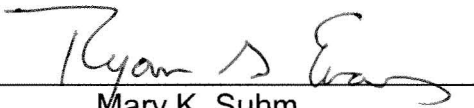


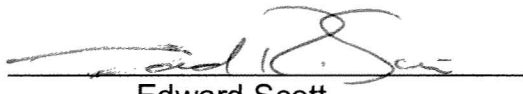
**MAY 13, 2009 CITY COUNCIL ADDENDUM
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated May 13, 2009. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



Mary K. Suhm
City Manager

5-8-09
Date



Edward Scott
City Controller

5/8/09
Date

RECEIVED

2009 MAY -8 PM 6:18

CITY SECRETARY
DALLAS, TEXAS

ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, MAY 13, 2009
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TX 75201
9:00 A.M.

REVISED ORDER OF BUSINESS

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

9:00 a.m.	INVOCATION AND PLEDGE OF ALLEGIANCE	
	OPEN MICROPHONE	
	CLOSED SESSION	
	MINUTES	Item 1
	MOTION	Addendum Item 1
	CONSENT AGENDA	Items 2 - 48
	CONSENT ADDENDUM	Items 2 - 6
	ITEMS FOR INDIVIDUAL CONSIDERATION	
No earlier than 9:30 a.m.		Items 49 - 50
12:00 p.m.	MEMORIAL DAY OBSERVANCE CEREMONIES AT DALLAS POLICE MEMORIAL SITE 500 SOUTH AKARD AT YOUNG STREET	
	PUBLIC HEARINGS AND RELATED ACTIONS	
1:00 p.m.		Items 51 - 67 Addendum Item 7

**ADDENDUM
CITY COUNCIL MEETING
MAY 13, 2009
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.**

ADDITIONS:

Closed Session

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

- United States v. Donald W. Hill, et al., Criminal Case No. 3:07-cr-00289-M (N.D. Texas)
- City of Dallas v. Reliance Asset Trust, et al., Cause No. 06-13872-D
- Atmos Energy Corporation, Mid-Tex Division's Statement of Intent to Increase Gas Utility Rates within the Incorporated Areas of the City of Dallas
- Legal issues relating to water right matters pending before the Texas Commission on Environmental Quality and any other related matters.

VOTING AGENDA

1. Consideration of a motion to suspend Section 6.1(c)(1) of the City Council Rules of Procedure and allow the public hearings scheduled on the agenda for the May 27, 2009 city council meeting to be conducted no earlier than 12:00 noon instead of no earlier than 1:00 p.m. (Two-thirds vote of city council members present required)

CONSENT ADDENDUM

Aviation

2. Authorize an application to the Federal Aviation Administration to impose a Passenger Facility Charge of \$4.50 per enplaned passenger to provide funding for nine new capital improvement projects at Dallas Love Field - Estimated Revenue: \$304,000,000

Department of Development Services

3. Authorize moving expense and rental assistance payments for 46 eligible residents in the Delux Inn as a result of an official written offer of just compensation to purchase real property at 3111 North Stemmons Freeway to be used in conjunction with the Trinity Parkway Project (list attached) - Not to exceed \$647,984 - Financing: 1998 Bond Funds

Office of Cultural Affairs

4. Authorize a 20-year lease agreement with DSM Management Group, Inc., with an option to extend the term for 4 additional 5-year periods, for a city-owned facility in Fair Park known as the Music Hall located at 909 First Avenue for their continued use, operation and management to provide and bring music and theatrical performances to Dallas under the direction of the Office of Cultural Affairs for the period July 1, 2009 through June 30, 2029 - Annual Revenue: \$1

**ADDENDUM
CITY COUNCIL MEETING
MAY 13, 2009**

ADDITIONS: (Continued)

CONSENT ADDENDUM (Continued)

Office of Financial Services

5. Authorize **(1)** preliminary adoption of a substantial amendment to the FY2008-09 Consolidated Plan Budget and Action Plan regarding Community Development Block Grant - Recovery Program Funds (Federal Stimulus); and **(2)** a public hearing to be held on May 27, 2009 to receive public comments on the substantial amendment - Not to exceed \$4,700,469 - Financing: U.S. Department of Housing and Urban Development Grant Funds

Park & Recreation

6. Authorize an increase to the contract with The Gilbert Construction Group, Inc. for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park located at 1900 Gross Road; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green Park located at 16600 Hillcrest Road, Pemberton Hill Park located at 6424 Elam Road, Daniieldale Park located at 500 West Wheatland Road, Ferguson Park located at 1900 Gross Road, Lake Highlands North Park located at 9344 Church Road, Mildred L. Dunn Park located at 3300 Carpenter Avenue, Ridgewood Park located at 6818 Fisher Road, and Umphress Park located at 7700 Umphress Road - Not to exceed \$239,570, from \$1,321,851 to \$1,561,421 - Financing: 2003 Bond Funds (\$20,981) and 2006 Bond Funds (\$218,589)

PUBLIC HEARINGS AND RELATED ACTIONS

MISCELLANEOUS HEARINGS

Police

7. A public hearing to receive comments on the modification of the Dallas juvenile curfew ordinance to establish daytime curfew hours for minors and, at the close of the hearing, consideration of an ordinance amending Chapter 31 of the Dallas City Code to adopt daytime curfew hours - Financing: No cost consideration to the City
Note: This item was considered by the City Council at public hearings held on March 25, 2009 and April 22, 2009 and postponed the vote on this item until May 13, 2009, with the public hearing left open.

**ADDENDUM
CITY COUNCIL MEETING
MAY 13, 2009**

DELETION:

Economic Development

16. Authorize a management contract for management of the EB-5 Program City of Dallas Regional Center - Civitas Capital Management, LLC, most advantageous proposer of three - Financing: No cost consideration to the City

Delux Inn Resident List
Addendum Item #3

<u>No.</u>	<u>Room #</u>	<u>Occupants(s)</u>	<u>Moving Expense Payment</u>	<u>Rental Assistance Payment</u>	<u>Total Relocation Assistance</u>
1	127	Earl Chaney	\$400	\$22,680	\$23,080
2	131	Jerry Booze	\$400	\$22,344	\$22,744
3	135	Gregory Carroll	\$300	\$0	\$300
4	139	Paul Richards	\$400	\$22,806	\$23,206
5	141	Nitaben Elphick	\$1,000	\$22,680	\$23,680
6	203	Cindy Sager	\$300	\$0	\$300
7	207	Rodney Shankle	\$400	\$18,480	\$18,880
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9	212	Ismail Ashanti	\$300	\$0	\$300
10	213	Cathy Dedmon	\$300	\$0	\$300
11	216	Cecil Craddock	\$400	\$18,480	\$18,880
12	218	Willie Richardson	\$300	\$0	\$300
13	222	Stephen Henington	\$400	\$24,360	\$24,760
14	223	Mark Miller	\$400	\$22,680	\$23,080
15	224	Zeray Hagos	\$400	\$0	\$400
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17	226	Lucius Davis	\$400	\$19,152	\$19,552
18	229	Christine Haywood	\$400	\$18,480	\$18,880
19	230	Patrick Schaefer	\$400	\$0	\$400
20	231	David Mitchell	\$300	\$0	\$300
21	232	Efrain Rodriguez	\$400	\$18,480	\$18,880
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25	237	Roy Garvin	\$400	\$22,680	\$23,080
26	240	Cevin Franklin	\$300	\$0	\$300
27	304	James Denny	\$400	\$0	\$400
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34	323	Michael Prince	\$400	\$20,160	\$20,560
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38	329	Shannon Harlan	\$400	\$0	\$400
39	330	Jonathan Waters	\$400	\$18,480	\$18,880
40	331	Ladia Cruz	\$400	\$19,152	\$19,552
41	332	Gene & Joyce Brown	\$400	\$20,160	\$20,560

Delux Inn Resident List
Addendum Item #3 (Continued)

<u>No.</u>	<u>Room #</u>	<u>Occupants(s)</u>	<u>Moving Expense Payment</u>	<u>Rental Assistance Payment</u>	<u>Total Relocation Assistance</u>
42	334	Lisa Corothers	\$400	\$18,480	\$18,880
43	335	Margarito Galindo	\$300	\$0	\$300
44	336	Ernest Sipe	\$400	\$19,152	\$19,552
45	338	Tim & Lisa Tucker	\$400	\$23,478	\$23,878
46	339	Sydney Burns	\$400	\$18,480	\$18,880
TOTAL			\$17,900	\$630,084	\$647,984

ADDENDUM DATE May 13, 2009

ITEM		IND		DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
#	OK	DEF								
1				NA	V	NA	NC	NA	NA	Consideration of a motion to suspend Section 6.1(c)(1) of the City Council Rules of Procedure and allow the public hearings scheduled on the agenda for the May 27, 2009 city council meeting to be conducted no earlier than 12:00 noon instead of no earlier than 1:00 pm (Two-thirds vote of city council members present required)
2				14	C	AVI	REV \$304,000,000	NA	NA	Authorize an application to the Federal Aviation Administration to impose a Passenger Facility Charge of \$4.50 per enplaned passenger to provide funding for nine new capital improvement projects at Dallas Love Field
3				6	C	DDS, TRC, PWT	\$647,984.00	NA	NA	Authorize moving expense and rental assistance payments for 46 eligible residents in the Delux Inn as a result of an official written offer of just compensation to purchase real property at 3111 North Stemmons Freeway to be used in conjunction with the Trinity Parkway Project
4				7	C	OCA, DDS	REV \$1	NA	NA	Authorize a 20-year lease agreement with DSM Management Group, Inc. with an option to extend the term for 4 additional 5-year periods for a city-owned facility in Fair Park known as the Music Hall located at 909 First Avenue for their continued use, operation and management to provide and bring music and theatrical performances to Dallas under the direction of the Office of Cultural Affairs for the period July 1, 2009 through June 30, 2029
5				All	C	OFS	GT	NA	NA	Authorize preliminary adoption of a substantial amendment to the Consolidated Plan Budget and Action Plan regarding Community Development Block Grant - Recovery Program Funds (Federal Stimulus); and a public hearing to be held on May 27, 2009 to receive public comments on the substantial amendment
6				4, 5, 7, 8, 9, 10, 12	C	PKR	\$239,570.00	86.69%	23.11%	Authorize an increase to the contract with The Gilbert Construction Group, Inc. for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park located at 1900 Gross Road; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green Park located at 16600 Hillcrest Road, Pemberton Hill Park located at 6424 Elam Road, Danieldale Park located at 500 West Wheatland Road, Ferguson Park located at 1900 Gross Road, Lake Highlands North Park located at 9344 Church Road, Mildred L. Dunn Park located at 3300 Carpenter Avenue, Ridgewood Park located at 6818 Fisher Road, and Umphress Park located at 7700 Umphress Road
7				All	PH	POL	NC	NA	NA	A public hearing to receive comments on the modification of the Dallas juvenile curfew ordinance to establish daytime curfew hours for minors and, at the close of the hearing, consideration of an ordinance amending Chapter 31 of the Dallas City Code to adopt daytime curfew hours - Financing: No cost consideration to the City

TOTAL \$887,554.00

COUNCIL AGENDA OFFICE

KEY FOCUS AREA: Making Government More Efficient
Effective and Economical

DEPARTMENT: Mayor and City Council

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): N/A

SUBJECT

Consideration of a motion to suspend Section 6.1(c)(1) of the City Council Rules of Procedure and allow the public hearings scheduled on the agenda for the May 27, 2009 city council meeting to be conducted no earlier than 12:00 noon instead of no earlier than 1:00 p.m. (Two-thirds vote of city council members present required)

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: May 13, 2009
COUNCIL DISTRICT(S): 14
DEPARTMENT: Aviation
CMO: Ramon F. Miguez, P.E., 670-3308
MAPSCO: 34E

SUBJECT

Authorize an application to the Federal Aviation Administration to impose a Passenger Facility Charge of \$4.50 per enplaned passenger to provide funding for nine new capital improvement projects at Dallas Love Field - Estimated Revenue: \$304,000,000

BACKGROUND

The City Council previously approved the application to FAA for a Passenger Facility Charge (PFC) of \$3.00 on October 10, 2007. This item would authorize the City Manager to make a new application to FAA for authorization to collect a PFC at the rate of \$4.50. The Passenger Facility Charge is a federally authorized, local charge to provide an additional source of capital funding for eligible projects. Eligible projects include those that preserve or enhance safety, security, or capacity; reduce noise or mitigate noise impacts per standards; or enhance competition. The PFC is collected by the carriers from boarding passengers through the ticket purchase and remitted to the airport. Current legislation allows a PFC ranging from \$1.00 up to \$4.50 per eligible enplaned passenger.

The majority of PFC funds collected from this application are intended to finance the Love Field Modernization Program (LFMP). In the past year, the City Council has taken a number of actions to approve agreements and initiate work and expenditures for the LFMP. Most significantly, Council approved a Program Development Agreement in December 2008 that confirmed the project's preliminary budget at \$519,000,000, which will be financed by a strategy involving the use of federal grant funds, Department of Aviation capital funds, bond proceeds, and PFC revenues.

This PFC Application will provide approximately \$297,000,000 for four LFMP projects, and approximately \$7,000,000 to fund the local share of five capital improvement projects which are unrelated to the LFMP, and which will also receive Federal Aviation Administration (FAA) grant funding. The estimated charge expiration date, by which all authorized funding will be collected, is January 2022.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 10, 2007, Council approved Resolution No. 07-3012, imposing a PFC charge of \$3.00 per enplaned passenger.

FISCAL INFORMATION

Estimated Revenue: \$304,000,000

May 13, 2009

WHEREAS, 49 U.S.C. 40117 (“Federal Statute”) authorizes an eligible agency to impose a passenger fee (“Passenger Facility Charge” or “PFC”) at an airport the agency controls; and,

WHEREAS, under the definition of “eligible agency” found in the Federal Statute, the City of Dallas (“City”) is eligible to apply for a PFC Program at Dallas Love Field (“Airport”); and,

WHEREAS, as a result of the authority granted in the Federal Statute, the Federal Aviation Administration (“FAA”) has promulgated regulations found at 14 CFR 158 (“Regulations”) which sets forth procedures and rules for the application, imposition, collection, and expenditure of PFCs; and,

WHEREAS, it is in the best interest of the City to maintain the PFC program as authorized in the Federal Statute and the Regulations, in order to preserve and enhance the safety, capacity, Airline competition and security of the transportation facilities at the Airport; and,

WHEREAS, it is in the best interest of the City to allow the City Manager to perform all acts necessary for the application to the PFC program, consistent with the City’s Charter and Ordinances and in accordance with the Federal Statute and Regulations;

NOW, THEREFORE,

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

Section 1. The City Council hereby adopts the findings set out in the preamble hereof and approves the application to a PFC Program at Dallas Love Field.

Section 2. The City Council hereby approves and authorizes the City Manager to apply to the FAA for authorization to impose and use PFCs in accordance with the Federal Statute and Regulations, as may be amended, at Dallas Love Field for projects approved by the FAA. If the application is approved by the FAA, each PFC that is collected shall not exceed \$4.50.

Section 3. The City Council hereby approves and authorizes the Director of Aviation as the official representative of the City for the PFC program at Dallas Love Field and authorizes the Director to file PFC project applications and amendments thereto with the FAA and to perform any other acts as are necessary for the adoption, implementation, and continuation of the PFC program at Dallas Love Field consistent with the City’s Charter and Ordinances and in accordance with the Federal Statute and Regulations, as may be amended.

May 13, 2009

Section 4. The City Council approves and authorizes the funds to be deposited into a special account known as the Passenger Facility Charge Fund ("the PFC Fund") for the deposit and expenditure of funds received from the Airport PFC program. All revenues received from the PFC program at Dallas Love Field and interest thereon shall be deposited in the PFC Fund and shall only be expended for projects at the Airport determined to be eligible and approved by the FAA under the Federal Statute and Regulations, as may be amended.

Section 5. That if any provision, section, subsection, sentence, clause or phrase of this Resolution, or the application of same to any person or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Resolution that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidances, or invalidity of any other portion hereof, and all provisions of the Resolution are declared to be severable for that purpose.

Section 6. That there exists a public emergency requiring that this Resolution be passed finally on the date of its introduction as requested in writing by the Mayor, therefore, this Resolution shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor, however, in the event that the Mayor fails to sign this Resolution within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Dallas City Charter.

Section 7. That the City Controller be and is hereby authorized to deposit all revenue received in this category: Fund 0477, Dept. AVI, Unit 0781, Revenue Source 781H.

Section 8. The City Controller is hereby authorized to transfer funds from Fund 0477, Dept. AVI, Balance Sheet Account 0001, (Cash Account) to Aviation's future Capital Improvement Program (CIP) Project Funds, Dept. AVI, Balance Sheet Account 0001, (Cash Account) on an as needed basis.

PASSED AND ADOPTED this 13th day of May, 2009

APPROVED this 10th day of May, 2009.

Distribution: Dan Weber, Aviation Department, Dallas Love Field
Brenda Hozak, Aviation Department, Dallas Love Field
Bob Sims, City Attorney's Office, 7DN
Sarah Hasib, City Attorney's Office, 7DN

KEY FOCUS AREA: A Cleaner, Healthier City Environment

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): 6

DEPARTMENT: Department of Development Services
Trinity River Corridor Project
Public Works & Transportation

CMO: A. C. Gonzalez, 671-8925
Jill A. Jordan, P.E., 670-5299
Ramon F. Miguez, P.E., 670-3308

MAPSCO: 33Y

SUBJECT

Authorize moving expense and rental assistance payments for 46 eligible residents in the Delux Inn as a result of an official written offer of just compensation to purchase real property at 3111 North Stemmons Freeway to be used in conjunction with the Trinity Parkway Project (list attached) – Not to exceed \$647,984 – Financing: 1998 Bond Funds

BACKGROUND

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), provides moving expense and rental assistance payments for individuals displaced by the City of Dallas in conjunction with its real property acquisition activities. On September 10, 2008, the City Council approved Resolution No. 08-2487 which authorized the acquisition of real property known as 3111 N. Stemmons Freeway for the Trinity Parkway Project. Forty-six (46) residents who were displaced as a direct result of this property acquisition are eligible for relocation assistance. They have qualified for a combined total of \$17,900 for moving expense payments and a combined total of \$630,084 for rental assistance payments pursuant to the URA and will use the rental assistance payment to obtain a replacement dwelling.

The City of Dallas purchased 3111 North Stemmons Freeway on March 16, 2009.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On September 10, 2008, the City Council authorized the acquisition of real property for public use in conjunction with the Trinity Parkway Project in Census Tract 100.00, by Resolution No. 08-2487.

FISCAL INFORMATION

1998 Bond Funds - \$647,984

PREVIOUS OWNER

Stemmons Hotel Limited Partnership

SHREEJI A & M, Incorporated, General Partner
Maheshbhai T. Patel, President

MAP

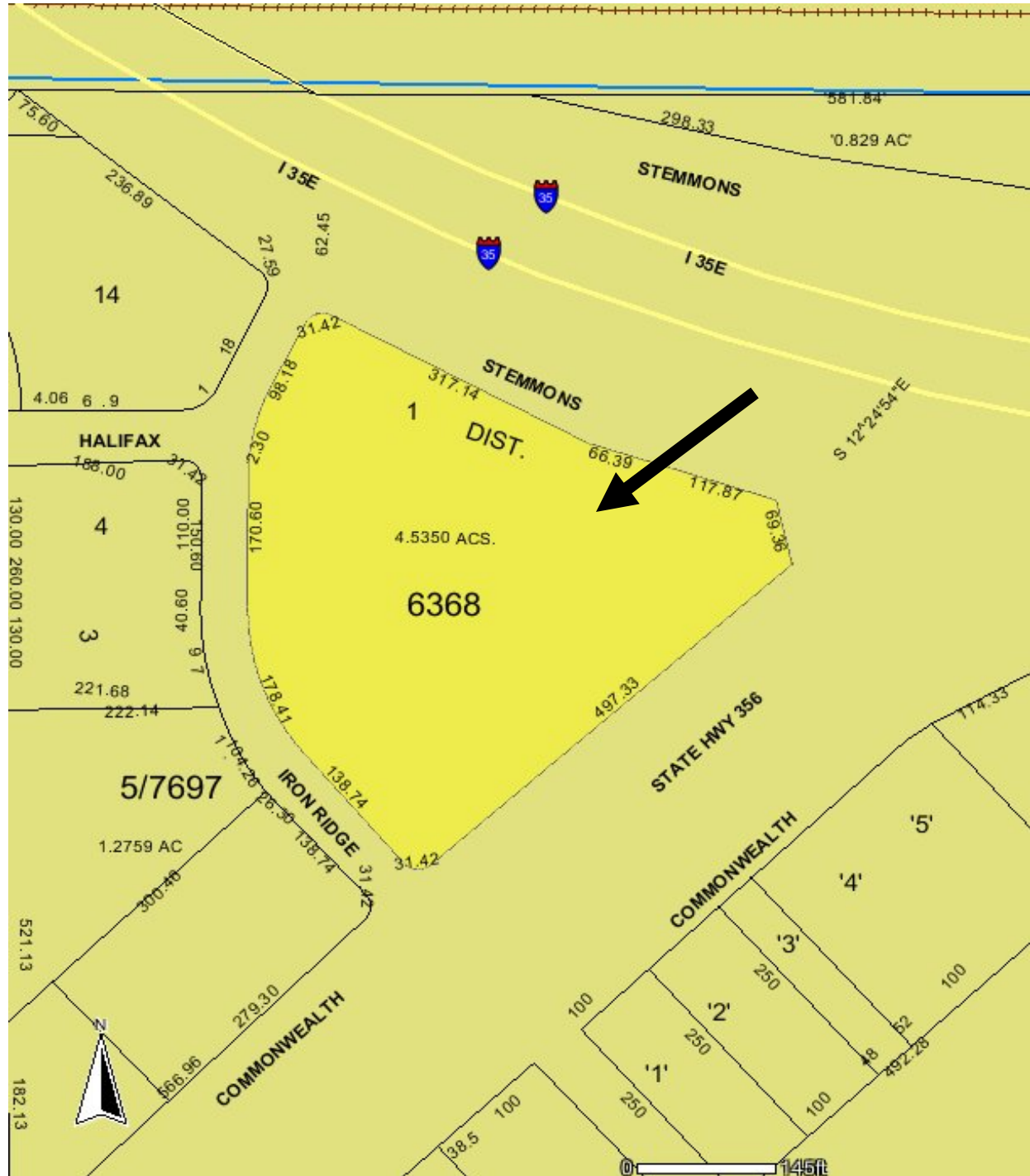
Attached

Delux Inn Resident List

3111 N. Stemmons Freeway
Dallas, Texas

<u>#</u>	<u>ROOM #</u>	<u>OCCUPANT(S)</u>	<u>MOVING EXPENSE PAYMENT</u>	<u>RENTAL ASSISTANCE PAYMENT</u>	<u>TOTAL RELOCATION ASSISTANCE</u>
1	127	Earl Chaney	\$400	\$22,680	\$23,080
2	131	Jerry Booze	\$400	\$22,344	\$22,744
3	135	Gregory Carroll	\$300	\$0	\$300
4	139	Paul Richards	\$400	\$22,806	\$23,206
5	141	Nitaben Elphick	\$1,000	\$22,680	\$23,680
6	203	Cindy Sager	\$300	\$0	\$300
7	207	Rodney Shankle	\$400	\$18,480	\$18,880
8	210	Sornie Jessie	\$300	\$0	\$300
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16	225	Nathan Adamson	\$400	\$22,680	\$23,080
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44	336	Ernest Sipe	\$400	\$19,152	\$19,552
45	338	Tim & Lisa Tucker	\$400	\$23,478	\$23,878
46	339	Sydney Burns	\$400	\$18,480	\$18,880
TOTAL			\$17,900	\$630,084	\$647,984

TRINITY PARKWAY PROJECT RELOCATION ASSISTANCE



Lot 1, Blocks 6368 & 6/6368—3111 N. Stemmons Freeway

May 13, 2009

WHEREAS, on September 10, 2008, the City Council approved Resolution No. 08-2487 authorizing the acquisition of 3111 N. Stemmons Freeway, to be used in conjunction with the Trinity Parkway Project; and

WHEREAS, forty-six (46) residents are eligible for relocation assistance who were displaced as a direct result of this property acquisition and will vacate the property; and

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), provides moving expense and rental assistance payments for individuals displaced by City of Dallas property acquisition activities; and

Now Therefore,

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

Section 1. That for the purposes of this resolution, the following definitions of terms shall apply:

“PROPERTY”: Described in “Exhibit A”, being 3.721 acres of land situated in the Thomas E. Mannin Survey, Abstract No. 958, Dallas County, Texas, and lying in Block 6368 (official City of Dallas Block Numbers), and being a part of the property conveyed to Stemmons Hotel Limited Partnership by deed dated February 7, 1995 and recorded in Volume 95033 Page 02709 of the Deed Records of Dallas County, Texas and being more particularly described as 3111 N. Stemmons Freeway, attached hereto and made a part hereof for all purposes.

“OCCUPANT(S)”: Described in “Exhibit A”, attached hereto and made a part hereof for all purposes.

“RELOCATION ASSISTANCE”: Described in “Exhibit A”, attached hereto and made a part hereof for all purposes (being the sum of the moving expense payment and rental assistance payment).

Section 2. That forty-six (46) occupants will be displaced in conjunction with the Trinity Parkway Project and are entitled to moving expense and rental assistance payments pursuant to the URA, as described in “Exhibit A”.

Section 3. That the City Controller is authorized to draw warrants in favor of the forty-six (46) occupants in an aggregate amount not to exceed \$647,984 payable out of Fund 6P14, Department PBW, Unit N965, Activity Code TRPP, Program No. PB98N965, Object 4240, and CT No. as shown on “Exhibit A”:

May 13, 2009

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

Distribution:

Department of Development Services – Theresa O'Donnell
City Attorney – Thomas P. Perkins, Jr.
Trinity River Corridor Project – Rebecca Dugger
Public Works and Transportation – Rosemary Prichard, OCMC, Room 101
City Controller – Sherrian Parham, 4BN

EXHIBIT A

**3111 N. Stemmons Freeway
Dallas, Texas**

<u>ROOM #</u>	<u>OCCUPANT(S)</u>	<u>VENDOR #</u>	<u>CT #</u>	<u>MOVING EXPENSE PAYMENT</u>	<u>CT #</u>	<u>RENTAL ASSISTANCE PAYMENT</u>	<u>TOTAL RELOCATION ASSISTANCE</u>
127	Earl Chaney	VC0000007343	PBW98N965H5	\$400	PBW98N965IK	\$22,680	\$23,080
131	Jerry Booze	VC0000007327	PBW98N965H6	\$400	PBW98N965IL	\$22,344	\$22,744
135	Gregory Carroll	VC0000007357	PBW98N965H7	\$300		\$0	\$300
139	Paul Richards	VC0000007278	PBW98N965H8	\$400	PBW98N965IM	\$22,806	\$23,206
141	Nitaben Elphick	VC0000007335	PBW98N965IJ	\$1,000	PBW98N965JH	\$22,680	\$23,680
203	Cindy Sager	VC0000007359	PBW98N965H9	\$300		\$0	\$300
207	Rodney Shankle	VC0000007258	PBW98N965HA	\$400	PBW98N965IN	\$18,480	\$18,880
210	Sornie Jessie	VC0000007360	PBW98N965HC	\$300		\$0	\$300
212	Ismail Ashanti	VC0000007361	PBW98N965HD	\$300		\$0	\$300
213	Cathy Dedmon	VC0000007362	PBW98N965HE	\$300		\$0	\$300
216	Cecil Craddock	VC0000007286	PBW98N965HF	\$400	PBW98N965IO	\$18,480	\$18,880
218	Willie Richardson	VC0000007431	PBW98N965HG	\$300		\$0	\$300
222	Stephen Henington	VC0000007308	PBW98N965HH	\$400	PBW98N965IP	\$24,360	\$24,760
223	Mark Miller	VC0000007310	PBW98N965HI	\$400	PBW98N965IQ	\$22,680	\$23,080
224	Zeray Hagos	VC0000007351	PBW98N965HJ	\$400		\$0	\$400
225	Nathan Adamson	VC0000007256	PBW98N965HK	\$400	PBW98N965IR	\$22,680	\$23,080
226	Lucius Davis	VC0000007248	PBW98N965HL	\$400	PBW98N965IS	\$19,152	\$19,552
229	Christine Haywood	VC0000007264	PBW98N965IF	\$400	PBW98N965JD	\$18,480	\$18,880
230	Patrick Schaefer	VC0000007353	PBW98N965HM	\$400		\$0	\$400
231	David Mitchell	VC0000007363	PBW98N965HN	\$300		\$0	\$300
232	Efrain Rodriguez	VC0000007274	PBW98N965HO	\$400	PBW98N965IT	\$18,480	\$18,880
234	Eddie Roberson	VC0000007261	PBW98N965HP	\$400	PBW98N965IU	\$18,480	\$18,880
235	Voice Lee	VC0000007237	PBW98N965IG	\$400	PBW98N965JE	\$19,152	\$19,552
236	Kenneth Hickey	VC0000007364	PBW98N965HQ	\$300		\$0	\$300
237	Roy Garvin	VC0000007312	PBW98N965HR	\$400	PBW98N965IV	\$22,680	\$23,080
240	Cevin Franklin	VC0000007365	PBW98N965HS	\$300		\$0	\$300
304	James Denny	VC0000007349	PBW98N965HT	\$400		\$0	\$400
306	Adam Metts	VC0000007250	PBW98N965HU	\$400	PBW98N965IW	\$18,480	\$18,880
308	James & Sheila Sample	VC0000007272	PBW98N965HV	\$400	PBW98N965IX	\$19,152	\$19,552

EXHIBIT A (continued)

**3111 N. Stemmons Freeway
Dallas, Texas**

<u>ROOM #</u>	<u>OCCUPANT(S)</u>	<u>VENDOR #</u>	<u>CT #</u>	<u>MOVING EXPENSE PAYMENT</u>	<u>CT #</u>	<u>RENTAL ASSISTANCE PAYMENT</u>	<u>TOTAL RELOCATION ASSISTANCE</u>
311	Jayshriben Patel	VC0000007314	PBW98N965II	\$400	PBW98N965JG	\$22,680	\$23,080
312	Barry Hart	VC0000007355	PBW98N965HW	\$400		\$0	\$400
318	Robert Lucas	VC0000007283	PBW98N965HX	\$400	PBW98N965IY	\$19,152	\$19,552
321	John Winters	VC0000007240	PBW98N965HY	\$400	PBW98N965IZ	\$19,152	\$19,552
323	Michael Prince	VC0000007290	PBW98N965HZ	\$400	PBW98N965J3	\$20,160	\$20,560
325	Karen Shields	VC0000007280	PBW98N965I5	\$400	PBW98N965J4	\$19,152	\$19,552
326	Ronnie Banks	VC0000007316	PBW98N965I6	\$400	PBW98N965J5	\$22,680	\$23,080
328	Julia Desai	VC0000007333	PBW98N965JI	\$300	PBW98N965J6	\$18,480	\$18,780
329	Shannon Harlan	VC0000007288	PBW98N965I7	\$400		\$0	\$400
330	Jonathan Waters	VC0000007242	PBW98N965I8	\$400	PBW98N965J7	\$18,480	\$18,880
331	Ladia Cruz	VC0000007345	PBW98N965I9	\$400	PBW98N965J8	\$19,152	\$19,552
332	Gene & Joyce Brown	VC0000007318	PBW98N965IA	\$400	PBW98N965J9	\$20,160	\$20,560
334	Lisa Corothers	VC0000007244	PBW98N965IB	\$400	PBW98N965JA	\$18,480	\$18,880
335	Margarito Galindo	VC0000007366	PBW98N965IC	\$300		\$0	\$300
336	Ernest Sipe	VC0000007252	PBW98N965ID	\$400	PBW98N965JB	\$19,152	\$19,552
338	Tim & Lisa Tucker	VC0000007306	PBW98N965IH	\$400	PBW98N965JF	\$23,478	\$23,878
339	Sydney Burns	VC0000007304	PBW98N965IE	\$400	PBW98N965JC	\$18,480	\$18,880

TOTAL \$17,900 \$630,084 \$647,984

KEY FOCUS AREA: Culture, Arts and Recreation
Economic Vibrancy

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): 7

DEPARTMENT: Office of Cultural Affairs
Department of Development Services

CMO: Forest E. Turner, 670-3390
A. C. Gonzalez, 671-8925

MAPSCO: 46K - P

SUBJECT

Authorize a 20-year lease agreement with DSM Management Group, Inc., with an option to extend the term for 4 additional 5-year periods, for a city-owned facility in Fair Park known as the Music Hall located at 909 First Avenue for their continued use, operation and management to provide and bring music and theatrical performances to Dallas under the direction of the Office of Cultural Affairs for the period July 1, 2009 through June 30, 2029 - Annual Revenue: \$1

BACKGROUND

This item authorizes a 20-year lease agreement with DSM Management Group, Inc. ("Lessee") for approximately 75,300 square feet of space located at 909 First Avenue in the Music Hall at Fair Park. The lease will grant the Lessee the option to extend the lease term for 4 additional 5-year renewal periods. The lease agreement will provide for the Lessee to use and contract with others for the presentation of plays, recitals, concerts, lectures, musical theater and dance performances, meetings, other assemblies and other similar or appropriate purposes.

The lease begins July 1, 2009 and ends June 30, 2029, with four renewal options through June 30, 2049. The City has the right to terminate the lease for convenience with advance written notice or in the event of non-appropriation of funds. The City also has the right to terminate the lease if the City determines that the Lessee is not using the facility in a manner that primarily promotes a public purpose.

BACKGROUND (Continued)

The lease terms include provisions for DSM Management Group, Inc. to pay for customary operating expenses to operate the Music Hall, including salaries and compensation for staff, payroll taxes and benefits, office supplies, janitorial services, building operating expenses, routine maintenance and utilities (water, gas, heat, and electricity). DSM Management Group, Inc. will also be responsible for maintaining in good repair all electrical, mechanical and plumbing systems. DSM Management Group, Inc. shall use the proceeds from rental revenues collected to pay for all operating expenses; DSM Management Group, Inc. may also levy a facility fee of \$2.50 per paid admission for rental of the facility.

The lease terms require DSM Management Group, Inc. to establish two restricted accounts: an operating account and a maintenance account. DSM Management Group, Inc. will deposit \$100,000 annually in the operating account from the rental revenues it collects; this account may be used to pay for utilities and other customary expenses related to the operations of the Music Hall. The maintenance account will be used to deposit eight percent (8%) of the gross revenues collected, less sales and use taxes collected and paid, from food and beverage. The maintenance account will be used for long-term and special major maintenance expenses for the facility. Use of funds deposited in the maintenance account will require the approval of the Director of Cultural Affairs. DSM Management Group, Inc. will submit an annual report of the revenues and expenditures from the operating and maintenance account to the Office of Cultural Affairs.

DSM Management Group, Inc. is a nonprofit corporation chartered under the laws of the State of Texas. The nonprofit was formed in 1998 by Dallas Summer Musicals as part of its winning bid for a concession to operate the Music Hall and the Majestic Theater. This concession agreement was awarded on June 24, 1998 and expires on June 30, 2009. The Office of Cultural Affairs has managed the concession agreement since its inception and is highly satisfied with the performance of the concessionaire.

In discussions for a new agreement with DSM Management Group, Inc. to continue operating the Majestic and the Music Hall, DSM Management Group, Inc. has indicated that it wants to continue operating the Music Hall but it is not in a position to operate the Majestic Theater. OCA has notified the Park & Recreation Department of this long-term lease and will also inform the Park Board. A long-term lease with DSM Management Group, Inc. will allow for the Music Hall at Fair Park to continue to serve as the home of Dallas Summer Musicals, one of the oldest musical theater organizations in the Southwest. Dallas Summer Musicals first performed at the Music Hall in 1951 and since then has provided our community with an active schedule of Broadway musicals, interrupting its successful run only in 1942 for World War II and in 1972 for the major renovations of the Music Hall. DSM Management Group, Inc., as an affiliate of Dallas Summer Musicals created specifically to operate the facility, has been an excellent steward of the city-owned facility, ensuring that generations of Dallasites have the opportunity to enjoy quality theatrical productions in Fair Park.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

Annual Revenue: \$1.00

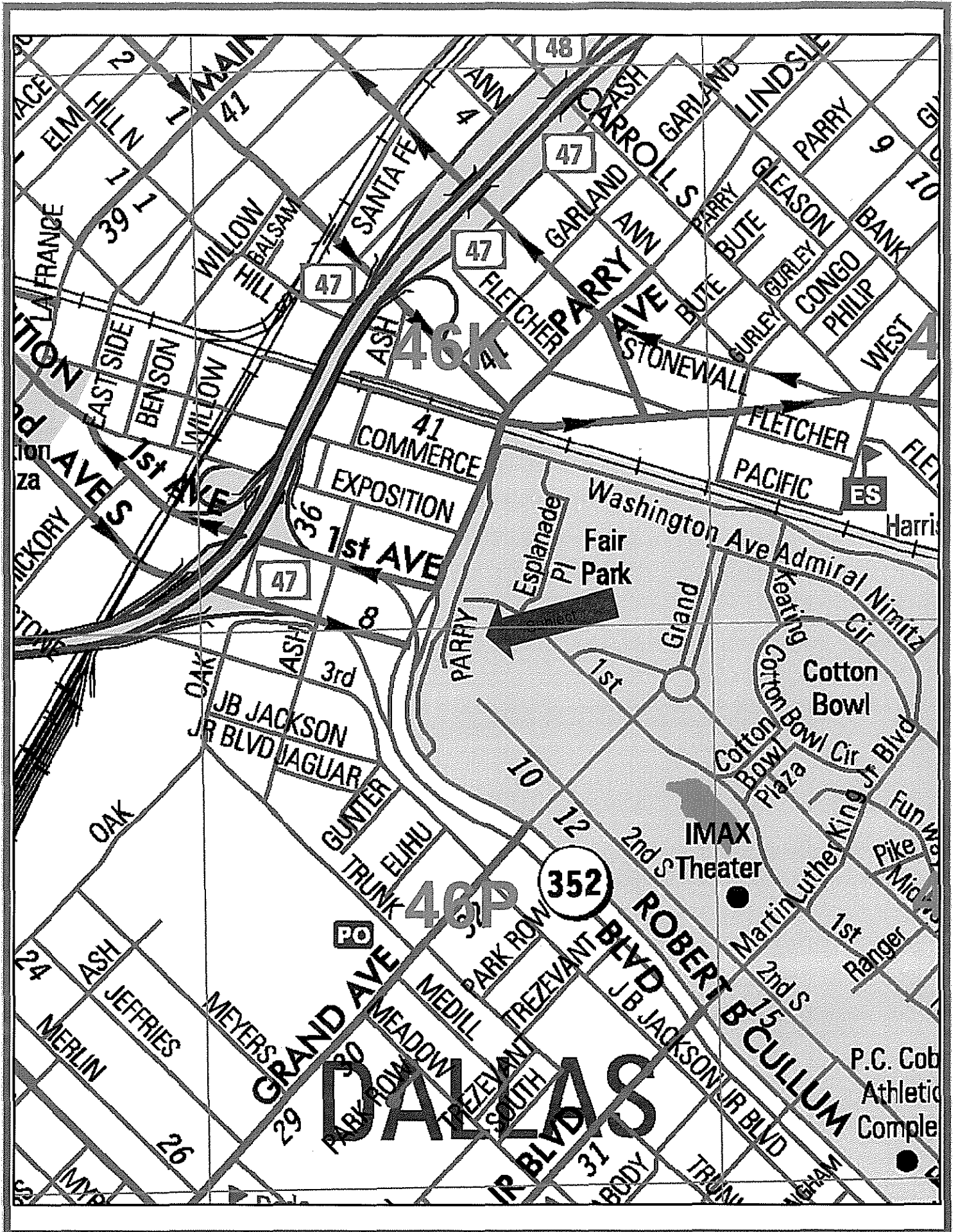
OWNER

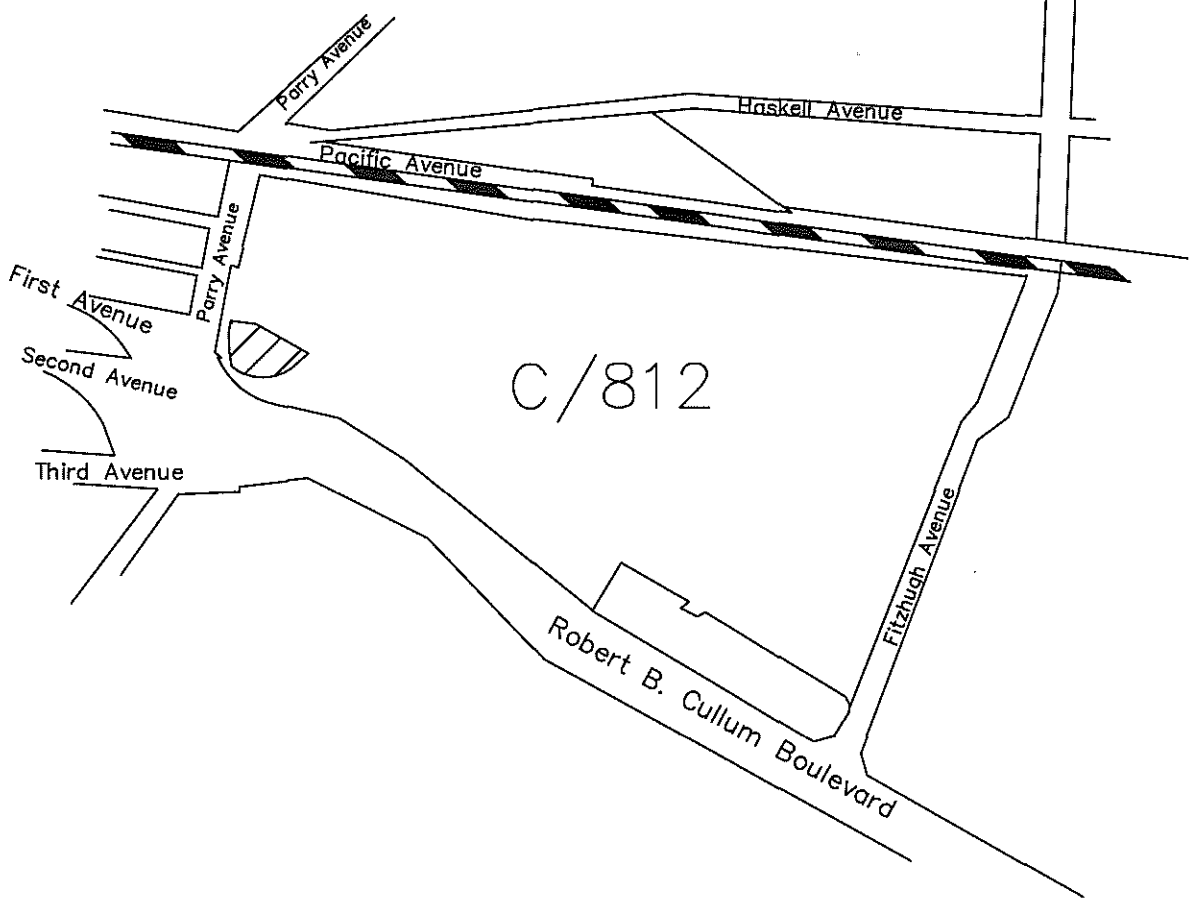
DSM Management Group, Inc.

Michael A. Jenkins, President

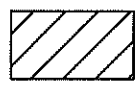
MAPS

Attached





C/812



Lease Area
Music Hall - 909 First Avenue

May 13, 2009

WHEREAS, the City of Dallas, a Texas municipal corporation, hereinafter referred to as City, owns certain improved property, known as the Music Hall, located in Fair Park, at 909 First Avenue, Dallas, Dallas County, Texas, consisting of a building of approximately 75,300 square feet of space, situated on lot 1A of City Block C/812 official records of the City of Dallas, ("lease premises"); and

WHEREAS, the City desires to lease said approximately 75,300 square feet building to the DSM Management Group, Inc., a Texas nonprofit corporation, as Lessee, upon the special conditions, as herein provided to operate same as a music and theatrical venue for the public under the direction of the Director of the Office of Cultural Affairs ("Director"); and

WHEREAS, the term of the lease agreement ("the lease") will be for a twenty (20) year period commencing on July 1, 2009 and ending June 31, 2029 ("Primary Term") with the option to extend the lease for four additional five (5) year renewal terms ("Renewal Option Terms"); and

WHEREAS, pursuant to the local government code, a municipality may transfer an interest in real property to a nonprofit corporation without complying with its notice and bidding requirements, subject to the nonprofit organization using the property in a manner that primarily promotes a public purpose of the municipality; and

WHEREAS, the DSM Management Group, Inc., a Texas non-profit corporation has been operating, maintaining and managing the Music Hall (the "Facility") for presentation of plays, recitals, concerts, lectures, musical theater and dance performances, meetings, other assemblies, and other similar or appropriate purposes, and desires to continue its occupancy,

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to execute a lease agreement with DSM Management Group, Inc, a Texas non-profit corporation, as Lessee, upon approval as to form by the City Attorney, for an approximately 75,300 square feet building, known as the Music Hall located in Fair Park at 909 First Avenue, Dallas, Dallas County, Texas for the management, use and operation of a musical and theatrical venue for the benefit of the public.

May 13, 2009

SECTION 2. That the special terms and conditions of the lease agreement are:

- a) The lease is for a 20 year period beginning July 1, 2009 ("Lease Commencement Date"); and ending June 30, 2029, ("Primary Term") with the option to extend the lease for four additional five (5) year Renewal Option Terms, with six (6) months prior written notice to City; provided however, that City and Lessee retain the right to terminate the Lease for convenience with advance written notice; and
- b) The Lessee's annual rental during the Primary Term and Renewal Option Terms shall be \$1.00 and as additional consideration the performance of other obligations; and
- c) The Lease operation shall not interfere with the annual State Fair of Texas exposition as defined in the "State Fair Agreement," dated August 28, 2002 between the City and State Fair Association without the prior written consent of the Director; and
- d) The Lessee as additional consideration shall pay when due any and all operational expenses and taxes, if any, applicable to Lessee's property and operations, and obtain the required insurance; and
- e) As additional consideration the Lessee shall establish, operate and maintain a separate operational fund account ("Operating Account") for the Facility in an interest bearing account in a federally chartered bank or other institution that maintains offices in Dallas, Dallas County, Texas and deposit funds equal to \$100,000 per year payable in one lump sum or four equal installments of \$25,000, deposited not later than the 15th day of the following months, July, October, January and April; and
- f) The Lessee may utilize Operating Account funds for all ordinary and customary operating expense of the Facility, including, but not limited to office supplies, building operating expenses, routine maintenance expenses, insurance and utilities; and
- g) As further and additional consideration, Lessee shall establish, operate and maintain a separate special maintenance fund account ("Maintenance Account") for the Facility in an interest bearing account in a federally chartered bank or other institution that maintains offices in Dallas, Dallas County, Texas and deposit eight percent (8%) of the gross revenues collected, less sales and use taxes collected and paid, from food and beverage sales; and

May 13, 2009

SECTION 2. (Continued)

- h) The Lessee may utilize Maintenance Account funds for long-term and special major maintenance expenses to the Facility, with written approval of the Director for all expenditures, with such approval of the Director being final and binding; and
- i) All funds in the Operating Account and Maintenance Account shall be the property of Lessee, however upon termination of the lease any unexpended and uncommitted funds in the Operating and Maintenance Accounts shall immediately become the property of the City. The Lessee shall transfer said Accounts to City or its successor operator no later than thirty (30) days after the termination of the Lease; and
- j) The Lessee may levy a facility fee initially \$2.50 per paid admission for rental of Venue, such fees may be adjusted to increase or decrease by Lessee, with prior written approval from Director; and
- k) The Lessee shall cause to be paid from rental revenues collected the operational account and customary operating expense of the Facility, including, but not limited to, salaries and other compensation for staff, payroll taxes, payroll related benefits, office supplies, building operating expenses, routine maintenance expenses, and utilities; and
- l) The Lessee shall submit a copy of an annual report of revenues and expenditures from the Operating Account and the Maintenance Account to the Director no later than the anniversary of July 15th, each year during the Term; and
- m) The Lessee shall at its expense carry liability and worker's compensation insurance on the lease premises in such form and amounts as City shall require; and
- n) The Lessee shall obtain all necessary permits and licenses for the use of the lease premises contemplated by the lease and otherwise comply with all applicable laws and ordinances; and
- o) The lease premises shall be used by Lessee for presentation of plays, recitals, concerts, lectures, musical theater and dance performances, meetings, other assemblies, and other similar or appropriate purposes. In the event the lease premises are not used to operate such a facility in accordance with the provisions of the lease, City reserves the right to terminate this lease for convenience with advance written notice and opportunity to cure; and

May 13, 2009

SECTION 2. (Continued)

- p) The Lessee shall maintain and repair at its expense janitorial services, daily routine maintenance, further defined to include maintaining in good repair all equipment and systems, including, but not limited to, all electrical, mechanical and plumbing systems, including heating and air conditioning equipment, front and rear doors, light fixtures and bulb replacements, plumbing and floor drains, exhaust fans, windows, interior walls, ceiling and floors, exhibits, office, furnishings and security equipment in, constituting a part of and/or serving the lease premises; and
- q) The Lessee shall maintain the foundation, roof, exterior walls, exterior lighting, termites and pest extermination, exterior grounds, parking areas and all public and common areas of the lease premises; and
- r) The Lessee shall use good faith efforts to comply with the City's Good Faith Effort Plan; and
- s) The Lessee shall utilize Operating Account funds to pay all utility bills for water, gas, heat and electricity, used in connection with or chargeable against the lease premises; and
- t) In event of any cost to repair or replace a structural or mechanical failure of an essential building component exceeds the balance of the special major maintenance funds account for such payments, the City will repair or replace failed structure or component, subject to appropriation and required City approvals; and
- u) The City reserves the right to terminate the lease on the last day of the then current fiscal year in the event of non-appropriation of funds by City. City shall notify Lessee of such non-appropriation at the earliest practicable time prior to the end of City's then current fiscal year, at which time Lessee may avoid termination by Lessor due to non-appropriation by assuming all of City's maintenance and financial obligations under the lease and City shall be totally relieved from same.

SECTION 3. That the City Controller be and is hereby authorized to deposit all revenue received from this transaction in Fund 0338, Department OCA, Unit 6642, Revenue Source 8411.

May 13, 2009

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

APPROVED AS TO FORM:
THOMAS P. PERKINS, JR.
City Attorney

BY: _____
Assistant City Attorney

ADDENDUM ITEM # 5

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

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Office of Financial Services

CMO: Dave Cook, 670-7804

MAPSCO: N/A

SUBJECT

Authorize **(1)** preliminary adoption of a substantial amendment to the FY2008-09 Consolidated Plan Budget and Action Plan regarding Community Development Block Grant – Recovery Program Funds (Federal Stimulus); and **(2)** a public hearing to be held on May 27, 2009 to receive public comments on the substantial amendment - Not to exceed \$4,700,469 - Financing: U.S. Department of Housing and Urban Development Grant Funds

BACKGROUND

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law. The Recovery Act appropriated \$288 billion in tax relief, and \$501 billion in local, state, and federal fiscal relief and spending programs to stimulate the national economy. Approximately \$1 billion of this appropriation established the Community Development Block Grant Recovery Program (CDBG-R) administered through the U.S. Department of Housing and Urban Development (HUD).

On May 4, 2009, HUD issued a notice of funding availability under which HUD allocated CDBG-R funds based on the existing Community Development Block Grant (CDBG) formula. As a CDBG grantee, the City of Dallas received an allocation of CDBG-R funds in the amount of \$4,700,469.

In order to receive CDBG-R funds, the City of Dallas must adopt and submit to HUD a substantial amendment to its FY2008-09 Consolidated Plan budget and Action Plan by June 5, 2009.

In preparing the substantial amendment, the City of Dallas must follow its Citizen Participation Plan, except that the time period for public to comment is reduced from 30 days to 7 days.

BACKGROUND (Continued)

Following preliminary adoption on May 13, 2009 by City Council, a public notice will be published on May 15, 2009, to allow for public comments on the substantial amendment. On May 27, 2009, a public hearing will be held, followed by final adoption by City Council.

Following preliminary adoption on May 13, 2009 by City Council, a public notice will be published on May 15, 2009, to allow for public comments on the substantial amendment. On May 27, 2009, a public hearing will be held, followed by final adoption by City Council.

CDBG-R is a new program to invest in the rehabilitation of affordable housing and improve key public facilities – stabilizing communities and creating jobs in their communities. CDBG-R includes the following activities: (1) Public Improvements (Major Maintenance); (2) Housing; (3) Public Services; and (4) administration (up to the maximum 10% of the grant). Additional information on CDBG-R is still forthcoming from HUD.

Consistent with HUD’s requirements, the City of Dallas has established the following timeline for implementation of the CDBG-R program:

Publish Public Notice	May 15, 2009
Hold Public Hearing and Approve Substantial Amendment	May 27, 2009
Submit Approved Substantial Amendment to HUD	June 5, 2009
Implement Program	June 22, 2009

The City of Dallas must give priority to projects that can award contracts based on bids within 120 calendar days from the date funds are available; infrastructure investments must have preference to activities that can be started and completed expeditiously, including a goal to obligate 50% of the CDBG-R funds within 120 days of enactment. The entire allocation of CDBG-R funds must be expended by September 30, 2012. Any funds not expended within these guidelines will be recaptured by HUD and returned to the U.S. Treasury.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On April 2, 2009, the Community Development Commission made recommendations to the City Manager’s proposed budget for the Community Development Block Grant – Recovery funds. Recommendations included additional funding for public service activities.

On April 1, 2009, the City Council was briefed on the Federal Economic Stimulus Package, including the Community Development Block Grant – Recovery Funds.

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

March 26, 2009, the Community Development Commission was briefed on the American Recovery and Reinvestment Act of 2009 - Housing and Urban Development Funds.

On June 25, 2008, the City Council approved/adopted the FY2008-09 Consolidated Plan Budget, by Resolution No. 08-1807.

FISCAL INFORMATION

\$4,700,469 - U.S. Department of Housing and Urban Development Grant Funds

May 13, 2009

WHEREAS, on February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law, which includes \$1billion for the Community Development Block Grant - Recovery Program (CDBG-R) (Federal Stimulus) administered through the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, on May 4, 2009, HUD issued a notice of funding availability stating that the City of Dallas had received an allocation of HPRP funds in the amount of \$4,700,469; and

WHEREAS, in order to receive CDBG-R funds, the City of Dallas must adopt and submit to HUD a substantial amendment to its FY2008-09 Consolidated Plan Budget and Action Plan by June 5, 2009; and

WHEREAS, the City of Dallas desires to hold a public hearing to receive public comments on the substantial amendment;

NOW, THEREFORE;

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

Section 1. That following approvals as to form by the City Attorney, the **(1)** preliminary adoption of a substantial amendment to the FY2008-09 Consolidated Plan Budget and Action Plan regarding Community Development Block Grant - Recovery Program Funds (Federal Stimulus) be approved per Schedule A; and **(2)** a public hearing to be held on May 27, 2009 to receive public comments on the substantial amendment.

Section 2. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

DISTRIBUTION: Environmental and Health Services
Equipment and Building Services
City Attorney's Office
Budget & Mgmt Services/Community Development, 4FS

Schedule A

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

U S Department of Housing and Urban Development

Community Development Block Grant - Recovery Program

SOURCE OF FUNDS	FY2008-09 City Council Prelim Adoption
Community Development Block Grant - Recovery Program	4,700,469
USE OF FUNDS	
Community Development Block Grant - Recovery (CDBG-R)	
CDBG-R Public Improvements (Major Maintenance)	
1 MLK - improvements at various buildings at complex, may include roof replacement; HVAC; ADA compliance; parking lot; carpet and painting	2,548,000
2 West Dallas Center - improvements may include fire sprinkler and alarm; HVAC;and painting	316,000
3 Sidewalk/Street Improvements - in CDBG eligible areas	439,666
Subtotal - Public Improvement	3,303,666
CDBG-R Housing	
4 Community Prosecutors - West Oak Cliff area	111,257
5 Community Prosecutors - South Oak Cliff area	111,257
Subtotal - Housing Funds	222,514
CDBG-R Public Services	
6 Community Court - West Dallas	200,645
7 Community Court - South Oak Cliff	348,598
Concept - Low Birth Weight	17,000
Concept - Calument Community Center (West Oak Cliff)	20,000
Concept - Citizens Development Center	24,000
Concept - Cliff View Outreach Center	35,000
Concept - Pleasant Grove Dev & Re-entry Program	59,000
Subtotal - Public Services	704,243
CDBG-R Administrative Costs	
9 Offender Re-entry Program (City Program)	163,588
10 Oversight and Reporting (for term of contract)	179,282
11 Monitoring (for term of contract)	127,176
Subtotal - Public Services	470,046
Total CDBG-R Funds	4,700,469

ADDENDUM ITEM # 6

KEY FOCUS AREA: Better Cultural, Arts and Recreational Amenities

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): 4, 5, 7, 8, 9, 10, 12

DEPARTMENT: Park & Recreation

CMO: Paul D. Dyer, 670-4071

MAPSCO: 38-U 57-V 5-R 74-C 27-K 46-V 36-H 58-F

SUBJECT

Authorize an increase to the contract with The Gilbert Construction Group, Inc. for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park located at 1900 Gross Road; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green Park located at 16600 Hillcrest Road, Pemberton Hill Park located at 6424 Elam Road, Daniieldale Park located at 500 West Wheatland Road, Ferguson Park located at 1900 Gross Road, Lake Highlands North Park located at 9344 Church Road, Mildred L. Dunn Park located at 3300 Carpenter Avenue, Ridgewood Park located at 6818 Fisher Road, and Umphress Park located at 7700 Umphress Road - Not to exceed \$239,570, from \$1,321,851 to \$1,561,421 - Financing: 2003 Bond Funds (\$20,981) and 2006 Bond Funds (\$218,589)

BACKGROUND

The original contract with The Gilbert Construction Group, Inc. was authorized by Council on March 26, 2008 by Resolution No. 08-0880 for the construction of a new playground, sprayground, pavilion, site furnishings, and utilities at Ferguson Park, and the construction of a new playground and related site work at T.G. Terry Park, in an amount not to exceed \$1,255,617.

Change Order No. 1, authorized by Council on January 28, 2009 by Resolution No. 09-0297 for mechanical system filtration, water treatment, and automatic backwash for the sprayground at Ferguson Park, in an amount not to exceed \$66,234, making a revised contract amount of \$1,321,851.

This action will authorize Change Order No. 2 to the contract with The Gilbert Construction Group, Inc., in the amount of \$239,570; thereby, increasing the original contract amount by \$239,570, from \$1,321,851 to \$1,561,421 for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green, Pemberton Hill, Daniieldale, Ferguson, Lake Highlands North, Mildred L. Dunn, Ridgewood, and Umphress Parks.

ESTIMATED SCHEDULE OF PROJECT

Began Construction May 2008
Complete Construction June 2009

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The Park and Recreation Board authorized the advertisement for a Request for Competitive Sealed Proposals on March 22, 2007.

The Park and Recreation Board authorized award of the contract on March 6, 2008.

City Council authorized award of the contract on March 26, 2008, by Resolution No. 08-0880.

The Park and Recreation Board authorized Change Order No. 1 on January 8, 2009.

City Council authorized Change Order No. 1 on January 28, 2009, by Resolution No. 09-0297.

The Park and Recreation Board authorized Change Order No. 2 on May 7, 2009.

FISCAL INFORMATION

2003 Bond Funds - \$20,981
2006 Bond Funds - \$218,589

Original Contract Amount	\$1,255,617
Change Order No. 1	\$66,234
Change Order No. 2 (this action)	<u>\$239,570</u>
Total	\$1,561,421

<u>Council District</u>	<u>Amount</u>
4	\$52,103.00
5	\$908.50
7	\$22,798.00
8	\$908.50
9	\$21,930.50
10	\$118,991.00
12	<u>\$21,930.50</u>
Total	\$239,570.00

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

The Gilbert Construction Group, Inc.

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

OWNERS

The Gilbert Construction Group, Inc.

J. Michael Gilbert, President
Jacquelynn B. Gilbert, Vice President

MAPS

Attached

BUSINESS INCLUSION AND DEVELOPMENT PLAN SUMMARY

PROJECT: Authorize an increase to the contract with The Gilbert Construction Group, Inc. for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park located at 1900 Gross Road; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green Park located at 16600 Hillcrest Road, Pemberton Hill Park located at 6424 Elam Road, Daniieldale Park located at 500 West Wheatland Road, Ferguson Park located at 1900 Gross Road, Lake Highlands North Park located at 9344 Church Road, Mildred L. Dunn Park located at 3300 Carpenter Avenue, Ridgewood Park located at 6818 Fisher Road, and Umphress Park located at 7700 Umphress Road - Not to exceed \$239,570, from \$1,321,851 to \$1,561,421 - Financing: 2003 Bond Funds (\$20,981) and 2006 Bond Funds (\$218,589)

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

PROJECT CATEGORY: Construction

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	<u>Amount</u>	<u>Percent</u>
Local contracts	\$207,695.00	86.69%
Non-local contracts	\$31,875.00	13.31%
TOTAL THIS ACTION	\$239,570.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

<u>Local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Copeland Concrete	BMDB33605Y0208	\$13,867.00	6.68%
Total Minority - Local		\$13,867.00	6.68%

Non-Local Contractors / Sub-Contractors

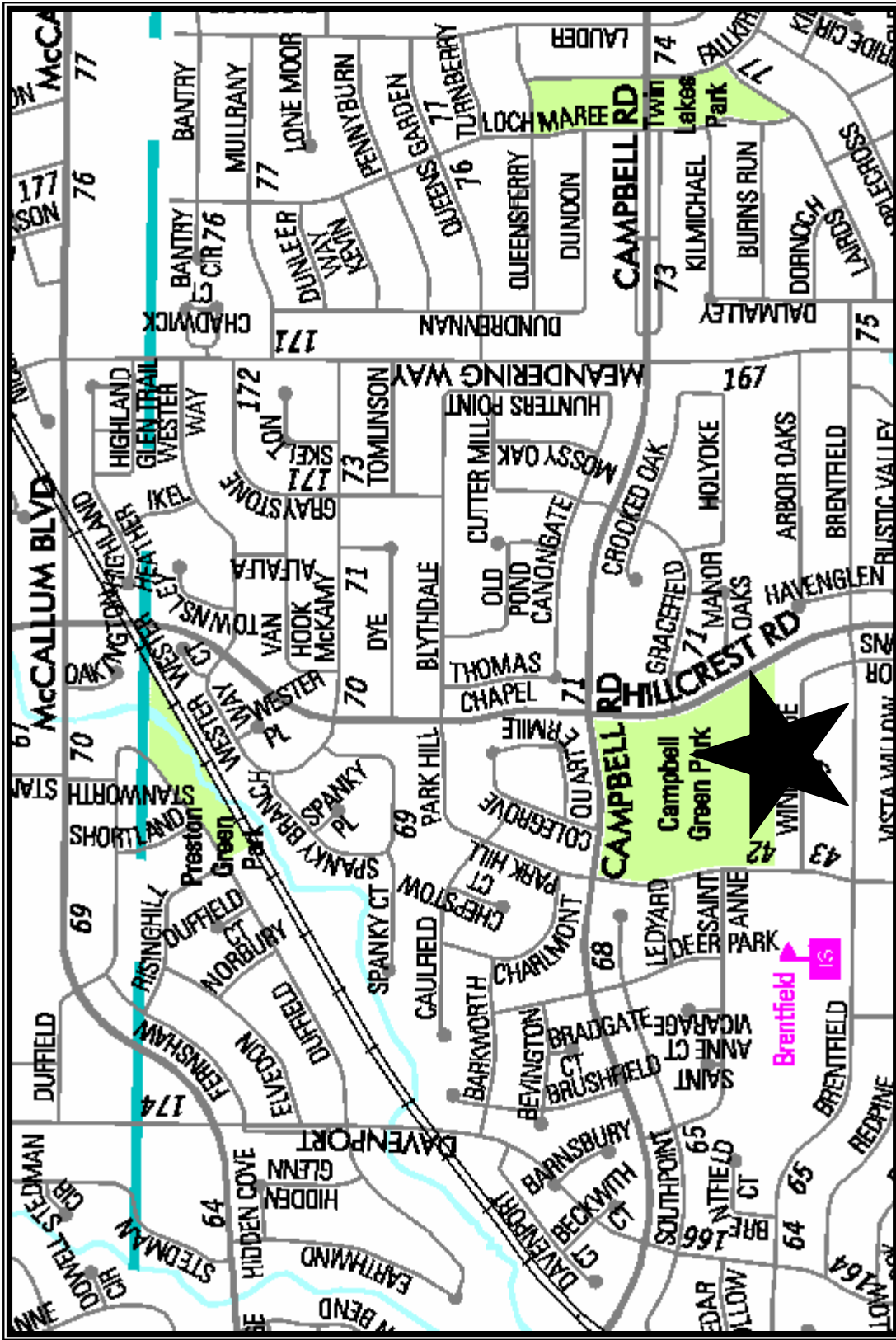
None

TOTAL M/WBE PARTICIPATION

	<u>This Action</u>		<u>Participation to Date</u>	
	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
African American	\$0.00	0.00%	\$235,430.00	15.08%
Hispanic American	\$0.00	0.00%	\$0.00	0.00%
Asian American	\$0.00	0.00%	\$0.00	0.00%
Native American	\$0.00	0.00%	\$0.00	0.00%
WBE	\$0.00	0.00%	\$125,481.00	8.04%
Total	\$0.00	0.00%	\$360,911.00	23.11%

Campbell Green Park

Council District 12

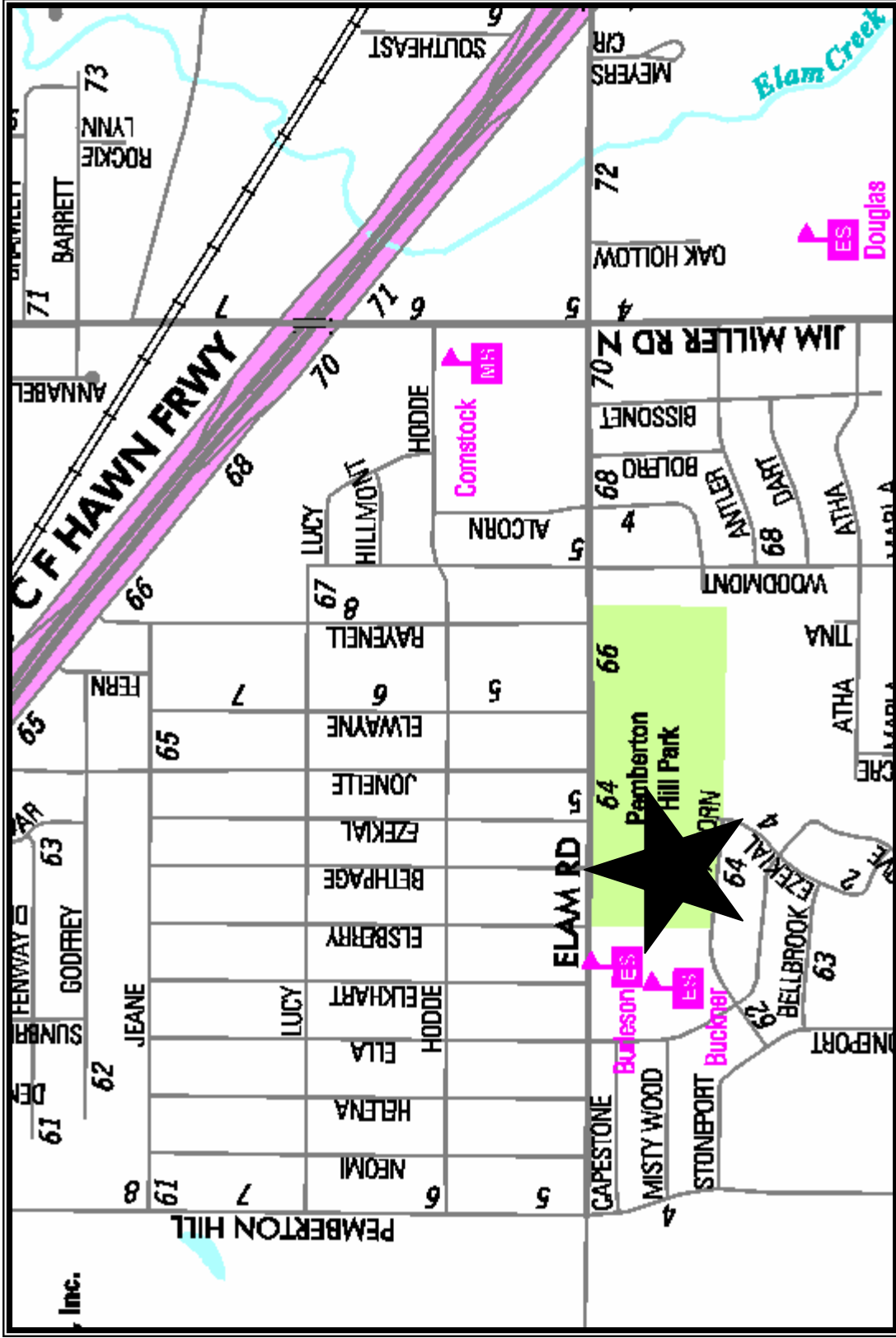


16600 Hillcrest Road

Mapsc0 # 5-R

Pemberton Hill Park

Council District 5

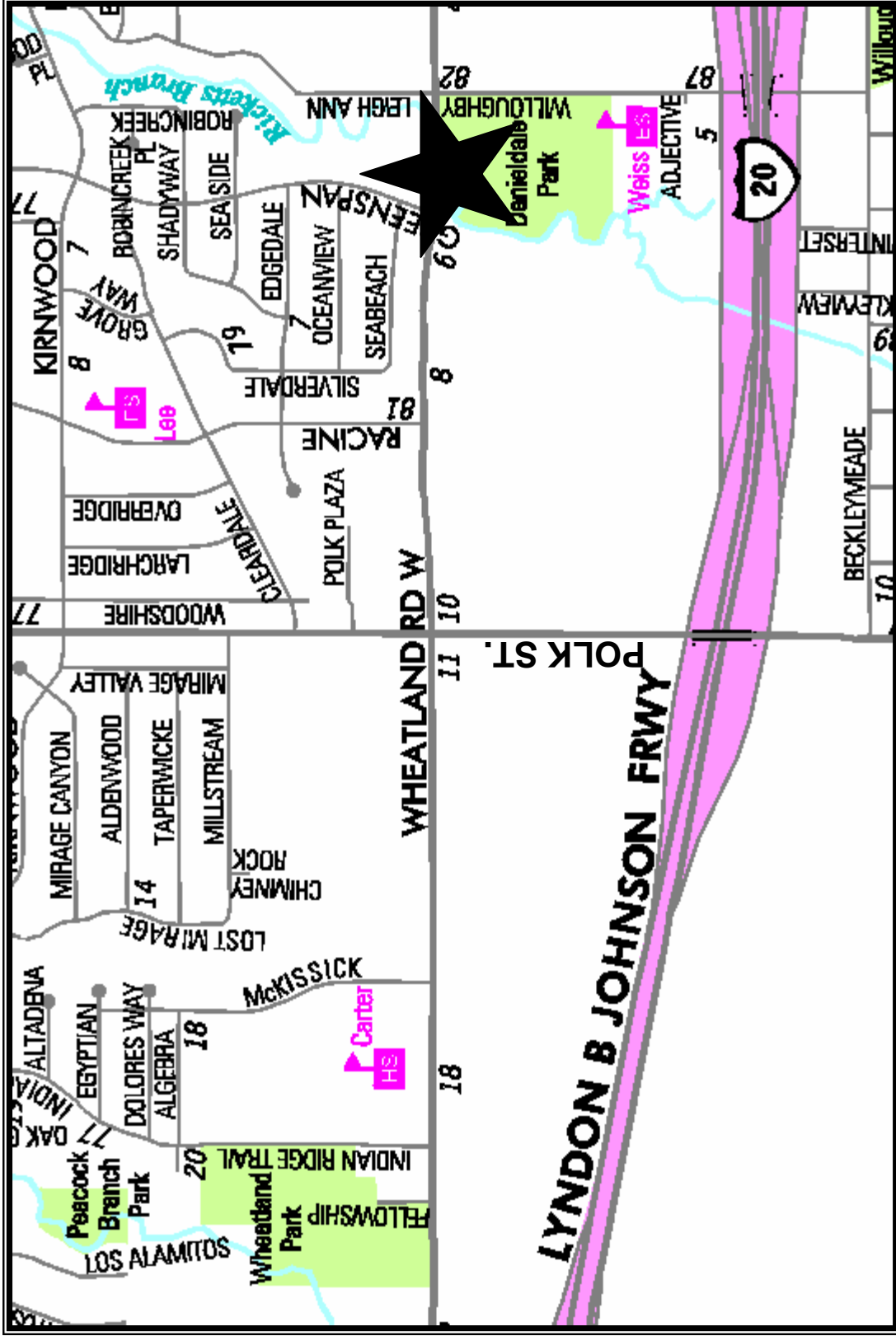


6424 Elam Road

Mapsc0 # 57-V

Danieldale Park

Council District 8

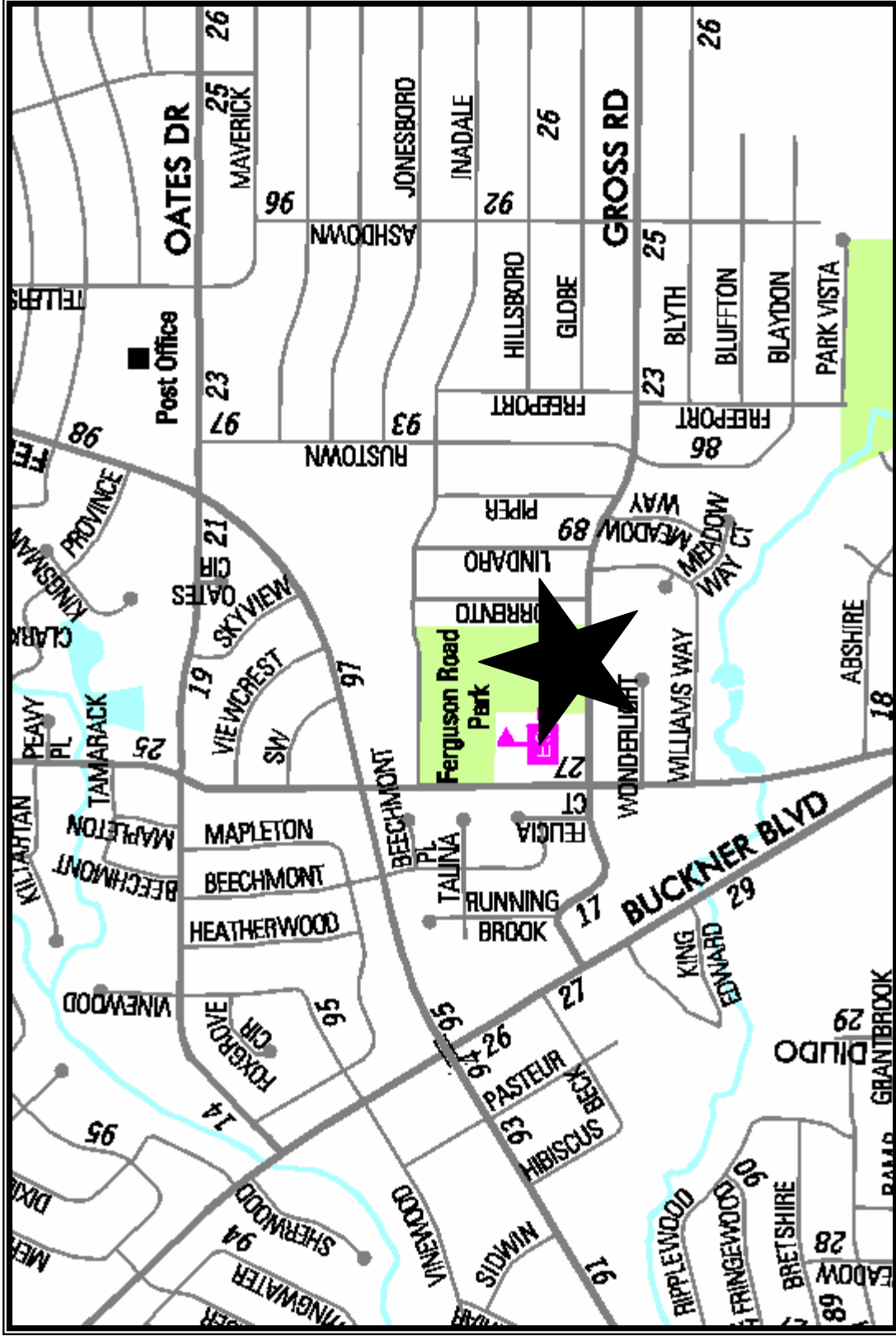


500 West Wheatland Road

Mapsc0 # 74-C

Ferguson Park

Council District 7

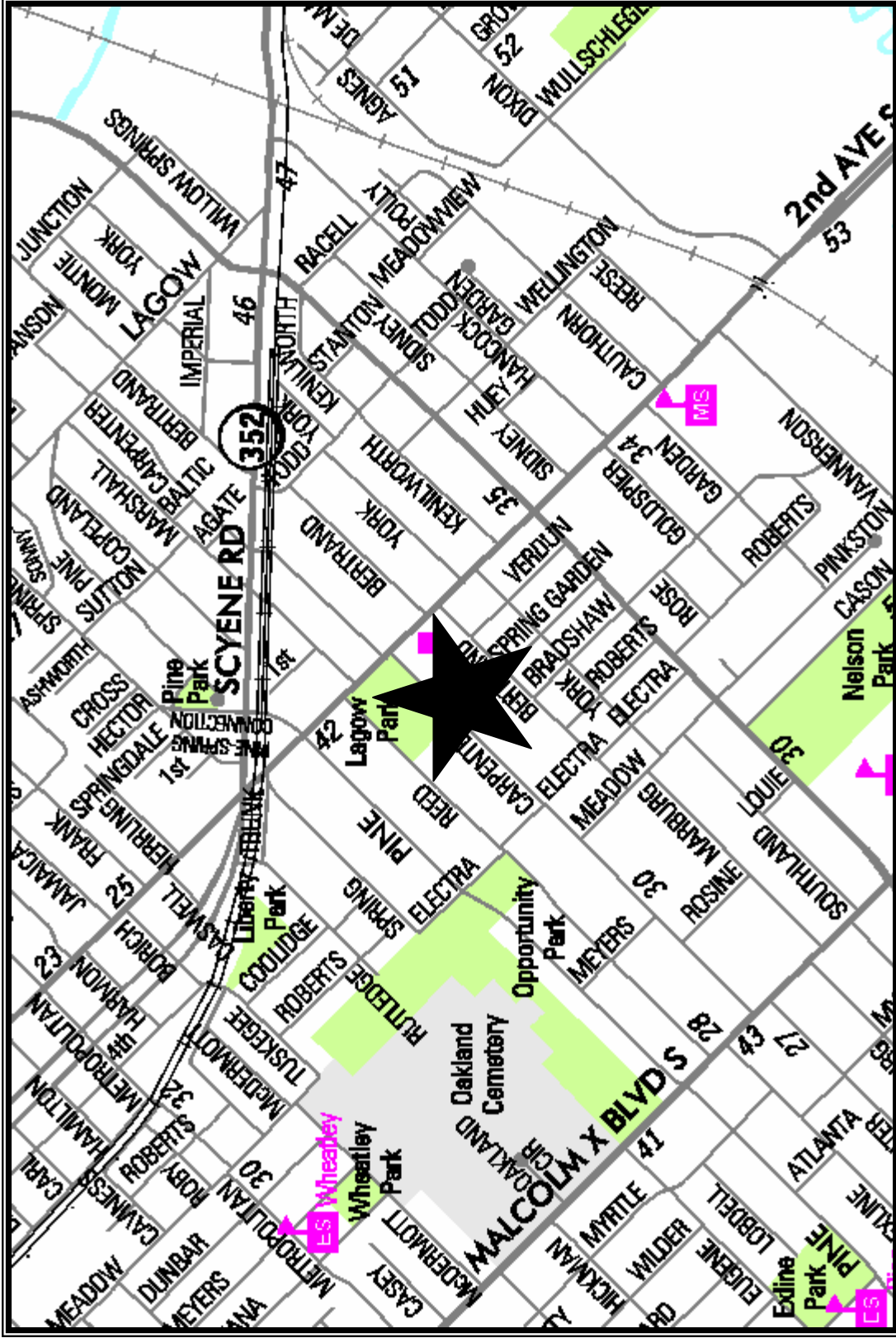


1900 Gross Road

Mapsc0 # 38-U

Mildred L. Dunn Park

Council District 7

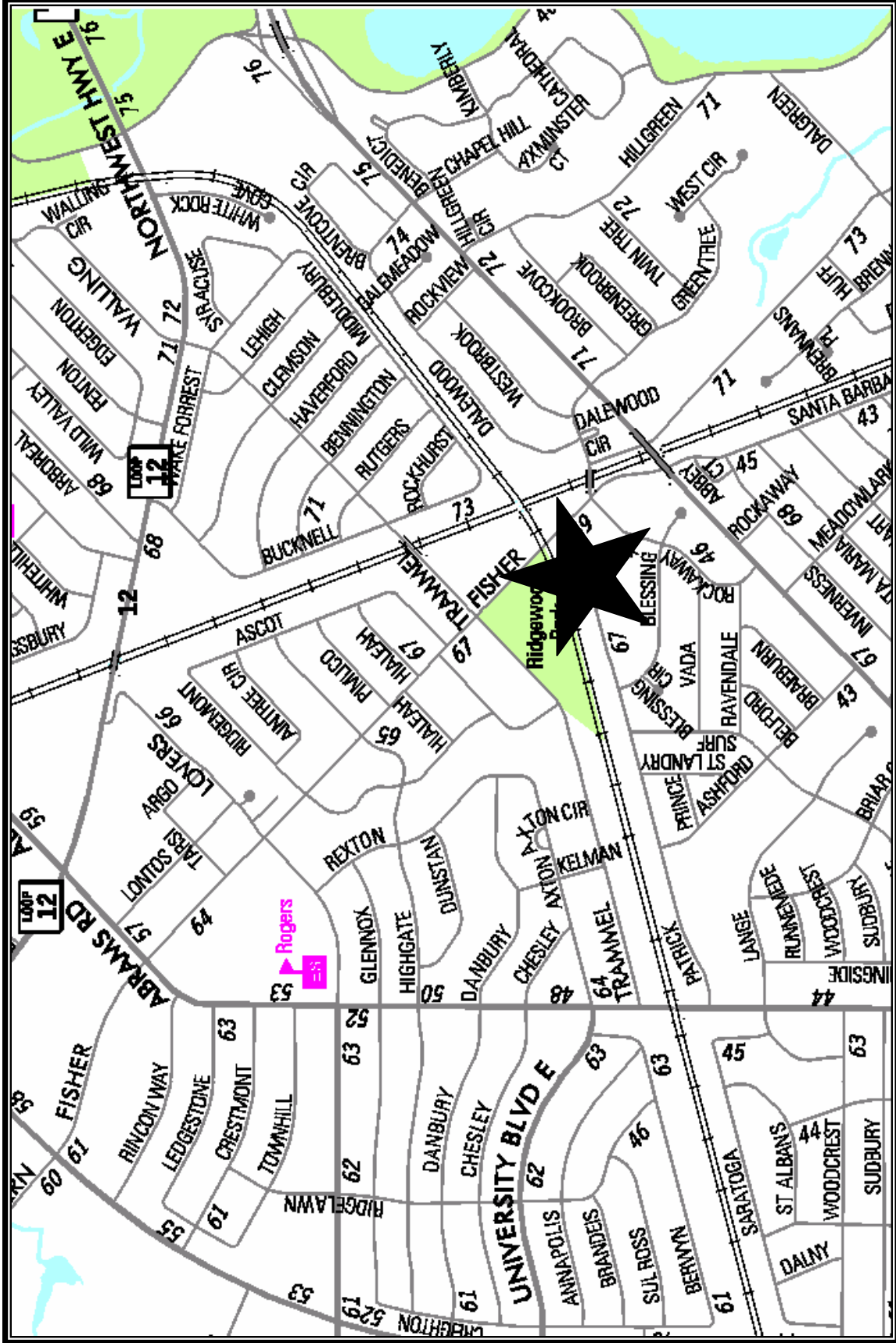


3300 Carpenter Avenue

Mapsc0 46-V

Ridgewood Park

Council District 9



6818 Fisher Road

Mapsc0 36-H

May 13, 2009

WHEREAS, on March 26, 2008, by Resolution No. 08-0880, The Gilbert Construction Group, Inc. was awarded a contract for the construction of a new playground, sprayground, pavilion, site furnishings, and utilities at Ferguson Park located at 1900 Gross Road, and the construction of a new playground and related site work at T.G. Terry Park located at 2400 Lagow Street, in an amount not to exceed \$1,255,617; and

WHEREAS, on January 28, 2009, by Resolution No. 09-0297, authorized Change Order No. 1 for mechanical system filtration, water treatment, and automatic backwash for the sprayground at Ferguson Park, in an amount not to exceed \$66,234, increasing the contract amount from \$1,255,617 to \$1,321,851; and

WHEREAS, this Change Order provides for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park located at 1900 Gross Road; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green Park located at 16600 Hillcrest Road, Pemberton Hill Park located at 6424 Elam Road, Daniieldale Park located at 500 West Wheatland Road, Ferguson Park located at 1900 Gross Road, Lake Highlands North Park located at 9344 Church Road, Mildred L. Dunn Park located at 3300 Carpenter Avenue, Ridgewood Park located at 6818 Fisher Road, and Umphress Park located at 7700 Umphress Road, in an amount not to exceed \$239,570, increasing the contract amount from \$1,321,851 to \$1,561,421.

Now, Therefore,

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

SECTION 1. That the City Manager is hereby authorized to execute Change Order No. 2 to the contract with The Gilbert Construction Group, Inc. for casing structural piers and applying anti-graffiti sealant for the new pavilion at Ferguson Park; and mechanical and filtration system enhancements to the existing spraygrounds at Campbell Green, Pemberton Hill, Daniieldale, Ferguson, Lake Highlands North, Mildred L. Dunn, Ridgewood, and Umphress Parks, in an amount not to exceed \$239,570, from \$1,321,851 to \$1,561,421.

SECTION 2. That the City Controller be and is hereby authorized to pay the amount of \$239,570 to The Gilbert Construction Group, Inc., as follows:

(2003) Neighborhood Park and Recreation Facilities Fund	
3R05, Department PKR, Unit K158, Object 4599, Activity NEPK,	
Program PK03K158, CT-PKR08018956, Commodity 91200,	
Vendor VS0000004416	\$3,095.00

May 13, 2009**SECTION 2.** (Continued)

(2003) Neighborhood Park and Recreation Facilities Fund 4R05, Department PKR, Unit K158, Object 4599, Activity NEPK, Program PK03K158, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$3,679.00
(2003) Neighborhood Park and Recreation Facilities Fund 6R05, Department PKR, Unit K158, Object 4599, Activity NEPK, Program PK03K158, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$14,207.00
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.1, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$118,991.00
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.2, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$21,930.50
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.3, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$21,930.50
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.4, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$52,103.00
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.5, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$908.50
(2006) Park and Recreation Facilities Improvement Fund 8T00, Department PKR, Unit T050, Object 4599, Activity AQFC, Program PK06T050.6, CT-PKR08018956, Commodity 91200, Vendor VS0000004416	\$908.50

May 13, 2009

SECTION 2. (Continued)

(2006) Park and Recreation Facilities Improvement Fund
8T00, Department PKR, Unit T050, Object 4599, Activity AQFC,
Program PK06T050.7, CT-PKR08018956, Commodity 91200,
Vendor VS0000004416 \$908.50

(2006) Park and Recreation Facilities Improvement Fund
8T00, Department PKR, Unit T050, Object 4599, Activity AQFC,
Program PK06T050.8, CT-PKR08018956, Commodity 91200,
Vendor VS0000004416 \$908.50

Total amount not to exceed \$239,570.00

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.

ADDENDUM ITEM # 7

KEY FOCUS AREA: Public Safety Improvements and Crime Reduction

AGENDA DATE: May 13, 2009

COUNCIL DISTRICT(S): All

DEPARTMENT: Police

CMO: Ryan S. Evans, 670-3314

MAPSCO: N/A

SUBJECT

A public hearing to receive comments on the modification of the Dallas juvenile curfew ordinance to establish daytime curfew hours for minors and, at the close of the hearing, consideration of an ordinance amending Chapter 31 of the Dallas City Code to adopt daytime curfew hours - Financing: No cost consideration to the City

Note: This item was considered by the City Council at public hearings held on March 25, 2009 and April 22, 2009 and postponed the vote on this item until May 13, 2009, with the public hearing left open.

BACKGROUND

Public hearings were held on March 25, 2009 and April 22, 2009, to receive citizen comments on whether the Dallas juvenile curfew ordinance should be abolished, continued, or modified. On April 22, 2009, the city council voted to renew the Dallas juvenile curfew ordinance continuing the current nighttime curfew hours, but postponed the vote on the proposed daytime curfew hours until May 13, 2009 and kept the public hearing open.

The proposed ordinance will establish daytime curfew hours for minors, with certain defenses. The daytime juvenile curfew hours will be 9:00 a.m. until 2:30 p.m., Monday through Friday.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On January 5, 2009, and February 2, 2009, the Public Safety Committee was briefed.

On January 8, 2009, the Youth Commission was briefed.

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

Authorized public hearings to be held on March 25, 2009 and April 22, 2009, to receive comments on the renewal of the Dallas juvenile curfew ordinance with certain modifications establishing daytime curfew hours for minors in addition to the current nighttime curfew hours for minors.

Public hearings were held to receive comments on the renewal of the Dallas juvenile curfew ordinance with certain modifications establishing daytime curfew hours for minors in addition to the current nighttime curfew hours for minors on March 25, 2009 and April 22, 2009.

On April 22, 2009, authorized the renewal of the Dallas juvenile curfew ordinance continuing the nighttime curfew hours and postponed voting on the proposed daytime curfew hours for minors with the public hearing left open until May 13, 2009.

FISCAL INFORMATION

No cost consideration to the City.

ORDINANCE NO. _____

An ordinance amending Section 31-33 of CHAPTER 31, "OFFENSES - MISCELLANEOUS," of the Dallas City Code, as amended; establishing daytime curfew hours for minors; defining terms; providing for offenses and defenses for minors, parents and guardians of minors, and business establishments violating daytime curfew requirements; providing for enforcement of daytime curfew requirements by the police department; providing for waiver by the municipal court of jurisdiction over a minor when required under the Texas Family Code; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date and an expiration date.

WHEREAS, on June 12, 1991, the city council of the city of Dallas adopted Ordinance No. 20966, which added Section 31-33 to the Dallas City Code to establish nighttime curfew hours for minors, which ordinance was amended by Ordinance No. 21309 on June 10, 1992; and

WHEREAS, the city voluntarily delayed enforcement of this juvenile curfew ordinance pending adjudication of a challenge to the ordinance's constitutionality; and

WHEREAS, on August 10, 1992, the United States District Court for the Northern District of Texas permanently enjoined the city from enforcing the juvenile curfew ordinance; on November 19, 1993, the United States Fifth Circuit Court of Appeals overturned the district court's decision and upheld the city's ordinance as constitutional; and in April 1994, the United States Supreme Court declined to review the Fifth Circuit's decision; and

WHEREAS, on May 1, 1994, the city began initial enforcement of the juvenile curfew ordinance; and

WHEREAS, Section 370.002 of the Texas Local Government Code requires that, before the third anniversary of the adoption of a juvenile curfew ordinance and every third year thereafter, the governing body of a home rule city must review the ordinance's effects on the community and on the problems the ordinance was intended to remedy, conduct public hearings on the need to continue the ordinance, and abolish, continue, or modify the ordinance, or else the ordinance will automatically expire; and

WHEREAS, after conducting public hearings on the need to continue the juvenile curfew ordinance, the city council adopted Ordinance No. 23079 (passed April 9, 1997; effective May 1, 1997), Ordinance No. 24235 (passed April 26, 2000; effective May 1, 2000), Ordinance No. 25231 (passed April 9, 2003; effective May 1, 2003), Ordinance No. 26336 (passed April 26, 2006; effective May 1, 2006), and Ordinance No. 27527 (passed April 22, 2009; effective May 1, 2009), each of which readopted and continued in effect the juvenile curfew ordinance establishing nighttime curfew hours for minors; and

WHEREAS, the city council has determined that a high rate of truancy exists in the city that significantly contributes to the number of incidences of juvenile crime, juvenile violence, and juvenile gang activity occurring during school hours; and

WHEREAS, the city council has determined that the establishment of daytime curfew hours for minors will help combat truancy, thereby reducing juvenile crime, juvenile violence, and juvenile gang activity occurring in the city during school hours; and

WHEREAS, the city council has determined that the establishment of daytime curfew hours for minors will further assist parents in the control of their children and will be in the interest of the public health, safety, and welfare; and

WHEREAS, on March 25, 2009 and April 22, 2009, the city council conducted public hearings on the need to continue the juvenile curfew ordinance, as modified to include daytime curfew hours for minors in addition to the current nighttime curfew hours for minors; and

WHEREAS, on April 22, 2009, the city council passed Ordinance No. 27527 continuing the nighttime juvenile curfew ordinance, but left the public hearing open on the establishment of daytime curfew hours for minors and directed that the matter be considered on the May 13, 2009 council agenda; and

WHEREAS, the city council has determined that a need exists to modify the juvenile curfew ordinance to include daytime curfew hours for minors in addition to the current nighttime curfew hours for minors, in order to further the health, safety, and welfare of juveniles, and other persons, residing in or visiting the city of Dallas; Now, Therefore,

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

SECTION 1. That Section 31-33, "Curfew Hours for Minors," of CHAPTER 31, "OFFENSES - MISCELLANEOUS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 31-33. CURFEW HOURS FOR MINORS.

(a) Definitions. In this section:

(1) CURFEW HOURS means:

(A) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; [~~and~~]

(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and

(C) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday.

(2) EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) ESTABLISHMENT means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) GUARDIAN means:

(A) a person who, under court order, is the guardian of the person of a minor; or

(B) a public or private agency with whom a minor has been placed by a court.

(5) IN SESSION means the status of a school during the fall or spring term when students are required to attend the school. A school is not in session during its summer break or during any holiday or other scheduled general student vacation day or part of a day observed by the school.

(6) MINOR means any person under 17 years of age.

(7) [(6)] OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

(8) [(7)] PARENT means a person who is:

(A) a natural parent, adoptive parent, or step-parent of another person; or

(B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(9) [(8)] PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(10) [(9)] REMAIN means to:

(A) linger or stay; or

(B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(11) [(10)] SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(b) Offenses.

(1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.

(2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(c) Defenses.

(1) It is a defense to prosecution under Subsection (b) that the minor was:

(A) accompanied by the minor's parent or guardian;

(B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;

(C) in a motor vehicle involved in interstate travel;

(D) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) involved in an emergency;

(F) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence, except that this defense does not apply to a violation of the curfew hours described in Subsection (a)(1)(C) of this section;

(G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city of Dallas, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city of Dallas, a civic organization, or another similar entity that takes responsibility for the minor;

(H) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(1) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(2) It is a defense to prosecution under Subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(3) It is a defense to prosecution under Subsection (b) of this section for a violation of the curfew hours described in Subsection (a)(1)(C) that:

(A) the school in which the minor was enrolled or otherwise required to attend was not in session;

(B) the minor was on the premises of the school in which the minor was enrolled or otherwise required to attend;

(C) the minor was participating in a school-approved work study program, or was going to the work study program or returning to home or school from the work-study program without any detour or stop;

(D) the minor was on a lunch break from a school that permits an open campus lunch and was qualified to participate in the open campus lunch program;

(E) the minor was on an excused absence from the school in which the minor was enrolled or otherwise required to attend and had permission from a school official, or, in the case of a home-schooled minor, from the minor's parent or guardian; or

(F) the minor was a high school graduate or had received a high school equivalency certificate.

(d) Enforcement.

(1) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.

(2) A police officer shall not issue a citation to or arrest a parent or guardian of a minor for a violation of Subsection (b)(2) of this section relating to the curfew hours described in Subsection (a)(1)(C), unless the parent or guardian has, within the same calendar year, received at least two prior written warnings from a police officer for a violation of Subsection (b)(2) relating to the curfew hours described in Subsection (a)(1)(C). In calculating the number of warnings received by a parent or guardian in a calendar year, all warnings issued to the parent or guardian will be counted, regardless of whether the warnings relate to the same minor.

(3) A police officer shall not issue a citation to or arrest an owner, operator, or employee of an establishment for a violation of Subsection (b)(3) of this section relating to the curfew hours described in Subsection (a)(1)(C), unless the establishment has, within the same calendar year, received at least two prior written warnings from a police officer for a violation of Subsection (b)(3) relating to the curfew hours described in Subsection (a)(1)(C). In calculating the number of warnings received by an establishment in a calendar year, all warnings issued to any owner, operator, or employee of the establishment will be counted, regardless of whether the warnings relate to the same minor.

(e) Penalties.

(1) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this section and shall refer the minor to juvenile court.

(f) Expiration. This section expires on May 1, 2012, unless sooner terminated or extended by city council ordinance.”

SECTION 2. That CHAPTER 31 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on May 18, 2009, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00459A

