



**OCTOBER 24, 2007 CITY COUNCIL ADDENDUM
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Addendum dated October 24, 2007. 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

10 - 19 - 07
Date



Edward Scott
City Controller

10/19/07
Date

RECEIVED

2007 OCT 19 AM 10:05

CITY SECRETARY
DALLAS, TEXAS

**ADDENDUM
CITY COUNCIL MEETING
WEDNESDAY, OCTOBER 24, 2007
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TX 75201
9:00 A.M.**

REVISED ORDER OF BUSINESS

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

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

OPEN MICROPHONE

CLOSED SESSION

MINUTES

Item 1

CONSENT AGENDA

Items 2 - 45

CONSENT ADDENDUM

Items 1 - 7

ITEMS FOR INDIVIDUAL CONSIDERATION

No earlier
than 9:30 a.m.

Item 46

PUBLIC HEARINGS AND RELATED ACTIONS

1:00 p.m.

Items 47 - 62

**ADDENDUM
CITY COUNCIL MEETING
OCTOBER 24, 2007
CITY OF DALLAS
1500 MARILLA
COUNCIL CHAMBERS, CITY HALL
DALLAS, TEXAS 75201
9:00 A. M.**

ADDITIONS:

CONSENT ADDENDUM

Business Development & Procurement Services

1. Authorize Supplemental Agreement No. 1 to the professional services contract with KPMG LLP for audit services of the City's financial operations and grant activities for the fiscal year ended September 30, 2006 - Not to exceed \$334,834, from \$950,000 to \$1,284,834 - Financing: Current Funds

Human Resources

2. Authorize the purchase of 2,000 bus passes from the Dallas Area Rapid Transit on behalf of City employees in support of the City's 2008 clean air initiative - Not to exceed \$50,000 - Financing: Current Funds

Park & Recreation

3. Authorize a contract for the construction of new athletic field lighting for the existing ball park and replacement of the existing street lighting at Reverchon Park located at 3505 Maple Avenue - Nema 3 Electric, Inc., best value proposer of four - \$430,000 - Financing: 2003 Bond Funds

Public Works & Transportation

4. An ordinance amending Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session, and to provide for civil fines not to exceed \$75 per offense - Financing: No cost consideration to the City
5. Authorize the development of a green building program and standards for private development in Dallas so that in the future all new buildings in the City will be built green and all renovation projects in the City will be built green, to the greatest extent possible, considering the nature and limitation of the specific remodeling work - Financing: No cost consideration to the City

**ADDENDUM
CITY COUNCIL MEETING
OCTOBER 24, 2007**

ADDITIONS: (Continued)

CONSENT ADDENDUM (Continued)

Public Works & Transportation (Continued)

**Mockingbird Plaza & Midtown/Central/
University Transit Oriented Development**

Note: Item Nos. 6 and 7 must be considered collectively.

6. * Authorize an amendment to Resolution No. 06-3366, previously approved on December 13, 2006, to authorize **(1)** payment to the North Central Texas Council of Governments for the City's share of design, right-of-way acquisition, and construction of infrastructure improvements in the amount of \$400,000, and **(2)** an increase in appropriations in the amount of \$400,000 in the Capital Projects Reimbursement Fund - Not to exceed \$400,000 - Financing: Capital Projects Reimbursement Fund

7. * Authorize an amendment to Resolution No. 06-3367, previously approved on December 13, 2006, to authorize the receipt and deposit of funds from Southern Methodist University for the City's share of design, right-of-way acquisition, and construction costs for the infrastructure improvements - \$400,000 - Financing: Private Funds

DELETION:

Department of Development Services

SPECIAL PROVISION SIGN DISTRICT - INDIVIDUAL

58. A public hearing to receive comments regarding an application for an amendment to the provisions of the Downtown Special Provision Sign District to create a new Subdistrict to allow for video board signs on a tract of land generally bounded by Main Street, Akard Street, Elm Street and Field Street
Recommendation of Staff: Approval, subject to conditions
Recommendation of CPC: Denial without prejudice
SPSD067-003(DC)

ADDENDUM DATE October 24, 2007

ITEM	IND								
#	OK	DEF	DISTRICT	TYPE	DEPT.	DOLLARS	LOCAL	MWBE	DESCRIPTION
1			N/A	C	PBD	\$334,834.00	100.00%	22.18%	Authorize Supplemental Agreement No. 1 to the professional services contract with KPMG LLP for audit services of the City's financial operations and grant activities for the fiscal year ended September 30, 2006
2			N/A	C	HRD	\$50,000.00	NA	NA	Authorize the purchase of 2,000 bus passes from the Dallas Area Rapid Transit on behalf of City employees in support of the City's 2008 clean air initiative
3			2	C	PKR	\$430,000.00	58.20%	26.52%	Authorize a contract for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting at Reverchon Park located at 3505 Maple Avenue
4			N/A	C	PWT	NC	NA	NA	An ordinance amending Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session, and to provide for civil fines not to exceed \$75 per offense
5			All	C	PWT, OEQ	NC	NA	NA	Authorize the development of a green building program and standards for private development in Dallas so that in the future all new buildings in the City will be built green and all renovation projects in the City will be built green, to the greatest extent possible, considering the nature and limitation of the specific remodeling work
6			14	C	PWT	GT	NA	NA	Mockingbird Plaza & Midtown/Central/University Transit Oriented Development: Authorize an amendment to Resolution No. 06-3366, previously approved on December 13, 2006, to authorize payment to the North Central Texas Council of Governments for the City's share of design, right-of-way acquisition and construction of infrastructure improvements
7			14	C	PWT	GT	NA	NA	Mockingbird Plaza & Midtown/Central/University Transit Oriented Development: Authorize an amendment to Resolution No. 06-3367, previously approved on December 13, 2006, to authorize the receipt and deposit of funds from Southern Methodist University for the City's share of design, right-of-way acquisition, and construction costs for the infrastructure improvements

GRAND TOTAL \$814,834.00

ADDENDUM ITEM # 1

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

AGENDA DATE: October 24, 2007

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Business Development & Procurement Services

CMO: Dave Cook, 670-7804

MAPSCO: N/A

SUBJECT

Authorize Supplemental Agreement No. 1 to the professional services contract with KPMG LLP for audit services of the City's financial operations and grant activities for the fiscal year ended September 30, 2006 - Not to exceed of \$334,834, from \$950,000 to \$1,284,834 - Financing: Current Funds

BACKGROUND

City Charter (Chapter III, Section 19), requires an annual independent audit of the City's "books of account, records, and transactions" by one or more certified public accountants. The Single Audit Act of 1996, as amended, also requires an audit of grantees who have received federal grants exceeding certain thresholds.

KPMG LLP provided audit services for FY 2006 as approved by City Council on December 13, 2006 at a rate of \$190 per hour. During the term of the contract, KPMG LLP incurred additional hours due to increased test work. The increased test work resulted from the auditor's lack of reliance on existing City controls, grant compliance issues and the financial system upgrade in fiscal year 2006. The audit services exceeded the scope of work by \$372,210.00 KPMG LLP agreed to a reduction of \$37,376.00 resulting in a net increase of \$334,834.00.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On October 8, 2007, the Finance, Audit and Accountability Committee was briefed on the proposed increase in audit fees.

On December 13, 2006, City Council authorized a twelve month professional services contract with KPMG LLP for audit of the City's financial operations for fiscal year ending September 30, 2006 by Resolution # 06-3466.

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

On December 11, 2006, the Finance, Audit and Accountability Committee was briefed on the KPMG LLP proposal for auditing services.

On June 12, 2006, the Finance, Audit and Accountability Committee was briefed on the request for proposal for the auditing services.

FISCAL INFORMATION

\$334,834.00 - Current Funds

M/WBE INFORMATION

The recommended awardee has fulfilled the Good Faith requirements set forth in the Good Faith Effort Plan adopted by City Council Resolution No. 84-3501 as amended.

ETHNIC COMPOSITION

KPMG LLP

Hispanic Female	62	Hispanic Male	33
Black Female	81	Black Male	32
Other Female	52	Other Male	38
White Female	412	White Male	418

OWNER

KPMG LLP

Gene O'Kelley, President
Jeff Stein, Vice President
Joe Heinz, Treasurer

GOOD FAITH EFFORT PLAN SUMMARY

PROJECT: Authorize Supplemental Agreement No. 1 to the professional services contract with KPMG LLP for audit services of the City's financial operations and grant activities for the fiscal year ended September 30, 2006 - Not to exceed of \$334,834, from \$950,000 to \$1,284,834 - Financing: Current Funds

KPMG LLP is a local, non-minority firm, has signed the "Good Faith Effort" documentation, and proposes to use their own workforce.

PROJECT CATEGORY: Professional Services

LOCAL/NON-LOCAL CONTRACT SUMMARY - THIS ACTION ONLY

	<u>Amount</u>	<u>Percent</u>
Local contracts	\$334,834.00	100.00%
Non-local contracts	\$0.00	0.00%
TOTAL THIS ACTION	\$334,834.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION THIS ACTION

Local Contractors / Sub-Contractors

None

Non-Local Contractors / Sub-Contractors

None

TOTAL M/WBE PARTICIPATION

	<u>This Action</u>		<u>Participation to Date</u>	
	<u>Amount</u>	<u>Percent</u>	<u>Amount</u>	<u>Percent</u>
African American	\$0.00	0.00%	\$190,000.00	14.79%
Hispanic American	\$0.00	0.00%	\$95,000.00	7.39%
Asian American	\$0.00	0.00%	\$0.00	0.00%
Native American	\$0.00	0.00%	\$0.00	0.00%
WBE	\$0.00	0.00%	\$0.00	0.00%
Total	\$0.00	0.00%	\$285,000.00	22.18%

October 24, 2007

WHEREAS, the annual independent audit of the City of Dallas financial operations and the audit of the City's grant funds (Single Audit) is required; and,

WHEREAS, KPMG LLP was awarded the contract at a rate of \$190 per hour on December 13, 2006, by Resolution #06-3466; and,

WHEREAS, KPMG LLP originally estimated a total of 5,000 hours to complete the audit at an estimate of \$950,000; and,

WHEREAS, the actual hours incurred by KPMG LLP to complete the audit exceeded the original estimate; and,

WHEREAS, on December 13, 2006, City Council authorized a twelve month professional services contract with KPMG LLP for audit of the City's financial operations for fiscal year ending September 30, 2006 by Resolution # 06-3466;

NOW, THEREFORE,

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

Section 1. That the City Manager is hereby authorized to execute Supplemental Agreement No. 1 to the professional services contract with KPMG LLP (092122) for audit services of the City's financial operations and grant activities for the fiscal year ending September 30, 2006 in the amount of \$334,834.00 from \$950,000.00 to \$1,284,834.00.

Section 2. That the City Controller is authorized to disburse funds from the following appropriation, in an amount not to exceed \$334,834.00:

Fund: 0001 Dept: BMS Unit: 1139 Obj: 3070 Encumbrance: #CT-BMS1138C412

Section 3. 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:

Office of Business Development and Procurement Services

ADDENDUM ITEM # 2

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

AGENDA DATE: October 24, 2007

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Human Resources

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

MAPSCO: N/A

SUBJECT

Authorize the purchase of 2,000 bus passes from the Dallas Area Rapid Transit on behalf of City employees in support of the City's 2008 clean air initiative - Not to exceed \$50,000 - Financing: Current Funds

BACKGROUND

Dallas Area Rapid Transit (DART) has initiated an annual pass program designed to increase DART ridership through a reduced fare to program participants. Passes allow unlimited transportation for a full calendar year (7 days per week) on DART's bus, rail and commuter rail routes.

This enhanced travel program is expected to promote the use of public transportation by City employees, thereby decreasing automobile emissions. Facilitating employees' usage of mass transportation is part of the City's clean air strategies. The 2008 program will be effective December 1, 2007, through November 30, 2008.

The DART Pass program is open to permanent civilian and uniformed Fire employees. Uniformed Police employees already ride free of charge on DART's transportation routes. The City will purchase 2,000 passes at a total cost of \$50,000. Employees will reimburse the City \$25 per pass through a one-time payroll deduction.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Authorized the DART A-Pass program on January 22, 2003 by Resolution No. 03-0373.

Authorized the City funded DART A-Pass program as part of the FY 2003-04 budget on September 24, 2003 by Resolution No. 03-2570.

Authorized a contract with DART to purchase A-Passes on October 22, 2003 by Resolution No. 03-2881.

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

Authorized the City funded DART A-Pass program as part of the FY 2004-05 budget on September 22, 2004 by Resolution No. 04-2841.

Authorized the City funded DART pass program as part of the FY 2005-06 budget on September 28, 2005 by Resolution No. 05-2822.

Authorized a contract with DART to purchase A-Passes on October 26, 2005 by Resolution No. 05-3038.

Authorize a contract with DART to purchase A-Passes on October 25,2006 by Resolution No. 06-2962.

FISCAL INFORMATION

\$50,000 - Current Funds

October 24, 2007

WHEREAS, the City Council authorized the Dallas Area Rapid Transit A-Pass program on January 22, 2003 by Resolution No. 03-0373; and

WHEREAS, the City Council authorized the City funded Dallas Area Rapid Transit A-Pass program on September 24, 2003 by Resolution No. 03-2570; and the purchase of A-Passes on October 22, 2003 by Resolution No. 03-2881; and

WHEREAS, the City Council authorized the City funded Dallas Area Rapid Transit A-Pass program on September 22, 2004 by Resolution No. 04-2841; and

WHEREAS, the City Council authorized the City funded Dallas Area Rapid Transit Pass program on September 28, 2005 by Resolution No. 05-2822; and

WHEREAS, City employees will reimburse the City \$25 per pass through a one-time payroll deduction; and

WHEREAS, it is the City's desire to execute a one-year contract with the Dallas Area Rapid Transit to purchase 2,000 passes for City employees, at a cost not to exceed \$ 50,000.

NOW THEREFORE,

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

SECTION 1. That the City Manager be and is hereby authorized to enter into a contract, where a contract is required, after approval as to form by the City Attorney, for the purchase of 2,000 passes on behalf of City employees in support of the City's clean air initiative from DART.

SECTION 2. That the City Controller or designee be and is hereby authorized to disburse funds from Fund 0001, Dept PER, Unit 1437, Object 3532, Encumbrance No. CT PER143707001 to Dallas Area Rapid Transit (Vendor #232802) for the purchase of 2,000 passes, on behalf of City employees at a cost not to exceed \$50,000.

SECTION 3. That the City Controller or designee be and is hereby authorized to make a one-time payroll deduction of \$25 per employee purchasing a bus pass to reimburse the City to Fund 0001, Dept PER, Unit 1437, Object 3532.

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 is accordingly so resolved.

Distribution: Human Resources - 6AS
Office of Financial Services - 4FN
City Attorney's Office - 7DN

ADDENDUM ITEM # 3

KEY FOCUS AREA: Public Safety Improvements and Crime Reduction
Better Cultural Arts and Recreational Amenities

AGENDA DATE: October 24, 2007

COUNCIL DISTRICT(S): 2

DEPARTMENT: Park & Recreation

CMO: Paul D. Dyer, 670-4071

MAPSCO: 45-A

SUBJECT

Authorize a contract for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting at Reverchon Park located at 3505 Maple Avenue - Nema 3 Electric, Inc., best value proposer of four - \$430,000 - Financing: 2003 Bond Funds

BACKGROUND

This action will award a contract for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting on the park road at Reverchon Park located at 3505 Maple Avenue to Nema 3 Electric, Inc., best value proposer of four, in the amount of \$430,000. On June 7, 2007, the Park and Recreation Board approved the advertisement for a Request for Competitive Sealed Proposals (RFCSP) for the construction of a new athletic field lighting for the existing ball park, and replacement of the existing street lighting. On August 30, 2007, four proposals were received and it was determined that Nema 3 Electric, Inc. provided the best value. Proposals based on RFCSP are evaluated on pre-set criteria which includes cost, qualifications of the prime, construction amount and schedule ratings are based on mathematical formulas, with the best price and best schedule being given the highest scores. Ratings "1" to "10" are given for each criteria with "10" being the best rating. These ratings are multiplied by the weighting to obtain the score for each criteria.

BACKGROUND (Continued)

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

<u>Rating Criteria</u>	<u>Weighting</u>
1. Proposed Construction Contract Amount	50%
2. Qualifications/Experience/References for Prime Firm	20%
3. Subcontractor Experience	15%
4. Good Faith Effort Plan	5%
5. Financial Sufficiency	5%
6. Schedule/Time of Completion	<u>5%</u>
	100%

ESTIMATED SCHEDULE OF PROJECT

Began Design	June 2007
Completed Design	May 2007
Begin Construction	December 2007
Complete Construction	April 2008

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

The Park and Recreation Board authorized advertisement for a Request for Competitive Sealed Proposals on June 7, 2007.

The Park and Recreation Board authorized award of the contract on October 18, 2007.

FISCAL INFORMATION

2003 Bond Funds - \$430,000

M/WBE INFORMATION

See attached.

ETHNIC COMPOSITION

Nema 3 Electric, Inc.

White Male	9	White Female	2
Black Male	0	Black Female	0
Hispanic Male	12	Hispanic Female	0
Other Male	0	Other Female	0

PROPOSAL INFORMATION

The following four proposals were received and opened on August 30, 2007:

*Denotes successful proposer.

<u>Proposers</u>	<u>Base Bid</u>	<u>Scores</u>
*Nema 3 Electric, Inc.	\$430,000	2560.00
Phoenix I Restoration and Construction, Ltd.	\$567,000	2336.50
Gilbert May, Inc. dba Phillips/May Corporation	\$633,333	1928.40
Kennedy Electric, Inc.	\$759,830	1172.80

OWNERS

Nema 3 Electric, Inc.

Ricky Cooper, President
Diane Cooper, Secretary/Treasurer

MAP

Attached

GOOD FAITH EFFORT PLAN SUMMARY

PROJECT: Authorize a contract for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting at Reverchon Park located at 3505 Maple Avenue - Nema 3 Electric, Inc., best value proposer of four - \$430,000 - Financing: 2003 Bond Funds

Nema 3 Electric, Inc. is a non-local, non-minority firm, has signed the "Good Faith Effort" 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	\$250,279.94	58.20%
Total non-local contracts	\$179,720.06	41.80%
TOTAL CONTRACT	\$430,000.00	100.00%

LOCAL/NON-LOCAL M/WBE PARTICIPATION

Local Contractors / Sub-Contractors

<u>Local</u>	<u>Certification</u>	<u>Amount</u>	<u>Percent</u>
Moreno Supply, Inc.	HMMB3430Y01708	\$114,036.00	45.56%
Total Minority - Local		\$114,036.00	45.56%

Non-Local Contractors / Sub-Contractors

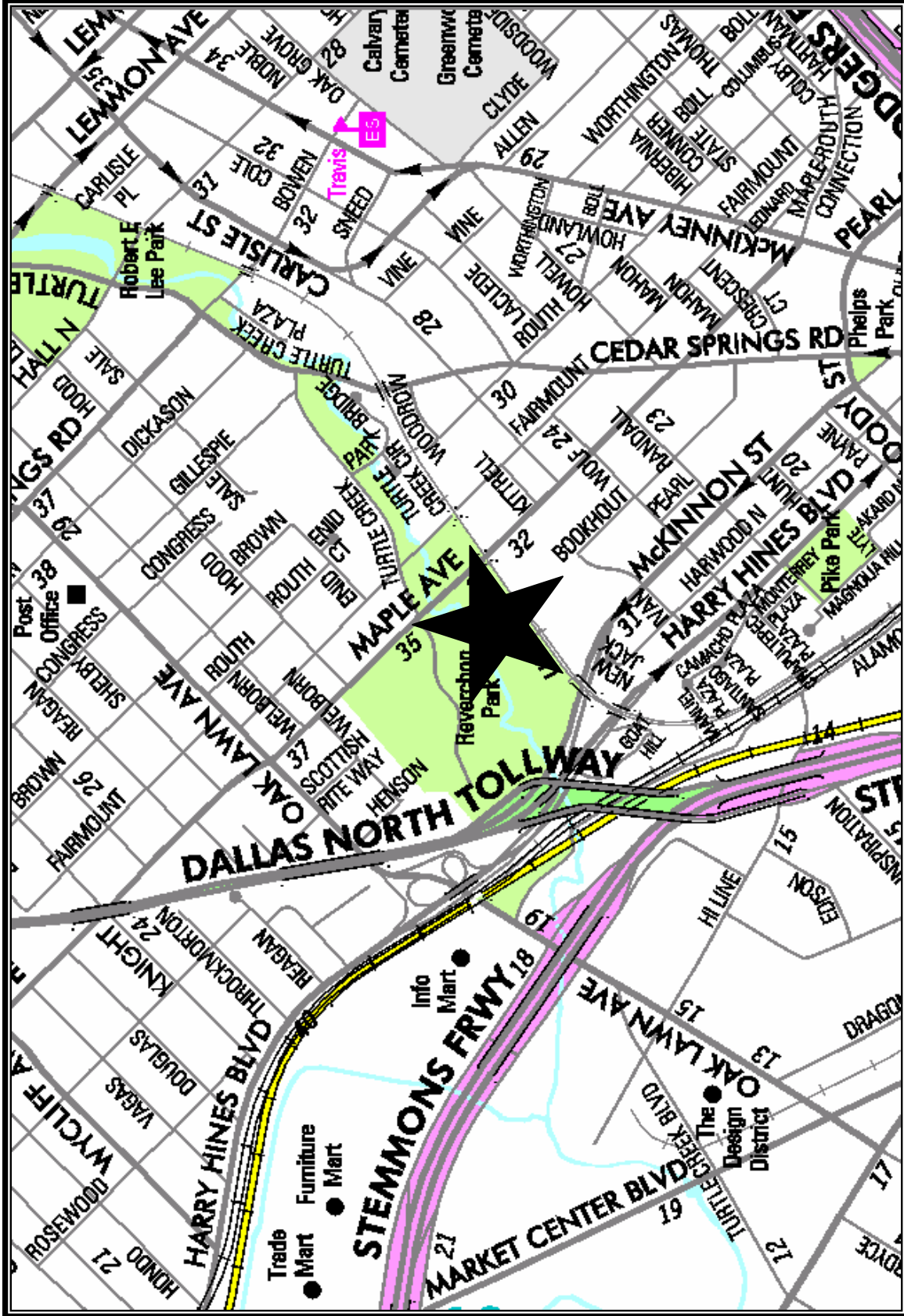
None

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	\$114,036.00	45.56%	\$114,036.00	26.52%
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	\$114,036.00	45.56%	\$114,036.00	26.52%

Reverchon Park

Council District 2



3505 Maple Avenue

Mapsc0 #45-A

October 24, 2007

WHEREAS, on June 7, 2007, the Park and Recreation Board approved the advertisement for a Request for Competitive Sealed Proposals for the construction of new athletic field lighting for the ball park, and replacement of the existing street lighting on the park road at Reverchon Park located at 3505 Maple Avenue; and

WHEREAS, on August 30, 2007, four proposals were received for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting on the park road at Reverchon Park located at 3505 Maple Avenue, with the proposal provided by Nema 3 Electric, Inc., best value for the City of Dallas.

<u>Proposers</u>	<u>Base Bid</u>	<u>Scores</u>
Nema 3 Electric, Inc.	\$430,000	2560.00
Phoenix I Restoration and Construction, Ltd.	\$567,000	2336.50
Gilbert May, Inc. dba Phillips/May Corporation	\$633,333	1928.40
Kennedy Electric, Inc.	\$759,830	1172.80

WHEREAS, Nema 3 Electric, Inc., provided a final and best offer in the amount of \$430,000 for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting on the park road at Reverchon Park located at 3505 Maple Avenue. **Now, Therefore,**

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

SECTION 1. That the City Manager is hereby authorized to enter into a contract with Nema 3 Electric, Inc., for the construction of new athletic field lighting for the existing ball park, and replacement of the existing street lighting at Reverchon Park located at 3505 Maple Avenue, in an amount not to exceed \$430,000.

SECTION 2. That the President of the Park and Recreation Board and the City Manager be authorized to execute a contract with Nema 3 Electric, Inc., after approval as to form by the City Attorney's Office.

SECTION 3. That the City Controller be and is hereby authorized to pay the amount of \$430,000 to Nema 3 Electric, Inc., as follows:

(2003) Neighborhood Park and Recreation Facilities Fund 4R05, Department PKR, Unit K251, Object 4599, Activity COPK, Program PK03K251, CT-PKR07018927, Commodity 91200, Vendor 514352, in an amount not to exceed	\$430,000
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October 24, 2007

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.

KEY FOCUS AREA: Public Safety Improvements and Crime Reduction

AGENDA DATE: October 24, 2007

COUNCIL DISTRICT(S): N/A

DEPARTMENT: Public Works & Transportation

CMO: Ramon F. Miguez, P.E., 670-3308

MAPSCO: N/A

SUBJECT

An ordinance amending Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session, and to provide for civil fines not to exceed \$75 per offense - Financing: No cost consideration to the City

BACKGROUND

The City recognizes that numerous right angle collisions occur each year due to drivers running red lights at intersections. In an effort to reduce these types of crashes and to change driving habits, the City adopted a new red light camera enforcement ordinance on April 12, 2006.

The City established the SafeLight, Dallas Stops on Red program and began enforcement on January 15, 2007. From January 15, 2007 through September 30, 2007, officers issued approximately 161,061 citations to offenders who were caught on camera running a red light. The citations issued equate to approximately \$7,227,390 in revenue collected for FY 06-07, which will be used to support multiple traffic safety programs.

On September 1, 2007, an amendment was adopted and implemented by the State of Texas, which defines specific guidelines for municipalities who operate a red light camera enforcement program.

This item amends Chapter 28 of the Dallas City Code to conform the City's red light camera ordinance to SB 1119.

SB 1119 requires municipalities to share with the State 50% of all net revenues generated by red light camera enforcement.

BACKGROUND (Continued)

Other amendments require minor revisions to Chapter 28 of the Dallas City Code, Motor Vehicle and Traffic, Article XIX, Photographic Enforcement and Administrative Adjudication of Red Light Violations, as follows:

- To designate the department responsible for the administration and enforcement of the program;
- To include a defense for vehicle dealerships receiving citations on test driven vehicles;
- To establish a 30-day period for dealerships and rental/leasing companies to provide data supporting their defense;
- To establish a new procedure for hearing requests. Hearings are no longer preset and requests must be made in writing within 30 calendar days from the issuance date of the citation;
- To provide notification that an arrest warrant will not be issued and the violation will not be recorded on the owner's driving record;
- To establish a period of not less than 30 days for answering a civil red light citation;
- To establish that hearings must be set no later than 30 days after the request has been made;
- To establish a defense for late requests for administrative hearings or payment of the original fine due to receiving the notice in an untimely manner;
- To establish a set fine amount of \$75, even on subsequent violations,
- To establish a procedure that requires the appellant to agree to financial responsibility if found liable;
- To establish a compliance date and procedures for transferring 50% of net revenues gained from the red light camera enforcement program to the Office of the Texas State Comptroller.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Adopted initial Red Light Camera Ordinance No. 26305 on April 12, 2006.

Authorized a contract with ACS, State and Local Solutions, Inc. on September 13, 2006, by Resolution #06-2492.

Authorized Supplemental Agreement #1 to contract with ACS, State and Local Solutions, Inc. to increase cameras and extend contract date on September 12, 2007, by Resolution #07-2604.

FISCAL INFORMATION

No cost consideration to the City.

10/15/07

ORDINANCE NO.

An ordinance amending Article XIX (composed of Sections 28-203 through 28-217) of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended; defining terms; conforming the city's red light camera ordinance to SB 1119, adopted by the 80th Legislature, Regular Session; providing for civil fines not to exceed \$75; providing a saving clause; providing a severability clause; and providing an effective date.

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

SECTION 1. That Article XIX, "Photographic Enforcement and Administrative Adjudication of Red Light Violations," of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended, is amended to read as follows:

"ARTICLE XIX.

**PHOTOGRAPHIC ENFORCEMENT AND ADMINISTRATIVE
ADJUDICATION OF RED LIGHT VIOLATIONS.**

Division 1. Generally.

SEC. 28-203. DEFINITIONS.

In this article:

(1) **AUTOMATED RED LIGHT ENFORCEMENT PROGRAM** means the installation of one or more photographic traffic signal enforcement systems to reduce red light violations and collisions citywide.

(2) **CAMERA-ENFORCED INTERSECTION** means an intersection toward which a photographic traffic signal enforcement system is directed and in operation.

(3) DATE OF ISSUANCE means the date that a civil red light citation is mailed in accordance with this article.

(4) DEPARTMENT means the city department of public works and transportation.

(5) DIRECTOR means the director of the department or the director's authorized representative.

(6) INTERSECTION means the point or area where two or more intersecting streets meet.

(7) OWNER means:

(A) the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country;

(B) the person named under Section 28-207(d) or (g) as the lessee of the motor vehicle at the time of a red light violation; or

(C) the person named under Sections 28-207(h)~~(f)~~ as holding legal title to the motor vehicle at the time of a red light violation.

(8) PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM means a system that:

(A) consists of a camera system and a vehicle sensor installed to exclusively work in conjunction with an electronically-operated traffic-control signal; and

(B) is capable of producing at least two recorded images depicting the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(9) RECORDED IMAGE means a photographic or digital ~~[an]~~ image recorded by a photographic traffic signal enforcement system that depicts the front or the rear of a motor vehicle ~~[and is automatically recorded on a photograph or digital image]~~.

(10) RED LIGHT VIOLATION means a violation of Section 28-207 of this article.

(11) RED LIGHT CITATION or CIVIL RED LIGHT CITATION means a citation for a red light violation issued under this article.

(12) TRAFFIC-CONTROL SIGNAL means a traffic-control device that displays red, amber, and green lights successively to direct traffic when to stop at or proceed through an intersection.

SEC. 28-204. GENERAL AUTHORITY AND DUTIES OF THE DIRECTOR AND DEPARTMENT.

The department is responsible for the enforcement and administration of this article. The director shall implement and enforce this article and may by written order establish such rules or regulations, not inconsistent with this article, as the director determines are necessary to discharge the director's duties under or to effect the policy of this article.

SEC. 28-205. ENFORCEMENT OFFICERS - POWERS, DUTIES, AND FUNCTIONS.

(a) The city manager or a designated representative shall appoint enforcement officers to issue civil red light citations.

(b) An enforcement officer shall have the following powers, duties, and functions:

(1) To review recorded images from the photographic traffic signal enforcement system to determine whether a red light violation has occurred.

(2) To order a red light citation to be issued based on evidence from the recorded images.

(3) To void recorded images due to lack of evidence or due to knowledge that a defense described in Section 28-207 applies.

(4) To issue warnings in lieu of citations during acceptance testing of the photographic traffic signal enforcement system equipment or at any other time prescribed by the director.

SEC. 28-206. HEARING OFFICERS - POWERS, DUTIES, AND FUNCTIONS.

(a) The city council shall designate hearing officers from a list of persons recommended [~~Hearing officers shall be appointed~~] by the city manager, or a designated representative, to administratively adjudicate all red light violations for which a civil red light citation has been issued.

(b) A hearing officer shall have the following powers, duties, and functions:

(1) To administer oaths.

(2) To accept admissions to, and to hear and determine contests of, red light violations under this article.

(3) To issue orders compelling the attendance of witnesses and the production of documents, which orders may be enforced by a municipal court.

(4) To assess civil fines, penalties, and other costs for a red light violation in accordance with Section 28-214 of this article.

(5) To waive penalties assessed for a red light violation in accordance with Section 28-214 of this article.

**Division 2. Enforcement of Red Light Violations
as Civil Offenses.**

**SEC. 28-207. RED LIGHT VIOLATIONS AS CIVIL OFFENSES; DEFENSES;
PRESUMPTIONS.**

(a) The owner of a motor vehicle that is operated in violation of Section 544.007(d), Texas Transportation Code at [proceeds into] a camera-enforced intersection [~~when the traffic signal for that vehicle's direction of travel is emitting a steady red signal~~] commits a civil offense and is liable for a civil fine under this article.

(b) It is a defense to a charge of a red light violation under this section that:

(1) the traffic signal was not in proper position or sufficiently visible [~~legible~~] to an ordinarily observant person;

(2) the operator of the motor vehicle was acting in compliance with the lawful order or direction of a peace officer;

(3) the operator of the motor vehicle was lawfully making a right turn while a red signal was being emitted from the traffic signal;

(4) the operator of the motor vehicle was lawfully making a left turn from a one-way street onto another one-way street while a red signal was being emitted from the traffic signal;

(5) the operator of the motor vehicle was completing a left turn after having entered the intersection before a red signal was emitted from the traffic signal;

(6) the operator of the motor vehicle violated the instructions of the traffic signal so as to yield the right of way to an immediately approaching authorized emergency vehicle;

(7) the motor vehicle was being operated as an authorized emergency vehicle under Chapter 546 of the Texas Transportation Code and the operator was acting in compliance with that chapter;

(8) the motor vehicle was a stolen vehicle being operated by a person other than the vehicle's owner without the consent of the vehicle owner and proof is submitted to the hearing officer that the theft of the motor vehicle had been timely reported to the appropriate law enforcement agency;

(9) the license plate depicted in the recorded image of the red light violation was a stolen plate being displayed on a motor vehicle other than the motor vehicle for which the plate had been issued and proof is submitted to the hearing officer that the theft of the license plate had been timely reported to the appropriate law enforcement agency; or

(10) the presence of ice, snow, unusual amounts of rain, or other unusually hazardous road conditions existed that would have made compliance with this section more dangerous under the circumstances than non-compliance~~[; or~~

~~(11) the person who received the red light citation did not hold legal title to the motor vehicle, and was not a lessee of the vehicle, at the time of the red light violation].~~

(c) It is presumed that the registered owner of the vehicle depicted in the recorded image of a red light violation for which a red light citation is issued is the person who committed the red light violation. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

(d) A vehicle owner who is ~~[engaged]~~ in the business of selling, renting, or leasing vehicles ~~[under written rental or leasing agreements]~~ will not be liable for the civil red light fines, penalties, and costs imposed by the city on a vehicle for sale or a rented or leased vehicle if ~~[, within 15 calendar days after receiving a red light citation,]~~ the vehicle owner presents evidence establishing that the vehicle depicted in the recorded image was at the time of the alleged violation being rented, leased, or test driven by another person. Evidence sufficient to establish that the vehicle was being rented, leased, or test driven includes ~~[provides in affidavit form]~~:

(1) the true name, address, and driver's license number and state of issuance of the person renting, leasing, or test driving ~~[in possession of]~~ the vehicle at the time the recorded ~~[photographic]~~ image of the red light violation was taken ~~[recorded]~~; or

(2) a true copy of the lease or rental agreement in effect at the time the recorded ~~[photographic]~~ image of the red light violation was taken ~~[recorded]~~.

(e) Evidence presented under Subsection (d) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.

(f) If the owner [lessor] of a vehicle presents evidence under [complies with] Subsections (d) and (e) of this section establishing that the vehicle depicted in the recorded image was being rented, leased, or test driven at the time of the violation, the owner may not be held liable for civil red light fines, penalties, and costs, and the director shall send the red light citation to the test driver or lessee who is presumed to have committed the red light violation [person named under Subsection (d)(1) or (d)(2)]. An owner [lessor] of a vehicle who fails to comply with Subsections (d) or (e) of this section will be treated as any other vehicle owner and will be liable for the red light violation charge.

(g) If, at the time the recorded image of the red light violation was taken, the vehicle depicted in the recorded image was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the vehicle owner shall, within 30 calendar days after the date the red light citation is received, provide to the department the name and address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the period during which that individual was renting or leasing the vehicle. This information must be provided regardless of whether the person provides evidence under Subsections (d) and (e) of this section that the vehicle was being rented, leased, or test driven at the time of the red light violation.

(h)[(f)] A registered [vehicle] owner named in the red light citation who did not hold legal title to the motor vehicle at the time of a red light violation will not be liable for the civil red light fines, penalties, and costs imposed by the city on that vehicle if [, within 15 calendar days after receiving a red light citation,] the registered owner presents evidence establishing that another person held legal title to the vehicle at the time the recorded image of the red light violation was taken. Evidence sufficient to establish that the vehicle was owned by another person at the time of the red light violation includes [provides in affidavit form]:

(1) the true name, address, and driver's license number and state of issuance of the person who held legal title to the vehicle at the time the recorded [photographic] image of the red light violation was taken [recoreded]; or

(2) a true copy of any purchase or sale documentation (including proof of transfer of title) showing the name of the person who held [in which the] title to [of] the vehicle [was held] at the time the recorded [photographic] image of the red light violation was taken (that person's address must also be provided if not contained in the documentation) [recoreded].

(i) Evidence presented under Subsection (h) of this section must be presented through oral testimony or by affidavit under penalty of perjury. Evidence through oral testimony must be presented at the administrative adjudication hearing. Evidence by affidavit under penalty of perjury may be presented by mail.

(j)(g) If the registered [a vehicle] owner named in the violation complies with Subsections (h) and (i) of this section [(f)], the registered owner may not be held liable for civil red light fines, penalties, and costs, and the director shall send the red light citation to the person who held legal title to the vehicle at the time the recorded image of the red light violation was taken [named under Subsection (f)(1) or (f)(2)]. A registered [vehicle] owner named in the red light citation who fails to comply with Subsections (h) and (i) of this section [(f)] will be treated as any other vehicle owner and will be liable for the red light violation charge.

SEC. 28-208. CIVIL RED LIGHT CITATIONS; FORM.

(a) A civil red light citation serves as the summons and complaint for purposes of this article.

(b) The red light citation must be on a form prescribed by the director and must include the following information:

(1) The name and address of the owner of the vehicle involved in the violation.

(2) A description of the violation alleged.

(3)(2) The date and[;] time of the violation[;] and the location of the intersection where [of] the violation occurred.

(4)(3) The citation issuance date.

(5) The registration number displayed on the license plate of the vehicle involved in the violation.

(6)(4) A copy of a recorded image of [the vehicle involved in] the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation.

(7)(5) The amount of the civil fine to be imposed for the violation.

(8)(6) The date by which the civil fine must be paid or the request for an administrative adjudication hearing must be made.

(9)(7) A statement that, in lieu of requesting an administrative adjudication hearing, the person named in the red light citation may pay the civil fine in person or by mail at an address designated on the citation [in lieu of appearing at an administrative adjudication hearing].

~~(10)~~~~(8)~~ A notification that the vehicle owner has the right to contest the imposition of the civil fine in an administrative adjudication hearing by submitting a written request for an administrative adjudication hearing within 30 calendar days after the date the red light citation is issued ~~[The date, time, and location of the administrative adjudication hearing, which must be set on the 15th calendar day after the date of issuance of the red light citation or, if the 15th calendar day is a Saturday, Sunday, or holiday, on the immediately preceding business day].~~

~~(11)~~~~(9)~~ A notification that any request by the vehicle owner to have the enforcement officer, or other authorized person who issued the citation, present at the hearing must be made in writing as part of the written request for an administrative adjudication hearing under Paragraph (10) of this subsection ~~[and received by the hearing officer at least five days before the scheduled hearing date,]~~ and that failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the hearing.

~~(12)~~~~(10)~~ A notification that failure to pay the civil fine or to timely request an [appear at the scheduled] administrative adjudication hearing is considered an admission of liability for the red light violation charge, is a waiver of the person's right to appeal the imposition of the civil fine, and will result in the assessment of appropriate civil fines, penalties, and costs.

~~(13)~~ A statement that the person will incur a late payment penalty if the person fails to pay the civil fine or request an administrative adjudication hearing within 30 calendar days after the date of issuance of the red light citation.

~~(14)~~ A notification that an arrest warrant may not be issued for failure to timely pay the civil fines, penalties, and costs and that the imposition of the civil penalty may not be recorded on the vehicle owner's driving record.

(c) The original or any copy of a civil red light citation is a record kept in the ordinary course of city business and is prima facie evidence of the facts contained in the citation.

SEC. 28-209. SERVICE OF A CIVIL RED LIGHT CITATION.

(a) In order to impose a civil fine under this article, the director shall send a red light citation to the owner of the motor vehicle involved in the red light violation within 30 calendar days after the date the violation is alleged to have occurred. The citation must be sent, by United States mail, to:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation;

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation;

(3) if the owner presents evidence or information ~~[is the person named]~~ under Section 28-207(d) or (g) that the vehicle was being rented, leased, or test driven ~~[as the lessee of the vehicle]~~ at the time of the red light violation, the address provided by the seller or lessor under Section 28-207(d) or (g); or

(4) if the registered owner presents evidence ~~[is the person named]~~ under Section 28-207(h) ~~[(f)]~~ that another person had ~~[as having]~~ legal title to the vehicle at the time of the red light violation, the address provided under Section 28-207(h) ~~[(f)]~~.

(b) A red light citation is presumed to have been received on the fifth day after the date the citation is mailed.

SEC. 28-210. ANSWERING A CIVIL RED LIGHT CITATION.

(a) A vehicle owner who has been issued a civil red light citation shall, either personally or through a representative, answer to the charge of the red light violation by the date shown on the citation, which date may not be earlier than the 30th day after the date the citation is issued. An answer may be made in any of the following ways:

(1) An admission of liability with a payment of the applicable civil fine, and any additional penalties and costs.

(2) A request to schedule ~~[denial of liability made before a hearing officer at]~~ an administrative adjudication hearing to either deny liability or admit liability with an explanation before a hearing officer ~~[on a date specified in the red light citation].~~

(3) A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence under Section 28-207 that the vehicle depicted in the recorded image was at the time of the red light violation being rented, leased, or test driven ~~[An admission of liability with an explanation made before a hearing officer at an administrative adjudication hearing on a date specified in the red light citation].~~

(4) A denial of liability accompanied by an affidavit under penalty of perjury presenting evidence under Section 28-207 that the person named in the red light citation was not the owner of the vehicle depicted in the recorded image at the time of the violation.

(5) A request for permission from a hearing officer to adjudicate by mail.

~~[(5) A request to reset a scheduled administrative adjudication hearing from the date shown on the red light citation. A scheduled hearing may not be reset more than once unless the vehicle owner pays to the director an amount equal to the applicable civil fine for the red light violation, with any additional penalties and costs. The director shall issue a receipt for any amounts paid under this paragraph. After presentation of the receipt, all amounts paid will be refunded to the vehicle owner if the hearing officer, or a municipal court on appeal, finds that the owner is not liable for the red light violation.]~~

(b) Payment of the civil fine and any additional penalties and costs may be made in person or by mailing to the director the red light citation accompanied by payment of the amount shown on the citation. Payment by mail may be made only by money order or check made out to the city. Payment of the civil fine and all penalties and costs assessed under this article operates as a final disposition of the red light violation charge, except when payment is made to reset a scheduled hearing as allowed under Section 28-212 [~~or to file an appeal~~].

SEC. 28-212. HEARINGS FOR DISPOSITION OF A RED LIGHT CITATION; CITATION AND PHOTOGRAPHIC RECORDED IMAGES AS PRIMA FACIE EVIDENCE.

(a) Every hearing for the adjudication of a red light violation charge under this article must be held before a hearing officer not later than the 30th day after the department receives a request for an administrative adjudication hearing. The director shall notify, in writing, the person requesting a hearing of the date, time, and location of the hearing.

(b) A person may make a request to reset a scheduled administrative adjudication hearing. A scheduled administrative adjudication hearing may not be reset more than once unless the vehicle owner pays to the director an amount equal to the applicable civil fine for the red light violation, with any additional penalties and costs. The director shall issue a receipt for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded to the vehicle owner if the hearing officer, or a municipal court on appeal, finds that the owner is not liable for the red light violation.

(c) At a hearing, the civil red light citation and the recorded images produced by the photographic traffic signal enforcement system are prima facie proof of the red light violation, and the enforcement officer or other authorized person who issued the citation is not required to be present unless requested by the vehicle owner charged or by the hearing officer. A vehicle owner's request to have the enforcement officer, or other authorized person who issued the citation, present at the hearing must be in writing and received by the hearing officer as part of the person's request for an administrative adjudication hearing [~~at least five days before the scheduled hearing date~~]. Failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the hearing.

(d)[(e)] At a hearing, the hearing officer shall hear and consider evidence presented by the city and by the vehicle owner. The formal rules of evidence do not apply to a hearing under this article, and the hearing officer shall make a decision based upon a preponderance of the evidence presented at the hearing, after giving due weight to all presumptions and prima facie evidence established by this article or other applicable law.

~~(e)~~ At a hearing, the reliability of the photographic traffic signal enforcement system used to produce the recorded image of the red light violation may be attested to by affidavit of an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of an officer or employee of the city that alleges a red light violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the red light citation.

~~(f)~~ At the conclusion of the hearing, the hearing officer shall immediately render an order or decision, either by:

(1) finding the vehicle owner liable for the red light violation, assessing the applicable civil fine and any penalties and other costs in accordance with this article, and notifying the owner of the right to appeal to municipal court; or

(2) finding the vehicle owner not liable for the red light violation.

~~(g)~~ An order of a hearing officer must be in writing, signed, and dated by the hearing officer and filed with the department in a separate index and file. The order may be recorded using computer printouts, microfilm, microfiche, or similar data processing techniques.

SEC. 28-213. FAILURE TO ANSWER A CIVIL RED LIGHT CITATION OR APPEAR AT A HEARING.

(a) The failure of a vehicle owner charged with a red light violation to answer to the charge within 30 [~~15~~] calendar days after the date of issuance of the red light citation or to appear at any hearing, including a hearing on appeal, when required to appear is an admission of liability for the red light violation, and the hearing officer, or the municipal court in the case of an appeal, shall issue an order of liability and assess against the owner the appropriate civil fines, penalties, and other costs.

(b) Within seven calendar days after filing an order of liability issued under this section, a hearing officer or the entity with which the city contracts, shall notify the vehicle owner in writing of the order. The notice must be sent by United States mail to the address required for service of a citation under Section 28-209 or to the address of the vehicle owner last known to the hearing officer. The notice must include a statement of:

(1) the amount of the civil fines, penalties, and costs assessed; and

(2) the right to appeal to municipal court.

(c) Regardless of any other provision of this article, a person who receives a red light citation and who fails to timely pay the civil fine or fails to timely request an administrative adjudication hearing is still entitled to an administrative adjudication hearing if:

(1) the person submits to the hearing officer a written request for a hearing, accompanied by an affidavit, that attests to the date on which the person received the red light citation; and

(2) the written request and affidavit are submitted to the hearing officer within 30 calendar days after the date the person received the red light citation.

SEC. 28-214. CIVIL FINES FOR RED LIGHT VIOLATIONS; PENALTIES AND OTHER COSTS.

(a) If a civil fine is assessed under this article, it must be in accordance with this section. A fine may not be waived or modified by a hearing officer, or by a municipal court on appeal, when a vehicle owner is found liable for a red light violation, except that additional penalties and other costs may be added in accordance with this section.

(b) The owner of a motor vehicle liable for a red light violation shall pay a civil fine of[=

~~(1) \$75 for each [the first or second] violation [committed by the same owner in the same motor vehicle during any 12-month period; and~~

~~(2) \$150 for the third or subsequent violation committed by the same owner in the same motor vehicle during any 12-month period].~~

(c) An additional \$25 late payment penalty will be assessed if the vehicle owner fails to:

(1) answer a red light citation within 30 [45] calendar days after its date of issuance;

(2) appear at a hearing scheduled to adjudicate the red light violation charge;

or

(3) after being found liable, pay all civil fines, penalties, fees, and costs assessed for a red light violation within the time designated by the hearing officer, or by the municipal court on appeal.

(d) A penalty assessed under Subsection (c) of this section may be waived by a hearing officer, or by a municipal court on appeal, if the vehicle owner can establish that:

(1) through no fault of the owner:

(A) no notice of the red light violation was received as required by this article;

(B) no notice of the hearing officer's order was received as required by this article; or

(C) payment of the civil fine assessed for the red light violation was not posted in a timely manner; or

(2) the penalty was assessed in error.

SEC. 28-215. APPEAL FROM HEARING.

(a) A vehicle owner determined by a hearing officer [~~(f)at an administrative adjudication hearing [or by failure to answer a red light citation or appear at a hearing in the time required]~~] to be liable for a red light violation may appeal this determination to the municipal court by filing an appeal petition, along with a filing fee of \$15, with the municipal court clerk or a deputy clerk before the 31st [~~within 30~~] calendar day[s] after the date the hearing officer's order is entered [~~filed~~] with the department of public works and transportation. If the hearing officer's order is reversed, the \$15 filing fee will be returned by the city to the appellant.

(b) Upon receipt of an appeal petition, the municipal court clerk or deputy clerk shall schedule an appeal hearing and notify all parties of the date, time, and location of the hearing. The enforcement officer or other authorized person who issued the civil red light citation is not required to be present at the appeal hearing unless requested by the vehicle owner charged [~~or by the municipal court~~]. A vehicle owner's request to have the enforcement officer, or other authorized person who issued the citation, present at the appeal hearing must be in writing and made as part of the appeal petition [~~received by the municipal court clerk or deputy clerk at least five days before the scheduled hearing date~~]. Failure to timely make this request constitutes a waiver of the vehicle owner's right to require the presence of the enforcement officer or other authorized person at the appeal hearing.

(c) The appeal hearing must be a trial de novo in municipal court and is a civil proceeding for the purpose of affirming or reversing the hearing officer's order. [~~The vehicle owner may request that the hearing be held before a jury.~~] The decision of the municipal court is final.

(d) Service of notice of appeal under this section [~~does not~~] stays the enforcement and collection of any civil fines, penalties, and costs ordered by the [of a] hearing officer~~[, unless the vehicle owner pays to the director an amount equal to all civil fines, penalties, and costs assessed against the owner. The director shall issue a receipt for any amounts paid under this subsection. After presentation of the receipt, all amounts paid will be refunded if the hearing officer's order is overturned on appeal].~~ An appeal petition must be accompanied by a notarized statement in which the vehicle owner agrees to pay all civil fines, penalties, and costs ordered by the hearing officer, if the person is still found liable by the municipal court upon appeal.

(e) At an appeal hearing, the civil red light citation and the recorded images produced by the photographic traffic signal enforcement system are prima facie proof of the red light violation, and the enforcement officer or other authorized person who issued the citation is not required to be present unless requested by the vehicle owner.

(f) At an appeal hearing, the reliability of the photographic traffic signal enforcement system used to produce the recorded image of the red light violation may be attested to by affidavit of an officer or employee of the city, or of the entity with which the city contracts to install or operate the system, who is responsible for inspecting and maintaining the system. An affidavit of an officer or employee of the city that alleges a red light violation based on an inspection of the pertinent recorded image is admissible in a proceeding under this article, is evidence of the facts contained in the affidavit, and is prima facie evidence of the violation alleged in the red light citation.

SEC. 28-216. EFFECT OF LIABILITY; EXCLUSION OF CIVIL REMEDY; ENFORCEMENT.

(a) The imposition of a civil fine under this article is not a conviction or criminal offense and may not be considered a conviction or criminal offense for any purpose. Failure to timely pay a civil fine under this article may not result in an arrest warrant being issued for the vehicle owner and may not be recorded on the owner's driving record.

(b) A civil fine may not be imposed under this article on the owner of a motor vehicle if the operator of the vehicle was arrested or was issued a criminal citation by a peace officer under Section 544.007(d) of the Texas Transportation Code for the red light violation recorded by the photographic traffic signal enforcement system.

(c) The city attorney is authorized to file suit or take other action to collect any civil fines, penalties, and costs assessed under this article.

SEC. 28-217. DISPOSITION OF CIVIL FINES, PENALTIES, AND COSTS ASSESSED FOR RED LIGHT VIOLATIONS.

Not later than November 29 of each year, after deducting amounts the city is authorized to retain under Section 707.008(b) of the Texas Transportation Code, 50 percent of the revenue derived from the [A#] civil fines and late payment[;] penalties[; ~~and costs~~] assessed under this article each fiscal year must be remitted to the Office of the Texas State Comptroller for deposit to the credit of the regional trauma account and 50 percent must be paid into the city's [general] fund dedicated to traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement [for the use and benefit of the city]."

SECTION 2. That CHAPTER 28 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 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 October 29, 2007, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

RM/DCC/000001

KEY FOCUS AREA: A Cleaner, Healthier City Environment

AGENDA DATE: October 24, 2007

COUNCIL DISTRICT(S): All

DEPARTMENT: Public Works & Transportation
Office of Environmental Quality

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

MAPSCO: N/A

SUBJECT

Authorize the development of a green building program and standards for private development in Dallas so that in the future all new buildings in the City will be built green and all renovation projects in the City will be built green, to the greatest extent possible, considering the nature and limitation of the specific remodeling work - Financing: No cost consideration to the City

BACKGROUND

Commercial and residential buildings in the U.S. are the single largest contributor to global warming in the country; 48% of all energy consumption and greenhouse gas emissions (GHG) in the US annually are from buildings and 76% of all power plant generated electricity is used to operate buildings annually. It is projected that 1,300 to 1,900 new power plants will be needed over the next 20 years to provide power to these buildings, amounting to approximately one per week.

A strategy to reduce or eliminate the negative impact of buildings on the environment is “green” building. Green building refers to design and construction practices that address resource conservation, energy efficiency and increased building performance. Green building practices can significantly lower energy and water consumption in buildings, which result in reduced operating and maintenance costs; reduced demands on local infrastructure; increased worker productivity and occupant comfort; improved indoor environmental air quality and reduced natural resources consumption.

As a regional leader, the City of Dallas is at the forefront of addressing environmental issues. In January of 2003, the City adopted a green building program based on the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) rating system, which incorporated green (sustainable) building practices into its municipal building projects beginning with the 2003 bond program.

BACKGROUND (Continued)

Currently, the City has 2 gold and 2 silver city facilities that are certified by the U.S. Green Building Council, and has 22 registered that will become certified after completion. The City's next step is to encourage or require the private sector to incorporate sustainable principles and strategies.

This action will authorize the City Manager to solicit input from a wide variety of building industry representatives and building owners to develop a green building program and standards for private development in Dallas. The recommendations from the task force will be reported back to the Dallas City Council by March 12, 2008 for consideration and implementation of a green building program for all residential and non-residential projects in the City of Dallas. The long term vision is that in the future all new and existing buildings in Dallas will be built "green", or will be renovated incorporating green building practices.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed to the City Council on October 17, 2007.

FISCAL INFORMATION

No cost consideration to the City

October 24, 2007

WHEREAS, commercial and residential buildings consume 40 percent of our nation's energy and are responsible for 40 percent of the greenhouse gas emissions in the United States; and,

WHEREAS, commercial and residential buildings contribute 136 million tons of construction and demolition waste annually; and,

WHEREAS, on a global scale, commercial and residential buildings use three billion tons of the planet's raw materials; and,

WHEREAS, the 300 billion square feet of buildings in the US are the single largest contributor to global warming in the country; are responsible for 48% of all energy consumption and greenhouse gas emissions (GHG) in the US annually is from buildings and 76% of all power plant generated electricity is used to operate buildings globally; and,

WHEREAS, the U.S. alone is projected to need 1,300 to 1,900 new power plants over the next 20 years, amounting to approximately one per week; and,

WHEREAS, the housing stock in the United States consumes roughly 20% of the country's primary energy and raw materials; and,

WHEREAS, Green Building practices can significantly lower energy and water consumption in buildings and reduce the above-mentioned negative impacts of buildings on the environment and the occupants of the buildings; and,

WHEREAS, the City of Dallas adopted a Resolution on January 22, 2003, whereby all projects over 10,000 s.f. starting with the 2003 Bond Program will be LEED Silver Certified and as of today, over 120 projects throughout DFW are seeking LEED certification and 22 of those buildings are City of Dallas projects; and

WHEREAS, the City of Dallas desires to be at the forefront of addressing environmental issues and therefore, has implemented a City of Dallas Green Building Program to incorporate sustainable ("green") building design and construction practices into its new municipal building projects as well as those facility projects that the City may ultimately own or provide funding for the operating and maintenance costs; and,

WHEREAS, the City of Dallas established a green building task force in the spring of 2007 with members from the residential and commercial sectors to develop recommendations with the goals of advancing public policies and programs that encourage or require private sector green building practices, and to help meet the state implementation plan (SIP) for the DFW region.

October 24, 2007

Now, Therefore,

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

Section 1. The City Council is hereby committed to a policy calling for all new buildings constructed in our City to meet "green" standards (it will be defined by the process below).

Section 2. The City Manager is hereby authorized to solicit input from a wide variety of building industry representatives and building owners in developing such a green building policy, program and standards for private development in Dallas.

Section 3. The City Manager is to report back to Council by March 12, 2008 with recommendations for the components of such a green building program, including the standards for "green" construction in Dallas, educational programs for the building industry, and a realistic implementation schedule that is based upon building industry input, allowing for a smooth transition to green building practices.

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: Public Works and Transportation, Jean Mitchell, OCMC, Room 101
 Public Works and Transportation, Zaida Basora, OCMC, Room 101
 City Attorney
 Office of Financial Services

KEY FOCUS AREA: Economic Development
AGENDA DATE: October 24, 2007
COUNCIL DISTRICT(S): 14
DEPARTMENT: Public Works & Transportation
CMO: Ramon F. Miguez, P.E., 670-3308
MAPSCO: 36 J

SUBJECT

Mockingbird Plaza & Midtown/Central/University Transit Oriented Development

- * Authorize an amendment to Resolution No. 06-3366, previously approved on December 13, 2006, to authorize **(1)** payment to the North Central Texas Council of Governments for the City's share of design, right-of-way acquisition, and construction of infrastructure improvements in the amount of \$400,000, and **(2)** an increase in appropriations in the amount of \$400,000 in the Capital Projects Reimbursement Fund - Not to exceed \$400,000 - Financing: Capital Projects Reimbursement Fund
- * Authorize an amendment to Resolution No. 06-3367, previously approved on December 13, 2006, to authorize the receipt and deposit of funds from Southern Methodist University for the City's share of design, right-of-way acquisition, and construction costs for the infrastructure improvements - \$400,000 - Financing: Private Funds

BACKGROUND

On April 14, 2005, the North Central Texas Council of Governments (NCTCOG) Regional Transportation Council (RTC) allocated \$40.61 million for their second Sustainable Development Program Call for Projects. The Sustainable Development Program is intended to promote development types that reduce the overall demand for transportation infrastructure and improve air quality. The call for projects was announced on October 14, 2005 and allowed for three types of project submissions: transportation infrastructure improvements, land banking and planning programs.

BACKGROUND (Continued)

This project was one of nine selected and approved by the RTC on April 13, 2006. It received \$1,600,000 in RTC Sustainable Development Program Funds with a local match requirement of \$400,000 (20 percent of the total project cost of \$2,000,000). There is no City funding required for this project. On December 13, 2006, Council Resolution No. 06-3366 authorized an interlocal agreement with NCTCOG, and Council Resolution No. 06-3367 authorized a participation agreement with Prescott Realty Group and Southern Methodist University (SMU).

Because Prescott Realty Group and SMU wanted to use an alternate method to develop and pay for this project through the NCTCOG process, this action will clarify and modify the funding arrangements with NCTCOG, Prescott Realty Group, and SMU. It will authorize the City to receive and deposit \$400,000 from SMU and allow the City to turn it around and pay NCTCOG the local match of \$400,000. It will also authorize the receipt and deposit of this same amount of reimbursement from NCTCOG. Council Resolution No. 06-3366 previously authorized the receipt and deposit of \$1,600,000 from NCTCOG, so now the maximum amount to be reimbursed by NCTCOG will be \$2,000,000 (\$400,000 from this action and \$1,600,000 from the previous action).

The Mockingbird Plaza and Midtown/Central/University Transit Oriented Development covers an area bounded by Central Expressway, Twin Sixties Drive, Yale Boulevard, Worcola Street and DART's North East Light Rail Transit Line. The Sustainable Development project will provide enhanced pedestrian access to/from the Mockingbird Rail Station and the Katy Trail extension from new mixed-use and multi-family housing developments.

Future Council action is required to award the construction contract and assign it to Prescott Realty Group and Southern Methodist University.

ESTIMATED SCHEDULE OF PROJECT

Begin Design	November 2007
Complete Design	February 2008
Begin Construction	July 2008
Complete Construction	July 2009

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed the Council Transportation and Telecommunications Committee on September 26, 2005.

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

Briefed the Council Transportation and Telecommunications Committee on January 9, 2006 and recommended approval of the Project submission list.

Authorized the land use development concepts on June 28, 2006, by Resolution No. 06-1796.

Authorized the Interlocal Agreement with the North Central Texas Council of Governments on December 13, 2006, by Resolution No. 06-3366.

Authorized the Development Participation Agreement with Prescott Realty Group and Southern Methodist University on December 13, 2006, by Resolution No. 06-3367.

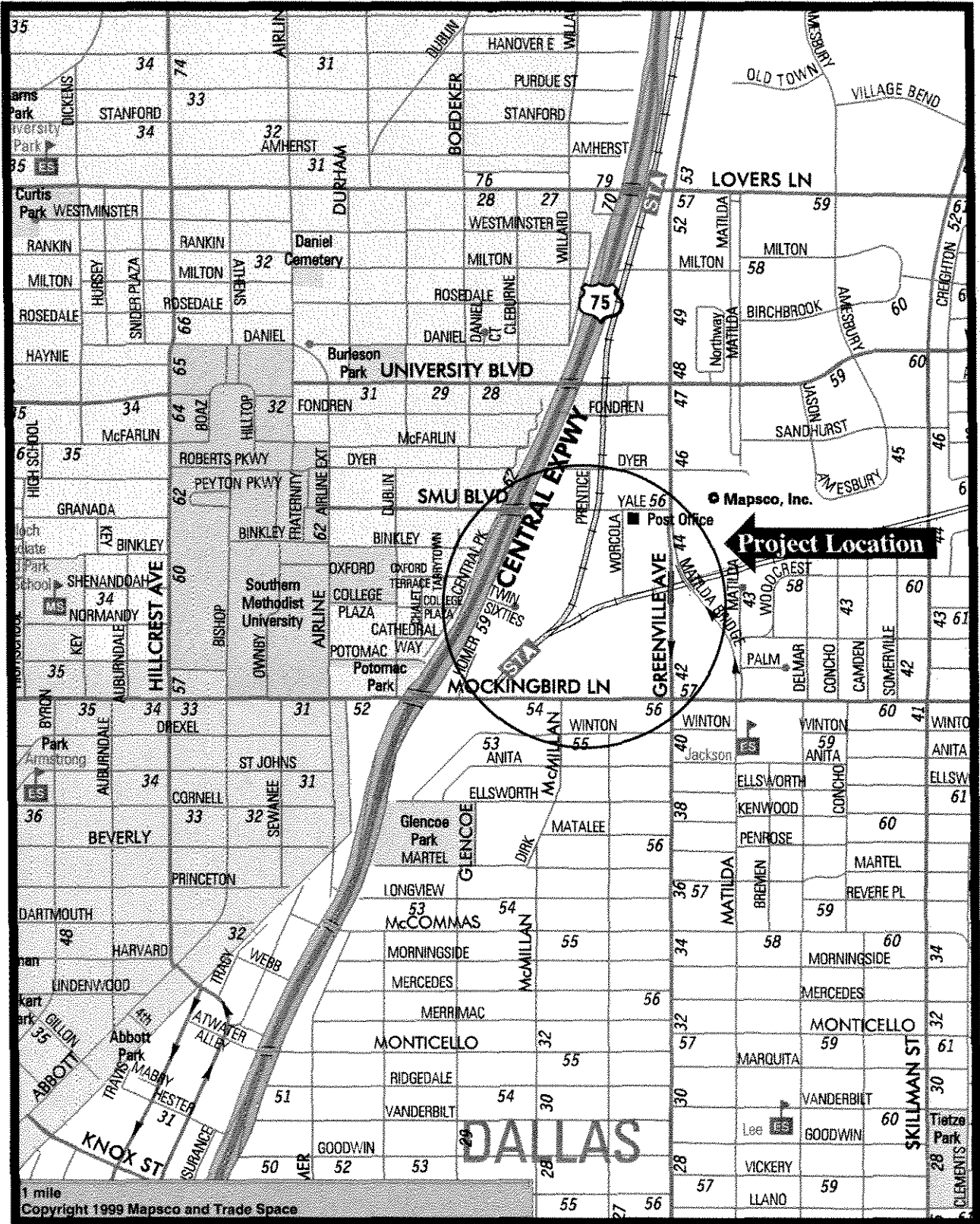
FISCAL INFORMATION

Capital Projects Reimbursement Funds - \$400,000

MAP

Attached.

Mockingbird Plaza



October 24, 2007

WHEREAS, the Regional Transportation Council approved \$40.61 million for a Sustainable Development Program Call for Projects on April 14, 2005 and the North Central Texas Council of Governments established Sustainable Development Program Call for Projects Rules; and,

WHEREAS, the City of Dallas submitted a Sustainable Development Program application for the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project to the North Central Texas Council of Governments prior to the January 20, 2006 deadline; and,

WHEREAS, the Regional Transportation Council approved \$1,600,000 in Regional Transportation Council Local Funds under the Sustainable Development Program for the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project on April 13, 2006; and,

WHEREAS, the Sustainable Development Program requires a minimum local match of 20 percent of the total project cost of \$2,000,000, or \$400,000, to be provided by Prescott Realty Group and Southern Methodist University; and,

WHEREAS, Council Resolution No. 06-1796 supported the land use development concepts of the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project; and,

WHEREAS, Council Resolution No. 06-3366 authorized an interlocal agreement with the North Central Texas Council of Governments.

Now, Therefore,

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

Section 1. That the City Manager is hereby authorized to increase appropriations in the Capital Projects Reimbursement Fund 0556, Department PBW, Unit P355, Obj. 4510 in the amount of \$400,000.

Section 2. That the City Controller is hereby authorized to disburse funds from:

Capital Projects Reimbursement Fund	
Fund 0556, Dept. PBW, Unit P356, Act. INGV	
Obj. 4510, Program #PBPRP356, CT PBWPRP356A1	
Vendor # 265554, in an amount not to exceed	\$400,000

October 24, 2007

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: Public Works and Transportation, Jean Mitchell, OCMC, Room 101
Public Works and Transportation, Dawna Brown, City Hall, L1BS
City Attorney

October 24, 2007

WHEREAS, the Regional Transportation Council approved \$40.61 million for a Sustainable Development Program Call for Projects on April 14, 2005 and the North Central Texas Council of Governments established Sustainable Development Program Call for Projects Rules; and,

WHEREAS, the City of Dallas submitted a Sustainable Development Program application for the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project to the North Central Texas Council of Governments prior to the January 20, 2006 deadline; and,

WHEREAS, the Regional Transportation Council approved \$1,600,000 in Regional Transportation Council Local Funds under the Sustainable Development Program for the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project on April 13, 2006; and,

WHEREAS, the Sustainable Development Program requires a minimum local match of 20 percent of the total project cost of \$2,000,000, or \$400,000, to be provided by Prescott Realty Group and Southern Methodist University; and,

WHEREAS, Council Resolution No. 06-1796 supported the land use development concepts of the Mockingbird Plaza and Midtown/Central/University Transit Oriented Development project; and,

WHEREAS, Council Resolution No. 06-3367 authorized a development participation agreement with Prescott Realty Group and Southern Methodist University.

Now, Therefore,

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

Section 1. That the City Controller is hereby authorized to receive and deposit funds from Southern Methodist University into Fund 0556, Department PBW, Unit P356, Revenue Source 8492 in an amount not to exceed \$400,000.

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: Public Works and Transportation, Jean Mitchell, OCMC, Room 101
Public Works and Transportation, Dawna Brown, City Hall, L1BS
City Attorney

