

**AGENDA
CITY OF ALLEN
CITY COUNCIL WORKSHOP MEETING
NOVEMBER 11, 2008 – 6:00 P.M.
COUNCIL CONFERENCE ROOM
ALLEN CITY HALL
305 CENTURY PARKWAY**

Call to Order and Announce a Quorum is Present.

Items of Interest.

1. Introduction of Lon Brazelton, Chair of the Animal Shelter Advisory Committee —
Peter H. Vargas, City Manager
2. Briefing Regarding the Future Use of the Youth Center as a Visitor Center —
Tim Dentler, Director of Parks and Recreation
3. Briefing Regarding the 2009 Allen USA Celebration —
Tim Dentler, Director of Parks and Recreation
4. Committee Updates from City Council Liaisons —
5. Other Items —

Adjourn to Regular Meeting.

- open to the public -

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, November 7, 2008, at 5:00 p.m.

Shelley B. George, City Secretary

Allen City Hall is wheelchair accessible. Access to the building and special parking are available at the entrance facing Century Parkway. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 214.509.4105.

**AGENDA
CITY OF ALLEN
CITY COUNCIL REGULAR MEETING
NOVEMBER 11, 2008 – 7:00 P.M.
COUNCIL CHAMBERS
ALLEN CITY HALL
305 CENTURY PARKWAY**

Call to Order and Announce a Quorum is Present.

Pledge of Allegiance.

Public Recognition.

1. Citizens' Comments. *[The City Council invites citizens to speak to the Council on any topic not on the agenda or not already scheduled for Public Hearing. Prior to the meeting, please complete a "Public Meeting Appearance Card" and present it to the City Secretary. The time limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers.]*
2. Presentation of *The Battle of the Badges* Trophy from a Representative of the Carter Blood Care Organization, and Members of the Allen Rotary Club.
3. Animal Shelter Advisory Committee's Annual Report to the City Council.

Consent Agenda. *[Routine Council business. Consent Agenda is approved by a single majority vote. Items may be removed for open discussion by a request from a Councilmember or member of staff.]*

4. Approve Minutes of the October 28, 2008, Regular Meeting.
5. Approve Minutes of the November 3, 2008, Triad Meeting.
6. Adopt an Ordinance Amending the Code of Ordinances, Chapter 8, Article IV, 'Alarm Systems' by Amending the Regulations for the Revocation of an Alarm Permit.

7. Adopt a Resolution Authorizing the City Manager to Accept the Awarded Amount of \$313,198 from the Collin County Parks and Open Space Funding Assistance Program and to Execute an Interlocal Agreement with Collin County for the Purpose of Constructing the Celebration Pass Pedestrian Trail.
8. Authorize the City Manager to Amend the Library Donor Recognition Project Budget to \$143,000 and Award a Contract for Construction to Stoller Studio, Inc. for an Amount Not to Exceed \$130,000 for Design, Fabrication and Installation of the Artwork.
9. Authorize the City Manager to Execute a Contract with General Electric Mobile Data Systems, LLC to Supply a High Speed Wireless Microwave Network at a total Cost of \$540,000.
10. Authorize the City Manager to Execute a Contract with Hewlett Packard Financial Services Company to Supply Computer Equipment through a Four-Year Lease Agreement at a Total Cost of \$93,195.20.
11. Authorize the City Manager to Execute a Two-Year Contract with G&K Services to Provide Rental of Work Uniforms for the City of Allen for an Estimated Total Expenditure Not to Exceed \$65,000 with Three One-Year Options to Renew.
12. Authorize the City Manager to Execute a Multi-Year Contract for the Lease of Golf Course Maintenance Equipment for Chase Oaks Golf Course through the Texas Multiple Award Schedule Purchasing Cooperative Authorized Vendor, Austin Turf and Tractor, for an Amount Not to Exceed \$225,419.76.
13. Authorize the City Manager to Execute a Contract with Vertical Sports Group, LLC. for \$90,000 to Provide Entertainment for the 2009 Allen USA Celebration.
14. Motion to Cancel the December 23, 2008, City Council Meeting.

Regular Agenda.

15. Conduct a Public Hearing and Adopt an Ordinance Granting a Zoning Amendment to Tract 5 of PD Planned Development No. 58, Located at the Northwest Corner of Greenville Avenue and Exchange Parkway, to Amend the Development Regulations to Permit Self Storage as an Accessory Use and to Adopt a Concept Plan.
16. Consider an Appeal of Sign Control Board Action on October 20, 2008, to Grant a Variance to the the Allen Heights Village Shopping Center, Located at the Northwest Corner of Main Street and Allen Heights Drive, and to Take Action to Approve, Disapprove, or Modify Action of the Sign Control Board.

Other Business.

17. Calendar.

- November 27-28 - City Facilities Closed for Thanksgiving Holidays

18. Items of Interest.

[Council announcements regarding local civic and charitable events, meetings, fundraisers, and awards.]

Executive Session. (As needed)

Legal, Section 551.071; Property, Section 551.072; Personnel, Section 551.074.
As authorized by Section 551.071(2) of the Texas Government Code, the Workshop Meeting and/or the Regular Agenda may be Convened into Closed Executive Session for the Purpose of Seeking Confidential Legal Advice from the City Attorney on any Agenda Item Listed Herein.

(Closed to Public as Provided in the Texas Government Code.)

19. Reconvene and Consider Action on Items Discussed during Executive Session.

Adjournment.

This notice was posted at Allen City Hall, 305 Century Parkway, Allen, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, November 7, 2008, at 5:00 p.m.

Shelley B. George, City Secretary

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CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Presentation of the Annual Report by Lon
Braselton, Chair of the Animal Shelter
Advisory Committee

STAFF RESOURCE: Peter H. Vargas, City Manager

ACTION PROPOSED: Annual Report/Information Item

BACKGROUND

Lon Braselton, Chair of the Animal Shelter Advisory Committee, will present the Committee's Annual Report. Following the presentation, Mr. Braselton will be available to answer any questions.

MOTION

Information Item

ALLEN CITY COUNCIL

REGULAR MEETING

OCTOBER 28, 2008

Present:

Stephen Terrell, Mayor

Councilmembers:

Debbie Stout, Mayor Pro Tem

Ross Obermeyer

Joey Herald

Robin L. Sedlacek (absent)

Gary L. Caplinger

Jeff McGregor

City Staff:

Peter H. Vargas, City Manager

Shelli Siemer, Assistant City Manager

Shelley B. George, City Secretary

Pete Smith, City Attorney (absent)

Joe Gorfida, Attorney

Workshop Session

With a quorum of the Councilmembers present, the Workshop Session of the Allen City Council was called to order by Mayor Terrell at 6:18 p.m. on Tuesday, October 28, 2008, in the Council Conference Room of the Allen City Hall, 305 Century Parkway, Allen, Texas:

- Briefing Regarding the Capital Improvement Program

With no further discussion, the Workshop Session of the Allen City Council was adjourned at 7:02 p.m. on Tuesday, October 28, 2008.

Call to Order and Announce a Quorum is Present

With a quorum of the Councilmembers present, the Regular Meeting of the Allen City Council was called to order by Mayor Terrell at 7:07 p.m. on Tuesday, October 28, 2008, in the Council Chambers of the Allen City Hall, 305 Century Parkway, Allen, Texas.

Pledge of Allegiance

Public Recognition

1. Citizens' Comments.

The following individuals spoke regarding code issues in their neighborhood:
Ellen Salmon, 202 Allenwood Drive, Allen, Texas;

**ALLEN CITY COUNCIL
REGULAR MEETING
OCTOBER 28, 2008**

PAGE 2

Tom Salmon, 202 Allenwood Drive, Allen, Texas; and,
Ken Byler, 204 Allenwood Drive, Allen, Texas.

Council directed staff to address the issues directly with the speakers.

2. **Presentation of a Proclamation by the Office of the Mayor:**
 - **Presentation of a Proclamation to Donna Klierer, Waste Services Manager, and Members of the Keep Allen Beautiful Board Proclaiming November 1, 2008, as *Allen Recycles Day*.**
3. **Recognition of the Public and Media Relations Department for a Series of Awards from the Texas Association of Telecommunications Officers and Advisors (TATO), National Association of Telecommunications Officers and Advisors (NATO), and the Lone Star Emmy.**

Texas Association of Telecommunications Officers and Advisors

1st Place – ACTV - Overall Excellence in Government Programming (Budget under \$250K)
1st Place - ACTV Bulletin Board in Partnership with TVTN – TelVue - Partnership Program
1st Place - Website Facelift - Promotion/Public Service Announcement (Budget under \$250K)
1st Place - Helmet Mounted Thermal Imaging Cameras - Public Health/Public Safety (Budget under \$250K)
1st Place - Access Allen - Magazine Format Series (Budget under \$250K)
2nd Place - 2006:2007-The Year in Review - Profile of a City/City Department (Budget under \$250K)
2nd Place - Allen Police Department Recruitment Video - Public Health/Public Safety (Budget under \$250K)
3rd Place - Make Wise Driving Decisions - Promotion/Public Service Announcement (Budget under \$250K)

National Association of Telecommunications Officers & Advisors

1st Place – ACTV - Overall Excellence in Government Programming (Budget from \$100K to \$250K)
1st Place - In Memory of ... - Children/Young Adult (Budget under \$300K)
1st Place - In Memory of ... - Public Safety (Budget under \$200K)

2008 Lone Star EMMY

Arts/Entertainment Program/Special - Mark Kaufmann, Executive Producer

Other Nominations:

"David Chicken,'Book a Trip'" Mark Kaufmann

"Getting Seniors Off the Streets" Scott Evans

Consent Agenda

MOTION: Upon a motion made by Councilmember Herald and a second by Councilmember Obermeyer, the Council voted six (6) for and none (0) opposed to adopt the items on the Consent Agenda as follows:

4. **Approve Minutes of the October 14, 2008, Regular Meeting.**
5. **Adopt a Resolution Appointing Ogden "Bo" Bass, Director of Planning and Development, to Fill the Unexpired Term of Office in Place 5 of the Board of Directors for Tax Increment Financing (TIF) Reinvestment Zone No. 1 (Garden District).**

**ALLEN CITY COUNCIL
REGULAR MEETING
OCTOBER 28, 2008**

PAGE 3

RESOLUTION NO. 2782-10-08(R): A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPOINTING OGDEN "BO" BASS, DIRECTOR OF PLANNING AND DEVELOPMENT, TO SERVE ON THE BOARD OF DIRECTORS OF THE ALLEN TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1; AND PROVIDING FOR AN EFFECTIVE DATE.

6. **Adopt a Resolution Appointing Lee Battle, Assistant Director of Planning and Development, to Fill the Unexpired Term of Office in Place 3 of the Board of Directors for Tax Increment Financing (TIF) Reinvestment Zone No. 2 (Central Business District).**

RESOLUTION NO. 2783-10-08(R): A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, APPOINTING LEE BATTLE, ASSISTANT DIRECTOR OF PLANNING AND DEVELOPMENT, TO SERVE ON THE BOARD OF DIRECTORS OF THE ALLEN TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 2; AND PROVIDING FOR AN EFFECTIVE DATE.

7. **Adopt a Resolution Authorizing the City Manager to Execute the Necessary Documents Ratifying Cities Aggregation Power Project (CAPP) Contracts with Direct Energy Business Services for Billing Services and with Florida Power and Light for the Provision of Electricity for the Period of January 1, 2009, to December 31, 2013.**

RESOLUTION NO. 2784-10-08(R): A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; APPROVING CAPP CONTRACTING WITH FLORIDA POWER AND LIGHT (FPL) ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO SIGN A CONTRACT WITH CAPP FOR THE CITY OF ALLEN'S ELECTRICITY NEEDS FOR THE PERIOD BEGINNING JANUARY 1, 2009, AND EXTENDING UP TO DECEMBER 31, 2013; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY OF ALLEN'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009, AND EXTENDING UP TO DECEMBER 31, 2013; AND PROVIDING AN EFFECTIVE DATE.

8. **Receive the Summary of Property Tax Collections as of September 2008.**
9. **Receive the Capital Improvement Program Status Report.**

The motion carried.

Regular Agenda.

10. **Consider an Appeal of Sign Control Board Action on October 20, 2008, to Grant a Variance to the Arts of Collin County for 100+/- Acres of Land Located South of SH 121 and East of Custer Road and to Take Action to Approve, Disapprove, or Modify Action of the Sign Control Board.**

MOTION: Upon a motion made by Councilmember Caplinger and a second by Mayor Pro Tem Stout, the Council voted six (6) for and none (0) opposed to modify action of the Sign Control Board to grant a variance to the Arts of Collin County to allow an increase in maximum

**ALLEN CITY COUNCIL
REGULAR MEETING
OCTOBER 28, 2008**

PAGE 4

allowable area for a temporary sign to a maximum area of 288 square feet. The motion carried.

Other Business

11. Items of Interest.

- October 27-31 - Battle of the Badges
- November 8 – Panache! 2008/6:00 p.m.

12. Calendar.

- October 29-31 – Event Center Sales Expo/Hilton Garden Inn
- November 1 – Allen Recycles Day
- November 3 – TRIAD Meeting/Senior Center/6:00 p.m.

Executive Session

The Executive Session was not held.

13. Reconvene and Consider Action on Items Discussed during Executive Session.

Adjourn

MOTION: Upon a motion made by Mayor Pro Tem Stout and a second by Councilmember McGregor, the Council voted six (6) for and none (0) opposed to adjourn the Regular Meeting of the Allen City Council at 8:00 p.m. on Tuesday, October 28, 2008. The motion carried.

These minutes approved on the 11th day of November, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

**ALLEN CITY COUNCIL/
ALLEN ISD BOARD OF TRUSTEES/
ALLEN CHAMBER EXECUTIVE COMMITTEE
TRIAD MEETING
NOVEMBER 3, 2008**

Allen City Council:

Stephen Terrell, Mayor
Debbie Stout, Mayor Pro Tem
Ross Obermeyer
Joey Herald
Robin L. Sedlacek (absent)
Gary L. Caplinger
Jeff McGregor (absent)

Alisd Board of Trustees:

Victoria Sublette, President
Gary Stocker, Vice-President
Benny Bolin, Secretary (absent)
Jayne Grimes
Mark Jones
Lois Lindsey
Louise Master

City Staff:

Peter H. Vargas, City Manager
Shelli Siemer, Assistant City Manager
Shelley B. George, City Secretary
John Baumgartner, Engineering Director
Tim Dentler, Parks & Recreation Director
Bo Bass, Planning & Development Director
Lee Battle, Planning & Development Assistant
Director
Bill Hawley, Fire Chief
Kevin Hammeke, Finance Director

Alisd Staff:

Ken Helvey, Superintendent
Sherry Sides, Deputy Superintendent
Dave Vroonland, Assistant Superintendent
Mary Clark, Assistant Superintendent
Maroba Zoeller, Executive Director
Mark Tarpley, Chief Financial Officer
Lenore Yurkovich, Executive Assistant

AEDC Staff:

Robert Winningham, Executive Director
Jennifer Grimm, Director of Business
Development

Chamber of Commerce Executive Committee:

Chuck Hoey, Chair
Steve Rodgers, Chair-Elect
Gene Rife (absent)
Worley Stein
Ann Puddister (absent)
Jim Waldbauer, Immediate Past Chair
Sharon Mayer, President

1. Call to Order and Announce a Quorum is Present.

With a quorum of the members present, the Triad Meeting was called to order by Mayor Terrell, President Sublette and Chair Hoey at 6:10 p.m. on Monday, November 3, 2008, in the Multipurpose Room at the Allen Senior Recreation Center located at 451 St. Mary Drive, Allen, Texas.

2. Briefing Regarding the Legislative Advocacy Committee.

Mr. Helvey provided a briefing on the purpose of the Legislative Advocacy Committee. Members include Mr. Helvey, Bill Hawley, Allen Fire Chief and Chuck Hoey, Chair of the Chamber of Commerce.

3. Update Regarding the Allen ISD Bond Program.

Mr. Tarpley provided an update on the Allen ISD Bond Program. He reviewed the list of projects included in the 2008 Bond Program. He briefly discussed the projects proposed for the 2009 Bond Election.

**TRIAD MEETING
NOVEMBER 3, 2008
PAGE 2**

4. Update Regarding the Allen Event Center.

Mr. Baumgartner provided an update on the status of the Allen Event Center. Construction of the Event Center began in June 2008 and opening ceremonies will be held in November 2009.

5. Update Regarding Retail Development.

Mr. Bass provided an update on the status of development projects including residential, commercial and public properties. Mr. Winningham provided an update on economic projects in Allen.

6. Update on Chamber Business Plan/Membership Growth.

Chair Hoey updated the Triad members on the success of the Chamber's membership drive. He also discussed the Chamber's Business Plan.

7. Approve TRIAD Meeting Dates for the 2009 Calendar Year.

Chair Hoey announced the dates for the 2009 calendar year.

- Monday, April 6, 2009 – City of Allen will host
- Monday, November 2, 2009 – Allen ISD will host

8. Items of Interest.

- Community Announcements
 - Rotary Winter Coat Drive
 - ACO Angels List

MOTION: Upon a motion made by Mayor Pro Tem Stout and a second by Councilmember Obermeyer, the Council voted five (5) for and none (0) opposed to adjourn the Triad Meeting of the Allen City Council at 7:20 p.m. on Monday, November 3, 2008. The motion carried.

These minutes approved on the 11th day of November, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Amendment to Alarm Ordinance No. 2443-9-05

STAFF RESOURCE: William S. Rushing, Chief of Police
Michael A. Stephens, Deputy Chief

PREVIOUS COUNCIL ACTION: September 27, 2005, Adopted Ordinance No. 2443-9-05

ACTION PROPOSED: Adopt An Ordinance

BACKGROUND

In 2005 the Allen City Council adopted Ordinance No. 2443-9-05 relating to the permitting of alarm systems for residential and commercial use. The current ordinance lacks the wording to revoke permits for locations that have habitual false alarms. Currently, alarm holders receive civil fines for any location that has three or more false alarms. Under the amendments proposed, any alarmed location that has more than eight false alarms in 12 month period is subject to having the police department revoke their alarm permit. With the amended ordinance, police officers who respond to the locations where an alarm permit has not been issued or has been revoked, will be able to issue citations to the alarm company, premise, or person in control of the alarm system.

STAFF RECOMMENDATION

Adopt an Ordinance amending the Code of Ordinances, Chapter 8, Article IV, amending the regulations for the revocation of an alarm permit.

MOTION

I make a motion to adopt Ordinance No. _____ amending the Code of Ordinances, Chapter 8, Article IV, amending the regulations for the revocation of an alarm permit.

ATTACHMENT

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALLEN, BY AMENDING CHAPTER 8 “LICENSES AND BUSINESS REGULATIONS” BY AMENDING ARTICLE IV “ALARM SYSTEMS”; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended, by amending Chapter 8, Article IV “Alarm Systems” to read as follows:

“ARTICLE IV. ALARM SYSTEMS

Sec. 8-96. Definitions.

The following words and terms, as used herein, shall have the meaning respectively ascribed to them, as follows:

Alarm actuating device means a device that is designed to respond either manually or automatically to smoke, fire, or activation of a fire extinguishing system.

Alarm site means a single location or premises served by an alarm system or that are under the control of one (1) person.

Alarm system means a device or system which transmits a signal which summons an emergency service of the city. The categories of alarm systems are robbery, burglary, fire, emergency medical assistance and emergency assistance. Alarm system does not include:

- (1) An alarm installed on a vehicle unless installed at a permanent site, or such vehicle is used for habitation;
- (2) An alarm designed to alert only the inhabitants of a premise and the alarm system does not omit a signal that is audible or visible outside the premise that it is installed upon; nor
- (3) An alarm installed upon the premises occupied by the city.

Alarm systems company means any person or company that sells, installs, services, monitors, or responds to burglar alarm signal devices, burglar alarms, television cameras, still cameras or any other electrical, mechanical, or electronic device used (a) to prevent or detect burglary, theft, shoplifting pilferage, or other losses of that type; (b) to prevent or detect intrusion; or (c) primarily to detect and summon aid for other emergencies and include persons relaying alarm notifications.

Alarm user means the person, firm, partnership, associations, corporation, company or organization of any kind which owns, controls or occupies any building, structure, facility or vehicle used for habitation wherein an alarm system is maintained.

Automatic dialing device means an alarm system device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

Burglar alarm notification means a notification which summons the police, which is initiated or triggered by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

Business owner means the business owner of a retail establishment or commercial establishment or manager on duty.

City means the City of Allen, Texas.

Chief of police means the chief of police or designee.

Emergency assistance alarm means any automatic notification system other than those defined herein which summons emergency assistance from the city.

Emergency medical assistance alarm notification means an alarm system which summons emergency medical assistance.

False burglar alarm notification means an alarm signal, eliciting a response by police within thirty (30) minutes of the alarm notification and the police determine from an inspection of the interior or exterior of the premises that the alarm was false.

False emergency medical assistance alarm/personal distress/panic alarm notification means an emergency assistance alarm notification to the emergency personnel, when the responding emergency personnel find no evidence of a need for emergency assistance.

False fire alarm notification means a fire alarm notification to the fire department, when the responding fire department personnel find no evidence of smoke or fire having occurred.

False robbery alarm notification means a robbery alarm notification to the police, when the responding police officer reasonably finds there is no evidence of a robbery.

Fire alarm notification means a notification intended to summon firefighting forces, that is indicated or triggered manually or automatically by an alarm system designed to react to any of the visual or physical characteristics of fire.

Fire marshal means the fire marshal or designee.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of a structure.

Occupant means the person responsible for having the alarm system installed or activated.

Permit holder means the person designated in the permit application who is responsible for responding to alarms and giving access to the site and who is also responsible for proper maintenance and operation of the alarm system and payment of fees and fines assessed under this article.

Permit reinstatement fee means a fee to be paid prior to having an alarm permit reinstated. The fee shall be established by city council resolution.

Person means an individual, corporation, partnership, association, organization, or similar entity.

Robbery alarm notification means a notification intended to summon the police when a robbery occurs by means of an alarm system designed to be purposely activated by a human.

Sec. 8-97 Permits required; applications; fees; false statements.

(a) A person commits an offense if the person activates, operates or causes to be operated an alarm system without first obtaining a permit from the chief of police, or while the permit has been suspended.

(b) Any person using an alarm system shall pay such permit fees, renewal fees, and service fees as provided for in the fee schedule which is adopted by resolution of the city council.

(c) A permit shall only be issued to the resident of a single family dwelling; the tenant occupying the unit of a multi-family complex; and the business owner of any retail or commercial establishment.

(d) Any person without an existing valid permit for an alarm system on the effective date of the ordinance from which this article is derived must apply for a permit within 30 days of installation of the system or after the effective date of the ordinance from which this article is derived, whichever is sooner.

(e) Each permit application must contain the following information and be complete, true and accurate in its entirety:

- (1) The name, address and telephone number of the permit holder who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;
- (2) The classification of the alarm site as either residential or commercial, including whether the alarm site is apartment, the building number and the apartment number, if so numbered;
- (3) The purpose of the alarm system for each alarm system located at the alarm site, i.e., unauthorized intrusion, robbery, panic/duress;
- (4) The name and telephone number of the alarm system monitoring company that has agreed to receive calls for the permitted alarm system, if applicable;
- (5) At least three names and telephone numbers of contacts (responders) that are able to respond to the alarm premises within 30 minutes with a key or means of access to the location if needed by the emergency responders; and
- (6) Other information required by the chief or designated representative that is necessary for the enforcement of this article.

(f) Upon receipt of a completed application form and the required permit fee, the chief of police shall issue an alarm permit to an applicant unless:

- (1) The applicant fails to provide all of the information requested on the application or submits an incomplete application;
- (2) The applicant gives false, misleading or untrue information or material fact on the application;
- (3) The applicant has failed to pay the application fee assessed pursuant to this article; or

(4) The applicant will not comply with any provisions of this article.

(g) An alarm permit is issued to a specific individual and a specific address. An alarm permit cannot be transferred to another person or another address. However, the individual designated to respond to an alarm or relay an alarm can be changed. A permit holder must inform the city of any changes that alters information listed on the permit application. No fee will be assessed for such changes.

(h) All fees owed by an applicant for which a bill has been issued must be paid before a permit may be issued.

(i) Failure of the alarm user to renew an alarm permit by the expiration date shall be considered as not having a valid permit.

(j) Any false statement or misrepresentation of a material fact made by an applicant or person for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant a permit.

Sec. 8-98 Alarm systems in apartment complexes.

(a) If the individual tenant, owner or property manager of an apartment complex installs an alarm system or has an alarm system monitored in the tenant's residential unit on the premises, the tenant must provide to the alarm company monitoring the alarm system the name of a representative of the owner or property manager of the apartment complex who has keys to the tenant's residential unit.

(b) Each tenant shall obtain a permit from the chief of police before operating or causing the operation of the alarm system.

(c) For purposes of assessing service fees and enforcing this article against an individual residential unit, the tenant is responsible for payment of service fees for false alarm notification emitted from the alarm system in the tenant's residential unit.

(d) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm system operated in a non-residential area of the apartment complex, including, but not limited to, common tenant areas and office, storage, and equipment areas.

Sec. 8-99 Permit duration and renewal.

A permit expires one year from the date of issuance and must be renewed annually by submitting an updated application and a permit renewal fee to the chief of police. It is the responsibility of the permit holder to submit an application prior to the permit expiration date. All service fees and late fees assessed under this article must be paid prior to renewal of the permit. The chief of police shall provide thirty (30) days prior notice to the permit holder before terminating a permit for no renewal.

Sec. 8-100 Responsibilities of permit holders.

(a) A permit holder in control of an alarm system shall:

(1) Adjust or modify the sensory mechanism of the alarm system to suppress false indications of force so that the alarm system will not be activated by impulses due to:

- a. Transient pressure changes in water pipes;
- b. Flashes of light;
- c. Wind noise caused by the rattling or vibrating of doors or windows;
- d. Vehicular noise adjacent to the installation; or

- e. Other forces unrelated to actual emergencies.
 - (2) Maintain the alarm system in a manner that will minimize false alarm notifications;
 - (3) Respond or cause a representative to respond within thirty (30) minutes when notified by the city to repair or inactivate a malfunctioning alarm system, to provide access to the premises to provide security for the premises;
 - (4) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report; and
 - (5) Notify the chief of police in writing of the date a permit is to be cancelled or that the permit will not be renewed. The notification must include the date the document was signed and signature of the permit holder. The city must receive the cancellation or non-renewal notice in writing no later than fifteen (15) days before the permit expiration date.
- (b) If a permit holder or an emergency contact person is contacted to inspect an unsecured building or residence and fails to respond to the alarm site in the allowed time of thirty (30) minutes to secure the building or residence, a fee of fifty dollars (\$50.00) will be charged to the permit holder if the city representatives have to secure the premises. The city is not responsible for loss or damage.

Sec. 8-101 Duties of alarm system company.

Any alarm company engaged in the business of monitoring alarm systems shall:

- (1) On the installation or activation of an alarm system, distribute to the occupant of the alarm system location the following information:
 - a. A copy of this article;
 - b. Information on how to prevent false alarms; and
 - c. Information on how to operate the alarm system.
- (2) Report alarm signals only by using telephone numbers designated by the chief of police;
- (3) Before requesting police response to an alarm signal, attempt to verify every alarm signal, except a duress or robbery alarm activation, by a telephone call to the alarm site;
- (4) Communicate alarm notifications to the city in a manner and form determined by the chief of police; and
- (5) On a monthly basis provide to the chief of police a report which contains the name, address, telephone number, and date of activation of all current subscribers within the city.

Sec. 8-102 Manual reset required.

A person in control of a local alarm or an alarm system that causes an alarm notification to be sent shall adjust the mechanism or cause the mechanism to be adjusted so that, upon activation, the system will not transmit another alarm signal without first being manually reset. Each alarm notification shall be treated as a false alarm.

Sec. 8-103. Reporting of alarm signals.

A permit holder or person in control of an alarm system shall not allow alarm signals to be reported through a relaying intermediary that does not comply with the requirements of this article and any rules and

regulations promulgated by the chief of police or designee or that is not licensed by the Texas Department of Public Safety; Private Security Bureau; or, the Texas Commission on Fire Protection, as the case may be.

Sec. 8-104. Fees.

A permit holder must pay any service fees as assessed under the provisions of this article within thirty (30) days after receiving notification from the city that a service fee has been assessed. If the assessed fees become ninety (90) days delinquent, a ten (10) percent late charge will be added.

- (1) *Burglar alarms.* A permit holder will be assessed a fee established by resolution of the city council from time to time for the signaling of a false alarm by a burglar alarm system in excess of three (3) false alarms which have occurred during the previous twelve-month period at the alarm site.
- (2) *Fire alarms.* A permit holder will be assessed a fee established by resolution of the city council from time to time for the signaling of a false alarm by a fire alarm system in excess of three (3) false alarms which have occurred during the previous twelve-month period at the alarm site.
- (3) *Robbery alarms.* A permit holder will be assessed a fee established by resolution of the city council from time to time for the signaling of a false alarm by a robbery alarm system.
- (4) *Emergency medical assistance alarms.* A permit holder will be assessed a fee established by resolution of the city council from time to time for the signaling of a false alarm by a medical assistance alarm system in excess of three (3) false alarms which have occurred during the previous twelve-month period at the alarm site.
- (5) *Emergency assistance/personal distress/panic alarm.* A permit holder will be assessed a fee established by resolution of the city council from time to time for the signaling of a false alarm by an emergency assistance/personal distress or panic alarm system in excess of three (3) false alarms which have occurred during the previous twelve-month period at the alarm site.

Sec. 8-105. Revocation of an alarm permit.

- (a) The chief of police may revoke or refuse to renew an alarm permit if:
 - (1) The permit holder has eight (8) or more false alarms during the preceding twelve-month period;
 - (2) There is a false statement of a material matter in the application for a permit;
 - (3) The permit holder has failed to pay a late fee and/or service fee assessed under this article within thirty (30) days after a bill for the assessment was issued;
 - (4) The permit holder fails to maintain the alarm system in accordance with the requirements of this article; or
 - (5) The operation of the alarm system by the permit holder has demonstrated a history of unreliability, as set forth in this section.
- (b) A person commits an offense if he operates an alarm system during the period in which the alarm permit has been revoked.

Sec. 8-106. Grounds for nonrenewal of a permit.

- (1) The alarm system has a history of unreliability and the applicant has failed to make alterations or corrections to the system to reasonably assure abatement of false alarms. Any alarm system generating ten or more false alarm notifications within a 12-month permit period shall be presumed unreliable; and the alarm permit shall be revoked or suspended, after the city provides 30 days written notice to the permit holder, until the permit holder has:
 - (a) Attended alarm user awareness class at a class approved by the chief or his designee;
 - (b) Provided a certificate of compliance; and
 - (c) Paid a reinstatement fee as established by City Council Resolution.

Sec. 8-107. Reinstatement of permit.

- (a) A person whose alarm permit has been revoked may be issued a new permit if the person:
 - (1) Submits an updated application and pays a reinstatement fee, established by resolution of the city council;
 - (2) Pays or otherwise resolves, all citations in municipal court issued to the person under this article;
 - (3) Pays all outstanding late fees and/or service fees assessed under this article for which a bill has been issued; and
 - (4) Submits documentation to the chief of police stating that the permit holder has performed all necessary repairs or adjustments required by the city, and has complied with all provisions of this article
- (b) A permit that has been reinstated shall expire on the same date it was originally set to expire, one year from the date the permit was issued.

Sec. 8-108. System performance reviews.

If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the chief of police may require a conference with an alarm permit holder and the alarm company responsible for maintenance of the alarm system, and the fire marshal, to review the circumstances of each false alarm.

Sec. 8-109. Appeal from penalty fee, denial, or revocation of a permit.

- (a) Any applicant, permit holder, alarm installation company or monitoring company aggrieved by the decision to assess a penalty fee by the chief of police or designated representative may appeal the decision to an appeal board appointed by the city manager by paying an appeal fee set by City Council Resolution and filing with the city secretary a written request for a hearing, setting forth the reasons for the appeal within ten days after the chief of police or designated representative renders the decision. The filing of a request for an appeal hearing with the city secretary stays the action of the chief of police or designated representative in assessing a penalty fee until the appeal board makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief of police or designated representative is final. Appeal fees will be returned if the decision of the chief of police or designated representative is overturned.

(b) If the chief of police or designated representative refuses to issue or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief of police or designated representative to the appeal board by filing with the city secretary within ten days after receipt of the notice from the chief of police or designated representative. The filing of a request for an appeal hearing with the board stays an action of the chief of police or designated representative in revoking a permit until the board makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief of police or designated representative is final.

Sec. 8-110. Protection of financial institution.

(a) A financial institution required to have an alarm system pursuant to the provisions of the Bank Protection Act of 1968 (12 U.S.C., Section 1882) may install, with the permission of the chief of police, a signal line directly to the police department for the purpose of reporting burglaries and robberies. If such an arrangement is made, all other requirements of this chapter must be met. The financial institutions shall execute a letter of agreement with the city permitting the installation of all necessary equipment on an indicator panel monitored in the communications division of the police department. The installation must be accomplished at the institution's expense.

(b) The financial institution shall pay an annual fee as provided in the fee schedule which is adopted by resolution of the city council for each indicator. The chief of police or designee shall have the right, at reasonable times and upon oral notice, to inspect the alarm system at the alarm site and require necessary repairs or improvements. If the chief of police finds that the alarm system continually fails to operate properly or be operated properly, the chief of police or designee may terminate the privilege to have equipment and indicators in the communications center of the police department and require prompt removal of the equipment at the expense of the financial institution.

(c) The financial institution, at its expense, shall make arrangements to provide service for the alarm system at the request of the financial institution or the chief of police on a 24-hour basis, seven (7) days a week. In no event may the city become liable for charges for repairs and maintenance.

(d) The financial institution may cancel its agreement with the city at any time by giving the city written notice through the city manager, and at its own expense, remove its equipment and indicators from the monitoring panel in the communications center.

(e) The chief of police may require any change, modernization, or consolidation of alarm signaling equipment that the chief of police deems advisable. In no event may the city become liable for charges for these changes.

(f) Instead of a direct line, a financial institution may report burglaries and robberies by transmission through an alarm responding service using a special trunkline designated by the chief of police.

Sec. 8-111. Automatic dialing device.

It is unlawful for any person to program an automatic dialing device to select a primary telephone line belonging to the city and it is unlawful for an alarm user to fail to disconnect or re-program an automatic dialing device which is programmed to select a primary telephone line belonging to the city within twelve (12) hours of receipt of written notice from the chief of police.

Sec. 8-112. Confidentiality.

All information submitted in compliance with this article shall be deemed confidential and not subject to public disclosure unless required by law.

Sec. 8-113. Violations; penalty.

(a) An alarm company, an alarm permit holder or a person in control of an alarm system commits an offense if he violates by any provision of this article that imposes upon him a duty or responsibility.

(b) A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation committed, continued or permitted, and each offense is punishable by a fine not to exceed \$500.00 as follows:

- (1) For the first conviction, \$200.00
- (2) For the second through tenth conviction, \$250.00; and
- (3) For each subsequent conviction, \$500.00.

(c) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this article to hold a corporation, partnership or other association criminally responsible for acts or omissions performed by an agent acting in behalf of the corporation, partnership or other association, and within the scope of employment. A person or business utilizing an alarm system shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations or passwords must not be included in these instructions.

Secs. 8-114—8-120. Reserved.”

SECTION 2. All ordinances of the City of Allen in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Five Hundred Dollars (\$500) for each offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 11TH DAY OF NOVEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(PGS:JJG 30413 8-27-08)

Shelley B. George, CITY SECRETARY

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Celebration Pass Pedestrian Trail

STAFF RESOURCE: Tim Dentler, Director of Parks and Recreation
Brian Bristow, Assistant Director, Parks and Recreation
Kelly McGinnis, Grant/Project Coordinator

PREVIOUS COUNCIL ACTION: June 24, 2008, Council adopted Resolution No. 2748-6-08 authorizing application to the Collin County Parks and Open Space Funding Assistance Program for funding the construction of Celebration Pass Pedestrian Trail.

ACTION PROPOSED: Adopt a Resolution

BACKGROUND

In the Spring of 2008, the Collin County Parks Foundation Advisory Board called for funding assistance proposals for park and open space projects from cities and non-profit organizations. The Collin County Parks and Open Space Strategic Plan and the Allen Consolidated Alternative Transportation & Recreation Trail Plan call for construction of a hike and bike trail linking Celebration Park to Stacy Ridge Park and west to Goodman Drive to meet the recreational and alternative transportation needs of Allen's and Collin County's rapidly expanding population.

On October 14, 2008, the Collin County Commissioners Court approved recommendations by the Collin County Parks Foundation Advisory Board which included the award of \$313,198 toward construction of the Celebration Pass Pedestrian Trail. The 2003 Open Space Bond, 5th Series, will provide funding assistance to twelve applicants for a total of \$2,502,197.

STAFF RECOMMENDATION

Adopt a Resolution accepting funds from the Collin County Parks and Open Space Funding Assistance Program for the purpose of constructing the Celebration Pass Pedestrian Trail.

BUDGETARY IMPACT

Construction of the project is estimated to total \$762,657. This amount will be covered by the \$313,198 reimbursement grant awarded from the Collin County Open Space Funding Assistance Program, \$400,000 approved by the Allen Community Development Corporation for FY 2009, and the remainder will come from remaining balances on other trail projects also funded by ACDC. The General Fund will loan the funds to the Grants and Special Revenue Fund for the awarded amount until payment is received for reimbursement.

MOTION

I make a motion to adopt Resolution No. _____ authorizing the City Manager to accept the awarded amount of \$313,198 from the Collin County Parks and Open Space Funding Assistance Program and to execute an Interlocal Agreement with Collin County for the purpose of constructing the Celebration Pass Pedestrian Trail.

ATTACHMENT

Interlocal Agreement with Collin County
Resolution authorizing execution of the Interlocal Agreement
Project Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, HEREINAFTER REFERRED TO AS “APPLICANT,” DESIGNATING CERTAIN OFFICIALS AS BEING RESPONSIBLE FOR, ACTING FOR, AND ON BEHALF OF THE “APPLICANT” IN DEALING WITH COLLIN COUNTY, APPROVING THE TERMS AND CONDITIONS OF THE INTERLOCAL FUNDING ASSISTANCE AGREEMENT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER; REPEALING ALL RESOLUTIONS IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Allen City Council desires to provide quality park and recreational facilities for the residents of Allen; and,

WHEREAS, the City of Allen is the recipient of assistance from the Collin County Park and Open Space Funding Assistance Program for construction of the Celebration Pass Pedestrian Trail and desires to comply with all of the requirements set forth in the grant.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The City Manager of the City of Allen is hereby authorized to execute the appropriate documents approving the terms and conditions of the agreement with Collin County.

SECTION 2. Any prior Resolution of the City Council in conflict with the provisions contained in this Resolution are hereby repealed and revoked.

SECTION 3. Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected thereby, and such remaining portions are hereby declared to be severable.

SECTION 4. This Resolution shall take effect immediately from and after its passage and it is so duly resolved.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 11th DAY OF NOVEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, TRMC, CITY SECRETARY

**INTERLOCAL AGREEMENT
BETWEEN
COLLIN COUNTY
AND THE
CITY OF ALLEN**

WHEREAS, the County of Collin, Texas (“County”) and the City of Allen (“City”) desire to enter into an agreement concerning the Construction of Celebration Pass Pedestrian Trail in the City of Allen, Collin County, Texas; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act; and

WHEREAS, the City and County have determined that the trail may be developed most economically by implementing this agreement; and

WHEREAS, the City and the County find that this agreement will benefit the residents of the County and provide additional park and recreational facilities and open space for all County residents; and

WHEREAS, this agreement will support or advance the mission of the Collin County Parks and Open Space Strategic Plan;

NOW, THEREFORE, this agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The City shall arrange for the Construction of Celebration Pass Pedestrian Trail, hereinafter called the “Project”. The Project shall consist of the items described in Exhibit “A”.

ARTICLE II.

The City shall prepare plans and specifications for improvements in accordance with all state statutory requirements. The City shall provide the county with a copy of executed contract(s) for the Project. Changes to the project which alter the initial funding request referenced in Exhibit “A” must be reviewed by the Parks Foundation Advisory Board and approved by Commissioners Court.

ARTICLE III.

The City will not expend assistance funds to acquire easements or real property for use as right-of-way.

ARTICLE IV.

The City estimates the total actual cost of the project to be \$762,657.00. The County agrees to fund a portion of the total cost for items described in Exhibit "A" in an amount not to exceed **\$313,198.00**. The County shall reimburse the City for invoices paid by the City for cost related to the Project on a dollar for dollar matching basis. Alternative payment schedules would require Commissioners Court approval.

ARTICLE V.

Collin County's participation in this project shall not exceed \$313,198.00 as indicated in Article IV above. The City shall be responsible for any costs, which exceed the total estimated project cost.

ARTICLE VI.

The City shall install a **project sign** identifying the project as being partially funded by the Collin County 2003 Parks and Open Space Bond Program. The City shall also provide **before, during and after photos** and **quarterly progress reports** in electronic format or via US mail to the contact identified on Exhibit "A". Following completion of the project, the City shall provide **an itemized final accounting of expenditures** including in-kind services or donations for the project. All projects for which the County has provided funds through its 2003 Parks and Open Space Bond Program must remain open and accessible to all County residents.

ARTICLE VII.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE VIII.

INDEMNIFICATION. To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgements and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this agreement.

ARTICLE IX.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas and that exclusive venue shall lie in Collin County, Texas.

ARTICLE X.

SEVERABILITY. The provisions of this agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE XI.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE XII.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE XIII.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

ARTICLE XIV.

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project.

ARTICLE XV.

The declarations, determinations and findings declared, made and found in the preamble to this Agreement are hereby adopted, restated and made part of the operative provisions hereof.

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

COUNTY OF COLLIN, TEXAS

By: _____
Name: Keith Self
Title: County Judge
Date: _____
Executed on this ____ day of _____,
200 __, by the County of Collin,
pursuant to Commissioners' Court
Order No. _____.

ATTEST:

By: _____
Name: _____
Title: _____
Date: _____

CITY OF ALLEN

By: _____
Name: _____
Title: _____
Date: _____
Executed on behalf of the City of
Allen pursuant to City
Council Resolution No. _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"

The County will provide funding assistance for the following:

- ☐ Construction of Concrete Hike
and Bike Trail
- ☐ Crosswalk Striping and Signage

Total funding

\$313,198.00

Contact Information

Request for reimbursement submitted to:

Collin County
Special Projects
Teresa Nelson
825 N. McDonald Street, Suite 145
McKinney, Texas 75069
972-548-3744

Submission of electronic photos and quarterly reports:

Teresa Nelson
tnelson@collincountvtexas.gov

Project Manager Contact: (must be able to answer specific questions regarding project)

Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

SECTION 7: LOCATION MAPS, SITE PHOTOS, PROJECT SKETCHES, etc.

Celebration Pass Trail Alignment Map



Legend:

School

★

Photo Location

1

Proposed Safe Route To School

Allen / Lovejoy School District Division

Allen City Limits

Existing Trail

Future 10' Trail

Future Exchange Pkwy

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Library Donor Recognition Project

STAFF RESOURCE: Tim Dentler, Director of Parks and Recreation
Lori Smeby, Assistant Director
Matt McComb, Landscape Architect

BOARD/COMMISSION ACTION: On February 8, 2008, the Call to Artists was advertised and by March 7, 2008, the City had received over sixty submissions from various artists throughout the Country. The Public Art Committee appointed an Artist Selection Panel to narrow the applicants down to three. In July 2008, the selection panel interviewed the remaining artists and selected Roger Stoller as the artist for the Library Donor Recognition project.

ACTION PROPOSED: Amend the Library Donor Recognition Project budget and to award a contract for construction.

BACKGROUND

A wall consisting of marble plaques was erected at the former Library building to recognize those who had made significant contributions to the Library. The relocation and grand opening of the new Allen Public Library in February 2005 provided new opportunities for continued recognition of past and current donors who've contributed toward the Allen Public Library.

STAFF RECOMMENDATION

Authorize the City Manager to amend the budget for the Library Donor Recognition Project \$143,000 and execute a contract with Stoller Studio, Inc. for an amount not to exceed \$130,000 for design, fabrication and installation of the artwork.

BUDGETARY IMPACT

Staff recommends the project be funded through Non-Bonds remaining from the Library construction, Public Art Bonds, and donations from the Allen Arts Alliance and Friends of the Allen Public Library, as follows:

Non-Bonds	Fund 390	\$30,000 (from Library Construction)
Donation from Allen Arts Alliance	Fund 390	\$2,500
Donation from Friends of the Allen Public Library	Fund 390	\$2,500
Public Art Bonds	Fund 366	\$108,000
Total Project Budget		\$143,000

The artist's contract amount was set by the Public Art Committee at \$130,000 which includes both professional services, fabrication and installation of the artwork. A 10% contingency is included within the proposed project budget.

MOTION

I make a motion to authorize the City Manager to amend the Library Donor Recognition Project budget to \$143,000 and to award a contract for construction to Stoller Studio, Inc. for an amount not to exceed \$130,000 for design, fabrication and installation of the artwork.

ATTACHMENT

Stoller Studio, Inc. Agreement

Exhibit A

Exhibit B

Exhibit C

Exhibit D

1.7 “Work” or “Artwork” shall mean the completed form of artwork created by Artist, including all activities undertaken to complete the performance of the scope of work for the Project, in conformity with the design of the proposed Work as submitted by Artist and selected by City, a graphic representation of which is attached as Exhibit “A” and incorporated by this reference.

Article II Scope of Work

2.1 Artist shall furnish all services as described in Exhibit “A” of this Agreement, attached and incorporated by this reference, as the “Scope of Work” for the Project, subject to the provisions of Article 3, below.

2.2 The City shall be responsible for providing Artist, without cost, copies of designs, drawings, reports, and other relevant data needed by Artist in order to design and execute the Work.

2.3 Artist shall provide monthly progress reports and/or deliverables, as provided in the Scope of Work, to Contract Administrator, in a manner acceptable to the Contract Administrator.

Article III Changes in Scope and Additional Work

3.1 Artist shall, whenever required during the term of this Agreement by the terms of this agreement or at the request of the Contract Administrator, present to City in writing, drawing or other appropriate media for further review and approval, any significant changes in the scope, design, color, size, material, utility and support requirements, texture, or location of the site or of the Work. A significant change is any change which affects the installation, scheduling, site preparation or maintenance of the Work, or the concept of the Work as represented in the original approved design.

3.2 Artist shall perform the services called for in Exhibit “A”. Artist and City agree that Artist shall retain professional and artistic control of his services in the performance of the services under this Agreement, subject to the limitations imposed in Exhibit “B” and this Agreement.

3.3 Notwithstanding the provision of Section 3.2, City may, at any time, excluding “OCEANO,” request Artist in writing to (1) revise portions of the services that he has previously completed in a satisfactory manner; (2) delete portions of the Scope of Work which have yet to be performed; (3) perform additional work beyond the Scope of Work provided in Exhibit “A”; or, (4) make other changes within the general Scope of Work to be performed under this Agreement; compensation to be agreed upon by both Artist and City.

3.4 In the event the request for change is agreed to by Artist, excluding “OCEANO,” this Agreement shall be amended, in writing, specifying the agreed changes, including, but not

limited to, a description of services, addition or reduction of budget, payment schedule and timetable.

3.5 In the event that Artist does not agree to the request, City shall be entitled, in City's sole discretion, to terminate the Agreement for cause pursuant to Article 13 and neither party shall thereafter be obligated to perform pursuant to this Agreement.

3.6 No services for which additional compensation will be charged shall be provided by Artist without the prior written authorization by City.

3.7 City reserves the right to make such alterations as may be deemed necessary or advisable and to require such extra work as may be required for the proper completion of the Project contemplated by Artist. Any such changes will be set forth in an amendment which will specify, in addition to the work done in connection with the change made, adjustments of contract time, if any, and the basis of compensation for such work.

Article IV Responsibilities of Artist

4.1 Artist agrees that an essential element of this Agreement is his artistic skill and creativity. Artist shall not assign the creative or artistic portions of the Work to another party for the production of the Work without the written consent of City. Failure to conform to this provision may be cause for termination of this Agreement, at the sole discretion of City. Subject to section 4.3, below, any other person or entity utilized by Artist as a subcontractor must be identified in Exhibit "B".

4.2 Artist shall be responsible for providing services described in Exhibit "A" including, but not limited to, the quality and timely completion of the services. Artist shall be responsible for designing the Artwork so that it can be fabricated and installed without exceeding the approved overall budget for the Project. Artist shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his Work.

4.3 In the event the services of Artist are integrated into, combined, or otherwise coordinated with services by third parties not within Artist's control, Artist shall not be responsible for such third party services. If any part of Artist's Work depends for proper execution or results upon the work of City, or a third party responsible to City, Artist shall, prior to proceeding with his or his Work, promptly report to City any apparent discrepancies or other defects in such other work which renders it unsuitable for proper execution and results by Artist. Artist shall not be responsible for any liability or failure to fulfill his obligations because of such discrepancies or defects, subject to confirmation by the Contract Administrator and timely notice provided by Artist. Failure of Artist to report a discrepancy or defect shall constitute an acceptance of the City's or third party's work as fit and proper to receive Artist's Work. Any costs caused by defective or ill-timed work shall be borne by the party responsible therefore. Nothing in this section shall limit the responsibility of Artist to take all reasonable steps to coordinate his Work with the work of City or a third party on the project.

4.4 Artist is responsible for the design, transportation, and inspection of all Artwork, in which the following provisions shall apply:

- (a) Artist shall, if and when working on City property, supervise such clean-up as may be reasonably requested by City. At the close of Artist's Work, Artist shall remove his equipment, excess materials, etc., promptly and as requested by City.
- (b) The City and any third party contractor on the project shall notify Artist of their operation, construction and maintenance schedules in and around the area where Artist's Work is to be performed. Artist shall perform his services in a manner and time so as not to cause interference with any of the operations, construction, or maintenance of City or third party contractor. In the event of a conflict between the schedules of the contractor and/or City and Artist, the conflict will be resolved by City. If the resolution of the conflict results in a significant delay of Artist's performance, Artist shall have the right to renegotiate this Agreement to compensate him for any reasonable costs or expenses incurred by the delay.
- (c) Artist shall complete the design of the Work in substantial conformity with the attached Exhibit "A", Scope of Work.

Article V Responsibilities of City

5.1 City shall assist Artist by placing at Artist's disposal all public information it has available pertaining to the Project.

5.2 City shall perform in a timely manner each and every activity as set forth in the Scope of Services. If delays occur when deliverables of Artist are dependent upon City's timeliness, Artist's schedule of performance shall be adjusted accordingly.

5.3 City shall:

- (a) Arrange for access so that Artist may enter upon public property as required for Artist to perform the services under this Agreement;
- (b) Give prompt written notice to Artist whenever City observes or otherwise becomes aware of any development that affects the scope or timing of Artist's services;
- (c) Arrange appointments, meetings, and/or consultations as needed for Artist to fulfill his obligations under this Agreement

Article VI Warranties/Standards

6.1 Artist warrants that: (a) the design or Work being commissioned is the original product of his own creative efforts; (b) that the Work is original; and (c) that Artist shall not sell or reproduce the Work, or allow others to do so without the prior written consent of City; unless artwork is destroyed or modified while in City's control or custody.

6.2 Artist shall guarantee his Work to be free from faults of material and workmanship for a period of one (1) year after installation and final acceptance by City. Artist shall deliver the Work to City free and clear of any liens from any source whatsoever. These guarantees shall apply only to that Work which is entirely that of Artist or persons responsible to Artist, as installed, and shall not apply to materials or workmanship of projects in which the Work of Artist is integrated or combined, or to materials purchased, acquired, or installed by a person or entity not responsible to Artist.

6.3 Artist shall faithfully perform the Work required under this Agreement in accordance with standards of care, skill, training, diligence and judgment provided by highly competent professionals who perform work of a similar nature to the Work described in this Agreement.

Article VII Contract Price

7.1 City shall pay, and Artist shall accept, as full and complete payment for all of the Work required herein, the fixed sum of **\$130,000.00** (One Hundred Thirty Thousand Dollars and .00/100 cents). The sum set forth in this Paragraph 7.1 shall constitute the Contract Price which shall not be modified except by written Change Order as provided in this Agreement.

Article VIII Compensation and Time of Performance

8.1 Artist shall be paid for completion of services satisfactorily rendered pursuant to this Agreement in accordance with the terms herein, Exhibits "A" and "B" and subsequent adjustments, changes or additions as specifically provided for in this Agreement.

8.2 When all of the Work is finally complete and the Artist is ready for a final inspection, the Artist shall notify City thereof in writing. There upon, City will make final inspection of the Work and, if the Work is complete in accordance with this Agreement and this Agreement has been fully performed, City will promptly issue a final Certificate for Payment certifying that the Project is complete and Artist is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Agreement.

8.3 In the event Artist incurs costs in excess of the Total Price, Artist shall pay such excess from his own funds, and City shall not be required to pay any part of such excess, and Artist shall have no claim against City on account thereof.

8.4 Artist shall submit invoices and receipts to City according to the schedule provided for in Exhibit "B," to be in the form requested by City.

8.5 In the event City determines that the Work for which it has been invoiced does not meet the contract specifications and that it intends to withhold payment, City shall provide detailed written notice to Artist within fifteen (15) days after receipt of invoice, specifying the failure of performance for which City intends to withhold payment. Artist shall thereafter meet contract standards to the satisfaction of City or advise City that he disputes City's determination that the specifications have not been met.

8.6 City shall pay all invoices that meet contract specifications within thirty (30) days after receipt of invoice.

8.8 The services to be required of Artist under this Agreement shall be completed in accordance with the schedule for completion of the Work as proposed by Artist and approved by City, provided that such time limits may be extended or otherwise modified by written agreement between Artist and City.

8.9 If, when Artist completes fabrication or procurement of the Work in accordance with the approved schedule and notifies City that the Work is ready for installation, Artist is delayed from supervising the installation of the Work within the time specified in the schedule as a result of the construction on the Site not being sufficiently complete to reasonably permit installation of the Work, or City otherwise does not make the Site available to Artist in accordance with the approved schedule, City shall promptly reimburse Artist for reasonable transportation and storage costs incurred for the period of time provided in the schedule for commencement of installation to the date upon which the Site is made available to Artist for installation of the Work.

8.10 Except as provided in section 8.9, Artist shall bear any transportation and storage costs resulting from the completion of the Work prior to the time provided in the schedule for installation of the Work.

8.11 City shall grant a reasonable extension of time to Artist in the event that there is a delay on the part of City in performing its obligations under this Agreement or in completing the underlying capital project, or if conditions beyond Artist's control or due solely to Acts of God render timely performance of Artist's services impossible or unduly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such conditions and providing notice of the existence of any such circumstance is provided to the other party not less than ten (10) days after the initiation of such circumstance.

Article IX

Artist's Rights

9.1 City shall, at its expense, prepare and install at appropriate locations, after consultation with Artist, a plaque or sign, identifying the Artist, the title of the Work and the year of completion, and any other information agreed to between the parties and shall reasonably

maintain such notice in good repair against damages due to normal wear and tear over time, vandalism, and the elements.

9.2 City recognizes that maintenance of the Work on a regular basis is essential to the integrity of the Work. City shall reasonably assure that the Work is properly maintained and protected, taking into account the recommendations of Artist as stated in the maintenance program provided by Artist as Exhibit D.

9.3 City agrees that it shall not commit or authorize the intentional commission of any physical defacement, mutilation, alteration, destruction, damage, modification, change or will it substantially relocate the Work of Artist without first conferring with Artist and taking reasonable measures to obtain the prior written approval of Artist to the proposed modification. Artist retains his rights pursuant to California Art Preservation Act, Civil Code Section 987 and pertinent Texas and Federal laws, including but not limited to the Visual Artists Rights Act of 1990, "VARA", 17 U.S.C. 106 et seq.

9.4 Notwithstanding Artist's refusal to provide (or City's failure for any reason to otherwise obtain) Artist's written approval provided for in Section 9.3 above, City, in its sole discretion, shall have the right to remove any Work of art providing the following terms and conditions are met.

- (a) The removal proposal shall first be submitted to and considered by the Public Art Committee. Following review and consideration of the removal proposal by the Public Art Committee, a recommendation on removal shall be submitted to City Council.
- (b) The City Council shall have the right to decide that a Work of art shall be removed. The decision to remove shall not be made by City Council until the recommendation required in Section 9.4(a) is received and considered by City Council.
- (c) In the event that the City Council shall decide to remove the Work, Artist shall have: the first right of refusal to purchase his Work, providing it stands alone and is not integrated into a larger artwork, building or structure and can be removed without expense to City; the right to have his name removed from the Work; and, the election to keep the plaque installed pursuant to Section 9.1. Temporary removal does not apply.

9.5 City shall have the right to determine, after consultation with a professional conservator, when and if repairs and restorations to the Work will be made. During Artist's lifetime, Artist shall have the right to approve all major repairs and restorations, provided, however, that Artist shall not unreasonably delay, withhold or condition approval for any repair or restoration of the Work. If Artist unreasonably fails, delays or conditions to approve any repair or restoration, City shall have the right to make or supervise significant repairs and restorations. In the event that City makes repairs or restorations not approved by Artist, Artist shall have the right, at his sole election, to have Artist's name and association with the Work severed. To the extent practical, Artist, during Artist's lifetime, shall be given the reasonable

opportunity to make or supervise significant repairs and restorations and shall be paid a reasonable fee for any such services, provided that City and Artist shall agree, in writing, prior to the commencement of any significant repairs or restorations, upon Artist's fee for such services.

9.6 All repairs and restorations, whether performed by Artist or City, or by third parties responsible to Artist or City, shall be made in accordance with professionally recognized principles of conservation of artworks.

Article X Copyrights

10.1 Artist shall retain all copyrights and all other rights in and to any Artwork(s) created under this Agreement, provided that Artist hereby grants to City an irrevocable license to graphically depict the Artwork for any non-commercial purpose whatsoever. For the purposes of this limitation, the graphic depiction of the Artwork(s) on materials designed to promote City shall be deemed to be a non-commercial use. City shall not be responsible for any third party infringement of Artist's copyright.

10.2 If, for any reason, the approved design is not implemented, all rights to the proposed Artwork shall be retained by Artist.

10.3 Artist agrees that all Work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the State of Texas and the United States. Artist hereby represents and warrants that the Work does not, and Artist has not and will not, utilize any protected patent, trademark or copyright in performance under this Agreement unless and until Artist has obtained proper permission and all releases and other necessary documents. If Artist specifies any material, equipment, process or procedure which is protected, Artist shall disclose such patents, trademarks and copyrights in the construction drawings and technical specifications, such listing to be appended to this Agreement and shall be incorporated by this reference.

10.4 Artist agrees to release, indemnify, defend and save harmless City, its officers and employees from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind resulting from the performance under this Agreement which a court has determined infringes upon any patent, trademark or copyright.

Article XI Time for Performance

11.1 Prior to beginning the performance of the services under this Agreement, Artist must receive a written Notice to Proceed.

11.2 In the event Artist is unable to complete the above services because of delays resulting from untimely issuance of a "Notice to Proceed", or from untimely review and approval by City, and such delays are not the fault of Artist, City shall grant a reasonable extension of time for completion.

11.3 The City requires that the information outlined in Exhibit “A” be completed within **300 calendar days** of the date of written Notice to Proceed.

Article XII

Termination

12.1 Either party may terminate this Agreement with cause by providing thirty (30) days notice, in writing, to the other party. Upon the expiration date of said notice, this Agreement shall become of no further force or effect whatsoever and each of the parties shall be relieved and discharged from all rights and further duties and responsibilities under this Agreement.

12.2 In the event that the Agreement is terminated by City, City shall pay the Artist for all Work performed and services rendered up to the effective date of the termination. City shall have no rights to the Artist's creative Work, designs or unfinished Artwork(s).

12.3 In the event that this Agreement is terminated by Artist without cause, Artist shall promptly reimburse City for all payments made under this Agreement prior to the termination by Artist.

12.4 In the event that City determines that Artist has substantially failed to fulfill his obligations as provided under this Agreement, City shall provide Artist with written notice detailing the specific obligations which City claims Artist has failed to fulfill and notifying Artist that he is deemed to be in breach of the Agreement. If the breach is not cured or if City and Artist cannot agree on a schedule for curing the breach, the Agreement will be deemed terminated on a date specified by City which will be no sooner than ten (10) days from the date of issuance of the notice. In the event that this Agreement is so terminated by City, Artist shall promptly reimburse City for payments of any amount attributable to the alleged breached work only, made under this Agreement prior to the termination by City.

12.5 If, because of the death of Artist, or any other catastrophic occurrence, Artist's estate and/or employees will complete Project. If it becomes impossible for Artist's estate and employees to render services or perform under this Agreement, the Agreement shall be terminated, upon written notice to City and with the concurrence of City.

Article XIII

Insurance

13.1 Artist shall at all times during the term of this contract with City maintain in force those insurance policies and bonds as designated in the attached Exhibit “C” and will comply with all those requirements as stated herein.

Article XIV Indemnification

THE CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF THE ARTIST PURSUANT TO THIS AGREEMENT. ARTIST HEREBY WAIVES ALL CLAIMS AGAINST THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS THE "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY. ARTIST AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE ARTIST'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF ARTIST, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO SOLE OR PARTIAL OR ANY NEGLIGENCE OF THE CITY).

Article XV Miscellaneous

15.1 **Records.** Artist shall keep such records and accounts and require any and all subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel days charged to this engagement and any expenses for which Artist is to be reimbursed pursuant to Exhibit "B". Such books and records will be available at all times, during normal business hours, for examination and audit by City and shall be kept for a period of three (3) years after the completion of all Work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by City of any fees or expenses based upon such entries.

15.2 **Independent Contractor.** Artist is an independent contractor under this Agreement. Personal services provided by Artist shall be by Artist or employees of Artist, and not as officers, employees, or agents of City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the activities of Artist under this Agreement shall be those of Artist.

15.3 **Subcontractors.** In the event Artist, during the course of performance under this Agreement, requires the service of any subcontractors or other professional associates in connection with services or activities covered by this Agreement, Artist has identified in the exhibits to this Agreement, or if Artist requests changes or additions, Artist must secure the prior written approval of City's Contract Administrator. Artist shall directly pay any such

subcontractor and is solely responsible for assuring subcontractor(s) provide proof of insurance and provided in Article 13, above. Artist is solely responsible for evaluation of the qualifications, expertise and selection of any subcontractor(s), for supervision of and payment of any and all subcontractors. City shall in no way be liable to or responsible for the acts or activities of any subcontractor.

15.4 Assignment. The Artist may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by the Artist to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

15.5 Amendments. This Agreement may be amended by the mutual written agreement of the parties.

15.6 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas; except for activities performed in the State of California and/or if the artwork is destroyed or modified by City or its agents, pursuant to the California Art Preservation Act, California Civil Code 987, such laws, including but not limited to Federal laws, "VARA", U.S.C. 106A, et seq. shall apply. The parties agree to submit to the personal and subject matter jurisdiction of said court.

15.7 Conflict of Interest. No officer, member, or employee of City and no member of their governing boards, councils or commissions shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

15.8 Use of City Property. Artist shall not use City premises, property (including equipment, instruments and supplies), or personnel for any purpose other than the performance of his obligations under this Agreement.

15.9 Time. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement.

15.10. Resolution of Disputes, Forum, Attorneys' Fees. The laws of the State of Texas, and/or California as per 15.6, hereinabove, shall govern the interpretation of and the resolution of disputes under this Agreement. Any dispute arising from this Agreement shall be adjudicated in the courts of Collin County in the State of Texas. If any claim, at law or otherwise, is made by either party to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

15.11 Notices. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

To the City:

Peter H. Vargas, City Manager
City of Allen, Texas
305 Century Parkway
Allen, Texas 75013

With copy to:

Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
Attn: Peter G. Smith
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

To Artist:

Roger Stoller, President
Stoller Studio, Inc.
198 Lucero Way
Portola Valley, California 94028

15.12 All Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

15.13 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

15.14 Authority to Execute. The undersigned represent and warrant they are each duly authorized by the parties to execute this Agreement.

[signature page to follow]

EXECUTED this ____ day of _____, 2008.

City of Allen, Texas

By: _____
Peter Vargas, City Manager

Approved as to Form:

By: _____
Peter G. Smith, City Attorney (31146)

EXECUTED this ____ day of _____, 2008.

Artist

By: _____
Roger Stoller, President
Stoller Studio, Inc.

City's Acknowledgment

State of Texas §

§

County of Collin §

This instrument was acknowledged before me on the _____ day of _____,
2008 by _____, _____, of Allen, Texas.

Notary Public, State of Texas

My Commission Expires: _____

Artist's Acknowledgment

State of California §

§

County of _____ §

This instrument was acknowledged before me on the _____ day of _____,
2008 by Roger Stoller, President, of Stoller Studio, Inc.

Notary Public, State of California

My Commission Expires: _____

EXHIBIT A

SCOPE OF WORK

City of Allen and Stoller Studio, Inc.:
ALLEN PUBLIC LIBRARY DONOR RECOGNITION

1. OCEANO: a sculpture

6' tall bronze cast bronze on granite base - enlarged from maquette presented to the City of Allen and shown here. ARTIST will make very minor improvements as he sees fit in the enlargement process.

LIGHTING: Artist will design and install lighting for Oceano.

MAINTENANCE: by OWNER

Bronze sculpture to receive biyearly cleaning/waxing.

2. DONOR WALL

One of three approaches for the display of donor names included in the original proposal will be designed by ARTIST in conjunction with OWNER. Stoller Studio will work with the Allen team to ensure the donor wall design meets all criteria. Donor Wall will be separate from the sculpture base, featuring the names and sculpture as separate works showing honor to the donors. A plaque near the artwork might have a statement such as "This sculpture is in honor of those who contributed to making this Library a reality".

Options for the Donor Wall include:

- etching one of the 60" square glass architectural panels [shown at left]
- etched custom glass panels to be mounted on the blue wall
- inlay of a sandblasted granite panel[s] into the paving near the sculpture



3. SCHEDULE

estimated 10.5 month design/production

Phase 0. Concept/Maquette

completed

Phase I. Design, Engineering & Planning **2 months**

fabrication planning

maquette enlargement

full-scale carve

engineering

structural steel design

production drawings

donor wall design & approval

Phase II. Pre-Cast & **2 months**

casting deposit

wax work [lost wax]

Phase III. Casting & Fabrication **4 months**

bronze casting

assembly & tack welding

welding: run beads

stone base: fab

donor wall fab

permits: submit drawings

Phase IV. Finishing **1.5 months**

grinding & finishing

final surface/patina

Phase IV. Shipping **1 week**

prep & truck to Allen

Phase VI. Installation & Lighting **1 week**

on site prep

sculpture installation

donor wall installation

Phase VI. Lighting **2 weeks** (timing subject to fixture availability)

design

installation

EXHIBIT B
COMPENSATION

OCEANO: Allen Public Library
Stoller Studio, Inc,

Payment for services will be made on the following basis:

45% of the compensation will be remitted upon approval by the City Council and upon issuance of the Notice to Proceed. This covers carving original, deposit for stone base, casting deposits/expenses, and donor wall design and deposits.

30% of the compensation will be remitted upon completion of bronze assembly & tack welding as identified in Exhibit A, Schedule: Phase III

25% of the compensation will be remitted upon the completion of fabrication, transportation, installation, and acceptance of the work [Oceano & Donor Wall].

All payments will be made upon the basis of project progress, approved by the Contract Administrator as to the amount of work completed.

PAYMENT SCHEDULE FOR STOLLER STUDIO, INC.

1st payment*

Due at execution of contract (45%):	\$58,500
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2nd payment*

Due at benchmark identified in the Scope of Work requires Public Art Manager approval (30%)	39,000
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3rd payment*

Due after installation and final approval by City of Allen (25%)	32,500
--	--------

Total: \$130,000.00

All payments must be invoiced by the artist in order to be paid. Invoices shall be sent by ARTIST to the attention of:

Matthew D. McComb
Contract Administrator
City of Allen Parks & Recreation
301 Century Pkwy. Allen TX., 75013

EXHIBIT C
CERTIFICATE OF LIABILITY INSURANCE

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 10/23/2008
PRODUCER (202) 466-8888 FAX: (202) 296-8807 Flather and Perkins Inc 888-17th Street, NW #508 Washington DC 20006		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED STOLLER STUDIO, INC. 198 LUCERO WAY PORTOLA VALLEY CA 94028		
		INSURERS AFFORDING COVERAGE INSURER A: Hartford Casualty INSURER B: INSURER C: INSURER D: INSURER E:
		NAIC # 29424

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY	42SBMTY8043	8/13/2008	8/13/2009	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/>	CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
	<input type="checkbox"/>					PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/>					GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/>	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>				PRODUCTS - COMP/OP AGG \$ 2,000,000
		AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
		<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
		<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
		<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
		<input type="checkbox"/> HIRED AUTOS				
		<input type="checkbox"/> NON-OWNED AUTOS				
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
		<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
						AUTO ONLY: AGG \$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE \$
		<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$
		<input type="checkbox"/> DEDUCTIBLE				\$
		<input type="checkbox"/> RETENTION \$				\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT \$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

The City of Allen is an Additional Insured in reference to the Project "Oceano" as per contract requirement.

CERTIFICATE HOLDER

(214) 509-4710
 City of Allen
 Attn: Matthew D. McComb
 301 Century Parkway
 Allen, TX 75013

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Bruce C. Perkins

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT D

SCULPTURE MAINTENANCE

As long as cast bronze sculpture has been in existence, people have had to defend it's surface finish from outside elements. Regular maintenance will prolong and keep the surface of the sculpture from discoloring and/or deteriorating. The main problem that occurs with outdoor bronze sculpture is neglect, allowing atmospheric pollution and moisture to slowly cause deterioration. With reasonable bi-yearly maintenance, the Piece can be enjoyed for hundreds of years to come.

MAINTENANCE PROCEDURES

Inspection, Cleaning and Waxing:

Inspection of the sculpture should occur at least twice a year; April/May and September/October. During inspection any signs of wear (e.g.. cloudy white areas) or other deterioration (graffiti, bird droppings, etc.) of the wax coating should be noted. The durability of the wax coating will vary from area to area of the sculpture according to surface texture, orientation to the sun, prevailing winds and other factors. Generally speaking, wear in the coating will begin on areas that receive the longest exposure to water: horizontal areas and pockets which tend to collect water. If necessary, a small hole will be provided to drain water from any major pockets in the sculpture. If these are present, they will require regular checking and unclogging to ensure proper drainage.

Deposits such as bird droppings and mineral deposits should be removed on a regular basis. Simple washing with a non-ionic detergent and water accomplishes a major portion of the cleaning. Tenacious matter such as mineral deposits may then be treated locally with extra fine bronze wool (not steel wool) scalpel, pointed wooden tool, or extra-fine Scotch Brite pad, applied in an extremely sensitive way so as not to remove the patina. Once clean, a coating of wax is applied to the whole sculpture.

MATERIALS AND SUPPLY SOURCES

- Paste wax with high % Carnuba ["Trewax" works well] should be used for protecting exterior bronzes. Carnuba wax provides a very hard film over the sculpture [bronze] surface to protect against airborne contaminants such as acid rain residue, catalytic converter emissions, bug tar, grime, salt and bird droppings. Carnuba swells and closes its pores when exposed to water. Carnuba also diffuses (refracts) UV and infrared radiation from the sun which can oxidize and dull the finish.
- Non-ionic detergent, such as "Zyfo" cleaner concentrate, should be used for cleaning. One to three ounces of detergent per gallon of water is recommended. Equally good is "Orvus" liquid from Conservation Materials. Also recommended is Triton X100 non-ionic soap.
- Source of clean tap water and hose long enough allow rinsing of sculpture.
- Buckets: molded plastic - 12-14 quart size.
- Washing brushes: Tampico Fiber set in a hardwood block. A "whitewash" brush is ideal for most purposes; "parts washing" brushes are useful for small areas and crevices. Available from Industrial Soap Co. [<http://www.industrialsoap.com>] See brushes listed in catalogue listed No. 95F, 95, 9750, 9110, 300, 7661, 9107.
- Bronze wool, extra fine. manufactured by Brillo (Purex Co., London, Ohio)
- Scalpel and/or pointed wooden tool

- Toweling or rags, clean, lint free, Terry Cloth or cotton, works well for polishing wax.
- Shoe brush – soft brush used for polishing shoes works well for polishing wax.
- Electric buffing wheel

PRESERVATION METHODS AND MATERIALS

Waxing:

The general appearance and protection of the sculpture will benefit by an application of paste wax. The wax will protect the life of the patina, provide a well-cared-for appearance, and soften the shine. Wax must be applied under dry conditions or it may assume a whitish cast when water is trapped under the wax surface. Should this condition occur, it can be treated using mineral spirits or turpentine applied with a soft rag or brush. Highly textured areas should receive very small amounts of wax applied to a warm surface with a soft brush; the wax tends to be trapped in the textured surfaces, causing a whitish caking. Ideally, each application of the wax coating should be as thin as possible. One application twice a year may be enough. If, upon inspection, the wax is completely gone in places and the patina is in danger of being effected, a double application of wax in those areas can be applied each time, buffing with a soft rag or shoe brush between coats. Cleaning and waxing may need to occur in these areas 3 or 4 times a year, depending on the actual wear in this location.

Procedure:

It is best to wax an outdoor sculpture when warm from the sun as this allows the wax to penetrate the pores of the sculpture resulting in a wax coating that will last longer. The best type of wax to use is plain, clear, paste wax. It usually comes in a can and is very inexpensive. Avoid automotive waxes as they usually contain other cleaners, etc. that could be harmful to bronze. But most importantly, car waxes tend to dry white, so if you leave any at all in little cracks or crevasses it will dry white and look terrible.

Trewax Clear Paste Wax: Trewax is a very hard carnauba wax, which is extracted from Brazilian Palm Trees. One can should last you many years. It comes highly recommended for its durability and versatility on light or dark patinas. You can buy it online from [Acme Hardware](#) at the time of this writing.

- To apply, use a soft rag or an unused paintbrush to get into nooks and crannies (I wrap masking tape near the end of the brush to make it a firmer at the end. This makes it easier to get wax onto the brush.). Apply a light coat and allow to dry. Most waxes are dry within 20 minutes. Then buff the sculpture using an electric buffing wheel, cloth or clean shoe brush. A second coat is recommended for outdoor sculptures

- Technique two: put about six ounces of clear paste wax into a bucket. Add an equal amount of the thinner, mineral spirit or turpentine. In working, the thinner may evaporate and it will be necessary to add more from time to time to maintain a workable mixture. Apply the wax mixture thinly using the ends of the brush hairs to work the mixture into the depths of forms and textures. A motion of striking the brush end perpendicularly to the surfaces rather than a typical "painterly" or stroking motion will be best for this task. Be careful not to scratch the metal ferrule of the brush on the surface. Let the solvent evaporate, then begin rubbing and polishing with an electric buffing wheel or cloth shoe brush (more in high smooth areas, less in depths). A thin, polished coating of wax will remain.

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: High Speed Wireless Microwave Network

STAFF RESOURCE: Sid Hudson, Information Technology Director

PREVIOUS COUNCIL ACTION: Council approved a Five-Year Technology Strategic Plan in the 2006-2007 Budget.

ACTION PROPOSED: Authorize the City Manager to execute a contract with General Electric Mobile Data Systems, LLC to Supply a High Speed Wireless Microwave Network.

BACKGROUND

In 2006, the City developed a Five-Year Strategic Plan for Technology. As part of that plan, it was determined that staff needed to create redundancy to our network through a wireless solution that would be fast enough to support multiple applications that include but are not limited to Public Safety Dispatch running VOIP to outlying facilities, but also to remote command vehicles in emergency situations.

STAFF RECOMMENDATION

Staff recommends that the City Manager execute a contract with General Electric Mobile Data Systems, LLC to Supply a High Speed Wireless Microwave Network.

BUDGETARY IMPACT

Public Safety Bond funds and Technology Strategic Plan funds will be used to make the purchase in the amount of \$540,000.

MOTION

I make a motion to authorize the City Manager to execute a contract with General Electric Mobile Data Systems, LLC to Supply a High Speed Wireless Microwave Network agreement at a total cost of \$540,000.

ATTACHMENT

GE MDS, LLC Agreement

GE Quote of Hardware and Services

STATE OF TEXAS §
 § **AGREEMENT FOR HIGH SPEED**
 § **MICROWAVE BACKBONE SYSTEM**
COUNTY OF COLLIN §

This agreement ("Agreement") is made by and between the City of Allen, Texas ("City") and GE MDS, LLC ("Contractor") acting by and through their authorized representatives.

Recitals:

WHEREAS, the City desires to engage the services of Contractor as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the City desires to engage the Contractor to provide a High Speed Microwave Backbone Network and Contractor agrees to provide equipment and services in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

Article I
Term

1.1 This term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and continue until the services are completed unless sooner terminated as provided herein.

1.2 Either party may terminate this Agreement by giving thirty (30) days prior written notice to the other party. In the event of such termination the Contractor shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

Article II
Contract Provisions and Scope of Services

2.1 Every provision of the documents below is incorporated into this Agreement by reference. The documents referenced below are in descending order of precedence. Any conflict between or among any of the documents shall be resolved in favor of the document with higher precedent.

A. This Agreement;

B. Scope of Work SOW2008B1104 dated October 9, 2008 including Architecture Map (Exhibit "A");

- C. GE MDS Quote no. WSG2008B1104 dated August 29, 2008 (Exhibit “B”);
- D. GE MDS Standard Terms and Conditions (Exhibit “C”);
- E. City of Allen Letter of Intent (Exhibit “D”); and
- F. Project Milestones (Exhibit “E”).

2.2 The Contractor shall provide the services specifically set out in Exhibit “A”.

Article III Schedule of Work

The Contractor agrees to commence services upon written direction from the City and to complete the required services in accordance with a work schedule established by mutual agreement of both the City and the Contractor (the “Work Schedule”).

Article IV Pricing, Terms of Payment and Title Transfer

4.1 Subject to Section 4.4 below, total compensation under this Agreement for the GE MDS Microwave Network shall be in the amount of Five Hundred Twenty-Three Thousand Eight Hundred Twenty Dollars and Eighty Cents (\$523,820.80). The City shall compensate the Contractor for the services by payment of a fee as set out in Section 4.3 and 4.4 below.

4.2 The total compensation set out in Section 4.1 above does not include accommodations, air travel, meals, car rental and other travel incidentals which will be invoiced by Contractor at actual cost, payable by City with 30 days of being invoiced by Contractor. This amount is not to exceed \$12,000, without the prior written consent of the City.

4.3 Equipment supplied, in the amount of Two Hundred Thirty Thousand Eight Hundred Twenty-Two Dollars and Eighty Cents (\$230,822.80), shall be invoiced upon shipment, payable in thirty (30) days. Partial shipments and invoicing are allowed.

4.4 Payment for remaining contract amount, which includes all Services, shall be made as follows:

- | | | |
|----|--|--------------|
| A. | Twenty percent (20%) of services as down payment with Order | \$58,599.60 |
| B. | Forty percent (40%) of services upon completion of installation. This will be payable on 2 per-site basis. | \$117,199.20 |
| C. | Forty percent (40%) retainage, upon completion of 30-day system acceptance test period. | \$117,199.20 |

- 4.5 4.5 Title transfer and risk of loss for all equipment supplied shall take place at the time of delivery, FOB Shipping Point, as stated in the GE MDS Quote no. WSG2008B1104, Exhibit "B". Acceptance of services provided will occur as outlined in Exhibit "E", Project Milestones.

Article V

Devotion of Time; Personnel; And Equipment

5.1 The Contractor shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should the City require additional services not included under this Agreement, the Contractor shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by the City; and without decreasing the effectiveness of the performance of services required under this Agreement.

5.2 To the extent reasonably necessary for the Contractor to perform the services under this Agreement, the Contractor shall be authorized to engage the services of any agents, assistants, persons, or corporations that the Contractor may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be borne exclusively by the Contractor.

5.3 The Contractor shall furnish the facilities, equipment, telephones, facsimile machines, email facilities, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

Article VI

Liquidated Damages

6.1 The City and Contractor agree the services described in Exhibit "A," "Scope of Work" will require Four Hundred (400) working days to complete from the first date that Contractor begins installation under this Agreement. This is referenced as "Project Milestones" in Exhibit "F." If Contractor fails to deliver and install the equipment by the completion date indicated above, the parties understand and hereby agree that the amount of One Hundred Dollars (\$100.00) per day shall be deducted from the monies due Contractor until such time Contractor has completed the required work or for a period of up to but not exceeding One Hundred Eighty (180) days for each intervening calendar day any work remains incomplete, not as a penalty, but as liquidated damages. Liquidated Damages shall be capped at five percent (5%) of the total contract price. However, Contractor shall not be liable if failure to perform arises out of causes beyond the reasonable control of Contractor and without the fault or negligence of Contractor.

6.2 Any delays that occur in the Project that are not directly attributable to lack of performance by Contractor shall cause the schedule to be increased by exactly the amount of time in the delay and without penalty of liquidated damages.

VII Insurance

7.1 The Contractor shall furnish proof of stipulated insurance requirements specified below to the City. Proof of insurance shall be in the form of a certificate executed by an approved insurance company authorized to do business in the State of Texas. The City's insurance requirements are:

- (A) The Contractor shall carry and pay the premiums for insurance of the types and in the amounts stated below. In any event, the Contractor shall carry and pay the premiums for insurance of the types and the amounts of not less than the following:

- (1) Commercial General Liability insurance at minimum combined single limits of:

<u>Amount</u>	<u>Coverage</u>
\$2,000,000.00	General Aggregate
\$2,000,000.00	Product/Completed Operations
\$2,000,000.00	Personal and Advertising Injury
\$ 5,00,000.00	Each Occurrence
\$ 50,000.00	Fire Damage
\$ 5,000.00	Medical Expenses

- (2) Coverage for Products/Completed Operations must be maintained for at least two years after the work is completed. Coverage must be written on an Occurrence Form.

- (3) Workers' Compensation Insurance: Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with Minimum limits of liability of Five Hundred Thousand and No/100 Dollars (\$500,000) is required. The Contractor shall cause its insurer for Work Compensation Insurance to endorse the Contractor's policy to waive subrogation against, its directors, officers, employees, agents, successors, and assigns for any and all claims incurred by the Contractor's employees which arise out of the work under this contract.

- (4) Commercial automobile liability insurance at minimum combined single limits of \$500,000 per occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.

7.2. All required insurance shall be written by an approved insurance company authorized to do business in the State of Texas.

7.3 Proof that insurance coverage exists shall be furnished to the City by way of a Certificate of Insurance before any part of the contract work is started. The Certificate shall certify the City as an ADDITIONAL INSURED with a provision that in case of cancellation or any material change in the coverage stated above, the City shall be notified no less than thirty

(30) days prior to any such change. The Contractor shall be liable for its subcontractor's insurance coverage of the types and in the amounts stated above, and shall furnish the City with copies of such Certificates of Insurance. If any insurance coverage required to be provided by the Contractor is canceled, terminated, or modified so that the required insurance coverage are no longer in full force and effect, the City may terminate this contract or obtain insurance coverage equal to the required coverage, the full cost of which will be the responsibility of the Contractor and shall be deducted from any payment due Contractor.

7.4 The City will give the Contractor reasonably prompt notice in writing of the institution of any suit or proceeding and permit the Contractor to defend same and will give all needed information to do so. The Contractor shall similarly give the City immediate notice of any claim arising out of the performance of the contract. The Contractor shall furnish immediately to City copies of all pertinent papers received by the Contractor regarding the suit, action or claim.

7.5 All insurance required to be maintained or provided by the Contractor shall be with companies and through policies approved by the City. The City reserves the right to inspect in person, prior to the commencement of the contract work, all of the Contractor's insurance policy required under this contract.

7.6 The above requirements only represent the minimum insurance coverage acceptable to the City and these requirements are not intended to represent the maximum risk involved or the maximum liability of the Contractor.

7.7 The Contractor shall be responsible for setting its own requirements, if any, for the kind and amounts of insurance to be carried by its subcontractors in excess of the insurance required by City.

7.8 Notice of Cancellation. Insurance policies and certificates of insurance shall specifically provide that a thirty (30) day notice of cancellation, non-renewal, or material change be sent to:

If intended for the City, to:
City of Allen, Texas
Attn: City Manager
305 Century Parkway
Allen, Texas 75013
Facsimile No. (972) 727-0165

With copy to:
Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201
Facsimile No. (214) 965-0010

7.9 Other Insurance. Any type of insurance or any increase of limits of liability not described above that the Contractor or subcontractor of any tier requires for its own protection or on account of any statute shall be its own responsibility and at its own expense.

7.10 No Release. The carrying of the above-described insurance shall in no way be interpreted as relieving the Contractor of any other responsibility or liability under this agreement or any applicable law, statute, regulation or order.

Article VIII Miscellaneous

8.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings written or oral agreements between the parties with respect to this subject matter.

8.2 Assignment. The Contractor may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by the Contractor to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

8.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

8.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Dallas County, Texas.

8.5 Amendments. This Agreement may be amended by the mutual written agreement of the parties.

8.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

8.7 Independent Contractor. It is understood and agreed by and between the parties that the Contractor in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Contractor shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

8.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

City of Allen, Texas
Attn: City Manager
305 Century Parkway
Allen, Texas 75013
Facsimile No. (972) 727-0165

With copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith
1800 Lincoln Plaza
500 N. Akard
Dallas, Texas 75201
Facsimile No. (214) 965-0010

If intended for Contractor:

Manuel Ochoa
GE MDS, LLC
175 Science Parkway
Rochester, New York 14620
Facsimile No. (585) 242-8349

8.9 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

8.10 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

8.12 Audits and Records. The Contractor agrees that during the term hereof the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of the Contractor's records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by the City or date of termination if sooner.

8.13 Conflicts of Interests. The Contractor represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

8.11 Indemnification. CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF THE CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST City, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "City") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF City. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS City FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE CONTRACTOR'S NEGLIGENCE IN THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF THE WILLFUL MISCONDUCT ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES,

CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST City IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, THE CONTRACTOR, ON NOTICE FROM City, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT CONTRACTOR'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. NOTWITHSTANDING THE FOREGOING, THE TOTAL LIABILITY OF CONTRACTOR ON ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE ARISING OUT OF OR RELATED TO THIS AGREEMENT, ITS PERFORMANCE OR BREACH SHALL NOT EXCEED THE TOTAL PURCHASE PRICE OF SERVICES BEING PROVIDED BY CONTRACTOR OR THE INSURANCE COVERAGE, IF APPLICABLE. UNDER NO CIRCUMSTANCES SHALL CONTRACTOR BE LIABLE FOR ANY PUNITIVE, CONSEQUENTIAL, SPECIAL AND/OR INDIRECT DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS).

[signature page to follow]

EXECUTED this _____ day of _____, 2008.

City of Allen, Texas

By: _____
Peter Vargas, City Manager

Approved as to form:

By: _____
Peter G. Smith, City Attorney
(PGS/JJG/cgo/32355)

EXECUTED this _____ day of _____, 2008.

Contractor

By: _____
Name: David Rodriguez
Title: Chief Operating Officer

**EXHIBIT “A”
SCOPE OF SERVICES**



GE MDS, LLC
175 Science Parkway
Rochester, NY 14620 USA
Phone: 585-242-9600 Fax: 585-242-8949

To: City of Allen
Attn: Sid Hudson
Phone: 214-509-4851
Fax: 214-509-4675
Address: 305 Century parkway
Department of Information Technology
Allen, Texas 75013
shudson@cityofallen.org

Date: 11/5/2008
Quote: WSG2008B1104
Ref: Rev8
Destination: Allen, TX

Sub System 1/2 - Microwave
4.9GHz Spurs - Access points

Proforma Quote
with Installation

Item	Quantity	Description	Unit \$	Sub System 1/2
A	5	GE MDS Intrepid 4.9 GHz Spur Backhaul - w/ Ethernet only IDU, Ext ODU 115 VAC / Link (excludes misc cables,connectors,antenna's and install)	\$5,165.00	\$25,825.00
B	4	Mercury 900 Base Station Access Point (excludes misc cables,connectors,antenna's and install)	\$2,400.00	\$9,600.00
C	2	Mercury 900 Radio Modems - Remote for Command Vehicle (excludes misc cables,connectors,antenna's and install)	\$1,700.00	\$3,400.00
D	10	18/23/28 GHz, 100 Mbps Ring Backhaul Sites - Ethernet only, Non Protected/Site (excludes misc cables,connectors,antenna's and install)	\$12,699.78	\$126,997.80
E	3	GE MDS WSG Lab, P-80 Access Point - Spur NEMA Enclosure used at locations Access point and Spurs are co-located.	\$5,000.00	\$15,000.00
E.1	1	GE MDS WSG Lab, P-80 Access Point - Spur NEMA Enclosure used at locations Access point and Spurs are co-located. (recommended option for City Hall and Prestige Water Tank Locations)	\$5,000.00	\$5,000.00
F	5	GE MDS WSG Lab, RSM 48/10 Power System, includes integral low-voltage disconnect, 2 x 8-position GMT distribution, dual 115 VAC input powers. Mounts up to four 10 amp modules. 19 in. rack mount.RSM 48/10 Rectifier Module, 120 VAC Input	\$3,500.00	\$17,500.00
G	5	GE MDS WSG Lab, Rack Documentation, Assembly, Wire and Test. Per rack charge includes rack documentation (parts lists, assembly and cabling drawings) and system drawings, rack assembly, wiring and system test.	\$2,490.00	\$12,450.00
H	1	GE MDS WSG Services -Infrastructure Installation, Configuration, Bandpass filters, Cables, Connectors, Antenna's , Towers (spur sites) and misc installation hardware.	\$146,798.00	\$146,798.00
I	5	Cisco 2955 or Moxa 508/T Managed Switch	\$1,500.00	\$7,500.00
J	4	Generac 7KW Natural Gas Backup Generator with Automatic Transfer Switch (4 - Units)	\$5,000.00	\$20,000.00
K	6	FCC Licensing 4.9 GHz	\$250.00	\$1,500.00
L	5	Licensing - Frequency Coordination, FCC Licensing Fee 18 GHz	\$1,250.00	\$6,250.00
M	1	WSG Services - System Training	\$5,670.00	\$5,670.00
N	1	WSG Services - System Acceptance Testing	\$9,450.00	\$9,450.00
O	1	WSG Services -System Design, Engineering,Technical Project Management.	\$110,880.00	\$110,880.00
P	1	WSG Services -Travel Estimated	\$12,000.00	\$12,000.00
Q	1	Shipping and Insurance	\$5,000.00	\$5,000.00

FOB Destination Point

\$540,820.80

NOTE: To ensure order accuracy, please submit this Equipment Quote/Proforma Invoice with your order.

The above quote does not include Electrical work associated with this project at installation sites. The City is required to provide all necessary AC power and equipment placement locations as designated in the design documents. The City is also required to provide a secure equipment storage and staging location. The Cities water tanks must be able to accommodate mounting infrastructure for antennas which will be installed on the top of the tanks.

TERMS & CONDITIONS

Unless otherwise noted, all other Standard GE MDS, LLC Terms and Conditions of Sale apply. This quotation is valid for 30 days after which either a confirmation of prices or a new quotation will be necessary. **Domestic:** Prices are quoted in U.S. Dollars(\$), FOB Shipping Point. Prices include packing for domestic overland or air shipment **International:** Prices are quoted in U.S. Dollars (\$), Ex-Works Rochester, NY.

AVAILABILITY

Delivery date is determined after receipt of frequencies and agreed payment terms. Availability for system integration orders subject to OEM lead times.

BANK INFORMATION For Wire Transfers ONLY

Beneficiary: GE MDS, LLC
DEUTSCHE BANK AND TRUST CO. AMERICAS
60 Wall Street
NYC 60-2801
New York, NY 10005-2858

Account # 50281939 ABA # 021001033 SWIFTCODE BKTRUS33

Sales Rep: Gerard Kern
Prepared by: Tom Bruscano
Phone: 719-748-7231
E-Mail: tom.bruscano@qe.com

CITY COUNCIL AGENDA COMMUNICATION
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AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Authorize the Execution of a Contract for the Lease of Computer Equipment

STAFF RESOURCE: Sid Hudson, Information Technology Director
Kevin Hammeke, Finance Director

PREVIOUS COUNCIL ACTION: Council approved a Five-Year Technology Strategic Plan in the 2006-2007 Budget.

Council approved the lease of computer equipment through the 2008-2009 Budget process.

ACTION PROPOSED: Authorize the City Manager to execute a contract with Hewlett Packard Financial Services Company to supply computer equipment through a four-year lease agreement.

BACKGROUND

In 2006, the City developed a Five-Year Strategic Plan for Technology. As part of that plan, it was determined that staff needed to establish a lease program for computer replacements. This will provide a mechanism that will help drive the budget more consistently and will rotate our desktop and notebook computers, keeping the City more 'in line' with industry standards.

STAFF RECOMMENDATION

Staff recommends that the City Manager execute a contract with Hewlett Packard Financial Services Company for the lease of computer equipment.

BUDGETARY IMPACT

The annual lease payment of \$56,410.87 includes the cost of the equipment, lease interest and reimbursement cost of personal property taxes. The four-year lease program totals \$93,195.20.

MOTION

I make a motion to authorize the City Manager to execute a contract with Hewlett Packard Financial Services Company to supply computer equipment through a four-year lease agreement at a total cost of \$93,195.20.

ATTACHMENT

HP Desktop Lease agreement for 08-09



Delcom Group, L.P.
1000 Shiloh
Suite 500
Plano, Texas 75074
United States
<http://www.delcomgroup.com>

Quotation

Date Oct 31, 2008 11:45 AM CDT
Doc # 9129 - rev 1 of 1
Description None
SalesRep Lalani, Amin (P) 214-389-5500 ext. 123 (F) 214-389-5505
Customer Contact Nix, Ken (P) 214-509-4856 knix@cityofallen.org

Sales Team: <empty>

Customer
CITY OF ALLEN (CO0415)
305 Century Parkway
Allen, Texas 75013
(P) 214-509-4856

Bill To
CITY OF ALLEN
Nix, Ken
305 Century Parkway
Allen, Texas 75013
(P) 214-509-4856

Ship To
CITY OF ALLEN
Nix, Ken
305 Century Parkway
Allen, Texas 75013
(P) 214-509-4856

Customer PO: None	Terms: Net 30 Days	Ship Via: UPS Ground
Special Instructions: Pricing based off Contract: TX - TEXAS DIR-SDD-223 (TXDIR) Quote 2775841-7		Carrier Account #: None

Item Description	Part #	Qty	Tax	Unit Price	Total
1 HP Compaq dc7900 Small Form KP721AV-SEB Product - HP Compaq dc7900 Small Form Factor KV990AV#ABA Operating system - Genuine Windows Vista® Business 32-bit Energy Efficiency - ENERGY STAR® 4.0 Enabled Configuration KV923AV Intel® vPro™ - Intel vPro Technology (Only available w/E8 or Q9 SIPP Processors; Only available with Vista Downgrade to XP Pro, Vista Ultimate, or Vista Business 32/64 bit OS) KP738AV Processor - Intel® Core 2 Duo E8400 processor Chipset - Intel® Q45 chipset integrated KV965AV Memory - 1GB PC2-6400 (DDR2-800) Removable storage - No Item Selected KV931AV 1st hard drive - 80GB 10K SATA (NCQ and SMART IV) 3Gb 1st 2nd hard drive - No Item Selected Real-time data backup - No Item Selected Cable option kits - No Item Selected KW352AV Video/graphics - ATI Radeon 3470 256MB SH PCIe Card KV956AV Optical drive - SATA 16X SuperMulti LightScribe (Not available for CMT or SFF if Removable Hard drive selected from 1st hard drive) Network card - Integrated Intel 82567LM Gigabit Network Connection Modem - No Item Selected GD779AV#ABA Keyboard - HP USB Standard Keyboard GD529AV Mouse - HP USB 2-Button Optical Scroll Mouse Application software - No Item Selected AntiVirus software - No Item Selected KW004AV#ABA Country kit - HP dc7900 Country Kit Additional accessories - No Item Selected Power Efficiency Solution - No Item Selected Security accessories - No Item Selected Wireless hardware - No Item Selected Restore CD - No Item Selected KP725AV Power supply - dc7900 SFF chassis w/85% PSU FL138AV#ABA Warranty - HP 4-4-4 (parts/labor/next business day on-site) warranty SFF	KP721AV-SEB	88	No	\$595.00	\$52,360.00
2 HP memory Memory - 1 GB - DIMM 240-pin - DDR2 - 800 MHz / PC2-6400 - unbuffered - non-ECC	AH058AA	10	No	\$30.00	\$300.00
3 HP L1908wm Flat panel display - TFT - 19" - widescreen - 1440 x 900 / 60 Hz - 300 cd/m2 - 1000:1 - 5 KA214AA#ABA ms - 0.285 mm - DVI-D, VGA Note: 4yr Warranty Included		89	No	\$185.00	\$16,465.00
4 HP L2045w Flat panel display - TFT - 20.1" - widescreen - 1680 x 1050 / 60 Hz - 300 cd/m2 - 600:1 - RD125AA#ABA 5 ms - 0.258 mm - DVI-I, VGA Note: 4yr Warranty Included		5	No	\$215.00	\$1,075.00
5 6730b Base NB PC HP IDS 6730b Base NB PC Vista Business w/XPP OR07 6730b O/S DRDVD Vista 6730/6530 Media DRDVD WinXP 6730/6530 Media Media Office Ready Restore DVD Module OSCD Windows XP Pro 08 Media Intel Core2 Duo T9400 6730b Processor 6730b Camera 15.4 WSXGA+ WVA 6730b Display 3072M 800DDR2 2DM 6730b Module 120G 5400RPM 6730b Hard Drive 6 Cell 55Whr 6730b Battery	IDS 6730b	6	No	\$1,189.00	\$7,134.00

Touchpad 6730b Keyboard
DVD RW LS UB 6730b Drive
MDC 56K V92 6730b Modem
Broadcom 802.11a/b/g/n 2 6730b Card
Bluetooth 2.0+ 6730 Module
3/3/0 6730b Warranty
6730b Hardware Kit
EStar4 Label
MS Vista Premium Logo Label
Intel Core2 Duo Label

6	Electronic HP Care Pack Pick-Up and Return Service Extended service agreement - parts and labor (for CPU only) - 4 years - pick-up and return - 9x5	U7868E	6	No	\$80.00	\$480.00
7	HP 2008 120W Docking Station Docking station	KP080AA#ABA	4	No	\$129.00	\$516.00
8	HP Keyboard and Mouse Kit Keyboard - USB - mouse - Smart Buy	KF885AT	4	No	\$29.00	\$116.00
9	Tripp Lite Dual Link TDMS display cable Display cable - DVI-D (M) - DVI-D (M) - 6 ft	P560-006	89	No	\$7.80	\$694.20
10	Hewlett-Packard - SRP/8530p IDS/RCTO US	AR254US#ABA	3	No	\$1,970.00	\$5,910.00
11	Electronic HP Care Pack Pick-Up and Return Service Extended service agreement - parts and labor (for CPU only) - 4 years - pick-up and return - 9x5	U7868E	3	No	\$80.00	\$240.00
12	Delcom Etching	Delcometching	1	No	\$1,600.00	\$1,600.00
13	Delcom Install and Imaging Note: Memory Install and imaging of all notebooks	DelcomIntegration	97	No	\$65.00	\$6,305.00

Subtotal: \$93,195.20
Tax (0.000%): \$0.00
Shipping: \$0.00
Total: \$93,195.20

Lease Options	
Payments as low as	\$2,861.09 / mo. for 42 mos.

FINANCING OPTIONS AVAILABLE. PLEASE ASK YOUR DELCOM REP FOR MORE INFORMATION.

Please note shipping is apx.

PO Box 1988
Allen, TX 75103
214-389-5500
Fax: 214-389-5505

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Two-Year Contract for Uniform Services

STAFF RESOURCE: Debra Morris, CPPO Purchasing Manager

PREVIOUS COUNCIL ACTION: January 2004, the City Council approved Resolution No. 2258-1-04, authorizing the City Manager to purchase various commodities through the Texas Local Government Purchasing Cooperative.

ACTION PROPOSED: Authorize the City Manager to execute a contract for uniform rental services.

BACKGROUND

The purpose of this contract is to provide uniform rental services to the various City departments. This contract will provide services that meet the City's needs and provide the best value to the City of Allen.

STAFF RECOMMENDATION

Staff recommends approval of a two-year contract for the rental of work uniforms for various departments with G&K Services with three one-year options to renew with an estimated amount not to exceed \$65,000.

BUDGETARY IMPACT

Annual uniform rental services expenditures are included in the FY09 approved budget.

MOTION

I make a motion to authorize the City Manager to execute a two-year contract with G&K Services to provide rental of work uniforms for the City of Allen for an estimated total

expenditure not to exceed \$65,000 with three one-year options to renew.

ATTACHMENT

Buyboard Contract for Uniform Services
Allen Agreement for Uniform Services



P.O. Box 400
Austin, Texas 78767-0400
512-467-0222
800-695-2919
Fax: 800-211-5454
www.buyboard.com

April 18, 2007

Sent Via E-mail: djohnnene@gksservices.com

Mr. Delford Johnnene
G&K Services
603 Airline Drive
Coppell, TX 75019

Proposal Name & Number: Uniforms & Accessories for Various Areas #264-07

Dear Mr. Johnnene:

Congratulations, your company has been successful on the above referenced proposal! This contract will be effective June 1, 2007.

To see the items your company has been awarded, please review the proposal tabulation #264-07 on the following website: www.vendor.buyboard.com. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Attached to this letter you will find the following documents:

- Vendor Quick Reference Sheet
- Electronic Catalog Format Instructions

Receipt of a purchase order directly from a Cooperative member is not within the guidelines of the coop. Accepting orders directly from member entities may result in a violation of the State of Texas competitive bid statute and cancellation of the proposal award. Therefore, all orders must be processed through the Cooperative in order to comply. We request your assistance in immediately forwarding by fax (1-800-211-5454) to the cooperative any orders received directly from member entities. If by chance an order sent directly to you has been unintentionally processed, please fax it to the Cooperative (1-800-211-5454) and note it as **RECORD ONLY** to prevent duplication.

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact me at 512-467-0222, ext. 7154 or 1-800-695-2919.

Sincerely,

Sharon McAfee
Bid Administration Manager



The Texas Local Government Purchasing Cooperative is a joint project of the
Texas Association of School Boards, Texas Municipal League, and Texas Association of Counties



1053
X

NOTICE OF PROPOSAL INVITATION

Proposal Name: Performance & Work Related
Uniforms & Accessories (Purchase & Rental)

Proposal Opening Date and Time:
February 20, 2007 at 2:30 PM

Proposal Number: 264-07

Location of Proposal Opening:
Texas Association of School Boards
Cooperative Purchasing Department
12007 Research Blvd.
Austin, TX 78759

Board Meeting Date: April, 2007

Contract Time Period: June 1, 2007 through
May 31, 2008 with two possible one-year extensions

The undersigned authorized representative of the proposing company indicated below hereby acknowledges:

1. That he/she is authorized to enter into contractual relationships on behalf of the proposing company indicated below, and
2. That he/she has carefully examined this Proposal Notice, the accompanying Proposal Forms (whether in printed or electronic form), and the General Terms and Conditions and Item Specifications associated with this Proposal Invitation, and acknowledges the right of the Cooperative to maintain facsimile signatures as originals, and
3. That he/she proposes to supply any products or services submitted under this Proposal Invitation at the prices quoted and in strict compliance with the General Terms and Conditions, and Item Specifications associated with this Proposal Invitation, unless any exceptions are noted in writing with this proposal response, and
4. That if any part of this proposal is accepted, he/she will furnish all products or services awarded under this proposal at the prices quoted and in strict compliance with the General Terms and Conditions, and Item Specifications associated with this Proposal Invitation, unless any exceptions are noted in writing with this proposal response, and
5. That any and all exceptions to the General Terms or Conditions of this proposal have been noted in writing in this proposal response, and that no other exceptions to the General Terms or Conditions will be claimed, and
6. That if any part of this proposal is accepted, he/she will satisfy the requirements identified in this Proposal Invitation related to (1) the submission of product information in electronic form for inclusion on the electronic catalog(s), (2) conducting business with Cooperative members and eligible nonprofit entities electronically, and (3) payment of a service fee in the amount of 2% of the dollar amount of purchase orders generated from any contract awarded under this Proposal Invitation.
7. It is the intent of the Cooperative to allow member entities to seek quotes through the Buyboard from awarded vendors to achieve quantity discounts.
8. Pricing is guaranteed to be the best offered by the vendor to similar customers.

G4K Services
Name of Proposing Company
603 AIRLINE DRIVE
Address
COPPELL, TX 75019
City, State, Zip
972-393-1764
Telephone Number of Authorized Company Official
972-956-9815
Fax Number of Authorized Company Official

2-16-07
Date
Delford Johnene
Signature of Authorized Company Official
DELFO RD JOHNNENE
Printed Name of Authorized Company Official
SENIOR SALES Representative
Position or Title of Authorized Company Official
41-1670526
Federal ID Number

RETURN THIS DOCUMENT (Forms A - K) IN SEALED PROPOSAL PACKAGE

Form A



VENDOR PURCHASE ORDER, RFQ, AND INVOICE RECEIPT OPTIONS

To help us ensure you receive orders from cooperative members in a timely manner, please indicate below the method of order transmission that you would prefer. Please complete this form and return it with your Invitation to Proposal. Orders will be available through one of two options:

Option 1: **Internet.** Vendors will need to have Internet access available to them and preferable an e-mail addresses so that notification of new orders can be sent to the Internet contact when a new purchase order arrives. An information guide will be provided to those vendors who choose this option to assist them with retrieving their orders.

Option 2: **Fax.** Vendors will need to have a designated fax line available at all times to receive purchase orders.

Company: G+K SERVICES Contact Name: DELORD JOHNNENE

Please choose only one of the following options for receipt of purchase orders:

☒ I plan to use the Internet to retrieve purchase orders.

E-mail Address: djohnnene@gkservices.com

Internet Contact: Delford Johnnene Phone: 972-393-1764

Alternate E-mail Address: rotto@gkservices.com

Alternate Internet Contact: Rolanda Otto Phone: 972-393-1764

☐ I plan to receive purchase orders via fax.

Fax Number: _____

Fax Contact: _____ Phone: _____

Please indicate the e-mail address for receipt of RFQ (Request for Quotes):

E-mail Address: rotto@gkservices.com

Alternate E-mail Address: djohnnene@gkservices.com

Please indicate the address and contact for receipt of invoices:

As part of any contract arising from this proposal, your company will be billed the two per cent (2%) service fee monthly. Please provide the following information regarding receipt of invoices that will be sent to your company for the fee:

Mailing address: 603 AIRLINE DRIVE Department: Sales

City: Coppell State: TX Zip Code: 75019

Contact Name: Delford Johnnene Phone: 972-393-1764

Fax: 972-956-9815 Email Address: djohnnene@gkservices.com



FELONY CONVICTION DISCLOSURE STATEMENT

State of Texas Legislative Senate Bill No. 1, Section 44.034, Notification of Criminal History, Subsection (1), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. A notice must include a general description of the conduct resulting in the conviction of a felony.

Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

- ☒ My firm is a publicly-held corporation; therefore, this reporting requirement is not applicable.
- ☐ My firm is not owned or operated by anyone who has been convicted of a felony.
- ☐ My firm is owned or operated by the following individual(s) who has/have been convicted of a felony:
1. _____
 2. _____
 3. _____

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony conviction has been reviewed by me and the following information furnished is true to the best of my knowledge.

G+K Services
Company Name

Delfino Johnson
Signature of Authorized Company Official



OUT OF STATE CERTIFICATION

As defined by Texas House Bill 602, a "nonresident proposer" means a proposer whose principal place of business is not in Texas, but excludes a contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

☒ I certify that my company is a "Resident Proposer":

G & K Services
Company Name

☐ I certify that my company qualifies as a "Nonresident Proposer"
(NOTE: You must furnish the following information:)

Indicate the following information for your "Resident State":
(The state your principal place of business is located in)

Company Name

Address

City

State

Zip Code

A. Does your "resident state" require proposers whose principal place of business is in Texas to underprice proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract? ("Resident State" means the state in which the principal place of business is located.)

☐ Yes
☐ No

B. What is the prescribed amount or percentage? \$ _____ or _____ %

By signature below, I certify that the above is true and correct and that I am authorized by my company to make such certifications.

G & K Services
Company Name

Delford Ashkanani
Signature of Authorized Company Official

Form D



HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION

Proposing companies that have been certified as Historically Underutilized Business (HUB) entities are encouraged to indicate their HUB status when responding to this Proposal Invitation. The electronic catalogs will indicate HUB certifications for vendors that properly indicate and document their HUB certification on this form.

☐ I certify that my company has been certified as a Historically Underutilized Business (HUB) in the following categories: (Please check all that apply)

☐ Minority Owned Business

☐ Small Business

☐ Women Owned Business

☒ My company has NOT been certified as a Historically Underutilized Business (HUB).

G & K Services
Company Name

Delfard Johnson
Signature of Authorized Company Official



DEVIATION & COMPLIANCE SIGNATURE FORM

If the undersigned proposer intends to deviate from the General Terms and Conditions or Item Specifications listed in this proposal invitation, all such deviations must be listed on this page, with complete and detailed conditions and information included or attached. The Cooperative will consider any deviations in its proposal award decisions, and the Cooperative reserves the right to accept or reject any proposal based upon any deviations indicated below or in any attachments or inclusions.

In the absence of any deviation entry on this form, the proposer assures the Cooperative of their full compliance with the General Terms and Conditions, Item Specifications, and all other information contained in this Proposal Invitation.

- ☒ No Deviations
☐ Yes Deviations

List any deviations your company is submitting below:

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Delivery Terms: ☒ FOB Destination (freight included in price) ☐ FOB Shipping Point (deviation to specs)
2. Shipping Via: ☐ Common Carrier ☒ Company Truck ☐ Other: _____
4. Payment Terms: ☒ Net 30 days ☐ 1% in 10/Net 30 days ☐ Other: _____
5. Number of Days for Delivery: _____ ARO 5 days per week
6. Vendor Reference/Quote Number: 264-07
7. State your return policy: Return of garments upon termination of service or user employment
8. Are electronic payments acceptable to your company: ☒ Yes ☐ No

G & K Services
Company Name

Delford Johnson
Signature of Authorized Company Official



CONTRACT & PRICE/DISCOUNT COMPARISON FORM

The Local Government Purchasing Cooperative strives to provide its members with the best services and products at the best prices available. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in this proposal with prices/discounts offered to other governmental customers. Please respond to the following questions.

1. Provide the dollar value of sales to government entities at or based on an established catalog or market price during the previous 12-month period or the last fiscal year: \$ _____. State beginning and ending of the 12 month period. ____/____. In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).
2. Based on your written discounting policies are the discounts which you offer the Cooperative equal to or better than your best price offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES ☒ NO ☐.
3. Based on your written discounting policies, provide information as requested for other governmental customers. The information should be provided in the chart below or in an equivalent format. Rows should be added to accommodate as many customers as required.

Purchasing Group	Discount	Quantity/Volume	FOB Term
1. Federal General Services Adm.			
2. TX Building & Procurement Comm.			
3. U.S. Communities Purchasing Alliance			
4. The Cooperative Purchasing Network			
5. Houston-Galveston Area Council			
6. Other:			
7. Other:			

☒ MY COMPANY DOES NOT CURRENTLY HAVE ANY OF THE ABOVE OR SIMILAR TYPE CONTRACTS.

By signature below, I certify that the above is true and correct and that I am authorized by my company to make such certifications.

G+K Services
Company Name

Delford Johnson
Signature of Authorized Company Official



REFERENCE & PRICE/DISCOUNT INFORMATION

PART I: For proposal response to be considered each vendor must supply a minimum of five (5) references, preferably governmental entities in Texas. Please fill out all of the following information including existing price/discounts offered to each customer. The Cooperative determines whether prices/discounts are fair and reasonable by comparing prices/discounts stated in this proposal with prices/discounts offered to other governmental customers.

Entity Name	Contact	Phone#	Discount	Quantity/ Volume	FOB Term
1.					
2.					
3.					
4.					
5.					

Attach sheet(s) as necessary *See attached sheet*

Do any deviations from your written policies or standard governmental sales practices disclosed in the above chart ever result in better discounts (lower prices) than indicated? YES ☐ NO ☒ If YES, explain deviations: _____

PART II: For proposal response to be considered each vendor must submit their marketing strategy if awarded this proposal or a portion thereof. (Example: how will your company inform the Buyboard membership of your company's contract with the Buyboard initially and how will your company continue to support the Buyboard for the duration of the contract period?) (Attach additional pages if necessary.)

G+K Services will contact all members of the Buy Board via phone and/or personal visit by sales representatives.

By signature below, I certify that the above is true and correct and that I am authorized by my company to make such certifications.

G+K Services

Company Name

Delford Johnson

Signature of Authorized Company Official

REFERENCES

SOME OF G & K'S SATISFIED CUSTOMERS THAT ARE ALSO BUY BOARD MEMBERS

We encourage you to talk with our current customers; here are the names and phone numbers of some of our references:

City of Fort Worth

Bob Hicks
2012 15th Ave
Fort Worth, Texas 76102
817-988-9488

City of Denton

Tom Shaw
601 E Hickory St
Denton, TX 76205
940-349-7100

City of Sherman

Mary Ann Winkler
100 S. Rusk St.
Sherman, TX 75090
903-892-7215

City of Euless

Mike Lowry
1100 Central Dr
Euless, TX 76039
817-685-1447

City of Gainesville

Bill Holmberg
200 S Rusk St Ste A
Gainesville, TX 76240
940- 688-4529

City of Frisco

Jean Stelatella
6891 Main St.
Frisco, TX 75034
972-335-1695

REFERENCES

SOME OF G & K'S SATISFIED CUSTOMERS THAT ARE ALSO BUY BOARD MEMBERS

We encourage you to talk with our current customers; here are the names and phone numbers of some of our references:

Crandall Independent School District

*Alan Lovell
Maintenance and Transportation Director
300 Lewis St
Crandall, TX 75114
972-571-0164 (Cell)*

Denton Independent School District

*Robin Wantland
Director of Child Nutrition
230 N. Mayhill
Denton, TX 76208
940-369-0200*

Collin County Community College

*Debra Morris
Asst. Director Of Purchasing
4800 Preston Park Blvd.
PO Box 869005, Ste A460
Plano, TX 75086
972-758-3852*

Kauffman Independent School District

*Garland Willis
Director of Maintenance and Custodial Services
1000 S. Houston Street
Kaufman, TX 75142
972-932-2622*

Duncanville Independent School District

*Richard Morgan
Director of Purchasing
315 Crankshaft Drive
Duncanville, Texas 75116
972-708-2272*



12007 Research Boulevard, Austin, Texas 78759-2439
Phone: 800-695-2919 Fax: 800-211-5454

1. Forms Checklist

- ☒ Completed - Notice Proposal Invitation - Form A
- ☒ Completed - Vendor Purchase Order, RFQ, and Invoice Receipt Options - Form B
- ☒ Completed - Felony Convictions Disclosure Statement - Form C
- ☒ Completed - Out of State Certification Page - Form D
- ☒ Completed - Historically Underutilized Business (HUB) - Form E
- ☒ Completed - Deviations/Compliance Signature Page - Form F
- ☒ Completed - Dealerships Listing - Form G
- ☒ Completed - Regional Service Area Designation - Form H
- ☒ Completed - State Service Designation - Form I
- ☒ Completed - Contract and Price/Discount Comparison Form - Form J
- ☒ Completed - Reference & Price/Discount Information - Form K
- ☒ Completed - Proposal Forms and Catalogs/Pricelists

Form L

Performance and Work Related Uniforms and Accessories for Various Areas (Purchase and Rental) -- Proposal #264-07
Catalog/Pricelist must be included with proposal

Item No.	Short Description	Full Description	State Catalog Name	State Discount From Catalog/Pricelist	Deviations or Exceptions from Discount
		NOTE: The following items are divided into three sections: <u>Section I</u> is for Performance Related Uniforms (purchase), <u>Section II</u> is for Work Related Uniforms (purchase) and <u>Section III</u> is for Work Related Uniforms and Industrial Products (rental)			
		SECTION I: PERFORMANCE RELATED UNIFORMS (PURCHASE)			
1	Band Uniforms	Band Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
2	Flag Corps Uniforms	Flag Corps Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
3	Formal Wear	Formal Wear for Choir, Bands and Orchestra (Dresses, tuxedos, jackets, pants, etc.) and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
4	Cheerleading Uniforms	Cheerleading Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/

Performance and Work Related Uniforms and Accessories for Various Areas (Purchase and Rental) -- Proposal #264-07
Catalog/Pricelist must be included with proposal

Item No.	Short Description	Full Description	State Catalog Name	State Discount From Catalog/Pricelist	Deviations or Exceptions from Discount
5	Drill Team Uniforms	Drill Team Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
6	Dance Wear	Dance Wear and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
7	Show Choir Wear	Show Choir Wear and related supplies and accessories -- Please state your discount off catalog/pricelist	/	/	/
8	All Other Performance Related Uniforms	All Other Performance Related Uniforms and related supplies and accessories not listed above - Please state your discount off catalog/pricelist	/	/	/
		SECTION II: WORK RELATED UNIFORMS (PURCHASE)			
9	Purchase of Public Safety (police, fire, EMS, etc.) Uniforms	Purchase of Public Safety (police, fire, EMS, security etc.) Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	G&K Teamwear	15%	none
10	Purchase of Custodial & Maintenance Uniforms	Purchase of Custodial & Maintenance Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	G&K Teamwear	15%	none

Performance and Work Related Uniforms and Accessories for Various Areas (Purchase and Rental) -- Proposal #264-07
Catalog/Pricelist must be included with proposal

Item No.	Short Description	Full Description	State Catalog Name	State Discount From Catalog/Pricelist	Deviations or Exceptions from Discount
11	Purchase of Food Service Uniforms	Purchase of Food Service Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	G+K Teamwear	15%	—
12	Purchase of Medical & Nursing Uniforms	Purchase of Medical & Nursing Uniforms -- Please state your discount off catalog/pricelist	G+K Teamwear	15%	—
13	Purchase of Business Uniforms & Accessories (Career Apparel)	Purchase of Business Uniforms & Accessories (Career Apparel) -- Please state your discount off catalog/pricelist	G+K Teamwear	15%	—
14	Purchase of All Other Work Related Uniforms	Purchase of All Other Work Related Uniforms and related supplies and accessories not listed above -- Please state your discount off catalog/pricelist	G+K Teamwear	15%	—
		SECTION III: WORK RELATED UNIFORMS & OTHER INDUSTRIAL PRODUCTS (RENTAL)			
15	Rental of Public Safety (police, fire, EMS, etc.) Uniforms	Rental of Public Safety (police, fire, EMS, security etc.) Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	See attached		

Performance and Work Related Uniforms and Accessories for Various Areas (Purchase and Rental) -- Proposal #264-07
Catalog/Pricelist must be included with proposal

Item No.	Short Description	Full Description	State Catalog Name	State Discount From Catalog/Pricelist	Deviations or Exceptions from Discount
16	Rental of Custodial & Maintenance Uniforms	Rental of Custodial and Maintenance Uniforms and related supplies and accessories - Please state your discount off catalog/pricelist	<i>see attached</i>		
17	Rental of Food Service Uniforms	Rental of Food Service Uniforms and related supplies and accessories -- Please state your discount off catalog/pricelist	<i>see attached</i>		
18	Rental of Medical & Nursing Uniforms	Rental of Medical & Nursing Uniforms -- Please state your discount off catalog/pricelist	<i>see attached</i>		
19	Rental of Business Uniforms & Accessories (Career Apparel)	Rental of Business Uniforms & Accessories (Career Apparel) -- Please state your discount off catalog/pricelist	<i>see attached</i>		
20	Rental of All Other Work Related Uniforms	Rental of All Other Work Related Uniforms and related supplies and accessories not listed above - Please state your discount off catalog/pricelist	<i>see attached</i>		
21	Rental of Industrial Towels	Rental of Industrial Towels -- Please state your discount off catalog/pricelist	<i>see attached</i>		
22	Rental of Industrial Mats	Rental of Industrial Mats -- Please state your discount off catalog/pricelist	<i>see attached</i>		

Performance and Work Related Uniforms and Accessories for Various Areas (Purchase and Rental) -- Proposal #264-07
 Catalog/Pricelist must be included with proposal

Item No.	Short Description	Full Description	State Catalog Name	State Discount From Catalog/Pricelist	Deviations or Exceptions from Discount
23	Industrial Mop Service	Industrial Mop Service -- Please state your discount off catalog/pricelist	<i>see attached</i>		
24	Rental of All Other Industrial Related Products	Rental of All Other Industrial Related Products -- Please state your discount off catalog/pricelist	<i>see attached</i>		

RENTAL PROGRAM PRICING

RENTAL PRICING INCLUDES PICK-UP, WASHING GARMENTS, CLEANING FACILITY ITEMS, DELIVERY, REPAIRS AND UPGRADES.

Product Description	*Weekly Price
Uniforms	*Weekly price based on 11 sets with 5 changes per week.
Men's or Women's 65/35 Shirts	\$1.80
Men's or Women's 65/35 Pants	\$1.95
Men's or Women's Executive Shirts	\$3.25
Men's or Women's Executive Pants	\$3.25
100% Cotton Shirts	\$3.10
100% Cotton Pants	\$3.10
Micro check Shirts	\$2.25
Chambray Shirts	\$2.25
Standard Polo Shirts	\$3.25 (not available in long sleeves)
Exceed Polo Shirts 100% Poly	\$4.25 (not available in long sleeves)
Exceed T-Shirts 100% Poly	\$2.10 (not available in long sleeves)
Big Ben Denim Shirt	\$3.90 (not available in short sleeves)
Denim Shirts	\$3.15
GK Jeans	\$2.70
65/35 Lined Work Jackets	\$0.50

Wrangler Jeans	\$5.25	
Shorts	\$1.95	(Year around, no seasonal price)
Scrub Top	\$2.00	
Scrub Pants	\$2.00	
Smocks	\$1.95	
Additional Garment Items	Unit Price	Weekly Price
65/35 Coveralls	\$0.82	\$4.10
100% Cotton Coveralls	\$1.00	\$5.00
Big Ben Overalls, 100% Ctn Denim	\$1.00	\$5.00
Lab Coats (Men's or Ladies)	\$0.65	\$3.25
Wrap Around Smock	\$0.55	\$2.75
Bib Aprons	\$0.25	-----
Cobbler Aprons	\$0.50	-----
Security Shirts	\$0.85	\$4.25
Visibility Shirt 65/35 (Gray w/orange)	\$0.60	\$3.00
High Visibility Shirts 100% poly-Yellow	\$1.50	\$7.50
ANSI T-Shirt (not available in long sleeves)	\$1.00	\$5.00
ANSI Vest	\$1.30	\$6.50
Indura Shirts (not available in short sleeves)	\$0.85	\$4.25
Indura Pants	\$0.85	\$4.25
Indura Jeans	\$1.00	\$5.00



Our company G&K has been in business since 1902, we are the third largest uniform supplier and we currently service the United States and Canada.

G&K Services was initially awarded the Buy Board bid for Uniforms & Accessories (#199-04) in June of 2004. As of June 1, 2007, G&K Services was awarded bid #264-07 for Uniforms & Accessories for Various Areas.

G&K Services is also a member of Region 7 purchasing as well as GSA.

G&K Services currently services many schools, counties, cities, colleges, and other government agencies. References will be provided upon request. We look forward to doing business and service all your needs.

If you have any questions or concerns, please contact me at 817-992-0149.

Sincerely,

A handwritten signature in blue ink that reads "Delford Johnene".

Delford Johnene
Senior Sales Representative
Buy Board Vendor
G&K Services

G&K Services
603 Airline Drive
Coppell, Texas 75019

(972) 393-1764 Office
(972) 956-9815 Fax



- ✓ Rental Agreement term, 36 months. On June 1st of each year, prices will be increased by 2%.
- ✓ All garments will have the steam tunnel finish, with the exception of the Executive Shirts & Executive Pants, they are pressed.
- ✓ Shirts are available in long or short sleeves (unless noted), both at the same price.
- ✓ Customers can choose to have any or all garments pressed, there will be an additional cost of \$0.25 per garment.
- ✓ There will be a design fee to create a Direct Embroidery logo.
- ✓ Direct embroidery per garment = \$6.00
- ✓ There will be a Buy Back charge for all garments with Direct Embroidery and there will be a Buy Back on Executive Shirts & Knit Shirts with emblems, at the current garment replacement cost.
- ✓ Minimum Stop \$35.00
- ✓ No charge for Prep, Emblems, or name tags.
- ✓ No charge for Environmental, waste water or energy charge (additional service charge)
- ✓ 10% up charge on Oversized garments:
 - Shirts**
 - Size 2XL to 5XL
 - (Shirts 6XL and over will have an up charge of 35%)*
 - Sleeve length 36 & over
 - Long tails
 - Pants**
 - Men's waist size 44 to 58
 - Men's lengths 36 and above
 - (Pants with a waist size of 60 & over will have an up charge of 35%)*
 - Ladies size 22 to 32
 - (Ladies Pants from 32 and over will have an up charge of 35%)*

Customer Acceptance Signature: _____
Date: _____

STATE OF TEXAS	§	
	§	AGREEMENT FOR RENTAL OF WORK
COUNTY OF COLLIN	§	UNIFORMS

This agreement ("Agreement") is made by and between the City of Allen, Texas ("City") and G&K Services ("Company") acting by and through their authorized officers and representatives.

RECITALS:

WHEREAS, the City desires to award a contract for rental of work uniforms; and

WHEREAS, the City is a member of the Texas Local Government Purchasing Cooperative; and

WHEREAS, the Company has been awarded the proposal for Uniform and Accessories #264-07 by the Cooperative (the "Cooperative"); and

WHEREAS, the City in compliance with Chapter 271.001 TEX. LOC. GOV'T CODE has satisfied state law requiring the City to competitively bid for the purchase of goods and services by purchasing such goods and services through the Cooperative; and

WHEREAS, the Company desires to provide the City with uniform services as specified in Company's proposal submitted to the Cooperative attached hereto as Exhibit A (the "Specifications") and in conformance with the specifications provided in this Agreement; and

NOW, THEREFORE, in consideration of the foregoing and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. **Term**. The term of this Agreement shall begin on the last date of execution hereof (the "Effective Date") and shall be for a period of two (2) years, but may be renewed for three (3) additional terms of one (1) year each at the option of the City, by providing Company written notice thereof thirty (30) days prior to the expiration of the then current term.

2. **Rental of Goods and Materials**. Company hereby agrees to rent, and City hereby agrees to purchase from Company, the goods and materials (collectively the "Materials") in accordance with the Specifications, and in an annual amount not to exceed \$65,000.

3. **Delivery**. Unless otherwise provided in the Bid Specifications, the Company agrees to be solely responsible for the delivery of the Materials to City, and agrees to pay City any cost and expense incurred by City in connection with the same, or if requested by Company, City shall at Company's expense provide for the delivery of the materials to City at such time and place as the parties may mutually agree.

4. **Termination**. This Agreement terminates upon the following:

- (a) by mutual written agreement of the parties;
- (b) by City, if Company defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the City;
- (c) by City, upon thirty (30) days prior to written notice to Company;
- (d) by City, if Company suffers an Event of Bankruptcy or Insolvency; or “Event of Bankruptcy” shall mean the dissolution or termination (other than a dissolution or termination by reason of Company merging with an affiliate of Company) of Company’s existence as a going business, insolvency, appointment of receiver for any part of Company’s property and such appointment is not terminated within ninety (90) business days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Company and in the event such proceeding is not voluntarily commenced by the Company, such proceeding is not dismissed within ninety (90) business days after the filing thereof.
- (e) by City, if City fails to budget and appropriate funds for payment of the obligations hereunder for the then ensuing fiscal year.

5. **Inspection**. City shall have five (5) business days after delivery of the Materials to inspect the materials, and unless Company is notified in writing to the contrary within that period, it shall be presumed that City has fully inspected and accepted the materials.

6. **Warranty**. Company shall not limit or exclude any implied warranties and any attempt to do so shall render this Agreement void at the option of the City. No such attempts to limit, disclaim or exclude any warranties, whether of fitness, merchantability or otherwise, by Company shall be binding or effective. Company warrants and represents that the Materials furnished will conform to the Specifications.

7. **Indemnification**. Company shall release, defend, indemnify and hold harmless City and its officers, agents and employees from and against all damages, injuries (including death), claims, property damages, (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney’s fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused by the negligent act or omission of Company, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Company is legally responsible (hereinafter “Claims”). Company is expressly required to defend City against all such Claims.

7.1 In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Company in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Company's obligation to defend City or as a waiver of Company's obligation to indemnify City pursuant to this Contract. Company shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If Company fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all costs incurred by City.

8. **Risk of Loss.** The risk of loss of the Materials shall not pass to the City until the City receives and takes possession of the Materials.

MISCELLANEOUS

9. **Severability.** In the event any section, subsection paragraph, sentence, phrase, or word herein is held invalid, illegal, or unconstitutional, the balance of this Agreement shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

10. **Assignment.** The Company may not assign this Agreement without the prior written consent of City. In the event of an assignment by the Company to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

11. **Entire Agreement.** This Agreement represents the entire agreement among the parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

12. **Amendments.** This Agreement may only be amended by the mutual written agreement of the parties or their authorized agents.

13. **Successors and Assigns.** Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

14. **Independent Contractor.** It is understood and agreed by and between the parties that the Company in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All Materials to be delivered by Company pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent, or employee of the City.

15. **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery or facsimile transmission addressed to the respective party at the address set forth opposite the signature of the party.

16. **Governing Law.** The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas.

17. **Exhibits.** All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the Agreement and may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

18. **Recitals.** The recitals to this Agreement are incorporated herein.

19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

20. **Conflict.** In the event of a conflict between the Bid Specifications and the Bid Response, the Bid Specifications shall control. In the event of a conflict between this Agreement and the Bid Specifications, this Agreement shall control.

EXECUTED this _____ day of _____, 2008.

CITY OF ALLEN

By: _____
PETER H. VARGAS, CITY MANAGER

Allen Civic Plaza
305 Century Parkway
Allen, Texas 75013

ATTEST

SHELLEY B. GEORGE, CITY SECRETARY

EXECUTED this _____ day of _____, 2008.

G&K SERVICES

By: _____
Signature - *Authorized Officer*

Title: _____

Date: _____

EXHIBIT A
SPECIFICATIONS

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Multi year contract for Lease of Golf Course Maintenance Equipment for Chase Oaks Golf Course (Bid No. 2009-10-17)

STAFF RESOURCE: Tim Dentler, Director of Parks and Recreation
Debra Morris, CPPO, Purchasing Manager

ACTION PROPOSED: Authorize the City Manager to enter into a multi-year lease for various golf course maintenance equipment for Chase Oaks Golf Course.

BACKGROUND

In the FY 2008-2009 budget, the Chase Oaks Golf Course has an established budget for the lease of golf course maintenance equipment. As you may recall, the City of Allen assumed the existing leases for all of the equipment when the purchase and sale agreement was executed. The equipment referenced in the attachment went off lease in 2007 and 2008 and is now owned by the City. The new lease reflects the replacement, with trade in, of select pieces of the owned equipment along with some additions to the equipment fleet. Equipment not being traded in will continue to be used on the course or used for parts for maintaining the rest of the fleet. All of the equipment, with the exception of the John Deere 5225 tractor, is on a 48 month lease term. The John Deere 5225 tractor is on a 60 month lease term due to the durability of this type of equipment.

STAFF RECOMMENDATION

Authorize the City Manager to enter into a multi-year lease of various golf and turf equipment through the TXMAS authorized vendor Austin Turf and Tractor for an amount not to exceed \$225,419.76.

BUDGETARY IMPACT

The funding amount of \$225,419.76 will come from the Golf Course Fund. The 48 month lease agreement will have annual payments of \$51,522.24. The 60 month lease term will have annual payments of \$3,866.16. The funds for this agreement have been budgeted in the

FY 2009 Budget.

MOTION

I make a motion to authorize the City Manager to execute a multi-year contract for the lease of golf course maintenance equipment for Chase Oaks Golf Course through the Texas Multiple Award Schedule Purchasing Cooperative authorized vendor, Austin Turf and Tractor, for an amount not to exceed \$225,419.76.

ATTACHMENT

Chase Oaks Golf Course Lease Equipment Quote

**AUSTIN TURF and
TRACTOR**

QUOTATION

Chase Oaks Golf Club

Allen, TX

Attention Brad Boroughs

Dear Brad,

Thank you for your interest in John Deere Equipment and turf management products from Austin Turf & Tractor. The prices quoted include set-up, service & delivery. Prices quoted are guaranteed firm for 30 days. All applicable sales taxes must be added to the prices shown. All John Deere Equipment Based on the TEXMAS Governmental Pricing.

Quantity	Description	Price	Extension
2	John Deere 2500 Diesel Greens Mower, Eleven Blade Reels, Grooved Front Roller, Smooth Turf Tires, Service Kit, 19.9 H.P. Engine, Tilt Power Steering.	\$24,529.22	\$49,058.44
1	John Deere 2500 Diesel Greens Mower, Eleven Blade Reels, Grooved Front Roller, Smooth Turf Tires, Service Kit, 19.9 H.P. Engine, Tilt Power Steering, Power Rear Brush with Drive	\$27,713.57	\$27,713.57
2	2500 Greens Mower Trade In's	(\$1,500.00)	(\$3,000.00)
1	2243 Greens Mower	(\$500.00)	(\$500.00)
TOTAL PACKAGE PRICE			\$73,272.01
36 Month Muni Lease with Monthly Payments of \$ 2183.50			
48 Month Muni Lease with Monthly Payments of \$ 1677.93			
1	John Deere 800 Aercore Walkbehind Greens Aerifier, Standard Tine Kit	\$13,159.74	\$13,159.74
1	John Deere 800 Aerifiers Trade In	(\$3,000.00)	(\$3,000.00)
TOTAL PACKAGE PRICE			\$10,159.74
36 Month Muni Lease with Monthly Payments of \$ 302.76			
48 Month Muni Lease with Monthly Payments of \$ 232.66			
2	John Deere 7500 Fairway Unit, 38.5 H.P. Diesel Engine, Standard 7 Blade Reels, Machine Grooved Rollers, Training Kit, On Board Backlapping, Canopy	\$34,583.09	\$69,166.18

AUSTIN TURF and
TRACTOR

QUOTATION

1	Trade Ins 3225C	(\$1,500.00)	(\$1,500.00)
1	Trade In John Deere 3365 Reel Mower	(\$500.00)	(\$500.00)
	TOTAL PACKAGE PRICE		\$67,166.18
	36 Month Muni Lease with Monthly Payments of \$ 2001.55		
	48 Month Muni Lease with Monthly Payments of \$ 1538.10		
1	John Deere 5225 Tractor, Synch Shuttle Transmission, 55 H.P. Gross, Mid and Rear Dual Hydraulics, Turf Tires, Open Working Station.	\$17,229.23	\$17,229.23
	TOTAL PACKAGE PRICE		\$17,229.23
	36 Month Muni Lease with Monthly Payments of \$ 513.43		
	48 Month Muni Lease with Monthly Payments of \$ 394.54		
	60 Month Muni Lease with Monthly Payments of \$ 322.18		
1	John Deere 22B Walking Greens Mower Trailer	\$1,181.05	\$1,181.05
	TOTAL PACKAGE PRICE		\$1,181.05
	36 Month Muni Lease with Monthly Payments of \$ 35.19		
	48 Month Muni Lease with Monthly Payments of \$ 27.04		
1	John Deere Turf Gators, 13 H.P., Manual Dump Bed, Hydraulic Disk Brakes, Starter Generator.	\$6,361.75	\$6,361.75
	TOTAL PACKAGE PRICE		\$6,361.75
	36 Month Muni Lease with Monthly Payments of \$ 195.18		
	48 Month Muni Lease with Monthly Payments of \$ 151.34		
1	John Deere CX Turf Gator, Manual Dump Bed, Turf Tires, Canopy and Windshield, 25 Gallon Sprayer	\$5,011.82	\$5,011.82
	TOTAL PACKAGE PRICE		\$5,011.82
	36 Month Muni Lease with Monthly Payments of \$ 149.35		
	48 Month Muni Lease with Monthly Payments of \$ 114.77		

AUSTIN TURF and
TRACTOR

QUOTATION

2	Buffalo Blower Trailer Mount, 360" Nozzle Rotation, Wireless Control,	\$6,500.00	\$13,000.00
TOTAL PACKAGE PRICE			\$13,000.00
36 Month Muni Lease with Monthly Payments of \$ 387.40			
48 Month Muni Lease with Monthly Payments of \$ 297.70			
1	Broyhill Accuspeed Walk Boom, 6ft Coverage	\$988.00	\$988.00
36 Month Muni Lease with Monthly Payments of \$ 29.44			
48 Month Muni Lease with Monthly Payments of \$ 22.63			
1	GL-9 2 Post Golf Lift, Installed Includes Taking Old One Out and Putting New One In	\$5,395.00	\$5,395.00
1	Trade in 4 Post Golf Lift	(\$2,000.00)	(\$2,000.00)
TOTAL PACKAGE PRICE			\$3,395.00
36 Month Muni Lease with Monthly Payments of \$ 101.17			
48 Month Muni Lease with Monthly Payments of \$ 77.74			
1	FA-720 Agrametal Pull Behind Aerifier, 72" Width, Coring Tines, Hydraulic Lift	\$6,708.10	\$6,708.10
36 Month Muni Lease with Monthly Payments of \$ 199.90			
48 Month Muni Lease with Monthly Payments of \$ 153.61			

Sincerely Yours For Quality Turf,
Sean Terry
Austin Turf & Tractor
Dallas Account Manager
Cell Ph.# 469-939-3994

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: 2009 Allen USA Celebration Entertainment Contract

STAFF RESOURCE: Lori Smeby, Assistant Director of Parks and Recreation

ACTION PROPOSED: Approval of Contract

BACKGROUND

The Parks and Recreation department is proposing to contract with Vertical Sports Group, LLC. for the purpose of providing entertainment at the 2009 Allen USA Celebration. The cost for one national headlining band and one/two local acts to provide evening entertainment is \$90,000 including all sound, lighting and production cost. It is anticipated that funds raised through sponsorship will offset the cost of entertainment. The event is scheduled for Saturday, June 27, 2009.

STAFF RECOMMENDATION

Approve a contract with Vertical Sports Group, LLC. to provide entertainment at the 2009 Allen USA Celebration in the amount of \$90,000.

BUDGETARY IMPACT

The \$90,000 is allocated through the Parks and Recreation Departments Special Revenue Fund.

MOTION

I make a motion to authorize the City manager to execute a contract with Vertical Sports Group, LLC. for \$90,000 to provide entertainment for the 2009 Allen USA Celebration.

ATTACHMENT

Contract

November 7, 2008

STATE OF TEXAS §
 § **PRODUCTION AGREEMENT**
COUNTY OF COLLIN §

This Agreement is by and between the City of Allen, Texas ("City") and **Vertical Sports Group LLC** ("VSG")

RECITALS

WHEREAS, the City desires to engage VSG to provide entertainment production services for the City of Allen's 4th of July Celebration as set forth herein; and

WHEREAS, VSG desires to perform entertainment production services for the City as set forth herein;

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **General**. The City hereby engages the VSG to perform production services for *the City of Allen's 4th of July Celebration* hereinafter provided, upon all the terms and conditions hereinafter set forth.

1. Place of Engagement: **Celebration Park 701 Angel Parkway Allen, Texas 75013**

2. Type of Engagement: **Free Outdoor Concert**

3. Date of Engagement: **Saturday June 27, 2009**

4. Time of Performance: **Emerald City (or local Band tba) to perform from 6:30 p.m. - 8:00 p.m. and Smash Mouth to perform from 8:30 p.m. - 10:00 p.m. Fireworks will close the show.**

5. Load In: **Staging, Sound and Lighting will be a day or two prior to show. Backline will be day of show.**

6. Load Out: **Same day following fireworks.**

7. Length of Engagement: **Total of six hours from start to finish--4:00 p.m. - 10: 00 p.m.**

8. Full Compensation Agreed Upon: **\$90,000.00 (Ninety Thousand Dollars) inclusive of Smash Mouth, Emerald City (or local band tba), Staging, Stagehands, Sound (flown), 4 Delay Towers, Lights, Spotlights, Airline Tickets, Catering (Food), Ground Transportation, Dressing Rooms (Busses), and Backline.**

November 7, 2008

8. Special Provisions: a) **City will provide Security front of House, front of Stage, and Backstage, Power, Insurance Rider indemnifying Artists and VSG.**

1. Compensation.

(A) **\$56,500.00 (Fifty Six Thousand Five Hundred Dollars) deposit shall be paid by City to and in the name of Vertical Sports Group LLC due by November 21, 2008.**

(B) **\$33,500.00 (Thirty Three Thousand Five Hundred Dollars) shall be paid by City to Vertical Sports Group LLC by no later than June 12, 2009.**

2. **Family Venue.** VSG acknowledges that the venue is a “family oriented venue” and agrees not to use vulgar, obscene or profane language, or engage in any offensive, obscene or immoral conduct before, during and after the performance of the engagement.

3. **Contact Persons.** All contact between the parties will be directed to the persons designated below:

City Contact Person: **Anthony Hill**
City of Allen
305 Century Parkway
Allen, Texas 75013

Phone Number: **214-509-4712/fax214-509-4710**
E-mail: ahill@cityofallen.org

Artist Contact Person: **VSG LLC**
William Ekeroth
3030 Olive Street Suite 520
Dallas, TX 75219

Phone Number: **972-983-9920 office**
214-263-1440 cell
E-mail: william@verticalsportsgroup.com

4. **Inclement Weather.** In the event of an outdoor engagement, City assumes the responsibility to provide an alternate venue in case of inclement weather.

5. **Termination.** City of Allen may terminate this Agreement by providing thirty (30) days written notice thereof prior to the date of the engagement. In doing so the City will forfeit all deposits or payments that have been made.

November 7, 2008

6. **Performance Content.** Artist shall have the exclusive and sole control, creative and otherwise, over the means and methods employed by Artist in fulfilling the performance of the engagement herein.

MISCELLANEOUS

7. **Entire Agreement:** This Agreement represents the entire agreement among the parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

8. **Governing Law:** The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the parties shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas.

9. **Notice:** Any notice required or permitted to be delivered hereunder shall be deemed received when sent in the United States Mail, Postage Prepaid, Certified Mail, Return Receipt Requested, or by hand-delivery or facsimile transmission addressed to the respective party at the address set forth below the signature of the party

10. **Amendment:** This Agreement may be amended by the mutual written agreement of the parties.

EXECUTED this _____ day of _____, 2008.

VERTICAL SPORTS GROUPLLC

By: _____

Name: _____

Title: _____

EXECUTED this _____ day of _____, 2008.

CITY OF ALLEN, TEXAS

By: _____

Peter H. Vargas, City Manager

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Motion to Cancel the December 23, 2008, City Council Meeting

STAFF RESOURCE: Peter H. Vargas, City Manager

ACTION PROPOSED: Cancel the Meeting

BACKGROUND

Currently, there are no items scheduled for consideration on the Consent Agenda or the Regular Agenda for the December 23, 2008, City Council Meeting.

STAFF RECOMMENDATION

For this reason, Staff recommends canceling the December 23rd City Council Meeting. The next Council meeting after that is scheduled for January 13, 2009.

MOTION

I make a motion to cancel the December 23, 2008, City Council Meeting.

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Amendment to PD 58 Development Regulations for The Appleseed Project

STAFF RESOURCE: Ogden "Bo" Bass, AICP, Director of Planning & Development

PREVIOUS COUNCIL ACTION: This property was originally zoned PD Planned Development 58 in March 1996. City Council adopted a change in zoning in August 1998.

BOARD/COMMISSION ACTION: October 21, 2008, Planning and Zoning Commission held a public hearing and approval was recommended.

ACTION PROPOSED: Adopt an Ordinance.

BACKGROUND

The property is located at the northwest corner of Greenville Avenue and Exchange Parkway. The property to the north of the subject site is zoned SC Shopping Center, and R-7 Residential. The property to the west is zoned PD Planned Development No. 58 for MF Multi-Family. The property to the south, across Exchange Parkway, is zoned PD Planned Development No. 58 for CF Community Facilities. The property located to the east, across Greenville Avenue, is zoned SC Shopping Center, and R-7 Residential.

The Appleseed project is a mixed use building that contains retail lease space, office space and storage space. The primary purpose is to offer retail and office space for small and start-up businesses. Storage space is also a component of this project. The storage space is partially allocated to the retail and office businesses operating in the building, and part of the storage space would be leased to the public. The leasable storage space is less than 50% of the building area. In addition, no more than 45% of the storage space will be available for lease by the general public. Since the leasable storage space is only a portion of the building it would be considered an accessory use versus a primary use. Planned Development No. 58 (PD#58) zoning does not permit self-storage, therefore, the applicant's request is to amend PD#58 to allow self-storage as an accessory use. The storage space is placed wholly within the building with internal access only; therefore, no storage doors are located on the exterior of the building.

A concept plan has also been provided for consideration. The Appleseed project building and site improvements are located on the corner lot with a bank proposed immediately to the west on Exchange. These are the only two projects under consideration at this time. The rest of the tract is planned for additional retail uses although specific users have not been identified. The Appleseed building has been located 300 feet from land owned by the Allen Independent School District (AISD) across Exchange to permit businesses that may want to sell alcohol the opportunity to do so. The Allen Land Development Code (ALDC) distance requirement of 300' is measured from the property line of school owned land to the leasehold line of a lease space desiring to sell alcohol. The applicant has requested that this submittal also be considered as the General Development Plan. The submittal meets all the requirements for a GDP.

STAFF RECOMMENDATION

Staff concurs with the recommendation of the Planning & Zoning Commission.

MOTION

I make a motion to adopt Ordinance No. _____ granting a zoning amendment to Tract 5 of PD Planned Development No. 58, located at the northwest corner of Greenville Avenue and Exchange Parkway, to amend the development regulations to permit self storage as an accessory use and to adopt a concept plan.

ATTACHMENT

Concept Plan
Building Elevations 1
Building Elevations 2
Concept Rendering
Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING COMPREHENSIVE ZONING AND MAP AS PREVIOUSLY AMENDED BY AMENDING PLANNED DEVELOPMENT NO. 58, ORDINANCE NO. 1409-3-96 AS HERETOFORE AMENDED BY ALLOWING SELF STORAGE AS AN ACCESSORY USE FOR A PORTION OF TRACT 5 OF PLANNED DEVELOPMENT DISTRICT NO. 58 ON 14 ACRES OF LAND LOCATED IN THE HENRY WETSEL SURVEY, ABSTRACT NO. 1026, CITY OF ALLEN, COLLIN COUNTY, TEXAS, AND BEING FURTHER DESCRIBED IN EXHIBIT “A”; PROVIDING FOR DEVELOPMENT REGULATIONS; PROVIDING FOR A CONCEPT PLAN ATTACHED AS EXHIBIT “B”; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, in compliance with the laws of the State of Texas and the ordinances of the City of Allen, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all the property owners generally and to all persons interested and situated in the affected area, and in the vicinity thereof, and in the exercise of its legislative discretion, have concluded that the Allen Land Development Code and Zoning Map as previously amended so be be amended as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Allen Land Development Code Zoning Regulations and Zoning Map, as previously amended, be and the same is hereby amended by amending Planned Development No. 58, Ordinance No. 1409-3-96, as heretofore amended to allow self storage as an accessory use for a portion of Tract 5 of Planned Development District No. 58 on 14 acres of land located in the Henry Wetsel Survey, Abstract No. 1026, City of Allen, Collin County, Texas, and being further described in Exhibit “A,” attached hereto and incorporated herein for all purposes.

SECTION 2. The above property shall be developed and used only in accordance with the following development conditions:

- A. The property shall be developed and used only in accordance with the Concept Plan attached hereto as Exhibit “B,” and the Building Elevations attached hereto as Exhibit “C,” and which are hereby approved.
- B. Base Zoning District: The property shall be developed and used only in accordance with the “SC” Shopping Center District zoning regulations, except as otherwise provided herein:
 - 1. Permitted Uses: The use of this property shall be limited to all uses permitted in the SC District. In addition to those permitted uses, self storage shall be permitted as an accessory use subject to the following conditions:
 - i. The net rentable storage square footage will not exceed 50% of the total building square footage.
 - ii. A minimum of 55% of the new rentable square footage will be business storage.

- iii. The following items are prohibited in the self storage facility:
1. any living creature or organism, or any dead animal or other carcass
 2. gasoline, oil, fuel, grease, anti-freeze or flammable chemicals
 3. explosives, fireworks or ammunition
 4. corrosive, toxic, poisonous, or hazardous materials or waste
 5. asbestos or asbestos-containing construction materials
 6. lawn debris (grass clippings, brush, etc.)
 7. construction debris, tires, oil or batteries, whether new or used
 8. items having a noxious smell in Lessor's sole judgment
 9. marijuana and/or controlled substances; operating phones
 10. prohibited weapons under the Texas Penal Code
 11. stolen property, and items illegal for self storage under any law
 12. anything with a fuel tank (vehicles, boats, motorcycles, mowers, etc.)
 13. gasoline cans or similar containers for combustible fuel
 14. liquid propane tanks, oxygen tanks or similar containers
 15. food product storage (used by non-tenants), fertilizers, pesticides, or items which are wet and could mildew
 16. space used for lodging, sleeping, cooking or consumption of alcoholic beverages
 17. garage sale, flea market sales from space
 18. any use that violates zoning, fire or criminal codes or other laws

SECTION 3. The the above property shall be used only in the manner and for the purposes provided for in the Allen Land Development Code Zoning Regulations of the City of Allen, Texas as heretofore amended, and as amended herein.

SECTION 4. All ordinances of the City of Allen in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect, provided however Planned Development No. 58 shall continue in full force and effect except as heretofore amended and as amended herein.

SECTION 5. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Allen Land Development Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Allen Land Development Code, as amended hereby, which shall remain in full force and effect.

SECTION 6. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Allen Land Development Code, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 7. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in Allen Land Development Code of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 8. This ordinance shall take effect immediately from and after its passage and publication of the caption as the law and charter in such cases provide and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 11TH DAY OF NOVEMBER, 2008.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY

Shelley B. George, TRMC, CITY SECRETARY

Exhibit "A"

LEGAL DESCRIPTION

TRACT 5

Being a tract of land situated in the Henry Wetsel Survey, Abstract No. 1026 Collin County, Texas and being more particularly described as follows;

BEGINNING at the intersection of the westerly right-of-way line of State Highway No. 5 and the northerly right-of-way line of Exchange Parkway;

THENCE departing the westerly right-of-way line of said State Highway No. 5 and along the northerly right-of-way line of Exchange Parkway as follows;

South 66°05'03" West a distance of 39.43 feet to a point;

North 71°32'37" West distance of 650.00 feet to a point for corner;

THENCE departing the north right-of-way line of Exchange Parkway North 23°35'29" East a distance of 870.00 feet to a point for corner;

THENCE South 79°43'39" East a distance of 590.00 feet to a point for corner;

THENCE South 10°16'21" West a distance of 50.00 feet to a "T" bar found;

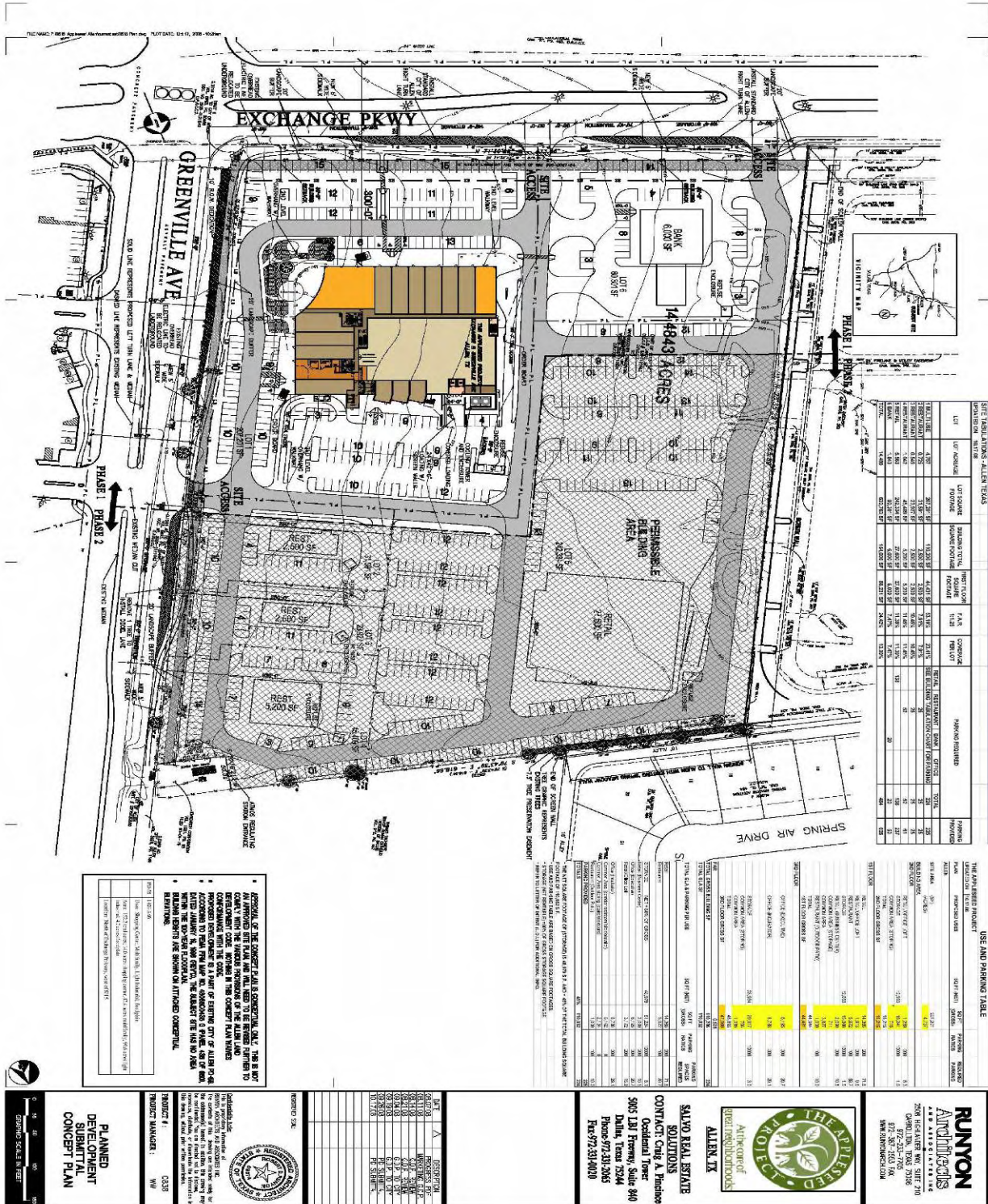
THENCE South 79°43'39" East a distance of 94.31 feet to a ½" iron rod found in the westerly right-of-way line of said State Highway No. 5;

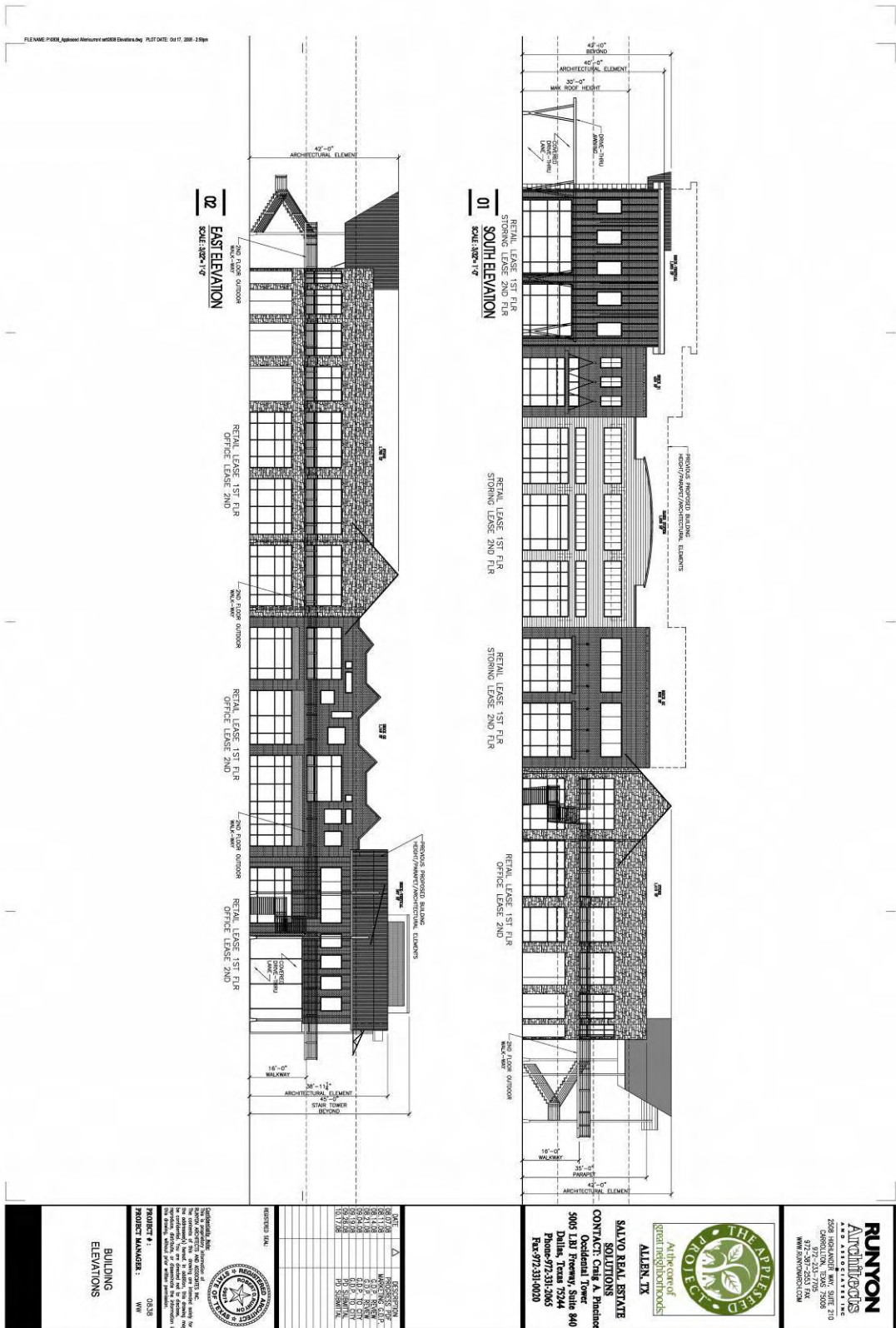
THENCE along the westerly right-of-way line of said State Highway No. 5 South 23°35'29" West a distance of 889.22 feet to the point of beginning;

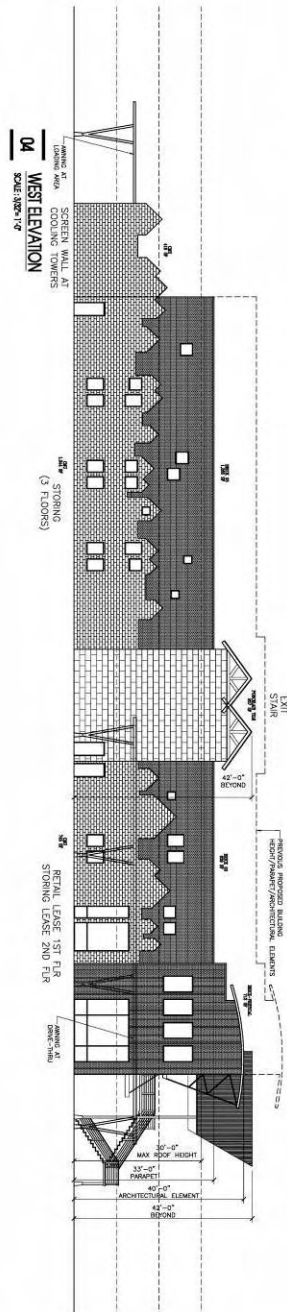
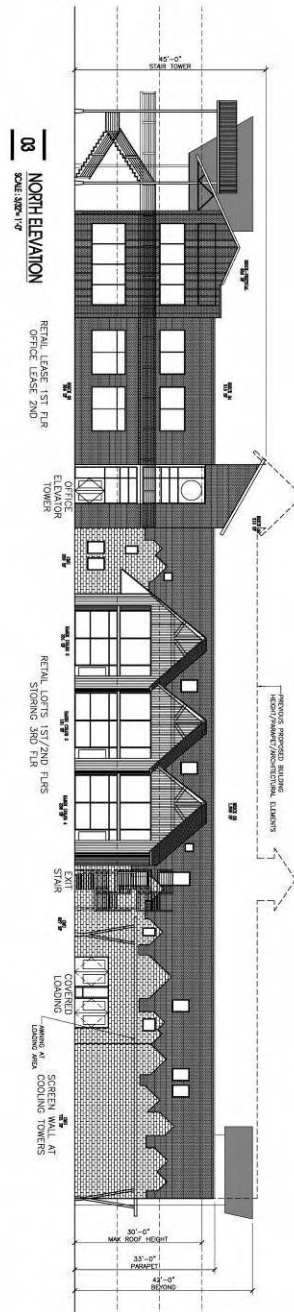
CONTAINING 14 acres more or less.

Exhibit "B"

CONCEPT PLAN








RUNYON
Amphiprepis

2001 HOLLAND BL., SUITE 110
DALLAS, TEXAS 75201
817-347-2253, TX
WWW.RUNYON.COM




Authored
Real Requirements

ALLEN TX

SALVO REAL ESTATE
CONTRACTOR, REALTOR, INVESTOR

CONTRACTOR: Chris Brummett
Occupational: Tractor
3005 LB. Freeway, Suite 400
Dallas, Texas 75244
Phone-972-331-5365
Fax-972-331-0020



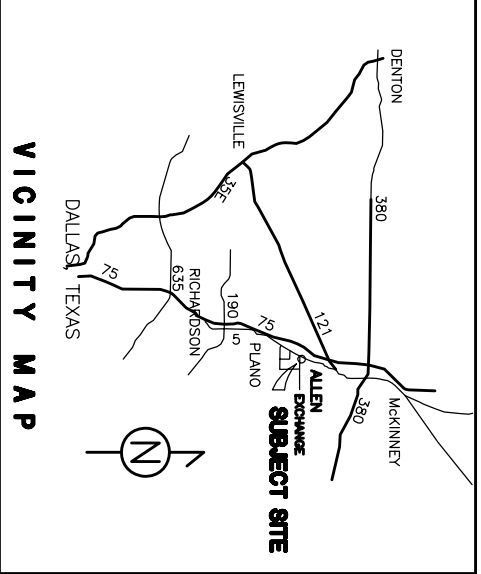
Seal of the City of Dallas
City of Dallas, Texas
2001 Main Street, Suite 1000
Dallas, Texas 75201
214-757-2200

PROJECT MANAGER: JAMES WATTS

PROJECT MANAGER: WIL

BUILDING
ELEVATIONS

SITE TABULATIONS - ALLEN TEXAS									
UPDATED ON 10.17.08									
LOT	LOT ACREAGE	LOT SQUARE FOOTAGE	BUILDING TOTAL SQUARE FOOTAGE	FIRST FLOOR SQUARE FOOTAGE	F.A.R.	PER LOT	COVERAGE PER LOT	PARKING REQUIRED	
1	2	3	4	5	6	7	8	9	10
1 MULTI-USE	4.757	207,201 SF	110,206 SF	44,431 SF	53.19%	23.41%	SEE BUILDING TABULATION CHART FOR PARKING	RETAIL	RESTAURANT
2 RESTAURANT	0.725	31,591 SF	2,500 SF	2,500 SF	7.91%	7.91%	25	25	25
3 RESTAURANT	0.949	23,927 SF	2,500 SF	2,500 SF	10.45%	10.45%	25	25	25
4 RESTAURANT	1.942	45,409 SF	5,200 SF	5,200 SF	11.45%	11.45%	52	52	52
5 RETAIL	5.553	242,334 SF	27,600 SF	27,600 SF	11.39%	11.39%	138	138	237
6 BANK	1.843	80,301 SF	6,000 SF	6,000 SF	7.47%	7.47%	20	20	53
TOTAL	14.480	630,763 SF	154,006 SF	88,231 SF	24.42%	13.99%	484	484	626



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BUILDING ELEVATIONS



SALVO REAL ESTATE SOLUTIONS
CONTACT: Craig A. Pincince
Occidental Tower
5005 LBJ Freeway, Suite 840
Dallas, Texas 75244
Phone-972-331-2065
Fax-972-331-0020

DATE	DESCRIPTION
08.07.08	PROGRESS P.D.F.
08.11.08	MARKETING G.D.P.
08.14.08	G.D.P. REVIEW
08.21.08	G.D.P. REVIEW
09.04.08	G.D.P. TO CITY
09.19.08	G.D.P. TO CITY
09.26.08	PD SUBMITTAL
10.17.08	PD SUBMITTAL

REGISTERED SEAL:



Confidentiality Note:
The information of this drawing is the property of RUNYON ARCHITECTS AND ASSOCIATES, INC. The contents of this drawing are intended solely for the addressee(s) hereof. In addition, this drawing may be confidential. You are directed not to disclose, reproduce, distribute, or disseminate the information in this drawing, without prior written permission.

PROJECT # : 0836
PROJECT MANAGER : WW

BUILDING ELEVATIONS

03 NORTH ELEVATION
SCALE: 3/32" = 1'-0"

RETAIL LEASE 1ST FLR
OFFICE LEASE 2ND

OFFICE ELEVATOR TOWER

RETAIL LOFTS 1ST/2ND FLRS
STORING 3RD FLR

EXIT STAIR

COVERED LOADING

AWNING AT COOLING TOWERS

30'-0" MAX ROOF HEIGHT
33'-0" PARAPET
42'-0" BEYOND

04 WEST ELEVATION
SCALE: 3/32" = 1'-0"

AWNING AT LOADING AREA
SCREEN WALL AT COOLING TOWERS

STORING (3 FLOORS)

RETAIL LEASE 1ST FLR
STORING LEASE 2ND FLR

AWNING AT DRIVE-THRU

30'-0" MAX ROOF HEIGHT
33'-0" PARAPET
40'-0" ARCHITECTURAL ELEMENT
42'-0" BEYOND

CONCEPTUAL RENDERING

CITY COUNCIL AGENDA COMMUNICATION
--

AGENDA DATE: Tuesday, November 11, 2008

SUBJECT: Allen Heights Village Shopping Center Sign Variance Appeal

STAFF RESOURCE: Ogden "Bo" Bass, AICP, Director of Planning & Development

BOARD/COMMISSION ACTION: On October 20, 2008, the Sign Control Board denied the request to grant a variance to increase the copy area of an existing multi-tenant sign, for the Allen Heights Village Shopping Center.

ACTION PROPOSED: Consider an Appeal of Sign Control Board Action

BACKGROUND

The property is located at the northwest corner of Main Street and Allen Heights Drive; 1201 E. Main. The zoning for this property is Planned Development 1 - Shopping Center. The sign ordinance permits Retail/Commercial Multi-tenants (between 2.1 and 5 acres) to have one monument sign that is a maximum height of 8 feet, has a maximum copy area of 80 square feet and a maximum structure area of 110 square feet.

The existing multi-tenant sign (located on the property) has a copy area of 140 square feet, a structure area of 246 square feet and is 24.6 feet tall. Due to these dimensions exceeding the current sign regulations, this existing sign is non-conforming. Section 7.09.10.3 of the Allen Land Development Code states that "any non-conforming sign in existence prior to the adoption of these regulations may be repaired, but not altered or moved unless made to conform to these regulations."

An increase in copy area will alter the existing sign. Per the ALDC, any new sign constructed will be required to adhere to current sign regulations. In this case, the multi-tenant sign would need to be removed and replaced with a smaller sign. The copy area would have to be configured to display the names of all the shopping center tenants; while still adhering to the maximum copy area of 80 square feet.

Requiring Allen Heights Village Shopping Center to comply with the existing sign code is consistent with what has been required of other businesses in the past.

VARIANCE

The request is being made by Main Street Plaza Ltd. c/o KCRE Properties. The request is to increase the copy area of the existing multi-tenant sign in order to add three additional rows of tenant business names.

ANALYSIS

The ordinance states that the Sign Control Board should consider the following: reasons for the variance; the effect on public safety, protection of neighborhood property, the degree of hardship or injustice involved and the effect of the variance on the general plan for signing within the City. The applicant's justification for requesting the variance is based on the current economic downturn and the assumption that some of the businesses are not thriving because they have no advertising along the street frontage.

On October 20, 2008, the Sign Control Board denied the variance request to allow an increase in copy area for the existing multi-tenant sign. The owner of the Allen Heights Village Shopping Center is appealing the Sign Control Board's decision and is requesting that the variance be granted.

STAFF RECOMMENDATION

Staff supports the Sign Control Board action.

MOTION

I make a motion to deny a variance to the Allen Heights Village Shopping Center, located at the northwest corner of Main Street and Allen Heights Drive, to allow an increase in maximum allowable copy area for an existing multi-tenant sign to a maximum area of 185 square feet.

ATTACHMENT

Allen Heights Shopping Center Appeal Letter
Proposed Sign
October 20, 2008 Sign Control Board Minutes

KCRE Properties Inc.

4230 LBJ Freeway, Suite 105
Dallas, Texas 75244

Item # 16
Attachment Number 1
Page 1 of 1

Phone (972) 404-1431
Fax (972) 404-9126

October 29, 2008

Mr. Ogdeen Bo Bass
Director of Planning and Development
City of Allen
City Hall
305 Century Parkway
Allen, Texas 75013

Subject:

Appeal of the Sign Board's Denial of Sign Variance to add two additional rows of signage to existing pylon sign at property located at Allen Heights Village, 1201 E. Main Street, Allen, Texas 75002

Dear Mr. Bass:

Please accept this letter as our formal request to appeal the decision of sign board at City Council meeting on October 20, 2008 to deny our request as stated above.

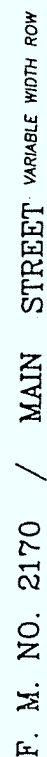
Please contact David Mottahedeh at 1-818-209-7321 or Sally Anderson with KCRE Properties, Inc. 972-404-1431 as soon as possible with information regarding the date and time of next City hearing to appeal this decision.

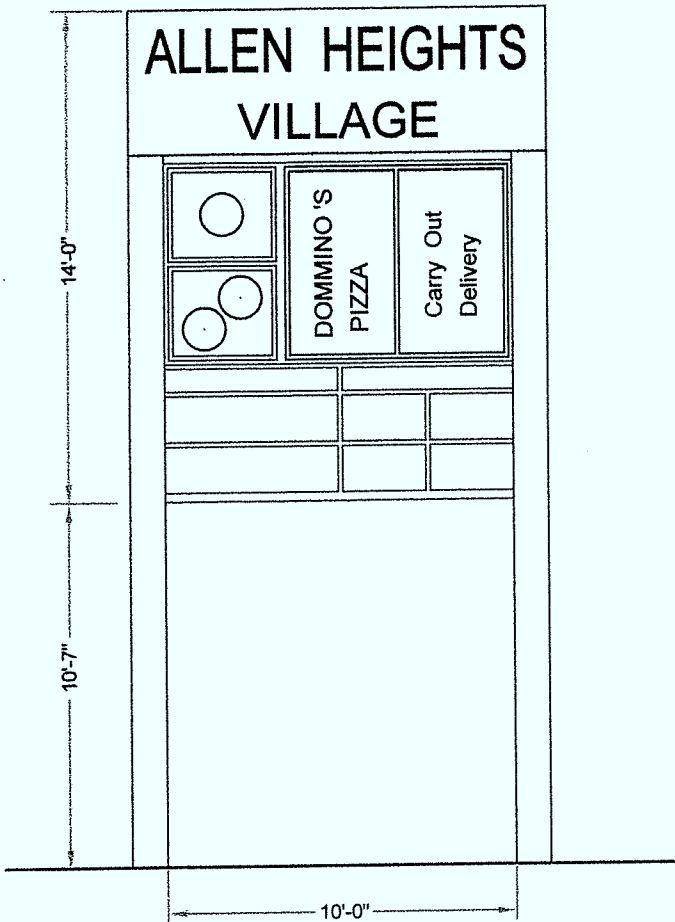
Regards,



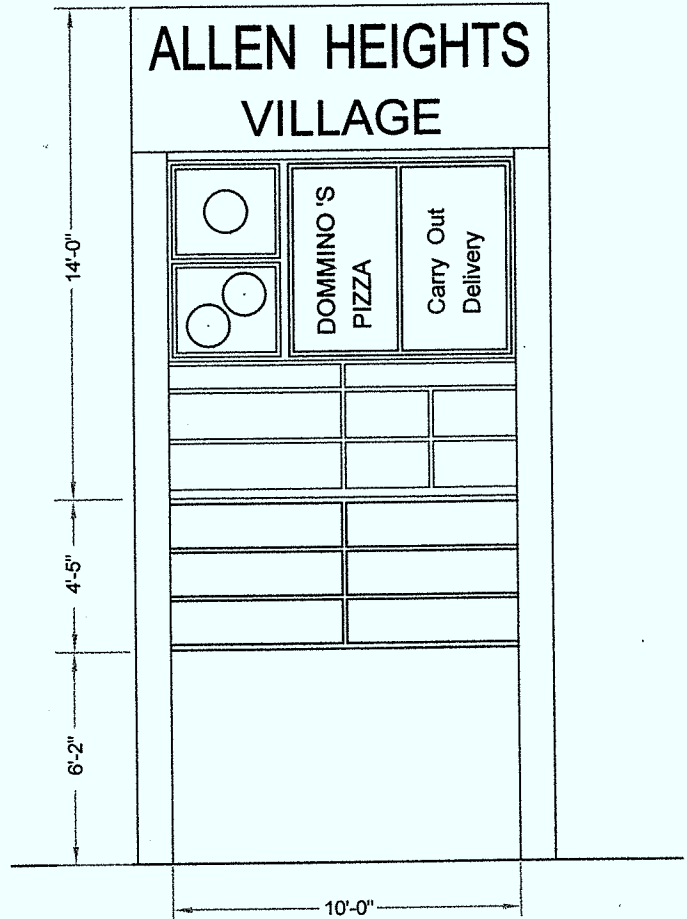
KCRE Properties, Inc./
Allen Heights Village

Cc: Allen Heights
Tiffany McCloud, City of Allen



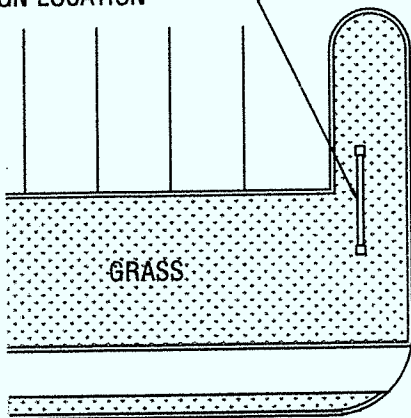


EXISTING SIGN

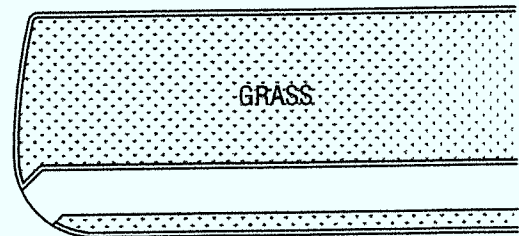
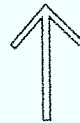
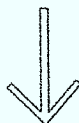


PROPOSED SIGN

SHOPPING CENTER
SIGN LOCATION



GRASS



GRASS

MAIN STREET ENTRANCE

SIGN PLAN

ALLEN HEIGHTS SHOPPING CENTER

1201 F MAIN ALLEN TEXAS 75002





SIGN CONTROL BOARD

**Special Called Meeting
October 20, 2008**

ATTENDANCE:

Board Members Present:

Sally Leeper, Chair
Frank Brown, Vice Chair
Alexander Kirk
Gene Autrey
Barbara McNutt
Hugh Brown, Alternate
Deborah Angell Smith, Alternate

Board Members Absent:

None

City Staff Present:

Ogden "Bo" Bass, Director
Lee Battle, Assistant Director
Tiffany McLeod, Planner
Pam Conway, Senior Administrative Assistant
Amber Slayton, Attorney

Regular Agenda

Call to Order and Announce a Quorum is Present:

With a quorum of the Board Members present, Chairman Leeper called the meeting to order at 6:00 p.m. in the City Hall Council Conference Room at Allen City Hall, 305 Century Parkway.

Agenda Item 1: Approve minutes from the September 10, 2007 Sign Control Board Meeting.

Chairman Leeper called for a motion to approve the September 10, 2007 minutes of the Sign Control Board.

MOTION: Upon a Motion by Board Member Kirk, and a Second by Board Member Autrey, the Board voted 5 FOR and 0 OPPOSED to approve the September 10, 2007 Sign Control Board Minutes. The motion carried.

SIGN CONTROL BOARD
October 20, 2008

PAGE 2

Agenda Item 2: Public Hearing – Conduct a Public Hearing and consider a request for a variance for the Allen Heights Village Shopping Center to increase the copy area of an existing non-conforming multi-tenant sign. The sign is located at the Allen Heights Village Shopping Center, 1201 E Main Street.

Tiffany McLeod, Planner, presented the case to the Board. She described the request and the location of the sign. The ordinance states that the Sign Control Board should consider the following reasons for the variance: the effect on public safety, protection of neighborhood property, the degree of hardship or injustice involved and the effect of the variance on the general plan for signing within the City. Staff does not believe that there are adequate reasons provided to justify a variance to allow the existing sign to increase in copy area. There is not a significant hardship or injustice involved and this request is contrary to the general plan for allowing signage in Allen. Therefore, staff recommends denial of the requested variance.

Board Member Brown stated that disallowing this variance could cause a hardship for these businesses. He explained his thoughts on the difficulties businesses, especially small businesses, face especially considering our current economy.

Ogden “Bo” Bass, Director, explained that staff’s recommendation should not be taken that we are anti-business. Staff is here to uphold the ordinance.

Chairman Leeper opened the Public Hearing.

Sally Anderson, Kelley Commercial, Representing the Allen Heights Shopping Center, stated that the request is based on keeping the tenants – some of the businesses don’t have room on the current sign. Some are “mom and pop” and have no other means of advertising. She stated that due to the economic downturn, she requested that the Board approve the variance.

Morey Young, 1340 Red Oak Trail, Fairview, stated that he is one of the anchor tenants (Marshall Arts and a real estate office). He stated that signage is needed and currently he has none.

Shen Won, Suite 108, Allen Heights Shopping Center, requested approval of this variance. He has been in this space for 3 years with no sign.

With no one else wishing to speak, the Public Hearing was closed.

Board Member Autrey questioned Ms. Anderson about bringing the sign up to current code. Ms. Anderson stated that the owner is not financially able to do that at this time.

Board Member Kirk stated that he disagrees with the Allen Land Development Code in this situation, but won’t “legislate from the bench” by granting a variance. He stated that if the Sign Board denies the variance – the applicant can appeal to the City Council.

SIGN CONTROL BOARD

October 20, 2008

PAGE 3

Ms. Anderson stated that all the tenants are “for” the approval of this variance and many wrote letters of support. The letters will be attached to these minutes for the record.

Board Member McNutt questioned why the sign was not originally designed for the number of tenants? Ms. Anderson was not sure. She stated even if the variance is granted, there is not enough space for all tenants.

Board Member Brown again stated that the economic downturn is a valid reason to grant the variance.

Chairman Leeper stated that the economy is very difficult right now. The intent of the Council was for all signs to comply with the ordinance and for pylon signs to eventually go away. Many already have been replaced with monument signs. Allen Heights Shopping Center has always had a lot of tenant turn-over. Every tenant does not get their name on the pylon sign – this is the case for any shopping center. This shopping center does not have any special conditions or hardship compared to any other shopping center in town – all shopping centers are facing the same challenge. Their would need to be a condition or hardship that was different from other shopping centers.

Board Member Kirk stated that as a consumer, it is difficult to find some businesses with such small signs (monuments). His suggestion was just for the applicant to take this on to the Council.

Chairman Leeper suggested that the Board review the sign ordinance in the future for discussion and possible amendments.

Mr. Bass stated that staff would follow that direction and place a discussion item on an upcoming agenda for review.

Chairman Leeper requested a survey of surrounding Cities to give the Board information about what is being allowed in neighboring communities.

MOTION: Upon a motion by Board Member Autrey and a second by Board Member McNutt, the Board voted 4 FOR 1 OPPOSED to DENY the request for a variance to increase the copy area of an existing non-conforming multi-tenant sign for Allen Heights Village Shopping Center. Board Member Brown was Opposed. The Motion Carried.

Agenda Item 3: Public Hearing – Conduct a Public Hearing and consider a request for a variance for the Arts of Collin County to allow an increase in maximum allowable area for a temporary sign. The property is 100± acres of land located south of SH121 and east of Custer Road.

Mr. Bass, Director, presented the request to the Board for the Arts of Collin County. Mr. Bass described the location of the property and the zoning and intended use. He stated that the only traffic was from SH121. The proposed sign will contain renderings of the Arts Park Project as well as project information. Due to the amount of content, the request is for 288 square feet. Mr. Bass

SIGN CONTROL BOARD
October 20, 2008

PAGE 4

stated that the Arts of Collin County believes the sign is essential to communicating the project's design to the public as well as drawing potential donors and/or developers.

Staff is recommending approval of a variance due to it being temporary in nature, a community oriented project, and high speed of the traffic on SH121.

Board Member Kirk agrees, but wants to support the ordinance as written. He stated that the sign could be made smaller and still be effective.

Mr. Bass suggested 192 square feet as an alternative. This is simply combining the allowed square footage into one sign. He also stated that this is a single-sided sign and would be temporary, renewable each year if needed.

Chairman Leeper opened the Public Hearing.

No one was present to speak.

Chairman Leeper closed the Public Hearing.

Board Member Autrey questioned if a traffic count had been done. Mr. Bass stated that he was not aware of any for this specific request.

The Board continued to discuss the size of the request and Chairman Leeper stated that the request for 288 square foot was practically the size of a billboard. Chairman Leeper and Board Member Autrey agreed that they could support a variance of 192 square feet.

Board Member Kirk agreed, stating that would be a combination of the two allowed signs.

Chairman Leeper, Board Members Autrey and McNutt were concerned about installing the sign parallel to SH121 rather than perpendicular – that may not be the best way.

The Board noted that they were disappointed that no representative from The Arts of Collin County was present at the meeting.

MOTION: Upon a motion by Board Member Kirk and a second by Board Member Brown, the Board voted 5 FOR 0 OPPOSED to APPROVE the request for a variance to allow an increase in maximum allowable area for a temporary sign to 192 square feet, for The Arts of Collin County. The Motion Carried.

Agenda Item 4: Discussion on signage integrated into mesh construction fences.

Mr. Battle, Assistant Director, presented the discussion item regarding the mesh construction fences. Currently the sign regulations do not permit signage on construction fencing. Developers have recently asked if the City would consider allowing mesh construction fencing with signage. Their desire is to promote new development while under construction as well as provide a visual barrier of the construction site from public view.

SIGN CONTROL BOARD
October 20, 2008

PAGE 5

Board Member McNutt stated that it would be effective if it's not too much of a distraction.

Board Member Autrey stated it should also be well maintained as long as it is in place.

Board Member Brown stated he likes the mesh fencing to block the construction site with or without the signage.

Chairman Leeper stated that without too much clutter, it would be fine. Neat and controlled – possibly with some rules for keeping it from being too much clutter and a distraction.

Agenda Item 5: Discussion on freestanding signs at bank drive-throughs.

Mr. Battle, Assistant Director, presented the discussion item for freestanding signs at bank drive-throughs. He stated that the ordinance would classify this as a free standing sign. There are already exceptions in our ordinance for electronic message centers at drive-throughs. A staff concern is what other businesses may request this type of signage.

Board Member Kirk stated that he has no problem with signs internal to the property – he is open to this. The message is for the customer using the bank, not to attract new customers.

Chairman Leeper expressed concern with the signs being a distraction to drivers trying to read them as they are driving down the street.

Mr. Battle stated that the size of the signs hasn't been discussed yet and they could even be a sign (or the text of the sign) that is changed out on a regular basis. Staff prefers something more permanent that would still allow for the message on the sign to be changed out as needed. This is not consistent with the sign ordinance and policies limiting the amount of freestanding signs.

Adjournment

Motion: The Board adjourned the Sign Board meeting at 7:20 p.m.

These minutes approved this _____ day of _____ 2008.

Sally Leeper, Chairman

Pam Conway, Sr. Administrative Assistant

**Edward Jones Investments
1201 E. Main Street, Suite 240
Allen, TX 75002**

**City of Allen
Planning & Zoning Department
City Hall
305 Century Parkway
Allen, TX 75013**

Dear Planning & Zoning Committee:

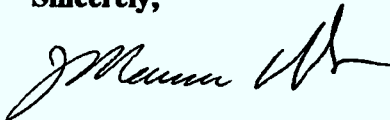
We are current tenants at the Allen Heights Village Shopping Center at Main Street and Allen Heights. We are writing in regards to the request to add additional signage for our shopping center.

Many of the tenants cannot advertise because the sign does not have enough space to include their company name. Several new tenants are moving in and want to place their name on the sign but there is just not room.

Six more tenants would be able to advertise their business on the marquee with the proposed change. It will help draw attention to their business from both Main Street and Allen Heights. This can make a major difference to the additional walk in business that these tenants may be able to incur thus helping the City of Allen in turn.

Please consider approving the request for the expansion of the marquee sign at Allen Heights Village Shopping Center. It can only help in additional revenues for both the businesses and the city. Thank you for your time and consideration of this matter.

Sincerely,



**J. Maurice White
Financial Advisor
Edward Jones Investment**

*Finger & Toe
1201 E. Main Street
Suite 130
Allen, Texas 75002*

(Kim Tran, Owner)

September 1, 2008

City of Allen
Planning & Zoning Department
City Hall
305 Century Parkway
Allen, TX 75013

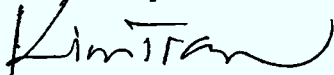
To Whom it May Concern:

I am currently a tenant at Allen Heights Village Shopping Center located at 1201 E. Main St.#130, Allen 75002. We are writing to request that City of Allen approve additional signage allowance for marquee at the Center.

Many tenants have not been able to advertise on sign due to lack of available space. New tenants would also need space to advertise their business. All businesses would benefit from additional advertising within the Center that could be seen directly from Main Street and Allen Heights. It would also benefit the neighborhood as would draw additional tenants as well as customers, keeping the Center occupied.

Your approval for the expansion of signage on the marquee would be greatly beneficial to all concerned.

Sincerely,



Kim Tran
Finger & Toe

August 25, 2008

City of Allen
Planning & Zoning Department
City Hall
305 Century Parkway
Allen, TX 75013

RE: Marquee sign

To Whom It May Concern:

I have a business at 1201 E. Main St. STE 280, Allen, TX (Young Donuts).

As a tenant, it is important to have any visible signage in my surrounding business neighborhood. This would include a banner, roadway sign, marquee sign, etc. We want to advertise our business in any forms of matter possible. Please consider amendment to enlarge the marquee sign at 1201 E. Main Street, Allen, TX.

Sincerely,


Jung Hee Lee
Young Donuts

Jason Reed, Agent

1201 E Main Ste 150
Allen, TX 75002-3950
Bus 972 908 3448
Fax 972 908 3449
jason.reed.mais@statefarm.com



Providing Insurance and
Financial Services

September 5, 2008

City of Allen
Planning and Zoning Department
City Hall
305 Century Parkway
Allen, TX 75013

To Whom It May Concern:

As an independent business owner, advertisement is a vital part of our business. The marquis that is currently out front is too small for all the businesses here to advertise on and is too small to be seen by passing traffic.

Please approve our signage request so that we can all take advantage of being seen by the citizens of Allen and contribute to the city's growth as a whole.

Feel free to contact me with any questions you may have.

Best Regards,

A handwritten signature in black ink, appearing to be "JR", with a long, sweeping underline.

Jason Reed, Agent
State Farm Insurance and Financial Services
972-908-3448 (office); 972-908-3449 (fax)
www.jasonreedagent.com

CASTLE REALTY
1201 E. MAIN ST. SUITE 200B
ALLEN, TEXAS 75002
972-390-9126

MARTIAL ARTS FITNESS CENTER
1201 E. MAIN ST. SUITE 200
ALLEN, TEXAS 75002
972-290-9122

TO: CITY OF ALLEN
PLANNING AND ZONING DEPARTMENT
CITY HALL 305 CENTURY PARKWAY
ALLEN, TX. 75013

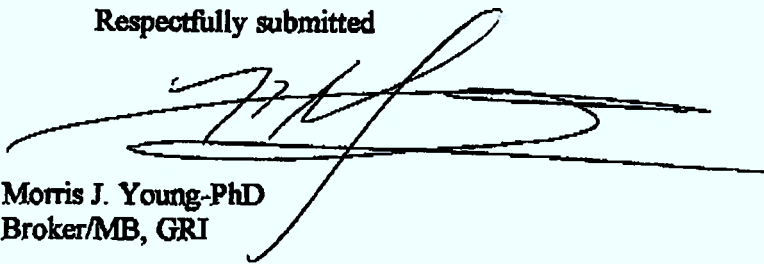
SUBJECT. LACK OF SIGNAGE SPACE

I operate several business at the Allen heights Village. I have been in Real Estate/ Mortgage and M/A fitness for over 30 years. I was led to believe by the Landlord , KCRE properties that I would be able to have ample signage as to represent my Both companies here. I have none since there is no place to put them. Resultantly I am loosing considerable revenue due to lack of traffic. I have been a long time resident and tax payer in Allen and Collin County since 1985. I firmly believe that the addition Of additional signage space would be a great boon to us all. Conversely , the continued lack of appropriate advertising opportunity could give me the incentive to seek another Site--- Perhaps outside of Allen where signage is in abundance.

My two business comprise anchor tenancy here in the center and a larger roll of taxes of course are absorbed. Hopefully we can all come to agreement on expanding our sign needs.

If you have any questions please do not hesitate to call me.

Respectfully submitted



Morris J. Young-PhD
Broker/MB, GRI

Jim Berrios
The Kid Salon Inc.
Allen, TX 75002
September 8, 2008

City of Allen
Planning & Zoning Dept.
City Hall
305 Century Parkway
Allen, TX 75013

Dear City of Allen:

My name is Jim Berrios and I own The Kid Salon. We are a specialty children's hair salon in Allen located in the Allen Heights Village. We are asking for approval from the City for six additional sign space allotments for our existing marquee sign. Being able to advertise our business on this marquee would greatly benefit our business. Please, give great consideration in approving this sign space addition. Thanks in advance for your time and efforts.

Sincerely,



Jim A. Berrios
The Kid Salon Inc.
President

Sublime Chocolate

1201 E. Main Street

Ste. 230

Allen, Texas 75002

(972) 747-0848

September 5, 2008

City of Allen,
Planning & Zoning Department
City Hall,
305 Century Parkway
Allen, TX 75013

RE: Variance for Existing Marquee Sign

To Whom It May Concern,

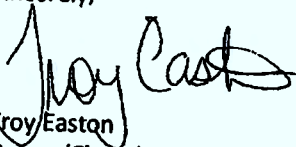
I, as a business owner and being in business for just over a month, would like to acknowledge the important part that having a prominent sign does for the "walk-in" portion of my business. These days, with so many people on the go which means they are mostly driving, it is so easy to miss going into a shop that these people might easily see if for example they were walking through a mall.

Just yesterday I had a customer tell me that they don't normally coming to this shopping center but saw my sign and made the effort to park and come in. I truly believe if more businesses have this same opportunity to advertise using not only their store signs but also the marquee sign under the Allen Heights Village street sign, it would go a long way to expanding their customer base.

Being not only a business taxpayer in Allen but also a residential taxpayer in Allen, I see both sides as far as having local businesses close and successful. Not only does this benefit the City of Allen but it also benefits us as residents because we don't have to travel to Plano or McKinney in order to go to a restaurant or buy something that we can't find in Allen.

Please consider Allen Heights Village for the six additional spaces on the Marquee street sign. Thank you very much for taking the time to read my letter.

Sincerely,



Troy Easton

Owner/Chocolatier of Sublime Chocolate



Kumon of Allen - East

1201 E. Main Street, Ste. 108
Allen, TX 75002
972.908.2508

City of Allen

Planning & Zoning Department
City Hall
305 Century Parkway, Allen, TX 75013

September 6, 2008

To Whom It May Concern:


This letter is to request to have Kumon Pylon sign up again at the NW corner of Allen Heights and E. Main Street.

We have been in business in the said location since Nov. 2005 and strived to survive since then. We have contacted the landlord to have a Kumon pylon sign since day one at the location. However, there were no spaces for Kumon pylon sign. We have been waited for more than two and half years until Hong Kong Express Chinese restaurant went out of business in May 2008. It was a great opportunity to put up Kumon pylon sign which will allow drivers and pedestrians to see our Kumon center from E. Main Street.

Unfortunately, three months later our Kumon pylon sign was disappeared without us being notified. A new tenant, Lucky Wok Chinese/Japanese Restaurant, moved in and took down Kumon pylon sign without consulting us on phone or sending a written notice. We went to visit Lucky Wok owner and he made an apology of his wrong doing. The owner explained that he took over the commercial space that Hong Kong Express was and he needed more business exposure, which is exactly the same story as ours. He thought he has the right to retake the pylon sign space used by the defunct Hong Kong Express without even informing landlord or us. He even said that the contract he signed with landlord has the provision allowing him to do so. This dispute is not solved yet and Lucky Wok owner has not responded to our request to reimburse us the cost of having Kumon pylon sign up at the shopping square.

We could not but contact the landlord. The landlord is willing to expand the pylon sign space out of his pocket to help his tenants. We would appreciate if City of Allen would approve the landlord's request to expand existing spaces at the shopping square to avoid unnecessary disputes among tenants fighting for limited Pylon sign spaces at the shopping square.

Sincerely,


Alice Wang, CPA, MBA
Director of Kumon of Allen - East