

**JANUARY 13, 2010 CITY COUNCIL ADDENDUM
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated January 13, 2010. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



Mary K. Suhm
City Manager



Date



Edward Scott
City Controller



Date

**ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, JANUARY 13, 2010
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TX 75201
9:00 A.M.**

RECEIVED

2010 JAN -8 AM 10:35

CITY SECRETARY
DALLAS, TEXAS

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 - 46

CONSENT ADDENDUM

Items 1 - 4

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier
than 9:30 a.m.

Items 47 - 55
Addendum Items 5 - 6

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m.

Items 56 - 69
Addendum Items 7 - 8

**ADDENDUM
CITY COUNCIL MEETING
JANUARY 13, 2010
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.)

- April Gilliland, et al. v. City of Dallas, Civil Action No. 3:09-CV-2137-N
- Legal issues involving enforcement of the City's sign ordinance

CONSENT ADDENDUM

Business Development & Procurement Services

1. Authorize **(1)** the trade-in of sixty-six pickup trucks; and **(2)** acceptance of sixty-six 2010 model year pickup trucks for fleet vehicle replacements at zero cost consideration and a revenue amount of \$131,630 - Friendly Chevrolet Co., highest responsible bidder of three - Revenue: \$131,630

Civil Service

2. Authorize **(1)** a six-month extension of three contracts for Administrative Law Judges (ALJ) for Willie Crowder, Kimberly Lonergan and William Messer for the period of January 1, 2010 through June 30, 2010 to hear employee appeals of terminations and demotions; and **(2)** contracts with each ALJ in the amount of \$3,000 each - Total not to exceed \$9,000 - Financing: Current Funds (\$4,500 to be reimbursed by appealing employees)

Sustainable Development and Construction

3. An ordinance granting a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street - Z089-173 - Financing: No cost consideration to the City

Water Utilities

4. Authorize a contract for the construction of erosion control at Faulkner Point - BAR Constructors, Inc., lowest responsible bidder of nine - Not to exceed \$2,396,635 - Financing: Water Utilities Capital Improvement Funds

**ADDENDUM
CITY COUNCIL MEETING
JANUARY 13, 2010**

ADDITIONS: (Continued)

ITEMS FOR INDIVIDUAL CONSIDERATION

Office of Financial Services

5. An ordinance granting a franchise to Atmos Energy Corporation for a term of fifteen years to provide gas utility services within the City and providing for compensation - Estimated Annual Revenue: \$12,000,000

DESIGNATED PUBLIC SUBSIDY MATTERS

Economic Development

6. Authorize the Dallas Development Fund (DDF) to accept a New Markets Tax Credit (NMTC) allocation from the United States Treasury Department's Community Development Financial Institutions (CDFI) Fund and enter into an allocation agreement with the CDFI Fund - Financing: No cost consideration to the City

PUBLIC HEARINGS AND RELATED ACTIONS

Sustainable Development and Construction

ZONING CASES - CONSENT

7. A public hearing to receive comments regarding an application for and an ordinance granting an amendment to Planned Development District No. 166 for a College, Private school, Multiple-family residential uses, and the Establishment for the care of alcoholic, narcotic, or psychiatric patients, on property on the west side of La Prada Drive, south of Blythe Drive
Recommendation of Staff and CPC: Approval, subject to an Area 1 development plan/Area 2 conceptual plan and conditions, and approval of rescinding the existing development plan
Z090-104(RB)

DESIGNATED ZONING CASES - INDIVIDUAL

8. A public hearing to receive comments regarding consideration of amendments to the Downtown Special Provision Sign District to allow for one midlevel premise sign for every 100 feet in building height in an area generally bounded by Woodall Rogers to the north, Interstate 45/US 75 to the east, Interstate 30/R.L. Thornton to the south and Interstate 35/Stemmons Freeway to the west
Recommendation of Staff and CPC: Approval
SPSD090-001

**ADDENDUM
CITY COUNCIL MEETING
JANUARY 13, 2010**

DELETION:

Sustainable Development and Construction

48. Authorize a zoning application on property with delinquent taxes located at 3606 and 3610 Bryan Street - Financing: No cost consideration to the City

ADDENDUM DATE January 13, 2010

ITEM	IND								DESCRIPTION
#	OK	DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	
1			All	C	PBD, EBS, WTR	REV \$131,630	NA	NA	Authorize the trade-in of sixty-six pickup trucks and acceptance of sixty-six 2010 model year pickup trucks for fleet vehicle replacements at zero cost consideration
2			N/A	C	CVS	\$4,500.00	NA	NA	Authorize a six-month extension of three contracts for Administrative Law Judges (ALJ) for Willie Crowder, Kimberly Lonergan and William Messer for the period of January 1, 2010 through June 30, 2010, to hear employee appeals of terminations and demotions and contracts with each ALJ in the amount of \$3,000 each
3			14	C	DDS	NC	NA	NA	An ordinance granting a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street (Z089-173)
4			Outside	C	WTR	\$2,396,635.00	47.56%	46.63%	Authorize a contract for the construction of erosion control at Faulkner Point
5			N/A	I	OFS	REV \$12,000,000	NA	NA	An ordinance granting a franchise to Atmos Energy Corporation for a term of fifteen years to provide gas utility services within the City and providing for compensation
6			1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15	I	ECO	NC	NA	NA	Authorize the Dallas Development Fund (DDF) to accept a New Markets Tax Credit (NMTC) allocation from the United States Treasury Department's Community Development Financial Institutions (CDFI) Fund and enter into an allocation agreement with the CDFI Fund
7			7	PH	DDS	NC	NA	NA	A public hearing to receive comments regarding an application for and an ordinance granting an amendment to Planned Development District No. 166 for a College, Private school, Multiple-family residential uses, and the Establishment for the care of alcoholic, narcotic, or psychiatric patients, on property on the west side of La Prada Drive, south of Blythe Drive
8			2, 14	PH	DDS	NC	NA	NA	A public hearing to receive comments regarding consideration of amendments to the Downtown Special Provision Sign District to allow for one midlevel premise sign for every 100 feet in building height in an area generally bounded by Woodall Rogers to the north, Interstate 45/US 75 to the east, Interstate 30/R.L. Thornton to the south and Interstate 35/Stemmons Freeway to the west

TOTAL \$2,401,135.00

ADDENDUM ITEM # 1

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

AGENDA DATE: January 13, 2010

COUNCIL DISTRICT(S): All

DEPARTMENT: Business Development & Procurement Services
Equipment & Building Services
Water Utilities

CMO: Dave Cook, 670-7804
Forest E. Turner, 670-3390
Ryan S. Evans, 670-3314

MAPSCO: N/A

SUBJECT

Authorize **(1)** the trade-in of sixty-six pickup trucks, and **(2)** acceptance of sixty-six 2010 model year pickup trucks for fleet vehicle replacements at zero cost consideration and a revenue amount of \$131,630 - Friendly Chevrolet Co., highest responsible bidder of three - Revenue: \$131,630

BACKGROUND

This transaction will enable the City to upgrade to current model year vehicles by trading in sixty-six 2005 and 2006 trucks and receive the same number of new model year trucks from General Motors (GM). Making this transaction possible is a GM initiative launched to buy back hybrid trucks sold during the 2005 and 2006 model year. GM's purpose for this initiative is to evaluate different components of the trucks in an effort to make improvements to hybrid systems being developed for future products.

In an effort to make this initiative beneficial to GM customers, GM's incentive program included a current model year replacement vehicle for each trade-in and a cash rebate based on the mileage of the trade-in. The vehicles submitted by the City qualified for current model year replacements, which is a 2010 Silverado Extended Cab and a total cash rebate totaling \$131,630.00 This transaction is a zero cost consideration to the City resulting in a net revenue.

Environmental Protection Agency has implemented a rating system for vehicle emissions. The system is one to ten with ten being the best. The trade-in trucks were rated at 3 and the new trucks being received are rated at 5.

Departments receiving equipment in this purchase include: Code Compliance, Developmental Services, Dallas Police Department, Water Utilities, Equipment and Building Services, Public Works, Park and Recreation and Street Services.

BACKGROUND (Continued)

CCS – Code Compliance will receive 5 units as follows:
5 pickups

The 5 pickups will replace units 5 years old and will be used by inspectors in their daily activities.

DEV – Developmental Services will receive 13 units as follows:
13 pickups

The 13 pickups will replace units 5 years old and will be used by building inspectors throughout the City.

DPD – Police Department will receive 6 units as follows:
6 pickups

The 6 pickups will replace units 5 years old and will be used by patrol divisions.

DWU – Water Utilities will receive 18 units as follows:
18 pickups

The 18 pickups will replace units ranging in age from 4 to 5 years old and will be used by staff in their daily activities.

EBS – Equipment and Building Services will receive 7 units as follows:
7 pickups

The 7 pickups will replace units 5 years old. Five will be used by Building Services staff in the repair and maintenance of City facilities. Two will be used by Equipment Services, Service Centers.

PBW – Public Works and Transportation will receive 6 units as follows:
6 pickups

The 6 pickups will replace units ranging in age from 4 to 5 years old and will be used in the repair and maintenance of signals and markings.

PKR – Park and Recreation 5 units as follows:
5 pickups

The 5 pickups will replace units 5 years old and will be used by staff in their daily activities.

BACKGROUND (Continued)

STS – Street Services will receive 6 units as follows:
6 pickups

The 6 pickups will replace units 5 years old and will be used by staff in their daily activities.

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 505 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, notifications were sent by the BDPS' ResourceLINK Team (RLT) to 25 chambers of commerce, the DFW Minority Business Council and the Women's Business Council - Southwest, to ensure maximum vendor outreach.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSION)

This item has no prior action.

FISCAL INFORMATION

\$131,630.00 – Revenue

M/WBE INFORMATION

- 30 - Vendors contacted
- 30 - No Responses
- 0 - Response (bid)
- 0 - Response (no bid)
- 0 - Successful

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

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

Friendly Chevrolet Co.

White Female	12	White Male	62
Black Female	2	Black Male	16
Hispanic Female	4	Hispanic Male	35
Other Female	0	Other Male	0

BID INFORMATION

The following bid was received from solicitation number BP1013 and was opened on December, 17, 2009. This purchase is being awarded in its entirety to the lowest responsive and responsible bidder.

*Denotes successful bidder

<u>Bidders</u>	<u>Address</u>	<u>Amount of Bid</u>
*Friendly Chevrolet Co.	2754 N. Stemmons Dallas, TX 75207	(\$131,630.00)
Caldwell Country Chevrolet	800 Hwy. 21 East Caldwell, TX 77836	\$281,797.00
Sam Pack's Five Star Ford	1635 S. I-35E Carrollton, TX 75006	\$284,014.00

OWNER

Friendly Chevrolet Co.

Mark A. Eddins, President

January 13, 2010**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

Section 1. That the City Manager is authorized to trade-in sixty-six pickup trucks and acceptance of sixty six 2010 model year pickup trucks for fleet vehicle replacements at zero cost consideration with Friendly Chevrolet Co. (004813) and a revenue amount of \$131,630.00, upon approval as to form by the City Attorney.

Section 2. That the City Controller is authorized to deposit all revenues received from Friendly Chevrolet Co. as follows:

<u>Fund</u>	<u>Dept</u>	<u>Unit</u>	<u>Revenue Source</u>	<u>Amount</u>
0196	EBS	1721	8413	\$118,858.00
0100	DWU	7005	8428	\$ 12,772.00

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.

DISTRIBUTION:

Business Development and Procurement Services, 3FN
Equipment & Building Services

ADDENDUM ITEM # 2

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

AGENDA DATE: January 13, 2010

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Civil Service

CMO: Mary K. Suhm, 670-5306

MAPSCO: N/A

SUBJECT

Authorize **(1)** a six-month extension of three contracts for Administrative Law Judges (ALJ) for Willie Crowder, Kimberly Lonergan and William Messer for the period of January 1, 2010 through June 30, 2010, to hear employee appeals of terminations and demotions; and **(2)** contracts with each ALJ in the amount of \$3,000 each - Total not to exceed \$9,000 - Financing: Current Funds (\$4,500 to be reimbursed by appealing employees)

BACKGROUND

The City Charter was amended August 12, 1989, to establish the Administrative Law Judge alternative to the Trial Board. The employee has the option of an Administrative Law Judge or Trial Board. ALJs have either five years experience adjudicating personnel issues or three years as a licensed attorney in the state of Texas and are compensated \$400 per day, with the appealing employee paying half of this amount. ALJ hearings are conducted to provide a due process hearing for discharged or demoted City employees. The ALJ hears sworn testimony, reviews documentary evidence and renders a decision following the same hearing procedures as used by the Trial Board.

The Dallas City Council passed Ordinance No. 22612 on December 6, 1995, to empower the Judicial Nominating Commission to recruit, interview, and nominate not fewer than three nor more than five candidates to serve as Administrative Law Judges for Council approval.

BACKGROUND Continued

The Judicial Nominating Commission conducted interviews in connection with its required evaluation of Administrative Law Judges on Thursday, November 29, 2007. Four requested reappointment, one was not recommended for reappointment and the fifth position is vacant. The Judicial Nominating Commission voted to recommend three current Administrative Law Judges for reappointment.

Four ALJ contracts expired December 31, 2007. Three ALJs are reappointments.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On December 13, 1989, the City Council authorized Personnel Rules revision to implement the Administrative Law Judge option for employee appeal hearings by Ordinance No. 20526.

On October 23, 1991, the City Council authorized an increase in the term of appointment from one year to two years by Ordinance No. 21091.

On December 6, 1995, the City Council authorized placing the selection responsibilities with the Judicial Nominating Commission by Ordinance No. 22612.

FISCAL INFORMATION

\$9,000 - Current Funds (\$4,500 to be reimbursed by the appealing employees)

ETHNIC COMPOSITION

African-American Females	1	African-American Males	0
Hispanic Females	0	Hispanic Males	0
Caucasian Females	1	Caucasian Males	1
Other Females	0	Other Males	0

Individuals recommended by the Judicial Nominating Commission are as follows:

Willie Crowder - African-American Female
4039 Oak Arbor, Dallas, Texas 75233

Kimberly Lonergan - Caucasian Female
10050 Caribou Trail, Dallas, Texas 75238

William A. Messer - Caucasian Male
6351 Preston Road, Suite 350, Frisco, Texas 75034

January 13, 2010

WHEREAS, the contract term for three Civil Service Administrative Law Judges (ALJs) expires December 31, 2009; and

WHEREAS, the three existing contracts should be extended for six months until the full recruitment process has been completed.

NOW THEREFORE,

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

Section 1. That the City Council authorize a six-month extension of three contracts for Administrative Law Judges (ALJ), Willie Crowder, Kimberly Lonergan and William Messer for the period of January 1, 2010 through June 30, 2010, to hear employee appeals of terminations and demotions.

Section 2. That following approval as to form by the City Attorney, the City Manager is hereby authorized to execute an extension of the contract of appointment with each of the Administrative Law Judge appointees setting out the terms of appointment and providing compensation at a rate of \$400 per day worked, total contract amount not to exceed \$3,000 per judge. Appealing employees will pay 50% of all ALJ contracts.

Section 3. That the City Controller is hereby authorized to pay from Fund 0001, Department CVS, Unit 1412, Object Code 3070, Kimberly Lonergan, Encumbrance No. CT CVS1412C543, \$3,000, Vendor Code 350166; Willie Crowder, Encumbrance No. CT CVS1412C544, \$3000, Vendor Code 351467; and William Messer, Encumbrance No. CT CVS1412C545, \$3,000, Vendor Code 356301; Not to exceed \$3,000 per vendor.

Section 4. That the City Controller is hereby authorized to deposit into Fund 0001, Department CVS, Unit 1412, Revenue Code 7456, all fees collected as a result of appeal hearings before an Administrative Law Judge.

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

Distribution:

Civil Service Department

Office of Financial Services, Edward Scott, 4BN

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: January 13, 2010
COUNCIL DISTRICT(S): 14
DEPARTMENT: Sustainable Development and Construction
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 45 K

SUBJECT

An ordinance granting a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street - Z089-173 - Financing: No cost consideration to the City

BACKGROUND

The City Council, on June 24, 2009, approved a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street for a 40 year time period subject to a site plan and conditions and asked that the ordinance be brought back when the ordinance for the license was scheduled for consideration by Council. The ordinance to grant a 40 year license is on the January 13, 2010, Council agenda.

PRIOR ACTION / REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 14, 2009, the City Plan Commission recommended approval of a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street for a 40 year time period subject to a site plan and conditions.

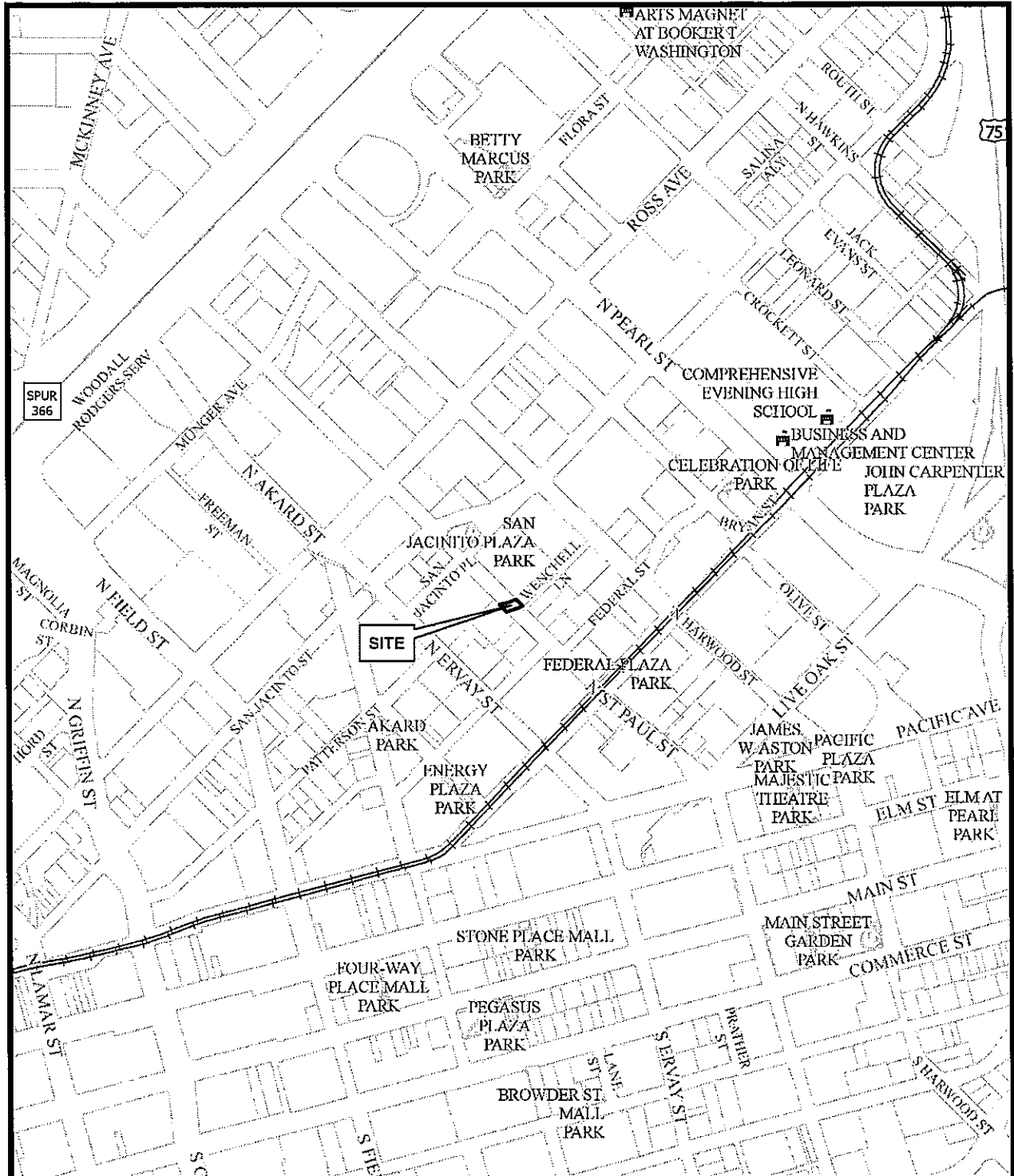
On June 24, 2009, the City Council approved a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay on North St. Paul Street between Federal Street and San Jacinto Street for a 40 year time period subject to a site plan and conditions and asked that the ordinance be brought back when the ordinance for the license was scheduled for consideration by Council.

FISCAL INFORMATION

No cost consideration to the City.

MAP

Attached.



↑
1:6,000

VICINITY MAP

Map no: J-7
Case no: Z089-173 MAW

DATE: April 09, 2009

GIS Tech: SHolyoak

FILE NUMBER: Z089-173(MAW)

DATE FILED: March 2, 2009

LOCATION: North St. Paul Street between Federal Street and San Jacinto Street

COUNCIL DISTRICT: 14

MAPSCO: 45-K

SIZE OF REQUEST: ± 2,283 square feet

CENSUS TRACT: 21

REPRESENTATIVE: Jonathan Vinson, Jackson Walker L.L.P.

APPLICANT/OWNER: First Baptist Church of Dallas

REQUEST: An application for a Specific Use Permit for a pedestrian skybridge on property zoned a CA-1(A) Central Area-1 District with an SP Pedestrian Overlay

SUMMARY: The applicant proposes to construct a pedestrian skybridge across the North St. Paul Street right-of-way connecting property owned by the applicant on both sides.

CPC RECOMMENDATION: Approval for a 40-year time period; subject to a site plan and conditions.

STAFF RECOMMENDATION: Approval for a 40-year time period; subject to a site plan and conditions.

List of Partners/Principals/Officers

FIRST BAPTIST CHURCH OF DALLAS

Officers and Directors

<u>Name</u>	<u>Title</u>
David Brewer	Chairman of the Deacons
John Thomas	Vice-Chairman of the Deacons
Matthew Elias	Deacon Secretary
Rev. Walter Guillaume	Church Treasurer, Executive Pastor
Dr. Robert Jeffress	Senior Pastor
Sherryn Cates	Business & Facilities Administrator

(See attached list of 2009 Deacons)

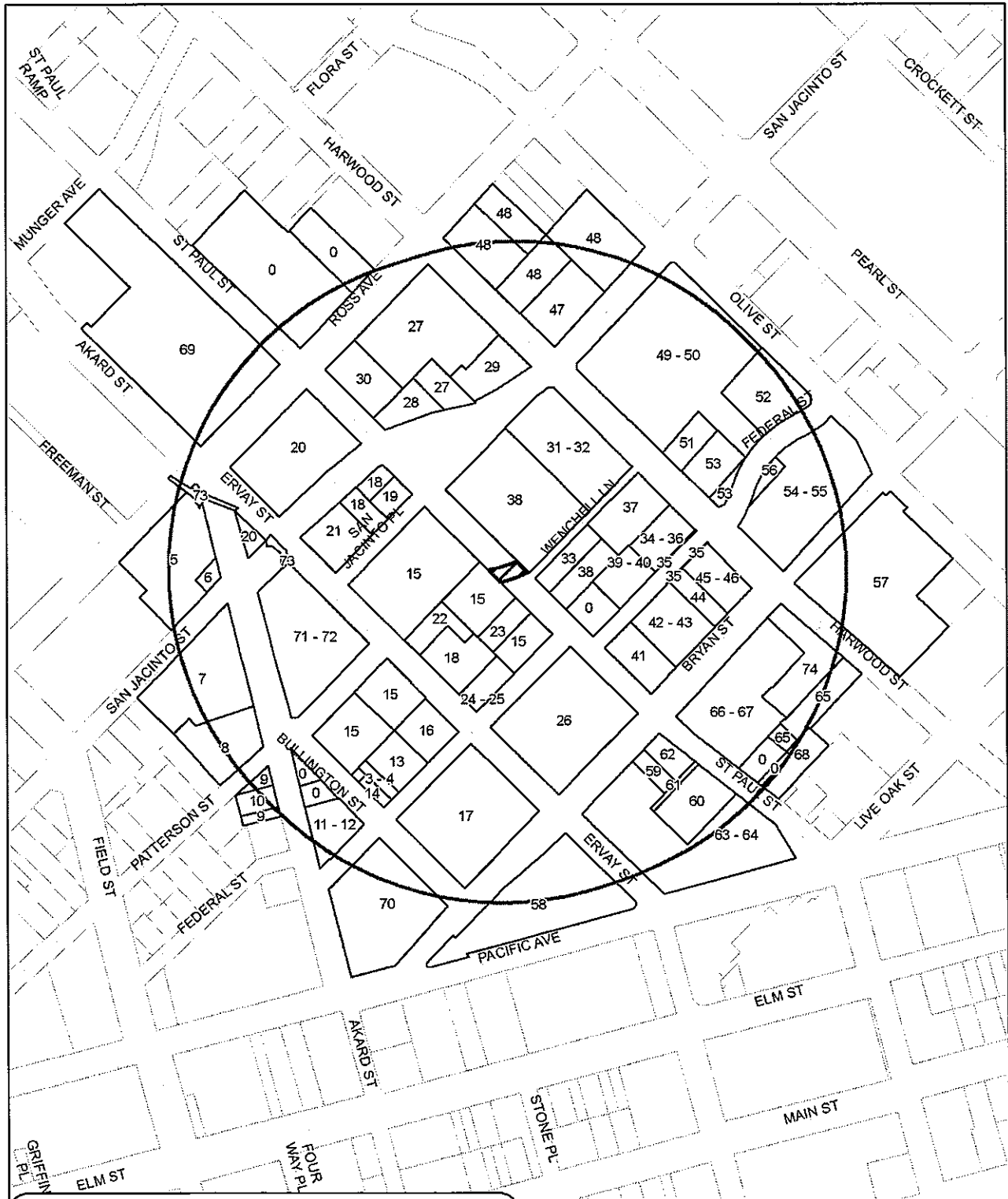
2089-173



2009 Active Deacons

Adkins, Douglas (71)	Farish, Phil (96)	Ratcliff, Harold (80)	Wilpitz, Wayne (76)
Allen, John (99)	Farrow, Ed (70)	Ratzlaff, Harvey (80)	Winckler, Haddon (76)
Anderson, Ron (09)	Faulhaber, Keith (96)	Rawls, Ed (80)	Woodward, Alson (77)
Arnold, David (75)	Flagg, Neal (90)	Roberts, Jimmy (63)	Yates, Ed (60)
Ashley, Scottie (82)	Forester, David (76)	Robinson, Douglas (75)	York, Dennis (72)
Aurbach, Fred (78)	George, Jim (07)	Robinson, Jeff (96)	
Baker, Scott (09)	Gibson, Gene (85)	Rodriguez, David (09)	
Bearden, Taber (83)	Gooch, Roland	Rogers, Del (73)	
Beazley, Robert (75)	Grisham, Robert (90)	Rogers, Orville (53)	
Bentley, Clarence (56)	Halcomb, Jerry L. (76)	Schmitt, Allan	
Berry, Burt (81)	Hargrove, Alan (87/08)	Sewell, Glenn (00)	
Bolin, Carl B. (68)	Hayes, Daniel (09)	Sexton, Bo	
Boone, Paul (03)	Hearon, Kyle (91)	Sexton, Scott (03)	
Bradley, C. Randall (74)	Hearon, M. Heard (81)	Shanahan, Ralph (85)	
Brady, Jack (63)	Hecht, Ed (60)	Shoemate, Jack (09)	
Branch, Boyd (75)	Hollingsworth, Charles (76)	Skinner, James (85)	
Brewer, David (96)	Horner, Andrew (65)	Smith, Jack (77)	
Brophey, Mike (00)	Hunt, Bill (68)	Smith, Royal (66)	
Brown, Richard (87)	Hunter, Troy (72)	Stephenson, Scott (97)	
Bryant, Marc (01)	Jennings, Charles (81)	Stevenson, Jim	
Bryant, Mike (84)	Johnson, Ed (07)	Stewart, Kelly (05)	
Buford, Philip (99)	Jones, Kent (01)	Tandy, Charles (66)	
Bullard, Jack (96)	Just, Brad (04)	Taylor, David (64)(09)	
Burks, Michael (08)	Just, Loren (76)	Taylor, John (97)	
Burnham, Eugene (01)	Kendall, Gary (09)	Taylor, Mark (91)	
Burroughs, Mark (90)	Klein, Stan (81)	Taylor, Paul (86)	
Byrum, Alex (09)	Laycock, Royce (81)	Thomas, John (91)	
Campbell, Robby (66)	Leeds, DeWayne (80)	Thornton, Homer D. (71)	
Canon, Val (87)	LeRoux, Phil (85)	Treadway, Lee Roy (81)	
Casey, Daryl (99)	Lockhart, James (91)	Trull, Michael (78)	
Cason, Dick (61)	Lovvorn, Mark (84)	Tucker, Charles R. (77)	
Chancellor, Don (63)	Madeley, Paul (81)	Tucker, Steve (03)	
Cherry, Wayne (81)	Magers, Mike (87)	Turner, Jerry (05)	
Clements, Dick (71)	Martin, Fred (89)	Usrey, David (91)	
Collins, Charles (96)	McLaughlin, Larry (82)	Vanderslice, John (84)	
Crossman, Steve (09)	Merrill, Eugene (84)	Vick, Dale (08)	
Cullen, John (03)	Metcalfe, Don (75)	Vickers, Charles (91)	
Cummins, Roddy (89)	Mitchell, Thomas H. (81)	Volbeda, Michael (09)	
Davis, Don (90)	Mulkey, Wayne (09)	Wade, James (91)	
Davis, Jewell (71)	Naramore, Bill (09)	Wallace, Chris (08)	
Deahl, Mike (88)	Newman, Bob (99)	Wang, Peter (01)	
Donaldson, Gordon (09)	Noah, Terry (95)	Warrington, Dan (03)	
Dorough, Tom (82)	Oates, Charles (00)	Wells, Don (94)	
Dorough, John (05)	Osburn, Robert H. (82)	White, Robert E. (85)	
Dunkin, Jim (96)	Peterson, Jr., Sam (09)	Whitehurst, Milton (07)	
Ehrler, Jack (66)	Peterson, Sam (81)	Wicker, David (60)	
Eklund, Kirk (01)	Pleasants, Scott (03)	Wicker, Jay (97)	
Elias, Matthew (98)	Pfifer, Randall (91)	Wickham, Hugh (80)	
Emmick, Robert (07)	Pokladnik, Milton (82)	Willis, Tom (99)	
Erwin, Jim (64)	Pulley, Ralph W. (60)	Willmon, Jim (09)	
Ewing, David (00)	Pulley, Tom (07)	Wilpitz, Scott (87)	
Farell, Dan (07)			

CPC Responses



<u>74</u>	Property Owners Notified (86 parcels)
<u>0</u>	Replies in Favor (0 parcels)
<u>0</u>	Replies in Opposition (0 parcels)
<u>750'</u>	Area of Notification
<u>05/14/2009</u>	Date <u>05/07/2009</u> Under Advisement

Z089-173
J-7
CPC

N
W E
S
1:3,600

Notification List of Property Owners

Z089-173

74 Property Owners Notified 0 Property Owners Opposed 0 Property Owners in Favor

<i>Vote</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	510	BULLINGTON	JAGGI LEWIS L JR MRS
2	510	BULLINGTON	THORNE L S MRS
3	1603	FEDERAL	JAGGI LEWIS F MRS
4	1603	FEDERAL	THORNE L S MRS
5	1516	ROSS	YMCA OF METRO DALLAS
6	1520	ROSS	KOHMANN KATHERINE ANN &
7	511	AKARD	AKARD WALK L P
8	505	AKARD	STATE ST BK & TR CO OF CT
9	417	AKARD	AKARD HOLDINGS LP
10	415	AKARD	INSURANCE PLAZA INC
11	400	AKARD	400 NORTH AKARD LTD
12	400	AKARD	400 NORTH AKARD
13	1607	FEDERAL	TEXAS UTILITIES ELEC CO
14	1601	FEDERAL	TEXAS UTILITIES PPTIES
15	515	ST PAUL	FIRST BAPTIST CHURCH OF
16	505	ERVAY	FIRST BAPTIST CHURCH OF
17	1601	BRYAN	STATE ST BK & TR CO CT TR
18	705	ST PAUL	FIRST BAPTIST CHURCH OF
19	701	ST PAUL	FIRST BAPTIST CHURCH OF
20	1806	ROSS	CALIFORNIA STATE TEACHERS
21	1707	SAN JACINTO	FIRST BAPTIST CHURCH OF
22	1700	PATTERSON	FIRST BAPTIST CHURCH OF
23	1801	FEDERAL	FIRST BAPTIST CHURCH OF
24	507	ST PAUL	FIRST BAPTIST CHURCH OF
25	717	HARWOOD	DALLAS PT 717 NORTH
26	404	ERVAY	POSTAL PARTNER LP

<i>Vote</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	1928	ROSS	FIRST UNITED METHODIST
28	1925	SAN JACINTO	FIRST UNITED METHODIST
29	808	HARWOOD	FIRST UNITED METHODIST
30	750	ST PAUL	ST PAUL PL ACQUISITION
31	717	HARWOOD	YP KPMG CENTRE OWNER LLC
32	717	HARWOOD	YP KPMG CENTRE LP
33	504	ST PAUL	DALTON WILLIAM E JR ETAL
34	601	HARWOOD	FPG DMT HARWOOD LP
35	600	HARWOOD	FPG-DMT HARWOOD LP
36	1803	FEDERAL	1999 ASSOCIATES LTD
37	609	HARWOOD	MAHER PROPERTIES TWO
38	608	ST PAUL	FIRST BAPTIST CHURCH OF
39	1800	FEDERAL	YP1 ONE DALLAS CENTRE LLC
40	1802	FEDERAL	CARROZZA INV LTD
41	400	ST PAUL	AM 400 NORTH ST PAUL LLC
42	1917	BRYAN	ONE DALLAS CENTRE ASSOC
43	1909	BRYAN	CARROZZA INV LTD
44	1923	BRYAN	1999 ASSOC LTD
45	509	HARWOOD	1999 PROPERTY CORP
46	1999	BRYAN	FDG DMT HARWOOD LP
47	2013	SAN JACINTO	UNITED INS CO OF AMERICA
48	2010	ROSS	TRINITY UNIVERSAL
49	704	HARWOOD	POLLOCK REALTY CORP
50	704	HARWOOD	BRYAN TOWER LP
51	606	HARWOOD	FROST NATL BANK TRUSTEE
52	605	OLIVE	BT PARKS LP
53	604	HARWOOD	BT PARKS L P
54	2001	BRYAN	BRYAN TOWER II LP
55	2001	BRYAN	BRYAN TOWER LP
56	2000	FEDERAL	POLLOCK REALTY CORP
57	443	OLIVE	W2007 MVP DALLAS LLC

Thursday, May 14, 2009

<i>Vote</i>	<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	1627	PACIFIC	THANKSGIVING SQUARE FDN
59	325	ST PAUL	TOOLE ALBERT J SR ET AL
60	325	ST PAUL	FOUR POINT STAR LP PS
61	325	ST PAUL	HOWARD CORP THE
62	325	ST PAUL	FOUR POINT STAR LP
63	325	ST PAUL	FOUR POINT STAR LP
64	350	ERVAY	ERVAY RESIDENTIAL LTD PS
65	413	HARWOOD	TRUST FOR PUBLIC LAND
66	350	ST PAUL	YPI ONE DALLAS CENTRE LLC
67	1917	BRYAN	ONE DALLAS CENTRE ASSOC
68	312	ST PAUL	TRUST FOR PUBLIC LAND
69	1807	ROSS	HUNT ROSS AKARD LLC
70	318	AKARD	HAMILTON FIDELITY LP
71	500	AKARD	CALIFORNIA STATE TEACHERS
72	500	AKARD	CALIFORNIA STATE TEACHERS
73	615	AKARD	ONE LINCOLN PLAZA JV
74	401	HARWOOD	YPI ONE DALLAS LLC

Z089-173
Proposed SUP Conditions

1. **USE:** The only use authorized by this specific use permit is a pedestrian skybridge use.
2. **SITE PLAN:** Use and development of the Property must comply with the attached site plan.
3. **TIME LIMIT:** This specific use permit automatically terminates on _____ (the date of expiration of any related license).
4. **COMPLIANCE:** The pedestrian skybridge must comply with Section 51A-4.217(b)(12), "pedestrian skybridges," as amended, except as to items for which a special exception has been granted by the board of adjustment.
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.

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: January 13, 2010
COUNCIL DISTRICT(S): Outside City Limits
DEPARTMENT: Water Utilities
CMO: Ryan S. Evans, 670-3314
MAPSCO: 30A X Y

SUBJECT

Authorize a contract for the construction of erosion control at Faulkner Point - BAR Constructors, Inc., lowest responsible bidder of nine - Not to exceed \$2,396,635 - Financing: Water Utilities Capital Improvement Funds

BACKGROUND

This item is for the repair of the eroding City of Dallas owned shoreline at Lake Ray Hubbard. The work consists of the installation of approximately 3000 linear feet of sheet piling to permanently address the eroded and deteriorated elements of the embankment area at Faulkner Point.

Lake Ray Hubbard is a major water supply and recreation resource owned, operated, and maintained by the City of Dallas. This lake was first filled in 1971. Many multi-family homes began developing around the lake in the early 1980s. One of these developments is the Faulkner Point condominiums. Faulkner Point backs up to an erosion problem at the Lake Ray Hubbard western shoreline within the City of Garland. This section of shoreline is experiencing severe erosion that is compromising the embankment of the adjacent condominiums. As owners of the lake, the City of Dallas has an obligation to install erosion control at this area.

The completion of the Bernard Johnson erosion study in 1987 identified the most critical areas around the lake. DWU has since been monitoring the most critical sites, which includes the Faulkner Point area. In 1993, DWU and the Faulkner Point HOA combined resources to place riprap for the protection of the banks. Although the work slowed down the erosion, it has now progressed to the point where a more permanent repair is required.

BACKGROUND (Continued)

On June 25, 2008, the City Council awarded a consultant contract for the inspection of the DWU owned eastern dams and 79 miles of shoreline around Lake Ray Hubbard, including design work to permanently repair the eroded banks at Faulkner Point. The Cities of Dallas and Garland, along with the Faulkner Point HOA, have met several times regarding the proposed work and all are in agreement as to the final solution for the permanent repairs. Completion of the work secures the integrity of the building structures and provides added safety to the public.

BAR Constructors, Inc. contractual activities for the past three years:

	<u>PWT</u>	<u>DWU</u>	<u>PKR</u>
Projects Authorized	0	1	0
Change Orders	0	0	0
Projects Requiring Liquidated Damages	0	0	0
Projects Completed by Bonding Company	0	0	0

ESTIMATED SCHEDULE OF PROJECT

Begin Construction February 2010
Complete Construction January 2011

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Authorized a professional services contract with Freese and Nichols, Inc. to provide engineering services for the inspection of the Forney embankment and spillway and Tawakoni Balancing Reservoir Dam and design of the Forney Dam and Lake Ray Hubbard improvements on June 25, 2008, by Resolution No. 08-1830.

FISCAL INFORMATION

\$2,396,635.00 - Water Utilities Capital Improvement Funds

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

BAR Constructors, Inc.

Hispanic Female	3	Hispanic Male	163
Black Female	0	Black Male	4
Other Female	0	Other Male	0
White Female	4	White Male	23

BID INFORMATION

The following bids with quotes were opened on November 19, 2009:

*Denotes successful bidder

<u>Bidders</u>	<u>Bid Amount</u>
*BAR Constructors, Inc. 805 Katy Street Lancaster, Texas 75146	\$2,396,635.00
DCI Contracting, Inc.	\$2,492,150.00
Shirley & Sons Construction Company, Inc.	\$2,496,979.95
Earth Builders, L.P.	\$2,544,610.00
Ark Contracting Services, LLC	\$2,710,945.00
Jay Mills Contracting, Inc.	\$3,233,920.00
Rebcon, Inc.	\$3,570,435.00
North Texas Bridge Co., Inc.	Non-Responsive**
G.R. Birdwell Construction, LP	Non Responsive***

**North Texas Bridge Co. Inc. was deemed non-responsive for failure to use revised proposal pages.

***G.R. Birdwell Construction, LP was deemed non-responsive for failure to acknowledge receipt of Addendum No. 2.

OWNER

BAR Constructors, Inc.

Isidro Arrambide, Jr., President

MAP

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize a contract for the construction of erosion control at Faulkner Point - BAR Constructors, Inc., lowest responsible bidder of nine - Not to exceed \$2,396,635 - Financing: Water Utilities Capital Improvement Funds

BAR Constructors, Inc. is a local, 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

	<u>Amount</u>	<u>Percent</u>
Total local contracts	\$1,139,858.00	47.56%
Total non-local contracts	\$1,256,777.00	52.44%
TOTAL CONTRACT	\$2,396,635.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

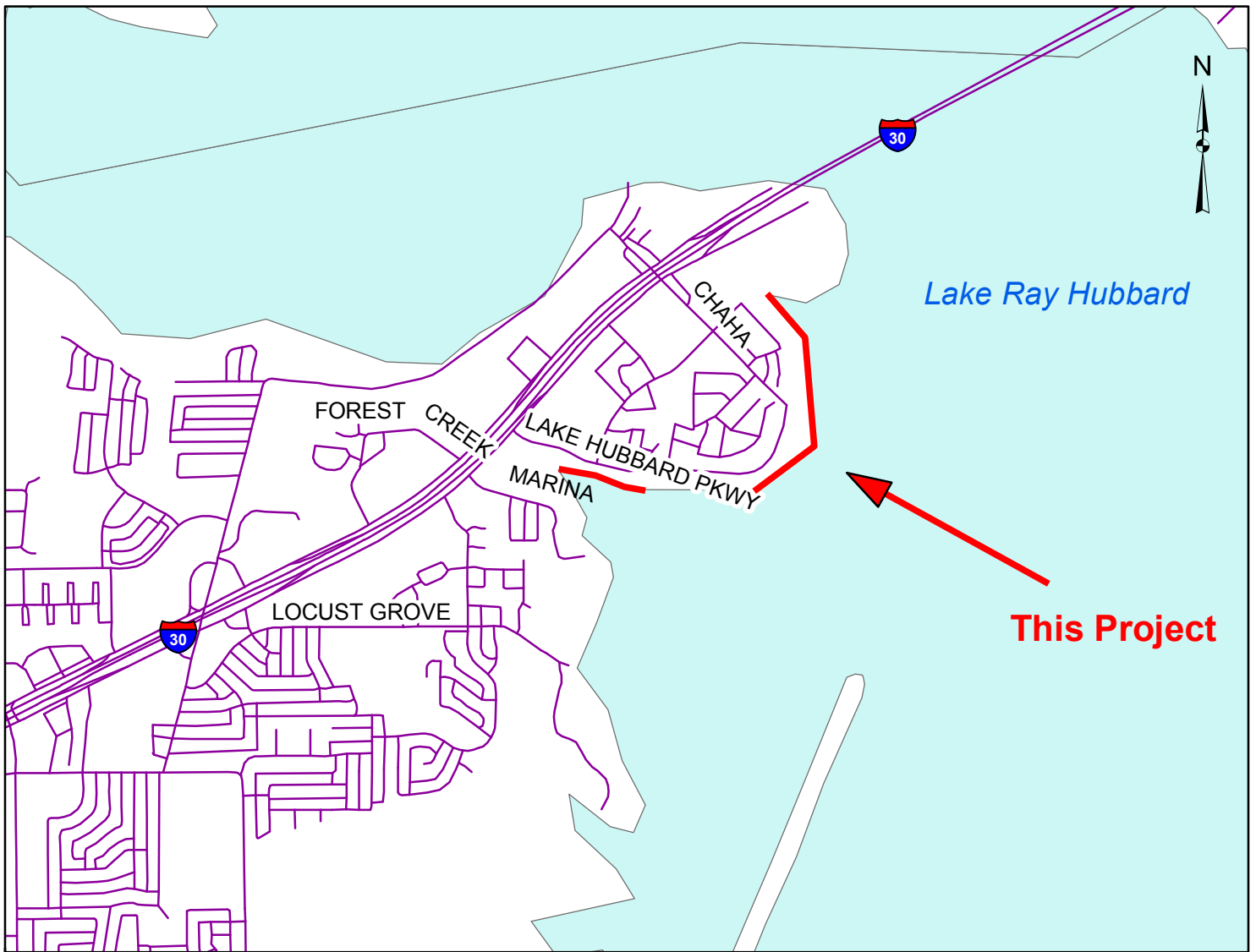
<u>Local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
BAR Constructors, Inc.	HMMB41189Y0510	\$1,070,865.00	93.95%
Total Minority - Local		\$1,070,865.00	93.95%

Non-Local Contractors / Sub-Contractors

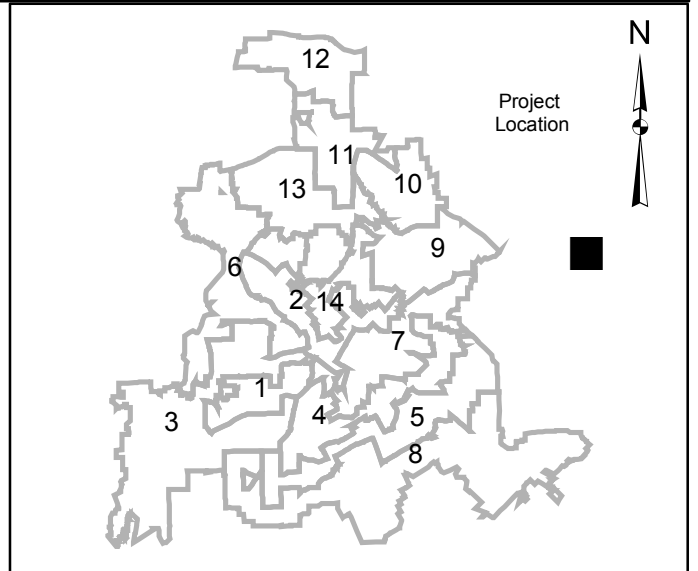
<u>Non-local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Dirt Trucking Company, Inc.	HMDB43437Y1210	\$46,777.00	3.72%
Total Minority - Non-local		\$46,777.00	3.72%

TOTAL M/WBE CONTRACT PARTICIPATION

	<u>Local</u>	<u>Percent</u>	<u>Local & Non-Local</u>	<u>Percent</u>
African American	\$0.00	0.00%	\$0.00	0.00%
Hispanic American	\$1,070,865.00	93.95%	\$1,117,642.00	46.63%
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	\$1,070,865.00	93.95%	\$1,117,642.00	46.63%



Mapsc0: 30A X Y



Water Utilities Department
 Contract No. 09-113
 Faulkner Point Erosion Control
 Lake Ray Hubbard

January 13, 2010

WHEREAS, bids were received on November 19, 2009 for the Faulkner Point erosion control, Contract No. 09-113, listed as follows:

<u>BIDDERS</u>	<u>BID AMOUNT</u>
BAR Constructors, Inc.	\$2,396,635.00
DCI Contracting, Inc.	\$2,492,150.00
Shirley & Sons Construction Company, Inc.	\$2,496,979.95
Earth Builders, L.P.	\$2,544,610.00
Ark Contracting Services, LLC	\$2,710,945.00
Jay Mills Contracting, Inc.	\$3,233,920.00
Rebcon, Inc.	\$3,570,435.00
North Texas Bridge Co., Inc.	Non-Responsive**
G.R. Birdwell Construction, LP	Non-Responsive***

**North Texas Bridge Co., Inc. was deemed non-responsive for failure to use revised proposal pages.

***G.R. Birdwell Construction, LP was deemed non-responsive for failure to acknowledge receipt of Addendum No. 2.

and,

WHEREAS, the bid submitted by BAR Constructors, Inc., 805 Katy Street, Lancaster, Texas, 75146, in the amount of \$2,396,635.00, is the lowest and best of all bids received; **Now, Therefore**,

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

Section 1. That the bid submitted by BAR Constructors, Inc., in the amount of \$2,396,635.00, for doing the work covered by the plans, specifications, and contract documents, Contract No. 09-113, be accepted.

Section 2. That the City Manager be and is hereby authorized to enter into a contract with BAR Constructors, Inc., for the construction of erosion control at Faulkner Point, after having approval of the contract documents by the City Attorney.

Section 3. That the City Controller be and is hereby authorized to pay the amount of \$2,396,635.00 from the Water Improvement Series D Fund as follows:

<u>FUND</u>	<u>DEPT</u>	<u>UNIT</u>	<u>ACT</u>	<u>OBJ</u>	<u>PRO</u>	<u>REP</u>	<u>ENCUMBRANCE</u>	<u>VENDOR</u>
2115	DWU	PW10	WTRS	4550	709113	W2AO	CTDWU709113CP	125824

BAR Constructors, Inc. - Contract No. 09-113 - \$2,396,635.00

January 13, 2010

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

DISTRIBUTION: Water-Administration, 4AN, Cheryl Glenn
Water-Contracts, 2121 Main Street, Suite 400, Karen Harbin
Water-Accounting, 2AS, Esther Darden
Office of Financial Services, 4FN, Jeanne Chipperfield
Office of Financial Services, 4BN, Sherrian Parham

ADDENDUM ITEM # 5

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

AGENDA DATE: January 13, 2010

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Dave Cook, 670-7804

MAPSCO: N/A

SUBJECT

An ordinance granting a franchise to Atmos Energy Corporation for a term of fifteen years to provide gas utility services within the City and providing for compensation - Estimated Annual Revenue: \$12,000,000

BACKGROUND

Atmos Energy Corporation (formerly known as TXU Gas) provides gas utility service in Dallas in accordance with City franchise Ordinance No. 16240, as amended. The franchise will expire by its own terms on March 31, 2010.

After months of negotiations, City Staff and Atmos have reached agreement on terms of the franchise renewal. This franchise Ordinance provides for the City's continued management of the public rights-of-ways as well as requiring reasonable compensation for its use by Atmos. Under the new franchise Atmos will pay the City a franchise fee equal to 5% of their gross revenues from the sale of gas to all customers within the City, as defined by the Ordinance. The term of the franchise is for fifteen years.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The City Council extended the current franchise by Ordinance No. 27746 on November 9, 2009.

The City Council was briefed on January 6, 2010.

FISCAL INFORMATION

Estimated Annual Revenue - \$12,000,000.

ORDINANCE NO. _____

An Ordinance granting to Atmos Energy Corporation, a Texas corporation, a franchise for the purpose of constructing, maintaining, and using a gas utility system in the City of Dallas; regulating the construction work done by the Grantee in the City; prescribing the relationship and relative rights between Grantee and others with respect to construction in the City and location of facilities; prescribing the quality of service to be provided by Grantee; providing for limitation of certain liabilities; prescribing the duties, responsibilities, and rule making authority of the City Manager or the City Manager's designee and the City with respect to administration of this franchise; requiring certain records and reports and providing for inspections and tests; reserving to the City Council the right to set charges and rates of Grantee; providing the procedure for changing the rates of Grantee and providing the rights and responsibilities of the City Council in setting the rates; providing for customer security deposits; providing for suspension of service to a customer; providing for enforcement of the franchise; prescribing the compensation to the City from the Grantee for the franchise privilege; providing indemnity of the City and its employees; providing for insurance and good faith effort provisions; setting forth the term of the franchise and its renewal; prescribing miscellaneous requirements for administration of the franchise; repealing Ordinance No. 16240, as amended, and all other ordinances amending the previous franchise (including, but not limited to Ordinance Nos. 22049, 22155, and 22245) ; providing for acceptance by Grantee; and providing an effective date.

WHEREAS, Atmos Energy Corporation, is engaged in the business of supplying gas utilities services through its facilities within the City of Dallas to customers throughout the City of Dallas; and,

WHEREAS, Atmos Energy Corporation, and its predecessors have been supplying gas utilities services to customers throughout the City of Dallas pursuant to Ordinance No. 322, as amended, since November 30, 1917; Now, Therefore

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

SECTION 1. GRANTING OF FRANCHISE.

There is hereby granted to Atmos Energy Corporation, hereinafter called Grantee, for the full term of 15 years from the effective date of this ordinance, the right privilege, and franchise to have, acquire, construct, reconstruct, maintain, use, and operate in the City of Dallas, Texas, hereinafter called City, a gas utility system as defined under Section 3 of the Public Utility Regulatory Act of 1975, which shall include, but not be limited to, a gas transmission and distribution system, and to have, acquire, construct, reconstruct, maintain, use, and operate 'in, over, under, along, and across the present and future streets, highways, alleys, bridges, and other public ways ("Public Rights-of-Way") of the City all necessary or desirable mains, lines, pipes, services, laterals, manholes, valves, gages, vent pipes, regulation stations and other structures and appurtenances in connection with such gas utility system. This Franchise does not authorize Grantee to use any property owned by the City that is not a public right-of-way.

SECTION 2. CONSTRUCTION WORK - REGULATION BY CITY.

(a) Work done in connection with the construction, reconstruction, modification, demolition, maintenance, or repair of the gas utility system shall be in compliance with all applicable laws, rules, and regulations of the City and the State of Texas.

(b) Grantee shall conduct its maintenance, construction, reconstruction, modification, demolition, maintenance, repair or placement of facilities, and excavations in the streets, alleys, and other public rights-of-way in such a way that they will interfere as little as practicable with the use by the general public of the streets, sidewalks, and alleys, and with the use of private property, in accordance with direction given by the authority of the City Council under the police and regulatory powers of the City.

(c) Grantee shall submit engineering plans of those projects involving significant construction in a public right-of-way to the City for review prior to construction and promptly after completion of construction shall provide to the City accurate and complete "as-built" plans showing the nature and specific location of all work done. On request by the City Manager or the City Manager's designee, Grantee shall provide complete and accurate "as-built" plans showing the nature and specific location of any component of Grantee's gas utility system located in, on, under, or above any public right-of-way or any real property of the City.

(d) Except in an emergency Grantee shall comply with applicable City ordinances and rules pertaining to notification when excavating pavement in an alley, street, or unpaved public right-of-way. Grantee shall notify the City as soon as practicable regarding work performed under emergency conditions and Grantee shall comply with the City's reasonable requirements for restoration of the excavated area.

(e) The City has authority to require Grantee to repair, remove, or abate any pipe or other structure or equipment that is unnecessarily dangerous to life or property, and in case Grantee, after notice, fails or refuses to act within a reasonable time, the City has authority to remove or abate the same at the expense of the Grantee, without compensation or liability for damages to Grantee. Grantee shall promptly restore to its previous condition and to the reasonable satisfaction of the City, a street, alley, or public right-of-way excavated by it.

SECTION 3. MAINTENANCE OF PIPING.

That Grantee shall own, operate and maintain all service lines, which are defined as the supply lines, and attached couplings, valves, risers, fittings and other hardware extending from the Grantee's main up to and including the customer's meter where gas is measured by Grantee. The customer shall own, operate and maintain all yard lines and house piping. Yard lines are defined as the underground supply lines extending from the point of connection with Grantee's customer meter to the point of connection with customers' house piping. Grantee shall not be required at its own expense to extend mains on any street more than 100 feet for any one consumer of gas or for any consumer that does not, at a minimum, utilize gas as the primary fuel for space heating and water heating

SECTION 4. CONFORMANCE WITH PUBLIC IMPROVEMENTS.

(a) Whenever by reason of street widening, straightening or changes in the grade or contours of a street, alley or other public way or in the location or manner of constructing a water pipe, gas pipe, sewer, or other City owned underground or aboveground structure for a governmental purpose, it is deemed that Grantee's underground or aboveground facilities located in the Public Right-of-Way are in conflict and for this reason it is deemed necessary to remove, alter, change, adapt, or conform the underground or aboveground facilities of Grantee, Grantee shall make the alterations or changes as soon as practicable when ordered in writing by the City, without claim for reimbursement or damages against the City. Grantee shall not be required to remove, alter, change, adapt, or conform its facilities without claim for reimbursement if such facilities are not in conflict with construction performed for a governmental purpose as described above. If these requirements impose a financial hardship upon the Grantee, the Grantee shall have the right to present alternative proposals for the City's consideration. City agrees to use its best effort to provide Grantee with its annual capital improvements plan as well as any material updates or changes within a reasonable time after they become available. The City shall not require Grantee to remove its facilities entirely from a street, alley, highway, or other public way unless suitable and safe alternatives are available for relocation at no additional cost to Grantee. Grantee shall not be required to relocate facilities to a depth of greater than four (4) feet below the ground's surface unless necessary to avoid conflict with existing facilities of other authorized users of the Right-of-Way or proposed placement of City's facilities in the Right-of-Way, or if prior agreement is obtained from Grantee.

(b) When Grantee is required to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City, Grantee shall have the right to seek recovery of relocation costs as provided for in applicable state and/or federal law. Nothing herein shall be construed to prohibit, alter, or modify in any way the right of Grantee to seek or recover a surcharge from customers for the cost of relocation pursuant to applicable state and/or federal law. When Grantee is required to initiate a project to remove or relocate its mains, laterals or other facilities to accommodate construction by City without reimbursement from City pursuant to this Franchise, such fact shall be considered as evidence of the project's necessity and prudence for regulatory purposes.

SECTION 5. WORK BY OTHERS.

(a) The City reserves the right to lay, and permit to be laid, sewer, water, and other pipe lines, cables, and conduits, and to do and permit to be done any underground or aboveground work that may be necessary or proper in, across, along, over, or under a street, alley, highway, or public place occupied by the Grantee. The City also reserves the right to change any curb, sidewalk, or grade of a street. In permitting this work to be done, the City shall not be liable to the Grantee for any resulting damage, but nothing herein shall relieve any other person or corporation from responsibility, for damages to the facilities of Grantee.

(b) If the City Council authorizes someone other than the Grantee to occupy space under the surface of a street, alley, or highway, or public place, the grant shall be subject to the rights of

the Grantee. If the City Council closes or abandons a street, alley, highway, or public place which contains existing facilities of the Grantee, any conveyance of land within the closed or abandoned street, alley, highway, or public place shall be subject to the rights of the Grantee. Grantee, however, may be ordered to vacate any land so conveyed if an alternate route is practicable and if the Grantee is reimbursed by the person to whom the property is conveyed for the reasonable costs of removal and relocation of facilities.

(c) If the City requires Grantee to adapt or conform its facilities, or to alter, relocate, or change its property to enable any other corporation or person, except the City, to use, or use with greater convenience, the street, alley, highway, or public place, Grantee shall not be bound to make any of the changes until the other corporation or person has undertaken, with good and sufficient bond, to reimburse the Grantee for any cost, loss, or expense that will be caused by, or arise out of the change, alteration, or relocation of Grantee's property; provided, however, that the City shall not be liable for the reimbursement.

SECTION 6. AVAILABILITY, CHARACTER OF SERVICE, LIABILITY.

(a) Grantee shall at all times furnish service which is modern and sufficient to meet reasonable demands without undue interruption or fluctuations to any person, firm, or corporation that demands service within the City, upon the terms specified and required by ordinance or rules adopted by the City. Grantee shall make service connections on reasonable demand, without undue delay but before furnishing service may require execution of a service contract. Grantee covenants that it will furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable.

(b) Grantee is not liable for interruptions or fluctuations in service caused by acts of God, war, riots, restraints of governmental authorities, or strikes or other unavoidable occurrences that could not have been foreseen and prevented by a public utility furnishing gas service within the City using commercially prudent management and reasonable care under the circumstances.

SECTION 7. ADMINISTRATION OF FRANCHISE.

(a) The City Manager or the City Manager's designee is the principal City officer responsible for the administration of this franchise and shall over see and review the operations of Grantee under this franchise.

(b) The City may delegate to the City Manager or the City Manager's designee the exercise of any of the powers conferred upon the City by its charter or by law, relating to the regulation of Grantee in the exercise of the rights and privileges conferred, by this franchise, but the City Council reserves unto itself exclusively the power to fix and regulate the general charges and rates of Grantee, to the full extent that this authority is provided in the charter, this franchise, and State law.

(c) The City Manager or the City Manager's designee may approve or disapprove of miscellaneous fees and charges to the extent permitted by State law, in connection with the rendition of utility service. The City Manager or the City Manager's designee shall have the authority to make and publish, after notice to those affected and a hearing, rules and regulations that are consistent with State law and necessary to carry out the duties and powers conferred

upon the City Manager. If Grantee objects to a decision of the City Manager with regard to fees or to a rule or regulation, Grantee may appeal the action of the City Manager to the City Council, and the action or decision appealed shall be suspended until final action by the City Council.

(d) It shall be the right and duty of the City Manager and the City Council at all times to keep fully informed as to all matters in connection with or affecting the construction, reconstruction, maintenance, operation, and repair of the properties of the Grantee, its accounting methods and procedures, the conduct of the Grantee's business in the City, and of service being rendered by Grantee.

(e) The City Manager, upon the filing of the acceptance described below, shall provide Grantee with written notice identifying at least by title one or more City Manager's designees, if any, for administering some or all of the City Manager's functions relating to this Franchise. If more than one designee is identified, the functions assigned to each designee will be stated in the notice with reasonable specificity. Thereafter, the designee or designees shall be changed only after Grantee has been given written notification by the City Manager.

SECTION 8. RECORDS, REPORTS, AND INSPECTIONS.

(a) Grantee shall use the system of accounts and the forms of books, accounts, records, and memoranda accepted by the Railroad Commission of Texas or its successor. Grantee shall provide the City with access at reasonable times and for reasonable purposes, to examine, audit, review, and/or obtain copies of the papers, books, accounts, documents, maps, plans and other records of Grantee pertaining to this Franchise ordinance. Grantee shall fully cooperate in making available its records and otherwise assisting in these activities. Grantee shall maintain records, accounts, and financial and operating reports in a manner that will allow the City Manager or the City Manager's designee to determine investment, cost of service, and operating expenses related to providing gas utility service to customers within the City. The City Council, the City Manager or the City Manager's designee may require the keeping of additional records or accounts reasonably necessary for administration of the franchise. If Grantee objects to a requirement of the City Manager or the City Manager's designee, Grantee may appeal the requirement to the City Council.

(b) Company will make available public reports it provides to the RRC, FERC, or SEC as City may reasonably require in the administration of this franchise and upon specific request by City.

(c) For the purpose of performing an audit of this Franchise, the City Manager, the City Manager's designee and the City Auditor's Office shall have the right, at reasonable times, to inspect the plant, equipment, and other property of the Grantee and its affiliates according to State law, and to examine, audit, and obtain copies of the papers, books, accounts, documents, and other business records of the Grantee consistent with State law. City agrees that customer-specific information shall be provided only to City's Auditor, and the City's Auditor shall not provide such information to any other City department, employee or official without Grantee's prior consent.

(d) The City agrees, to the extent allowed by law, to maintain the confidentiality of any information obtained from Grantee that the Grantee, at the time the information is provided to

City, has clearly designated as confidential or proprietary. City shall not be liable to Grantee for the release of any information the City is required by law to release. City shall provide notice to Company of any request for release of non-public information prior to releasing the information to the public so as to allow Company adequate time to pursue available remedies for protection. If the City receives a request under the Texas Public Information Act that includes Company's proprietary information, City will notify the Texas Attorney General of the proprietary nature of the document(s). The City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows the City to withhold the information.

(e) City shall not use Grantee's confidential or proprietary information for any unlawful purpose.

(f) The City retains all of the investigative powers and other rights provided to the City by the charter and State law.

SECTION 9. RULES AND REGULATIONS.

(a) In order to insure uniform and reasonable application of conditions for service and to insure availability of service to all without discrimination, the City Manager or the City Manager's designee shall review Grantee's rules and regulations concerning service furnished under this franchise.

(b) The City Council, the City Manager or the City Manager's designee may establish, after reasonable notice and hearing, such rules and regulations as may be in the public interest regarding rates, rate-making procedures including the form and content of notices and applications, the furnishing of service, administration of customer accounts, and construction of Grantee facilities on City property, on, in, under and above public rights-of-way. If Grantee objects to a rule or regulation established by the City Manager or City Manager's Designee, Grantee may appeal the rule or regulation to the City Council.

SECTION 10. SERVICE RATES.

(a) The City Council hereby expressly reserves the right, power, and authority to fully regulate and fix the rates and charges for the services of the Grantee to its customers as provided by State law and the City charter.

(b) Grantee may from time to time propose changes in its general rates by filing an application with the City secretary for consideration of the City Council. Within a reasonable time consistent with law, the City Council shall afford Grantee a fair hearing with reference to the application and shall either approve or disapprove the proposed changes or make such order as may be reasonable.

(c) In order to ascertain any and all facts, the City Council shall have full power and authority to inspect, or cause to be inspected, the books of Grantee, and to inventory and appraise, or cause to be inventoried and appraised, the property of Grantee, and to compel the attendance of witnesses and the production of books and records.

(d) The City shall not allow as to rates or services an unreasonable preference or advantage to anyone within a service classification, nor allow Grantee to subject anyone within a service classification to any unreasonable prejudice or discrimination.

(e) The City Council has authority to require the Grantee to allocate costs of facilities, revenues, expenses, taxes, and reserves between the City and other municipalities or unincorporated areas, consistent with State law.

SECTION II. DEPOSITS.

Grantee shall have the right, subject to City rules and regulations and consistent with applicable State and federal law, to require a reasonable security deposit for the payment of bills.

SECTION 12. SUSPENSION OF SERVICES.

Subject to State, federal and local laws, rules, and regulations, and if not inconsistent with other provisions of this Franchise, the Grantee may discontinue service to a customer who fails to pay a bill presented for service or make a reasonable deposit as may be required, if a deposit may be lawfully required, until the bill or deposit together with any expense for disconnecting and reconnecting the service is paid. In addition, the Grantee may discontinue service without notice, where a known dangerous condition exists, for as long as the condition exists, but if such condition is within Grantee's power to correct, Grantee shall use due diligence to correct such condition promptly and, if the customer does not otherwise request or the City does not otherwise direct, promptly upon elimination of the danger to restore service. The Grantee shall not be required to furnish service to any customer who is in default of payment or who fails to pay a reasonable deposit in accordance with duly promulgated rules and regulations, or who shall fail to comply with rules and regulations regarding proper use of facilities furnished by the Grantee. Provided, however, that nothing herein authorizes Grantee to discontinue, suspend, or refuse to furnish service if Grantee is otherwise legally prohibited from taking such action.

SECTION 13. FRANCHISE AND OTHER VIOLATIONS.

Upon evidence being received by the governing body of the City that a violation of this franchise, City charter provision, or ordinance lawfully regulating Grantee in the furnishing of service hereunder is occurring or has occurred, it shall at once cause an investigation to be made. If the governing body of this City finds that such a violation exists or has occurred, it shall take the appropriate steps to secure compliance.

SECTION 14. COMPENSATION TO THE CITY.

(a) As compensation for the rights and privileges conferred by this franchise, Grantee shall pay to the City a sum of money equal to five percent (5%) of Gross Revenues, as defined below:

- (1) all revenues received by Grantee from the sale of gas to all classes of customers (excluding gas sold to another gas utility in the City for resale to its customers within City) within the City;

- (2) all revenues received by Grantee from the transportation of gas through the system of Grantee within the City to customers located within the City (excluding any gas transported to another gas utility in City for resale to its customers within City);
- (3) the value of gas transported by Grantee for transport customers through the system of Grantee within the City ("Third Party Sales")(excluding the value of any gas transported to another gas utility in City for resale to its customers within City), with the value of such gas to be established by utilizing Grantee's monthly Weighted Average Cost of Gas charged to industrial customers in the Mid-Tex division, as reasonably near the time as the transportation service is performed;
- (4) revenues billed but not ultimately collected or received by Grantee ("uncollectibles"), subject to Section 14(d) below;
- (5) Gross Revenues shall also include the following "miscellaneous charges": charges to connect, disconnect, or reconnect gas and charges to handle returned checks from consumers within the City; and
- (6) Contributions In Aid of Construction ("CIAC").
- (7) Gross Revenues shall not include:
 - (a) the revenue of any affiliate or subsidiary of Grantee;
 - (b) taxes or fees imposed by law on customers that Grantee is obligated to collect or authorized to recover and which Grantee passes on, in full, to the applicable governmental authority or authorities;
 - (c) interest or investment income earned by Grantee; and
 - (d) monies received from the lease or sale of real or personal property, provided, however, that this exclusion does not apply to the lease of facilities within the City's right of way.

(b) Payment shall be due and payable for each calendar quarter on or before noon of the 15th day of the second month following the close of the calendar quarter and shall be made by wire transfer. Should any payment due date required by this ordinance fall on a weekend or declared bank holiday, payment shall be wired to the City no later than noon of the working day prior to any specifically required due date contained within this ordinance. Payment shall be considered timely made if Grantee requests the wire transfer by 9:30 am on the day that payment is due. The payment shall be exclusive of, and in addition to, all special assessments and taxes of whatever nature, including ad valorem taxes upon property of Grantee. During the years for which payments of percentages of gross revenues are made to the City as compensation for this franchise to use public property of the City for the purpose of engaging in the business of providing gas utility service, the payments shall be (insofar as the City has legal power to so provide and agree) in lieu of and shall be accepted as payment of all of Grantee's obligations to pay municipal charges, fees, rentals, inspection fees, easement taxes, franchise taxes, or other charges and taxes of every kind, except sales taxes, ad valorem taxes and special taxes and assessments for public improvements.

(c) Payment for franchise fees based on CIAC shall be calculated on an annual calendar year basis, i.e., from January 1 through December 31 of each calendar year. The franchise fee due the City based on CIAC shall be paid at least once annually on or before April 30 each year based on the total CIAC received during the preceding calendar year. The initial CIAC franchise fee amount will be paid on or before April 30, 2011 and will be based on the period beginning with the effective date of this Ordinance and ending on December 31, 2010. The final CIAC franchise fee amount will be paid on or before April 30, 2026 unless this agreement is renewed pursuant to Section 22, in which instance the final CIAC franchise fee amount will be paid on or before April 30, 2041.

(d) If a regulatory authority or court of competent jurisdiction determines that Grantee may not recover in Grantee's rates the compensation paid to City based on uncollectibles pursuant to Section 14(a)(4) above, then uncollectibles shall thereafter be excluded from the definition of Gross Revenues and Grantee will not seek to impose a refund or credit obligation for franchise fees already paid pursuant to Section 14(a)(4).

(e) Any transaction entered into by Grantee which has the effect of circumventing and/or evading payment of the fees required under Section 14 as of the effective date of this Franchise is prohibited.

SECTION 15. STATEMENT OF REVENUES:

Grantee shall provide to the City at or before the time the payment is due a report indicating the amount of the payment and the basis upon which the payment is calculated. The report shall be at the level of detail being provided to City at the time this franchise is accepted, as shown in Exhibit A.

SECTION 16. PRESERVATION OF RECORDS

(a) Grantee shall keep and maintain complete books, records, accounts, documents, and papers pertaining to Grantee's facilities within the City in accordance with Grantee's records retention policy for relevant records at the time this franchise is accepted a copy of which is attached hereto as Exhibit B. Maps, plats, records, inventories, and books of the Grantee pertaining to Grantee's facilities within the City, insofar as they show values of existing property, shall be preserved for use, if necessary, in connection with future valuation of the property of the Grantee.

(b) Grantee shall make available all of its books, records, accounts, documents and papers relevant to (1) Grantee's use of the Public Rights-of-Way in accordance with this Franchise, and (2) Grantee's provision of natural gas service within the City of Dallas for purposes of any City audit of franchise fees paid pursuant to this franchise; upon reasonable notice by the City of not less than 20 days, or such longer time as agreed to by City and Grantee. Such production may be at Grantee's offices if within the City, appropriate City facilities or other location provided by the Grantee and agreeable to the City.

SECTION 17. ASSIGNMENT OF FRANCHISE

(a) The rights granted by this Franchise inure to the benefit of the Grantee. The Grantee may, without consent by City, transfer or assign the rights granted by this Franchise to a parent, subsidiary or affiliate, provided that such parent, subsidiary or affiliate assumes all obligations of Grantee hereunder and is bound to the same extent as Grantee hereunder, and has net capital and liquid assets reasonably equivalent to the Grantee's as of the month immediately preceding the transfer or there are provided other guarantees or assurances of the transferee's or assignee's financial ability to perform this Franchise reasonably acceptable to the City. Grantee shall give City written notice thirty (30) days prior to such assignment.

(b) City will have the right to approve the transfer or assignment of the franchise, except as provided in Section 17(a). City shall grant approval unless the Assignee is materially weaker than Grantee. For the purpose of this section, "materially weaker" means that the long term unsecured debt rating of the Assignee is less than investment grade as rated by both S&P and Moody's. If the Assignee is materially weaker, the City may request additional documents and information reasonably related to the transaction and the legal, financial, and technical qualifications of the Assignee. City agrees that said approval shall not be unreasonably withheld or delayed. Any such assignment or transfer shall require that said Assignee assume all obligations of Company be bound to the same extent as Grantee hereunder. If within the first 90 days after assignment to Assignee, City identifies a failure to comply with a material provision of this Franchise, City shall have the right, after notice and opportunity for hearing before Council, to terminate this Franchise.

SECTION 18. CONFORMITY TO CONSTITUTION, STATUTES, CHARTER, CITY CODE.

This ordinance is passed subject applicable provisions of the Constitution and Laws of the United States and the State of Texas, the Charter of the City of Dallas, and the Dallas City Code. This franchise agreement shall in no way affect or impair the rights, obligations, or remedies of the parties under the Public Utility Regulatory Act of Texas. Except as expressly provided herein Grantee shall not recover costs or expenses from the City for taking any actions mandated by this Franchise or by any order or request issued by authority of this Franchise.

SECTION 19. INDEMNITY.

That Grantee shall defend, indemnify and save whole and harmless the City and all of its officers, agents, and employees against any and all claims, lawsuits, judgments, costs and expenses for personal injury (including death) , property damage or other harm for which recovery of damages is sought suffered by any person or persons that may be occasioned by, or arise out of Grantee's breach of any of the terms or provisions of this ordinance, or by any negligent or strictly liable act, or omission by Grantee, its officers, agents, employees, subcontractors, affiliates and subsidiaries, in the construction, maintenance, operation, or repair of the distribution system, or by the conduct of Grantee's business in the City pursuant to this ordinance; or by litigation expenses including discovery costs and expenses including attorneys fees and expenses involving the Franchise or the Grantee regardless of the identity of parties except that the indemnity provided for in this section shall not apply to any liability resulting

from the sole negligence or fault of the City, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence or fault of both the Grantee and the City, responsibility and indemnity, 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 under Texas law and without waiving any of the defenses of the parties under Texas law. It is understood that it is not the intention of the parties hereto to create liability for the benefit of third parties, but that this section shall be solely for the benefit of the parties hereto and shall not create or grant any rights, contractual or otherwise, to any person or entity.

SECTION 20. GOOD FAITH EFFORT.

Grantee agrees to faithfully adhere to all applicable federal, state and City rules and regulations pertaining to non-discrimination, equal employment and affirmative action. Company also agrees to continue in its commitment to maintain fairness and equality in the workplace and in its purchases of goods, equipment, and other services.

SECTION 21. INSURANCE.

That Grantee will insure against the risks undertaken pursuant to this franchise, including indemnification under Section 19 hereof. Such insurance may be in the form of self-insurance to the extent permitted by applicable law under a Grantee approved formal plan of self-insurance maintained in accordance with sound accounting practices. Otherwise, Grantee shall maintain reasonably adequate insurance covering its obligations of indemnity under Section 19 hereof. A certificate of insurance and a complete copy of the insurance policy including all riders, exhibits, amendments, and attachments shall be provided to the City annually and upon any substantial change in the nature of its coverage under this section. Should Grantee elect to self-insure, its annual notice to the City shall contain information describing with reasonable particularity all procedures for filing a claim.

SECTION 22. TERM; RENEWAL.

This franchise shall expire on December 31, 2025; provided, that at the end of the expiration of the initial period, the term shall be automatically renewed for one additional 15 year period to expire on December 31, 2040, unless written notice is given to the Grantee by the City or to the City by the Grantee 120 days before the expiration date, setting forth the desire of the giver of the notice to terminate this franchise, in which event this franchise shall terminate at the expiration of the initial 15 year period. Grantee shall give 12 months written notice to the City of the expiration of the initial period. If Grantee fails to give 12 months written notice to the City, and City does not give written notice to the Grantee 120 days before the expiration date, setting forth the desire of the City to terminate this franchise, then the franchise shall be automatically renewed for a term of one year and shall continue to be renewed annually for one year terms until such notices are received. In no event shall the franchise be automatically renewed to expire after December 31, 2040.

SECTION 23. RIGHT OF APPEAL.

Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest or appeal any action or decision of the other party made contrary to any federal, state or local law or regulation.

SECTION 24. REPEAL.

That Ordinance No. 16240, , as amended, and all other ordinances amending the previous franchise, including, but not limited to Ordinance Nos. 22049, 22155, and 22245, are hereby repealed. All other ordinances, rules, regulations, and agreements which in any manner relate to the regulation of or provision for gas utility services by Grantee shall remain in full force and effect, to the extent that they are consistent with this franchise.

SECTION 25. SEVERABILITY.

Should any material word, clause, phrase, sentence, paragraph or section of this franchise be held invalid by any court of competent jurisdiction, such ruling or judgment shall not affect the validity of any other part, but the same shall remain in full force and effect, the provisions hereof being severable, except that either party can within 90 days after such ruling or judgment become final serve written notice of intent to terminate this Franchise by reason of such judgment or ruling unless the parties agree on an amendment acceptable to both parties that addresses the change caused by such judgment or order. If the parties do not amend this Franchise within 90 days after receipt of such notice, this Franchise terminates 120 days after receipt of such notice.

SECTION 26. EFFECTIVE DATE: AUTHENTICATION.

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 subject to its acceptance as provided below, and it is accordingly so ordained.

SECTION 27. ACCEPTANCE OF FRANCHISE.

(a) The Grantee shall, by 5:15 p.m., March 1, 2010, file in the office of the City Secretary a written instrument signed and acknowledged by a duly authorized officer, in substantially the following form:

To the honorable Mayor and City Council of the City of Dallas:

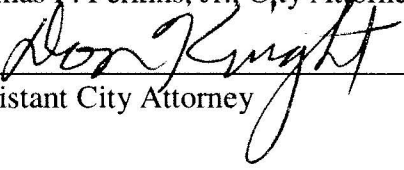
The Grantee, Atmos Energy Corporation, acting by and through the undersigned authorized officer, hereby accepts Ordinance No. _____ granting a franchise to Atmos Energy Corporation.

President
Atmos Energy Corporation
Mid-Tex Division

ATTEST:

Secretary of Atmos Energy Corp.
Executed this, _____ the _____ day of , 20__.

(b) Upon filing of the acceptance, this franchise shall become effective as of the date of it's passage and publication. In the event the acceptance is not filed by 5:15 p.m., March 1, 2010, this ordinance and the rights and privileges hereby granted shall terminate and become null and void.

APPROVED AS TO FORM:
Thomas P. Perkins, Jr., Cjty Attorney
By: 
Assistant City Attorney

KEY FOCUS AREA: Economic Vibrancy

AGENDA DATE: January 13, 2010

COUNCIL DISTRICT(S): 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15

DEPARTMENT: Office of Economic Development

CMO: A. C. Gonzalez, 671-8925

MAPSCO: N/A

SUBJECT

Authorize the Dallas Development Fund (DDF) to accept a New Markets Tax Credit (NMTC) allocation from the United States Treasury Department's Community Development Financial Institutions (CDFI) Fund and enter into an allocation agreement with the CDFI Fund - Financing: No cost consideration to the City

BACKGROUND

The City of Dallas authorized the creation of the Dallas Development Fund (DDF), by Resolution No. 09-0461 on February 11, 2009, as a non-profit Community Development Entity (CDE) to apply for a New Markets Tax Credit (NMTC) allocation in the CDFI Fund's FY09 funding cycle. DDF was awarded a \$55 million allocation under the FY09 cycle.

The NMTC program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated CDEs. These investments must be used by the CDE for projects and investments in low-income communities, and the City believes the allocation would be beneficial to provide additional opportunities for development in low-income areas. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year credit allowance period.

To accept the NMTC allocation, under the DDF certificate of formation, the City Council must approve acceptance of the \$55 million allocation. In addition, the DDF must form for-profit subsidiaries. There will be an agenda item for consideration on January 27th to create these for-profits.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

The Economic Development Committee was briefed on January 20, 2009 and February 2, 2009.

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

On February 11, 2009, the City Council authorized the creation of the DDF and authorized the DDF to apply for an allocation under the NMTC program.

On January 8, 2010, a memo was submitted to the City Council regarding authorization of DDF Fund to accept a NMTC allocation from the United States Treasury Department's CDFI Fund and enter into an allocation agreement with the CDFI Fund.

The Economic Development Committee will be briefed on the creation of the for-profit subsidiaries on January 19, 2010.

FISCAL INFORMATION

No cost consideration to the City

January 13, 2010

WHEREAS, the United States Department of Treasury has established the New Markets Tax Credit (NMTC) program to stimulate investments in predominately low-income communities; and

WHEREAS, the NMTC program is administered by the Treasury Department through its Community Development Financial Institutions (CDFI) Fund and the Internal Revenue Service; and

WHEREAS, under the NMTC program, tax credits are competitively awarded annually by the CDFI Fund to qualified Community Development Entities (CDEs) after review and evaluation of applications submitted by CDEs, which are then made available to investors; and

WHEREAS, the City of Dallas authorized the creation of the Dallas Development Fund as a non-profit Texas Corporation in order to apply for an award under the NMTC program; and

WHEREAS, the Dallas Development Fund was awarded a \$55 million NMTC allocation under the 2009 NMTC program; and

WHEREAS, in order for the Dallas Development Fund to accept the \$55 million NMTC award, the City of Dallas must approve the acceptance of the allocation; and

WHEREAS, the City is committed to supporting enhanced economic development opportunities for low-income communities within the City and to low-income persons residing within those communities; and

WHEREAS, the goals and purposes of the NMTC program are consistent with and complementary to the economic development programs previously established by the City to support expanded economic development opportunities for low-income communities within the City and to low-income persons residing within those communities; and

WHEREAS, the City supports the acceptance of the \$55 million allocation.

NOW, THEREFORE,

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

Section 1. That the Dallas Development Fund is hereby authorized to accept the NMTC allocation and enter into an allocation agreement with the CDFI Fund.

ADDENDUM ITEM # 7

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: January 13, 2010
COUNCIL DISTRICT(S): 7
DEPARTMENT: Sustainable Development and Construction
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 39 W

SUBJECT

A public hearing to receive comments regarding an application for and an ordinance granting an amendment to Planned Development District No. 166 for a College, Private school, Multiple-family residential uses, and the Establishment for the care of alcoholic, narcotic, or psychiatric patients, on property on the west side of La Prada Drive, south of Blythe Drive

Recommendation of Staff and CPC: Approval, subject to an Area 1 development plan/Area 2 conceptual plan and conditions, and approval of rescinding the existing development plan

Z090-104(RB)

FILE NUMBER: Z090-104(RB)

DATE FILED: October 9, 2009

LOCATION: West Line of La Prada Drive, South of Blyth Drive

COUNCIL DISTRICT: 7

MAPSCO: 39 W

SIZE OF REQUEST: Approx. 11.85 Acres

CENSUS TRACT: 123.02

APPLICANT: Nexus Recovery Center; Owner

REPRESENTATIVE: Don Farmer

REQUEST: An application for an amendment to Planned Development District No. 166 for a College, Private school, Multiple-family residential uses, and the Establishment for the care of alcoholic, narcotic, or psychiatric patients.

SUMMARY: The applicant proposes revisions to some of the development standards required for permitted uses.

CPC RECOMMENDATION: Approval, subject to an Area 1 development plan/Area 2 conceptual plan and conditions, and approval of rescinding the existing development plan.

STAFF RECOMMENDATION: Approval, subject to an Area 1 development plan/Area 2 conceptual plan and conditions, and approval of rescinding the existing development plan.

BACKGROUND INFORMATION:

- The request site consists of two areas; Area 1 possesses all existing improvements serving the use for the establishment for the care of alcoholic, narcotic, or psychiatric patients; and, Area 2 which will permit future residential uses that serve the main use.
- On December 7, 1983, PDD No. 166 was approved by the City Council. A certificate of occupancy was issued for the existing use in October, 1990.
- The applicant proposes various amendments to PDD No. 166 that include the following: 1) reduce a previously approved building setback along the southern property line; 2) increase nonresidential floor area within Area 1; 3) decrease residential floor area for Area 2; and, 4) provide for ingress/egress along the Shiloh Street frontage.
- The existing development plan will be rescinded in conjunction with the submission of the new Area 1 development plan/Area 2 conceptual plan.

Zoning History: There has been no recent zoning activity in the immediate area that is relevant to the request.

<u>Thoroughfare/Street</u>	<u>Existing & Proposed ROW</u>
La Prada Drive	Principal Arterial; 100' & 100' ROW
Shiloh Street	Local; 50' ROW

STAFF ANALYSIS:

Comprehensive Plan:

PDD No. 166 provides for multiple uses but is currently developed with a use providing for the establishment for the care of alcoholic, narcotic, or psychiatric patients. The applicant is proposing various amendments to provide for an increase of multiple family dwelling units to serve the existing use as well as revising certain development standards. The overall impact of the amendment will ensure scale of development remains consistent with that previously approved.

For these reasons, the request is in compliance with the Urban Design and Neighborhood Elements, respectively, outlined in forwardDallas!

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.

NEIGHBORHOOD ELEMENT

GOAL 7.1 Promote Vibrant and Viable Neighborhoods

Policy 7.1.2 Promote neighborhood-development compatibility.

Land Use Compatibility:

PDD No. 166 is partially developed (approx. seven and one-half acres) with infrastructure to serve the existing use for the establishment for the care of alcoholic, narcotic, or psychiatric patients. The newly established Area 2 (approx. four acres) will provide for future multiple family uses serving Area 1. As delineated on the attached 'Existing Development Plan', the 'Area 2' portion of the site was envisioned for multiple family uses. It should be noted this application is being submitted after staff reviewed a request for a minor amendment to provide for a new structure within the site's northern portion of the property. At that time, it was determined an existing structure at the southern property line was developed to a setback of 21 feet in an area that a 70 foot building setback existed.

The site is located in an established residential area with single family and multifamily uses surrounding the site's northern (single family structures) and western and southern property line (multifamily structures). SUP No. 117 for a Private school is situated on property fronting on La Prada Drive and abuts the multifamily uses to its west. Lastly, the Dallas County Community College District's Eastfield College is situated on property to the east across La Prada Drive. It should be noted that DART provides cross-town bus service with a designated stop along the site's La Prada Drive frontage. The applicant has indicated many of its clientele as well as employees utilize this mass transit option.

The existing use has been in operation at this location since 1990. The applicant is requesting an amendment to the PDD for consideration of the following: 1) reduce a previously approved building setback along the southern property line; 2) increase nonresidential floor area within Area 1; 3) decrease residential floor area for Area 2;

and, 4) provide for ingress/egress along the Shiloh Street frontage.

The applicant has worked with staff to ensure the scale of development across the newly delineated Area 2 remains in scale with existing development on adjacent parcels (see table, below). The revisions to the development standards will not have a negative impact on surrounding uses. Excess off-street parking will continue to be provided thus reducing any need for visitors to park on adjacent residential streets. As a result of this effort, staff supports the applicant's requested amendments to PDD No. 166, subject to the attached Area 1 development plan/Area 2 conceptual plan and conditions. Additionally, staff is recommending the rescinding of the existing development plan.

AREA	DENSITY (EXISTING/ PROPOSED)		FLOOR AREA (EXISTING/ PROPOSED)		LOT COVERAGE (EXISTING/ PROPOSED)		HEIGHT/STORIES (EXISTING/ PROPOSED)	
	1		69 du's		89,785 sf		21 percent	36'; 24' when located w/i 100' of northern p/1
2	144, combined	92 du's	59,785 sf, combined	n/a		42 percent		

Traffic: The Engineering Section of the Department of Sustainable Development and Construction has reviewed the applicant's requested and determined that it will not significantly impact the surrounding street system.

Landscaping: PDD No. 166 provides for landscaping per the Dallas Development Code. Future expansion will require a landscape plan approved by the building official that complies with these regulations.

Off-Street Parking: PDD No. 166 requires off-street parking per use as established by the Dallas Development Code. A minimum of 235 off-street parking spaces will be required, which addresses existing parking requirements.

CPC ACTION

(December 17, 2009)

Motion: It was moved to recommend **approval** of an amendment to Planned Development District No. 166 for a College, Private school, Multiple-family residential uses, and the Establishment for the care of alcoholic, narcotic, or psychiatric patients, subject to an Area 1 development plan/Area 2 conceptual plan and revised conditions, and **approval** of rescinding the existing development plan on the west side of La Prada

Z090-104(RB)

Drive, south of Blythe Drive with the following two added conditions: 1) Minimum of 133 off street parking spaces must be provided with locations shown on the Area 1 development plan and Area 2 conceptual plan. 2) Permit fencing to maximum height of 8 ft. on property.

Maker: Bagley
Second: Wolfish
Result: Carried: 13 to 0

For: 13 - Wally, Anglin, M. Davis, Rodgers, Lozano,
Bagley, Lavallaisaa, Tarpley, Lueder, Wolfish,
Schwartz, Peterson, Alcantar

Against: 0
Absent: 1 - R. Davis
Vacancy: 1 - District 11

Notices: Area: 500 Mailed: 72
Replies: For: 6 Against: 3

Speakers: For: Rebecca Crowell, 6515 Malcolm Dr., Dallas, TX, 75214
Against: None

**NEXIUS RECOVERY CENTER, INC.
FY 2010 BOARD OF DIRECTORS**

BOARD OFFICERS:

Chuck Schwartz, President*

Term: 00-02, 03-05, 07-09, 10-12 (non-voting in 06)
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Dallas, Texas 75201-6911
Bus. Ph: (214) 698-3224 Fax: (214) 571-2953 Cell: (214) 448-3224
Hm. Ph: (972) 661-9290 Hm. Fax: (972) 239-2855
Email: cschwartz@gibsondunn.com

Steve Saxon, President-Elect*

Term: 05-07, 08-10
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Email: ssaxon@rcpinvestments.com

Jan Madigan, Vice-President*

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Email: jlmadig@sbcglobal.net

Cynthia Kirven Arterbery, Secretary*

Term: 05-07, 08-10
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Principal
9800 Rodeo Drive
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1029 Cherrywood Trail (Send all correspondence to home address)
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Hm. Ph.: (972) 471-4412
Email: carterbery@coppellisd.com Home email: CArter1071@aol.com

Nicole Blythe, Treasurer*

Chair – Finance Committee
Term: 08-10
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Partner
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215 Sendero Dr.
Waxahachie, TX 75165
Bus. Ph.: (214) 561-2322 Fax: (214) 561-2370
Hm. Ph.: (972) 923-2952
Email: nicole.blythe@gt.com

2090-104

* Denotes Executive Committee

^ Denotes Non Voting Member

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CPC AMENDING CONDITIONS FOR PLANNED DEVELOPMENT DISTRICT NO. 166

SEC. 51P- 166.103. DEFINITIONS AND INTERPRETATIONS.

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

SEC. 51P-____.104. AREA 1 DEVELOPMENT PLAN/AREA 2 CONCEPTUAL PLAN.

~~Development of the Property must be in accordance with the development plan (Exhibit 166A).~~

(a) For Area 1, development and use of the Property must comply with the Area 1 development plan/Area 2 conceptual plan (Exhibit 166A). If there is a conflict between the text of this article and the Area 1 development plan/Area 2 conceptual plan, the text of this article controls.

(b) For Area 2, a development plan must be approved by the city plan commission before the issuance of any building permit to authorize work in this area. If there is a conflict between the text of this article and the development plan, the text of this article controls.

SEC. 51P- 166.106. FLOOR AREA AND DWELLING UNIT DENSITY.

(a) All college uses, private school uses, and establishments for the care of alcoholic, narcotic, or psychiatric patients combined may not exceed ~~59,785~~ 89,785 square feet of floor area.

(b) The multiple-family residential uses are limited to a maximum of 444 69 dwelling units for Area 1 and a maximum of 92 dwelling units for Area 2.

SEC. 51P-166.107. MAXIMUM HEIGHT.

(a) Except as provided in this section, maximum permitted height for all buildings and structures on the Property is 36 feet. Any structure within 100 feet of the northern boundary of the Property may not exceed 24 feet in height. If an existing building or structure on the Property is damaged or destroyed, it may be rebuilt to its original height without the approval of the board of adjustment.

(b) Maximum permitted fence height is eight feet in the location shown on the Area 1 development plan/Area 2 conceptual plan.

SEC. 51P-166.108. PARKING.

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

(b) A minimum of 133 off-street parking spaces must be provided in the location [~~Parking for each use must be provided as required by the Dallas Development Code and located as~~] shown on the Area 1 development plan/Area 2 conceptual plan.

(c) For purposes of this Section, Area 1 and Area 2 are considered one lot.

Existing Conditions

25508

040781
2/25/2004

ARTICLE 166.

PD 166.

SEC. 51P-166.101. LEGISLATIVE HISTORY.

PD 166 was established by Ordinance No. 18065, passed by the Dallas City Council on December 7, 1983. Ordinance No. 18065 amended Ordinance No. 10962, Chapter 51 of the Dallas City Code, as amended. Subsequently, Ordinance No. 18065 was amended by Ordinance No. 19390, passed by the Dallas City Council on November 19, 1986, and Ordinance No. 20512, passed by the Dallas City Council on November 15, 1989. (Ord. Nos. 10962; 18065; 19390; 20512)

SEC. 51P-166.102. PROPERTY LOCATION AND SIZE.

PD 166 is established on property generally located on La Prada Drive, south of Blyth Drive. The size of PD 166 is approximately 11.854 acres. (Ord. 18065)

SEC. 51P-166.103. DEFINITIONS AND INTERPRETATIONS.

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

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

SEC. 51P-166.104. DEVELOPMENT PLAN.

Development of the Property must be in accordance with the development plan (Exhibit 166A). (Ord. Nos. 18065; 20512)

SEC. 51P-166.105. PERMITTED USES.

The following uses are permitted on the Property:

- (1) College.
- (2) Private school.
- (3) Multiple-family residential uses.

25508

(4) Establishment for the care of alcoholic, narcotic, or psychiatric patients. This use is limited exclusively to resident or outpatient treatment of alcoholic or narcotic patients. The treatment must be of a non-medical nature. (Ord. 20512)

SEC. 51P-166.106. FLOOR AREA AND DWELLING UNIT DENSITY.

(a) All college uses, private school uses, and establishments for the care of alcoholic, narcotic, or psychiatric patients combined may not exceed 59,785 square feet of floor area.

(b) The multiple-family residential uses are limited to a maximum of 144 dwelling units. (Ord. 20512)

SEC. 51P-166.107. MAXIMUM HEIGHT.

Maximum permitted height for all buildings and structures on the Property is 36 feet. Any structure within 100 feet of the northern boundary of the Property may not exceed 24 feet in height. If an existing building or structure on the Property is damaged or destroyed, it may be rebuilt to its original height without the approval of the board of adjustment. (Ord. 19390)

SEC. 51P-166.108. PARKING.

Parking for each use must be provided as required by the Dallas Development Code and located as shown on the development plan. (Ord. 18065)

SEC. 51P-166.109. SIGNS.

All signs on the Property must comply with the provisions for non-business zoning districts contained in Article VII. (Ord. 18065)

SEC. 51P-166.110. ROAD IMPROVEMENTS.

Prior to the issuance of a building permit for any multiple-family residential uses on the Property, the parking area south of the gymnasium must be constructed to provide access from the multiple-family uses to La Prada and a turnaround must be constructed at the southern end of Shiloh Road on this Property. The turnaround must be indicated on and approved as part of the plat required to be submitted on the multiple-family residential portion of the Property. (Ord. 19390)

25508

SEC. 51P-166.111. LANDSCAPING.

Landscaping on the Property must meet the requirements for an office district adjacent to an R-7.5 district contained in Article X. (Ord. 19390)

SEC. 51P-166.112. GENERAL REQUIREMENTS.

Development of the Property must comply with all applicable codes and regulations of the City of Dallas. (Ord. 18065)

SEC. 51P-166.113. PAVING.

(a) All streets, driveways, parking spaces, and maneuvering areas for parking must comply with the requirements of the Dallas Development Code.

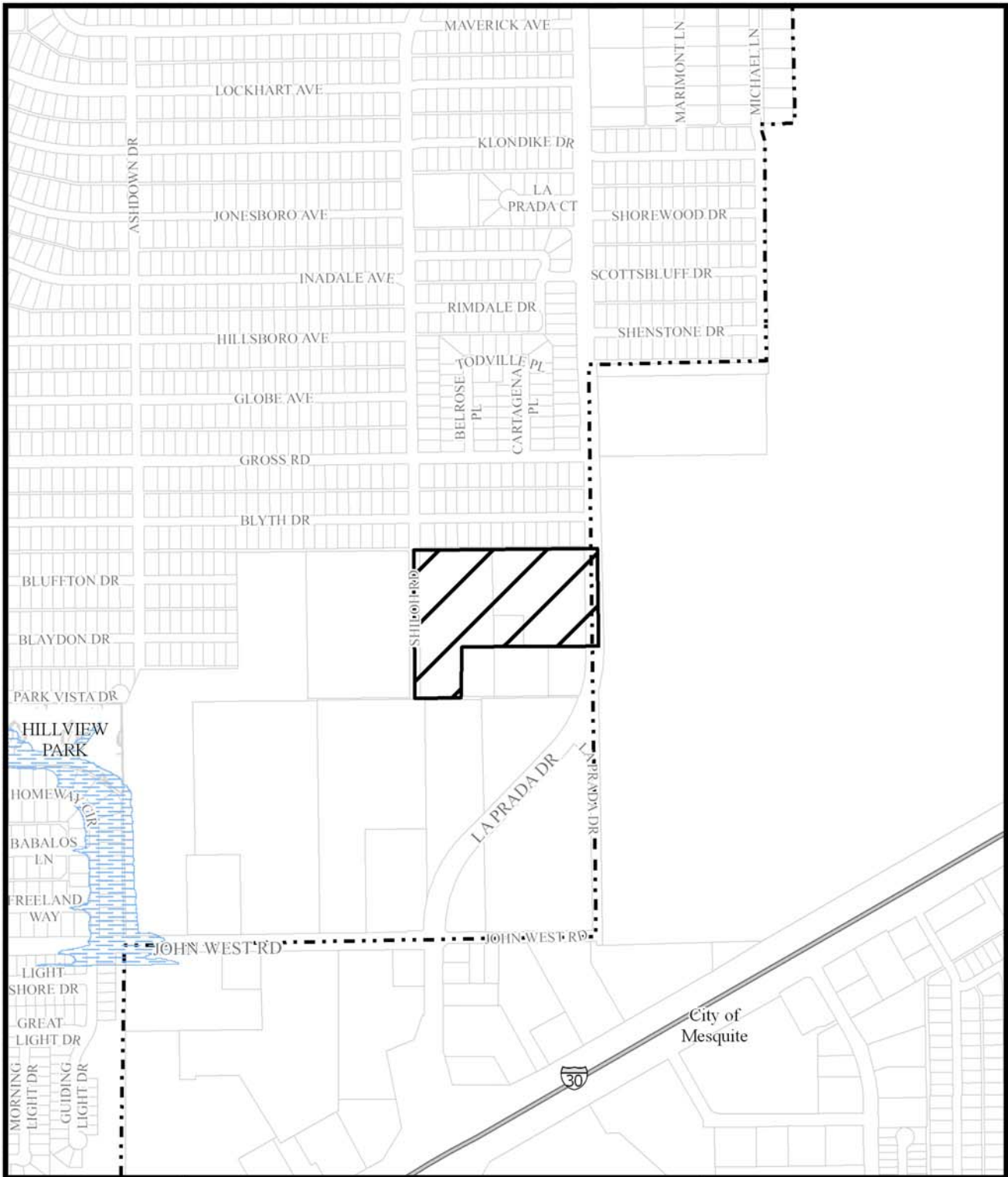
(b) All paved areas, permanent drives, streets, and drainage structures, if any, must be constructed in accordance with standard City of Dallas specifications to the satisfaction of the director of public works and transportation. (Ord. 18065)


SEC. 51P-166.114. COMPLIANCE WITH CONDITIONS.

The building official shall not issue a certificate of occupancy for a use in this PD until there has been full compliance with this article and with the construction codes and all other applicable ordinances of the Dallas City Code. (Ord. 18065)

SEC. 51P-166.115. ZONING MAP.

PD 166 is located on Zoning Map Nos. I-10 and I-11. (Ord. 18065)



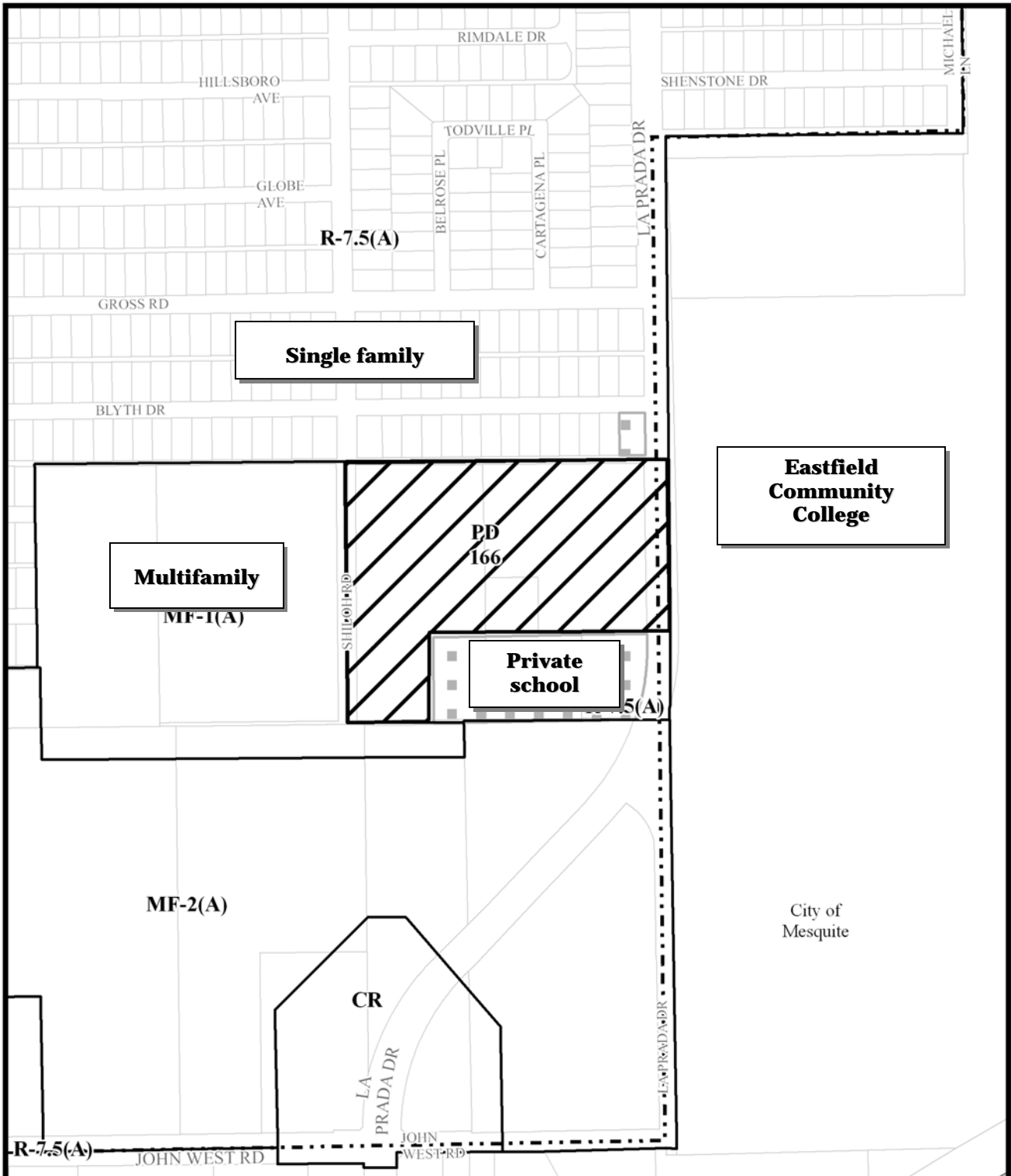

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VICINITY MAP

Map no: I-10, I-11
 Case no: Z090-104 RB

DATE: November 30, 2009

GIS Tech: SHolyoak




 1:4,800

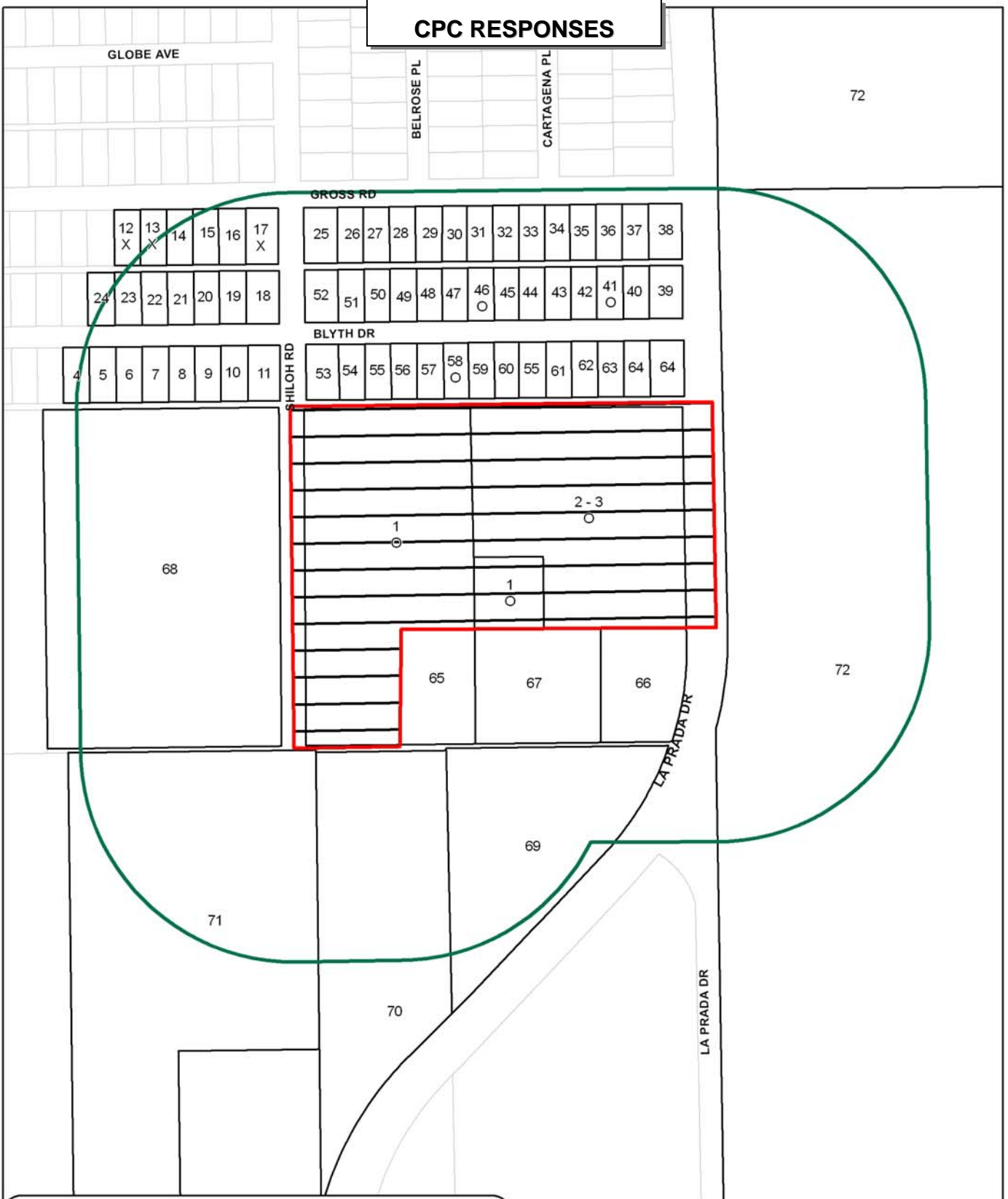
ZONING AND LAND USE

Map no: I-10, I-11
 Case no: Z090-104 RB

DATE: November 30, 2009

GIS Tech: SHolyoak

CPC RESPONSES



<u>72</u>	Property Owners Notified (75 parcels)
<u>6</u>	Replies in Favor (6 parcels)
<u>3</u>	Replies in Opposition (3 parcels)
<u>500'</u>	Area of Notification
<u>12/17/2009</u>	Date

Z090-104
I-10, I-11
CPC



1:3,600

Notification List of Property**Z090-104**

72 Property Owners Notified 3 Property Owners Opposed 6 Property Owners in

Vote	Label	Address	Owner
O	1	8701 SHILOH	NEXUS INCORPORATED
O	2	8733 LA PRADA	NEXUS INCORPORATED
O	3	8733 LA PRADA	NEXUS INC
	4	2620 BLYTH	BLYTH GROUP
	5	2626 BLYTH	MUNGUIA CLEMENTE A
	6	2630 BLYTH	JUAREZ RAFAEL
	7	2636 BLYTH	SHAFER GARY ALLEN &
	8	2640 BLYTH	NUNES ALFRED & RAEJEAN
	9	2646 BLYTH	KOSTER PROPERTIES LTD
	10	2650 BLYTH	MECCA APRIL INC
	11	2656 BLYTH	SANDOVAL ARISTEO &
X	12	2630 GROSS	FISHER GARY LYNN
X	13	2636 GROSS	GUERRA HUMBERTO
	14	2640 GROSS	JARAL PANFILO & SERAFIN
	15	2646 GROSS	REYES MARTIN
	16	2650 GROSS	GOTCHER HENRY E
X	17	2656 GROSS	SURLS IREANE
	18	2655 BLYTH	CITY VIEW HOLDINGS
	19	2649 BLYTH	GORTON JAMES P TRUSTEE
	20	2645 BLYTH	VALLADARES GERMAN &
	21	2639 BLYTH	IVIE WILLIAM M &
	22	2635 BLYTH	KRAUSHAAR JEFFREY A &
	23	2629 BLYTH	LEDBETTER WILLIE A JR
	24	2625 BLYTH	RAMIREZ JOSE M &
	25	2706 GROSS	GONSETH TODD
	26	2710 GROSS	LEWIS DARIUS

Wednesday, December 16, 2009

<i>Vote</i>	<i>Label</i>	<i>Address</i>	<i>Owner</i>
		27 2716 GROSS	WHITE PAULA N
		28 2720 GROSS	GONZALES PORFIRIO
		29 2726 GROSS	VAZQUEZ ROBERTO &
		30 2730 GROSS	ALVAREZ HORACIO
		31 2736 GROSS	GUZMAN ELENA &
		32 2806 GROSS	GARCIA ALFONSO T &
		33 2812 GROSS	GRAVES KENNETH &
		34 2818 GROSS	HAVENS MARY M
		35 2822 GROSS	CARRANZA ROBERTO
		36 2828 GROSS	MIRAMONTES MARIA G
		37 2832 GROSS	GUADIANA HORACIO JR
		38 2838 GROSS	IVIE WILLIAM & WANDA
		39 2837 BLYTH	HERNANDEZ LUCILLE
		40 2831 BLYTH	SMITH THOMAS JR & SALLY V
O		41 2827 BLYTH	USREY MELBA GAY
		42 2821 BLYTH	MANRIQUE RAUL
		43 2817 BLYTH	MARTINEZ CRECENCIANO Y
		44 2811 BLYTH	QUINONEZ PABLO
		45 2805 BLYTH	PEREZ DANIEL M &
O		46 2737 BLYTH	COPELAND ROGER S
		47 2731 BLYTH	WHITE DAVID
		48 2727 BLYTH	PAEZ VERONICA &
		49 2721 BLYTH	HERNANDEZ MARIA
		50 2717 BLYTH	GONZALEZ LUIS F
		51 2711 BLYTH	REYES ANTONIO
		52 2707 BLYTH	POWELL VALERIE &
		53 2706 BLYTH	ALVAREZ GILBERTO
		54 2710 BLYTH	TORRES GONZALO R &
		55 2812 BLYTH	GARCIA VICTOR
		56 2720 BLYTH	BOSARGE BUSTER WAYNE
		57 2726 BLYTH	REYES MARTIN RODRIGUEZ

Wednesday, December 16, 2009

Z090-104(RB)

<i>Vote</i>	<i>Label</i>	<i>Address</i>	<i>Owner</i>
O	58	2730 BLYTH	MACKEY JOSEPH C
	59	2736 BLYTH	SALGADO JOSE V
	60	2806 BLYTH	GARCIA VICTOR
	61	2818 BLYTH	GARCIA VICTOR J
	62	2822 BLYTH	GARCIA VICTOR J
	63	2828 BLYTH	PEDRAZA JORGE L &
	64	2832 BLYTH	BAILEY MORTGAGE CORP
	65	8615 LA PRADA	CENTRAL AMERICAN MISSION
	66	8625 LA PRADA	CENTRAL AMERICAN MISSION
	67	8635 LA PRADA	CENTRAL AMERICAN MISSION
	68	8702 SHILOH	SHILOH VILLAGE ASSC
	69	2800 JOHN WEST	VILLA BONITA LLC
	70	8383 LA PRADA	KING YVONNE G TRUST
	71	2631 JOHN WEST	CARLETON LAPRADA LTD
	72	3737 MOTLEY	DALLAS COUNTY COMMUNITY

Wednesday, December 16, 2009

Z090-104(RB)

Al Romero
PO Box 870875
Mesquite, TX 75150

Anthony Jones
PO Box 0711
Galveston, TX 77553

Betty Wadkins
2843 Modesto Drive
Dallas, TX 75227
ENZ090-104

Bill Dahlstrom
901 Main St., Ste 6000
Dallas, TX 75202

Cindy Harris
4310 Buena Vista #8
Dallas, TX 75205

Clarence F Cope
10404 Ferndale
Dallas, TX 75238

J. Brandon Hancock
2409 Clark St., #407
Dallas, TX 75204

Jane Guerrini
7032 Lupton
Dallas, TX 75225

Jeff Bosse
PO Box 4738
Dallas, TX 75208

Jerry Finaldi
6757 Arapaho Rd., #711-381
Dallas, TX 75248

Judy Hearst
2512 Thomas Ave.
Dallas, TX 75201

Leanne Witek
16660 N Dallas Pkwy #1200
Dallas, TX 75248

Marcus Wood
6060 N Central Expy Ste 333
Dallas, TX 75206

Pam Conley
901 N Madison Avenue
Dallas, TX 75208

Rob Baldwin
401 Exposition
Dallas, TX 75226

Robert P. Garza
412 E. Sixth St.
Dallas, TX 75203

Sheryl Jean, Newsroom-Business
508 Young St.
Dallas, TX 75265

Steve Craft
P O Box 542225
Dallas, TX 75354

Steve Kim
4318 Sexton Ln.
Dallas, TX 75229

Alpha Testing, Inc
Virginia Brown
2209 Wisconsin St, Ste 100
Dallas, TX 75229

Am. Metro/Study Corp
Marque Nelson
14881 Quorum Dr #400
Dallas, TX 75240

Arborilogical Services, Inc.
Bill Seaman
16 Steel Rd.
Wylie, TX 75098

Bluffview Homeowner
Pat White
4714 Wildwood
Dallas, TX 75209

Criterion Real Estate Services
Jason Leeds
14160 N. Dallas Parkway, Ste 750
Dallas, TX 75254

Z090-104(RB)

Dallas ISD
Orlando Alameda
3700 Ross Ave, Box 61
Dallas, TX 75204

Dallas Planning Assoc
Stuart Pully
P O Box 781609
Dallas, TX 75378

McGraw-Hill Construction
Nancy Castillo
9155 Sterling Dr. Ste 160
Dallas, TX 75063

INCAP Fund
Lauren Odell
300 Crescent Court, Ste.1100
Dallas, TX 75201

Jackson Walker
Suzan Kedron
901 Main St. #6000
Dallas, TX 75202

Jackson Walker
Jonathan Vinson
901 Main St. #6000
Dallas, TX 75202

ADDENDUM ITEM # 8

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: January 13, 2010
COUNCIL DISTRICT(S): 2, 14
DEPARTMENT: Sustainable Development and Construction
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 45 G J K L M N P Q R S T

SUBJECT

A public hearing to receive comments regarding consideration of amendments to the Downtown Special Provision Sign District to allow for one midlevel premise sign for every 100 feet in building height in an area generally bounded by Woodall Rogers to the north, Interstate 45/US 75 to the east, Interstate 30/R.L. Thornton to the south and Interstate 35/Stemmons Freeway to the west
Recommendation of Staff and CPC: Approval
SPSD090-001

ACM: A. C. Gonzalez

FILE NUMBER: SPSD090-001 **DATE INITIATED:** August 27, 2008

LOCATION: Area generally bound by Woodall Rogers Frwy to the north, Interstate 45/US 75 to the east, Interstate 30 to the south and Interstate 35 to the west, excluding those areas included in the West End SPSP, the Arts District SPSP, and the Farmers Market SPSP.

COUNCIL DISTRICT: 2, 14 **MAPSCO:** 45-G,J,K,L,M,N,P,QR,S,T

SIZE OF REQUEST: Approx 740 acres **CENSUS TRACT:** 17.01

APPLICANT: Downtown Dallas Inc., John Crawford

PROPOSAL: Consideration of amendments to the Downtown Special Provision Sign District to allow for middle level premise signs.

SUMMARY: The purpose of this request is to allow additional premise signs in the middle level sign area. The middle level sign area is that area between 36 feet from ground level and the upper 12 to 36 feet of a building. Consideration will be given to allowing one middle level sign for every 100 feet in building height.

STAFF RECOMMENDATION: Approval

CPC RECOMMENDATION: Approval

DESIGNATED ZONING CASE

BACKGROUND INFORMATION:

- Signage within the downtown loop is regulated by 4 different Special Provision Sign Districts: West End Special Provision Sign District, Arts District Special Provision Sign District, Farmers Market Special Provision Sign District, and the Downtown Special Provision Sign District. The proposed amendments are only applicable to the Downtown Special Provision Sign District.
- Under current regulations, flat attached premise signs in the Downtown SPSP can only be located in the lower 36 feet of a building or the upper 36 ft for buildings 18 stories or greater or upper 12 feet for buildings less than 18 stories in height.
- The Special Sign District Advisory Committee (SSDAC) considered the proposed amendments at two meetings.
- Downtown Dallas Inc. submitted the application for the proposed amendment. They have indicated the proposed amendment is necessary to make buildings in the Downtown SPSP more competitive with other areas of the metroplex, particularly when it comes to attracting major corporations as tenants.

STAFF ANALYSIS:

Planning staff worked with the applicant and the Special Provision Sign District Advisory Committee (SSDAC) to formulate a proposal that would address the need identified by the applicant, while insuring the signage would only be eligible for major tenants of a building and the signs would not be allowed to proliferate on an individual building. Middle level signs would have to comply with the following standards:

(A) Each middle level flat attached sign may have a maximum of eight words that contain any character of a height equal to or exceeding four inches.

(B) Middle level flat attached signs must be wholly located within the middle level sign area.

(C) The maximum effective area for a middle level flat attached sign is 500 square feet.

(D) Middle level flat attached signs may only display the names or symbols or a combination thereof representing tenants occupying one or more full floors or a minimum of 20,000 square feet of leasable building area, whichever is greater.

(E) Middle level flat attached signs are only permitted on buildings 10 stories or greater in height.

(F) One middle level flat attached sign is permitted for every 100 ft of building height or portion thereof per facade.

Staff would also recommend a minimum 75 foot vertical separation between flat attached signs be included in the regulations.

While staff is supportive of the proposal, staff has some concerns with the potential impact of middle level signs on residential buildings that may be in close proximity to such signs. This concern is somewhat mitigated by the fact that middle level signs are intended to be seen from a distance, similar to upper level signs, and it is unlikely a middle level sign would be erected that would be obstructed by an adjacent residential building.

SSDAC ACTION (November 16, 2009)

It was moved to recommend **approval** of amendments to the Downtown Special Provision Sign District to create a new type of attached premise sign, a middle level sign, subject to the proposed standards:

Maker: Joyce Van Demark
Second: Watt Winn
Result: Carried: 4 to 0

For: 4 - Bauer, Van Demark, Winn, Gomez

Against: 0

Absent: 1 - Wally

CPC ACTION (December 17, 2009)

Motion: It was moved to recommend **approval** of amendments to the Downtown Special Provision Sign District to allow a maximum of three midlevel premise signs, per façade on buildings in an area generally bounded by Woodall Rogers to the north, Interstate 45/US 75 to the east, Interstate 30/R.L. Thornton to the south and Interstate 35/Stemmons Freeway.

Maker: Peterson
Second: Lozano
Result: Carried: 13 to 0

For: 13 - R. Davis, Wally, Anglin, Rodgers, Lozano, Bagley, Lavallaisaa, Tarpley, Lueder, Wolfish, Schwartz, Peterson, Alcantar

Against: 0

SPSD 090-001

Absent: 0

Vacancy: 1 - District 11

Conflict: 1 - M. Davis

Notices: Area: 200 Mailed:1763

Replies: For: 29 Against: 2

Speakers: For: John Crawford, Address not given
Against: None

**PROPOSED AMENDMENTS TO THE DOWNTOWN SPECIAL PROVISION SIGN DISTRICT
FOR MIDDLE LEVEL SIGNS**

SEC. 51A-7.903. DEFINITIONS.

In this division:

(23) MIDDLE LEVEL SIGN means an attached sign wholly situated within the middle level sign area.

(24) MIDDLE LEVEL SIGN AREA means that portion of a building façade that is between the lower level sign area and the upper level sign area.

SEC. 51A-7.906. GENERAL PROVISIONS FOR ALL SIGNS IN THE DOWNTOWN SIGN DISTRICT.

(a) Except as provided in Subsection (b), the regulations of Section 51A-7.303 apply in this district.

(b) For retail and personal service uses within the retail and Main Street subdistricts, the measurements of luminance are taken from any premise or public right-of-way other than an alley outside the retail subdistrict or and Main Street subdistrict, respectively.

(c) Illuminated signs in this district must comply with Section 51A-6.104 of the Dallas Development Code, as amended. (Ord. Nos. 24606; 24925)

SEC. 51A-7.911. ATTACHED PREMISE SIGNS.

(a) Attached signs in general.

(1) Attached signs must be securely attached.

(2) Attached signs overhanging the public way are permitted, except that no sign may project closer than two feet to the vertical plane extending through the back of a street curb.

~~_____ (3) The total effective area for all signs on a facade may not exceed 30 percent of the area in the lower or upper level sign area. Projecting attached signs are not included in these effective area calculations.~~

(3) The total effective area for all signs on a facade may not exceed:

(A) 30 percent of the area in the lower level sign area;

(B) 20 percent of the area in the middle level sign area; and

(C) 30 percent of the area in the upper level sign area.

(D) Projecting attached signs are not included in these effective area calculations. See additional restrictions on sign area in requirements for specific types of signs.

(4) Except as otherwise provided, attached signs may only be located in the lower level sign area, the middle level sign area, or in the upper level sign area.

(5) Attached signs may not project more than four feet above the roof line.

(e) Flat attached signs.

(1) Lower level flat attached signs.

(A) The maximum number of lower level flat attached signs permitted on a facade is the sum obtained by counting all of the street entrances and first floor occupants with windows on that facade with no street entrances.

(B) In the general CBD subdistrict, the maximum effective area for a lower level flat attached sign is:

(i) 30 square feet if the sign is within 15 feet of the right-of-way; and

(ii) 50 square feet if the sign is more than 15 feet from the right-of-way.

(C) In the Main Street and retail subdistricts, the maximum effective area for a lower level flat attached sign is:

(i) 40 square feet if the sign is within 15 feet of the right-of-way; or

(ii) 60 square feet if the sign is more than 15 feet from the right-of-way.

(2) Middle level flat attached signs.

(A) Each middle level flat attached sign may have a maximum of eight words that contain any character of a height equal to or exceeding four inches.

(B) Middle level flat attached signs must be wholly located within the middle level sign area.

(C) The maximum effective area for a middle level flat attached sign is 500 square feet.

(D) Middle level flat attached signs may only display the names or symbols or a combination thereof representing tenants occupying one or more full floors or a minimum of 20,000 square feet of leasable building area, whichever is greater.

(E) Middle level flat attached signs are only permitted on buildings 10 stories or greater in height.

(F) One middle level flat attached sign is permitted for every 100 ft of building height or portion thereof, up to a maximum of three signs, per facade.

(G) Middle level flat attached signs must have a vertical separation of 75 feet from any other flat attached sign on the same façade in the upper, middle, or lower level sign area.

(2) Upper level flat attached signs.

(A) Each upper level flat attached sign may have a maximum of eight words that contain any character of a height equal to or exceeding four inches.

(B) Upper level flat attached signs must be wholly located within the upper level sign area.

(g) Projecting attached signs.

(1) Lower projecting attached signs.

(A) No premise may have more than one lower projecting attached sign per pedestrian entrance.

(B) No lower projecting attached sign may exceed 15 square feet in effective area in the general CBD subdistrict, or 30 square feet in effective area in the retail and Main Street subdistricts.

(C) No lower projecting attached sign may be lower than 10 feet above grade, or project vertically above the roof of a building, or 25 feet above grade, whichever is lower.

(D) No lower projecting attached sign may project more than five feet into the public right-of-way.

(2) Upper projecting attached signs.

(A) No premise may have more than one upper projecting attached sign.

(B) No upper projecting attached sign may project more than five feet into the public right-of-way.

(C) An upper projecting attached sign:

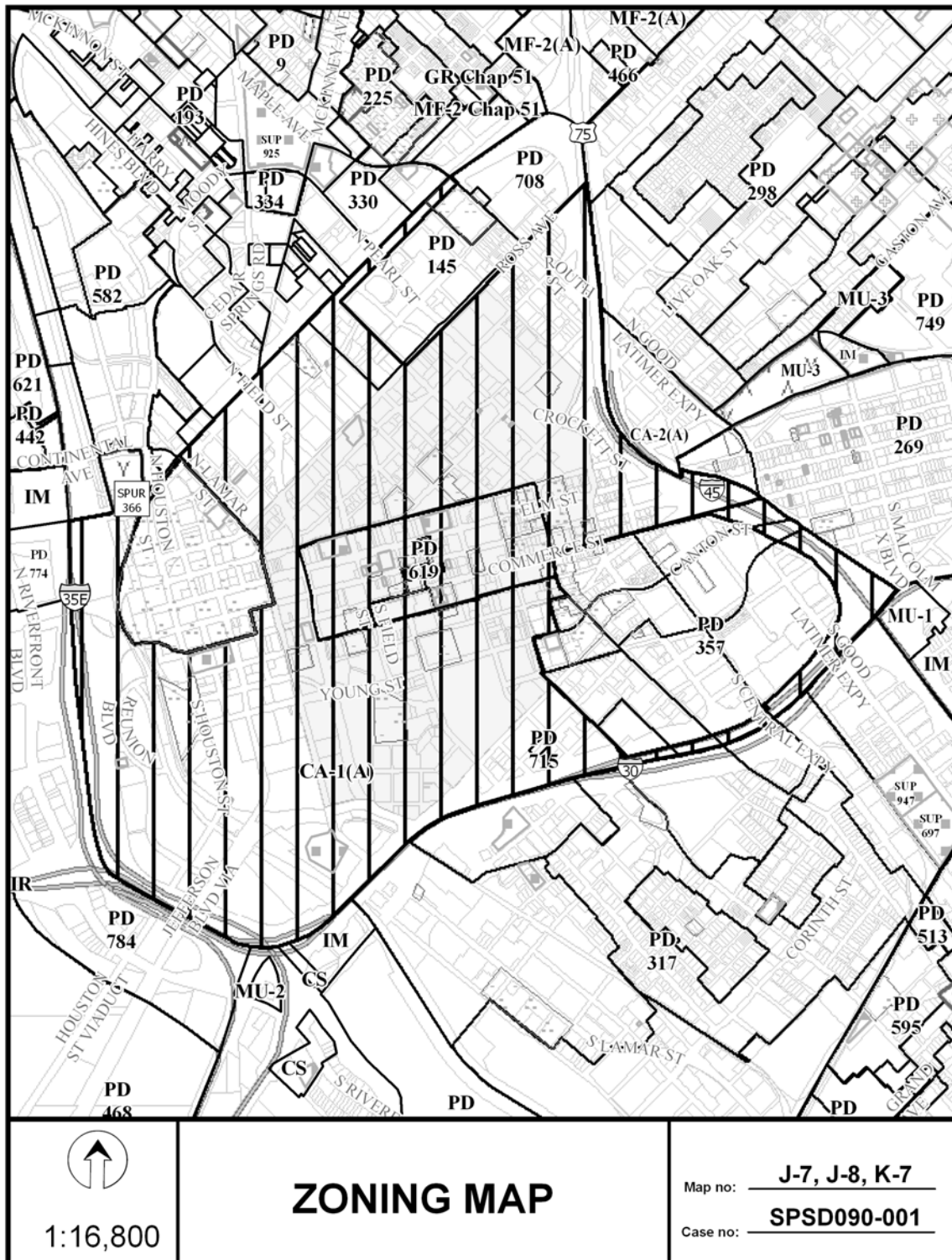
(i) may be located outside the upper level sign area; and

(ii) may not be lower than 12 feet above grade.

(D) The lowest point of an upper projecting attached sign must be located within 36 feet above grade.

(E) No upper projecting attached sign may exceed 180 square feet in effective area.

(3) The board of adjustment may authorize a special exception to the effective area, height, or location restrictions for a projecting attached sign if the board finds, after a public hearing, that the special exception will not be contrary to the public interest, adversely affect neighboring properties, or create a traffic hazard and that the special exception will be in harmony with the general purpose and intent of this division. In no event may a special exception granted under this paragraph authorize a sign to exceed 300 square feet in effective area or 45 feet in height. (Ord. 20927; 21404; 21694; 24606; 24925)



DATE: December 02, 2009

GIS Tech: SHolyoak

SPSD 090-001

Due to the number of properties on the notification list, the list is not included in this material. The property owner notification list is available for review in Room 5BN of Dallas City Hall.