

**AGENDA - COUNCIL MEETING - TUESDAY - OCTOBER 6, 2009 - 1:30 P. M.**  
**COUNCIL CHAMBER - SECOND FLOOR - CITY HALL**  
**901 BAGBY - HOUSTON, TEXAS**

**PRAYER AND PLEDGE OF ALLEGIANCE** - Council Member Brown

**1:30 P. M. - ROLL CALL**

**ADOPT MINUTES OF PREVIOUS MEETING**

**2:00 P. M. - PUBLIC SPEAKERS** - Pursuant to City Council Rule 8, City Council will hear from members of the public; the names and subject matters of persons who had requested to speak at the time of posting of this Agenda are attached; the names and subject matters of persons who subsequently request to speak may be obtained in the City Secretary's Office

**5:00 P. M. - RECESS**

**RECONVENE**

**WEDNESDAY - OCTOBER 7, 2009 - 9:00 A. M.**

DESCRIPTIONS OR CAPTIONS OF AGENDA ITEMS WILL BE READ BY THE  
CITY SECRETARY PRIOR TO COMMENCEMENT

**MAYOR'S REPORT**

**CONSENT AGENDA NUMBERS 1 through 43**

**MISCELLANEOUS** - NUMBERS 1 through 3

1. REQUEST from Mayor for confirmation of the appointment or reappointment of the following to the **BOARD OF THE GREATER EAST END MANAGEMENT DISTRICT**, for a term to expire June 1, 2013:
  - Position One - **MS. MARY MARGARET HANSEN**, appointment
  - Position Two - **MR. REX MORAN**, reappointment
  - Position Three - **MS. SALLY LEHR**, appointment
  - Position Four - **MR. GREGORY D. COMPEAN**, reappointment
  - Position Five - **MS. IRMA GALVAN**, reappointment
  - Position Six - **MS. CATARINA GONZALES CRON**, appointment
  - Position Seven - **MR. ANDREW PEREZ**, reappointment

## AGENDA - OCTOBER 7, 2009 - PAGE 2

### MISCELLANEOUS - continued

2. RECOMMENDATION from Acting Director of Human Resources Department to approve an additional 730 day period for military leave pay differential for employees called to active duty status during a time of war or state of emergency
3. RECOMMENDATION from Acting Director of Human Resources Department for approval of the Holiday Schedule for Calendar Year 2010

### ACCEPT WORK - NUMBERS 4 and 5

4. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,958,645.11 and acceptance of work on contract with **C. E. BARKER, LTD.**, for Water Line Replacement in the Mary Bates South & Maplewood Area - 7.79% under the original contract amount - **DISTRICT F - KHAN**
5. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$4,052,080.55 and acceptance of work on contract with **BRH-GARVER CONSTRUCTION, LP.**, for 36-Inch Water Line along Eldridge Parkway from Sandbridge to Westheimer - 3.44% under the original contract amount - **DISTRICT G - HOLM**

### PROPERTY - NUMBER 6

6. RECOMMENDATION from Director General Services Department to authorize the sealed bid sale of Parcel SY9-080, known as the Heights Recycling Center, located at 3602 Center Street and to appoint Michael Welch and Bill Jackson independent appraisers and Samuel Jarrett alternate appraiser to determine the fair market value - **DISTRICT H - GONZALEZ**

### PURCHASING AND TABULATION OF BIDS - NUMBERS 7 through 11

7. ORDINANCE appropriating \$196,619.00 out of Equipment Acquisition Consolidated Fund for Purchase of Full Size Sedans with Police Package for Houston Fire Department
  - a. **PHILPOTT MOTORS, LTD. d/b/a PHILPOTT FORD** for Full Size Sedans with Police Package for Houston Fire Department
8. ORDINANCE appropriating \$76,875.00 out of Equipment Acquisition Consolidated Fund for Purchase of Diesel Pile Hammer for Public Works & Engineering Department
  - a. **HAMMER & STEEL, INC** for Pile Hammer for Department of Public Works & Engineering
9. ORDINANCE appropriating \$174,875.00 out of Equipment Acquisition Consolidated Fund and \$206,574.00 out of Reimbursement of Equipment/Projects Fund for Purchase of Light-Duty Utility Vehicles for Various Departments
  - a. **PLANET FORD 45** - \$495,063.00 and **PHILPOTT MOTORS, LTD.** - \$978,311.00 for Light-Duty Utility Vehicles for Various Departments - \$1,091,925.00 - Enterprise, Grant, Building Inspection and Special Waste Transportation & Inspection Fund
10. **CUMMINS SOUTHERN PLAINS, LLC** for Automotive, Cummins Repair Parts and Services for Various Departments - \$600,750.00 - General Fund
11. **AMEND MOTION #2006-156, 2/22/06, TO INCREASE** spending authority from \$2,071,411.10 to \$2,391,983.11, for Automotive Lubricants for Various Departments, awarded to **ADA RESOURCES, INC** - \$320,572.00 - General and Enterprise Funds

**RESOLUTIONS AND ORDINANCES** - NUMBERS 12 through 43

12. RESOLUTION approving an application requesting financial assistance from the **TEXAS WATER DEVELOPMENT BOARD**
13. ORDINANCE **AMENDING THE CODE OF ORDINANCES, HOUSTON, TEXAS, BY AMENDING CHAPTER 14**, relating to the payment of holiday compensation to eligible employees; containing findings and other provisions relating to the foregoing subject; providing for severability
14. ORDINANCE **AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Antique Dealers, Common Markets, Scrap Metal Dealers, Secondhand Resellers and related businesses; containing findings and other provisions relating to the foregoing subject; providing for severability; declaring certain conduct to be unlawful and providing penalties therefor
15. ORDINANCE **AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to street vendors; containing findings and other provisions relating to the foregoing subject; providing for severability; declaring certain conduct to be unlawful and providing penalties therefor
16. ORDINANCE establishing City of Houston Election Precincts and designating polling places for the City of Houston General Election to be held November 3, 2009, containing findings and other provisions related to the subject, providing for severability
17. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of 0.3815 acre ( $\pm$ 16,618 square feet) of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59 of the Neuen Manor Addition, out of the Michael Cronican Survey, A-219, Houston, Harris County, Texas (Parcel SY9-033), vacating and abandoning said parcel to Nelson R. Wiggins (a.k.a. Nelson Roderick Wiggins and Rod Wiggins), the abutting owner, in consideration of his payment of \$85,000.00, and other consideration to the City - **DISTRICT A - LAWRENCE**
18. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition, in the D. Gregg Survey, A-283, Houston, Harris County, Texas (Parcel SY9-023); vacating and abandoning said street to Houston Independent School District, the abutting owner, in consideration of its payment of \$115,000.00, and other consideration to the City - **DISTRICT B - JOHNSON**
19. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a portion of a 10-foot-wide utility easement (Parcel SY9-013); vacating and abandoning said easement to Ali Reza Rastegar, the abutting owner, in consideration of his conveyance to the City of a 20-foot-wide storm sewer easement (Parcel LY9-025); both easements being out of Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, out of the J. Austin Survey, A-1, Houston, Harris County, Texas; and his payment of \$2,100.00 and other consideration to the City - **DISTRICT C - CLUTTERBUCK**
20. ORDINANCE approving a Drought Contingency Plan, an Agricultural Use Water Conservation Plan, and a Water Conservation Plan for Municipal uses
21. ORDINANCE relating to the fiscal affairs of Tax Increment Reinvestment Zone Number Twenty-One, City of Houston, Texas (Hardy/Near Northside Zone); amending Ordinance No. 2009-613 to amend the Fiscal Year 2010 Operating Budget for the Hardy/Near Northside Zone; appropriating \$40,000.00 from the Tax Increment Reinvestment Zone Number Twenty-One Hardy/Near Northside Fund for payment of project costs

**RESOLUTIONS AND ORDINANCES** - continued

22. ORDINANCE appropriating \$2,660,810.85 out of Tax Increment Funds for Reinvestment Zone Number One, City of Houston, Texas (Lamar Terrace Zone), Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone), Reinvestment Zone Number Three, City of Houston, Texas (Main Street/Market Square Zone), Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone), Reinvestment Zone Number Five, City of Houston, Texas (Memorial Heights Zone), Reinvestment Zone Number Seven, City of Houston, Texas (Old Spanish Trail/Almeda Corridors Zone), Reinvestment Zone Number Eight, City of Houston, Texas (Gulfgate Zone), Reinvestment Zone Number Nine, City of Houston, Texas (South Post Oak Zone), Reinvestment Zone Number Ten, City of Houston, Texas (Lake Houston Zone), Reinvestment Zone Number Eleven, City of Houston, Texas (Greater Greenspoint Zone), Reinvestment Zone Number Twelve, City of Houston, Texas (City Park Zone), Reinvestment Zone Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone), Reinvestment Zone Number Fourteen, City of Houston, Texas (Fourth Ward Zone), Reinvestment Zone Number Fifteen, City of Houston, Texas (East Downtown Zone), Reinvestment Zone Number Sixteen, City of Houston, Texas (Uptown Zone), Reinvestment Zone Number Seventeen, City of Houston, Texas, (Memorial City Zone), Reinvestment Zone Number Eighteen, City of Houston, Texas (Fifth Ward Zone), Reinvestment Zone Number Nineteen, City of Houston, Texas (Upper Kirby Zone), Reinvestment Zone Number Twenty, City of Houston, Texas (Southwest Houston Zone), Reinvestment Zone Number Twenty-One, City of Houston, Texas (Hardy/Near Northside Zone), and Reinvestment Zone Number Twenty-Two, City of Houston Texas (Leland Woods Zone) for administrative expenses, payment of project costs, payment to Houston Independent School District, payments to certain redevelopment authorities as provided herein
23. ORDINANCE approving and authorizing agreement between the City of Houston and **HARRIS COUNTY HEALTHCARE ALLIANCE, A Texas Non-Profit Corporation**, for the provision of TeleHealth Nurse and related services for the Houston Fire Department; providing a maximum contract amount - 4 Years - \$4,705,891.39 - General and Contractor Responsibility Funds
24. ORDINANCE approving and authorizing Interlocal Agreement between the City of Houston and **HARRIS COUNTY** to provide up to \$800,000.00 in Community Development Block Grant ("CDBG") Funds to assist in the Rehabilitation of a Harris County Cemetery for indigent individuals located at 5438 Oates Road, Houston, Texas - **DISTRICT B - JOHNSON**
25. ORDINANCE approving and authorizing Interlocal Agreement for Aircraft Rescue and Fire Fighting Training Services between the City of Houston and **TEXAS ENGINEERING EXTENSION SERVICE**, a member of the Texas A&M System, for George Bush Intercontinental Airport/Houston and William P. Hobby Airport; providing a maximum contract amount - 5 Years \$1,000,000.00 - Enterprise Fund - **DISTRICTS B - JOHNSON and I - RODRIGUEZ**
26. ORDINANCE approving and authorizing Automated Teller Machine Concession Agreement between the City of Houston and **JPMORGAN CHASE BANK, N.A.** at George Bush Intercontinental Airport/Houston and William P. Hobby Airport - Revenue - **DISTRICTS B - JOHNSON and I - RODRIGUEZ**
27. ORDINANCE relating to Airport Hazard Area Regulations in the vicinity of George Bush Intercontinental Airport/Houston, William P. Hobby Airport and Ellington Airport and within the City of Houston; confirming the appointment of the Airport Commission for Airport Hazard Area Purposes; requesting the Airport Commission to do those things that are required by law to be done by it before the City Council may adopt Airport Hazard Area Regulations

RESOLUTIONS AND ORDINANCES - continued

28. ORDINANCE amending Ordinance No. 2009-0460 (Passed on May 27, 2009) to increase the maximum contract amount for contract between the City of Houston and **GIBBS & BRUNS, LLP** for Legal Services relating to Cause No. 2008-68402, Southern Crushed Concrete v. City of Houston, in the 333rd Judicial District Court of Harris County, Texas - \$75,000.00 - Property and Casualty Fund
  
29. ORDINANCE calling public hearings at which interested persons will be given the opportunity to be heard on: proposed amendments to the strategic partnership agreements between the City of Houston and **CINCO SOUTHWEST MUNICIPAL UTILITY DISTRICT NO. 4, CY CHAMP PUBLIC UTILITY DISTRICT, and HARRIS COUNTY FRESH WATER SUPPLY DISTRICT NO. 52** and on proposals for the City of Houston to annex for limited purposes certain territory located within such districts in Harris and Fort Bend Counties; Proposed Strategic Partnership Agreements between the City of Houston and **CINCO SOUTHWEST MUNICIPAL UTILITY DISTRICT NO. 3 and TATTOR ROAD MUNICIPAL DISTRICT** and on proposals for the City of Houston to annex for limited purposes certain territory located within such districts in Harris and Fort Bend Counties; proposed amendments to the Strategic Partnership Agreements between the City of Houston and **BRIDGESTONE MUNICIPAL UTILITY DISTRICT, GREENS PARKWAY MUNICIPAL UTILITY DISTRICT, HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 191, MASON CREEK UTILITY DISTRICT, NORTH BELT UTILITY DISTRICT, NORTH FOREST MUNICIPAL UTILITY DISTRICT, TIMBER LANE UTILITY DISTRICT, HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 61, CIMARRON MUNICIPAL UTILITY DISTRICT, and FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 50** and on proposals for the City of Houston to annex for limited purposes certain territory located within and in the vicinity of such districts in Harris and Fort Bend Counties; Proposed Strategic Partnership Agreements between the City of Houston and **CYPRESS FOREST PUBLIC UTILITY DISTRICT, FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 118, FOREST HILLS MUNICIPAL UTILITY DISTRICT, HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 105, HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 149, HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 114, HARRIS-FORT BEND COUNTIES MUNICIPAL UTILITY DISTRICT NO. 5, NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 15, RICHEY ROAD MUNICIPAL UTILITY DISTRICT, and SPRING WEST MUNICIPAL UTILITY DISTRICT** and on proposals for the City of Houston to annex for limited purposes certain territory located within and in the vicinity of such districts in Harris and Fort Bend Counties; proposals for the City of Houston to impose the City of Houston's sales and use tax in such territory; providing for the publication of notice of such hearings
  
30. ORDINANCE amending Ordinance 2005-0106, as amended, to increase the maximum contract amount and approving and authorizing the fourth amended and restated SafeClear Freeway Towing and Emergency Road Service Agreements between the City of Houston and **ALLIED COLLISION CENTER; CANNINO WEST, INC; CORPORATE AUTO SERVICE, INC; C-MAS, INC d/b/a FIESTA WRECKER SERVICE; KTL ENTERPRISES, INC; MILAM STREET AUTO STORAGE, INC; NATIONAL AUTO COLLISION, INC; NORTH HOUSTON MOTORS, INC; T & T MOTORS, INC d/b/a T & T MOTORS; UNIFIED AUTO WORKS PAINT & BODY, INC d/b/a UNIFIED AUTO WORKS AND WESTSIDE WRECKER SERVICE, INC** for the Houston Police Department; delegating to the Police Chief the authority to replace a terminated or suspended operator with another PATSA Holder for the term of the agreement; requiring operators to comply with State Law - \$2,799,839.00 - Police Special Service Fund (Metro)

**RESOLUTIONS AND ORDINANCES** - continued

31. ORDINANCE approving and authorizing Professional Services Contract between the City of Houston and **TRI-STEM. LTD.** for Utility Bill Auditing Services - Revenue
32. ORDINANCE approving and authorizing Communication Equipment License from **AMEGY BANK NATIONAL ASSOCIATION**, Licensor, to the City of Houston, Texas, Licensee, for ten (10) years with two (2) renewals of five (5) years, for the Information Technology Department to install equipment at 1801 Main Street, Houston, Texas in connection with a new Public Safety Radio System - **DISTRICT I - RODRIGUEZ**
33. ORDINANCE appropriating \$325,000.00 out of Public Library Consolidated Construction Fund as an additional appropriation for Stella Link Library Parking Lot Expansion located at Former Fire Station 37 Site under an existing Construction Management At-Risk Contract with **GILBANE BUILDING COMPANY**; providing funding for additional Design services relating to construction of facilities financed by the Public Library Consolidated Construction Fund **DISTRICT C - CLUTTERBUCK**
34. ORDINANCE amending Ordinance No. 2005-0705 (Passed on June 8, 2005) to increase the maximum contract amount for contract between the City of Houston and **GENUINE PARTS COMPANY dba NAPA AUTO PARTS** for Automotive and Equipment Parts and Repair Services for the Public Works & Engineering Department - \$6,250,000.00 - Fleet Management Fund
35. ORDINANCE awarding contract to **HOUSTON INSTALLATION SERVICES, INC** for Furniture Relocation Services for Various Departments; providing a maximum contract amount - 3 Years with two one-year options - \$1,234,139.13 - General and Enterprise Funds
36. ORDINANCE approving and authorizing Sanitary Sewer Service Agreement between the City of Houston and the **CY-CHAMP PUBLIC UTILITY DISTRICT**
37. ORDINANCE appropriating \$419,272.00 out of Drainage Improvement Commercial Paper Series F Fund and approving and authorizing contract between the City of Houston and **KLOTZ ASSOCIATES, INC** for Preparation of a City Stormwater Planning and Implementation Tool
38. ORDINANCE appropriating \$50,435.00 out of Street & Bridge Consolidated Construction Fund Number 4506 and approving and authorizing Pipeline Reimbursement Agreement between the City and **COPANO NGL SERVICES, L.P.** relating to the Construction of Kirby Drive from West Airport to Sims Bayou and Mowery Road from Edwina to future Kirby Drive - **DISTRICT D - ADAMS**
39. ORDINANCE appropriating \$82,500.00 out of Street & Bridge Consolidated Construction Fund Number 4506 and approving and authorizing Pipeline Reimbursement Agreement between the City and **TEPPCO CRUDE PIPELINE, LLC**, relating to the Construction of Kirby Drive from West Airport to Sims Bayou and Mowery Road from Edwina to future Kirby Drive - **DISTRICT D - ADAMS**
40. ORDINANCE appropriating \$1,804,200.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing Professional Services Contract between the City of Houston and **LJA ENGINEERING & SURVEYING, INC** for Engineering Services associated with the Design of Waterline Replacement in Kingspoint Area, Park Place Area and Polk Area; providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICTS D - ADAMS; E - SULLIVAN; H - GONZALEZ and I - RODRIGUEZ**

**AGENDA - OCTOBER 7, 2009 - PAGE 7**

**RESOLUTIONS AND ORDINANCES** - continued

41. ORDINANCE approving first amendments to Disaster Debris Contract with **DRC EMERGENCY SERVICES, LLC** and with **OMNI PINNACLE LLC** for Disaster Debris Removal Services for Solid Waste Management Department
42. ORDINANCE granting authority to **CENTURYTEL FIBER COMPANY II, LLC, A LOUISIANA LIMITED LIABILITY COMPANY, dba LIGHTCORE, A CENTURYTEL COMPANY** the right, privilege and franchise to use the public way of the City of Houston, Texas, for the purpose of laying, constructing, leasing, maintaining, repairing, replacing, removing, using, and operating therein, network facilities for providing authorized services; providing for related terms and conditions - **FIRST READING**
43. ORDINANCE No. 2009-898, passed second reading September 30, 2009  
ORDINANCE granting to **WASTE CONNECTIONS OF TEXAS, LLC, A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport Solid Waste and Industrial Waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions  
**THIRD AND FINAL READING**

**END OF CONSENT AGENDA**

**CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA**

**NON CONSENT AGENDA** - NUMBERS 44 and 45

**MISCELLANEOUS**

44. **SET HEARING DATE** to consider a Municipal Setting Designation ordinance (MSD) for D/J Venture for the site located at 3131 Argonne Street - **DISTRICTS A - LAWRENCE; B - JOHNSON; C - CLUTTERBUCK; D - ADAMS; F - KHAN; G - HOLM; H - GONZALEZ and I - RODRIGUEZ**  
**SUGGESTED HEARING DATE - 9:00 A.M. - WEDNESDAY - DECEMBER 9, 2009**
45. **MOTION TO SET A DATE** not less than seven (7) days from October 7, 2009 to receive nominations for appointments to Positions One through Four for the **ANIMAL ADVISORY COMMITTEE BOARD OF DIRECTORS** for the remainder of a two year term that will end December 31, 2009

**MATTERS HELD** - NUMBERS 46 through 50

46. RECOMMENDATION from Director Convention & Entertainment Facilities Department for approval of supplemental budgets submitted by the Greater Houston Convention and Visitors Bureau - \$1,652,550.00 - Enterprise Fund  
**TAGGED BY COUNCIL MEMBERS KHAN and GREEN**  
This was Item 3 on Agenda of September 30, 2009
47. RECOMMENDATION from Director Convention & Entertainment Facilities Department for approval of supplemental budgets submitted by the Houston Arts Alliance - \$1,386,705.00 Enterprise Fund - **TAGGED BY COUNCIL MEMBER KHAN**  
This was Item 4 on Agenda of September 30, 2009

**MATTERS HELD** - continued

48. MOTION by Council Member Khan/Seconded by Council Member Green to adopt recommendation from Director Department of Public Works & Engineering on award to **MCKINSEY & COMPANY, INC** for Consulting Services for Evaluation of Process Improvement, Implementing Process Improvements and Developing Best Practices for Various Processes for the Combined Utility System - \$1,084,000.00 - Enterprise Fund  
**TAGGED BY COUNCIL MEMBER LAWRENCE**  
This was Item 13 on Agenda of September 30, 2009
49. ORDINANCE approving and authorizing first amendment to Loan Agreement between the City of Houston and **HOUSTON AREA COMMUNITY DEVELOPMENT CORPORATION** to extend the project completion date of a single room occupancy housing facility located at 6311 Gulf Freeway, Houston, Texas - **DISTRICT I - RODRIGUEZ** - **TAGGED BY COUNCIL MEMBER JONES**  
This was Item 20 on Agenda of September 30, 2009
50. ORDINANCE appropriating \$4,070,000.00 out of Airports Improvement Fund and approving and authorizing agreement between the City of Houston and **KELLOGG, BROWN & ROOT SERVICES, INC** for Job Order Contracting Services for Houston Airport System (Project No. 516D); providing funding for the Civic Art Program - \$5,000,000.00 - Enterprise Fund  
**DISTRICTS B - JOHNSON; E - SULLIVAN and I - RODRIGUEZ**  
**TAGGED BY COUNCIL MEMBERS GREEN, JOHNSON, NORIEGA and JONES**  
This was Item 32 on Agenda of September 30, 2009

**MATTERS TO BE PRESENTED BY COUNCIL MEMBERS** - Council Member Sullivan first

**ALL ORDINANCES ARE TO BE CONSIDERED ON AN EMERGENCY BASIS AND TO BE PASSED ON ONE READING UNLESS OTHERWISE NOTED, ARTICLE VII, SECTION 7, CITY CHARTER**

**NOTE** - WHENEVER ANY AGENDA ITEM, WHETHER OR NOT ON THE CONSENT AGENDA, IS NOT READY FOR COUNCIL ACTION AT THE TIME IT IS REACHED ON THE AGENDA, THAT ITEM SHALL BE PLACED AT THE END OF THE AGENDA FOR ACTION BY COUNCIL WHEN ALL OTHER AGENDA ITEMS HAVE BEEN CONSIDERED

CITY COUNCIL RESERVES THE RIGHT TO TAKE UP AGENDA ITEMS OUT OF THE ORDER IN WHICH THEY ARE POSTED IN THIS AGENDA. ALSO, AN ITEM THAT HAS BEEN TAGGED UNDER CITY COUNCIL RULE 4 (HOUSTON CITY CODE §2-2) OR DELAYED TO ANOTHER DAY MAY BE NEVERTHELESS CONSIDERED LATER AT THE SAME CITY COUNCIL MEETING



BILL WHITE  
MAYOR

OFFICE OF THE MAYOR  
CITY OF HOUSTON  
TEXAS

COPY TO EACH MEMBER OF COUNCIL:  
CITY SECRETARY: 9-17-09 / date  
COUNCIL MEMBER: \_\_\_\_\_

OCT 07 2009

September 16, 2009

The Honorable City Council  
City of Houston

Dear Council Members:

Pursuant to Chapter 3807, Texas Special District Local Laws Code, I am nominating the following individuals for appointment or reappointment to the Board of Directors of the Greater East End Management District, as recommended by the District Board of Directors, subject to Council confirmation.

Ms. Mary Margaret Hansen, appointment to Position One, for a term to expire June 1, 2013;

Mr. Rex Moran, reappointment to Position Two, for a term to expire June 1, 2013;

Ms. Sally Lehr, appointment to Position Three, for a term to expire June 1, 2013;

Mr. Gregory D. Compean, reappointment to Position Four, for a term to expire June 1, 2013;

Ms. Irma Galvan, reappointment to Position Five, for a term to expire June 1, 2013;

Ms. Catarina Gonzales Cron, appointment to Position Six, for a term to expire June 1, 2013; and

Mr. Andrew Perez, reappointment to Position Seven, for a term to expire June 1, 2013.

Résumés of the nominees are attached for your review.

Sincerely,

A handwritten signature in black ink that reads "Bill White".

Bill White  
Mayor

BW:LC:jsk

RECEIVED  
SEP 17 2009  
CITY SECRETARY

Attachments

cc: Ms. Diane Schenke, President, Greater East End Management District  
Ms. Jeanne H. McDonald, Attorney for the District, Greater East End Management District

**TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> Motion to extend pay differential for 730 days for employees called to active duty status during a time of war or state of emergency	<b>Category #3</b>	<b>Page 1 of 1</b>	<b>Agenda Item #</b>  <i>2</i>
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<b>FROM (Department or other point of origin):</b> Human Resources	<b>Origination Date</b> September 24, 2009	<b>Agenda Date</b> OCT 07 2009
-----------------------------------------------------------------------	-----------------------------------------------	-----------------------------------

<b>DIRECTOR'S SIGNATURE:</b> <i>MS cclaldrige</i>	<b>Council District affected: All</b>
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<b>For additional information contact:</b> Candy Clarke Aldridge, (713) 837-9333 Rod Newman, (713) 837-9411	<b>Date and identification of prior authorizing Council action:</b> Motion 2008-0730 dated 10/1/08
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**RECOMMENDATION: (Summary)**  
Human Resources Department recommends City Council adopt a motion to approve a 730 day period for Military Leave pay differential as authorized in Article IV – Section 14 – 254.

<b>Amount</b> None <b>Source of Funding:</b> N/A	<b>Budget:</b>
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**SPECIFIC EXPLANATION:**

Section 14 – 254 (a) of Chapter 14, Article IV Military Leaves in the City Code of Ordinances authorizes pay differential for employees called to active duty status as full time members of military forces during time of war or state of emergency. Section 14 – 256 limits the initial authorization to a period of 90 calendar days from the date the employee is called to active duty.

The events of September 11, 2001 began the first 90-day period. Council has approved subsequent extensions. Several employees were activated shortly thereafter, and many have since been activated. Currently, 40 City of Houston employees have received military orders and are on active duty. The current 365-day period expires October 26, 2009.

It is not expected that the national state of emergency will be resolved within the current 365-day period. To avoid undue disruption to the economic circumstances of these City employees who continue on military leave, the Human Resources Department recommends that City Council authorize a 730-day (two year) period during which City employees on authorized military leave may be compensated at the same rate and on the same terms as specified in Chapter 14, Article IV - Section 14 – 254, et seq. In the event that the state of emergency or war ends prior to the expiration of these extensions then this order will be rescinded.

**REQUIRED AUTHORIZATION**

<b>Finance Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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**Deployment Locations for City of Houston Emploeyss On Military Leave -  
Wartime as of October 2, 2009**

2

Department	Deployment Location			Total
	Afghanistan	Iraq	Other	
Fire			15 *	15
Police	4	7	12	23
Public Works & Engineering			1	1
<b>Totals:</b>	4	7	28	39

\* Fire Department does not know deployment locations, although at least one employee is in Afghanistan

**REQUEST FOR COUNCIL ACTION – Draft 9-11-09 - 2**

**TO:** Mayor via City Secretary

**RCA#**

**Subject:**

Holiday Schedule for Calendar Year 2010

Category #

Page 1 of 1

Agenda Item

**3**

**FROM (Department or other point of origin):**

Human Resources

**Origination Date**

10-1-09

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Aldridge*

**Council District(s) affected**

All

**For additional information contact:**

Candy Clarke Aldridge

**Phone:**

(713) 837-9333

Roderick J. Newman

(713) 837-9411

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

It is recommended that City Council approve the following Holiday Schedule for 2010.

**Amount of Funding:**

None Required

**F & A Budget**

**SOURCE OF FUNDING:**

General Fund

Grant Fund

Enterprise Fund

Other (Specify)

None Required

**SPECIFIC EXPLANATION:**

The proposed 2010 Holiday Schedule listed below is similar to those in the past.

**Proposed 2010 Holiday Schedule**

New Year's Day	Friday	01-01-2010
Martin Luther King, Jr.	Monday	01-18-2010
Memorial Day	Monday	05-31-2010
Independence Day (Observed)	Monday	07-05-2010
Labor Day	Monday	09-06-2010
Veteran's Day	Thursday	11-11-2010
Thanksgiving Day	Thursday	11-25-2010
Day after Thanksgiving	Friday	11-26-2010
Christmas Eve	Friday	12-24-2010
Christmas (Observed)	Monday	12-27-2010

**Plus one (1) floating holiday granted for Municipal and Classified Police Employees and one (1) floating holiday granted for Fire Fighters designated as the "September 11<sup>th</sup> Floating Holiday" according to guidelines established and administered by the Administration.**

**Cc:** Anthony Hall  
Marty Stein

**REQUIRED AUTHORIZATION**

Finance Director:

Other Authorization:

Other Authorization:

**O: Mayor via City Secretary REQUEST FOR COUNCIL ACTION**

**SUBJECT:** Accept Work for Water Line Replacement in the Mary Bates South & Maplewood Area. WBS No. S-000035-00E7-4.

Page 1 of 1

Agenda Item #

4

**FROM (Department or other point of origin):**

Department of Public Works and Engineering

**Origination Date**

10-1-09

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE:**

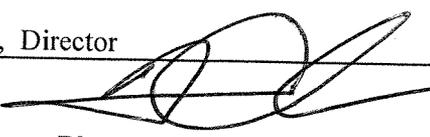
  
Michael S. Marcotte, P.E., D.WRE, BCEE, Director

**Council Districts affected:**

F

**For additional information contact:**

J. Timothy Lincoln, P.E.  
Senior Assistant Director

  
**Phone:** (713) 837-7074

**Date and Identification of prior authorizing Council Action:**

Ord. #2007-318 dated 03/21/2007

**RECOMMENDATION: (Summary)** Pass a motion to approve the final Contract Amount of \$1,958,645.11, which is 7.79% under the original Contract Amount, accept the Work and authorize the final payment.

**Amount and Source of Funding:** No additional appropriation required.

(Original appropriation of \$2,412,900.00 from Water and Sewer System Consolidated Construction Fund No. 8500.)

**PROJECT NOTICE/JUSTIFICATION:** This project was part of the City's Water Line Replacement program. This program is required to replace and upgrade water lines within the City to increase circulation and availability of water.

**DESCRIPTION/SCOPE:** The project consisted of 21,925 linear feet of 8-inch and 2,386 linear feet of 12-inch diameter water lines, valves and appurtenances. Othon, Inc. designed the project with 235 calendar days allowed for construction. The project was awarded to C.E. Barker, Ltd. with an original Contract Amount of \$2,124,153.91.

**LOCATION:** The project is located in the following Key Map grids:

Bound By

1. Carvel on the north, Beechnut on the south, Barberton on the east and South Gessner on the west
2. Maple on the north, Beechnut on the south, Chimney Rock on the east and Renwick on the west.

Key Map Grid

530-J & K

531-P

**CONTRACT COMPLETION AND COST:** The Contractor, C.E. Barker, Ltd. has completed the Work under subject Contract. The project was completed within the Contract Time. The final cost of the project, including overrun and underrun of estimated bid quantities is \$1,958,645.11, a decrease of \$165,508.80 or 7.79% under the original Contract Amount.

The decreased cost is a result of the differences between planned and measured quantities, primarily due to an underrun in Base Unit Price Item No. 14 - 8-inch Diameter Water Line w/Restrained Joints by Open-cut, Clean Air Incentive Item No. 39 and Cash Allowance Item No. 40, which were not necessary to complete the Work.

**M/WBE PARTICIPATION:** The M/WBE goal for this project was 20%. According to Affirmative Action and Contract Compliance Division, the actual participation was 19.23%. The Contractor was awarded a "Satisfactory" rating for M/WBE compliance.

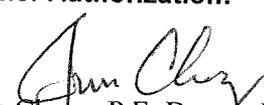
MSM:DRM:JTL:JAK:JC:mq  
Z:\E&C Construction\South Sector\PROJECT FOLDER\S-0035-E7\Closure\RCA\RCA.DOC

cc: Velma Laws File No. S-000035-00E7-4 - 21.0

**REQUIRED AUTHORIZATION**

CUIC ID# 20MZQ127

**Finance Department:**

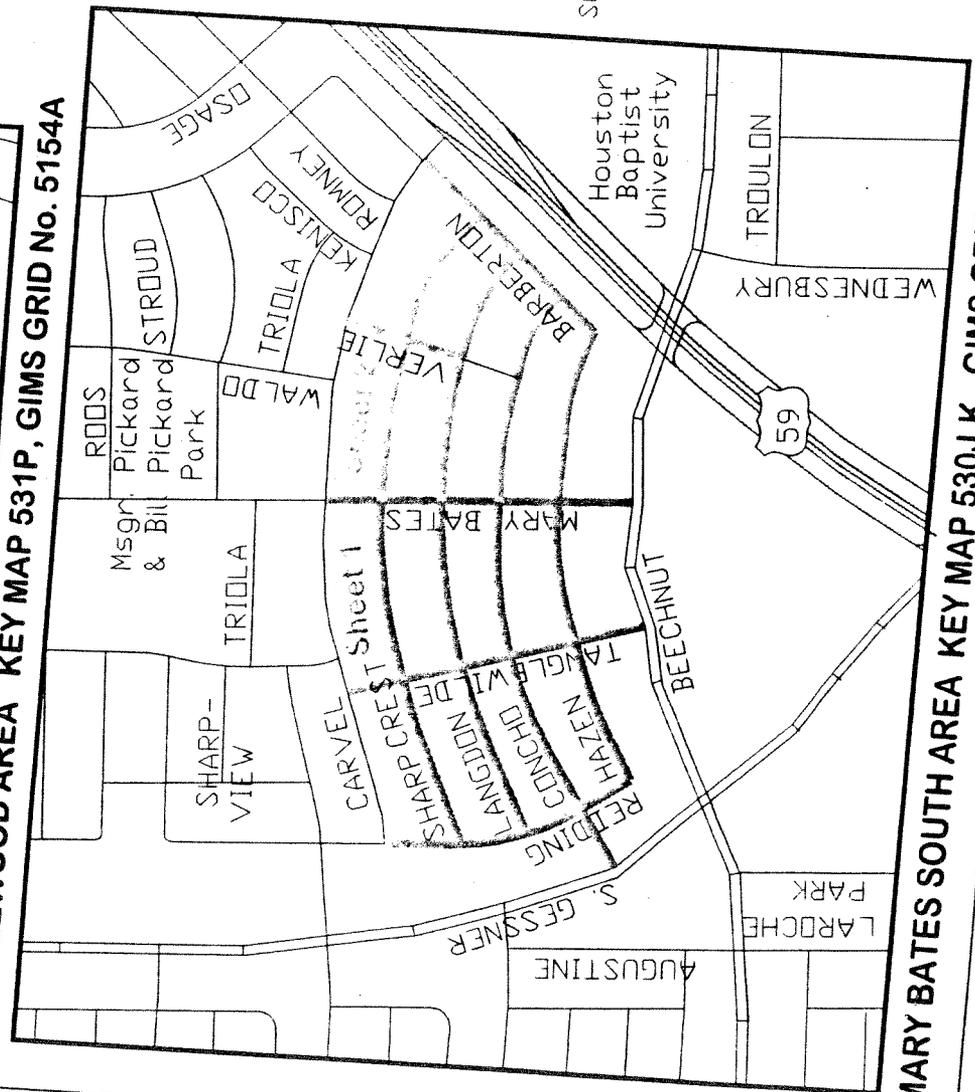
**Other Authorization:**  
  
Jun Chang, P.E. Deputy Director  
Public Utilities Division

**Other Authorization:**  
  
Daniel R. Menendez, P.E., Deputy Director  
Engineering and Construction Division

NOT



**MAPLEWOOD AREA KEY MAP 531P, GIMS GRID No. 5154A**



**MARY BATES SOUTH AREA KEY MAP 530J,K, GIMS GRID Nos. 4954B, 5054A**

MARY BATES SOUTH & MAPLEWOOD AREA			
WATER LINE REPLACEMENT			
STREET NAME	FROM	TO	SIZE (INCH) (FEET)
Sharpcrest	Barberton	Redding	8 3616
Langdon	Barberton	Redding	8 3396
Concho	Barberton	Redding	8 2996
Hazen	Barberton	S Gessner	12 386
Redding	Barberton	Redding	8 2596
Tanglewilde	Carvel	Hazen	8 1416
Tanglewilde	Carvel	Hazen	8 1216
Mary Bates	Hazen	Beechnut	12 416
Verlie	Carvel	Beechnut	12 1616
Barberton	Carvel	Langdon	8 616
Maple	Renwick	Hazen	8 1296
Edith	Renwick	Chimney Rock	8 2616
Braesmont	Renwick	Chimney Rock	8 2616
Chimney Rock	Beechnut	Maple	8 696
	Beechnut	Maple	8 696
			<b>TOTAL = 26,170</b>

SCALE: N.T.S.

SCALE: N.T.S.



**OTHON, INC., CONSULTING ENGINEERS**  
 Civil, Transportation, Environmental, CM  
 1111 Wilcrest Green Drive, Suite 128  
 Houston, Texas 77042

**CITY OF HOUSTON**

WATER LINE REPLACEMENT IN THE MARY BATES SOUTH AND MAPLEWOOD AREA  
 WBS NO. S-000035-00E7-4

Exhibit

**O: Mayor via City Secretary REQUEST FOR COUNCIL ACTION**

**SUBJECT:** Accept Work for 36-inch Water Line along Eldridge Parkway from Sandbridge to Westheimer. WBS. No. S-000900-00AC-4.

Page 1 of 1

Agenda Item # **5**

**FROM (Department or other point of origin):**

Department of Public Works and Engineering

**Origination Date**  
10-1-09

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE:**

  
Michael S. Marcotte, P.E., D. WRE, BCEE, Director

**Council Districts affected:**  
G

**For additional information contact:**

J. Timothy Lincoln, P.E.  
Senior Assistant Director

  
Phone: (713) 837-7074

**Date and Identification of prior authorizing Council Action:**  
Ord. #2007-442 dated 04/04/2007

**RECOMMENDATION: (Summary)** Pass a motion to approve the final Contract Amount of \$4,052,080.55, which is 3.44% under the original Contract Amount, accept the Work and authorize the final payment.

**Amount and Source of Funding:** No additional appropriation required.  
(Original appropriation of \$4,913,900.00 from Water and Sewer System Consolidated Construction Fund No. 8500.)

**PROJECT NOTICE/JUSTIFICATION:** This project was part of the City's Surface Water Transmission Program and was required to increase circulation and availability of water in the area.

**DESCRIPTION/SCOPE:** The project consisted of 10,116 linear feet of 36-inch water distribution line, valves, and appurtenances, along Eldridge Parkway from Sandbridge to Westheimer. Texas American Engineering, Inc. designed the project with 240 calendar days allowed for construction. The project was awarded to BRH-Garver Construction, LP. with an original Contract Amount of \$4,196,474.00.

**LOCATION:** The project is located along Eldridge Parkway from Sandbridge on the north to Westheimer on the south. The project is located in Key Map grids 488-K, P, & T.

**CONTRACT COMPLETION AND COST:** The Contractor, BRH-Garver Construction, LP. has completed the Work under the subject Contract. The project was completed beyond the established completion date and Liquidated Damages in the amount of \$20,000.00 @ \$1000.00/day for 20 days have been assessed and are reflected in the final payment to the Contractor. The final cost of the project, including Liquidated Damages, overrun and underrun of estimated bid quantities, and previously approved Change Order Nos. 1, 2, and 3 is \$4,052,080.55, a decrease of \$144,393.45 or 3.44% under the original Contract Amount.

The decreased cost is primarily a result of an underrun in Base Unit Price Item No. 8 - Ground Water Control for Open-Cut Construction, Base Unit Price Item No. 30 - 18-inch Diameter Storm Sewer Lead and the Work not requiring use of most Extra Unit Price Items.

**M/WBE PARTICIPATION:** The M/WBE goal for this project was 20.00%. According to Affirmative Action and Contract Compliance Division, the actual participation was 27.00%. The Contractor achieved an "Outstanding" rating for the MWDBE Compliance.

  
MSM:DRM:JTL/JLS:JM:mq  
Z:\E&C Construction\North Sector\PROJECT FOLDER\S-000900-00AC-4 Eldridge WL\Close out\RCA\RCA\_Closeout.DOC

File No. S-000900-00AC-4 - Closeout

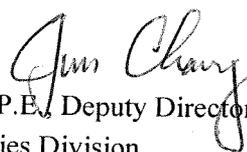
**REQUIRED AUTHORIZATION**

CUIC ID# 20MZQ126

**&A Director:**

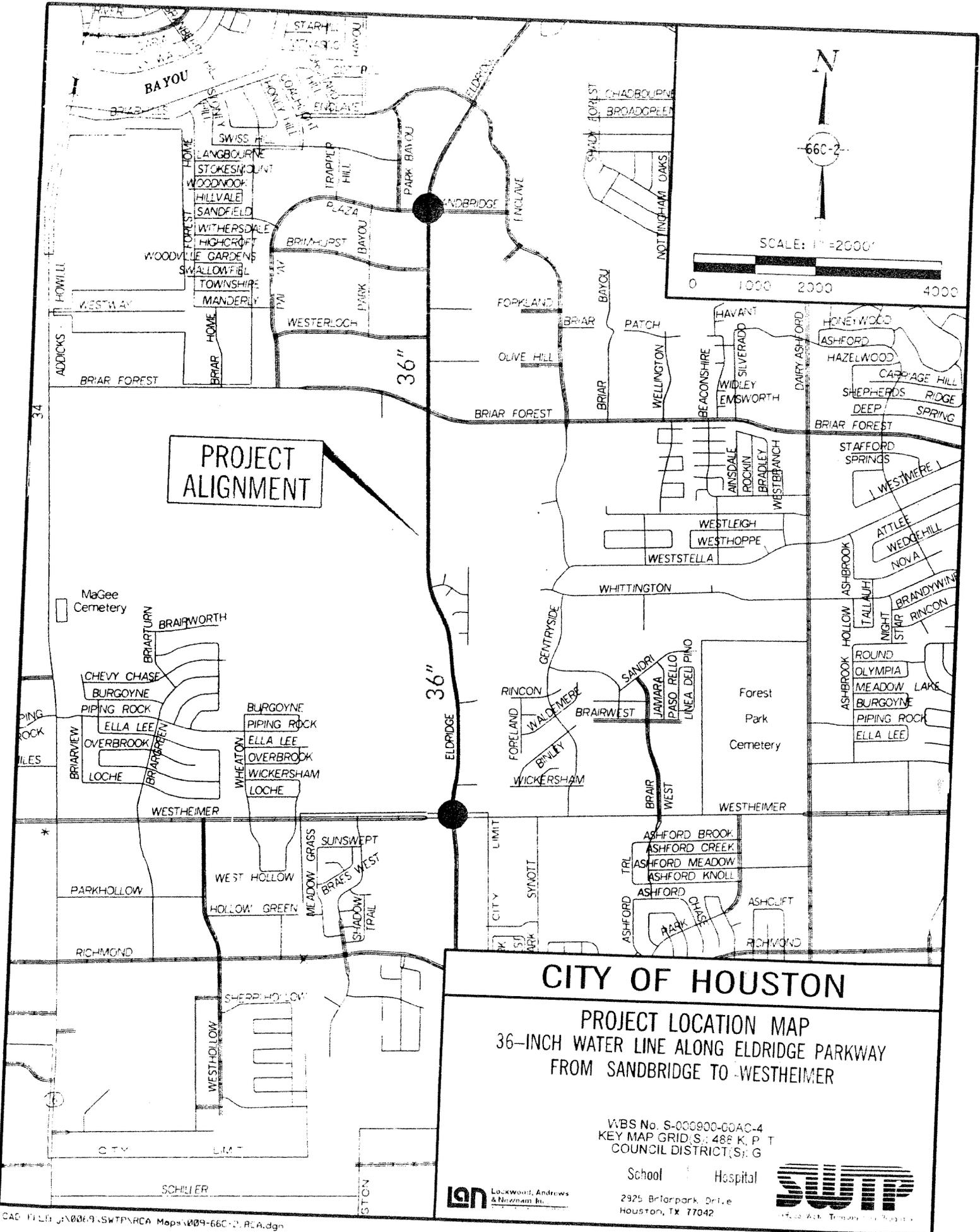
**Other Authorization:**

**Other Authorization:**

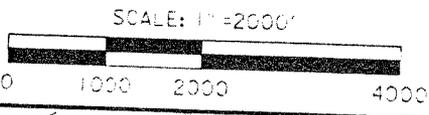
  
Jun Chang, P.E., Deputy Director  
Public Utilities Division

  
Daniel R. Menendez, P.E., Deputy Director  
Engineering and Construction Division

MOT



**PROJECT ALIGNMENT**



**CITY OF HOUSTON**

**PROJECT LOCATION MAP**  
**36-INCH WATER LINE ALONG ELDRIDGE PARKWAY**  
**FROM SANDBRIDGE TO WESTHEIMER**

WBS No. S-000900-00AC-4  
 KEY MAP GRID: S, 488 K, P, T  
 COUNCIL DISTRICT: S, G

School Hospital

**SWTP**

Lockwood, Andrews & Newnam Inc.  
 2925 Briarpark Drive  
 Houston, TX 77042

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

**SUBJECT:** Appointment of two independent appraisers and an alternate appraiser in connection with the sale of 43,491 square feet of land at 3602 Center Street, known as the Heights Recycling Center, Parcel SY9-080.

Page  
1 of 1

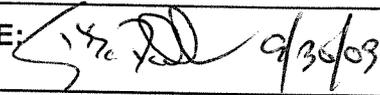
Agenda Item

6

**FROM (Department or other point of origin):**  
General Services Department

**Origination Date**  
10/1/09

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE:**  9/30/09  
Issa Z. Dadoush, P.E.

**Council District(s) affected:** H

**For additional information contact:**  
Jacquelyn L. Nisby Phone: (832) 393-8023

**Date and identification of prior authorizing Council action:**

**RECOMMENDATION:** Adopt a motion (i) appointing two independent appraisers and an alternate appraiser to determine the fair market value of Parcel SY9-080, known as the Heights Recycling Center, located at 3602 Center Street, and (ii) authorizing the sealed bid sale of Parcel SY9-080.

**Amount and Source Of Funding:** Revenue

**Finance Budget:**

**SPECIFIC EXPLANATION:** The General Services Department (GSD) believes the land currently serving as the Heights Recycling Center is underutilized for its market value and a sealed bid sale of the land could produce significant revenue to the City. A portion of the proceeds from the sale of this site will be used to acquire a less expensive recycling center site for the Solid Waste Management Department and offset the construction and operations costs of a new site.

GSD further recommends that, pursuant to Code of Ordinances, section 2-241(c), City Council approve the appointment of two independent appraisers and an alternate, as listed below, to determine the fair market value of the 43,491 square feet, more or less, site located at 3602 Center at Harvard, known as the Heights Recycling Center, inasmuch as the value is expected to exceed \$1 million.

- Michael Welch - Integra Realty Resources
- Bill Jackson - Bill Jackson and Associates Appraisers
- Samuel Jarrett - Jarrett's Appraisal Service (Alternate)

IZD:BC:JLN:WW:ww

xc: Marty Stein, Anna Russell, Jacquelyn L. Nisby

REQUIRED AUTHORIZATION

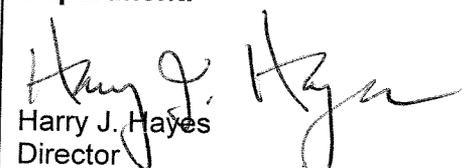
CUIC ID# 25 WW 08

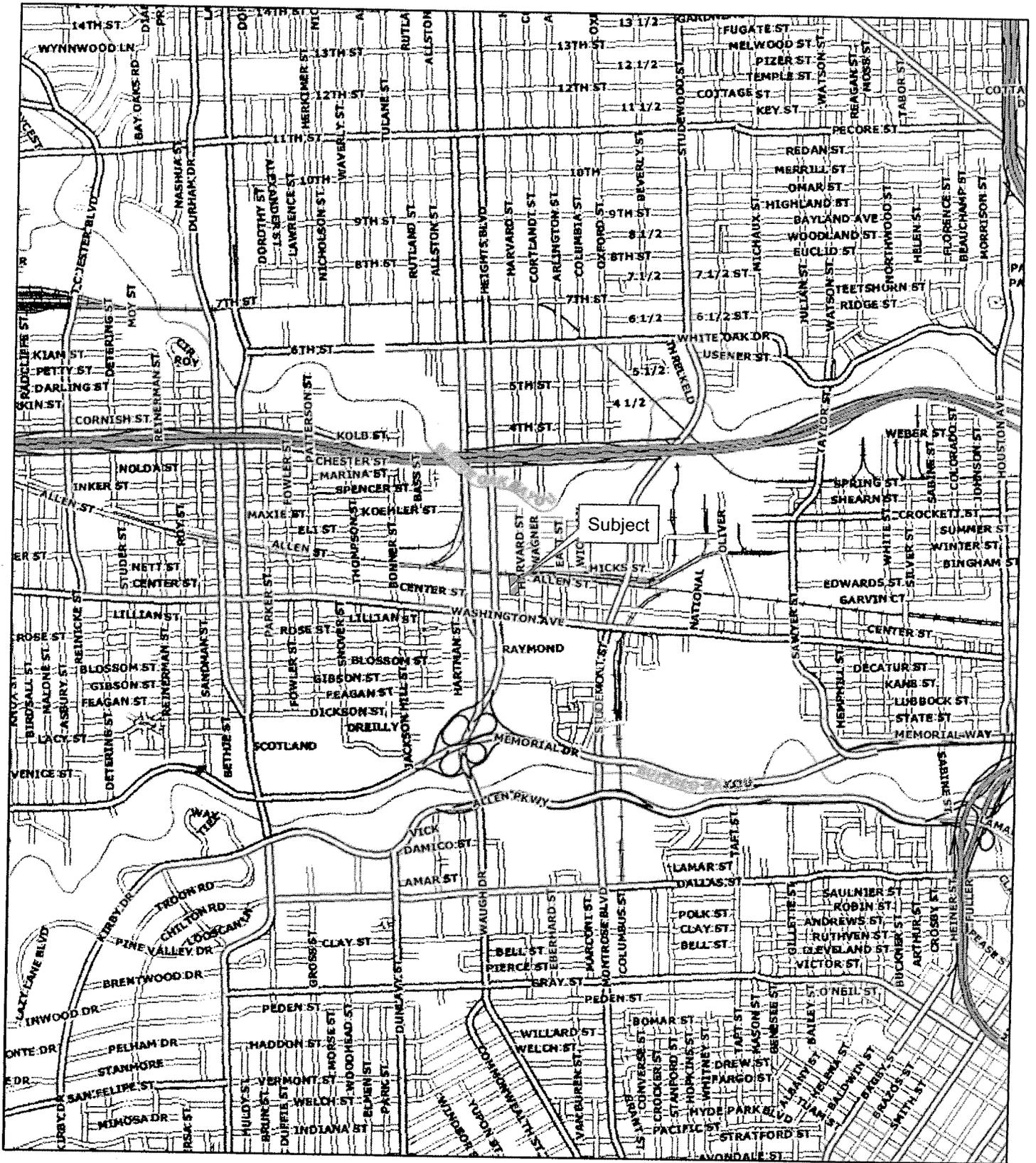
**General Services Department:**



Forest R. Christy, Jr., Director  
Real Estate Division

**Solid Waste Management Department:**

  
Harry J. Hayes  
Director



Heights Recycling Center - 3602 Center Street

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8460**

**Subject:** Formal Bids Received for Full Size Sedans with Police Package for the Houston Fire Department  
S38-N23354

Category #  
1 & 4

Page 1 of 2

Agenda Item

**7-7A**

**FROM (Department or other point of origin):**

Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**

August 31, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

Karen Dupont Phone: (713) 859-4934  
Ray DuRousseau Phone: (832) 393-8726

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve an ordinance authorizing the appropriation of \$196,619.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800), and approve an award to Philpott Motors, Ltd., d/b/a Philpott Ford on its low bid in the amount of \$196,619.00 for full size sedans with police package for the Houston Fire Department.

Award Amount: \$196,619.00

**Finance Budget**

\$196,619.00 - Equipment Acquisition Consolidated Fund (Fund 1800)

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$196,619.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800). It is further recommended that City Council approve an award to Philpott Motors, Ltd., d/b/a Philpott Ford on its low bid in the amount of \$196,619.00 for eight full-size, four-door sedans with police package, and that authorization be given to issue a purchase order. These new vehicles will be used citywide by the Houston Fire Department's command and support staff to respond to emergency calls. The funding for these vehicles is included in the adopted Equipment Acquisition Plan.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Seven prospective bidders downloaded the solicitation document from the Strategic Purchasing Division's e-bidding website and five bids were received as outlined below.

<u>Company</u>	<u>Total Amount</u>
1. Philpott Motors, Ltd., d/b/a Philpott Ford	\$196,619.00
2. Tommie Vaughn Motors, Inc.	\$203,467.72
3. Planet Ford 45	\$206,144.00
4. Caldwell Country Chevrolet	\$212,024.00
5. Grand Prairie Ford	\$212,698.00

These new vehicles will meet the EPA's current emission standards for low emission vehicles. They will come with a full three-year/36,000-mile bumper-to-bumper warranty and the life expectancy is seven years or 100,000 miles. See the Equipment Usage Summary on Page 2 of 2 for vehicle usage and replacement details. The existing vehicles have exceeded their useful life expectancy and will be sent to auction for disposition.

Buyer: Lena Farris

Attachment: M/WBE Zero Percentage Goal Document approved by the Affirmative Action Division

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

**NDT**

*Handwritten initials*

Date: 8/31/2009	Subject: Formal Bids Received for Full Size Sedans with Police Package for the Houston Fire Department S38-N23354	Originator's Initials LF	Page 2 of 2
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This RCA was reviewed by the Council Committee on Minority/Women Business Enterprise, Small Contractor Development and Contract compliance on September 28, 2009. The committee recommended this RCA be moved to Council for consideration.

**EQUIPMENT USAGE SUMMARY**

BID ITEM NO./ DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT/ FLEET USAGE	EQUIPMENT REPLACEMENT		
ITEM NO. 1, SERIES 374C REAR-WHEEL DRIVE, FULL SIZE, 4-DOOR SEDAN WITH POLICE PACKAGE	10084670	8	Houston Fire Department/	<u>Shop No.</u> 30323	<u>Age</u> 10	<u>Mileage</u> 206,677
				30327	10	207,256
			These vehicles will	29535	10	178,872
			be used citywide by	28875	10	146,412
			command and	30324	10	186,510
			support staff	29538	10	161,966
			responding to	30326	10	155,759
			emergency calls.	30325	10	149,792



# CITY OF HOUSTON

# Interoffice

Administration & Regulatory Affairs Department  
Strategic Purchasing Division

Correspondence

To: Calvin D. Wells, Deputy Director  
City Purchasing

From: Lena Farris  
Procurement Specialist

Date: July 20, 2009

Subject: MWBE Participation Form

I am requesting a **waiver** of the MWBE Goal: Yes  No

Type of Solicitation: Bid  Proposal

I am **requesting** a MWBE goal below 11%

Yes  No  0%

I am requesting a **revision** of the MWBE Goal: Yes  No

Original Goal: New Goal: \_\_\_\_\_

If requesting a revision, how many solicitations were received: \_\_\_\_\_

Solicitation Number: S38-N23354

Estimated Dollar Amount: \$192,000.00

Anticipated Advertisement Date: 7/24/09

Solicitation Due Date: 8/13/2009

Goal On Last Contract: N/A

Was Goal met: Yes  No

If goal was not met, what did the vendor achieve: \_\_\_\_\_

Name and Intent of this Solicitation: Eight Full Size Sedans with Police Package for the Fire Department

**Rationale for requesting a Waiver or Revision:** The only potential for MWBE subcontracting on this procurement is for the purchase of aftermarket equipment such as lightbars, sirens and push bumpers. The buyer reviewed the current MWBE Directory published by the Affirmative Action Division and could not find any suppliers of the aforementioned Equipment. Therefore, there is no MWBE subcontracting possibility on this procurement and the recommendation is for a zero MWBE goal on the procurement.

Concurrence:  
*[Signature]*  
Initiator  
*[Signature]*  
Robert Gallegos, Deputy Assistant Director  
\*Affirmative Action

*[Signature]*  
Deputy Assistant Director  
*[Signature]*  
Calvin D. Wells, Deputy Director  
City Purchasing Agent

\* Signature is required, if the request is for zero percent MWBE participation, or to revise the MWBE goal.

RECEIVED

JUL 22 2009  
CITY OF HOUSTON  
Affirmative Action

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8457**

**Subject:** Formal Bids Received for a Pile Hammer for the Public Works & Engineering Department  
S38-N23202

Category #  
1 & 4

Page 1 of 1

Agenda Item

**8-8A**

**FROM (Department or other point of origin):**

Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**

September 03, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

David Guernsey Phone: (713) 238-5241  
Ray DuRousseau Phone: (832) 393-8726

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve an ordinance authorizing the appropriation of \$76,875.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800), and approve an award to Hammer & Steel, Inc. on its low bid in the amount of \$76,875.00 for a diesel-powered pile hammer, for the Public Works & Engineering Department.

Award Amount: \$76,875.00

**Finance Budget**

\$76,875.00 - Equipment Acquisition Consolidated Fund (Fund 1800)

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$76,875.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800). It is further recommended that City Council approve an award to Hammer & Steel, Inc. on its low bid in the amount of \$76,875.00 for a diesel-powered pile hammer, for the Public Works & Engineering Department, and that authorization be given to issue a purchase order. This new diesel-powered pile hammer will be used citywide by the Public Works & Engineering Department to drive concrete pilings for construction of new bridges. The funding for the diesel-powered pile hammer is included in the adopted Equipment Acquisition Plan.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Five prospective bidders downloaded the solicitation document from the Strategic Purchasing Division's e-bidding website and two bids were received as outlined below:

<u>Company</u>	<u>Amount (Item No. 1)</u>
1. Hammer & Steel, Inc.	\$ 76,875.00
2. J & G Sales, Inc.	\$123,400.00

Item No. 2 will not be awarded.

This new diesel-powered pile hammer will come with a one-year warranty for the repair and replacement of parts and the life expectancy is ten years. This new diesel-powered pile hammer will be an addition to the Department's fleet inventory.

Buyer: Lena Farris  
PR10059124

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*Handwritten initials*

*Handwritten initials*

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8448**

**Subject:** Formal Bids Received for Light-Duty Utility Vehicles for Various Departments  
S34-N23274

Category #  
1 & 4

Page 1 of 2

Agenda Item

**9+9A**

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
September 04, 2009

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE**  
*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**  
David Guernsey Phone: (713) 238-5241  
Ray DuRousseau Phone: (832) 393-8726

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve an ordinance authorizing the appropriation of \$174,875.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) and \$206,574.00 out of the Reimbursement of Equipment/Projects Fund (Fund 1850), and approve various awards as shown below in the total amount of \$1,473,374.00 for light-duty utility vehicles for various departments.

Award Amount: \$1,473,374.00

**Finance Budget**

- \$ 17,876.00 - Clean Rivers Program Fund (Fund 5030)
- \$ 35,752.00 - Special Waste Transportation & Inspection Fund (Fund 2423)
- \$ 206,574.00 - Reimbursement of Equipment/Projects Fund (Fund 1850)
- \$ 174,875.00 - Equipment Acquisition Consolidated Fund (Fund 1800)
- \$ 607,784.00 - Building Inspection Fund (Fund 2301)
- \$ 276,761.00 - HAS-AIF Capital Outlay Fund (Fund 8012)
- \$ 153,752.00 - Combined Utility System General Purpose Fund (Fund 8305)
- \$1,473,374.00 - Total

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$174,875.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) and \$206,574.00 out of the Reimbursement of Equipment/Projects Fund (Fund 1850), and approve various awards as shown below in the total amount of \$1,473,374.00 for light-duty utility vehicles for various departments, and that authorization be given to issue purchase orders. These vehicles will be used citywide by department personnel to conduct City business and provide services to the citizens of Houston. The funding for the vehicles funded with the Equipment Acquisition Consolidated Fund (Fund 1800) is included in the adopted FY10 Equipment Acquisition Plan. For the vehicles funded with the Reimbursement of Equipment/Projects Fund (Fund 1850), the fund will be reimbursed by revenue generated from the sale of the Solid Waste Management Department's salvage equipment at the City's auction, and by revenue generated by the Administration & Regulatory Affairs Department's Transportation Section and Property Disposable Management Office.

This bid was advertised in accordance with the requirements of the State of Texas bid laws. Seven prospective bidders downloaded the solicitation document from SPD's e-bidding website, and three bids were received as itemized below.

**Planet Ford 45:** Award on its low bid meeting specifications for Item No. 1, eighteen hybrid-electric, 4-door, 2-wheel drive, utility vehicles in the amount of \$495,063.00.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*MS*

*MS*

*MS*

Date:  
9/4/2009

Subject: Formal Bids Received for Light-Duty Utility Vehicles for  
Various Departments  
S34-N23274

Originator's  
Initials  
LB

Page 2 of 2

**Company**

**Amount**

- |                               |              |
|-------------------------------|--------------|
| 1. Planet Ford 45             | \$495,063.00 |
| 2. Tommie Vaughn Motors, Inc. | \$495,330.00 |
| 3. Philpott Motors, Ltd.      | \$496,791.00 |

**Philpott Motors, Ltd.:** Award on its low bid meeting specifications for Item No. 2, nine gasoline-powered, 4-door, 4-wheel drive, utility vehicles and low bid for Item No. 3, forty-five gasoline-powered, 4-door, 2-wheel drive, utility vehicles in the amount of \$978,311.00.

**Company**

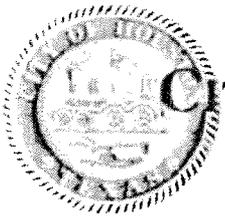
**Amount**

- |                               |                |
|-------------------------------|----------------|
| 1. Philpott Motors, Ltd       | \$ 978,311.00  |
| 2. Tommie Vaughn Motors, Inc. | \$1,017,550.00 |
| 3. Planet Ford 45             | \$1,064,919.00 |

These new vehicles will come with a full three-year/36,000-mile bumper-to-bumper warranty and the life expectancy is seven years or 100,000 miles. See the attached Equipment Usage Summary for vehicle usage and replacement details. The vehicles that will be replaced have reached their life expectancy and will be sent to auction for disposition. These new vehicles will meet the EPA's current emission standards for low emission vehicles.

Buyer: Larry Benka

Attachments: 1. Equipment Usage Summary  
2. M/WBE Zero Percentage Goal Document Approved by the Affirmative Action Division



# CITY OF HOUSTON

Administration & Regulatory Affairs Department  
Strategic Purchasing Division (SPD)

## Interoffice

Correspondence

To: Kevin M. Coleman, C.P.M.  
Assistant Purchasing Agent

RECEIVED

MAY 11 2009

CITY OF HOUSTON  
AFFIRMATIVE ACTION

From: Larry Benka

Date: 05/11/2009

Subject: MWBE Participation Form

I am requesting a waiver of the MWBE Goal: Yes  No  Type of Solicitation: Bid  Proposal

I am requesting a MWBE goal below 11% (To be completed by SPD, and prior to advertisement): Yes  No

I am requesting a revision of the MWBE Goal: Yes  No  Original Goal: \_\_\_\_\_ New Goal: \_\_\_\_\_

If requesting a revision, how many solicitations were received: \_\_\_\_\_

Solicitation Number: N23274 Estimated Dollar Amount: \$2,550,000.00

Anticipated Advertisement Date: 5/15/2009 Solicitation Due Date: 6/4/2009

Goal On Last Contract: \_\_\_\_\_ Was Goal met: Yes  No

If goal was not met, what did the vendor achieve: \_\_\_\_\_

Name and Intent of this Solicitation:

Purchase of Hybrid Electric Light Duty Vehicles for Various Departments

Rationale for requesting a Waiver or Revision (Zero percent goal or revision after advertisement):  
(To be completed by SPD)

These vehicles will be shipped directly from the manufacturer to the City's bidders. There will be no aftermarket accessories. Therefore, there is no potential for M/WBE participation for this procurement.

Concurrence:

SPD Initiator

Division Manager

Robert Gallegos, Deputy Assistant Director  
\*Affirmative Action

Kevin M. Coleman, C.P.M.  
Assistant Purchasing Agent

\* Signature is required, if the request is for zero percent MWBE participation, or to revise the MWBE goal.

**EQUIPMENT USAGE SUMMARY  
RCA 8448  
LIGHT-DUTY UTILITY VEHICLES  
FOR  
VARIOUS DEPARTMENTS  
S34-N23274**

BID ITEM NO. DESCRIPTION	REQUISITION NO.	QTY	Department/Division Fleet Usage	Equipment Replacement		
				Shop No.	Age	Mileage
ITEM NO. 1 SERIES 660E HYBRID ELECTRIC LIGHT-DUTY UTILITY VEHICLE	10078059	2	General Services/Property Management  These vehicles will be used citywide by the department to transport personnel to various construction and maintenance locations to conduct inspections and to enforce City contract compliance.	24631 25402	14 13	91,352 85,309
	10078906	1	Administration & Regulatory Affairs/Office of Emergency Management  This vehicle will be used citywide by the department to transport personnel to various locations throughout the City to conduct City business in regards to disaster preparedness.	25137	13	97,934
	10084212	1	Administration & Regulatory Affairs/Asset Disposition  This vehicle will be used citywide by the department to transport personnel to various locations throughout the City to view, photograph, and collect vehicle data on units that are to be sold at auction.	This unit is an addition to the Department's fleet. Currently, the Department does not have any similar units for this program.		
	10084213	4	Administration & Regulatory Affairs/ Transportation Section  These vehicles will be used citywide by department to transport regulatory investigators to various locations to conduct inspections and enforce compliance of City codes for taxicab, limousine, charters and school buses.	31908 30055 30054 31740	8 10 10 10	98,486 90,991 93,797 93.320
	10084262	3	Houston Airport System/Operations  These vehicles will be used at the George Bush Intercontinental Airport by department personnel to conduct airport business.	31407 30132 29006	8 10 11	90,716 84,431 52,364
	10084266	1	Houston Airport System/Administration  This vehicle will be used at the George Bush Intercontinental Airport by department personnel to conduct airport business.	28985	11	57,278

**EQUIPMENT USAGE SUMMARY  
RCA 8448  
LIGHT-DUTY UTILITY VEHICLES  
FOR  
VARIOUS DEPARTMENTS  
S34-N23274**

BID ITEM NO. DESCRIPTION	REQUISITION NO.	QTY	Department/Division Fleet Usage	Equipment Replacement		
				Shop No.	Age	Mileage
ITEM NO. 1 SERIES 660E HYBRID ELECTRIC LIGHT-DUTY UTILITY VEHICLE (CONTINUED)	10084268	1	Houston Airport System/Operations  This vehicle will be used in and around William P. Hobby Airport by department personnel for patrolling activities.	31413	8	107,410
	10084280	2	Houston Airport System/Operations  These vehicles will be used at the George Bush Intercontinental Airport by department personnel to perform daily routine maintenance inspections.	30128 29012	10 11	92,143 72,915
	10084286	2	Houston Airport System/Operations  These vehicles will be used at the William P. Hobby Airport by department personnel to conduct airport business.	31922 29177	8 11	80,571 75,427
	10084289	1	Houston Airport System/Operations  This vehicle will be used at the George Bush Intercontinental Airport by the department to transport maintenance personnel, supplies and small equipment to assigned job sites.	29013	11	89,970

**EQUIPMENT USAGE SUMMARY  
RCA 8448  
LIGHT-DUTY UTILITY VEHICLES  
FOR  
VARIOUS DEPARTMENTS  
S34-N23274**

BID ITEM NO. DESCRIPTION	REQUISITION NO.	QTY	Department/Division Fleet Usage	Equipment Replacement		
				Shop No.	Age	Mileage
ITEM NO. 2 SERIES 661B LIGHT-DUTY 4-WHEEL DRIVE GASOLINE UTILITY VEHICLE	10085034	3	Public Works & Engineering/Safety & Environmental  These vehicles will be used citywide by the department to carry needed equipment and personnel for the completion of safety investigations, safety inspections, field surveys, and hazardous spill removal training.	21185 22794 29155	16 15 11	186,987 230,881 145,330
	10085194	1	Public Works & Engineering/Office of the Director  This vehicle will be used citywide by department personnel to meet with the media and constituents at various sites to discuss and handle Public Works & Engineering Department issues.	23164	15	58,949
	10085195	1	Public Works & Engineering/Office of the Director/Small Business Development  This vehicle will be used citywide by department personnel for site visits and networking seminars with contractors to ensure they are in compliance with the Mayor's programs.	This unit is an addition to the Department's fleet. This is a newly created group that is responsible for the Mayor's Play or Pay program and there is currently no vehicle in this group for this purpose.		
	10085196	3	Public Works & Engineering/Office of the Director/Internal Audit  These vehicles will be used citywide by department personnel to visit site locations to monitor contractor performance, conduct field audits and contract monitoring.	21108 23098 27959	16 15 11	31,119 105,409 96,215
	10085766	1	Public Works & Engineering/Engineering & Construction  This vehicle will be used citywide by department personnel to make field visits or meet with consultants and/or the public.	21189	16	103,940

**EQUIPMENT USAGE SUMMARY  
RCA 8448  
LIGHT-DUTY UTILITY VEHICLES  
FOR  
VARIOUS DEPARTMENTS  
S34-N23274**

BID ITEM NO. DESCRIPTION	REQUISITION NO.	QTY	Department/Division Fleet Usage	Equipment Replacement		
				Shop No.	Age	Mileage
ITEM NO. 3 SERIES 663B LIGHT-DUTY 2-WHEEL DRIVE GASOLINE UTILITY VEHICLE	10084233	26	Public Works & Engineering/Planning & Development Services  These vehicles will be used citywide by department personnel to make inspections and an investigation to enforce compliance with the City's building codes.	28526	11	114,887
				28737	11	108,379
				28738	11	114,563
				28746	11	95,622
				28750	11	100,649
				28751	11	94,775
				28755	11	132,627
				29518	10	159,993
				29524	10	139,188
				30725	9	128,311
				30851	9	108,623
				30852	9	98,951
				30854	9	108,450
				30862	9	121,177
				30868	9	141,622
				32971	7	125,685
				32977	7	131,350
				32978	7	111,480
				32979	7	110,212
				32981	7	155,510
				32982	7	129,928
				32984	7	139,156
				32988	7	116,414
				32990	7	107,979
				32993	7	132,766
				32994	7	105,390
	10084236	3	Public Works & Engineering/Planning & Development Services  These vehicles will be used citywide by department personnel to make inspections and investigations ensuring compliance with the City's codes and State/Federal regulations relating to flood plain management, street cuts, and storm water quality.	25657	14	130,126
				27071	12	162,311
				21460	15	157,703
	10084314	2	Public Works & Engineering/Right of Way  These vehicles will be used citywide by the department to transport small tools, equipment and personnel to job sites throughout the City.	30726	9	139,481
				21227	16	107,537

**EQUIPMENT USAGE SUMMARY  
RCA 8448  
LIGHT-DUTY UTILITY VEHICLES  
FOR  
VARIOUS DEPARTMENTS  
S34-N23274**

BID ITEM NO. DESCRIPTION	REQUISITION NO.	QTY	Department/Division Fleet Usage	Equipment Replacement														
ITEM NO. 3 SERIES 663B LIGHT-DUTY 2- WHEEL DRIVE GASOLINE UTILITY VEHICLE (CONTINUED)	10084399	5	Public Works & Engineering/Planning & Development Services  These vehicles will be used citywide by department personnel to make inspections and an investigation to enforce compliance with the City's building codes.	These units are additions to the department's fleet. These new vehicles will allow the department to rotate existing units into reserves to maintain a reserve fleet that is adequate to ensure that sufficient reserve vehicles are available for inspectors when front-line vehicles are out-of-service for maintenance or repairs.														
	10086204	2	Health & Human Services/Environmental Health  These vehicles will be used by the department to transport employees and job-related equipment and supplies to various worksites throughout the City.	<table border="1"> <thead> <tr> <th>Shop No.</th> <th>Age</th> <th>Mileage</th> </tr> </thead> <tbody> <tr> <td>28360</td> <td>11</td> <td>136,271</td> </tr> <tr> <td>29514</td> <td>10</td> <td>91,439</td> </tr> </tbody> </table>	Shop No.	Age	Mileage	28360	11	136,271	29514	10	91,439					
	Shop No.	Age	Mileage															
	28360	11	136,271															
	29514	10	91,439															
10086233	2	Health & Human Services/Environmental Health  These vehicles will be used by the department to transport employees and job-related equipment and supplies to various worksites throughout the City.	<table border="1"> <thead> <tr> <th>Shop No.</th> <th>Age</th> <th>Mileage</th> </tr> </thead> <tbody> <tr> <td>21300</td> <td>16</td> <td>81,760</td> </tr> <tr> <td>24640</td> <td>14</td> <td>84,163</td> </tr> </tbody> </table>	Shop No.	Age	Mileage	21300	16	81,760	24640	14	84,163						
Shop No.	Age	Mileage																
21300	16	81,760																
24640	14	84,163																
10086720	4	Solid Waste Management/Support Services  These vehicles will be used citywide by the department to transport senior superintendents to various facilities to monitor field operations and inspect facilities for safety compliance.	<table border="1"> <thead> <tr> <th>Shop No.</th> <th>Age</th> <th>Mileage</th> </tr> </thead> <tbody> <tr> <td>22502</td> <td>15</td> <td>201,184</td> </tr> <tr> <td>26488</td> <td>13</td> <td>123,470</td> </tr> <tr> <td>31425</td> <td>8</td> <td>136,600</td> </tr> <tr> <td>32200</td> <td>8</td> <td>160,197</td> </tr> </tbody> </table>	Shop No.	Age	Mileage	22502	15	201,184	26488	13	123,470	31425	8	136,600	32200	8	160,197
Shop No.	Age	Mileage																
22502	15	201,184																
26488	13	123,470																
31425	8	136,600																
32200	8	160,197																
10087601	1	Health & Human Services/Environmental Health  This vehicle will be used citywide by the department to transport employees and job-related equipment and supplies to various worksites.	This vehicle is an addition to the department's fleet. This utility vehicle will complement the pickup trucks in the fleet, offering more flexibility of service including increased passenger capacity.															

**REQUEST FOR COUNCIL ACTION**

TO: Mayor via City Secretary

RCA# 8459

Subject: Formal Bids Received for Automotive, Cummins Repair Parts and Services for Various Departments  
S40-S23215

Category #  
4

Page 1 of 2

Agenda Item

10

**FROM (Department or other point of origin):**

Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**

September 15, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

Jack Williams Phone: (713) 247-8793  
Desiree Heath Phone: (832) 393-8742

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve an award to Cummins Southern Plains, LLC on its low bid in an amount not to exceed \$600,750.00 for Cummins replacement parts and repair services for various departments.

Estimated Spending Authority: \$600,750.00

**Finance Budget**

\$600,750.00 General Fund (1000)

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an award to Cummins Southern Plains, LLC on its low bid in an amount not to exceed \$600,750.00 for Cummins replacement parts and repair services for various departments. It is further requested that authorization be given to make purchases, as needed, for a 60 month period. This award consists of two price lists for new and reconditioned replacement parts; which includes but are not limited to, engines, cylinder heads, fuel injectors, alternators, compressors, transfer pumps, fuel check valves, hoses, belts, filter kits, and water pumps. These parts will be used by the Fire, Solid Waste Management and Parks & Recreation Departments to repair and maintain Cummins engines on fire, garbage, and large service trucks. This award also includes a \$150,950.00 labor component for repair services that cannot be performed by City personnel.

This is a price list solicitation. The best discount which determines the low bid for a price list, is the best bid received for quantities of high-use items selected as sample pricing items based on the current needs of the Department. The bid total for sample pricing items does not represent the total amount to be purchased; rather, this award recommendation is for the total estimated expenditures projected over the 60-month period based on the low bid submitted for the representative samples.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Five prospective bidders downloaded the solicitation document from SPD's e-bidding website, and four bids were received as outlined below:

<u>Company</u>	<u>Sample Pricing / Labor Total</u>
1. Houston Freightliner, Inc.	\$45,988.35 (Partial Bid/Higher Unit Cost)
2. <b>Cummins Southern Plains, LLC</b>	<b>\$53,603.26</b>
3. Chastang's Bayou City Ford	\$57,326.71
4. Rush Truck Center, Houston	\$58,256.10

Group V is not being awarded. This service will be obtained on a three-bid basis.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*MDT*

Date: 9/15/2009	Subject: Formal Bids Received for Automotive, Cummins Repair Parts and Services for Various Departments S40-S23215	Originator's Initials JM	Page 2 of 2
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Attachment: M/WBE zero-percent goal document approved by the Affirmative Action Division.

Buyer: Jeff D. Meekins

**Estimated Spending Authority**

Department	FY 10	Out Years	Total
Fire	\$65,000.00	\$241,000.00	\$306,000.00
Solid Waste Management	\$27,000.00	\$153,000.00	\$180,000.00
Parks & Recreation	\$14,000.00	\$100,750.00	\$114,750.00
<b>TOTAL</b>	<b>\$106,000.00</b>	<b>\$494,750.00</b>	<b>\$600,750.00</b>



# CITY OF HOUSTON

# Interoffice

Administration & Regulatory Affairs Department  
Strategic Purchasing Division (SPD)

Correspondence

To: Kevin M. Coleman, C.P.M.  
Assistant Purchasing Agent

From: Jeff Meekins

Date: 5/22/2009

Subject: MWBE Participation Form

I am requesting a **waiver** of the MWBE Goal: Yes  No  Type of Solicitation: Bid  Proposal

I am **requesting** a MWBE goal below 11% (To be completed by SPD, and prior to advertisement): Yes  No

I am requesting a **revision** of the MWBE Goal: Yes  No  Original Goal: \_\_\_\_\_ New Goal: \_\_\_\_\_

If requesting a revision, how many solicitations were received: \_\_\_\_\_

Solicitation Number: S23215 Estimated Dollar Amount: \$600,000.00

Anticipated Advertisement Date: 5/29/2009 Solicitation Due Date: \_\_\_\_\_

Goal On Last Contract: N/A Was Goal met: Yes  No

If goal was not met, what did the vendor achieve: \_\_\_\_\_

Name and Intent of this Solicitation:  
Automotive, Cummins Repair Parts & Services for Various Departments.

Rationale for requesting a Waiver or Revision (Zero percent goal or revision after advertisement):  
(To be completed by SPD)

Part(s) orders will be direct shipped via common carrier from Cummins ten (10) service & warehouse locations throughout Texas & Oklahoma or the Global Distribution Center in Memphis, TN. Local outsourcing of remaining local Houston deliveries would result in minimal MWBE potential participation (less than 1/2 of 1%) as the captive replacement parts are expensive in relation to the delivery charges.

Concurrence:

Jeff D. Meekins  
SPD Initiator

Deshaun Heath  
Division Manager

Robert Gallegos  
Robert Gallegos, Deputy Assistant Director  
\*Affirmative Action

Kevin M. Coleman  
Kevin M. Coleman, C.P.M.  
Assistant Purchasing Agent

\* Signature is required, if the request is for zero percent MWBE participation, or to revise the MWBE goal.

RECEIVED

JUN 09 2009

CITY OF HOUSTON

Affirmative Action

RECEIVED  
6-24-09  
Completed All Signatures

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8480**

**Subject:** Amend Council Motion 2006-0156, Passed February 22, 2006, for Automotive Lubricants for Various Departments  
SC-R-9150-037-20786RA-A1

Category #  
4

Page 1 of 2

Agenda Item

11

**FROM (Department or other point of origin):**

Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**

September 23, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**

All

**For additional information contact:**

Vic Ayres Phone: (713) 837-9131  
Desiree Heath Phone: (832) 393-8742

**Date and Identification of prior authorizing Council Action:**

CM# 2006-156, passed February 22, 2006

**RECOMMENDATION: (Summary)**

Amend Council Motion 2006-0156, passed February 22, 2006 to increase the spending authority from \$2,071,411.10 to \$2,391,983.11 for automotive lubricants for various departments.

Spending Authority Increase By: \$320,572.01

**Finance Budget**

\$316,882.01 General Fund (1000)  
\$ 3,690.00 HAS-Revenue Fund (8001)  
\$320,572.01 Total

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council amend Council Motion 2006-0156, to increase the spending authority for automotive lubricants awarded to ADA Resources, Inc. from \$2,071,411.10 to \$2,391,983.11. The additional spending authority is required to meet the Departments' operational needs for approximately six months, when a new award will be presented to City Council. The spending authority has been depleted earlier than anticipated due to 1) the unexpected increases in crude oil which in turn increased the cost of base oil and additives in lubricants 2) the unanticipated purchase of 82 additional refuse vehicles used to services 85,000 additional homes that were serviced by another supplier and 3) the unforeseen increase in department operational requirements as a result of Hurricane Ike.

This award began February 28, 2006 for a 36-month period with two one-year options to extend, in an amount not exceed \$2,071,411.10. Expenditures as of September 22, 2009 totaled \$2,071,402.72. All other terms and conditions remain as originally approved by City Council.

This award consists of various grades and types of lubricants used on various types of machinery and equipment owned by the Houston Airport System and the Fire, Police, Solid Waste Management and Parks & Recreation Departments.

This solicitation was advertised with a 3% goal for M/WBE participation and ADA Resources is currently exceeding the goal.

Buyer: Desiree Heath

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*ADT*

*M/S*

*M/S*

Date:  
9/23/2009

Subject: Amend Council Motion 2006-0156, Passed February 22,  
2006, for Automotive Lubricants for Various Departments  
SC-R-9150-037-20786RA-A1

Originator's  
Initials  
DH

Page 2 of 2

**Estimated Spending Authority**

<b>Department</b>	<b>FY10</b>
Houston Airport System	\$ 3,690.00
Fire	\$ 89,885.93
Police	\$ 82,110.06
Solid Waste Management	\$138,286.02
Parks & Recreation	\$ 6,600.00
	<b>\$320,572.01</b>

<b>SUBJECT:</b> City Council Resolution authorizing the City to make loan application with the Texas Water Development Board, to access the Tier III, Clean Water State Revolving Fund program.	<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b> 12

<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> 10/1/09	<b>Agenda Date</b> OCT 07 2009
--------------------------------------------------------------------------------------------------	------------------------------------	-----------------------------------

<b>DIRECTOR'S SIGNATURE:</b> <i>Michael S. Marcotte</i> Michael S. Marcotte, P.E., D.WRE, BCCE, Director	<b>Council District affected:</b> All
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<b>For additional information contact:</b> Susan Bandy Phone: (713) 837-0282 <i>Susan Bandy</i>	<b>Date and identification of prior authorizing Council action:</b>
-------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------

**RECOMMENDATION: (Summary)**

Pass a Resolution authorizing the City to make loan application with the Texas Water Development Board, to access the Tier III, Clean Water State Revolving Fund program.

<b>Amount of Funding:</b> No funds are required at this time.	<b>F &amp; A Budget:</b>
------------------------------------------------------------------	--------------------------

<b>SOURCE OF FUNDING:</b> <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> General Fund	<input type="checkbox"/> Grant Fund	<input type="checkbox"/> Enterprise Fund
-----------------------------------------------------------------------	---------------------------------------	-------------------------------------	------------------------------------------

**SPECIFIC EXPLANATION:**

The Department of Public Works & Engineering wishes to apply for a low interest rate loan from the Texas Water Development Board (TWDB) under the Clean Water State Revolving Fund (CWSRF), Tier III program, to improve the wastewater system. The interest rates available on this program are 180 basis points below the current bond market rates.

The TWDB administers loan programs to eligible municipalities and agencies through the purchase of bonds issued by the loan recipients. In 1998, the TWDB began using a priority rating process to determine the amount of funding participants could receive from the State Revolving Fund. Municipalities are annually requested to submit an Intended Use Plan providing information on projects to be considered for TWDB funding. After the projects are prioritized and the amount of available funds determined, applicants are invited to apply for SRF loans. These wastewater projects are included in the FY2010-FY2014 Adopted Capital Improvement Plan (CIP).

The City of Houston has benefited from the lower interest rates offered by the SRF program since 1988 and wishes to continue its participation in the program. This resolution will authorize the City to make application with the TWDB to receive a \$62.98 million loan commitment based on the City's FY2010 Intended Use Plan. The loan commitment from the TWDB is for a two year period. Within that period, City Council approval will be requested to authorize the issuance of bonds to the TWDB. The \$62.98 million SRF bond issuance is anticipated in October 2011.

It is requested that City Council approve the resolution authorizing the City to make loan application with the Texas Water Development Board for the Clean Water State Revolving Fund.

cc: Marty Stein  
Legal  
Waynette Chan  
Gary Drabek  
Andy Icken

<b>REQUIRED AUTHORIZATION</b>	<b>CUIC#20SB24</b>
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<b>Finance Department:</b> <i>Charles Leal</i>	<b>Other Authorization:</b>	<b>Other Authorization:</b> <i>[Signature]</i>
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**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA#**

**Subject:**

Category #  
3

Page 1 of 1

Agenda Item

Revision to Chapter 14 of the Code of Ordinances regarding compensation for holidays for civilian employees

13

**FROM (Department or other point of origin):**

**Origination Date**

**Agenda Date**

Human Resources

September 30, 2009

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*MS Caldwell*

**Council District(s) affected**  
All

**For additional information contact:**

**Phone:**

Candy Clarke Aldridge

(713) 837-9333

**Date and Identification of prior authorizing Council Action:**

Ordinance 2008-1113, December 3, 2008

**RECOMMENDATION: (Summary)**

Adopt ordinance approving proposed revisions to Chapter 14-168 regarding compensation for holidays for civilian employees.

**Amount of Funding:** None

**Budget**

**SOURCE OF FUNDING:**

General Fund

Grant Fund

Enterprise Fund

**SPECIFIC EXPLANATION:**

The City of Houston and Houston Organization of Public Employees (HOPE) negotiated revisions to Chapter 14-168 regarding compensation for holidays for civilian employees as a settlement to a contract grievance filed by HOPE in February 2009. These revisions to holiday compensation were proposed by HOPE and recently agreed to by City and HOPE representatives. Also, attached is a chart that compares the proposed revisions to the latest and original ordinances.

1. Employees who are required by their department director or designee to work on a Council-declared holiday will accrue hours or be paid at 2.0 times their regular rate of pay for hours actually worked on the holiday.
2. Employees who were not previously notified they had to work on a Council-declared holiday, and who are then called in on short notice (required by the director or designee to report to work on a holiday with less than a 24 hours notice in advance of the starting time) will accrue or be paid at 2.5 times their regular rate of pay for hours actually worked on the holiday.
3. The definition of "Time actually worked or actual work", which counts toward overtime, will be as follows:

"The time the employee is actually on duty or on a council declared holiday, on authorized sick leave, vacation leave, compensatory time off, death in the family leave or any other authorized leave. However for clarification, if the holiday falls on an eligible employee's day off, and the employee does not work on the holiday, the employee will receive holiday compensation, but those hours will not count towards the overtime calculation for that week."

If the proposed revisions are approved on October 7, 2009, the reconfiguration of the SAP payroll system can be accomplished in time to include the above changes in the same pay period as the next holiday (November 11<sup>th</sup>, Veteran's Day). If the ordinance is approved later than October 7, 2009, then the changes will still be effective for Veteran's Day; however, the reconfiguration of SAP may not be completed until a later pay period requiring retroactive adjustments.

**REQUIRED AUTHORIZATION**

Finance Director:

Other Authorization:

Other Authorization:

Holiday Pay / Accrual Matrix

Holiday Falls on:	Employee works on Holiday?		Original Director's Compensation Options			Current Director's Compensation Options			Proposed Director's Compensation Options		
			Yes	No	Pay	Accrue	Pay	Accrue	Pay	Accrue	
					Hours worked at 1.5 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1 x hours worked	Hours worked at 2.5 x regular rate of pay	Pay at 1.5 x hours worked + Accrual at 1.5 x hours worked	Hours worked at 2.0 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1.0 x hours worked	
1) <i>Scheduled Work Day</i>	a.	X		Hours worked at 1.5 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1 x hours worked	Hours worked at 2.5 x regular rate of pay	Pay at 1.5 x hours worked + Accrual at 1.5 x hours worked	Hours worked at 2.0 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1.0 x hours worked		
	b.		X	Scheduled hours at 1 x regular rate of pay	N/A	Scheduled hours at 1 x regular rate of pay	N/A	Scheduled hours at 1 x regular rate of pay	N/A		
2) <i>Scheduled Day Off</i>	a.	X		Hours worked at 2.5 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1 x hours worked	Hours worked at 2.5 x regular rate of pay	Pay at 1.5 x hours worked + Accrual at 1.5 x hours worked	Hours worked at 2.0 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1.0 x hours worked		
	b.		X	Regularly scheduled hours at 1 x regular rate of pay	Accrual at 1 x regularly scheduled hours	Regularly scheduled hours at 1 x regular rate of pay	N/A	Regularly scheduled hours at 1 x regular rate of pay	N/A		
3) <i>Scheduled Day Off and Operational Emergency*</i>	a.	X		Hours worked at 2.5 x regular rate of pay	Option not provided	N/A	N/A	N/A	N/A		
	b.		X	Regularly scheduled hours at 1 x regular rate of pay	N/A	N/A	N/A	N/A	N/A		
4) <i>Required to work on Holiday due to Operational Emergency with less than 24 hours notice (Short Notice Call to Duty) regardless of schedule</i>	a.	X		N/A	N/A	N/A	N/A	Hours worked at 2.5 x regular rate of pay	Pay at 1 x hours worked + Accrual at 1.5 x hours worked		
	b.		X	N/A	N/A	N/A	N/A	N/A	N/A		
5) <i>Holiday Hours Paid Counted as Hours Worked</i>	a.	X		Y	N/A	Y	N/A	Y	N/A		
	b.		X	Y	N/A	N	N/A	Y	N/A		

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA #**

**SUBJECT:**

Ordinance amending Chapter 7 of the Houston Code of Ordinances relating to Secondhand Metal Dealers, Common Markets and Related Businesses

**Category #**

**Page 1 of 2**

**Agenda Item#**

14

**FROM: (Department or other point of origin):**

Alfred J. Moran, Jr., Director  
Administration and Regulatory Affairs

**Origination Date**

September 17, 2009

**Agenda Date**

**DIRECTOR'S SIGNATURE:**

**Council Districts affected:**

All

**For additional information contact:**

Tina Paez  
Kathryn Bruning

**Phone:** (713) 837-9630

**Phone:** (713) 837-9873

**Date and identification of prior authorizing Council Action:**

Ord. #2009-410, passed 5/13/09

**RECOMMENDATION: (Summary)**

Approve an ordinance amending Chapter 7 of the Code of Ordinances relating to Secondhand Dealers and Common Markets.

**Amount of Funding:** N/A

**FIN Budget:**

**SOURCE OF FUNDING:**      General Fund      Grant Fund      Enterprise Fund      Other (Specify)

**SPECIFIC EXPLANATION:**

The Director of the Administration and Regulatory Affairs (ARA) Department requests City Council approval of an ordinance which would amend Chapter 7 of the Houston Code of Ordinances relating to various dealers of secondhand items and common markets.

In January 2009, ARA began a systematic process of evaluating existing departmental permits and their related governing ordinances. The first phase of review addressed redundancies and obsolete provisions with the intent of consolidating permits or eliminating permit requirements where regulation in an area had ceased to be necessary to protect public health and safety interests. Those recommended amendments were approved unanimously by City Council in May 2009.

In the second phase of the permit ordinance review, ARA is focusing on enforcement enhancement opportunities for individual permits that frequently give rise to constituent and community concerns. Chapter 7 of the Code of Ordinances provides for the regulation of dealers that engage in the business of buying, selling, or trading used items of varying degrees of value. The City of Houston has opted to regulate in this area in the interest of public safety, i.e. businesses that engage in reselling or dealing in used items may at times be utilized to front criminal activity such as money laundering or may deal in stolen goods. To that end, ARA and HPD recommend amending Chapter 7 to include a surety bond requirement for all permits purchased pursuant to Articles II and III of this chapter, as well as the requirement that all applicants submit proof of State of Texas sales tax compliance, in the form of a sales tax identification number issued by the Texas Comptroller.

Article III governs Metal Recycling Entities and Secondhand Metal Dealers, as well as Secondhand Dealers in nonmetal items. ARA recommends minor housekeeping revisions that do not materially affect the regulatory ability or scope of the ordinance, as follows:

- Change the name of the nonmetal Secondhand Dealer permit to Secondhand Dealer/Reseller to better distinguish it from the Metal Recycling Entity/Secondhand Metal Dealer.
- Delete Section 7-73, which is redundant with Section 7-74.
- Amend Section 7-76(c) to correctly refer to section 7-75(d) regarding hearings.
- Require a Certificate of Occupancy for those facilities that are required to have one pursuant to other City regulations.

**REQUIRED AUTHORIZATION**

FIN Director:

115

Date: 0/17/09	<b>SUBJECT:</b> Approve an ordinance amending Chapter 7 of the Code of Ordinances relating to Secondhand Dealers and Common Markets.	Originator's Initials TP	Page 2 of 2
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**Common Market**

Common Markets are also regulated under Chapter 7. Common Markets are those tracts of land, including all improvements, on which five or more spaces, booths, stalls and/or rooms are rented or let for a period not to exceed eight consecutive days for the purpose of selling used goods. The fee for a permit is \$60.00 annually. Each vendor within the Common Market is also required to obtain the related permits for what they are selling: either a secondhand dealer permit or an itinerant vendor permit.

Following discussion with community members and feedback during the proceedings of City Council's Committee for Regulation, Planning and Neighborhood Protection, ARA and HPD believe that Farmer's Markets and events such as the First Saturday artisan market in the Houston Heights are similar to Common Markets. These informal retail markets deal in handicrafts, artisan products and original works of art. Some of the items sold at these events do not qualify under the current definition of Common Markets, and the gap in the definition has created confusion as to what type of permit the vendors should obtain. As such, ARA and HPD recommend that these vending activities be included in the definition of Common Markets. Further, to be more inclusive and make permits available to more organizations and groups, we recommend that the definition of Common Markets be amended to apply to three or more spaces, booths, stalls and/or rooms rather than the existing five. Additionally, it is recommended that the Common Market permit act as the controlling permit for an entire market. Individual vendors or operators of spaces, booths, stalls and/or rooms will not be required to apply for or obtain additional permits. ARA and HPD believe these changes will clarify the permits required for operation of a Common Market, streamline the application process, and facilitate regulation of such activities.

We propose the Common Market permit fee be based on a graduated scale, and be paid annually. For markets comprised of 0-10 vendors, the fee shall be \$60.00; markets comprised of 11-20 vendors, the fee shall be \$120.00; and, for those markets comprised of more than 20 vendors, the fee shall be \$180.00. The graduated fee schedule takes into account the City's graduated costs of oversight, enforcement and administration attributable to larger groups of vendors congregating in a common area. The fee will apply only to the master permittee, rather than the individual vendors. ARA and HPD believe this will: encourage the concentration of such activities and increase the number of individual vendors at each Common Market. This will, in turn, increase the customer traffic for these markets, thereby encouraging street vendors to organize themselves as Common Markets instead of operating independently in dispersed locations.

In addition to the above changes, ARA and HPD recommend that the person, group, or corporation applying for the Common Market permit be required to submit a notarized written affidavit from the property owner, to include a contact number at which the owner may be reached at all times. The affidavit and owner contact information should be posted at the Common Market as well as the permit, which will assist the Police Officer/Regulatory Investigator in the enforcement of this permit. A Common Market license would not be eligible for renewal if a conviction for failure to comply with applicable regulations related to operating a common market occurs. As required of other vendor categories, common markets are subject to surety bond requirements.

**Due Process**

Finally, we recommend the ordinance be amended to provide for an administrative hearing process. The permits and licenses subject to regulation under Chapter 7 of the Code of Ordinances will be subject to denial, suspension or revocation in accordance with section 7-75(d). An administrative appeal and hearing process, similar to the procedure currently in place for other ARA permits, will be strictly adhered to.

**Recommendation**

The recommended amendments to the Code of Ordinances were considered and approved by City Council's Regulation, Development and Neighborhood Protection Committee.

## Chapter 7

### ANTIQUE DEALERS, COMMON MARKETS, SCRAP METAL PROCESSORS, SECONDHAND DEALERS RESELLERS AND RELATED BUSINESSES

#### ARTICLE I. IN GENERAL

##### Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Antique dealer* means any person who engages in the business of buying, selling, trading, or otherwise dealing in used items which, because of age or design or quality or intrinsic beauty, or rarity or demand or otherwise have a value enhanced over the original value of such goods.

*Business* means an activity carried on for profit, but shall not include occasional purchases or trades by a hobbyist.

*Chief of police* means the chief of police for the city of Houston and such persons as he may designate to perform his duties under this article.

*Director* means the director of the department of administration and regulatory affairs or his designee.

*Minor* means any person under 18 years of age.

*Precious metals* means gold, silver or platinum.

*Precious metals dealer* means any person who engages in the business of buying, selling, trading or otherwise dealing in precious metals.

~~*Secondhand dealer* means any person who engages in the business of buying, selling, trading or otherwise dealing in used items, other than metal items.~~

*Secondhand reseller* means any person who buys, sells, exchanges or deals in personal property that has been previously used, broken or disfigured; provided, that a merchant who deals in new furniture, dishes or other regular household furnishings and accepts such articles for credit on the purchase price of new or used articles sold contemporaneously therewith that are of similar character to the goods so exchanged shall not be considered a secondhand reseller for the purposes of this article.

*Show* means any display and offering of used items for sale or trade by more than one dealer at a single location.

*Used* means any items, goods, products, wares, chattels, or articles of any sort, which have previously been owned by someone other than the manufacturer, or by a dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the customer.

**Sec. 7-2. Licensed pawnbrokers excluded.**

This chapter shall not apply to pawnbrokers licensed by the State of Texas.

**Sec. 7-3. Penalty for violation of any portion of this chapter.**

Any person who owns or operates any business governed by this chapter but does not have a valid license therefore or any person who shall violate any portion of this chapter shall be guilty of a misdemeanor and, upon conviction thereof shall be punished by a fine of not less than \$100.00 nor more than \$500.00. Each day such owner/operator/person permits the sale of any goods from such unlicensed business or violates any provision of this chapter shall constitute a separate offense.

**Sec. 7-4. State law/city retention periods.**

Any retention periods required by this chapter are not meant to replace any required retention periods provided for by state law; in the event there is a conflict between retention periods provided for in this chapter and retention periods required by state law, the longer retention requirements shall control and apply.

**Sec. 7-5. Requirement for certificate of occupancy.**

Any business covered by this chapter that operates out of facilities required by city ordinance to have a certificate of occupancy must obtain said certificate of occupancy prior to a license being issued under this chapter.

**Secs. 7-56--7-15. Reserved.**

**ARTICLE II. ANTIQUE, PRECIOUS METALS, AND RESALE MEDIA AND CLOTHING DEALERS**

**Sec. 7-16. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Licensee* means any person licensed as a secondhand ~~dealer~~ reseller

pursuant to article III of this chapter, or as an antique dealer, precious metals dealer, or resale media and clothing dealer pursuant to this article.

*Resale media and clothing dealer* means any dealer who deals exclusively in:

- a. Used books, magazines and other printed documents;
- b. Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and/or
- c. Used items of clothing, except those made in whole or in part from fur, but not in any other items, goods, products, wares, clothes or articles which are subject to regulation under this article.

*Tableware* means any flatware, dishes, serving pieces or other items designed or intended to be used in connection with the serving or eating of food when such items are made of any precious metal or wholly or partially plated with a precious metal.

**Sec. 7-17. License required; display.**

No person shall operate as an antique dealer, precious metals dealer, or resale media and clothing dealer or own any such business or engage in the business of buying, trading, or otherwise receiving used books, magazines and other printed documents, used items of clothing (except those made from fur), jewelry, used tableware, or other used items containing precious stones or made of or plated with precious metals unless he is licensed pursuant to the licensing provisions of this article, is licensed as a ~~secondhand dealer-reseller~~ pursuant to article III of this chapter, is licensed as a pawnbroker pursuant to the statutes of the state or is acting in the employment of one licensed under one of the above-listed laws. A separate license shall be required for each permanent location of any such business. A license issued under this subsection shall be marked to indicate that the business is authorized to deal only in the items listed in this subsection (or as a ~~secondhand dealer-reseller~~ pursuant to article III of this chapter) and shall be posted in a conspicuous place upon the licensed premises.

**Sec. 7-18. Application for and issuance or refusal of license.**

(a) Any person desiring a license required by this article shall make application therefore in writing to the director on an application form provided for that purpose. On the application, the applicant shall provide the following information:

- (1) The full name and mailing address of where the business is to be located, and the residence address of each owner, manager and operator of the

business;

- (2) Such application form shall be accompanied by an affidavit, sworn to by the applicant, that neither he nor any business partner, nor, in the case of a corporation, any corporate officer, has had a license revoked under this chapter or any preceding city ordinance governing the business described herein.
- (3) Whether any owner or operator is an individual, partnership, corporation, or other legal entity;
- (4) If any owner or operator is a corporation, all officers of the corporation; and if there are fewer than five shareholders, the names of all shareholders;
- (5) If any owner or operator is a partnership, the type of partnership and names and addresses of all general partners;
- (6) If any owner or operator is an unincorporated association, the names and addresses of all officers of such association;
- (7) The location where the business will be conducted, along with a copy of the certificate of occupancy for the location;
- (8) The time period or periods during which the business will be conducted.

(b) Upon receipt of such application, the director shall investigate the items sworn to by affidavit. If neither the applicant, his business partners, nor any corporate officers have had a license revoked as described above, the director shall issue a license to the applicant upon payment of the license fee.

(c) If the director rejects the application, he shall give written notice by personal delivery or certified mail, return receipt requested to the applicant at the address stated in the application. The written notice shall specifically set forth the reasons for the rejection. A rejection shall be subject to appeal in the same manner provided in section 7-25 of this Code.

**Sec. 7-19. License fees.**

(a) The license fee issued pursuant to this article with a permanent place of business within the city shall be \$50.00 per year. The license shall be valid for one year from the date of issuance.

Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city.

(b) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$2.00 per day.

**Sec. 7-20. Records required to be kept.**

(a) Every person engaged in the business of buying, trading or otherwise receiving antique items, used jewelry, used tableware or other used items made of precious stones or precious metals shall keep at his place of business a record book, in a form approved by the chief of police, in which he shall enter daily a full description of all personal property purchased or otherwise received at his licensed place of business. Such description shall include the date and hour of receipt, the name and address of the person or place of business from which such item was received, and the driver's license or Texas personal identification certificate number of the person selling or otherwise giving the items. All entries in the record book shall be made legibly.

(b) In addition to the requirements set out in subsection (a) hereof, the property shall be fully described including, where customary in the business, the size, weight, material, length, number of items, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items.

(c) The licensee, his agents or employees shall provide a receipt to the seller or transferor of the property. Each receipt shall be consecutively numbered and shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. An accurate copy or record of receipts obtained shall be retained for a period of not less than two years, and shall be available for inspection upon request during business hours by any peace officer or authorized inspector of the department of administration and regulatory affairs.

(d) Every person engaged in the business of buying, trading or otherwise receiving antique items, used jewelry, used tableware or other used items made of precious stones or precious metals shall, upon request, submit and exhibit the various business records which are required to be maintained for inspection or copying to any peace officer or authorized inspector of the authorized inspector of the department of administration and regulatory affairs. Failure to maintain or to so permit the examination or copying of such records when required shall be a misdemeanor.

**Sec. 7-21. Stock to be open for examination.**

The stock or inventory of any dealer that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the department of administration and regulatory affairs. Failure to permit an examination when requested shall be a misdemeanor.

**Sec. 7-22. Articles to be retained.**

(a) No antique dealer or resale media and clothing dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for 72 hours after receipt. During such 72-hour period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. Such property shall not be kept so as to prevent or impede its examination hereunder.

(b) No precious metals dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for 11 days after receipt. During such 11-day period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. Such property shall not be kept so as to prevent or impede its examination hereunder.

**Sec. 7-23. Purchasing or receiving goods of minors.**

No antique or precious metals dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent. It shall be the duty of such antique or precious metals dealer to preserve and keep on file, and available for inspection, such written statements of consent.

**Sec. 7-24. Change in business address.**

Should any person licensed under this article move his permanent place of business from the place designated in such license to a new address, he shall immediately give written notice to the director and have the change noted on his license. A fee of \$2.00 payable to the director is hereby levied for such a change.

**Sec. 7-25. Revocation of license.**

(a) Upon written verified complaint filed by any person with the director setting out facts alleging that any licensee under this article has, since the license was granted, violated the provisions of this chapter, or any state or federal statute involving the criminal offense of theft, or the provisions of § 37.09 or 37.10 of the Texas Penal Code or that the licensee falsified his original application for a license, the director shall cause the allegations to be investigated.

(b) If just cause exists for a hearing on revocation of a license herein, the director shall notify the licensee in writing by certified mail, return receipt requested, and by regular mail that a revocation hearing will be conducted at a specified time and place

with reference to such complaint. A copy of the verified complaint shall be included, notifying the licensee of the allegations against him.

(c) At the hearing conducted by the director or his designee, all parties may present evidence, be represented by an attorney, and question opposing witnesses.

(d) Based on a preponderance of the evidence, the director or his designee shall determine, whether the license should be revoked. A written copy of the decision shall be sent to all parties by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than 30 days thereafter. The decision of the hearing officer shall be final. In the event a license is revoked, the city shall not be liable to the licensee for any refund of any part of the license fee.

#### **Sec. 7-26. Reports of property suspected stolen.**

(a) It shall be the duty of the licensee, his agents or employees to report immediately to the police department any offer to sell to the licensee, his agents or employees property which such licensee, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such licensee, his agents, or employees, shall also report any property acquired by the licensee which the licensee, his agents or employees, subsequently determine or reasonably suspect to be stolen property and the licensee, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any licensee, his agents or employees to purchase an item of property on which are written or affixed the words "Property of the City of Houston" or other words demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by the city treasurer to make such a sale, and provides the licensee, his agents or employees with a written authorization from the city treasurer for the sale of such property; or
- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the city treasurer evidencing the purchase of such property by the person offering such property.

#### **Sec. 7-27. Exemptions from license fee.**

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code), of the United States Code, must obtain a license as required herein; provided however, that such organization shall be exempt from paying

the license fee required herein. All other provisions of this article apply to such organizations.

**Sec. 7-28. Inapplicability of certain chapter provisions.**

Notwithstanding any other provision of this article that might be construed to the contrary, the provisions of section 7-23 of this Code shall not be applicable to the sale, receipt, transfer or holding of (1) Used books, magazines and other printed documents; (2) Used phonographic records, magnetic audio tapes, audio discs or other recordings of sound which do not include recordings of visual images; and/or (3) Used items of clothing, except those made in whole or in part from fur.

**Secs. 7-29--7-50. Reserved.**

**ARTICLE III. METAL RECYCLERS/SECONDHAND METAL DEALERS AND  
SECONDHAND DEALERS-RESELLERS**

**Sec. 7-51. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building construction material(s)* means copper pipe, tubing, or wiring, aluminum wire, aluminum siding, plumbing supplies, electrical supplies, window glass, window frames, doors, door frames, downspouts, gutters, lumber, air conditioning units and other similar materials.

*Clear thumbprint impression* means an intentional recording of the friction ridge detail on the volar pads of the thumb.

*Licensee* means a person who holds a license to conduct business as a metal recycler/secondhand metal dealer or a secondhand reseller.

*Metal recycler/secondhand metal dealer* means any person, who from a fixed location engages in the business of utilizing machinery or equipment for the processing of or manufacturing of iron, steel or nonferrous metallic scrap and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for remelting purposes or a person who operates or maintains a scrap metal yard or other place in which used or previously purchased metal items or scrap metal is collected or kept for shipment, sale, or transfer.

*Real-time electronic web-based database* means an electronic filing system in which data is organized by fields and records and that is capable of transmitting a file or responding to input immediately via the internet.

*Scrap metal* means a direct product or byproduct of any form of a manufactured, shaped, or processed iron, steel, aluminum, brass, copper, lead, tin, zinc, or other nonferrous metallic material.

*Used* means any items, goods, products, wares, chattels, or articles of any sort which have previously been owned by someone other than the manufacturer, or a dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the consumer.

**Sec. 7-52. Article inapplicable to automotive dealers.**

This article shall not apply to businesses licensed as automotive dealers under chapter 8, article II of this Code or pawnshops as defined by state law.

**Sec. 7-53. Administrative rules.**

The director and the chief of police shall promulgate rules and regulations to administer the provisions of this ordinance. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary, the office of the chief of police and the office of the director. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law. Failure to comply with any of the promulgated rules or regulations established under this subsection shall be grounds for the revocation of or the refusal to issue or renew any license required of the owner or operator of a metal recycler/secondhand metal dealer, secondhand ~~dealer~~reseller or any other dealer or business provided for under this Code. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.

**Sec. 7-54. License required; posting of license.**

No person shall operate as a metal recycler/secondhand metal dealer, or secondhand ~~dealer~~reseller or own any such business without a license as herein provided. Any person who engages in more than one business described herein at the same location must obtain a license only for his principal business activity and not for the other businesses. The provisions of section 7-58, requiring that certain records be kept, apply to all businesses carried on at a single location. A separate license shall be required for each permanent location of any such business. The license shall be posted in a conspicuous place upon the licensed premises.

**Sec. 7-55. Bond.**

(a) The director shall require that an applicant for a metal recycler/secondhand metal dealer license or a secondhand reseller license file a bond with the application. The bond must be:

- (1) Satisfactory to the director;
- (2) In the amount of \$10,000.00 for each license;
- (3) Issued by a surety qualified to do business in this state; and
- (4) Valid at the time of the application and remain in effect during the entire term of the license.

(b) The aggregate liability of the surety may not exceed the amount of the bond.

(c) The bond must be in favor of the city for the use of the city and the use of a person who has a cause of action under this article against the metal recycler/secondhand metal dealer.

(d) The bond must be conditioned on:

- (1) The metal recycler's/secondhand metal dealer's compliance with this article and rules adopted under this article; and
- (2) The payment of all amounts that become due to the city or to another person under this article.

**Sec. 7-56. Application for and issuance or refusal of license.**

(a) Any person desiring a license required by this article shall make application therefor in writing to the director on an application form provided for that purpose. On the application the applicant shall set forth:

- (1) The full name and residential address of the applicant;
- (2) A statement indicating whether the applicant is a citizen of the United States or an alien legally residing in the United States;
- (3) The applicant(s) social security number or business(es) federal tax identification number;
- (4) The full name and address of each partner if the applicant is a partnership;
- (5) The full name and address of each officer and director if the applicant is a corporation;
- (6) The fixed and permanent location where the business is to be conducted and proof of his ownership of the private property or a written statement including the name, address and telephone number of the property owner

or authorized agent, granting permission for operation of the business at the proposed location where his business will be in operation. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or one of the principals prior to issuance of any license;

- (7) A copy of the certificate of occupancy for the business location;
- ~~(78)~~ The regular days and hours of operation;
- ~~(89)~~ The applicant's date of birth, place of birth, and each address where he has resided in the five years immediately preceding his application;
- ~~(910)~~ A statement of whether the individual applicant, any partner in a partnership, or any officer or director of a corporation, has been arrested, charged, or convicted for any criminal offense in this state or any other state or country. If he has been arrested or jailed for any such offense, he shall set out the offense for which he was arrested, jailed, or imprisoned, the date of the arrest or confinement, and the place, court and case number of the case.
- ~~(1011)~~ A statement that neither he nor any business partner, nor, in the case of a corporation, any corporate officer or director, has had a license under this chapter or any preceding city ordinance governing the businesses described herein revoked;
- ~~(1112)~~ The signature of the applicant;
- ~~(1213)~~ A sworn and notarized statement that all matters stated in the application are true and correct;
- ~~(1314)~~ Evidence that he is at least 18 years of age by presentation of valid identification, including a photograph showing the face of the applicant, in the form of:
  - a. A current driver's license from Texas or another state within the United States;
  - b. An identification card issued by the Texas Department of Public Safety; or
  - c. A United States military identification card;
- ~~(1415)~~ Such other information as the director finds relevant.
- (b) The director shall review and approve the application and issue a license

unless he finds:

- (1) The information provided in the application is incomplete, materially false or incorrect or the applicant has failed in any material way to comply with this article and applicable rules and regulations; and
- (2) The applicant has had a license revoked during the preceding one year period.

(c) In the event that the director rejects or refuses to issue an application, the provisions of section 7-75 shall apply.

**Sec. 7-57. License fees; use of license at shows.**

(a) The license fee for a metal recycler/secondhand metal dealer or a secondhand dealer-reseller with any permanent place of business within the city shall be \$250.00 yearly, payable prior to the issuance of the license. Such license, unless revoked as provided herein, shall be valid for one year from the date of issuance and shall be subject to renewal from year to year.

(b) Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city.

(c) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$10.00 per day. The said license fee shall be paid prior to the issuance of the license or renewal thereof.

(d) Reserved.

**Sec. 7-58. Records required to be kept by metal recyclers/secondhand metal dealers.**

(a) The provisions of this section apply to all businesses carried on at a single location. With the exception of the sale or transfer of aluminum cans, a metal recycler/secondhand metal dealer shall keep at his place of business a record in a real-time electronic web-based database, in a form and method approved by the chief of police, in which he shall enter daily, in English, a full description of each transaction in which personal property is purchased or otherwise received at his place of business. Such description shall include:

- (1) The date and time of receipt of any item;
- (2) The full name and current address of the person or place of business from whom each item was received;

- (3) A clear thumbprint impression of the person from whom each item is received, which shall be excluded from the requirement for electronic transmission set forth in subsection (b) of this section but shall be maintained by the metal recycler/secondhand metal dealer for not less than two years and made available to the director in accordance with rules promulgated by the director for administration of this article and peace officers in accordance with rules promulgated by the chief of police for administration of this article;
- (4) Verified evidence that the person transferring, selling or otherwise giving the items is at least 18 years of age by presentation of valid identification, including a photograph of the face of person transferring, selling or otherwise giving the item, in the form of:
  - a. A current driver's license from Texas or another state within the United States;
  - b. An identification card issued by the Texas Department of Public Safety; or
  - c. A United States military identification card.
- (5) A description of the motor vehicle and/or trailer or other mode of transportation in or on which each item received was carried to, delivered or transported to the metal recycler/secondhand metal dealer, or secondhand dealer—reseller's place of business, including state and license plate number, if applicable;
- (6) The individual transaction number assigned by the licensee to each item received;
- (7) A description of the items received as part of the transaction including, where customary in the business, the size, weight, material, length, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items;
- (8) A digital photograph of each item received;
- (9) If the item received is a junked, abandoned or wrecked automotive vehicle, documentation of ownership and any other information required for receipt of such vehicles as provided in state or federal laws or regulations and any provision of this Code;
- (10) The name or employee number of the employee who facilitates or conducts the transaction.

(11) Whether the person either:

- a. Presented a written document evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or
- b. Signed a written statement that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale.

(b) The real-time electronic web-based database described in subsection (a) of this section shall be created and maintained by the police department. The metal recycler/secondhand metal dealer shall forward the required record and descriptions set forth in subsection (a) of this section in an electronic format to the designated police department web site before the close of business on each day on which the metal recycler/secondhand metal dealer is open for business. Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycler/secondhand metal dealer under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

(c) The metal recycler/secondhand metal dealer, his agents or employees shall obtain a consecutively numbered receipt from the seller or transferor of the property. Such receipt shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. A printed version of the record input and transmitted to the real-time electronic web-based database as described in this section shall satisfy this requirement. An accurate copy or record of receipts obtained shall be retained for a period of not less than three years.

(d) A metal recycler/secondhand metal dealer shall, upon request, submit and exhibit the various business records that are required to be maintained under this section for inspection or copying by any peace officer or authorized inspector of the director. Failure to maintain or to so permit the examination or copying of such records when requested shall be a misdemeanor.

(e) Each transaction shall be recorded via video device, and each recording medium shall be maintained for a period of one year from the date of the latest transaction recorded thereon. A metal recycler/secondhand metal dealer shall post a notice in each place of business regarding the recording of the transaction via video device pursuant to specifications established by the director and the chief of police. The director shall specify the information to be set out on the notice, the size of the print, the colors, and the location where the notice shall be placed. Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycler/secondhand metal dealer under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

**Sec. 7-59. Stock to be open for examination.**

The stock or inventory of any metal recycler/secondhand metal dealer, or secondhand dealer-reseller that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the director's office. Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycler/secondhand metal dealer or secondhand dealer-reseller under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

**Sec. 7-60. Articles placed on hold; tag; exceptions.**

(a) Notwithstanding the provisions of subsections (b) and (c) of this section, no metal recycler/secondhand metal dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for 72 hours after receipt, excluding weekends and holidays, provided that he is not required to keep aluminum cans for more than 24 hours. During such 72-hour period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the database. Such property shall not be kept in such a manner so as to prevent or impede its examination.

(b) A peace officer who has reasonable suspicion to believe that an item of regulated material in the possession of a metal recycler/secondhand metal dealer is stolen may place the item on hold in the manner provided by Section 1956.037 of the Occupations Code.

(c) *Exceptions.* A metal recycling entity is not required to comply with the provisions of this section if the metal recycler/secondhand metal dealer verifies that the person or entity seeking to sell or otherwise transfer the metal items has one of the following licenses or permits to establish that he is a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of its business:

- (1) A valid city-issued metal recycler/secondhand metal dealer license, which the metal recycler/secondhand metal dealer shall record by photocopying the license or recording the license number in connection with the sale and maintain for a period of not less than two years; or
- (2) A valid city-issued construction, demolition, electrical, plumbing or heating, ventilation, air conditioning (HVAC) permit, which the metal recycler/secondhand metal dealer shall record by photocopying the permit or recording the project number located on the permit in connection with the sale and maintain for a period of not less than two years; or

- (3) A valid state-issued professional license or a sales tax identification number issued by the Texas Comptroller which the metal recycler/secondhand metal dealer shall record by photocopying the license and tax identification number, or recording the license number and tax identification number in connection with the sale and maintain for a period of not less than two years.

**Sec. 7-61. Purchasing or receiving goods of minors.**

(a) No metal recycler/secondhand metal dealer, or secondhand ~~dealer~~reseller shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless:

- (1) The minor is accompanied by his parent or guardian, who shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent; or
- (2) The only items offered for sale by the minor are aluminum cans.

(b) It shall be the duty of such metal recycler/secondhand metal dealer, or secondhand ~~dealer~~reseller to preserve and keep on file, and available for inspection, such written statements of consent for a period of not less than two years.

**Sec. 7-62. Change in business name or address.**

Should any licensee change the name of his business or move his place of business from the place designated in such license to a new address, he shall immediately make application to the director for a new license and pay the full license fee. If the new site and surety bond, if applicable, are approved by the director, a new license reflecting the new business name or address shall be issued. The original license must be surrendered to the director at the time the amended license is issued to the licensee.

**Sec. 7-63. Revocation of license on verified complaint.**

(a) Upon written verified complaint filed by any person with the director setting out facts alleging that any licensee under this article has, since the license was granted, violated the provisions of this chapter or any health regulation of the city or the state, or any state or federal statute involving the criminal offense of theft, or the provisions of section 37.09 or 37.10 of the Texas Penal Code or that the licensee falsified his original application for a license, the director shall investigate the allegations.

(b) Such complaints shall be investigated, heard, determined, and shall be subject to appeal as provided in section 7-25 as applicable to antique, precious metals, and resale media and clothing dealers.

**Sec. 7-64. Acceptance of property suspected stolen; peace officer requested holds; violation.**

(a) It shall be the duty of every metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees to report immediately to the police department, by filing a formal complaint, any offer to sell to the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees, property that such metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents, or employees, shall also report any property acquired by the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ that the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees, subsequently determine or reasonably suspect to be stolen property, and the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(b) Notwithstanding the provisions of section 7-60 of this article, it shall be the duty of every metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees to hold all suspected stolen property in a secure place for 60 days upon request by a peace officer. The metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, his agents or employees, may not process or remove the property from the dealer(s) or entity(ies) premises before the sixtieth day after receipt of the request from a peace officer to hold the property unless:

- (1) The item is released into a peace officer(s) care, custody and control at an earlier time;
- (2) A peace officer releases the hold on the property upon an earlier date;
- (3) A peace officer makes a written request to extend the holding period for up to 24 months from the date the request is received; or
- (4) A court orders release of the property.

(c) Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

**Sec. 7-65. Acceptance of building construction material(s).**

(a) It shall be unlawful for any metal recycling entity or secondhand metal dealer to receive, sell, dismantle, deface or in any manner alter or dispose of any building construction material(s) received by him at his licensed place of business unless he complies with the provisions of sections 7-58 through 7-62 and 7-64 of this Code.

(b) It shall be unlawful for any metal recycling entity or secondhand metal dealer to receive, sell, dismantle, deface or in any manner alter or dispose of any building construction material(s) received by him at his licensed place of business unless prior to receiving, selling, dismantling, defacing or in any manner altering or disposing of any building construction material, the metal recycling entity or secondhand metal dealer:

- (1) Records, along with the description of the property, the serial number, or other identifying characteristics of each part or piece of building construction material(s); and
- (2) Obtains a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

**Sec. 7-66. Government or utility property.**

(a) It shall be unlawful for any metal recycler/secondhand metal dealer, his agents or employees to purchase or receive an item of property, including but not limited to street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, on which are written or affixed the words "Property of the City of Houston" or other words or markings demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by the director to make such a sale and provides the metal recycler/secondhand metal dealer, his agents or employees, his agents or employees with a written authorization from the director of administration and regulatory affairs for the sale of such property; or
- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the director evidencing the purchase of such property by the person offering such property.

(b) It shall be unlawful for any metal recycler/secondhand metal dealer, his agents or employees to purchase or receive an item of property that is marked with any form of the name or initials of a governmental agency, including but not limited to the State of Texas and the United States of America and their agencies and political subdivisions or that the metal recycler/secondhand metal dealer, his agents or

employees know or should reasonably be expected to know belongs to a governmental agency, including but not limited to street signs, traffic signals, manhole covers, road and bridge guard rails, street light poles and fixtures, except:

- (1) Where the person offering such property for sale is an employee of the governmental agency authorized by that agency to make such a sale and provides the metal recycler/secondhand metal dealer, his agents or employees with a written authorization from the agency for the sale of such property; or
- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the governmental agency evidencing the purchase of such property by the person offering such property.

(c) It shall be unlawful for any metal recycler/secondhand metal dealer, his agents or employees to purchase or receive an item of property that is marked with any form of the name or initials of an electrical, telephone, cable, or other public utility company or that the metal recycler/secondhand metal dealer, his agents or employees know or should reasonably be expected to know belongs to a public utility unless the person offering such property for sale presents at the time of such offer a valid receipt from the public utility company evidencing the purchase of such property by the person offering such property.

**Sec. 7-67. Acceptance of property in original packaging.**

It shall be unlawful for any metal recycler/secondhand metal dealer or secondhand dealer-reseller, his agents or employees to purchase or receive an item of property in its original packaging unless the person offering such item presents a receipt or proof of purchase for that property.

**Sec. 7-68. Acceptance of property inscribed with company name.**

It shall be unlawful for any metal recycler/secondhand metal dealer, or his agents or employees, to purchase or receive an item of property that is marked with any form of the name or initials of a private company or that the metal recycler/secondhand metal dealer knows or should reasonably be expected to know belongs to a private company unless the person offering such property for sale presents at the time of such offer a written, signed statement from the seller attesting to lawful ownership of the property, a receipt from the lawful owner, or a written, signed statement from the lawful owner of the property providing that the seller has authorization to sell or otherwise transfer that property.

**Sec. 7-69. Acceptance of property delivered by shopping cart.**

It shall be unlawful for any metal recycler/secondhand metal dealer or secondhand dealer-reseller, his agents or employees to purchase or receive an item of

property that is transported to the metal recycler/secondhand metal dealer or secondhand dealer-reseller(s) place of business by a shopping cart that is marked with any form of the name or initials of a private company or that the metal recycler/secondhand metal dealer or secondhand dealer-reseller knows or should reasonably be expected to know belongs to a private company unless the person operating the shopping cart presents at the time of transportation of property to the metal recycler/secondhand metal dealer or secondhand dealer-reseller presents a valid receipt from the owner of the shopping cart evidencing the purchase of the shopping cart by the person operating the shopping cart.

**Sec. 7-70. Acceptance of air conditioning unit parts.**

It shall be unlawful for any metal recycler/secondhand metal dealer or secondhand dealer-reseller, his agents or employees to purchase or receive any central air conditioning unit parts from any person offering such property for sale unless the person presents a valid city-issued HVAC permit, state-issued professional license, or a permit issued by the city to a homeowner for the installation, alteration, or repair of an air-conditioning system at a particular address. This provision shall not apply to window air conditioning units.

**Sec. 7-71. Exemptions--From license fee.**

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code) of the United States Code, must obtain a license as required herein; provided, however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this article apply to such organizations.

**Sec. 7-72. Reserved.**

**Sec. 7-73. Reserved. Operation of yards used by secondhand dealers.**

~~———— (a) *Compliance.* All lots or tracts of land used for the purpose of carrying on the business or trade of a secondhand dealer or used for open storage by a secondhand dealer shall comply with the requirement of this section.~~

~~———— (b) *Removal of flammable liquids from vehicles.* All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a secondhand dealer. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the city Fire Code.~~

~~———— (c) *Fencing, wall requirements.* Every yard owned or operated by a secondhand dealer within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:~~

- ~~(1) Any side of such yard which extends generally parallel to, and within 100 feet of any public street right of way shall be bounded by a solid fence or wall at least eight feet in height.~~
- ~~(2) All sides of such yard not included in item (1) above shall be bounded by a solid fence or wall at least six feet in height.~~
- ~~(3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.~~

~~(d) Construction, maintenance of fence or wall. Every fence or wall herein required shall be constructed and maintained as follows:~~

- ~~(1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side shall be bounded by a fence or wall constructed of only one of the above materials.~~
- ~~(2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.~~
- ~~(3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.~~
- ~~(4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.~~

~~(e) Use of wall, door of building as part of fence or wall. Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.~~

~~(f) Gates at openings in enclosure. Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal daytime business hours.~~

~~(g) Use of premises outside enclosure. It shall be unlawful for any owner, operator, his agents or employees, to display, store or work on any junked or wrecked automotive vehicle, or the parts, accessories or junk therefrom or any other new or used metal materials outside of or above the herein required fence or wall.~~

~~(h) *Arrangement of materials.* All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a secondhand dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, neighborhood protection and police officials of the city.~~

~~(i) *Control of vegetation.* It shall be unlawful for the owners or operators of any yard used by a secondhand dealer to allow grass or other vegetation to grow to a height of more than nine inches above the ground.~~

~~(j) *Compliance with regulations and ordinances.* All yards used by a secondhand dealer must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the Fire Code.~~

~~(k) *Improved surface.* All lots or tracts of land used as a yard by a secondhand dealer must have an all weather surface of concrete, asphalt, black top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface and appropriate drainage.~~

~~(l) *Storage of materials.* Any materials stored in a yard owned and operated by a secondhand dealer must be stored at least six inches above the improved surface of the yard. The requirements of this subsection shall not apply to any materials stored wholly inside a building.~~

~~(m) *Violations and penalties.* Failure to comply with any provision of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a secondhand dealer under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.~~

**Sec. 7-74. Operation of yards used by metal recyclers/secondhand metal dealers and secondhand resellers; hours for purchasing materials.**

(a) *Compliance.* All lots or tracts of land used for the purpose of carrying on the business or trade of metal recyclers/secondhand metal dealers and secondhand resellers who store inventory outside of a structure shall comply with the requirements of this section.

(b) *Removal of flammable liquids from vehicles.* All gasoline, gasohol and diesel fuel shall be completely drained and removed from any junked, wrecked or abandoned automotive vehicle before the vehicle is placed in any yard owned or operated by a metal recycler/secondhand metal dealer in the city. All flammable liquids drained from any vehicle shall be stored in a safe manner and in strict accordance with the city Fire Code.

(c) *Fencing, wall requirements.* Every equipment and inventory storage and

processing yard owned or operated by a metal recycler/secondhand metal dealer within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of such yard which extends generally parallel to, and within 100 feet of any public street right-of-way shall be bounded by a solid fence or wall at least six feet in height.
- (2) All sides of such yard not included in item (1) above shall be bounded by a solid fence or wall at least six feet in height.
- (3) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.

(d) *Construction, maintenance of fence or wall.* Every fence or wall herein required shall be constructed and maintained in good repair as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link, or any combination thereof; provided, however, that any one side shall be bounded by a fence or wall constructed of only one of the above materials.
- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(e) *Use of wall, door of building as part of fence or wall.* Any part of a fence or wall required by subsection (c) hereof may consist, in whole or in part, of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(f) *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to such yards shall be equipped with a gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal business hours.

(g) *Use of premises outside enclosure.* It shall be unlawful for an owner, operator, his agents or employees, to display, store or work on any junked or wrecked

automotive vehicle, or the parts, accessories or junk therefrom or any other new or used metal materials outside of the herein required fence or wall.

(h) *Arrangement of materials.* All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a metal recycler/secondhand metal dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire, health and police officials and the neighborhood protection official of the city. No materials shall be stored at a height greater than six feet within ten feet of the fence required herein.

(i) *Control of vegetation.* It shall be unlawful for the owners or operators of any yard used by a metal recycler/secondhand metal dealer to allow grass or other vegetation to grow to a height of more than nine inches above the ground.

(j) *Compliance with regulations and ordinances.* All yards used by a metal recycler/secondhand metal dealer must at all times be in full compliance with all city ordinances regarding health and safety, including specifically, without limitation, all requirements of the city Fire Code.

(k) *Improved surface.* All lots or tracts of land used as a yard by a metal recycler/secondhand metal dealer must have an all-weather surface of concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, slag or other hard fill surface and appropriate drainage. This subsection shall not include those areas of a yard which are utilized for purposes of inventory storage and processing.

(l) *Vector and rodent control.* Any materials stored in a yard owned and operated by a metal recycler/secondhand metal dealer must be stored at in a manner which will allow adequate vector and rodent control measures. An owner or operator shall provide for vector and rodent control at least once within a 90-day period or more frequently as needed.

(m) *Violations and penalties.* Failure to comply with any provisions of this section shall be grounds for the revocation of or the refusal to issue or renew any license required of a metal recycler/secondhand metal dealer under this Code. Any person violating any provision of this section shall be punished as provided by section 1-6 of this Code.

(n) A metal recycler/secondhand metal dealer may only purchase regulated material from the general public on Monday through Friday between the hours of 6:00 a.m. and 7:00 p.m. and Saturday between the hours of 9:00 a.m. and 5:00 p.m.

#### **Sec. 7-75. Rejection; refusal to renew; revocation; hearing; penalty.**

(a) *Grounds for rejection, refusal to renew or revocation.* The director may reject an original application, or an application for a renewal of any existing license, if, as a result of inspections by the police department, the department of administration and

regulatory affairs, or other city department, it appears that the applicants' place of business is not in compliance with or violates any provision of this article. Failure to comply with any provisions of this Code shall be grounds for the rejection of an original application, renewal or revocation of any license required of a metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ under this article. Any person violating any provision of this article shall be punished as provided by section 1-6 of this Code.

(b) *Notice.* If the director rejects an application, refuses to renew or revokes any license issued under this article to a metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ for failure to comply with any provision of this article, the director shall give written notice by certified mail and regular mail to the applicant at the address stated in the application of the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~. The written notice shall specifically set forth the reasons for the rejection, refusal or revocation.

(c) *Appeal.* The metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ shall have 30 days from the date of the mailing of the notice of rejection, refusal or revocation of his license to appeal the rejection, refusal or revocation of the license to the director. Upon receipt of such notice, the director shall notify the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ of the date and time of the hearing, to be held at the earliest time practicable.

(d) *Hearings.*

- (1) All hearings shall be held before a hearing officer appointed by the director, who shall not designate any person to perform the duties of hearing officer under this section who has prior knowledge of the circumstances regarding the rejection, refusal, or revocation of the license. The hearing officer may, prior to the hearing, receive a copy of the notice given to the applicant or license holder.
- (2) An assistant city attorney may be present at the hearing to advise the hearing officer as to procedural matters; however, the attorney shall not participate in any determination of the facts.
- (3) All hearings shall be conducted under rules established by the director that are consistent with the informal nature of the proceedings; provided, however, the following rules shall apply to all hearings:
  - a. All parties shall have the right to representation by an attorney licensed to practice in Texas though an attorney is not required.
  - b. Each party may present witnesses in his own behalf.
  - c. Each party has the right to cross examine all witnesses.

- d. Only evidence presented before the hearing officer at the hearing shall be considered in rendering the decision.
- (4) The hearing officer may affirm or reverse a license rejection, refusal to renew or a license revocation. The decision of the hearing officer shall be final and shall be delivered in writing to the applicant or license holder in the same manner as a notice under subsection (b) of this section.

**Sec. 7-76. Abatement of operations for unlawful operation of a metal recycling, secondhand metal, or secondhand business.**

(a) *Declaration; notice.* The continued ownership and operation of or engaging in a business that participates in buying, selling, trading or otherwise dealing in new or used metal in violation of this article is declared to be a public nuisance where (1) the metal recycler/secondhand metal dealer or secondhand dealer-reseller is convicted three or more times for violations under this article in a 24 month period, (2) the director finds and determines that the owner or operator habitually violates the provisions of this article and that issuance of citations and subsequent convictions for violations of this article are no longer adequate remedies to address unlawful operations, and (3) that pursuit of a civil action will promote preservation and protection of property of the city or its inhabitants. Whenever the existence of a public nuisance under this section shall come to the knowledge of the director, the director shall cause a written notice, as provided in subsection (b) of this section, to be sent to the owner identifying the business in violation of this article and directing that the unlawful activity cease within a reasonable time to be determined by the director.

(b) *Notice.*

- (1) The notice under this section must be given:
- a. Personally to the owner in writing;
  - b. By letter addressed to the registered agent of the partnership or corporation for service of process, or to the individual owner at the owner's latest address according to the records of the director.
  - c. If personal service cannot be obtained:
    - (i) By publication at least once;
    - (ii) By posting the notice on or near the front door of each building on the property to which the violation relates; or
    - (iii) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

- (2) If the director mails a notice to a property owner in accordance with subsection (a) of this section, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (3) A notice provided under this section shall state that the owner is entitled to request a hearing to be held in the manner described in section (c) of this section.

(c) *Abatement hearing.* The owner subject to abatement under this section may request a hearing by notifying the director within ten (10) days following the date the city mails the required notice under subsection (b) of this section. The hearing shall be conducted in accordance with the procedures set forth in section ~~7-74(d)~~ 7-75(d) of this Code by a hearing official designated by the director for the purpose of determining whether the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ has operated his business in violation of this article and the criteria set out in subsection (a) of this section are satisfied. At the hearing, the owner and the director may present any evidence relevant to the proceedings. If the hearing official determines that the metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~ has operated his business in violation of this article or any other provision of this Code affecting metal recycler/secondhand metal dealer or secondhand ~~dealer-reseller~~, and that the criteria set out in subsection (a) of this section for the designation of public nuisance have been satisfied, the hearing official shall issue an order so stating and direct that the owner cease the unlawful operations.

(d) *Abatement by city; expenses and liens.* If the owner fails to timely cease unlawful operations within ten business days of the hearing official's order, then the city attorney shall be authorized to exercise all other remedies available to the city relating to the subject matter hereof as set out in subsection (e) of this section.

(e) *Remedies cumulative, civil enforcement, other action not limited.* The procedures set forth in this section are cumulative of all other remedies available to the city relating to the subject matter hereof. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking any other available actions. Specifically, the city attorney may institute any legal action to enforce this ordinance or enjoin or otherwise cause the abatement of any condition described in this article, as well as for the recovery of all expenses incurred in connection therewith, including without limitation administrative and legal expenses, attorneys fees and costs, and for civil penalties as provided by law. The city attorney is hereby authorized to file a civil suit in a court of competent jurisdiction to prevent the violation of any of the provisions of this article. This remedy shall be cumulative and in addition to any other remedies.

**Secs. 7-77--7-80. Reserved.**

#### **ARTICLE IV. RESERVED**

**Secs. 7-81--7-100. Reserved.**

**ARTICLE V. COMMON MARKETS**

**Sec. 7-101. Definitions.**

The following words and phrases shall have the following meanings in this article unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense.

(1)—*Common market* shall mean any tract of land, including all improvements thereon, on which ~~five~~three or more spaces, booths and/or rooms are rented or let for a period not to exceed eight consecutive days, for the purpose of selling used goods or handicrafts, artisan products and original works of art. However, if ~~the~~a lessor rents or lets ~~five~~three or more spaces, booths, and/or rooms, for a period not to exceed eight consecutive days, for purposes other than the sale of used goods, and subsequently permits the sale of used goods from ~~five~~three or more spaces, booths and/or rooms, that tract shall be deemed a common market. In the event markets that are defined by city ordinances as 'certified farmer's markets' have vendors that sell any used goods or handicrafts, artisan products and original works of art, that market must also obtain a common market permit.

(2)—*Used goods* shall mean any items, goods, products, wares, chattels, or articles of any kind or character which have previously been owned by someone other than the manufacturer or a dealer whose business it is to sell such when new to the consumer.

**Sec. 7-102. License required; display of licenses.**

No person shall own or operate a common market unless he has a valid license issued by the director of administration and regulatory affairs. Any person who owns or operates a common market at more than one location must obtain a license for each separate location. In the event the person who operates a common market is not the owner thereof, both the owner and the operator shall be co-licensees. Each license required under this article shall be conspicuously posted upon the licensed premises.

**Sec. 7-103. Application for license.**

(a) To obtain a license to own or operate a common market, the applicant shall submit an application therefor in writing to the director of administration and regulatory affairs on a form furnished by the department for that purpose. The applicant shall set forth:

- (1) The name and address of the common market.

- (2) The name and address of the persons who will operate the common market.
- (3) If the owner or operator is a corporation, all officers of the corporation; and if there are fewer than five shareholders, the names of all shareholders.
- (4) If the owner or operator is a partnership, the names and addresses of all partners.
- (5) If the owner or operator is an association, the names and addresses of all officers of such association.
- (6) The street address where the common market is located.
- (7) The legal description of the property on which the common market is located.
- (8) Whether or not any person required to be listed on the application has had a license revoked under this article at any time.
- (9) A notarized written affidavit of consent from the property owner of the real property on which the common market will be operated that the operator has permission to be on the property and that the operator has permission to operate a common market; the affidavit must contain the contact number at which the owner may be reached at all times.

(b) Such application shall be subscribed and sworn to by all owners and operators of the specified market before an officer authorized to administer oaths.

**Sec. 7-104. License issuance; notification upon rejection.**

The director of administration and regulatory affairs shall issue a license upon submission of an application in accordance with this article and payment of the license fee, unless he finds the applicant cannot be granted a license under section 7-105 of this Code.

If the director of administration and regulatory affairs rejects the application, he shall give written notice by certified mail, return receipt requested, to the applicant stating the reasons for such rejection. If an application is rejected on a finding that the applicant cannot be granted a license under section 7-105 of this Code, no portion of the license fee shall be refunded.

**Sec. 7-105. Grounds for not issuing license.**

No person may be granted a license to own or operate a common market at a

particular location if:

- (1) Any statement made in the application was incomplete or false.
- (2) Any person required to be listed on the application has had a license revoked under this article.

**Sec. 7-106. Transfer of license.**

Any license issued in accordance with this article is personal to the applicant and is neither transferable, nor alienable.

**Sec. 7-107. License expiration and renewal.**

Each license issued in accordance with this article shall expire one year from the date of issuance. The license may be renewed by submitting an application in accordance with section 7-103 of this Code and payment of the license fee.

**Sec. 7-108. License fee.**

(a) The annual fee for each license to own and operate a common market shall be \$60.00 per year for markets with 0 to 10 vendors or booths; \$120.00 per year for markets with 11 to 20 vendors or booths; and \$180.00 for markets with more than 20 vendors or booths.

(b) The operator of the common market must obtain the common market license; said license will cover all vendors within that market and said vendors are exempt from obtaining separate permits for that common market.

**Sec. 7-109. Licensee to keep records.**

(a) Each person who is licensed pursuant to the provisions of this article shall cause to be kept a record of each transaction in which a space, booth and/or room in a common market is rented or let, unless such space, booth, and/or room is rented or let for 30 consecutive days or more and such space, booth and/or room will be open for business not less than five days per week. Such record shall include:

- (1) The name of each person renting or leasing the space, booth and/or room.
- (2) The dates of such space, booth and/or room may be used by the person renting or leasing the same.
- (3) The name of all persons who will be selling or assisting the lessee in selling goods in that space, booth and/or room.
- (4) The mailing address of each person renting or leasing a space, booth

and/or room and of each person selling and/or assisting in the selling of goods in that space, booth and/or room.

- (5) The driver's license number of each person renting or leasing a space, booth and/or room, and of each person selling and/or assisting in the selling of goods from that space, booth and/or room; or if any such person does not have a valid driver's license and is 16 years of age or older, such person shall be required to present a personal identification certificate issued by the Texas Department of Public Safety and the number of such personal identification certificate shall be listed in the record required under this section.
- (6) The license plate number, make, model, and color of the vehicle used by each person selling or assisting in the selling of goods from a space, booth or room.

(b) The licensee shall maintain the records so described in a record book which has a carbon copy, the original being the city police department's copy and the carbon being for the licensee's records. The licensee's copies shall be available for inspection by any peace officer or authorized inspector of the department of administration and regulatory affairs during regular business hours. The licensee shall maintain his copies of such records for six months after the dates the persons listed were permitted to use such space, booth or room and shall maintain the originals for the same period unless the police department has taken custody of the originals prior to the expiration of that time. It will be the responsibility of the police department to pick up the original copies of the records.

(c) The licensee shall not permit any person to sell or assist in the selling of any goods from any space, booth or room for which a record is required to be kept by this section unless such person is listed in the licensee's records.

#### **Sec. 7-110. Examination of goods.**

(a) All goods located on the property of the common market which are openly displayed or available for purchase in a space, booth or room for which a record must be kept under section 7-109 of this Code shall be accessible for examination by any police officer of the city at any time the common market is open to the public.

(b) Prior to renting or letting any space, booth and/or room for which a record must be kept under section 7-109 of this Code, the licensee shall give written notice to the person renting or letting such space of the provisions of subsection (a) above.

#### **Sec. 7-111. Grounds for revocation of license.**

A license issued under this article may be revoked in accordance with the following procedures if it is found that:

- (a) The licensee has violated any provisions of this article.
- (b) Any person required to be listed on the application for the license has, since the license was granted, violated any federal or state criminal statutes involving theft or fraud after such license was granted.
- (c) Any statements made in the application for the license were known to be false or should have been known to be false by any person required to sign the application.

**Sec. 7-112. Investigation of facts prior to revocation of license; notice to licensee of possible revocation.**

Whenever the director of administration and regulatory affairs receives reliable information that grounds for revocation of a license exists, he shall investigate the facts. If he finds that there are probable grounds for revocation of a license, he shall give written notice to the licensee by personal service or by certified mail, return receipt requested. Such notice shall set forth:

- (1) The specific grounds upon which the license in question may be revoked.
- (2) That there will be a hearing before the director of administration and regulatory affairs or his designee in which the city will seek the revocation of the license.
- (3) The date, time and place of such hearing.
- (4) That the licensee may appear in person and/or be represented by an attorney and may present testimony and may examine all witnesses.

In the event the address of the licensee is unknown or notice which has been mailed is returned undelivered, service upon any agent of the licensee at the common market shall be deemed service upon the licensee.

**Sec. 7-113. Hearing on license revocation.**

(a) All hearings shall be held by the director of administration and regulatory affairs or his designee. Such officer shall be referred to as the hearing officer. However, the director of administration and regulatory affairs shall not designate any person to perform the duties of hearing officer under this section who has participated in the investigation or has prior knowledge of the allegations or circumstances discovered in the course of said investigation except those set forth in the notice given pursuant to section 7-112 of this Code.

- (b) All hearings shall be conducted under rules consistent with the nature of the

proceedings, and only evidence presented at such hearing may be considered in rendering the final order.

**Sec. 7-114. Failure of licensee to appear at hearing.**

If the licensee fails to appear at the hearing at the date and time specified, the city shall introduce evidence to establish a prima facie case showing that grounds exist for revocation of the license.

**Sec. 7-115. Findings of hearing officer.**

After completion of the presentation of evidence by all parties appearing, the hearing officer shall make written findings in an order as to whether or not there are grounds for revocation of the license, and if there are such grounds setting forth in such written findings the specific facts supporting such grounds. If the hearing officer finds that grounds do exist for revocation of the license, he shall revoke the license for such common market. A true and accurate copy of the hearing officer's order shall be personally delivered or sent by certified mail, return receipt requested, to the licensee.

**Sec. 7-116. License fee not to be refunded upon revocation of license.**

In the event any such license is revoked by the hearing officer, the city shall not be liable to any person for any refund of any part of the license fee.

**Sec. 7-117. Applicability of other ordinances.**

Persons who sell used goods from a space, booth or room in a common market shall not be required to comply with the requirements of articles II or III of this chapter, except that any person who engages in the business of selling used goods in one or more common markets on five or more days, whether such days are consecutive or not, in any two consecutive month period must comply with all applicable requirements of such articles.

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA #**

**SUBJECT:**  
Ordinance amending Chapter 22 of the Code of Ordinances relating to Street Vendors

Category #

Page 1 of 2

Agenda Item#

15

**FROM: (Department or other point of origin):**

Alfred J. Moran, Jr., Director  
Administration and Regulatory Affairs

Origination Date

September 28, 2009

Agenda Date

OCT 07 2009

**DIRECTOR'S SIGNATURE:**

Council Districts affected:

All

**For additional information contact:**

Tina Paez  
Kathryn Bruning

**Phone:** (713) 837-9630

**Phone:** (713) 837-9873

**Date and identification of prior authorizing Council Action:**

Ord. #2007-225, passed 2/14/07

**RECOMMENDATION: (Summary)**

Approve an ordinance amending Chapter 22 of the Code of Ordinances relating to Street Vendors

**Amount of Funding:** N/A

**FIN Budget:**

**SOURCE OF FUNDING:**      General Fund      Grant Fund      Enterprise Fund      Other (Specify)

**SPECIFIC EXPLANATION:**

The Director of the Administration and Regulatory Affairs (ARA) Department requests City Council approval of an ordinance that would amend Chapter 22 of the Houston Code of Ordinances relating to street vendors.

In January 2009, ARA began a systematic process of evaluating existing departmental permits and their related governing ordinances. The first phase of review addressed redundancies and obsolete provisions with the intent of consolidating permits or eliminating permit requirements where regulation in an area had ceased to be necessary to protect public health and safety interests. Those recommended amendments were approved unanimously by City Council in May 2009.

In the second phase of the permit ordinance review, ARA is focusing on enforcement enhancement opportunities for individual permits that frequently give rise to constituent and community concerns. Chapter 22 provides for the regulation of Itinerant Vendors within the city limits. *An Itinerant Vendor means all persons, who engage in the temporary or transient business, in the city, of selling, or offering for sale any goods or merchandise.* The permit authorizes the vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale of goods and/or merchandise after the vendor has fully complied with all the provisions of the article and paid the prescribed fee. It is our understanding that this permit was developed for items such as tickets for admission to athletic, sporting or entertainment events or shows, and t-shirts or other sundry items associated with special events and/or holidays. The existing ordinance requirements for this permit include: (1) a bond in the sum of not less than \$2,000.00 valid for two years; (2) a term not to exceed 40 days – with no limit as to the number of consecutive 40-day terms; and, (3) payment of a \$50.00 fee.

It is recommended that the name of the permit be changed to “Street Vendors” permit. The term “itinerant” is not common usage in the English language and is difficult to translate to other languages. The new term, “street vendor” is more descriptive and shall be distinguished from a secondhand dealer because the definition will specify that a certificate of occupancy is not required. The new title will also better convey the transient nature of the seller. Note: This permit will not regulate the sale or marketing of food items, and will not replace any food-related permits currently issued by the City and under the purview of the City of Houston Health & Human Services Department.

The following additional provisions are also recommended: (1) increase the surety bond amount from the current \$2,000 to \$10,000 and specify that the bond may be applicable to debris removal or property repair costs; (2) require a notarized affidavit of owner’s consent; (3) reduce the permit term from the existing 40-day term to only 7 days; (4) limit the number of times a permit can be sold for a specific location to no more than three times per year; (5) limit the number of times a permit can be sold to a specific vendor to no more than 10 times per year, with only two permits per any rolling 30-day period. We are also recommending requirements for proof of sales tax compliance, hours of operation, and other provisions summarized in the charts attached to this request for Council action document. The permit fee will not change.

**REQUIRED AUTHORIZATION**

FIN Director:

Date: 9/28/09	<b>SUBJECT:</b> Approve an ordinance amending Chapter 22 of the Code of Ordinances relating to Street Vendors	Originator's Initials TP	Page 2 of 2
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**Due Process**

The permits and licenses subject to regulation under Chapter 22 of the Code of Ordinances will be subject to denial, suspension or revocation. An administrative appeal and hearing process, similar to the procedure currently in place for other ARA permits, will be strictly adhered to.

**Implementation and Recommendation**

The recommended amendments to Chapters 7 and 22 of the Code of Ordinances were considered and approved by City Council's Regulation, Development and Neighborhood Protection Committee on September 17, 2009, including a recommendation for additional Code provisions that would establish a Garage/Estate Sales registration program. However, City Council consideration of the garage sale provisions will be delayed pending further discussions with stakeholders.

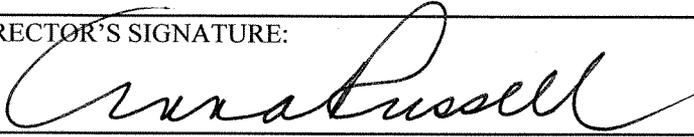
ARA recommends implementing the recommended changes to the Street Vendor ordinance effective January 1, 2010. The interval prior to implementation will allow for public notification and education of the changes to the new regulations and permitting process, to incorporate the changes into the Online Permitting Portal, and to develop effective processes which will enable the departments to respond to citizen complaints filed with 3-1-1, Commercial Permitting and HPD.



**City of Houston  
Administration & Regulatory Affairs Department  
Permit Revision Matrix  
Chapters 22 – Street Vendor Permit**

**I. Street Vendor Permit**

<b>Provision</b>	<b>Current</b>	<b>Proposed</b>
<b>Permit Name</b>	<b>Itinerant Vendor</b>	<b>Street Vendor</b>
<b>Surety Bond</b>	<b>\$2,000</b>	<b>\$10,000; include debris removal as a covered item</b>
<b>Owner's Consent</b>	<b>None</b>	<b>Required</b>
<b>Permit Term</b>	<b>40 Days</b>	<b>7 Days</b>
<b>Permit Frequency per Location</b>	<b>No Limit</b>	<b>3 X per year</b>
<b>Permit Frequency per Vendor</b>	<b>No Limit</b>	<b>10 X per year; limited to 2 per any rolling 30-day period</b>
<b>Hours of Operation</b>	<b>None Specified</b>	<b>8:00 am – 8:00 pm</b>
<b>Method of Display</b>	<b>None</b>	<b>Prohibit from obstructing traffic or field of vision</b>
<b>Sales Tax Compliance</b>	<b>Not Specified</b>	<b>Must show proof of Sales Tax Compliance</b>
<b>Sale on Public Property</b>	<b>Not Specified</b>	<b>Specifically Prohibited</b>
<b>Debris Removal</b>	<b>Not Specified</b>	<b>Require removal and disposal of all debris at the site upon expiration of the permit</b>

SUBJECT: Ordinance Establishing Voting Precincts and Polling Places for the 2009 City General Election to be held November 3, 2009		Page 1 of 1	Agenda Item #  <b>16</b>
FROM (Department or other point of origin):  City Secretary		Origination Date September 29, 2009	Agenda Date October 7, 2009
DIRECTOR'S SIGNATURE: <i>MSD</i> 		Council District affected:  All	
For additional information contact: Anna Russell Phone: 832.393.1100 Candice M. De La Garza Phone: 832.393.6446		Date and identification of prior authorizing Council action:	
RECOMMENDATION: (Summary) Adopt an ordinance establishing voting precincts and polling places for the 2009 City General Election to be held on November 3, 2009.			
Amount and Source of Funding: N/A			
SPECIFIC EXPLANATION:  Chapter 43 of the Texas Election Code requires that the City Council establish precincts and designate polling places for the City's General Election to be held on November 3, 2009. The City of Houston has entered into election agreements with Harris, Fort Bend and Montgomery Counties ("the Counties") for use of the Counties' voting equipment and polling places. The Commissioners' Courts of the Counties have recently approved, by their respective orders, the division of the Counties into election precincts, and the Counties have arranged for polling locations for the precincts.  On September 25, 2009, Harris County provided the City with the list of precincts and polling places approved by the Harris County Commissioners' Court, contained in Exhibit A of this ordinance. Section 4.003 of the Election Code requires the City to post notice of the Election, with a list of precincts and polling places, not later than the 21 <sup>st</sup> day before the Election (by Tuesday, October 13, 2009). <u>Thus, to ensure timely posting of the election notice, this ordinance must be approved by City Council at its October 7, 2009 meeting.</u>			
<b>REQUIRED AUTHORIZATION</b>			
Other Authorization:	Other Authorization:	Other Authorization:	

<b>SUBJECT:</b> Ordinance authorizing the sale of ±16,807square-feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219. <b>Parcel SY9-033</b>	<b>Page</b> <u>1</u>	<b>Agenda Item #</b>  <span style="float: right; font-size: 2em;">17</span>
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<b>FROM (Department or other point of origin):</b>  Department of Public Works and Engineering	<b>Origination Date</b>  10/1/09	<b>Agenda Date</b>  OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b> <span style="font-size: 1.5em;">MS</span>  Michael S. Marcotte, P.E., D.WRE, BCEE, Director	<b>Council District affected: A</b>  Key Map 450Q
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<b>For additional information contact:</b>  Nancy P. Collins  Senior Assistant Director-Real Estate <b>Phone:</b> (713) 837-0881	<b>Date and identification of prior authorizing Council Action:</b>  C.M. 2009-0109 (3/04/09)
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**RECOMMENDATION: (Summary)** It is recommended City Council approve an ordinance authorizing the sale of ±16,807square-feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219. **Parcel SY9-033**

<b>Amount and Source of Funding:</b> Not Applicable	
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**SPECIFIC EXPLANATION:**  
 By Council Motion 2009-0109, City Council authorized the subject transaction. Nelson Wiggins, the abutting owner, plans to develop the parcel for commercial manufacturing or retail use.

Nelson Wiggins has complied with the council motion requirements, has accepted the City's offer, and has rendered payment in full.

The City will abandon and sell to Nelson Wiggins:

**Parcel SY9-033**  
 16,618-square-foot excess street right-of-way \$ 85,000.00 (Rounded)  
 Valued at \$5.11 PSF

**TOTAL ABANDONMENTS: \$ 85,000.00**

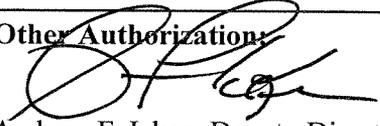
Therefore, it is recommended City Council approve an ordinance authorizing the sale of ±16,807 square-feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219.

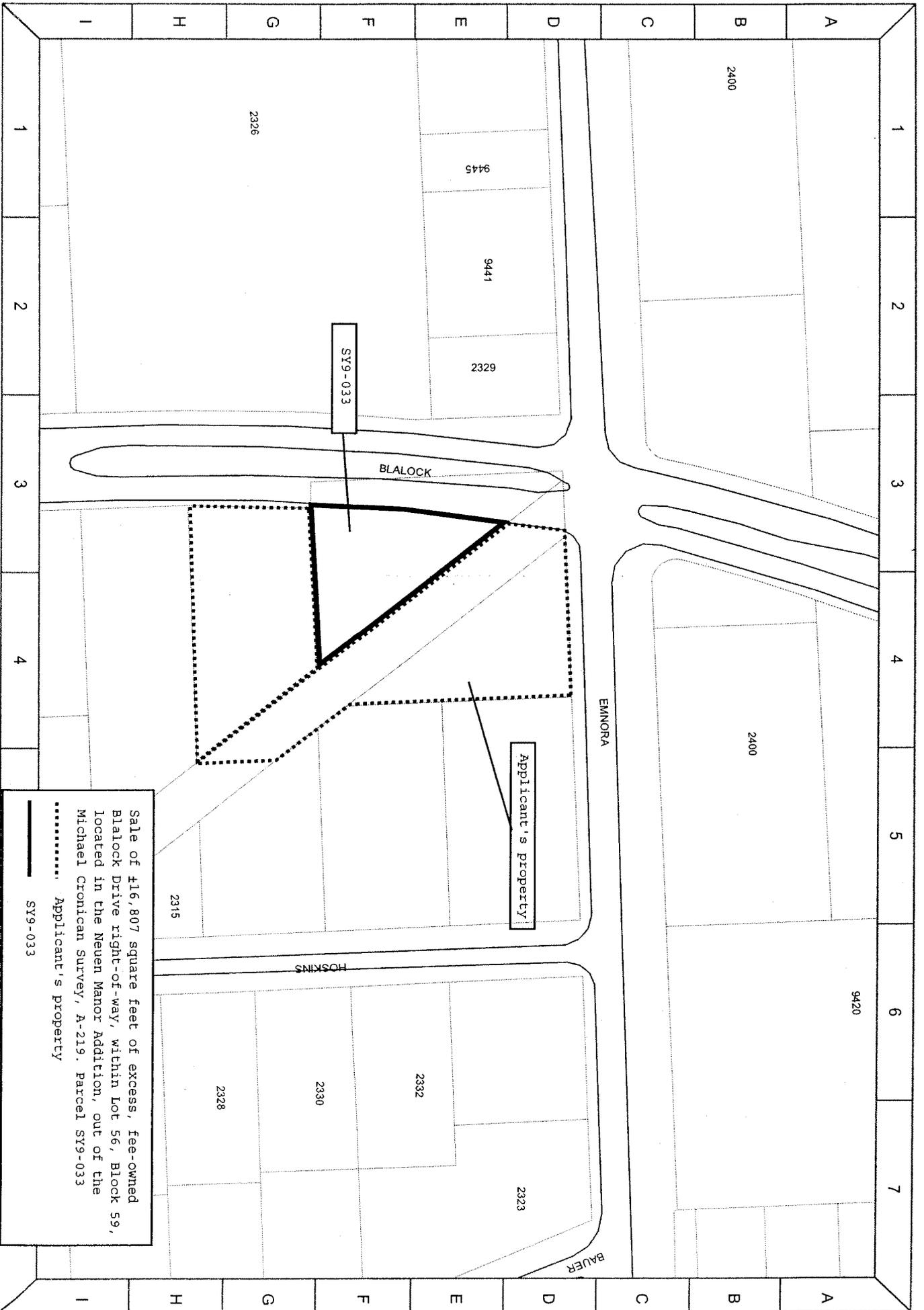
NPC:WSB:gg

c: Jun Chang, P.E.  
 Daniel Menendez, P.E.  
 Marty Stein

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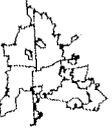
**REQUIRED AUTHORIZATION**

<b>Finance Department</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Andrew F. Icken, Deputy Director Planning and Development Services Division
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1 inch equals 130 feet

0.10203640 Feet



# CITY OF HOUSTON

## Department of Public Works & Engineering

Geographic Information & Management System (GIMS)

DISCLAIMER: THIS MAP REPRESENTS THE BEST INFORMATION AVAILABLE TO THE CITY. THE CITY DOES NOT WARRANT ITS ACCURACY OR COMPLETENESS. FIELD VERIFICATIONS SHOULD BE DONE AS NECESSARY.

Sale of 116,807 square feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219. Parcel SY9-033

..... Applicant's property

———— SY9-033



MOTION by Council Member Khan that the recommendation of the Director of the Department of Public Works and Engineering, reviewed and approved by the Joint Referral Committee, on request from Nelson Wiggins, 1651 Blalock, Houston, Texas, 77080, for the sale of ±16,807 square-feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219, Parcel SY9-033, be adopted as follows:

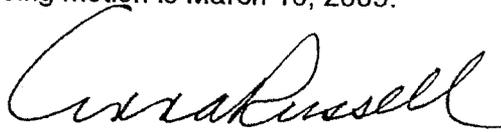
1. The City sell ±16,807 square-feet of excess, fee-owned Blalock Drive right-of-way, within Lot 56, Block 59, located in the Neuen Manor Addition, out of the Michael Cronican Survey, A-219;
2. The applicant be required to furnish the Department of Public Works and Engineering with a durable, reproducible (Mylar) survey plat and field notes of the affected property;
3. The applicant be required to obtain a letter of no objection from each of the privately owned utility companies for the fee-owned land being abandoned and sold;
4. The applicant be required to maintain 100 feet of right-of-way for Blalock and to replat the property if anything is to be constructed over parcel lines;
5. The Legal Department be authorized to prepare the necessary transaction documents; and
6. Inasmuch as the value of the City's property interest is not expected to exceed \$1,000,000.00, that the value be established by Steven Duplantis, an independent appraiser appointed by the Director of Public Works and Engineering.

Seconded by Council Member Lawrence and carried.

Vice Mayor Pro Tem Lovell, Council Members Lawrence,  
Johnson, Clutterbuck, Adams, Sullivan, Khan, Holm,  
Rodriguez, Brown, Green and Jones voting aye  
Nays none  
Mayor White and Council Member Noriega absent  
Vice Mayor Pro Tem Lovell presiding

PASSED AND ADOPTED this 4th day of March, 2009.

Pursuant to Article VI, Section 6 of the City Charter, the  
effective date of the foregoing motion is March 10, 2009.

  
City Secretary

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance authorizing the abandonment and sale of Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition. Parcel SY9-023

Page 1 of 1

Agenda Item # 18

FROM (Department or other point of origin):

Department of Public Works and Engineering

Origination Date

10/1/09

Agenda Date

OCT 07 2009

DIRECTOR'S SIGNATURE:

*Michael S. Marcotte*

Michael S. Marcotte, P.E., D.WRE, BCEE, Director

Council District affected: B

*PSM*

Key Map 494K

For additional information contact:

Nancy P. Collins *(NPC)* Phone: (713) 837-0881  
Senior Assistant Director-Real Estate

Date and identification of prior authorizing Council Action:

C.M. 2008-0888 (12/10/08)

RECOMMENDATION: (Summary) It is recommended City Council approve an ordinance authorizing the abandonment and sale of Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition. Parcel SY9-023

Amount and Source of Funding: Not Applicable

SPECIFIC EXPLANATION:

By Motion 2008-0888, City Council authorized the subject transaction. Houston Independent School District, the abutting property owner, wants to remove the street encumbrance to clear title to its property where the old Bruce Elementary School has been located since 1930.

Houston Independent School District has complied with the council motion requirements, has accepted the City's offer, and has rendered payment in full.

The City will abandon and sell to Houston Independent School District:

Parcel SY9-023  
10,000-square-foot portion of Nance Street \$115,000.00  
Valued at \$11.50 per square foot

TOTAL ABANDONMENTS \$115,000.00

Therefore, it is recommended City Council approve an ordinance authorizing the abandonment and sale of Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition. Houston Independent School District paid the initial \$2,100.00 deposit in cash and has requested to deduct the \$112,900.00 balance of the consideration for this transaction from the credit account established by the Interlocal Agreement between the City of Houston and Houston Independent School District.

MSM:NPC:psm

c: Daniel Menendez, P.E.  
Marty Stein  
Jeffrey Weatherford, P.E., PTOE

s:\psm\sy9-023.rc2.doc

CUIC #20PSM232

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

*Andrew F. Icken*  
Andrew F. Icken, Deputy Director  
Planning and Development Services Division



MOTION by Council Member Garcia that the recommendation of the Director of the Department of Public Works and Engineering, reviewed and approved by the Joint Referral Committee, on request from C. L. Davis of C. L. Davis & Company, 1500 Winding Way Friendswood, Texas, 77546, on behalf of Houston Independent School District, for the abandonment and sale of Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition, Parcel No. SY9-023, be adopted as follows:

1. The City abandon and sell Nance Street, from Cage Street to Bringhurst Street, located in the Cage Addition;
2. The applicant be required to furnish the Department of Public Works and Engineering with a durable, reproducible (Mylar) survey plat and field notes of the affected property;
3. The applicant be required to relocated the storm inlets within the Nance Street right of way at not cost to the City and under the proper permits;
4. The applicant be required to prepare drawings that show all public utilities (storm sewer) that are to be abandoned, relocated, and/or constructed as part of this project and submit drawing to the Office of the City Engineer for plan review and approval. A copy of the council motion shall be attached to the plan set when it is submitted for plan review;
5. In the interest of expediting the abandonment and sale process, the applicant may choose to provide the City with a Letter of Credit (LOC), subject to the City's concurrence, covering the estimated construction cost for work required in Item 3 above in lieu of performing such work prior to finalization of the ordinance for this transaction. Should this option be selected, the applicant will be required to provide a LOC showing the City of Houston as beneficiary and in the amount of the estimated construction cost approved by the City. The LOC will be for a specific time period which may be less than but not longer than twelve months from the effective date of the ordinance for the transaction. Upon the applicant's satisfactory completion of the construction-related work as evidenced by written inspection clearance/approval by the Office of the City Engineer, PWE, at he applicant's request the City will release the LOC;

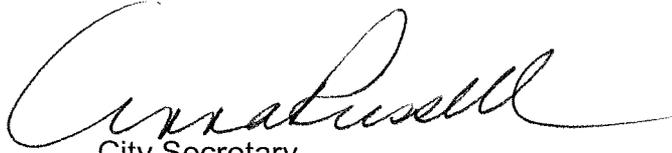
6. The applicant be required to obtain a letter of no objection from each of the privately owned utility companies for the street being abandoned and sold;
7. The Legal Department be authorized to prepare the necessary transaction documents; and
8. Inasmuch as the value of the City's property interest is not expected to exceed \$1,000,000.00, that the value be established by an independent appraiser, appointed by the Director of Public Works and Engineering.

Seconded by Council Member Khan and carried.

Mayor White, Council Members Lawrence, Johnson,  
Clutterbuck, Adams, Sullivan, Khan, Holm, Garcia,  
Rodriguez, Brown, Lovell, Noriega, Green and Jones  
voting aye  
Nays none

PASSED AND ADOPTED this 10th day of December, 2008.

Pursuant to Article VI, Section 6 of the City Charter, the  
effective date of the foregoing motion is December 16, 2008.



City Secretary



<b>Date:</b>	<b>Subject:</b> Ordinance authorizing the abandonment and sale of a portion of a 10-foot-wide utility easement, in exchange for the conveyance to the City of a 20-foot-wide storm sewer easement, both located at 2148 Troon, within Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, out of the J. Austin Survey, A-1. <b>Parcels SY9-013 and LY9-025</b>	<b>Originator's Initials</b>	<b>Page</b> <u>2</u> of <u>2</u>
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Inasmuch as the value of the \$2,100.00 minimum fee plus the easement being conveyed to the City is greater than the value of the easement being abandoned and sold, it is recommended City Council approve an ordinance authorizing the abandonment and sale of a portion of a 10-foot-wide utility easement located at 2148 Troon, within Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, in exchange for a consideration of \$2,100.00 plus the conveyance to the City of a 20-foot-wide storm sewer easement, out of the J. Austin Survey, A-1.

NPC:WSB:gg

- c: Jun Chang, P.E.
- Daniel Menendez, P.E
- Marty Stein

MOTION by Council Member Khan that the recommendation of the Director of the Department of Public Works and Engineering, reviewed and approved by the Joint Referral Committee, on request from John English, Rekha Engineering, Inc, 5301 Hollister Suite 190, Houston, Texas 77040, on behalf of Ali Reza Rastegar, for the abandonment and sale of a portion of a 10-foot-wide utility easement, in exchange for the conveyance to the City of a 20-foot-wide storm sewer easement, both located at 2148 Troon, within Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, out of the J. Austin Survey, A-1, Parcels SY9-013 and LY9-025, be adopted as follows:

1. The City abandon and sell a portion of a 10-foot-wide utility easement, in exchange for the conveyance to the City of a 20-foot-wide storm sewer easement, both located at 2148 Troon, within Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, out of the J. Austin Survey, A-1;
2. The applicant be required to furnish the Department of Public Works and Engineering with a durable, reproducible (Mylar) survey plat and field notes of the affected property;
3. The applicant be required to cut, plug, and abandon the current 48- inch storm sewer from Troon Street right-of-way. A new line will be constructed within the new 20-foot wide easement to be conveyed along the northern and western subject property boundary. All of the foregoing items must be completed at no cost to the City and under the proper permits;
4. The applicant be required to prepare drawings that show all public utilities (storm sewer) that are to be abandoned, relocated, and/or constructed as part of this project and submit drawings to the Office of the City Engineer for plan review and approval. A copy of the council motion shall be attached to the plan set when it is submitted for plan review.

5. The applicant be required to obtain a letter of no objection from each of the privately owned utility companies for the utility easement being abandoned and sold;
6. In the interest of expediting the abandonment and sale process, the applicant may choose to provide the City with a Letter of Credit (LOC), subject to the City's concurrence, covering the estimated construction cost for work required in Item 3 above in lieu of performing such work prior to finalization of the ordinance for this transaction. Should this option be selected, the applicant will be required to provide a LOC showing the City of Houston as beneficiary and in the amount of the estimated construction cost approved by the City. The LOC will be for a specific time period which may be less than but not longer than twelve months from the effective date of the ordinance for the transaction. Upon the applicant's satisfactory completion of the construction-related work as evidenced by written inspection clearance/approval by the Office of the City Engineer, PWE, at the applicant's request the City will release the LOC;
7. The Legal Department be authorized to prepare the necessary transaction documents; and
8. Inasmuch as the value of the property interests is expected to fall between \$50,000 and \$1,000,000 that the value be established by an independent appraiser, appointed by the Director of Public Works and Engineering.

Seconded by Council Member Garcia and carried.

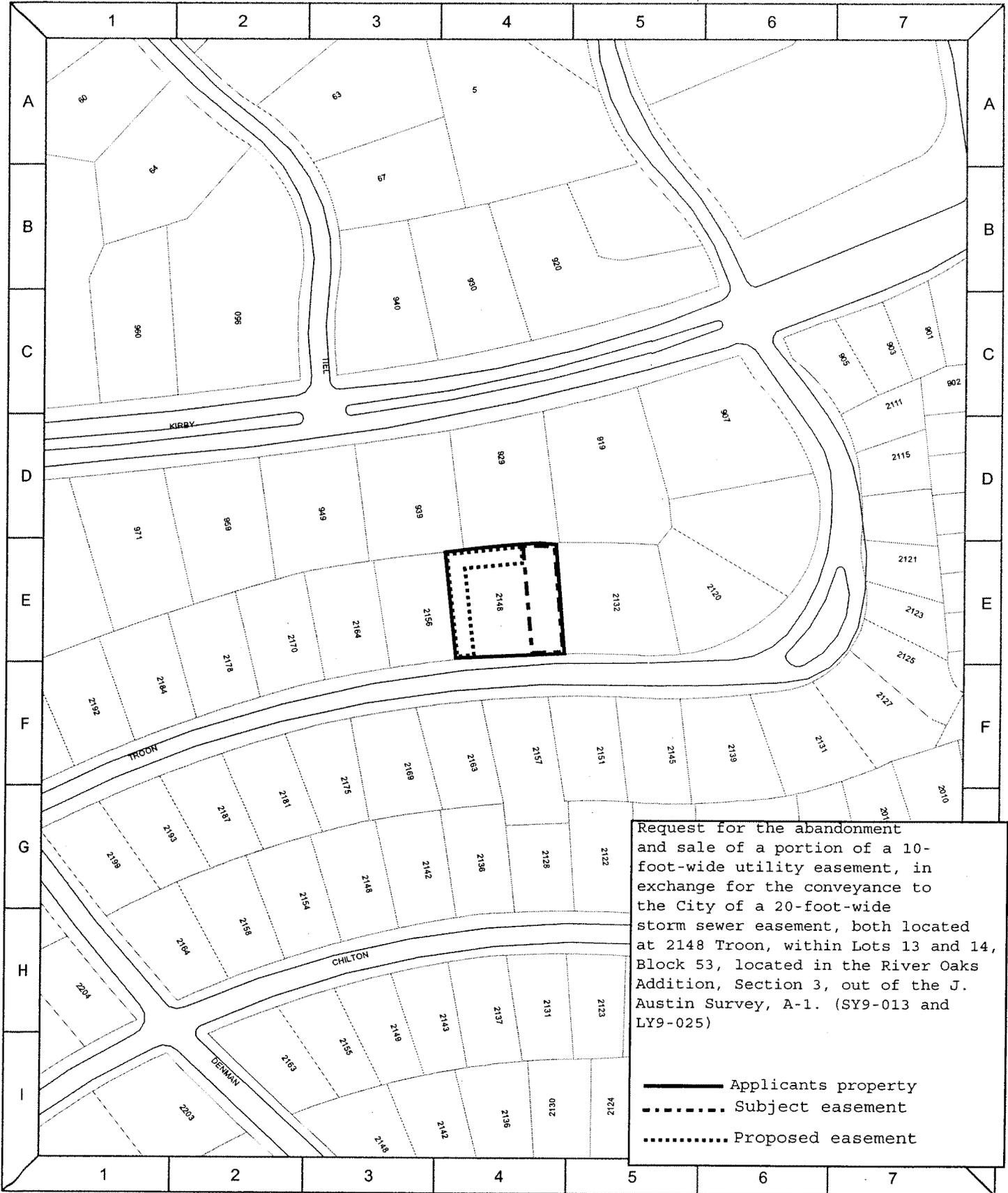
Mayor White, Council Members Lawrence, Johnson,  
Clutterbuck, Adams, Khan, Holm, Garcia, Rodriguez,  
Noriega, Green and Jones voting aye  
Nays none  
Council Members Sullivan and Lovell absent

Council Member Brown out of the City on City business

PASSED AND ADOPTED this 30th day of December, 2008.

Pursuant to Article VI, Section 6 of the City Charter, the  
effective date of the foregoing motion is January 5, 2009.

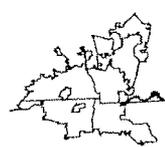
  
Cynthia Russell  
City Secretary



Request for the abandonment and sale of a portion of a 10-foot-wide utility easement, in exchange for the conveyance to the City of a 20-foot-wide storm sewer easement, both located at 2148 Troon, within Lots 13 and 14, Block 53, located in the River Oaks Addition, Section 3, out of the J. Austin Survey, A-1. (SY9-013 and LY9-025)

————— Applicants property  
 - - - - - Subject easement  
 ..... Proposed easement

1 inch equals 180 feet  
 0 20 40 60 80  
 Feet



**CITY OF HOUSTON**  
 Department of Public Works & Engineering  
 Geographic Information & Management System (GIMS)

DISCLAIMER: THIS MAP REPRESENTS THE BEST INFORMATION AVAILABLE TO THE CITY. THE CITY DOES NOT WARRANT ITS ACCURACY OR COMPLETENESS. FIELD VERIFICATIONS SHOULD BE DONE AS NECESSARY.



RD

**TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> Adoption of the Water Conservation Plan, Water Conservation Plan for Agricultural Use, and Drought Contingency Plan for the Public Works and Engineering Department.	<b>Page</b> 1 of 1	<b>Agenda Item</b> # <b>20</b>
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<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> July 28, 2009	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE</b> <i>MS Michael S Marcotte 8709</i> Michael S. Marcotte, P.E., D.WRE, BCEE, Director	<b>Council District affected:</b> ALL	
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<b>For additional information contact:</b> Yvonne W. Forrest <i>ywf</i> Interim Senior Assistant Director <b>Phone:</b> (713) 837-7051	<b>Date and identification of prior authorizing Council action</b> 6-18-2008, Ord. No. 2008-555 8-8-2001, Ord. No. 2001-753	
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**RECOMMENDATION: (Summary)**  
Approve and adopt the Water Conservation Plan, Water Conservation Plan for Agricultural Use and the Drought Contingency Plan for the Public Works and Engineering Department.

**Amount and Source of Funding:** N/A

**SPECIFIC EXPLANATION:**

The Department of Public Works and Engineering recommends that City Council approve and adopt the Water Conservation Plan, the Water Conservation for Agricultural Use Plan, and the Drought Contingency. Pursuant to the Texas Administrative Code, Title 30, Chapter 288, the City of Houston as a wholesale public water supplier must develop, formally adopt, and submit the aforementioned plans to the Texas Commission on Environmental Quality (the State regulatory authority).

The Water Conservation Plan identifies water conservation goals and practices that will protect long term water supplies for the City of Houston. The Plan includes information required by the Texas Commission on Environmental Quality.

The Water Conservation Plan for Agricultural Use Plan identifies water conservation goals and practices relative to agricultural water customers of the City of Houston. The Plan includes information required by the Texas Commission on Environmental Quality.

The Drought Contingency Plan is a combination of strategies set forth by the public water supplier for addressing water supply shortages. The Plan includes information required by the Texas Commission on Environmental Quality.

Each plan is required by statute to address specific requirements. City Council approval shall serve as official adoption of these plans.

cc: Marty Stein  
Michael S. Marcotte, P.E., D.WRE, BCEE  
Waynette Chan  
Gary Drabek  
Susan Bandy  
Jun Chang, P.E.  
Yvonne W. Forrest

*Handwritten mark*

<b>REQUIRED AUTHORIZATION</b>		20YWF02
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<b>Finance Department</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b> <i>Jun Chang</i> Jun Chang, P.E. Deputy Director Public Utilities Division
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# City of Houston Water Conservation Plan Summary

The City of Houston Water Conservation Plan 2009 highlights water conservation goals and continuous progress that will preserve long-term water supplies for the City of Houston. This plan includes information for three distinct plans required by the Texas Commission on Environmental Quality for Water Conservation Plans. Below is a summary of those plans.

The City of Houston Water Conservation Plan was presented to the Water Resource Management Committee on September 3<sup>rd</sup>, 2009 for review but no action was taken due to a lack of quorum. *Copies of the complete plan were delivered to Council Members on September 21, 2009.*

## **Water Conservation Plan**

Water supply planning is important to Houston to meet growth and comply with the 1993 Texas Administrative Code, Texas Commission of Environmental Quality Water Conservation Rule Chapter 30 that requires the City to prepare and implement a water conservation plan that meets certain requirements.

The City's current plan includes an in-house public education program, programs for departments whose budgets are derived through the general fund, a program requiring all large contract customers to prepare a conservation plan, and conservation planning. The in-house education program consists of irrigation audits at golf courses, esplanades, and other large City limit areas, leak detection and repair of City pools and fountains; and tracking and reporting water use by general fund departments.

## **Agricultural Use Water Conservation Plan**

The City of Houston Agricultural Use Water Conservation Plan identifies water conservation goals and practices that will protect long term agricultural water supplies for the City. This Plan includes information required by the Texas Commission on Environmental Quality for Agricultural Use Water Conservation Plans, as well as information specific to the City's agricultural water rights and irrigation uses.

The City holds Trinity River system water rights of 13,400 acre-feet per year for irrigation purposes. The City has a water conveyance canal from the Trinity River that is operated by the Coastal Water Authority. Farmers contract with the City to take water from the

Coastal Water Authority's Trinity Canal for irrigating their fields. Rice crop and crawfish production made up all of the irrigation land use in 2008.

### **Drought Contingency Plan**

The purpose of the Drought Contingency Plan is to establish policies and procedures for the City of Houston to follow in case of a water shortage period. A water shortage period, caused by drought or other uncontrollable circumstances which hinder the City of Houston's ability to meet water demand, can range from mild to critical and can disrupt the normal availability of water supplies. The existing City of Houston Ordinance Chapter 47, Section VII meets all requirements of the Texas Commission on Environmental Quality.

The City of Houston Ordinance refers to a drought as a water shortage period, and contains four stages of severity before an emergency water shortage period is declared. Each stage requires either the Director of Public Works or the Mayor to file written notice with the City Secretary of the water shortage period declaration, with later stages that mandate rules to the general public requiring City Council approval. The water shortage period ends when the issuer of the declaration finds that the conditions leading to the declaration no longer exists.

**REQUEST FOR COUNCIL ACTION**

**TO: Mayor via City Secretary**

RCA #

**SUBJECT:** Ordinance amending the FY10 Budget for Tax Increment Reinvestment Zone Number Twenty One (Hardy/Near Northside Zone) and appropriating \$40,000 from the TIRZ 21 Hardy/Near Northside Fund for legal services project costs

**Category #**

**Page**  
1 of 1

**Agenda Item#**

21

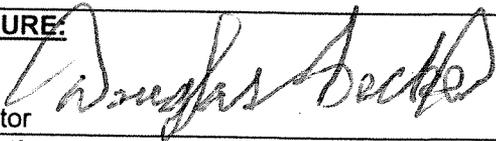
**FROM: (Department or other point of origin):**  
Finance Department

**Origination Date**  
September 29, 2009

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE:**

Michelle Mitchell, Director



**Council Districts affected:**  
H

**For additional information contact:**

Ralph De Leon  
Julia Gee

**Phone:** (713) 837-9573  
(713) 837-7828

**Date and identification of prior authorizing Council Action:**  
Ord. 2009-613, 06/30/09

**RECOMMENDATION: (Summary)**

That City Council approve an Ordinance amending the FY10 Budget for TIRZ #21 and appropriating \$40,000 from the TIRZ 21 Hardy/Near Northside Fund for legal services related to a development agreement

**Amount of Funding:** \$40,000

**Finance Budget:**

**SOURCE OF FUNDING:** TIRZ #21 Hardy/Near Northside Fund (7569)

**SPECIFIC EXPLANATION:**

In 2003 the City created TIRZ #21 for the development or redevelopment of the former Southern Pacific/Union Pacific rail yard site commonly known as Hardy Yard and the surrounding general North Main Street area of the City. Development of the Hardy Yard did not occur, and the property changed hands. The current owner is Cypress Development. In 2008 City Council approved the Project Plan and Reinvestment Zone financing plan for the TIRZ with an emphasis on mobility projects, specifically the extension of San Jacinto Street north to Fulton. The City intends to seek federal grant funds for all or a portion of this construction. The proposed San Jacinto connection to the Central Business District will enable the development of the Hardy Yard property, and Cypress Development has indicated an interest in entering into a development agreement with the City and/or TIRZ #21 for this purpose. To assist the City in the negotiation of this agreement and related matters, the Legal Department recommends the City retain Vinson & Elkins LLP under a purchase order for professional legal services. Clark Lord will be the primary attorney on the matter. Mr. Lord previously assisted in negotiating the development agreement with the Memorial Heights Redevelopment Authority for the Regency Park project. The Council-approved FY10 TIRZ budget does not provide for legal services. To support the City's efforts in this regard, the Finance Department recommends the approval of an amended Fiscal Year 2010 operating budget for TIRZ #21.

The requested changes to the City Council-approved Fiscal Year 2010 Budget include:

- The addition of \$40,000 for Legal and \$7,000 for Administrative costs required to assist the City and/or TIRZ in furthering proposed redevelopment projects and public infrastructure improvements within the Zone.
- Total Amended Operating Budget for FY2010 is \$140,095, which includes \$93,039 for affordable housing fund transfer and \$47,000 for additional project costs.
- A provision that changes in line items in the budget in excess of the lesser of \$400,000 or 5% or more require City Council approval.

TIRZ #21 was created by City initiative and therefore does not include a mandatory provision for affordable housing. The Project Plan for the TIRZ, however, includes affordable housing development as a project cost.

The Finance and Legal Departments recommend approval of this ordinance to facilitate negotiation of a development agreement between the City, TIRZ #21 and the property owner.

Attachments: TIRZ Profile Amended, FY10 Operating Budget

cc: Marty Stein, Agenda Director  
Anna Russell, City Secretary  
Arturo Michel, City Attorney  
Deborah McAbee, Senior Assistant City Attorney

**REQUIRED AUTHORIZATION**

**Finance Director:**

**Other Authorization:**



**Other Authorization:**

Arturo G. Michel, City Attorney

CITY OF HOUSTON  
 FINANCE DEPARTMENT  
 ECONOMIC DEVELOPMENT DIVISION  
 FISCAL YEAR 2010 BUDGET PROFILE  
 AS AMENDED

Fund Summary  
 Fund Name: Hardy/Near Northside  
 TIRZ: 21  
 Fund Number: 7569 / 64

P R O J E C T I V E	Base Year:		2003
	Base Year Taxable Value:	\$	40,313,080
	Projected Taxable Value (TY2009):	\$	88,154,055
	Current Taxable Value (TY2008):	\$	85,958,853
	Acres:		326.1
	Administrator (Contact):		City of Houston
	Contact Number:		713.837.7828

N A R R A T I V E	<b>Zone Purpose:</b>
	To provide affordable housing and mobility improvements in the Near Northside.
	<b>Accomplishments in FY09 (Projects Underway):</b>
	· Approval of the first budget for the Hardy / Near Northside TIRZ.
	· Affordable Housing Agreement between the City and Reinvestment Zone approved by Council. Funds transferred to the City Housing and Community Development Department.

P R O J E C T I V E		Total Plan	Cumulative Expenses (to FY08)	Variance
		<b>Capital Projects:</b>		
	Mobility Improvements	16,000,000	\$ -	\$ 16,000,000
	<b>Total Capital Projects</b>	\$ 16,000,000	\$ -	\$ 16,000,000
	Affordable Housing	5,000,000		5,000,000
	Education Facilities	-		-
	Financing Costs	1,700,000		1,700,000
	Creation/Administration Costs	2,200,000		2,200,000
	<b>Total Project Plan</b>	\$ 24,900,000	\$ -	\$ 24,900,000

D E B T	Additional Financial Data	FY2009 Budget	2009 Projection	FY2010 Budget
		Debt Service	\$ -	\$ -
	Principal	\$ -	\$ -	\$ -
	Interest	\$ -	\$ -	\$ -
		<b>Balance as of 6/30/08</b>	<b>Balance as of 6/30/09</b>	<b>Balance as of 6/30/10</b>
	Year End Outstanding (Principal)			
	Bond Debt	\$ -	\$ -	\$ -
	Bank Loan	\$ -	\$ -	\$ -
	Developer Agreement	\$ -	\$ -	\$ -
	Other	\$ -	\$ -	\$ -

CITY OF HOUSTON  
 FINANCE DEPARTMENT  
 ECONOMIC DEVELOPMENT DIVISION  
 FISCAL YEAR 2010 BUDGET SUMMARY  
 AS AMENDED

Fund Summary  
 Fund Name: Hardy/Near Northside  
 TIRZ: 21  
 7569 / 64

TIRZ Budget Line Items	FY2009 Budget	2009 Projection	FY2010 Budget
<b>Available Resources</b>			
<b>Beginning Fund Balance</b>			
Restricted Funds - Capital Projects	\$ -	\$ -	\$ -
Restricted Funds - Affd. Housing	\$ -	\$ -	\$ -
Restricted Funds - Bond Reserve	\$ -	\$ -	\$ -
Unrestricted Fund Balance	\$ 446,385	\$ 446,385	\$ 532,946
<b>Total Beginning Fund Balance</b>	\$ 446,385	\$ 446,385	\$ 532,946
<b>TIRZ Revenue</b>			
City	\$ 250,955	\$ 316,784	\$ 281,901
ISD	\$ -	\$ -	\$ -
County	\$ -	\$ -	\$ -
Community College	\$ -	\$ -	\$ -
<b>Total Revenues</b>	\$ 250,955	\$ 316,784	\$ 281,901
<b>Bond Proceeds</b>	\$ -	\$ -	\$ -
<b>Loan Proceeds</b>	\$ -	\$ -	\$ -
<b>Grant Proceeds</b>	\$ -	\$ -	\$ -
<b>Other</b>	\$ 15,248	\$ 16,063	\$ 17,100
<b>Total Available Resources</b>	\$ 712,588	\$ 779,232	\$ 831,947
<b>Fund Transfers</b>			
<b>Affordable Housing</b>			
City of Houston *	\$ 230,447	\$ 230,447	\$ 78,944
ISD Increment to Houston	\$ -	\$ -	\$ -
Harris County	\$ -	\$ -	\$ -
<b>ISD Education Set-Aside</b>	\$ -	\$ -	\$ -
<b>Municipal Services</b>	\$ -	\$ -	\$ -
<b>Administration Fee to General Fund</b>			
COH Admin Fee (5%)	\$ 12,548	\$ 15,839	\$ 14,095
Harris County Admin	\$ -	\$ -	\$ -
ISD Admin	\$ -	\$ -	\$ -
<b>Total Fund Transfers</b>	\$ 242,995	\$ 246,286	\$ 93,039
<b>Funds Available for Projects</b>	\$ 469,593	\$ 532,946	\$ 738,908
<b>Project Costs</b>			
Administrative Staff	\$ -	\$ -	\$ -
Administrative Consultant	\$ -	\$ -	\$ 7,000
Legal	\$ -	\$ -	\$ 40,000
Accounting/ Audit	\$ -	\$ -	\$ -
Program / Project Consulting	\$ -	\$ -	\$ -
Administrative Operating Expense	\$ -	\$ -	\$ -
Capital Expenditures	\$ -	\$ -	\$ -
Developer/ Project reimbursements	\$ -	\$ -	\$ -
Debt Service			
Principal	\$ -	\$ -	\$ -
Interest	\$ -	\$ -	\$ -
Other debt items	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	\$ -	\$ -	\$ 47,000
<b>Total Budget</b>	\$ 242,995	\$ 246,286	\$ 140,039
<b>Resources Less Transfer and Expenses</b>	\$ 469,593	\$ 532,946	\$ 691,908
<b>Planned Ending Fund Balance:</b>			
Restricted Funds - Capital Projects	\$ -	\$ -	\$ -
Restricted Funds - Affd. Housing	\$ -	\$ -	\$ -
Restricted Funds - Bond Reserve	\$ -	\$ -	\$ -
<b>Unrestricted Fund Balance</b>	\$ 469,593	\$ 532,946	\$ 691,908

\* Per the Affordable Housing Agreement, the transfer amount is based on the Project Plan's Affordable Housing Schedule; FY09 Budget & Projection amount is for Tax Years 2004-2008.

CITY OF HOUSTON  
 FINANCE DEPARTMENT  
 ECONOMIC DEVELOPMENT DIVISION  
 FISCAL YEAR 2010 BUDGET DETAIL  
 AS AMENDED

Fund Summary  
 Fund Name: Hardy/Near Northside  
 TIRZ: 21  
 7569 / 64

TIRZ Budget Line Items	FY2009 Budget	2009 Projection	FY2010 Budget
<b>RESOURCES</b>			
RESTRICTED Funds - Capital Projects	\$ -	\$ -	\$ -
RESTRICTED Funds - Affordable Housing	\$ -	\$ -	\$ -
RESTRICTED Funds - Bond Debt Service	\$ -	\$ -	\$ -
UNRESTRICTED Funds	\$ 446,385	\$ 446,385	\$ 532,946
<b>Beginning Fund Balance</b>	<b>\$ 446,385</b>	<b>\$ 446,385</b>	<b>\$ 532,946</b>
City tax revenue	\$ 250,955	\$ 316,784	\$ 281,901
ISD tax revenue			
County tax revenue			
Community College tax revenue			
<b>Incremental property tax revenue</b>	<b>\$ 250,955</b>	<b>\$ 316,784</b>	<b>\$ 281,901</b>
<b>Miscellaneous revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
COH TIRZ Interest	\$ 15,248	\$ 16,063	\$ 17,100
<b>Other Interest Income</b>	<b>\$ 15,248</b>	<b>\$ 16,063</b>	<b>\$ 17,100</b>
<b>Developer Advances</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Grant Proceeds</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Special assessment bond proceeds</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Proceeds from bank loan</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL AVAILABLE RESOURCES</b>	<b>\$ 712,588</b>	<b>\$ 779,232</b>	<b>\$ 831,947</b>

CITY OF HOUSTON  
 FINANCE DEPARTMENT  
 ECONOMIC DEVELOPMENT DIVISION  
 FISCAL YEAR 2010 BUDGET DETAIL  
 AS AMENDED

Fund Summary  
 Fund Name: Hardy/Near Northside  
 TIRZ: 21  
 7569 / 64

TIRZ Budget Line Items	FY2009 Budget	2009 Projection	FY2010 Budget
<b>EXPENSES</b>			
Accounting			
Administration Consultant			\$ 7,000
Administration Salaries & Benefits			
Auditor			
Financial Advisor			
Insurance			
Office Expenses	\$ -	\$ -	\$ -
<b>TIRZ Administration and Overhead</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 7,000</b>
Construction Audit			
Engineering Consultants			
Legal			\$ 40,000
Project Consultant			
<b>Program and Project Consultants</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 40,000</b>
<b>Management consulting services</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 47,000</b>
Capital Expenditures	\$ -	\$ -	\$ -
<b>TIRZ Capital Expenditures</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Developer / Project Reimbursements	\$ -	\$ -	\$ -
	-	-	-
<b>System debt service</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>TOTAL PROJECT COSTS</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 47,000</b>
Payment/transfer to ISD - educational facilities			
Administration Fees:			
City	\$ 12,548	\$ 15,839	\$ 14,095
County			
ISD			
Affordable Housing:			
City *	\$ 230,447	\$ 230,447	\$ 78,944
ISD to City of Houston			
Transfer to Harris County			
Municipal Services (Payable to COH)	\$ -	\$ -	\$ -
<b>Total Transfers</b>	<b>\$ 242,995</b>	<b>\$ 246,286</b>	<b>\$ 93,039</b>
<b>Total Budget</b>	<b>\$ 242,995</b>	<b>\$ 246,286</b>	<b>\$ 140,039</b>
RESTRICTED Funds - Capital Projects	\$ -	\$ -	\$ -
RESTRICTED Funds - Affordable Housing	\$ -	\$ -	\$ -
RESTRICTED Funds - Bond Debt Service	\$ -	\$ -	\$ -
UNRESTRICTED Funds	\$ 469,593	\$ 532,946	\$ 691,908
<b>Total Ending Fund Balance</b>	<b>\$ 469,593</b>	<b>\$ 532,946</b>	<b>\$ 691,908</b>
<b>Total Budget &amp; Ending Fund Balance</b>	<b>\$ 712,588</b>	<b>\$ 779,232</b>	<b>\$ 831,947</b>

Notes:

Incremental property tax revenue and administration fee 2009 Projections based on payments from City and ISD, County is from TY08 ICAD values on 5/23/09  
 Incremental property tax revenue and administration fee 2010 Budget based on forecast derived from TY09 Preliminary ICAD values on 5/23/09

\* Per the Affordable Housing Agreement, the transfer amount is based on the Project Plan's Affordable Housing Schedule; FY09 Budget & Projection amount is for Tax Years 2004-2008.

**REQUEST FOR COUNCIL ACTION**

**TO: Mayor via City Secretary**

**RCA #**

**SUBJECT:** An ordinance appropriating \$2,660,810.85 in tax increment revenue payments made by the Houston Community College System, Lone Star College System, and earned interest in the Tax Increment Zone Funds (City) and authorizing the transfer of tax increment revenues and interest from the various Tax Increment Funds pursuant to Tri-Party Agreements.

**Category #**

**Page**  
1 of 1

**Agenda Item#**

22

**FROM: (Department or other point of origin):**

Michelle Mitchell, Director  
Finance Department

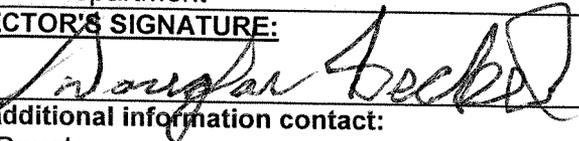
**Origination Date**

September 22, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE:**



**Council Districts affected:**

All

**For additional information contact:**

Tim Douglass

Phone: 713-837-9857

Randell M. Naquin

Phone: 713-837-9646

**Date and identification of prior authorizing Council Action:**

11/12/08 Ord. 2008-0999, 11/04/08 Ord. 2008-0998, 10/25/00 Ord.2000-0924

**RECOMMENDATION: (Summary)**

City Council approves an Ordinance appropriating \$2,660,810.85 in tax increment revenue payments made by the Houston Community College System and the Lone Star College System, and earned interest from Tax Increment Zone Funds, and authorizing the transfer of tax increment revenues and interest from the various Tax Increment Zone Funds pursuant to Tri-Party Agreements.

**Amount of Funding:** \$2,660,810.85

**Finance Budget:**

**SOURCE OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund  Other (Specify)

\$2,660,810.85 from various Tax Increment Zone Funds (See attached spreadsheets).

**Specific Explanation:**

The appropriation of \$2,660,810.85 results from tax increment payments received from the Houston Community College for Midtown Redevelopment Authority, \$873,491.00; the Lone Star College System for Greater Greenspoint Redevelopment Authority, \$719,880.00; and from earned interest, \$1,067,439.85, in the various Tax Increment Zone Funds.

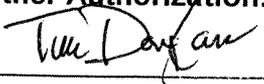
As set forth in the attached spreadsheet, \$60,994.00 will be transferred to the General Fund for Tax Increment Zone Administrative costs; and \$2,599,816.85 will be paid to various redevelopment authorities or retained in the Tax Increment Zone Fund for approved project costs.

cc: Marty Stein, Agenda Director  
Anna Russell, City Secretary  
Deborah McAbee, Senior Assistant City Attorney  
Arturo Michel, City Attorney

**REQUIRED AUTHORIZATION**

**Finance Director:**

**Other Authorization:**



**Other Authorization:**

## Chapter 22

### ITINERANT STREET VENDORS

#### ARTICLE I. IN GENERAL STREET VENDORS

##### DIVISION 1. GENERALLY

#### Sec. 22-1. Definitions.

The ~~As used in this article, the following words and terms and phrases, when used in this chapter,~~ shall have the meanings ascribed to them in this section, ~~except where the context clearly indicates a different meaning:~~

Director means the director of administration and regulatory affairs or the director's designee.

Goods or merchandise means any personal property of any nature whatsoever including but not limited to tickets for admission to athletic, sporting or entertainment events or shows.

Property owner means the person that appears as the title holder according to records on file with the Harris County real estate records.

Specific location means the physical address of a property or tract of land as listed in the Harris County Appraisal District Real Property account information.

~~(1) Itinerant Street vendor. The term "itinerant vendor" shall mean all persons means any person, as well as their agents and employees any agent or employee of the person, who engage is not required to have a certificate of occupancy and who engages in the temporary or transient business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting the same for sale, or exhibiting the same for the purpose of taking orders for the sale thereof, and who, for the purpose of carrying on such business or conducting such exhibits thereof, displays, exhibits, sells or offers for sale such goods or merchandise upon or from a truck, a cart, or other vehicle on the streets of non-residential property located in the city, or who hires, rents, leases or occupy occupies any room or space in any building, structure, other enclosure, vacant lot or any other property whatever in the city in, that does not require a certificate of occupancy through or from which any goods or merchandise may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof, or who shall sell or offer for sale any goods or merchandise while upon the property of another, without the express written consent of the owner or occupant thereof. The term "itinerant street vendor" shall not include or be construed to include anyone engaged in interstate commerce or anyone upon whom the provisions of this chapter would impose a direct and unlawful burden on interstate commerce.~~

22  
OCT 07 2009

~~(2) *Goods or merchandise.* The phrase "goods or merchandise" shall mean any personal property of any nature whatsoever including but not limited to tickets for admission to athletic, sporting or entertainment events or shows.~~

~~(3) *Temporary.* The word "temporary," shall mean any such refers to any business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month of premises in or upon which such business is to be operated or conducted.~~

~~(4) *Transient.* The word "transient," shall mean any such refers to any business as may be operated or conducted by persons or by their agents or employees who reside.~~

(1) Who:

a. Reside away from ~~this the~~ city; ~~or who have~~

b. Have fixed places of business in places other than ~~this the~~ city; ~~or who have~~

c. Have no fixed place of business; or

d. Have their headquarters in places other than ~~this the~~ city, ~~or who move;~~ and

(2) Who:

a. Move stocks of goods, or merchandise, or samples thereof, into ~~this the~~ city with the purpose or intention of removing them or the unsold portion thereof away from the city before the expiration of one month, ~~or who sell;~~ and

b. Sell and offer for sale such goods or merchandise while upon the property of another, ~~without the prior written consent of the owner or occupant thereof, or conduct;~~ and

c. Conduct such business away from their fixed places of business, if any, ~~or who have no such fixed places of business.~~

## **Sec. 22-2. Exemptions~~Defenses.~~**

~~This chapter shall not apply to the following~~ The following shall be affirmative defenses to prosecution under this article:

- (1) ~~Ordinary~~ That the defendant is an ordinary commercial travelers who sell or exhibit traveler who sells or exhibits for sale goods or merchandise to parties engaged in the business of buying and selling and dealing in goods or merchandise.
- (2) ~~Sales of goods or merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose~~ That the defendant is engaging in an activity for which a permit is required under chapter 20 of this Code, and the defendant has been issued such a permit.

**Sec. 22-3. Exceptions.**

The provisions of this article shall not apply to wholesale trade shows, conventions or fairs where the vendors' activities are conducted primarily for amusement and entertainment.

**Sec. 22-4. Enforcement.**

The provisions of this article may be enforced by any law enforcement officer.

**Secs. 22-35--22-13. Reserved.**

**ARTICLE II. LICENSE DIVISION 2. PERMIT**

**Sec. 22-14. Required.**

It shall be unlawful for any ~~itinerant-street~~ vendor to sell, offer for sale, exhibit for sale, or exhibit for the purpose of taking orders for the sale thereof, any goods or merchandise in the city without first obtaining a ~~license-permit~~ so to do in accordance with this article. It shall be unlawful for any street vendor to sell, offer for sale, exhibit for sale, or exhibit for the purpose of taking orders for the sale thereof any goods or merchandise in the city upon the property of another without the notarized statement of consent of the property owner required by section 22-15 of this Code or to fail to prominently display the city permit, the affidavit of the property owner and the street vendor's Texas sales tax permit while transacting business in the city.

**Sec. 22-15. Application.**

Every ~~itinerant-street~~ vendor shall ~~make application~~ apply to the ~~tax assessor-collector-director~~ for the ~~license-permit~~ required by this article, ~~which application shall be filed at least~~ not less than ten days prior to the date of ~~his-the~~ contemplated sale or exhibit to be held in the city. Such application shall be in the form of an affidavit stating the full name and address of the ~~itinerant-street~~ vendor, the location of ~~his-the~~ street vendor's principal office and place of business, the names and addresses of its officers, if it is a corporation, and the partnership name and the names and addresses of all partners, if

such ~~itinerant~~ the street vendor is a ~~firm~~ partnership. The application must be accompanied by:

- (1) A notarized statement of consent from the property owner of the specific location where the street vendor will sell the merchandise or the property owner's authorized agent. Said statement must be signed not more than two weeks prior to the application date with an effective expiration date to coincide with the expiration date of the permit. Said statement must include the current contact information of the property owner or agent, including but not limited to a telephone number, fax number, or other similar means whereby the property owner or agent can be reached twenty-four hours a day.
- (2) The applicant's Texas sales and use tax permit.
- (3) A statement showing the kind and character of the goods or merchandise to be sold, offered for sale or exhibited.
- (24) A certified copy of the charter, if the ~~itinerant~~ street vendor is a corporation incorporated under the laws of ~~the~~ this state.
- (35) A certified copy of its permit to do business in Texas, if the ~~itinerant~~ street vendor is a corporation incorporated under the laws of ~~some~~ a state other than Texas.

#### **Sec. 22-16. Bond required of applicant.**

Each applicant for a ~~license~~ permit under this article shall file, with his ~~the~~ application, a bond in the sum of not less than ~~\$2,000.00~~ \$10,000.00, ~~executed~~ issued by the ~~itinerant vendor as principal with two or more good and sufficient sureties satisfactory to the assessor collector of taxes, or a corporate surety authorized to do business in the~~ this state, which bond shall be payable to the mayor and his ~~the~~ mayor's successors in office for the use and benefit of any person entitled thereto, and conditioned that the principal and surety will pay all damages to persons caused by, or arising from or growing out of the wrongful, fraudulent or illegal conduct of the ~~itinerant~~ street vendor while conducting the sale or exhibit in the city. The bond shall remain in full force and effect for the entire duration of the ~~license~~ permit and for two years thereafter. Each permit holder is required to clean up the property on which the permit holder operates a street vendor business at the end of each permit period; failure to do so will result in the city making a claim on the bond required by this section and may result in the refusal by the city to issue future permits to that permit holder.

#### **Sec. 22-17. Fee.**

The fee for a ~~license~~ permit required by this article shall be \$50.00.

**Sec. 22-18. Issuance of permit.**

(a) The assessor-collector of taxes-director shall issue to any itinerant-street vendor a license-permit authorizing such itinerant-the street vendor to sell, exhibit for sale, offer for sale or exhibit for the purpose of taking orders for the sale thereof, in-the city, his goods or merchandise in the city after such itinerant-street vendor has fully complied with all provisions of this article and paid the prescribed fee.

(b) Any permit issued hereunder shall be issued to a specific person for a specific location and shall limit the hours of operation from 8:00 a.m. until 8:00 p.m.

**Sec. 22-19. Term and limitation on number of permits at specific location.**

The license-provided for by-A permit issued pursuant to this article shall continue in effect so long as such-a sale or exhibit is continuously held in the city, but in no event shall the permit continue in effect for more than 40-7 consecutive days from the date of its issuance. A permit shall not be issued for more than three sales or exhibits per calendar year for each specific location or for more than ten sales or exhibits for each street vendor per calendar year. No more than two permits per rolling 30 day period shall be issued to the same street vendor.

**Sec. 22-20. Not transferable; authority to conduct business extends to one person only.**

A license-permit issued under this article shall not be transferable nor give authority to more than one person to conduct a business as an-itinerant-a street vendor, but any person having obtained such license-permit may have the assistance of one or more persons in conducting such business.

**Sec. 22-21. Display.**

A license-The permit issued under this article, the notarized consent statement of the property owner or authorized agent, and the street vendor's Texas sales tax permit shall be prominently displayed in a conspicuous place on the premises where the-a sale or exhibit is being conducted and shall remain so displayed as long as any goods or merchandise are being so sold or exhibited.

**Sec. 22-22. Sale of goods or merchandise on public property.**

(a) No itinerant vendor-It shall be unlawful for a street vendor to expose for sale or sell any goods or merchandise on any public sidewalk, public street, parking space, right of way or other public property or to offer for sale or sell any goods or merchandise to any person who is on a-any public sidewalk, public street, parking space, right of way or other public property.

(b) Subsection (a) of this section shall not apply to:

- (1) ~~A person selling frozen desserts from a sanitary vehicle in full compliance with the ordinances and statutes regulating such, or a person acting in full compliance with article XX of chapter 40 of this Code;~~
- (2) ~~Any person who is acting in compliance with a franchise granted by the city;~~  
or
- (32) Transactions in public buildings or on public property in to which transactions the city is a party.

**Sec. 22-23. Display of goods.**

Street vendors shall not display their goods or products from clotheslines, wires or other hanging mechanisms and shall display their goods or merchandise in a manner so as not to cause vehicular or pedestrian visual problems at any intersection or entry or exit between the property and a public street.

**Sec. 22-24. Revocation or non-renewal of permit.**

If the director determines that any street vendor has failed to comply with the provisions of this article, the director may revoke the street vendor permit and may refuse to issue permits to that street vendor in the future.

**Secs. 22-25--22-50. Reserved.**

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**ARTICLE II. RESERVED**

**Secs. 22-51--22-09. Reserved.**

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**ARTICLE III. VIOLATIONS AND PENALTIES**

**Sec. 22-91. Penalties.**

Whenever in this chapter an act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or wherever in this article the doing of any thing or act is required or the failure to do any thing or act is prohibited, the violation of the provision shall be and constitute a misdemeanor punishable, upon conviction of a violation of any provision of article I of this chapter, by a fine of not less than \$250.00 nor more than \$500.00, and upon conviction of a violation of any provision of article II of this chapter, by a fine of not less than \$50.00 nor more than \$500.00. Each violation shall constitute and be punishable as a separate offense. Prosecution or conviction under this provision is cumulative of and shall never be a bar to any other civil or administrative remedy provided or allowed in this chapter or by law.

CITY OF HOUSTON TAX INCREMENT REINVESTMENT ZONES  
 TAX INCREMENT FUND INTEREST IN FUNDS - FISCAL YEAR 2009

#	TIRZ	Fund # (SAP)	(A) Payments Received	(B) Affordable Housing Fund (col A3)	(C) Administrative Fee Transfer to General Fund 1000 (col A-B) x 5%	Interest Accrued in Fund per TIRZ	Fund Interest/Net Increment due to Redevelopment Authority (col A-B-C)	Payee
1	Lamar Terrace	7512	-	-	-	\$ 15,455.64	\$ 15,455.64	St. George Place RA
2	Midtown	7550	-	-	-	\$ 73,274.12	\$ 73,274.12	Midtown RA
3	Market Square	7551	-	-	-	\$ 59,923.25	\$ 59,923.25	Main Street/Market Square
4	Village Enclave	7552	N/A	-	-	\$ 55,149.19	\$ 55,149.19	Special Pay Instructions #2
5	Memorial Heights	7553	-	-	-	\$ 13,022.40	\$ 13,022.40	Memorial Heights RA
6	Eastside	7554	N/A	-	-	\$ 27,683.57	\$ 27,683.57	OST Alameda RA
7	OST/Alameda	7555	-	-	-	\$ 10,058.36	\$ 10,058.36	Gulfgate RA
8	Gulfgate	7556	-	-	-	\$ 5,080.94	\$ 5,080.94	South Post Oak RA
9	South Post Oak	7557	-	-	-	\$ 249,649.90	\$ 249,649.90	Special Pay Instructions #1
10	Lake Houston	7558	-	-	-	\$ 70,674.34	\$ 70,674.34	Greater Greenspoint RA
11	Greenspoint	7559	-	-	-	\$ 2,756.36	\$ 2,756.36	City Park RA
12	CityPark	7560	N/A	-	-	\$ 5,374.68	\$ 5,374.68	Old Sixth Ward RA
13	Old Sixth Ward	7561	-	-	-	\$ 280,828.10	\$ 280,828.10	Fourth Ward RA
14	Fourth Ward	7562	-	-	-	\$ 7,814.09	\$ 7,814.09	East Downtown RA
15	East Downtown	7563	-	-	-	\$ 100,716.21	\$ 100,716.21	Uptown RA
16	Uptown	7564	-	-	-	\$ 17,454.30	\$ 17,454.30	Memorial Heights RA
17	Memorial City	7565	-	-	-	\$ 1,386.76	\$ 1,386.76	Fifth Ward RA
18	Fifth Ward	7566	-	-	-	\$ 27,327.90	\$ 27,327.90	Upper Kirby RA
19	Upper Kirby	7567	-	-	-	\$ 26,456.88	\$ 26,456.88	Southwest Houston RA
20	Southwest Houston	7568	-	-	-	\$ 16,557.29	\$ 16,557.29	Special Pay Instructions #1
21	Hardy Yards	7569	-	-	-	\$ 795.57	\$ 795.57	Leland Woods RA
22	Leland Woods	7570	-	-	-	\$ 1,067,439.85	\$ 1,067,439.85	
<b>Total</b>								

Special Pay Instructions #1  
 Retain in fund to pay developer and TIRZ admin costs.

Special Pay Instructions #2  
 Payment should be made to HISD for FY09 Interest

**CITY OF HOUSTON TAX INCREMENT REINVESTMENT ZONES  
TAX INCREMENT CALCULATIONS FOR HOUSTON COMMUNITY COLLEGE & LONE STAR COLLEGE - TAX YEAR 2008**

#	TIRZ	Fund # (SAP)	(A) CC Payments Received	(B) Affordable Housing Fund (col A3)	(C) Administrative Fee Transfer to General Fund 1000 (col A-B) x 5%	HCCLone Star College Net Increment due to Redevelopment Authority (col A-B-C)	Payee
1	Lamar Terrace	7512	-	-	-	\$ -	
2	Midtown	7550	873,491.00	-	25,000.00 (1)	\$ 848,491.00	Midtown RA
			Original 471,029.00				
			Original 277,430.00				
			Annexed 125,032.00				
3	Market Square	7551	-	-	-	\$ -	
			Original Annexed				
4	Village Enclave	7552	N/A	-	-	\$ -	
5	Memorial Heights	7553	-	-	-	\$ -	
6	Eastside	7554	N/A	-	-	\$ -	
7	OST/Alameda	7555	-	-	-	\$ -	
			Original Annexed				
8	Gulfgate	7556	-	-	-	\$ -	
			Original Annexed				
9	South Post Oak	7557	-	-	-	\$ -	
10	Lake Houston	7558	-	-	-	\$ -	
			(Original)				
11	Greenspoint	7559	719,880.00	-	35,994.00 (2),(3)	\$ 683,886.00	Greater Greenspoint RA
			Alaine ISD Spring ISD NHMCCD				
12	CityPark	7560	719,880.00	-	35,994.00 (2),(3)	\$ -	
13	Old Sixth Ward	7561	N/A	-	-	\$ -	
14	Fourth Ward	7562	N/A	-	-	\$ -	
15	East Downtown	7563	N/A	-	-	\$ -	
16	Uptown	7564	N/A	-	-	\$ -	
17	Memorial City	7565	N/A	-	-	\$ -	
18	Fifth Ward	7566	N/A	-	-	\$ -	
19	Upper Kirby	7567	N/A	-	-	\$ -	
20	Southwest Houston	7568	N/A	-	-	\$ -	
21	Hardy Yards	7569	N/A	-	-	\$ -	
22	Leland Woods	7570	N/A	-	-	\$ -	
	<b>Total</b>		<b>\$ 1,593,371.00</b>	<b>\$ -</b>	<b>\$ 60,994.00</b>	<b>\$ 1,532,377.00</b>	

- Notes:
- (1) Midtown proceeds from HCC, per Ordinance No. 2008-999. TIRZ sets aside own Affordable Housing portion (1/3) for its own program.
  - (2) TIRZ #11 Greater Greenspoint's proceeds are from Lone Star Community College per Ordinance No. 2000-0924
  - (3) The administration fee is calculated at 5% of the net increment revenue rather than the \$25,000 maximum.

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 8503**

**Subject:** Ordinance approving an agreement between Harris County Healthcare Alliance and the City of Houston for the provision of Tele-Health Nursing and related services.

Category #  
9

Page 1 of 2

Agenda Item

**23**

**FROM (Department or other point of origin):**

Phil Boriskie  
Fire Chief  
Fire

**Origination Date**

September 23, 2009

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE**

*Phil Boriskie*

**Council District(s) affected**  
All

**For additional information contact:**

Karen Dupont                      Phone: (713) 859-4934  
Jack Williams                      Phone: (713) 247-8793

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approval of an Ordinance approving an agreement between the Harris County Healthcare Alliance and City Of Houston for the provision of Tele-Health Nursing and related services.

\$4,705,891.39  
Maximum Contract Amount

**Finance Budget**

**Amount & Source of Funding**

General Fund \$4,455,891.39  
Contractor Responsibility Fund \$250,000.00

**SPECIFIC EXPLANATION:**

The Houston Fire Department requests City Council approve an Ordinance authorizing an agreement between the Harris County Healthcare Alliance and the City of Houston for a term of 4 years with spending authority in an amount not to exceed \$4,705,891.39 for the provision of Tele-Health Nursing and related services.

This agreement continues all aspects of HFD/City's previous agreement with the Harris County Healthcare Alliance ("Alliance") regarding the Tele-Health Nurse program ("THN") now in year two. The Alliance is a nonprofit organization whose members include the safety net healthcare providers in the Houston area. The City is a member of the Alliance and holds a seat on its board.

The components of the THN program represent an innovative and cost-effective mechanism for ensuring that a scarce and costly resource—ambulance transport to hospital ERs—is deployed appropriately so that EMS is available to respond as quickly as possible to life-threatening emergencies. The program also assists 9-1-1 callers, and particularly those who are uninsured and rely on 9-1-1 as their entry point into the healthcare delivery system, to obtain health information, access to non-emergency transportation services, and appointments at community clinics, services not available in a traditional 9-1-1 setting.

Annually budgeted General Funds will be used to continue to provide 24/7 support from experienced emergency room nurses to counsel and advise 9-1-1 callers under strict and conservative nationally developed and HFD-approved protocols. Data from the previous agreement has resulted in an improved agreement with additional services to the public and a 25% cost savings over the duration of this agreement.

Callers to 9-1-1 meeting specific screening criteria will be linked with a registered nurse for assistance. If for any reason the nurses on call cannot manage the call load at a particular time, the EMS service will manage the call as it has for decades.

During the first phase of the program, several callers have been identified as candidates for clinic visits or delayed transport to an emergency room but were unable to take advantage of the opportunity due to transportation limitations.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

*NP*

Other Authorization:

Date: 9/23/2009	Subject: Ordinance approving an agreement between Harris County Healthcare Alliance and the City of Houston for the provision of Tele-Health Nursing and related services.	Originator's Initials KD	Page 2 of 2
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THN will coordinate the dispatch of non-emergency transport services where appropriate through an agreement between the Alliance and Harris County RIDES.

Contract funding for FY10 also includes \$250,000 from the Contractor Responsibility Fund ("Pay or Play" program), previously approved by City Council. These funds will support a subscription to an online appointment booking service which will enable the THN nurses to book appointments at one of 16 nonprofit community clinics while on the phone with the caller, 24/7. A portion of this funding will support reimbursement to the clinics for uninsured patients referred through this program in exchange for providing healthcare services and building a relationship with the patient so that the clinic and not 9-1-1 becomes the patient's entry point to the healthcare delivery system.

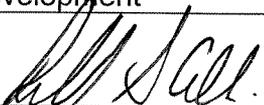
The FY10 General Funding amount includes \$314,047.44 for pre-contract services performed after the previous agreement expired to avoid any interruption in THN program activities.

Total funding projections for the remainder of FY10 and outyears:

	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	
<b>General Fund</b>	\$1,279,875.44				
<b>Contractor Responsibility Fund (POP)</b>	250,000.00				
	<u>\$1,529,875.44</u>	<u>\$1,010,734.40</u>	<u>\$1,057,886.12</u>	<u>\$1,107,395.43</u>	<b>\$4,705,891.39</b>

HCD 09-121

<b>SUBJECT:</b> An Ordinance approving and authorizing a Contract between The City of Houston and Harris County to provide funding for the rehabilitation of public facility located at 5438 Oates Road 77013 which serves low to moderate income families	<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b>  24
	<b>FROM (Department or other point of origin):</b> Richard S. Celli, Director Housing and Community Development		<b>Origination Date</b> 9/1/2009

<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District affected:</b> District B
-------------------------------------------------------------------------------------------------------------------	-------------------------------------------------

<b>For additional information contact:</b> Angela Garcia Phone: 713-865-4263 <i>AGARCIA</i>	<b>Date and identification of prior authorizing Council action:</b> None
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**RECOMMENDATION: (Summary)**  
Adopt an ordinance authorizing a contract between The City of Houston and Harris County to share funding of capital improvements to the Harris County Cemetery

**Amount of Funding:** \$800,000.00 **Finance Budget:**

**SOURCE OF FUNDING**     General Fund     Grant Fund     Enterprise Fund  
 Other (Specify)    **Community Development Block Grant (CDBG) Fund 5000**

**SPECIFIC EXPLANATION:**

The Housing and Community Development Department requests approval of a Contract between the City of Houston and Harris County for capital improvements to the Harris County Cemetery located at 5483 Oates Road, 77013. Created in 1924, the Harris County public cemetery is the final resting place for over 5,700 adults and 2,600 infants who were either without next of kin or whose families did not have the financial resources to provide burial elsewhere. Harris Country maintains the cemetery at a cost of over \$500,000 annually.

The City proposes to enter into a partnership with Harris County to share the cost of needed capital improvements for the facility. The project includes constructing a new entry and a pavilion to provide a covered setting to conduct dignified services, improved drainage and roadways, a storage space for large maintenance equipment, an ADA-compliant restroom facility, a parking lot with a walking path to the pavilion, perimeter fencing and lighting, and attractive landscaping. The total cost for the project is \$1,461,755.00, of which the City will pay \$800,000.00.

Referrals for burial at the public cemetery come from the County Medical Examiner, local hospitals and funeral homes. Prior to recommending an individual be interred there, the Harris County Community Service Department researches public information and conducts a comprehensive assessment of the deceased. Only if the Bereavement Counselor determines there is less than \$600 in financial resources is the burial provided at the public cemetery. All other requests are referred to private funeral homes for low cost or sliding scale burials.

The proposed partnership with Harris County will help to ensure that our most indigent residents and those without the support of friends or family will be laid to rest in a setting that demonstrates Houston's respect for human dignity.

**REQUIRED AUTHORIZATION**

<b>Finance Department Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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*[Handwritten mark]*

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> An Interlocal Agreement with Texas A&M Engineering Services—Emergency Services Training Institute (TEEX-ESTI) for Aircraft Rescue and Fire Fighting (ARFF) Training Services for George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU).	<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b>  25
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<b>FROM (Department or other point of origin):</b> Houston Airport System	<b>Origination Date</b> September 15, 2009	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b> <i>[Signature]</i> <i>[Signature]</i>	<b>Council District affected:</b> B I
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<b>For additional information contact:</b> Frank M. Haley, Jr. <i>[Signature]</i> Phone: (281) 233-7329 Joel W. Conwell (281) 233-7321	<b>Date and identification of prior authorizing Council action:</b> N/A
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<b>AMOUNT &amp; SOURCE OF FUNDING:</b> FY10 \$200,000.00 <i>INV</i> Out Years \$800,000.00 Total \$1,000,000.00 – HAS Revenue Fund (8001)	<b>Prior appropriations:</b> N/A
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**RECOMMENDATION: (Summary)**  
Approve and authorize an Interlocal Agreement and expenditures for specialized ARFF training services with Texas A&M Engineering Services – Emergency Services Training Institute (TEEX-ESTI) for George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU).

**SPECIFIC EXPLANATION:**

Council approval is requested to authorize an Interlocal Agreement with Texas A&M Engineering Services—Emergency Services Training Institute (TEEX-ESTI) and fund Aircraft Rescue and Fire Fighting (ARFF) training classes to replace positions vacated through turnover and perform annual recertification of current personnel at George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU). Approval of these classes will ensure that the ARFF personnel meet a minimum training requirement mandated by Federal Aviation Regulation (FAR) part 139. This agreement is for five years in an amount not to exceed \$1,000,000.00.

The required training will be scheduled as needed throughout the remainder of FY10 and the subsequent four fiscal years. This specialized training will be conducted by TEEX-ESTI, a nationally recognized certifying organization that conducts FAR 139 training. TEEX-ESTI has successfully provided training services to Houston Airport System ARFF personnel since 1999.

REQUIRED AUTHORIZATION		
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Automated Teller Machine Concession Agreement – JPMorgan Chase Bank, N.A. - George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU).	<b>Category #</b>	<b>Page</b> 1 of 2	<b>Agenda Item #</b>  26
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<b>FROM (Department or other point of origin):</b> Houston Airport System	<b>Origination Date</b> September 23, 2009	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b> <i>Ann</i> <i>Eric R. Potter</i>	<b>Council District affected:</b> B, I
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<b>For additional information contact:</b> Janet L. Schafer <i>JD</i> Phone: 281-233-1796 Randy W. Goodman 281-233-1822	<b>Date and identification of prior authorizing Council action:</b> N/A
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<b>AMOUNT &amp; SOURCE OF FUNDING:</b> REVENUE 100% of gross revenues	<b>Prior appropriations:</b> N/A
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**RECOMMENDATION: (Summary)**  
Enact an Ordinance approving and authorizing the execution of an Automated Teller Machine Concession Agreement with JPMorgan Chase Bank, N.A. at George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU).

**SPECIFIC EXPLANATION:**

In March 2009, the Houston Airport System (HAS) issued a Request for Proposal (RFP) inviting proposals from qualified parties to provide, install, manage and operate an Automated Teller Machine (ATM) Concession at George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU). The RFP was advertised in *The Houston Chronicle* and notices were sent to interested parties that were on file with HAS. Proposals were received from three companies (JPMorgan Chase Bank N.A., Bank of America, N.A. and Access to Money) and a selection committee evaluated the respondents based on the following criteria: Experience & Qualifications, Management & Operations, Equipment Design & Details, Proposed Services, and Proposed Fees. Based on the information provided in the proposals and the evaluation criteria defined in the RFP document, JPMorgan Chase Bank, N.A. was selected for further negotiations.

HAS is requesting that City Council approve a concession agreement between the City and JPMorgan Chase Bank, N.A. to provide ATMs at IAH, HOU, and in the Houston City Hall Annex Building.

The pertinent terms and conditions of this agreement are as follows:

- Term  
The term will be five (5) years plus three (3) one-year option periods.

REQUIRED AUTHORIZATION		
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b> NDT

<b>Date</b> September 23, 2009	<b>Subject:</b> Automated Teller Machine Concession Agreement – JPMorgan Chase Bank, N.A. - George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU).	<b>Originator's Initials</b> ERP:RWG	<b>Page</b> 2 of 2
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2. Scope of Service

The Concessionaire shall provide ATM services that are of the highest quality and that use the most recent technological advances in ATM equipment for the convenience of the traveling public and other users of the airports. Concessionaire shall provide equipment, personnel, supervision and capital necessary to provide a minimum of 10 ATMs at IAH, 3 ATMs at HOU, and 1 ATM in the Houston City Hall Annex Building.

3. Financial Terms

The Concessionaire will pay the City 100% of gross revenues generated from the usage fees for ATMs located throughout the Houston airport system. Also as part of this Agreement, Concessionaire will install 1 ATM in the Houston City Hall Annex Building; however, since this is a low volume location, the Concessionaire will retain the usage fees in consideration for operating this location as a service to city employees.

4. Performance Security

The Concessionaire will provide a performance surety in the amount of \$75,000.00.

5. ACDBE

A detailed search of both the City of Houston directory and the Texas Unified Certification Program site reflected no DBE vendors who are certified for the scope and services of this RFP. Affirmative Action and Contract Compliance has approved a Zero-Percentage goal for this Agreement.

This item has been presented to the Council Committee on M/WBE, Small Contractor Development and Contract Compliance on September 28, 2009 resulting in a recommendation that it be forwarded to the full Council for consideration.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> An ordinance relating to airport hazard area regulations in prescribed areas around the City of Houston's airports and within the City.	<b>Category #</b>	<b>Page 1</b>	<b>Agenda Item #</b> 27
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<b>FROM (Department or other point of origin):</b> Houston Airport System	<b>Origination Date</b> September 30, 2009	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b> <i>Eric R. Potts</i>	<b>Council District affected:</b> All
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<b>For additional information contact:</b> John Silva Phone: 281-233-1925 Monica Newhouse-Rodriguez 281-233-1973	<b>Date and identification of prior authorizing Council action:</b> 6/25/2008 (O) 2008-609
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<b>AMOUNT &amp; SOURCE OF FUNDING:</b> N/A	<b>Prior appropriations:</b> N/A
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**RECOMMENDATION: (Summary)**  
Approve an ordinance establishing airport hazard areas around the airports, appointing the Airport Commission for airport hazard areas, and requesting the Airport Commission to make a preliminary report, conduct public hearings, and make a final report to City Council as required by Chapter 241 of the Texas Local Government Code regarding regulations and the boundaries of airport hazard areas to be established.

**SPECIFIC EXPLANATION:** As a recipient of Federal Aviation Administration (FAA) airport development grants, the City of Houston is required to assure that appropriate actions have been taken to protect the airspace by restricting airport hazard areas adjacent to or near each of the three Houston Airport System (HAS) airports, within the City limits for obstructions over 200 feet above ground level, and for other airport hazard areas as may be identified. Such regulations will also protect future airport and Federal investments to meet the safety and air travel needs of citizens and businesses in the Houston metropolitan area. The regulations will protect HAS facilities from airspace penetrations that may affect safety, reduce capacity or hinder future growth and federal funding. The City currently has hazard area regulations in effect for George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU), but they are more than 20 years old. They need to be made current, and regulations need to be adopted for Ellington Airport (EFD). The HAS and the Planning and Development Department (P&D) have initiated a process that will lead to the presentation of hazard area regulations to City Council for consideration later this year. This proposed ordinance to appoint the Airport Commission and establish the airport hazard areas around IAH, HOU and EFD as shown on the attached maps, as well as the area within the City 200 feet or more above ground level, is a necessary first step in that process.

Pursuant to Chapter 241 of the Texas Local Government Code, the City Council must appoint an Airport Commission to study potential regulations and boundaries, before Council may adopt an ordinance. This commission will hold public hearings and make recommendations on the proposed regulations and related maps to City Council. HAS and P&D will also hold community and stakeholder meetings to explain the proposed regulations, hear comments and answer questions.

This proposed ordinance provides that the Airport Commission that was appointed last year for compatible land use regulation will also be appointed to serve as the Airport Commission for airport hazard area regulations. The members of the Airport Commission are the members of the City Planning Commission and a representative from the Cities of Humble and Pasadena. The Directors of HAS and P&D (or their designees) are appointed as ex officio members, with the Director of HAS serving as Secretary of the Airport Commission.

REQUIRED AUTHORIZATION		
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>

27-1

## AIRPORT COMMISSION

16390 JFK Blvd.

Houston, Texas. 77032

Phone: (281)233-1999 Fax: (281)233-1830

Contact: Eric Potts

Updated as of: 7/15/2008

### LEGAL AUTHORITY FOR CREATION AND OPERATION (City)

Chapter 241; Texas Local Government Code.

### GENERAL POWERS AND DUTIES

To make recommendations regarding boundaries of the areas to be established and regulated; to make a preliminary report; to conduct public hearings; and to make a final report to the City Council.

### MEETING TIME AND LOCATION

To be determined by the Board.

### COMPOSITION

29 Members. 21 appointed by Mayor, subject to confirmation by City Council.

Planning and Development Director, Public Works Director, Convention & Entertainment Facilities Director, Houston Airport System Director and representative of Metro serve as ex-officios.

Immediate past chair of Planning Commission serves as ex officio, or if unable to serve Mayor appoints someone who has served for more than 5 years.

The Commission may include a member from either or both the City of Humble and the City of Pasadena.

Positions 1-14 - Residents and qualified voters of the City.

Positions 20-21- Residents and qualified voters of the City.

Position 15 - Member of Harris County Commissioners Court and alternate.

Position 16 - Member of Montgomery County Commissioners Court 2 and alternate.

Position 17 - Member of Fort Bend County Commissioners Court 2 and alternate.

Positions 18-19 - Residents of the City's extraterritorial jurisdiction.

Position 22 - Ex-Officio, Director of Planning and Development Department.

Position 23 - Director or representative of Public Works

Position 24 - Representative of Metro

Position 25 - Past chairman of Planning Commission

Position 26 - Director of Convention & Entertainment Facilities Department

Position 27 - Ex-Officio, Director of Houston Airport System

Position 28 - Representative of City of Humble

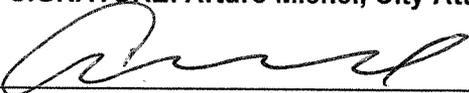
Position 29 - Representative of City of Pasadena

### FINANCIAL ACCOUNTABILITY

Entity is NOT included in the financial reporting for the City of Houston

**Membership: Airport Commission**

<b>Board Member</b>	<b>Ethnicity/Gender</b>	<b>CD</b>	<b>Position #</b>	<b>Exp. Date</b>	<b>Status</b>
Lee Schlanger	White/Male		01	3/31/2009	
Richard Rice	White/Male		02	9/30/2007	
James Jard	White/Male	G	03	9/30/2007	
Carol A. Lewis	Black/Female		04	9/30/2008	Chair
Mark Kilkenny	White/Male	F	05	3/31/2009	
Kay Crooker	White/Female	G	06	3/31/2009	
David Collins	Black/Male	C	07	9/20/2007	
John W. H. Chiang	Asian/Male	G	08	9/30/2007	
Robin Reed	White/Female	G	09	9/30/2008	
Talmadge Sharp	Black/Male	B	10	3/31/2009	
Shaukat Zakaria	Asian/Male		11	9/30/2008	
Algenita Scott Davis	Black/Female	D	12	3/31/2009	
Beth Wolff	White/Female	G	13	3/31/2009	
David Robinson	White/Male		14	9/30/2007	
Ed Emmett	White/Male		15	3/7/2009	
Ed Chance	White/Male		16	9/30/2006	
Grady Prestage	Black/Male		17	9/30/2008	
David Fred Martinez	Hispanic/Male	A	18	9/30/2008	
Jon Strange	White/Male		19	9/30/2007	
Jeff Ross	White/Male		20	9/30/2008	
Medardo "Sonny" Garza	Hispanic/Male		21	9/30/2006	
Marlene Gafrick	White/Female		22	12/31/2099	Ex-Officio
Mike Marcotte	White/Male		23	12/31/2099	Ex-Officio
Frank Wilson	White/Male		24	12/31/2099	Ex-Officio
M. Marvin Katz	White/Male	G	25	12/31/2099	Ex-Officio
Dawn Ullrich	White/Female		26	12/31/2099	Ex-Officio
Eric Potts	Black/Male		27	12/31/2099	Ex-Officio
Darryl Boeske	White/Male		28		
MeIvin Embry	White/Male		29		
Jackie L. Freeman	Black/Male		A15	9/30/2004	
Mark J. Mooney	White/Male		A16	9/30/2006	
Jesse D. Hegemeir	White/Male		A17	9/30/2008	

<b>SUBJECT:</b> An Ordinance amending Ordinance #2009-0460 to increase the maximum contract amount for legal services with Gibbs & Bruns LLP		<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b> 28
<b>FROM (Department or other point of origin):</b> Legal Department		<b>Origination Date</b> 10/1/09	<b>Agenda Date</b> OCT 07 2009	
<b>DIRECTOR'S SIGNATURE:</b> Arturo Michel, City Attorney 		<b>Council District affected:</b> All		
For additional information contact: Paulette Wolfson Phone: 832 393 6290		<b>Date and identification of prior authorizing Council action:</b> May 27, 2009 Ordinance # 2009-0460		
<b>RECOMMENDATION: (Summary)</b> That Council approves and authorizes an Ordinance amending Ordinance #2009-0460 increase the Maximum Contract amount to \$165,000 for legal services between the City of Houston and Gibbs & Bruns LLP.				
<b>Amount and Source of Funding:</b> Fund 1004 Property and Casualty \$75,000  <b>Maximum Contact Amount \$165,000</b>				
<b>SPECIFIC EXPLANATION:</b>  The City was sued by Southern Crushed Concrete (SCC) who alleged that the City's permitting requirements for concrete crushing sites are preempted by state law. <i>Southern Crushed Concrete, LLC v. City of Houston</i> , Cause no. 2008-68402, in the 333 <sup>rd</sup> District Court, Harris County, Texas. The hearing on the Motions for Summary Judgment was held on August 14, 2009. On August 27, 2009, the Judge issued an interlocutory order granting the City's motion. The Judge has scheduled a hearing for October 2, 2009 regarding whether the City is entitled to attorneys fees. The purpose of this amendment to Ordinance # 2009-0460 is to increase the maximum contract amount <u>if this matter is appealed by SCC.</u>  Kathy Patrick and Andrea Frieden, partners with Gibbs & Bruns LLP, successfully represented the City in this matter and will also represent the City if there is an appeal.  The firm also represents the City <i>pro bono</i> , in <i>BCCA Appeal Group v. City of Houston</i> ; Cause no. 2008-09399, in the 269 <sup>th</sup> District Court, Harris County, Texas, a case which also involves preemption issues.				
<b>REQUIRED AUTHORIZATION</b>				
<b>Other Authorization:</b>		<b>Other Authorization:</b>		NDT
(Empty)		(Empty)		(Empty)

28

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Ordinance calling Hearings for Proposed Strategic Partnership Agreements with certain utility districts in the Houston area	<b>Category #</b>	<b>Page 1 of 1</b>	<b>Agenda Item #</b> 29
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<b>FROM (Department or other point of origin):</b> Planning and Development	<b>Origination Date</b> September 29, 2009	<b>Agenda Date</b> OCT 07 2009
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MS *Maureen K. Segre* **Council District affected:**  
All

<b>For additional information contact:</b> Margaret Wallace Phone: 713-837-7826	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)** It is recommended that City Council pass the Ordinance calling hearings on proposed Strategic Partnership Agreements with certain utility districts in the Houston area.

<b>Amount and Source of Funding:</b> N/A	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:**

In 1999, the State Legislature gave the City of Houston the right to enter into Strategic Partnership Agreements with utility districts. Such agreements allow the City to annex all or part of these districts for limited purposes. The City can then levy a sales tax and provide specified, limited services to the area. The City cannot levy a property tax in areas annexed for limited purposes.

The hearings called by this ordinance are for agreements, or amendments to existing agreements, with the following Utility Districts:

**New Agreements:**

- |                              |                                     |
|------------------------------|-------------------------------------|
| Cinco Southwest MUD No. 3    | Harris County WCID No. 114          |
| Cypress Forest PUD           | Harris Fort Bend Counties MUD No. 5 |
| Fort Bend County MUD No. 118 | Northwest Harris County MUD No. 15  |
| Forest Hills MUD             | Richey Road MUD                     |
| Harris County MUD No. 105    | Spring West MUD                     |
| Harris County MUD No. 149    | Tattor Road MD                      |

**Amendments to existing Agreements:**

- |                                                       |                                                       |
|-------------------------------------------------------|-------------------------------------------------------|
| Bridgestone MUD (1 <sup>st</sup> Amendment)           | Harris County MUD No. 191 (2 <sup>nd</sup> Amendment) |
| Cimarron MUD (1 <sup>st</sup> Amendment)              | Harris County MUD No. 61 (1 <sup>st</sup> Amendment)  |
| Cinco Southwest MUD No. 4 (1 <sup>st</sup> Amendment) | Mason Creek UD (1 <sup>st</sup> Amendment)            |
| Cy-Champ PUD (2 <sup>nd</sup> Amendment)              | North Belt UD (1 <sup>st</sup> Amendment)             |
| Fort Bend MUD No. 50 (1 <sup>st</sup> Amendment)      | North Forest MUD (2 <sup>nd</sup> Amendment)          |
| Greens Parkway MUD (1 <sup>st</sup> Amendment)        | Timber Lane UD (1 <sup>st</sup> Amendment)            |
| Harris County FWSD No. 52 (1 <sup>st</sup> Amendment) |                                                       |

In each of these Districts the sales taxes collected in the areas will be divided evenly between the City and the District. The City is only annexing commercial property and undeveloped land intended for commercial use. There is no population located in these territories proposed to be annexed for limited purposes.

The hearings will be held on November 4 and November 10, 2009 in City Council chambers.

MS Cc: Marty Stein Sameera Mahendru  
Arturo Michel Michelle Mitchell

**REQUIRED AUTHORIZATION**

<b>Finance Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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**SUBJECT:** Ordinance amending the Major Freeway Tow Agreements of the Safe Clear Major Freeway Towing Program to modify the operational requirements, increase the maximum contract amounts, approve an additional contract term, and authorize the Chief of Police to replace terminated or suspended Operators with other PATSA holders and require Operators to comply with State law.

Page  
1 of 2

Agenda Item #

*30*

**FROM: (Department or other point of origin):**  
Houston Police Department

**Origination Date:**  
*10-2-09*

**Agenda Date:**  
*OCT 07 2009*

**DIRECTOR'S SIGNATURE:** *10-02-09*  
*[Signature]*  
Harold L. Hurtt, Chief of Police

C. A. McClelland  
Acting Chief of Police

**Council District affected:**  
All

**For additional information contact:**  
Joseph A. Fenninger, *JAF*  
CFO and Deputy Director *10/2/09* Phone: 713-308-1770

**Date and identification of prior authorizing Council action:** Ord. No. 2006-0973, 9/20/06, Ord. No. 2007-0907, 8/8/07, Ord. No. 2008-667, 7/23/08

**RECOMMENDATION: (Summary)** Approve an ordinance amending the Major Freeway Tow Agreements of the Safe Clear Major Freeway Towing Program to modify the operational requirements; increase the maximum contract amounts; approve an additional contract term, authorize the Chief of Police to replace terminated or suspended Operators with other PATSA holders and require Operators to comply with State law.

**Amount and Source of Funding:** \$2,799,839.00 (FY10), Police Special Services Fund 2201 (From METRO Mobility Fund)

**Specific Explanation:**

The Chief of Police recommends that City Council approve an amending ordinance to increase the spending authority for Major Freeway Tow Agreements for the Safe Clear Major Freeway Towing Program by \$2,799,839.00 for Fiscal Year 2010 and extend the term of the contracts by three years with two additional one-year options for a total of five years. The amending ordinance would increase the maximum contract amount from \$5,900,017 to \$8,699,856. The City currently contracts with eleven operators to perform the obligations and services related to this program.

In June, 2005, City Council approved the current eleven amended contracts for the Safe Clear Major Freeway Towing program, which expire in June of 2010. City Council is required to approve subsequent annual allocations for each fiscal year in order to facilitate payments to the participating operators. The \$2,799,839.00 requested for the FY10 allocation is established by the formula outlined in the agreements. This formula is based on the actual number of tows and service calls during the period of March 1, 2008 - February 28, 2009, plus a 5.68% CPI increase adjustment. Funding was approved and appropriated during the FY10 budget process and is sourced from METRO under the City's ongoing mobility funding agreement.

The amendments of the program will provide the service at a reduced cost to the City in that the current \$61.61 charge per tow will decrease to \$50.00 resulting in savings of approximately \$477,880 per year. The price decrease will become effective retroactively to July 1, 2009; however, the contract additional term will become effective July 1, 2010. Further, the Safe Clear Management Group, the organization of tow operators that provides management and consulting assistance, will work to regionalize the program across the Houston metropolitan area.

**REQUIRED AUTHORIZATION** 10BMC001 NDT

<b>Finance:</b>	<b>Other Authorization:</b> <i>[Signature]</i> <i>10/2/09</i>	<b>Other Authorization:</b> <i>[Signature]</i>
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<b>Date</b> 10/01/09	<b>Subject:</b> Ordinance amending the Major Freeway Tow Agreements of the Safe Clear Major Freeway Towing Program to modify the operational requirements, increase the maximum contract amounts and to approve an additional contract term, authorizing the Chief of Police to replace terminated or suspended Operators with other PATSA holders and requiring Operators to comply with State law.	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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Approval of the following operational changes is recommended to streamline the management of the program, protect the interests of the public and comply with State law:

- In the event of the termination or cancellation of a tow operator's Safe Clear Agreement, the operator's segment will be awarded by the Chief of Police for the unexpired term of the Safe Clear Agreement to another contractor holding a Police Authorized Towing Service Agreement.
- In the event of the suspension of a tow operator's Safe Clear Agreement, the operator's segment may be temporarily assigned by the Chief of Police during the period of suspension to another contractor holding a Police Authorized Towing Service Agreement.
- Tow operators shall only deliver non-consent tows to a City of Houston licensed vehicle storage facility that is staffed 24 hours per day, seven days per week by personnel able to immediately release a stored vehicle to the owner, operator or owner's agent.
- A vehicle storage facility may not require the owner or operator of a vehicle to sign a release form that authorizes repairs, imposes additional charges or changes the tow status or storage status from non-consent to consent.
- A tow operator who tows a vehicle which originated from the scene of a Safe Clear incident to a repair facility must report the delivery to HPD within the next business day.
- Retroactive to July 1, 2009, tow operators will be paid directly from invoices rather than from a percentage of the funds allocated to the program.
- Solicitation of the business of towing, removing or repairing of any abandoned or disabled vehicle at a police scene by words, cards, circulars or gestures is prohibited.

While these changes are effective for the Major Freeway Tow Agreements, another action will be brought before City Council in the upcoming weeks to expand the requirements to the City Code of Ordinances.

Through the program, wrecker companies are assigned to specific freeway segments to provide road side assistance to disabled vehicles they come upon, or are dispatched to, or tow them to a safe location all at no charge. The program serviced 57,532 motorists in 2008, has improved freeway mobility, reduced property loss and enhanced motorists' safety by expeditiously clearing disabled vehicles. Further, a study by Rice University and the Texas Transportation Institute found that collisions on Houston's major freeways have been reduced significantly saving the driving public millions of dollars per year in repair and medical costs.

The Safe Clear Management Group has invested over \$100,000 in a state-of-the-art radio system that integrates GPS technology to allow enhanced communication between dispatchers and tow truck drivers and it allows all drivers (over 200) to be contacted at once during an emergency. The Safe Clear Management Group also pays \$20,000 per year to rent console space at TranStar and employs seven full time and five part time employees to act as dispatchers, monitor communications, answer public inquiries and support the Houston Police Department officers who oversee the program. Additionally, the Safe Clear Management Group participates in monthly leadership team meetings at TranStar along with other local, state and national representatives to gain insight and provide advice on towing and traffic management issues.

**MWBE Participation:**

The original contract was established with a 10% MWBE goal for all tows. While there were nine MWBE-certified subcontractors in the beginning of the program, only two have elected to maintain their certification. Accordingly, MWBE participation in the program totals 2.33% to date. In order to address the small number of tow companies which have elected to become MWBE-certified, the Safe Clear Management Group and the Affirmative Action Division will sponsor a forum for all Police Authorized Tow Service Agreement holders on October 27, 2009 at the Houston Gardens Pavilion to provide information and make available a "fast track" MWBE certification process. The Affirmative Action Division will continue to monitor and work with both prime contractors and subcontractors over the life of the agreement.

**Houston Police Department**  
**Safe Clear Segments and Responsible Party Detail**  
**October 2, 2009**

<b><u>OPERATOR</u></b>	<b><u>SEGMENT</u></b>	<b><u>DESCRIPTION</u></b>
North Houston Motors, Inc	#1	Eastex Freeway (59) outside of 610: 5400 - 10600; 14600-18200; 21200- 26300 block
North Houston Motors, Inc	#2	North Sam Houston Parkway between Hardy Toll Road and Eastex Freeway (59): 700 - 6100 blocks
Unified Auto Works	#3	Eastex Freeway (59)
Unified Auto Works	#4	Inside 610: 900-5300 block East Freeway (I-10) inside 610: 2900-9700 blocks
T & T Motors	#5	N Loop E between Eastex Freeway (59) and East Freeway (I-10): 3600- 10500 blocks
North Houston Motors, Inc	#6	East Freeway (I-10) outside 610: 9800 - 13600 blocks
T & T Motors	#7	3500 block of E Loop N between East Freeway (I-10) & 1200 E Loop S at La Porte Freeway (225)
Canino West, Inc	#8	Gulf Freeway (I-45) inside 610: 1900 - 7100 blocks
Fiesta Wrecker Service	#9	1. E Loop S between La Porte Freeway (225) & Gulf Freeway (I-45) 3400 E Loop S (La Porte Freeway) (225) & 7200 Gulf Freeway (I-45) 2. La Porte Freeway 8000-15000 Blocks

<u>OPERATOR</u>	<u>SEGMENT</u>	<u>DESCRIPTION</u>
National Auto Collision, Inc	#10	S Loop E between South Freeway (288) and Gulf Freeway (I-45): 3200-7700 blocks
Fiesta Wrecker Service	#11	Gulf Freeway (I-45) outside 610: 7200 - 19500 blocks
National Auto Collision	#12	South Freeway (288) inside 610 to Southwest Freeway (59): 3200-7800 blocks
Milam Street Auto Storage	#13	Eastex Freeway South (59) between Southwest Freeway (59) and I-45: 2000-3100 blocks
Milam Street Auto Storage	#14	Spur 527
Milam Street Auto Storage	#15	Southwest Freeway (59) inside 610 to South Freeway (288): 200-4900 blocks
National Auto Collision	#16	S Loop to W Loop: 8400 block of W Loop at Beechnut and 3200 block of South Loop E at South Freeway (288)
National Auto Collision	#17	South Freeway (288) outside 610: 3200-13800 blocks
Allied Collision	#18	Southwest Freeway (59) outside 610 5000-11800 blocks
Allied Collision	#19	W Loop N between Katy Freeway (I-10) and W Loop S at Westpark: 900 block W Loop N and 5200 block W Loop S
KTL Enterprises, Inc	#20	Katy Freeway (I-10) between Wirt Road and North Freeway (I-45) 100-8200 blocks

<u>OPERATOR</u>	<u>SEGMENT</u>	<u>DESCRIPTION</u>
Westside Wrecker Service	#21	<ol style="list-style-type: none"> <li>1. North Freeway (I-45) between 610 and Katy Freeway (I-10): 1100 - 3500 blocks</li> <li>2. N Loop E between North Freeway (I-45) and Hardy Toll Road: 100 - 1600 blocks</li> <li>3. N Loop E between Hardy Toll Road and Eastex Freeway (59): 1700 - 3600</li> </ol>
Westside Wrecker Service	#22	North Freeway (I-45) between 610 and Sam Houston Parkway: 3600-12000 blocks
Westside Wrecker Service	#23	North Freeway (I-45) outside Sam Houston Parkway: 12000-14200 blocks
Westside Wrecker Service	#24	North Sam Houston Parkway W (Ella Blvd) to Sam Houston Parkway E at the Hardy Toll Road: 1100 block of North Sam Houston Parkway W (Ella Blvd) - 800 block of Sam Houston Parkway E
Corporate Auto Service, Inc	#25	<ol style="list-style-type: none"> <li>1. North Loop W to North Loop between Northwest Freeway (290) and North Freeway (I-45): 3000 N Loop W - 1600 North Loop between Northwest Freeway (290) and North Freeway (I-45)</li> <li>2. W Loop N between Northwest Freeway (290) and Katy Freeway (I-10): 800-1600 blocks</li> </ol>
Corporate Auto Service, Inc	#26	Northwest Freeway (290) outside 610: 9800-14700 blocks
KTL	#27	Katy Freeway (I-10) outside West Sam Houston Parkway: 10700-21800 blocks

<u>OPERATOR</u>	<u>SEGMENT</u>	<u>DESCRIPTION</u>
Milam Street Auto Storage	#28	Downtown Inner Loop: I-10 between Gulf Freeway (I-45) and Eastex Freeway South (59); Gulf Freeway (I-45) between Katy Freeway (I-10) and Eastex Freeway South (59); Eastex Freeway South (59) between Gulf Freeway (I-45) and Katy Freeway (I-10)
KTL Enterprises, Inc	#29	Katy Freeway (I-10) between Blalock and Sam Houston Parkway: 9300-10600 blocks

# SAFECLEAR PERFORMANCE REPORT 2008

ROBERT DAHNKE, RICE UNIVERSITY  
DR. TIM LOMAX, TEXAS TRANSPORTATION INSTITUTE  
DR. ROBERT STEIN, RICE UNIVERSITY  
BENJAMIN STEVENSON, RICE UNIVERSITY



# SAFECLEAR PERFORMANCE REPORT 2008

## EXECUTIVE SUMMARY

### Introduction

In January 2005, the City of Houston launched its SafeClear traffic incident management program. The program aimed to combat many of the problems that arose from the 'free-for-all' that occurred as tow operators raced towards disabled vehicles on Houston freeways. By improving tow operator response (dividing Houston freeways into segments with assigned operators responsible for their own segments), policy makers believed that they could reduce collisions.

An analysis conducted in 2006 looked at the first year of the program and concluded that the program was successful – i.e. SafeClear was having the desired effect of reducing collisions, congestion, and crash clearance times. The SafeClear Performance Report for 2008 took another look at the SafeClear program as part of continued evaluation efforts.

### Key Findings

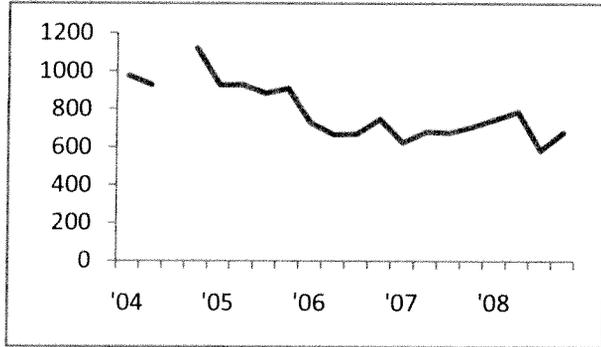
- Program performance metrics are consistent with those of previous years.
- With regards to performance metrics, the program is meeting the majority of established goals; however, there is room for improvement – in 2008, 89.8% of tows were responded to within 6 minutes, just short of the 90% goal.
- There is evidence that tow operators adjust their behavior to the price of gasoline, patrolling less as that sort of activity becomes more costly (see page 4).
- The SafeClear program continues to have an impact on reducing collisions on Houston area freeways.
  - Valuing the cost of a collision at \$34,000 per collision, the reduction of approximately 120 collisions per month attributed to the SafeClear program results in savings to the public of \$4,080,000 per month (\$48,960,000 per year).
- Response time (i.e. how fast tow operators arrive at disabled vehicles) is correlated with the volume of collisions – a one minute decrease in average response time yields approximately 80 fewer collisions per month.

# SAFE CLEAR PERFORMANCE REPORT 2008

## OVERVIEW

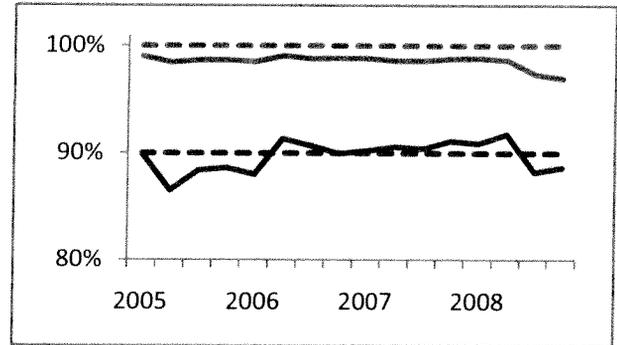
### Collisions

Collision totals represent total crashes on Houston freeways.



### Response Time

The amount of time between notification of the tow operator and arrival at the disabled vehicle.



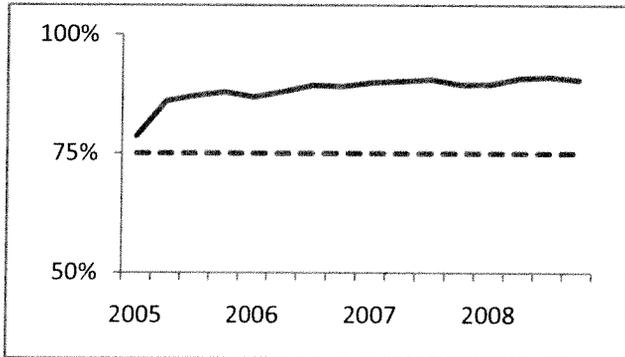
#### Goals:

**100% within 20 min**    x    Actual – 97.9%

**90% within 6 min**    x    Actual – 89.8%

### Clearance Time

The amount of time between the arrival of the tow operator at the vehicle and the removal of the vehicle.

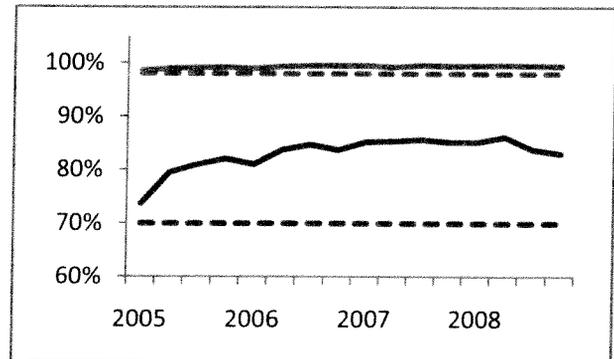


#### Goals:

**75% within 20 min**    ✓    Actual – 90.5%

### Duration

The amount of time elapsed between the notification of the tow operator and the removal of the disabled vehicle.



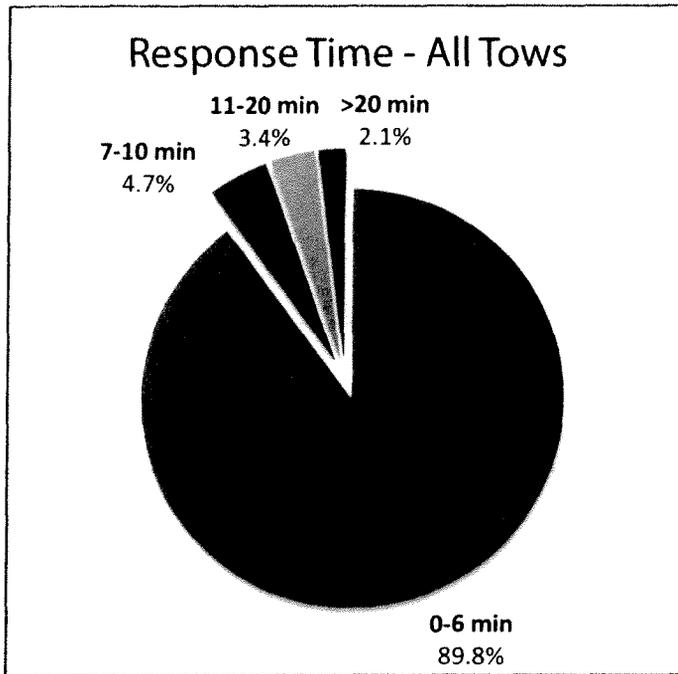
#### Goals:

**98% within 90 min**    ✓    Actual – 99.5%

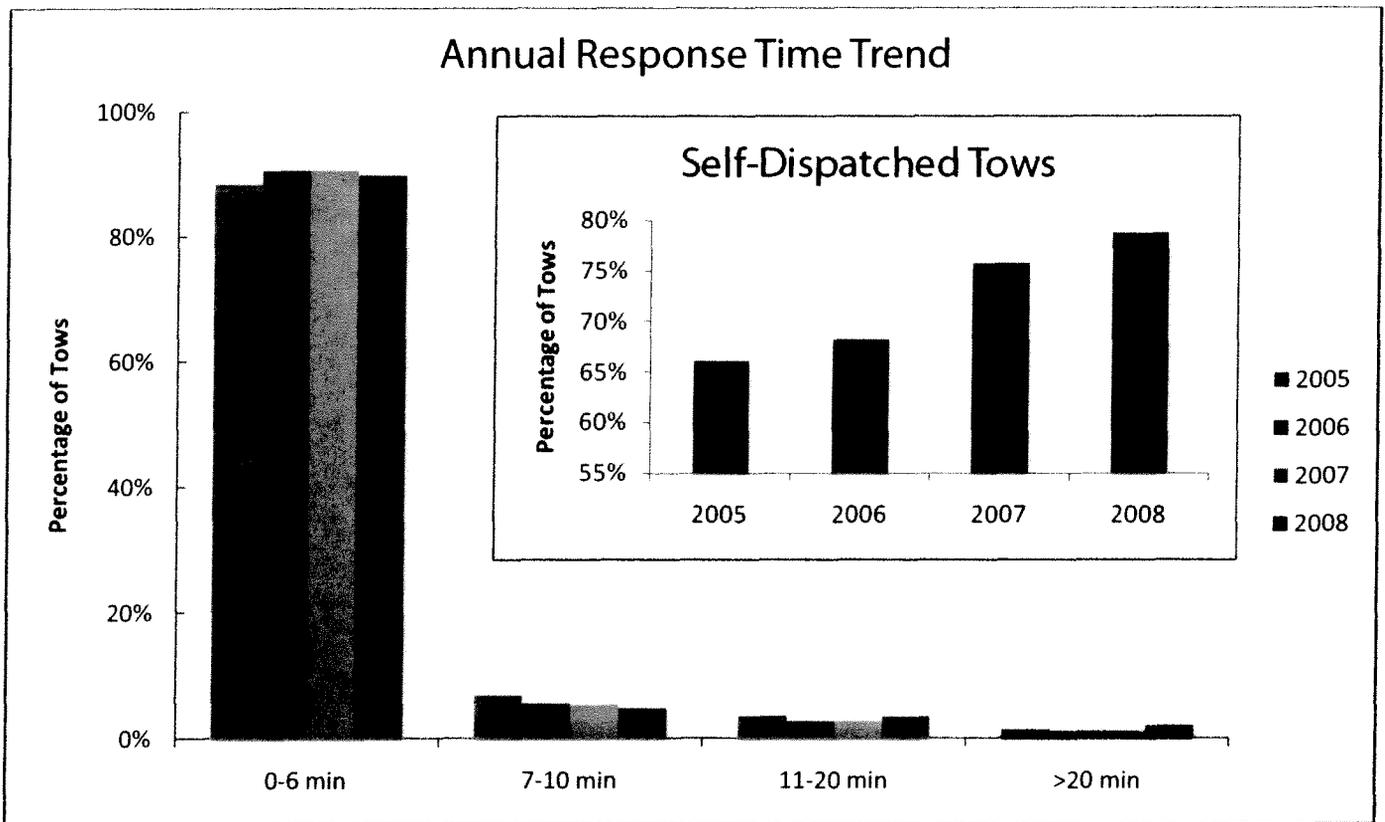
**70% within 20 min**    x    Actual – 84.5%

# SAFECLEAR PERFORMANCE REPORT 2008

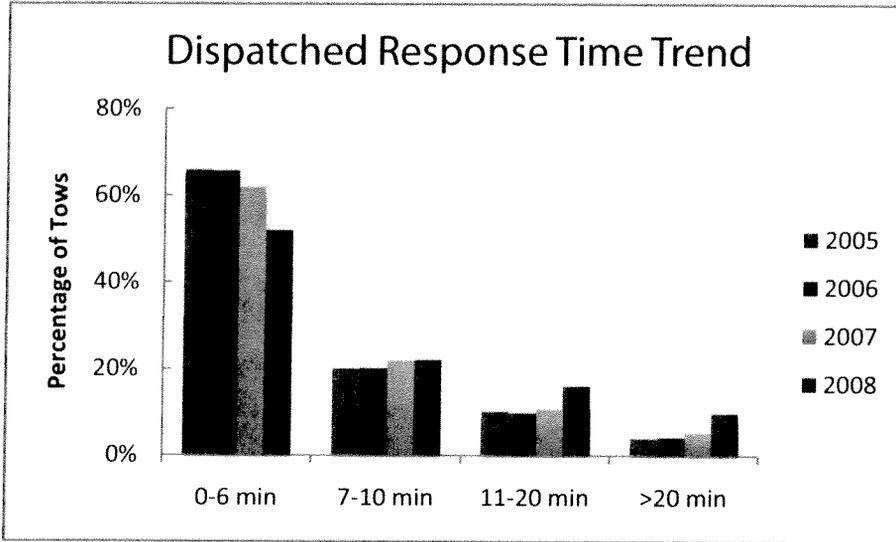
## RESPONSE TIME



- In 2008, 89.8% of all tows were responded to within six minutes.
- This number is consistent with performance in previous years, but falls just short of the 90% goal.
- Average response time was 1 minute 50 seconds (this figure includes self-dispatched tows).
- Discussed later in this report, response time is a driving force behind the SafeClear program: the quicker the response time, the fewer collisions on Houston freeways.

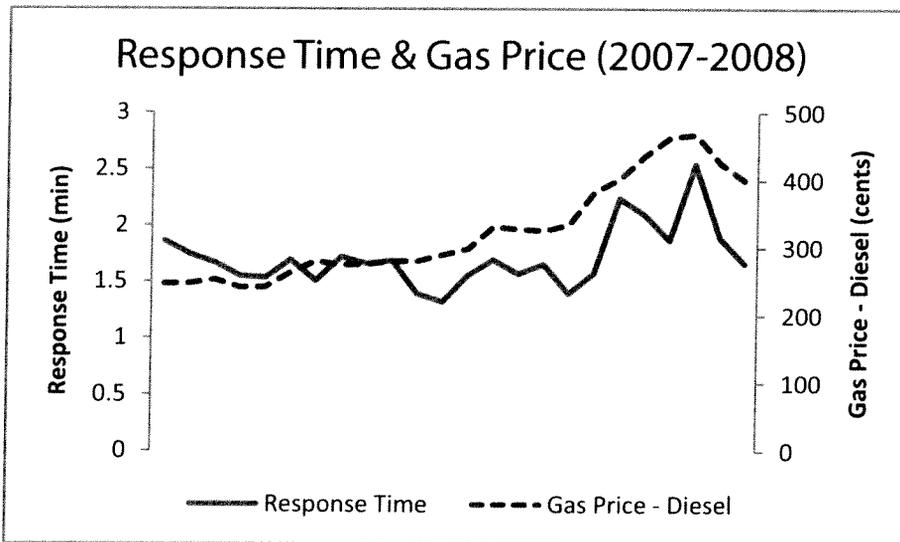


# SAFECLEAR PERFORMANCE REPORT 2008



As in 2007, the proportion of dispatched SafeClear tows fell considerably in 2008 after remaining relatively constant between 2005 and 2006.

Dispatched response time is when a tow truck is called to assist a disabled vehicle by *Transtar*. Response time includes dispatched tows and situations when a tow truck operator locates a disabled vehicle (i.e. zero minute response time).

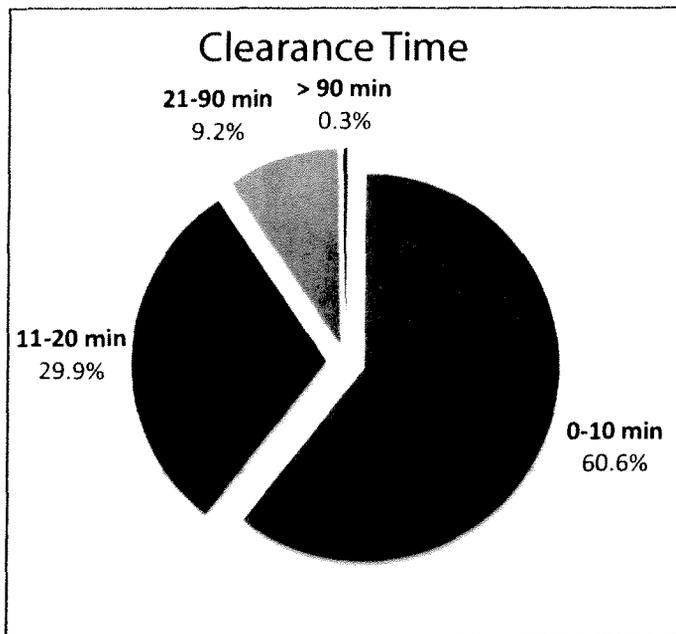


As the figure to the left shows, there is a correlation between gas price and response time. We hypothesize that as the price of a gallon of diesel increases (and with it, the cost of doing business for tow operators), operators adjust their behavior accordingly – patrolling highways less which results in a higher response time.

\* In this graph, the gas price variable is lagged 3 months, reflecting the possibility of tow operators adjusting performance to pricing trends.

# SAFECLEAR PERFORMANCE REPORT 2008

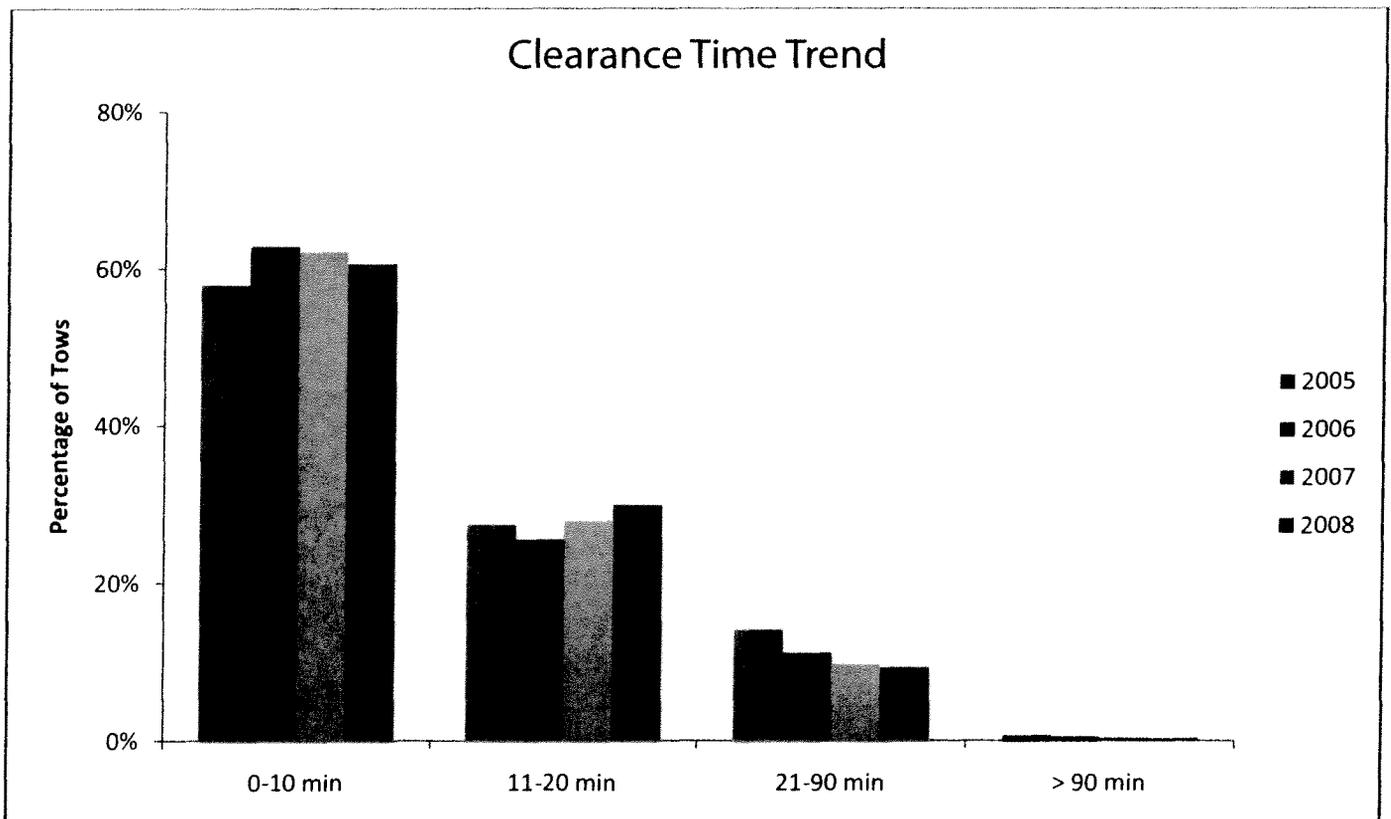
## CLEARANCE TIME



- In both 2007 and 2008, the proportion of tows falling within the 0-10 minute category fell relative to their 2006 levels.

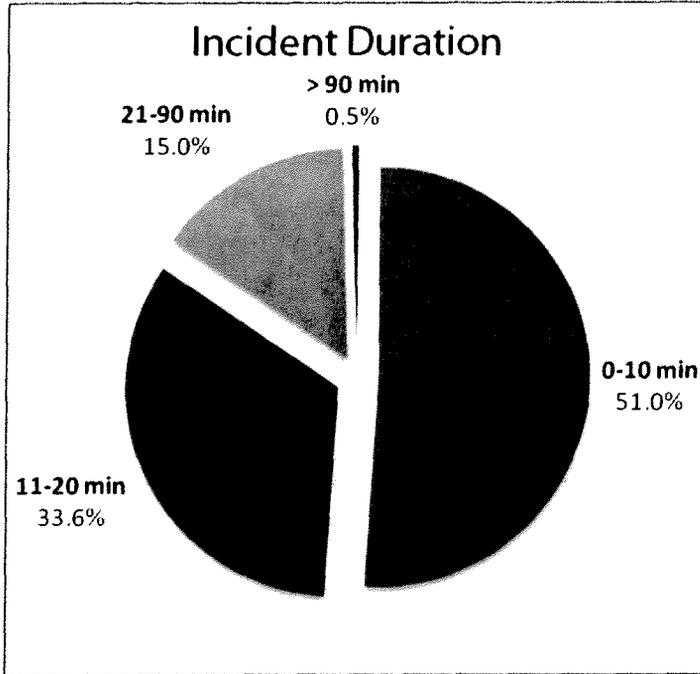
- This shift was accompanied by an increase in the percentage of tows falling within the 11-20 minute category.

- Overall program efficacy does not appear to have been significantly affected by the shift, perhaps because this reduction in the 0-10 minute category was also accompanied by a reduction in the proportion of tows falling within the 21-90 minute category.

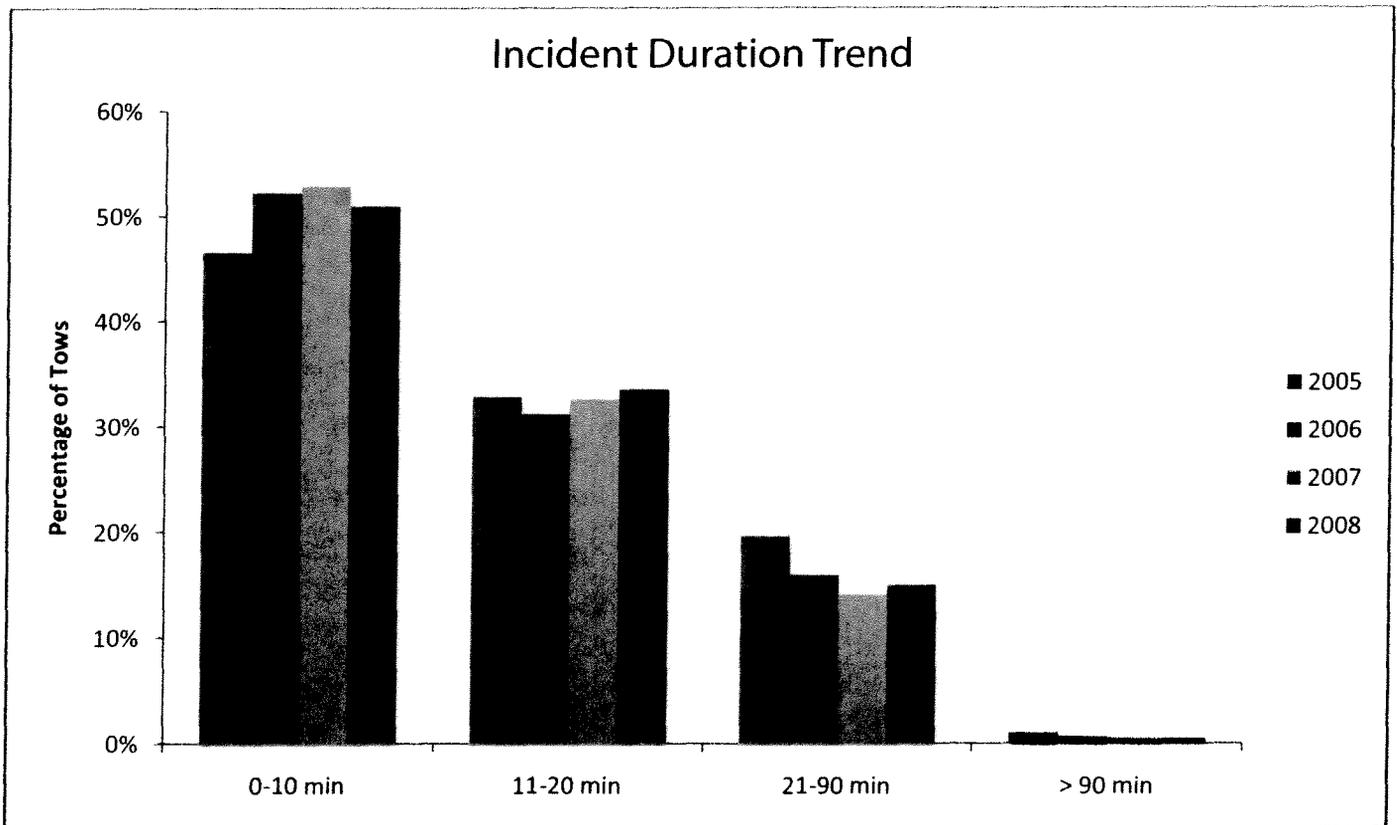


# SAFECLEAR PERFORMANCE REPORT 2008

## INCIDENT DURATION

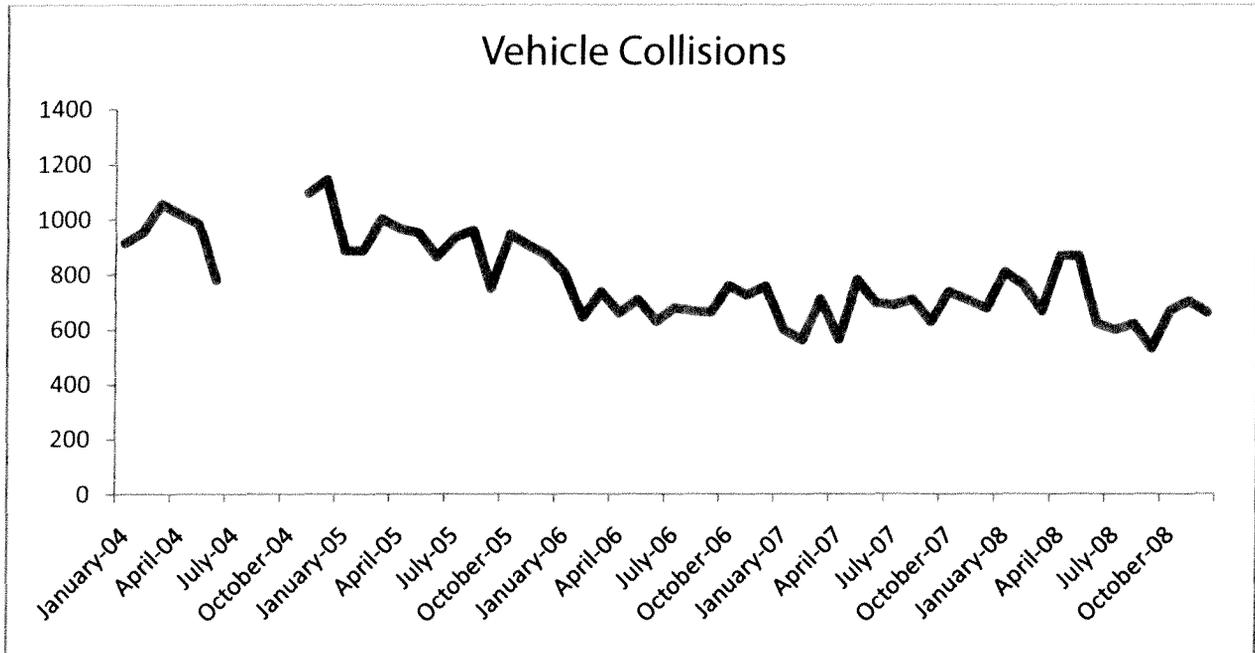


- 51% of incidents were cleared within 10 minutes.
- Incident duration times are about the same in 2007 and 2008 but substantially better than in 2005.
- In 2005, once incident in 70 lasted more than 90 minutes; by 2008, only one incident in 200 lasted more than minutes - the result of locating and removing disabled vehicles more quickly.



# SAFECLEAR PERFORMANCE REPORT 2008

## COLLISION ANALYSIS



The chart above shows monthly collisions totals on Houston freeways between 2004 and 2008. This data has been obtained from the Texas Department of Transportation's (TxDOT) Crash Record Information System (CRIS). Data for four months in 2004 (July, August, September, and October) is not complete and is excluded.

One of the goals of the SafeClear program is to facilitate a reduction in "secondary" collisions that occur during bottlenecks. While collisions increased in 2008, this increase was minor; total collisions on Houston freeways for 2008 were consistent with observations from 2007. Additionally, the data show a "leveling off" of collisions after initial reductions seen when the program started in 2005.

Despite the gap in the data series, one can see visual evidence of a reduction in collisions after the SafeClear program's inception in January 2005. On the next page, this conclusion is confirmed by statistical analysis - the SafeClear program is significantly contributing to a reduction of collisions on Houston area freeways. Valuing the cost of a collision at \$34,000 per collision, the reduction of approximately 120 collisions per month attributed to the SafeClear program results in savings to the driving public of \$4,080,000 per month (\$48,960,000 per year).

# SAFECLEAR PERFORMANCE REPORT 2008

## PROGRAM EFFECT

### Predicting Monthly Collisions

Variable	Coefficient	Std. Error	T-Value	Significance
Constant	1065.0	314.2	3.39	.001*
SafeClear program	-118.6	52.8	-2.25	.029*
Rain days per month	-9.2	4.8	-1.90	.063*
Gas price (unleaded)	-0.1	.3	-.39	.697
Vehicle miles travelled	.01	.0	.33	.745
Time (counter, 0-60)	-4.6	1.3	-3.60	.001*

\*=significant

Regression analysis covering the period 2004-2008 shows that the SafeClear program has continued to contribute to a reduction in monthly collisions in Houston. The above model shows that the SafeClear program leads to approximately 120 fewer collisions per month.

The Adjusted R-Square value for this model is .545.

## RESPONSE TIME EFFECT

### Predicting Monthly Collisions

Variable	Coefficient	Std. Error	T-Value	Significance
Constant	798.0	123.4	6.47	.000*
Time	-4.2	1.2	-3.60	.001*
Response Time	79.5	42.8	1.86	.070*

\*=significant

This regression analysis shows the impact of response time. An increase of one minute in response time leads to, on average, approximately 80 more collisions per month.

The Adjusted R-Square value for this model is .402.

# SAFECLEAR PERFORMANCE REPORT 2008

## SEGMENT PERFORMANCE

Segment*	Outliers Removed		Averages		Response Time Six Min. or Less	
	N	N	Response Time	Dispatched Response Time	N	% (Including Self-Dispatched)
1	2,132	2,109	1.51	9.31	1,957	91.79%
2	657	647	1.55	12.68	598	91.02%
3	774	765	2.58	9.44	653	84.37%
4	1,080	1,064	2.48	9.12	931	86.20%
5	1,123	1,116	1.27	7.70	1,049	93.41%
6	922	903	2.76	9.01	786	85.25%
7	1,855	1,832	1.96	10.37	1,622	87.44%
8	2,031	2,001	2.14	8.57	1,794	88.33%
9	1,546	1,522	1.06	8.24	1,453	93.98%
10	1,205	1,193	2.14	9.51	1,069	88.71%
11	5,104	5,044	1.32	9.84	4,697	92.03%
12	1,095	1,084	2.24	8.76	967	88.31%
13	729	717	2.42	9.43	631	86.56%
14	41	41	2.78	12.67	35	85.37%
15	2,924	2,875	2.28	8.61	2,550	87.21%
16	1,649	1,636	1.81	9.21	1,484	89.99%
17	883	877	1.68	8.50	802	90.83%
18	4,879	4,854	0.90	9.09	4,634	94.98%
19	2,130	2,109	1.31	10.59	1,959	91.97%
20	3,101	3,063	2.59	8.38	2,643	85.23%
21	2,392	2,364	2.26	7.97	2,114	88.38%
22	4,047	4,004	1.85	8.36	3,664	90.54%
23	1,018	1,004	1.51	7.68	936	91.94%
24	360	359	1.43	9.87	329	91.39%
25	3,350	3,313	1.41	8.33	3,095	92.39%
26	2,835	2,794	1.78	8.88	2,551	89.98%
27	2,287	2,251	2.47	9.24	1,951	85.31%
28	3,283	3,248	2.57	8.80	2,843	86.60%
29	845	830	1.93	7.54	752	88.99%
<b>Overall</b>	<b>56,277</b>	<b>55,619</b>	<b>1.83</b>	<b>8.86</b>	<b>50,549</b>	<b>89.82%</b>

\* 253 cases were missing a segment identifier

# SAFE CLEAR PERFORMANCE REPORT 2008

## NOTES ON DATA, SOURCES & METHODOLOGY

Unlike previous reports, collision data for this report was collected from the TxDOT's Crash Record Information System. We believe that this source provides greater data reliability.

In 2006, record keeping for the SafeClear program migrated to the Regional Incident Management System at Houston Transtar. Records for 2008, 2007, and most of 2006 are, therefore, in a different format than records from 2005 and early 2006. The differences in the record keeping systems have been reconciled and are not believed to affect the accuracy of this report.

### Data Validity

In 2008, 902 cases were excluded due to invalid or missing data (1.6% of all cases).

	2005	2006	2007	2008
Invalid Cases	4,242 (7.0%)	2,529 (4.6%)	1,771 (3.2%)	902 (1.6%)
Valid Cases	56,175 (93.0%)	52,259 (95.4%)	53,860 (96.8%)	56,350 (98.4%)
Total	60,417 (100%)	54,788 (100%)	55,631 (100%)	57,432 (100%)

# SAFECLEAR PERFORMANCE REPORT 2008

## ECONOMIC COST OF A COLLISION: COMPONENT COSTS

The following table features a breakdown of the component costs found in "The Economic Impact of Motor Vehicle Crashes 2000". The values do not represent the intangible consequences of crashes and should not be used alone to produce cost-benefit ratios. The amounts in the table are in 2000 USD. For this report, the final figure of \$27,355 in average costs was converted to 2009 USD using a Consumer Price Index multiplier of 1.24. Using this CPI multiplier, the average cost of a collision is \$33,920.20. Remaining calculations (i.e. monthly and annual savings) use a rounded version of this number, \$34,000, to avoid falsely implying a non-existent level of accuracy.

Unit Cost Component	Property-Damage Only Vehicles	Injuries in Crashes	Fatalities in Crashes	Weighted Average for All Crashes
<b>Economic Costs - Injury Components</b>				
Medical	\$0	\$4,514	\$22,095	\$2,169
Emergency services	31	90	833	61
Market productivity	0	5,201	595,358	4,307
Household productivity	47	1,585	191,541	1,370
Insurance administration	116	1,533	37,120	893
Workplace	51	398	8,702	240
Legal	0	1,012	102,138	794
SUBTOTAL	245	14,334	957,787	9,834
<b>Economic Costs - Non-Injury Components</b>				
Travel delay	803	797	9,148	827
Property damage	1,484	3,029	10,273	2,230
SUBTOTAL	2,287	3,826	19,421	3,057
<b>Additional Components</b>				
Quality-adjusted life years (QALY) cost	0	14,810	2,389,179	14,464
SUBTOTAL	0	14,810	2,389,179	14,464
<b>TOTAL AVERAGE COST PER CRASH</b>	<b>\$2,532</b>	<b>\$32,970</b>	<b>\$3,366,387</b>	<b>\$27,355</b>
Number of Reported Vehicles or Injuries of Each Type	7.0 million	6.1 million	41,820	13.2 million

# SAFECLEAR PERFORMANCE REPORT 2008

## DATA SOURCES & NOTES

### **Monthly Collision Data**

Source: Texas Department of Transportation's Crash Record Information System.

Special thanks to Jeff Kaufman at the Houston-Galveston Area Council.

### **SafeClear Data**

Source: Houston Police Department/Houston Transtar.

Special thanks to Sgt. Jimmy Horton, HPD.

### **Regional Monthly Gas Prices**

Source: Energy Information Administration, U.S. Department of Energy.

### **Collision Costs**

Source: *The Economic Impact of Motor Vehicle Crashes 2000*. National Highway Traffic Safety Administration.

CPI multiplier of 1.24 from the Bureau of Labor Statistics (U.S. Department of Labor) used to convert average cost from 2000 USD to 2009 USD.

### **Rain Data**

Source: KHOU/wunderground.com

Rainfall totals are from Houston Intercontinental Airport. A 0.1" threshold was used to determine the number of rainy days.

### **Vehicle Miles Travelled (VMT)**

Source: US Department of Transportation, Federal Highway Administration

VMT totals are for urban arterial roads in Texas.

### **Additional Notes**

For some measurements (e.g. some averages) outlying data was excluded. This exclusion standard, established in previous reports, seeks to exclude data more than three standard deviations from the mean (Response Time > 42 min. or Clearance Time > 74 min. or Incident Duration > 86 min.).

SUBJECT: Professional Services Contract for Utility Bill Auditing Services  
Tri-Stem, LTD.

Page  
1 of 1

Agenda  
Item  
31

FROM (Department or other point of origin):

General Services Department

Origination Date

Agenda Date

OCT 07 2009

DIRECTOR'S SIGNATURE:

Issa Z. Dadoush, P.E.

*Issa Z. Dadoush* 9/14/09

Council District(s) affected:

All

For additional information contact:

Felix C. Johnson, P.E.

Jacquelyn L. Nisby

Phone: 832-393-8086

832-393-8023

Date and identification of prior authorizing  
Council action:

RECOMMENDATION:

Approve professional services contract for utility bill auditing services.

Amount and Source of Funding: Revenue

Finance Budget:

**SPECIFIC EXPLANATION:** The General Services Department (GSD) recommends that City Council approve a professional services contract with Tri-Stem, LTD. (Tri-Stem) to conduct a comprehensive audit and study of the City's utility bills to determine whether the utility providers are billing the City at the correct rate and for the actual services provided. The consultant will conduct the audit in two phases. Phase One will consist of the audit of utility bills paid by the City for unmetered streetlights. Phase Two will consist of (1) all other electric utility bills paid by the City other than unmetered street lights, and (2) all natural gas utility bills paid by the City. The proposed contract is for a term of three years with one one-year renewal option.

On June 19, 2009 and June 26, 2009, GSD advertised a Request for Proposals for utility bill audit services, which contained selection criteria that ranked respondents on project understanding and method, experience, total service and support commitment, financial strength of company, conformance to RFP, and cost. Three firms responded. A selection committee comprised of representatives from GSD evaluated the respondents. Tri-Stem received the most points based on the advertised criteria.

**SCOPE OF WORK AND CONTRACT FEE:** Tri-Stem's sole compensation from the City will be limited to 45% of any cash refunds received by the City from the utility companies. Unless the City receives actual refunds, the City shall have no obligation to pay Tri-Stem. The scope of work is as follows:

1. Consultant shall conduct a comprehensive audit and study of the City's utility bills to determine that the amounts paid by the City are correct;
2. Determine whether the City can qualify for more advantageous rates for future billings;
3. Examine the City's utility bills to insure that all refunds due the City are obtained for any types of billing errors and overcharges as allowed by law and the rules of the Texas Public Utilities Commission;
4. Document any billing errors and over-charges in the City's utility bills;
5. Provide the director with copies of all correspondence between the consultant and the utility provider(s);
6. Seek to obtain refunds for any past billing errors and overcharges, as determined by the consultant and the director; and;
7. Upon termination of the contract, submit to the director a final report that includes: (1) a comprehensive overview of all services performed, billing errors discovered, refunds obtained, outstanding issues, recommendations, and any other information required by the director; and (2) a list of Disputed Accounts.

**M/WBE INFORMATION:** Tri-Stem will be paid on a contingency fee basis. Affirmative Action has reviewed the process and approved a 0% M/WBE goal as described in the attached correspondence.

IZD:FCJ:JLN:gmf

c: Marty Stein, Jacquelyn L. Nisby, Anna Russell, Calvin Curtis, Yvette Burton, File

REQUIRED AUTHORIZATION

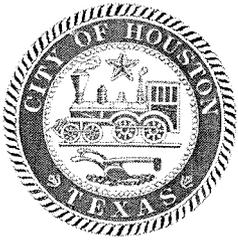
CUIC ID # 25MSCL23

Other Authorization:

Other Authorization:

NOT

31



# CITY OF HOUSTON

General Services Department

## Interoffice

Correspondence

**To:** Velma Laws, Director  
Affirmative Action and Contract  
Compliance

**From:** Issa Z. Dadoush, P.E., MBA, Director

**Date:** January 21, 2009

**Subject:** TriStem Ltd.  
Professional Consulting Services Contract  
Request for M/WBE Waiver

We are preparing the Award RCA for a Professional Consulting Services Contract with TriStem Ltd. The Scope of Work involves conducting a comprehensive audit and study of the City's utility bills to determine that any amounts paid by the City are correct. The work will be performed under a firm fixed contingency fee to furnish all of the labor, materials, and other related items required for the performance under the contract.

With the work being performed on a contingency fee basis, TriStem is assuming a large amount of risk if no discrepancies are discovered; therefore, we are requesting approval to waive the M/WBE requirement for this contract.

If you have any questions, please contact me at (832) 393-8021.

Approved:

*for*   
Velma Laws, Director  
Affirmative Action and Contract Compliance

RECEIVED  
2009 FEB -3 PM 1:42  
AFFIRMATIVE ACTION

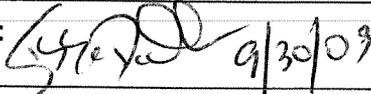
IZD:FCJ:fcj

**RECEIVED**  
AACCDIRECTOR'S OFFICE

JAN 23 2009

<b>SUBJECT:</b> Communication Equipment License with Amegy Bank National Association at 1801 Main Street, Houston, Texas for the Radio Communications Division of the Information Technology Department.	<b>Page</b> 1 of 2	<b>Agenda Item</b>  32
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b> 10-1-09	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b>  9/30/09 Issa Z. Dadoush, P.E.	<b>Council District affected:</b> 1
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<b>For additional information contact:</b> Jacquelyn L. Nisby  Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b> Ordinance No. 2008-0952; 10/29/2008 Ordinance No. 2009-0713; 08/05/2009
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**RECOMMENDATION** Approve and authorize a Communication Equipment License between Amegy Bank National Association (Licensor) and the City of Houston (Licensee) for roof top and pre fabricated shelter at 1801 Main Street, Houston, Texas for the Radio Communications Division of the Information Technology Department.

<b>Amount and Source Of Funding:</b> FY2010 – \$6,000.00 Police Consolidated Construction Fund (4504) – previously appropriated by Ordinance 2009-0713	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** On October 29, 2008, Ordinance 2008-0952, City Council approved a System Purchase Agreement with Motorola, Inc. for a new Public Safety Radio System. The City's current Public Safety Radio system is antiquated and at the end of its economic and useful life. The new radio system will be interoperable, allowing Fire, Police and Public Works to communicate more effectively with each other within the City and with other public safety entities. To facilitate this project, the Radio Communications Division of the Information Technology Department (IT) will be entering into various license agreements to lease communication tower space and ground space for the installation, operation and maintenance of antennas and other telecommunications equipment.

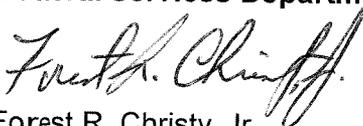
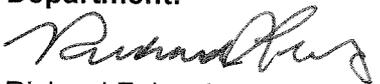
The proposed Communication Equipment License with Amegy Bank National Association will allow IT to lease ground space and roof top space for antenna mounts and pre-fabricated shelter for its communications equipment along with an emergency generator. IT will use the licensed premises for the transmission and reception of communications signals and will install, construct, maintain and operate its communications equipment, including antennas, cables, connectors, radios, and related transmission and reception hardware on the Amegy tower located in the City of Houston.

FY2010 funding necessary for this license agreement was appropriated August 5, 2009 and will fund the lease through June 30, 2010. Subsequent annual appropriations will be requested during the project implementation. Upon acceptance of the new radio system, operating expenses for annual maintenance and support along with lease expenses will be provided within departmental operating budgets for HPD, HFD, PW&E, ITD and other radio system participants.

The major provisions of the License are as follows:

- **Term** - ten-year lease term with two five-year automatic renewal options.

**REQUIRED AUTHORIZATION** CUIC ID# 25 RB73

<b>General Services Department:</b>  Forest R. Christy, Jr. Director of Real Estate		<b>Information Technology Department:</b>  Richard F. Lewis Director
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<b>Date</b>	<b>SUBJECT</b> Communication Equipment License with Amegy Bank National Association at 1801 Main Street, Houston, Texas for the Radio Communications Division of the Information Technology Department.	<b>Originator's Initials</b> RB	<b>Page</b> 2 of 2
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- **Monthly License Fee** - \$2,000.00 for the initial term.
- **Maintenance** - IT is responsible for all maintenance and utilities.
- **Total Cost for Initial Base Term (10 years):** \$240,000.00

The General Services Department recommends that City Council approve and authorize a Communication Equipment License with Amegy Bank National Association at 1801 Main Street, Houston, Texas for the Radio Communications Division of the Information Technology Department.

IZD:BC:JLN:RB:npd

xc: Marty Stein, Anna Russell, Jacquelyn L. Nisby and Tom Sorley

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Additional Appropriation to Construction Management at Risk Contract Gilbane Building Company Fire Station 37 and Fire Station 90 WBS No. E-000183-0001-4	<b>Page</b> 1 of 2	<b>Agenda Item</b>  33
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b> 9/29/09	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b>  9/18/09 Issa Z. Dadoush, P.E.	<b>Council District affected:</b> C
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<b>For additional information contact:</b> Jacquelyn L. Nisby  Phone: (832) 393-8023	<b>Date and identification of prior authorizing Council action:</b> Ordinance 2007-1323; dated November 28, 2007 Ordinance 2008-0558; dated June 18, 2008
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**RECOMMENDATION:** Appropriate additional funds for construction services in connection with Fire Station 37.

<b>Amount and Source of Funding:</b> \$325,000.00—Public Library Consolidated Construction Fund (4507)  <b>Previous Funding:</b> \$5,783,000.00—Fire Consolidated Construction Fund (4500)	<b>Finance Budget:</b> 
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**SPECIFIC EXPLANATION:** On November 28, 2007, City Council awarded a Construction Management at Risk Contract to Gilbane Building Company for pre-construction and construction phase services for new Fire Stations 37 and 90. The original scope of work for Fire Station 37 provided for demolition of the existing Fire Station and site grading, and construction of a new Fire Station at 7026 Stella Link.

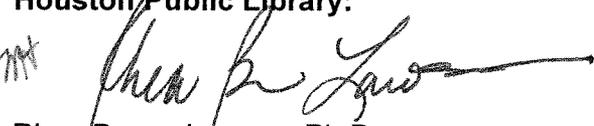
The Stella Link Library is located adjacent to the old Fire Station 37 site at 7405 Stella Link Road. Stella Link Library is one of the most popular branch libraries in the Houston Public Library System and is in need of additional parking space to accommodate its patrons. The General Services Department (GSD) and Houston Public Library desire to develop the former Fire Station 37 site into an expanded parking lot for the Stella Link Library. Therefore, the General Services Department recommends that City Council appropriate an additional \$295,000.00 for the project. It is further recommended that City Council appropriate an additional \$30,000.00 to the existing design contract with Natex Corporation to provide additional design services. Performing the work under this contract is cost effective and operationally efficient. The new parking lot will be constructed as soon as the Houston Fire Department relocates its operations to the new Fire Station 37.

**PROJECT LOCATION:** 3828 Aberdeen Way at Stella Link Road (532J)

**PROJECT DESCRIPTION:** The scope of work consists of paving, drainage improvements, landscaping, site lighting, fencing and paint striping for approximately 37 parking spaces.

**PREVIOUS HISTORY AND PROJECT SCOPE:** On June 18, 2008, City Council approved a First Amendment to the CMAR contract, which delegated authority to the director of GSD to approve the Guaranteed Maximum Price proposal for construction of Fire Station 37.

**REQUIRED AUTHORIZATION** CUIC ID # 25CONS109

<b>General Services Department:</b>   Humberto Bautista, P.E. Chief of Design & Construction Division	<b>Houston Public Library:</b>   Rhea Brown Lawson, Ph.D. Director
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<b>Date</b>	<b>SUBJECT:</b> Additional Appropriation to Construction Management at Risk Contract Gilbane Building Company Fire Station 37 and Fire Station 90 WBS No. E-000183-0001-4	<b>Originator's Initials</b>  VTN	<b>Page</b>  2 of 2
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**FUNDING SUMMARY:**

\$ 295,000.00	Construction Services
\$ <u>30,000.00</u>	Additional Design Services
<b>\$ 325,000.00</b>	<b>Total Appropriation</b>

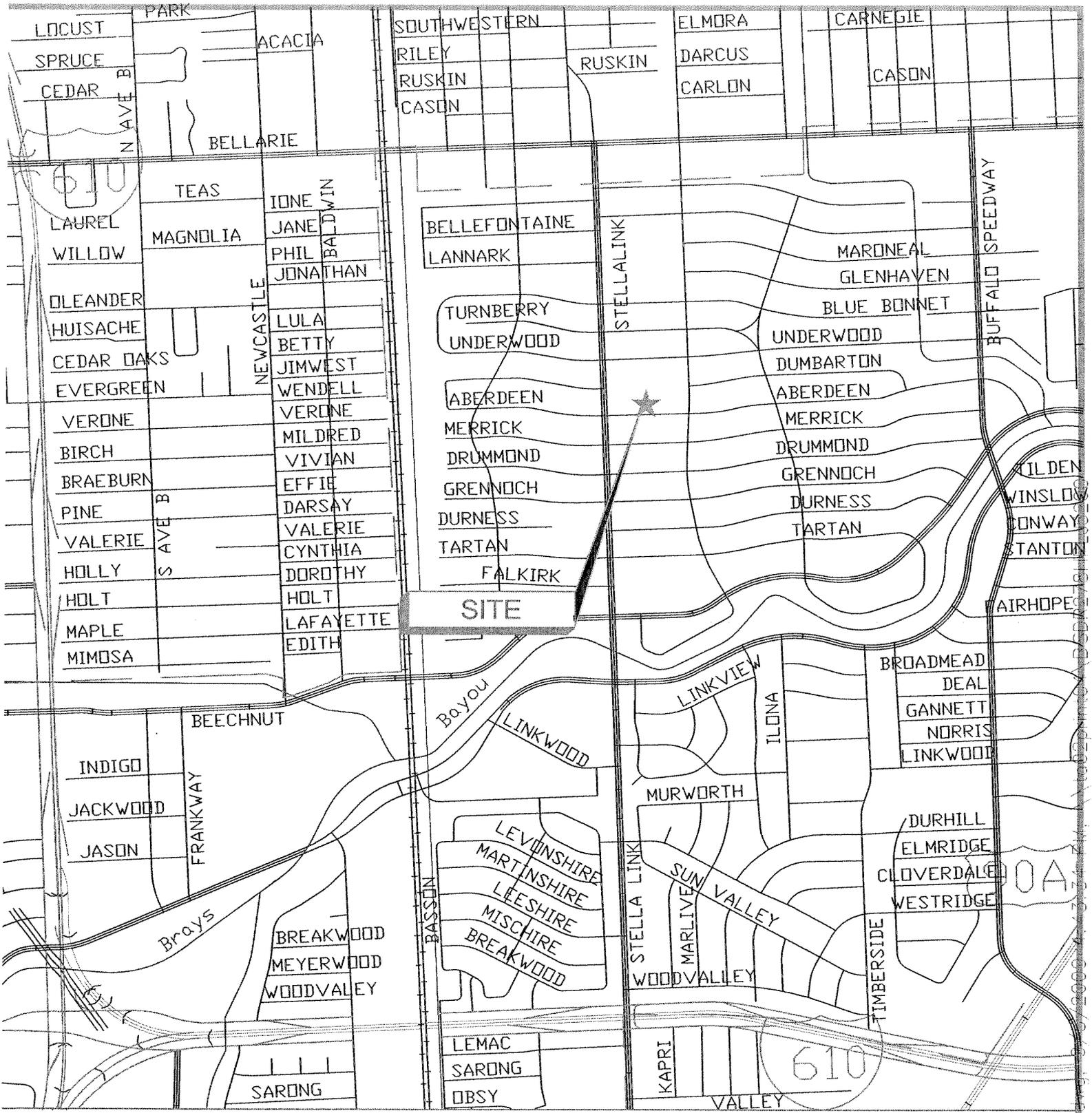
**CONSTRUCTION GOALS:** The original contract and this additional appropriation have a 14% MBE goal, 5% SBE goal, and 5% WBE goal for Fire Station 37. To date, the contractor has achieved 18.38% MBE, 7.32% SBE and 7.74% WBE participation.

**PAY OR PLAY PROGRAM:** The contract requires compliance with the City's "Pay or Play" Ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.



IZD:HB:JLN:RAV:VTN:vtn

c: Marty Stein, Jean Abercrombie, Daniel Hamilton, Wendy Teas Heger AIA, Jacquelyn L. Nisby, James Tillman IV, Calvin Curtis, Yvette Burton, File



STELLA LINK LIBRARY PARKING  
 3828 ABERDEEN WAY – HOUSTON, TX

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**REQUEST FOR COUNCIL ACTION**

TO: Mayor via City Secretary

RCA# 8478

**Subject:** Approve an Amending Ordinance to Increase the Maximum Contract Amount for Contract No. C57006 for Automotive and Equipment Parts and Repair Services for the Public Works & Engineering Department SC-N-2310-020-20569-A1

Category #  
4

Page 1 of 1

Agenda Item

**34**

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
September 02, 2009

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE**  
*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**  
David Guernsey Phone: (713) 238-5241  
Desiree Heath Phone: (832) 393-8742

**Date and Identification of prior authorizing Council Action:**  
Ordinance No. 2005-0705, passed June 8, 2005

**RECOMMENDATION: (Summary)**

Approve an amending ordinance to increase the maximum contract amount between the City of Houston and Genuine Parts Company dba NAPA Auto Parts from \$25,000,000.00 to \$31,250,000.00 for automotive and equipment turnkey parts and repair services for the Public Works & Engineering Department.

Spending Authority Increased by: \$6,250,000.00

**Finance Budget**

\$6,250,000.00 Fleet Management Fund (1005)

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an amending ordinance to increase the maximum contract amount between the City of Houston and Genuine Parts Company dba NAPA Auto Parts (NAPA) from \$25,000,000.00 to \$31,250,000.00 for automotive and equipment parts and repair services. The additional spending authority is to ensure there is no interruption in service for the Public Works & Engineering (PW&E) Department and is expected to sustain the Department for approximately eight months, when a new award will be presented to City Council. Contract spending authority has been depleted earlier than expected due to 1) unexpected doubling in the price of oil and fuel which had a direct effect on the increase in parts and operation costs 2) PW&E's Fleet Maintenance increased responsibility to supply parts to another division within its Department as well as the Parks & Recreation Department and 3) PW&E's Fleet Maintenance having to take over and operate the fuel delivery program due to contractual problems with a supplier that delivered fuel to all City locations. This required the upgrading, repairing and daily maintenance of a fleet of trucks and tankers. These vehicles were used to supply fuel on a daily basis to various departments and to support emergency operations.

This contract was awarded on June 8, 2005 by Ordinance No. 2005-0705 for a 36-month period with two one-year options to extend in an amount not to exceed \$25,000,000.00. Expenditures as of August 31, 2009 totaled \$22,808,145.16. All other terms and conditions remain as originally approved by City Council.

The scope of work requires the contractor to provide all labor, supervision, and transportation necessary to issue parts, materials, supplies, and fluids (except fuel) required for the operation and maintenance of City vehicles and equipment located at various PW&E facilities.

This contract was awarded with a 15% goal for M/WBE participation and NAPA is currently achieving 7.64%. NAPA is diligently working with the Affirmative Action Division to add new certified firms to boost its efforts in making a good-faith effort and the Affirmative Action Division will continue to monitor this contract to ensure maximum M/WBE participation.

Buyer: Desiree R. Heath

**REQUIRED AUTHORIZATION**

NDT

Finance Department:

Other Authorization:

Other Authorization:

*mgf*

*34*

**REQUEST FOR COUNCIL ACTION**

TO: Mayor via City Secretary

RCA# 8421

**Subject:** Formal Bids Received for Furniture Relocation Services for Various Departments  
S11-L23153

Category #  
1 & 4

Page 1 of 2

Agenda Item

**35**

**FROM (Department or other point of origin):**  
Calvin D. Wells  
City Purchasing Agent  
Administration & Regulatory Affairs Department

**Origination Date**  
September 02, 2009

**Agenda Date**  
OCT 07 2009

**DIRECTOR'S SIGNATURE**  
*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**  
Jacquelyn L. Nisby                      Phone: (832) 393-8023  
Ray DuRousseau                         Phone: (832) 393-8726

**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**  
Approve an ordinance awarding a contract to Houston Installation Services, Inc. on its low bid of \$1,234,139.13 for furniture relocation services for various departments.

Maximum Contract Amount: \$1,234,139.13

**Finance Budget**

\$ 171,600.00 - Water and Sewer System Operating Fund (8300)  
\$1,062,539.13 - General Fund (1000)

\$1,234,139.13 - Total

**SPECIFIC EXPLANATION:**

The City Purchasing Agent recommends that City Council approve an ordinance awarding a three-year contract, with two one-year options to renew, for a total five-year term to Houston Installation Services, Inc. on its low bid in an amount not to exceed \$1,234,139.13 for furniture relocation services for various departments. This service contract will be used to provide modular workstations and associated furniture relocation services for various moves citywide. The City Purchasing Agent may terminate this contract at any time upon 30-days written notice to the contractor.

This project was advertised in accordance with the requirements of the State of Texas bid laws. Twenty prospective bidders downloaded the solicitation document from SPD's e-bidding website and two bids were received. Prospective bidders were contacted to determine the reason for the limited response to the bid invitation. The survey revealed that the scope of work contained furniture systems that they do not handle, making them unable to be competitive; thus, the limited response to this solicitation.

<b><u>COMPANY</u></b>	<b><u>TOTAL AMOUNT</u></b>
1. Houston Installation Services, Inc.	<b>\$1,234,139.13</b>
2. Our Fine Interior Solution	<b>\$1,864,111.00</b>

The scope of work requires the contractor to provide all equipment, labor, materials, parts, supervision, tools and transportation necessary to disassemble, remove, reconfigure and re-assemble existing modular workstations and associated furniture at various facilities citywide. The contractor will also be required to furnish reconfiguration drawings and miscellaneous parts to complete re-assembly.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*MS*

**35**

Date: 9/2/2009	Subject: Formal Bids Received for Furniture Relocation Services for Various Departments S11-L23153	Originator's Initials GK	Page 2 of 2
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**M/WBE Subcontracting**

This invitation to bid was issued as a goal-oriented contract with an 11% M/WBE participation level. Houston Installation Services has designated the below-named companies as its certified M/WBE subcontractors:

<b><u>Name</u></b>	<b><u>Type of Work</u></b>	<b><u>Dollar Amount</u></b>	<b><u>Percentage</u></b>
Today's Business Solutions	Office Supplies	\$ 37,024.17	3%
A-1 Personnel	Temporary Services	\$ 98,731.13	8%
Total		\$135,755.30	11%

This contract will be monitored by the Affirmative Action Division in accordance with its procedures.

**Pay or Play Program**

The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides benefits for some employees but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.

**ESTIMATED SPENDING AUTHORITY**

Department	FY 10	Out Years	Total
General Services	\$100,000.00	\$ 852,258.38	\$ 952,258.38
Public Works & Engineering	\$ 34,320.00	\$ 137,280.00	\$ 171,600.00
Health & Human Services	\$ 5,000.00	\$ 105,280.75	\$ 110,280.75
Grand Total	\$139,320.00	\$1,099,819.13	\$1,234,139.13

Buyer: Gloria Jordan-King

**\*TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> An Ordinance authorizing the execution of a Sanitary Sewer Service Agreement between the City of Houston and Cy-Champ Public Utility District	<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b>  <b>36</b>
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<b>FROM (Department or other point of origin):</b>  Department of Public Works and Engineering	<b>Origination Date</b>  9/14/09	<b>Agenda Date</b>  OCT 07 2009
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<b>DIRECTOR'S SIGNATURE</b> <i>Michael S. Marcotte</i> Michael S. Marcotte, P.E., D. WRE, BCEE	<b>Council District affected:</b> "ETJ"
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<b>For additional information contact:</b>  Ann Marie Stone Sheridan, P.E. <i>AMS</i> Supervising Engineer    Phone: 713.837.9142	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)**

It is recommended that City Council approve an ordinance authorizing the Mayor to execute a Sanitary Sewer Service Agreement between the City of Houston and Cy-Champ Public Utility District.

**Amount of Funding:**

NONE REQUIRED

**SOURCE OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund

Other (Specify)

**SPECIFIC EXPLANATION:**

Request that City Council approve a Sanitary Sewer Service Agreement between the City of Houston (the "City") and Cy-Champ Public Utility (the "District") in order to provide service to a 133.082 acre tract of land within the District's boundaries. The District is located in the vicinity of North Sam Houston Parkway, Tomball Parkway, F.M. 1960 and Cutten Road. The District is outside the corporate limits of the city, but within the city's extra-territorial jurisdiction ("ETJ").

The City will provide a maximum of 37,769 gallons per 24-hour day of wastewater capacity to the District.

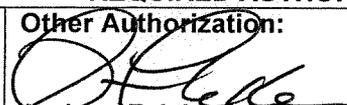
The District's wholesale wastewater service rate is in accordance with Chapter 47-140 (2) of the City of Houston's Code of Ordinances which is currently \$1.413 per 1,000 gallons.

The contract defines and limits prohibited waste and addresses levels of infiltration and inflow ("I & I") originating within the District's service area and ultimately affecting the City of Houston's collection and treatment systems. The agreement details the remedial steps the District must take to address I & I problems if they occur.

The Department of Public Works and Engineering recommends approval of the Sanitary Sewer Service Agreement between the City of Houston and Cy-Champ Public Utility District.

Attachments

cc: Marty Stein    Jun Chang    Mark Loethen    Waynette Chan

<b>REQUIRED AUTHORIZATION      20UPA13</b>	
<b>Finance Department</b>	<b>Other Authorization:</b>  Andrew F. Icken Deputy Director Planning & Development Services Div.
	<b>Other Authorization:</b>

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> An Ordinance that authorizes and approves the contract between the City of Houston and Klotz Associates, Inc. for the preparation of a City Stormwater Planning and Implementation Tool. M-000220-0005-3		Page 1 of 2	Agenda Item # <b>37</b>
<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> 9/24/09	<b>Agenda Date</b> OCT 07 2009	
<b>DIRECTOR'S SIGNATURE:</b>  Michael S. Marcotte, P.E., D.WRE, BCEE, Director	<b>Council District affected:</b> ALL		
<b>For additional information contact:</b> Carol A. Ellinger, P.E., Senior Assistant Director (713) 837-7658 <i>for Carol Ellinger</i> Richard J. Chapin, Senior Project Manager (713) 837-0421	<b>Date and identification of prior authorizing Council action:</b>		
<b>RECOMMENDATION:</b> It is recommended that City Council adopt an Ordinance that authorizes and approves the contract between the City of Houston and Klotz Associates, Inc. for the preparation of a City Stormwater Planning and Implementation Tool.			
<b>Amount and Source of Funding:</b> \$419,272.00 from Drainage Improvement Commercial Paper Series F, Fund No. 4030 <i>U.P. 9/14/09</i>			
<b>BACKGROUND:</b> The current Stormwater Capital Improvement Program prioritizes proposed projects using the FEMA reported repetitive loss properties and survey data from the 1999 Comprehensive Drainage Plan. The Comprehensive Drainage Plan gives priority to areas that have reported structural flooding and have either; a sewer system that was determined to be inadequate based on computer analysis or an existing open-ditch system that will be converted to a storm sewer system.			
<b>DESCRIPTION/SCOPE:</b> The goal of the Stormwater Planning and Prioritization Tool project is to improve stormwater infrastructure planning and project funding prioritization for the City. The project will develop a tool that will prioritize projects which have been proposed for City Capital Improvement Program programs (i.e., the Stormwater Planning and Prioritization Tool) and a process for using the SPPT tool for stormwater management and Capital Improvement Program project prioritization. The Stormwater Planning and Prioritization Tool will be a Geographic Information System (GIS) based tool which uses both existing prioritization criteria and new criteria that will be defined as part of this project. The Stormwater Planning and Prioritization Tool Project will lead to: 1) establishment of quantifiable goals for stormwater management and infrastructure development, including both stormwater quantity and quality; 2) definition of criteria by which to evaluate and compare potential stormwater projects in relation to these goals; 3) creation of a framework for collecting and comparing data pertinent to defined criteria; and 4) identification of data collection needs for future planning and evaluation efforts.			
<b>REQUIRED AUTHORIZATION</b>		<b>CUIC ID# 20CAE46</b>	
<b>Other Authorization:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Andy Icken, Deputy Director Planning & Development Services Division	

**SUBJECT:** An Ordinance that authorizes and approves the contract between the City of Houston and Klotz Associates, Inc. for the preparation of a City Stormwater Planning and Implementation Tool. M-000220-0005-3

**PAY OR PLAY PROGRAM:** The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with City policy.

**M/WBE INFORMATION:** The M/WBE goal for the project is set at 24%. The Engineer has proposed the following firms to achieve this goal.

M/WBE Firm	Work Description	Amount	% of Total Contract
1 ISANI Consultants, Inc.	Construction Management & Engineering Services	\$50,313.00	12%
2 KIT Professionals, Inc.	Full Service Engineering Consulting And Information Technologies Solutions Provider	\$50,313.00	12%
	Total	\$100,626.00	24.0%

MSM:AFI:CAE;RJC

P:\PLANNING BRANCH\STORMWATER PLANNING AND PRIORITIZATION TOOL\IRCA - KLOTZ CONTRACT.DOC

C: Marty Stein,  
Waynette Chan,  
Gary Drabek,  
April Greenhouse

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Pipeline Reimbursement Agreement between the City of Houston and Copano NGL Services, L.P. for the Construction of Kirby Drive from West Airport to Sims Bayou and Mowery Road from Edwina to future Kirby Drive  
WBS No. N-000594-0002-3

Page 1 of 1

Agenda Item #

38

FROM: (Department or other point of origin):  
Department of Public Works and Engineering

Origination Date:  
9-24-09

Agenda Date:  
OCT 07 2009

DIRECTOR'S SIGNATURE:  
  
Michael S. Marcotte, P.E., D.WRE, BCEE

Council District affected:  
D 5c  
JK

For additional information contact:  
Hamlet Hovsepian, P.E.  Phone: (713) 837-7033  
Interim Senior Assistant Director

Date and identification of prior authorizing Council action:

RECOMMENDATION: (Summary)

An Ordinance approving a Pipeline Reimbursement Agreement between the City of Houston and Copano NGL Services, L.P. and appropriate funds

Amount and Source of Funding:

Total of \$50,435.00 from Street and Bridge Consolidated Construction Fund No. 4506 M.P. 9/10/09

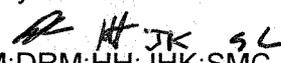
PROJECT NOTICE/JUSTIFICATION: The Kirby/Mowery project is part of the Street & Traffic Capital Improvement Program (CIP) and is required to improve traffic flow/circulation and reduce traffic congestion and hazards in service area. The construction of this roadway requires that certain existing pipelines be relocated or removed to facilitate the construction of the proposed roadways.

DESCRIPTION/SCOPE: At the intersection of West Airport and Kirby Drive an existing 6-inch natural gas pipeline must be relocated to prevent construction conflict. The Kirby/Mowery project consists of the construction of 4300 feet of dual 24 foot-wide concrete roadways for Kirby Drive.

LOCATION: The paving extension of Kirby Drive is located between West Airport to the north and Sims Bayou on the south. Mowery road is located between the terminus of Edwina on the west to the future intersection of Kirby Drive on the east. Key Map Nos. 572M, 573E and 573J.

SCOPE OF THIS AGREEMENT: Under the terms of this agreement, the City of Houston will reimburse the owner's actual cost for the relocation of their pipeline after the work has been completed and the City has audited the final billing from the owner. Copano NGL Services, L.P. has estimated the relocation cost to be \$45,850.00. This estimate has been reviewed and approved by Public Works. The City is not obligated to pay any cost in excess of the cost estimate provided by the owners of the pipelines. Public Works request the appropriation of \$50,435.00 which includes \$45,850.00 for reimbursement cost and \$4,585.00 for City salary recovery cost.

ACTION RECOMMENDED: It is recommended that Council approve a Pipeline Reimbursement Agreement between the City of Houston and Copano NGL Services, L.P. and an ordinance appropriating funds.

  
MSM:DRM:HH:JHK:SMC

Z:\design\VA-sw-div\VA-SB-DIV\WPDATA\campagna\WBS594\Copano RCA rev 1.doc

c: Marty Stein Susan Bandy Craig Foster  
Velma Laws Mike Pezeshki, P.E. File N-000594-0002-3 - PH II Pipeline Agreement

REQUIRED AUTHORIZATION

CUIC ID#20SMC32

Finance Department:

Other Authorization:

Other Authorization:

  
Daniel R. Menendez, P.E., Deputy Director  
Engineering and Construction Division

**PROJECT LOCATION**

COUNCIL DISTRICT "D"

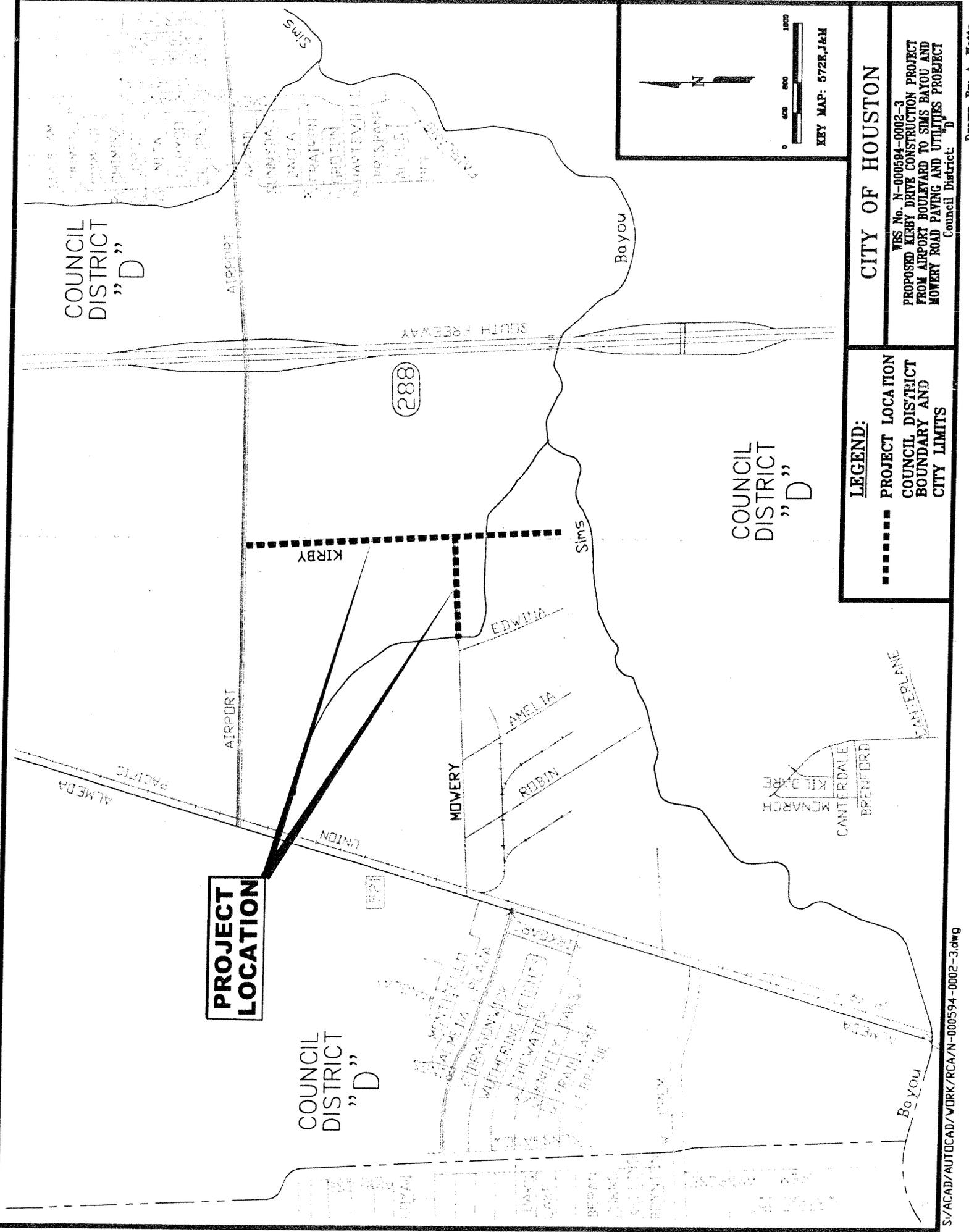
COUNCIL DISTRICT "D"

COUNCIL DISTRICT "D"

**LEGEND:**  
- - - - - PROJECT LOCATION  
- - - - - COUNCIL DISTRICT BOUNDARY AND CITY LIMITS

**CITY OF HOUSTON**

WBS No. N-000594-0002-3  
PROPOSED KIRBY DRIVE CONSTRUCTION PROJECT  
FROM AIRPORT BOULEVARD TO SIMS BOUYOU AND  
MOWERY ROAD PAVING AND UTILITIES PROJECT  
Council District "D"



TO: Mayor via City Secretary **REQUEST FOR COUNCIL ACTION**

**SUBJECT:** Pipeline Reimbursement Agreement between the City of Houston and TEPPCO Crude Pipeline, LLC for the Construction of Kirby Drive from West Airport to Sims Bayou and Mowery Road from Edwina to future Kirby Drive.  
WBS No. N-000594-0002-3.

Page  
1 of 1

Agenda Item #

39

**FROM: (Department or other point of origin):**

Department of Public Works and Engineering

**Origination Date:**

10-1-09

**Agenda Date:**

OCT 07 2009

**DIRECTOR'S SIGNATURE:**

  
Michael S. Marcotte, P.E., D.WRE, BCEE

**Council District affected:**

D<sup>SC</sup>  
JK

**For additional information contact:**

Hamlet Hovsepian, P.E.  Phone: (713) 837-7033  
Interim Senior Assistant Director

**Date and identification of prior authorizing Council action:**

**RECOMMENDATION: (Summary)**

Approve an Ordinance authorizing and approving a Reimbursement Agreement between the City of Houston and TEPPCO Crude Pipeline, LLC and appropriate funds

**Amount and Source of Funding:**

Total of \$82,500.00 from Street and Bridge Consolidated Construction Fund No.4506. *M.P. 9/24/09*

**PROJECT NOTICE/JUSTIFICATION:** The Kirby/Mowery project is part of the Street & Traffic Capital Improvement Program (CIP) and is required to improve traffic flow/circulation and reduce traffic congestion and hazards in service area. The construction of this roadway requires that certain existing pipelines be relocated or removed to facilitate the construction of the proposed roadways.

**DESCRIPTION/SCOPE:** At the intersection of West Airport and Kirby Drive an existing 10-inch crude oil pipeline must be relocated to prevent construction conflict. The Kirby/Mowery project consists of the construction of 4300 feet of dual 24 foot-wide concrete roadways for Kirby Drive.

**LOCATION:** The paving extension of Kirby Drive is located between West Airport to the north and Sims Bayou on the south. Mowery road is located between the terminus of Edwina on the west to the future intersection of Kirby Drive on the east. Key Map Nos. 572M, 573E and 573J.

**SCOPE OF THIS AGREEMENT:** Under the terms of this agreement, the City of Houston will reimburse the owner's actual cost for the relocation of their pipeline after the work has been completed and the City has audited the final billing from the owner. TEPPCO Crude Pipeline, LLC has estimated the relocation cost to be \$75,000.00. This estimate has been reviewed and approved by Public Works. The City is not obligated to pay any cost in excess of the cost estimate provided by the owners of the pipelines. Public Works request the appropriation of \$82,500.00 which includes \$75,000.00 for reimbursement cost and \$7,500.00 for City salary recovery cost.

**ACTION RECOMMENDED:** It is recommended that Council approve an ordinance authorizing and approving a Reimbursement Agreement between the City of Houston and TEPPCO Crude Pipeline, LLC and appropriate funds.

MSM:DRM:HH:JHK:SMC

Z:\design\A-sw-div\A-SB-DIV\WPDATA\campagna\WBS594\TEPPCO RCA.doc

c: Marty Stein

Susan Bandy

Craig Foster

Velma Laws

Mike Pezeshki, P.E.

File N-000594-0002-3 - PH II Pipeline Agreement

**REQUIRED AUTHORIZATION**

**CUIC ID#20SMC31**

**Finance Department:**

**Other Authorization:**

**Other Authorization:**

  
Daniel R. Menendez, P.E., Deputy Director  
Engineering and Construction Division

**PROJECT  
LOCATION**

COUNCIL  
DISTRICT  
"D"

COUNCIL  
DISTRICT  
"D"

COUNCIL  
DISTRICT  
"D"

288

KIRBY

SIMS

MOVERLY

EDWINA

AMELIA

ROBIN

UNION

PACIFIC

ALMEDA

AIRPORT

Bayou

Bayou

CANTERDALE  
MONARCH  
KILDARE  
BRENFORD

CANTERLANE



KEY MAP: 572E,J&M

**LEGEND:**

- PROJECT LOCATION
- COUNCIL DISTRICT BOUNDARY AND CITY LIMITS

**CITY OF HOUSTON**

WBS No. N-000594-0002-3  
PROPOSED KIRBY DRIVE CONSTRUCTION PROJECT  
FROM AIRPORT BOULEVARD TO SIMS BOULEVARD AND  
MOVERLY ROAD PAVING AND UTILITIES PROJECT  
Council District: D

Drawn By: A. Watts

**SUBJECT:** Professional Engineering Services Contract between the City and LJA Engineering & Surveying, Inc. for Engineering Services associated with the design of Water Line Replacement in Kingspoint Area: WBS No. S-000035-0114-3, Park Place Area: WBS No. S-000035-0115-3 and Polk Area: WBS No. S-000035-0116-3.

Page 1 of 2

Agenda Item #

40

**FROM (Department or other point of origin):**  
Department of Public Works and Engineering

**Origination Date**

8-13-09

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE:**

*Michael S. Marcotte* 8609

Michael S. Marcotte, P.E., D.WRE, BCEE, Director

**Council District affected:**

D, E, H, I

*mys*

**For additional information contact:**

*Hamlet Hovsepian*  
Hamlet Hovsepian, P.E. Phone: (713) 837-7033  
Interim Senior Assistant Director

**Date and identification of prior authorizing Council action:**

**RECOMMENDATION: (Summary)**

Approve Engineering Services Contract with LJA Engineering & Surveying, Inc. and appropriate funds.

**Amount and Source of Funding:**

\$1,804,200.00 from Water and Sewer System Consolidated Construction Fund No. 8500. *M.P. 7/30/09*

**PROJECT NOTICE/JUSTIFICATION:** This project is part of the City's Water Line Replacement Program. This Program is required to replace and upgrade water lines within the City to increase circulation and availability of water.

**DESCRIPTION/SCOPE:** This project consists of the design of approximately 90,850 linear feet of water lines with all related appurtenances in the Kingspoint, Park Place, and Polk Areas.

**LOCATION:** These projects are located in the following Key Map grids:

<u>Project</u>	<u>Bounded By</u>	<u>Key Map Grid</u>	<u>Council District</u>
1. Kingspoint Area:	(A.) Torrington and Green Arbor on the north, Fuqua on the south, White Clover on the east and Alta Loma Way on the west.	576N, P, S & T	E
	(B.) Fuqua on the north, Twig on the south, Beamer on the east and South Port on the west.	576 S, T, W & X	E
2. Park Place Area	(A.) La Porte on the north, Millet on the south, Reese & Romans on the east and Galveston Road on the west	535F	I
	(B.) Loop 610 on the north, Park Place and River on the south, Galveston Road on the east and Poplar and I-45 on the west.	535K, L, N, P, Q&T	I
3. Polk Area	(A.) Harrisburg on the north, I-45 on the south, Cullen on the east and Robert and Velasco on the west.	494 N, S & W	D, H, I

CUIC ID # 20MB99

*M.P.*

Finance Department:

Other Authorization:

*Jun Chang*  
Jun. Chang P.E.  
Deputy Director  
Public Utilities Division

Other Authorization:

*Daniel R. Menendez*  
Daniel R. Menendez, P.E.  
Deputy Director  
Engineering & Construction Division

<u>Project</u>	<u>Bounded By</u>	<u>Key Map Grid</u>	<u>Council District</u>
3. Polk Area	(B.) Dallas on the north, Bremond on the South, Hussion on the east and Nagel and Canfield on the west.	493 V & Z 494 S & W	I, D
	(C.) Forest Hill on the north, Lawndale on the south, Pasadena on the east and Santa Maria on the west.	494 Y & Z & 574 D	I

**SCOPE OF CONTRACT AND FEE:** Under the scope of the contract, the consultant, LJA Engineering & Surveying, Inc., will perform Phase I - Preliminary Design, Phase II - Final Design and Phase III - Construction Phase Services and Additional Services. Basic Services Fee for Phase I is based on the cost of time and materials with a not-to-exceed agreed upon amount. The Basic Services fees for Phase II and Phase III will be negotiated on a lump sum basis after the completion of Phase I. The negotiated maximum for Phase I Basic Services is \$120,576.00. The total Basic Services appropriation is \$604,576.00.

The contract also includes certain Additional Services to be paid either as lump sum or on a reimbursable basis. The Additional Services include surveying, geotechnical investigation, environmental assessment, traffic control and storm water pollution prevention. The total Additional Services appropriation is \$1,035,600.00.

The total cost of this project is \$1,804,200.00 to be appropriated as follows: \$1,640,176.00 for contract services and \$164,024.00 for project management.

	<u>Contract Services</u>	<u>Project Management</u>	<u>Cost of Project</u>
Kingspoint Area	\$561,348.00	\$56,152.00	\$617,500.00
Park Place Area	\$540,958.00	\$54,042.00	\$595,000.00
Polk Area	\$537,870.00	\$53,830.00	\$591,700.00
<b>Total</b>	<b>\$1,640,176.00 +</b>	<b>\$164,024.00</b>	<b>= \$1,804,200.00</b>

**PAY OR PLAY PROGRAM:** The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with city policy.

**M/WBE INFORMATION:** The M/WBE goal for the project is set at 24%. The Engineer has proposed the following firms to achieve this goal.

<u>Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Total Contract</u>
1. Amani Engineering, Inc.	Topographic Survey	\$309,808.00	18.89%
2. Berg - Oliver Associates, Inc.	Environmental	\$45,201.00	2.75%
3. Aviles Engineering Corporation	Geotechnical Investigations	\$158,775.00	9.68%
	<b>TOTAL</b>	<b>\$513,784.00</b>	<b>31.32%</b>

MSM:DRM:HH:SD:MB:OFA  
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c: Marty Stein                      Velma Laws                      Susan Bandy  
Mike Pezeshki, P.E      Craig Foster  
File Numbers. S-000035-0114-3, S-000035-0115-3, S-000035-0116-3 (1.2)

**TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> Approval of First Amendment to Disaster Debris Contracts with DRC Emergency Services, LLC and Omni Pinnacle, LLC for pre-positioned disaster debris removal services		<b>Category</b>	<b>Page</b> 1 of 1	<b>Agenda Item</b>  41
<b>FROM (Department or other point of origin):</b> Solid Waste Management Department		<b>Origination Date</b> September 10, 2009		<b>Agenda Date</b> OCT 07 2009
<b>DIRECTOR'S SIGNATURE:</b> 		<b>Council District(s) affected:</b> All		
<b>For additional information contact:</b> Harry J. Hayes, Director      Phone: (713) 837-9103 Vic Ayres, Deputy Director      (713) 837-9131		<b>Date and identification of prior authorizing Council Action:</b> Ord. 2007-987 (Aug. 29, 2007)		
<b>RECOMMENDATION:</b> Approve an Ordinance making a First Amendment to Disaster Debris Contracts with DRC Emergency Services, LLC and Omni Pinnacle, LLC for pre-positioned disaster debris removal services for the Solid Waste Management Department				
<b>Amount and Source of Funding:</b> No funding required at this time			<b>F &amp; A Budget:</b>	
<p>In 2007, the City Purchasing Agent advertised for and received competitive bids for disaster debris removal services for the Solid Waste Management Department (SWMD). City Council by Ordinance 2007-987 determined that the lowest responsible and secure bids were submitted by DRC Emergency Services, LLC and Omni Pinnacle, LLC, and awarded contracts to those two bidders. The contracts are for a three-year primary term and renewable by the City for two successive one-year terms.</p> <p>SWMD activated the DRC Emergency Services, LLC contract in September 2008 for the response to Hurricane Ike. Based on the knowledge gained during Hurricane Ike, SWMD recommends minor changes to both contracts to: (i) clarify the method to determine mileage to a disposal site, (ii) provide for a minimum number of disposal sites, (iii) restate the manner of amending the contract, (iv) provide for an extension of the term of the contract if the contractor is actively engaged in the removal of disaster debris at the termination date of the contract, and (v) provide that contractor's work in City parks shall be coordinated with the Director of Parks and Recreation as a member of the City's Debris Management structure headed by the City's Debris Manager/Solid Waste Management Director.</p> <p>SWMD recommends approval of an ordinance to approve First Amendments to Disaster Debris Contracts with DRC Emergency Services, LLC and Omni Pinnacle, LLC for pre-positioned disaster debris removal services.</p>				
<b>REQUIRED AUTHORIZATION</b>				
<b>Finance Department</b>				<b>Other Authorization:</b>

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA #**

**SUBJECT:** Approve an ordinance granting authority to CenturyTel Fiber Company II, A Louisiana Limited Liability Company, DBA LightCore, A CenturyTel Company the right, privilege and franchise to use the public way of the City of Houston, Texas, for the purpose of laying, constructing, leasing, maintaining, repairing, replacing, removing, using, and operating therein, network facilities for providing authorized services

**Category #**

**Page 1 of 1**

**Agenda Item#**

42

**FROM: (Department or other point of origin):** Alfred J. Moran, Jr., Director  
Administration and Regulatory Affairs Department

*1st Reading*

**Origination Date**

9/23/09

**Agenda Date**

OCT 07 2009

**DIRECTOR'S SIGNATURE:**

**Council Districts affected:**

ALL

**For additional information contact:**

Tina Paez

**Phone:** (713) 837- 9630

Juan Olguin

**Phone:** (713) 837- 9623

**Date and identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve an ordinance granting authority to CenturyTel Fiber Company II, a Louisiana Limited Liability Company dba LightCore, a CenturyTel Company, to use the public ways for providing telecommunications services.

**Amount of Funding:** REVENUE

**FIN Budget:**

**SOURCE OF FUNDING:**      General Fund      Grant Fund      Enterprise Fund      Other (Specify)

**SPECIFIC EXPLANATION:**

CenturyTel Fiber Company II, LLC dba LightCore (LightCore) has recently expanded its telecommunications network services operations to the Houston area. LightCore proposes to construct a facilities- based fiber optics telecommunication infrastructure to provide long distance services. The proposed franchise will authorize LightCore to operate its network for this purpose. Local exchange service, if any, would be governed by Chapter 283 of the Local Government Code. Similarly, any cable television or video services would be governed by Chapter 66 of the Utilities Code and the proposed franchise does not authorize LightCore to provide such services.

The proposed ordinance contains the following major provisions:

- Grants LightCore non-exclusive right to use the public way to operate a fiber optic network for the purpose of providing telecommunication services;
- Term is ten (10) years;
- Expires on December 31, 2019;
- Compensation to the City at \$1.93 per linear foot installed facilities;
- Compensation per linear foot is escalated for CPI-U annually;
- Franchise fees payable on or before January 1<sup>st</sup> each year of the franchise;
- Late payment provision of 12% per annum, compounded daily;
- Allows compliance reviews to monitor and collect franchise fee payments;
- Maintains the City's Chapter 40 police powers over LightCore's activities in the public way

The Director of Administration and Regulatory Affairs recommends Council approval of the proposed ordinance granting a franchise to CentryTel Fiber Company II, LLC dba LightCore, A CenturyTel Company.

**REQUIRED AUTHORIZATION**

**FIN Director:**

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA #**

<b>SUBJECT:</b> Ordinance granting a Commercial Solid Waste Operator Franchise	<b>Category #</b>	<b>Page 1 of 1</b>	<b>Agenda Item#</b>
	2 <sup>RD</sup> READING	43	39/51

<b>FROM: (Department or other point of origin):</b> Alfred J. Moran, Director Administration & Regulatory Affairs	<b>Origination Date</b> September 14, 2009	<b>Agenda Date</b> <del>SEP 23 2009</del> SEP 30 2009
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<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council Districts affected:</b>  ALL
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<b>For additional information contact:</b> Juan Olguin                      Phone: (713) 837- 9623 Nikki Cooper                      Phone: (713) 837- 9889	<b>Date and identification of prior authorizing Council Action:</b> Ord. # 2002-526 – June 19, 2002; Ord. # 2002-1166-December 18, 2002.
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**RECOMMENDATION: (Summary)**

Approve an ordinance granting a Commercial Solid Waste Operator Franchise

<b>Amount of Funding:</b> REVENUE	<b>FIN Budget:</b>
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**SOURCE OF FUNDING:**         General Fund         Grant Fund         Enterprise Fund         Other (Specify)

**SPECIFIC EXPLANATION:**

It is recommended that City Council approve an ordinance granting a Commercial Solid Waste Operator Franchise to the following solid waste operator pursuant to Article VI, Chapter 39. The proposed Franchisee is:

1. Waste Connections of Texas, LLC

The proposed ordinance grants the Franchisee the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, the Franchisee agrees to pay to the City an annual Franchise Fee equal to 4% of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the franchise, the City has the right to inspect, and the company has the duty to maintain, required customer records during regular business hours. The franchise contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed franchise terms expire on December 31, 2013.

The Pay or Play Program does not apply to the Commercial Solid Waste Operator Franchise.

**REQUIRED AUTHORIZATION**

**Finance Director:**

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Motion establishing a public hearing date to consider adopting a Municipal Setting Designation Ordinance for D/J Venture for the Site located at 3131 Argonne Street. (MSD # 2008-009-DJV)	<b>Page</b> 1 of 1	<b>Agenda Item</b> # 44
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<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> 10/1/09	<b>Agenda Date</b> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b>  Michael S. Marcotte, P.E., D.WRE, BCÉE, Director	<b>Council District affected:</b> C A, B, D, F, G, H, and I within 5 miles of site.
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<b>For additional information contact:</b> Carol A. Ellinger, P.E. Senior Assistant Director (713) 837-7658 Richard J. Chapin, P.E. Senior Project Manager (713) 837-0421	<b>Date and identification of prior authorizing Council action:</b> 8/22/2007 – 2007-0959
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**RECOMMENDATION: (Summary)**  
Establish a public hearing date to consider adopting a Municipal Setting Designation (MSD) Ordinance for the site located at 3131 Argonne Street.

**Amount and Source of Funding:** N/A

**BACKGROUND:** In 2003, the Texas Legislature authorized the creation of Municipal Setting Designations (MSDs), which would designate an area in which the use of contaminated groundwater is prohibited for use as potable water. The law is administered by TCEQ and requires local City support to designate an MSD. The intent of the legislation is to encourage redevelopment of vacant or abandoned properties while protecting the public health. On August 22, 2007, City Council approved an Ordinance amending Chapter 47 of the Code of Ordinances by adding Article XIII relating to groundwater, which provides a process to support or not support a MSD application to the State. This Ordinance requires a written public notice be mailed to property owners within 2,500 feet of a proposed MSD and owners/operators of potable water wells within 5 miles of a proposed MSD. In addition, a public meeting and a public hearing are required to be held prior to City Council consideration of support.

**D/J VENTURE APPLICATION:** D/J Venture is seeking a MSD for 0.49-acres of land located at 3131 Argonne Street. The contamination consists of tetrachloroethene (PCE), trichloroethene (TCE), 1,2-dichloroethane (1,2-DCA), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride (VC). Built in the 1980s and demolished in 2003, the Kettle Offices building was the only development on the site. The site is currently used as a restaurant parking lot. Since the 1940s, there have been commercial and manufacturing businesses around the site. Environmental investigations have identified contamination in the soils and groundwater. However, no contributing source on the surface has been identified as the source for contamination in the groundwater. Based on environmental sampling, the groundwater contaminant plume appears to be stable and is on average 35 feet below ground surface. A public meeting was held at 4/7/2009 6:30:00 PM at the Upper Kirby District Center 3015 Richmond Avenue.

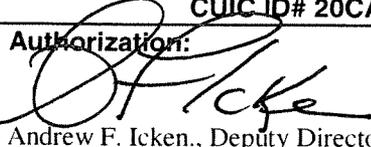
D/J Venture is seeking a MSD for this property to restrict access to groundwater to protect the public against exposure to contaminants. There is a public drinking water supply system that meets state requirements that supplies or is capable of supplying drinking water to the MSD property and all properties within one-half mile of the MSD property.

**RECOMMENDATIONS:** City Ordinance requires City Council to hold a public hearing before adopting a Municipal Setting Designation Ordinance (MSD). The Department of Public Works and Engineering recommends establishing a public hearing date not sooner than six weeks from passage of the Motion and directing the City Secretary to publish notice of the hearing no less than thirty (30) calendar days before the public hearing date for D/J Venture for the site located at 3131 Argonne Street. Preferred public hearing date is 12/9/2009.

MSM:AFI:CAE  
P:\PLANNING BRANCH\MSD\DATABASE\GENERIC RCA - PUBLIC HEARING.DOC

C: Marty Stein, Waynette Chan, Gary Drabek, Ceil Price

**REQUIRED AUTHORIZATION** **CUIC ID# 20CAE34**

<b>Finance Department:</b>	<b>Authorization:</b>  Andrew F. Icken, Deputy Director Planning and Development Services Division	<b>Other Authorization:</b>
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# CITY OF HOUSTON

Department of Public Works and Engineering

## Interoffice

Correspondence

To: Anne Clutterbuck From: Carol Ellinger, P.E. Senior Assistant Director  
cc: At Large Districts within 5 miles Planning Branch  
Peter Brown Toni Lawrence Planning & Development Services Division  
Sue Lovell Jarvis Johnson  
Melissa Noriega Wanda Adams Date: September 24, 2009  
Ronald Green M.J. Khan  
Jolanda Jones Pam Holm  
James Rodriguez  
cc: Ceil Price Subject: MSD APPLICATION # 2008-009-DJV  
D/J Venture Property

### Background

In 2003 the Texas legislature authorized the creation of Municipal Setting Designations (MSDs). An MSD designates a particular parcel beneath which contaminated groundwater is prohibited from use as potable water and records that designation on the property's deed. This state law is administered by the Texas Commission on Environmental Quality in conjunction with its Voluntary Cleanup Program and other clean up programs administered by TCEQ and EPA. MSDs are intended to encourage redevelopment of vacant or abandoned property while protecting the public health. It is TCEQ's responsibility to review and approve or disapprove a property owner's application for an MSD. The City's primary role is to provide a forum for public comment and then determine whether to lend the required support to the MSD application. General information regarding MSDs and ongoing application information can be found on the City's MSD website at:

<http://www.publicworks.houstontx.gov/planning/plan/msd.htm>

### 2008-009-DJV Application

The City of Houston has received an application from the D/J Venture requesting that City Council adopt a MSD ordinance that:

- prohibits the use of designated groundwater at the D/J Venture Property site, and
- supports issuance of a MSD by the Texas Commission on Environmental Quality.

This site is 0.49 acres of land located at 3131 Argonne Street located in District C (see attached Notice). Built in the 80s and demolished in 2003, the Kettle Offices building was the only development on the site. The site is currently used as a restaurant parking lot. Since the 40s, there have been commercial and manufacturing businesses around the site. Environmental investigations have identified contamination in the soils and groundwater. However, no contributing source on the surface has been identified as the source for contamination in the groundwater. Based on environmental sampling, the groundwater contaminant plume appears to be stable and is on average 35 feet below ground surface. Contamination at the site consists of tetrachloroethene (PCE), trichloroethene (TCE), 1,2-dichloroethane (1,2-DCA), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride (VC).

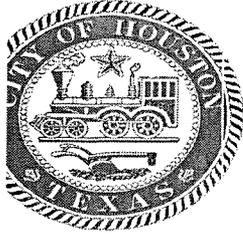
D/J Venture is seeking a MSD for this property to restrict access to groundwater to protect the public against exposure to contaminants. There is a public drinking water supply system that meets state requirements that supplies or is capable of supplying drinking water to the MSD property and all properties within one-half mile of the MSD property.

A Notice of Public Meeting for has been mailed to property owners within ½ mile of the site, water-well owners and other interested groups within 5 miles of the site (Districts A, B, D, F, G, H, and I). A copy of the mail out is included.

### Application Steps

The following is a timeline of the steps necessary in order for the City to consider supporting and MSD application:

- Application received (4/28/2008)
- Application determined to be administratively complete ()
- Written notice of the application and a public meeting date is mailed to property owners within ½-mile of the property and to owners and operators of water wells within 5 miles of the proposed MSD site (mailed on 3/7/2009, notice attached)
- Notice of public meeting published in the Houston Chronicle (3/7/2009)
- Public meeting (scheduled for 4/7/2009 6:30:00 PM at Upper Kirby District Center 3015 Richmond Avenue)
- Notice of public hearing to be published in the Houston Chronicle (estimated 2/21/09)
- RCA prepared by Director of Public Works and Engineering for MSD ordinance (estimated 3/11/09)
- Public hearing (estimated 3/25/09)



# CITY OF HOUSTON

Office of the Mayor

## Interoffice

Correspondence

45

OCT 07 2009

To: Anna Russell  
City Secretary

From: *lc* Linda Clarke, Director  
Boards and Commissions

Date: October 2, 2009

Subject: **Animal Advisory Committee  
Council Nominations**

### AMENDEND

### NON-CONSENT AGENDA

### MISCELLANEOUS

Motion to set a date not less than seven (7) days from October 7, 2009, to receive nominations for appointments to Positions One through Four for the Animal Advisory Committee Board of Directors, for the remainder of a two year term that will end December 31, 2009.

- |            |                                                                        |
|------------|------------------------------------------------------------------------|
| Position 1 | Shall be a Texas Licensed Veterinarian                                 |
| Position 2 | Municipal or county officials                                          |
| Position 3 | A person whose duties include the daily operation of an animal shelter |
| Position 4 | Officer or employee of an Animal Welfare Organization                  |

lc/jsk

cc: Ms. Marty Stein



**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor [redacted] via City Secretary

**SUBJECT:** Approve Motion authorizing Supplemental Budgets submitted by the Greater Houston Convention and Visitors Bureau.

Category #

Page 1 of 1

Agenda Item#  
**46 | 3**

**FROM: (Department or other point of origin):**

Dawn R. Ullrich, Director  
Department of Convention and Entertainment Facilities

Origination Date

September 11, 2009

Agenda Date

~~SEP 30 2009~~

**DIRECTOR'S SIGNATURE:**

*Dawn Ullrich*

Council Districts affected:

All

OCT 07 2009

**For additional information contact:**

Stephen W. Lewis

Phone: 713-853-8888

Date and identification of prior authorizing

Council Action: 2008-0510

**RECOMMENDATION: (Summary)**

Approve Motion authorizing Supplemental Budgets submitted by the Greater Houston Convention and Visitors Bureau.

**Amount of Funding: \$1,652,550**

Civic Center Facility Revenue Fund (#8601)

**Finance Budget:**

**SPECIFIC EXPLANATION:**

The City of Houston enters into a contract each year with the Greater Houston Convention and Visitors Bureau ("GHCVB") to solicit convention business and promote tourism. During FY09 the City made quarterly payments to the GHCVB in an amount equal to 23 percent of the City's gross hotel occupancy tax ("HOT") receipts. Based on actual year-end figures, GHCVB's share of the HOT revenues is \$14,992,550, which is \$1,652,550 over the amount projected in the FY09 contract with the City. Pursuant to the terms of its annual contract, the GHCVB must submit a supplemental budget outlining how it will utilize the funds over and above the original projected amount and obtain City Council approval before it can receive the additional funds.

The GHCVB has proposed alternative Supplemental Budgets (copies attached). The first Supplemental Budget, Option A, reserves the funds for use in the event of a projected shortfall in FY 2010 or subsequent budget years' revenue. Funds in this scenario will be used to augment the GHCVB's sales activities in promoting conventions, trade shows and other promotional programs. The second Supplemental Budget, Option B, assumes no shortfall in revenue, and utilizes the funds for additional sales commitments and sales and marketing promotions and research.

The Convention and Entertainment Facilities Department recommends approval of the GHCVB's Supplemental Budgets for FY09.

**REQUIRED AUTHORIZATION**

Finance Department

Other Authorization

Other Authorization



**GREATER HOUSTON CONVENTION AND VISITORS BUREAU**  
**Statement of Activities: 2008/2009 Excess Revenue Budget**  
**Fiscal Year 2009/2010**

	BUDGET FY ENDING 06/10
<b>REVENUES</b>	
H.O.T. REVENUE -EXCESS FROM 2008/2009	1,652,550
<b>TOTAL REVENUE</b>	<b>1,652,550</b>
<b>EXPENSES</b>	
*OPERATIONAL RESERVE FOR SALES PROMOTIONS OVER THE NEXT THREE YEARS	1,652,550
<b>TOTAL EXPENSES</b>	<b>1,652,550</b>
<b>NET ASSET INCREASE(DECREASE)</b>	<b>-</b>

*\*Budget anticipates a HOT shortfall*

# Houston

www.visithoustontexas.com

## GREATER HOUSTON CONVENTION AND VISITORS BUREAU

Statement of Activities: 2008/2009 Excess Revenue Budget

Fiscal Year 2009/2010

	BUDGET FY ENDING 06/10
<b>REVENUES</b>	
H.O.T. REVENUE -EXCESS FROM 2008/2009	1,652,550
<b>TOTAL REVENUE</b>	<b>1,652,550</b>
<b>EXPENSES*</b>	
SALES COMMITMENTS	578,393
SALES & MARKETING PROMOTIONS & RESEARCH	1,074,157
<b>TOTAL EXPENSES</b>	<b>1,652,550</b>
<b>NET ASSET INCREASE(DECREASE)</b>	<b>-</b>

\*All expenditures are subject to the approval of the Director.

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**SUBJECT:** Approve Motion authorizing Supplemental Budget submitted by the Houston Arts Alliance.

Category #

Page 1 of 1

Agenda Item#

47 #

**FROM: (Department or other point of origin):**

Dawn R. Ullrich, Director  
Department of Convention and Entertainment Facilities

**Origination Date**

September 15, 2009

**Agenda Date**

~~SEP 30 2009~~

**DIRECTOR'S SIGNATURE:**

*Dawn Ullrich*

**Council Districts affected:**

All

OCT 07 2009

**For additional information contact:**

Stephen W. Lewis

Phone: 713-853-8888

**Date and identification of prior authorizing**

**Council Action:** 2008-0564

**RECOMMENDATION: (Summary)**

Approve Motion authorizing Supplemental Budget submitted by the Houston Arts Alliance.

**Amount of Funding: \$1,386,705**

Civic Center Facility Revenue Fund (#8601)

**Finance Budget:**

**SPECIFIC EXPLANATION:**

The City of Houston enters into a contract each year with the Houston Arts Alliance ("HAA") to promote the arts. During FY09 the City made quarterly payments to the HAA in an amount equal to 19.3 percent of the City's gross hotel occupancy tax ("HOT") receipts. HOT estimates at the time of the FY09 contract projected that HAA would receive approximately \$11,194,000 in FY09. Based on actual year-end figures, HAA's share of the HOT revenues is \$12,580,705, which is \$1,386,705 over the amount projected in the FY09 contract with the City. Pursuant to the terms of its annual contract, the HAA must submit a supplemental budget outlining how it will utilize the funds over and above the original projected amount and obtain City Council approval before it can receive the additional funds.

HAA's proposed Supplemental Budget (copy attached) provides for additional funding for the Miller Theatre Advisory Board ("MTAB"), Theater District Improvement, Inc. ("TDI"), the Houston Museum District Association ("HMDA"), the City's Initiatives Program, and the HAA grant program, as well as for programs and supporting services. Proposed uses of the funding include:

- HAA – HAA proposes to reserve funds for use in the event of a projected shortfall in FY10 revenue. Funds in this scenario will be used to augment grants and programs. In the event of no shortfall, HAA will use the funds for an arts marketing program, subject to the approval of the Director.
- MTAB – MTAB proposes to maintain funding for performing arts and cultural organizations at FY09 levels in the event of a FY10 shortfall or provide new and enhanced grant funding in the event of no shortfall.

f

**REQUIRED AUTHORIZATION**

Finance Department

Other Authorization

Other Authorization

4

REQUEST FOR COUNCIL ACTION

**SUBJECT:** Approve Motion authorizing Supplemental Budget submitted by the Houston Arts Alliance.

Page 2 of 2

- Museum District – The Museum District proposes to use these funds to print visitor information brochures and market the various museums, including, but not limited to, the Museum of Fine Arts, Houston, The Menil Collection, Holocaust Museum Houston, Jung Center and Houston Zoo.
- Theater District – The Theater District proposes to use these funds as follows:
  - Marketing efforts at the Alley Theatre to bring in a broader audience utilizing a combination of advertising – more use of television, print, media and radio.
  - Support for the new production of the holiday comedy *The Santaland Diaries* scheduled for December, 2009, at the Alley Theatre.
  - Production expenses for *Oregon*, *Solo/Mediaeval Baebes/Afternoon of a Faun/Sym in C*, *The Nutcracker*, *Marie*, *Leaves are Fading/Vertiginous* thrill of *Exactitude/Soldier's Mass*, *Nosotros/Jardi Tancat/Carousel*. (Houston Ballet)
  - Artist fees for Daphnis Prieto. (Da Camera of Houston)
  - Production expenses for *Cavalleria rusticana & Pagliacci*, *A Midsummer Night's Dream*, *Chorus*, *Rigoletto*, *Brief Encounter*, *Miller Outdoor*, *HGOco*, *HGO Studio*. (Houston Grand Opera)
  - Production expenses for *The Ten Tenors*, *Ros Warby's Monumental*, *Hot Peas 'N Butter*, *Esperanza Spaulding*. (SPA)
  - Production expenses for *Classical Series (April 2,4,5)*; *Classical Series (April 17-19)*; *Leading Ladies of the Silver Screen (April 24-26)*; *Beethoven (April 30, May 2,3)*; *Yo-Yo Ma (May 5)*; *Classical Series-Beethoven & Bartok (May 8-10)*; *Classical Series feat. Rossini, Paganini, Puccini and Respighi (May 14, 16-17)*; *Dancing with the Symphony (May 22-24)* (Houston Symphony)
  - Theatre Under the Stars will offset costs associated with the production of *Happy Days – A new Musical*.

The Convention and Entertainment Facilities Department recommends approval of the HAA's Supplemental Budget for FY09.

**HOUSTON ARTS ALLIANCE  
SUPPLEMENTAL BUDGET FOR EXCESS REVENUES FROM CITY FISCAL  
YEAR 2009 – PROPOSED USAGE DURING FISCAL YEAR 2010**

**\$145,604.02 – HAA Support Services (10.5%)**

**\$34,667.63 – Special Initiatives (2.5%)**

**\$221, 872.80 – Miller Outdoor Theatre (16%)**

**\$332,809.20 – Theater District (24%)**

**\$249,606.90 – Museum District (18%)**

**\$402,144.45\* – Grant Supplements/Arts Marketing (29%)**

**\$1,386,705.00 – Total Supplemental Budget**

**\*All expenditures for Arts Marketing are subject to the approval of the Director**

48

OCT 07 2009

MOTION NO. 2009

MOTION by Council Member Khan that the recommendation of the Director of the Department of Public Works and Engineering, on request for proposals received for Professional Consulting Services for Evaluation and Implementation of Process Improvements and Development of Best Practices for the Public Works and Engineering Department's Combined Utility System, S22-Q23352, be adopted, and authority is hereby given to issue purchase order to the best respondent, McKinsey & Company, Inc. in an amount not to exceed \$1,084,000.00.

Seconded by Council Member Green

Council Member Lovell out of the City on City business

On 09/30/2009 the above motion was tagged by Council Member Lawrence.

mla

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Purchase of Professional Consulting Services for Evaluation and Implementation of Process Improvements and Development of Best Practices for the Public Works and Engineering Department's Combined Utility System S22-Q23352

Page 1 of 2

Agenda Item #

48 ~~43~~

FROM: (Department or other point of origin): Department of Public Works and Engineering

Origination Date: September 21, 2009

Agenda Date: ~~SEP 30 2009~~

DIRECTOR'S SIGNATURE: *Michael S. Marcotte*  
Michael S. Marcotte, P.E. D.WRE, BCEE, Director

Council District affected: All  
OCT 07 2009

For additional information contact:  
Susan Bandy Phone: 713-837-7151  
David Guernsey Phone: 713-238-5241

Date and identification of prior authorizing Council action:

RECOMMENDATION: (Summary)

Approve the purchase of professional consulting services from best respondent McKinsey & Company, Inc. for evaluation and implementation of process improvements and development of best practices for the Combined Utility System.

Amount and Source of Funding: \$1,084,000.00 *Bandy*  
Water and Sewer Operating Fund (8300)

SPECIFIC EXPLANATION:

The Director of the Department of Public Works and Engineering (PW&E) recommends that City Council authorize the issuance of a purchase order to best respondent McKinsey & Company, Inc. in an amount not to exceed \$1,084,000.00 for the purchase of professional consulting services. This engagement will drive productivity improvements and cost reductions for the Public Works and Engineering Department's Combined Utility System.

An Informal Request for Proposal was issued in accordance with the requirements of the State bid laws. 116 perspective bidders downloaded the solicitation document from SPD's e-bidding website and proposals were received from the following firms: Alvarez & Marsal, Booz & Company, CSC, Huron Consulting Group, Infrastructure Management Group, Inc. and McKinsey & Company, Inc.

The proposals were evaluated based upon the following criteria, and McKinsey & Company, Inc. was chosen as the best respondent:

- Expertise/Experience/Qualifications
- Proposed Strategy

McKinsey's approach will stress implementation over analysis, allowing rapid deployment of improved processes to reduce costs. The consultant will undertake data gathering, analysis and benchmarking prior to the analytical phase. Project teams will be guided by a steering committee for governance. The project will proceed in four phases: analysis, decision, implementation and roll-out. The analysis phase will begin to establish cost drivers and quantify potential cost savings and promising initiatives. During the decision phase a target state will be designed and an implementation plan created. A pilot implementation will assist and facilitate the first set of roll-out initiatives, define milestones and set up a process tracking system. Roll-out will commence with periodic checks on progress.

Pay or Play:

The proposed award requires compliance with the City's Pay or Play ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to employees in compliance with City policy.

REQUIRED AUTHORIZATION

CUIC#20SB23

NDT

Finance Department:

Other Authorization:

Other Authorization:

<b>Date</b> September 21, 2009	<b>Subject:</b> Approve the purchase of Consulting Services for Evaluation of Process Improvement, Implementing Process Improvements and Developing Best Practices for Maintenance for the Department of Public Works and Engineering/S22-Q23352	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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**M/WBE Participation:**

The Affirmative Action Division reviewed the scope and determined there is capacity for a 10% M/WBE goal, and the vendor has agreed to make a good faith effort to achieve such participation and will be monitored during the course of this engagement.

MSM:SB

- c: Marty Stein
- Susan Bandy
- Velma Laws

**THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT.**

TO: City of Houston  
Administering Department

Date: 9/18/2009

Project Name: Developing and Executing Process Improvement & Best Practices for Water and Wastewater  
Project Number: TBD  
Bid Amount: \$1,084,000  
M/W/DBE Goal: 10%

McKinsey & Company, Inc. Washington, DC

**Prime Contractor**

agrees to enter into a contractual agreement

with

VIRTUAL INTELLIGENCE PROVIDERS, LLC  
**M/W/DBE Subcontractor**

who will provide the following goods/ services in

connection with the above referenced contract:

Developing and Executing Process Improvement & Best Practices for Water and Wastewater

for an estimated amount of \$ \_\_\_\_\_ or 10% of the total contract value.

Virtual Intelligence Providers, LLC

**(M/W/DBE Subcontractor)**

is currently certified with the City of Houston's Affirmative

Action and Contract Compliance Office to function in the aforementioned capacity.

McKinsey & Company, Inc.  
Washington, DC

Virtual Intelligence Providers,  
LLC

**Contractor**

**M/W/DBE Subcontractor**

**Prime**

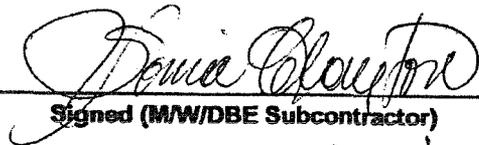
intend to work on the above-named contract in accordance with the M/W/DBE Participation Section of the City of Houston Bid Provisions, contingent upon award of the contract to the aforementioned Prime Contractor.

  
Signed (Prime Contractor)

NANCY KELLERMAN

Printed Signature

McKinsey

  
Signed (M/W/DBE Subcontractor)

Sonia Clayton

Printed Signature

CEO

**TO: Mayor via City Secretary      REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> An ordinance to amend an Agreement between the City of Houston and Houston Area Community Development Corporation	<b>Category #</b>	<b>Page</b> 1 of 1	<b>Agenda Item #</b> <b>49</b> <b>20</b>
	<b>FROM (Department or other point of origin):</b> Richard S. Celli, Director Housing and Community Development Department		<b>Origination Date</b> 9/23/09

<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District affected:</b> District "I" - Rodriguez
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<b>For additional information contact:</b> Donald H. Sampley Phone: (713) 868-8458	<b>Date and identification of prior authorizing Council action:</b> 10/3/07 - #07-1097
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**RECOMMENDATION: (Summary)**  
The approval of an ordinance to amend an Agreement between the City of Houston and Houston Area Community Development Corporation.

<b>Amount of Funding: No Additional Funds Requested</b>	<b>Finance Budget:</b>
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**SOURCE OF FUNDING**       General Fund       Grant Fund       Enterprise Fund

Other (Specify) HOME Fund

**SPECIFIC EXPLANATION:**  
Due to delays in selling the equity from Tax Credits to National Equity Funding, causing a subsequent delay in the start of rehabilitation, Houston Area Community Development Corporation (HACDC), a subsidiary of New Hope Housing, Inc. (NHH), is requesting a second extension to the construction completion date of NHH at Brays Crossing, a new, single room occupancy (SRO) housing facility. The extended date for construction completion will be June 30, 2010.

HACDC is a nonprofit Texas corporation under Section 501(c)(3) and has been certified by HCDD as a Community Housing Development Organization (CHDO). NHH, an independent nonprofit 501(c)(3) corporation, is committed to the development and operation of affordable, single room occupancy (SRO) housing.

On October 3, 2007, City Council approved a contract with HACDC in the amount of \$9,264,198 as 0% Performance Based Loan to assist in the acquisition and rehabilitation of NHH at Brays Crossing.

NHH at Brays Crossing SRO is a rehabilitation of the HouTex Apartments (Hotel) located at 6311 Gulf Freeway. Upon completion of the rehabilitation, the project will have 149 efficiency units as well as a common area building. All units will be restricted to tenants with income of 60% of AMI or less.

NHH at Brays Crossing has obtained support from an impressive coalition of neighborhood organizations and community leaders. The board members of the Houston Area CDC include Michael "Mac" J. Fowler, President, Nell Richardson, Vice President, John W. Benzon, Eric Hagstette, Janet F. Clark and Joy Horak-Brown, Executive Director.

RC:DS:BF

cc: City Secretary, Mayor's Office, Legal Department, Finance

REQUIRED AUTHORIZATION		
<b>Finance Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Construction Contract with Kellogg Brown & Root Services, Inc. for Job Order Contracting Services for the Houston Airport System. Project 516D; (WBS # A-000348-0003-4-01)	<b>Category</b> #1&4	<b>Page</b> 1 of 2	<b>Agenda Item</b> # 50 32
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<b>FROM (Department or other point of origin):</b> Houston Airport System	<b>Origination Date</b> September 2, 2009	<b>Agenda Date</b> <del>SEP 06 2009</del> OCT 07 2009
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<b>DIRECTOR'S SIGNATURE:</b> <i>Eric R. Potter</i>	<b>Council District affected:</b> B, E, I
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<b>For additional information contact:</b> John Silva Phone: 281-233-1925 Robert Bielek Phone: 281-233-1941	<b>Date and identification of prior authorizing Council action:</b> N/A
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<b>AMOUNT &amp; SOURCE OF FUNDING:</b>	<b>Prior appropriations:</b>
CIP No. A-0348.04 \$ 4,000,000.00 Arprt Improvement Fd (8011)	N/A
CIP No. A-0422.78 \$ 70,000.00 Arprt Improvement Fd (8011)	
FY 2010 \$ 1,000,000.00 HAS Revenue Fd (8001)	
Out Years \$ 4,000,000.00 HAS Revenue Fd (8001)	
Total \$ 9,070,000.00	

**RECOMMENDATION: (Summary)**  
Enact an ordinance to approve a contract with Kellogg Brown & Root Services, Inc. and appropriate the necessary funds to finance the cost of these services.

**SPECIFIC EXPLANATION:**  
It is recommended that Council approve an ordinance authorizing a three-year contract with two, one-year option years to Kellogg Brown & Root Services, Inc., to provide Job Order Contracting services for the Houston Airport System (HAS).  
  
This contract will provide Job Order Contracting services for the minor construction, repair, rehabilitation or alteration of HAS facilities. The type of work to be performed under this contract is of a recurring nature where the delivery times and quantities are indefinite and Work Orders are issued on the basis of pre-described and pre-priced tasks. This contract includes both capital and operation and maintenance (O & M) type of projects. It is anticipated that over the five-year term HAS will seek additional appropriations for capital projects, subject to City Council approval.  
  
A Request for Qualifications (RFQ) was advertised in accordance with the requirements of the State bid laws. Six firms responded to the RFQ (CBIC Construction and Development, RHJ-JOC, Inc., Fort Bend Mechanical, JDDA Construction, Inc., Centennial Contractors Enterprises, Inc., and Kellogg Brown & Root Services, Inc.). Based on the selection criteria (Coefficient Factors, Relevant Experience, References, Management Plan, Contractor's Representative, Subcontractors/Suppliers, Safety, Claims History and MWBE commitment), the evaluation committee consisting of HAS management and technical staff selected Kellogg Brown & Root Services, Inc. as the best respondent.  
  
The proposed contract requires compliance with the City's 'Pay or Play' ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with City policy.

REQUIRED AUTHORIZATION		
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>

<b>Date</b> September 2, 2009	<b>Subject:</b> Construction Contract with Kellogg Brown & Root Services, Inc. for Job Order Contracting Services for the Houston Airport System. Project 516D ; (WBS # A-000348-0003-4-01)	<b>Originator's Initials</b> VT	<b>Page</b> 2 of 2
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PROJECT COSTS: The initial amount of this contract is \$9,000,000.00 as follows:

**CAPITAL COST:**

\$4,000,000.00 Construction Services

**OPERATIONS & MAINTENANCE COST:**

\$1,000,000.00 FY10  
\$4,000,000.00 Out Years  
\$5,000,000.00 TOTAL O&M

This project is an eligible project for the Civic Art Program under Ordinance No. 99-1351, and a Civic Art total appropriation of \$70,000.00 (1.75% of the capital component) is therefore being made.

It is anticipated that additional appropriations may be requested for capital cost components during the term of this contract.

M/WBE PARTICIPATION: The M/WBE Participation goal for this contract is forty percent (40%), which is comprised of twenty-five percent (25%) M/WBE participation and fifteen percent (15%) SBE participation.

The RFQ required respondents to certify they shall make a good faith effort to achieve 25% M/WBE and 15% SBE participation levels and that they shall coordinate with the HAS Small Business Development & Contract Compliance Office to develop a subcontractor pool of qualified City certified M/WBE and SBE firms appropriate and available to participate as subcontractors in the Job Order Contract Program. Kellogg Brown & Root Services, Inc. provided the required certification.

The HAS Small Business Development & Contract Compliance Office will monitor this contract in accordance with its procedures.

Attachment: Letter from Kellogg, Brown & Root Services, Inc.



5050 Wright Rd, Bldg C • Houston, TX 77032  
Office: 281.233.7477 • Fax: 281.233.2056

June 23, 2009

The City of Houston  
Houston Airport Systems  
16930 J.K. Kennedy Blvd  
Houston, TX 77032

Subject: Letter of Intent

To Whom It May Concern:

Due to the nature of JOC contracts that does not guarantee specific dollar value or scope of work, at this time Kellogg Brown & Root Services, Inc. can not give exact information as to what portions of the contract will be issued to SBE, MBE & WBE firms nor the percentage of contract value. This is due to JOC contracts being indefinite delivery/indefinite quantity in nature where work performed is determined through out the life of the contract in the form of Work Orders that are issued against the total contract value. Our track record of 32.8% small business participation on the current contract vs. 30% goal shows our commitment to small business participation. To ensure Kellogg Brown & Root Services, Inc. continues to meet the goals set forth by the Small Business Group in the contract documents for SBE, MBE and WBE participation, the following companies will remain as approved vendors and invited to bid Work Orders under the contract:

A & L Services, ACS Mechanical, ARC Light Electric, Barksdale Plastic, Baseline Paving, Farrell Roofing, Foundation Specialist, Gardner Concrete, Houston Christian Brothers Painting, Houston Stripes, Ideal Finishes, MAF Enterprises, MEK Flooring, Milam and Company Painting, PRC Roofing, Preferred Technologies, Scotts Carpet, Select Plumbing, TAG Electric, Tejas Electric, Texas Floor Covering, Universal Sheet Metal & Venedom Construction.

In addition to retaining our proven core of City Certified SBE, MBE & WBE firms, Kellogg Brown & Root Services, Inc., along with the Airports Small Business Group, has begun the planning of a Job Fair to be held at the KBR Houston Airport Systems JOC office. The ultimate goal will be, together, we assist other Kellogg Brown & Root Services, Inc. vendors as well as potential new vendors in obtaining City Certification.

Through the utilization of the vendors mentioned and our close working relationship with the Airports Small Business Group in the past, Kellogg Brown & Root Services, Inc. has been very successful in surpassing the goals set forth in the original Houston Airport Systems JOC contract. This team work will carry over to create the upcoming success on the new contract.

Best regards,  
KELLOGG BROWN & ROOT SERVICES, INC.

  
Daniel Croasmun  
Project General Manager