

**AUGUST 20, 2008 CITY COUNCIL BRIEFING AGENDA
CERTIFICATION**

This certification is given pursuant to Chapter XI, Section 9 of the City Charter for the City Council Briefing Agenda dated August 20, 2008. We hereby certify, as to those contracts, agreements, or other obligations on this Agenda authorized by the City Council for which expenditures of money by the City are required, that all of the money required for those contracts, agreements, and other obligations is in the City treasury to the credit of the fund or funds from which the money is to be drawn, as required and permitted by the City Charter, and that the money is not appropriated for any other purpose.



Mary K. Suhm
City Manager

8/15/08

Date



Edward Scott
City Controller

8/15/08

Date

RECEIVED

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CITY SECRETARY
DALLAS, TEXAS



COUNCIL BRIEFING AGENDA

August 20, 2008

DATE

(FOR GENERAL INFORMATION AND RULES OF COURTESY PLEASE SEE OPPOSITE SIDE.)

(LA INFORMACIÓN GENERAL Y REGLAS DE CORTESÍA QUE DEBEN OBSERVARSE

DURANTE LAS ASAMBLEAS DEL CONSEJO MUNICIPAL APARECEN EN EL LADO OPUESTO, FAVOR DE LEERLAS.)

General Information

The Dallas City Council regularly meets on Wednesdays beginning at 9:00 a.m. in the Council Chambers, 6th floor, City Hall, 1500 Marilla. Council agenda meetings are broadcast live on WRR-FM radio (101.1 FM) and on AT&T CityCable Channel 6B. Briefing meetings are held the first and third Wednesdays of each month. Council agenda (voting) meetings are held on the second and fourth Wednesdays. Anyone wishing to speak at a meeting should sign up with the City Secretary's Office by calling (214) 670-3738 before 9:00 a.m. on the meeting date. Citizens can find out the name of their representative and their voting district by calling the City Secretary's Office.

Sign interpreters are available upon request with a 48-hour advance notice by calling (214) 670-5208 V/TDD. The City of Dallas is committed to compliance with the Americans with Disabilities Act. **The Council agenda is available in alternative formats upon request.**

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

Rules of Courtesy

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

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

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

Informacion General

El Ayuntamiento de la Ciudad de Dallas se reúne regularmente los miércoles en la Cámara del Ayuntamiento en el sexto piso de la Alcaldía, 1500 Marilla, a las 9 de la mañana. Las reuniones informativas se llevan a cabo el primer y tercer miércoles del mes. Estas audiencias se transmiten en vivo por la estación de radio WRR-FM 101.1 y por cablevisión en la estación AT&T CityCable Canal 6B. El Ayuntamiento Municipal se reúne el segundo y cuarto miércoles del mes para tratar asuntos presentados de manera oficial en la agenda para su aprobación. Toda persona que desee hablar durante la asamblea del Ayuntamiento, debe inscribirse llamando a la Secretaría Municipal al teléfono (214) 670-3738, antes de las 9 de la mañana del día de la asamblea. Para enterarse del nombre de su representante en el Ayuntamiento Municipal y el distrito donde usted puede votar, favor de llamar a la Secretaría Municipal.

Intérpretes para personas con impedimentos auditivos están disponibles si lo solicita con 48 horas de anticipación llamando al (214) 670-5208 (aparato auditivo V/TDD). La Ciudad de Dallas se esfuerza por cumplir con el decreto que protege a las personas con impedimentos, *Americans with Disabilities Act*. **La agenda del Ayuntamiento está disponible en formatos alternos si lo solicita.**

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

Reglas de Cortesia

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

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

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

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, AUGUST 20, 2008
CITY HALL
1500 MARILLA
DALLAS, TEXAS 75201
9:00 A.M.

9:00 am Invocation and Pledge of Allegiance 6ES

 Special Presentations

 Open Microphone Speakers

 Council Committee Update

VOTING AGENDA 6ES

1. Approval of Minutes of the August 6, 2008 City Council Meeting and the August 11, 2008 Council Budget Briefing
2. Consideration of appointments to boards and commissions and the evaluation and duties of board and commission members (List of nominees is available in the City Secretary's Office)

ITEMS FOR INDIVIDUAL CONSIDERATION

City Attorney's Office

3. An ordinance **(1)** appointing 10 full-time municipal judges and 18 associate (part-time) municipal judges to preside over the City of Dallas municipal court of record for a term ending May 31, 2010; **(2)** designating an administrative municipal judge for the City of Dallas municipal court of record for a two-year term ending May 31, 2010; and **(3)** establishing the annual salary for the full-time and associate municipal judges and the administrative municipal judge - Financing: No cost consideration to the City

Convention and Event Services

4. Authorize the execution of a Memorandum of Understanding with Matthews Holdings Southwest, Inc. to develop a convention center hotel adjacent to the Dallas Convention Center on the site commonly known as the Chavez site - Financing: No cost consideration to the City

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, AUGUST 20, 2008

ITEMS FOR INDIVIDUAL CONSIDERATION (Continued)

Convention and Event Services (Continued)

5. Authorize **(1)** establishment of a local government corporation, the Dallas Convention Center Hotel Development Corporation (the "Corporation"), for the purpose of financing the Convention Center Headquarters Hotel (the "Hotel"), **(2)** approval of the Corporation's articles of incorporation and bylaws, **(3)** appointment of the Corporation's initial Board of Directors, and **(4)** the City Manager to file the Corporation's articles of incorporation with the Secretary of State - Financing: No cost consideration to the City

Economic Development

6. Authorize **(1)** a public hearing to be held on September 10, 2008 to receive comments concerning the early renewal of the Prestonwood Public Improvement District for a period of seven years in accordance with Chapter 372 of the Texas Local Government Code, for the Prestonwood Public Improvement District for the purpose of providing supplemental public services, to be funded by assessments on real property and real property improvements in the District; and **(2)** at the close of the hearing, consideration of a resolution authorizing the early renewal of the Prestonwood Public Improvement District for a period of seven years; approval of the 2009-2015 Service Plan; designating the Prestonwood Homeowners Association, Inc., as the management entity for the District; approving and filing the tax roll, and providing an effective date – Financing: No cost consideration to the City

PUBLIC HEARINGS AND RELATED ACTIONS

Park & Recreation

7. A public hearing to receive comments on the proposed use of subsurface parkland for natural gas drilling and mineral production at Arcadia Park, Arlington Park, Bachman Lake Park, Brownwood Park, California Crossing Park, Cedar Ridge Preserve, City Paupers Cemetery, Crown Park, Elm Fork Greenbelt, Emerald Lake Park, Emma Carter Park, Escarpment Greenbelt, Fox Haven Park, Fox Hollow Park, Grauwylar Park, L.B. Houston Park, Marcus Park, Mountain Creek Lake Park, Mountain Valley Park, Overlake Park, Pegasus Park, Sleepy Hollow Park, and Trinity Park; and, at the close of the hearing, consideration of a resolution authorizing the use - Financing: No cost consideration to the City

AGENDA
CITY COUNCIL BRIEFING MEETING
WEDNESDAY, AUGUST 20, 2008

Briefings 6ES

- A. "Once-Weekly Service" for Garbage and Recycling
- B. 2009 Employee/Retiree Health Benefit Plans

Lunch

- C. Good Faith Effort Program Update

Closed Session 6ES

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

- Legal issues regarding RSR Superfund site
- Jay Cooper v. City of Dallas, Texas, Civil Action No. 3:04-CV-1663-M
- Robert Crider v. City of Dallas, Cause No. 07-03885-J
- Terrell Bolton v. City of Dallas, Texas, et al., Appeal Number 07-10999
- BCCA Appeal Group v. City of Houston, Cause No. 2008-09399
- Elijah Arredondo, Sr., et al. v. City of Dallas, Cause No. 07-05173-D
- Celestino Guzman, Jr. v. City of Dallas, Cause No. 07-12512-A
- United States of America v. City of Dallas, Texas,
Civil Action No. 3:08-CV-1063-K
- Legal issues regarding potential claim by Audubon Dallas, City of Dallas, and
County of Dallas concerning Cedar Ridge Preserve

Open Microphone Speakers 6ES

The above schedule represents an estimate of the order for the indicated briefings and is subject to change at any time. Current agenda information may be obtained by calling (214) 670-3100 during working hours.

Note: An expression of preference or a preliminary vote may be taken by the Council on any of the briefing items.

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

1. Contemplated or pending litigation, or matters where legal advice is requested of the City Attorney. Section 551.071 of the Texas Open Meetings Act.
2. The purchase, exchange, lease or value of real property, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.072 of the Texas Open Meetings Act.
3. A contract for a prospective gift or donation to the City, if the deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. Section 551.073 of the Texas Open Meetings Act.
4. Personnel matters involving the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint against an officer or employee. Section 551.074 of the Texas Open Meetings Act.
5. The deployment, or specific occasions for implementation of security personnel or devices. Section 551.076 of the Texas Open Meetings Act.
6. Deliberations regarding economic development negotiations. Section 551.087 of the Texas Open Meetings Act.

AGENDA ITEM # 3

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

AGENDA DATE: August 20, 2008

COUNCIL DISTRICT(S): N/A

DEPARTMENT: City Attorney's Office

CMO: Thomas P. Perkins, Jr., 670-3491

MAPSCO: N/A

SUBJECT

An ordinance **(1)** appointing 10 full-time municipal judges and 18 associate (part-time) municipal judges to preside over the City of Dallas municipal court of record for a term ending May 31, 2010; **(2)** designating an administrative municipal judge for the City of Dallas municipal court of record for a two-year term ending May 31, 2010; and **(3)** establishing the annual salary for the full-time and associate municipal judges and the administrative municipal judge - Financing: No cost consideration to the City

BACKGROUND

State law and the Dallas City Charter provide that the City Council shall appoint, to serve a two-year term, full-time municipal judges and associate (part-time) municipal judges to preside over the City of Dallas municipal court of record and designate an administrative judge.

On June 6, 2008, as required by Section 13-5.2(d) and (g) of the Dallas City Code, the Judicial Nominating Commission recommended to the City Council Ad Hoc Legislative Committee 15 nominees for the ten full-time municipal judge vacancies and 27 nominees for the 18 associate municipal judge vacancies ranked in order of preference, with number 1 being the highest ranking, and to the full City Council three nominees for administrative municipal judge ranked in the order of preference. The list of the Judicial Nominating Commission's recommended nominees is attached hereto.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On August 7 and 8, 2008, the Ad Hoc Legislative Committee interviewed the nominees for the full-time municipal judge vacancies and the administrative municipal judge vacancy.

On August 8, 2008, the Ad Hoc Legislative Committee forwarded its recommended list of nominees for the full-time municipal judge vacancies, the associate municipal judge vacancies, and the administrative municipal judge vacancy ranked in order of preference, to the City Council. The list of the Ad Hoc Legislative Committee's recommended nominees is attached hereto.

FISCAL INFORMATION

No cost consideration to the City.

Memorandum



CITY OF DALLAS

DATE June 6, 2008

TO Honorable Mayor
Tom Leppert

SUBJECT Presentation of Ranked Nominees for Full-Time and Part Time (Associate) and
Administrative Judge of Dallas Municipal Courts

The recently enacted Ordinance No. 26093 designated the Ad Hoc Legislative Committee to receive the recommendations of the Judicial Nominating Commission (JNC) for municipal judges.

The JNC recently considered applications and interviewed candidates for the City of Dallas Municipal Court of Record positions. The JNC is required to submit a number of nominees equal to 150% of the positions to be filled (rounded up to a whole number) ranked in order of preference.

The JNC respectfully submits its results as attached.

A handwritten signature in black ink, appearing to read 'M. G. Ronquillo'.

Marcos G. Ronquillo, Chair
Judicial Nominating Commission

Attachments

c: Honorable Members of the Dallas City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom Perkins, City Attorney
Craig Kinton, City Auditor
Judge Jay E. Robinson, Judiciary
Ryan S. Evans, First Assistant City Manager
Ramon F. Miguez, P.E., Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
A.C. Gonzalez, Assistant City Manager
David O. Brown, Interim Assistant City Manager
Dave K. Cook, Chief Financial Officer
Helena Stevens-Thompson, Assistant to the City Manager Mayor/City Council Office
Members of the Judicial Nominating Commission

**Judicial Nominating Commission
Final Rankings and Scores of Candidates
For Appointment to
Dallas Municipal Courts**

A. The highest ranking judiciary candidates for the Administrative Municipal Judge vacancies are listed below:

<u>Rank/Score</u>	<u>Name</u>	<u>Gender</u>	<u>Ethnicity</u>
1 (39)	Victor Lander	M	African-American
2 (25)	Daniel Solis	M	Hispanic
3 (6)	Phyllis Lister-Brown	F	African-American

B. The highest ranking judiciary candidates for the Full-time Municipal Judge vacancies are listed below:

<u>Rank/Score</u>	<u>Name</u>	<u>Gender</u>	<u>Ethnicity</u>
1 (166)	Victor Lander	M	African-American
2 (144)	Phyllis Lister-Brown	F	African American
3 (140)	Daniel Solis	M	Hispanic
4 (139)	Jay Robinson	M	Caucasian
5 (139)	Cheryl Williams	F	African-American
6 (132)	Tim Gonzalez	M	Hispanic
7 (125)	Michael Acuna	M	Hispanic
8 (120)	Carrie Chavez	F	Caucasian
9 (98)	Staci Williams	F	African-American
10 (89)	Patricia Diaz-Hartline	F	Hispanic
11 (43)	Melodee Armstrong-Mota	F	African-American
12 (39)	Raquel Brown	F	African-American
13 (23)	Julie Clancy	F	Caucasian
14 (20)	Roland Anderson	M	Caucasian
15 (17)	Suzanne Marsh	F	Caucasian

C. The highest ranking judiciary candidates for the Associate (part-time) Municipal Judge vacancies are listed below:

<u>Rank/Score</u>	<u>Name</u>	<u>Gender</u>	<u>Ethnicity</u>
1 (287)	Bonnie Goldstein	F	Caucasian
2 (274)	Ruth Catherine Logan	F	Caucasian
3 (258)	Carl Hays	M	African-American
4 (257)	Raquel Brown	F	African-American
5 (243)	Julie Clancy	F	Caucasian
6 (225)	Melodee Armstrong-Mota	F	African-American
7 (218)	John McCully	M	Caucasian
8 (215)	Anthony Randall	M	African-American
9 (207)	Tim Menchu	M	Asian
10 (205)	Suzanne Marsh	F	Caucasian
11 (202)	Roland Anderson	M	Caucasian
12 (189)	Daniel McDonald	M	Caucasian
13 (146)	Jennifer Goldman	F	Caucasian
14 (143)	Lily Pleitez	F	Hispanic
15 (143)	Marilyn Davis	F	African-American
16 (111)	Kyle Kneese	M	Caucasian
17 (107)	Demetria Frank	F	African-American
18 (98)	Frances Valdez	F	Hispanic
19 (96)	Preston Robinson, Jr.	M	African-American
20 (95)	Aaron Kaufman	M	Caucasian
21 (95)	Denise Campbell	F	African-American
22 (89)	Esther Grossman	F	Caucasian
23 (88)	Thomas Stanton	M	Caucasian
24 (82)	David Vernon	M	Caucasian
25 (81)	Winifred Cannon	F	African-American
26 (78)	Temesha Evans-Davis	F	African-American
27 (76)	Susan Keller	F	Caucasian



Marcos G. Ronquillo, Chair
Judicial Nominating Commission

Memorandum

4:00 AUG 12 AM 11:04
DALLAS TEXAS



CITY OF DALLAS

DATE August 8, 2008
TO Mayor Tom Leppert and Councilmembers
From: Councilmember Angela Hunt
SUBJECT Ad Hoc Legislative Committee for Judicial Appointments
Recommendations

Last week, the Ad Hoc Legislative Committee for Judicial Appointments met and interviewed 15 candidates for 10 full-time municipal judge positions. We also evaluated 3 candidates for Administrative Judge, and reviewed the candidate materials for the 18 part-time judge positions. Below are the recommendations from the committee. Please note that by law, the committee is required to recommend 50% more candidates than there are judge positions. The candidates are listed from highest ranked to lowest ranked.

The City Council will vote on this matter next week at our August 20th briefing.

Committee Recommendation for full-time Municipal Judges (10 positions available)

1. **Victor Lander**
2. **Phyllis Lister-Brown**
3. **Daniel Solis**
4. **Jay Robinson**
5. **Cheryl Williams**
6. **Carrie Chavez**
7. **Tim Gonzalez**
8. **Michael Acuna**
9. **Julie Clancy**
10. **Staci Williams**
11. Patricia Diaz-Hartline
12. Melodee Armstrong-Mota
13. Roland Anderson
14. Raquel Brown
15. Suzanne Marsh

"Dallas, The City That Works: Diverse, Vibrant and Progressive."

3. Phyllis Lister-Brown

A handwritten signature in black ink, appearing to read 'Deborah Watkins'.

c: Deborah Watkins, City Secretary

"Dallas, The City That Works: Diverse, Vibrant and Progressive."

**Committee Recommendation for Part-time Associate Judges
(18 positions available)**

1. Patricia Diaz-Hartline
2. Melodee Armstrong-Mota
3. Roland Anderson
4. Raquel Brown
5. Bonnie Goldstein
6. Ruth Catherine Logan
7. Carl Hays
8. John McCully
9. Anthony Randall
10. Tim Menchu
11. Daniel McDonald
12. Jennifer Goldman
13. Lily Pleitez
14. Marilyn Davis
15. Demetria Frank
16. Frances Valdez
17. Preston Robinson, Jr.
18. Aaron Kaufman
19. Denise Campbell
20. Esther Grossman
21. Thomas Stanton
22. David Vernon
23. Winifred Cannon
24. Temesha Evans-Davis
25. Susan Keller
26. Kyle Kneese
27. Suzanne Marsh

Committee Recommendation for Administrative Judge

1. Victor Lander
2. Daniel Solis
3. Phyllis Lister-Brown



c: Deborah Watkins, City Secretary

ORDINANCE _____

An ordinance appointing certain persons as full-time municipal judges and associate (part-time) municipal judges for a two-year term ending May 31, 2010; designating Victor Lander as administrative municipal judge for a two-year term ending May 31, 2010; establishing the annual salaries for the administrative municipal judge, full-time municipal judges and associate municipal judges; providing restrictions on the practice of law by full-time municipal judges; providing a severability clause; and providing an effective date.

WHEREAS, state law (Chapters 29 and 30, Texas Government Code) and Chapter VII of the Dallas City Charter provide that the municipal court of record be presided over by municipal court judges; and

WHEREAS, the Dallas City Charter provides that the city council shall appoint the municipal court judges and designate the administrative judge biennially in May of each even-numbered year to serve a two-year term; and

WHEREAS, as required by Section 13-5.2(d) of the Dallas City Code, on June 6, 2008 the judicial nominating commission recommended to the city council ad hoc legislative committee 15 nominees for ten full-time municipal judge vacancies and 27 nominees for 18 associate municipal judge vacancies, ranked in order of preference, with number 1 being the highest ranking; and

WHEREAS, as required by Section 13-5.2(g) of the Dallas City Code, on June 6, 2008 the judicial nominating commission recommended to the full city council for its consideration three nominees for administrative municipal judge vacancy, ranked in order of preference, with number 1 being the highest ranking; and

WHEREAS, on August 7 and 8, 2008, the ad hoc legislative committee interviewed the nominees for the full-time municipal judge vacancies and the administrative municipal judge vacancy and forwarded its list of nominees for the administrative, full-time and associate municipal judge vacancies, ranked in order of preference, to the city council; and

WHEREAS, on August 20, 2008, the city council, at its regularly scheduled meeting, considered the full-time and associate municipal judge nominees and the nominees for administrative municipal judge; **Now, Therefore,**

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

Section 1. That the following ten persons are appointed as full-time municipal judges for the City of Dallas municipal court of record for a two-year term ending May 31, 2010:

Victor Lander	Carrie Chavez
Phyllis Lister-Brown	Tim Gonzalez
Daniel Solis	Michael Acuña
Jay Robinson	Julie Clancy
Cheryl Williams	Staci Williams

Section 2. That the following 18 persons are appointed as associate municipal judges for the City of Dallas municipal court of record for a two-year term ending May 31, 2010:

Patricia Diaz-Hartline	Tim Menchu
Melodee Armstrong-Mota	Daniel McDonald
Roland Anderson	Jennifer Goldman
Raquel Brown	Lily Pleitez
Bonnie Goldstein	Marilyn Davis
Ruth Catherine Logan	Demetria Frank
Carl Hayes	Frances Valdez
John McCully	Preston Robinson, Jr.
Anthony Randall	Aaron Kaufman

Section 3. That Victor Lander is hereby designated administrative municipal judge for the City of Dallas municipal court of record for a two-year term ending May 31, 2010.

Section 4. That the salary is \$109,242.00 per year for the administrative municipal judge, \$101,198.73 per year for full-time municipal judges with two or more years of judicial experience, \$90,043.20 per year for full-time municipal judges with less than two years of judicial experience, \$48.65 per hour for associate municipal judges with two or more years of judicial experience, and \$43.29 per hour for associate municipal judges with less than two years of judicial experience.

Section 5. That a full-time municipal judge for the City of Dallas shall not practice law except as permitted by the authorization of the Dallas City Council. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

Section 6. That it is the intent of the city council that the judicial appointments set forth in this ordinance are severable, and if any appointment is declared invalid by the valid judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining judicial appointments, since the same would have been approved by the city council without the invalid appointment.

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

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

BY _____
Assistant City Attorney

Passed _____

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: August 20, 2008
COUNCIL DISTRICT(S): 2
DEPARTMENT: Convention and Event Services
CMO: A. C. Gonzalez, 671-8925
MAPSCO: N/A

SUBJECT

Authorize the execution of a Memorandum of Understanding with Matthews Holdings Southwest, Inc. to develop a convention center hotel adjacent to the Dallas Convention Center on the site commonly known as the Chavez site - Financing: No cost consideration to the City

BACKGROUND

The Memorandum of Understanding commits the City of Dallas and Matthews Holding Southwest, Inc., to take certain actions which will further enable MSW to develop a convention center hotel adjacent to the Dallas Convention Center on the site commonly known as the Chavez site.

The City will undertake to engage the services of consultants to perform soil and geotechnical investigations and a Phase 2 environmental investigation of the site. MSW will (i) develop plans to be able to present to the City at least one financeable project alternative, recognizing the City's goals, (ii) assist in the process to refine the Hotel scope and the Hotel Development Budget, (iii) deliver to the City a proposed Project concept plan regarding the Hotel and non-Hotel development on the Site, (iv) provide any required architectural and construction estimating services (estimated to be in excess of \$500,000), and (v) negotiate with other parties to provide funding of pre-development activities and related capital expenditures.

The current hotel program provides for approximately 1,200 guest rooms, and will include an approximately 50,000 square foot senior ballroom, and an approximately 30,000 square foot junior ballroom, and add approximately 20,000 square feet of meeting rooms, as well as structured parking for 720 vehicles. The hotel will have restaurants, an exercise facility and pool, and other supporting facilities consistent with a full-service four-star convention center hotel and the operator's brand standard for such facilities.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On June 16, 2008, the City Council Economic Development Committee was briefed on the results of the convention center hotel RFP process, approved the selection of Matthews Holding Southwest, Inc. as the Master Developer and approved development of a Memorandum of Understanding with Matthews Southwest for the development of a convention center hotel.

FISCAL INFORMATION

No cost consideration to the City.

August 20, 2008

WHEREAS, the construction and operation of a convention center hotel would result in approximately \$2.5 billion in economic activity within the City over a 30 year period; and

WHEREAS, a survey of convention meeting planners demonstrates that an adjacent headquarters hotel is the leading criteria in selecting Dallas as a convention destination; and

WHEREAS, on December 27, 2007, a Request for Qualifications was advertised for a Convention Center Master Developer; and

WHEREAS, on May 21, 2008, the City Council authorized the sale of Certificates of Obligation for the purchase of the Chavez site; and

WHEREAS, on May 21, 2008, the City Council authorized the purchase of the Chavez site for the development of a convention center hotel; and

WHEREAS, on June 16, 2008, Matthews Southwest was selected as the Master Developer for the convention center hotel; and

WHEREAS, on June 16, 2008, the Economic Development Committee authorized negotiation of a Memorandum of Understanding with Matthews Southwest for the development of a convention center hotel, and to proceed with selection of the Hotel Operator; and

WHEREAS, on June 19, 2008, the Chavez site was purchased;

Now, Therefore,

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

SECTION 1. The City Manager is authorized to execute a Memorandum of Understanding with Matthews Southwest to accomplish the next steps in development of a convention center hotel adjacent to the Dallas Convention Center on the site commonly known as the Chavez site.

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

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: August 20, 2008
COUNCIL DISTRICT(S): 2
DEPARTMENT: Convention and Event Services
CMO: A. C. Gonzalez, 671-8925
MAPSCO: N/A

SUBJECT

Authorize **(1)** establishment of a local government corporation, the Dallas Convention Center Hotel Development Corporation (the "Corporation"), for the purpose of financing the Convention Center Headquarters Hotel (the "Hotel"), **(2)** approval of the Corporation's articles of incorporation and bylaws, **(3)** appointment of the Corporation's initial Board of Directors, and **(4)** the City Manager to file the Corporation's articles of incorporation with the Secretary of State - Financing: No cost consideration to the City

BACKGROUND

The City issued an RFP for the selection of a Hotel Developer on March 7, 2008. Five developers responded to the RFP and were evaluated based on four criteria: financial capacity and participation, public participation and risk exposure, achievement of goals and objectives for convention center hotel project, and team composition. Matthews Southwest received the highest evaluation score and was selected as the City's primary developer on June 16, 2008. On this date, the City entered a 60-day negotiation period with Matthews Southwest to create a Memorandum of Understanding.

Creation of a Local Government Corporation

Under Chapter 431 of the Texas Transportation Code (the "Act"), the City may authorize the creation of a local government corporation for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions, including promoting the development of the geographic area of the City included or in the vicinity of the Dallas Convention Center in furtherance of the promotion, development, encouragement, and maintenance of employment, commerce, convention and meeting activity, tourism, and economic development in the City.

BACKGROUND (Continued)

In order to finance the Convention Center Headquarters Hotel (the "Hotel"), the City Council is asked to authorize creation of a local government corporation, the Dallas Convention Center Hotel Development Corporation (the "Corporation), to: (1) finance the Hotel, (2) expedite construction of the Hotel Project to the extent possible, (3) realize savings in construction costs, and (4) accomplish other activities, as permitted by the Act, in furtherance of the Hotel.

Powers of the Corporation

In the exercise of its powers, and subject to City Council authorization, the Corporation may enter into loan, lease, trust, or other agreements; may sell and deliver bonds, notes, and other forms of debt instruments; and may acquire land, as authorized by the Act and as is necessary and appropriate to the fulfillment of the public purpose of the Corporation, in furtherance of the Hotel. It is anticipated that the Corporation will enter into an agreement or agreements with the Hotel developer and will issue bonds to finance the Hotel. Any acts of the Corporation shall be subject to the approval of the City Council.

The Corporation's Board

The Corporation's Board of Directors shall consist of three persons appointed by the City Council, upon recommendation of the City Manager. To be eligible to serve as a Director, a person must be a resident and qualified elector of the City. All Directors with voting rights must also be employees of the City. The initial Directors are (Ryan Evans, Frank Poe, and Shelia Robinson).

All initial Directors shall serve for a six year term expiring on September 30, 2014. Subsequent Board members shall serve for two (2) year terms and shall be eligible for reappointment; provided however that no Board member may serve for more than six (6) years consecutively, unless such service is required to complete an unexpired term.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Scheduled to be briefed to the Economic Development Committee on August 15, 2008.

FISCAL INFORMATION

No cost consideration to the City.

August 20, 2008

WHEREAS, Chapter 431 of the Texas Transportation Code (the "Act") authorizes municipalities to establish local government corporations for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions, including promoting the development of the geographic area of the City included or in the vicinity of the Dallas Convention Center in furtherance of the promotion, development, encouragement, and maintenance of employment, commerce, convention and meeting activity, tourism, and economic development in the City; and;

WHEREAS, in order to finance the Dallas Convention Center Headquarters Hotel (the "Hotel"), the City Council is asked to authorize creation of a local government corporation, the Dallas Convention Center Hotel Development Corporation (the "Corporation"), to: (1) finance the Hotel revenue bonds, (2) expedite construction in order to complete the Hotel as soon as practicable, (3) realize savings in construction costs, and (4) accomplish other activities, as permitted by the Act, in furtherance of the Hotel;

Now, Therefore,

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

Section 1. That the creation of a local government corporation to be named the Dallas Convention Center Hotel Development Corporation (the "Corporation") is hereby authorized for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions to promote the development of the geographic area of the City included or in the vicinity of the Dallas Convention Center in furtherance of the promotion, development, encouragement, and maintenance of employment, commerce, convention and meeting activity, tourism, and economic development in the City, and more specifically for financing the Dallas Convention Center Headquarters Hotel (the "Hotel").

Section 2. That the articles of incorporation to be used in organizing the Corporation, a copy of which is attached hereto as "**Exhibit A**", and the bylaws to be used by the Corporation, a copy of which is attached hereto as "**Exhibit B**", are hereby approved and the City Manager is authorized to initiate the incorporation of the Corporation and is directed to file the articles of incorporation, approved as to form by the City Attorney, with the Secretary of State.

Section 3. That the City Council, by approval of the Corporation's articles of incorporation, hereby appoints the members of the Board of Directors as named therein.

August 20, 2008

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

Exhibit A

**ARTICLES OF INCORPORATION
OF
DALLAS CONVENTION CENTER HOTEL DEVELOPMENT CORPORATION**

We, the undersigned natural persons, each of whom is at least eighteen (18) years of age or more, and a resident and a qualified voter of the City of Dallas, Texas (the "City") and a citizen of the State of Texas, acting as incorporators of a corporation under the provisions of Subchapter D of Chapter 431, Texas Transportation Code (the "Act") and the Texas Nonprofit Corporation Law, Chapter 22, Business Organizations Code (the "TNCL"), do hereby adopt the following Articles of Incorporation for such corporation:

ARTICLE I

The name of the corporation is DALLAS CONVENTION CENTER HOTEL DEVELOPMENT CORPORATION (the "Corporation").

ARTICLE II

The Corporation is a public nonprofit corporation.

ARTICLE III

The period of duration of the Corporation shall be perpetual.

ARTICLE IV

The Corporation is organized for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions to promote the development of the geographic area of the City included at or in the vicinity of the Dallas Convention Center, in furtherance of the promotion, development, encouragement and maintenance of employment, commerce, convention and meeting activity, tourism, and economic development in the City, including specifically, without limitation, the development and financing of a convention center hotel to be located within 1000 feet of the Dallas Convention Center.

The Corporation is formed pursuant to the provisions of the Act as it now or may hereafter be amended, which authorizes the Corporation to assist and act on behalf of the City to

accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes for its creation.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit corporations incorporated under the Act including, without limitation, the powers granted under the TNCL.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas under the TNCL and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 *et seq.*, Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with the Act as amended from time to time, subject to the approval of the City Council.

Prior to the consummation of the sale and delivery of any bonds, notes, or other forms of debt instruments, the Corporation shall obtain the approval thereof from the City Council.

In the exercise of its powers, the Corporation may enter into loan, lease, trust, or other agreements as authorized by the Act that are necessary and appropriate to the fulfillment of the public purpose of the Corporation, all of which agreements, and the specific uses, and the methods of withdrawal and expenditure, of the proceeds the bonds, notes, or other debt instruments proposed to be issued by the Corporation, shall be stated and described in the proceedings authorizing such bonds, notes, or other debt instruments, and must be included as a part of the approval process of the City Council required above. In connection with the issuance of its bonds, notes, or other debt instruments, the Corporation shall select bond counsel and financial advisors acceptable to the City Attorney and the City Manager.

ARTICLE V

The Corporation shall have no members and shall have no stock.

ARTICLE VI

All powers of the Corporation shall be vested in a Board of Directors consisting of three

(3) persons who shall be appointed by the City Council of the City, upon recommendation of the City Manager. To be eligible to serve as a Director, a person must be a resident and qualified elector of the City. All Directors with voting rights shall be employees of the City. If a Director with voting rights ceases to be an employee of the City, he or she shall be disqualified from serving as a Director.

The initial Board members are identified in Article IX below and shall serve for the term expiring on the date set forth thereon. Subsequent Board members shall serve for a term of two (2) years or until his or her successor is appointed by the City Council of the City, unless such Board member has been appointed to fill an unexpired term, in which case the term of such Board member shall expire on the expiration date of the term of the Board member who he or she was appointed to replace. Subsequent Board members shall be eligible for reappointment; provided however that no Director may serve for longer than six (6) years consecutively, unless such service is required to complete an unexpired term. Any Board member may be removed from office at any time, with or without cause, by the City Council of the City.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws of the Corporation, so long as such Bylaws are not inconsistent with these Articles of Incorporation or the laws of the State of Texas.

ARTICLE VII

The street address of the initial registered office of the Corporation is 1500 Marilla, Dallas, Texas 75201, which is within the city limits of the City, and the name of its initial registered agent at such address is Mary K. Suhm.

ARTICLE VIII

The names and street addresses of the incorporators, each of whom resides within the City, are:

NAME	ADDRESS
Ryan Evans	1500 Marilla, Dallas, Texas 75201
AC Gonzalez	1500 Marilla, Dallas, Texas 75201
Mary Suhm	1500 Marilla, Dallas, Texas 75201

ARTICLE IX

The Corporation shall be governed by a Board of Directors consisting of three (3) Directors. The names and street addresses of the initial Directors, each of whom resides within the City, are:

NAME	ADDRESS	INITIAL TERM EXPIRES
Ryan Evans	1500 Marilla, Dallas, Texas 75201	September 30, 2014
Frank Poe	1500 Marilla, Dallas, Texas 75201	September 30, 2014
Shelia Robinson	1500 Marilla, Dallas, Texas 75201	September 30, 2014

ARTICLE X

A resolution approving the form of these Articles of Incorporation has been adopted by the City Council of the City on August 20, 2008.

ARTICLE XI

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director's capacity as a Director, except for liability (i) for any breach of the Director's duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether the benefit resulted from an act taken within the scope of the Director's office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of this Article by the Directors shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director.

ARTICLE XII

In accordance with the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), and regardless of any other provisions of this Certificate of Formation or the laws of the State of Texas, the Corporation: (a) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual (except that reasonable compensation may be paid for personal services rendered to or for the

Corporation in effecting one or more of its purposes); (b) shall not direct any of its activities to attempting to influence legislation by propaganda or otherwise; (c) shall not participate in or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office; and (d) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Corporation after payment of reasonable expenses, debt and such reserves as may be necessary as set forth in the authorizing documents related to the issuance of debt by the Corporation shall accrue to the City.

The City shall, at all times, have an unrestricted right to receive any income earned by the Corporation, exclusive of amounts needed to cover reasonable expenditures and reasonable reserves for future activities. Any income of the Corporation received by the City shall be deposited into such account or fund as determined by the City Council of the City. No part of the Corporation's income shall inure to the benefit of any private interests.

If the Board of Directors determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds issued by and all obligations incurred by the Corporation have been fully paid or provision made for such payment, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of the Act or with applicable law then in existence. In the event of dissolution or liquidation of the Corporation, all assets will be turned over to the City for deposit into such account or fund as the City Council shall direct.

ARTICLE XIII

If the Corporation is a private foundation within the meaning of Section 509(a) of the Internal Revenue Code, the Corporation (a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code; (b) shall not engage in any act of self-dealing as defined in Section 4941 (d) of the Internal Revenue Code; (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code; (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code; and (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code.

ARTICLE XIV

The City Council may at any time consider and approve an ordinance or resolution directing the Board to proceed with the dissolution of the Corporation, at which time the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Section shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of these Articles of Incorporation.

ARTICLE XV

These Articles of Incorporation may not be changed or amended unless approved by the City Council of the City.

IN WITNESS WHEREOF, we have hereunto set our hands this ____ day of August, 2008.

Incorporator

Incorporator

Incorporator

This instrument was acknowledged before me on this ____ day of August, 2008, by Ryan Evans, AC Gonzalez and Mary Suhm, being sworn on his/her oath that he/she is an individual residing in the City of Dallas, Texas.

Given under my hand and seal of office this August __, 2008.

Notary Public
State of Texas

Exhibit B
BYLAWS
OF
DALLAS CONVENTION CENTER HOTEL DEVELOPMENT CORPORATION

ARTICLE I

PURPOSES

Dallas Convention Center Hotel Development Corporation (the "Corporation") is organized for the purpose of aiding, assisting, and acting on behalf of the City of Dallas, Texas (the "City") in the performance of its governmental functions to promote the common good and general welfare of the City, including, without limitation, for the purpose of aiding, assisting, and acting on behalf of the City in the performance of its governmental functions to promote the development of the geographic area of the City included at or in the vicinity of Dallas Convention Center, in furtherance of the promotion, development, encouragement and maintenance of employment, commerce, conventions and meetings, tourism, and economic development in the City, including specifically, without limitation, the development and financing of a convention center hotel to be located within 1000 feet of the Dallas Convention Center.

The Corporation is formed pursuant to the provisions of Subchapter D, Chapter 431, Texas Transportation Code (the "Act") as it now or may hereafter be amended, which authorizes the Corporation to assist and act on behalf of the City to accomplish any governmental purpose of the City and to engage in activities in the furtherance of the purposes for its creation and the Texas Nonprofit Corporation Law, Chapter 22, Business Organizations Code, Section 22.001, et.seq. (the "TNCL").

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of the State of Texas to non-profit corporations incorporated under the Act including, without limitation, the TNCL.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created.

The Corporation is created as a local governmental corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (2), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code. The Corporation shall have the power to acquire land in accordance with the Act as amended from time to time.

ARTICLE II

BOARD OF DIRECTORS

Section 1. *Appointment, Powers, Number, Eligibility, and Term of Office.* All powers of the Corporation shall be vested in the Board of Directors (the "Board"). The Board shall consist of three (3) persons who shall be appointed by the City Council of the City, upon recommendation of the City Manager. To be eligible to serve as a Director, a person must be an employee of the City and a resident and qualified elector of the City. If a person ceases to be an employee of the City, he or she shall be disqualified from serving as a Director. Any Director may be removed from office at any time, with or without cause, by the City Council of the City.

Each initial Director shall serve for the term expiring on the date set forth in the Articles of Incorporation of the Corporation (the "Articles of Incorporation"). Each subsequent Director shall serve for a term of two (2) years, expiring on September 30th of such year the term expires or until his or her successor is appointed by the City Council of the City, unless such Board member has been appointed to fill an unexpired term, in which case the term of such Board member shall expire on the expiration date of the term of the Board member who he or she was appointed to replace. Subsequent Board members shall be eligible for reappointment; provided however that no Director may serve longer than six (6) years consecutively, unless such service is required to complete an unexpired term. Any Director may be removed from office at any time, with or without cause, by the City Council of the City.

Section 2. *Meetings of Directors.* The Directors may hold their meetings and may have an office and keep the books of the Corporation at the City Hall, or such other place or places within the City as the Board may from time to time determine; provided, however, in the absence of any such determination, the City Hall shall be the registered office of the Corporation in the State of Texas.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of a City under Chapter 551, Government Code (the "Open Meetings Act").

The Corporation and the Board are subject to Chapter 552, Government Code (the "Open Records Act").

Section 3. *Annual Meetings.* The annual meeting of the Board shall be held at the time and at the location in the City designated by the resolution of the Board for the purposes of transacting such business as may be brought before the meeting.

Section 4. *Regular Meetings.* Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by resolution of the Board.

Section 5. *Special and Emergency Meetings.* Special and emergency meetings of the Board shall be held whenever called by the President of the Board or by a majority of the Directors who are serving duly appointed terms of office at the time the meeting is called.

The Secretary shall give notice of each special meeting in person, by telephone, electronic transmission (e.g., facsimile transmission or electronic mail) or mail at least three (3) days before the meeting to each Director. Notice of each emergency meeting shall also be given in the manner required of the City under the Open Meetings Act. Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special or emergency meeting.

Section 6. *Quorum.* A majority of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of a majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Articles of Incorporation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action, unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file a written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of the action.

Section 7. *Conduct of Business.* At the meetings of the Board, matters pertaining to the purposes of the Corporation shall be considered in such order as from time to time the Board may determine.

At all meetings of the Board, the President shall preside, and in the absence of the President, the Vice President shall preside. In the absence of the President and the Vice President, an acting presiding officer shall be chosen by the Board from among the Directors present.

The Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 8. *Compensation of Directors.* Directors, as such, shall not receive any salary or compensation for their services as Directors.

Section 9. *Director's Reliance on Consultant Information.* A Director shall not be liable if while acting in good faith and with ordinary care, the Director relies on information,

opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person that were prepared or presented by:

(a) one or more other officers or employees of the Corporation; or

(b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

ARTICLE III

OFFICERS

Section 1. *Titles and Term of Office.* The officers of the Corporation shall be the President, the Vice President, a secretary, a treasurer, and such other officers as the Board may from time to time elect. One person may hold more than one office, except that one person shall not concurrently hold the offices of President and Secretary. The term of office for each officer shall be one (1) year. Officers may be re-elected.

Section 2. *Powers and Duties of the President.* The President shall be a member of the Board and shall preside at all meetings of the Board. The President shall be the principal executive officer of the Corporation and, subject to the Board, he or she shall be in general charge of the properties and affairs of the Corporation. In furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, the President or any Vice President may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts and other obligations in the name of the Corporation. The President shall have such other duties as are assigned by the Board. The President may call special and emergency meetings of the Board as provided in these Bylaws.

Section 3. *Powers and Duties of the Vice President.* The Vice President shall be a member of the Board. The Vice President shall perform the duties and exercise the powers of the President upon the President's death, absence, disability, or resignation, or upon the President's inability to perform the duties of his or her office. Any action taken by the Vice President in the performance of the duties of the President shall be conclusive evidence of the absence or inability to act of the President at the time such action was taken. A Vice President shall have such other powers and duties as may be assigned to him or her by the Board or the President.

Section 4. *Treasurer.* The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her cash account; he or she shall enter or cause to be entered regularly in the books of the

Corporation to be kept by him or her for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; he or she shall perform all acts incident to the position of Treasurer subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require. The Treasurer need not be a member of the Board.

Section 5. *Secretary.* The Secretary shall keep or cause to be kept the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation and subject to the limitations contained in the Articles of Incorporation, he or she may sign with the President in the name of the Corporation and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours; and, he or she shall in general perform all duties incident to the office of Secretary subject to the control of the Board. The Secretary need not be a member of the Board.

Section 6. *Executive Director and Staff.* The City Manager of the City or the designee thereof will serve as the Executive Director of the Corporation. The City Manager's office shall provide administrative support services for the Corporation, and shall perform duties as prescribed by the Board and the City Council. Staff functions for the Corporation may be performed by City staff, as directed by the City Manager, and the Corporation shall pay the costs for such services as from time to time shall be billed to the Corporation by the City.

Section 7. *Compensation.* Officers, as such, shall not receive any salary or compensation for their services as Officers.

Section 8. *Officer's Reliance on Consultant Information.* In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, which were prepared or presented by:

(a) one or more other officers or employees of the Corporation, including members of the Board; or

(b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

Section 9. *Hearing Officer.* The Executive Director or the designee thereof shall serve as "hearing officer" of the Corporation for the purpose of conducting any public hearing required under the Internal Revenue Code of 1986 as a condition precedent to the issuance of

tax-exempt bonds by the Corporation.

ARTICLE IV

MISCELLANEOUS PROVISIONS

Section 1. *Fiscal Year.* The fiscal year of the Corporation shall be the same as the City, or such other consecutive twelve-month period determined by the Corporation and approved by the City.

Section 2. *Seal.* The seal of the Corporation shall be such as from time to time may be approved by the Board.

Section 3. *Notice and Waiver of Notice.* Whenever any notice whatever is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by depositing the same in a post office box in a sealed postpaid wrapper addressed to the person entitled thereto at his or her post office address, as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such mailing. A waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. *Resignations.* Any Director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. *Gender.* References herein to the masculine gender shall also refer to the feminine in all appropriate cases, and vice versa.

Section 6. *Appropriations and Grants.* The Corporation shall have the power to request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State, any political subdivision, or municipality in the State, or from any other source.

ARTICLE V

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. *Right to Indemnification.* Subject to the limitations and conditions as provided in this Article V and the Articles of Incorporation, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or

investigative (hereinafter a “proceeding”), or any appeal in such a proceeding or any inquiry or investigation that could lead to such a proceeding, by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a Director or officer of the Corporation or while a Director or officer of the Corporation is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise shall be indemnified by the Corporation to the fullest extent permitted by the TNCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such person in connection with such proceeding, and indemnification under this Article V shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. The rights granted pursuant to this Article V shall be deemed contract rights, and no amendment, modification or repeal of this Article V shall have the effect of limiting or denying any such rights with respect to action taken or proceedings arising prior to any such amendment, modification or repeal. It is expressly acknowledged that the indemnification provided in this Article V could involve indemnification for negligence or under theories of strict liability.

Section 2. *Advance Payment.* The right to indemnification conferred in this Article V shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under Section 1 who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such Director or officer of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article V and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article V or otherwise.

Section 3. *Indemnification of Employees and Agents.* The Corporation, by adoption of a resolution of the Board, may indemnify and advance expenses to an employee or agent of the Corporation to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Directors and officers under this Article V; and the Corporation may indemnify and advance expenses to persons who are not or were not Directors, officers, employees or agents of the Corporation but who are or were serving at the request of the Corporation as a Director, officer, partner, venture proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person to the same extent that it may indemnify and advance expenses to Directors

under this Article V.

Section 4. *Appearance as a Witness.* Notwithstanding any other provision of this Article V, the Corporation may pay or reimburse expenses incurred by a Director or officer in connection with his or her appearance as a witness or other participation in a proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

Section 5. *Non-exclusivity of Rights.* The right to indemnification and the advancement and payment of expenses conferred in this Article V shall not be exclusive of any other right which a Director or officer or other person indemnified pursuant to Section 3 of this Article V may have or hereafter acquire under any law (common or statutory), provision of the Articles of Incorporation or these Bylaws, agreement, vote of disinterested Directors or otherwise.

Section 6. *Insurance.* The Corporation may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, proprietorship, employee benefit plan, trust or other enterprise against any expense, liability or loss, whether the Corporation would have the power to indemnify such person against such expense, liability or loss under this Article V.

Section 7. *Notification.* Any indemnification of or advance of expenses to a Director or officer in accordance with this Article V shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board and, in any case, within the 12-month period immediately following the date of the indemnification or advance.

Section 8. *Savings Clause.* If this Article V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer or any other person indemnified pursuant to this Article V as to costs, charges and expenses (including attorneys' fees), judgments, fines and in amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article V that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VI

CODE OF ETHICS

Section 1. *Policy and Purposes.*

(a) It is the policy of the Corporation that Directors and officers conduct themselves in a manner consistent with sound business and ethical practices; that the public interest always be considered in conducting corporate business; that the appearance of impropriety be avoided to ensure and maintain public confidence in the Corporation; and that the Board establish policies to control and manage the affairs of the Corporation fairly, impartially, and without discrimination.

(b) This Code of Ethics has been adopted as part of the Corporation's Bylaws for the following purposes: (a) to encourage high ethical standards in official conduct by Directors and corporate officers; and (b) to establish guidelines for such ethical standards of conduct.

Section 2. *Conflicts of Interest.*

(a) Except as provided in subsection (c), a Director or officer is prohibited from participating in a vote, decision, or award of a contract involving a business entity or real property in which the Director or the officer has a substantial interest, if it is foreseeable that the business entity or real property will be economically benefitted by the action. A person has a substantial interest in a business (i) if his or her ownership interest is ten percent or more of the voting stock or shares of the business entity or ownership of \$15,000 or more of the fair market value of the business entity, or (ii) if the business entity provides more than ten percent of the person's gross income. A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. An interest of a person related in the second degree by affinity (marriage relationship) or the third degree by consanguinity (blood relationship) to a Director or officer is considered a substantial interest.

(b) If a Director or a person related to a Director in the first or second degree by affinity or the first, second, or third degree by consanguinity has a substantial interest in a business entity or real property that would be pecuniarily affected by any official action taken by the Board, such Director, before a vote or decision on the matter, shall file an affidavit stating the nature and extent of the interest. The affidavit shall be filed with the Secretary of the Board.

(c) A Director who has a substantial interest in a business entity that will receive a pecuniary benefit from an action of the Board may vote on that action if a majority of the Board has a similar interest in the same action or if all other similar business entities in the City will receive a similar pecuniary benefit.

(d) An employee of a public entity may serve on the Board.

Section 3. *Acceptance of Gifts.* No Director or officer shall accept any benefit as consideration for any decision, opinion, recommendation, vote or other exercise of discretion in carrying out official acts for the Corporation. No Director or officer shall solicit, accept, or agree to accept any benefit from a person known to be interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the Director's or officer's discretion. As used here, a benefit does not include:

(a) a fee prescribed by law to be received by a Director or officer or any other benefit to which the Director or officer is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a Director or officer,

(b) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the Director or officer;

(c) an honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:

- (1) not more than one honorarium is received from the same person in a calendar year;
- (2) not more than one honorarium is received for the same service; and
- (3) the value of the honorarium does not exceed \$250 exclusive of reimbursement for travel, food, and lodging expenses incurred by the Director or officer in performance of the services;
- (d) a benefit consisting of food, lodging, transportation, or entertainment accepted as a guest if reported as may be required by law.

Section 4. *Bribery.* A Director or officer shall not intentionally or knowingly offer, confer or agree to confer on another, or solicit, accept, or agree to accept from another:

(a) any benefit as consideration for the Director's or officer's decision, opinion, recommendation, vote, or other exercise of discretion as a Director or officer;

(b) any benefit as consideration for the Director or officer's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or

(c) any benefit as consideration for a violation of duty imposed by law on the Director or officer.

Section 5. *Nepotism.* No Director or officer shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree of consanguinity to the Director or officer so appointing, voting or confirming, or to any other Director or officer. This provision shall not prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any such office, position, clerkship, employment or duty at least thirty (30) days prior to the appointment of the Director or officer so appointing or voting.

ARTICLE VII

AMENDMENTS

A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. Any proposed change or amendment to the Bylaws, however, must be approved by the City Council of the City to be effective.

KEY FOCUS AREA: Economic Vibrancy
AGENDA DATE: August 20, 2008
COUNCIL DISTRICT(S): 12
DEPARTMENT: Office of Economic Development
CMO: A. C. Gonzalez, 671-8925
MAPSCO: 5 T U X & Y

SUBJECT

Authorize **(1)** a public hearing to be held on September 10, 2008 to receive comments concerning the early renewal of the Prestonwood Public Improvement District for a period of seven years in accordance with Chapter 372 of the Texas Local Government Code, for the Prestonwood Public Improvement District for the purpose of providing supplemental public services, to be funded by assessments on real property and real property improvements in the District; and **(2)** at the close of the hearing, consideration of a resolution authorizing the early renewal of the Prestonwood Public Improvement District for a period of seven years; approval of the 2009-2015 Service Plan; designating the Prestonwood Homeowners Association, Inc., as the management entity for the District; approving and filing the tax roll, and providing an effective date – Financing: No cost consideration to the City

BACKGROUND

In an effort to accommodate the stated wishes of homeowners in the Prestonwood PID related to broadening the scope of services provided to include landscaping and promotion of the District including construction and improvements to screening walls, this item enables the Prestonwood PID to modify its service plan to include the additional services. Petitions are currently being circulated to property owners in the District. If a sufficient number of petitions are signed prior to September 10, 2008, the early renewal of the PID will move forward. If sufficient signatures are not collected, the early renewal will not be pursued and the District will continue under its existing authorization.

On May 14, 1997, the City Council held and closed a public hearing and authorized the establishment of the Prestonwood Public Improvement District (District) and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District by Resolution No. 97-1575.

BACKGROUND (continued)

On August 11, 2004, the City Council held and closed a public hearing and authorized the renewal of the District and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District by Resolution No. 04-2328.

Owners of real property located in the Prestonwood PID represented by the Prestonwood Homeowners Association (PHA) Inc., prior to September 10, 2008 will deliver to the City of Dallas a petition requesting early renewal the District in accordance with the parameters of Chapter 372 of the Texas Local Government Code.

The City desires, by the calling and holding of such public hearing, to provide a reasonable opportunity for owners of property located within the District to speak for or against the early renewal of the District and the 2008 Assessment Rate of the Prestonwood Public Improvement District for a special assessment against each property owner of record for real property and real property improvements, exclusive of right-of-way, to provide funding for the District for the purpose of providing supplemental services and improvements.

The public improvement district is outlined in the following way:

- (a) **Nature of the Services and Improvements.** The nature of the services and improvements to be performed by the District are special supplemental services for improvement and promotion of the district including services related to public safety and security, landscaping improvements for the promotion of the area including plantings, hardscape and walls located in common areas surrounding the Prestonwood neighborhood along Preston Road, Arapaho Road and Davenport Road and other services and improvements authorized by the Act and approved by the Dallas City Council. PID funds will be used for promotion of the District. In order to accomplish this, funds will be allocated to landscaping improvements, landscaping services and maintenance including those to structures, fencing, entryway and boundary enhancements defining the district. Since these promotional improvements benefit all property owners within the district similarly, assessments for these improvements will be apportioned in the same manner that assessments are apportioned for security services.
- (b) **Estimated Cost of the Services and Improvements.** The total estimated cost of services and improvements provided by the District for the seven year period is approximately two million, nine hundred thirty-one thousand, five hundred seventy-seven dollars (\$2,931,577). The estimated average annual cost of services for the District is approximately four hundred eighteen thousand, seven hundred ninety-three dollars (\$418,793).
- (c) **Boundaries.** The District is located wholly within the City of Dallas, Texas. The boundaries of the District are shown on the attached Map of the District.

BACKGROUND (continued)

- (d) **Method of Assessment.** The proposed method of assessment, which may specify included or excluded classes of assessable property, is based on the value of the real property and real property improvements, as determined by the Dallas Central Appraisal District. The proposed 2008 annual assessment rate for the District is \$0.09 per \$100.00 of appraised value by the Dallas Central Appraisal District.
- (e) **Apportionment of costs between the District and the Municipality as a Whole.** The District shall pay the costs of the services and improvements by special assessment against the real property and real property improvements. The City of Dallas is not responsible for payment of assessments against exempt City property in the District which is specifically benefited. City rights-of-way, City Parks, and other tax-exempt property in the District are not subject to assessment. Payment of assessments by other exempt jurisdictions and entities must be established by contract.
- (f) **District Management.** The District shall be managed through the Prestonwood Homeowners Association, a Texas nonprofit corporation established under the provisions of Section 501(c) (3) of the Internal Revenue Code. The Dallas City Council reviews and approves annually the Service Plan and Assessment Plan determines and levy assessments and conducts other functions as required by the Act. The Prestonwood Homeowners Association (PHA) will be responsible for the management of the District.
- (g) **Advisory Body.** An advisory body may be established to develop and recommend an improvement plan to the governing body of the municipality, in order to provide for efficient management of the District. The Dallas City Council, by acceptance of this Petition and the renewal of the District agrees to not establish an advisory body and agrees to assign to the PHA the responsibility for developing and recommending a service plan, improvement plan and other responsibilities of the advisory body contained in the Act. The PHA will host and conduct an annual meeting, held in a public place and give public notice of such meeting two weeks in advance to give property owners the opportunity to provide input and recommendations to the PHA Board regarding the annual assessment rate, proposed projects and other planned activities of the District.
- (h) **District Dissolution.** The District shall automatically dissolve at the end of the calendar year following the seventh (7th) anniversary of the date (December 31, 2015) the District was established unless the District is renewed through the petition and approval process as provided by the Act.

BACKGROUND (continued)

Additionally, a public hearing may be called for the purpose of dissolving the District if a petition requesting dissolution is filed with the Dallas City Secretary and the petition contains the signatures of at least enough property owners in the District to make the petition sufficient for the creation of a public improvement district as provided in Section 372.005(b) of the "Act". If the District is dissolved, the District nonetheless shall remain liable for the payment of any indebtedness for the District.

The term of the District upon early renewal is seven years (2009 to 2015). Pending approval, actual operations in the District will commence next year. The District will automatically dissolve on December 31, 2015, unless the District is renewed.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On May 14, 1997, the City Council held and closed a public hearing and authorized the establishment of the Prestonwood Public Improvement District (District) and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District by Resolution No. 97-1575.

On August 11, 2004, the City Council held and closed a public hearing and authorized the renewal of the District and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District by Resolution No. 04-2328.

On September 2, 2008, a memo was submitted to the Economic Development Committee regarding the early renewal of the Prestonwood Public Improvement District.

FISCAL INFORMATION

No cost consideration to the City

MAP

Attached.

August 20, 2008

WHEREAS, Chapter 372 of the Texas Local Government Code (the "Act") allows for the creation of public improvement districts; and

WHEREAS, on May 14, 1997, the City Council held and closed a public hearing and authorized the establishment of the Prestonwood Public Improvement District (District) and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District by Resolution No. 97-1575; and

WHEREAS, on August 11, 2004, the City Council held and closed a public hearing and authorized the renewal of the District and designated Prestonwood Homeowners Association, Inc., as the management entity for the Public Improvement District (PID) by Resolution No. 04-2328; and

WHEREAS, the property owners from the Prestonwood PID approached the City to request early renewal and dissolution of the prior existing PID to expand the nature of the services provided; and

WHEREAS, the Prestonwood Homeowners Association (PHA), Inc., prior to September 10, 2008 will present to the City staff signed petitions requesting the early renewal of the District along with the proposed District 2009 Service Plan and Assessment Plan attached hereto as **(Exhibits A and B)**, for the purpose of providing services and apportioning the cost of services and improvements to be assessed against the property in the District; and

WHEREAS, the Act states that the Petition is sufficient if signed by owners of taxable real property representing more than 50 percent of the appraised value of taxable real property liable for assessment under the proposal, as determined by the current tax rolls of the appraisal district in which the property is located, and is signed by record owners of real property liable for assessment under the proposal who: (A) constitute more than 50 percent of all record owners of property that is liable for assessment under the proposal; or (B) own taxable real property that constitutes more than 50 percent of the area of all taxable real property that is liable for assessment under the proposal; and

WHEREAS, the Act further requires that, prior to the adoption of the resolution that re-establishes or renews the Prestonwood Public Improvement District, which will provide supplemental public services to be funded by assessments on real property and real property improvements, the City Council must hold a public hearing on the advisability of the improvements; the nature of the improvement; the estimated cost of the improvement; the boundaries of the public improvement district; the method of assessment; and the apportionment of costs between the District and the municipality as a whole; and

August 20, 2008

WHEREAS, the City Council desires by calling and holding such a public hearing to provide a reasonable opportunity for any owner of property located within the District to speak for or against the renewal of the District on the matter related to the advisability of the services and improvements, or the inclusion of any property therein.

NOW, THEREFORE,

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

Section 1. That (1) a public hearing shall be held on September 10, 2008 at 1:00 p.m., in the City Council Chamber, Dallas City Hall, 6th floor, 1500 Marilla Street, Dallas, Texas at which time any interested person may appear and speak for or against the early renewal of the Prestonwood Public Improvement District ("District") whether all or part of the territory described and depicted on the Map of the District should be included in the District; and the advisability of the improvements; the nature of the improvements; the estimated cost of the improvements; the boundaries of the District; the method of assessment; and the apportionment of costs between the District and the municipality as a whole; designating the Prestonwood Homeowners Association, Inc., as the management entity of the District, and providing an effective date.

Section 2. That notice of such public hearing shall be published in the official newspaper of the City of Dallas and mailed to the property owners in the proposed Prestonwood Public Improvement District before the 15th day before the date of the hearing.

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: Office of Economic Development – Tenna Kirk, 5CS
Office of Economic Development – Sajid Safdar, 2CN
Office of Economic Development – Vasavi Mallena, 2CN
City Attorney's Office - Barbara Martinez, 7DN
City Attorney's Office – Sarah Hasib, 7DN

Exhibit A

Prestonwood Improvement District--Seven-Year Budget

	Projected							Inflation Factor	
	2008 12/31/2008	2009 Budget	2010 Budget	2011 Budget	2012 Budget	2013 Budget	2014 Budget		2015 Budget
REVENUES & RESERVES									
Calendar Year End Balance	108993.79	\$129,124	\$105,016	\$111,431	\$97,280	\$106,582	\$117,354	\$129,615	100%
Net assessment Revenue	\$317,000	\$366,347	\$403,364	\$411,431	\$419,660	\$428,053	\$436,614	\$445,347	102.00%
Exempt jurisdictions		\$0	\$0	\$0	\$0	\$0	\$0	\$0	100%
Interest on cash balances	\$6,390	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	100%
Other income & contributions		\$0	\$0	\$0	\$0	\$0	\$0	\$0	100%
TOTAL INCOME & RESERVES	\$432,384	\$500,471	\$513,380	\$527,863	\$521,940	\$539,635	\$556,968	\$579,961	
DISBURSEMENTS									
Bank Fees	\$330	\$330	\$330	\$330	\$330	\$330	\$330	\$330	100%
Police Officer Bonus	\$1,907	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	100%
Patrol Car Expense	\$12,765	\$13,500	\$13,770	\$14,045	\$14,326	\$14,613	\$14,905	\$15,203	102%
Security Patrol--Contract Labor	\$251,000	\$268,385	\$273,753	\$279,228	\$284,812	\$290,509	\$296,319	\$302,245	102%
Administrative Expense	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	100%
Insurance	\$20,648	\$21,000	\$21,630	\$22,279	\$22,947	\$23,636	\$24,345	\$25,075	103%
Accounting Services	\$4,100	\$4,300	\$4,386	\$4,474	\$4,563	\$4,654	\$4,748	\$4,842	102%
Postage & Printing & Office Supplies	\$3,910	\$2,500	\$2,625	\$2,756	\$2,894	\$3,039	\$3,191	\$3,350	105%
Voice Mail	\$180	\$180	\$180	\$180	\$180	\$180	\$180	\$180	100%
VIP (Volunteers in Patrol)	\$1,500	\$1,500	\$1,515	\$1,530	\$1,545	\$1,561	\$1,577	\$1,592	101%
Landscape and District Promotion	\$0	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	\$75,000	100%
Mobile Telephone	\$920	\$960	\$960	\$960	\$960	\$960	\$960	\$960	100%
7 Year Recertification Expense	\$0	\$0	\$0	\$22,000	\$0	\$0	\$0	\$0	0%
TOTAL DISBURSEMENTS	\$303,260	\$395,455	\$401,949	\$430,562	\$415,359	\$422,281	\$429,353	\$436,578	
FUND BALANCE/RESERVES	\$129,124	105,016	111,431	\$97,280	\$106,582	\$117,354	\$129,615	\$143,383	

Exhibit B
PRESTONWOOD PUBLIC IMPROVEMENT DISTRICT
2008 ASSESSMENT PLAN

The cost of the services and improvements provided by the Prestonwood Public Improvement District will be paid primarily by assessments against real properties within the Prestonwood Public Improvement District boundaries. Annual assessments will be based on the value of real property and improvements as certified by the Dallas Central Appraisal District.

The 2008 assessment rate for the property in the Prestonwood PID is proposed at \$0.09 per \$100.00 of value. Assessments will be carried out in accordance with procedures stipulated in Chapter 372 of the Texas Local Government Code. The City of Dallas shall not be responsible for payment of assessments against exempt City property including City rights-of-way and parks. Payment of assessment by other tax-exempt owners must be established by contract. No such contracts are in place at present.

The Prestonwood PID's assessments will be collected by the Dallas County Tax Office in accordance with the contract with the City of Dallas and in accordance with the management contract between the City of Dallas and the Prestonwood Homeowners Association.

AGENDA ITEM # 7

KEY FOCUS AREA: Better Cultural, Arts and Recreational Amenities

AGENDA DATE: August 20, 2008

COUNCIL DISTRICT(S): 2, 3, 6, 13, 14

DEPARTMENT: Park & Recreation

CMO: Paul D. Dyer, 670-4071

MAPSCO: 21B-V 22-E 22-J 22-S 22-T 22-X 22-Y 22-Z 23-B 23-R 23-S
23-Y 23-X 33-A 33-B 33-C 33-E 33-F 33-G 33-J 33-M 33-Y
33-Z 22-J 33-R 33-M 33-V 52-F 61 A-Z 61 B-A 71 A-D 71 A-H
71 B-J 52-J 51-B 52-G 52-F 33-Z 42-H 32-Y 32-R 42-C 42-D
42-G 43-B 43-C 43-D 43-H 44-A 42-C

SUBJECT

A public hearing to receive comments on the proposed use of subsurface parkland for natural gas drilling and mineral production at Arcadia Park, Arlington Park, Bachman Lake Park, Brownwood Park, California Crossing Park, Cedar Ridge Preserve, City Paupers Cemetery, Crown Park, Elm Fork Greenbelt, Emerald Lake Park, Emma Carter Park, Escarpment Greenbelt, Fox Haven Park, Fox Hollow Park, Grauwlyer Park, L.B. Houston Park, Marcus Park, Mountain Creek Lake Park, Mountain Valley Park, Overlake Park, Pegasus Park, Sleepy Hollow Park, and Trinity Park; and, at the close of the hearing, consideration of a resolution authorizing the use - Financing: No cost consideration to the City

BACKGROUND

In 2008, the City of Dallas leased the subsurface mineral rights for 5,181.5 acres of city property including 3,894.85 acres of municipally owned parkland.

The City of Dallas is prohibiting surface level drilling and mineral production on parkland as part of the gas leases. The City of Dallas has taken great efforts to ensure none of the surface level recreational uses will be disturbed. All natural gas drilling and production will take place at an off-site location through methods such as directional drilling. Accordingly, no park assets or recreational activities will be impacted.

BACKGROUND (CONTINUED)

The City of Dallas will seek to enter into a Memorandum of Understanding with the Texas Parks and Wildlife Department relating to the use of revenue that is generated from parkland that has been directly acquired with Texas parks and Wildlife grants. Revenue from subsurface mineral leases will be apportioned on a per-acre basis. Revenue generated from park property acquired with Texas Parks and Wildlife Department grants will be deposited into a park land acquisition and improvement account for park purposes only. Of the 3,894.85 acres of leased parkland the City has identified 268.9 acres of parkland that has been acquired using the Texas Parks and Wildlife Department's local acquisition and development grants. Revenue that is generated from the remaining 3625.95 park acres that have not been acquired or developed with Texas Parks and Wildlife grants will support the general fund.

To the extent that subsurface gas and mineral production could be determined a use and in accordance with the Texas Parks and Wildlife Code, Chapter 26 (Sections 26.001 through 26.004) the City Council must advertise and hold a public hearing on the change of use of subsurface park land.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Park and Recreation Board authorized the public hearing on June 5, 2008.

Authorized the public hearing on June 25, 2008, by Resolution No. 08-1813.

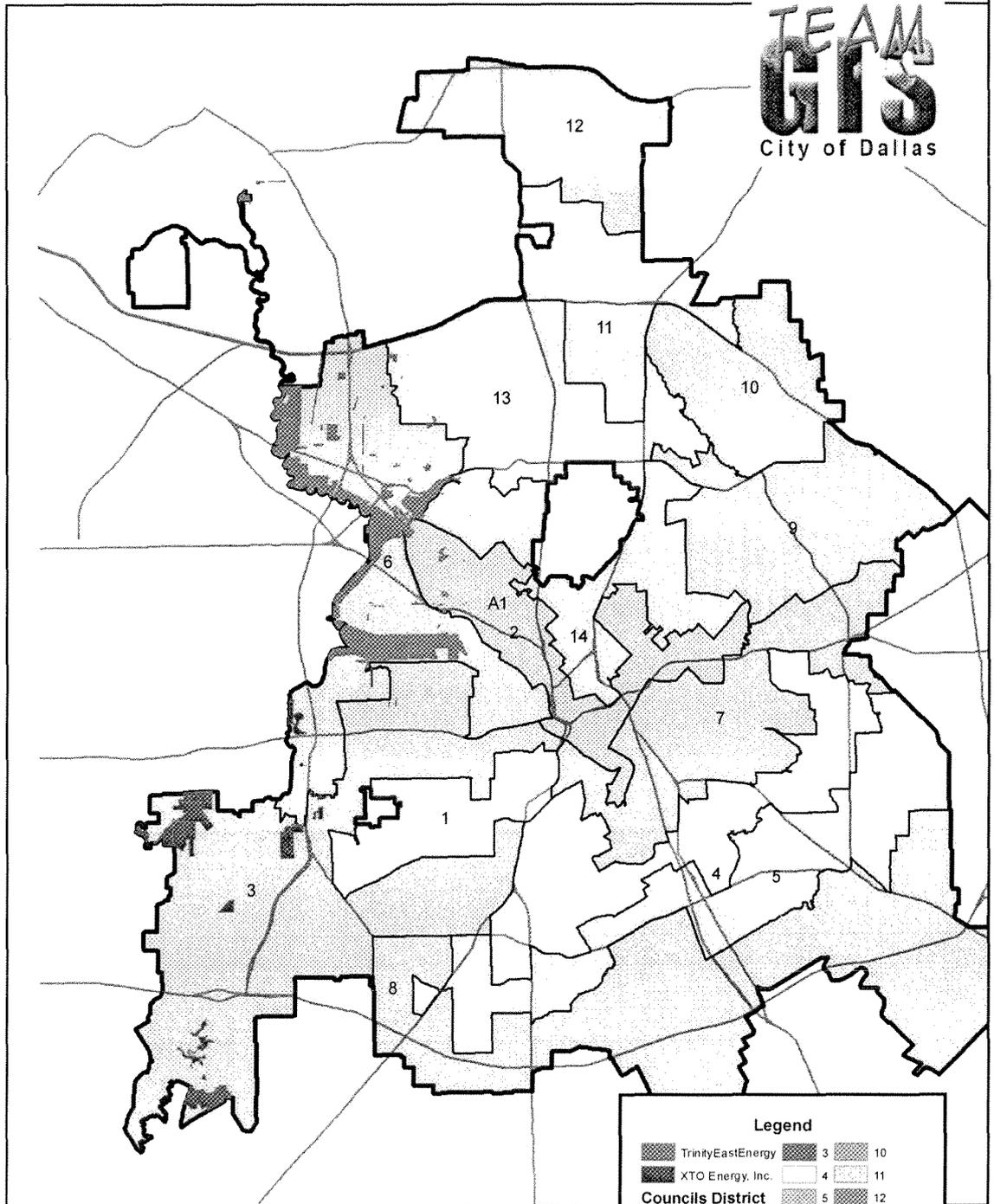
FISCAL INFORMATION

No cost consideration to the City.

MAP

Attached.

City - Owned Property by Lessee



August 20, 2008

WHEREAS, on February 7, 2008, the City of Dallas leased the subsurface mineral rights for 5,181.5 acres of city owned property including 3,894.85 acres of parkland including Arcadia, Arlington, Bachman Lake, Brownwood, California Crossing, Cedar Ridge Preserve, City Paupers Cemetery, Crown, Elm Fork Greenbelt, Emerald Lake, Emma Carter Escarpment Greenbelt, Fox Haven, Fox Hollow, Grauwlyer, L.B. Houston, Marcus, Mountain Creek Lake, Mountain Valley, Overlake, Pegasus, Sleepy Hollow, and Trinity Greenbelt Parks; and

WHEREAS, 268.9 acres of leased parkland were acquired with the assistance of Texas Parks and Wildlife Department acquisition and development grants; including Marcus, Fox Hollow, and Trinity Greenbelt parks; and

WHEREAS, the City of Dallas has requested to the extent that subsurface natural gas drilling and production might be considered a use, that the use of all parkland be converted to allow for off-site subsurface natural gas drilling; and

WHEREAS, the City of Dallas has taken great efforts to ensure none of the surface level recreational uses will be disturbed, and any subsurface mineral extraction will take place at an off-site location as to not reduce or detract from any of the recreation uses or experiences of the parks in question; and

WHEREAS, the Texas Parks and Wildlife Code, Chapter 26 (Section 26.001 through 26.004), requires that before a municipality may approve any program or project that requires the use or taking of any public land designed and used as parkland, the governing body of such public municipality must determine that there is no feasible and prudent alternative to the use or taking of such land, and that the program or project includes all reasonable planning to minimize harm to the remainder of the park; and

WHEREAS, a public hearing was held, as required by the Texas Parks and Wildlife Code (Chapter 26, Section 26.001 through 26.004) to determine that there is no feasible and prudent alternative to the use of the parkland and that all reasonable planning to minimize harm to the parkland has been taken. **Now, Therefore,**

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

SECTION 1. That as a result of the public hearing held on August 20, 2008, it is hereby determined that there is no feasible and prudent alternative to this use of this parkland and that all reasonable planning to minimize harm to the parkland has been taken.

SECTION 2. That since the public hearing has been held, the use is authorized subject to the terms and conditions in the contract authorized by the City Council on February 27, 2008.

August 20, 2008

SECTION 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.