

REGULAR CITY COUNCIL MEETING

OCTOBER 7, 2008

7:00 P.M.

A Regular Meeting of the Terrell City Council was held on Tuesday, October 7, 2008 at 7:00 p.m. in the City Council Chambers located at 201 East Nash Street, Terrell, Texas with the following members present:

COUNCILMEMBER #1 HAL RICHARDS
COUNCILMEMBER #2 TOMMY SPENCER
COUNCILMEMBER #3 RICKY JORDAN
COUNCILMEMBER #4 JACK JONES
COUNCILMEMBER #5 DON THURMAN

1. Call to order.

Mayor Hal Richards called the meeting to order.

2. Invocation.

Deputy Mayor Pro tem Don Thurman gave the opening prayer.

3. Discuss and Consider Approval of Special City Council Workshop Minutes of September 11, 2008, Regular City Council Meeting Minutes of September 16, 2008 and Special City Council and Workshop Minutes of September 23, 2008.

Deputy Mayor Pro tem Don Thurman made a motion to approve Special City Council Workshop Minutes of September 11, 2008, Regular City Council Meeting Minutes of September 16, 2008 and Special City Council and Workshop Minutes of September 23, 2008. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

4. Hear Remarks from Visitors.

None were made.

NEW BUSINESS

5. Discuss and Consider Approval of Resolution No. 613 – Creating the Capital Improvements Advisory Committee.

Torry Edwards, City Manager and Mike Sims, Assistant City Manager presented to Council for discussion and consideration Resolution No. 613 – Creating the Capital Improvements Advisory Committee. Mayor Hal Richards recognized Don Archer, Bill Baker and Bill Sweazea. Mayor Hal Richards made a motion to appoint the Planning and Zoning Commission to serve as a Capital Improvements Advisory Committee and appoint Frank Roberts representing real estate development and construction industry. Council took no action on this motion. Mayor Pro tem Jack Jones expressed his desire to have a builder on the Committee. Mayor Hal Richards made a motion to approve Resolution which would consist of the Planning and Zoning Commission plus one (1) – that person to be named

later. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Naves – none. Motion carried.

Mayor Pro tem Jack Jones made a motion to appoint Don Hamilton to be appointed as the plus one member of the Committee. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Naves – none. Motion carried.

RESOLUTION NO. 613

A RESOLUTION CREATING THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE, AND SETTING FORTH THE RULES FOR AND THE DUTIES THEREOF, ALL IN COMPLIANCE WITH THE IMPACT FEE STATUTES FOUND IN CHAPTER 395 OF THE LOCAL GOVERNMENT CODE.

WHEREAS, Chapter 395 of The Local Government Code (“Chapter 395”) authorizes political subdivisions to finance capital improvements associated with new development in municipalities; and

WHEREAS, these statutes prescribe a process that incorporates the required methodology, the procedures for public hearings, and the reporting components related to impact fees; and

WHEREAS, this legislation requires that a Capital Improvements Advisory Committee (“Advisory Committee”) be appointed by the governing body to advise the City Council on certain matters related to the procedures promulgated by Chapter 395; and

WHEREAS, the legislation further requires that the City Council adopt procedural rules for the Advisory Committee to follow in carrying out its duties;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Terrell that the following appointments, assignments and procedures be adopted in conjunction with the requirements of Chapter 395:

Section I. Establishment of Advisory Committee.

There is hereby established an advisory committee to the City Council named the “Capital Improvements Advisory Committee.”

Section II. Membership, Compliance and Appointment.

2.1 The Capital Improvements Advisory Committee shall be composed of the Terrell Planning and Zoning Commission plus one additional member, to be named by the City Council, who is associated with development, real estate, or a related field.

2.2 The Chairperson of the Terrell Planning & Zoning Commission shall serve as the Chairperson of the Advisory Committee.

- 2.3 The Chairperson of the Advisory Committee shall be a voting member but shall not initiate or second any motion made by the Committee.
- 2.3 The City Manager shall serve as an ex officio member of the Advisory Committee but shall have no vote in connection with any of the determinations or recommendations of the Committee.
- 2.4 The City Council reserves the right to appoint additional members to the Advisory Committee if required to replace a member due to a resignation or for any other purpose needed to fulfill the composition requirements of Chapter 395.

Section III Functions and Duties.

- 3.1 The Advisory Committee shall serve in an advisory capacity.
- 3.2 The Advisory Committee is established:
 - 3.21 To advise and assist the City in adopting land use assumptions;
 - 3.22 To review the capital improvements plan and file written comments;
 - 3.23 To monitor and evaluate implementation of the capital improvements plan;
 - 3.24 To file semi-annual reports with respect to progress of the capital improvements plan and report to the City Council any perceived inequities in implementing the plan or imposing the impact fee; and
 - 3.25 To advise the City Council of the need to update or revise the land use assumptions, capital improvements plan or impact fees.

Section IV. Conduct of the Advisory Committee.

- 4.1 The Advisory Committee shall conduct Committee business only when a quorum is present. In this case a quorum shall be defined as not less than one-half of the Committee's membership.
- 4.2 The Advisory Committee's activities, scheduling and conduct should be as commonly prescribed in Robert's Rules of Order.
- 4.3 The Advisory Committee shall meet at sufficient intervals to accomplish the functions enumerated in Section III.

- 4.4 The Advisory Committee shall provide Committee Reports to the City Council that include comments and recommendations regarding Land Use Assumptions, Capital Improvements Plans, and Impact Fees.
- 4.5 The Committee Reports shall be submitted:
 - 4.51 Before the fifth business day before the date of the public hearing on the proposed land use assumptions, water and wastewater capital improvements plan, and roadway capital improvements plan; and
 - 4.52 Before the fifth business day before the date of the public hearing on the proposed water and wastewater impact fees, and roadway impact fee; and
 - 4.53 At such other times as shall be deemed appropriate.

Section V. Responsibilities of the City Government

The City Council and City staff shall make available to the Advisory Committee any professional reports regarding the development or implementation of land use plans, capital improvements plans, utility financial analyses, or any other information that may be available relevant to the development of impact fees under the Chapter 395 process.

6. Discuss and Consider Approval of Resolution No. 614 – Supporting and Authorizing the Submission of a Home Program Application to the Texas Department of Housing and Community Affairs.

Debbie Zajac, Director of Housing presented to Council for discussion and consideration Resolution No. 614 – Supporting and Authorizing the Submission of a Home Program Application to the Texas Department of Housing and Community Affairs. Mayor Pro tem Jack Jones made a motion to approve Resolution No. 614 – Supporting and Authorizing the Submission of a Home Program Application to the Texas Department of Housing and Community Affairs. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 614

A RESOLUTION OF SUPPORT OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AUTHORIZING THE SUBMISSION OF A HOME PROGRAM APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR HOME FUNDS; AND AUTHORIZING THE CITY MANAGER TO ACT AS THE CITY'S CHIEF EXECUTIVE OFFICER AND AUTHORIZED REPRESENTATIVE IN ALL MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN THE PROGRAM.

WHEREAS, the City Council of the City of Terrell desires to develop a viable urban community, including decent housing and a suitable living environment principally for persons of low/moderate income; and

WHEREAS, certain substandard housing conditions exist which represent a health and safety threat to families residing in such structures; and

WHEREAS, the City Council supports the City's application for funding;

NOW, THEREFORE, IT BE RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS.

1. That a HOME application for the HOME Funds is hereby authorized to be filed on behalf of the City with the Texas Department of Housing and Community Affairs.
2. That the application be for \$360,000.00 of grant funds to carry out owner occupied housing rehabilitation and project eligible soft costs and \$ 7,200.00 for administration/operating funds.
3. That the City Council directs and designates Torry Edwards, the City Manager as the City's Chief Executive Officer and Authorized Representative to act in all matters in connection with this application and the City's participation in the HOME Program.
4. That the City contribute project match of \$13,956 from its General Fund as a cash contribution and in-kind services in the amount of \$31,044.00 (for demolition and waiver of all building permit fees and water and sewer connection fees) for properties assisted through this program.
5. That the City commit a \$120,000.00 cash reserve designated for payment of requested project expenses before receiving reimbursement by the State of Texas.

PASSED AND APPROVED THIS 7TH DAY OF OCTOBER, 2008.

7. Discuss and Consider Setting Date, Time and Location for Fall Retreat/Visioning Process.

Torry Edwards, City Manager presented to Council for discussion and consideration Setting Date, Time and Location for Fall Retreat/Visioning Process. Deputy Mayor Pro tem Don Thurman made a motion to hold the Fall Retreat on November 13th, 2008 at the City Marketing Center. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

8. Discuss and Consider Approval of Addendum to Contract Agreement with R & R Environmental, Inc.

Torry Edwards, City Manager presented to Council for discussion and consideration Addendum to Contract Agreement with R & R Environmental, Inc. Councilmember Ricky Jordan made a motion to approve Addendum to Contract Agreement with R&R Environmental, Inc. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

9. Discuss and Consider Approval of Resale of Property Described as:

- a.) **Lot 3B, Block 28, Terrell Original – 509 S. Adelaide.**
- b.) **Lot 12B, Block 4, Stallings 3rd & 4th – 401 Stallings.**

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Resale of Property Described as:

- a.) Lot 3B, Block 28, Terrell Original – 509 S. Adelaide.
- b.) Lot 12B, Block 4, Stallings 3rd & 4th – 401 Stallings.

Councilmember Ricky Jordan made a motion to approve Resale of Property Described as:

- a.) Lot 3B, Block 28, Terrell Original – 509 S. Adelaide and b.) Lot 12B, Block 4, Stallings 3rd & 4th – 401 Stallings. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

10. Discuss and Consider Approval of Ordinance No. 2386 – Approving an Electric Power Contract with Cities Aggregation Power Project (CAPP) for Electric Capacity and Energy.

John Rounsavall, City Secretary/Finance Director presented to Council for discussion and consideration Ordinance No. 2386 – Approving an Electric Power Contract with Cities Aggregation Power Project (CAPP) for Electric Capacity and Energy. Deputy Mayor Pro tem Don Thurman made a motion to approve Ordinance No. 2386 – Approving an Electric Power Contract with Cities Aggregation Power Project (CAPP) for Electric Capacity and Energy on first reading. The motion was seconded by Mayor Pro tem Jack Jones. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2386

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS APPROVING AN ELECTRIC POWER CONTRACT WITH CITIES AGGREGATION POWER PROJECT, INC. (“CAPP”) FOR ELECTRIC CAPACITY AND ENERGY, PROVIDING CAPACITY PAYMENTS AS PUBLIC PROPERTY FINANCE CONTRACTUAL OBLIGATIONS OF THE CITY, PLEDGING AND LEVYING AN AD VALOREM TAX TO SUCH PAYMENTS, PROVIDING FOR ENERGY PAYMENTS FOR ELECTRIC ENERGY SUBJECT TO ANNUAL APPROPRIATION BY THE CITY, PROVIDING FOR THE ASSIGNMENT OF SUCH CAPACITY PAYMENTS TO SUPPORT DEBT ISSUED BY CAPP INCURRED TO ACQUIRE ELECTRIC CAPACITY RIGHTS FROM LUMINANT GENERATION COMPANY AND RELATED ENTITIES PURSUANT TO A 24-YEAR POWER PURCHASE AGREEMENT (“PPA”); AUTHORIZING THE CITY MANAGER OR OTHER APPROPRIATE CITY OFFICER OR EMPLOYEE TO EXECUTE AND DELIVER THE MEMBER CONTRACT; FURTHER AUTHORIZING THE CITY MANAGER OR OTHER APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN ADDITIONAL AGREEMENTS ARRANGED BY

CAPP FOR ELECTRIC POWER NEEDED BY THE CITY IN THE PERIOD 2009-2013 IN EXCESS OF THE AMOUNT OBTAINED UNDER THE MEMBER CONTRACT; ACKNOWLEDGING, AUTHORIZING AND DIRECTING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR CITY EMPLOYEE TO SIGN AND RETURN CAPP'S DISCLOSURE LETTER; FURTHER AUTHORIZING THE CITY MANAGER OR APPROPRIATE CITY OFFICER OR OTHER CITY EMPLOYEE TO ACCEPT CONFORMING CHANGES TO THE MEMBER CONTRACT DEPENDENT ON THE FINAL TERMS OF THE CAPP PPA; ACKNOWLEDGING THAT THE MEMBER CONTRACT REQUIRES CERTAIN CAPACITY PAYMENTS PAYABLE BY THE CITY WILL BE PUBLIC PROPERTY FINANCE CONTRACTUAL OBLIGATIONS PURSUANT TO TEXAS LOCAL GOVERNMENT CODE CHAPTER 271, SUBCHAPTER A, SECURED BY A PLEDGE OF THE CITY'S AD VALOREM TAXES; PROVIDING FOR VALIDITY AND SUFFICIENCY OF CITY EMPLOYEE'S OR CITY OFFICER'S SIGNATURE IF THE OFFICER OR EMPLOYEE LEAVES OFFICE OR EMPLOYMENT PRIOR TO THE DELIVERY OF THE MEMBER CONTRACT; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT.

11. Discuss Schedule of Tax Increment Financing Reinvestment Zone No. 1 Action Items.

Mike Sims, Assistant City Manager presented to Council for discussion Schedule of Tax Increment Financing Reinvestment Zone No. 1 Action Items. There was no action taken on this item.

Mike Sims, Assistant City Manager presented to Council for discussion and consideration Items No. 12-16.

12. Discuss and Consider Approval of Resolution No. 619 – Approving Amendment No. 1 to the Project Plan and Finance Plan.

Deputy Mayor Pro tem Don Thurman made a motion to approve Resolution No. 619 – Approving Amendment No. 1 to the Project Plan and Finance Plan. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 619

A RESOLUTION OF THE CITY OF TERRELL, TEXAS APPROVING AN AMENDMENT TO THE PROJECT PLAN AND FINANCE PLAN OF THE CITY OF TERRELL TAX INCREMENT FINANCE REINVESTMENT ZONE NUMBER ONE.

WHEREAS, on October 22, 2007, the County of Kaufman (the "County") Commissioners' Court approved County support for and intent to pay into Tax Increment Finance Reinvestment Zone Number One (the "Reinvestment Zone"); and,

WHEREAS, on November 20, 2007, the City Council of the City of Terrell (the “City”) created the Reinvestment Zone and,

WHEREAS, on August 26, 2008, the Board of Directors of the Reinvestment Zone recommended approval of the Project Plan and Finance Plan of the Reinvestment Zone; and,

WHEREAS, on September 8, 2008, the County Commissioners’ Court approved an Interlocal Agreement with the City for the Reinvestment Zone, including the Project Plan and Finance Plan; and,

WHEREAS, on September 16, 2008, the City Council approved the Interlocal Agreement for the Reinvestment Zone with the County; and,

WHEREAS, on September 23, 2008, the City Council approved the Project Plan and Finance Plan of the City Reinvestment Zone; and,

WHEREAS, on September 23, 2008, the Board of Directors of the Reinvestment Zone recommended approval of Amendment Number One (1) to the Project Plan and Finance Plan of the City Reinvestment Zone.

NOW, THEREFORE, BE IT RESOLVED, THAT:

The City Council hereby approves Amendment Number One (1) to the Project Plan and Finance Plan of the City Reinvestment Zone as attached as Exhibit “A”.

PASSED AND APPROVED this the 7th day of October, 2008.

13. Discuss and Consider Approval of Resolution No. 615 – Authorizing Reimbursement of Funds for Tract 3 of the Tax Increment Financing Reinvestment Zone No. 1.

Mayor Pro tem Jack Jones made a motion to approve Resolution No. 615 – Authorizing Reimbursement of Funds for Tract 3 of the Tax Increment Financing Reinvestment Zone No. 1. The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

**RESOLUTION NO. 615
REIMBURSEMENT RESOLUTION**

**A RESOLUTION OF THE CITY OF TERRELL, TEXAS AUTHORIZING
REIMBURSEMENT OF FUNDS FOR TRACT 3 OF THE TAX INCREMENT
FINANCING REINVESTMENT ZONE NO. 1.**

WHEREAS, the City Council of the City of Terrell, Texas recognizes the importance of its role in local economic development; and

WHEREAS, on November 20, 2007 , the City Council approved Ordinance No. 2355 establishing Tax Increment Financing (TIF) Reinvestment Zone Number One, City of Terrell, Texas (TIF District), in accordance with the Tax Increment Financing Act, as amended (V.C.T.A., Tax Code, Chapter 311, hereafter the “Act”) to promote development in the TIF District through the use of tax increment financing; and

WHEREAS, the City Council, pursuant to Ordinance No. 2384, approved on September 23, 2008 authorized the final TIF District Project Plan and Reinvestment Zone Financing Plan; and

WHEREAS, the two (2) prior City Council actions referenced above provide for the TIF District to provide funding on construction of roadways, utilities and drainage located in the TIF District; and NOW THEREFORE,

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

Section 1. That the findings, determinations and certifications contained in the recitals above are incorporated herein for all purposes.

Section 2. That Terrell Market Center, LTD shall provide \$7,826,483 for the cost of construction of roadways, drainage, landscape/signage, and water and sewer in Tax Increment Financing Zone Number One, City of Terrell, Texas, which shall be reimbursed from the TIF District Tax Increment Funds in accordance with the terms of the development agreement between the City and Terrell Market Center, LTD, but only to the extent such TIF District Tax Increment Funds are available.

Section 3. That the total participation by the TIF District for project costs incurred in the design and construction of said improvements shall not exceed \$7,826,483, all in accordance with the terms of said development agreement.

Section 4. That nothing in this resolution shall be construed to require the City to approve reimbursements from any source of City funds other than the TIF District Tax Increment Fund or to require the City to issue Tax Increment bonds, said issuing of such bonds being within the sole discretion of the City Council; and upon expiration of the terms of the TIF District as provided in Ordinance No. 2355, any funds advanced by Terrell Market Center, LTD under the development agreement with interest accrued thereon that remain unreimbursed, due to lack or unavailability of TIF District Funds shall no longer be considered project costs of the TIF District, and the obligation of the TIF District or the City to reimburse shall automatically expire.

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

PASSED AND APPROVED ON THIS THE 7TH DAY OF OCTOBER, 2008.

14. Discuss and Consider Approval of Resolution No. 616 – Execution Resolution for Development Agreement with Terrell Market Center, Ltd. and Baylor Health Care System.

Councilmember Ricky Jordan made a motion to approve Resolution No. 616 - Execution Resolution for Development Agreement with Terrell Market Center, Ltd. and Baylor Health Care System. The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Naves – none. Motion carried.

RESOLUTION NO. 616
DEVELOPMENT AGREEMENT
EXECUTION RESOLUTION

A RESOLUTION OF THE CITY OF TERRELL, TEXAS AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT BETWEEN TERRELL MARKET CENTER, LTD AND BAYLOR HEALTH CARE SYSTEM ON BEHALF OF THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1.

WHEREAS, the City Council of the City of Terrell, Texas recognizes the importance of its role in local economic development; and

WHEREAS, on November 20, 2007 , the City Council approved Ordinance No. 2355 establishing Tax Increment Financing (TIF) Reinvestment Zone Number One, City of Terrell, Texas (TIF District), in accordance with the Tax Increment Financing Act, as amended (V.C.T.A., Tax Code, Chapter 311, hereafter the "Act") to promote development in the TIF District through the use of tax increment financing; and

WHEREAS, the City Council, pursuant to Ordinance No. 2384, approved on September 23, 2008 authorized the final TIF District Project Plan and Reinvestment Zone Financing Plan; and

WHEREAS, the two (2) prior City Council actions referenced above provide for the TIF District to provide funding on construction of roadways, utilities and drainage located in the TIF District; and NOW THEREFORE

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

Section 1. The City Manager is hereby authorized to execute a development agreement between Terrell Market Center, Ltd., Baylor Health Care System and the City of Terrell, on behalf of the Tax Increment Financing District, in an amount not to exceed \$7,826,483 for funding for roadways, drainage, landscaping/signage, water and sewer. In the event the cost exceeds \$7,826,483, the scope of the project shall be reduced to remain within the budget or Terrell Market Center, Ltd agrees to fund the excess above \$7,826,483 with no TIF reimbursement.

Section 2. That Terrell Market Center, LTD shall be reimbursed from the TIF District Tax Increment Funds in accordance with the terms of the development agreement, but only to the extent such TIF District Tax Increment Funds are available for such purpose.

Section 3. That nothing in this resolution shall be construed to require the City to approve reimbursements from any source of City funds other than the TIF District Tax Increment Fund or to require the City to issue Tax Increment bonds, said issuing of such bonds being within the sole discretion of the City Council; and upon expiration of the terms of the TIF District as provided in Ordinance No. 2355, any funds advanced by Terrell Market Center, LTD under the development agreement with interest accrued thereon that remain unreimbursed, due to lack or unavailability of TIF District Funds shall no longer be considered project costs of the TIF District, and the obligation of the TIF District or the City to reimburse shall automatically expire.

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

PASSED AND APPROVED ON THIS THE 7TH DAY OF OCTOBER, 2008.

15. Discuss and Consider Approval of Resolution No. 617:

- c.) **Set Aside Agreement Letters for IH-20.**
- d.) **IH-20 Funding Agreement with Terrell Market Center, Ltd.**
- e.) **IH-20 Local Project Advance Funding Agreement [LPAFA].**

Councilmember Ricky Jordan made a motion to approve Resolution No. 617:

- c.) Set Aside Agreement Letters for IH-20.
- d.) IH-20 Funding Agreement with Terrell Market Center, Ltd.
- e.) IH-20 Local Project Advance Funding Agreement [LPAFA].

The motion was seconded by Deputy Mayor Pro tem Don Thurman. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 617

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TERRELL, TEXAS, CONFIRMING SUPPORT FOR THE
LOCAL TRANSPORTATION PROJECT ADVANCE FUNDING
AGREEMENT For a Category 10 – Miscellaneous Project (On
State System)**

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, a Master Agreement Governing Local Transportation Project Advance Funding Agreement (MAFA) between the Local Government and the State has been adopted, effective August 24, 2007, and states the general terms and conditions for transportation projects developed through this LPAFA; and

WHEREAS, the Local Government prepared and submitted to the State an application for consideration under the Local Project Advance Funding Agreement (LPAFA) for the project which is briefly described as all engineering, right of way and funding necessary for the construction of a westbound frontage road on IH 20 from Spur 557 to FM 148, hereinafter called the Project; and

WHEREAS, it is considered to be in the public interest to expedite the planning and preparation for the construction of a westbound frontage road on IH 20 from Spur 557 to FM 148; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

PART 1: That the City agrees to contribute 100% funding for project elements ineligible for State funding under the Local Transportation Project Advance Funding Agreement (MAFA);

PART 2: That the City Council pledges to contribute 100% of the funding for the construction of a westbound frontage road on IH 20 from Spur 557 to FM 148, such funding amounts currently estimated to be \$ 2,516,426;

PART 3: That the City Manager and City staff is hereby directed to continue all their efforts and cooperation with the Texas Department of Transportation for the planning and eventual construction of a westbound frontage road on IH 20 from Spur 557 to FM 148.

PART 4: That the Mayor is hereby authorized to execute a Local Transportation Project Advance Funding Agreement with TxDOT, a funding agreement with Terrell Market Center and a Set Aside Letters for the I.H. 20 Project.

PART 5: That this resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 7th day of October, 2008.

16. Discuss and Consider Approval of Resolution No. 618:

- f.) **Set Aside Agreement Letters for FM 148.**
- g.) **FM 148 Funding Agreement with Terrell Market Center, Ltd.**
- h.) **FM 148 Local Project Advance Funding Agreement [LPAFA].**

Deputy Mayor Pro tem Don Thurman made a motion to approve Resolution No. 618:

- f.) Set Aside Agreement Letters for FM 148.
- g.) FM 148 Funding Agreement with Terrell Market Center, Ltd.
- h.) FM 148 Local Project Advance Funding Agreement [LPAFA].

The motion was seconded by Councilmember Ricky Jordan. Ayes – all; Nays – none. Motion carried.

RESOLUTION NO. 618

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, CONFIRMING SUPPORT FOR THE LOCAL TRANSPORTATION PROJECT ADVANCE FUNDING AGREEMENT For a Category 10 – Miscellaneous Project (On State System)

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, a Master Agreement Governing Local Transportation Project Advance Funding Agreement (MAFA) between the Local Government and the State has been adopted, effective August 24, 2007, and states the general terms and conditions for transportation projects developed through this LPAFA; and

WHEREAS, the Local Government prepared and submitted to the State an application for consideration under the Local Project Advance Funding Agreement (LPAFA) for the project which is briefly described as all engineering, right of way and funding necessary for the expansion of FM 148 from two lanes to four lanes between Spur 557 and IH 20, hereinafter called the Project; and

WHEREAS, it is considered to be in the public interest to expedite the planning and preparation for the construction of four lanes between Spur 557 and IH 20; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:

PART 1: That the City agrees to contribute 100% funding for project elements ineligible for State funding under the Local Transportation Project Advance Funding Agreement (MAFA);

PART 2: That the City Council pledges to contribute 100% of the funding for the construction of FM 148 from two lanes to four lanes between Spur 557 and IH 20, such funding amounts currently estimated to be \$ 1,615,853;

PART 3: That the City Manager and City staff are hereby directed to continue all their efforts and cooperation with the Texas Department of Transportation for the planning and eventual construction of FM 148 from two lanes to four lanes between Spur 557 and IH 20.

PART 4: That the Mayor is hereby authorized to execute a Local Transportation Project Advance Funding Agreement with TxDOT, a funding agreement with Terrell Market Center and a Set Aside Letters for the FM 148 Project.

PART 5: That this resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED on this the 7th day of October, 2008.

CONSENT AGENDA

- 17. Discuss and Consider Adoption on Second Reading Ordinance No. 2385 - Amending Chapter 4, Building Regulations by Adding Section 4-31, Minimum Property Maintenance and Safety Standards.**

Torry Edwards, City Manager and Terry Capehart, Director of Municipal Development presented to Council for discussion and consideration for Adoption on Second Reading Ordinance No. 2385 - Amending Chapter 4, Building Regulations by Adding Section 4-31, Minimum Property Maintenance and Safety Standards. Deputy Mayor Pro tem Don Thurman made a motion to adopt on second reading Ordinance No. 2385 – Amending Chapter 4, Building Regulations by Adding Section 4-31, Minimum Property Maintenance and Safety Standards. The motion was seconded by Councilmember Tommy Spencer. Ayes – all; Nays – none. Motion carried.

ORDINANCE NO. 2385

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS AMENDING CHAPTER 4, BUILDING REGULATIONS, TERRELL CITY CODE REVISED: BY ADDING SECTION 4-31, MINIMUM PROPERTY MAINTENANCE AND SAFETY STANDARDS FOR MULTI-FAMILY STRUCTURES; PROVIDING FOR INSPECTIONS OF ALL MULTI-FAMILY DWELLING UNITS AND MULTI-FAMILY PREMISES; PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF INSPECTION FOR ALL MULTI-FAMILY DWELLING UNITS; AMENDING ORDINANCE 2374 – BUILDING PERMIT FEES TO ADD FEES FOR APARTMENT INSPECTIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Terrell City Council has determined that the establishing minimum property maintenance and safety standards for multi-family dwellings is necessary to promote the health, safety, and welfare of the citizens of the City of Terrell; and

WHEREAS, the City of Terrell City Council desires to enact an ordinance establishing minimum property maintenance and safety standards for multi-family dwellings in the City of Terrell.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Terrell, Texas:

THAT CHAPTER 4, BUILDING REGULATIONS, TERRELL CITY CODE REVISED is hereby amended to add Section 4-31 as follows, in all other respects, said Code to remain in full force and effect:

ARTICLE I.

Section 4-31. Minimum Property Maintenance and Safety Standards for Multi-Family Structures

A. GENERAL.

1. **Reference to Laws.** Any reference in this section to ordinance, section, statute, or other law or portion of law, includes the cited law as it exists at the time this section becomes effective and includes all the cited law's successors. The minimum standards set forth herein for health, safety, welfare, fire protection, sanitation, property maintenance, nuisance abatement, refuse management, high weeds and grass, and building codes are adopted and derived from the following as adopted or amended:
 - a. Terrell City Code Revised
 - b. 2003 International Building Code (IBC)
 - c. 2003 International Residential Code (IRC)
 - d. 2003 International Fire Code (IFC)
 - e. 2003 International Property Maintenance Code (IPMC)
 - f. 2003 International Plumbing Code (IPC)
 - g. 2003 International Mechanical Code (IMC)
 - h. 2003 International Fuel Gas Code (IFGC)
 - i. 2003 International Existing Building Code (IEBC)
 - j. 2005 National Electrical Code (NEC)
 - k. HUD Minimum Housing Standards (Form HUD-52580-A)
 - l. Texas Property Code – Title 8 – Landlords and Tenants
 - m. Texas Local Government Code (TLGC) – Chapters 54 and 214

2. **Purpose.** The purpose of this code is to provide minimum standards to protect the health, safety, morals, and welfare of the citizens of the City of Terrell by establishing minimum property maintenance and safety standards applicable to the use, occupancy, and maintenance of all multi-family structures, dwelling units, and premises. These minimum standards are established to ensure all structures, facilities and properties are safe, sanitary, and fit for human use and habitation. It is not intended that this

Code be interpreted or enforced to require the City to intervene in matters which are primarily personal, private in nature or civil disputes between landlords and tenants which may be appropriately resolved between or among private interests without material damage to the public health, safety, or welfare.

3. **Compliance.** This code is found to be remedial and essential to the public interest, and it is intended that this code be liberally construed to effectuate its purposes. All existing multi-family structures, dwelling units, accessory structures, swimming pools, spas, fences and premises located within the corporate city limits of the City of Terrell on the effective date of this code, or constructed or developed thereafter must comply with the provisions of this code.

NOTE: All existing multi-family buildings, dwelling units, accessory buildings, club houses and other structures designed for tenant use shall be required to have an initial inspection (or qualified alternate inspection as provided for in this ordinance) and all violations or deficiencies corrected no later than December 31, 2009 in accordance with the requirements of this ordinance. Non-compliance after this date may result in assessment of additional fees and/or subject the property owner to civil penalties or other penalties as provided for herein.

B. DEFINITIONS.

1. Accessory building means a structure on the same lot as the main building.
2. Apartment means a room or suite of rooms arranged or designed to be used as a residence by a single-family, individual, or group of individuals living as a single household.
3. Apartment building means any residential structure containing three (3) or more dwelling units.
4. Bathroom means an enclosed space containing one or more toilets, lavatories, bathtubs, showers, or any combination of fixtures serving similar purposes.
5. Bedroom means an enclosed space used or intended to be used for sleeping purposes and not as a kitchen, dining room, bathroom, living room, closet, storage space, hallway, utility space, entry way, garage, patio or breezeway. (Note: The square footage of a kitchen, living room, dining room, bathroom, closet, storage space, hallway, utility space, entry way, garage, patio or breezeway shall not be included as a sleeping area in determining the minimum occupancy area required for sleeping purposes.)
6. Building Code means the codes listed in Section A.1 above as adopted or amended.
7. Building Official means the duly appointed person authorized and directed to enforce all provisions of this code, to render interpretations of this code

and to adopt policies and procedures in order to clarify the implementation the provisions of this code.

8. Certificate of Inspection means that the apartment dwelling unit, building, structure and/or premises meets the minimum property, health, safety and sanitation standards as set forth in this ordinance and other adopted codes of the City of Terrell.
9. Certificate of Occupancy means authorization to occupy or use a structure in accordance with the adopted or referenced codes listed herein issued by the Building Official of the City of Terrell.
10. City means the City of Terrell, Texas.
11. Dangerous or substandard building means a structure or building where conditions exist as outlined in Chapters 54 and 214 of the Texas Local Government Code (TLGC) and the Terrell City Code Revised which could possibly threaten the health, safety, general welfare or property of any person or persons.
12. Director of Municipal Development means the department head appointed to administer and direct the operations of the Building Inspections, Code Enforcement, Health and Planning and Zoning Divisions of the city.
13. Dwelling means a structure designed or intended to be used or occupied for residential purposes.
14. Dwelling unit means any room or group of rooms occupied, or which is intended or designed to be occupied as a single unit providing complete independent living facilities for one individual, group of individuals not to exceed six (6) unrelated persons, a single family, or single household which includes permanent provisions for living, sleeping, eating, cooking, and sanitation. (see definitions 14 and 31 for Occupancy Load Limits)
15. Efficiency unit means a dwelling unit containing only one habitable room with a maximum number of occupants of three (3) persons.
16. Egress means a safe and unobstructed means of exit from a structure leading to safe and open space at ground level.
17. Emergency escape and rescue opening means an opening (typically a window) facing directly to the outdoors of a structure which is capable of being easily opened by the occupant with a minimum height of twenty-four inches (24") and a minimum width of twenty inches (20") with a minimum total of 5.7 square feet in size. Required for each room used as a bedroom.
18. Extermination means the control and elimination of insect, rodent or vermin pests.
19. Family means one or more persons related by blood, affinity (marriage), or adoption to the second degree of consanguinity; or a group not to exceed six (6) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit. The definition of the second degree of consanguinity for the purpose of defining a single family is spouse, siblings, parents, grandparents, children, or grandchildren in accordance with Chapter 573 of the Texas Government Code.
20. Fire Marshall means the appointed official authorized to enforce all adopted fire codes of the city.
21. Floor area (net) means the total area of all habitable space used or designed for living, sleeping, eating, or cooking excluding bathrooms,

- toilet rooms, pantries, closets, halls, breezeways, storage, attics or utility spaces measured in square feet.
22. Floor area (gross) means the total area of a dwelling unit including both habitable and non-habitable space that is air-conditioned excluding garages, common areas, open porches, or areas which are not climate controlled measured to the inside walls of the unit and shown in square feet.
 23. Garbage means animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
 24. Guest, invitee, or visitor means any person(s) who stays with a tenant in a dwelling unit free of charge for thirty (30) days or less per calendar year with the landlord's consent. Persons staying longer than thirty (30) days in a calendar year shall be considered tenants for the purpose of occupancy loads.
 25. Infestation means the presence within or contiguous to a dwelling unit of insect, rodent, or vermin pests or visible evidence of their presence in the absence of the actual living organism.
 26. Kitchen means a space at least sixty (60) square feet in size used cooking and the preparation of food.
 27. Kitchenette means a space less than sixty (60) square feet in size used for cooking and the preparation of food.
 28. Landlord means the owner, property manager, resident manager, agent or any other person held out by any owner or property manager as the appropriate person with whom the tenant or public normally deals with, concerning leases, rental agreements, contracts, payment of rents, maintenance, complaints, emergencies, etc. of the apartment building as well as having budgetary authority to effect repairs in a timely manner as required to abate or correct violations of this ordinance.
 29. Laundromat means a self service room or separate building accessible to all residents or tenants and which contains one (1) or more washers and dryers.
 30. Litter means garbage, refuse, rubbish, and all other waste material deposited on the ground or in any other place other than in an approved waste receptacle.
 31. Multi-family complex or apartment complex means any building or group of buildings which provide three (3) or more dwelling units on a single platted lot or on a single tract or contiguous tracts of land under a common ownership if the land on which the building or buildings is located is unplatted.
 32. Occupancy load limit means the maximum number of tenants or persons who can safely occupy or reside in a dwelling unit.
 33. Occupant means any person over one year of age living, sleeping, cooking, eating in, or having actual possession of a dwelling unit.
 34. Owner means a person claiming, or in whom is vested, the ownership, dominion, or title to real property, including but not limited to:
 - a. The owner of fee simple title;
 - b. The holder of a life estate;
 - c. The holder of a leasehold estate for an initial term of five (5) years or more;

- d. The buyer in a contract for deed;
 - e. A mortgagee, receiver, executor, or trustee in control of real property; or
 - f. The landlord, lessor, or sub-lessor of a dwelling or apartment building.
30. Person means an individual, corporation, business trust, estate trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.
31. Plumbing means any system, appurtenance, fixture or appliance that is connected to, discharges to or utilizes gas, fuel, water, or sewage disposal including but not limited to toilets, lavatories, sinks, laundry tubs, catch basins, wash basins, bathtubs, showers, water heaters, water faucets, water lines, waste sewer pipes and sewerage systems, septic tanks, drains, vents, traps, appliances or private fire hydrants.
32. Potable water means water duly approved as satisfactory and safe for drinking by the Water Utility Department of the city.
33. Premises means a lot, plot, parcel or tract of land including any structures located thereon.
34. Refuse means all solid wastes including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, dead vegetation, junk vehicles, trash, paper, wood, yard clippings, discarded man-made products, glass, etc.
35. Structure means that which is built or constructed; an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
36. Swimming pool means any structure, basin, chamber, or tank containing an artificial body of water having a depth of twenty-four inches (24") or more at any point.
37. Tenant means any person who occupies a dwelling unit for living or dwelling purpose with the landlord's consent.
38. Unfit for human habitation means a condition exists which could possibly threaten the life, health, safety, property, or general welfare of the occupant including those occupants of other dwelling units in the same building or apartment structure. (see "Dangerous or substandard buildings")
39. Uninhabitable means the same as unfit for human habitation.

ARTICLE II.

A. MINIMUM STANDARDS – Responsibilities of landlord.

1. **Property Standards.** A landlord shall:
- a. Eliminate trip hazards, holes, sharp protrusions, and other objects or conditions that exist on the premises or in common areas that are reasonably capable of causing injury to a person;
 - b. Securely cover or close meter vaults or other structures to prevent entry and/or hazards created by open holes or exposed equipment;

- c. Provide an adequate number of covered solid waste receptacles or containers on the premises;
- d. Provide drainage to prevent standing water and flooding on the property;
- e. Remove dead trees and tree limbs that are reasonably capable of causing injury to a person or damaging property;
- f. Keep the doors and windows of a vacant dwelling unit or vacant portion of an apartment securely closed to prevent unauthorized entry;
- g. Keep all areas of the buildings, grounds, facilities and appurtenances in a clean and sanitary condition and report illegal dumping on their premises by tenants or non-tenants to the city code enforcement officer or housing inspector in a timely manner.
- h. Notify the city in writing of any change in ownership or management of an apartment complex stating the name, address and contact information of the new owner/agent within thirty (30) calendar days.
- i. The maximum number of tenants/occupants for any residential dwelling unit shall not exceed the limits as stated in Subsection (a) below in accordance with the above referenced codes.
 - a) The maximum number of tenants who may reside in any dwelling unit shall be two (2) occupants per bedroom plus one person (i.e. efficiency unit – three (3) tenants; one bedroom – three (3) tenants; two bedroom – five (5) tenants; three bedroom – seven (7) tenants; etc.)
 - b) The owner/landlord may impose a more restrictive occupancy limit if so stated in the lease/rental contract.

2. Structural Standards. A landlord shall:

- a. Protect the exterior surfaces of a structure which are subject to decay, by application of paint or other coatings;
- b. Provide and maintain railings for stairs, steps, balconies, porches, and elsewhere as specified in the city codes;
- c. Repair holes, cracks and other defects reasonably capable of causing injury to a person in stairs, steps, sidewalks, porches, balconies or breezeways;
- d. Maintain the roof and exterior walls of a dwelling unit or apartment building in a weathertight and watertight condition;
- e. Maintain floors, walls, ceilings, doorways, and all supporting structural members in a sound and proper functional condition, capable of bearing imposed loads safely;
- f. Maintain doors, windows, stairwells or other methods of egress free of obstructions, capable of being easily opened to the full extent required by city codes;
- g. Maintain chimney flues and vent pipes in sound and proper functional condition to prevent fumes from entering a habitable space and to preserve fire safety.

3. Utility Standards. A landlord shall:

- a. Provide and maintain in working order all toilets, sinks, bathtubs, showers, connections, cleanouts (including keeping access points covered) to discharge sewage from a structure or land into a public sewer system;
- b. Provide and maintain in working order (without leaks) all pipes, fixtures, and appurtenances connected to a potable water source with adequate water pressure to all dwelling units;
- c. Provide and maintain a device to supply hot water between 115 and 140 degrees Fahrenheit or provide scald protection within each dwelling unit;
- d. Provide, connect and maintain in proper working order a kitchen sink, bathtub or shower, and bathroom lavatory to hot and cold water source in each dwelling unit;
- e. Connect all plumbing systems, electrical systems and mechanical systems in accordance with the adopted codes;
- f. Provide and maintain heating equipment capable of maintaining a minimum inside temperature of sixty-eight (68) degrees Fahrenheit in each habitable space of a dwelling unit;
- g. If the owner furnishes a fixed air conditioning system, he or she shall ensure it is designed and capable of maintaining a maximum inside temperature of twenty (20) degrees cooler than any ambient outside temperature. If the owner furnishes window air conditioning units, fans or other ventilation devices, he or she shall maintain them in proper working order as with other appliances, equipment or fixtures. Note: if windows are the only source of ventilation then screens shall be required to be installed and maintained to prevent insects from entering dwelling unit, however, if screens are present they shall be maintained in proper condition;
- h. Provide and maintain a safe electrical supply line to each dwelling unit and ensure sufficient electrical circuits and outlets to safely carry a load imposed by normal use of appliances and fixtures;
- i. Pay all utility bills obligated by the landlord in timely manner to prevent disruption or disconnection of utilities by utility companies or the city and otherwise ensure that utilities are provided at all times in as much as possible.

4. Health and Safety Standards. A landlord shall:

- a. Make a reasonable effort to eliminate insect, rodent or vermin pests in or on the premises, in vacant structures or vacant portions of a structure, and in occupied dwelling units (a reasonable effort shall be evidence of a regular pest control program);
- b. Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish and garbage;
- c. Provide and maintain appropriate covered receptacles and conveniences for the removal of ashes, rubbish, garbage and any other waste materials and to arrange for frequent removal of such waste materials (trash compacting units shall be fitted with a child-proof lockout device to prevent injury or death of children);

- d. Maintain in proper working order all lighting for parking lots, exterior security lighting, breezeways, stairwells, porch lights, or other common areas;
- e. Maintain in proper working order and free from obstruction all fire safety devices, fire alarms, exit signage, fire suppression systems, access, fire lanes, exits, locks or gates for access by the Fire Department;
- f. Maintain clearly visible street and unit addresses for each building and dwelling unit;
- g. Maintain swimming pool and spa safety devices in accordance with city codes including child safety lockout devices on gates and fences.
- h. Maintain and ensure proper installation of insect proof screens for every window or other opening used for ventilation purposes from a dwelling unit directly to or from an outdoor space when air-conditioning is not being used.
- i. Provide tenants with a 24 hour emergency number for the landlord, owner's agent, employee or property manager.
- j. Notify the city when the landlord/owner evicts a tenant for criminal activity, vandalism or willful destruction of property, creating a nuisance, or other illegal acts.

B. MINIMUM STANDARDS – Responsibilities of tenant.

1. General Duties. A tenant shall:

- a. Maintain the interior of a dwelling unit occupied by the tenant in a clean and sanitary condition free from rubbish and garbage;
- b. Remove pets or other animals from a dwelling unit if the presence of the animal or animals is a health hazard or creates a nuisance;
- c. Connect tenant supplied appliances, fixtures, devices, equipment, or other appurtenances in accordance with standard safe practices and codes so as not to overload electrical, mechanical or plumbing systems;
- d. Not disable, remove batteries from a smoke detector, or otherwise allow any occupant of the unit to cause a smoke detector to not function properly. It shall be the tenant's responsibility to replace the batteries in their unit's smoke detectors a minimum of once a year.
- e. Place all ashes, rubbish, garbage and other waste materials in the appropriate covered receptacles provided for same by the landlord (receptacles must not be capable of being overturned or accessed by dogs or other animals);
- f. Not alter, remodel, construct, or repair any structure or interior of a dwelling unit without the express consent of the landlord and with proper permits issued by the city. All work shall be done in accordance with the adopted codes of the city;
- g. Not install any deadbolt or door lock that does not comply with state or city codes;
- h. Not exceed the maximum safe occupancy load limits of the dwelling unit as required by the city codes;

- i. Not conduct any business from the dwelling unit in violation of the home occupation regulations as stated in the city codes;
- j. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, in the premises;
- k. Not deliberately or intentionally destroy, deface, vandalize, damage, impair or remove any part of the premises or knowingly permit any person to do so;
- l. Conduct himself, and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises. For the purpose of this article, such unpermitted conduct includes, but is not limited to, any loud playing of music, television, radio, instrument or any other mechanical device;
- m. When vacating the apartment, remove all trash and debris.

NOTE: The above list of responsibilities of a tenant is not to be construed to be comprehensive or exhaustive, wherein, the tenant's rights and responsibilities as well as the duties and remedies of the landlord are covered by contractual lease agreements, other city codes and by the Texas Property Code – Title 8 – Chapters 91 and 92.

ARTICLE III.

A. INSPECTIONS

1. **Inspections Authorized.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector and Fire Marshall are authorized to make inspections to determine the condition of dwelling units and premises located within the city to determine their compliance with the minimum standards as adopted.
2. **Inspections.** The Municipal Development Department Director, Building Official, Housing Inspector, Health Inspector and Fire Marshall or their designated representatives are authorized to routinely perform inspections, and the owner/landlord shall grant irrevocable consent and agree to allow inspections, upon any and all portions of the multi-family premises including the right to inspect individual dwelling units, as deemed necessary, as a condition of receiving a valid certificate of inspection, at least once every year of:
 - a. The exterior of the structures and all of the common grounds of all multi-family housing complexes with three (3) or more dwelling units;
 - b. Any or all unoccupied dwelling units;
 - c. Any or all occupied dwelling units;
 - d. Any or all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms, playgrounds, and all

other portions of the premises not constructed as dwelling units that are intended for common use by tenants;

- e. Any dwelling unit, common grounds, or other structures upon receipt of a complaint from any person, city department or division that any dwelling unit, common grounds, or other structure may be in violation of this chapter. Complaints shall be in writing, signed and dated by the complainant, as required by the Texas Property Code, Section 92.052 and delivered to the owner/ landlord and to the Municipal Development Department if the owner or his representative fails to remedy the complaint in accordance with Chapter 92 of the Texas Property Code.

3. Inspection Scheduling.

- a. The Director of Municipal Development or his designee and the owner/landlord may agree on a reasonable date and time for the initial inspection and annual inspections thereafter. However, in the event the parties cannot agree on an inspection time or if scheduling, time constraints or other factors are likely to prevent the city from inspecting the property in a timely manner on or before deadlines expire the inspections shall be scheduled by the city after giving the owner/landlord written notice of the date and time of each inspection no less than fifteen (15) days prior to the scheduled inspection.
- b. In the event that the city designated inspector is denied admittance or entry to conduct an inspection, said denial shall not be a violation of this chapter, however, the landlord/owner shall be required to reschedule the inspection within ten (10) days. A second denial of admittance may result in additional inspection fees or securing right of entry by obtaining an administrative search warrant.
- c. An inspection may occur at any time between the hours of 8:00 a.m. and 5:00 p.m. on the date of the scheduled inspection.
- d. All future annual inspections shall be scheduled within thirty (30) days of the anniversary date in which the previous year's inspection was conducted.
- e. Tenants of occupied units scheduled for inspection shall have the right to be present during such inspections. The owners/landlord shall notify tenants of occupied dwellings of scheduled inspections not less than seven (7) days prior to the scheduled date of the inspection.

ARTICLE IV.

A. ENFORCEMENT

1. **Re-inspections.** The owner/landlord shall have thirty (30) days to remedy all conditions identified as a violation of this ordinance during the routine annual inspection and call for a re-inspection. If the dwelling unit, building, structure, or other area on the premises fails a second time the owner/landlord will be granted one additional thirty (30) day period in which to remedy the violations and call for a second re-inspection. If the

violations still exist at the time of the second re-inspection the city shall have the following options:

- a. Grant further extensions if the owner/landlord can provide evidence that the delay is beyond the owner's or agent's control and/or provide evidence of a contract for services to abate the violation within a reasonable time in which a definite completion schedule is provided along with a detailed work plan indicating the scope of work.
- b. Assess additional fees as prescribed in the adopted fee schedule.
- c. Contact the various utility companies or city departments to have the utilities disconnected to the individual dwelling unit or to the entire structure if necessary to ensure the safety of the tenants or the public.
- d. If an imminent danger exists to the tenants of a dwelling unit, adjacent units, or the entire building the landlord/owner may be ordered to vacate portions of the building or the entire structure as determined by the Building Official or Fire Marshall until the violation is abated.
- e. Refer the unsafe, dangerous, or substandard structure to the Buildings and Standards Commission for adjudication.
- f. File a complaint through the city attorney's office or otherwise cause a civil suit to be brought against the owner for injunctive relief and/or the assessment of civil penalties.

2. **Certificates of Inspection/Occupancy.**

- a. **Initial Certificate of Inspection.** Every dwelling unit located within an existing multi-family apartment complex (three or more dwelling units) located in the City of Terrell as of the effective date of this ordinance shall be required to be inspected prior to December 31, 2009 in order to obtain an initial certificate of inspection which will be valid for one (1) year from the date of issue. No certificate shall be issued for a dwelling unit which has any code violations which have not been corrected.
- b. **Certificate of Inspection.** A Certificate of Inspection shall be issued to the landlord/owner (or their designated agent) after the unit has been determined to meet all the minimum standards as set forth herein. Said certificate shall have the issue date, unit address, inspector's signature and expiration date.
- c. **Annual renewal of Certificate of Inspection required.** Every dwelling unit receiving a valid initial Certificate of Inspection in calendar year 2009 shall be required to be inspected once a year thereafter in order to renew the certificate. The annual inspection shall occur within thirty (30) days of the anniversary date of the issue date of the certificate in order to facilitate an orderly inspection schedule by the city and to ensure compliance with this ordinance. Failure to renew the certificate within thirty (30) days of its expiration date may result in revocation of the certificate, assessment of extra fees as stated in the fee schedule, or subject the owner to other remedies as listed herein. No certificate shall be renewed for a dwelling unit which has any code violations which have not been corrected.

- d. **New multi-family construction.** All newly constructed multi-family units will obtain an initial Certificate of Occupancy (C.O.) upon completion of construction and passing a final building permit inspection and will also receive a Certificate of Inspection which will remain valid for the remainder of the calendar year in which the units were constructed plus all of the following calendar year after which time the units will be required to receive annual inspections in accordance with this ordinance.
- e. **HUD subsidized units.** Any multi-family dwelling unit that is occupied by a tenant who is receiving housing assistance through the Terrell Department of Housing and HUD which is subject to an annual HUD required inspection shall receive a Certificate of Inspection after having passed the HUD inspection. Any dwelling unit receiving a HUD inspection will be exempt from the requirement for a city initiated inspection during the same calendar year and the fee for the certificate shall be waived. However, if the city initiated inspection is conducted prior to a subsidized tenant occupying a dwelling unit and the certificate has already been issued this does not exempt the unit from the required HUD annual inspection which is a Federal mandate. Other State or Federal mandated inspections which require dwelling units to meet or exceed the minimum standards as required in this ordinance shall be similarly credited towards a Certificate of Inspection upon delivery of bona fide documentation to the city.
- f. **Revocation of a Certificate of Inspection.** Upon failure to comply with the provisions of this ordinance by December 31, 2009 or if the owner of an multi-family apartment complex fails to remedy or abate violations of this ordinance after proper notice of violations has been given the certificate of inspection for a dwelling unit may be revoked by the Building Official. Notice of revocation of the certificate shall be given to the tenant (if occupied) and landlord/owner of record by personal delivery, U.S. Postal Service certified mail return receipt requested on or before the tenth day prior to having utilities disconnected. If the U.S. Postal Service returns the notice as "refused" or "unclaimed" the validity of the notice is not affected, and the notice is considered delivered. Revocation of the Certificate of Inspection may also result in the ultimate revocation of the entire structure's Certificate of Occupancy, additional fees, penalties or civil action being initiated by the city.
- g. **Emergency revocation of a Certificate of Occupancy (C.O.).** If an occupied dwelling unit(s) or building is found to have such extreme hazards as to pose such imminent danger to the tenants or public at large as to render the unit(s) or building unsafe for human habitation the Building Official shall have the authority to immediately revoke the C.O. and order the building, structure or dwelling unit(s) to be vacated until said hazards are abated or remedied.
- h. **Reinstatement of the Inspection Certificate/Certificate of Occupancy.** The suspended certificate may be reinstated or reissued by the Building Official upon verification of compliance with the

violation notice and payment of a double fee on written request by the owner/landlord.

- i. **Temporary Certificate.** A temporary certificate may be issued for the purpose of having the necessary utilities connected for repairs or construction work to be accomplished.
- j. **Fees.** Fees for a Certificate of Inspection shall be according to the Fee Schedule Ordinance 2374 as adopted or amended.

ARTICLE V.

FEES. The following fee schedule shall be adopted by this ordinance as an amendment to Ordinance 2374 – Schedule of Fees for Building Permits:

1. Annual Certificate of Inspection fee is twelve dollars (\$12.00) per multi-family dwelling unit.
2. Failure to pass first re-inspection – thirty-six dollars (\$36.00) for Certificate of Inspection.
3. Failure to pass second re-inspection - one hundred twenty-five dollars (\$125.00) for Certificate of Inspection
4. Failure to renew the Certificate of Inspection of an occupied dwelling unit within thirty (30) days of its expiration date – one hundred dollars (\$125.00).

ARTICLE VI.

CONFLICTS. All ordinances or part of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

ARTICLE VII.

SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the

incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

ARTICLE VIII.

PENALTY FOR VIOLATIONS. Violations of this ordinance are punishable as provided in Chapter 1, Section 1-1(g) *General penalty for violations of code; civil actions by city.*

Nothing contained herein shall prevent the City of Terrell from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE IX.

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such case provides.

PASSED AND APPROVED this the 16th day of September, 2008.

PASSED AND ADOPTED this the 7th day of October, 2008.

END OF CONSENT AGENDA

18. **Adjourn into Executive Session in Accordance with Section 551 of the Texas Government to Discuss Section 551.071 – Consultation with Attorney.**

Council adjourned in Executive Session.

19. **Reconvene into Regular Session and Consider Action, if any, on Item Discussed in Executive Session.**

There was no action taken in Execution Session.

20. **Adjourn.**

There were no other matters discussed or acted on at this meeting. There being no further business the meeting was adjourned.

Hal Richards, Mayor

Attest:

John Rounsavall, City Secretary