbert Ave. #4
Dallas, TX 75219

Jason C. Marshall
1312 Adair St.
Dallas, TX 75204

Barnett D. Hammond, Jr.
5602 Ridgedale
Dallas, TX 75206

Applicant's Manager:

Lone Sparrow, LLC, 5932 Llano, Dallas TX 75206
Members: Daniel A. Balis and William J. Barr (addresses listed above)

Property Owner: 42 Deep Ellum, LP, 8333 Douglas Ave, Suite 342, Dallas, TX 75225

Partners:

Scott Rohrman
8333 Douglas Ave
Suite 342
Dallas, TX 75225

Mike Geisler
8235 Douglas Ave
Suite 720
Dallas, TX 75225

CITY PLAN COMMISSION ACTION:
February 2, 2017:

Motion: It was moved to recommend **approval** of the renewal of Specific Use Permit No. 2019 for an alcoholic beverage establishment limited to a bar, lounge or tavern and a commercial amusement (inside) limited to a live music venue for a three-year period, subject to a revised site plan and conditions on property zoned Tract A within Planned Development District No. 269, the Deep Ellum/Near East Side District on the south side of Elm Street, east of North Good Latimer Expressway.

Maker: Houston
Second: Shidid
Result: Carried: 14 to 0

For: 14 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon*, Haney, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: 0
Absent: 1 - Mack
Vacancy: 0

*out of the room, shown voting in favor

Notices: Area: 200 Mailed: 15
Replies: For: 3 Against: 0

Speakers: None

CPC Recommended Conditions

1. USE: The only uses authorized by this specific use permit are a bar, lounge, or tavern and an (inside) commercial amusement use limited to a live music venue.

2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

3. TIME LIMIT: This specific use permit expires on ~~January 28, 2017~~ (three years).

4. FLOOR AREA:

   A. Maximum floor area for a bar, lounge, or tavern and (inside) commercial amusement limited use to a live music venue is 1,500 square feet in the location shown on the attached site plan.

   B. Maximum land area for the uncovered patio is ~~1,000~~ 700 square feet and 300 square feet for the covered patio in the location shown on the attached site plan.

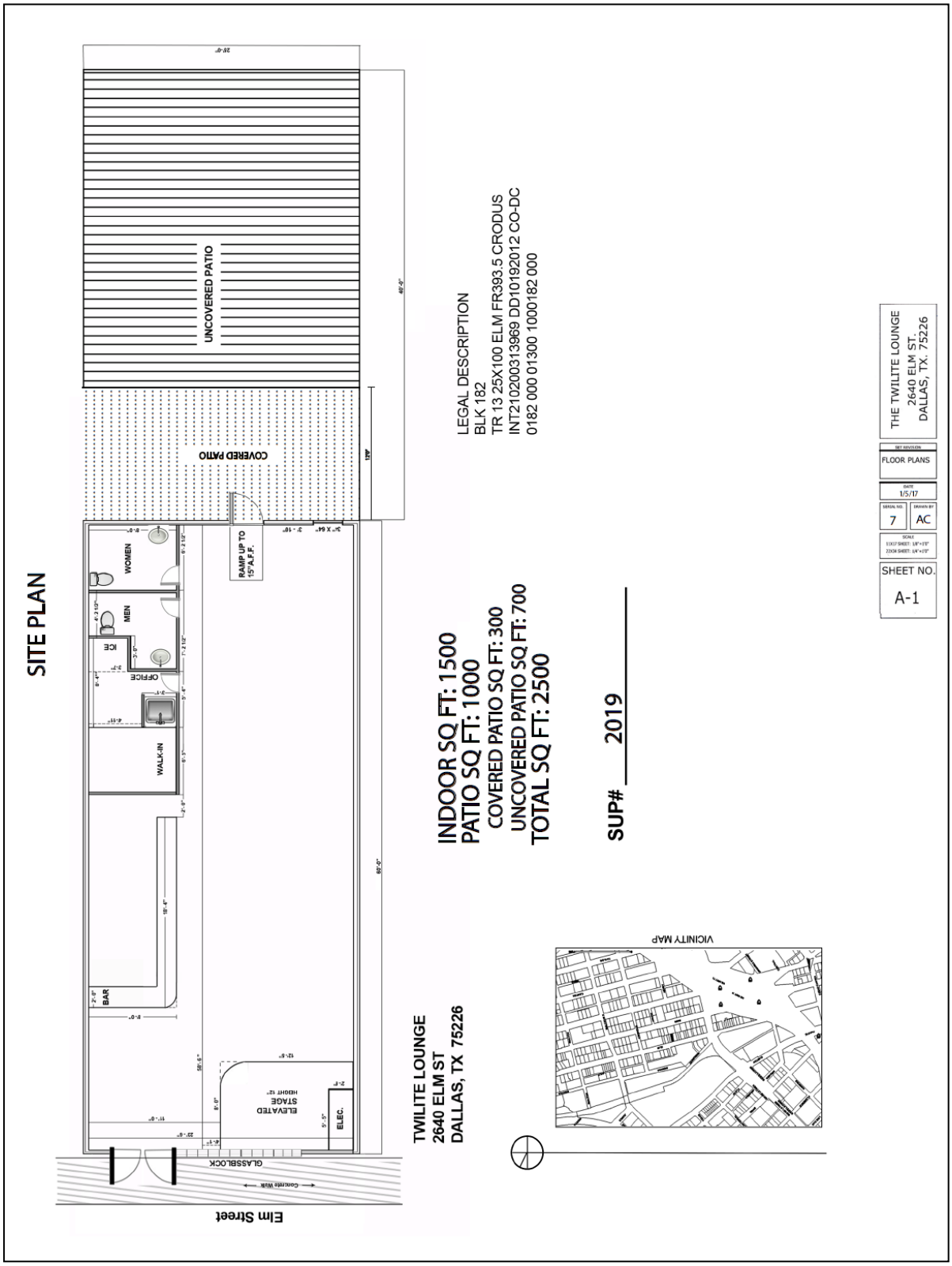
5. HOURS OF OPERATION: The bar, lounge, or tavern and (inside) commercial amusement use limited to a live music venue may only operate between 11:00 a.m. and 2:00 am. (the next day), Monday through Sunday.

6. PARKING: Parking must be provided in accordance with the requirements of Planned Development District No. 269. Delta credits, as defined in Section 51A-4.704(b)(4), may not be used to meet the off-street parking requirement.

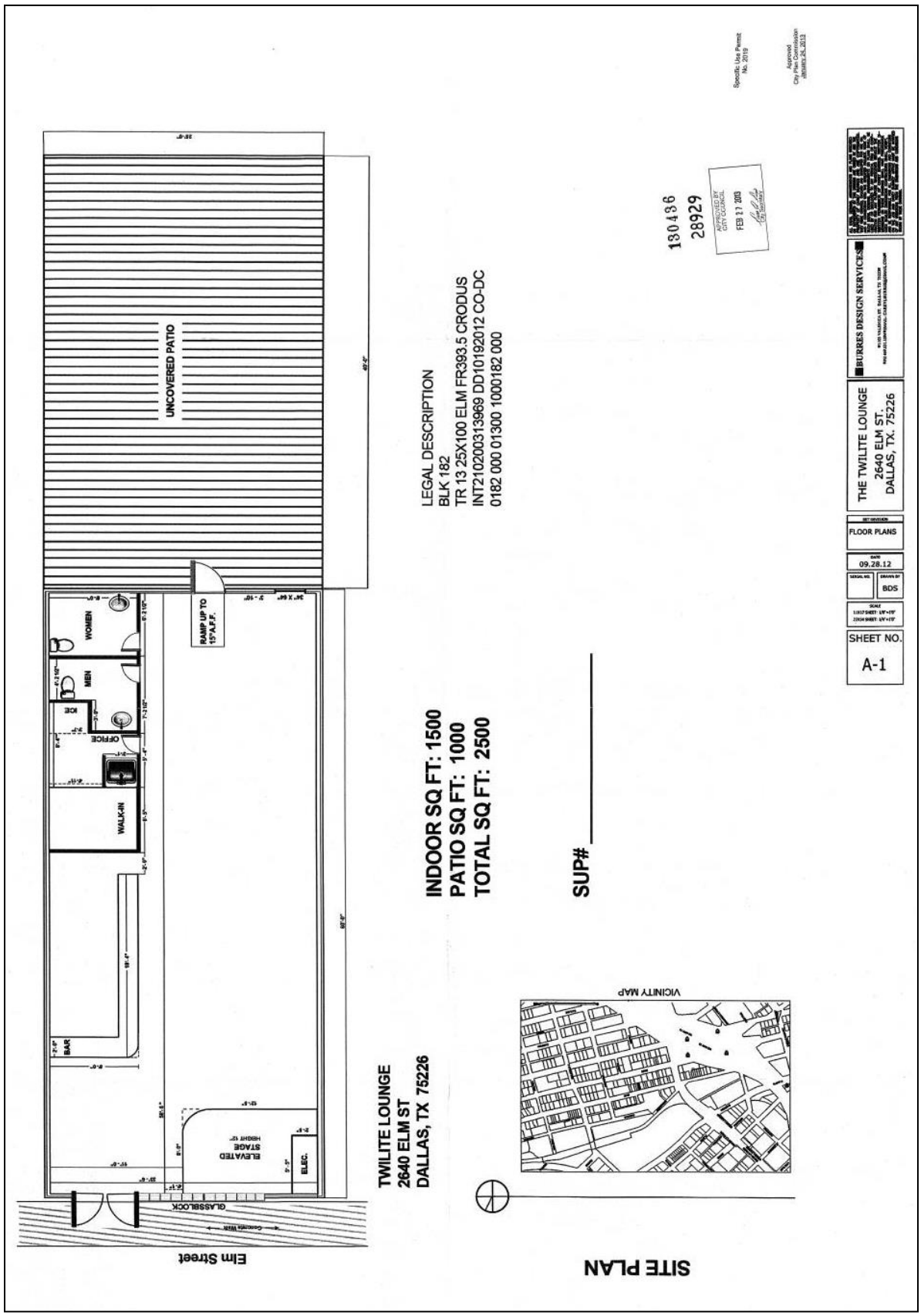
7. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

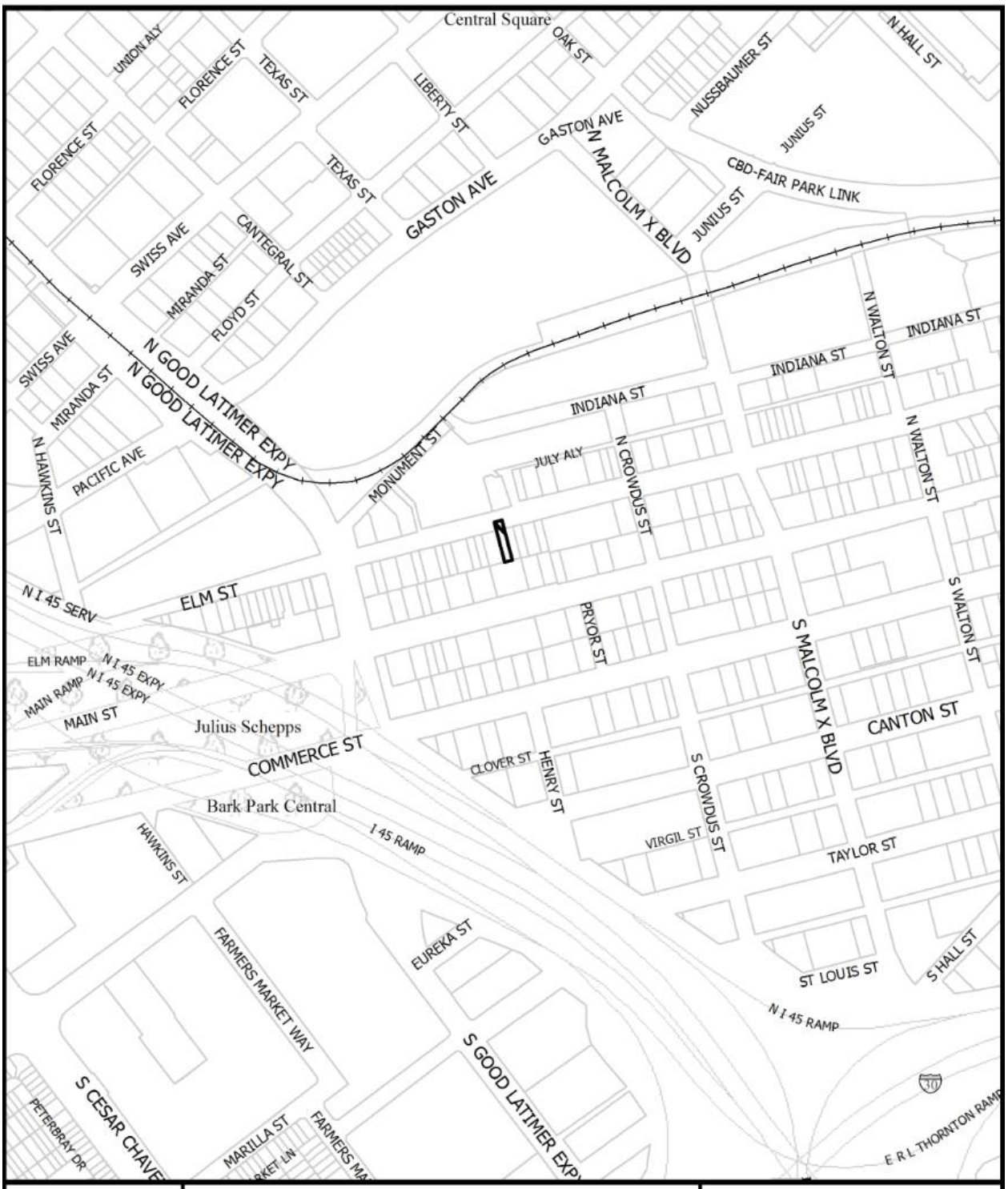
8. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

PROPOSED SITE PLAN



EXISTING SITE PLAN



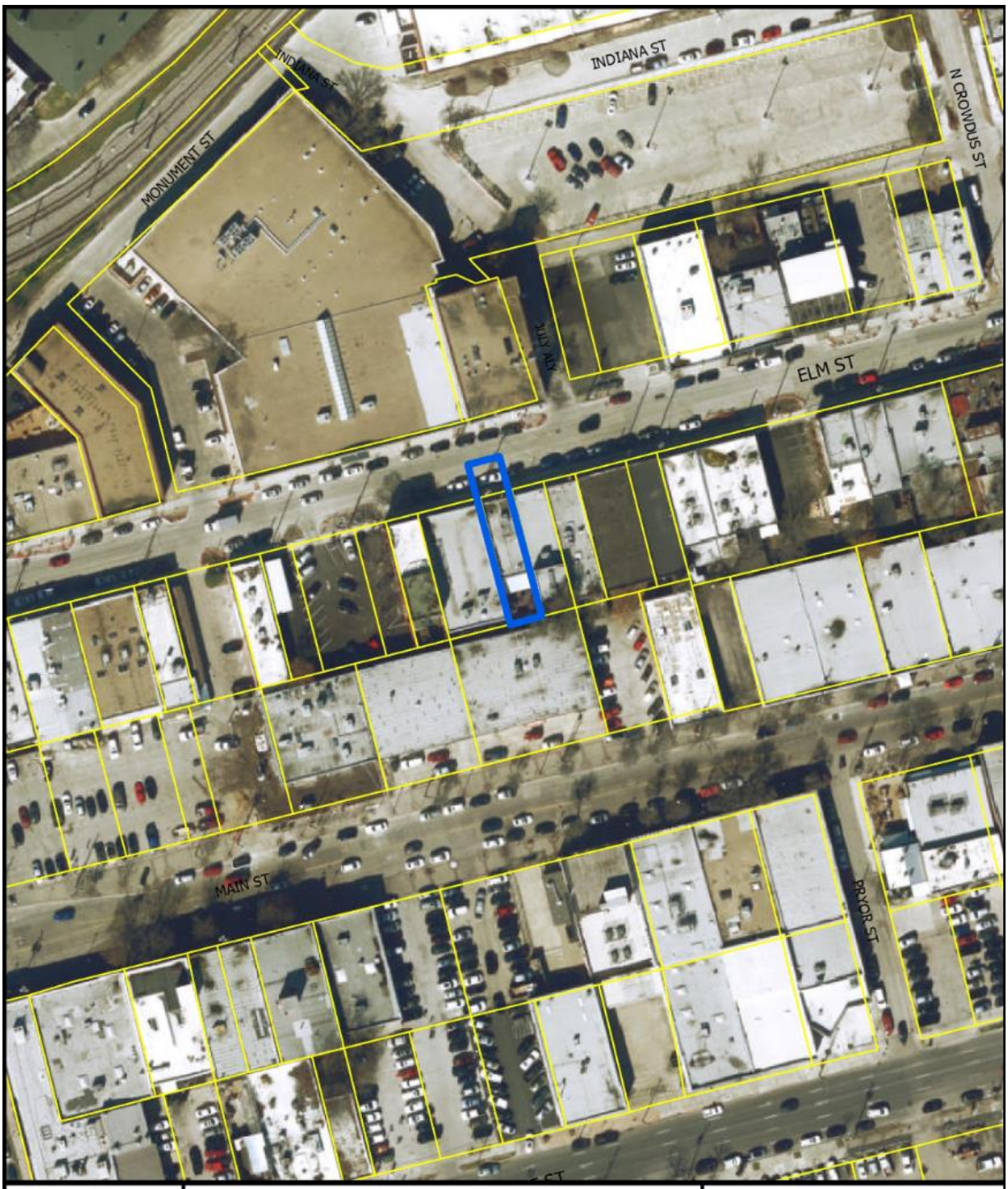


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VICINITY MAP

Case no: Z167-142

Date: 1/17/2017

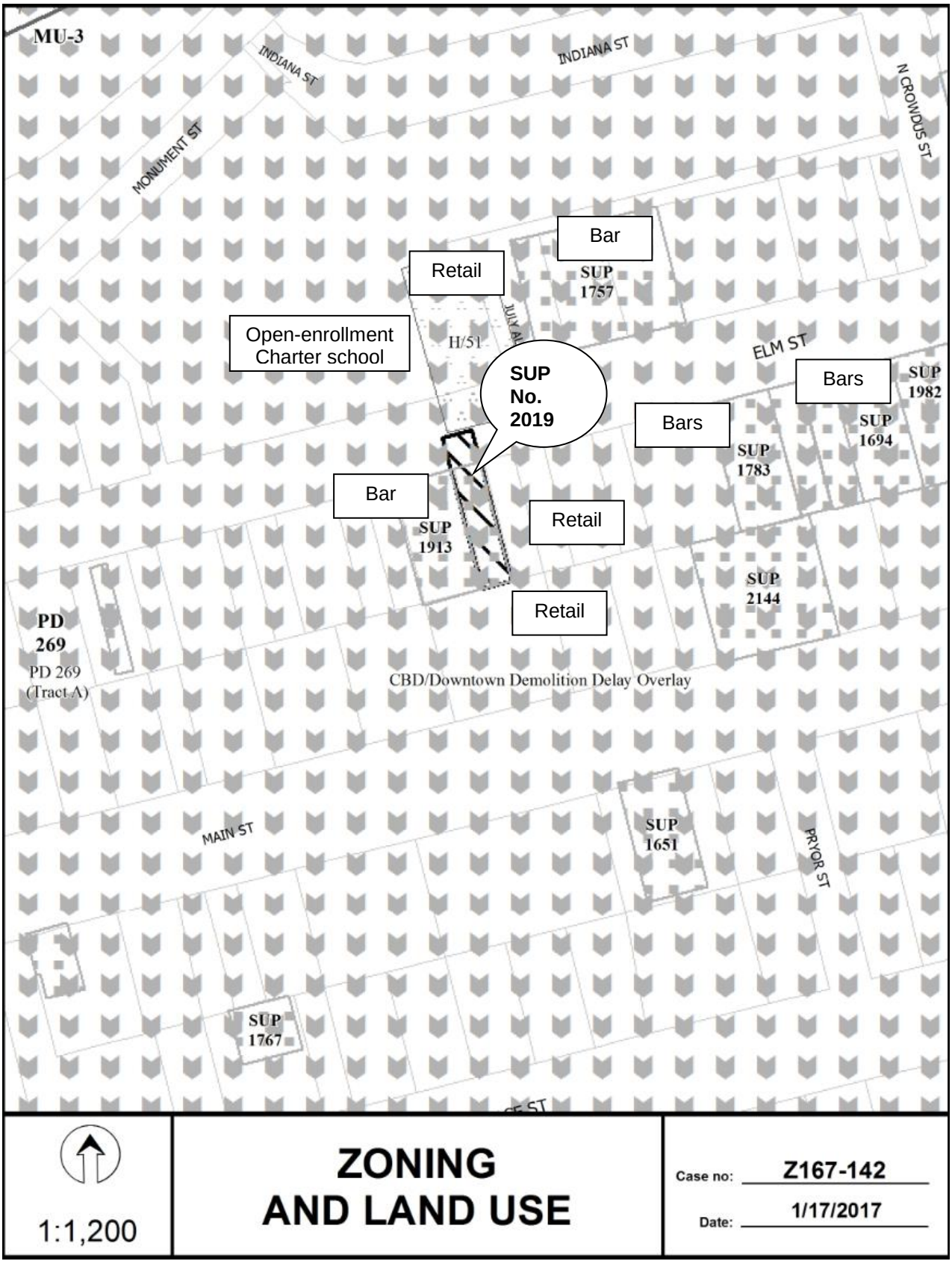


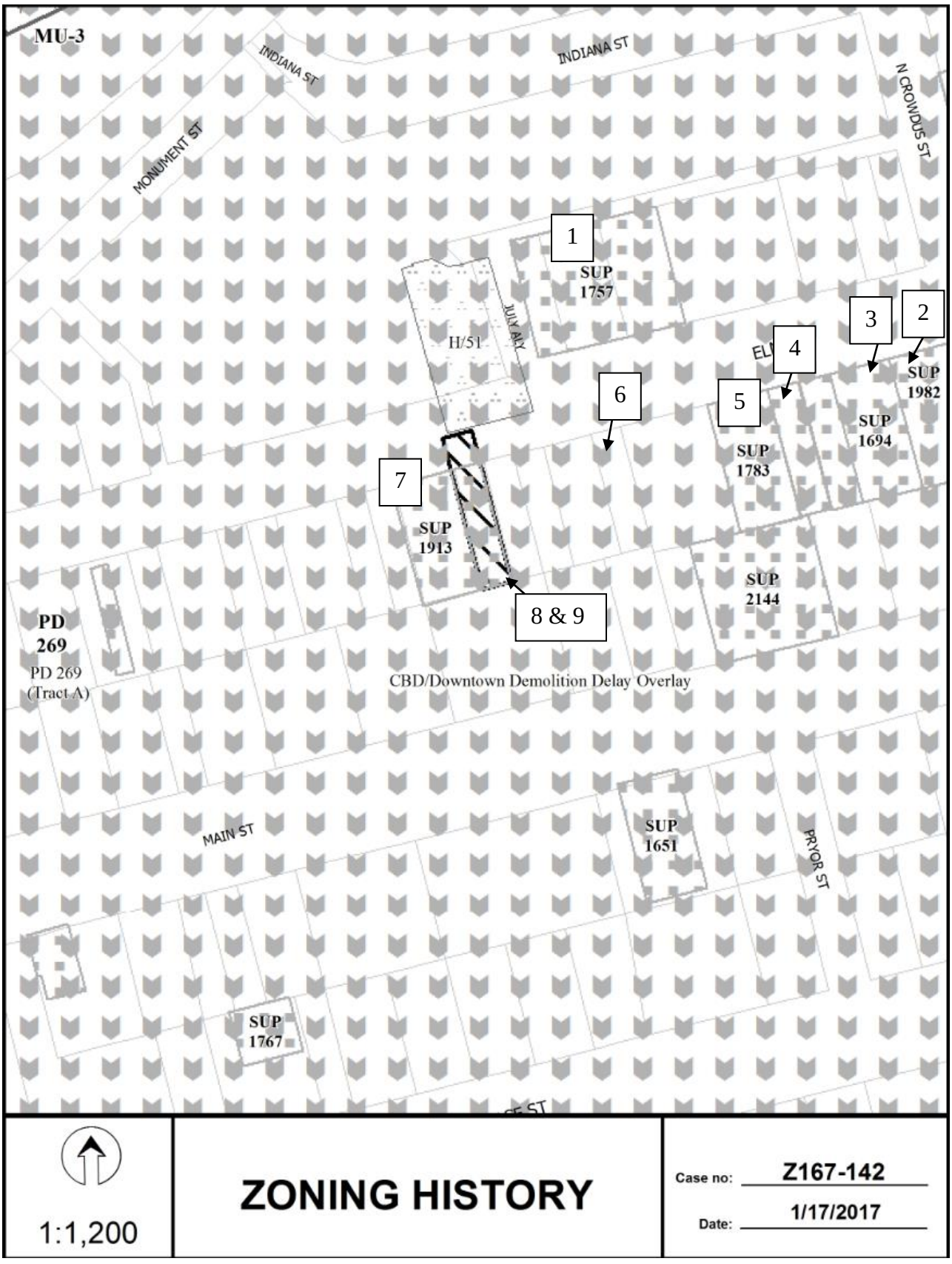
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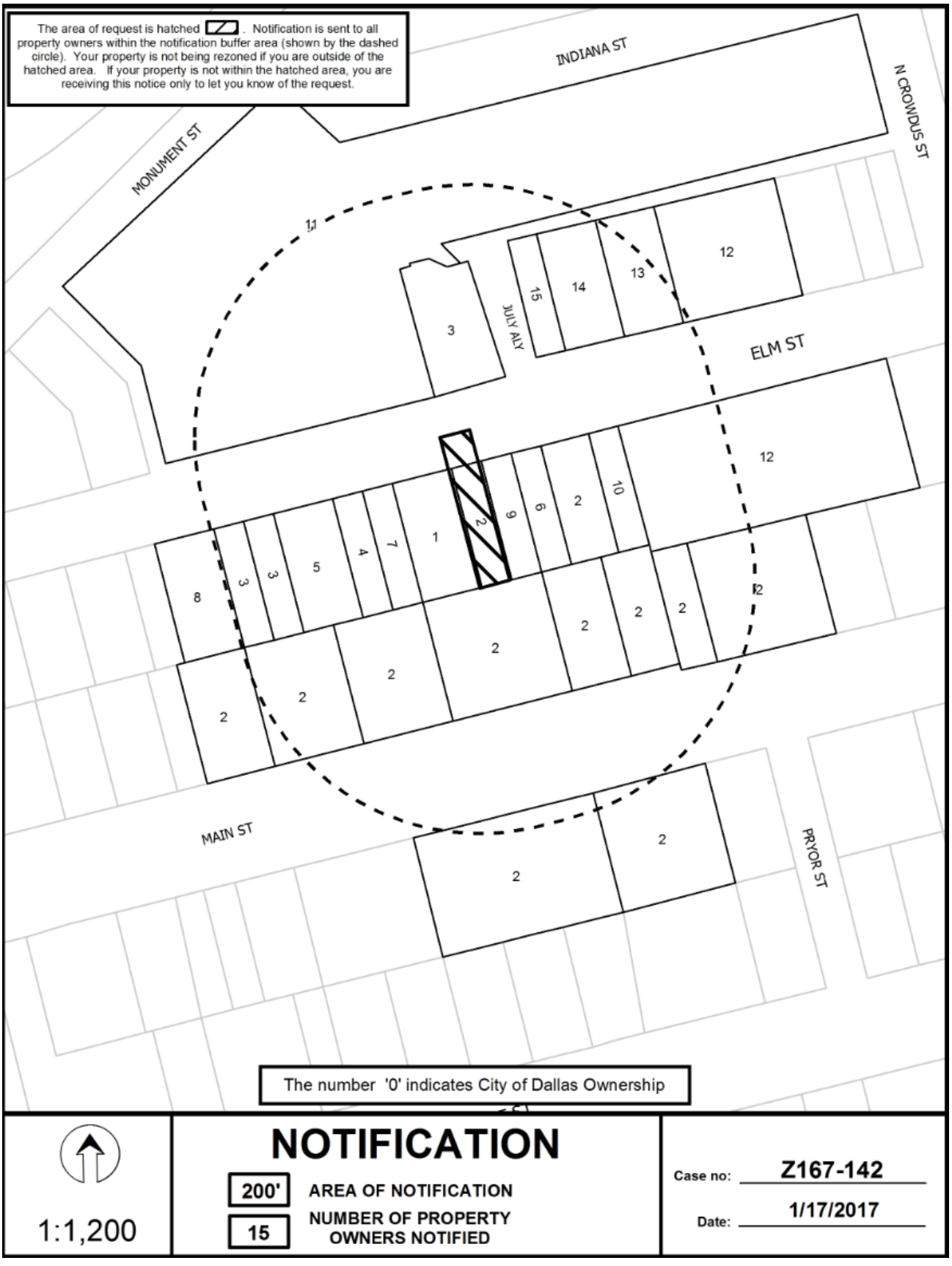
AERIAL MAP

Case no: Z167-142

Date: 1/17/2017


MU-3
INDIANA ST
INDIANA ST
MONUMENT ST
N CROWDUS ST
Bar
Retail
SUP 1757
Open-enrollment Charter school
H/51
JULY AV
ELM ST
SUP No. 2019
Bars
SUP 1982
Bars
SUP 1694
SUP 1783
Bar
SUP 1913
Retail
SUP 2144
Retail
PD 269
PD 269 (Tract A)
CBD/Downtown Demolition Delay Overlay
MAIN ST
SUP 1651
PRYOR ST
SUP 1767
1:1,200
ZONING AND LAND USE
Case no: Z167-142
Date: 1/17/2017


MU-3
INDIANA ST
INDIANA ST
N CROWDUS ST
MONUMENT ST
1
SUP
1757
H/51
JULY ALY
3
2
4
5
6
SUP
1982
SUP
1694
SUP
1783
7
SUP
1913
SUP
2144
8 & 9
PD
269
PD 269
(Tract A)
CBD/Downtown Demolition Delay Overlay
MAIN ST
SUP
1651
PRYOR ST
SUP
1767
1:1,200
ZONING HISTORY
Case no: Z167-142
Date: 1/17/2017


The area of request is hatched . Notification is sent to all property owners within the notification buffer area (shown by the dashed circle). Your property is not being rezoned if you are outside of the hatched area. If your property is not within the hatched area, you are receiving this notice only to let you know of the request.
INDIANA ST
N CROWDUS ST
MONUMENT ST
JULY ALY
ELM ST
MAIN ST
PRYOR ST
The number '0' indicates City of Dallas Ownership
NOTIFICATION
200' AREA OF NOTIFICATION
15 NUMBER OF PROPERTY OWNERS NOTIFIED
1:1,200
Case no: Z167-142
Date: 1/17/2017

CPC RESPONSES



02/01/2017

Reply List of Property Owners

Z167-142

15 Property Owners Notified ***3 Property Owners in Favor*** ***0 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
	1	2638	ELM ST	MGP HOLDINGS LLC
	2	2625	MAIN ST	42 DEEP ELLUM LP
O	3	2626	ELM ST	ELM STREET LOFTS LTD
	4	2634	ELM ST	ROSE BARSHOP RESIDUARY TR
	5	2628	ELM ST	ROSE BARSHOP RESIDUARY TR
	6	2644	ELM ST	CAMERON PAUL DARREN
	7	2634	ELM ST	BAZZLE S WAYNE &
O	8	2620	ELM ST	WESTDALE PROPERTIES AMERICA I LTD
	9	2642	ELM ST	LALCO INC
	10	2650	ELM ST	ELM ELM LLC
	11	2625	ELM ST	UPLIFT EDUCATION
O	12	2720	ELM ST	ELM STREET REALTY LTD
	13	2707	ELM ST	BELMOR CORP
	14	2703	ELM ST	BELMOR CORP
	15	2701	ELM ST	BELMOR CORP

AGENDA ITEM # 51

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 8

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 58 W

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting the renewal of Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and deed restrictions on the southwest corner of Great Trinity Forest Way and North Jim Miller Road

Recommendation of Staff: Approval for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions

Recommendation of CPC: Approval for a three-year period, subject to conditions

Z156-310(OTH)

Note: This item was considered by the City Council at public hearings on January 11, 2017, February 8, 2017, and February 22, 2017, and was held under advisement until March 22, 2017, with the public hearing open

HONORABLE MAYOR & CITY COUNCIL **WEDNESDAY, MARCH 22, 2017**

ACM: Mark McDaniel

FILE NUMBER: Z156-310(OTH) **DATE FILED:** July 20, 2016

LOCATION: Southwest corner of Great Trinity Forest Way and North Jim Miller Road.

COUNCIL DISTRICT: 8 **MAPSCO:** 58-W

SIZE OF REQUEST: ± 0.22 acre **CENSUS TRACT:** 116.01

REPRESENTATIVE: Parvez Malik, Business Zoom

APPLICANT: Mohammad Sidiqi

OWNER: Juneja Property Holdings, Inc.
Wazir Juneja, President/Secretary

REQUEST: An application to renew Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and deed restrictions.

SUMMARY: The applicant proposes to continue the sale of alcoholic beverages for off-premise consumption in conjunction with the existing convenience store [BZ Food Mart].

CPC RECOMMENDATION: **Approval** for a three-year period, subject to conditions.

STAFF RECOMMENDATION: **Approval** for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to conditions.

BACKGROUND INFORMATION:

- The ±0.22-acre request site is developed with a ±2,167-square-foot general convenience store with fuel pumps. No new construction is proposed by this application.

- The general merchandise or food store (convenience store) is permitted by right, but the sale of alcoholic beverages for off-premise consumption in conjunction with the convenience store requires a Specific Use Permit due to the D-1 Liquor Control Overlay.

- Deed restrictions volunteered on July 16, 1986 limit the uses to those allowed in the Chapter 51 General Retail District and limit multifamily uses to no more than 26 units per acre.

- As depicted on the alcohol measurement survey submitted with the application, the request site complies with the 300 foot door-to-door distance requirement from the church to the south.

- SUP No. 2099 was originally approved on December 10, 2014 for a two-year period.

Surrounding Zoning History:

1. Z134-166: December 11, 2013, the City Council approved Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay for a two-year period with eligibility for automatic renewal for additional five-year periods, subject to a site plan and conditions. Tentative CPC hearing is December 15, 2016.

2. Z167-104: An application for a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay.

3. Z123-337: On December 11, 2013, the City Council approved a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW
Great Trinity Forest Way	Principal Arterial	160 feet
North Jim Miller Road	Principal Arterial	100 feet

Traffic:

The Engineering Division of the Sustainable Development and Construction Department has reviewed the requested amendment and determined that it will not significantly impact the surrounding roadway system.

Surrounding Land Uses:

	Zoning	Land Use
Site	CR with SUP No. 2099	General merchandise or food store with sale of alcohol and motor vehicle fueling stations
North	CR-D-1, deed restrictions	Auto service center, church, restaurant
East	CR-D-1, deed restrictions	Undeveloped
South	R-7.5(A), MF-1(A)	Church, undeveloped, single family, multifamily
West	CR-D-1, deed restrictions	Carwash, hotel, undeveloped

STAFF ANALYSIS:

Comprehensive Plan:

The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

Goal 1.1 Align land use strategies with economic development priorities.

Policy 1.1.15 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics. Acknowledge the importance of neighborhoods to the city's long-term health and vitality.

Implementation measure 1.1.5.3 Encourage neighborhood-serving office, retail, or other non-residential uses to be located in residential community areas, primarily on significant roadways or at key intersections.

Land Use Compatibility:

The proposed site is developed with a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station. The applicant is requesting that the existing SUP be renewed to continue the sale of alcoholic beverages for off-premise consumption.

The property is adjacent to a car wash to the west. The surrounding uses are auto service center, restaurant, church, undeveloped, and restaurant under construction; to the east undeveloped; to the south undeveloped, single family, church and multifamily; to the west hotel and undeveloped.

An existing church is behind the proposed site. The site meets the minimum required distance to be able to sell alcoholic beverages. The church measurements are from door-to-door and staff estimates that there is a distance of over 450 feet.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

The general merchandise use is also regulated by Chapter 12B of the Dallas City Code, Convenience Stores. This chapter applies to all convenience stores, which is defined as any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space; the term does not include any business that has no retail floor space accessible to the public. The purpose of Chapter 12B is to protect the health, safety, and welfare of the citizens of the city of Dallas by reducing the occurrence of crime, preventing the

escalation of crime, and increasing the successful prosecution of crime that occurs in convenience stores in the city. This chapter establishes a registration program for convenience stores and provides requirements relating to:

- surveillance camera systems,
- video recording and storage systems,
- alarm systems,
- drop safes,
- security signs,
- height markers,

The applicant's request conforms to the zoning regulations and standards of the Dallas Development Code. The applicant is in compliance with the convenience store regulations. The proposed sale of alcoholic beverages in conjunction with the existing convenience store does not seem to negatively impact the adjacent properties as shown in the police calls for the past four years. The use is compatible with the surrounding non-residential uses and provides an alternative shopping venue for the neighborhood. The short initial time period will allow re-evaluation of the request to ensure ongoing compliance with the conditions and other City regulations.

Development Standards:

District	Setbacks		Density/ FAR	Height	Lot Coverage	Special Standards	Primary Uses
	Front	Side/Rear					
CR-D-1 Community retail	15'	20' adjacent to residential Other: No min.	0.75 FAR overall 0.5 office	54' 4 stories	60%	RPS Visual Intrusion	Retail and personal service, office

Parking:

Pursuant to the Dallas Development Code, the off-street parking requirement for a general merchandise or food store use is one space per 200 square feet of floor area; the off-street parking requirement for a motor vehicle fueling station is two spaces. Therefore, the ±2,167-square-foot convenience store with fuel pumps requires 13 parking spaces. The applicant is providing 16 spaces as shown on the existing site plan.

Landscaping:

No new development is proposed. Therefore, no additional landscaping is required. Any new development on the property will require landscaping per Article X of the Dallas Development Code.

Police Report:

The Dallas Police Department's provided an incident report for the period from July 1, 2011 to August, 2015 revealed the following results:

Offenses	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Forge & Counterfeit	2	0	4	2	0	0
Assault	1	0	0	0	0	1
Robbery individual	0	2	0	4	2	2
Other thefts	0	1	0	1	0	0
Vandalism & Criminal Mischief	1	0	0	0	2	0
Criminal trespass	0	0	0	1	1	6
UUMV	0	0	2	0	2	0
Total 37	4	3	6	8	7	9

CPC ACTION:
November 17, 2016

Motion: It was moved to recommend **approval** of the renewal of Specific Use Permit No. 2099 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 3,500 square feet or less for a three-year period, subject to conditions on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the southwest corner of Great Trinity Forest Way and North Jim Miller Road.

Maker: Houston
Second: Jung
Result: Carried: 13 to 0

For: 13 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon, Haney, Jung, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: 0
Absent: 1 - Housewright
Vacancy: 1 - District 7

Notices: Area: 200 Mailed: 13
Replies: For: 0 Against: 0

Speakers: For: Parvez Malik, P.O. Box 54803, Hurst, TX, 76054
Against: None

Proposed SUP Conditions
Z134-166(OTH)

1. USE: The only use authorized by this specific use permit is the sale of alcoholic beverages in conjunction with a general merchandise or food store use 3,500 square feet or less.

2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

CPC recommendation:

3. TIME LIMIT: This specific use permit expires on (three years) ~~December 10~~, 2016.

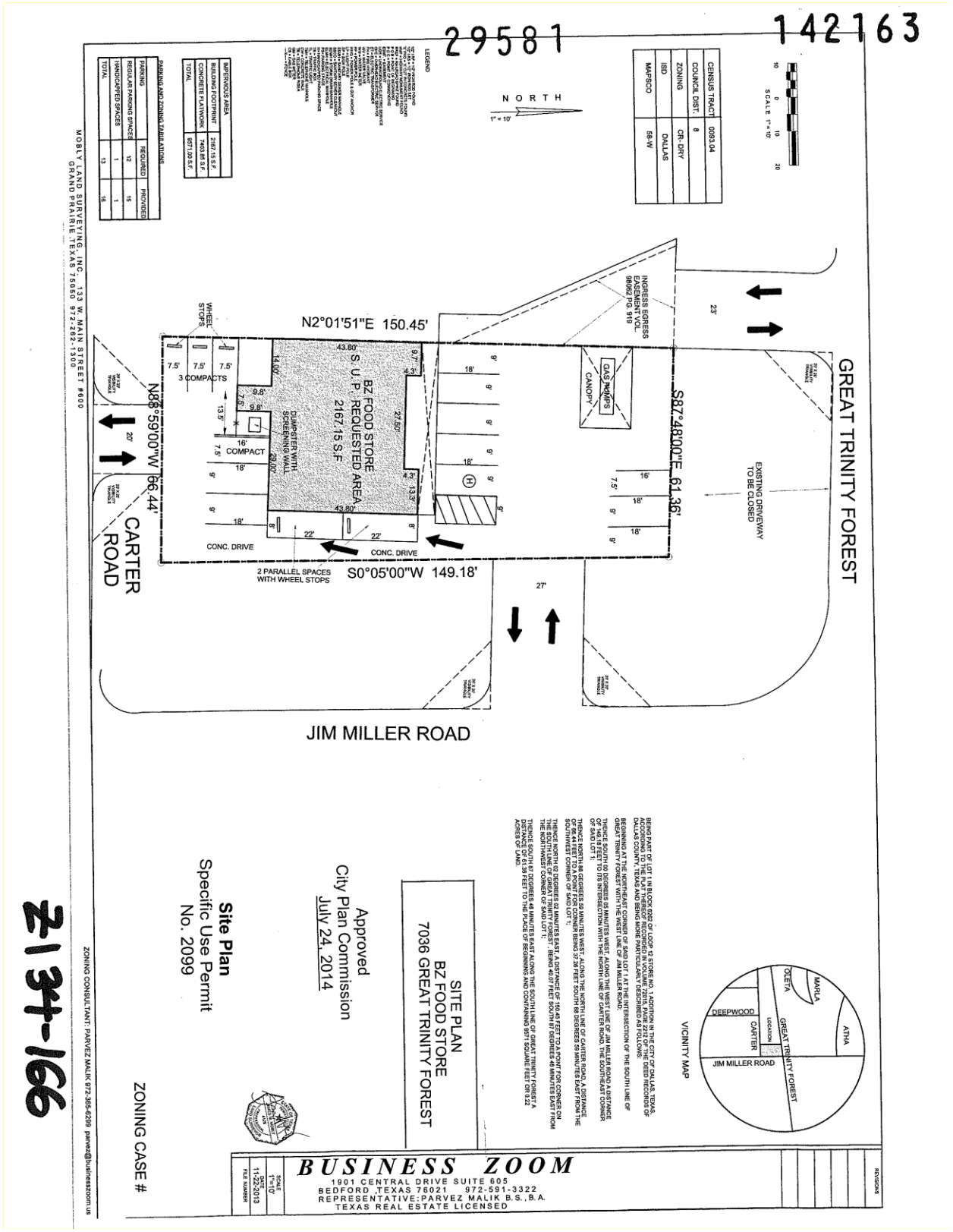
Staff recommendation:

4. TIME LIMIT: This specific use permit expires on (two years) ~~December 10~~, 2016, but is eligible for automatic renewal for additional five-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced.)

5. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

6. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

EXISTING PLAN



Existing deed restrictions

THENCE 01 degrees, 05 minutes, 08 seconds, East, with said North Jim Miller Road a distance of 245.89 feet to an Iron Rod for corner;

THENCE North 89 degrees, 24 minutes, 20 seconds, West, a distance of 20.0 feet to a point for corner;

THENCE North 01 degree, 12 minutes, 00 seconds, East, a distance of 105.00 feet to the PLACE OF BEGINNING and containing 187,146.301 square feet or 4.296 acres of land.

That the undersigned, Paul L. Adams and Jack Kellam, do hereby impress all of the following described property with the following deed restrictions, to-wit:

(1) The only permitted uses on the property are those uses allowed in a General Retail District as defined in the Dallas Development Code, as amended (the "Code").

(2) Multiple-family uses are limited to no more than 26 units per acre in density, as defined in the Code.

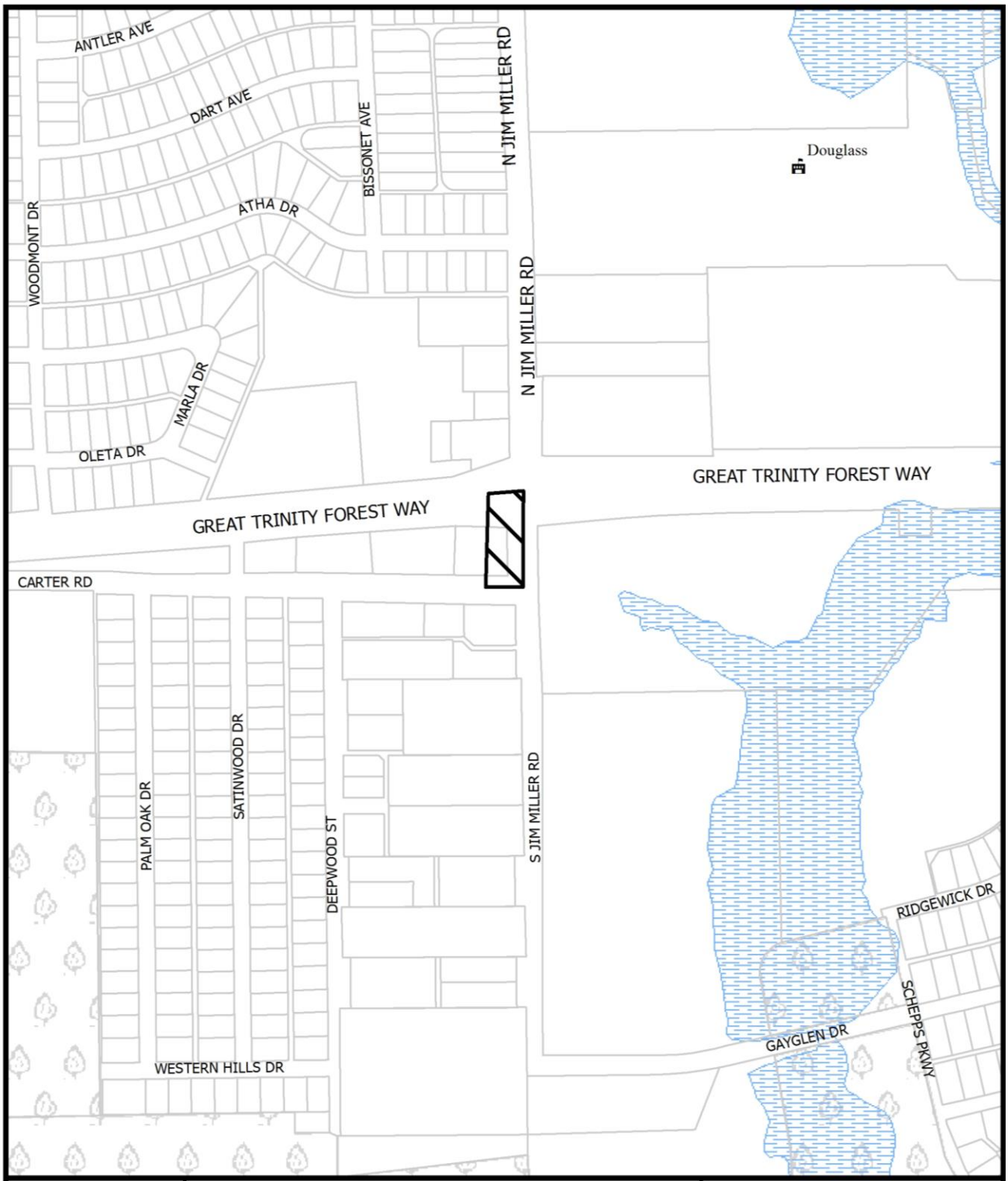
These restrictions shall continue in full force and effect for a period of twenty-five (25) years from the date of execution, and shall automatically be extended for additional period of ten (10) years unless terminated in the manner specified herein.

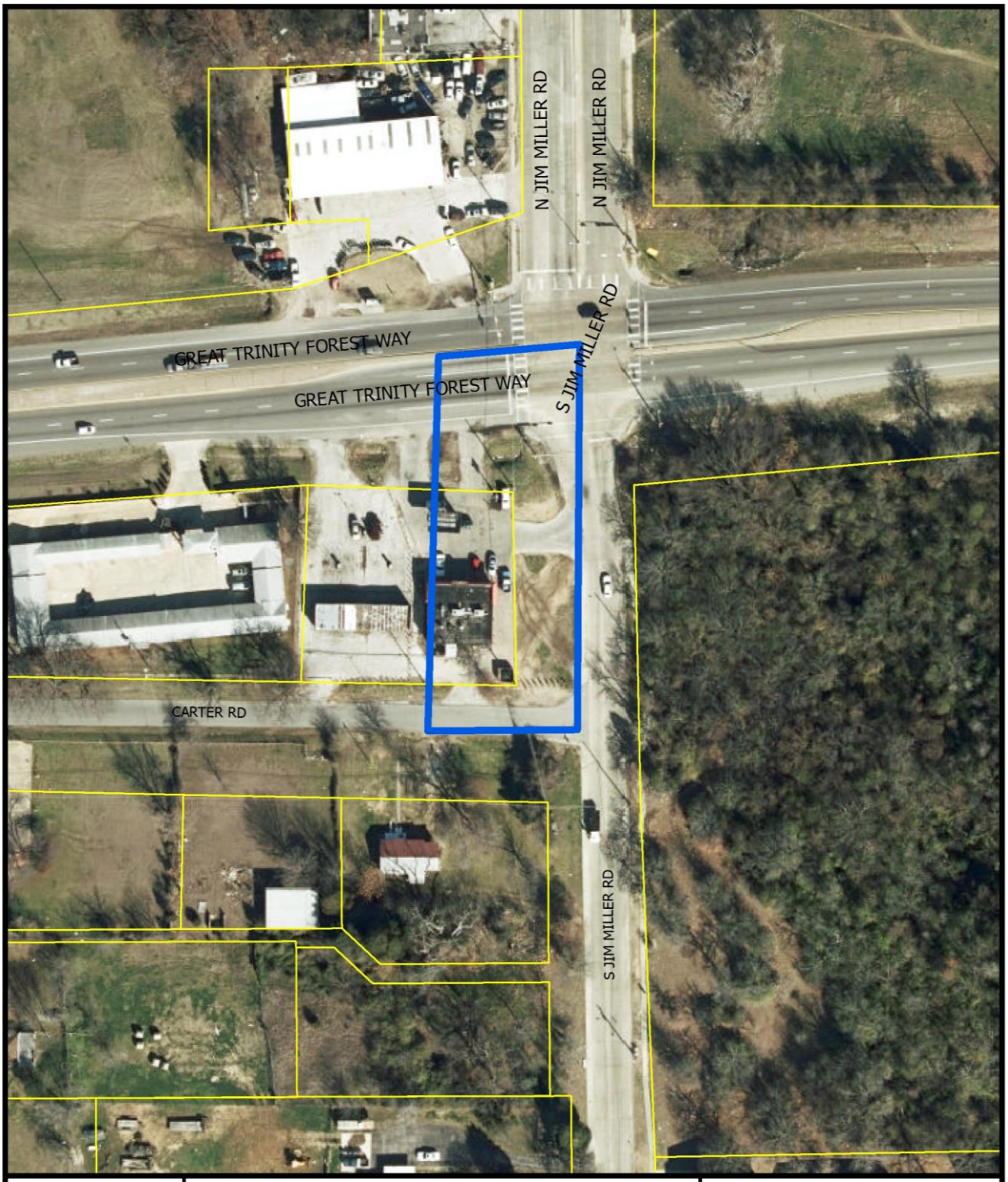
These restrictions shall not be altered, amended or terminated without a public hearing before the City Plan Commission and the City Council of the City of Dallas. Notice of such public hearings shall be given as would be required by law for a zoning change on the property described herein.

The restrictions contained herein are not in any manner intended to restrict the right of the City Council of the City of Dallas to exercise its legislative duties and powers insofar as zoning of the property is concerned.

These restrictions inure to the benefit of the City of Dallas, and the undersigned owner hereof does grant to the City of Dallas the right to

86140 2745


ANTLER AVE
DART AVE
BISSONET AVE
N JIM MILLER RD
Douglass
ATHA DR
WOODMONT DR
MARLA DR
OLETA DR
N JIM MILLER RD
GREAT TRINITY FOREST WAY
GREAT TRINITY FOREST WAY
CARTER RD
PALM OAK DR
SATINWOOD DR
DEEPWOOD ST
S JIM MILLER RD
RIDGEWICK DR
SCHEPPS PKWY
GAYGLEN DR
WESTERN HILLS DR
1:4,800
VICINITY MAP
Case no: Z156-310
Date: 11/1/2016

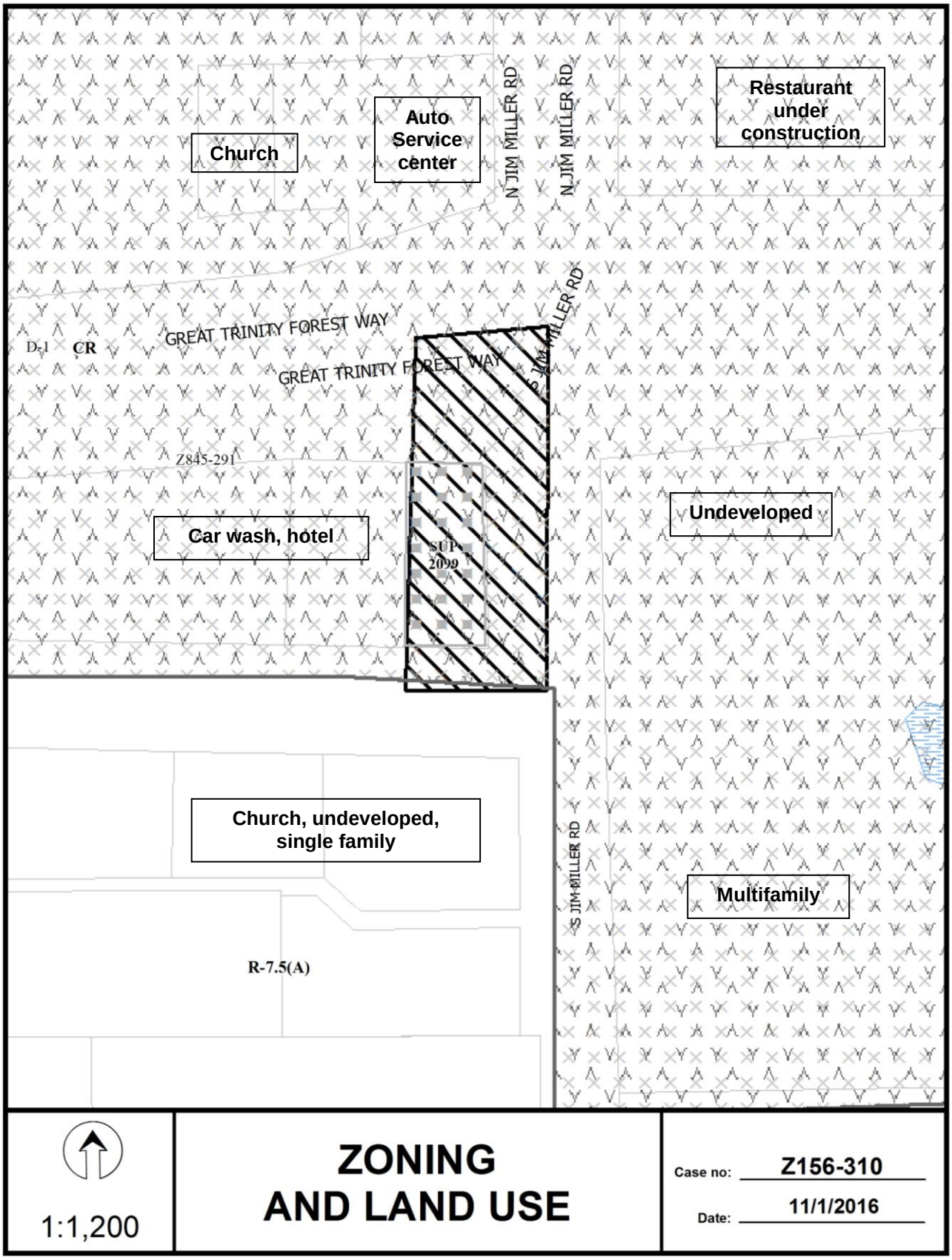


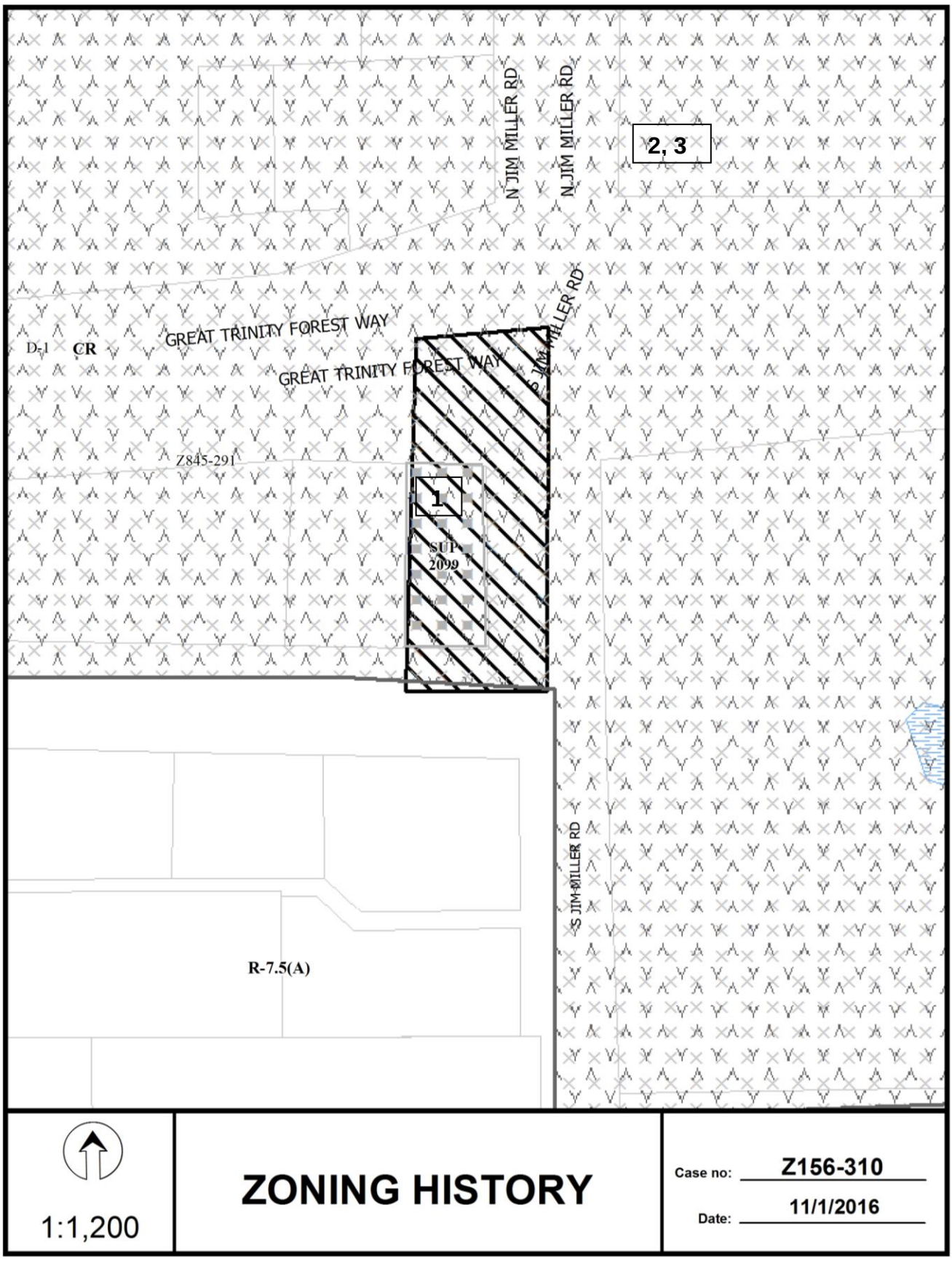
1:1,200

AERIAL MAP

Case no: Z156-310

Date: 11/1/2016


Church
Auto Service center
N JIM MILLER RD
N JIM MILLER RD
Restaurant under construction
GREAT TRINITY FOREST WAY
GREAT TRINITY FOREST WAY
JIM MILLER RD
D-1 CR
Z845-291
Car wash, hotel
SUP 2099
Undeveloped
Church, undeveloped, single family
R-7.5(A)
S JIM MILLER RD
Multifamily
1:1,200
ZONING AND LAND USE
Case no: Z156-310
Date: 11/1/2016


N JIM MILLER RD
N JIM MILLER RD
2, 3
GREAT TRINITY FOREST WAY
GREAT TRINITY FOREST WAY
N JIM MILLER RD
D-1
CR
Z845-291
1
SUP
2099
R-7.5(A)
S JIM MILLER RD
1:1,200
ZONING HISTORY
Case no: Z156-310
Date: 11/1/2016

CPC RESPONSES



11/16/2016

Reply List of Property Owners

Z156-310

13 Property Owners Notified ***0 Property Owners in Favor*** ***0 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
	1	7036	GREAT TRINITY FOREST WAY	JUNEJA PROPERTY HOLDINGS
	2	7028	GREAT TRINITY FOREST WAY	PHILLIPS LEO &
	3	6901	GREAT TRINITY FOREST WAY	CATHEDRAL OF FAITH
	4	7015	GREAT TRINITY FOREST WAY	CATHEDRAL OF FAITH
	5	120	DEEPWOOD ST	COX ERMA
	6	137	S JIM MILLER RD	MENDOZA JUAN
	7	7100	GREAT TRINITY FOREST WAY	VSB INVESTMENTS LLC
	8	116	N JIM MILLER RD	SANABEL INVESTMENT LP
	9	7020	GREAT TRINITY FOREST WAY	JUNEJA HOSPITALITY HOLDINGS
	10	7071	GREAT TRINITY FOREST WAY	ALEJANDRE ARCANGEL
	11	7004	CARTER RD	LOVE OF GOD CHURCH
	12	7026	CARTER RD	GIBSON KENNETH E
	13	7040	CARTER RD	HOUSE OF PRAYER

AGENDA ITEM # 52

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 8

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 58 S

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the northeast corner of Great Trinity Forest Way (Loop 12) and Jim Miller Road
Recommendation of Staff: Approval for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to site plan and conditions
Recommendation of CPC: Approval for a two-year period, subject to site plan and conditions
Note: This item was considered by the City Council at a public hearing on February 8, 2017, and was deferred until March 22, 2017, with the public hearing open
Z167-104(WE)

HONORABLE MAYOR & CITY COUNCIL WEDNESDAY, MARCH 22, 2017
ACM: Mark McDaniel

FILE NUMBER: Z167-104(WE) **DATE FILED:** October 5, 2016

LOCATION: Great Trinity Forest Way (Loop 12) and Jim Miller Road, northeast corner

COUNCIL DISTRICT: 8 **MAPSCO:** 58-S

SIZE OF REQUEST: Approx. 2.959 acres **CENSUS TRACT:** 93.04

APPLICANT: Victron Stores, L.P.

OWNER: Sanabel Investment, L.P.

REPRESENTATIVE: Walt McMennamy

REQUEST: An application for a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay.

SUMMARY: The purpose of this request is to allow for the sale of alcohol for off-premise consumption in conjunction with a general merchandise or food store currently under construction [Exxon Station]. The previous Specific Use Permit No. 2063 expired on December 15, 2015.

CPC RECOMMENDATION: **Approval** for a two-year period, subject to site plan and conditions.

STAFF RECOMMENDATION: **Approval** for a two-year period with eligibility for automatic renewals for additional five-year periods, subject to site plan and conditions.

BACKGROUND INFORMATION:

- The request site is currently under construction for a general merchandise or food store greater than 3,500 square feet and a 1,500 square foot restaurant with drive-in or drive through service with a motor vehicle fueling station.

- In December 2013, the City Council approved Specific Use Permit No. 2063 for a two year period with eligibility for automatic renewals for additional five-year periods on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the subject site.

- The applicant did not submit an application for automatic renewals prior to the deadline. On December 15, 2015, Specific Use Permit No. 2063 expired.

- The general merchandise use is permitted by right. The sale of alcoholic beverages on property requires a specific use permit in the D-1 Liquor Control Overlay.

- The applicant is in compliance with the distance requirement from a protected use that is within 300 feet of a use that will sell alcohol for off-premise consumption. A measurement survey was submitted by the applicant that shows the proposed use is beyond the 300 feet requirement for a church and school. A church use is measured from front door to front door along right-of-way lines and a school is measured from property line to property line in a straight line.

Zoning History: There has been one zoning change requested in the past 5 years.

1. Z123-337 On December 11, 2013, the City Council approved a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the northeast corner of Great Trinity Forest Way and Jim Miller Road.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW	Proposed ROW
Jim Miller Road	Minor Arterial	100 ft.	100 ft.
Great Trinity Forest Way	Minor Arterial	100 ft.	100 ft.

Traffic: The Engineering Division of the Sustainable Development and Construction Department has reviewed the request and determined that the proposed development will not have a negative impact on the surrounding street system.

COMPREHENSIVE PLAN: The *fowardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *fowardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

Urban Design Element

GOAL 5.3 Establishing Walk-to Convenience

Policy 5.3.1 Encourage a balance of land uses within walking distance of each other.

Land Use:

	Zoning	Land Use
Site	CR-D-1	General merchandise or food store (under construction)
North	R-7.5(A) SUP No. 1008, CR-D-1	Church, School, Undeveloped
South	CR-D-1	Undeveloped
East	MF-2(A)	Undeveloped, Multifamily
West	CR-D-1	Auto Related use, restaurants

STAFF ANALYSIS:

Land Use Compatibility: The approximately 2.959 acre site is zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay and is currently under construction for a general merchandise or food store, drive through restaurant use and a motor vehicle fueling station. The applicant's request for a Specific Use Permit will allow for the sale of alcoholic beverages in conjunction with a general merchandise store or food store greater than 3,500 square feet.

The surrounding land uses consist primarily of single family residential uses and a public school to the north; undeveloped parcels and multifamily development to the east; undeveloped parcels, residential, and a general merchandise store to the south; and a church, personal service and auto related uses to the west. A church use is located north of the subject site, and is located beyond the 300 foot distance of the general merchandise or food store. The distance is measured from the front door of the store to the front door of the church, along the right-of-way lines.

The "D-1" Overlay District is a Liquor Control Overlay District which requires an individual to obtain a Specific Use Permit in order to sell or serve alcoholic beverages, or setups for alcoholic beverages, for consumption on or off the premises.

The general provisions for a Specific Use Permit in Section 51A-4.219 of the Dallas Development Code specifically state: (1) The SUP provides a means for developing certain uses in a manner in which the specific use will be consistent with the character of the neighborhood; (2) Each SUP application must be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate; (3) The city council shall not grant an SUP for a use except upon a finding that the use will: (A) complement or be compatible with the surrounding uses and community facilities; (B) contribute to, enhance, or promote the welfare of the area of request and adjacent properties; (C) not be detrimental to the public health, safety, or general welfare; and (D) conform in all other respects to all applicable zoning regulations and standards. The regulations in this chapter have been established in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city.

The general merchandise use is also regulated by Chapter 12B of the Dallas City Code, Convenience Stores. This chapter applies to all convenience stores, which is defined as any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space; the term does not include any business that has no retail floor space accessible to the public. The purpose of Chapter 12B is to protect the health, safety, and welfare of the citizens of the city of Dallas by reducing the occurrence of crime, preventing the escalation of crime, and increasing the successful prosecution of crime that occurs in convenience stores in the city. This chapter establishes a registration program for convenience stores and provides requirements relating to:

- surveillance camera systems,
- video recording and storage systems,
- alarm systems,
- drop safes,
- security signs,
- height markers,
- store visibility,
- safety training programs, and
- trespass affidavits.

A separate certificate of registration to comply with Chapter 12B is required for each physically separate convenience store. A certificate of registration for a convenience store expires one year after the date of issuance and must be renewed annually. The applicant will have to go through the required training for compliance with Chapter 12B when receiving a certificate of occupancy for the store.

The request is compatible with the mix of uses in the area. A general merchandise or food store greater than 3,500 square feet is a permitted use in the CR District. It is the

sale of alcohol in the D-1 Overlay that triggers the SUP. The short initial time period for the SUP will provide an opportunity for staff to evaluate the impact of the use on the surrounding area to ensure the ongoing compatibility of the use.

Development Standards:

DISTRICT	SETBACKS		Density	Height	Lot Coverage	Special Standards	PRIMARY Uses
	Front	Side/Rear					
CR-D-1 Community retail	15'	20' adjacent to residential OTHER: No Min.	0.75 FAR overall 0.5 office	54' 4 stories	60%	Proximity Slope Visual Intrusion	Retail & personal service, office

Landscaping: Landscaping of any development will be in accordance with Article X, as amended.

Parking: The off-street parking requirement for a general merchandise or food store greater than 3,500 square feet is one space for each 200 square feet of floor area and two spaces for the fuel station and one space per 100 square feet of floor area for a restaurant use. Based on the total floor area of the 6,000 square foot general merchandise or food store and the 1,500 square foot restaurant use, the proposed development will be required to provide 47 spaces. The applicant is proposing 52 spaces per the attached site plan.

Dallas Police Department: The proposed development has not received a certificate of certificate (CO) to operate the general merchandise or food store and restaurant with drive-in or drive through service because the store is not complete. Therefore, staff did not request a police report for the request site.

CPC Action (January 5, 2107)

Motion: It was moved to recommend **approval** of a Specific Use Permit for the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet for a two-year period, subject to site plan and conditions on property zoned a CR-D-1 Community Retail District with a D-1 Liquor Control Overlay on the northeast corner of Great Trinity Forest Way (Loop 12) and Jim Miller Road.

Maker: Haney
Second: Houston
Result: Carried: 13 to 0

For: 13 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon, Haney, Jung, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: 0
Absent: 1 - Housewright
Vacancy: 1 - District 7

Notices: Area: 300 Mailed: 15
Replies: For: 0 Against: 0

Speakers: For: Walt McMennamy, 105 YMC Blvd., Waxahachie, TX, 75165
Against: None

LIST OF OFFICERS
Sanabel Investments, LP

- Guhaina Almakdad President
- Guhaina Almakdad Secretary

LIST OF OFFICERS
Victron Stores, LP

- Guhaina Almakdad Sharaf President
- Walid Alaameddine Vice President

CPC PROPOSED SUP CONDITIONS

1. USE: The only use authorized by this specific use permit is the sale of alcoholic beverages in conjunction with a general merchandise or food store greater than 3,500 square feet.

2. SITE PLAN: Use and development of the Property must comply with the attached site plan.

CPC Recommendation

3. TIME LIMIT: This specific use permit expires on_____, (two-year period from the passage of this ordinance.

Staff's Recommendation

3. TIME LIMIT: This specific use permit expires on_____, (two-year period from the passage of this ordinance), but is eligible for automatic renewals for additional five-year periods, pursuant to Section 51A-4.219 of Chapter 51A of the Dallas City Code, as amended. For automatic renewal to occur, the Property owner must file a complete application for automatic renewal with the director before the expiration of the current period. Failure to timely file a complete application will render this specific use permit ineligible for automatic renewal. (Note: The Code currently provides that applications for automatic renewal must be filed after the 180th but before the 120th day before the expiration of the current specific use permit period. The Property owner is responsible for checking the Code for possible revisions to this provision. The deadline for applications for automatic renewal is strictly enforced).

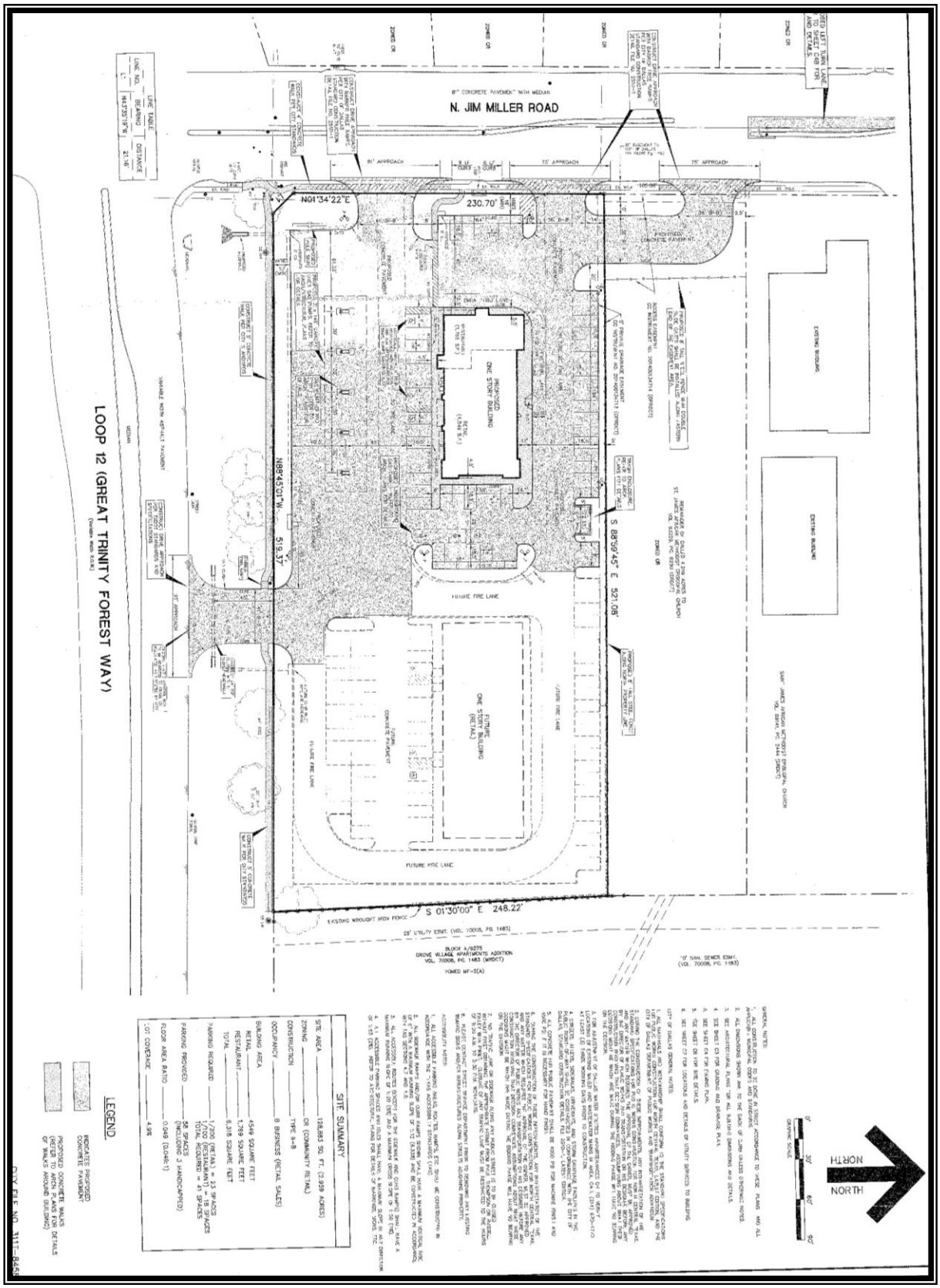
4. DRIVE-THROUGH-WINDOW: Use of the drive-through window for retail sales of alcoholic beverages is prohibited.

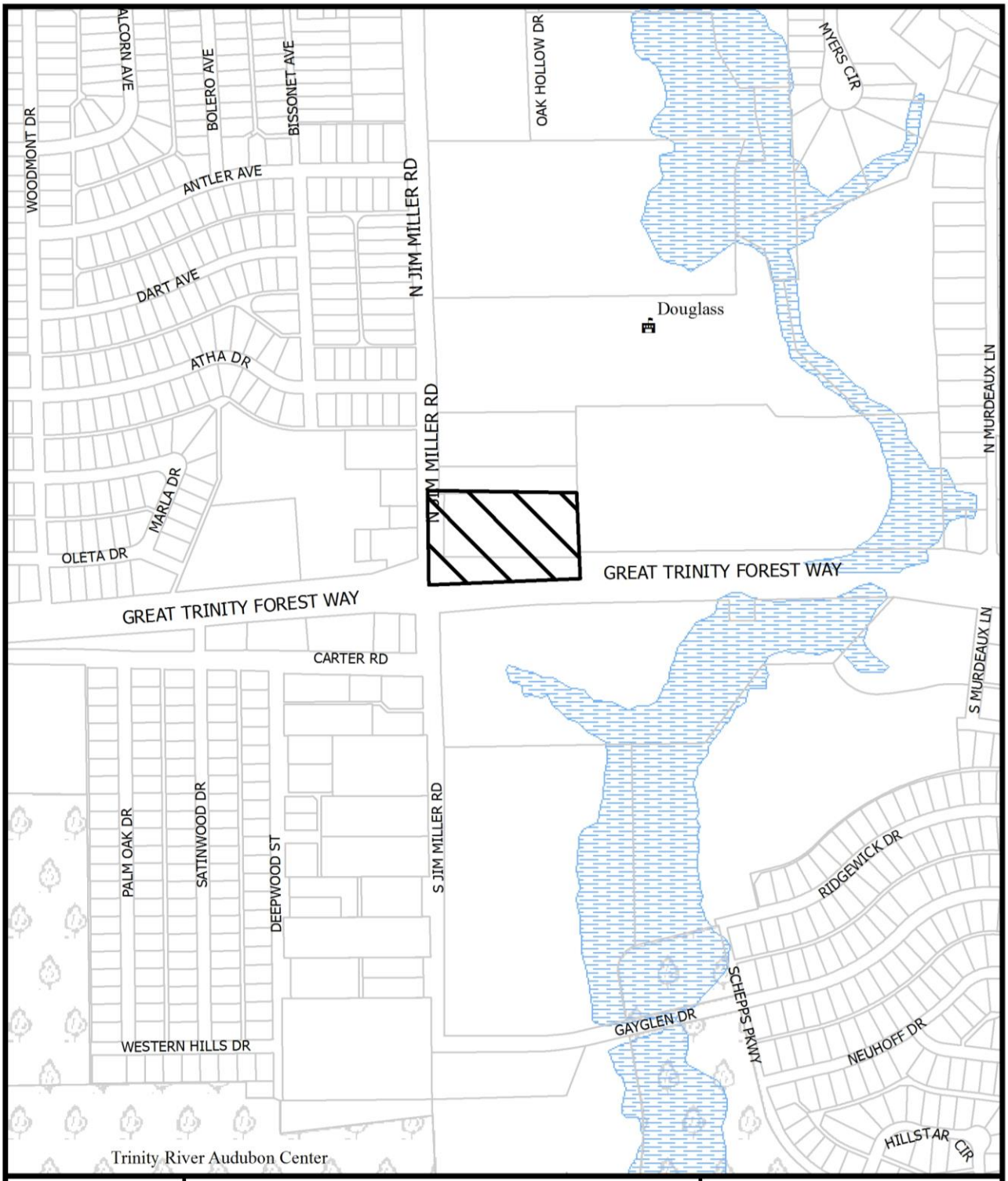
5. FLOOR AREA: Maximum floor area for alcohol sales is 4,549 square feet.

6. MAINTENANCE: The Property must be properly maintained in a state of good repair and neat appearance.

7. GENERAL REQUIREMENTS: Use of the Property must comply with all federal and state laws and regulations, and with all ordinances, rules, and regulations of the City of Dallas.

PROPOSED SITE PLAN





1:6,000

VICINITY MAP

Case no: Z167-104

Date: 11/2/2016

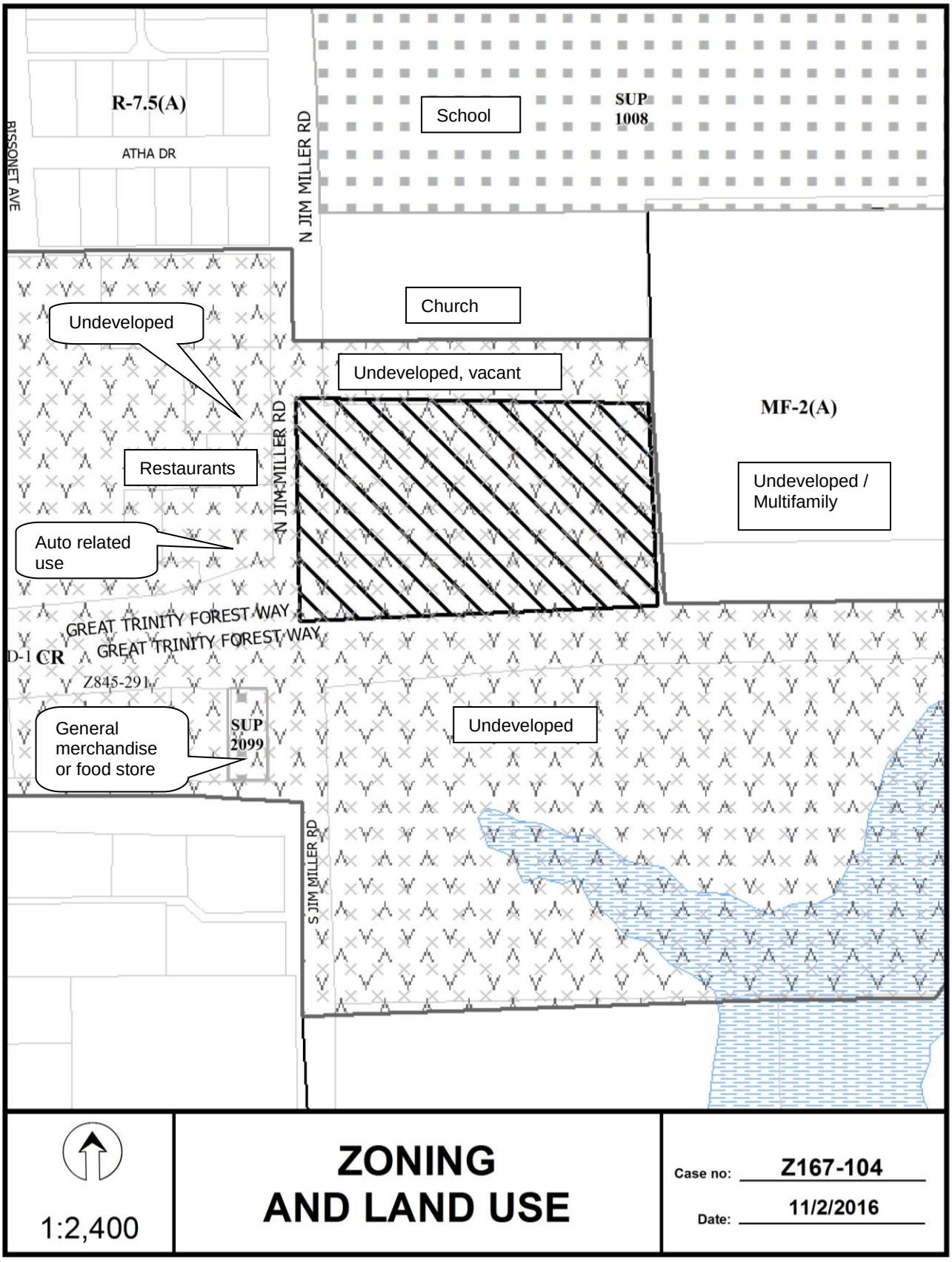


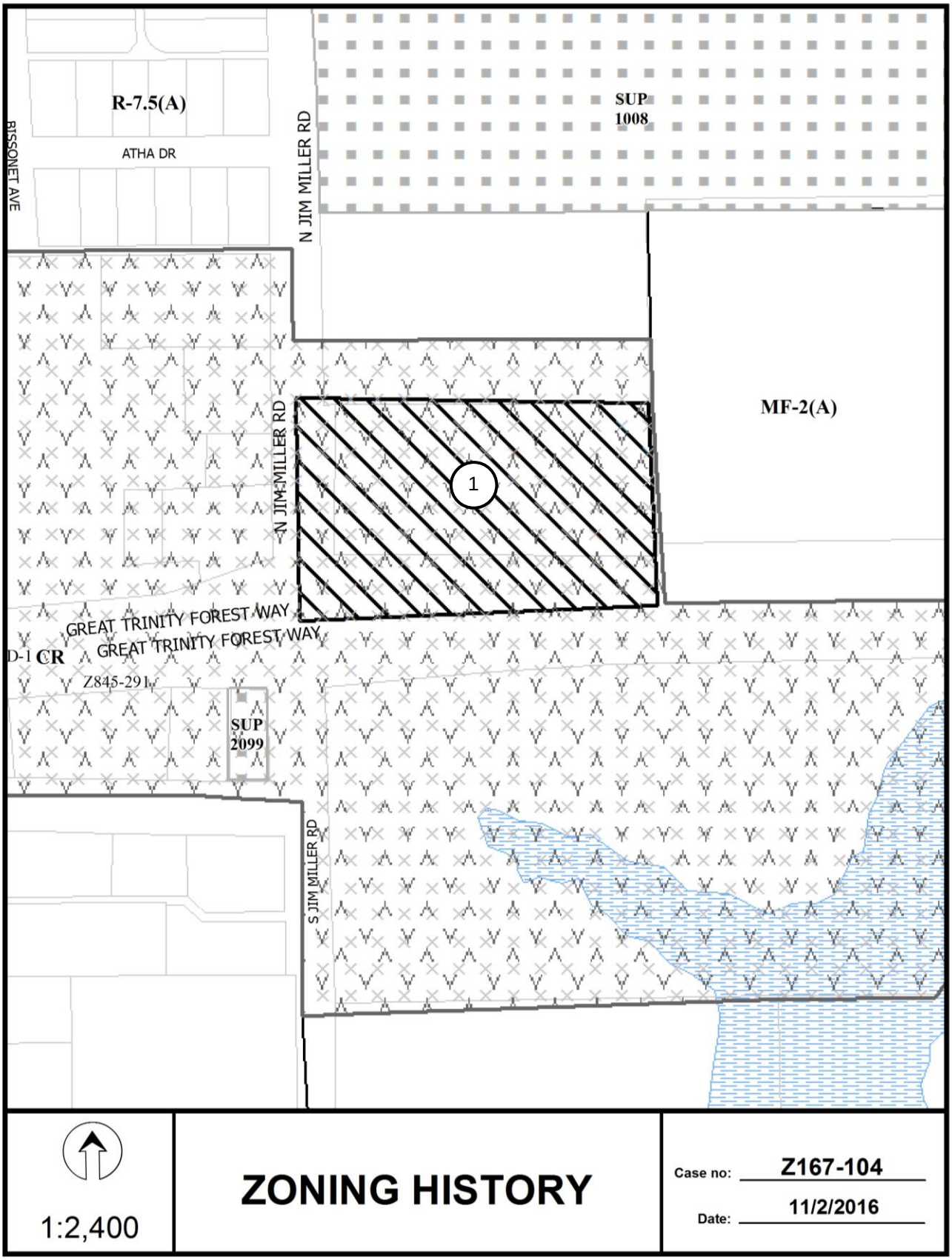
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AERIAL MAP

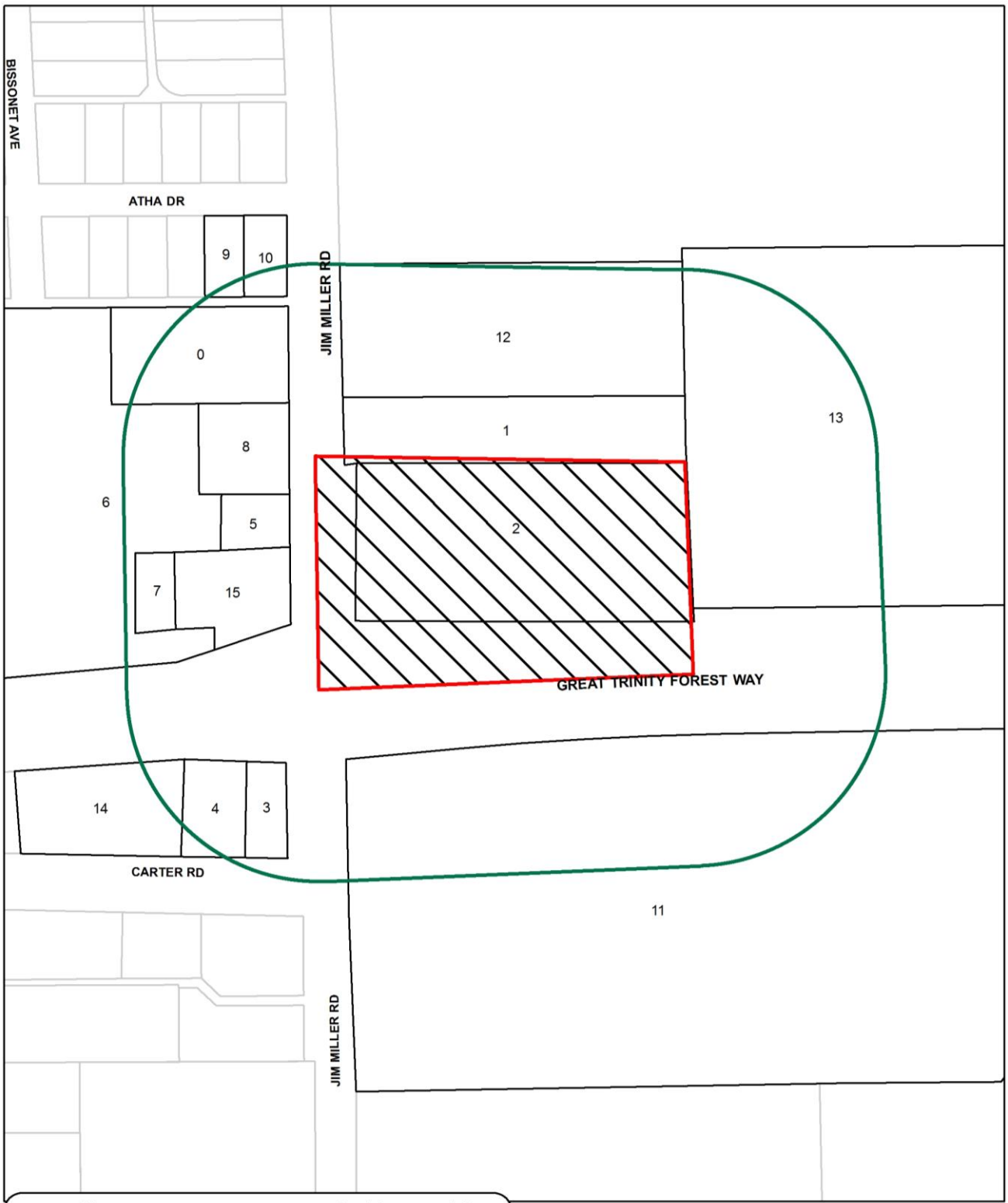
Case no: Z167-104

Date: 11/2/2016


R-7.5(A)
ATHA DR
BISSONET AVE
N JIM MILLER RD
School
SUP 1008
Church
Undeveloped
Undeveloped, vacant
MF-2(A)
Restaurants
Undeveloped / Multifamily
Auto related use
GREAT TRINITY FOREST WAY
GREAT TRINITY FOREST WAY
D-1 CR
Z845-291
SUP 2099
General merchandise or food store
Undeveloped
S JIM MILLER RD
1:2,400
ZONING AND LAND USE
Case no: Z167-104
Date: 11/2/2016


R-7.5(A)
ATHA DR
BISSONET AVE
N JIM MILLER RD
SUP 1008
MF-2(A)
1
N JIM MILLER RD
GREAT TRINITY FOREST WAY
GREAT TRINITY FOREST WAY
D-1 CR
Z845-291
SUP 2099
S JIM MILLER RD
1:2,400
ZONING HISTORY
Case no: Z167-104
Date: 11/2/2016

CPC RESPONSES



15	Property Owners Notified (16 parcels)
0	Replies in Favor (0 parcels)
0	Replies in Opposition (0 parcels)
300'	Area of Notification
1/5/2017	Date

Z167-104
CPC

N
W E
S

1:2,400

Notification List of Property Owners

Z167-104

15 Property Owners Notified ***0 Property Owners in Favor*** ***0 Property Owners Opposed***

Reply	*Label #*	*Address*		*Owner*
	1	124	N JIM MILLER RD	ST JAMES AFRICAN
	2	116	N JIM MILLER RD	SANABEL INVESTMENT LP
	3	7036	GREAT TRINITY FOREST WAY	JUNEJA PROPERTY HOLDINGS INC
	4	7028	GREAT TRINITY FOREST WAY	PHILLIPS LEO &
	5	115	N JIM MILLER RD	RONA SABUR CORPORATION
	6	6901	GREAT TRINITY FOREST WAY	CATHEDRAL OF FAITH
	7	7015	GREAT TRINITY FOREST WAY	CATHEDRAL OF FAITH
	8	129	S JIM MILLER RD	M BAIG INVESTMENTS LLC
	9	7026	ATHA DR	REDDTROW PROPERTY MANAGEMENT LLC
	10	7032	ATHA DR	WHITE BARBARA J EST OF
	11	7100	GREAT TRINITY FOREST WAY	VSB INVESTMENTS LLC
	12	200	N JIM MILLER RD	ST JAMES AFRICAN METHODST
	13	7203	GREAT TRINITY FOREST WAY	LOOP 12 TRAILS LTD
	14	7020	GREAT TRINITY FOREST WAY	JUNEJA HOSPITALITY HOLDINGS LLC
	15	7071	GREAT TRINITY FOREST WAY	ALEJANDRE ARCANGEL

AGENDA ITEM # 53

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 13

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 25 T; U

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting the creation of new subareas within Neighborhood Stabilization Overlay No. 7 (the Woodland Drive NSO) on property zoned an R-10(A) Single Family District and on both sides of Deloache Avenue, between Preston Road and Edgemere Road
Recommendation of Staff and CPC: Approval
Z167-148(DL)

HONORABLE MAYOR & CITY COUNCIL WEDNESDAY, MARCH 22, 2017
ACM: Mark McDaniel

FILE NUMBER: Z167-148(DL) **DATE FILED**: November 17, 2016

LOCATION: Both sides of Deloache Avenue, between Preston Road and Edgemere Road.

COUNCIL DISTRICT: 13 **MAPSCO:** 25-T and 25-U

SIZE OF REQUEST: Approx. 30.25 acres **CENSUS TRACT:** 77.00

APPLICANT: Deloache Avenue Neighborhood

REPRESENTATIVE: Stephen Brookshire

REQUEST: An application to create new subareas within Neighborhood Stabilization Overlay No. 7 (the Woodland Drive NSO) on property zoned an R-10(A) Single Family District.

SUMMARY: The proposed amendment to the Woodland Drive NSO would create two new subareas consisting of the properties located on the north and south side of Deloache Avenue. No changes are proposed to the regulations governing the properties in the original Woodland Drive NSO. The proposed front yard setbacks along Deloache Avenue would be more restrictive than currently allowed under the R-10(A) District and are intended to ensure that new single family structures are compatible with the front yard setbacks of the existing single family structures.

CPC RECOMMENDATION: **Approval**

STAFF RECOMMENDATION: **Approval**

DESIGNATED ZONING CASE

BACKGROUND

- The Neighborhood Stabilization Overlay (NSO) is intended to preserve single family neighborhoods by imposing neighborhood-specific yard, lot, and space regulations that reflect the existing character of the neighborhood. NSOs do not prevent construction of new single family structures or the renovation, remodeling, repair or expansion of existing single family structures; rather, NSOs ensure that new single family structures are compatible with the existing single family structures in a neighborhood with respect to yard, lot, and space regulations.

- Dallas Development Code Section 51A-4.507 outlines the procedures for the creation of Neighborhood Stabilization Overlays. An NSO:
    1. Must contain at least 50 single family structures in a compact contiguous area, or be an original subdivision if the subdivision contains fewer than 50 single family structures;
    2. May only be placed on an area that is zoned as a single family residential district and developed primarily with single family structures;
    3. May be placed on an established neighborhood even if the neighborhood contains vacant lots;
    4. May not be placed on a conservation district or a historic overlay; and
    5. May not be placed on a new subdivision being developed on a tract of land.

- The request area contains less than 50 single family structures (it contains 40 single family structures and 2 vacant lots) and was not an original subdivision. Since Deloache Avenue was platted with Woodland Drive, it was determined that the street could become subareas in the existing Woodland Drive NSO.

- The proposal would add two subareas, for a total of three subareas, to NSO No. 7. Subarea 1 would consist of the existing 52 properties in the Woodland Drive NSO; Subarea 2 would consist of 21 properties located on the north side of Deloache Avenue; and Subarea 3 would consist of 21 properties located on the south side of Deloache Avenue. No changes are proposed to the regulations governing the properties in the Woodland Drive NSO

- On June 1, 2016, the Deloache Avenue property owners formed a 10-member committee to initiate the Neighborhood Stabilization Overlay (NSO) process and submitted their request to the city.

- On July 26, 2016, staff met with members of the committee to review the NSO process.

- On August 24, 2016, staff provided the committee with an excel spreadsheet, a map of the neighborhood, and instructions on how to measure the front yard setbacks. Members of the committee worked to measure the existing front yard setbacks of the single family structures.

- On September 19, 2016, the data was submitted to the Sustainable Development & Construction Department. To ensure consistency in how structures were measured, City staff verified approximately 10% of the submitted measurements.

- A pre-petition meeting was held on October 3, 2016. Invitations were sent to all property owners in the request area. At the meeting, the NSO concept and proposed regulations developed by the NSO committee were presented to the neighborhood. As a result of that meeting, City staff prepared the petition forms.

- The petition meeting was held on October 27, 2016. Invitations were sent to all property owners in the request area. The Deloache Avenue NSO Committee presented the proposed front yard setbacks and staff delivered petitions to the NSO Committee. Pursuant to Dallas Development Code Section 51A-4.507, the committee was given until January 27, 2017 (three months), to obtain the required number of signatures on the petitions.

- On November 17, 2016, the NSO Committee submitted the petitions signed by 79% (33 of the 42) property owners in support of the proposed front yard setbacks. At the time of filing, two of the lots were vacant. In accordance with the NSO process, staff reviewed the petitions and found them to be valid.

Zoning History:

1. Z067-327 On December 12, 2007, City Council approved a Neighborhood Stabilization Overlay District (NSO No. 7) for property located on both sides of Woodland Drive between Preston Road and Edgemere Road.

Thoroughfares/Streets:

Thoroughfare/Street	Type	Existing ROW
Deloache Avenue	Local	50 ft.
Preston Road	Principal Arterial	100 ft.
Edgemere Road	Minor Arterial	60 ft.

Surrounding Land Use:

	Zoning	Land Use
Site	**R-10(A)**	Single family and vacant lots
North	**R-10(A) & NSO 7**	Single family
South	**R-10(A)**	Single family
East	**R-7.5(A)**	Single family
West	**R-1AC(A)**	Single family

STAFF ANALYSIS:

Comprehensive Plan:

The *forwardDallas! Comprehensive Plan* was adopted by the City Council in June 2006. The *forwardDallas! Comprehensive Plan* outlines several goals and policies which can serve as a framework for assisting in evaluating the applicant's request.

LAND USE ELEMENT

GOAL 1.1 ALIGN LAND USE STRATEGIES WITH ECONOMIC DEVELOPMENT PRIORTIES

Policy 1.1.5 Strengthen existing neighborhoods and promote neighborhoods' unique characteristics.

ECONOMIC ELEMENT

GOAL 2.5 FOSTER A CITY OF GREAT NEIGHBORHOODS

Policy 2.5.1 Promote strong and distinctive neighborhoods to enhance Dallas' quality of life.

URBAN DESIGN ELEMENT

GOAL 5.1 PROMOTE A SENSE OF PLACE, SAFETY AND WALKABILITY

Policy 5.1.3 Encourage complementary building height, scale, design and character.

Northwest Highway and Preston Road Area Plan:

The creation of the Northwest Highway and Preston Road Area Plan was a collaborative effort between homeowners, residents, commercial property owners, representatives from the City, and regional transportation organizations. The plan is intended to address community issues and concerns regarding: traffic congestion, parking, and infrastructure.

On January 5, 2016, City Plan Commission recommended approval of the adoption of the Plan with the changes recommended by the UDAC. On January 25, 2017, the City Council adopted the plan.

The existing Woodland Drive Neighborhood Stabilization Overlay (NSO No. 7) and the properties located on Deloache Avenue between Preston Road and Edgemere Road are located in Zone 3 (Single-Family Residential Neighborhood) of the Plan. Homeowners in the single-family residential neighborhoods in the Plan are concerned about protecting the quality and character of their neighborhoods.

The Preferred Vision Scenario for Zone 3 (Single-Family Residential Neighborhood) is to maintain existing single-family residential zoning and to encourage continuous revitalization of neighborhoods in order to maintain their livability and stability over the long term.

The proposed amendment to the Woodland Drive NSO to create two new subareas furthers this preferred vision by maintaining the underlying R-10(A) District, protecting the existing quality and character of the Deloache Avenue neighborhood, and allowing for revitalization that is consistent with the existing character of the neighborhood.

Neighborhood Stabilization Overlay:

Section 51A-4.507 of the Dallas Development Code sets forth the procedures and regulations for establishing Neighborhood Stabilization Overlay (NSO) districts.

Neighborhoods initiate the NSO process by submitting a request for a petition form, signed by a neighborhood committee composed of the owners of at least 10 properties in the neighborhood along with the boundaries of the proposed NSO area. The neighborhood committee is then charged with collecting the setback, height and garage character information for the existing homes in the neighborhood necessary to fill out the petition form.

Once this information is collected and submitted to the Sustainable Development and Construction staff, it is verified through a field check and the medians are determined for each category. Staff prepares a petition form based on the request of the committee. The committee's choices for setbacks and height must be within the ranges permitted by the Dallas Development Code.

A pre-petition meeting and a petition meeting are required to ensure that there is adequate property owner support to proceed with initiation of the NSO. At the pre-petition meeting, staff presents the NSO concept and outlines the specific proposals being put forth by the neighborhood committee. The petition meeting is then held to review the

findings, present the proposed recommendations to the neighborhood, and give the petitions to the committee. The committee then has either six months from the date of the petition meeting to acquire the proper number of signatures or three months if 50 or fewer single family structures are in the proposed NSO district. The Deloache Avenue Neighborhood Committee was given three months.

In order for the proposal to move forward to the City Planning Commission, the Neighborhood Committee must collect signed petitions from the owners of more than 50% (50% +1) of the total number of lots in the proposed NSO. In order for height to be regulated, the neighborhood must submit petitions signed by the owners of 60% or more of the lots. A filing fee of up to $2,400 must be paid unless the neighborhood submits signed petitions from the owners of 75% or more of the lots. In this case, the NSO Committee submitted the petitions signed by 79% (33 of the 42) property owners in support of the proposed front yard setbacks and the filing fee was waived.

Neighborhood Stabilization Overlay Options:

The Neighborhood Stabilization Overlay is an overlay: it may add additional restrictions to the base zoning by regulating front yard setbacks; corner side yard setbacks; interior side yard setbacks; building heights; and garage access, connection, and location. The regulations must reflect the existing development pattern in the neighborhood. The goal of the Deloache Avenue neighborhood committee is to preserve the existing built-to front yard setbacks on each side of the street. These existing setbacks originated from the private deed restrictions that existed in the neighborhood from the 1930s and are significantly greater than the minimum 30 foot front yard setback allowed in the R-10(A) single family district. The proposal development standards are as follows:

Proposed Development Standards:

SUBAREA	SETBACKS		
	Front	Corner Side Yard Setback	Interior Side Yard Setback
Subarea 1 (Existing NSO) (Lots 1 through 52 in City Block 5469, on both sides of Woodland Drive between Preston and Edgemere Roads)	Min. front yard setback is 75 feet*	Min. 10 feet on Lots 26, 27, and 6 feet on Lots 1 and 52 City Block 5649*	Min. interior side yard setback is 10 feet*
Subarea 2 (Lots 53 through 74 in City Block 5469, on the northerly side of Deloache Avenue between Preston and Edgemere Roads)	Min. front yard setback is 95 feet	N/A	
Subarea 3 (Lots 75 through 96 in City Block 5469, on the southerly side of Deloache Avenue between Preston and Edgemere Roads)	Min. front yard setback is 70 feet	N/A	

* No change from setbacks established by ordinance no. 27035, adopted by City Council on December 12, 2007.

CPC ACTION

February 2, 2017

Motion: It was moved to recommend **approval** of the creation of new subareas within Neighborhood Stabilization Overlay No. 7 (the Woodland Drive NSO) on property zoned an R-10(A) Single Family District on both sides of Deloache Avenue, between Preston Road and Edgemere Road.

Maker: Murphy
Second: Schultz
Result: Carried: 14 to 0

For: 14 - Anglin, Rieves, Houston, Davis, Shidid, Anantasomboon, Haney, Jung, Housewright, Schultz, Peadon, Murphy, Ridley, Tarpley

Against: **0**
Absent: **1** - Mack
Vacancy: **0**

Notices: Area: 200 Mailed: 107
Replies: For: 25 Against: 3

Speakers: Stephen Brookshire, Erika Moussa

Proposed Ordinance

1-4-17

ORDINANCE NO. _____

An ordinance amendment Ordinance No. 27035, passed by the Dallas City Council on December 12, 2007, which amended the zoning ordinances of the City of Dallas, and granted Neighborhood Stabilization Overly No. 7 (Woodland Drive); permitting the following additional property:

Being Lots 53 through 96 in City Block 5469 located on both sides of Deloache Avenue between Preston Road and Edgemere Road, and containing approximately 26.5 acres;

to be added to Neighborhood Stabilization Overlay District No. 7; providing procedures and regulations for structures and property in the district; providing a penalty not to exceed $2,000; providing a saving clause; providing a severability clause; and providing an effective date.

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

WHEREAS, the city council finds that it is in the public interest to establish this neighborhood stabilization overlay district; Now, Therefore,

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

SECTION 1. That the zoning classification is changed by expanding Neighborhood Stabilization Overlay District No. 7 on the property described as Subareas 2 and 3 in Exhibit A ("the Property"), which is attached to and made a part of this ordinance.

SECTION 2. That the conditions in Section 2 of Ordinance No. 27035 are amended to read as follows:

"1. FRONT YARD SETBACK:

A. Subarea 1. Minimum front yard setback is 75 feet.

B. Subarea 2. Minimum front yard setback is 95 feet.

C. Subarea 3. Minimum front yard setback is 70 feet.

2. SUBAREA 1 CORNER SIDE YARD SETBACK: Minimum corner side yard setback is 10 feet on Lots 26 and 27, and 6 feet on Lots 1 and 52, in City Block 5649.

3. SUBAREA 1 INTERIOR SIDE YARD SETBACK: Minimum interior side yard setback is 10 feet."

SECTION 3. That the property description in Section 1 of Ordinance No. 27035 is replaced by the Exhibit A property description attached to this ordinance.

SECTION 4. That, pursuant to Section 51A-4.701 of Chapter 51A of the Dallas City Code, as amended, the property description in Section 1 of this ordinance shall be construed as including the centerline of all adjacent streets and alleys.

SECTION 5. That the expansion of this neighborhood stabilization overlay district shall not affect the existing underlying zoning classification of the Property, which shall remain subject to the regulations of the underlying zoning district. If there is a conflict, the regulations in this ordinance control over the regulations of the underlying zoning district.

SECTION 6. That the building official shall not issue a building permit or a certificate of occupancy for a use on the Property until there has been full compliance with this ordinance, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the City of Dallas.

SECTION 7. That a person who violates a provision of this ordinance, upon conviction, is punishable by a fine not to exceed $2,000.

SECTION 8. That the zoning ordinances of the City of Dallas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 9. 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 10. 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:

LARRY E. CASTO, City Attorney

By _____
Assistant City Attorney

Passed_____

PROPOSED NSO SUBAREAS

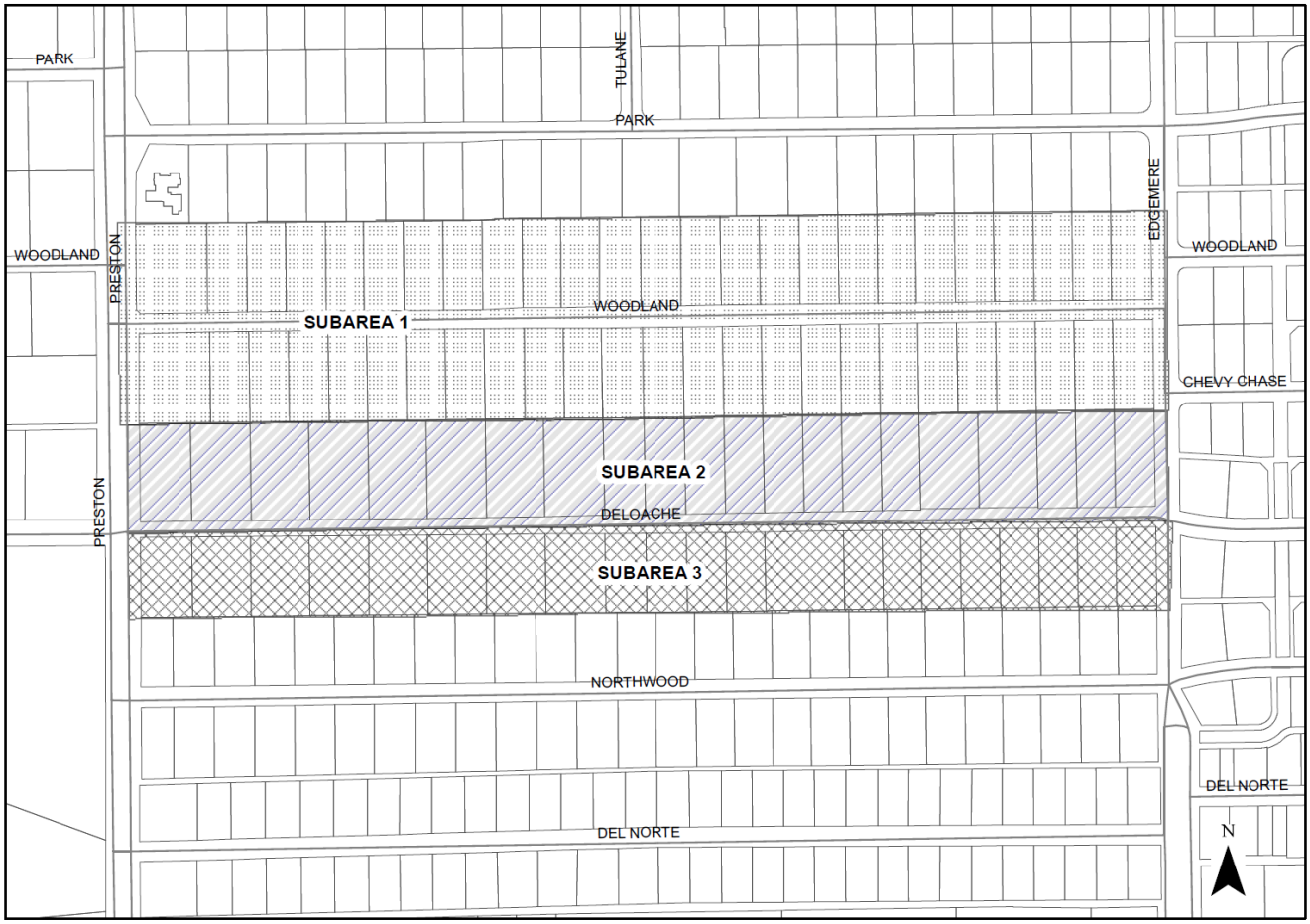
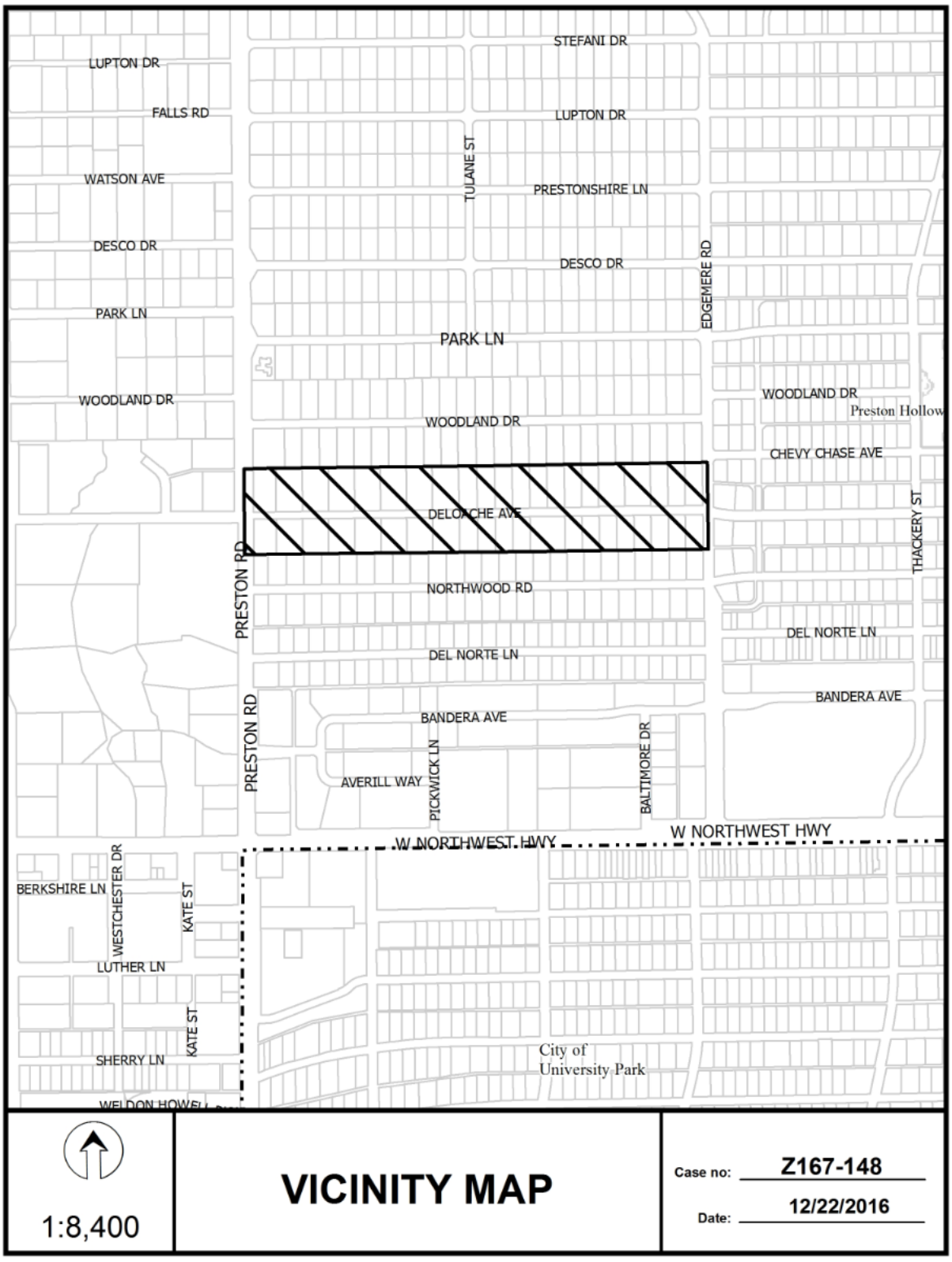
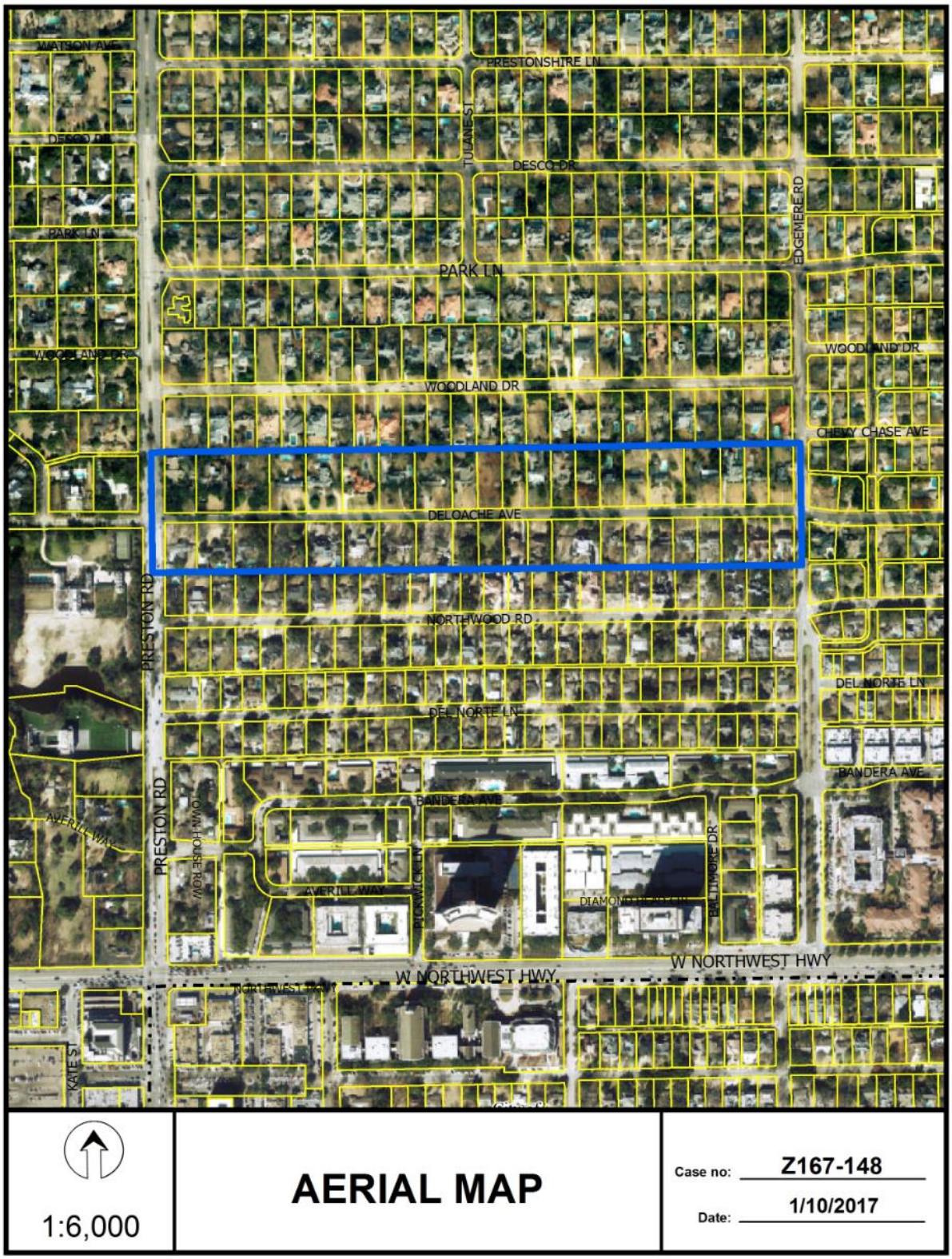
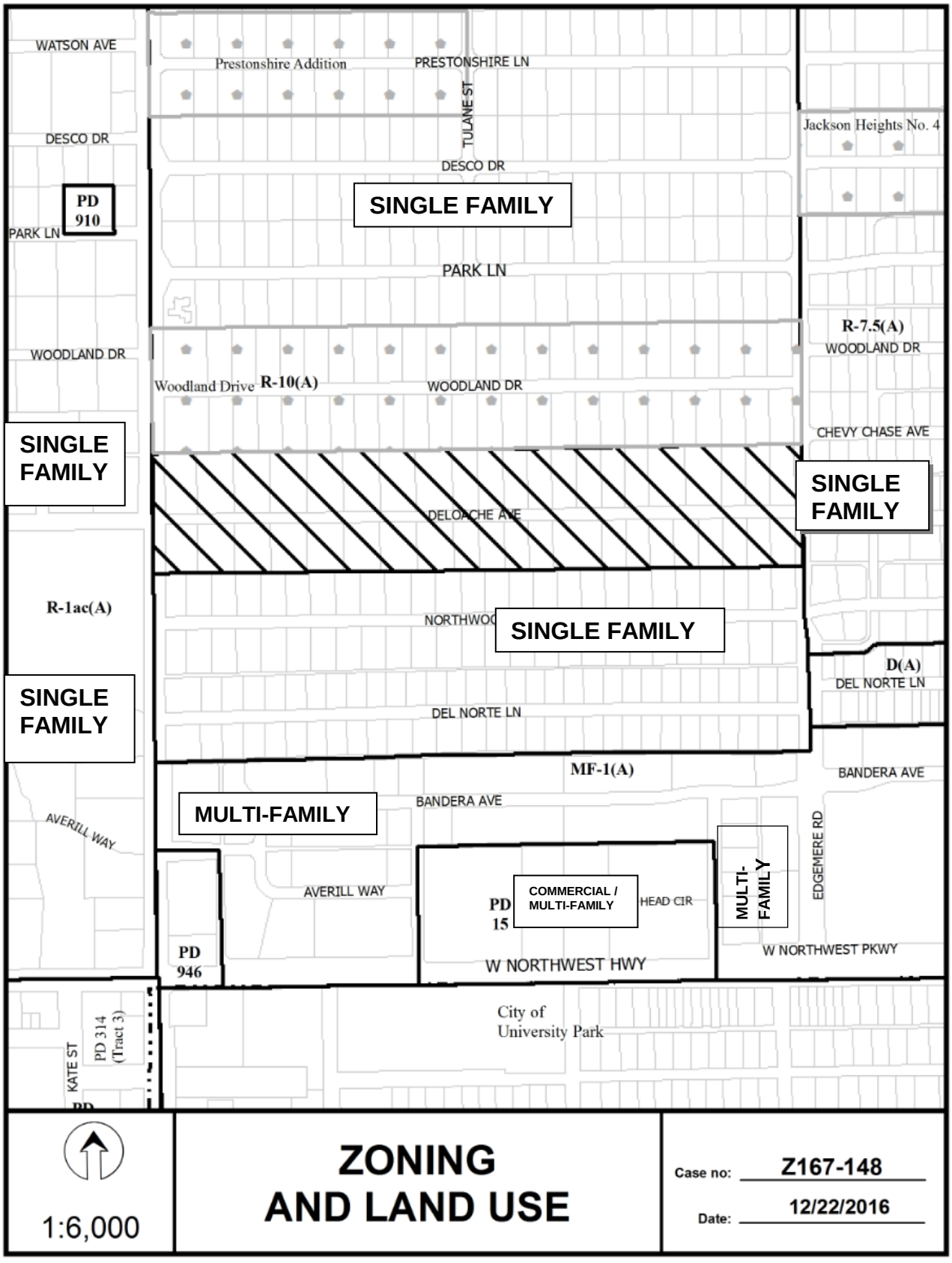
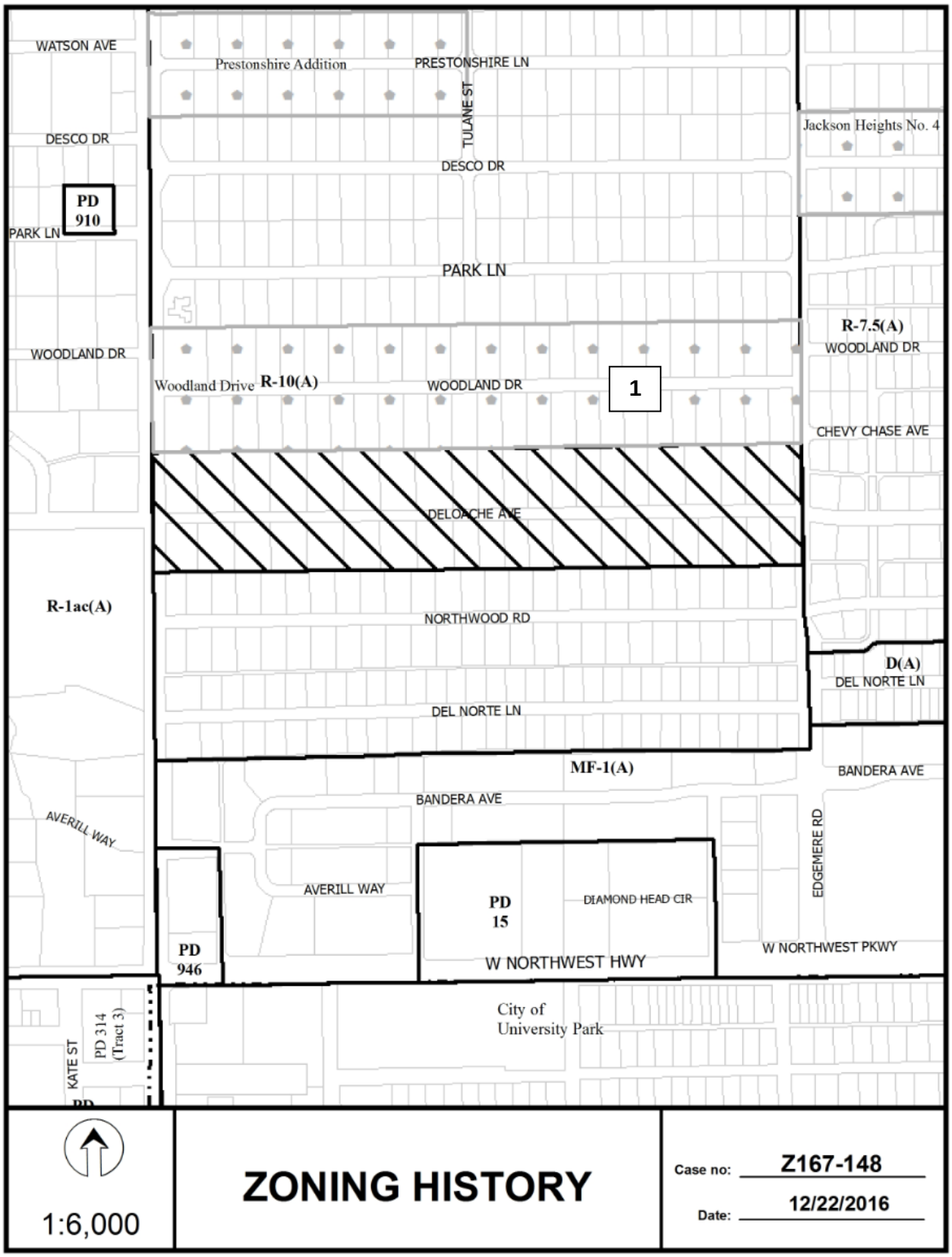


EXHIBIT A

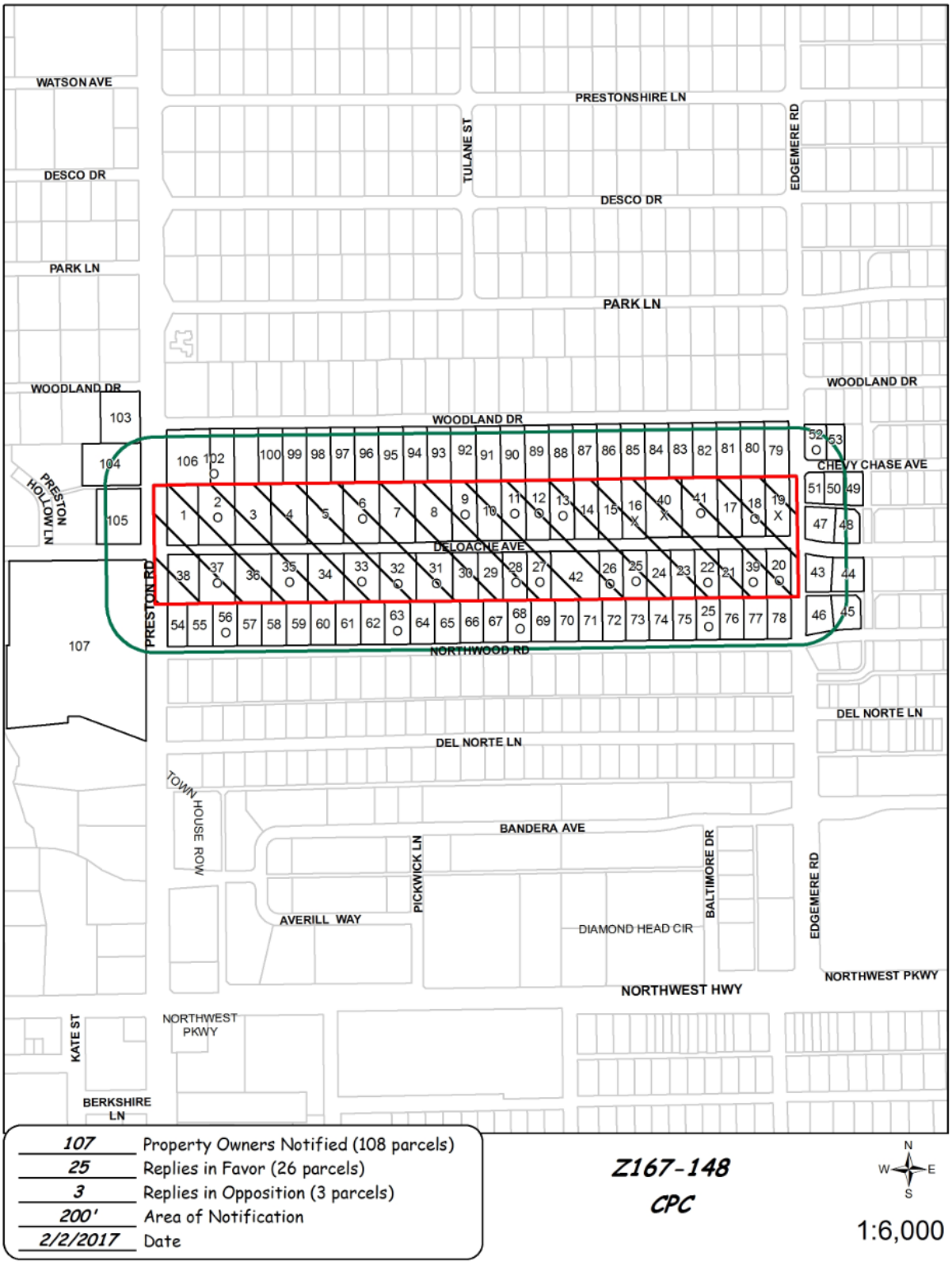

STEFANI DR
LUPTON DR
FALLS RD
LUPTON DR
TULANE ST
WATSON AVE
PRESTONSHIRE LN
DESCO DR
DESCO DR
EDGEMERE RD
PARK LN
PARK LN
WOODLAND DR
WOODLAND DR
WOODLAND DR
Preston Hollow
CHEVY CHASE AVE
DELOACHE AVE
THACKERY ST
PRESTON RD
NORTHWOOD RD
DEL NORTE LN
DEL NORTE LN
BANDERA AVE
PRESTON RD
BANDERA AVE
AVERILL WAY
PICKWICK LN
BALTIMORE DR
W NORTHWEST HWY
W NORTHWEST HWY
BERKSHIRE LN
WESTCHESTER DR
KATE ST
LUTHER LN
KATE ST
SHERRY LN
City of
University Park
1:8,400
VICINITY MAP
Case no: Z167-148
Date: 12/22/2016


WATSON AVE
PRESTONSHIRE LN
TUJANE ST
DESCO DR
PARK LN
EDGEMERE RD
WOODLAND DR
CHEVY CHASE AVE
DELOACHE AVE
PRESTON RD
NORTHWOOD RD
DEL NORTE LN
BANDERA AVE
AVERILL WAY
TOWN HOUSE ROW
PICKWICK LN
DIAMONDBACK DR
BALTIMORE DR
W NORTHWEST HWY
KATE ST
1:6,000
AERIAL MAP
Case no: Z167-148
Date: 1/10/2017


WATSON AVE
Prestonshire Addition
PRESTONSHIRE LN
TULANE ST
Jackson Heights No. 4
DESCO DR
DESCO DR
PD 910
PARK LN
SINGLE FAMILY
PARK LN
R-7.5(A)
WOODLAND DR
WOODLAND DR
Woodland Drive R-10(A)
WOODLAND DR
CHEVY CHASE AVE
SINGLE FAMILY
SINGLE FAMILY
DELOACHE AVE
R-1ac(A)
NORTHWOO
SINGLE FAMILY
D(A)
DEL NORTE LN
SINGLE FAMILY
DEL NORTE LN
MF-1(A)
BANDERA AVE
BANDERA AVE
MULTI-FAMILY
AVERILL WAY
AVERILL WAY
EDGEMERE RD
PD 15
COMMERCIAL / MULTI-FAMILY
HEAD CIR
MULTI-FAMILY
PD 946
W NORTHWEST HWY
W NORTHWEST PKWY
City of University Park
KATE ST
PD 314 (Tract 3)
1:6,000
ZONING AND LAND USE
Case no: Z167-148
Date: 12/22/2016


WATSON AVE
Prestonshire Addition
PRESTONSHIRE LN
TULANE ST
Jackson Heights No. 4
DESCO DR
DESCO DR
PD 910
PARK LN
PARK LN
R-7.5(A)
WOODLAND DR
WOODLAND DR
Woodland Drive
R-10(A)
WOODLAND DR
1
CHEVY CHASE AVE
DELOACHE AVE
R-1ac(A)
NORTHWOOD RD
D(A)
DEL NORTE LN
DEL NORTE LN
MF-1(A)
BANDERA AVE
BANDERA AVE
AVERILL WAY
EDGEMERE RD
AVERILL WAY
PD 15
DIAMOND HEAD CIR
PD 946
W NORTHWEST HWY
W NORTHWEST PKWY
City of University Park
KATE ST
PD 314 (Tract 3)
1:6,000
ZONING HISTORY
Case no: Z167-148
Date: 12/22/2016

CPC RESPONSES



02/01/2017

Reply List of Property Owners

Z167-148

107 Property Owners Notified 25 Property Owners in Favor 3 Property Owners Opposed

Reply	*Label #*	*Address*		*Owner*
	1	6009	DELOACHE AVE	TRUSSELL DONALD L &
O	2	6023	DELOACHE AVE	BISHOP GENE &
	3	6033	DELOACHE AVE	MOCK PRESLEY M &
	4	6047	DELOACHE AVE	WEBB CLAYTON WEBB &
	5	6057	DELOACHE AVE	GARDEN WARREN W &
O	6	6109	DELOACHE AVE	ANIGIAN GREGG M & DEE ANN
	7	6123	DELOACHE AVE	MARMOL GUILLERMO &
	8	6133	DELOACHE AVE	GOODMAN EDWARD L
O	9	6141	DELOACHE AVE	BROOKSHIRE STEPHEN S & GAIL S
	10	6207	DELOACHE AVE	DELOACHE RESIDENTIAL PTNR LLC
O	11	6215	DELOACHE AVE	CROW MARY CAROLINE BALDWIN
O	12	6223	DELOACHE AVE	JAGGERS JOHN V &
O	13	6231	DELOACHE AVE	HUNDLEY DAVID M &
	14	6239	DELOACHE AVE	THOELE CHARLES E & BETH V
	15	6247	DELOACHE AVE	ROGERS MACK L
X	16	6255	DELOACHE AVE	MOUSSA GEORGR & ERIKA
	17	6331	DELOACHE AVE	LEHTONEN KARI
O	18	6339	DELOACHE AVE	GREENBERG DAVID M &
X	19	6347	DELOACHE AVE	ARCHER WILLIAM H III &
O	20	6346	DELOACHE AVE	SHELTON TAMARA R &
	21	6330	DELOACHE AVE	MCLOCHLIN J P
O	22	6322	DELOACHE AVE	SCOVELL JOHN F
	23	6314	DELOACHE AVE	BLAKE GREGORY S & LIZZY M
	24	6306	DELOACHE AVE	TOLSON DEBORAH
O	25	6323	NORTHWOOD RD	SCOVELL FAMILY INVESTMENTS LTD
O	26	6246	DELOACHE AVE	VORHIES JOHN R

02/01/2017

Reply	*Label #*	*Address*	*Owner*
O	27	6222 DELOACHE AVE	ZELLER RANDALL CHARLES & VALERIE REED
O	28	6214 DELOACHE AVE	SAUNDERS KATHLEEN A &
	29	6206 DELOACHE AVE	BT LOT INVESTORS LLC
	30	6140 DELOACHE AVE	DICKSON ANNE PONDER
O	31	6132 DELOACHE AVE	HOFFMAN ROBERT M &
O	32	6122 DELOACHE AVE	WILLSON JAMES K JR &
O	33	6108 DELOACHE AVE	MCMILLAN CARMEN
	34	6056 DELOACHE AVE	DREW STEPHEN
O	35	6046 DELOACHE AVE	LEIMAN HERBERT I &
	36	6032 DELOACHE AVE	VREELAND ANN PENSON
O	37	6022 DELOACHE AVE	ANTHONY R JAY
	38	6008 DELOACHE AVE	HARB GHASSAN ALI
O	39	6338 DELOACHE AVE	MONTGOMERY C BAKER &
X	40	6307 DELOACHE AVE	MOUSSA GEORGE S
O	41	6323 DELOACHE AVE	HURLEY STEPHEN C &
	42	6230 DELOACHE AVE	GAYDEN WILLIAM K
	43	6406 DELOACHE AVE	GHAFFARI FAMILY REVOCABLE TRUST
	44	6414 DELOACHE AVE	OLSON BRYAN S.
	45	6415 NORTHWOOD RD	RYAN JOSEPH F & BARBARA
	46	6407 NORTHWOOD RD	ANGELONE ALFONSO M
	47	6407 DELOACHE AVE	WELLS E LARRY
	48	6415 DELOACHE AVE	BLACHLEY JOHN DAVID &
	49	6418 CHEVY CHASE AVE	DWYER MARK B
	50	6410 CHEVY CHASE AVE	VANBUREN ROBERT
	51	6404 CHEVY CHASE AVE	CHIAPETTA CLAIRE
O	52	6405 CHEVY CHASE AVE	WARNER TIMOTHY C &
	53	6411 CHEVY CHASE AVE	FLECK AUSTIN A
	54	6005 NORTHWOOD RD	MONTGOMERY BARRY D &
	55	6011 NORTHWOOD RD	CARLSON THOMAS W &
O	56	6021 NORTHWOOD RD	OXFORD DAVID C & GAY
	57	6029 NORTHWOOD RD	SMITH RICHARD LEWIS &

02/01/2017

Reply	*Label #*	*Address*	*Owner*
	58	6037 NORTHWOOD RD	LINDBERG ELIZABETH W
	59	6045 NORTHWOOD RD	FISHER STEPHEN ETAL
	60	6051 NORTHWOOD RD	BARRINGER JASON RAEGAN & SHERI C
	61	6107 NORTHWOOD RD	KIMBERLY CAROL M EST OF
	62	6115 NORTHWOOD RD	STAPLES SUSAN S & DAVID L
O	63	6123 NORTHWOOD RD	WALKER ROBERT M &
	64	6131 NORTHWOOD RD	HOARE ROHAN J &
	65	6139 NORTHWOOD RD	KNIFFEN ANNE E
	66	6147 NORTHWOOD RD	VALENTA TOMMY A &
	67	6207 NORTHWOOD RD	MCGIUIRE DAVID & PATTI
O	68	6215 NORTHWOOD RD	HENDON JOHN SCOTT & ANNETTE K
	69	6223 NORTHWOOD RD	GAULDING RODGER
	70	6231 NORTHWOOD RD	HEMPHILL HILTON &
	71	6239 NORTHWOOD RD	STYCZYNSKI AMY T
	72	6247 NORTHWOOD RD	RICHARDS WILLIAM C & GENA
	73	6255 NORTHWOOD RD	SCHUHMACHER DARREN A
	74	6305 NORTHWOOD RD	BRICE BILL JR & GAIL
	75	6315 NORTHWOOD RD	CLEVENGER ROBERT J TR
	76	6331 NORTHWOOD RD	SUMMERS JON K & KATHLEEN J
	77	6339 NORTHWOOD RD	VILFORDI GEORGE L III &
	78	6347 NORTHWOOD RD	DUNAWAY DAVID ALEXANDER &
	79	6346 WOODLAND DR	RUDNER STEVEN M & LISA L
	80	6338 WOODLAND DR	GILBERT JOHN & AMY K
	81	6330 WOODLAND DR	GRIFFIN JERRY L
	82	6322 WOODLAND DR	BECK JESSE S & KATHLEEN M
	83	6314 WOODLAND DR	MCDOUGAL THOMAS M &
	84	6306 WOODLAND DR	CAMPBELL THOMAS & JEANNE
	85	6254 WOODLAND DR	CHANEY WILLIAM B ETAL
	86	6246 WOODLAND DR	GANARAJ ARCHANA & RAVI M NAIDU
	87	6238 WOODLAND DR	AVE GREGORY R &
	88	6230 WOODLAND DR	ELLIOTT CLAYTON CLEE JR

02/01/2017

Reply	*Label #*	*Address*	*Owner*
	89	6222 WOODLAND DR	BOLDEN JAMES D & CARLA
	90	6214 WOODLAND DR	BOLDEN JAMES D & CARLA A
	91	6206 WOODLAND DR	HODGES PATRICK L & TRES H
	92	6146 WOODLAND DR	KELLY SETH T &
	93	6138 WOODLAND DR	PERRYMAN SALLY
	94	6130 WOODLAND DR	NETTLE ELIZABETH WATSON & DOUGLAS A
	95	6122 WOODLAND DR	FEFERMAN RONALD J
	96	6114 WOODLAND DR	CHAVEZ JEFFREY C &
	97	6106 WOODLAND DR	GLASER BRIAN D & MARNIE R
	98	6054 WOODLAND DR	WINN CHRISTOPHER S
	99	6046 WOODLAND DR	SMALL GREGG L
	100	6038 WOODLAND DR	HINOJOSA NOE JR &
	101	6030 WOODLAND DR	BELL DAVID & BETTY
O	102	6022 WOODLAND DR	SCHEER RICK W & ASHLEY
	103	5948 WOODLAND DR	THOMPSON MICHAEL S & MELINDA C
	104	8931 PRESTON RD	BURKS THOMAS S &
	105	5959 DELOACHE AVE	ROBINOWITZ DALE F
	106	6014 WOODLAND DR	MASUR MARK C & JOLENE C
	107	5950 DELOACHE AVE	BARON LISA M

AGENDA ITEM # 54

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 6

DEPARTMENT: Trinity Watershed Management

CMO: Mark McDaniel, 670-3256

MAPSCO: 22S

SUBJECT

A public hearing to receive comments regarding the application for and approval of the fill permit and removal of the floodplain (FP) prefix from approximately 0.788 acres of the current 7.298 acres of land, located at 1717 West Northwest Highway, within the floodplain of Elm Fork of the Trinity River, Fill Permit 15-06 - Financing: No cost consideration to the City

BACKGROUND

This request is to fill approximately 0.788 acres of the current 7.298 acres of floodplain, to be used for a future commercial facility. The proposed fill is located at 1717 W. Northwest Highway, within the floodplain of the Elm Fork of Trinity River.

A neighborhood meeting was held at the Bachman Therapeutic Recreation Center on February 13, 2017. Attendees included the developer's engineer, the developer's representative, and three city staff members. No citizens from the area attended. There has been no objection to the fill permit.

This site was filled illegally during previous ownership. The present owner, RKM Utility Services, Inc. has worked with city staff to legitimize this site by hiring an engineering firm to prepare an after-the-fact fill permit application and analysis.

The fill permit application meets all engineering requirements for filling in the floodplain as specified in Part II of the Dallas Development Code, Section 51A-5.105(h). The applicant has not requested a waiver of any criteria. Accordingly, the City Council should approve this application; or, it may pass a resolution to authorize acquisition of the property under the laws of eminent domain and may then deny the application in order to preserve the status quo until acquisition.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

No cost consideration to the City.

OWNER/APPLICANT

RKM Utility Services, Inc.
1805 Royal Lane, Suite 107
Dallas, Texas 75229

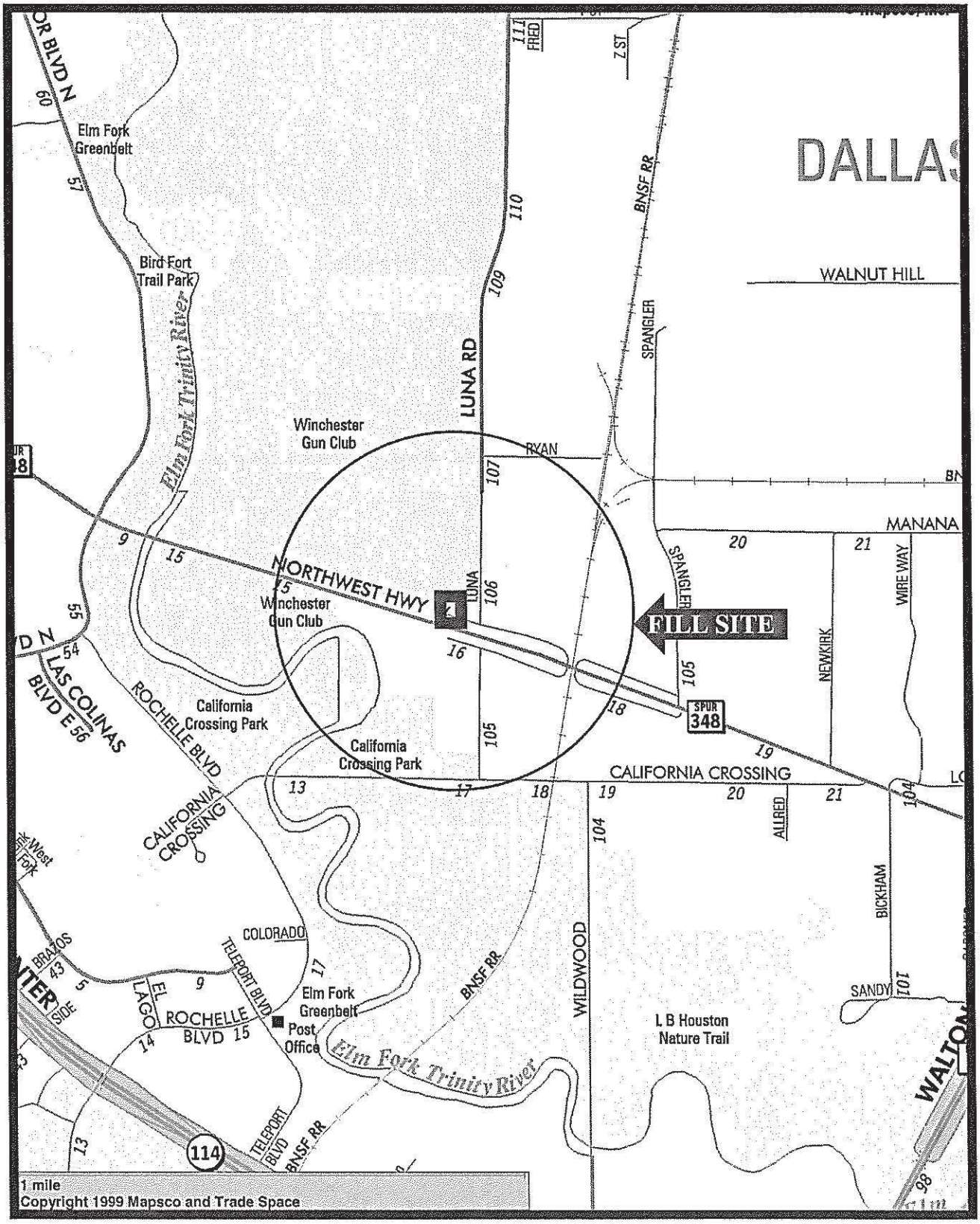
ENGINEER

Mrs. Olivia Whittaker, P.E., CFM
Jacobs Engineering Group Inc.
1999 Bryan Street, Suite 1200
Dallas, Texas 75201

MAP

Attached.

FILL PERMIT 15-06



MAPSCO 22-S

AGENDA ITEM # 55

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	14
DEPARTMENT:	Mobility and Street Services Park & Recreation
CMO:	Jill A. Jordan, P.E., 670-5299 Willis Winters, 670-4071
MAPSCO:	45L

SUBJECT

A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to delete Live Oak Street from Harwood Street to Pacific Avenue/Saint Paul Street; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City

BACKGROUND

The City of Dallas' Park and Recreation Department has requested an amendment to the City of Dallas Central Business District Streets and Vehicular Circulation Plan to delete a section of Live Oak Street. Live Oak Street is a three-lane one-way southbound roadway. On the east side of the road there is a dedicated parking lane and James W. Aston Park. On the west side of the road there is peak hour restricted parking with meters and a parking lot.

This proposed amendment change would facilitate the integration of James W. Aston Park into a larger contiguous open space, Pacific Plaza. City Council adopted the Downtown Parks Master Plan Update in April 2013, which designated Pacific Plaza Park as one of the park priorities. This proposed project provides enhanced open space and will provide a more walkable environment in and around the proposed park.

The proposed amendment would require vehicles to reroute to their destination. There are various options for drivers heading westbound on Live Oak Street to continue west after the closure: one alternative is to turn southbound on Pearl Street to Elm Street to continue farther westbound; another is to head southbound on Harwood Street to Elm Street to continue farther westbound. Both options have been studied in a traffic impact analysis and determined to be feasible.

BACKGROUND (Continued)

Staff recommends approval of the amendment to delete Live Oak Street from Harwood Street to Pacific Avenue/Saint Paul Street from the Central Business District Streets and Vehicular Circulation Plan.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The City Plan Commission Transportation Committee acted on this item on February 2, 2017, and followed staff recommendation of approval.

The City Plan Commission acted on this item on February 16, 2017, and followed staff recommendation of approval.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

MAP

Attached

Live Oak Street

Harwood Street to Pacific Avenue/Saint Paul Street

Council District: 14

MAPSCO: 45L

Central Business District Streets and Vehicular Circulation Plan Amendment Map





AGENDA ITEM # 56

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	2, 14
DEPARTMENT:	Mobility and Street Services Office of Economic Development
CMO:	Jill A. Jordan, P.E., 670-5299 Mark McDaniel, 670-3256
MAPSCO:	45L Q R

SUBJECT

A public hearing to receive comments to amend the City of Dallas Central Business District Streets and Vehicular Circulation Plan to reduce the right-of-way on **(1)** Harwood Street between Commerce Street and Jackson Street from 85 feet of right-of-way to 64 feet of right-of-way; and **(2)** Harwood Street between Jackson Street and IH-30 from 78-130 feet of right-of-way to 64-68 feet of right-of-way; and at the close of the hearing, authorize an ordinance implementing the change - Financing: No cost consideration to the City

BACKGROUND

The City has received applications from Viewtech and the Office of Economic Development to amend the Central Business District Streets and Vehicular Circulation Plan. The amendments will modify the sidewalk width on Harwood Street. The requests for reductions in the right-of-way will maintain a 10-foot sidewalk on both sides of the roadway for the pedestrian zone, but will not impact vehicle capacity.

The amendment to Harwood Street between Commerce Street and Jackson Street was requested by Viewtech to reduce the right-of-way to facilitate development of an underground parking garage for the Statler Hotel on land that currently exists as a surface-level parking lot. The surface parking lot encroaches in the City's designated right-of-way; however, the existing sidewalk width is 5.5 feet. The applicant has agreed to dedicate the additional 4.5 feet of parkway to ensure a 10-foot sidewalk adjacent to their development.

BACKGROUND (Continued)

The amendment to Harwood Street between Jackson Street and IH-30 was submitted by the Office of Economic Development. They have requested a reduction to the right-of-way to facilitate development in the Farmers Market area. The Office of Economic Development has requested that the developer of Harvest Lofts add stoops/doors facing Harwood Street. The reduction of the right-of-way is needed to add the requested stoops.

The proposed right-of-way reductions do not preclude the proposed changes being analyzed in the 360 update. Harwood Street from Pacific Avenue to IH-30 is one of the priority corridors that will be studied for multimodal amenities in more detail in the 360 Plan for conceptual design changes.

Staff recommends approval of the amendment to reduce the right-of-way on (1) Harwood Street between Commerce Street and Jackson Street from 85 feet of right-of-way to 64 feet of right-of-way and (2) Harwood Street between Jackson Street and IH-30 from 78-130 feet of right-of-way to 64-68 feet of right-of-way.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The City Plan Commission Transportation Committee acted on this item on February 2, 2017, and followed staff recommendation of approval.

The City Plan Commission acted on this item on February 16, 2017, and followed staff recommendation of approval.

Information about this item was provided to the Transportation and Trinity River Project Committee on February 27, 2017.

MAP

Attached

Harwood Street

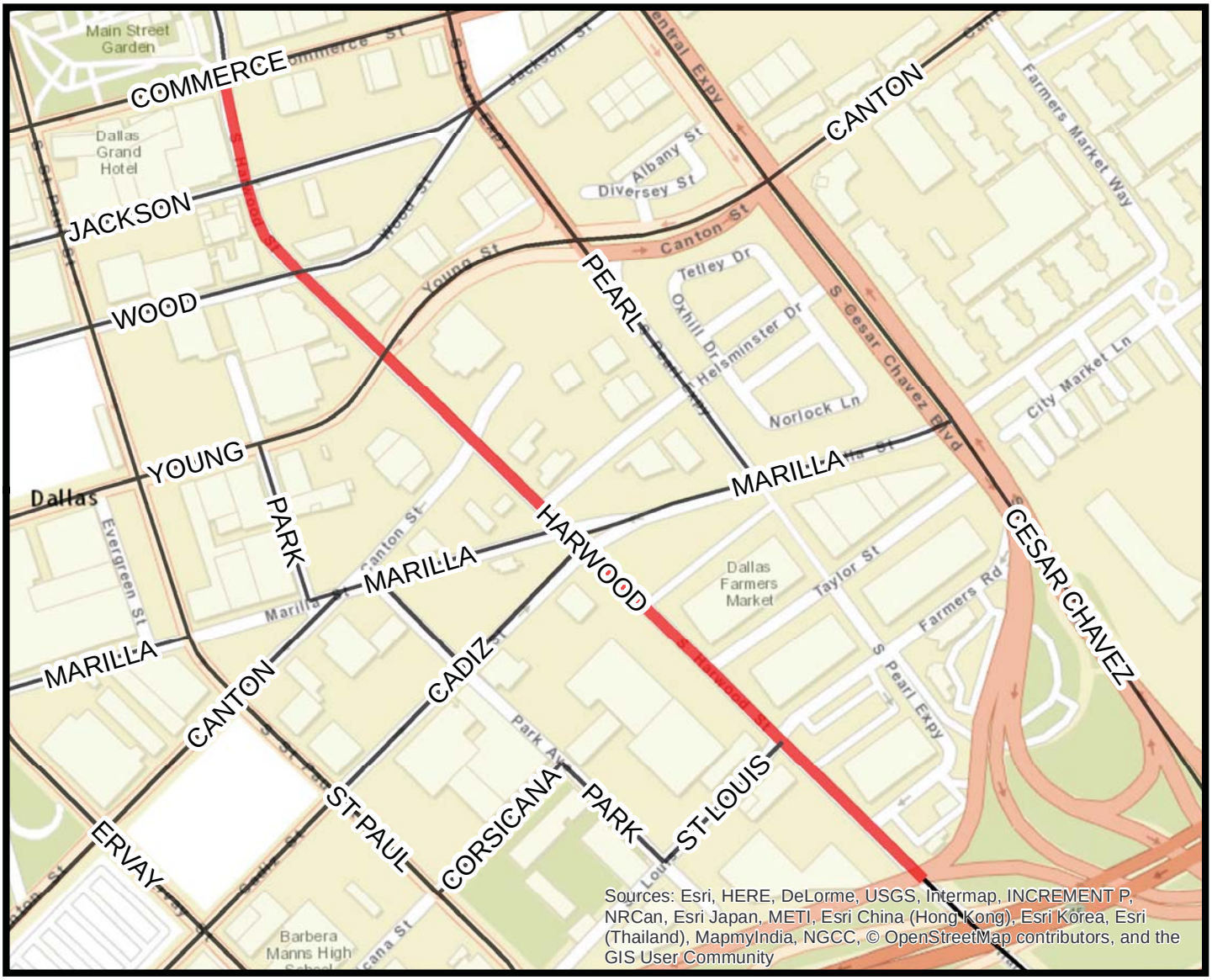
Commerce Street to IH-30

Council District: 2 & 14

MAPSCO: 45L,Q,R



Central Business District Streets and Vehicular Circulation Amendment Map



AGENDA ITEM # 57

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Elizabeth Reich, 670-7804

MAPSCO: N/A

SUBJECT

A public hearing to receive comments on the FY 2017-18 Operating, Capital, and Grant/Trust budgets - Financing: No cost consideration to the City

BACKGROUND

Each year the City of Dallas holds a series of public hearings to provide the citizens of Dallas the opportunity to speak on next year's budget.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS

On February 22, 2017, City Council authorized the public hearing by Resolution No. 17-0398.

FISCAL INFORMATION

No cost consideration to the City

AGENDA ITEM # 58

KEY FOCUS AREA: E-Gov

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Elizabeth Reich, 670-7804

MAPSCO: N/A

SUBJECT

A public hearing to receive comments on the Proposed Reprogramming Budget No. 1 to the FY 2016-17 Action Plan for U.S. Department of Housing and Urban Development Grant Funds - Financing: No cost consideration to the City

BACKGROUND

Federal regulations require a public hearing on the City's Proposed Reprogramming Budget for U. S. Department of Housing and Urban Development (HUD) grant funds. This includes the Community Development Block Grant (CDBG).

The Federal regulations and the City's Citizen Participation Plan require a public comment period of not less than 30 days and a public hearing to receive comments.

On February 22, 2017, City Council authorized a public hearing to be held on March 22, 2017 before the City Council. The public hearing will provide an opportunity for comments on the proposed use of funds. The public review and comment period continues through April 11, 2017.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On August 18, 1993, Resolution No. 93-3001, established specific timeframes for the obligation and expenditure of Community Development Block Grant (CDBG) Funds.

On March 28, 2007, Resolution No. 07-0992, enhanced the City's existing expenditure policy with additional benchmarks.

On December 13, 2016, the Community Development Commission (CDC) Financial Monitoring/Performance Standards Committee reviewed and recommended the City Manager's proposed extensions and reprogramming of CDBG funds with no amendments.

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

On January 5, 2017, the Community Development Commission was briefed and recommended extending and reprogramming of the CDBG project funds.

On February 2, 2017, the CDC was briefed on the need to maintain ongoing compliance with HUD's timely expenditure policy and proposed Reprogramming Budget No. 1 to the FY 2016-17 Action Plan to use unspent prior year CDBG funds in the amount of $1,413,595 for the Major Systems Repair Program.

On February 6, 2017 The Housing Committee and the Budget, Finance, and Audit Committee were both briefed on the recommended extensions and reprogramming.

On February 22, 2017, City Council approved the preliminary adoption of the Proposed Reprogramming Budget No. 1 to the FY 2016-17 Action Plan for U.S. Department of Housing and Urban Development Grant Funds and authorized a public hearing by Resolution No. 17-0396.

FISCAL INFORMATION

No cost consideration to the City.

AGENDA ITEM # 59

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 9

DEPARTMENT: Office of Economic Development

CMO: Mark McDaniel, 670-3256

MAPSCO: 39 E

SUBJECT

A public hearing to receive comments concerning the application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,705,000 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the Silver Gardens Apartments, an existing senior apartment community comprised of 202 units for seniors, located at 2620 Ruidosa Avenue, Dallas, Texas, 75228 and, at the close of the public hearing, authorize: **(1)** DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and rehabilitation of 202 units for seniors by Dominium Development & Acquisition, LLC ("Dominium"), on behalf of Dallas Leased Housing Associates IV, LLP (the "Applicant"), referred to as the Silver Gardens; and **(2)** a resolution to support the TDHCA's award of Low Income Housing Tax Credits for the acquisition and rehabilitation of the existing Silver Gardens housing development located at 2620 Ruidosa Avenue, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 Texas Administrative Code (TAC) §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City

BACKGROUND

Dominium, through Dallas Leased Housing Associates IV, LLP ("the applicant"), will file an application with the Texas Bond Review Board no later than April 9, 2017 and will file an application with TDHCA for Low Income Housing Tax Credits (LIHTC) for the Silver Gardens on March 3, 2017.

BACKGROUND (Continued)

Under the new TDHCA rules in the 2017 Qualified Allocation Plan and Rules (QAP), if the development is located in a municipality that has more than twice the state average of units per capita supported by LIHTC or private activity bonds, the applicant must obtain prior approval of the development from the governing body of the municipality.

As provided for in Chapter 10 of the Texas Administrative Code Section 11.3(b), it is expressly acknowledged and confirmed that the City of Dallas could at any time have more than twice the state average of units per capita supported by Housing Tax Credits (HTC) or Private Activity Bonds. The project site could be subject to the greater than 20% HTC Units per Households in Census Tract Rule applicable to projects that are new construction contained in the 2017 Qualified Allocation Plan ("QAP") that will require a waiver of this requirement from City of Dallas. If a project is within one mile of another project financed with tax credits or tax exempt bonds during the past three years that serves the same household, a waiver will be required by the City. The City of Dallas will be asked to confirm that it has voted specifically to allow the acquisition and rehabilitation of this development and has authorized an allocation of Housing Tax Credits for the Development in the March 22, 2017 resolution, pursuant to §11.3 (2)(a-g) and §11.4(c)(1) Deconcentration Factors contained in TDHCA's Qualified Allocation Plan.

TDHCA funding for projects in the City of Dallas must now be approved by the City Council following a public hearing by the City pursuant to H.B. 3361, effective September 1, 2013. The resolution must include a written statement of support from the governing body referencing the state rule and authorizing an allocation of LIHTC for the development.

The Silver Gardens is a senior apartment community comprised of 202 units for seniors located at 2620 Ruidosa Avenue, Dallas, Texas 75228.

The Tax Equity and Fiscal Responsibility (TEFRA) Hearing will be held on March 9, 2017, after proper notice is published in the Dallas Morning News. Dominium will request an allocation for approximately $15 Million from the Texas Bond Review Board no later than April 9, 2017. The project's owner will be Dallas Leased Housing Associates IV, LLP, a limited liability partnership, formed for the sole purpose of developing, owning and operating the project for long-term use as low-income housing. Dominium is the Special Limited Partner (0.01%) and initial Limited Partner (99.98%) and Christian Relief Services, Inc., a 501(c)(3) non-profit, is the General Partner (0.01%).

Because the project is located within the City of Dallas, Section 147 (f) of the Internal Revenue Code requires that in order for the bonds to be tax exempt, the City Council or the applicable elected representative of the City of Dallas, must approve the issuance of the bonds by the Dallas Housing Finance Corporation after a public hearing. The City of Dallas is not asked to issue bonds.

BACKGROUND (Continued)

The bonds will not be a debt or liability of the City. The City's name will not appear on the bonds. The approval being requested is only for the purpose of complying with federal law and with regard to tax exempt debt.

The development will offer a mix of tax credit units for tenants with 100% of the tenants with incomes no more than 60% Area Median Income. The proposed bedroom mix is as follows: tax credit units: 20 efficiencies, 180 one-bedrooms, 2 two-bedrooms with no market rate units.

TDHCA prohibits approval of tax credit projects that are located less than a mile from another tax credit project funded within the previous three years, unless the projects are serving different households, is funded with Hope VI grant, or an exception is approved by City Council.

Approval of this application will enable the Applicant to rehabilitate 202 units of affordable housing for low to moderate income seniors.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 28, 2016, the Dallas City Council approved a resolution of no objection to the 4% housing tax credit application and allocation for the Silver Gardens Apartments located at 2620 Ruidosa Avenue for the rehabilitation of the proposed 202-unit multi-family residential project for low income seniors by Resolution No. 16-1635.

On January 10, 2017, the City of Dallas Housing Finance Corporation approved a preliminary inducement for the tax exempt mortgage revenue bonds to finance the acquisition and rehabilitation of the Silver Gardens senior project, allowing the applicant to submit an application for a bond allocation from the Texas Bond Review Board and the reimbursement of eligible project costs going back 60 days from the date of the inducement.

Information about this item was provided to the Housing Committee on February 21, 2017.

On February 22, 2017, City Council authorized a public hearing to be held on March 22, 2017, by Resolution No. 17-0376.

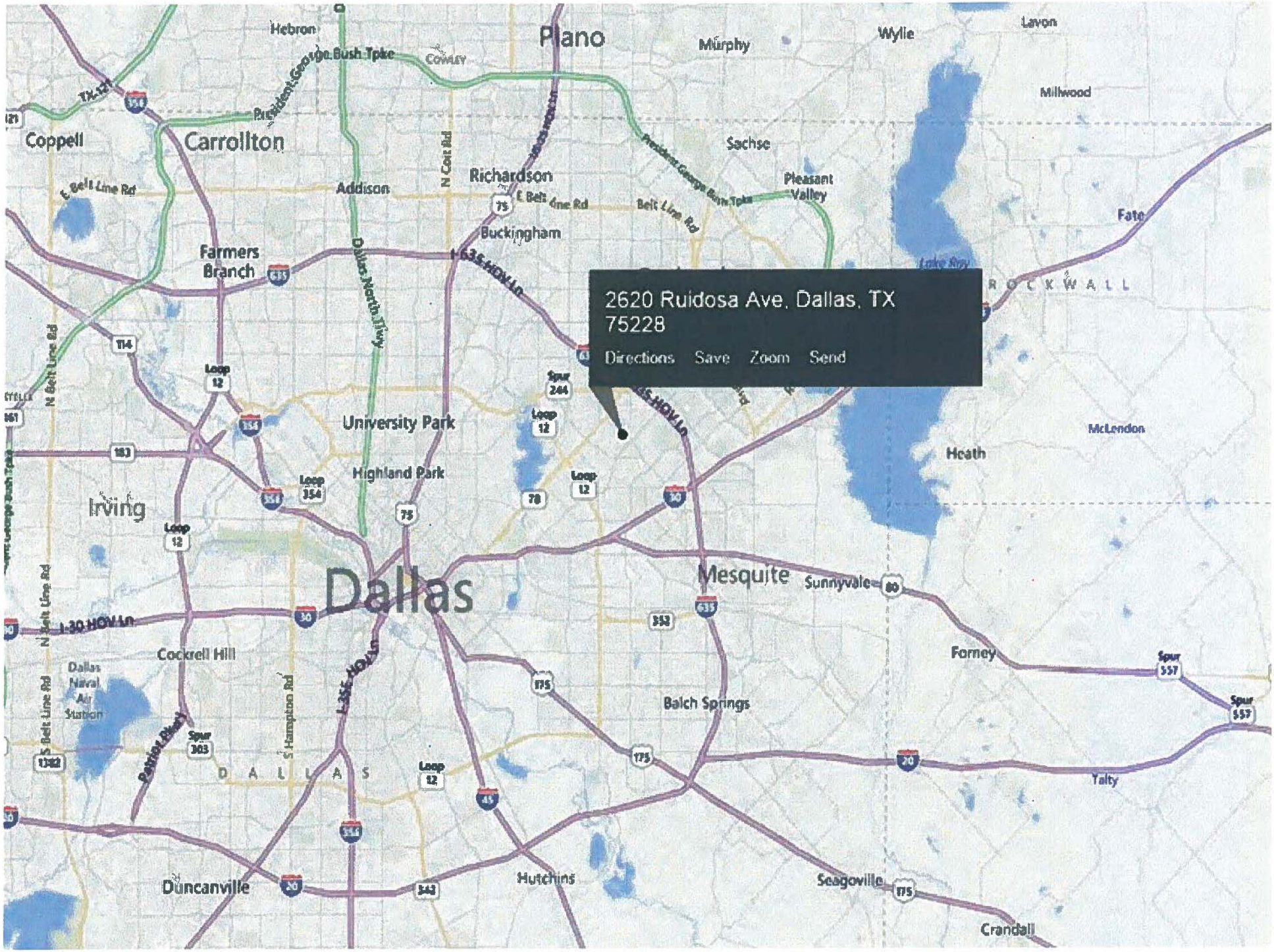
OWNER	**DEVELOPER**
Dallas Leased Housing Associates IV, LLP	**Dallas Leased Housing Development IV, LLC**
Mark Moorhouse, Senior Vice President	Mark Moorhouse, Senior Vice President

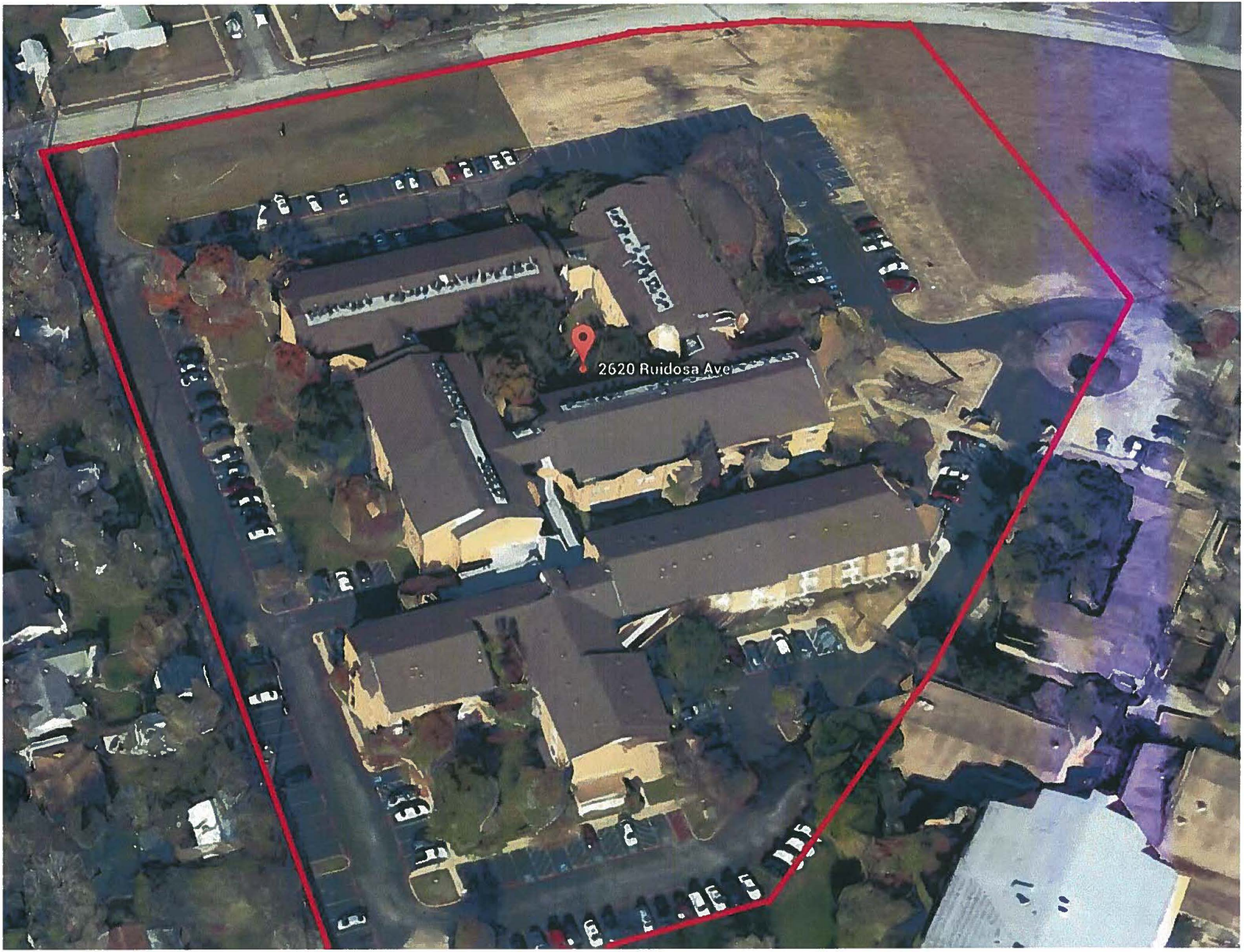
FISCAL INFORMATION

No cost consideration to the City

MAP(S)

Attached.


2620 Ruidosa Ave, Dallas, TX 75228
Directions Save Zoom Send
Plano
Carrollton
Coppell
Richardson
Addison
Farmers Branch
Buckingham
Sachse
Pleasant Valley
Wylie
Murphy
Lavon
Millwood
Fate
ROCKWALL
Heath
McLendon
University Park
Highland Park
Irving
Dallas
Mesquite
Sunnyvale
Forney
Balch Springs
Cockrell Hill
Dallas Naval Air Station
DALLAS
Duncanville
Hutchins
Seagoville
Talty
Crandall
Hebron
Lewisville
Denton
Corinth
Coppell
Addison
Richardson
Plano
Farmers Branch
Carrollton
Irving
Dallas
Mesquite
Sunnyvale
Forney
Balch Springs
Duncanville
Hutchins
Seagoville
Talty
Crandall
Heath
McLendon
Fate
Rockwall
Lavon
Wylie
Murphy
Millwood
Sachse
Pleasant Valley
University Park
Highland Park
Cockrell Hill
Dallas Naval Air Station
DALLAS
Buckingham
Addison
Coppell
Hebron
Lewisville
Denton
Corinth
I-635 HOV Ln
I-30 HOV Ln
I-35E HOV Ln
Dallas North Tollway
President George Bush Tpke
Belt Line Rd
N Belt Line Rd
S Belt Line Rd
E Belt Line Rd
N Coit Rd
S Hampton Rd
Patriot Blvd
Loop 12
Spur 244
Spur 303
Spur 557
TX-121
TX-161
TX-183
TX-114
TX-356
TX-354
TX-78
TX-175
TX-352
TX-343
TX-342
TX-361
TX-551
I-635
I-30
I-20
I-45
I-75
I-35E
US-80


2620 Ruidosa Ave

March 22, 2017

WHEREAS, on April 25, 1984, the City of Dallas (City) authorized the creation of the City of Dallas Housing Finance Corporation (DHFC) as a Texas non-profit corporation, pursuant to the Texas Housing Finance Corporation Act, Chapter 394, Local Government Code, V.T.C.A., as amended (the Act), to act on behalf of the City in carrying out the public purpose of the Act; and

WHEREAS, the DHFC is authorized by the Act to issue its revenue bonds on behalf of the City for the purpose of providing funding for the housing development for persons of low and moderate income to be located in the City; and

WHEREAS, pursuant to Resolution No. 06-0136, City Council decided for a 12 month period beginning on January 11, 2006 not to approve any new tax credit transactions unless a pre-application waiver is granted by the City Council and on September 28, 2016, pursuant to Resolution No. 16-1635, the Dallas City Council approved a resolution of no objection to the 4% housing tax credit application and allocation for the Silver Gardens Apartments located at 2620 Ruidosa Avenue for the rehabilitation of the proposed 202-unit multi-family residential project for low income seniors; and

WHEREAS, pursuant to Resolution No. 07-0733, Section 1.2 of the Bylaws was amended to allow the DHFC to purchase, lease, own, hold title to, or otherwise acquire an interest in a residential development, directly or indirectly through a subsidiary of the DHFC, provided that the City Council, by resolution, prior to the transaction being consummated by the DHFC, (1) finds and determines that such transaction should be undertaken, (2) approves the form of the transaction and (3) authorizes such purchase, lease, or ownership of, holding title to, or acquisition of the interest in the residential development; and

WHEREAS, Dominium submitted its application on January 5, 2017, to the DHFC for; (1) the issuance of tax exempt bonds by the DHFC in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series to finance the acquisition and rehabilitation of 202 units of senior rental housing; (2) a resolution in support of the Texas Department of Housing and Community Affairs award of 4% Housing Tax Credits in the approximate amount of $7,705,000 for the acquisition and rehabilitation of the Silver Gardens Apartments located at 2620 Ruidosa Avenue, Dallas, Texas to request a public hearing for the City Council to consider providing appropriate waivers pursuant to §11.3 (2)(a-g) and §11.4(c)(1) of the TDHCA's Qualified Allocation Plan and State of Texas H.B. 3361 which requires that (i) Notice has been provided to the Governing Body in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The Governing Body has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The Governing Body has held a hearing at which public comment may be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) After due consideration of the information provided by the Applicant and public comment, the Governing Body does not object to the proposed Application; and

WHEREAS, on January 10, 2017, the DHFC issued an inducement for the tax exempt bonds to finance the acquisition and rehabilitation of the Silver Gardens senior project and authorized the Dominium proposal to be considered by City Council and to authorize a public hearing in accordance with the requirements contained in H.B. 3361 effective September 1, 2013; and

WHEREAS, the Issuer proposes to issue the following bond issue (the “Bonds”) to finance the following project:

> $15,000,000, City of Dallas Housing Finance Corporation, Multi-family Housing Mortgage Revenue Bonds (Silver Gardens Project) Series 2017 to rehabilitate the 202 residential units for seniors on the site located at 2620 Ruidosa Avenue, Dallas, Texas; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that the governing body or the chief elected executive official of the governmental unit, in which the projects are located, to approve the issuance of the Bonds after a public hearing following reasonable public notice thereof; and

WHEREAS, the DHFC will hold a public hearing, the Tax, Equity and Fiscal Responsibility hearing with respect to the Bonds on March 9, 2017, following publication of reasonable public notice thereof in a newspaper of general circulation with the city of Dallas; and

WHEREAS, on or before April 9, 2017, the applicant will request that the Texas Bond Review Board issue a Bond Reservation to the DHFC for the Silver Gardens Project, a proposed 202 unit existing development project for seniors, in the amount of $15,000,000; and

WHEREAS, Dominium will file a 4% tax credit application with the Texas Department of Housing and Community Affairs (TDHCA) on March 10, 2017, pursuant to its 2017 Qualified Allocation Plan (QAP) for 4% low income housing tax credits (LIHTC); and under the TDHCA rules in the 2017 Qualified Allocation Plan and Rules (QAP), if the development is located in a municipality that has more than twice the State average of units per capita supported by LIHTC or private activity bonds, the applicant must obtain prior approval of the development from the governing body of the municipality; and

WHEREAS, as a condition for being considered for the award of the 4% tax credits, the Applicant has committed to renting 202 units (100%) to tenants with household incomes capped at 60% or below the area median family income (AMFI) with rents affordable to tenants whose household incomes are 60% or below the AMI incomes in compliance with the maximum Low Income Housing Tax Credit rents as published by the Texas Department of Housing and Community Affairs and 2 units for maintenance and management personnel; and

WHEREAS, the owner of the project will expend a minimum of $40,000 in social services annually ($200 per unit per year), whichever is greater, for and at no cost to the residents of the development, based on a survey of resident's needs to include some or all of the following: tutoring and after-school programs, health screenings, family counseling/domestic crisis intervention, computer education, emergency assistance, vocational guidance, adult education programs (such as ESL, life skills, nutrition classes, etc.) and social services and recreational activities, to be implemented within three months of project completion and in-kind social services may count toward meeting 100% of the social service requirements. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided. The provision of these services will be included in the Bond Regulatory Agreement and the applicant will pay an annual monitoring fee of $1,500 payable to the City of Dallas Housing Finance Corporation; and

WHEREAS, in the Qualified Allocation Plan, §11.3 (a-g) and §11.4 (c)(1) Housing Deconcentration factors (b) Twice the State Average Per Capita (§2306.6703(a)(4)). If the Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the City of Dallas, Governing Body of the appropriate municipality or county containing the Development.

Since the City of Dallas can exceed the twice the state per average of units per capita at any time, it has been determined that such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, referencing Texas Government Code, §2306.6703(a)(4), and authorizing an allocation of Housing Tax Credits for the Development; and the City of Dallas by vote will specifically allow the construction of the new Development and submit to the Department a resolution referencing this rule; and

WHEREAS, on February 21, 2017, information was presented to the Housing Committee regarding the Silver Gardens rehabilitation project proposal; and subject to certain conditions being met, it is deemed necessary and advisable that this resolution be adopted to approve the application and take all actions necessary to carry out the transaction and hold the public hearing pursuant to State of Texas H.B. 3361; and the City of Dallas hereby authorizes; and

March 22, 2017

WHEREAS, on February 22, 2017, City Council authorized (1) a public hearing was held to receive comments concerning the application with The Texas Department of Housing and Community Development (TDHCA) for 4% tax credits in the approximate amount of $7,705,000 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by DHFC for the Silver Gardens Apartments, an existing community comprised of 202 units for seniors, located at 2620 Ruidosa Avenue, Dallas, Texas 75228; (2) approval was granted for the issuance of tax exempt bonds by DHFC in the approximate amount of $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and rehabilitation of 202 units for seniors by Dominium referred to as the Silver Gardens; and (3) a resolution was granted in support of the Texas Department of Housing and Community Affairs award of Low Income Housing Tax Credits for the acquisition and rehabilitation of the existing Silver Gardens housing development located at 2620 Ruidosa Avenue, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2014 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors; and

WHEREAS, to satisfy H.B. 3361, the City will hold a public hearing on March 22, 2017, and approve the resolution that certifies that: (i) Notice will have been provided to the City of Dallas in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The City of Dallas has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The City of Dallas will hold this hearing at which public comment can be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) After due consideration of the information provided by the Applicant and public comment, the City of Dallas does not object to the proposed Application.

NOW, THEREFORE,

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

Section 1. That the City of Dallas will hold a public hearing on March 22, 2017 to consider the authorization for the DHFC to issue tax exempt bonds in the approximate amount of $15,000,000 Multi-family Housing Mortgage Revenue Bonds Series 2017 and the support of the TDHCA's 4% tax credits in the approximate amount of $7,705,000 to finance the acquisition and rehabilitation of 202 units for seniors by Dominium referred to as the Silver Gardens, an existing senior apartment community comprised of 202 units for seniors comprised of 20 efficiencies, 180 one-bedroom units, and 2 two-bedrooms units located at 2620 Ruidosa Avenue, Dallas, Texas by Dominium.

Section 2. That after the public hearing, (1) the City of Dallas authorizes the final approval of the Silver Garden's application, by Dallas Leased Housing Associates IV, LLP, ("the applicant) created by Dominium, for the issuance of tax-exempt bonds by the DHFC in an amount not to exceed $15 Million in tax-exempt Multi-family Housing Mortgage Revenue Bonds Series 2017 and authorizes the DHFC to take all actions necessary to carry out the transaction and grant its support of the application for 4% housing tax credits in the approximate amount of $7,705,000 pursuant to §11.3 (2)(a-g) and Deconcentration Factors contained in TDHCA's Qualified Allocation Plan; and (2) Certifies that the requirements of H.B. 3361 have been satisfied because: (i) Notice will have been provided to the City of Dallas in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The City of Dallas will have had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The City of Dallas will hold a hearing at which public comment can be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) After due consideration of the information provided by the Applicant and public comment, the City of Dallas does not object to the proposed Application and the resolution of no objection must be submitted no later than the Resolutions Delivery Date pursuant to §10.4 which is 75 days prior to the Board Meeting when TDHCA will consider the applicant's proposal.

Section 3. That this approval is subject to the Project Owner expending a minimum of $40,000 in social services annually, of which 100% may be from in-kind services, for and at no cost to the residents of the development, based on a survey of resident's needs, to be implemented within three months of project completion and pay an annual monitoring fee of $1,500 payable to City of Dallas Housing Finance Corporation.

Section 4. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Office of Development Services with regard to security related design standards.

Section 5. That the approval of the City, if provided, is also for the purpose of satisfying the conditions and requirements of Section 147(f) of the Code and is not to be construed as an undertaking by the City of Dallas. The Bonds shall not constitute a liability, an indebtedness, or obligation of the City of Dallas nor shall any of the assets of the City of Dallas be pledged to the payment of the Bonds. The Bonds shall specifically provide that the Bonds are not a debt of the City of Dallas, Dallas County and the State of Texas and that the City of Dallas, Dallas County and State of Texas are not liable with respect to the Bonds.

Section 6. That the City Manager will request authorization to convey a copy of the March 22, 2017 resolution to the Applicant and the TDHCA with a written statement of support by the City Council referencing by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and provided for in §11.3 (a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors for compliance with the Texas Department of Housing and Community Affairs (TDHCA) 2017 Qualified Allocation Plan and contingent upon the developer assuming relocation costs, if any, associated with the development costs.

Section 7. That after the public hearing is held on March 22, 2017, the Resolution of no objection if approved by the Dallas City Council for the Silver Gardens Senior Apartments will contain the following affirmative language in Sections 8-12 .

Section 8. That as provided in 10 TAC §11.3(c), it is hereby acknowledged that the Silver Gardens Apartments will not be located one linear mile or less than a Development that serves the same type of household as the proposed Development and has received an allocation of Housing Tax Credits for Rehabilitation since January 4, 2014; however, if data changes or if another Development that serves the same type of household is approved for Housing Tax Credits, the City of Dallas continues to have no objection and specifically allows the Silver Gardens Apartments to receive an allocation of Housing Tax Credits.

Section 9. That it is RESOLVED, that as provided for in 10 Texas Administrative Code §11.4 (c)(1) and §11.3(b), it is expressly acknowledged and confirmed that the City of Dallas could at any time have more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds, and that the City of Dallas currently is not a city that has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; however, if data changes occur, the City of Dallas would have no objection to the Silver Gardens Apartments.

Section 10. That it is FURTHER RESOLVED, (1) that the City of Dallas supports the Silver Gardens Apartment Project and confirms that its governing body has voted specifically to approve the construction of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Texas Government Code §2306.6703(A)(4), and in accordance with Texas Government Code §2306.67671(a) that notice was provided to the City of Dallas and Texas Government Code §. 2306.67071(b) and Texas Administrative Code §10.204(4) confirming that a public hearing will be held and that a resolution of no objection to grant this formal action will be taken to put on record the support expressed by the City of Dallas on March 22, 2017.

Section 11. That it is FURTHER RESOLVED that the project site could be subject to the greater than 20% HTC Units per Households in Census Tract Rule applicable to projects that are new construction contained in the 2017 Qualified Allocation Plan ("QAP"), if the project does not get an approval from TDHCA prior to the 2017 QAP deadline, therefore a waiver of this requirement is granted as provided for in 10 TAC §11.3 (d) and §11.4 (c)(1) and the City of Dallas confirms that it has voted specifically to allow the rehabilitation of this development and has authorized an allocation of Housing Tax Credits for the Development.

Section 12. That it is FURTHER RESOLVED that for and on behalf of the Governing Body, the Mayor or the City Manager, are hereby authorized, empowered and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section 13. 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.

AGENDA ITEM # 60

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Office of Economic Development

CMO: Mark McDaniel, 670-3256

MAPSCO: 45 K

SUBJECT

A public hearing to receive comments concerning an application with the Texas Department of Housing and Community Affairs (TDHCA) for 4% tax credits in the approximate amount of $7,579,038 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by the City of Dallas Housing Finance Corporation (DHFC) for the tentatively designated as Flora Street Lofts, a new construction apartment community comprised of 52 units for families, located at 2121 Flora Street, and at the close of the public hearing, authorization will be granted for: **(1)** DHFC to issue the tax exempt bonds in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and new construction of 52 units for families by La Reunion TX and GREENarc Corp, Flora Street Lofts, Ltd. (the "Applicant"), tentatively designated as the Flora Street Lofts; and **(2)** to provide a resolution supporting the TDHCA's award of Low Income Housing Tax Credits for the acquisition and new construction of the Flora Street Lofts development located at 2121 Flora Street, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 Texas Administrative Code (TAC) §10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors - Financing: No cost consideration to the City

BACKGROUND

The Flora Street Lofts is a family apartment community comprised of 52 units for families to be located at 2121 Flora Street, Dallas, Texas 75201.

La Reunion TX and GREENarc Corp, through tentatively designated as Flora Street Lofts, Ltd. ("the Applicant"), filed an application with the Texas Bond Review Board and filed an application with TDHCA for Low Income Housing Tax Credits (LIHTC) for the acquisition and new construction of the Flora Street Lofts.

BACKGROUND (Continued)

Under the new TDHCA rules in the 2017 Qualified Allocation Plan and Rules (QAP), if the development is located in a municipality that has more than twice the state average of units per capita supported by LIHTC or private activity bonds, the applicant must obtain prior approval of the development from the governing body of the municipality.

As provided for in Chapter 10 of the Texas Administrative Code 11.3(b), it is expressly acknowledged and confirmed that the City of Dallas could at any time have more than twice the state average of units per capita supported by Housing Tax Credits (HTC) or Private Activity Bonds. The project site could be subject to the greater than 20% HTC Units per Households in Census Tract Rule applicable to projects that are new construction contained in the 2017 Qualified Allocation Plan ("QAP") that will require a waiver of this requirement from City of Dallas. If a project is within one mile of another project financed with tax credits or tax exempt bonds during the past three years that serves the same household, a waiver will be required by the City. The City of Dallas confirms that it will vote specifically to allow the acquisition and new construction of this development and authorize an allocation of Housing Tax Credits for the Development in the March 22, 2017 resolution, pursuant to §11.3 (2)(a-g) and §11.4(c)(1) Deconcentration Factors contained in TDHCA's Qualified Allocation Plan.

TDHCA funding for projects in the City of Dallas must now be approved by the City Council following a public hearing by the City pursuant to H.B. 3361, effective September 1, 2013. The resolution must include a written statement of support from the governing body referencing the state rule and authorizing an allocation of LIHTC for the development.

The Tax Equity and Fiscal Responsibility (TEFRA) Hearing will be held on March 9, 2017, after proper notice is published in the Dallas Morning News. Flora Street Loft, Ltd. will request an allocation for approximately $15 Million from the Texas Bond Review Board in March, 2017. The project's owner is Flora Street Lofts, Ltd., a limited liability partnership, formed for the sole purpose of developing, owning and operating the project for long-term use as low-income housing. There will be a to be formed Special Limited Partner (0.01%), GREENarc Corp, which is the initial Limited Partner (99.98%) interest in the partnership. 2121 Flora, LLC. is the General Partner (.01%) interest in the partnership which will be 49% owned by the GREENarc Corp and 51% owned by La Reunion TX.

Because the project is located within the City of Dallas, Section 147 (f) of the Internal Revenue Code requires that in order for the bonds to be tax exempt, the City Council or the applicable elected representative of the City of Dallas, must approve the issuance of the bonds by the Dallas Housing Finance Corporation after a public hearing. The City of Dallas is not asked to issue bonds. The bonds will not be a debt or liability of the City. The City's name will not appear on the bonds.

BACKGROUND (Continued)

The approval being requested is only for the purpose of complying with federal law and with regard to tax exempt debt. The development will offer a mix of tax credit units for tenants by renting 10% or (5) of the units to tenants whose household incomes are capped at 50% or below the Area Median Family Income (AMFI) with rents affordable to tenants whose household incomes are 50% or below the AMFI and 73% (38) of the units to tenants whose household incomes are capped at 60% or below the AMFI with rents affordable to tenants whose household incomes are 60% or below the AMFI in compliance with the maximum Low Income Housing Tax Credit rents as published by the Texas Department of Housing and Community Affairs. There will be 17% or (9) market rate units. The proposed bedroom mix is as follows: tax credit units: 32 one-bedrooms, 18 two-bedrooms and 2 three-bedrooms.

TDHCA prohibits approval of tax credit projects that are located less than a mile from another tax credit project funded within the previous three years, unless the projects are serving different household, is funded with Hope VI grant, or an exception is approved by City Council.

Approval of this application will enable the Applicant to build 52 new affordable housing units for low to moderate income families.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On February 14, 2017, the City of Dallas Housing Finance Corporation approved a preliminary inducement for the tax exempt mortgage revenue bonds to finance the acquisition and new construction of the family project, allowing the applicant to submit an application for a bond allocation from the Texas Bond Review Board and the reimbursement of eligible project costs going back 60 days from the date of the inducement.

Information about this item was provided to the Housing Committee on February 21, 2017.

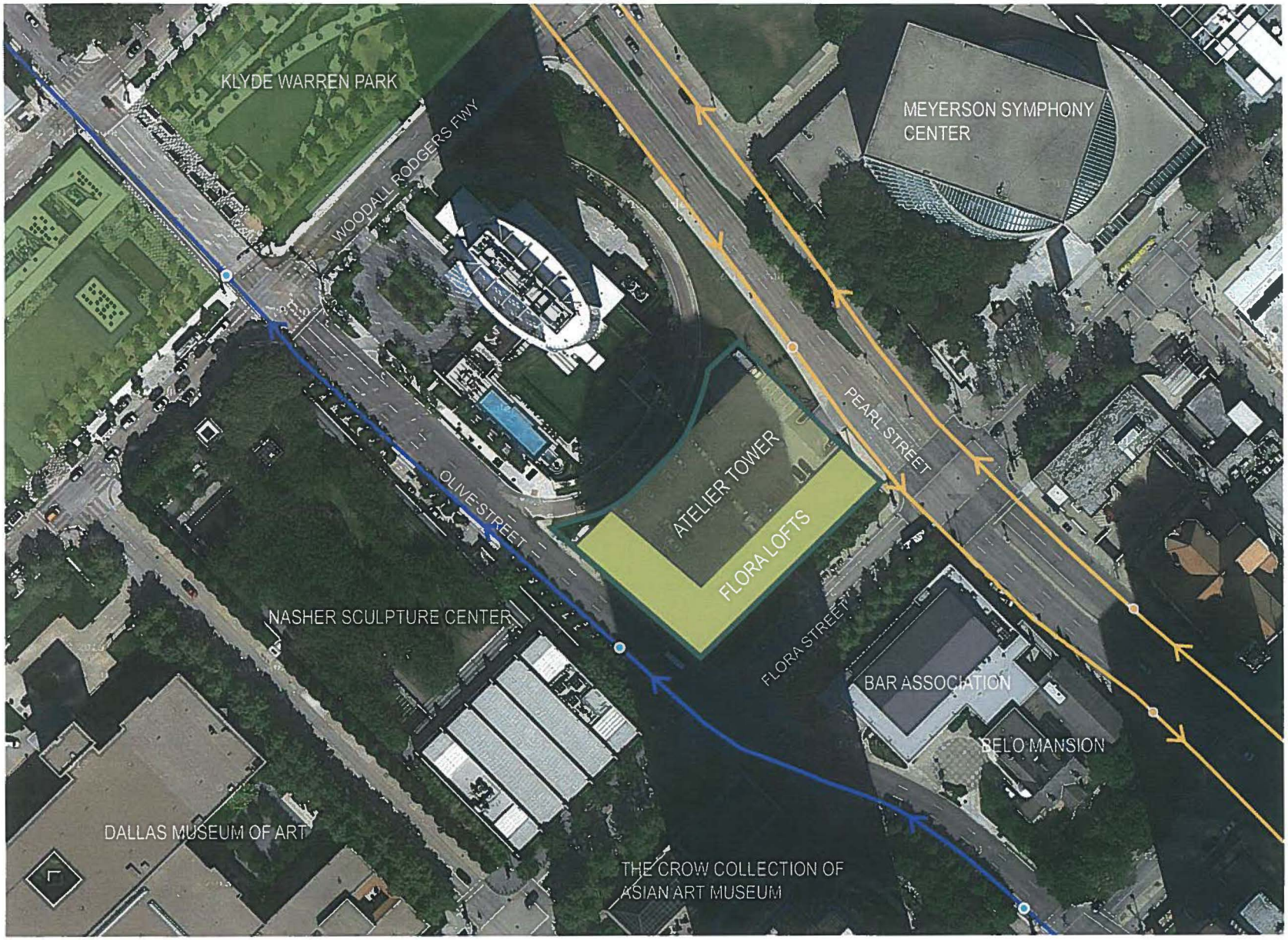
OWNER	**DEVELOPER**
GREENarc Corp and La Reunion TX	**Ashwood Companies, Inc.**
Graham Green, President	Buddy Jordan, President
	GREENarc Corp and La Reunion TX
	Graham Green, President

FISCAL INFORMATION

No cost consideration to the City

MAP

Attached.



Approximately 1.0328 acres at 2121 Flora Street, Dallas, TX 75201; located in a high-density infill location in the Dallas Arts District.

FLORA LOFTS

Flora Street Lofts, Ltd.
2121 Flora Street
Dallas, Texas 75201

www.floralofts.com

LA REUNION TX
4848 Lemmon Avenue
PMB 100-117
Dallas, Texas 75219
469.951.7323

GREENarc Corporation
1925 San Jacinto #300
Dallas, Texas 75201
214.954.0430

- PROPERTY LINE
- M-LINE TROLLEY
- DART BUS LINE

PRELIMINARY

MAY NOT BE USED FOR PERMITTING, CONSTRUCTION, OR REGULATORY APPROVAL.

LOCATION MAP

11 . 22 . 2016

March 22, 2017

WHEREAS, on April 25, 1984, the City of Dallas (City) authorized the creation of the City of Dallas Housing Finance Corporation (DHFC) as a Texas non-profit corporation, pursuant to the Texas Housing Finance Corporation Act, Chapter 394, Local Government Code, V.T.C.A., as amended (the Act), to act on behalf of the City in carrying out the public purpose of the Act; and

WHEREAS, the DHFC is authorized by the Act to issue its revenue bonds on behalf of the City for the purpose of providing funding for the housing development for persons of low and moderate income to be located in the City; and

WHEREAS, pursuant to Resolution No. 06-0136, City Council decided for a 12 month period beginning on January 11, 2006 not to approve any new tax credit transactions unless a pre-application waiver is granted by the City Council; and

WHEREAS, pursuant to Resolution No. 07-0733, Section 1.2 of the Bylaws was amended to allow the DHFC to purchase, lease, own, hold title to, or otherwise acquire an interest in a residential development, directly or indirectly through a subsidiary of the DHFC, provided that the City Council, by resolution, prior to the transaction being consummated by the DHFC, (1) finds and determines that such transaction should be undertaken, (2) approves the form of the transaction and (3) authorizes such purchase, lease, or ownership of, holding title to, or acquisition of the interest in the residential development; and

WHEREAS, La Reunion TX and GREENarc Corp submitted an application on January 5, 2017, to the DHFC for: (1) the issuance of tax exempt bonds by the DHFC in an amount not to exceed $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series to finance the acquisition and new construction of 52 units of rental housing for families; (2) a resolution in support of the Texas Department of Housing and Community Affairs award of 4% Housing Tax Credits in the approximate amount of $7,579,038 for the acquisition and new construction of the Flora Street Lofts to be located at 2121 Flora Street, Dallas, Texas to request a public hearing for the City Council to consider providing appropriate waivers pursuant to §11.3 (2)(a-g) and §. 11.4(c)(1) of the TDHCA's Qualified Allocation Plan and State of Texas H.B. 3361 which requires that (i) Notice has been provided to the Governing Body in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The Governing Body has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The Governing Body has held a hearing at which public comment may be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) After due consideration of the information provided by the Applicant and public comment, the Governing Body does not object to the proposed Application; and

WHEREAS, on February 14, 2017, the DHFC issued an inducement for the tax exempt bonds to finance the acquisition and new construction of the Flora Street Lofts family project and authorized the tentatively designated as Flora Street Lofts, Ltd. proposal to be considered by City Council and to authorize a public hearing in accordance with the requirements contained in H.B. 3361 effective September 1, 2013; and

WHEREAS, as a condition for being considered for the award of the 4% housing tax credits, the Applicant has committed to renting 10% or (5) of the units to tenants whose household incomes are capped at 50% or below the Area Median Family Income (AMFI) with rents affordable to tenants whose household incomes are 50% or below the AMFI and 73% (38) of the units to tenants whose household incomes are capped at 60% or below the AMFI with rents affordable to tenants whose household incomes are 60% or below the AMFI in compliance with the maximum Low Income Housing Tax Credit rents as published by the Texas Department of Housing and Community Affairs. There will be 17% or (9) market rate units; and

WHEREAS, the Issuer proposes to issue the following bond issue (the “Bonds”) to finance the following project:

> $15,000,000 City of Dallas Housing Finance Corporation, Multi-family Housing Mortgage Revenue Bonds (Flora Street Lofts Project) Series 2017 to build 52 units of new construction residential units for families on the site located at 2121 Flora Street, Dallas, Texas; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that the governing body or the chief elected executive official of the governmental unit in which the projects are located approve the issuance of the Bonds after a public hearing following reasonable public notice thereof; and

WHEREAS, the DHFC will hold a public hearing, the Tax, Equity and Fiscal Responsibility hearing with respect to the Bonds on March 9, 2017, following publication of reasonable public notice thereof in a newspaper of general circulation within the city of Dallas; and

WHEREAS, in March, 2017, the applicant requested that the Texas Bond Review Board issue a Bond Reservation to the DHFC for the Flora Street Lofts Project, a proposed 52 unit new construction project for families, in an amount not to exceed $15,000,000; and

March 22, 2017

WHEREAS, La Reunion TX and GREENarc Corp will submit a 4% tax credit application with the Texas Department of Housing and Community Affairs (TDHCA) on or before March 10, 2017, pursuant to its 2017 Qualified Allocation Plan (QAP) for 4% low income housing tax credits (LIHTC); and under the TDHCA rules in the 2017 Qualified Allocation Plan and Rules (QAP), if the development is located in a municipality that has more than twice the State average of units per capita supported by LIHTC or private activity bonds, the applicant must obtain prior approval of the development from the governing body of the municipality; and

WHEREAS, (1) a public hearing will be held to receive comments concerning the application with The Texas Department of Housing and Community Development (TDHCA) for 4% tax credits in the approximate amount of $7,579,038 with tax exempt bonds in the approximate amount of $15,000,000 to be issued by DHFC for the Flora Street Lofts, a new construction development for families, located at 2121 Flora Street, Dallas, Texas 75201; (2) authorization will be granted for the issuance of tax exempt bonds by DHFC in the approximate amount of $15,000,000 in Multi-family Housing Mortgage Revenue Bonds Series 2017 to finance the acquisition and new construction of 52 units for families by Flora Street Lofts, Ltd. referred to as the Flora Street Lofts; and, (3) a resolution will be granted in support of the Texas Department of Housing and Community Affairs award of Low Income Housing Tax Credits for the acquisition and new construction of the Flora Street Lofts housing development located at 2121 Flora Street, Dallas, Texas by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and pursuant to §11.3(a-g) and §11.4 (c)(1) of the 2014 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors; and

WHEREAS, the owner of the project will expend a minimum of $40,000 in social services annually ($200 per unit per year), whichever is greater, for and at no cost to the residents of the development, based on a survey of resident's needs to include some or all of the following: tutoring and after-school programs; health screenings, family counseling/domestic crisis intervention, computer education, emergency assistance, vocational guidance, adult education programs (such as ESL, life skills, nutrition classes, etc.) and social services and recreational activities, to be implemented within three months of project completion and in-kind social services may count toward meeting 100% of the social service requirements. No fees may be charged to the tenants for any of the services. Services must be provided on-site or transportation to off-site services must be provided. The provision of these services will be included in the Bond Regulatory Agreement and the applicant will pay an annual monitoring fee of $1,500 payable to the City of Dallas Housing Finance Corporation; and

WHEREAS, in the Qualified Allocation Plan, §11.3 (a-g) and §11.4 (c)(1) Housing Deconcentration factors (b) Twice the State Average Per Capita (§2306.6703(a)(4)): If the Development is located in a municipality, or if located completely outside a municipality, a county, that has more than twice the state average of units per capita supported by Housing Tax Credits or private activity bonds at the time the Application Round begins (or for Tax Exempt Bond Developments at the time the Certificate of Reservation is issued by the Texas Bond Review Board), the Applicant must obtain prior approval of the Development from the City of Dallas, Governing Body of the appropriate municipality or county containing the Development. Since the City of Dallas can exceed the twice the state per average at any time, it has been determined that such approval must include a resolution adopted by the Governing Body of the municipality or county, as applicable, setting forth a written statement of support, referencing Texas Government Code, §2306.6703(a)(4), and authorizing an allocation of Housing Tax Credits for the Development; and the City of Dallas by vote will specifically allow the construction of the new Development and submit to the Department a resolution referencing this rule; and

WHEREAS, to satisfy H.B. 3361, the City will hold a public hearing on March 22, 2017, and approve the resolution that certifies that: (i) Notice has been provided to the City of Dallas in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The City of Dallas has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The City of Dallas held this hearing at which public comment could be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) After due consideration of the information provided by the Applicant and public comment, the City of Dallas does not object to the proposed Application; and

WHEREAS, on February 14, 2017, the City of Dallas Housing Finance Corporation approved a preliminary inducement for the tax exempt mortgage revenue bonds in the approximate amount of $15 Million to finance the acquisition and new construction of the family project, allowing the applicant to submit an application for a bond allocation from the Texas Bond Review Board and the reimbursement of eligible project costs going back 60 days from the date of the inducement; and

WHEREAS, on February 21, 2017, the Housing Committee was provided information and the Economic Development Committee was briefed on the Flora Street Lofts new construction project proposal; and subject to certain conditions being met, it was deemed necessary and advisable that this resolution be adopted to approve the application and take all actions necessary to carry out the transaction and hold the public hearing pursuant to State of Texas H.B. 3361.

NOW, THEREFORE,

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

Section 1. That the City of Dallas will hold a public hearing on March 22, 2017 to consider the authorization for the DHFC to issue tax exempt bonds in the approximate amount of $15,000,000 Multi-family Housing Mortgage Revenue Bonds Series 2017 and supports the TDHCA's 4% tax credits in the approximate amount of $7,579,038 to finance the acquisition and new construction of 52 units for families tentatively designated as Flora Street Lofts, comprised of 32 one-bedroom units, 18 two-bedrooms and 2 three-bedrooms and located at 2121 Flora Street, Dallas, Texas owned by Flora Street Lofts, Ltd.

Section 2. That after the public hearing: (1) the City of Dallas will grant the final approval of the Flora Street Lofts application, property owned by Flora Street Lofts, Ltd., ("the Applicant) to be built by La Reunion TX and GREENarc Corp; (2) is approved the issuance of tax-exempt bonds by the DHFC in an amount not to exceed $15,000,000 in tax-exempt Multi-family Housing Mortgage Revenue Bonds Series 2017 and authorize the DHFC to take all actions necessary to carry out the transaction; and (3) grant its support of the application for 4% housing tax credits in the approximate amount of $7,579,038 pursuant to §11.3 (2)(a-g) and Deconcentration Factors contained in TDHCA's Qualified Allocation Plan and hereby certify that the requirements of H.B. 3361 will have been satisfied because (i) Notice will have been provided to the City of Dallas in accordance with Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A); (ii) The City of Dallas will have had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed Development; (iii) The City of Dallas will have held a hearing at which public comment can be made on the proposed Development in accordance with Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B); and (iv) If after due consideration of the information provided by the Applicant and public comment, the City of Dallas does not object to the proposed Application and the resolution of no objection must be submitted no later than the Resolutions Delivery Date pursuant to §10.4 which is 75 days prior to the Board Meeting when TDHCA will consider the applicant's proposal.

Section 3. That this approval is subject to the Project Owner expending a minimum of $40,000 in social services annually, of which 100% may be from in-kind services, for and at no cost to the residents of the development, based on a survey of resident's needs, to be implemented within three months of project completion and pay an annual monitoring fee of $1,500 payable to City of Dallas Housing Finance Corporation.

Section 4. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Office of Development Services with regard to security related design standards.

Section 5. That the approval of the City is also for the purpose of satisfying the conditions and requirements of Section 147(f) of the Code and is not to be construed as an undertaking by the City of Dallas. The Bonds shall not constitute a liability, an indebtedness, or obligation of the City of Dallas nor shall any of the assets of the City of Dallas be pledged to the payment of the Bonds. The Bonds shall specifically provide that the Bonds are not a debt of the City of Dallas, Dallas County and the State of Texas and that the City of Dallas, Dallas County and State of Texas are not liable with respect to the Bonds.

Section 6. That the City Manager will request authorization to convey a copy of the March 22, 2017 resolution to the Applicant and the TDHCA with a written statement of support by the City Council referencing by conducting a Public Hearing pursuant to Texas Government Code, §2306.67071(a) and 10 TAC §10.204(4)(A), Texas Government Code, §2306.67071(b) and 10 TAC§10.204(4)(B) and provided for in §11.3 (a-g) and §11.4 (c)(1) of the 2017 Qualified Allocation Plan (QAP) regarding Housing Deconcentration Factors for compliance with the Texas Department of Housing and Community Affairs (TDHCA) 2017 Qualified Allocation Plan and contingent upon the developer assuming relocation costs, if any, associated with the development costs.

Section 7. That after the public hearing is held on March 22, 2017, the Resolution of no objection will be granted for the new construction of the Flora Street Lofts.

Section 8. That as provided in 10 TAC §11.3(c), it is hereby acknowledged that the Flora Street Lofts will not be located one linear mile or less than a Development that serves the same type of household as the proposed Development and has received an allocation of Housing Tax Credits for New construction since January 4, 2014; however, if data changes or if another Development that serves the same type of household is approved for Housing Tax Credits, the City of Dallas continues to have no objection and specifically allows the Flora Street Lofts to receive an allocation of Housing Tax Credits.

Section 9. That it is RESOLVED, that as provided for in 10 Texas Administrative Code §11.4 (c)(1) and §11.3(b), it is expressly acknowledged and confirmed that the City of Dallas could at any time have more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds, and that the City of Dallas currently is not a city that has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; however, if data changes occur, the City of Dallas would have no objection to the Flora Street Lofts.

Section 10. That it is FURTHER RESOLVED, (1) that the City of Dallas supports the Flora Street Lofts Project and confirms that its governing body has voted specifically to approve the construction of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Texas Government Code §2306.6703(A)(4), and in accordance with Texas Government Code §2306.67671(a) that if notice was provided to the City of Dallas and Texas Government Code §2306.67071(b) and Texas Administrative Code §10.204(4) confirming that a public hearing has been held and that a resolution of no objection was granted, this formal action will be taken to put on record the support expressed by the City of Dallas on March 22, 2017.

Section 11. That it is FURTHER RESOLVED that the project site could be subject to the greater than 20% HTC Units per Households in Census Tract Rule applicable to projects that are new construction contained in the 2017 Qualified Allocation Plan ("QAP"), if the project does not get an approval from TDHCA prior to the 2017 QAP deadline, therefore a waiver of this requirement is granted as provided for in 10 TAC §11.3 (d) and §11.4 (c)(1) and the City of Dallas confirms that it has voted specifically to allow the new construction of this development and has authorized an allocation of Housing Tax Credits for the Development.

Section 12. That it is FURTHER RESOLVED that for and on behalf of the Governing Body, the Mayor or the City Manager, are hereby authorized, empowered and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section 13. 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.

AGENDA ITEM # 61

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Office of Economic Development

CMO: Mark McDaniel, 670-3256

MAPSCO: 45K

SUBJECT

Authorize a development agreement with Flora Street Lofts, Ltd. and Green Arc Corporation, its limited partner, to assist the development of the Flora Lofts Project located at 2121 Flora Street in the Arts District - Not to exceed $4,577,916 in the form of a TIF grant supporting affordable housing - Financing: City Center TIF District Funds (subject to future appropriations from future tax increments)

BACKGROUND

Flora Lofts will be built on the parking lot between the Nasher Sculpture Center and the Morton H. Meyerson Symphony Center and just south of Museum Tower, in the Downtown Connection TIF District. Flora Lofts will be a 52-unit residential structure of which 83% of the units will be designated as artist dwelling units for those with incomes at 50% and 60% of Dallas Area Median Income. This will be the first TIF supported residential project since the 10% voucher holder requirement was approved (Resolution 16-1760).

The Flora Lofts project includes approximately 60,681 square feet of residential space (52 residential units, of which 43 will be affordable units), 136 parking spaces (101 of which will be flex spaces for Flora Lofts and the public), and streetscape improvements on Flora, Pearl, and Olive Streets. Flora Lofts is part of a vertically stacked development that includes a separate, adjacent project with completely separate ownership. The adjacent project ("Adjacent Project"), Atelier Tower, which will not receive City funding, is a 364-unit market rate high rise with 14,774 square feet ground floor retail space and 522 parking spaces.

The TIF funding request is to assist with the gap between the market rate units and the 43 affordable units (5 units at 50% AMFI and 38 units at 60% AMFI). The City Center TIF District has several set-aside budget categories, including Affordable Housing. Funds for affordable housing can be used outside of the TIF District Boundary.

BACKGROUND (Continued)

The total anticipated affordable housing set-aside is $6,500,000. $4,577,916 is being requested for this Arts District project. $1,142,594 has been accrued and collected to date (2014-2016 collections). None of this set-aside funding has been committed.

ESTIMATED PROJECT SCHEDULE

Project Start Date July 2017
Project Completion Date March 2019

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 8, 2016, the City Center TIF District Board of Directors reviewed and approved TIF funding for affordable housing in the Flora Lofts Project in an amount not to exceed $4,577,916.

Information about this item was provided to the Economic Development Committee on February 21, 2017.

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

$4,577,916 - City Center TIF District Funds (subject to future appropriations from future tax increments)

OWNER

Flora Street Lofts, Ltd.
and Green Arc Corporation,
its limited partner

Graham Greene, President
1925 San Jacinto
Dallas, Texas 75201

DEVELOPER

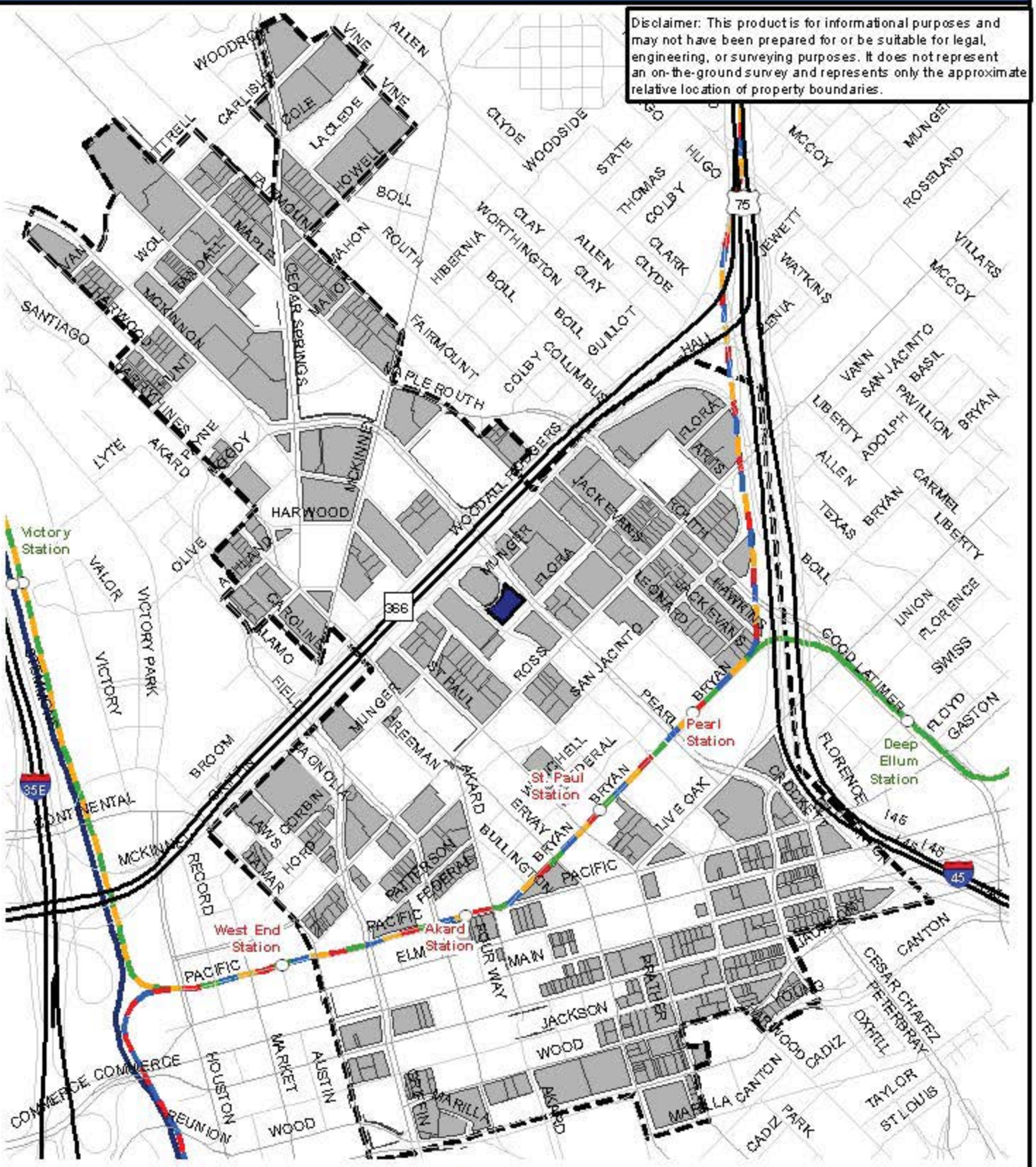
Flora Street Lofts, Ltd.
and Green Arc Corporation,
its limited partner

Graham Greene, President
1925 San Jacinto
Dallas, Texas 75201

MAP

Attached.

Flora Lofts Project



City of Dallas
Office of Economic Development

Area Redevelopment Division
http://www.Dallas-EcoDev.org

Created 2/2013

Legend

- Flora Lofts Project - 2121 Flora St.
- Downtown Connection TIF Boundary
- Downtown Connection TIF Parcels
- Properties Outside of TIF
- Rail Station
- DART Red Line
- DART Blue Line
- DART Green Line
- DART Orange Line
- Trinity Railway Express

N W E S

March 22, 2017

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

WHEREAS, on June 26, 1996, City Council pursuant to Ordinance No. 22802, established Tax Increment Financing Reinvestment Zone Five (City Center TIF District) in accordance with the Tax Increment Financing Act, as amended (V.T.C.A. Tax Code, Chapter 311, hereafter the "Act") to promote development and redevelopment in the City Center area through the use of tax increment financing as amended; and

WHEREAS, on February 12, 1997, City Council, pursuant to Ordinance No. 23034, authorized the City Center TIF District Project Plan and Reinvestment Zone Financing Plan for the City Center TIF District, as amended; and

WHEREAS, the City Center TIF District has several set-aside budget categories, including Affordable Housing and such Affordable Housing Funds may be used outside of the TIF District Boundary; and

WHEREAS, on December 8, 2016, the City Center TIF District Board of Directors reviewed and approved TIF funding for affordable housing in the Flora Lofts Project in an amount not to exceed $4,577,916; and

WHEREAS, supporting affordable housing for artists to live and work in the Dallas Arts District creates synergy within a district designed to enhance the City's creative and economic vitality, to the benefit of both the City Center TIF District and the Downtown Connection TIF District; and

WHEREAS, the expenditure of TIF funds supporting this affordable housing development project is consistent with promoting development and redevelopment of the City Center TIF District in accordance with the purposes for its creation, the City's revised Public/Private Partnership Guidelines and Criteria, the ordinance adopted by the City Council approving the Project and Financing Plan, as amended, and is for the purpose of making public improvements consistent with and described in the Project and Financing Plan, as amended, for the City Center TIF District.

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 with Flora Street Lofts, Ltd. and Green Arc Corporation, its limited partner ("Owner"), and the City of Dallas for the Flora Lofts Project located at 2121 Flora Street in the Arts District and that future City Center TIF revenues in an amount not to exceed $4,577,916 in the form of a TIF grant supporting affordable housing, is hereby dedicated to TIF-eligible project costs associated with the Flora Lofts Project, as shown in **Exhibit B** – TIF Budget. TIF reimbursable project costs include affordable housing.

Section 2. That the Chief Financial Officer is hereby authorized to encumber and disburse funds from future tax increments and subject to future appropriations from:

Fund 0035, Department ECO, Unit W169, Object 3010, Activity TCCN, Program No. CCTIF0015, CT ECOW169E307, Vendor No. VS93927, in an amount not to exceed $4,577,916; and

Total amount not to exceed $4,577,916.

Section 3. That nothing in this resolution shall be construed to require the City to approve future dedications of City Center TIF revenues (the "TIF Subsidy") from any source of the City funds other than the City Center TIF District Fund. Any portion of the TIF Subsidy that remains unpaid due to lack or unavailability of City Center TIF District. Funds shall no longer be considered project costs of the City Center TIF District or the City and the obligation of the City Center TIF District to pay the Owner shall automatically expire.

Section 4. 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. Document a minimum private investment (acquisition, construction and construction related soft costs) of $20,000,000 for the Project.

The term "Invest" or "Investment" means the sum of all acquisition costs, construction costs (hard and soft) paid, payable or actually incurred by or on behalf of the Owner, with respect to the Project and the improvements thereon. Construction related soft costs include the following items: architecture and engineering, interior design, consulting, construction management. The 'Construction Management' category is intended to cover fees paid to an outside consultant or third party. Construction Management fees must be documented in an invoice containing a detailed description of work performed.

Section 4. (Continued)

Carrying or other similar costs are not included in the calculation of project investment. The owner must provide verification of all expenditures. Any work completed prior to the execution of an agreement is eligible to be counted toward the minimum investment requirement but it is still subject to M/WBE requirements;

B. Construct a minimum of 50,000 square feet of residential rental space (approximately 52 residential rental units) in Flora Lofts Project of which a minimum of 43 units shall be set aside as affordable (5 at 50% AMFI and 38 at 60% AMFI) for a minimum of 15 years. The affordability requirement shall be impressed upon the property by deed restriction;

C. In accordance with City of Dallas Ordinance 30246, approved by Resolution 16-1760, at least 10% of the Flora Lofts Project residential units must be set aside and leased to voucher holders. The affordability requirement shall be impressed upon the property by deed restriction;

D. Construct 136 parking spaces for Flora Lofts Project, including 101 non-dedicated flex spaces for public use/residents;

E. Follow Peer Review recommendation to insure that construction of a ground floor that is active and open at ground level. Construct, or cause to be constructed, a ground floor that demonstrates good urban parking garage design including a minimum of 10,000 square feet ground floor retail/commercial space, excluding lobby;

F. Obtain a building and/or demolition permit and start construction and/or demolition for the Project by July 1, 2017;

G. Obtain a Certificate of Occupancy (CO) for the Project by March 1, 2019;

H. Obtain final acceptance of public infrastructure improvements associated with the Project, as evidenced by the issuance of a Green Tag from the Mobility and Street Services Department by March 1, 2019, and submit documentation to the Office of Economic Development (the “OED”);

I. Execute an Operating and Maintenance agreement for public infrastructure improvements associated with the Project by the earlier of March 1, 2019 or project completion, for a period of 20 years;

Section 4. (Continued)

J. The Flora Lofts Project is not eligible for City of Dallas or Dallas County tax abatements;

K. Substantial conformance with the Urban Design Peer Review Panel recommendations for the Project, Adjacent Project and public right of way along Flora Street, North Olive Street and North Pearl Street referenced on plans as "New Pedestrian Connection to Klyde Warren Park" as depicted in the project's renderings and elevations **(Exhibit A)**.

Design Review by the Urban Design Peer Review Panel, an independent group of design, engineering, and/or planning professionals selected by the Dallas City Manager is required for all Downtown Connection and City Center TIF District projects. Design Review shall include the entire project scope. The Project's design plans shall include:

a. A site plan showing the location of parcel boundaries clearly differentiating publically accessible space form private space;

b. A pedestrian lighting plan for the site using lighting acceptable to the City and spaced at approximately 75 feet unless otherwise required by the City's Mobility and Street Services Department. This lighting plan is required for all public and private streets included in the project;

c. A sidewalk plan for the project. Sidewalks with highly anticipated levels of pedestrian traffic shall be designed to accommodate the traffic. The sidewalks shall have a minimum 10-foot walking zone and a minimum 3-foot landscaping and lighting zone, where possible. Landscaping and pedestrian lights shall be placed in the area closest to the back of curb for the length of the sidewalk. The plan shall show the location and type of all landscaping materials;

d. Elevations for all sides of the building visible from the public right of way, focusing on the ground floor;

e. Valet plan indicating where the vehicular drop off will be located;

f. Signage plan for the building.

L. Construction of the Project, and public right of way improvements along Flora Street, North Olive Street and North Pearl Street referenced on plans as "New Pedestrian Connection to Klyde Warren Park" improvements shall be in general conformance with design plans approved by Director of OED;

Section 4. (Continued)

M. In exchange for construction of the "New Pedestrian Connection to Klyde Warren Park", Owner may utilize the ROW for construction staging until the Flora Lofts Project C/O date, but should owner choose not to use the site for construction staging, the "New Pedestrian Connection to Klyde Warren Park" remains a project obligation, unless alternative funds (bond or like) are provided for the improvements;

N. Owner shall submit to the Director of Office of Economic Development a quarterly status report for ongoing work on the project, as well as public improvements. Status reports will be due once every three months after the Council approval date;

O. Comply with the Business Inclusion and Development ("BID") goal of twenty-five percent (25%) Minority/Women-owned Business Enterprise (M/WBE) for total private improvement construction expenditures counted towards the minimum investment requirement for the Flora Lofts Project, and meet all reporting requirements;

The City acknowledges that the Flora Lofts Project is a part of a condominium regime with the Adjacent Project (which is separately owned, developed, and financed), and that the Adjacent Project shall not be subject to the BID requirement as a result of the Flora Lofts Project being granted the TIF Subsidy;

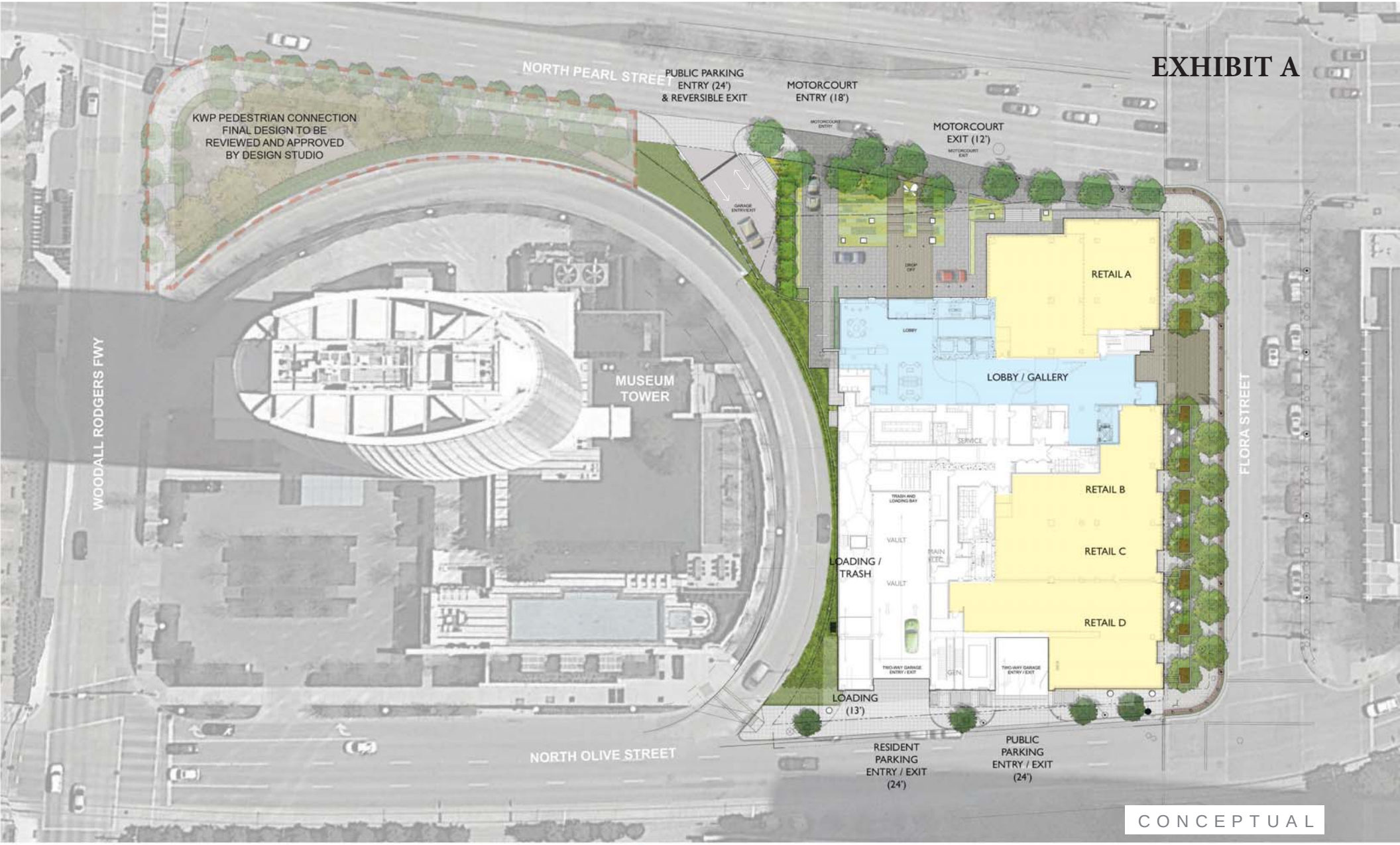
P. A minimum of at least 50% of ground floor space must be occupied prior to TIF payment;

Q. If necessary, the project deadline can be extended up to 12 months, subject to the Office of Economic Development Director's and TIF District Board of Directors' approval.

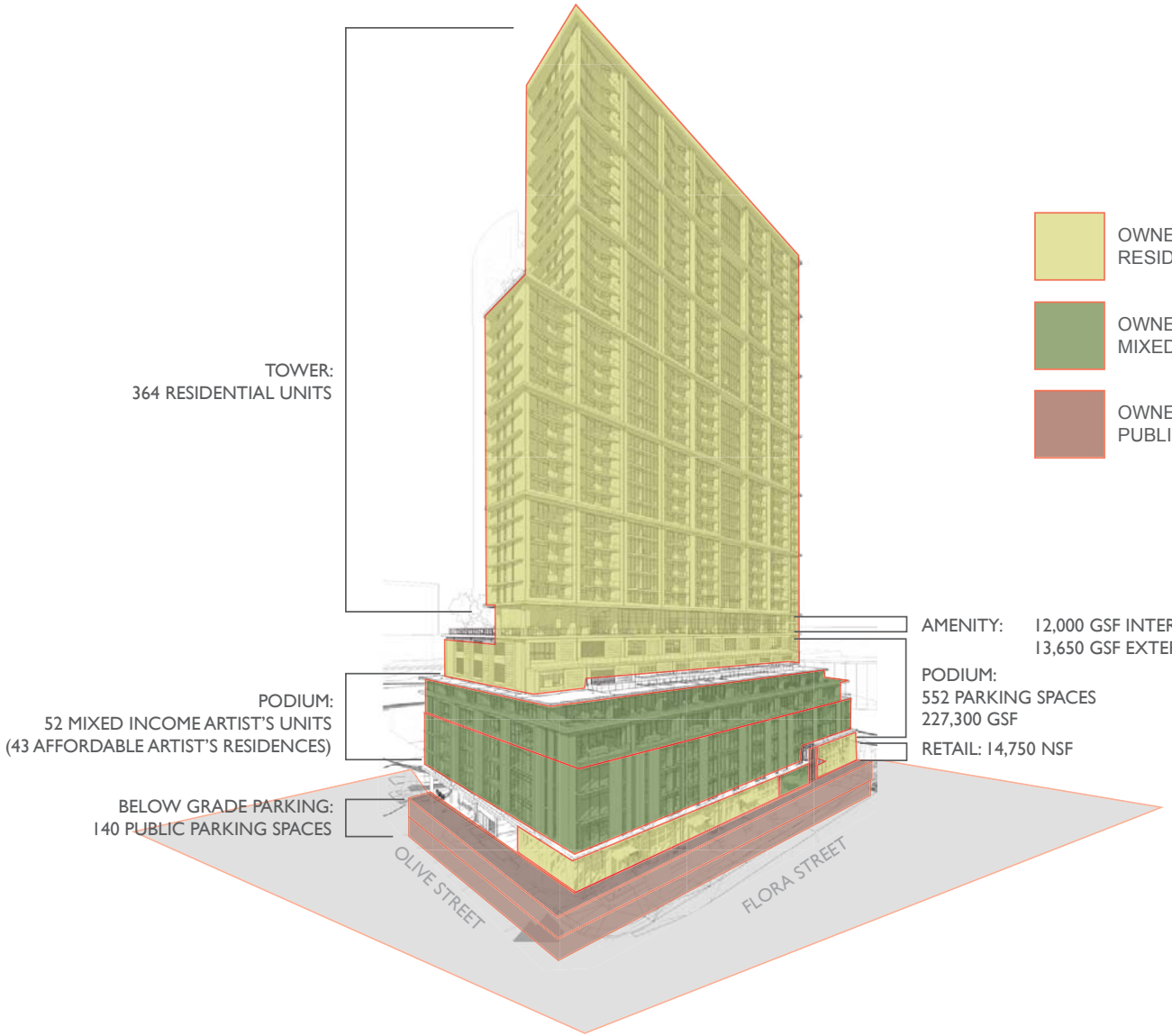
Section 5. That should Flora Street Lofts, Ltd. and Green Arc Corporation, its limited partner, not perform one or more of the contingencies listed above, the City Manager is authorized to terminate the development agreement and disallow the total TIF Subsidy up to an amount not to exceed $4,577,916.

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.

EXHIBIT A



CONCEPTUAL

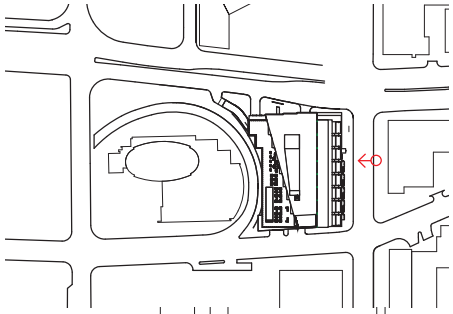


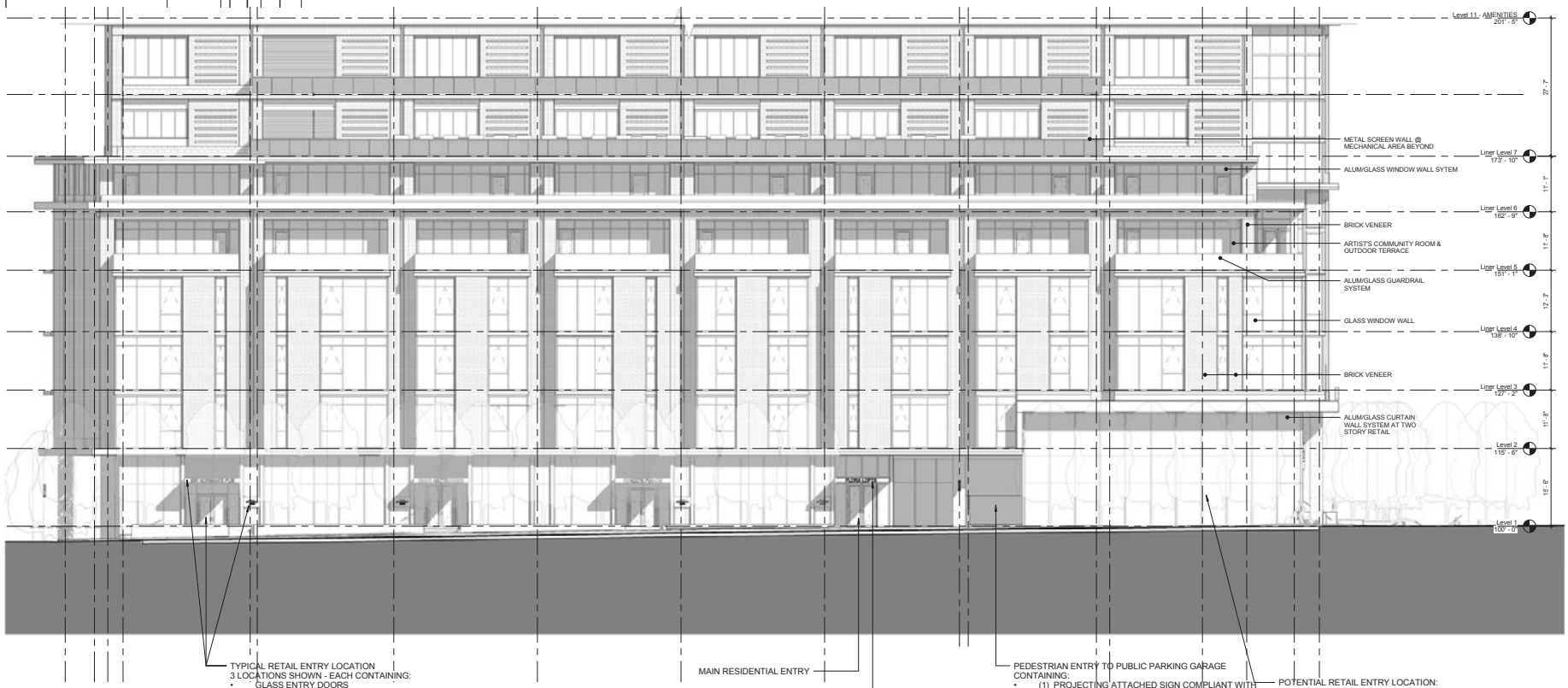
OWNER: ZOM LIVING
RESIDENTIAL APARTMENTS, RETAIL, & PARKING

OWNER: FLORA STREET LOFTS, LTD.
MIXED INCOME ARTIST'S LOFTS

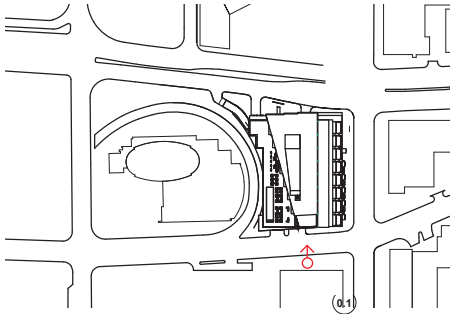
OWNER: ARTS DISTRICT PROPERTIES | GREENE
PUBLIC PARKING

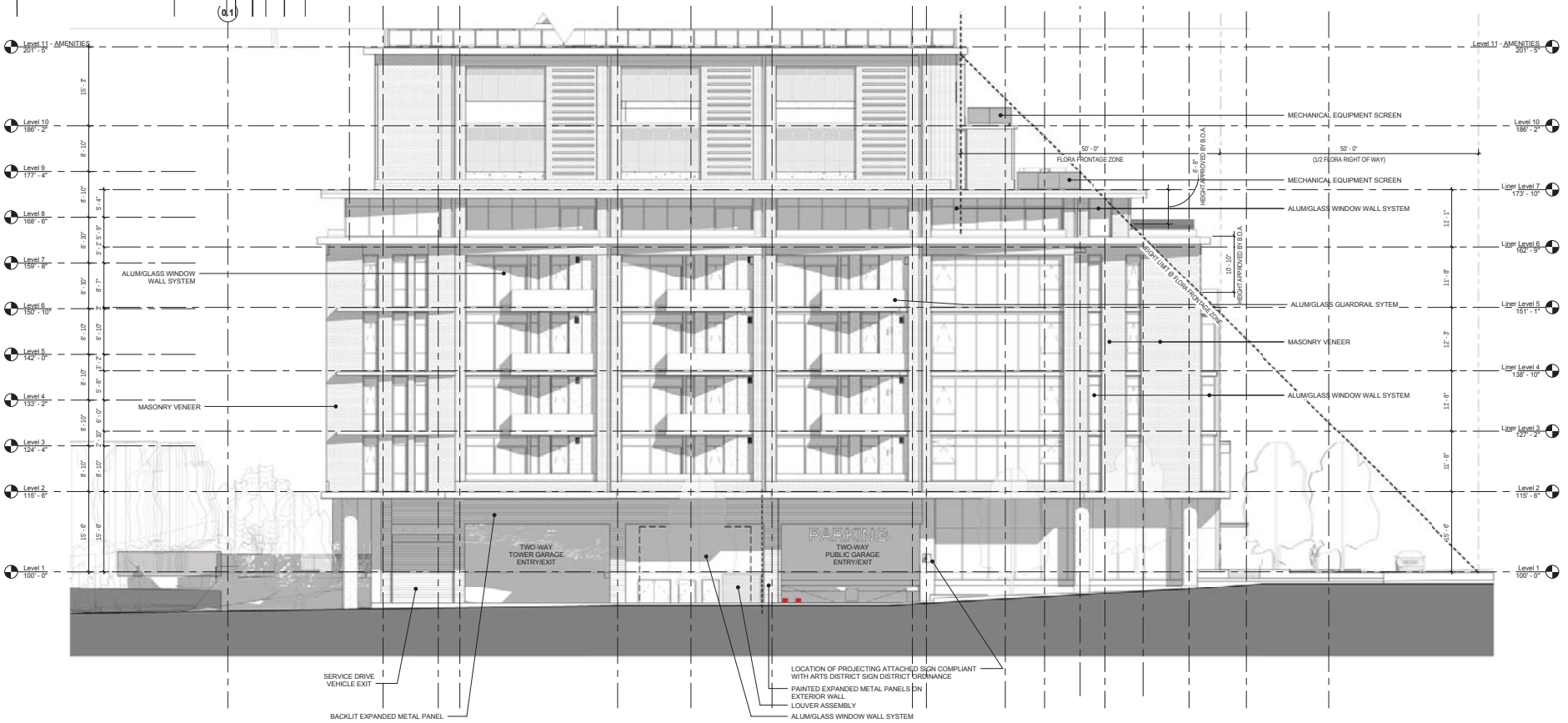
CONCEPTUAL



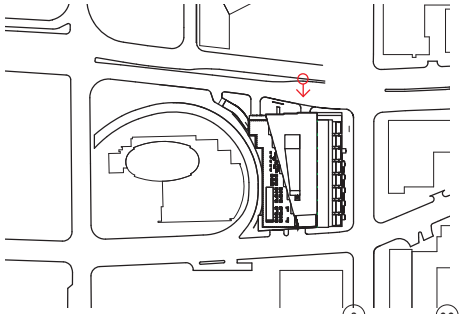

Level 11 - AMENITIES
201' - 5"
Liner Level 7
173' - 10"
Liner Level 6
162' - 9"
Liner Level 5
151' - 1"
Liner Level 4
138' - 10"
Liner Level 3
127' - 2"
Level 2
115' - 6"
Level 1
100' - 0"
27' - 7"
11' - 4"
11' - 8"
12' - 3"
11' - 8"
11' - 8"
15' - 6"
METAL SCREEN WALL @ MECHANICAL AREA BEYOND
ALUM/GLASS WINDOW WALL SYTEM
BRICK VENEER
ARTIST'S COMMUNITY ROOM & OUTDOOR TERRACE
ALUM/GLASS GUARDRAIL SYSTEM
GLASS WINDOW WALL
BRICK VENEER
ALUM/GLASS CURTAIN WALL SYSTEM AT TWO STORY RETAIL
TYPICAL RETAIL ENTRY LOCATION
3 LOCATIONS SHOWN - EACH CONTAINING:
• GLASS ENTRY DOORS
• (1) FIXED METAL CANOPY, WITH TRANSLUCENT PANEL
• (1) AWNING SIGN TO COMPLY WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE
• (1) FLAT ATTACHED SIGN COMPLIANT WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE
MAIN RESIDENTIAL ENTRY
LOCATION OF BUILDING IDENTIFICATION SIGN COMPLIANT WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE
PEDESTRIAN ENTRY TO PUBLIC PARKING GARAGE CONTAINING:
• (1) PROJECTING ATTACHED SIGN COMPLIANT WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE
POTENTIAL RETAIL ENTRY LOCATION:
• GLASS ENTRY DOORS
• (1) FLAT ATTACHED SIGN COMPLIANT WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE

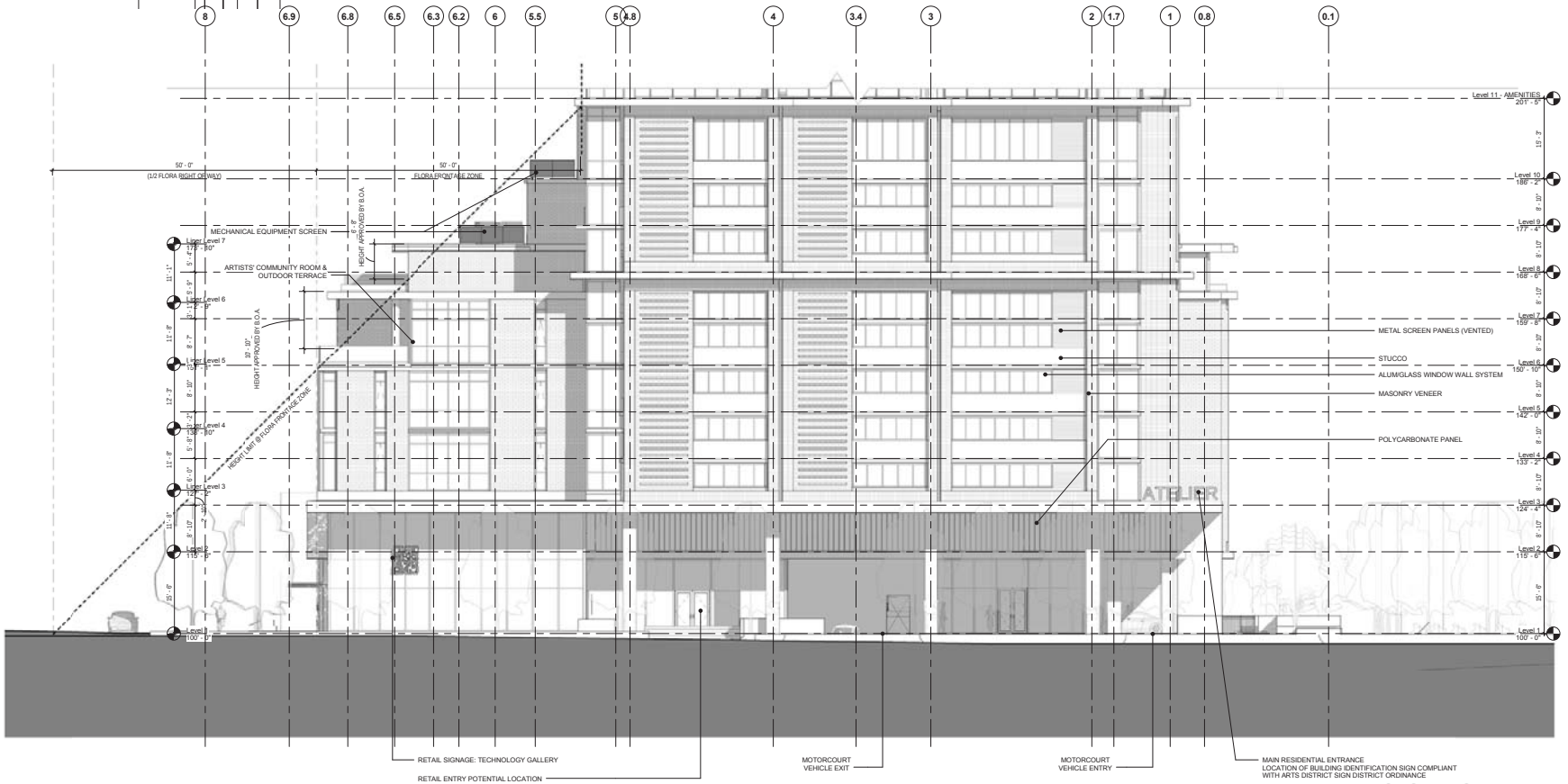
CONCEPTUAL




Level 11 - AMENITIES
201' - 5"
Level 10
186' - 2"
Level 9
177' - 4"
Level 8
168' - 6"
Level 7
159' - 8"
Level 6
150' - 10"
Level 5
142' - 0"
Level 4
133' - 2"
Level 3
124' - 4"
Level 2
115' - 6"
Level 1
100' - 0"
Liner Level 7
173' - 10"
Liner Level 6
162' - 9"
Liner Level 5
151' - 1"
Liner Level 4
138' - 10"
Liner Level 3
127' - 2"
MECHANICAL EQUIPMENT SCREEN
50' - 0"
FLORA FRONTAGE ZONE
50' - 0"
(1/2 FLORA RIGHT OF WAY)
HEIGHT APPROVED BY B.O.A.
6' - 8"
HEIGHT APPROVED BY B.O.A.
10' - 10"
HEIGHT LIMIT @ FLORA FRONTAGE ZONE
ALUM/GLASS WINDOW WALL SYSTEM
ALUM/GLASS GUARDRAIL SYTEM
MASONRY VENEER
ALUM/GLASS WINDOW WALL SYSTEM
ALUM/GLASS WINDOW WALL SYSTEM
MASONRY VENEER
PARKING
TWO-WAY
TOWER GARAGE
ENTRY/EXIT
TWO-WAY
PUBLIC GARAGE
ENTRY/EXIT
SERVICE DRIVE
VEHICLE EXIT
BACKLIT EXPANDED METAL PANEL
LOCATION OF PROJECTING ATTACHED SIGN COMPLIANT
WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE
PAINTED EXPANDED METAL PANELS ON
EXTERIOR WALL
LOUVER ASSEMBLY
ALUM/GLASS WINDOW WALL SYSTEM

CONCEPTUAL



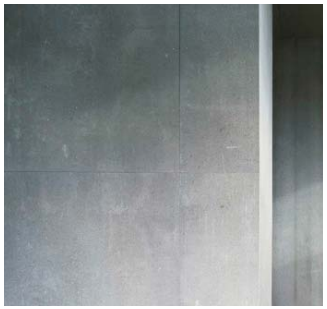

8
6.9
6.8
6.5
6.3
6.2
6
5.5
5
4.8
4
3.4
3
2
1.7
1
0.8
0.1
50' - 0"
(1/2 FLORA RIGHT OF WAY)
50' - 0"
FLORA FRONTAGE ZONE
MECHANICAL EQUIPMENT SCREEN
HEIGHT APPROVED BY B.O.A.
ARTISTS' COMMUNITY ROOM & OUTDOOR TERRACE
HEIGHT APPROVED BY B.O.A.
HEIGHT LIMIT @ FLORA FRONTAGE ZONE
Level 11 - AMENITIES
201' - 8"
Level 10
186' - 2"
Level 9
177' - 4"
Level 8
168' - 6"
Level 7
159' - 8"
Level 6
150' - 10"
Level 5
142' - 0"
Level 4
133' - 2"
Level 3
124' - 4"
Level 2
115' - 6"
Level 1
100' - 0"
METAL SCREEN PANELS (VENTED)
STUCCO
ALUM/GLASS WINDOW WALL SYSTEM
MASONRY VENEER
POLYCARBONATE PANEL
ATELIER
RETAIL SIGNAGE: TECHNOLOGY GALLERY
RETAIL ENTRY POTENTIAL LOCATION
MOTORCOURT VEHICLE EXIT
MOTORCOURT VEHICLE ENTRY
MAIN RESIDENTIAL ENTRANCE
LOCATION OF BUILDING IDENTIFICATION SIGN COMPLIANT WITH ARTS DISTRICT SIGN DISTRICT ORDINANCE

CONCEPTUAL

MATERIALS - CHARACTER MATERIAL OPTIONS







"SOLID" BUILDING MASS

- NORTHPARK BRICK
- LIMESTONE CEMENT PLASTER
- EXPOSED CONCRETE







FENESTRATION & GLAZING

- WINDOW WALL
- CURTAIN WALL
- GLAZING REFLECTIVITY < 0.35
- SPANDRAL GLASS
- BACK PANEL SHADOW BOX







"GALLERY" INNER SURFACES

- SAME AS BUILDING MASS
- WINDOW WALL
- LIMESTONE CEMENT PLASTER
- NORTHPARK BRICK





GUARDS & RAILS

- METAL GUARDS
- GLASS PANEL GUARDS







LOWER GARAGE SCREEN

- SOLID BUILDING MASS
- NORTHPARK BRICK
- LIMESTONE CEMENT PLASTER
- METAL LOUVERS





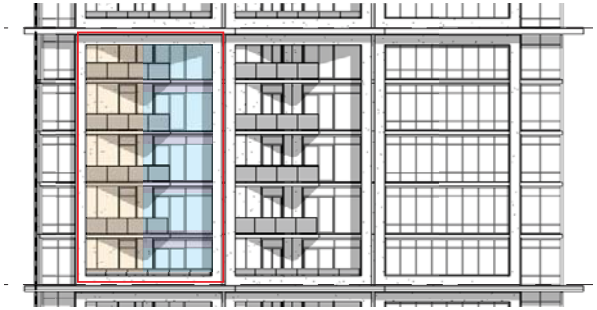


UPPER PODIUM SCREEN

- SOLID BUILDING MASS
- NORTHPARK BRICK
- LIIMESTONE CEMENT PLASTER
- METAL LOUVERS

CONCEPTUAL

GARAGE - "LOWER GALLERIES" - PERFORMANCE & MOVEMENT WITH LIGHT

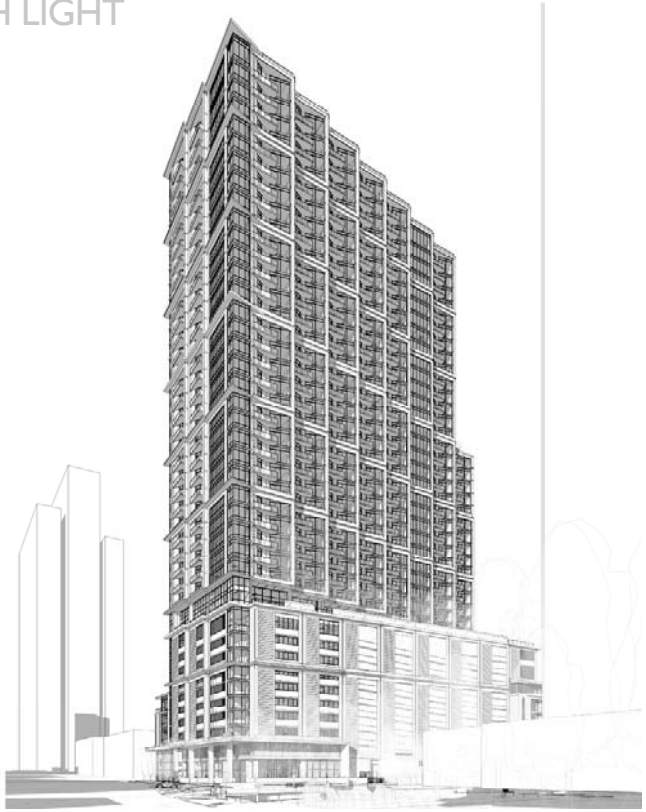


ELEVATION OF UPPER GALLERIES (RESIDENTIAL TOWER)

ELEVATION OF LOWER GALLERIES (GARAGE)







CONTINUITY OF PROPORTION

- 5 STORY MASONRY GALLERY FRAMES
- GALLERY INFILL VERTICAL WALL IS CONTINUOUS
- GALLERY INFILL HORIZONTAL WALL ORIENTATION SUBDIVIDES AT EACH FLOOR

CONTINUITY OF MATERIALS

- HEAVY & LIGHT -
  GARAGE = BRICK & GLASS
  TOWER = STUCCO & GLASS
- LOWER GALLERIES ALLOWED TO BE MORE MUSEUM-LIKE, LESS NEED FOR RESIDENTIAL FENESTRATION

REFINEMENT OF DETAIL

- GALLERIES CLOSER TO STREET AND ALONG PEARL STREET USE MORE REFINED SCALE
- FACADE INSET ALONG PEARL STREET TO CREATE STRONGER SHADOW LINES

LIGHT CUT-OFF

- BLOCK VIEW OF DIRECT LIGHTING FROM AUTO TRAFFIC
- NO EXTERIOR ILLUMINATION ALONG NORTH WEST FACADE (FACING MUSEUM TOWER)

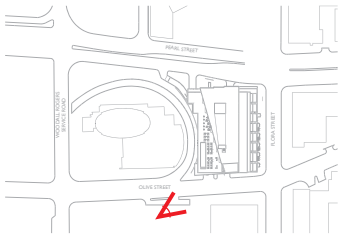
THOUGHFUL COMPOSITION

- USE SIMILAR DETAIL LANGUAGE AT BOTH THE TOWER & GARAGE FACADES
- PROPORTION AND MATERIALS TIE TOGETHER WITH OVERALL COMPOSTION

CONCEPTUAL


CONCEPTUAL

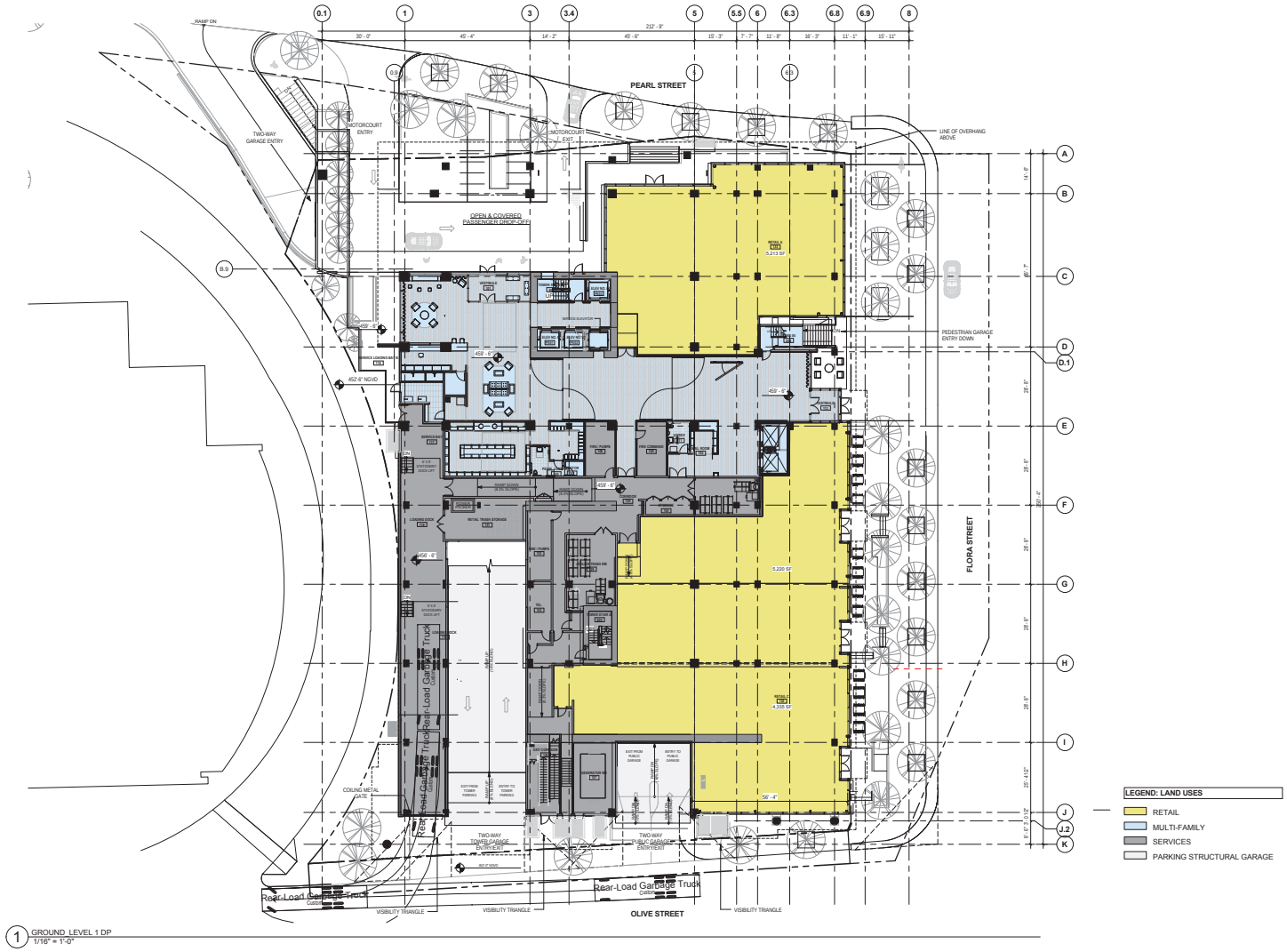




CONCEPTUAL


HORSESHOE
CAFE
CONCEPTUAL


1
CONCEPTUAL



1 GROUND_LEVEL 1 DP
1/16" = 1'-0"

Scale : 1" = 40'-0"

CONCEPTUAL

EXHIBIT B – FLORA LOFTS TIF BUDGET

The total amount of the TIF reimbursement shall not exceed $4,577,916 to support affordable housing. Actual TIF amount will be based on dedication of 43 affordable housing units (5 at 50% AMFI and 38 at 60% AMFI) for a minimum of 15 years.

Description	Amount
Affordable Housing	**$4,577,916**
Total TIF Funding Recommended	**$4,577,916**

AGENDA ITEM # 62

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Housing/Community Services
Office of Economic Development

CMO: Alan Sims, Chief of Neighborhood Plus, 670-1611
Mark McDaniel, 670-3256

MAPSCO: 45K

SUBJECT

Authorize a conditional grant agreement with Flora Street Lofts, Ltd. for construction of Flora Lofts, a 52-unit multifamily new construction project located at 2121 Flora Street, conditioned upon 2017 4% LIHTC award - Not to exceed $2,500,000 - Financing: General Obligation Commercial Paper Funds

BACKGROUND

On November 11, 2016, the City of Dallas (the "City") issued a Notice Of Funding Availability (NOFA) for multifamily projects utilizing the Texas Department of Housing & Community Affairs (TDHCA) Low Income Housing Tax Credit (LIHTC) Program to all known developers and posted it to the City's website. On December 12, 2016, Graham Greene, President of GREENarc Corporation, submitted an application to the City of Dallas on behalf of Flora Street Lofts, Ltd. ("Applicant") for the development of a 52-unit multifamily new construction project.

The project will include 52 multifamily units for mixed income families, 31 one-bedroom, 19 two-bedroom, and 2 three-bedroom units. Flora Street Loft, Ltd. will request an allocation for approximately $15 Million from the Texas Bond Review Board no later than April 9, 2017. The City will provide bond funds for gap financing for the construction of the project conditioned upon 2017 4% LIHTC award. A $2,500,000 conditional grant would be used for construction of the Flora Lofts. The conditional grant would be satisfied with the completion of the project. The project meets the transit oriented development requirements because of its proximity to transit.

City Council approval of this item will authorize the City Manager to execute the conditional grant documents with Flora Street Loft, Ltd. for these funds.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 17, 2017, the Housing Committee was briefed on the Multifamily Rental Housing Development Program NOFA.

On February 6, 2017, the Housing Committee was briefed on the Multifamily Rental Housing Development Projects and supported this project.

On February 14, 2017, the City of Dallas Housing Finance Corporation approved a preliminary inducement for the tax exempt mortgage revenue bonds to finance the acquisition and new construction of the family project, allowing the applicant to submit an application for a bond allocation from the Texas Bond Review Board and the reimbursement of eligible project costs going back 60 days from the date of the inducement.

On February 21, 2017, the Housing Committee was provided information about this item.

FISCAL INFORMATION

2012 Bond Program (General Obligation Commercial Paper Funds) - $2,500,000

OWNER(S)

Flora Street Lofts, Ltd.

GREENarc Corporation, Limited Partner
Graham Greene, President

2121 Flora, LLC, General Partner

La Reunion TX - 51% owned
Robert L. Meckfessel, Board President
Jessica Steward Lendvay, Board Secretary
Zaida Basora, Board Treasurer
Kristin Atwell, Board of Director
Sarah Jane Semrad, Board Director
Alison V. Smith, Board Director
Barry Whistler, Board Director

GREENarc Corporation – 49% owned
Graham Greene, President

DEVELOPER

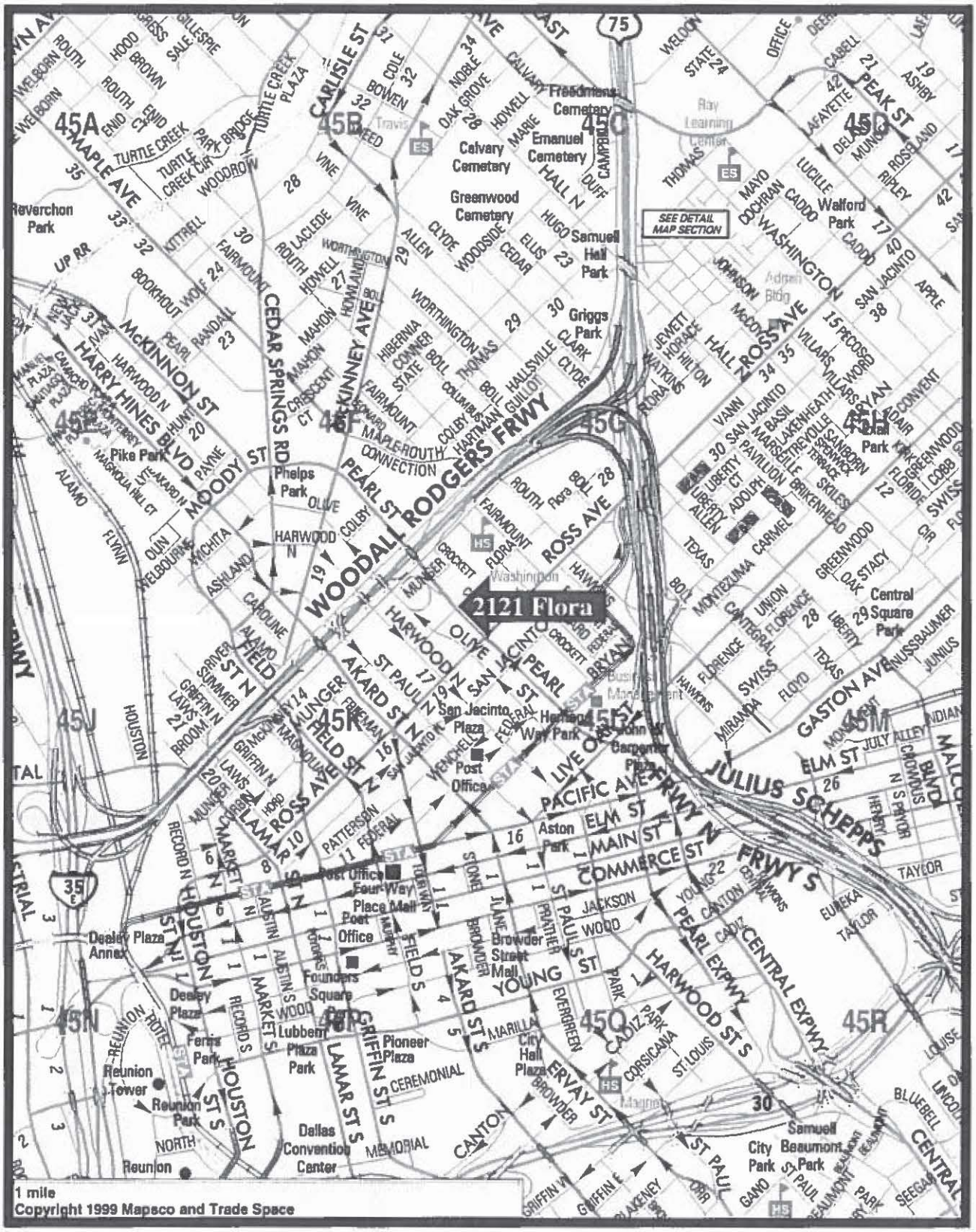
Flora Street Lofts, Ltd.

LaReunion TX, Co-Developer

GREENarc Corporation, Co-Developer
Graham Greene, President

MAP

Attached


2121 Flora
WOODALL RODGERS FRWY
PEARL ST
ROSS AVE
HARWOOD N
OLIVE
SAN JACINTO
PACIFIC AVE
ELM ST
MAIN ST
COMMERCE ST
JULIUS SCHEPPS
CENTRAL EXPWY
HARWOOD ST S
AKARD ST S
YOUNG
CANTON
ERVAY ST
GRIFFIN ST S
LAMAR ST S
HOUSTON ST S
FIELD S
MARKET S
AUSTIN S
CEDAR SPRINGS RD
MAPLE AVE
HARRY HINES BLVD
McKINNON ST
MOODY ST
CARLISLE ST
SKINNEY AVE
HALL ST
WASHINGTON
PEAK ST
GASTON AVE
Dallas Convention Center
Pioneer Plaza
Reunion Tower
Reunion Park
Dealey Plaza
Four Way Place Mall
Post Office
Pike Park
Phelps Park
Griggs Park
Samuell Hall Park
Walford Park
Central Square Park
Samuell Beaumont City Park
Freedmens Cemetery
Calvary Cemetery
Emanuel Cemetery
Greenwood Cemetery
Reverchon Park
Aston Park
Lubbock Plaza Park
Ferris Park
Founders Square
Hartford Way Park
Carpenter Plaza
City Hall Plaza
SEE DETAIL MAP SECTION
1 mile
Copyright 1999 Mapsco and Trade Space

MAPSCO 45-K

March 22, 2017

WHEREAS, Graham Greene, President of GREENarc Corporation, on behalf of Flora Street Lofts, Ltd. (the "Applicant"), has proposed the construction for affordable rental housing at 2121 Flora Street named Flora Lofts in the City of Dallas and has advised that it intends to submit an application to the Texas Department of Housing & Community Affairs (TDHCA) for 2017 4% Housing Tax Credits for Flora Lofts; and

WHEREAS, on January 17, 2017 and February 6, 2017, the Flora Lofts Tax Credit multifamily project was briefed and supported by the Housing Committee; and

WHEREAS, on February 14, 2017, the DHFC issued an inducement for the tax exempt bonds to finance the acquisition and new construction of the Flora Lofts project and authorized the Flora Street Lofts, Ltd. proposal to be considered by City Council and to authorize a public hearing in accordance with the requirements contained in H.B. 3361 effective September 1, 2013; and

WHEREAS, the Dallas Housing Finance Corporation (DHFC) proposes to issue the bonds (the "Bonds") to finance the $15,000,000 by City of Dallas Housing Finance Corporation to build the new construction of 52 units; and

WHEREAS, Flora Street Lofts, Ltd., proposes to work with the City of Dallas to undertake the development of a 52-unit multifamily new construction project called Flora Lofts; and

WHEREAS, the City desires for Flora Street Lofts, Ltd., or Applicant to develop the Flora Lofts' project for mixed income families; **NOW, THEREFORE,**

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

SECTION 1. That following approval as to form by the City Attorney, the City Manager or his designee, is hereby authorized to execute a conditional grant agreement in the amount not to exceed $2,500,000 with Flora Street Lofts, Ltd., or Applicant, for the construction of Flora Lofts, a 52-unit multifamily new construction project at approximately 2121 Flora Street, conditioned upon 2017 4% LIHTC award.

SECTION 2. That the terms of the conditional grant agreement include:

a. Flora Street Lofts, Ltd. or a limited partnership in which Flora Street Lofts, Ltd. or its wholly owned subsidiary is the sole general partner must be awarded 2017 4% tax credits.
b. Flora Street Lofts, Ltd. or a limited partnership must adhere to applicable BOND requirements.
c. Flora Street Lofts, Ltd. or a limited partnership must execute a deed of trust, and deed restriction for a 30-year affordability period. The condition of the grant is a certificate of occupancy.

d. The Deed Restrictions and Deed of Trust may be subordinated to other project lenders, whereby the other project lenders have the right upon foreclosure of the project to cause their elimination.

SECTION 3. That prior to receiving a conditional City of Dallas building permit required by TDHCA prior to closing on the tax credits, the Project Developer will consult with the City of Dallas Sustainable Development and Construction Department with regard to security related design standards.

SECTION 4. That the Chief Financial Officer is authorized to disburse funds in accordance with this resolution as follows:

Flora Street Lofts, Ltd. Vendor # VS93927

Fund	Dept	Unit	Object Code	Program #	Encumbrance	Amount
4U53	HOU	W168	3016	4U53HOU168	HOUW168E1385	$2,500,000

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

AGENDA ITEM # 63

KEY FOCUS AREA:	Economic Vibrancy
AGENDA DATE:	March 22, 2017
COUNCIL DISTRICT(S):	9, 10
DEPARTMENT:	Mobility and Street Services Water Utilities
CMO:	Jill A. Jordan, P.E., 670-5299 Mark McDaniel, 670-3256
MAPSCO:	27T U 38L

SUBJECT

A benefit assessment hearing to receive comments on street paving, drainage, water and wastewater main improvements, and alley paving for Project Group 12-3004; and at the close of the hearing, authorize an ordinance levying benefit assessments~~, and a construction contract with MACVAL Associates, LLC, lowest responsible bidder of five~~ (list attached)~~ – Not to exceed $873,052~~ - Financing: No cost consideration to the City ~~2012 Bond Funds ($712,610), Water Utilities Capital Construction Funds ($96,681) and Water Utilities Capital Improvement Funds ($63,761)~~

BACKGROUND

Stevens Street from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street was requested by property owner petition and accepted on August 9, 2010. The alley southwest and parallel to Shoreview Road from Forest Trail to Eagle Trail to Nimrod Trail was requested by property owner petition and accepted on January 22, 2009. These projects were subsequently funded in the 2012 Bond Program. A professional services contract for the design was authorized by City Council on January 22, 2014, by Resolution No. 14-0190. This action will allow the public hearing to be held and will authorize the levying of assessments ~~and contract for construction~~. The street improvements will consist of upgrading the existing unimproved two-lane asphalt street with 26-foot wide concrete pavement with curbs, sidewalks, drive approaches, drainage installation system, water and wastewater main improvements. The alley improvements will consist of upgrading the unimproved gravel and dirt alleys with 10-foot wide concrete pavement.

BACKGROUND (Continued)

The paving assessment process requires the following three steps:

1. Authorize paving improvements
2. Authorize a benefit assessment hearing
3. Benefit assessment hearing, ordinance levying assessments ~~and authorize contract for construction~~

This is the 3rd ~~and final~~ step in the process. An item to authorize the construction contract will be scheduled for City Council consideration at a later date.

~~The following chart shows MACVAL Associates, LLC completed contractual activities for the past three years.~~

	~~STS~~	~~WTR~~	~~PKR~~
~~Projects Completed~~	~~0~~	~~0~~	~~0~~
~~Change Orders~~	~~0~~	~~0~~	~~5~~
~~Projects Requiring Liquidated Damages~~	~~0~~	~~0~~	~~0~~
~~Projects Completed by Bonding Company~~	~~0~~	~~0~~	~~0~~

~~**ESTIMATED SCHEDULE OF PROJECT**~~

~~Began Design~~	~~March 2014~~
~~Completed Design~~	~~October 2016~~
~~Begin Construction~~	~~May 2017~~
~~Complete Construction~~	~~May 2018~~

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a professional services contract for engineering services on January 22, 2014, by Resolution No. 14-0190.

Authorized street paving improvements and a benefit assessment hearing on January 11, 2017, by Resolution No. 17-0081.

Information about this item ~~will be~~ was provided to the Transportation and Trinity River Project Committee on February 13, 2017.

This item was considered by the City Council at a public hearing on February 22, 2017, and was deferred by Councilmember Clayton until March 22, 2017 with the public hearing open.

FISCAL INFORMATION

2012 Bond Funds - $712,610.00
Water Utilities Capital Construction Funds - $96,681.00
Water Utilities Capital Improvement Funds - $63,761.00

Design	$ 61,069.75
Construction	
Paving (STS) (this action)	$712,610.00
Water & Wastewater (DWU) (this action)	$160,442.00
Total Project Cost	$934,121.75

Council District	Amount
9	$629,227.00
10	$243,825.00
Total	$873,052.00

This project does involve assessments.

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

MACVAL Associates, LLC

Hispanic Female	0	Hispanic Male	6
African-American Female	1	African-American Male	6
Other Female	0	Other Male	0
White Female	0	White Male	0

BID INFORMATION

The following bids with quotes were received and opened on December 2, 2016.

*Denotes successful bidder

~~BID INFORMATION~~ (Continued)

~~BIDDERS~~	**~~BID AMOUNT~~**
~~*MACVAL Associates, LLC~~ ~~8500 N. Stemmons Frwy., Suite 5060~~ ~~Dallas, TX 75247~~	~~$ 873,052.00~~
~~Jeske Construction Co.~~	~~$ 911,793.00~~
~~Axis Contracting, Inc.~~	~~$1,005,144.00~~
~~Camino Construction, LP~~	~~$1,024,979.50~~
~~ARK Contracting Services~~	~~$1,107,892.00~~
~~Original estimate: STS~~	~~$733,805.00~~
~~WTR~~	~~$152,923.76~~
~~Total Project~~	~~$886,728.76~~

~~OWNER~~

~~MACVAL Associates, LLC~~

~~Al A. Attah, President~~

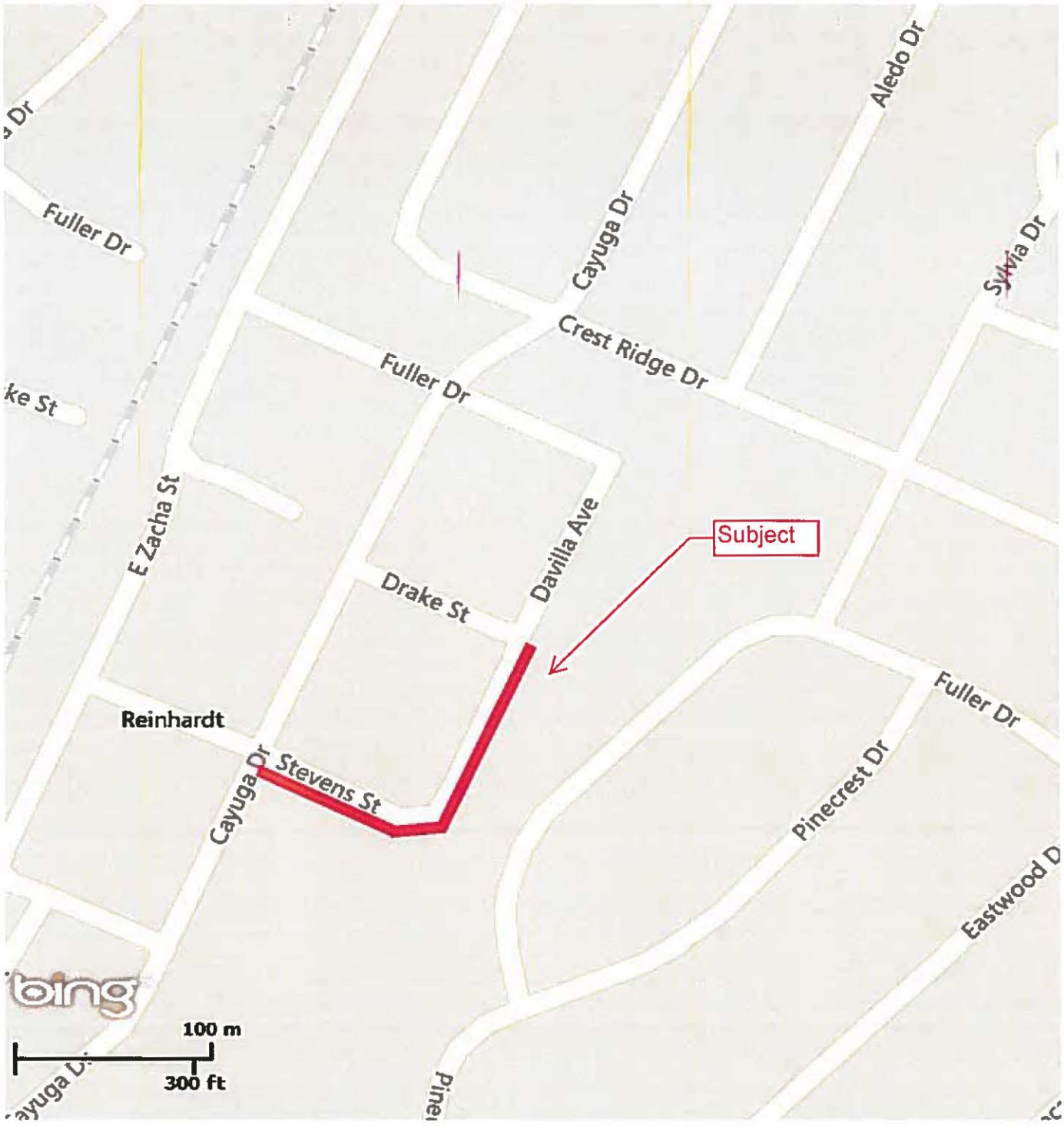
MAPS

Attached.

Project Group 12-3004

Project	Limits	Council District
Stevens Street	from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street	9
Alley southwest and parallel to Shoreview Road	from Forest Trail to Eagle Trail to Nimrod Trail	10

PROJECT GROUP 12-3004



MAPSCO 38L

PROJECT GROUP 12-3004



MAPSCO 27T, U

N

March 22, 2017

WHEREAS, heretofore, a resolution was duly adopted by the City Council of the City of Dallas for the improvement of the following street and alley between the limits set forth, out of materials specified, ordering that bids be taken for the construction, and ordering that an estimate of the cost of such improvements be prepared, to wit:

Project Group 12-3004

Street:

1. Stevens Street from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street

Alley:

2. Alley southwest and parallel to Shoreview Road from Forest Trail to Eagle Trail to Nimrod Trail; and

WHEREAS, by resolution such estimate and specifications were duly adopted therefore, and the Purchasing Agent was authorized to advertise for bids for such construction; and,

WHEREAS, by resolution the City Council determined the necessity for assessing a portion of the cost of such improvements against the property abutting such improvements, and the owners thereof, and duly and legally set a time and place for a public hearing thereon, and provided for notice to be given to such owners, as provided by law; and,

WHEREAS, the said hearing was duly held at said time and place; and,

WHEREAS, the City Council, after fully considering said proposed assessments, and fully considering the benefits that each property owner and his property receive from making said improvements, is of the opinion that the said proposed assessments determined to be levied are fair and equitable, and in accordance with the enhancement report submitted by Con-Real, LP, an independent appraiser, representing the benefits that the said property receives in enhanced values from the making of the said improvements, and that the said assessments should be made; and,

WHEREAS, the Council having no further protest, remonstrance, or objection before it, is of the opinion that the said hearing should be closed.

~~February~~ March 22, 2017

Now, Therefore,

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

SECTION 1. That the said hearing held on the 22nd day of February A.D. 2017 be and the same is hereby ordered closed.

SECTION 2. That the City Attorney is hereby directed to prepare an ordinance assessing against the several owners of the abutting property, and against their property abutting upon the street and alley hereinabove mentioned, the proportionate part of said cost herein adjudged against the said respective owners and their property, such assessments to be in accordance with the attached enhancement report. That the said ordinance shall fix a lien upon said property, and shall declare said respective owners thereof to be respectively liable for the amounts so adjudged against them. Said ordinance shall in all respects comply with the applicable law in such cases made and provided.

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.

Enhancement Evaluation Study

Enhancement Evaluation Study
Project Group #12-3004
Report #16-19

Prepared for:
Mobility and Street Services Dept
Petition/Assessment Section
Lisa Williams
Oak Cliff Municipal Center
320 E. Jefferson Blvd, Room 307, Dallas, TX 75203



Con-Real, LP
Troy C. Alley Jr., MAI
8150 N. Central Expressway
Suite M1120
Dallas, Texas 75206

con-real, lp.

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Date of Inspection:	November 11, 2016
Effective Date of Study:	November 16, 2016
Date of Transmittal:	November 16, 2016
Subject Property:	Various Residential
Location:	**Street:** Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street, Dallas County, Texas **Alleys:** Alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail, Dallas County, Texas
Zoning Classifications:	Single Family
Current Use:	Single Family Dwellings
Highest & Best Use:	Residential Uses
Flood Zone:	Based only on a cursory inspection, the properties appear to **not** be in a flood plain.
Purpose of Study:	The purpose of this study is to estimate the value of the enhancement, if any, to the properties in the defined enhancement study area based on the completion of the proposed street, sidewalk, driveway, and alley improvements that affect the subject properties as of November 16, 2016
Function of Study:	The function of this enhancement study is to assist the City of Dallas in estimating a fair and reasonable amount of the actual costs of the street, sidewalk, alleyway, and driveway improvements that the subject property owners should be levied based on the estimated market value enhancement to each property due to the proposed improvements by the City of Dallas
Scope of Study:	The scope of this study encompasses the inspection of the subject properties, neighborhood and comparable properties. Further, the analysis of the data is undertaken in order to support a conclusion of estimated value for the enhancement, if any, to the subject properties

PROPERTY ANALYSIS

The streets include Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street in Dallas Texas and consists of 11 parcels. The properties located on the streets are similar in area size ranging from 952 to 4,991 square feet, majority are one story houses. They are located along Stevens Street and Davilla Avenue which consists of two lanes. The immediate area is a mix of residential and small commercial development.

PROPERTY HIGHLIGHTS

Description for Street Group 12-3004 Project:

Street: Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street, Dallas, Dallas County, Texas (Mapsco – **Dallas 38 K-L**).

Property Owners: Varied (see tables pages 40-42)

Street Group Including Streets: Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street

Area Description: The area of Dallas; a mix of residential and small commercial developments; Hwy 635, Loop 12, and Peavy Road are the major roadways

Area Boundaries: Gus Thomasson Road (North), Peavy Road (South), E Zacha Drive (West), and Ferguson Road (East)

Neighborhood Description: The residential neighborhood with schools, industrial, and commercial businesses; level to rolling terrain

Property Values: $69,080-205,000

Demand/Supply: Stable/Adequate

Neighborhood Land Use: 90% residential; 3% commercial, 2% industrial and 5% churches and schools

Neighborhood Trend & Probable Changes: Neighborhood is stable; no anticipated changes

Factors Affecting the Neighborhood: No adverse factors noted

Zoning Classification of Project Area: Single Family Residences

Highest and Best Use: Residential Uses

Utilities: All available

Pictures: The photos can be found on the following pages numbered as S1 & S2

PROPERTY CHALLENGES & SOLUTIONS

Street: Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street, Dallas, Dallas County, Texas

Driveways- various homeowners are without paved driveways and have to park on gravel. This effects the attractiveness of the property and overall neighborhood. There is a lack of consistency in the neighborhood's uniformed attractiveness.

- The proposed improvements are expected to increase the neighborhood curb appeal and may enhance the properties attractiveness.

Sidewalks- there is a lack of sidewalks within the neighborhood which is a possible safety hazard for residents and children within the community.

- The improvement of sidewalks in the area will provide a safe route to walk for pedestrians; especially, children. The sidewalks also increase the neighborhood's overall attractiveness.

Curbs/Gutters- the neighborhood has a scarcity of curbs and street gutters. The lack of gutters effects the water flow throughout the neighborhood and can become a hazard.

- The projected improved gutters will alleviate water buildup on the street allowing pedestrians to pass without walking through puddles and reducing the risk of hydroplaning by road vehicles.

PROPERTY ANALYSIS

The alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail located in Dallas, Texas consist of 14 parcels. The properties were majority built during the 1950s, they are one and two story with similarity in housing sizes ranging from 1,826 to 4,560 square feet. They are within an area that caters to residential, small commercial, and industrial properties. The neighborhood has two way streets to support the traffic flow.

PROPERTY HIGHLIGHTS

THE ALLEY GROUP INCLUDING:

1.Alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail, Dallas, Dallas County, Texas. (Mapsco – **Dallas 27 T**)

Property Owners: Varied (see tables pages 43-45)

Area Description: This area of Dallas; majority residential with small commercial; Northwest Highway (Loop 12), Walnut Hill Lane, Audelia Road are the major roadways

Area Boundaries: Walnut Hill Lane (North), Northwest Highway, Loop 12 (South), Skillman Street (West), and Audelia Road (East).

Neighborhood Description: The residential neighborhood with schools, and commercial businesses surrounding; level to rolling terrain

Property Values: $334,320- $981,890 Residential (typical)

Demand/Supply: Stable/Adequate

Neighborhood Land Use: 90% residential; 5% commercial and 5% schools and parks

Neighborhood Trend & Probable Changes: Neighborhood is stable; no anticipated changes

Factors Affecting the Neighborhood: No adverse factors noted

Zoning Classification of Project Area: Single Family Residences

Highest and Best Use: Residential Uses

Utilities: All available

Pictures: The photos can be found on the following pages numbered as A1 & A2

PROPERTY CHALLENGES & SOLUTIONS

Alleyway: *Alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail, Dallas County, Texas*

Alley Ways- the various groups of properties are in need of improved alley ways because of lack of proper drainage system.

- Improved alley ways address the concerns of safety and environment problems that arrive since there isn't a proper drainage system within the neighborhood. They will eliminate the amount of stand still water and property damage due to the amount of rain fall in various seasons.

- The proposed improvements are expected to increase the ease and accessibility of parking, enhance the street appeal for homeowners, and lessen the constant vehicle weight on the main neighborhood streets which deteriorates the pavement over time.

SCOPE OF WORK

In preparing this study, we completed the research and analysis below:

- Conducted an inspection of the group of subject properties and the surrounding areas to determine the impact the improved driveways, sidewalks, curbs and gutters, and alley ways will have on the neighborhood

- Gathered and analyzed property, neighborhood, and community information pertaining to the group of subject properties

- Determined the approaches (Sales Approach and Assessment Valuation Method) which are deemed reasonable for estimating an equitable assessment to the property owners for any enhancements they might receive from the improvements

- Interviewed reputable sources to receive opinions on the benefits of the improvements of alley ways

- Provided a recommendation for the proposed improvements

EVALUATION ANALYSIS

The improvements proposed by the City of Dallas are to include new concrete paving of the streets which includes concrete curbs and gutters, concrete sidewalks, concrete drives (approaches), concrete alleyways where necessary. In the assessment prepared by the City of Dallas, the City calculated a Linear Foot, Square Foot or Square Yard price in order to estimate the actual cost for each property for the proposed improvements. A summary of the assessment values presented in the study are as follows:

The assessed value of the improvements was enhanced by a range between $18.24 to $90.00 per linear foot for the concrete paving including alley ways, $4.71 to $9.43 per linear foot for the concrete sidewalks and $47.21 per square yard for the concrete drives. Properties that have existing sidewalks and drives are not being assessed for the new improvements that take the place of the current improvements. This is one method of estimating the value the improvements provide to the subject, however, there are other ways to analyze the value the sidewalk improvements enhances the property.

We have reviewed the study performed by the City of Dallas pertaining to the subject properties regarding assessments to the property owners for the construction of the sidewalk improvements. In addition to that study, we have tested two other approaches that we deem reasonable for estimating an equitable assessment to the property owners for any enhancements they might receive from the improvements. They include the Sales Comparison Method and Assessment Valuation Method. The most suitable is the Sales Comparison Method that exhibits the comparison between improved vs unimproved properties and improved properties without alley ways vs. improved properties with alley ways for purposes of comparing the prices paid for properties. The Assessment Valuation Method is utilized to determine a reasonable assessed rate for every property in regards to street improvements, sidewalks, alleyways, and driveways.

SALES COMPARISON METHOD

This method involves comparing the sales prices of recent sales properties with & without existing curbs/gutters/sidewalks/alleyways and forming an opinion as to how much, if any, a purchaser is willing to pay for a property that has existing curbs/gutters/sidewalks/alleyways improvements over a property that does not have those improvements.

The subject's area was searched for recent sales of a variety of residential properties that were similar in size and location to the subject properties so that a comparative analysis of each type could be performed. This search provided very few sales of properties that did not have curbs/gutters/sidewalks due to the fact that most of the streets in the area have these features. As such, the search was expanded to areas outside of the subject's immediate area in order to locate a sufficient number of sales of residential properties with and without curbs/gutters/sidewalks. Numerous sales were located and examined and from this vast number of sales only a few were found that could be used for comparative analysis purposes. The subject properties employed in the analysis include both improved and unimproved streets, and while the structures and areas employed in this analysis may not be truly comparable to the properties involved with this project, they do provide a basis for comparison between the properties with curbs/gutters/sidewalks/alleyways and properties that don't have these features.

Adjustment grids for the following types of properties are located on the following pages:

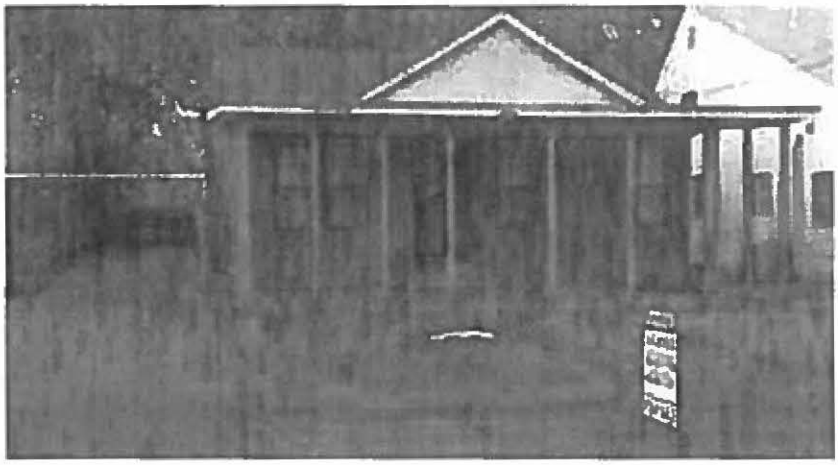
1) **Residential Sales – Improved Street vs. Unimproved Streets**

   - Representing the Group of Streets: Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street (11 parcels)

2) **Residential Sales- Unimproved Alley Way vs. Improved Alley Ways**

   a. Alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail (14 parcels)

RESIDENTIAL PROPERTY "Representation Of Subject Property" (will be employed as the subject lot)



Mapsco:	53 N Dallas
Location:	4027 Falls Drive, Dallas, Texas
Grantor:	Mari Neli Ortiz
Grantee:	Abelino Alvarez Murrugarra
Date of Sale:	April 21, 2016
Recording Data:	201600109813
County:	Dallas
Size:	950 SF
Shape:	Rectangular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$85,000
Per SF:	$89.47
Terms:	Cash to Seller
Cash Equivalent Consideration:	$85,000
Per SF:	$89.47
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street which is improved with curbs and gutters, drives, and sidewalks.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

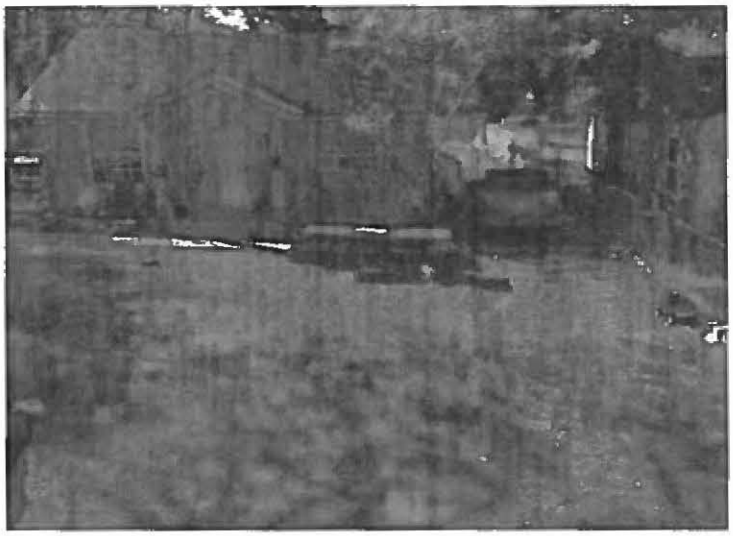
RESIDENTIAL SALE NO. 1



Mapsco:	44 P Dallas
Location:	913 Walkway Street, Dallas, Texas
Grantor:	Eva M Attaway
Grantee:	China Anderson
Date of Sale:	September 26, 2016
Recording Data:	201600273067
County:	Dallas
Size:	880 SF
Shape:	Irregular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$86,000
Per SF:	$97.73
Terms:	Cash to Seller
Cash Equivalent Consideration:	$86,000
Per SF:	$97.73
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street which **is not** improved with curbs and gutters, drives, and sidewalks.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

RESIDENTIAL SALE NO. 2



Mapsco:	52 G Dallas
Location:	411 S Dwight Avenue, Dallas, Texas
Grantor:	Elegant Investment Group Inc.
Grantee:	Jesus Moreno & Godinez
Date of Sale:	June 28, 2016
Recording Data:	201600191198
County:	Dallas
Size:	896 SF
Shape:	Basically Rectangular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$89,000
Per SF:	$99.33
Terms:	Cash to Seller
Cash Equivalent Consideration:	$89,000
Per SF:	$99.33
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street which **is not** improved with curbs and gutters, drives, and sidewalks.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

Residential Lot Sales
Improved Street vs. Unimproved Streets

			
Location	**Representation of Subject Property** 4027 Falls Drive Dallas, Texas	**Sale 1** 913 Walkway Street Dallas, Texas	**Sale 2** 411 South Dwight Avenue Dallas, Texas
Sales Price/ Per Square Foot	**$89.47**	**$97.73**	**$99.33**
Eff. Sale Price	**$89.47**	**$97.73**	**$99.33**
Size/SF	**950**	880 -10%	896 -7%
Bedrooms	**2**	2 -0-	3 -5%
Driveways	**Yes**	**No**	**No**
Sidewalks	**Yes**	**No**	**No**
Curbs/Gutters	**Yes**	**No**	**No**
Location	**Average**	**Inferior** +2%	**Similar**
Condition	**Average**	**Similar**	**Similar**
Percentage Adjustment		(-8%)	(-12%)
Net Adjustment		($8.00)	($12.00)
Adjusted Sale Price	**$89.47**	**$89.73**	**$87.33**

The lack of credible sales available within the immediate market area required the analyst to utilized sales within a similar neighborhood for this analysis.

The Representation of the (Subject's Property), at 4027 Falls Drive is a 950 square foot property that **did** have curbs/gutters, sidewalks, or driveways and sold for $89.47 per square foot. The sales **did not** have curbs/gutters, sidewalks, or driveways on their sites and sold at prices ranging from $97.73 to $99.33 per square foot. The sales are located within a five-mile radius and each have similar locational characteristics in regards to surrounding developments, type of homes and assessed lot and dwelling values. Sales 1 and 2 are smaller in size compared to the Representation of the Subject Property (4027 Falls Drive) and an upward adjustment for size was made to compensate for the difference in its price on a per square foot basis. Sales 2 was adjusted downward

for its number of bedrooms per square footage in comparison to the Representation of the Subject Property. Sale 2 and the Representation of Subject Property are similar in location. They are both located within an area that has a fair amount of residential and retail properties that caters to its residential neighborhood along Loop 12 and Highway Spur 408. However, Sale 1 was adjusted upward because of its location that is within a residential neighborhood adjacent to a railroad surrounded by commercial, industrial, and retail properties. Sale 1 and 2 conditions are similar to the Representation of the Subject Property and an adjusted wasn't needed for condition.

After making warranted adjustments to the sales comparables, a range of values of $87.33 to $89.73 per square foot was derived from Sale 1 & 2. Based on the sales comparables in comparison to the subject property the variance between the subject property and comparables is less than 2%, which leads to the conclusion that there isn't a significant difference in pricing by not having curbs/gutters, driveways, and sidewalks.

2. RESIDENTIAL SALE-UNIMPROVED ALLEY WAY "Representation Of Subject Property" (will be employed as the subject lot)



Mapsco:	27 Q Dallas
Location:	9412 Northpoint Drive, Dallas, Texas
Grantor:	Robert Earl Darwin
Grantee:	Chris R & Emilie Sano
Date of Sale:	July 19,2016
Recording Data:	201600198869
County:	Dallas
Size:	1,887 SF
Shape:	Rectangular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$400,000
Per SF:	$211.98
Terms:	Cash to Seller
Cash Equivalent Consideration:	$400,000
Per SF:	$211.98
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street which **is not** improved with alleyways.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

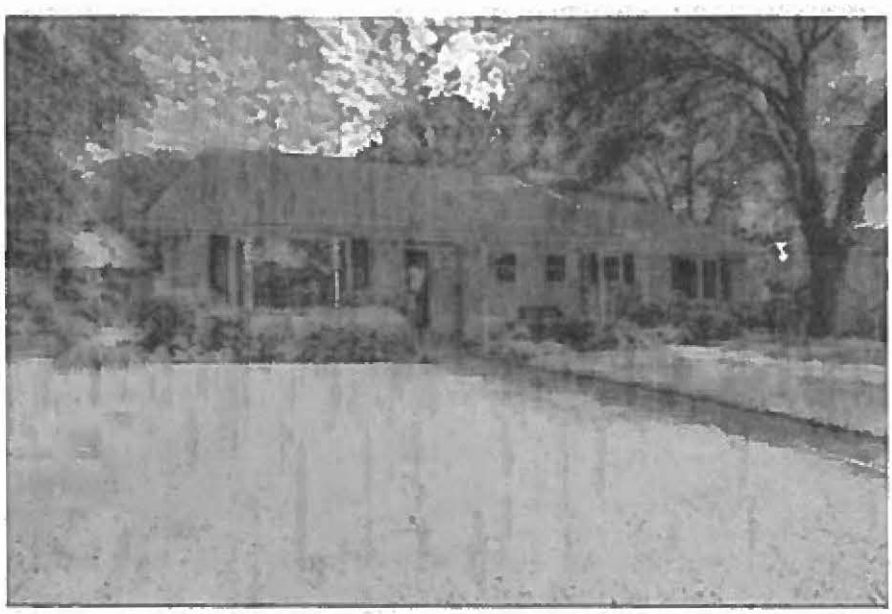
RESIDENTIAL ALLEY WAY SALE NO. 1



Mapsco:	27 L Dallas
Location:	9627 Estate Lane, Dallas, Texas
Grantor:	Ryan Burkhardt
Grantee:	Scott C Carr
Date of Sale:	May 27, 2016
Recording Data:	21600146177
County:	Dallas
Size:	2,386 SF
Shape:	Irregular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$494,700
Per SF:	$207.33
Terms:	Cash to Seller
Cash Equivalent Consideration:	$494,700
Per SF:	$207.33
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street **which is** improved with alleyways.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

RESIDENTIAL ALLEY WAY SALE NO. 2



Mapsco:	27 P Dallas
Location:	9628 Trailview Drive, Dallas, Texas
Grantor:	Billy, Leehy, & Mary Johnson
Grantee:	Clinton Todd & Williamson
Date of Sale:	September 14, 2016
Recording Data:	201600257695
County:	Dallas
Size:	2,017 SF
Shape:	Irregular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$425,000
Per SF:	$210.01
Terms:	Cash to Seller
Cash Equivalent Consideration:	$425,000
Per SF:	$210.01
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street **which is** improved alleyways.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

RESIDENTIAL ALLEY WAY SALE NO. 3



Mapsco:	27 Y Dallas
Location:	9817 Shoreview Road, Dallas, Texas
Grantor:	John T Schalekamp
Grantee:	Daniel B & Lauren L Rich
Date of Sale:	August 12, 2016
Recording Data:	201600225070
County:	Dallas
Size:	1,828 SF
Shape:	Basically Rectangular
Zoning:	Single Family District
Utilities:	City Sewer, City Water
Topography:	Basically Level
Consideration:	$395,000
Per SF:	$216.08
Terms:	Cash to Seller
Cash Equivalent Consideration:	$395,000
Per SF:	$216.08
Source:	MLS/Deed Records
Comments:	This site is located on a two-lane interior street **which is** improved with alleyways.

Every effort has been made to verify this information, including researching deed records, tax information, appraisal district information, zoning restrictions, flood plain maps, etc. However, the State of Texas does not require disclosure of real estate sale prices or terms, therefore we are dependant upon information obtained from parties with knowledge of the transaction. This information has been obtained from reliable sources and is assumed to be correct, but is in no way guaranteed by us to be accurate. Con-Real, LP reserves the right to revise any information regarding this comparable, should more accurate data become available.

Improved Residential Alley Way Sales
Unimproved Alleyway vs. Improved Alleyways

				
Location	**Representation of Subject Property** 9412 Northpoint Drive, Dallas, Texas	**Sale 1** 9627 Estate Lane, Dallas, Texas	**Sale 2** 9628 Trailview Drive, Dallas, Texas	**Sale 3** 9817 Shoreview Road, Dallas, Texas
Sales Price/ Per Square Foot	$211.98	$207.33	$210.71	$216.08
Eff. Sale Price	$211.98	$207.33	$210.71	$216.08
Size/SF	1,887 -0-	2,386 +3%	2,017 +2%	1,828 -0-
Curbs/Gutters	**Yes**	**Yes**	**Yes**	**Yes**
Alley Way	**No**	**Yes**	**Yes**	**Yes**
Location	Average -0-	Similiar -0-	Similiar -0-	Similiar -0-
Condition	Average -0-	Similar -0-	Similar -0-	Similar -0-
Percentage Adjustment		3%	2%	0%
Net Adjustment		$6.22	$4.21	$0.00
Adjusted Sale Price	**$211.98**	**$213.55**	**$214.92**	**$216.08**

The Representation of the Subject, at 9412 Northpoint Drive is a 1,887 square foot property that **did not** have **an alleyway** and sold for $211.98 per square foot. The sales comparables **did have alleyways** on their sites and sold at prices ranging from $207.33 to $216.08 per square foot. All of the sales are similar in locational characteristics in regards to surrounding developments, type of homes and assessed lot and dwelling values. Sales 1 and 2 are different from the Representation of Subject Property (9412 Northpoint Drive) by their respective sizes. Sales 1 and 2 were adjusted upward for their larger size in comparison to the Representation of the Subject Property to compensate for the difference in its price on a per square foot. There weren't any adjustments needed for location or condition since the sales comparables are located within the same neighborhood area of the Representation of the Subject, they are less than a mile away with similar conditions.

After making warranted adjustments to the sales comparables, a range of values of $213.55 to $216.08 per square foot was derived from Sale 1, 2, & 3. Based on the sales comparables in comparison to the subject property the variance between the subject property and comparables is less than 2%, which leads to the conclusion that there isn't a significant difference in pricing by not having alleyways.

ASSESSMENT VALUATION PROCESS

The analyst acknowledges that the new street improvements will provide some enhancement to the overall value of the subject properties, but the improvements will not increase the value of the subject properties at the same rate the City is proposing to assess the property owners. As with all home improvements, the value of the enhancement is very rarely equal to or greater than the actual cost of the improvement. Samples of these types of improvements are: new roofs, replaced fencing, updating of flooring, kitchens, bathrooms, etc. Generally speaking, these type of repairs, renovations or enhancements cost more to replace/construct than they will ever return should the property be sold. A good example is the addition of a swimming pool. A typical swimming pool can cost $25,000 to install, but upon resale rarely yields $10,000 more than a similar property without a swimming pool. The same goes for a new roof. While a new roof may be a selling feature in trying to market the property, very rarely does the property owner ever realize a return on the sale of the property equal to the cost to install the new roof. The same is true with the proposed street improvements and accompanying sidewalks and drives. **Based on the market data gathered and examined by the analyst, it is my opinion that the market value of the subject properties will only experience a slight increase in value because of the proposed improvements.**

In an effort to be equitable to the property owners, given that all of the property owners are supposedly paying their fair share, it is our opinion that the property owners be assessed at a rate of 10% of the assessed value of the lot for the street improvements (concrete paving, curbs/gutters). The property owners are assessed at a rate of 25% of the construction cost of the alleyway pavement improvements and assessed at a rate of 50% of the estimated construction cost of the sidewalk and concrete drive improvements. The reason for the percentages of the construction costs for the alleyways, sidewalks, and concrete drives, is that the improvements do not provide a dramatic increase to the overall property, but offer additional benefit for the property owners. Some of the properties in the project areas already have sidewalks and drives. Those property owners should not be compelled to pay additional money for improvements that they already have in place. In some instances, particularly on the subject parcels with large tracts of land, 10% of the assessed land value is greater than the total estimated cost of the proposed improvements. This is due to the fact that these properties typically have a large amount of road frontage and benefit from greater exposure from the street, and in those instances the estimated cost of the improvements as proposed by the City of Dallas is the recommended amount.

The Tables on the following pages in the Addenda identifies each of the subject properties, the assessment process employed by the City of Dallas, and finally, my estimation of a fair and reasonable value for the assessment.

ASSESSMENT VALUATION PROCESS (TABLES)

PROJECT GROUP 12-3004

1. **STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH**

WEST SIDE OF STREET

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	ASSESSMENT	TOTAL ASSESSMENT VALUE- LAND	RECOMMENDED ASSESSMENT
REINHART TOWN OF								
RICHARD WINCORN 10118 CAYUGA ST STE 1 DALLAS, TX 75228	1 & S 1/2 Lt 2 **10202** **Cayuga Dr**	14/5358	130 FT PVMT 108 FT WALK 17 SY DR(12'Wide)	$18.82 $4.71 $47.21	$2,446.60 $508.68 $802.57	**$3,757.85**	$2,300 (10% of lot value $23,000)	**$2,300.00** **$254.34** **$401.29** **$2,955.63**
KENNETH W OCHS 1212 ELMWOOD DR RICHARDSON, TX 75080	12 & S 1/2 Lt 11 **1638** **Stevens St**	14/5358	67 FT PVMT 47 FT WALK 15 SY DR(10'Wide)	$90.00 $9.43 $47.21	$6,030.00 $443.21 $708.15	**$7,181.36**	$2,300 (10% of lot value $23,000)	**$2,300.00** **$221.61** **$354.08** **$2,875.69**
EASTWOOD PARK								
KENNETH W OCHS 1212 ELMWOOD DR RICHARDSON, TX 75080	21 **1600** **Stevens St**	2/5344	58 FT PVMT 58 FT WALK	$90.00 $9.43	$5,220.00 $546.94	**$5,766.94**	$345 (10% of lot value $3,450)	**$345.00** **$273.47** **$618.47**

1. **STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH**

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	ASSESSMENT	TOTAL ASSESSMENT VALUE- LAND	RECOMMENDED ASSESSMENT
			REINHARDT					
ARNULFO LOPEZ 10215 DAVILLA AVE DALLAS, TX 75228	9	14/5358	35 FT PVMT 23 FT WALK 12 FT DRIVE	$90.00 $9.43 No Cost	$3,150.00 $216.89 $0.00	**$3,366.89**	$2,300 (10% of lot value $23,000)	**$2,300.00** **$108.45** **$0.00** **$2,408.45**
ESTATE OF FAUSTO RODRIGUEZ 10219 DAVILLA AVE DALLAS, TX 75228	8	14/5358	50 FT PVMT 38 FT WALK 12 FT DRIVE	$90.00 $9.43 No Cost	$4,500.00 $358.34 $0.00	**$4,858.34**	$2,300 (10% of lot value $23,000)	**$2,300.00** **$179.17** **$0.00** **$2,479.17**
			REINHART TOWN OF					
JESUS RODRIGUEZ 1641 DRAKE ST DALLAS, TX 75228	7	14/5358	50 FT PVMT 30 FT WALK 18.3 SY DR(10'Wide)	$18.82 $4.71 $47.21	$941.00 $141.30 $863.94	**$1,946.24**	$2,300 (10% of lot value $23,000)	**$941.00** **$70.65** **$431.97** **$1,443.62**

EAST SIDE OF STREET

		EASTWOOD PARK		
NEVILLE CROWELL & ANN R CROWELL 1122 CORDOVA ST DALLAS, TX 75223	11 **10243** **Sylvia Dr**	2/5344	NO ASSESSMENT EASEMENT INTERVENING	
NICHOLAS J BALTHROP 10239 SYLVIA DR DALLAS, TX 75228	10	2/5344	60 FT PVMT 19.4 SY DR(20'Wide)	$18.24 $47.21	$1,094.40 $915.87	**$2,010.27**	$2,300 (10% of lot value $23,000)	**$1,094.40** **$457.94** **$1,552.34**
DAVID CLEMENTS 5505 ANGLEBLUFF PL PLANO, TX 75093	9 **10233** **Sylvia Dr**	2/5344	51 FT PVMT	$18.24	$930.24	**$930.24**	$2,300 (10% of lot value $23,000)	**$930.24** **$930.24**

1. **STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH**

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	ASSESSMENT	TOTAL ASSESSMENT VALUE- LAND	RECOMMENDED ASSESSMENT
HAWKINS WILLIE & ANITA WILLIE 10227 SYLVIA DR DALLAS, TX 75228	8	2/5344	32 FT PVMT	$18.24	$583.68	**$583.68**	$2,300 (10% of lot value $23,000)	**$583.68** **$538.68**
EASTWOOD PARK								
JESUS ALVAREZ & PATRICIA C ALVAREZ 1651 STEVENS ST DALLAS, TX 75228	Pt 20	2/5344	152 FT PVMT 119 FT WALK 21.7 SY DR(23'Wide)	$90.00 $9.43 $47.21	$13,680.00 $1,122.17 $1,024.46	**$15,826.63**	$2,300 (10% of lot value $23,000)	**$2,300.00** **$561.09** **$512.23** **$3,373.31**
RICHARD WINCORN 10118 CAYUGA DR STE 1 DALLAS, TX 75228	3A Acs. 6451	13/5357	160 FT PVMT 135 FT WALK 25 FT DRIVE	$90.00 $9.43 No Cost	$14,400.00 $1,273.05 $0.00	**$15,673.05**	$8,430 (10% of lot value $84,300)	**$8,430.00** **$636.53** **$0.00** **$9,066.53**

PROJECT GROUP 12-3004

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT	TOTAL ASSESSMENT VALUE- ALLEY	RECOMMENDED ASSESSMENT
NORTHWEST SIDE OF ALLEY								
			WHITE ROCK NORTH 3RD INST					
MATTHEW HOPE & JENNIE-LAURIE DEVANE 9246 SHOREVIEW ROAD DALLAS, TX 75238	14	A/5705	70 FT PVMNT	$18.24	$1,276.80	**$1,276.80**	$319.20 (25% of total assessment $1,276.80)	**$319.20**
			LAKE RIDGE ESTATES					
GEORGE B DAVIS 9252 SHOREVIEW RD DALLAS, TX 75238	13	A/5705	70 FT PVMT	$18.24	$1,276.80	**$1,276.80**	$319.20 (25% of total assessment $1,276.80)	**$319.20**
SUZANNE BLACKNELL LARRY FLOURNOY JR 9306 SHOREVIEW RD DALLAS, TX 75238	12	A/5705	70 FT PMVT	$18.24	$1,276.80	**$1,276.80**	$319.20 (25% of total assessment $1,276.80)	**$319.20**
ERIC THOMAS BARNHART JENNIFER ADAY 9310 SHOREVIEW RD DALLAS, TX 75238	11	A/5705	70 FT PMVT	$18.24	$1,276.80	**$1,276.80**	$319.20 (25% of total assessment $1,276.80)	**$319.20**
BRIAN ANDERSON & STACIE ANDERSON 9316 SHOREVIEW RD DALLAS, TX 75238	10	A/5705	70 FT PMVT	$18.24	$1,276.80	**$1,276.80**	$319.20 (25% of total assessment $1,276.80)	**$319.20**

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT	TOTAL ASSESSMENT VALUE- ALLEY	RECOMMENDED ASSESSMENT
			LAKE RIDGE ESTATES					
SCOTT BREEDLOVE & JULIE BREEDLOVE 9320 SHOREVIEW RD DALLAS, TX 75238	9	A/5705	70 FT PMVT	$18.24	$1,276.80	$1,276.80	$319.20 (25% of total assessment $1,276.80)	$319.20
			SHORE CREST TERRACE					
THOMAS LAMSON & ESTRELLA LAMSON 9326 SHOREVIEW RD DALLAS, TX 75238	8	A/5705	70 FT PMVT	$18.24	$1,276.80	$1,276.80	$319.20 (25% of total assessment $1,276.80)	$319.20
DAVID E HARNDEN & LYNN HARNDEN 9330 SHOREVIEW RD DALLAS, TX 75238	7	A/5705	80 FT PMVT	$18.24	$1,459.20	$1,459.20	$364.80 (25% of total assessment $1,459.20)	$364.80
THOMAS J HOWELL & JANE D HOWELL 9336 SHOREVIEW RD DALLAS, TX 75238	6	A/5705	80 FT PMVT	$18.24	$1,459.20	$1,459.20	$364.80 (25% of total assessment $1,459.20)	$364.80
TONI SCOTT REED & JOE REED 9342 SHOREVIEW RD DALLAS, TX 75238	5	A/5705	100 FT PMVT	$18.24	$1,824.00	$1,824.00	$456.00 (25% of total assessment $1,824.00)	$456.00

2. **ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL**
SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT	TOTAL ASSESSMENT VALUE- ALLEY	RECOMMENDED ASSESSMENT
SOUTHEAST SIDE OF ALLEY								
			WHITE ROCK HIGHLANDS					
VIRGIL V POPE 8061 FOREST TRL DALLAS, TX 75238	16	9/5445	50 FT PMVT	$18.24	$912.00	**$912.00**	$228.00 (25% of total assessment $912.00)	**$228.00**
VIRGIL V POPE 8061 FOREST TRL DALLAS, TX 75238	15 **8058** **EAGLE TRL**	9/5445	50 FT PMVT	$18.24	$912.00	**$912.00**	$228.00 (25% of total assessment $912.00)	**$228.00**
EAGLE TRAIL INTERSECTS								
PHILLIP G POLITO 8057 EAGLE TRL DALLAS, TX 75238	14	A/5445	50 FT PMVT 17.5 SY DR(15'Wide) 10 FT DRIVE	$18.24 $47.21 No Cost	$912.00 $826.18	**$1,738.18**	$228.00 (25% of total assessment $912.00)	**$228.00** **$413.09** **$0.00** **$641.09**
ROY C LIERMAN 8051 NIMROD TRL DALLAS, TX 75238	13	8/5445	50 FT PMVT 10 FT DRIVE	$18.24 No Cost	$912.00	**$912.00**	$228.00 (25% of total assessment $912.00)	**$228.00**

RECOMMENDATION:

The Sales Comparison Method was conducted for both the Street and Alley Group of properties. The Street Group showed a comparison between improved residential properties with and without curbs and gutters, sidewalks, or driveways. The Alley Group compared the improved residential properties with and without alleyways.

The Street Group: Stevens Street-Cayuga Drive to Davilla Avenue & Davilla Avenue from Stevens Street to Drake Street which encumbers 11 parcels, were represented within the Sales Comparison Method by a similar improved residential property "4027 Falls Drive, Dallas, Texas" which shared similar features as the group. The lack of credible sales available within the immediate market area required the analyst to utilize sales within a similar neighborhood for this analysis. Recent improved residential properties without improved driveways, sidewalks, and curbs/gutters were able to be obtain to show a similar comparison.

The Alley Group: The Alley southwest and parallel to Shoreview Road from Forest Trail to Nimrod Trail encumbers14 parcels, were represented within the Sales Comparison Method by a similar improved residential property without an alleyway "9412 Northpoint Drive, Dallas, Texas" which shared resembling attributes as the groups. Recent improved residential properties with alley ways were obtain to be compared to the above represented property.

The Street Group comparison method concluded that there isn't a significant increase in sales price for properties with curbs/gutters, driveways, and sidewalks when compared to sales of similar type of properties that did not possess those features. That does not necessarily mean that a property is not more marketable or attractive to a potential purchaser, it only means that based on the data we were able to gather and verify, we could not positively prove that a difference existed in the marketplace.

Despite the distance between the subject sites and the sales, we were able to gather enough data to perform a comparative analysis for The Alley Group properties. The comparison approach did not indicate that a premium was being paid for properties that possessed an alleyway when compared to sales of similar type properties that did not possess those features. Based on our market analysis in which information from various sources were obtained, we can conclude that an alleyway may be an attractive feature for a property based on the purchaser's preference.

However, the lack of an alley may not affect the desirability of the property within the real estate market. While it is true that the property owners will receive a nominal benefit from having a new concrete street improvement, sidewalks and drives, and alleyways the benefit received from these new items will only provide a minimal amount of enhanced value to the properties when compared to the largest portion of the value of the lot. As such, it is our contention that the subject properties will increase in value from the street and sidewalk improvements proposed by the City of Dallas, but not by the actual cost of the improvements. It is our opinion that the property owners should be assessed at a rate of 10% of the assessed value of the lot for the street improvements (concrete paving, curbs/gutters), the property owners be assessed at a rate of 50% of the estimated construction cost of the sidewalk and concrete drive improvements, and the property owners are assessed at a rate of 25% of the construction cost of the alleyway pavement improvements.

CERTIFICATE

We do hereby certify that, except as otherwise noted in this report:

1. The statements of fact contained in this report are true and correct.

2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, unbiased professional analyses, opinions and conclusions.

3. We have no present or prospective interest in the property which is the subject of this report and we have no personal interest or bias with respect to the parties involved.

4. Our compensation is not contingent upon an action or event resulting from the analyses, opinions or conclusions in, or the use of, our report. This assignment was not based on a requested minimum valuation, a specific valuation, or approval of a loan.

5. Ownership and site data was obtained from information appearing on the Tax Rolls and from data provided by the client.

6. Troy Alley, Jr. has made a personal inspection of the property which is the subject of this report. Kristen Alley has also made a personal inspection of the property.

7. Kristen Alley provided significant professional assistance to the person signing this report.

8. The analyst(s) is not an employee, officer or appointed board or commission member of the City of Dallas. We did not consider race, color, religion, sex, national origin, handicap or familial status in determining the value of the Subject Property.

9. **THIS IS NOT AN OPINION OF VALUE, IT IS A ENHANCEMENT STUDY AND SHOULD NOT BE CONSIDERED AN APPRAISAL. In making any decision that relies upon our work, you should know that we have NOT followed the guidelines for development of an appraisal or analysis contained in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.**

Con-Real, LP

Troy C. Alley, Jr.
Sr. Analyst

Kristen Alley
Analyst

ORDINANCE NO._____

AN ORDINANCE LEVYING ASSESSMENTS AGAINST VARIOUS PERSONS AND THEIR PROPERTY FOR THE PAYMENT OF A PART OF THE COST OF IMPROVING AND PAVING PORTIONS OF THE FOLLOWING STREET AND ALLEY IN THE CITY OF DALLAS, TEXAS, TO WIT:

Project Group 12-3004

Street:

1. Stevens Street from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street

Alley:

2. Alley southwest and parallel to Shoreview Road from Forest Trail to Eagle Trail to Nimrod Trail

PROVIDING FOR THE TIME WHEN SUCH ASSESSMENTS BECOME DUE AND PAYABLE, THE RATE OF INTEREST, AND FIXING A CHARGE AND LIEN AGAINST SAID PROPERTY AND MAKING SAID CHARGE A PERSONAL LIABILITY OF THE PROPERTY OWNERS OWNING PROPERTY ABUTTING ON SAID STREET AND ALLEY, AND PROVIDING FOR THE COLLECTION THEREOF; AND DECLARING AN EMERGENCY.

WHEREAS, heretofore a resolution was duly adopted by the City Council ordering the improvements of

Project Group 12-3004

Street:

1. Stevens Street from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street

Alley:

2. Alley southwest and parallel to Shoreview Road from Forest Trail to Eagle Trail to Nimrod Trail

by filling, raising, grading, and paving same; and,

WHEREAS, pursuant to said resolution, specifications and an estimate of the cost of such improvements were prepared for said work by the Director of Mobility and Street Services (City Engineer), filed with said Council, examined, approved, and adopted by it, all as required by applicable law; and,

WHEREAS, in compliance with the law the City Engineer prepared his statements or lists showing the names of property owners upon said street and alley the description of their property, the total cost of the said improvements, the cost there of per front foot and cost to each property owner, said statements possessing all the other requisites required by law; and,

WHEREAS, thereafter the said statements were filed with the City Council and by them examined and approved and a resolution was passed by said Council determining the necessity of making an assessment for part of the cost of said pavement against property owners and their property, and fixing a time and providing for a hearing to such property owners, all in accordance with the terms of applicable law, at which hearing to such property owners were to be heard as to the benefits of the said improvements to their property, as to any error or invalidity in said proceedings, or to any matter or thing connected with the said improvements; and,

WHEREAS, the said resolution in connection with the improvement of said street and alley was duly adopted in compliance with the law on the 11th day of January, 2017; and,

WHEREAS, in accordance with the terms of the law, the City of Dallas gave notice to the property owners on said street and alleys of said hearing, by publishing a copy of said notice in the Dallas Morning News, a daily paper of general circulation in the City of Dallas, for three successive days prior to the days set for the hearing, to wit, the 22nd day of ~~February~~ March, 2017; and the City also gave notice of said hearing by mailing letters containing the same to said property owners at least fourteen (14) days before the said hearing; provided, however, that any failure of the property owners to receive said notices shall not invalidate these proceedings; and,

WHEREAS, said hearing was held at the time and place mentioned in the said resolution and notice, to wit, on the 22nd day of ~~February~~ March, 2017 at 1:00 o'clock P.M. at the Council Chamber in the City Hall of the City of Dallas, Texas, which hearing was then closed; and,

WHEREAS, at said hearing, all desiring to contest the said assessments, correct the same, or in any manner be heard concerning the benefits thereof, or in any related matter, were heard, and errors and all matters of error or mistake or inequalities or other matters requiring rectification which were called to the attention of the Council were rectified and corrected.

Now, Therefore,

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

SECTION 1. That the action of the City Council closing the hearing and overruling the protests at the public hearing on the 22nd day of ~~February~~ March, 2017, in these proceedings is hereby ratified and confirmed by this ordinance. That the City Council, from the evidence, finds that the assessments herein levied should be made and levied against the respective parcels of property abutting upon the street and alley herein below mentioned and against the owners thereof; that such assessments and charges are right and proper, and are substantially in proportion to the benefits to the respective parcels of property by means of the improvement in the unit or district for which such assessments are levied, and establish substantial justice, equality, and uniformity between the respective owners of the respective properties between all parties concerned, considering the benefits received and burdens imposed. The Council further finds that in each case the abutting property assessed is specially benefited in enhanced value to the said properties by means of the said improvements in the unit or district upon which the particular property abuts, and for which assessment is levied and charge made, in a sum in excess of the said assessment and charge made against the same by this ordinance. The Council further finds that the apportionment of the cost of the improvements is in accordance with the law in force in this City and that the proceedings of the City heretofore had with reference to said improvements are in all respects valid and regular.

SECTION 2. That there shall be and is hereby levied and assessed against the parcels of property hereinbelow mentioned, and against the real and true owners thereof (whether such owners be correctly named herein or not), the sums of money below mentioned and itemized shown opposite the description of the respective parcels of property, and the several amounts assessed against the same and the owners thereof, as far as such owners are known, being as follows:

PROJECT GROUP 12-3004

1. **STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH**

OWNER	LOT	BLOCK	FRONTAGE		RATE	AMOUNT	TOTAL ASSESSMENT
WEST SIDE OF STREET							
		REINHART TOWN OF					
RICHARD WINCORN	1 &	14/5358	130	FT PVMT	$18.82	$2,446.60	
10118 CAYUGA ST STE 1	S 1/2 Lt 2		108	FT WALK	$4.71	$508.68	
DALLAS, TX 75228	**10202**		17	SY DR(12'Wide)	$47.21	$802.57	
	Cayuga Dr		**TOTAL**			$3,757.85	
			ADJ PER ENHANCEMENT EVAL.			$802.22	
			NET DUE BY OWNER				**$2,955.63**
KENNETH W OCHS	12 &	14/5358	67	FT PVMT	$90.00	$6,030.00	
1212 ELMWOOD DR	S 1/2 Lt 11		47	FT WALK	$9.43	$443.21	
RICHARDSON, TX 75080	**1638**		15	SY DR(10'Wide)	$47.21	$708.15	
	Stevens St		**TOTAL**			$7,181.36	
			ADJ PER ENHANCEMENT EVAL.			$4,305.67	
			NET DUE BY OWNER				**$2,875.69**
		EASTWOOD PARK					
KENNETH W OCHS	21	2/5344	58	FT PVMT	$90.00	$5,220.00	
1212 ELMWOOD DR	**1600**		58	FT WALK	$9.43	$546.94	
RICHARDSON, TX 75080	**Stevens St**		**TOTAL**			$5,766.94	
			ADJ PER ENHANCEMENT EVAL.			$5,148.47	
			NET DUE BY OWNER				**$618.47**
		REINHARDT					
ARNULFO LOPEZ	9	14/5358	35	FT PVMT	$90.00	$3,150.00	
10215 DAVILLA AVE			23	FT WALK	$9.43	$216.89	
DALLAS, TX 75228			12	FT DRIVE	No Cost	$0.00	
			TOTAL			$3,366.89	
			ADJ PER ENHANCEMENT EVAL.			$958.44	
			NET DUE BY OWNER				**$2,408.45**

PROJECT GROUP 12-3004

1. STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH

OWNER	LOT	BLOCK	FRONTAGE		RATE	AMOUNT	TOTAL ASSESSMENT
				REINHARDT			
ESTATE OF	8	14/5358	50	FT PVMT	$90.00	$4,500.00	
FAUSTO RODRIGUEZ			38	FT WALK	$9.43	$358.34	
10219 DAVILLA AVE			12	FT DRIVE	No Cost	$0.00	
DALLAS, TX 75228			**TOTAL**			$4,858.34	
			ADJ PER ENHANCEMENT EVAL.			$2,379.17	
			NET DUE BY OWNER				**$2,479.17**
				REINHART TOWN OF			
JESUS RODRIGUEZ	7	14/5358	50	FT PVMT	$18.82	$941.00	
1641 DRAKE ST			30	FT WALK	$4.71	$141.30	
DALLAS, TX 75228			18.3	SY DR(10'Wide)	$47.21	$863.94	
			TOTAL			$1,946.24	
			ADJ PER ENHANCEMENT EVAL.			$502.62	
EAST SIDE OF STREET			**NET DUE BY OWNER**				**$1,443.62**
				EASTWOOD PARK			
NEVILLE CROWELL &	11	2/5344		NO ASSESSMENT			
ANN R CROWELL	**10243**			EASEMENT INTERVENING			
1122 CORDOVA ST	**Sylvia Dr**						
DALLAS, TX 75223							
NICHOLAS J BALTHROP	10	2/5344	60	FT PVMT	$18.24	$1,094.40	
10239 SYLVIA DR			19.4	SY DR(20'Wide)	$47.21	$915.87	
DALLAS, TX 75228			**TOTAL**			$2,010.27	
			ADJ PER ENHANCEMENT EVAL.			$457.93	
			NET DUE BY OWNER				**$1,552.34**

PROJECT GROUP 12-3004

1. STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET SHALL BE PAVED FROM CURB TO CURB WITH 6-INCH THICK 4000-POUNDS PER SQUARE INCH REINFORCED CONCRETE PAVEMENT; WITH 8-INCH LIME STABILIZED BASE; WITH 6-INCH HEIGHT INTEGRAL CURBS; WITH 6-INCH THICKNESS REINFORCED CONCRETE DRIVE APPROACH; WITH 4-INCH THICKNESS REINFORCED CONCRETE SIDEWALKS 4 OR 5 FEET WIDE WHERE SPECIFIED; SO THAT THE ROADWAY SHALL BE 26 AND 36 FEET IN WIDTH

OWNER	LOT	BLOCK	FRONTAGE		RATE	AMOUNT	TOTAL ASSESSMENT
			EASTWOOD PARK				
DAVID CLEMENTS 5505 ANGLEBLUFF PL PLANO, TX 75093	9 **10233** **Sylvia Dr**	2/5344	51	FT PVMT	$18.24	$930.24	**$930.24**
HAWKINS WILLIE & ANITA WILLIE 10227 SYLVIA DR DALLAS, TX 75228	8	2/5344	32 **TOTAL** **ADJ PER ENHANCEMENT EVAL.** **NET DUE BY OWNER**	FT PVMT	$18.24	$583.68 $583.68 $45.00	**$538.68**
JESUS ALVAREZ & PATRICIA C ALVAREZ 1651 STEVENS ST DALLAS, TX 75228	Pt 20	2/5344	152 119 21.7 **TOTAL** **ADJ PER ENHANCEMENT EVAL.** **NET DUE BY OWNER**	FT PVMT FT WALK SY DR(23'Wide)	$90.00 $9.43 $47.21	$13,680.00 $1,122.17 $1,024.46 $15,826.63 $12,453.32	**$3,373.31**
RICHARD WINCORN 10118 CAYUGA DR STE 1 DALLAS, TX 75228	3A Acs. 6451	13/5357	160 135 25 **TOTAL** **ADJ PER ENHANCEMENT EVAL.** **NET DUE BY OWNER**	FT PVMT FT WALK FT DRIVE	$90.00 $9.43 No Cost	$14,400.00 $1,273.05 $0.00 $15,673.05 $6,606.52	**$9,066.53**

PROJECT GROUP 12-3004

1. STEVENS STREET FROM CAYUGA DRIVE TO DAVILLA AVENUE AND DAVILLA AVENUE FROM STEVENS STREET TO DRAKE STREET

TOTAL PROPERTY OWNERS' COST ASSESSMENTS	$61,901.49	
ADJUSTMENTS PER ENHANCEMENT EVALUATION	$33,659.36	
NET DUE BY OWNER		$28,242.13
~~TOTAL CITY OF DALLAS' COST - PAVING~~	~~$442,047.87~~	
~~TOTAL CITY OF DALLAS' COST - DRAINAGE~~	~~$54,860.00~~	
~~TOTAL DALLAS WATER UTILITIES COST WATER AND WASTEWATER MAIN CONSTRUCTION~~	~~$104,077.00~~	
~~TOTAL CITY OF DALLAS' COST~~		~~$600,984.87~~
~~TOTAL COST OF IMPROVEMENTS~~		~~$629,227.00~~

PROJECT GROUP 12-3004

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL
SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT(S)	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT
NORTHWEST SIDE OF ALLEY						
			WHITE ROCK NORTH 3RD INST			
MATTHEW HOPE &	14	A/5705	70 FT PVMNT	$18.24	$1,276.80	
JENNIE-LAURIE DEVANE			**TOTAL**		$1,276.80	
9246 SHOREVIEW ROAD			**ADJ PER ENHANCEMENT EVAL.**		$957.60	
DALLAS, TX 75238			**NET DUE BY OWNER**			**$319.20**
			LAKE RIDGE ESTATES			
GEORGE B DAVIS	13	A/5705	70 FT PVMT	$18.24	$1,276.80	
9252 SHOREVIEW RD			**TOTAL**		$1,276.80	
DALLAS, TX 75238			**ADJ PER ENHANCEMENT EVAL.**		$957.60	
			NET DUE BY OWNER			**$319.20**
SUZANNE BLACKNELL	12	A/5705	70 FT PMVT	$18.24	$1,276.80	
LARRY FLOURNOY JR			**TOTAL**		$1,276.80	
9306 SHOREVIEW RD			**ADJ PER ENHANCEMENT EVAL.**		$957.60	
DALLAS, TX 75238			**NET DUE BY OWNER**			**$319.20**
ERIC THOMAS BARNHART	11	A/5705	70 FT PMVT	$18.24	$1,276.80	
JENNIFER ADAY			**TOTAL**		$1,276.80	
9310 SHOREVIEW RD			**ADJ PER ENHANCEMENT EVAL.**		$957.60	
DALLAS, TX 75238			**NET DUE BY OWNER**			**$319.20**
BRIAN ANDERSON &	10	A/5705	70 FT PMVT	$18.24	$1,276.80	
STACIE ANDERSON			**TOTAL**		$1,276.80	
9316 SHOREVIEW RD			**ADJ PER ENHANCEMENT EVAL.**		$957.60	
DALLAS, TX 75238			**NET DUE BY OWNER**			**$319.20**

PROJECT GROUP 12-3004

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT(S)	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT
			LAKE RIDGE ESTATES			
SCOTT BREEDLOVE & JULIE BREEDLOVE 9320 SHOREVIEW RD DALLAS, TX 75238	9	A/5705	70 FT PMVT	$18.24	$1,276.80	
			TOTAL		$1,276.80	
			ADJ PER ENHANCEMENT EVAL.		$957.60	
			NET DUE BY OWNER			**$319.20**
THOMAS LAMSON & ESTRELLA LAMSON 9326 SHOREVIEW RD DALLAS, TX 75238	8	A/5705	70 FT PMVT	$18.24	$1,276.80	
			TOTAL		$1,276.80	
			ADJ PER ENHANCEMENT EVAL.		$957.60	
			NET DUE BY OWNER			**$319.20**
DAVID E HARNDEN & LYNN HARNDEN 9330 SHOREVIEW RD DALLAS, TX 75238	7	A/5705	80 FT PMVT	$18.24	$1,459.20	
			TOTAL		$1,459.20	
			ADJ PER ENHANCEMENT EVAL.		$1,094.40	
			NET DUE BY OWNER			**$364.80**
THOMAS J HOWELL & JANE D HOWELL 9336 SHOREVIEW RD DALLAS, TX 75238	6	A/5705	80 FT PMVT	$18.24	$1,459.20	
			TOTAL		$1,459.20	
			ADJ PER ENHANCEMENT EVAL.		$1,094.40	
			NET DUE BY OWNER			**$364.80**
TONI SCOTT REED & JOE REED 9342 SHOREVIEW RD DALLAS, TX 75238	5	A/5705	100 FT PMVT	$18.24	$1,824.00	
			TOTAL		$1,824.00	
			ADJ PER ENHANCEMENT EVAL.		$1,368.00	
			NET DUE BY OWNER			**$456.00**

PROJECT GROUP 12-3004

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

OWNER	LOT(S)	BLOCK	FRONTAGE	RATE	AMOUNT	TOTAL ASSESSMENT
SOUTHEAST SIDE OF ALLEY						
			WHITE ROCK HIGHLANDS			
VIRGIL V POPE	16	9/5445	50 FT PMVT	$18.24	$912.00	
8061 FOREST TRL			**TOTAL**		$912.00	
DALLAS, TX 75238			**ADJ PER ENHANCEMENT EVAL.**		$684.00	
			NET DUE BY OWNER			**$228.00**
VIRGIL V POPE	15	9/5445	50 FT PMVT	$18.24	$912.00	
8061 FOREST TRL	**8058**		**TOTAL**		$912.00	
DALLAS, TX 75238	**EAGLE TRL**		**ADJ PER ENHANCEMENT EVAL.**		$684.00	
			NET DUE BY OWNER			**$228.00**
EAGLE TRAIL INTERSECTS						
PHILLIP G POLITO	14	A/5445	50 FT PMVT	$18.24	$912.00	
8057 EAGLE TRL			17.5 SY DR(15'Wide)	$47.21	$826.18	
DALLAS, TX 75238			10 FT DRIVE	No Cost	$0.00	
			TOTAL		$1,738.18	
			ADJ PER ENHANCEMENT EVAL.		$1,097.09	
			NET DUE BY OWNER			**$641.09**
ROY C LIERMAN	13	8/5445	50 FT PMVT	$18.24	$912.00	
8051 NIMROD TRL			10 FT DRIVE	No Cost	$0.00	
DALLAS, TX 75238			**TOTAL**		$912.00	
			ADJ PER ENHANCEMENT EVAL.		$684.00	
			NET DUE BY OWNER			**$228.00**

PROJECT GROUP 12-3004

2. ALLEY SOUTHWEST AND PARALLEL TO SHOREVIEW ROAD FROM FOREST TRAIL TO EAGLE TRAIL TO NIMROD TRAIL
SHALL BE PAVED WITH 6-INCH THICKNESS 4500-POUNDS PER SQUARE INCH REINFORCED CONCRETE 10 FEET WIDE

TOTAL PROPERTY OWNERS' COST ASSESSMENTS	$18,154.18	
ADJUSTMENTS PER ENHANCEMENT EVALUATION	$13,409.09	
NET DUE BY OWNER		$4,745.09
~~TOTAL CITY OF DALLAS' COST - PAVING~~	~~$182,714.91~~	
~~TOTAL DALLAS WATER UTILITIES COST WATER MAIN CONSTRUCTION~~	~~$56,365.00~~	
~~TOTAL CITY OF DALLAS' COST~~		~~$239,079.91~~
~~TOTAL COST OF IMPROVEMENTS~~		~~$243,825.00~~

Project Group 12-3004

Street:

1. Stevens Street from Cayuga Drive to Davilla Avenue and Davilla Avenue from Stevens Street to Drake Street

Alley:

2. Alley southwest and parallel to Shoreview Road from Forest Trail to Eagle Trail to Nimrod Trail

Grand Total Property Owners' Cost - Assessments	$80,055.67	
Adjustments Per Enhancement Evaluation	$47,068.45	
Grand Net Due by Owner		$32,987.22
~~Grand Total City of Dallas' Cost - Paving~~	~~$624,762.78~~	
~~Grand Total City of Dallas' Cost - Drainage~~	~~$54,860.00~~	
~~Grand Total Water Utilities Department Cost – Water and Wastewater Mains~~	~~$160,442.00~~	
~~Grand Total City of Dallas' Cost~~		~~$840,064.78~~
~~Grand Total Cost of Improvements~~		~~$873,052.00~~

SECTION 3. That where more than one person, firm or corporation owns an interest in any property above described, each said person, firm or corporation shall be personally liable for its, his or her pro rata of the total assessment against such property in proportion as its, his or her respective interest bears to the total ownership of such property, and its, his or her respective interest in such property may be released from the assessment lien upon payment of such proportionate sum.

SECTION 4. That the several sums above mentioned and assessed against the said parcels of property and the owners thereof, and interest thereon at the rate of eight per centum (8.00%) per annum, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be and are made a lien upon the respective parcels of property against which the same are assessed, and a personal liability and charge against the real and true owners of such property, whether such owners be named herein or not, and the said liens shall be and constitute the first enforceable lien and claim against the property on which such assessments are levied, and shall be a first paramount lien thereon, superior to all other liens and claims except State, County, School District and City ad valorem taxes.

That the cost shall be assessed against said owners and their property respectively, in accordance with what is known as the "Front-Foot Plan", in proportion as the frontage of the property of each owner is to the whole frontage improved and shall be payable in monthly installments not to exceed one hundred twenty (120) in number, the first of which shall be payable within thirty (30) days from the date of the completion of said improvements and their acceptance by the City of Dallas, and one installment each month thereafter until paid, together with interest thereon at the current rate established and adopted by the City Council applicable to Public Improvement Assessment Accounts being paid by installments and not to exceed the statutory rate, with the provision that any of said installments may be paid at any time before maturity by the payment of the principal and the accrued interest thereon. Any property owner against whom and whose property assessment has been levied may pay the whole assessment chargeable to him without interest within thirty (30) days after the acceptance and completion of said improvements.

SECTION 5. That if default be made in the payment of any of the said sums hereby assessed against said property owners and their property, collection thereof shall be enforced either by suit in any court having jurisdiction or by lien foreclosure.

SECTION 6. That for the purpose of evidencing the several sums payable by said property owners and the time and terms of payment, and to aid in the enforcement thereof, assignable certificates may be issued by the City of Dallas upon the completion and acceptance of the said work of improvement, which shall be executed by the Mayor, signing the same or by his facsimile signature impressed thereon, attested by the City Secretary, under the impress of the corporate seal, and shall be payable to the City of Dallas, or its assigns, which certificate shall declare the said amounts and the time and terms of payment thereof, and the said rate of interest payable thereof, and shall contain the name of the owner and the description of his property by Lot or Block Number of front feet thereof, or such description as may otherwise identify the same by reference to any other fact, and if said property shall be owned by an estate, then the description thereof as so owned shall be sufficient.

And that the said certificates shall further provide that if default shall be made in the payment of any installment of principal or interest thereon, when due then at the option of the said City of Dallas being the owner and holder thereof, the whole of the said assessment shall at once become due and payable and shall be collectible with reasonable attorney's fees and costs if incurred.

And that the said certificates shall further set forth and evidence the said personal liability of the owner and the lien upon his premises and shall provide that if default shall be made in the payment thereof, the same may be enforced as above provided.

And the said certificates shall further recite that the proceedings with reference to making said improvements have been regularly in compliance with the terms of the applicable law, and that all prerequisites to the fixing of the lien and claims of personal liability evidenced by such certificates have been performed, which recitals shall be prima facie evidence of the facts so recited and no further proof thereof shall be required.

That the said certificates shall also provide that the amounts payable thereunder shall be paid to the City Controller of the City of Dallas, who shall credit said payments upon the said certificates, and shall immediately deposit the amounts so collected with the City Treasurer of the City of Dallas, to be kept and held by him in a special fund, which is hereby designated as Capital Assessments Fund and which payments shall be by the Treasurer paid to the said City of Dallas or other holder of the said certificates, on presentation thereof to him, duly credited by the City Controller the said credit by said City Controller being the Treasurer's Warranty for making such payment and the said City of Dallas or other holder of said certificate, shall receipt in writing to said Treasurer when paid in full, together with all costs of collection.

SECTION 6. (Continued)

And that the said certificates shall further provide that the City of Dallas shall exercise all legal power, when requested so to do by the holder of said certificate, to aid in the collection thereof; but the City of Dallas shall in nowise be liable to the holder of said certificates in any manner for payment of the amount evidenced by the said certificates or for any costs or expense in the premises, or for any failure of the said City Council or any of its officers in connection therewith.

Full power to make and levy reassessments, and to correct mistakes, errors, invalidates or irregularities, either in the assessments or in the certificates issued in evidence thereof, is in accordance with the law in force in this City, vested in the City.

SECTION 7. That all assessments levied are a personal liability and charged against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named.

SECTION 8. That the assessments herein levied are made and levied under and by virtue of the terms, powers and provisions of an Act passed at the First Called Session of the Fortieth Legislature of the State of Texas, known as Chapter 106 of the Acts of said Session, with amendments thereto, now shown as Texas Transportation Code Annotated Section 311 and 313 (Vernon's 1996), which said law has been adopted as an alternative method for the construction of street and alley improvements in the City of Dallas, Texas, by Chapter XX of the Charter of the City of Dallas.

SECTION 9. That the assessments so levied are for the improvements in the particular unit or district upon which the property described abuts, and the assessments for the improvements in one unit or district are in nowise related to or connected with the improvements in any other unit or district, and in making assessments and in holding said hearing, the amounts assessed for improvements in one unit or district have been in nowise affected by any fact in anywise connected with the improvements or the assessments therefore in any other unit or district.

SECTION 10. That the City Manager, or his designee, is hereby authorized to execute releases of any paving assessment liens herein levied and assessed against the parcels of property and owners thereof, if same are fully paid, such releases to be approved as to form by the City Attorney and attested by the City Secretary.

SECTION 11. 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 ordained.

APPROVED AS TO FORM:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

Prepared by _____
Project Coordinator

Approved by _____
Director, Mobility and Street Services Department

WHEREAS, on January 11, 2017, Resolution No. 17-0081 authorized improvements and the public hearing; and,

WHEREAS, bids were received on December 2, 2016, for street and alley paving, storm drainage, water and wastewater main improvements for Project Group 12-3004, as follows:

BIDDERS	**BID AMOUNT**
MACVAL Associates LLC	$ 873,052.00
Jeske Construction Co.	$ 911,793.00
Axis Contracting, Inc.	$1,005,144.00
Camino Construction, LP	$1,024,979.50
ARK Contracting Services	$1,107,892.00

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to execute a construction contract with MACVAL Associates, LLC for the construction of street and alley paving, storm drainage and water and wastewater main improvements for Project Group 12-3004, in an amount not to exceed $873,052.00, this being the lowest responsive bid received as indicated by the tabulation of bids, after it has been approved as to form by the City Attorney.

Section 2. That the Chief Financial Officer is hereby authorized to disburse funds in accordance with the terms and conditions of the contract from:

Street and Transportation Improvements Fund
Fund 3U22, Department STS, Unit S208, Act. APET
Obj. 4510, Program #PB12S208, CT STS12S208E1
Vendor # VS0000025999, in an amount not to exceed $187,460.00

Street and Transportation Improvements Fund
Fund 3U22, Department STS, Unit S426, Act. STPT
Obj. 4510, Program # PB12S426, CT STS12S208E1
Vendor # VS0000025999, in an amount not to exceed $525,150.00

Water Construction Fund Fund 0102, Department DWU, Unit CW42, Obj. 4550, Program #717009, CT-PBW717009CP, Vendor #VS0000025999, in an amount not to exceed	$86,971.00
Water Construction Fund Fund 0102, Department DWU, Unit CW42, Obj. 3221, Program #717009X, CT-PBW717009EN, Vendor #VS0000025999, in an amount not to exceed	$6,490.00
Wastewater Construction Fund Fund 0103, Department DWU, Unit CS42, Obj. 3222, Program #717010X, CT-PBW717010EN, Vendor #VS0000025999, in an amount not to exceed	$3,220.00
Wastewater Capital Improvement Fund Fund 3116, Department DWU, Unit PS42, Obj. 4560, Program #717010, CT-PBW717010CP, Vendor #VS0000025999, in an amount not to exceed	$63,761.00
Total in an amount not to exceed	$873,052.00

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.

MARCH 22, 2017 CITY COUNCIL ADDENDUM
CERTIFICATION

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated March 22, 2017. 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.

T.C. Broadnax
City Manager

3/10/17
Date

M. Elizabeth Reich
Elizabeth Reich
Chief Financial Officer

3-10-17
Date

RECEIVED
2017 MAR 10 PM 5:56
CITY SECRETARY
DALLAS, TEXAS

ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, MARCH 22, 2017
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 - 40
	CONSENT ADDENDUM	Items 1 - 4
	ITEMS FOR INDIVIDUAL CONSIDERATION	
No earlier		Items 41 - 46
	PUBLIC HEARINGS AND RELATED ACTIONS	
1:00 p.m.		Items 47 - 63

Handgun Prohibition Notice for Meetings of Government Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapitulo h, capitulo 411, código del gobierno (ley sobre licencias para portar pistolas), no *puede ingresar a esta propiedad con una pistola oculta."*

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapitulo h, capitulo 411, código del gobierno (ley sobre licencias para portar pistolas), no *puede ingresar a esta propiedad con una pistola a la vista."*

ADDENDUM
CITY COUNCIL MEETING
MARCH 22, 2017
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.

ADDITIONS:

Closed Session
Attorney Briefings (Sec. 551.071 T.O.M.A.)
- Legal issues related to the Dallas Police & Fire Pension System.

CONSENT ADDENDUM

Sustainable Development and Construction

1. A resolution authorizing the conveyance of approximately 5,500 square feet of City-owned land to CADG Property Holdings I, LLC located near the intersection of Harwood and Jackson Streets in exchange for approximately 162,610 square feet of land owned by CADG Property Holdings I, LLC located near the intersection of Camp Wisdom and Lancaster Roads - Financing: No cost consideration to the City

2. An ordinance granting a private license to Arts District Properties, Ltd., for the use of a total of approximately 15,694 square feet of land to install, maintain, and utilize landscape with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights along portions of Pearl, Flora, and Olive Streets rights-of-way, near their intersection - Revenue: $600 one-time fee, plus the $20 ordinance publication fee

3. An ordinance abandoning aerial portions of Pearl and Flora Streets and a subsurface portion of Flora Street to Arts District Properties, Ltd., the abutting owner, containing a total of approximately 2,628 square feet of land, located near the intersection of Flora and Olive Streets, and authorizing the quitclaim - Revenue: $286,811, plus the $20 ordinance publication fee

4. An ordinance abandoning a portion of a sidewalk and drainage easement to Arts District Properties, Ltd., the abutting owner, containing approximately 252 square feet of land, located near the intersection of Pearl and Flora Streets - Revenue: $46,053, plus the $20 ordinance publication fee

ADDENDUM DATE March 22, 2017

ITEM #	OK	IND DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
1			8, 14	C	DEV, PKR	NC	NA	NA	A resolution authorizing the conveyance of approximately 5,500 square feet of City-owned land to CADG Property Holdings I, LLC located near the intersection of Harwood and Jackson Streets in exchange for approximately 162,610 square feet of land owned by CADG Property Holdings I, LLC located near the intersection of Camp Wisdom and Lancaster Roads - Financing: No cost consideration to the City
2			14	C	DEV	REV $600	NA	NA	An ordinance granting a private license to Arts District Properties, Ltd., for the use of a total of approximately 15,694 square feet of land to install, maintain, and utilize landscape with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights along portions of Pearl, Flora, and Olive Streets rights-of-way, near their intersection - Revenue: $600 one-time fee, plus the $20 ordinance publication fee
3			14	C	DEV	REV $286,811	NA	NA	An ordinance abandoning aerial portions of Pearl and Flora Streets and a subsurface portion of Flora Street to Arts District Properties, Ltd., the abutting owner, containing a total of approximately 2,628 square feet of land, located near the intersection of Flora and Olive Streets, and authorizing the quitclaim - Revenue: $286,811, plus the $20 ordinance publication fee
4			14	C	DEV	REV $46,053	NA	NA	An ordinance abandoning a portion of a sidewalk and drainage easement to Arts District Properties, Ltd., the abutting owner, containing approximately 252 square feet of land, located near the intersection of Pearl and Flora Streets - Revenue: $46,053, plus the $20 ordinance publication fee

TOTAL $0.00

ADDENDUM ITEM # 1

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 8, 14

DEPARTMENT: Sustainable Development and Construction
Park & Recreation

CMO: Mark McDaniel, 670-3256
Willis Winters, 670-4071

MAPSCO: 45Q 65Z

SUBJECT

A resolution authorizing the conveyance of approximately 5,500 square feet of City-owned land to CADG Property Holdings I, LLC located near the intersection of Harwood and Jackson Streets in exchange for approximately 162,610 square feet of land owned by CADG Property Holdings I, LLC located near the intersection of Camp Wisdom and Lancaster Roads - Financing: No cost consideration to the City

BACKGROUND

This item is on the addendum because additional review time was required. A resolution authorizing the conveyance of approximately 5,500 square feet of City-owned land located near the intersection of Harwood and Jackson Streets to CADG Property Holdings I, LLC in exchange for approximately 162,610 square feet of land located near the intersection of Camp Wisdom and Lancaster Roads owned by CADG Property Holdings I, LLC. The exchange tract of land will be used by the Park Department. The tract of land to be conveyed to CADG Property Holdings I, LLC will be used for the construction of a parking garage benefiting a mixed-use development.

This transaction is in accordance with the Tax Increment Financing Reinvestment Zone Number Eleven (Downtown Connection TIF District) Project Plan.

Section 272.001(b)(6) of the Texas Local Government Code provides for an exception to public auction and bidding for land to be developed under a project plan adopted by the Downtown Connection TIF District.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 8, 2005, by Ordinance No. 26020, City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Eleven, ("Downtown Connection TIF District").

On August 29, 2005, City Council authorized Ordinance No. 26096 approving the Project Plan Reinvestment Zone Financing Plan for the Downtown Connection TIF District.

On December 14, 2016, by Ordinance No. 30274, City Council authorized amendments to the Project Plan to provide for the land exchange.

FISCAL INFORMATION

No cost consideration to the City

OWNER

CADG Property Holdings I, LLC

CADG Holdings, LLC

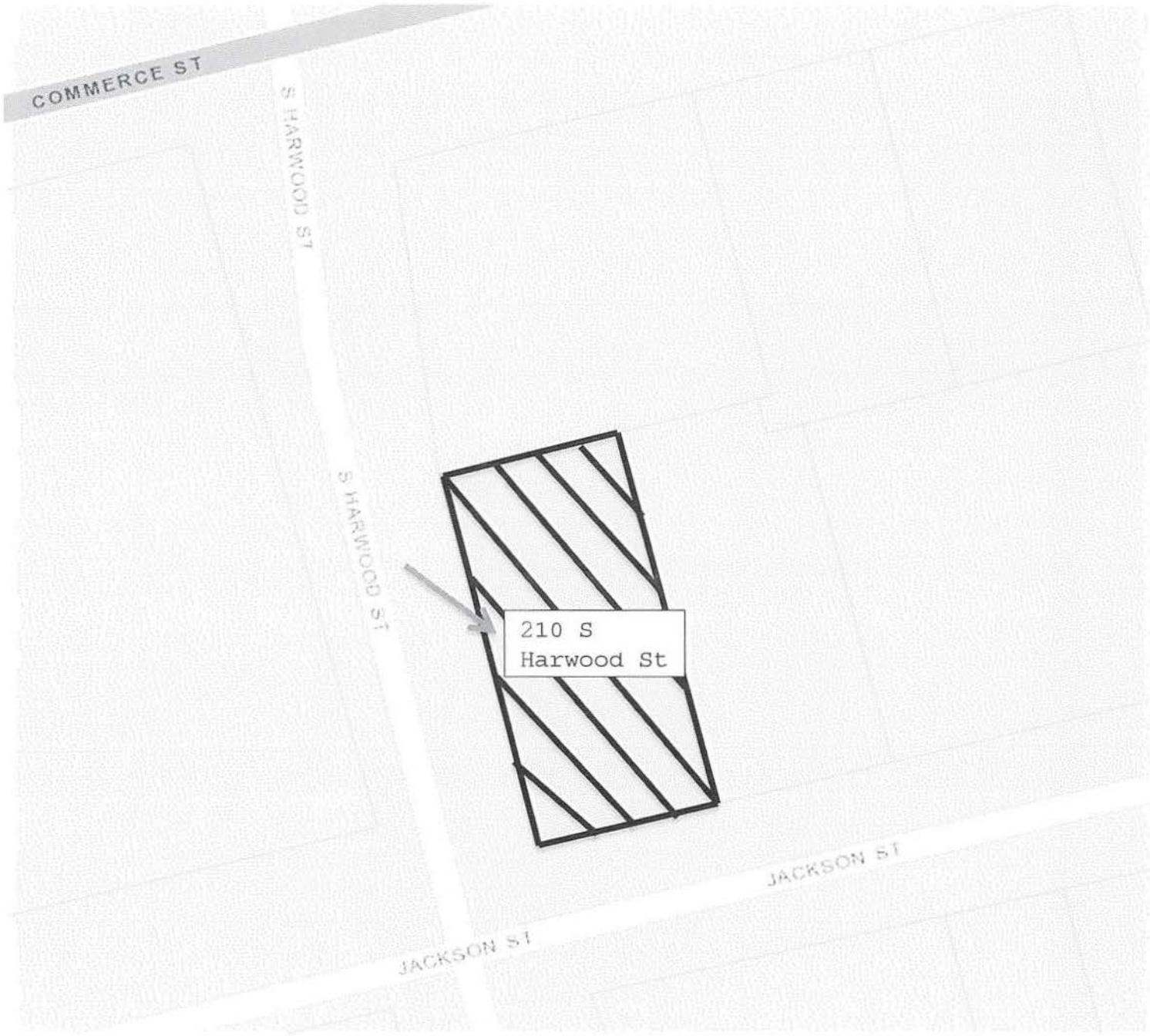
MMM Ventures, LLC

2M Ventures, LLC

Mehrdad Moayedi, Manager

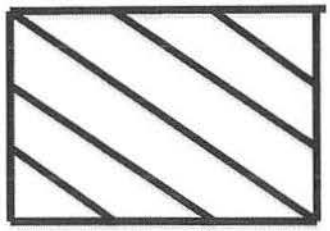
MAP

Attached

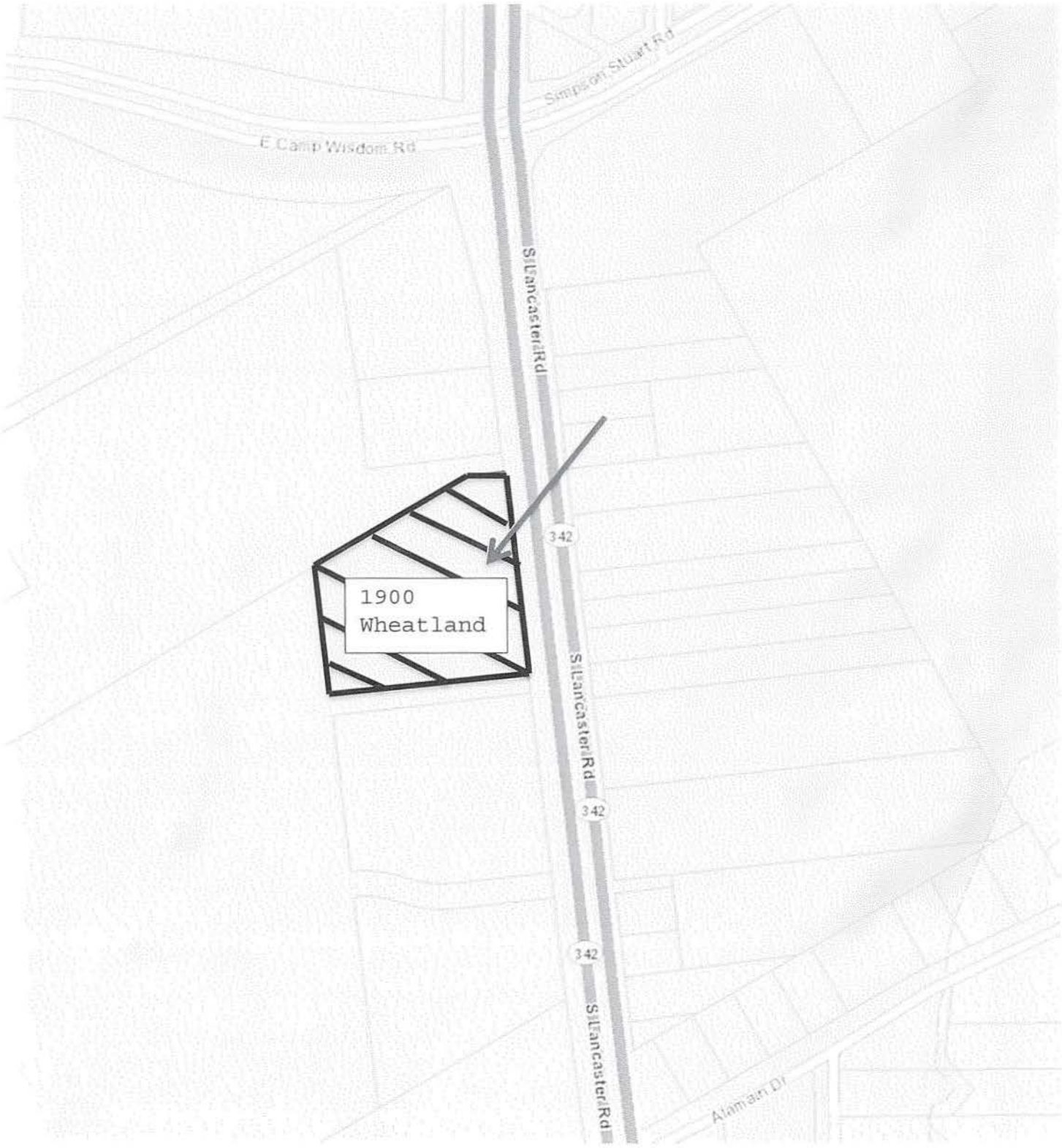


BLOCK: 127

SUBJECT PROPERTY: 210 S Harwood St







BLOCK: 6886

SUBJECT PROPERTY: 1900 Wheatland Rd

N

WHEREAS, the City of Dallas is the owner of a tract of land containing approximately 5,500 square feet (0.1263 acres) located at the intersection of Harwood and Jackson Streets, Block 127, Dallas, Dallas County, Texas, (the “Property”), and further described in Exhibit “A”, which is no longer needed for municipal use; and

WHEREAS, on June 8, 2005, by Ordinance No. 26020, City Council authorized the establishment of Tax Increment Financing Reinvestment Zone Number Eleven, (“Downtown Connection TIF District”) to promote development and redevelopment in the downtown core, as authorized by the Tax Increment Financing Act, Chapter 311 of Texas Tax Code (“ACT”), as amended; and

WHEREAS, the City Council authorized Ordinance No. 26096 on August 29, 2005, as amended, approving the Project Plan Reinvestment Zone Financing Plan for the Downtown Connection TIF District; and

WHEREAS, on December 14, 2016, by Ordinance No. 30274, City Council authorized amendments to the Project Plan to provide for directed sale of the Property for fair market value consideration and yet to be negotiated sale terms subject to City Council approval to Centurion Acquisitions, LP ("Centurion") to complete the Statler/Library redevelopment project in accordance with the Downtown Connection TIF District Plan; and

WHEREAS, CADG Property Holdings I, LLC (CADG), an affiliate of Centurion , is the owner of a tract of land containing approximately 162,610 square feet (3.733 acres) located near the intersection of Camp Wisdom and Lancaster Roads, Block 6886, Dallas, Dallas County, Texas, (the “Exchange Tract”) and further described in Exhibit “B”; and

WHEREAS, Centurion, by and through its affiliate, CADG Jackson Parking A, LLC (“CADG Parking”), has requested that the direct sale of the property be consummated as an exchange for other land of comparable value (the Exchange Tract) and other consideration consisting of (i) a temporary parking lease on the Property for the benefit of the City, and (ii) a maintenance agreement on the Exchange Tract; to construct a parking garage benefiting a mixed-use development, in accordance with the objectives of the Statler/Library redevelopment project redevelopment plan contemplated in the Downtown Connection TIF District Plan; and

WHEREAS, the Act provides that the City may exercise any power necessary and convenient to carry out the objectives of the statute including the power to acquire real property by purchase, condemnation, or other means to implement project plans and sell that property on the terms and conditions and in the manner it considers advisable; and

WHEREAS, the provisions of 272.001 (b)(6) of the Texas Local Government Code further provide that the City may sell the Property for fair market value and/or exchange for land of comparable value pursuant to the Project Plan adopted by the City for the Downtown Connection TIF District as amended; and

WHEREAS, the City agrees that the direct sale of the Property to Centurion by and through its affiliate, CADG Parking, in exchange for other land of comparable value (the Exchange Tract) and other consideration of (i) a parking lease on the Property for the benefit of the City, and (ii) a maintenance agreement on the Exchange Tract; to construct a parking garage benefiting a mixed-use development, is in accordance with the objectives of the redevelopment plan contemplated in the Downtown Connection TIF District Project Plan and should be consummated as set forth below;

NOW, THEREFORE,

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

SECTION 1. That the City of Dallas is the owner of the Property (**Grantor**).

SECTION 2. That the City Council finds that the Property is located within the boundaries of the Downtown Connection TIF District, and that it is necessary and convenient to have such property developed pursuant to the objectives of the Project Plan, as amended.

SECTION 3. That Downtown Connection TIF District Project Plan provides for the direct sale of the Property to Centurion Acquisitions, LP, in order to facilitate the construction of a parking garage benefiting a mixed-use development in accordance with the objectives of the City in establishing Tax Increment Financing Reinvestment Zone Number Eleven (Downtown Connection TIF District), City of Dallas, Texas and as provided in the Act.

SECTION 4. That the City Council finds that the direct sale of the Property to Centurion by and through its affiliate, CADG Parking in exchange for other land of comparable value (the Exchange Tract) from CADG and other consideration consisting of (i) a temporary parking lease on the Property for the benefit of the City, and (ii) a maintenance agreement on the Exchange Tract; to construct a parking garage benefiting a mixed-use development, is in accordance with the objectives of the redevelopment plan contemplated in the Downtown Connection TIF District Project Plan and should be consummated.

SECTION 5. That the City Manager, upon approval as to form by the City Attorney, is authorized to execute a Temporary Parking Lease Agreement between the City and Centurion, by and through its affiliate CADG Parking to allow City to retain 15 surface parking spaces on the Property, until construction of the underground garage is complete and construction of the vertical structure components of the planned mixed development commences.

SECTION 6. That the City Manager, upon approval as to form by the City Attorney, is authorized to execute a maintenance agreement with Centurion, by and through CADG to provide that Centurion shall, at its sole expense, assume all maintenance obligations for the Exchange Tract until the earlier of (i) City sells the Exchange Tract to a third party; or (ii) the City develops or improves all or a portion of the Exchange Tract.

SECTION 7. That in consideration of the conveyance of the Property to Centurion, by and through CADG, CADG shall convey to the City of Dallas by Special Warranty Deed, upon approval as to form by the City Attorney, the Exchange Tract.

SECTION 8. That the City Manager or designee, is authorized to execute a Special Warranty Deed, to be attested by the City Secretary, upon approval as to form by the City Attorney for the property. The Special Warranty Deed is subject to the conditions contained in Section 9.

SECTION 9. That the Special Warranty Deed shall provide that the conveyance to Centurion, by and through its affiliate CADG Parking , ("**GRANTEE**") is subject to the following:

a) a right of reverter of the Property in favor of **GRANTOR**. The reverted on the Property will be released by **GRANTOR** upon a building permit being issued for improvement to or development of the Property; and

b) the reservation by the City of Dallas of all oil, gas and other minerals in and under the property with a waiver of surface access rights relating to said minerals; and

c) any visible and apparent easements and any encroachments whether of record or not; and

d) any and all covenants, conditions, reservations, restrictions, exceptions, easements, rights-of-way, mineral interests, mineral leases or other instruments of record and applicable to the property or any part thereof; and

e) (i) **GRANTEE** is taking the Property "AS IS, WHERE IS, WITH ALL FAULTS"; (ii) **GRANTOR** disclaims responsibility as to the accuracy or completeness of any information relating to the Property; (iii) **GRANTEE** assumes all responsibility to examine all applicable building codes and zoning ordinances to determine if the Property can be used for the purposes desired and to

check for outstanding or pending code enforcement actions including but not limited to repair or demolition orders; and (iv) **GRANTOR** expressly disclaims and **GRANTEE** expressly waives, any warranty or representation, express or implied, including without limitation any warranty of condition, habitability, merchantability or fitness for a particular purpose of the Property; and

f) **GRANTOR** makes no representations of any nature regarding the Property and specifically disclaims any warranty, guaranty or representation, oral or written, express or implied, past, present, or future, concerning: (i) the nature and condition of the Property, including without limitation, the water, soil and geology, and the suitability thereof, and the Property for any and all activities and uses which **GRANTEE** may elect to conduct thereon, and the existence of any environmental substances, hazards or conditions or presence of any endangered or protected species thereon or compliance with all applicable laws, rules or regulations; (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or otherwise; (iii) the compliance of the Property or its operation with any law, ordinance or regulation of any federal, state, or local governmental authority; and (iv) whether or not the Property can be developed or utilized for any purpose. For purposes hereof, “environmental substances” means the following: (a) any "hazardous substance” under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C.A. Section 9601 et. seq., as amended, (b) any “hazardous substance” under the Texas Hazardous Substances Spill Prevention and Control Act, Tex. Water Code, Section 26.261, et. seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubrication oils, (d) any “hazardous chemicals” or “toxic chemicals” under the Occupational Safety and Health Act, 29 U.S.C.A. Section 651 et. seq., as amended, (e) any “hazardous waste” under the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 et. seq., as amended, (f) asbestos, (g) polychlorinated biphenyls, (h) underground storage tanks whether empty, filled, or partially filled with any substance, (i) any substance, the presence of which is prohibited by federal, state or local laws and regulations, and (j) any other substance which by federal, state or local laws and regulations requires special handling or notification of governmental authorities in its collection, storage, treatment or disposal. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder; and

g) such other terms and requirements of the sale and/or disclaimers as the City deems necessary, convenient or appropriate.

SECTION 10. That if a title policy is desired by **GRANTEE**, same shall be at the expense of said **GRANTEE**.

SECTION 11. That the sale shall be subject to standby fees, taxes and assessments, if any, by any taxing authority for the year of closing and subsequent years and assessments by any taxing authority for prior years due to changes in land usage or ownership, the payment of said standby fees, taxes and assessments being assumed by **GRANTEE**.

SECTION 12. That the sale shall be subject to environmental acceptance of the Exchange Tract by the City's Office of Environmental Quality; provided however Centurion, by and through CADG, shall, at no expense to the City, be responsible and liable for any required remediation or clean-up of the Exchange Tract.

SECTION 13. That Centurion, by and through CADG, shall, at its sole cost and expense, provide an acceptable title policy, approved as to form by the City Attorney's Office for Exchange Tract.

SECTION 14. All closing costs, including the title policy for the Exchange Tract shall be paid by CADG Property Holdings I, LLC.

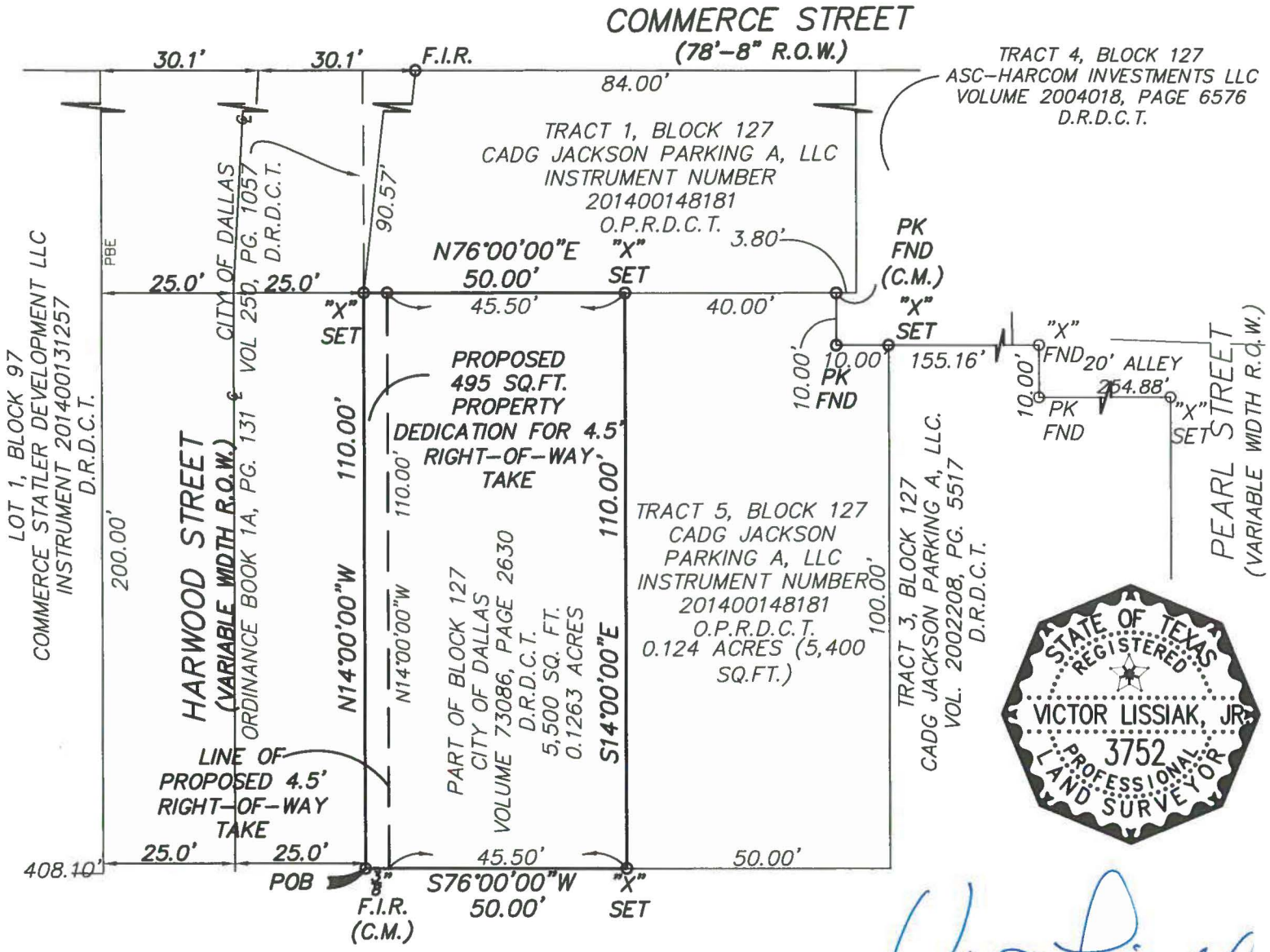
SECTION 15. That the procedures required by Section 2-24 of the Dallas City Code that are not required by state law concerning the sale of unneeded real property are waived with respect to this tract of land.

SECTION 16. 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:
LARRY E. CASTO, City Attorney

BY _____
Assistant City Attorney

Exhibit A



VICTOR LISSIAK, JR. RPLS 3752
FIRM NO. 10155800
03-09-2017

SURVEYOR'S NOTES:

1. BASIS OF BEARING IS THE NORTH RIGHT-OF-WAY LINE OF JACKSON STREET BEARING SOUTH 76°00'00" WEST, AS RECORDED IN INSTRUMENT NO. 201400148181, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS.

LEGEND:

F.I.R.	FOUND IRON ROD
"X" FND	FOUND "X" CUT
PK FND	FOUND PK NAIL
"X" SET	SET "X"
P.O.B.	PLACE OF BEGINNING
C.M.	CONTROL MONUMENT

BOUNDARY SURVEY

0.1263 ACRES OUT OF

CITY OF DALLAS TRACT

PART OF BLOCK 127

JOHN CRIGSBY SURVEY, ABSTRACT NO. 495

CITY OF DALLAS, DALLAS COUNTY, TEXAS

MARCH 9, 2017

FIELD NOTE DESCRIPTION

Exhibit A

BEING ALL THAT TRACT OF LAND CONVEYED BY DEED FROM H.B. ROBB, JR. AND HUBERT M. COOK TO THE CITY OF DALLAS AS RECORDED IN VOLUME 73086, PAGE 2630, DEED RECORDS, DALLAS COUNTY, TEXAS AND BEING PART OF BLOCK 127 IN THE CITY OF DALLAS OUT OF THE J. CRIGSBY SURVEY, ABSTRACT NO. 495 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 3/8 INCH IRON ROD AT THE INTERSECTION OF THE NORTH LINE OF JACKSON STREET (50' ROW) WITH THE EAST LINE OF HARWOOD STREET (VARIABLE WIDTH ROW);

THENCE N14°00'00"W, A DISTANCE OF 110.00' TRAVERSING THE EAST LINE OF SAID HARWOOD STREET (VARIABLE WIDTH ROW) TO A SET "X" CUT IN CONCRETE FOR CORNER, SAID CORNER BEING AT THE SOUTHWEST CORNER OF TRACT 1, BLOCK 127 OF CADG JACKSON PARKING A, LLC, AS RECORDED IN INSTRUMENT NO. 201400148181, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS;

THENCE N76°00'00"E, A DISTANCE OF 50.00' TRAVERSING THE SOUTH LINE OF SAID TRACT 1, BLOCK 127 OF CADG JACKSON PARKING A, LLC. TO A SET "X" CUT IN CONCRETE FOR CORNER, SAID CORNER BEING AT THE NORTHWEST CORNER OF TRACT 5, BLOCK 127 OF CADG JACKSON PARKING A, LLC, AS RECORDED IN INSTRUMENT NO. 201400148181, OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS;

THENCE S14°00'00"E, A DISTANCE OF 110.00' TRAVERSING THE WEST LINE OF SAID TRACT 5, BLOCK 127 OF CADG JACKSON PARKING A, LLC. TO A SET "X" CUT IN CONCRETE FOR CORNER, SAID CORNER BEING IN THE NORTH LINE OF SAID JACKSON STREET (50' ROW);

THENCE S76°00'00"W, A DISTANCE OF 50.00' TRAVERSING THE NORTH LINE OF SAID JACKSON STREET (50' ROW) BACK TO THE PLACE OF BEGINNING AND CONTAINING 0.1263 ACRE (5500 SQ.FT.) OF LAND.

IT IS THE INTENT OF THIS DESCRIPTION TO RETAIN A STRIP OF LAND 4.5' BY 110' FOR THE WIDENING OF HARWOOD STREET.

STATE OF TEXAS
REGISTERED
VICTOR LISSIAK, JR.
3752
PROFESSIONAL
LAND SURVEYOR

VICTOR LISSIAK, JR. RPLS 3752
FIRM NO. 10155800
03-09-2017

FIELD NOTES APPROVED:
3/10/17

BOUNDARY SURVEY
0.1263 ACRES OUT OF
CITY OF DALLAS TRACT
PART OF BLOCK 127
JOHN CRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS
MARCH 9, 2017

Exhibit B

DESCRIPTION OF A 3.733-ACRE TRACT OF LAND
SITUATED IN THE HARVEY CASEY SURVEY, ABSTRACT 0307
DALLAS COUNTY, TEXAS

BEING a 3.733-acre (162,610-square foot) tract or parcel of land out of the Harvey Casey Survey, Abstract Number 0307 situated in the City of Dallas, Dallas, County, Texas; and being part of a tract of land conveyed to Patriot Real Estate Holdings RS10 by Deed thereof recorded in Instrument Number 201200385008, Official Public Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod set with cap marked "BROWN & GAY", from which a 1/2-inch iron rod found bears South 75°08'47" West, a distance of 2.31 feet, said point being the most Northeasterly corner of said CADG Property Holdings I, LLC tract, said point being in the south line of a tract of land conveyed to Proton Properties LLC by Deed thereof recorded in Instrument Number 201200086020 of said Official Public Records, said point also being in the west right-of-way line of Lancaster Road (variable width right-of-way), the same being the Northeast corner of herein described tract;

THENCE South 07°07'07" East along the east line of said Patriot Real Estate Holdings tract and the west line of said Lancaster Road a distance of 433.04 feet to a 5/8 inch iron rod set with cap marked "BROWN & GAY", the same being the Southeast corner of herein described tract;

THENCE South 82°34'59" West departing the west right-of-way line of said Lancaster Road a distance of 439.00 feet to a 5/8 inch iron rod set with cap marked "BROWN & GAY", the same being the Southwest corner of herein described tract;

THENCE North 07°24'01" West a distance of 277.03 feet to a 5/8 inch iron rod set with cap marked "BROWN & GAY", said point being in the southerly line of said Proton Properties LLC tract, the same being the Northwest corner of herein described tract;

THENCE North 59°03'36" East along the southerly line of said Proton Properties LLC tract a distance of 390.80 feet to a 5/8 inch iron rod set with cap marked "BROWN & GAY";

THENCE North 82°33'54" East continuing along said southerly line a distance of 82.85 feet to the **POINT OF BEGINNING** containing 162,610 square feet or 3.733 acres of land more or less.

BEARING BASIS
Bearing are based on State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983.

David F. McCullah

DAVID F. McCULLAH RPLS NO. 4023
BROWN & GAY ENGINEERS, INC.
2595 DALLAS PARKWAY, SUITE 204
FRISCO, TEXAS 75034
TELEPHONE: (972) 464-4800
DATED February 7, 2017



FIELD NOTES APPROVED: SRH 3/9/2017

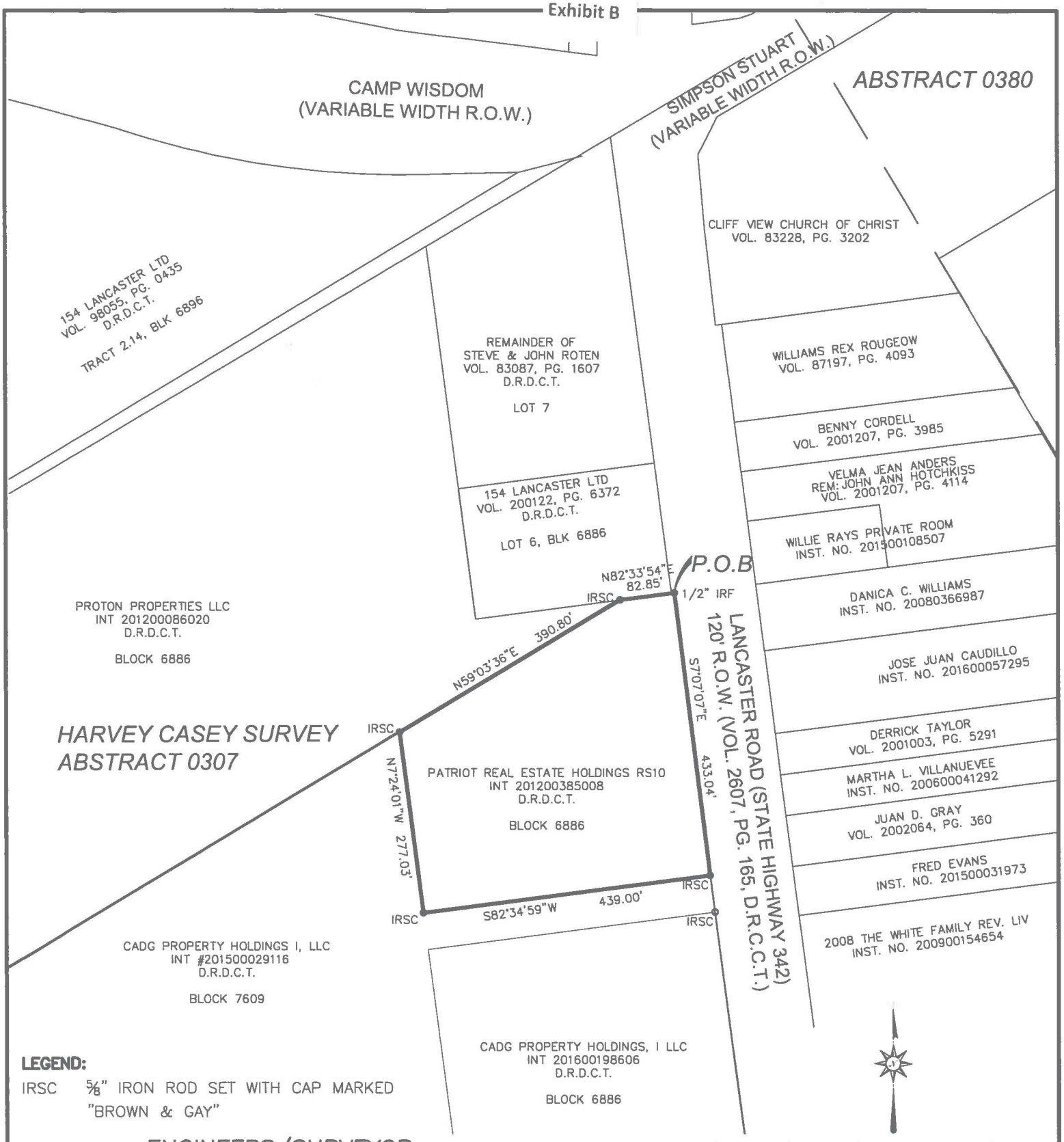
SURVEYOR

Brown & Gay Engineers, Inc.
2595 Dallas Parkway, Suite 204, Frisco, TX 75034
Tel: 972-464-4800 • www.browngay.com
TBPLS Registration No. 10193953

Copyright 2016

BOUNDARY EXHIBIT
162,610 S.F. / 3.733 ACRES
ABSTRACT NO. 0307
CITY OF DALLAS, TEXAS
DALLAS COUNTY, TEXAS

Exhibit B



LEGEND:

IRSC 5/8" IRON ROD SET WITH CAP MARKED "BROWN & GAY"

0' 50' 100' 200'

SCALE: 1"=100

ENGINEERS/SURVEYOR

Brown & Gay Engineers, Inc.
2595 Dallas Parkway, Suite 204, Frisco, TX 75034
Tel: 972-464-4800 • www.browngay.com
TBPLS Registration No. 10193953

Copyright 2016

BEARING BASIS:

BEARINGS ARE BASED ON STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

BOUNDARY EXHIBIT

162,610 S.F. / 3.733 ACRES
ABSTRACT NO. 0307
CITY OF DALLAS, TEXAS
DALLAS COUNTY, TEXAS

ADDENDUM ITEM # 2

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45F K

SUBJECT

An ordinance granting a private license to Arts District Properties, Ltd., for the use of a total of approximately 15,694 square feet of land to install, maintain, and utilize landscape with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights along portions of Pearl, Flora, and Olive Streets rights-of-way, near their intersection - Revenue: $600 one-time fee, plus the $20 ordinance publication fee

BACKGROUND

This item is on the addendum because additional review time was required. This item grants a private license to Arts District Properties, Ltd., for the use of a total of approximately 15,694 square feet of land to install, maintain and utilize landscape with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights along portions of Pearl, Flora, and Olive Streets rights-of-way, near their intersection. The use of this area will not impede pedestrian or vehicular traffic.

The licensee will indemnify the City and carry general liability insurance naming the City as an additional insured.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $600 one-time fee, plus the $20 ordinance publication fee

OWNER

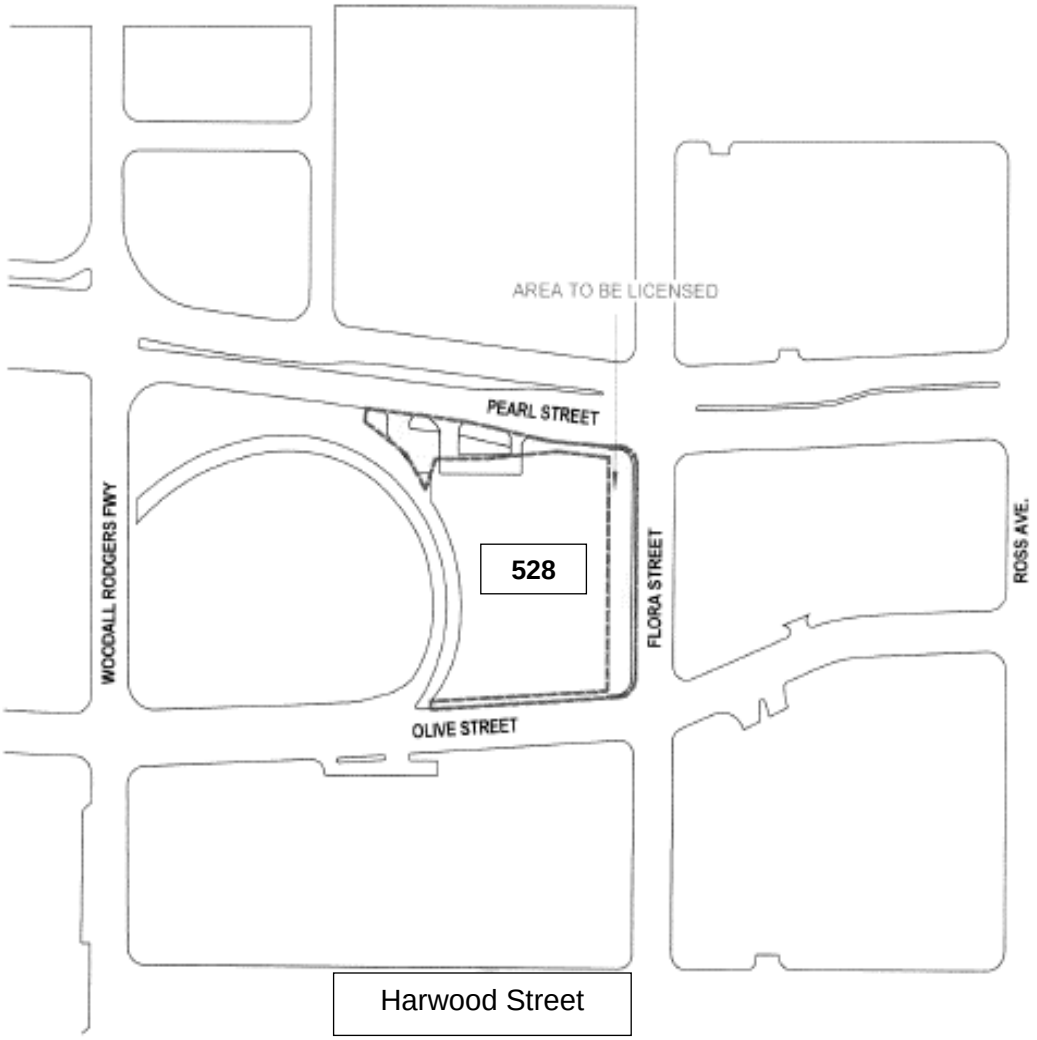
Arts District Properties, Ltd.

Metroarts Corporation, General Partner

Graham Greene, President

MAP

Attached.



1 VICINITY MAP
1" = 160'-0"

N
TRUE
PLAN

LICENSING AREA

ATELIER | FLORA LOFTS
219420179

LANDSCAPE LICENSE PLAN
1" = 160'-0"

ORDINANCE NO. _____

An ordinance granting a private license to Arts District Properties, Ltd. to occupy, maintain and utilize a portion of Pearl, Flora, and Olive Streets rights-of-way located near its intersection of Pearl, Flora, and Olive Streets adjacent to City Block 528 within the limits hereinafter more fully described, for the purpose of installing and maintaining landscaping with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights; providing for the terms and conditions of this license; providing for the one-time fee compensation to be paid to the City of Dallas; providing for payment of the publication fee; and providing an effective date of this license and ordinance.

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

SECTION 1. That a private license, hereinafter referred to as "license", subject to the restrictions and conditions of this ordinance, is hereby granted to Arts District Properties, Ltd., a Texas limited partnership its successors and assigns, hereinafter referred to as **"GRANTEE"**, to occupy, maintain and utilize for the purpose set out hereinbelow the tract of land described in Exhibit A, hereinafter referred to as "licensed area" which is attached hereto and made a part hereof.

SECTION 2. That this license is granted for a term of forty (40) years, unless sooner terminated according to other terms and provisions herein contained.

SECTION 3. That **GRANTEE** shall pay to the City of Dallas a one-time license fee in the sum of **SIX HUNDRED ($600.00) DOLLARS**, for the license herein granted, said sum to be paid prior to the final passage of this ordinance and shall cover the consideration for the license term, in accordance with special fees established by Section 43-115.1 of the Dallas City Code. Such consideration shall be in addition to and exclusive of any other taxes or special assessments required by law to be paid by **GRANTEE**. All sums payable to the City of Dallas hereunder shall be paid to the Chief Financial Officer of the City of Dallas and deposited in Fund 0001, Department DEV, Unit 1181, Revenue Source 8200. In the event **GRANTEE's** check for the license fee

is dishonored, **GRANTEE** shall pay to the City a processing fee of $25.00 for each dishonored check. Additionally, all monies owed to the City under this license shall be subject to the assessment of interest at a rate of 10% a year from the day after any monies become due until it is paid in full, in accordance with Section 2-1.1 of the Dallas City Code.

SECTION 4. That the licensed area shall be used by **GRANTEE** for the following purpose under the direction of the Director of Department of Sustainable Development and Construction of the City of Dallas: installation, maintenance of landscaping with irrigation, planters with appurtenances, thirty-three trees, twenty-three bollards, decorative pavers and eleven pole lights.

SECTION 5. That this license is subject to the provisions set forth in EXHIBIT B, attached hereto and made a part hereof.

SECTION 6. That this license is nonexclusive and is made expressly subject and subordinate to the right of the City to use the licensed area for any public purpose. The Governing Body of the City of Dallas reserves the right by resolution duly passed by said Governing Body, to terminate and cancel this license upon giving **GRANTEE** sixty (60) days notice of its intent to cancel. Upon termination, all rights granted hereunder shall thereupon be considered fully terminated and cancelled and the City of Dallas shall not be held liable by reason thereof. Said resolution shall be final and shall not be subject to review by the Courts. **GRANTEE** shall have the right of cancellation upon giving the City of Dallas sixty (60) days written notice of its intention to cancel, and in either event upon the termination or cancellation by the City or **GRANTEE**, as the case may be, this license shall become null and void and **GRANTEE** or anyone claiming any rights under this instrument shall remove, to the extent required by the Director of Department of Sustainable Development and Construction, any improvements and encroachments from the licensed areas at **GRANTEE's** expense. Failure to do so shall subject **GRANTEE** to the provisions contained in EXHIBIT B, Subsection (a). All work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction.

SECTION 7. That the license is subject to the following conditions, terms and reservations:

a) **GRANTEE** shall provide a minimum five feet (5') of unobstructed sidewalk along license area eliminating line of sight of trees too close to driveways; and

b) **GRANTEE** shall not cause any items to be installed within eighteen inches (18") of the existing curb along license area. If designed concrete, pavers or other specialty material are used for the sidewalk installation, the **GRANTEE** must not place said materials within eighteen inches (18") of the curb unless they are installed to be easily removed or to allow sign post/meter poles to be placed. **GRANTEE** shall provide that no parking meters and on-street parking are removed or obstructed from use; and

c) **GRANTEE** shall not prohibit, impede, or reduce: (i) the number of available on-street parking spaces; (ii) the public's ability to on-street park; and (iii) the City of Dallas' ability to install or replace new or used parking meters, or governmental signage; and

d) **GRANTEE** shall (i) adhere to and comply with the Texas Accessibility Standard Requirements administered by the Texas Department of Licensing and Regulation and Americans with Disability Act (TDLR/ADA) requirements, and (ii) submit plans identifying an accessible path along license area to show that the TDLR/ADA required slopes, clearances, surface finishes and other pathway clearances are achieved; and

e) **GRANTEE** shall submit plans for City review and approval which clearly shows and labels existing and proposed sidewalks and barrier-free ramps; and which show that there is an unobstructed, ADA compliant, pedestrian path on all street frontages within the rights-of-way subject of this license; and

f) **GRANTEE** acknowledges existing and proposed water and wastewater mains are or are to be located in the license area and **GRANTEE** shall not construct in, or install landscaping trees within 10' from said water and wastewater locations. Alternatively, **GRANTEE** shall, at its cost and expense relocate the existing and/or proposed water and wastewater mains and meter vault; and

g) **GRANTEE** shall meet design requirements as referenced by the Plan Development District (PDD) # 145 zoning for the Dallas Arts District, subject to compliance with Dallas City Code; and

h) **GRANTEE** acknowledges Atmos has active facilities in the licensed area and **GRANTEE** shall be responsible to relocate said facilities if conflict exists.

SECTION 8. This license shall not become effective unless and until the execution of the Quitclaim Deed and Release of Access Restrictions has been conveyed to the city by the State of Texas as shown in Exhibit C.

SECTION 9. That upon the effectiveness of this ordinance, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a NOTICE OF LICENSE and to file same in the deed records of Dallas County, Texas. Additionally, the Director of Department of Sustainable Development and Construction, or designee, is hereby authorized to execute a cancellation of Notice of License upon termination by the City or **GRANTEE** and to file such cancellation of Notice of License in the deed records of Dallas County, Texas.

SECTION 10. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 11. That this license may not be assigned without prior written approval from the Director of Department of Sustainable Development and Construction, or designee. Such assignment shall recite that it is subject to the terms, restriction and conditions contained in this ordinance.

The assignee shall deliver evidence of ownership of property abutting the licensed area and a copy of the assignment, along with the assignee's written acceptance of the provisions of this ordinance, to the Director of Department of Sustainable Development and Construction within 10 days of such assignment; said assignment and written acceptance shall be forwarded to the City Secretary of the City of Dallas. Should **GRANTEE** fail to obtain prior written approval for assignment of this license or fail to provide the City of Dallas with the required written acceptance and a copy of the assignment, the Director of Department of Sustainable Development and Construction, or designee, may terminate this license.

SECTION 12. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the fees pursuant to Section 3 of this ordinance, an acceptable certificate of insurance and the fee for publishing this ordinance which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee, shall deliver to **GRANTEE** the certified copy of this ordinance. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 13. 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:
LARRY E. CASTO
City Attorney

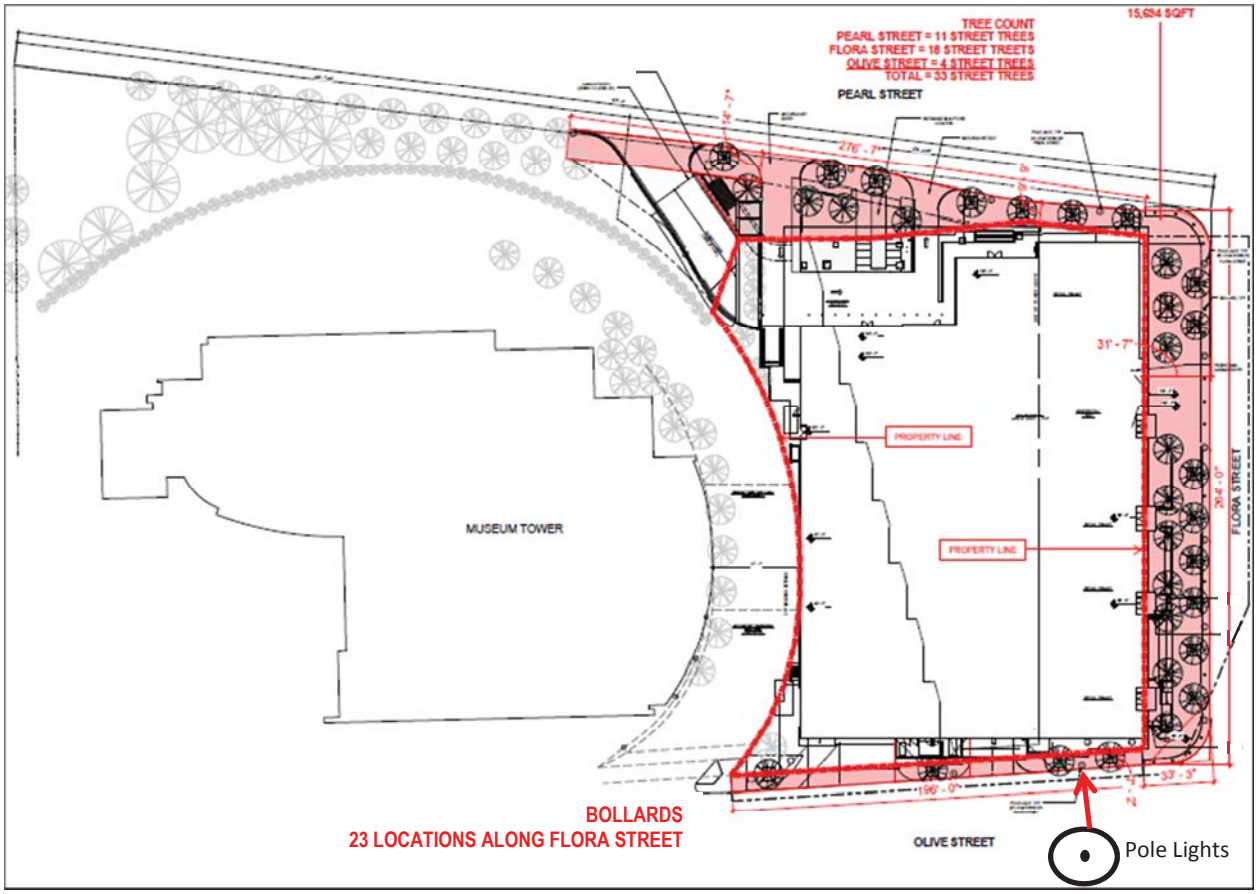
BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

EXHIBIT A



N

LEGEND

Streetscape elements areas approx. 15,694

Portions of Decorative Pavers and Landscape/Irrigation

Pole Lights = 11

Trees = 33

Bollards = 23

EXHIBIT B
COMMERCIAL ENTITY
ADDITIONAL LICENSE PROVISIONS

That this license is granted subject to the following additional conditions, terms and reservations:

(a) That at such time as this license is terminated or canceled for any reason whatsoever, **GRANTEE**, upon orders issued by the City acting through the Director of Sustainable Development and Construction, or designee, shall remove all installations, improvements and appurtenances owned by it situated in, under or attached to the licensed area, and shall restore the premises to its former condition in accordance with the requirements of the Director of Sustainable Development and Construction at the sole cost of **GRANTEE**. In the event, upon termination of this license, **GRANTEE** shall fail to remove its installations, improvements and appurtenances and to restore the licensed area in compliance with orders issued by City, or such work is not done to the satisfaction of the Director of Sustainable Development and Construction, then in either event the City shall have the right to do all work necessary to restore said area to its former condition or cause such work to be done, and to assess the cost of all such work against **GRANTEE**; in neither event shall the City of Dallas be liable to **GRANTEE** on account thereof.

(b) It is further understood that if and when the City of Dallas, in the exercise of its discretion, shall determine that the grade of any street, sidewalk or parkway should be modified or changed, or that any other work should be done in connection with any public improvement which will affect the licensed area, and/or any of **GRANTEE's** installations and improvements thereon, any modifications or changes to **GRANTEE's** facilities in the licensed area or in construction or reconstruction of any public improvement attributable to **GRANTEE's** use of the licensed area and/or its installations and improvements thereon, shall be made at the sole expense of **GRANTEE** and to the satisfaction of the Director of Sustainable Development and Construction.

(c) At such time as this license is granted, it is agreed, and a condition hereof, that **GRANTEE** shall procure and keep in full force and effect **Commercial General Liability Insurance** coverage issued by an insurance company authorized and approved by the State of Texas, acceptable to the City of Dallas and issued in the standard form approved by the Texas Department of Insurance. The insured provisions of this policy must name the City of Dallas as an additional insured 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 use, operation and maintenance by **GRANTEE** of the licensed area and **GRANTEE's** installations, improvements, landscaping and equipment in connection therewith and located therein. The Commercial General Liability coverage must include, but not limited to, Premises/Operations, Independent Contractors and Contractual Liability with minimum combined bodily injury (including death) and property damage limits of not less than $500,000 per occurrence and $500,000 annual aggregate. This insurance shall also include coverage for underground, explosion and collapse hazards (i.e. not excluded). If this insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than

twelve (12) months following termination of this license and removal of the installations, improvements and appurtenances and restoration of the licensed area pursuant to paragraph (a) above. Coverage, including any renewals, shall contain the same retroactive date as the original policy applicable to this license. The City of Dallas reserves the right to review the insurance requirements set forth herein during the effective term of the license and to adjust insurance coverages and their limits when deemed necessary and prudent by the City of Dallas' Risk Management based upon changes in statutory law, court decisions, or the claims history of the industry as well as the City of Dallas.

1. **GRANTEE** agrees that with respect to the above required insurance, all insurance contracts and certificates of insurance will contain and state, in writing, that coverage shall not be canceled, nonrenewed or materially changed except after thirty (30) days written notice by certified mail to Department of Sustainable Development and Construction.
2. **GRANTEE** shall carry said insurance at its expense and shall furnish the City of Dallas proof of such insurance. In the event said insurance should terminate during the licensing term hereof, or **GRANTEE** fails to furnish proof of insurance coverage in accordance with the specifications as required by this section, the Director of Sustainable Development and Construction, or designee, may terminate the license granted herein.

(d) **GRANTEE** is prohibited from using the licensed area in any manner which violates Federal, State or local laws, regulations, rules and orders, regardless of when they become or became effective, including without limitation, those related to health, safety, noise, environmental protection, waste disposal and water and air quality, and shall provide satisfactory evidence of compliance upon the request of the City of Dallas. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the licensed area due to **GRANTEE's** use and occupancy thereof, **GRANTEE**, at its expense, shall be obligated to clean up the licensed area to the satisfaction of the City of Dallas and any governmental body having jurisdiction thereover. The City of Dallas may, at its option, clean the licensed area. If the City of Dallas elects to do so, **GRANTEE** shall promptly pay to the City of Dallas the reasonable cost of such cleanup upon receipt of bills therefore. **GRANTEE** agrees that the indemnity provisions contained in paragraph (g) herein shall be fully applicable to the requirements of this paragraph, in event of **GRANTEE's** breach of this paragraph, or as a result of any such discharge, leakage, spillage, emission or pollution arising out of the **GRANTEE's** use of the licensed area.

(e) This license is subject to all State laws, the provisions of the Charter of the City of Dallas as it now exists, or may hereafter be adopted or amended, and the ordinances of the City of Dallas now in effect or those which may hereafter be passed or adopted. The City of Dallas shall have the right to increase or decrease the compensation to be charged for the use contemplated by this grant in

accordance with the provisions of the Dallas City Code as it now exists, or as may hereafter be adopted or amended.

(f) The Governing Body of the City of Dallas reserves the right, at any time without notice, to terminate and cancel this license, by resolution, upon a finding by the Governing Body that this license is inconsistent with the public use of the property or whenever the purpose or use of the license is likely to become a nuisance and all rights granted hereunder shall thereupon be considered fully terminated and canceled and the City of Dallas shall not be held liable by reason thereof. The decision of the Governing Body of the City in this matter shall be final and binding upon all parties insofar as the City's determination as to whether the **GRANTEE's** use of this license constitutes a nuisance or is inconsistent with the public use of the property.

(g) As a condition hereof, **GRANTEE** agrees and is bound to defend, indemnify and hold the City of Dallas, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for bodily injury (including death), property damage or other harm for which recovery of damages is sought, suffered by any person or persons, that may arise out of or be occasioned by the use, occupancy and maintenance of the licensed area or **GRANTEE's** installations and improvements within the licensed area, from any act or omission of any representative, agent, customer and/or employee of **GRANTEE**, or by **GRANTEE's** breach of any of the terms or provisions of this license, or by any negligent or strictly liable act or omission of **GRANTEE**, its officers, agents, employees or contractors in the use, occupancy and maintenance of **GRANTEE's** installations and improvements within the licensed area; except that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence or fault of the City of Dallas, its officers, agents, employees or separate contractors, and in the event of joint and concurring negligence or fault of both the **GRANTEE** and the City of Dallas, responsibility and liability, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to the City of Dallas under Texas law and without waiving any defenses of the parties under Texas law. This obligation to indemnify and defend shall also include any claim for damage that any utility or communication company, whether publicly or privately owned, may sustain or receive by reason of **GRANTEE's** use of the licensed area or **GRANTEE's** improvements and equipment located thereon. In addition to the foregoing, **GRANTEE** covenants and agrees never to make a claim of any kind or character whatsoever against the City of Dallas for damage of any kind that it may suffer by reason of the installation, construction, reconstruction, operation or maintenance of any public improvement, utility or communication facility on the licensed area, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water or wastewater mains or storm sewer facilities, regardless of whether such damage is due to

flooding, infiltration, backflow or seepage caused from the failure of any installation, natural causes, City's negligence, or from any other cause whatsoever.

(h) This license is subject to any existing utilities or communication facilities, including drainage, presently located within the licensed area, owned and/or operated by the City of Dallas or any utility or communications company, public or private, and to any vested rights presently owned by an utility or communications company, public or private, for the use of the licensed area for facilities presently located within the boundaries of said licensed area. It is the intent of the foregoing that this permission herein is made expressly subject to the utilization of the licensed area for communication and utility purposes, both public and private, including drainage, over, under, through, across and along the licensed area. No buildings shall be constructed or placed upon, over or across the licensed area in such a manner as to interfere with the operation of any utilities and communication facilities. All and any communication company and utility, both public and private, shall have the right to remove and keep removed all or parts of any buildings which may in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within the licensed area. All communication companies and utilities, both public and private, shall have the full right to remove and keep removed all parts of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance and efficiency of its respective system and shall at all times have the full right of ingress and egress to or from and upon the licensed area for the purpose of constructing, relocating, inspecting, patrolling, maintaining and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

EXHIBIT C

County: Dallas
Highway: State Highway Spur 366
Control Section: 0196-07

August 1, 2016

DESCRIPTION FOR TRACT 1
A PART OF PEARL STREET
0.0951 ACRE (4,141 SQ. FT.)
SITUATED IN THE JOHN GRIGSBY SURVEY,
ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 4,141 square foot tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Pearl Street (variable width right-of-way) and part of Lots 1, 2 and 3 of Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Page 274 and 275 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), also being part of that tract of land described as Tract No. 1, being an abandonment of a portion of Old Pearl Street-Munger Avenue (formerly Juliette Street, called 40-foot wide right-of-way, as recorded in said Hensley Addition), as described in City of Dallas Ordinance Number 17633, as recorded in Volume 82250, Page 1383, D.R.D.C.T., and being part of that tract of land described in Agreed Judgement Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and being more particularly described as follows:

BEGINNING at the most southeasterly northeast corner (not monumented) of said State of Texas tract, having Texas Coordinate System, NAD83, North Central Zone 4202 surface coordinates North=6,975,153.9036 feet, East=2,491,537.4263 feet;

1) THENCE South 44 degrees 13 minutes 56 seconds West, with the southeast line of said State of Texas tract, passing at a distance of 7.01 feet to the northeast line of Lot 1 of said Hensley Addition, and continuing for a total distance of 19.97 feet to the most southeasterly southeast corner of said State of Texas tract, from which a found "X" cut in concrete bears North 78 degrees 51 minutes 21 seconds West, a distance of 0.23 of a foot;

2) THENCE North 39 degrees 19 minutes 54 seconds West, with the southwest line of said State of Texas tract and over and across Lots 1 and 2 of said Hensley Addition, a distance of 57.00 feet to a found "Y" cut in concrete for corner;

3) THENCE North 51 degrees 22 minutes 13 seconds West, with the southwest line of said State of Texas tract and over and across said Lot 2, a distance of 18.37 feet to the southeast corner (not monumented) of a tract of land described as Tract 2 in deed to the City of Dallas, as recorded in Instrument Number 201500081469 of the Official Public Records of Dallas County, Texas (O.P.R.D.C.T.);

FIELD NOTES APPROVED: 11/9/16

4) THENCE North 35 degrees 34 minutes 05 seconds West, departing the southwest line of said State of Texas and with the northeast line of said Tract 2 and over and across said State of Texas tract and Lots 2 and 3 of said Hensley Addition, a distance of 1.71 feet to a corner (not monumented), said corner being the point of curvature of a tangent circular curve to the right having a radius of 515.00 feet, chord that bears North 34 degrees 29 minutes 09 seconds West, a distance of 19.45 feet;

5) THENCE Northwesterly, continuing with the northeast line of said Tract 2, over and across said State of Texas tract and Lot 3 of said Hensley Addition, and with said curve, through a central angle of 02 degrees 09 minutes 52 seconds, passing at a distance of 1.95 feet to the northeast line of said Lot 3, and continuing over and across said State of Texas tract and the with the northeast line of said Tract 2, a total arc distance of 19.45 feet to a corner (not monumented), said corner being the point of reverse curvature of a circular curve to the left having a radius 1,485.00 feet, chord that bears North 36 degrees 05 minutes 14 seconds West, a distance of 139.06 feet;

6) THENCE Northwesterly, continuing with the northeast line of said Tract 2, over and across said State of Texas tract and with said curve, through a central angle of 05 degrees 22 minutes 02 seconds, an arc distance of 139.11 feet to a corner (not monumented);

7) THENCE North 38 degrees 46 minutes 15 seconds West, with the northeast line of said Tract 2 and over and across said State of Texas tract, a distance of 39.94 feet to the north corner (not monumented) of said Tract 2, said corner being on the northeast line of said State of Texas tract;

THENCE with the northeast line of said State of Texas tract, the following bearings and distances:

8) South 46 degrees 47 minutes 36 seconds East, a distance of 105.37 feet to a corner (not monumented);

9) South 39 degrees 09 minutes 58 seconds East, a distance of 132.10 feet to a corner (not monumented);

10) South 39 degrees 54 minutes 29 seconds East, a distance of 36.02 feet to the POINT OF BEGINNING AND CONTAINING 0.0951 of an acre (4,141 square feet) of land, more or less.

The Basis of Bearing of this survey is the Texas Coordinate System of 1983, North Central Zone (4202) as derived by GPS measurements. All distances and/or coordinates shown hereon are surface and may be converted by the published TXDOT "Surface Adjustment Factor" for Dallas County of 1.000136506.

Tract 1 is part of the Parcel shown on sheet 6A of State Highway Spur 366 (0196-07)

I, Getsy J. Suthan a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat of even date represent an actual survey made on the ground under my supervision.

G. J. Suthan Aug 01

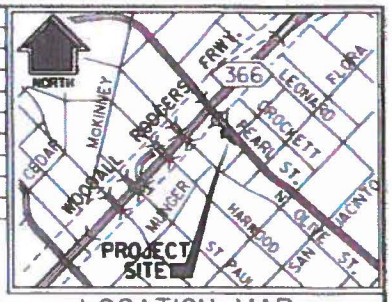
Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
TBPLS Firm No. 10029600



EXHIBIT C

CURVE TABLE					
NO.	Δ	RADIUS	LENGTH	CHORD LENGTH	CHORD BEARING
C1	02°09'52"(RT)	515.00'	19.45'	19.45'	N 34°29'09" W
C2	05°22'02"(LT)	1,485.00'	139.11'	139.06'	N 36°05'14" W

LINE TABLE		
NO.	BEARING	DISTANCE
L1	S 44°13'56" W	19.97'
L2	N 39°19'54" W	57.00'
L3	N 51°22'13" W	18.37'
L4	N 35°34'05" W	1.71'
L5	N 38°46'15" W	39.94'
L6	S 09°32'56" W	57.28'
L7	S 13°35'36" E	43.00'
L8	N 63°37'08" E	33.72'



LOCATION MAP
NOT TO SCALE

GRAPHIC SCALE
0' 30' 60' 120'

PEARL STREET
(VARIABLE WIDTH PUBLIC R.O.W.)
VOL. 32, PG. 305, D.R.D.C.T.

PEARL STREET RAMP
(S.H. SPUR 366)
AGREED JUDGEMENT
DISTRICT COURT NO. 83-2891-D
VOL. 84020, PG. 3739
D.R.D.C.T.

MUSEUM TOWER, LP
ARTS DISTRICT
PROPERTIES, LTD.
INST. NO. 200503581423
O.P.R.D.C.T.

S 46°47'36" E
105.37'

OUTCLAIM DEED TO
CITY OF DALLAS
TRACT 2
INST. NO. 201500081469
O.P.R.D.C.T.

"TRACT NO. 1" ABANDONMENT
(OLD PEARL STREET-MUNGER AVE.
ORDINANCE NO. 17633
VOL. 82250, PG. 1383
D.R.D.C.T.

GENERAL UTILITY EASEMENT
EXHIBIT "D"
CITY OF DALLAS
ORDINANCE NO. 18028
VOL. 84020, PG. 3704
VOL. 84020, PG. 3734
D.R.D.C.T.

FOUND P.K.
W/ SHINER
STAMPED
"HALFF" (C.M.)

S 39°09'58" E
132.10'

TRACT 1
0.0951 ACRE
(4,141 SQ. FT.)

PEARL STREET RAMP
(S.H. SPUR 366)
AGREED JUDGMENT
DISTRICT COURT NO. 83-2891-D
VOL. 84020, PG. 3739
D.R.D.C.T.

MUSEUM TOWER
A CONDMINIUM
INST. NO. 20070418077
O.P.R.D.C.T.

JOHN GRIGSBY SURVEY,
ABSTRACT NUMBER 495

S 39°54'29" E
36.02'

POINT OF BEGINNING
TRACT 1
N=6,975,153.9036
E=2,491,537.4263

SIDEWALK EASEMENT
CITY OF DALLAS
VOL.85069, PG.2967
D.R.D.C.T.

FOUND
"Y" CUT
(C.M.)

L=1.95'

PEARL STREET RAMP
(S.H. SPUR 366)
AGREED JUDGEMENT DISTRICT
COURT NO. 83-2891-D
VOL. 84020, PG. 3739
D.R.D.C.T.

"TRACT NO. 1" ABANDONMENT
(OLD PEARL STREET-MUNGER AVE.
ORDINANCE NO. 17633
VOL. 82250, PG. 1383
D.R.D.C.T.

7.01'

FOUND "X"
CUT BEARS
N78°51'21"W
0.23'

N 45°43'28" W
50.00'

FOUND
"X" CUT
(C.M.)

HENSLEY ADDITION
VOL. 90, PG. 274-275
D.R.D.C.T.

DALLAS BLOCK 528

MUNGER AVENUE
(FORMERLY 70' LITTLE "STREET")
(40' POST WIDE R.O.W.)

SUBSURFACE ABANDONED
BY CITY OF DALLAS
ORDINANCE NO. 18028
VOL. 84020, PG. 3704
D.R.D.C.T.

ARTS DISTRICT
PROPERTIES, LTD
"TRACT III"
VOL. 98103, PG. 66
D.R.D.C.T.

"TRACT II"
ARTS DISTRICT
PROPERTIES, LTD.
VOL. 98103, PG. 66
D.R.D.C.T.

FLORA STREET
(VARIABLE WIDTH PUBLIC R.O.W.)
VOL. 90, PG. 274, D.R.D.C.T.

STATE OF TEXAS
REGISTERED
GETSY J. SUTHAND
6449
PROFESSIONAL
LAND SURVEYOR

S.S.S. Aug. 1/16

N

NOTES:
1. Basis of Bearing is the Texas Coordinate System of 1983, North Central Zone (4202) as derived by GPS measurements. All distances and/or coordinates shown hereon are surface and may be converted by the published TXDOT "Surface Adjustment Factor" for Dallas County of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.
4. Tract 1 is part of parcel shown on sheet 6A of SH SPUR 366 (0196-07)

LEGEND

———	PROPOSED TRACT LINE
- - - -	EXISTING LOT LINE
———	PROPERTY LINE
●	FOUND MONUMENT (AS NOTED)
O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROL MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
INST. NO.	INSTRUMENT NUMBER
VOL. PG.	VOLUME, PAGE
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
D.R.D.C.T.	DEED RECORDS OF DALLAS COUNTY, TEXAS

DESCRIPTION OF TRACT 1
A PART OF PEARL STREET
0.0951 ACRE (4,141 SQ. FT.)
SITUATED IN THE JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF
TBPE FIRM #F-312
TBPLS FIRM NO. 10029600
1201 N.BOWSER ROAD RICHARDSON, TEXAS 75081
TELE. (214)346-6200 FAX (214)739-0095

DATE: AUGUST 1, 2016
AVO: 30735

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EXHIBIT C

County: Dallas
Highway: State Highway Spur 366
CSJ: 0196-07

August 1, 2016

DESCRIPTION FOR TRACT 2
A PART OF PEARL STREET
0.1882 ACRE (8,198 SQ. FT.)
SITUATED IN THE JOHN GRIGSBY SURVEY,
ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 8,198 square foot tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Pearl Street (variable width right-of-way) and part of Lots 1, 2, 3 and 4 of Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Page 274 and 275 of the Deed Records of Dallas County, Texas (D.R.D.C.T.), also being part of that tract of land described as Tract No. 1, being an abandonment of a portion of Old Pearl Street-Munger Avenue (formerly Juliette Street, called 40-foot wide right-of-way, as recorded in said Hensley Addition), as described in City of Dallas Ordinance Number 17633, as recorded in Volume 82250, Page 1383, D.R.D.C.T., and being part of that tract of land described in Agreed Judgement Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and being all of that tract of land described as Tract 2 in quitclaim deed to the City of Dallas, as recorded in Instrument Number 201500081469 of the Official Public Records of Dallas County, Texas (O.P.R.D.C.T.), and being more particularly described as follows:

BEGINNING at the most southeasterly northeast corner (not monumented) of said State of Texas tract, having Texas Coordinate System, NAD83, North Central Zone 4202 surface coordinates North=6,975,153.9036 feet, East=2,491,537.4263 feet;

1) THENCE South 44 degrees 13 minutes 56 seconds West, with the southeast line of said State of Texas tract, passing at a distance of 7.01 feet to the northeast line of said Lot 1, and continuing for a total distance of 19.97 feet to the most southeasterly southeast corner, from which a found "X" cut in concrete bears North 78 degrees 51 minutes 21 seconds West, a distance of 0.23 of a foot;

2) THENCE North 39 degrees 19 minutes 54 seconds West, with the southwest line of said State of Texas tract and over and across said Lots 1 and 2, a distance of 57.00 feet to a found "Y" cut in concrete for corner;

FIELD NOTES APPROVED: 9/6/16

3) THENCE North 51 degrees 22 minutes 13 seconds West, with the southwest line of said State of Texas tract and over and across said Lot 2, passing at a distance of 18.37 feet to the southeast corner of said Tract 2, and continuing with the southwest line of said Tract 2 and said State of Texas tract, and over and across said Lots 2 and 3, for a total distance of 76.10 feet for an "ell" corner of said Tract 2 and said State of Texas tract;

4) THENCE North 46 degrees 45 minutes 01 second West, with the southwest line of said Tract 2 and said State of Texas and over and across said State of Texas tract and said Lot 3, passing at a distance of 12.24 feet to the northeast line of said Lot 3, and the south line of said Tract No. 1, and continuing with the southwest line of said Tract 2 and said State of Texas tract, and over and across said Tract No. 1, a total distance of 60.72 feet to a found "PK" nail with shiner stamped "HALFF" for an "ell" corner of said Tract 2 and said State of Texas;

5) THENCE South 63 degrees 37 minutes 08 seconds West, with the south line of said Tract 2 and said State of Texas tract, passing at a distance of 4.28 feet to the westerly line of said Tract No. 1, and continuing over and across said Lot 4, and with the south line of said Tract 2 and State of Texas tract, a distance of 33.72 feet to the southwest corner (not monumented) of said Tract 2;

6) THENCE North 13 degrees 35 minutes 36 seconds East, over and across said State of Texas tract and with the west line of said Tract 2, a distance of 43.00 feet to a corner (not monumented);

7) THENCE North 09 degrees 32 minutes 56 seconds West, over and across said State of Texas tract and with the west line of said Tract 2, a distance of 57.28 feet to a corner (not monumented), said corner being on the northeast line of said State of Texas tract;

THENCE with the northeast line of said State of Texas tract, the following bearings and distances:

8) South 46 degrees 47 minutes 36 seconds East, a distance of 105.37 feet to a corner (not monumented);

9) South 39 degrees 09 minutes 58 seconds East, a distance of 132.10 feet to a corner (not monumented);

10) South 39 degrees 54 minutes 29 seconds East, a distance of 36.02 feet to the POINT OF BEGINNING AND CONTAINING 0.1882 of an acre (8,198 square feet) of land, more or less.

The Basis of Bearing of this survey is the Texas Coordinate System of 1983, North Central Zone (4202) as derived by GPS measurements. All distances and/or coordinates shown hereon are surface and may be converted by the published TXDOT "Surface Adjustment Factor" for Dallas County of 1.000136506.

Tract 2 is part of the Parcel shown on sheet 6A of State Highway Spur 366 (0196-07)

I, Getsy J. Suthan a Registered Professional Land Surveyor, hereby certify that the legal description hereon and the accompanying plat of even date represent an actual survey made on the ground under my supervision.

G. S. Suthan Aug. 1/16

Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
TBPLS Firm No. 10029600

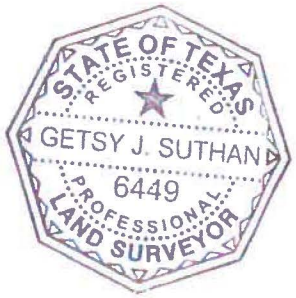
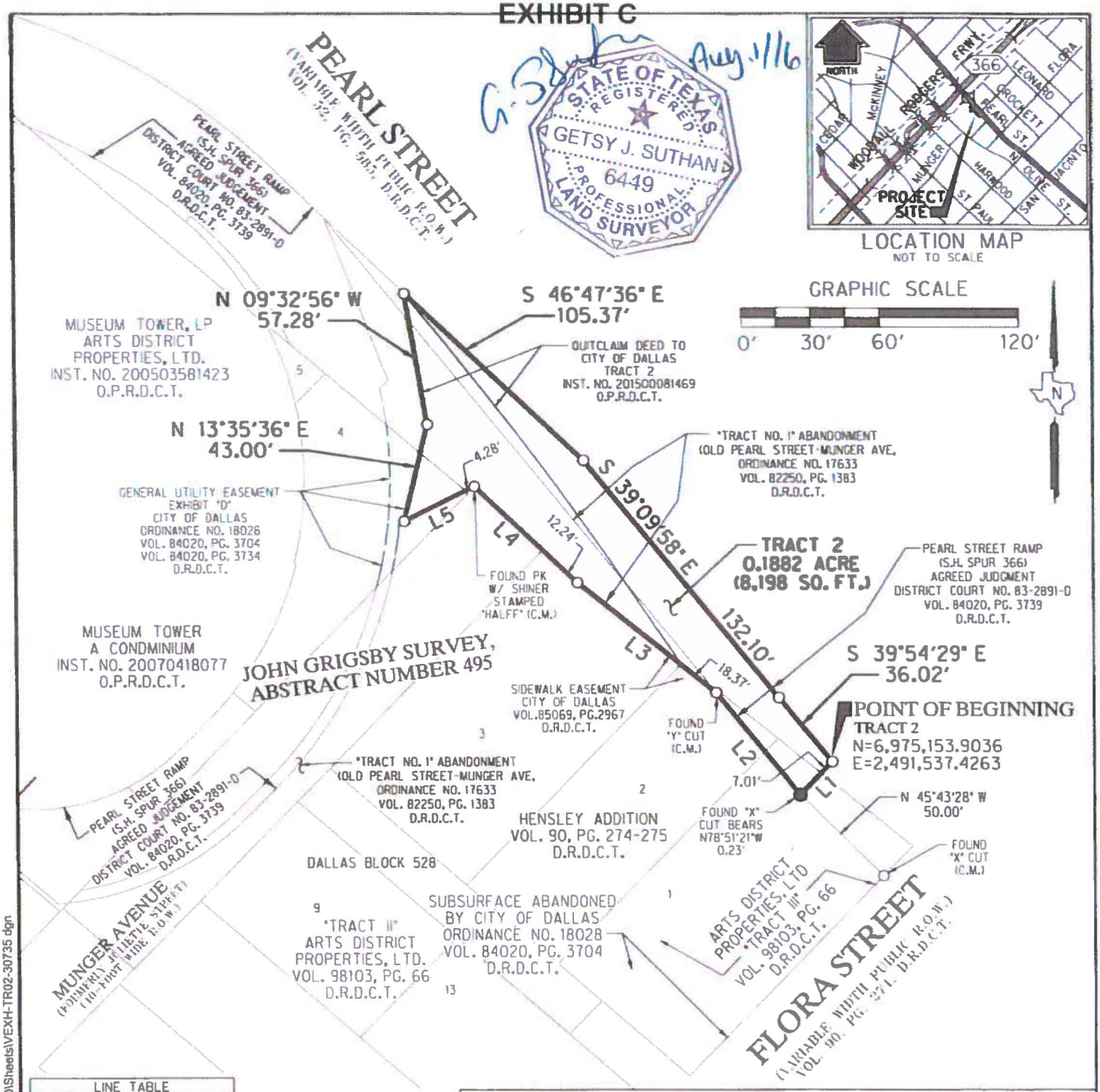


EXHIBIT C



LINE TABLE		
NO.	BEARING	DISTANCE
L1	S 44°13'56" W	19.97'
L2	N 39°19'54" W	57.00'
L3	N 51°22'13" W	76.10'
L4	N 46°45'01" W	60.72'
L5	S 63°37'08" W	33.72'

LEGEND

———	PROPOSED TRACT LINE
— — — —	EXISTING LOT LINE
———	PROPERTY LINE
●	FOUND MONUMENT (AS NOTED)
O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROL MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
INST. NO.	INSTRUMENT NUMBER
VOL. PG.	VOLUME, PAGE
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS
D.R.D.C.T.	DEED RECORDS OF DALLAS COUNTY, TEXAS

NOTES:
1. Basis of Bearing is the Texas Coordinate System of 1983, North Central Zone (4202) as derived by GPS measurements. All distances and/or coordinates shown hereon are surface and may be converted by the published TXDOT "Surface Adjustment Factor" for Dallas County of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.
4. Tract 2 is part of parcel shown on sheet 6A of SH SPUR 366 (0196-07)

DESCRIPTION OF TRACT 2
A PART OF PEARL STREET
0.1882 ACRE (8,198 SQ. FT.)
SITUATED IN THE JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF
TBPE FIRM #F-312
TBPLS FIRM NO. 10029600
1201 N.BOWSER ROAD RICHARDSON, TEXAS 75081
TELE. (214)346-6200 FAX (214)739-0095

DATE: AUGUST 1, 2016
AVO: 30735

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8/1/2016 9:30:15 AM

ADDENDUM ITEM # 3

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45F K

SUBJECT

An ordinance abandoning aerial portions of Pearl and Flora Streets and a subsurface portion of Flora Street to Arts District Properties, Ltd., the abutting owner, containing a total of approximately 2,628 square feet of land, located near the intersection of Flora and Olive Streets, and authorizing the quitclaim - Revenue: $286,811, plus the $20 ordinance publication fee

BACKGROUND

This item is on the addendum because additional review time was required. This item authorizes the abandonment of aerial portions of Pearl and Flora Streets and a subsurface portion of Flora Street to Arts District Properties, Ltd., the abutting owner. These areas will be included with the property of the abutting owner for a multi-family development. The abandonment fee is based on an independent appraisal.

Notices were sent to 68 property owners located within 300 feet of the proposed abandonment area. There was one response received in opposition to this request.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $286,811, plus the $20 ordinance publication fee

OWNER

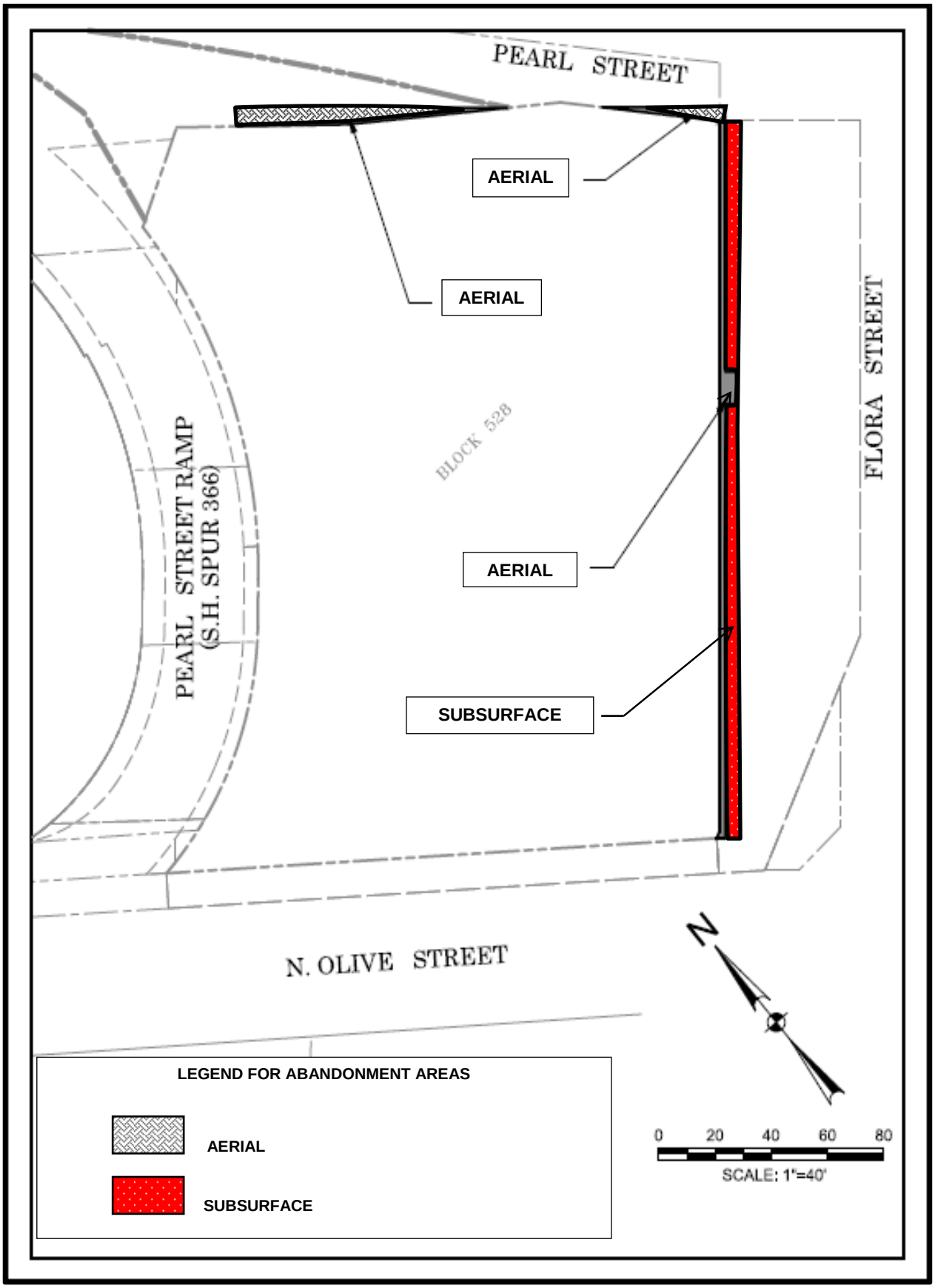
Arts District Properties, Ltd.

Metroarts Corporation, General Partner

Graham Greene, President

MAP

Attached


PEARL STREET
AERIAL
AERIAL
AERIAL
SUBSURFACE
BLOCK 528
PEARL STREET RAMP
(S.H. SPUR 366)
FLORA STREET
N. OLIVE STREET
N
LEGEND FOR ABANDONMENT AREAS
AERIAL
SUBSURFACE
0 20 40 60 80
SCALE: 1"=40'

ORDINANCE NO. _____

An ordinance providing for the abandonment of aerial portions of Pearl and Flora Streets and a subsurface portion of Flora Street located in and adjacent to City Block 528 in the City of Dallas and County of Dallas, Texas, subject to a reverter; providing for the quitclaim thereof to Arts District Properties, Ltd.; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing for the payment of the publication fee; and providing an effective date.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Arts District Properties, Ltd., a Texas limited partnership, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter interest, the hereinafter described areas and is of the opinion that, subject to the terms conditions and reverters herein provided, said portion of aerial rights over Pearl Street, as more fully described in Exhibit A-Tract I and Exhibit A-Tract II, respectively, beginning at an elevation of 482.5' above mean sea level and extending to an elevation to 882.0' above mean sea level; said portion of aerial rights over Flora Street, as more fully described in Exhibit A-Tract III, beginning at an elevation of 468.33' above mean sea level and extending to an elevation to 484.67' above mean sea level, said portion of subsurface rights, as more fully described in Exhibit A-Tract IV, from 1' below surface to 8' below surface, are not currently needed for public use, and same should be abandoned and quitclaimed to **GRANTEE**, as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the public will be served by abandoning and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms, conditions and reverter hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the portion of aerial rights over Pearl Street, beginning at an elevation of 482.5' above mean sea level and extending to an elevation of 882.0' above mean sea level over the tracts of land described in Exhibit A-Tract I and Exhibit A-Tract II, and that the portion of aerial rights over Flora Street, beginning at an elevation of 468.33' above mean sea level and extending to an elevation of 484.67' above mean sea level over the tract of land described in Exhibit A-Tract III, and that the portion of subsurface rights below Flora Street, from 1' below surface to 8' below surface described in Exhibit A-Tract IV, which is attached hereto and made a part hereof, be and the same are abandoned, vacated and closed insofar as the right, title and easement of the public are concerned; subject, however, to the reverter and the conditions hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **TWO HUNDRED EIGHTY-SIX THOUSAND EIGHT HUNDRED ELEVEN AND NO/100 ($286,811.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8 and 9, the City of Dallas does by these presents QUITCLAIM unto the said **GRANTEE**, subject to the conditions, reservations and exceptions hereinafter made and with the reverter interest herein stated, all its right, title and interest in and to the portion of aerial rights over Pearl Street, beginning at an elevation of 482.5' above mean sea level and extending to an elevation of 882.0' above mean sea level over the tracts of land described in Exhibit A-Tract I and Exhibit A-Tract II, and that the portion of aerial rights over Flora Street, beginning at an elevation of 468.33' above mean sea level and extending to an elevation of 484.67' above mean sea level over the tracts of land described in Exhibit A-Tract III, and that the subsurface rights below Flora Street, from 1' below surface to 8' below surface described in Exhibit A-Tract IV. Provided however, that if the improvements situated on and adjacent to the areas, to be abandoned are ever respectively: (i) partially demolished, removed or damaged and are not promptly thereafter repaired or rebuilt;

(ii) substantially or totally demolished, removed or damaged; or (iii) abandoned in whole or in part by **GRANTEE**, its successors and assigns, then this ordinance and quitclaim shall be rendered null and void and the right, title and easement of the public shall absolutely revert without any necessity for suit or re-entry by the City; and no act or omission on the part of the City, its successors and assigns, shall be a waiver of the operation or enforcement of this ordinance. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE**.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment provided for herein is made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise, and are further subject to the conditions contained in Exhibit B, which is attached hereto for all intents and purposes made a part hereof.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment and quitclaim provided for herein shall extend only to the public right, title, easement and interest, and shall be construed to extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon and vacate.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the areas described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the areas set out in Exhibit A, (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas described in Exhibit A, which **GRANTEE**, its successors and assigns, agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the areas set out in Exhibit A. **GRANTEE**, its successors and assigns, hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive, Environmental Response, Compensation Liability Act, 42 U.S.C. Section 9601 et seq., as amended, (b) any "hazardous substances": under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended, (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils, (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended, (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance" under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall:

a) abide by City of Dallas Central Business District Vehicular and Circulation Plan, Section 51-9.100; requiring city to retain 100 feet of right-of-way along Pearl Street and 100 feet of right-of-way along Flora Street.

b) apply for and be issued a Right-of-Way Permit prior to commencing any field work in the right-of-way.

c) meet design requirements as referenced by the Plan Development District (PDD) #145 zoning for the Dallas Arts District, subject to compliance with Dallas City Code.

SECTION 10. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and construction, or designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance, and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the areas abandoned herein, subject to a reverter interest, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 11. 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:
LARRY E. CASTO
City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant City Attorney

BY _____
Assistant Director

Passed _____.

EXHIBIT A-TRACT I

AERIAL ABANDONMENT
PART OF LOTS 2, 3, AND 4 OF A.T. HENSLEY ADDITION
PART OF PEARL STREET
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 397 square foot (0.0091 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Pearl Street (created in Volume 52, Page 582-583 of the Deed Records of Dallas County, Texas, (D.R.D.C.T.), a variable width right-of-way) and part of Lots 2, 3 and 4 of A.T. Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Pages 274 and 275, D.R.D.C.T, and being part of that tract of land described as Tract No. 1, being an abandonment of a portion of Old Pearl Street-Munger Avenue (formerly Juliette Street, called 40-foot wide right-of-way, as recorded in said Hensley Addition), as described in City of Dallas Ordinance Number 17633, as recorded in Volume 82250, Page 1383, D.R.D.C.T., and being part of that tract of land described in Agreed Judgment Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and being more particularly described as follows, but only as to that portion of the aerial abandonment between the elevations of 482.5' and 882.0' mean sea level:

COMMENCING at a PK nail found with shiner stamped "HALFF" (hereinafter referred to as "with shiner") for the northwest corner of that tract of land described as Tract II in Special Warranty deed to Arts District Properties, Ltd., as recorded in Volume 98103, Page 66, D.R.D.C.T., and an "ell" corner of said State of Texas tract;

THENCE South 46 degrees 45 minutes 00 second East, with the south line of said State of Texas tract, and the north line of said Tract II, a distance of 21.30 feet to a corner (not monumented) for the POINT OF BEGINNING;

THENCE North 43 degrees 15 minutes 00 seconds East, departing said north line of Tract II and a southwest line of said State of Texas tract, and over and across said State of Texas tract, a distance of 6.35 feet to a corner(not monumented);

THENCE South 45 degrees 43 minutes 28 seconds East, continuing over and across said State of Texas tract, a distance of 96.58 feet to a corner (not monumented), said corner being on the south line of said State of Texas tract and the north line of said Tract II;

THENCE North 51 degrees 22 minutes 13 seconds West, with the south line of said State of Texas tract, and the north line of said Tract II, a distance of 57.33 feet to a corner (not monumented);

THENCE North 46 degrees 45 minutes 00 second West, with the south line of said State of Texas tract, and the north line of said Tract II, a distance of 39.42 feet to the POINT OF BEGINNING AND CONTAINING 397 square feet or 0.0091 acres of land, more or less.

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	2/27/17
SPRG NO.:	3935

AERIAL ABANDONMENT
PART OF LOTS 2, 3, AND 4 OF A.T. HENSLEY ADDITION
PART OF PEARL STREET
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

This metes and bounds description was prepared with an exhibit of even date.

This survey was prepared without the benefit of a title commitment. Easement may exists where none are shown.

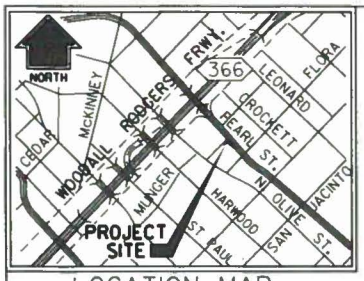
G.J. Suthan June 9/2016

Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
713-588-2466
TBPLS Firm No. 10029600



(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3935

EXHIBIT A-TRACT 1



LOCATION MAP
NOT TO SCALE

LINE	BEARING	DISTANCE
L1	N43°15'00"E	6.35'
L2	S45°43'28"E	96.58'
L3	N51°22'13"W	57.33'
L4	N46°45'00"W	39.42'
L5	S63°37'08"W	36.17'

QUITCLAIM DEED TO CITY OF DALLAS TRACT 2 INST. NO. 201500081469 O.P.R.D.C.T.

POINT OF COMMENCING

S46°45'00"E 21.30'

P.K. FND. W/ SHINER STAMPED "HALFF" (C.M.)

5/8" FIR W/ "SURVCON" CAP

POINT OF BEGINNING

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

AERIAL ABANDONMENT BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL 397 SQ. FT. OR 0.0091 ACRE

CITY OF DALLAS VOL. 52, PAGE 582 D.R.D.C.T.

PEARL STREET (VARIABLE WIDTH PUBLIC R.O.W.)

CITY OF DALLAS TRACT 2 VOL. 82250, PG. 428 D.R.D.C.T.

ORIGINAL 50' PUBLIC R.O.W.

QUITCLAIM DEED TO CITY OF DALLAS VOL. 84020, PG. 3799 D.R.D.C.T.

"TRACT NO. 1" ABANDONMENT (OLD PEARL STREET-MUNGER AVE., ORDINANCE NO. 17633) VOL. 82250, PG. 1383 D.R.D.C.T.

S51°22'13"E 18.77'

CITY OF DALLAS VOL. 52, PAGE 583 D.R.D.C.T.

SIDEWALK AND DRAINAGE EASEMENT CITY OF DALLAS VOL. 85069, PG. 2967 D.R.D.C.T.

S39°19'54"E 57.00'

CITY OF DALLAS VOL. 52, PG. 585 D.R.D.C.T.

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

S45°43'28"E 50.00'

FND. "X" CUT Bears=N78°51'21"W 0.25'

FOUND "X" CUT (C.M.)

A.T. HENSLEY ADDITION VOL. 90, PG. 274-275 D.R.D.C.T.

"TRACT II" ARTS DISTRICT PROPERTIES, LTD. VOL. 98103, PG. 66 D.R.D.C.T.

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

MUNGER AVENUE (FORMERLY JULIETTE STREET) (40-FOOT WIDE R.O.W.)

DALLAS BLOCK 528

20' ALLEY ABANDONMENT ORDINANCE NO. 17633 VOL. 82250, PG. 1383 D.R.D.C.T.

JOHN GRIGSBY SURVEY, ABSTRACT NO. 495

ARTS DISTRICT PROPERTIES, LTD SUBSURFACE "TRACT III" ESTATE VOL. 98103, PG. 66 D.R.D.C.T.

ORIGINAL 40' PUBLIC R.O.W.

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

FLORA STREET (VARIABLE WIDTH PUBLIC R.O.W.) VOL. 90, PG. 274, D.R.D.C.T.

STREET EASEMENT, TRACT 2 VOL. 86028, PG. 4387, D.R.D.C.T.

DALLAS HAR ADDITION LOT 1, BLOCK 1 VOL. 2002210, PG. 11 D.R.D.C.T.

OLIVE STREET (VARIABLE WIDTH PUBLIC R.O.W.) CITY OF DALLAS CAUSE NO. 53592-B VOL. 19, PG. 268, CC #2 D.R.D.C.T.

CITY OF DALLAS VOL. 84020, PG. 3763 D.R.D.C.T.

TRACT III SUBSURFACE ABANDONED BY CITY OF DALLAS ORDINANCE NO. 18028 VOL. 84020, PG. 3704 D.R.D.C.T.

100' (CALCULATED)

ORIGINAL 40' PUBLIC R.O.W.

54'

STREET EASEMENT TRACT 1 VOL. 86028, PG. 4387 D.R.D.C.T.

NOTES:

1. Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.

LEGEND

O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROLLING MONUMENT
FIR	FOUND IRON ROD
SQ. FT.	SQUARE FEET
R.O.W.	RIGHT-OF-WAY
VOL. PG.	VOLUME AND PAGE
INST. NO.	INSTRUMENT NUMBER
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORD DALLAS COUNTY, TEXAS
- - - - -	EASEMENT LINE
———	LOT LINE
℄	PROPERTY LINE
CC	COUNTY COURT

0 25 50 75 100

SCALE: 1"=50'

N

STATE OF TEXAS REGISTERED GETSY J. SUTHAN 6449 PROFESSIONAL LAND SURVEYOR

(For SPRG use only)

Reviewed By: A. Rodriguez

Date: 2/27/17

SPRG NO.: 3935

PAGE 3 OF 3

AERIAL ABANDONMENT
PART OF LOTS 2, 3, AND 4 OF
A.T. HENSLEY ADDITION
AND PART OF PEARL STREET
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5'
AND 882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF

TBPLS FIRM NO. 10029600

HALFF ASSOCIATES, INC. ENGINEERS ~ SURVEYORS
1201 NORTH BOWSER ROAD ~ RICHARDSON, TEXAS ~ 75081-2275

SCALE: 1"=50 (214)346-6200 AVO. 30735 FEBRUARY, 2017

2S_IRC5240_MON_FS_FW_CR.plt Sheet I:\30000s\30735\CADD\Sheets\SI01VEXH-EXHIBIT-01-30735.DGN 2/23/2017 12:48:56 PM ah2472 HALFF

EXHIBIT A-TRACT II

AERIAL ABANDONMENT
PART OF PEARL STREET
PART OF LOTS 1 AND 2 OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 99 square foot (0.0023 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Pearl Street (created in Volume 78249, Page 3889, of the Deed Records of Dallas County, Texas, (D.R.D.C.T.), a variable width right-of-way) and part of Lots 1, and 2 of A.T. Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Pages 274 and 275, D.R.D.C.T, and being part of that tract of land described in Agreed Judgment Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and being more particularly described as follows, but only as to that portion of the aerial abandonment between the elevations of 482.5' and 882.0' mean sea level:

BEGINNING at the northeast corner of Tract II and the northwest corner of Tract III of that tracts of land described in Special Warranty deed to Arts District Properties, Ltd., as recorded in Volume 98103, Page 66, D.R.D.C.T., and the southeast corner of said State of Texas tract, from which a found "X" cut bears North 78 degrees 51 minutes 21 seconds West, 0.23 feet, and another "X" cut found bears South 45 degrees 43 minutes 28 seconds East, a distance of 50.00 feet;

THENCE North 39 degrees 19 minutes 55 seconds West, with the south line of said State of Texas tract and the north line of said Tract II, a distance of 40.42 feet to a corner (not monument);

THENCE South 45 degrees 43 minutes 28 seconds East, departing said south line of State of Texas tract, and the north line of said Tract II, and over and across said State of Texas tract, a distance of 42.00 feet to a corner (not monumented);

THENCE South 44 degrees 16 minutes 32 seconds West, over and across said Lot 1, a distance of 4.50 feet to a corner (not monument), said corner being on the north line of said Tract III;

THENCE North 45 degrees 43 minutes 28 seconds West, with the north line of said Tract III, a distance of 1.83 feet to the POINT OF BEGINNING AND CONTAINING 99 square feet or 0.0023 acres of land, more or less.

(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3932

EXHIBIT A-TRACT II
AERIAL ABANDONMENT
PART OF PEARL STREET
PART OF LOTS 1 AND 2 OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

This metes and bounds description was prepared with an exhibit of even date.

This survey was prepared without the benefit of a title commitment. Easement may exists where none are shown.

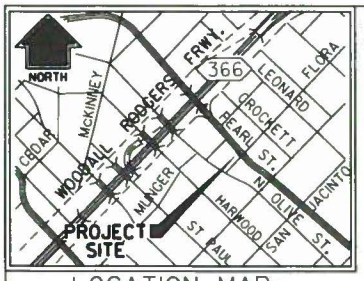
09 JUNE 2016

Jason A. Jernigan
Registered Professional Land Surveyor
Texas No. 6023
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
214-346-6200
TBPLS Firm No. 10029600



(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3932

EXHIBIT A-TRACT II



LOCATION MAP
NOT TO SCALE

QUITCLAIM DEED TO CITY OF DALLAS VOL. 84020, PG. 3799 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 582 D.R.D.C.T.

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

QUITCLAIM DEED TO CITY OF DALLAS TRACT 2 INST. NO. 201500081469 O.P.R.D.C.T.

CITY OF DALLAS TRACT 2 VOL. 82250, PG. 428 D.R.D.C.T.

"TRACT NO. 1" ABANDONMENT (OLD PEARL STREET-MUNGER AVE, ORDINANCE NO. 17633) VOL. 82250, PG. 1383 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 583 D.R.D.C.T.

PEARL STREET (VARIABLE WIDTH PUBLIC R.O.W.)

ORIGINAL 50' PUBLIC R.O.W.

SIDEWALK & DRAINAGE EASEMENT CITY OF DALLAS VOL. 85069, PG. 2967 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 585 D.R.D.C.T.

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

AERIAL ABANDONMENT BETWEEN THE ELEVATIONS OF 482.5' AND 882.0' MEAN SEA LEVEL 99 SQ. FT. OR 0.0023 ACRE

POINT OF BEGINNING

L1 L2 L3 L4

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

A.T. HENSLEY ADDITION VOL. 90, PG. 274-273 D.R.D.C.T.

"TRACT II" ARTS DISTRICT PROPERTIES, LTD. VOL. 98103, PG. 66 D.R.D.C.T.

DALLAS BLOCK 528

20' ALLEY ABANDONMENT ORDINANCE NO. 17633 VOL. 82250, PG. 1383 D.R.D.C.T.

MUNGER AVENUE (FORMERLY JULIETTE STREET) (40-FOOT WIDE R.O.W.)

FND. "X" CUT BEARS N78°51'21"W 0.23'

S45°43'28"E 48.17'

FND. "X" CUT (C.M.)

242.74'

ARTS DISTRICT PROPERTIES, LTD. TRACT III SUBTRACT FEE ESTATE VOL. 98103, PG. 66 D.R.D.C.T.

175.57'

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

FLORA STREET (VARIABLE WIDTH PUBLIC R.O.W.) VOL. 90, PG. 274, D.R.D.C.T.

OLIVE STREET (VARIABLE WIDTH PUBLIC R.O.W.) CITY OF DALLAS CAUSE NO. 53592-B VOL. 18, PG. 268, CC #2 D.R.D.C.T.

CITY OF DALLAS VOL. 84020, PG. 3763 D.R.D.C.T.

N44°16'32"E

TRACT III ABANDONED (SUBSURFACE) BY CITY OF DALLAS ORDINANCE NO. 18028 VOL. 81020, PG. 3701 D.R.D.C.T.

100' (CALCULATED)

S44°16'32"W

ORIGINAL 40' PUBLIC R.O.W.

ORIGINAL 40' PUBLIC R.O.W.

5/8" FIR W/ "SURVCON" CAP (C.M.)

54'

FND. "X" CUT (C.M.)

STREET EASEMENT TRACT 1 VOL. 86028, PG. 4387 D.R.D.C.T.

STREET EASEMENT TRACT 2 VOL. 86028, PG. 4387 D.R.D.C.T.

DALLAS BAR ADDITION LOT 1, BLOCK A 529 VOL. 20022 0 PG. 44 D.R.D.C.T.

JOHN GRIGSBY SURVEY, ABSTRACT NO. 495

N

0 25 50 75 100

SCALE: 1"=50'

NOTES:

1. Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

2. This exhibit was prepared with a metes and bounds description of even date.

3. This survey was prepared without the benefit of a title commitment.

LEGEND

O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROLLING MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
VOL. PG.	VOLUME AND PAGE
INST. NO.	INSTRUMENT NUMBER
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORD DALLAS COUNTY, TEXAS
- - - - -	EASEMENT LINE
———	LOT LINE
PL	PROPERTY LINE
CC	COUNTY COURT

LINE	BEARING	DISTANCE
1	N39°19'55"W	40.42'
2	S45°43'28"E	42.00'
3	S44°16'32"W	4.50'
4	N45°43'28"W	1.83'

STATE OF TEXAS REGISTERED JASON A. JERNIGAN 6023 PROFESSIONAL LAND SURVEYOR

09/29/2016

(For SPRG use only)

Reviewed By: A. Rodriguez

Date: 2/27/17

SPRG NO.: 3932

PAGE 3 OF 3

AERIAL ABANDONMENT
PART OF PEARL STREET AND
PART OF LOTS 1 AND 2 OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 482.5' AND
882.0' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF

TBPLS FIRM NO. 10029600

HALFF ASSOCIATES, INC. ENGINEERS ~ SURVEYORS
1201 NORTH BOWSER ROAD ~ RICHARDSON, TEXAS ~ 75081-2275
SCALE: 1"=50 (214)346-6200 AVO. 30735 FEBRUARY, 2017

3/7/2017 1:23:06 PM ah2582 HALFF I:\30000s\30735\CADD\Sheets\SI01\VEXH-EXHIBIT-02 30735.DGN Sheet 2S_IRC5240_MON_FS_FW_MR.plt

EXHIBIT A-TRACT III

AERIAL ABANDONMENT
PART OF LOTS 1, 10, 13, AND 20' ALLEY OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 468.33' AND 484.67' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 496 square foot (0.0114 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Lots 1, 10, 13, and 20' Alley of A.T. Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Pages 274 and 275 of the Deed Records of Dallas County, Texas (D.R.D.C.T), and being part of Flora Street (created by Volume 90, Page 274, Volume 78249, Page 3889, and Volume 84020, Page 3763, D.R.D.C.T.), and being more particularly described as follows, but only as to that portion of the aerial abandonment between the elevations of 468.33' and 484.67' mean sea level:

BEGINNING at a 5/8-inch found iron rod with cap stamped "SURVCON" for corner at the southwest end of a corner clip at the intersection of the northwesterly right-of-way line of said Flora Street, a variable width right-of-way, with the northeasterly right-of-way line of Olive Street (created in City of Dallas cause No. 53592-B, Volume 18, Page 268, D.R.D.C.T., a variable width right-of-way), and the common corner of that tract of land described as Tract II and Tract III in Special Warranty deed to Arts District Properties, Ltd., as recorded in Volume 98103, Page 66, D.R.D.C.T.;

THENCE with the common line between said Tract II, and said Tract III, the following bearings and distances:

North 67 degrees 07 minutes 16 seconds East, a distance of 2.75 feet to a 5/8-inch found iron rod with cap stamped "SURVCON" for corner at the northeast end of said corner clip;

North 44 degrees 16 minutes 32 seconds East, a distance of 242.74 feet to the south corner of a tract of land described in Agreed Judgment Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and the northeast corner of said Tract II, and the northwest corner of said Tract III, from which a found "X" cut bears North 78 degrees 51 minutes 21 seconds West, a distance of 0.23 feet, said corner being on the southwest right-of-way line of Pearl Street (created in Volume 84020, age 3739, Volume 82250, Page 428, Volume 90, Page 274, and Volume 78249, Page 3889, D.R.D.C.T., a variable width right-of-way);

THENCE South 45 degrees 43 minutes 28 seconds East, with the northeast line of said Flora Street (created by Volume 78249, Page 3889, a distance of 1.83 feet to a corner (not monument);

THENCE over and across said Tract III, and Lots 1, 10, and 13 of said Hensley Addition, the following bearings and distances:

South 44 degrees 16 minutes 32 seconds West, a distance of 85.76 feet to a corner (not monument);

(For SPRG use only)
Reviewed By: A.Rodriguez
Date: 2/27/17
SPRG NO.: 3933

AERIAL ABANDONMENT
PART OF LOTS 1, 10, 13, AND 20' ALLEY OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 468.33' AND 484.67' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

South 45 degrees 43 minutes 28 seconds East, a distance of 4.10 feet to a corner (not monument);
South 44 degrees 16 minutes 32 seconds West, a distance of 11.00 feet to a corner (not monument);

North 45 degrees 43 minutes 28 seconds West, a distance of 4.10 feet to a corner (not monument);

South 44 degrees 16 minutes 32 seconds West, a distance of 148.51 feet to a corner (not monument);

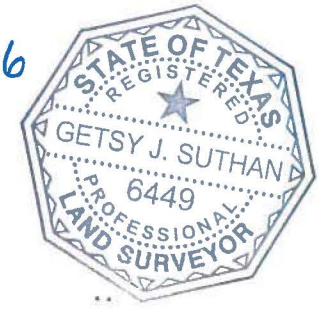
North 45 degrees 49 minutes 53 seconds West, a distance of 2.90 feet to the POINT OF BEGINNING AND CONTAINING 496 square feet or 0.0114 acres of land, more or less.

Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

This metes and bounds description was prepared with an exhibit of even date.

This survey was prepared without the benefit of a title commitment. Easement may exists where none are shown.

G. J. Suthan June 9/2016

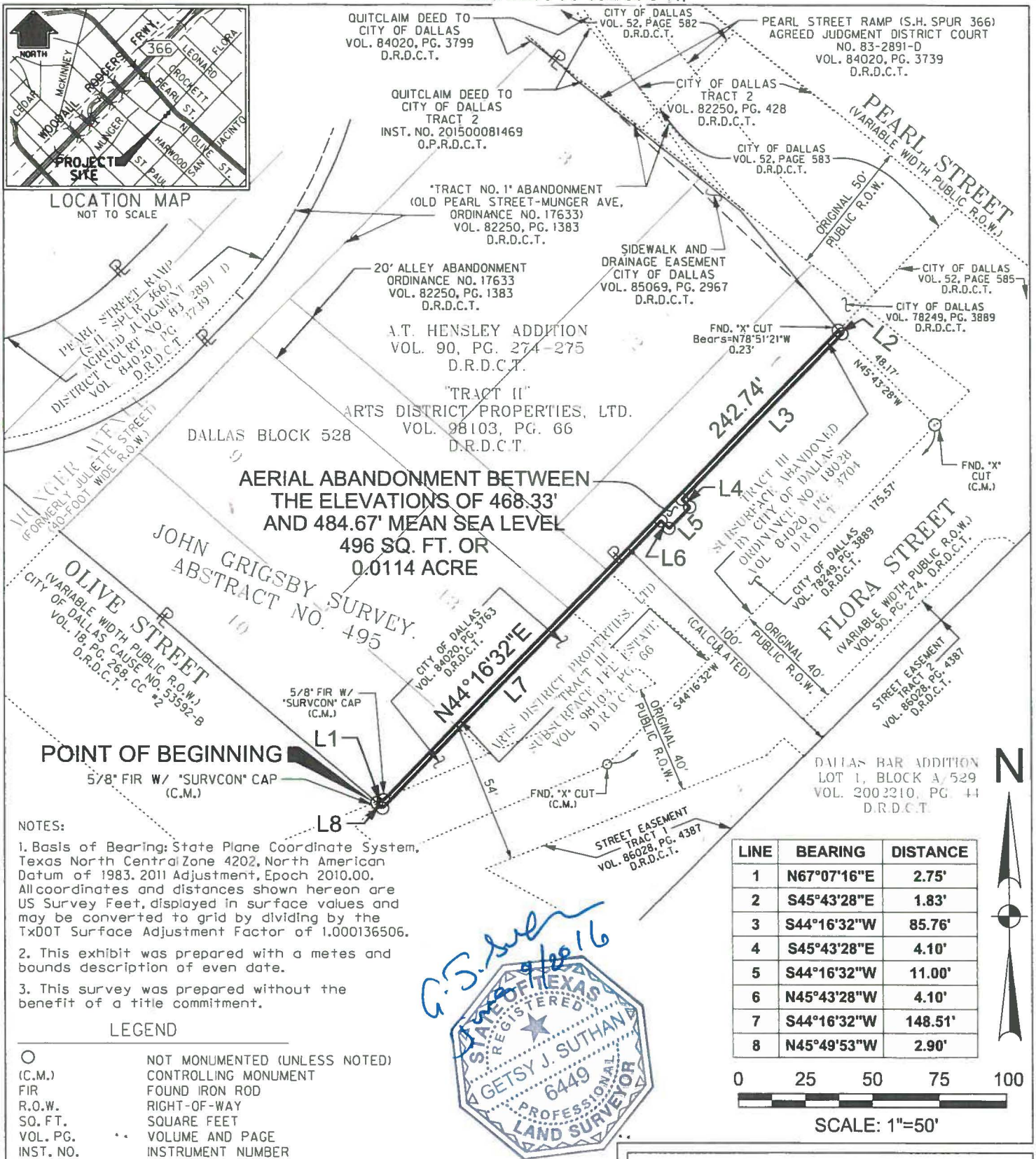


Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
713-588-2466
TBPLS Firm No. 10029600

(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3933

EXHIBIT A-TRACT III

LOCATION MAP
NOT TO SCALE



NOTES:

1. Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.

LINE	BEARING	DISTANCE
1	N67°07'16"E	2.75'
2	S45°43'28"E	1.83'
3	S44°16'32"W	85.76'
4	S45°43'28"E	4.10'
5	S44°16'32"W	11.00'
6	N45°43'28"W	4.10'
7	S44°16'32"W	148.51'
8	N45°49'53"W	2.90'

0 25 50 75 100

SCALE: 1"=50'

LEGEND

O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROLLING MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
VOL. PG.	VOLUME AND PAGE
INST. NO.	INSTRUMENT NUMBER
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORD DALLAS COUNTY, TEXAS
- - - - -	EASEMENT LINE
———	LOT LINE
℄	PROPERTY LINE
CC	COUNTY COURT

STATE OF TEXAS REGISTERED GETSY J. SUTHAN 6449 PROFESSIONAL LAND SURVEYOR

9/28/16

(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3933

AERIAL ABANDONMENT
PART OF LOTS 1, 10, 13 AND 20' ALLEY OF
A.T. HENSLEY ADDITION AND
CITY OF DALLAS BLOCK NUMBER 528
BETWEEN THE ELEVATIONS OF 468.33'
AND 484.67' MEAN SEA LEVEL
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF
TBPLS FIRM NO. 10029600
HALFF ASSOCIATES, INC. ENGINEERS ~ SURVEYORS
1201 NORTH BOWSER ROAD ~ RICHARDSON, TEXAS ~ 75081-2275
SCALE: 1"=50 (214)346-6200 AVO: 30735 FEBRUARY, 2017

2S_IRC5240_MON_FS_FW_CR.plt Sheet I:\30000s\30735\CADD\Sheets\SK01\VEXH-EXHIBIT-04-30735.DGN 2/23/2017 12:32:53 PM ah2472 HALFF

EXHIBIT A-TRACT IV

SUBSURFACE ABANDONMENT
PART OF LOTS 1, 10, 13, AND 20' ALLEY OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
FROM 1' BELOW SURFACE TO 8' BELOW SURFACE
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 1,636 square foot (0.0376 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Lots 1, 10, 13, and 20' Alley of A.T. Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Pages 274 and 275 of the Deed Records of Dallas County, Texas (D.R.D.C.T), and being part of a Subsurface Fee Estate described as "Tract III" in Special Warranty deed to Arts District Properties, Ltd., as recorded in Volume 98103, Page 66, D.R.D.C.T., and being part of Flora Street (variable width right-of-way, created in Volume 78249, Page 3889, and Volume 84020, Page 3763, D.R.D.C.T.), and being more particularly described as follows, but only as to that portion of the subsurface abandonment from 1' below surface to 8' below surface:

BEGINNING at a 5/8-inch found iron rod with cap stamped "SURVCON" for corner at the southwest end of a corner clip at the intersection of the northwesterly right-of-way line of Flora Street (created in Volume 90, Page 274, Volume 78249, Page 3889, and Volume 84020, Page 3763, D.R.D.C.T., a variable width right-of-way) with the northeasterly right-of-way line of Olive Street (created in City of Dallas cause No. 53592-B, Volume 18, Page 268, D.R.D.C.T., a variable width right-of-way), and the common corner of said Tract III and Tract II of aforementioned deed to Arts District Properties, Ltd.;

THENCE with the common line between Tract II and Tract III said Arts Properties, Ltd, the following bearings and distances:

North 67 degrees 07 minutes 16 seconds East, a distance of 2.75 feet to a 5/8-inch found iron rod with cap stamped "SURVCON" for corner at the northeast end of said corner clip;

North 44 degrees 16 minutes 32 seconds East, a distance of 242.74 feet to the south corner of a tract of land described in Agreed Judgment Deed to State of Texas, as recorded in Volume 84020, Page 3739, D.R.D.C.T., and the northeast corner of said Tract II, and the northwest corner of said Tract III, from which a found "X" cut bears North 78 degrees 51 minutes 21 seconds West, a distance of 0.23 feet, said corner being on the southwest right-of-way line of Pearl Street (created in Volume 84020, age 3739, Volume 82250, Page 428, Volume 90, Page 274, and Volume 78249, Page 3889, D.R.D.C.T., a variable width right-of-way);

THENCE South 45 degrees 43 minutes 28 seconds East, with the northeast line of said Tract III, a distance of 6.67 feet to a corner (not monument);

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	2/28/17
SPRG NO.:	3936

SUBSURFACE ABANDONMENT
PART OF LOTS 1, 10, 13, AND 20' ALLEY OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
FROM 1' BELOW SURFACE TO 8' BELOW SURFACE
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

THENCE over and across said Tract III, and Lots 1, 10, and 13 of said Hensley Addition, the following bearings and distances:

South 44 degrees 16 minutes 32 seconds West, a distance of 245.26 feet to a corner (not monument);

North 45 degrees 49 minutes 53 seconds West, a distance of 7.73 feet to the POINT OF BEGINNING AND CONTAINING 1,636 square feet or 0.0376 acres of land, more or less.

Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

This metes and bounds description was prepared with an exhibit of even date.

This survey was prepared without the benefit of a title commitment. Easement may exists where none are shown.

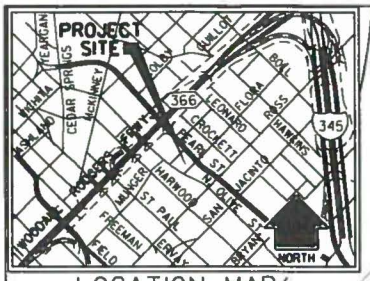
G. S. Suthan June 9/2016



Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
713-588-2466
TBPLS Firm No. 10029600

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	2/28/17
SPRG NO.:	3936

EXHIBIT A-TRACT IV



LOCATION MAP
NOT TO SCALE

QUITCLAIM DEED TO CITY OF DALLAS VOL. 84020, PG. 3799 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 582 D.R.D.C.T.

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

QUITCLAIM DEED TO CITY OF DALLAS TRACT 2 INST. NO. 201500081469 O.P.R.D.C.T.

CITY OF DALLAS TRACT 2 VOL. 82250, PG. 428 D.R.D.C.T.

PEARL STREET (VARIABLE WIDTH PUBLIC R.O.W.)

"TRACT NO. 1" ABANDONMENT (OLD PEARL STREET-MUNGER AVE. ORDINANCE NO. 17633) VOL. 82250, PG. 1383 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 583 D.R.D.C.T.

ORIGINAL 50' PUBLIC R.O.W.

SIDEWALK & DRAINAGE EASEMENT CITY OF DALLAS VOL. 85069, PG. 2967 D.R.D.C.T.

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

CITY OF DALLAS VOL. 52, PAGE 585 D.R.D.C.T.

PEARL STREET RAMP (S.H. SPUR 366) AGREED JUDGMENT DISTRICT COURT NO. 83-2891-D VOL. 84020, PG. 3739 D.R.D.C.T.

JOHN GRIGSBY SURVEY, ABSTRACT NO. 495

A.T. HENSLEY ADDITION VOL. 90, PG. 274-275 D.R.D.C.T.

"TRACT II" ARTS DISTRICT PROPERTIES, LTD. VOL. 98103, PG. 66 D.R.D.C.T. DALLAS BLOCK 528

20' ALLEY ABANDONMENT ORDINANCE NO. 17633 VOL. 82250, PG. 1383 D.R.D.C.T.

FND. "X" CUT BEARS N78°51'21"W 0.23'

L2

N45°43'28"W 43.33'

FND. "X" CUT (C.M.)

242.74'

245.26'

SUBSURFACE ABANDONED BY CITY OF DALLAS ORDINANCE NO. 18028 VOL. 84020, PG. 3704 D.R.D.C.T.

175.57'

CITY OF DALLAS VOL. 78249, PG. 3889 D.R.D.C.T.

FLORA STREET (VARIABLE WIDTH PUBLIC R.O.W.) VOL. 90, PG. 274, D.R.D.C.T.

SUBSURFACE ABANDONMENT FROM 1' BELOW SURFACE TO 8' BELOW SURFACE 1,636 SQ. FT. OR 0.0376 ACRE

OLIVE STREET (VARIABLE WIDTH PUBLIC R.O.W.) CITY OF DALLAS CAUSE NO. 53592-B VOL. 18, PG. 268, CC #2 D.R.D.C.T.

CITY OF DALLAS VOL. 84020, PG. 3763 D.R.D.C.T.

N 44°16'32" E

S 44°16'32" W

ARTS DISTRICT PROPERTIES, LTD TRACT III VOL. 98103, PG. 66 D.R.D.C.T.

100' (CALCULATED)

ORIGINAL 40' PUBLIC R.O.W.

S44°16'32"W

54'

5/8" FIR W/ "SURVCON" CAP (C.M.)

L1

POINT OF BEGINNING

5/8" FIR W/"SURVCON" CAP (C.M.)

FND. "X" CUT (C.M.)

STREET EASEMENT TRACT 2 VOL. 86028, PG. 4387 D.R.D.C.T.

STREET EASEMENT TRACT 1 VOL. 86028, PG. 4387 D.R.D.C.T.

DALLAS BAR ADDITION LOT 1 BLOCK 1/3 9 VOL 300-210, PG. 44 D R D C T

N 45°49'53" W 7.73'

NOTES:

1. Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.

LINE	BEARING	DISTANCE
1	N67°07'16"E	2.75'
2	S45°43'28"E	6.67'

LEGEND

O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROLLING MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
VOL. PG.	VOLUME AND PAGE
INST. NO.	INSTRUMENT NUMBER
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORD DALLAS COUNTY, TEXAS
- - - - -	EASEMENT LINE
———	LOT LINE
PL	PROPERTY LINE
CC	COUNTY COURT

N

0 25 50 75 100

SCALE: 1"=50'

G.S. Suthan 2/28/2017

STATE OF TEXAS REGISTERED GETSY J. SUTHAN 6449 PROFESSIONAL LAND SURVEYOR

(For SPRG use only)

Reviewed By: A. Rodriguez

Date: 2/28/17

SPRG NO.: 3936

PAGE 3 OF 3

SUBSURFACE ABANDONMENT
PART OF LOTS 1, 10, 13 AND 20' ALLEY OF
A.T. HENSLEY ADDITION AND
CITY OF DALLAS BLOCK NUMBER 528
FROM 1' BELOW SURFACE TO 8' BELOW SURFACE
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF

TBPLS FIRM NO. 10029600

HALFF ASSOCIATES, INC. ENGINEERS ~ SURVEYORS
1201 NORTH BOWSER ROAD ~ RICHARDSON, TEXAS ~ 75081-2275
SCALE: 1"=50 (214)346-6200 AVO. 30735 FEBRUARY, 2017

2S_IRC5240_MON_FS_FW_CR.plt Sheet1 I:\30000s\30735\CADD\Sheets\S01\VEXH-EXHIBIT-03-30735.DGN ah2472 HALFF 8:14:05 AM 2/28/2017

EXHIBIT B

ADDITIONAL ABANDONMENT PROVISIONS

That as a condition hereof, this abandonment is subject to any utilities or communication facilities, including without limitation water and wastewater lines, gas lines, and storm sewers, ("Facilities") presently located within the abandoned area described in Exhibit "A", owned and/or operated by the City of Dallas or any utility or communications company, public or private, ("Utility") and to the rights of any Utility for the use of the abandoned area for its Facilities. It is the intent of the foregoing to confirm and maintain and there is hereby reserved and excepted unto the City of Dallas, and not abandoned or conveyed hereunder, an easement (to which this abandonment is made expressly subject) over, upon, under, through, in, and across the abandoned area for each Utility for its respective Facilities located therein at the time of this abandonment, together with the right to make any subsequent alterations, additions, expansions, upgrades or modifications to such Facilities as may, from time to time be deemed necessary or convenient by the Utility owning and/or operating same. No buildings, structures (above or below ground) or trees shall be constructed or placed within the abandoned area without written consent of each affected Utility. Each Utility shall have the full right to remove and keep removed all or part of any buildings, fences, trees, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective Facilities lying within the abandoned area and shall at all times have the full right of ingress and egress to or from and upon the abandoned area for the purposes of reconstructing, removing, relocating, inspecting, patrolling, maintaining, expanding, upgrading, and/or adding to all or part of its Facilities without the necessity at any time of procuring the permission of anyone. The easement reserved hereunder and the conditions and restrictions to which this abandonment is subject shall remain for the benefit of the applicable Utility and/or operators of the Facilities until said Facilities are removed and relocated from the abandoned area. The relocation, removal or adjustment of any or all such Facilities, if made necessary by GRANTEE'S (whether one or more natural persons or legal entities) use of the abandonment area, shall be at the expense of GRANTEE herein, or GRANTEE'S successors and assigns. Should GRANTEE'S relocation or removal of the Facilities require the obtaining of new easements, the acquisition of same shall be at the expense of GRANTEE, GRANTEE'S successors and assigns. If any of the Facilities (or relocations thereof) are allowed to remain on any part of the abandoned area, the easements and buildings restrictions provided herein shall remain thereon. Upon removal or relocation of all of the Facilities, any easements reserved or created herein relating to such removed or relocated Facilities shall terminate, and any building restrictions herein created shall cease.

ADDENDUM ITEM # 4

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Sustainable Development and Construction

CMO: Mark McDaniel, 670-3256

MAPSCO: 45F K

SUBJECT

An ordinance abandoning a portion of a sidewalk and drainage easement to Arts District Properties, Ltd., the abutting owner, containing approximately 252 square feet of land, located near the intersection of Pearl and Flora Streets - Revenue: $46,053, plus the $20 ordinance publication fee

BACKGROUND

This item is on the addendum because additional review time was required. This item authorizes the abandonment of a portion of a sidewalk and drainage easement to Arts District Properties, Ltd., the abutting owner. The area will be included with the property of the abutting owner for a multi-family development. The abandonment fee is based on an independent appraisal.

Notices were sent to 68 property owners located within 300 feet of the proposed abandonment area. There were two responses received in opposition to this request.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Information about this item will be provided to the Economic Development Committee on March 20, 2017.

FISCAL INFORMATION

Revenue - $46,053, plus the $20 ordinance publication fee

OWNER

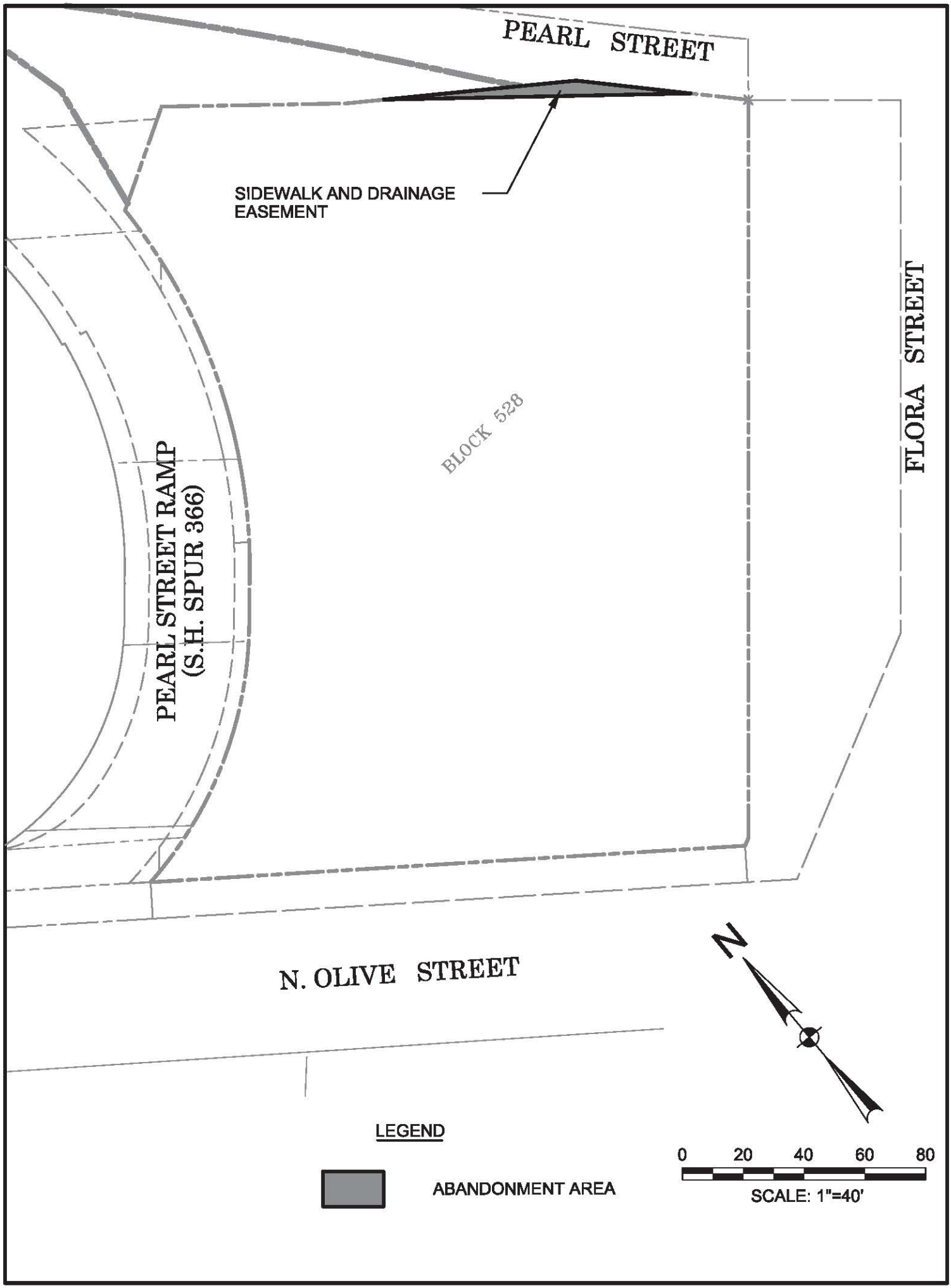
Arts District Properties, Ltd.

Metroarts Corporation, General Partner

Graham Greene, President

MAP

Attached


PEARL STREET
SIDEWALK AND DRAINAGE EASEMENT
FLORA STREET
BLOCK 528
PEARL STREET RAMP (S.H. SPUR 366)
N. OLIVE STREET
N
LEGEND
ABANDONMENT AREA
0 20 40 60 80
SCALE: 1"=40'

ORDINANCE NO. _____

An ordinance providing for the abandonment and relinquishment of a sidewalk and drainage easement, located in and adjacent to City Block 528 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Arts District Properties, Ltd.; providing for the terms and conditions of the abandonment, relinquishment and quitclaim made herein; providing for the conveyance of a new easement, if needed, to the City of Dallas and the relocation of existing facilities; providing for the indemnification of the City of Dallas against damages arising out of the abandonment herein; providing for the consideration to be paid to the City of Dallas; providing a future effective date for the abandonment, relinquishment and quitclaim made herein; providing for the payment of the publication fee; and providing an effective date for this ordinance.

ooo0ooo

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Arts District Properties, Ltd., a Texas limited partnership; hereinafter referred to as **GRANTEE**, deems it advisable to abandon, relinquish and quitclaim the City of Dallas' right, title and interest in and to the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said sidewalk and drainage easement is no longer needed for municipal use, and same should be abandoned, relinquished and quitclaimed to **GRANTEE** as hereinafter provided, for the consideration hereinafter stated; and

WHEREAS, the City Council of the City of Dallas is of the opinion that the best interest and welfare of the City will be served by abandoning, relinquishing and quitclaiming the same to **GRANTEE** for the consideration and subject to the terms and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the City of Dallas hereby abandons and relinquishes all of its right, title and interest in and to the tract of land described in Exhibit A, attached hereto and made a part hereof; subject, however, to the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FORTY SIX THOUSAND FIFTY THREE AND NO/100 ($46,053.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8 and 9, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all its right, title and interest in and to the certain tract or parcel of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, and conditions of this ordinance.

SECTION 4. That the Chief Financial Officer is authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund 0001, Department DEV, Balance Sheet 0519 and Department of Sustainable Development and Construction - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment, relinquishment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise.

SECTION 6. That the terms and conditions contained in this ordinance shall be binding upon **GRANTEE**, its successors and assigns.

SECTION 7. That the abandonment, relinquishment and quitclaim provided for herein shall extend only to that interest the Governing Body of the City of Dallas may legally and lawfully abandon, relinquish and quitclaim.

SECTION 8. That as a condition of this abandonment and as a part of the consideration for the quitclaim to **GRANTEE** herein, **GRANTEE**, its successors and assigns, agree to indemnify, defend, release and hold harmless the City of Dallas as to any and all claims for damages, fines, penalties, costs or expenses to persons or property that may arise out of, or be occasioned by or from: (i) the use and occupancy of the area described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the area set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area described in Exhibit A, which **GRANTEE**, its successors and assigns agree to undertake and complete in accordance with applicable federal, state and local laws and regulations; and (iv) the abandonment, closing, vacation and quitclaim by the City of Dallas of the area set out in Exhibit A. **GRANTEE**, its successors and assigns hereby agree to defend any and all suits, claims, or causes of action brought against the City of Dallas on account of same, and discharge any judgment or judgments that may be rendered against the City of Dallas in connection therewith. For purposes hereof, "Hazardous Substance" means the following: (a) any "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq., as amended; (b) any "hazardous substance" under the Texas Hazardous Substances Spill Prevention and Control Act, TEX. WATER CODE, Section 26.261 et seq., as amended; (c) petroleum or petroleum-based products (or any derivative or hazardous constituents thereof or additives thereto), including without limitation, fuel and lubricating oils; (d) any "hazardous chemicals" or "toxic chemicals" under the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq., as amended; (e) any "hazardous waste" under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., as amended; and (f) any "chemical substance"

under the Toxic Substance Control Act, 15 U.S.C. Section 2601 et seq., as amended. References to particular acts or codifications in this definition include all past and future amendments thereto, as well as applicable rules and regulations as now or hereafter promulgated thereunder.

SECTION 9. That this abandonment, relinquishment and quitclaim of the City's right, title and interest in and to said sidewalk and drainage easement shall not become effective until and unless: (i) the existing installations and facilities are relocated, at **GRANTEE's** expense, to the new easement, if needed, to be provided by **GRANTEE** and acceptable to the Director of Department of Sustainable Development and Construction, as is hereinafter provided; and (ii) plans for the construction and relocation of installations within the new easement are approved by the Director of Department of Sustainable Development and Construction; and (iii) said construction and relocation of installations are completed, approved and accepted in writing by the Director of Department of Sustainable Development and Construction. **GRANTEE** will grant the new easement at no cost consideration to the City and all work shall be done at the sole cost of **GRANTEE** and to the satisfaction of the Director of Department of Sustainable Development and Construction. Failure to relocate to the new easement in accordance with the terms of this section shall render this ordinance null and void and of no further effect.

SECTION 10. **GRANTEE**, acknowledges that Atmos and Southwestern Bell Telephone have facilities in the area described in Exhibit A and shall be responsible to relocate said facilities if conflicts exists.

SECTION 11. That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the Deed Records of Dallas County, Texas, which certified copy shall be delivered to the Director of Department of Sustainable Development and Construction, or designee. Upon receipt of the monetary consideration set forth in Section 2, plus the fee for the publishing of this ordinance, which **GRANTEE** shall likewise pay, the Director of Department of Sustainable Development and Construction, or designee shall deliver to **GRANTEE** a certified copy of this ordinance.

The Director of Department of Sustainable Development and Construction, or designee, shall be the sole source for receiving certified copies of this ordinance for one year after its passage.

SECTION 12. 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:
LARRY E. CASTO
City Attorney

BY _____
Assistant City Attorney

DAVID COSSUM
Director of Department of Sustainable Development and Construction

BY _____
Assistant Director

Passed _____.

EXHIBIT A

SIDEWALK AND DRAINAGE EASEMENT ABANDONMENT
PART OF LOTS 1, 2, AND 3 OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

BEING a 252 square foot (0.0058 acre) tract of land situated in the John Grigsby Survey, Abstract Number 495, City of Dallas, Dallas County, Texas, City of Dallas Block Number 528, and being part of Lots 1, 2 and 3 of A.T. Hensley Addition, an addition to the City of Dallas, as recorded in Volume 90, Pages 274 and 275 of the Deed Records of Dallas County, Texas (D.R.D.C.T), and being part of that tract of land described as Tract II in Special Warranty deed to Arts District Properties, Ltd., as recorded in Volume 98103, Page 66, D.R.D.C.T., and being all of that tract of land described as Tract No. 1 (Sidewalk and Drainage Easement) in Easement deed to City of Dallas as recorded in Volume 85069, Page 2967, D.R.D.C.T., and being more particularly described as follows:

COMMENCING at a point for the northeast corner of said Arts District tract, the most easterly southeast corner of that tract of land described in Agreed Judgment Deed to State of Texas, as recorded in Volume 84020, Page 3739 and the northwest corner of that tract of land described as Tract III of said Arts District Properties, Ltd. deed, and being on the south right-of-way line of Pearl Street (created in Court No. 83-2891-D, Volume 84020, Page 3739, and Volume 78249, Page 3889, D.R.D.C.T., variable width right-of-way) from which an "X" cut found bears North 78 degrees 51 minutes 21 seconds West, a distance of 0.23 of a foot and another "X" cut found bears South 45 degrees 43 minutes 28 seconds East, a distance of 50.00 feet;

THENCE North 39 degrees 19 minutes 54 seconds West, with the common line between said State of Texas tract and said Tract II, a distance of 19.22 feet to a point (not monumented) for the POINT OF BEGINNING, said point being the southeast corner of said easement tract;

THENCE North 46 degrees 54 minutes 30 seconds West, departing said common line and over and across said Tract II, said Lots 1, 2, and 3, and with the south line of said easement tract, a distance of 101.29 feet to a point (not monumented) for corner on said common line, said point being the northwest corner of said easement tract;

THENCE South 51 degrees 22 minutes 13 seconds East, with said common line and with the northwest line of said easement tract, a distance of 64.03 feet to a "Y" cut found for common corner of said State of Texas tract, said easement tract and said Tract II;

THENCE South 39 degrees 19 minutes 54 seconds East, with said common line and with the northeast line of said easement tract, a distance of 37.78 feet to the POINT OF BEGINNING AND CONTAINING 252 square feet or 0.0058 acres of land, more or less.

(For SPRG use only)	
Reviewed By:	A. Rodriguez
Date:	2/27/17
SPRG NO.:	3934

SIDEWALK AND DRAINAGE EASEMENT ABANDONMENT
PART OF LOTS 1, 2, AND 3 OF A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NUMBER 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983. 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.

This metes and bounds description was prepared with an exhibit of even date.

This survey was prepared without the benefit of a title commitment. Easement may exists where none are shown.

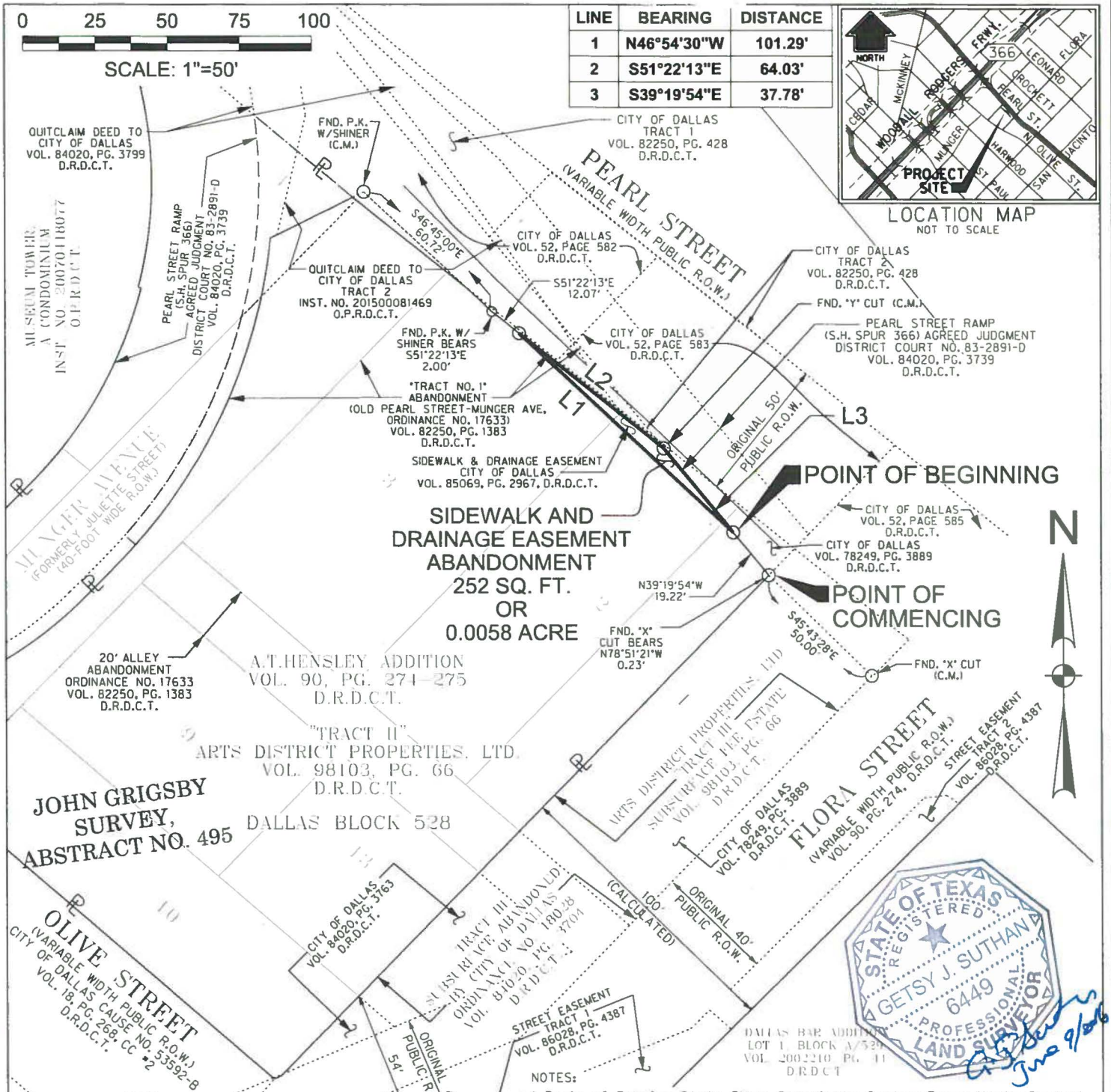
G.J. Suthan June 9/2016



Getsy J. Suthan
Registered Professional Land Surveyor
Texas No. 6449
Halff Associates, Inc.,
1201 North Bowser Rd.
Richardson, Texas 75081
713-588-2466
TBPLS Firm No. 10029600

(For SPRG use only)
Reviewed By: A. Rodriguez
Date: 2/27/17
SPRG NO.: 3934

EXHIBIT A



LEGEND

O	NOT MONUMENTED (UNLESS NOTED)
(C.M.)	CONTROLLING MONUMENT
FIR	FOUND IRON ROD
R.O.W.	RIGHT-OF-WAY
SQ. FT.	SQUARE FEET
VOL. PG.	VOLUME AND PAGE
INST. NO.	INSTRUMENT NUMBER
D.R.D.C.T.	DEED RECORDS DALLAS COUNTY, TEXAS
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORD DALLAS COUNTY, TEXAS
— — — —	EASEMENT LINE
— — — —	LOT LINE
PL	PROPERTY LINE
CC	COUNTY COURT

NOTES:

1. Basis of Bearing: State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, 2011 Adjustment, Epoch 2010.00. All coordinates and distances shown hereon are US Survey Feet, displayed in surface values and may be converted to grid by dividing by the TxDOT Surface Adjustment Factor of 1.000136506.
2. This exhibit was prepared with a metes and bounds description of even date.
3. This survey was prepared without the benefit of a title commitment.

(For SPRG use only)

Reviewed By: A. Rodriguez

Date: 2/27/17

SPRG NO.: 3934

SIDEWALK AND DRAINAGE EASEMENT ABANDONMENT
PART OF LOTS 1, 2, AND 3 OF
A.T. HENSLEY ADDITION
CITY OF DALLAS BLOCK NUMBER 528
SITUATED IN THE
JOHN GRIGSBY SURVEY, ABSTRACT NO. 495
CITY OF DALLAS, DALLAS COUNTY, TEXAS

HALFF
TBPLS FIRM NO. 10029600
HALFF ASSOCIATES, INC. ENGINEERS ~ SURVEYORS
1201 NORTH BOWSER ROAD ~ RICHARDSON, TEXAS ~ 75081-2275
SCALE: 1"=50 (214)346-6200 AVO. 30735 JANUARY, 2017

2/23/2017 12:54:56 PM ah2472 HALFF I:\30000s\30735\CADD\Sheets\S01\EXH-SIDEWALK EASEMENT-30735.DGN Sheet 25_IRC5240_MON_FS_FW_CR.plt

REVISED AGENDA ITEM # 22

KEY FOCUS AREA: Culture, Arts and Recreation and Educational Enhancements

AGENDA DATE: March 22, 2017

COUNCIL DISTRICT(S): 14

DEPARTMENT: Park & Recreation

CMO: Willis Winters, 670-4071

MAPSCO: 45-L

SUBJECT

Authorize **(1)** approval of the terms for the Development Agreement between the Pacific Plaza LLC and Parks for Downtown Dallas collectively the "Developer" and the City for the design and construction of a public park currently named Pacific Plaza; **(2)** approval of an Operating Endowment Agreement between the City and Developer; and **(3)** recommendation to City Council for approval of both the Development and Operating Endowment Agreements, as approved as to form by the City Attorney's Office - Financing: No cost consideration to the City

BACKGROUND

Pacific Plaza was identified as one of three proposed core park sites in the 2004 Downtown Parks Master Plan, which was adopted by the Park and Recreation Board and City Council in 2004. Five tracts of land, totaling 3.2 acres, were purchased in partnership with the Trust for Public Land ("TPL") between 2005 and 2008 for $9.1M. The land is currently used as a surface parking lot with approximately 300 spaces leased to the Parking Company of America. This lease can be terminated without cause prior to the commencement of construction.

In 2013, the Park and Recreation Department updated the 2004 Downtown Parks Master Plan (with funding provided by The Belo Foundation and Maureen H. and Robert W. Decherd) and again identified Pacific Plaza as one of four priority parks to be developed for the citizens of Dallas. The Belo Foundation, which funded the development of Belo Garden in 2012, and the schematic and design development plan for Carpenter Plaza in 2015, was renamed Parks for Downtown Dallas (PfDD) in October 2015. Parks for Downtown Dallas has also funded the conceptual plan for the proposed Harwood Park in 2016.

BACKGROUND (Continued)

For Pacific Plaza, the Developer funded a schematic design and the Live Oak Street closure traffic study at a cost of $476,000. Schematic design was undertaken by SWA, landscape architects, between March and October 2016, incorporating input from three public input meetings, two held on March 29, and one on September 22. The Park and Recreation Board approved the schematic design agreement with Developer on June 2, 2016, and a final schematic plan was provided to the Park and Recreation Department in October 2016.

On December 7, 2016, the Developer offered to fund the construction of Pacific Plaza without any financial contribution from the City of Dallas, from a future bond program. On December 15, 2016 Park and Recreation Board unanimously authorized staff to enter into final negotiations with the Developer for a development agreement and an endowment agreement to provide supplemental funding for the annual operation and maintenance of Pacific Plaza.

This agenda item action will authorize a Development Agreement with the Developer for the design and development of the proposed Pacific Plaza and an ~~Operation~~ Operating Endowment Agreement. This 3.2 acre park will enhance the quality of life for those who live, work, and visit downtown Dallas. The establishment of this park, in association with other downtown parks, will help stimulate economic development in the downtown area.

The Development Agreement will be subject to the following terms:

1. Developer will fund improvements up to $15 million.
2. Developer will manage the design and construction of improvements at Pacific Plaza and will be subject to the City Representative's (Park and Recreation Department Director) review and approval.
3. Development agreement commences on execution and terminates one year after completion of construction and issuance of final acceptance letter from the City.
4. Required environmental clean-up of site, if needed, shall be the responsibility of the City, with an amount not to exceed $2M.
5. Any contracts entered into by the Developer under agreements for design or construction of the park shall (1) contain insurance provisions with limits acceptable to the City; (2) release, indemnify and hold the City harmless; (3) obligate the contractor or firm to comply with all applicable state, federal, and local laws; and (4) comply with the City's Business Inclusion and Development Plan (BID Plan) to facilitate M/WBE participation.
6. City representative will review and approve design development and construction documents, and the City representative has right to inspect construction.
7. After completion of construction and acceptance by the City representative, Pacific Plaza will be turned over to the City for maintenance and operation.

BACKGROUND (Continued)

The Development Agreement will be subject to the following terms: (continued)

8. There is no connection to, or contingency based upon future bond program match funding.
9. There is a proposed separate Operating Endowment Agreement that addresses the establishment by the Developer of a $1M permanent endowment fund for Pacific Plaza.
10. Naming Rights (these are also included in the separate Operating Endowment Agreement):
11. Developer reserves the right to name the Park if name is other than Pacific Plaza, subject to the approval of the Park and Recreation Board.
12. Developer is authorized to solicit contributions from donors for naming rights.
13. If another donor provides a minimum of $10M, unless a different amount is agreed between the parties, to name the Park~~.~~, then the Park name will be subject to Developer and Park and Recreation Board approvals.
14. Components of the Park can be named subject to Developer and Park and Recreation Board approvals.
15. Naming rights proceeds, if raised, will be used only for Downtown Parks – first for construction of the four new priority parks (Pacific Plaza, Carpenter Plaza, Harwood Park and West End Plaza) and then for permanent endowments benefiting new or existing Downtown parks.

The Operating Agreement will be subject to the following terms:

1. Developer will deposit $1M in a separate account upon execution of the Agreement.
2. Funds will be maintained by the Developer.
3. On an annual basis, 4.5% of the fund as of December 31 will be disbursed to the City on October 1 of the following year once Park has been declared complete by Developer and the City.
4. The 4.5% distribution may be used to offset expenses related to the day-to-day operations and maintenance of Pacific Plaza.
5. The duration of the Operating Endowment Agreement commences on execution and will terminate when all funds in the operating endowment account are expended.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The Park and Recreation Board was briefed on the development status of Pacific Plaza on December 5, 2013, May 22, 2014, and August 7, 2014.

The Park and Recreation Board was briefed on February 18 and October 20, 2016 on Downtown Parks, including Pacific Plaza.

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

The Park and Recreation Board approved the schematic design agreement on June 2, 2016.

On December 15, 2016, Park and Recreation Board unanimously authorized staff to enter into final negotiations with Developer for (1) a Development Agreement and (2) an Operating Endowment Agreement to offset funding for the annual operation and maintenance of Pacific Plaza.

The Park and Recreation Board was briefed on February 16, 2017 on the proposed deal points for the Development Agreement and Operating Endowment Agreement.

On February 23, 2017, the Park and Recreation Board authorized the terms of the ~~d~~D evelopment ~~a~~Agreement and Operating Endowment Agreement.

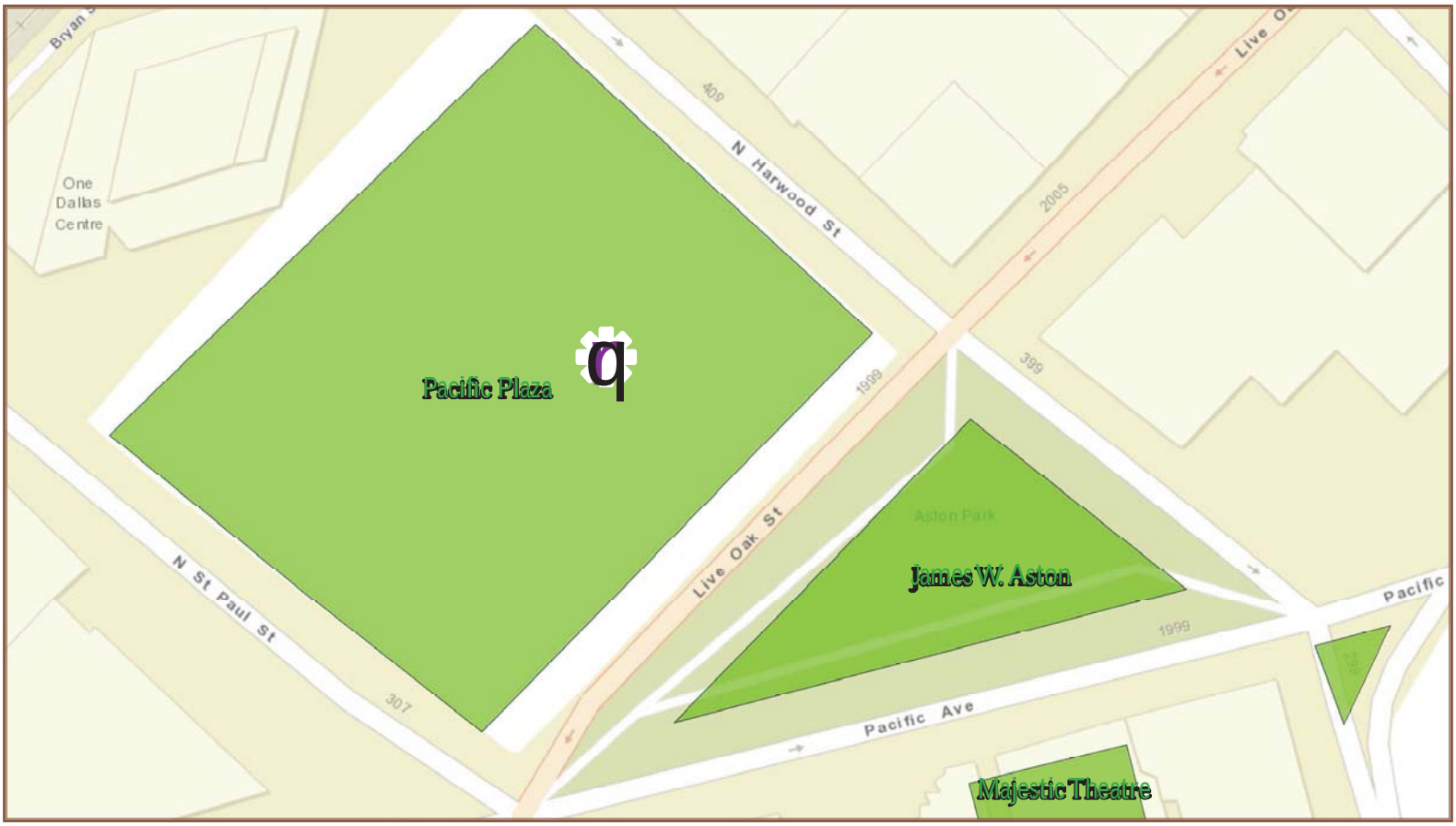
Information about this item will be provided to the Arts, Culture & Libraries Committee on March 20, 2017.

FISCAL INFORMATION

This action has no cost consideration to the City. Pacific Plaza LLC ("Pacific LLC") will provide 100% funding to develop Pacific Plaza.

MAP

Attached



0 25 50 100 150 Feet

February 23, 2017

Pacific Plaza
(401 North Harwood Street)

Mapsco
45 L

District
14

March 22, 2017

WHEREAS, the City Charter provides for the Park and Recreation Board to grant contracts and agreements within park facilities with such terms and conditions as it shall deem proper; and

WHEREAS, the City of Dallas Park and Recreation Department (City) and Pacific Plaza, LLC (Pacific LLC) and Parks for Downtown Dallas (PfDD Foundation), collectively the "Developer", desires to enter into a (1) Development Agreement and (2) ~~Operation~~ Operating Endowment Agreement for fundraising, designing, constructing, and providing an operating endowment for Pacific Plaza; and

WHEREAS, the City desires to have Developer design and construct park improvements and manage an operating endowment to offset operating and maintenance expenses at Pacific Plaza during the Term of the Agreements for use and enjoyment of all city of Dallas citizens.

WHEREAS, upon final acceptance of the completed park by the City, the park and its use shall be deemed to be a dedicated park under applicable law.

Now, Therefore,

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

Section 1. That the President of the Park and Recreation Board and the City Manager are hereby authorized to execute (1) a Development Agreement and (2) an Operating Endowment Agreement with the Developer for the development and operating endowment for Pacific Plaza.

Section 2. That the duration of the Development Agreement will commence on execution and terminate one year after completion of construction and issuance of final acceptance letter from the City.

Section 3. That the duration of the Operating Endowment Agreement will commence on execution and terminate when all funds in the Operating Endowment Account are expended.

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.