

AGENDA - COUNCIL MEETING - TUESDAY - OCTOBER 12, 2010 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Jones

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 13, 2010 - 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 26

ACCEPT WORK - NUMBER 1

1. RECOMMENDATION from Interim Director General Services Department for approval of final contract amount of \$4,404,659.00 and acceptance of work on contract with **PYRAMID CONSTRUCTORS, L.L.P.** for Renovation of Magnolia Health and Multi-Service Center - 13.69% over the original contract amount - **DISTRICT I - RODRIGUEZ**

PROPERTY - NUMBERS 2 and 3

2. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from J. Kent Marsh of Marsh Darcy Partners, on behalf of Engin-Real, Inc. of Texas (Randal Holste, Vice President), for abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey, Parcels SY11-005A, SY11-005B and VY11-011 - **DISTRICT H - GONZALEZ**
3. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Oscar De Los Santos, on behalf of Houston Gateway Academy, Inc. (Richard Garza, Chief Executive Officer), and Broadway Baptist Church, (Dr. Randy Fowler, Pastor) that (1) the City abandon and sale a ±18.5-foot-wide portion of excess Dahlia Street right-of-way and (2) the City decline the acceptance of, reject and refuse the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of Harrisburg Addition, Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B **DISTRICT I - RODRIGUEZ**

PURCHASING AND TABULATION OF BIDS - NUMBERS 4 through 5A

4. **FORMS + SURFACES, INC** for Stainless Steel Litter and Recycling Receptacles for the Houston Airport System - \$386,873.00 - Enterprise Fund
5. ORDINANCE appropriating \$3,604,203.00 out of Equipment Acquisition Consolidated Fund for the purchase of additional Patrol Vehicles for the Houston Police Department
 - a. **AMEND MOTION #2009-38, 1/28/09 as previously amended by Motion #2009-769 and #2010-10, TO PURCHASE** additional Patrol Vehicles for the Houston Police Department and the Houston Airport System, awarded to **PHILPOTT MOTORS, LTD d/b/a PHILPOTT FORD** \$192,591.00 - Enterprise Fund

ORDINANCES - NUMBERS 6 through 26

6. ORDINANCE authorizing the Issuance of City of Houston, Texas Public Improvement Refunding Bonds, Series 2010A, Series 2010B, and Taxable Series 2010C for the purpose of Refunding Certain Outstanding General Obligation Commercial Paper Notes, General Obligation Bonds, and General Obligation Pension Note; authorizing the execution and delivery of a Paying Agent/Registrar Agreement, Escrow Agreement and Bond Purchase Agreement relating to such bonds; approving the use of a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement to be used in connection with the sale of the bonds; approving a Co-Bond Counsel Agreement and a Co-Special Disclosure Counsel Agreement, and other related and necessary agreements pertaining to the bonds; delegating authority to enter into such agreements and to approve certain other procedures and provisions related thereto; making other findings and provisions relating to the subject and matters incident thereto, and declaring an emergency
7. ORDINANCE approving the issuance and sale of Coastal Water Authority Contract Revenue Refunding Bonds, Series 2010 (City of Houston Projects); approving the form, terms, and substance of the supplemental resolution of the authority relating to the bonds and related agreements; containing other provisions relating to the subject, and declaring an emergency

ORDINANCES - continued

8. ORDINANCE **AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, related to the creation of a Fleet Management Department; containing findings and other provisions relating to the foregoing subject; providing for severability; providing an effective date
9. ORDINANCE approving and authorizing contract between the City of Houston and **CAROLINA SOFTWARE TECHNOLOGIES, INC d/b/a CST, INC** for Consulting Services to implement a fleet consolidation plan for the City of Houston - Not to exceed \$800,000.00 - General Fund
10. ORDINANCE **AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Administrative Adjudication of certain Health and Safety Violations; containing findings and other provisions relating to the foregoing subject; providing for severability
11. ORDINANCE **AMENDING VARIOUS PROVISIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to creation of a Regulatory Framework for the operation of Pedicabs and Low-Speed Shuttles as Vehicles for Hire; declaring certain conduct to be unlawful and providing penalties therefor; containing findings and other provisions relating to the foregoing subject; providing for severability
12. ORDINANCE appropriating \$17,430,949.00 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 Eleven, City of Houston, Texas (Greater Greenspoint Zone), Reinvestment Zone Number Twelve, City of Houston, Texas (City Park Zone), and Reinvestment Zone Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone) for affordable housing, administrative expenses, payments to Houston Independent School District, and payments to certain redevelopment authorities as provided herein
13. ORDINANCE authorizing the sale of a 1.1852 acre subsurface pipeline easement located in the Reels & Trobough League, A-59, Houston, Harris County, Texas, to **MAGELLAN PIPELINE COMPANY, L.P.**, in consideration of its payment to the City of \$14,713.00 - **DISTRICT I - RODRIGUEZ**
14. ORDINANCE amending Ordinance No. 2009-1059 that authorized and approved Purchase Agreement between **COMMUNITY FAMILY CENTERS / CENTROS FAMILIARES DE LA COMUNIDAD, Purchaser**, and the City of Houston, Texas, Seller, to substitute a new Purchase Agreement for the sale of 1.2548 acres at 7228 Canal Street in the City of Houston Canal Street Subdivision, Samuel M. Williams Survey, A-87, Houston, Texas, for a cash payment of \$142,000.00 - **DISTRICT I - RODRIGUEZ**
15. ORDINANCE approving and authorizing Purchase Agreement between Special Recreation Services, Inc., Purchaser, and the City of Houston, Texas, Seller, for the sale of a tract of land, 0.2820 acres, more or less, located at 7301 Avenue F (Parcel SY9-039) in the Canal Street Subdivision, Samuel M. Williams Survey, A-87, Houston, Texas, for \$14,700.00; approving the Development Agreement and Special Warranty Deed - **DISTRICT I - RODRIGUEZ**

ORDINANCES - continued

16. ORDINANCE appropriating \$3,800,000.00 out of Airports Improvement Fund and \$2,000,000.00 out of the Houston Airport System Subordinate Lien Revenue Bonds, Series 1998B (AMT) Construction Fund and approving and authorizing Amendment No. 1 to the Evaluation, Repairs and Cleanup Services Contract between the City of Houston and **TEXAS DRAIN TECHNOLOGIES, INC** at George Bush Intercontinental Airport/Houston (Project No. 642) **DISTRICT B - JOHNSON**
17. ORDINANCE approving and authorizing submission of an application for grant assistance to the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance under the FY 2010 Congressionally Selected Awards Program to provide Automated Fingerprint Identification System Unit Mobile Suspect ID/Booking Enhancements; declaring the City's eligibility for such grant; authorizing the Chief of the Houston Police Department to act as the City's representative in the application process, to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program
18. ORDINANCE approving and authorizing submission of an application to the United States Department of Health and Human Services for grant assistance for the Centers for Disease Control and Prevention's Expanded HIV Testing for Disproportionately Affected Populations Project; declaring the City's eligibility for such grant; authorizing the Director of the Houston Department of Health and Human Services or his designee to act as the City's representative in the application process, with the authority to approve, accept, reject, alter or terminate such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program
19. ORDINANCE approving and authorizing contract between the City of Houston and **SMART CITY ELECTRIC, INC** to provide Electrical and Plumbing Services to exhibitors for the facilities of the Convention & Entertainment Facilities Department - 2 Years with three one-year options Revenue
20. ORDINANCE appropriating \$18,000.00 out of General Improvement Consolidated Construction Fund as an additional appropriation for Professional Materials Engineering and Testing Services Laboratory Contract between the City of Houston and **ALLIANCE LABORATORIES, INC** (Approved by Ordinance No. 2008-0480) for Pierce Elevated parking lot improvements **DISTRICT I - RODRIGUEZ**
21. ORDINANCE repealing Ordinance No. 74-2051 relating to establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue - **DISTRICT H - GONZALEZ**
22. ORDINANCE approving and authorizing Memorandum of Understanding between the City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)** for the adoption of TXDOT's Federally approved Disadvantaged Business Enterprise Program
23. ORDINANCE approving and authorizing an Advance Funding Agreement between the City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION** for Houston Heritage Corridor Bayou East Trail Segment 1 replacing the original Funding Agreement for Houston Heritage Corridor East and West Segments (Approved by Ordinance No. 1995-1290) - **DISTRICT H - GONZALEZ**

ORDINANCES - continued

24. ORDINANCE approving and authorizing contract between the City of Houston and **CLAY POPE AND CLIFF JOHNSON** for State and Federal Representation related to water and wastewater issues; providing a maximum contract amount - 3 Years - \$522,000.00 - Enterprise Fund
25. Omitted
26. ORDINANCE appropriating \$724,663.00 out of Water & Sewer System Consolidated Construction Fund; awarding contract to **SPECIALIZED MAINTENANCE SERVICES, INC** for Sanitary Sewer Cleaning and Television Inspection in support of rehabilitation; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering and testing, and contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

NON CONSENT AGENDA - NUMBER 27

MISCELLANEOUS

27. **MOTION TO SET A DATE** not less than seven (7) days from October 13, 2010, to receive nominations for Positions 2, 4, 6, 8, 10 and 12 of the **HOUSTON BUSINESS DEVELOPMENT INC**, for three year terms

MATTERS HELD - NUMBERS 28 through 34E

28. RECOMMENDATION from Director Planning & Development Department to approve amendments to the 2009 Major Thoroughfare and Freeway Plan (MTFP) and authorize publication of the 2010 MTFP in map form
TAGGED BY COUNCIL MEMBERS JONES and RODRIGUEZ
This was Item 1 on Agenda of October 6, 2010
29. RECOMMENDATION from Purchasing Agent for award to **ADA RESOURCES, INC** - \$1,895,231.15 and **HOUSTON-PASADENA APACHE OIL COMPANY** - \$731,656.30 for Automotive Lubricants for Various Departments - General and Enterprise Funds
TAGGED BY COUNCIL MEMBER JONES
This was Item 11 on Agenda of October 6, 2010
30. RECOMMENDATION from Purchasing Agent for award to **WEBSTER VETERINARY SUPPLY, INC** - \$2,000,000.00 and **MACI FEED & SUPPLY** - \$180,847.89 for Veterinary Supplies for Various Departments - General Fund - **TAGGED BY COUNCIL MEMBER JONES**
This was Item 12 on Agenda of October 6, 2010

MATTERS HELD – continued

31. ORDINANCE approving and authorizing Automobile Rental Concession Agreement between the City of Houston and **SIMPLY WHEELZ, LLC d/b/a ADVANTAGE RENT A CAR** at William P. Hobby Airport - **DISTRICT I - RODRIGUEZ** - **TAGGED BY COUNCIL MEMBER SULLIVAN**
This was Item 22 on Agenda of October 6, 2010
32. ORDINANCE appropriating \$836,228.00 out of Street & Bridge Consolidated Construction Fund awarding construction contract to **ISI CONTRACTING, INC** for Neighborhood Traffic Management Program; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for contingencies, project management, construction management and engineering testing relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund
TAGGED BY COUNCIL MEMBERS ADAMS and BRADFORD
This was Item 35 on Agenda of October 6, 2010
33. **WRITTEN Motion by Council Member Adams** to amend Item 13 on the October 6, 2010, City Council Agenda by adding a new Section 27.5 to follow Section 27 of the Ordinance, as follows:
 "Section 27.5. That Section 33-253 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:
 'Sec. 33-253. Appeal.
 (a) An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.
 (b) The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The planning commission shall consider the application, the findings of the HAHC and any evidence presented at the meeting at which the appeal is considered. The planning commission shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. If the planning commission does not make a decision on the appeal within 30 days following the planning commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.
 (c) An applicant aggrieved by the decision of the planning commission on an appeal from a decision of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.
 (d) The director shall provide the applicant with notice of the time and place of the meeting at which each appeal will be considered by mail no less than ten days before the date of the meeting."
 TAGGED BY COUNCIL MEMBER LOVELL
- 33a. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
 Amend Sec 33-253
 (d) An applicant aggrieved by a decision of the commission with respect to any certificate of appropriateness may appeal to the city council by filing a written notice of appeal, stating the grounds of the appeal, with the director within ten days following the date the commission renders its decision. Appeals considered by city council shall be conducted pursuant to Sec. 33-228 (f) or Sec. 2-2, rule 12 of the code of ordinance.
 TAGGED BY COUNCIL MEMBER LOVELL

MATTERS HELD – continued

- 33b. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-228

- e. If the HAHC finds that the subject of an application does not qualify for a certificate of non designation, the HAHC shall deny the application and shall notify in writing of the denial, if the HAHC denies the certificate of non designation the property shall be subject to the provisions of section 33-223 of this code for the time specified therein, and of their right to appeal the decision on the record to the city council pursuant to section (f) of this chapter
- f. Appeals to City Council.

Appeals of the rulings of the HAHC may be made to Houston City Council pursuant to Section 2-2, rule 12 of the Code of Ordinances.

Every appeal that is authorized by federal law, state law, the City Charter, or city ordinance to be made to the city council from a decision by an officer, agency, board or commission shall be reviewed by the city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken. Consideration of appeals may be scheduled at any specific time on the agenda, irrespective of the order of business established by these rules.

The director of each department (or a designee), or the presiding officer of a board, commission or agency, or a hearing examiner (the "hearing officer"), as appropriate, shall conduct an evidentiary hearing, the record of which shall be made by a certified court reporter of any matter that may be appealed to the city council. The term "record" shall include, but is not limited to, a transcript of oral testimony, exhibits offered and considered, written or oral responses, answers or questions, and all documents reviewed or considered by a hearing examiner or officer, commission or agency, board, or department director or his designee at an evidentiary hearing. Each presiding officer or hearing officer shall give written notice to any party appearing in an evidentiary hearing that:

(1) A court reporter is required to prepare a record in order for there to be an appeal to the city council;

(2) The party must request, in writing, the presence of a court reporter at the hearing before the hearing officer not less than 24 hours prior to such evidentiary hearing; and

(3) The party requesting the court reporter agrees to pay all costs of the court reporter, including preparation of transcript(s) for appeal to city council.

(4) Except as otherwise provided by the city Code, the party appealing to city council shall submit the complete court reporter-certified record to the city secretary as required by this Code within 60 days of the decision of the officer, agency, board, or commission whose decision or action is the basis of the appeal. Failure to submit the requested or required records within the required time period shall constitute an untimely appeal to city council and a waiver by the appealing party to an appeal before city council.

In the event that an appeal to the city council is filed by a party to a decision, the city council shall consider the appeal solely on the basis of:

(1) The written record of the hearing conducted below; and

(2) The written exceptions, if any, of each party to the proceeding to the facts and administrative rulings and decisions made by the officer, agency, board or commission.

In the event the city council finds that the record is incomplete or inadequate, the city council may refer the matter to the officer, agency, board or commission for further proceedings to complete the record. All decisions of the council on the record, other than a referral for further proceedings, as described above, shall be final and not subject to further appeal or rehearing.

~~Delete (g) If the city council designates as a landmark or archaeological site a building structure object or site that is the subject of an unexpired certificate of non designation, the designation shall not be effective until the expiration of the certificate of non designation. If the city council designates an historic district, the designation shall not be effective with respect to an individual building, structure, object or site located within the historic district that is the subject of an unexpired certificate of non designation until the expiration of the certificate of non designation with respect to the individual building, structure, object or site.~~

TAGGED BY COUNCIL MEMBER LOVELL

MATTERS HELD – continued

- 33c. **WRITTEN Motion by Council Member Pennington** to amend Item number 13 on the October 6, 2010, City Council Agenda by amending Section 13 of the Ordinance to amend Subsection (f) of Section 33-222.1 of the Code of Ordinances, Houston, Texas, as added by Section 13 of the Ordinance, to change the number “60” to the number “67” in every place it appears. - **TAGGED BY COUNCIL MEMBER LOVELL**
- 33d. **WRITTEN Motion by Council Member Hoang** to amend Item 13
Amendment #1 - Application for Historic District
Sec 33-222.1 Application for designation of an historic district
Shall read as follows:
Sec 33-222.1 (f) After the deadline for returning cards mailed in accordance with the subsection (e) has passed, the director will determine if owners of ~~60 percent~~ **67 percent** of all the tracts in the proposed district support the designation of the district. If so, the application will be considered final. If the director determines that the owners of less than ~~60 percent~~ **67 percent** of tracts in the proposed historic district support the designation of the historic, then the director shall either:
(1) Modify the boundaries of the proposed historic district if the modification will result in boundaries where the owners of ~~60 percent~~ **67 percent** of the tracts support designation of the proposed historic district. If the director modifies the boundaries, the application shall be considered final; or - **TAGGED BY COUNCIL MEMBER LOVELL**
- 33e. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
Amend Sec 33-221.1
(e) After the final public meeting, the director shall mail notice to the owners of all property within the proposed historic district. The notice shall include a card to be returned by the property owner which shall indicate whether the property owner does or does not support designation of the historic district. The card must be placed in the U.S. mail with proper postage affixed and postmarked or delivered to the director not later than the thirtieth day after the date on the notice
(f) After the deadline for returning cards mailed in accordance with subsection (e) has passed, the director will determine if owners of 67 percent of all the tracts in the proposed district support the designation of the district. If so, the application will be considered final. If the director determines that the owners of less than 67 percent of tracts in the proposed historic district support the designation of the district then the director shall either:
(1) Modify the boundaries of the proposed historic district if the modification will result in boundaries where the owners of 67 percent of the tracts support designation of the proposed historic district. If the director modifies the boundaries, the application will be considered final; or
(2) Determined that the application fails and that no further action will be taken by the HAHC. The director shall mail notice to the owners of all property within the proposed historic district that the public hearing before the HAHC has been cancelled.
TAGGED BY COUNCIL MEMBER LOVELL
- 33f. **WRITTEN Motion by Council Member Lovell** to amend Item 13 on the October 6, 2010, City Council Agenda by amending Section 25 to replace the words “total added height” with the words “plate height” in the one instance it occurs.
TAGGED BY COUNCIL MEMBER LOVELL

MATTERS HELD – continued

- 33g. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
Amend Sec 33-241
(b) (1) b. The total added height of the addition does not exceed 1.25 times the plate height of the existing structure or the tallest existing building in the District, whichever is higher. - **TAGGED BY COUNCIL MEMBER LOVELL**
- 33h. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
Amend Sec 33-201:
Contributing Structure means a building , structure, object, or site that reinforces or that has conditions which if reversed would reinforce the cultural architectural or historical significance of the historic district in which it is located and that is identified as contributing upon the designation of the historic district which it is located. ~~The term also includes any structure that was identified as partially contributing in any historic district designated prior to the effective date of this ordinance.~~
TAGGED BY COUNCIL MEMBER LOVELL
- 33i. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
Amend Sec 33-223:
(b) The protected status provided in subsection (a) above ends on the earliest of the following dates, but not later than 90 days after the application has been deemed complete pursuant to section 33-221 (d) (1) of this chapter.
~~Delete Section (5) In the case of the denial of a certificate of non designation by the HAHG the 181st day after the decision of the HAHG~~
TAGGED BY COUNCIL MEMBER LOVELL
- 33j. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:
WHEREAS, the foregoing shall apply only to historic districts created following the passage of this ordinance. Historic districts created prior to passage shall be controlled by the provisions of this chapter that were in effect at the time of the designation of the historic district. Existing districts wishing to extend the protections of the revised ordinance may do so by following the procedures proscribed in Sec. 33-221.1 of this chapter.
TAGGED BY COUNCIL MEMBER LOVELL
- 33k. **ORDINANCE AMENDING CHAPTER 33 OF THE CODE OF ORDINANCES** relating to Historic Preservation; making findings and containing other provisions relating to the foregoing subject; containing a repealer; providing for severability
TAGGED BY COUNCIL MEMBERS JONES, JOHNSON, CLUTTERBUCK and SULLIVAN
This was Item 13 on Agenda of October 6, 2010

MATTERS HELD – continued

34. **WRITTEN Motion by Council Member Gonzalez** to amend Item 13a on the October 6, 2010, City Council agenda by amending Sections 2 and 3 of the Ordinance to change the number “15” to the number “30” where it appears in the first paragraph of each Section.

34a. **WRITTEN Motion by Council Member Hoang** to amend Item 13a

Amendment #2 - Transition Provisions

Provisions for Reconsideration of Certain Historic Districts

Shall read as follows:

Section ____ . The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than ~~15-day~~ **60 days** following the date of passage and approval of this Ordinance

TAGGED BY COUNCIL MEMBER LOVELL

34b. **WRITTEN Motion by Council Member Clutterbuck** to amend the proposed Historic Preservation Ordinance as follows:

Amend Subsection (c) of Section 33-227

That the following provisions shall apply to all historic districts previously designated by the city council other than the Old Sixth Ward Protected Historic District. The owner of property in an historic district previously designated by the city council who desire the city council to repeal the designation may submit a request of reconsideration of the designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the “Director”) not later than 30 days following the date of passage and approval of this Ordinance. The request must be signed by the owners of at least 10 percent of the tracts within the historic district or proposed historic district. ~~The request shall identify the basis for the request, including any changed circumstance that render one or more of the criteria on which the designation or proposed designation was based no longer applicable.~~

TAGGED BY COUNCIL MEMBER LOVELL

34c. **WRITTEN Motion by Council Member Pennington** to amend item number 13a on the October 6, 2010, City Council Agenda by amending Section 2 of the Ordinance to read in its entirety as follows:

“Section 2. That the following provisions shall apply to all historic districts previously designated by the City Council other than the Old Sixth Ward Protected Historic District (a “Designated Historic District”). Each Designated Historic District shall be resurveyed within a period of 90 days upon passage of Ordinance No. 2010-_____¹ (the “Ordinance”). One public meeting shall be held for each Designated Historic District in a suitable location in or near such Designated Historic District within a period of 60 days following the effective date of the Ordinance, to explain the provisions of the Ordinance and the impact of any such amendments including, without limitation, the elimination of the 90-day waiver provision. The Director of the Department of Planning and Development (the “Director”) shall give notice of the meeting by mailing a letter, sent by first class United States postage prepaid, to the owners of all tracts of land located within the Designated Historic District as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, location and purpose of the public meeting. Following the public meeting, the Director shall mail a ballot to each owner of property within a Designated Historic District which will direct the property owner to return it to the Director indicating whether the property owner does or does not support the continued designation of the Designated Historic District. Each tract shall receive one ballot regardless of the number of owners of that tract. The ballots shall be returned to the Director by the later of (i) 90 days following the effective date of the Ordinance, or (ii) 30

¹ City Secretary to insert the number of the Ordinance that appears as Item 13 on the October 6, 2010 City Council agenda.

MATTERS HELD – continued

Item 34c - continued

days after the above-referenced public meeting has been conducted. . Tracts of publicly owned land, utility easements, and public rights-of-way shall not be counted towards determining support for or against remaining in a Designated Historic District.

The Director shall report to City Council the result of the resurvey and other information relevant to the designation of the Designated Historic District. If the number of properties supporting the continued designation of the Designated Historic District equals 67% or more of the total number of properties located in the Designated Historic District, the Director shall recommend to City Council that it take no action with respect to the designation of the historic district. If the number of properties supporting the continued designation of the Designated

Historic District equals less than 67% of the total number of properties in the Designated Historic District, the Director shall recommend to City Council that it repeal the resolution creating the Designated Historic District or amend the boundaries of the Designated Historic District to reduce its size, and the City Council may vote to repeal the resolution or take other action it deems appropriate. The vote of the City Council shall be final.”

TAGGED BY COUNCIL MEMBER LOVELL

- 34d. **MOTION by Council Member Jones/Seconded by Council Member Pennington** “that they make the effective date from the date they post the petition or re-petition, whatever it was called” - **TAGGED BY COUNCIL MEMBER CLUTTERBUCK**

- 34e. **ORDINANCE** establishing a process for the reconsideration of the designation of historic districts within the City of Houston designated or pending designation by the City Council in connection with the amendment of certain provisions of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, relating to Historic Preservation

TAGGED BY COUNCIL MEMBERS JONES, JOHNSON, CLUTTERBUCK and SULLIVAN

This was Item 13A on Agenda of October 6, 2010

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Rodriguez 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

**CITY COUNCIL CHAMBER - CITY HALL 2nd FLOOR - TUESDAY
OCTOBER 12, 2010 – 2:00 PM**

AGENDA

<u>3MIN</u>	<u>3MIN</u>	<u>3MIN</u>
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MR. DAVID KRENTZ – 412 Westmoreland – 77006 – 713-522-3782 – Historic Preservation – Item 33 & 34

NON-AGENDA

<u>2MIN</u>	<u>2MIN</u>	<u>2MIN</u>
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MR. DON MOSER – Post Office Box 3824 – 77253 – 713-236-1676 – City-wide Holiday

MR. GERARDO PEREZ – 3726 Lacewood – 77023 – 832-875-7939 – Proposition 1

<u>3MIN</u>	<u>3MIN</u>	<u>3MIN</u>
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MR. DAVID SMOLENSKY – 8110 Wateka Dr. - 77074 – 713-723-8780 – HPD/Public Works Dept.

MS. LORETTA FRANK – 2920 Shadowbriar – 77082 – 832-329-5087 – Fire Marshall

MR. JOSEPH OMO OMUARI – 6363 Cattail – 77045 – 318-402-5640 – Metro Q-Card

MR. /COACH R. J. BOBBY TAYLOR - 3107 Sumpter - 77026 - FA34511 - Behavior; Fiesta Ballroom, 200 Jackson Street, Houston, disgracing Parents/Children

MS. SUSAN RAFTE – 2449 South Blvd., No. 100 – 77098 – Pink Ribbon Project

MR. AUGUSTINE CASTILLO – 1103 Erin - 77009 – 832-656-7804 – Litter/Dumpster/Trash and Cab issues

MS. ANDREA ROBINSON – 6631 Richwood – 77087 – 713-645-8653 – Proposal of new store

MS. ELIZABETH PEREZ – 5433 N. Crooked Creek Dr. - 77017 – Proposition 1

MR. JOHN JOHNSON – 7102 Windemere – 77088 – 832-453-1900 – Fire Marshall McIntyre

MS. BOBBIE KITE – 11500 NW Fwy. Ste. 200 – 77092 – 713-422-2233 – Houston Space Center

PREVIOUS

<u>1MIN</u>	<u>1MIN</u>	<u>1MIN</u>
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MS. MARY TAYLOR - 1403 Fashion Hill Dr. - 77088 - 281-445-0682 – Stuebner Airline Park for YMCA from Joe Turner/Director


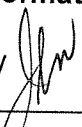
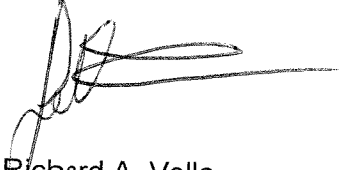
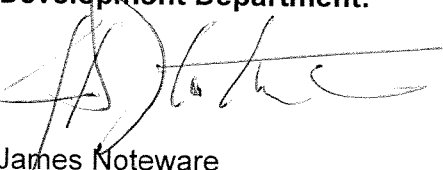
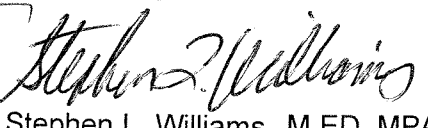
MR. JOE ANGEL LOPEZ – 13334 Wells River – 77041 – 832-465-2941 – Jolanda works - They City Council Sleeps

MR. JOHN CIESLEWISZ – 1250 Dubarry Ln. – 77018 – 713-683-0703 – Water drainage

MR. BILL GOTTFRIED – 7447 Tulane – 77008 – 713-299-0653 – Historic Preservation – Items 33 & 34

MRS. DANIELLE GOTTFRIED – 7447 Tulane – 77008 – 713-299-0653 – Historic Preservation - Items 33 & 34

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Accept Work Pyramid Constructors, L.L.P. Renovation of Magnolia Health and Multi-Service Center WBS No. D-000080-0001-4		Page 1 of 2	Agenda Item 1
FROM (Department or other point of origin): General Services Department		Origination Date 10-7-10	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE: Forest R. Christy, Jr., Interim Director 		Council District(s) affected: 1	
For additional information contact: Jacquelyn L. Nisby  Phone: 832.393.8023		Date and identification of prior authorizing Council action: Ordinance 2008-0304 Dated April 9, 2008 Ordinance 2009-0589 Dated June 24, 2009	
RECOMMENDATION: Pass a motion approving the final contract amount of \$4,404,659.00, accept the work, and authorize final payment.			
Amount and Source of Funding: No Additional Funding Required		Finance Budget:	
Previous Funding: \$3,053,000.00 Federal Government-Grant Funded (5000) CDBG \$1,381,500.00 Public Health Consolidated Construction Fund (4508) \$ 193,710.00 General Improvement Consolidated Construction Fund (4509) \$4,628,210.00 Total Funding			
SPECIFIC EXPLANATION: The General Services Department recommends that City Council approve the final contract amount of \$ 4,404,659.00 or 13.69% over the original contract amount, accept the work and authorize final payment to Pyramid Constructors, L.L.P., for construction services in connection with the Renovation of Magnolia Health and Multi-Service Center for the Department of Health and Human Services.			
PROJECT LOCATION: 7037 Capitol Street (494Z)			
PROJECT DESCRIPTION: This project renovated mechanical and electrical systems that have been in place since 1988. The community had outgrown the facility and interior expansion of the Senior Citizen area was needed. The scope of work consisted of a new roof, plumbing replacement, HVAC replacement including ductwork, electrical system upgrades, installation of a new fire alarm and sprinkler system, building code and ADA updates, and reconfiguration of interior spaces to gain better utilization of the building.			
PREVIOUS HISTORY AND PROJECT SCOPE: On April 9, 2008, City Council awarded a construction contract to Pyramid Constructors, L.L.P., to provide construction services for the renovation of Magnolia Health and Multi-Service Center. The contract was awarded with a 10% contingency to address unforeseen conditions that are typically inherent in the renovation of aged facilities. On June 24, 2009, City Council approved a First Amendment to increase the maximum contract contingency up to 15% to address various unforeseen conditions related to outdated electrical grounding circuits and mold on the exterior walls of the facility.			
REQUIRED AUTHORIZATION CUIC ID#25CONS162			
General Services Department:  Richard A. Vella Chief of Design & Construction Division	Housing and Community Development Department:  James Noteware Director	Department of Health and Human Services:  Stephen L. Williams, M.ED, MPA, Director	

Date	Subject: Accept Work Pyramid Constructors, L.L.P. Renovation of Magnolia Health and Multi-Service Center WBS No. D-000080-0001-4	Originator's Initials AWP	Page 2 of 2
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CONTRACT COMPLETION AND COST: The contractor completed the project within 687 days; the original contract time of 530 days, plus an additional 157 days approved by Change Orders. The final cost of the project, including Change Orders is \$4,404,659.00, an increase of \$530,459.00 over the original contract amount.

John Kirksey Associates, Architects, Inc., D/B/A Kirksey, was the project design consultant and construction manager.

PREVIOUS CHANGE ORDERS: Change Orders 1-12 addressed unforeseen conditions discovered during the renovation process and provided additional improvements requested by the Health and Human Services Department to handle increased demands for services and regulatory compliance. The overall increased scope of work consisted of the following: (a) Demolition and replacement of sheetrock and insulation due to extensive mold discovered behind vinyl wall covering on all outside walls. (b) New grounding system to comply with Code. (c) Replacement of plumbing controls due to the discovery of numerous domestic water valves above ceiling and behind walls being badly corroded and in danger of bursting. (d) Replacement of deteriorated lightweight concrete and metal roof deck resulting in a life/safety issue over the daycare center. (e) Enhancements needed in the daycare kitchen due to equipment failure. (f) Re-configuration of space to accommodate additional occupancy in the Woman Infant Child (WIC) Center as a result of the closure of Gulfgate WIC facility due to Hurricane Ike damages. (g) Addition of sinks in each exam room to comply with state regulation and certification. Change Order 13 provided a credit for deleted lighting not provided by the contractor.

M/WBE PARTICIPATION: The contract contained a 15% MBE goal, 5% SBE goal and 5% WBE goal. The contractor achieved 21.43% MBE participation, 6.31% SBE participation, and 0% WBE participation as a result of the WBE firm, MEK Interiors and Floors, Inc., refusing to honor their bid. According to the Affirmative Action and Contract Compliance Division, the contractor exceeded the goal for MBE participation to make up the difference and was assigned an outstanding rating.



FRC:JLN:RAV:MCP:AWP

c: Marty Stein, Humberto Bautista, Chris Gonzales, Jacquelyn L. Nisby, Velma Laws, Kim Ngyuen, Claudette Manning, File



Magnolia Multi-Service Center

7037 Capitol, Houston Texas

SUBJECT: Request for the abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey. **Parcels SY11-005A, SY11-005B, and VY11-011**

Page
1 of 2

Agenda Item #

2

FROM (Department or other point of origin):**Origination Date****Agenda Date**

Department of Public Works and Engineering

10-6-10

OCT 13 2010

DIRECTOR'S SIGNATURE:**Council District affected:** H

Daniel W. Krueger, P.E., Director

Key Map: 492H - 493E**For additional information contact:****Date and identification of prior authorizing Council Action:**Nancy P. Collins
Senior Assistant Director-Real Estate**Phone:** (713) 837-0881

RECOMMENDATION: (Summary) It is recommended City Council approve a motion authorizing the abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey. **Parcels SY11-005A, SY11-005B, and VY11-011**

Amount and**Source of Funding:** Not Applicable**SPECIFIC EXPLANATION:**

J. Kent Marsh of Marsh Darcy Partners, 8955 Katy Freeway, Suite 215, Houston, Texas, 77024, on behalf of Engin-Real, Inc. of Texas (Randal Holste, Vice President), requested the abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316, south ± 190.31 feet, and a sanitary sewer easement in Lot 2, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey. Engin-Real, Inc. of Texas, the abutting property owner, plans to use the subject properties for future commercial redevelopment.


This transaction is Part One of a two-step process in which the applicant will first receive a City Council authorized Motion acknowledging the concept of the subject request. Upon the applicant satisfactorily completing all transaction requirements including those enumerated below, the Department of Public Works and Engineering will forward a subsequent recommendation to City Council requesting passage of an Ordinance effecting the abandonment and sale. The Joint Referral Committee reviewed and approved this request subject to the conveyance to the City of a 20-foot-wide utility easement. Therefore, it is recommended:

1. The City abandon and sell a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey;
2. The applicant be required to: (a) cut, plug, and abandon the 8-inch sanitary sewer line and relocate it to the 20-foot-wide utility easement being conveyed to the City, south of the proposed Koehler Street, with connection to the proposed sanitary sewer line in the Koehler Street right-of-way, and (b) cut, plug and abandon the 6-inch sanitary sewer line that is crossing Yale Street in a northeast/southwest direction at the east right-of-way line of Yale Street. All of the above work is to be done at no cost to the City and under the proper permits

tj\sy11-005.rc1.doc

CUIC #20TJ9149

REQUIRED AUTHORIZATION**Finance Department:****Other Authorization:****Other Authorization:**Mark L. Loethen, P.E., CFM, PTOE
Acting Deputy Director
Planning and Development Services Division

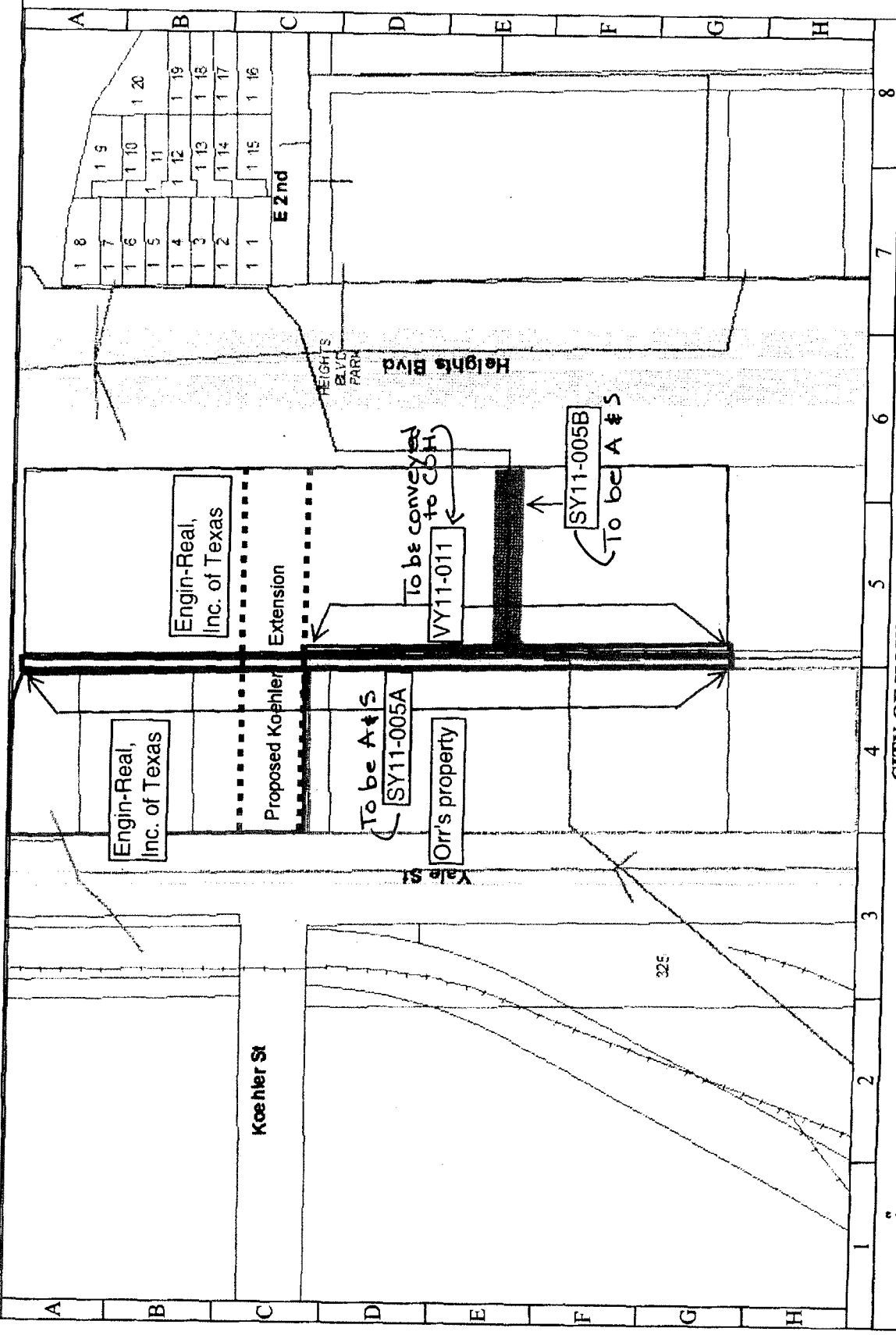
Date:	Subject: Request for the abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey. Parcels SY11-005A, SY11-005B, and VY11-011	Originator's Initials 	Page <u>2</u> of <u>2</u>
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3. The applicant be required to prepare drawings that show all public utilities (sanitary 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;
4. 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 2 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 an 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;
5. 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;
6. The applicant be required to obtain a letter of no objection from each of the privately owned utility companies for the prescriptive utility easement 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 Michael D. Copland, an independent appraiser appointed by the Director of Public Works and Engineering.

DWK:NPC:tj

c: Jun Chang, P.E.
David Feldman
Marlene Gafrick
Terry A. Garrison
Daniel Menendez, P.E.
Marty Stein

Maintenance and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey. Parcels SY11-005A, SY11-005B, and VY11-011



CITY OF HOUSTON
 Department of Public Works and 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.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Request for a Motion: (1) authorizing the abandonment and sale of a ± 18.5 -foot-wide portion of excess Dahlia Street right-of-way and (2) declining the acceptance of, rejecting, and refusing the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition. **Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B**

Page
1 of 2

Agenda Item #

3

FROM (Department or other point of origin):

Origination Date

10/5/10

Agenda Date

OCT 13 2010

Department of Public Works and Engineering

DIRECTOR'S SIGNATURE:

Daniel W. Krueger, P.E., Director

Council District affected: 1

Key Map: 535A

For additional information contact:Nancy P. Collins
Senior Assistant Director-Real Estate

Phone: (713) 837-0881

Date and identification of prior authorizing Council Action:

RECOMMENDATION: (Summary) It is recommended City Council approve a Motion: (1) authorizing the abandonment and sale of a ± 18.5 -foot-wide portion of excess Dahlia Street right-of-way and (2) declining the acceptance of, rejecting, and refusing the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition. **Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B**

Amount and**Source of Funding:** Not Applicable**SPECIFIC EXPLANATION:**

Oscar De Los Santos, 3400 Evergreen Street, Houston, Texas, 77087, on behalf of Houston Gateway Academy, Inc., (Richard Garza, Chief Executive Officer), and Broadway Baptist Church, (Dr. Randy Fowler, Pastor), requested the non-acceptance a ± 21 -foot-wide portion of excess Dahlia Street right-of-way and a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition. This portion of Dahlia Street right-of-way was conveyed to the City by a warranty deed, dated March 15, 1927 and recorded in Volume 698, Page 138 of the Harris County Deed Records, for the expansion of Highway 225. However, Highway 225 was constructed two blocks north on Lawndale Avenue. It was determined that a ± 18.5 -foot-wide portion of excess Dahlia Street right-of-way will be abandoned and sold and a 2.5-foot-wide portion of the right-of-way will be retained by the City for future use. It was determined the City may non-accept the alley dedicated by the Harrisburg Addition Plat, dated April 1, 1854 and recorded in Volume 6, Page 201 of the Harris County Map Records, because it was never opened, used as an alley, or for utility purposes. Further, the City does not foresee any future need for this alley.

Houston Gateway Academy, an abutting property owner, plans to incorporate the excess street right-of-way to be abandoned and sold and the alley to be non-accepted into its adjacent property to construct a multi-story school building and parking. Broadway Baptist Church, an abutting property owner, plans to transfer by deed its portion of the street right-of-way to be abandoned and sold and the alley to be non-accepted to Houston Gateway Academy, Inc. upon passage of an ordinance effecting the abandonment and sale.


This is Part One of a two-step process in which the applicant will first receive a City Council authorized Motion acknowledging the concept of the street right-of-way abandonment and sale portion of this request. Upon the applicant satisfactorily completing all transaction requirements including those enumerated below, the Department of Public Works and Engineering will forward a subsequent recommendation to City Council requesting passage of an Ordinance effecting the sale. The portion of this request regarding the non-acceptance of the alley will be accomplished by passage of a City Council authorized Motion. The Joint Referral Committee reviewed and approved this request. Therefore, it is recommended:

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CUIC #20DOB9146

REQUIRED AUTHORIZATION

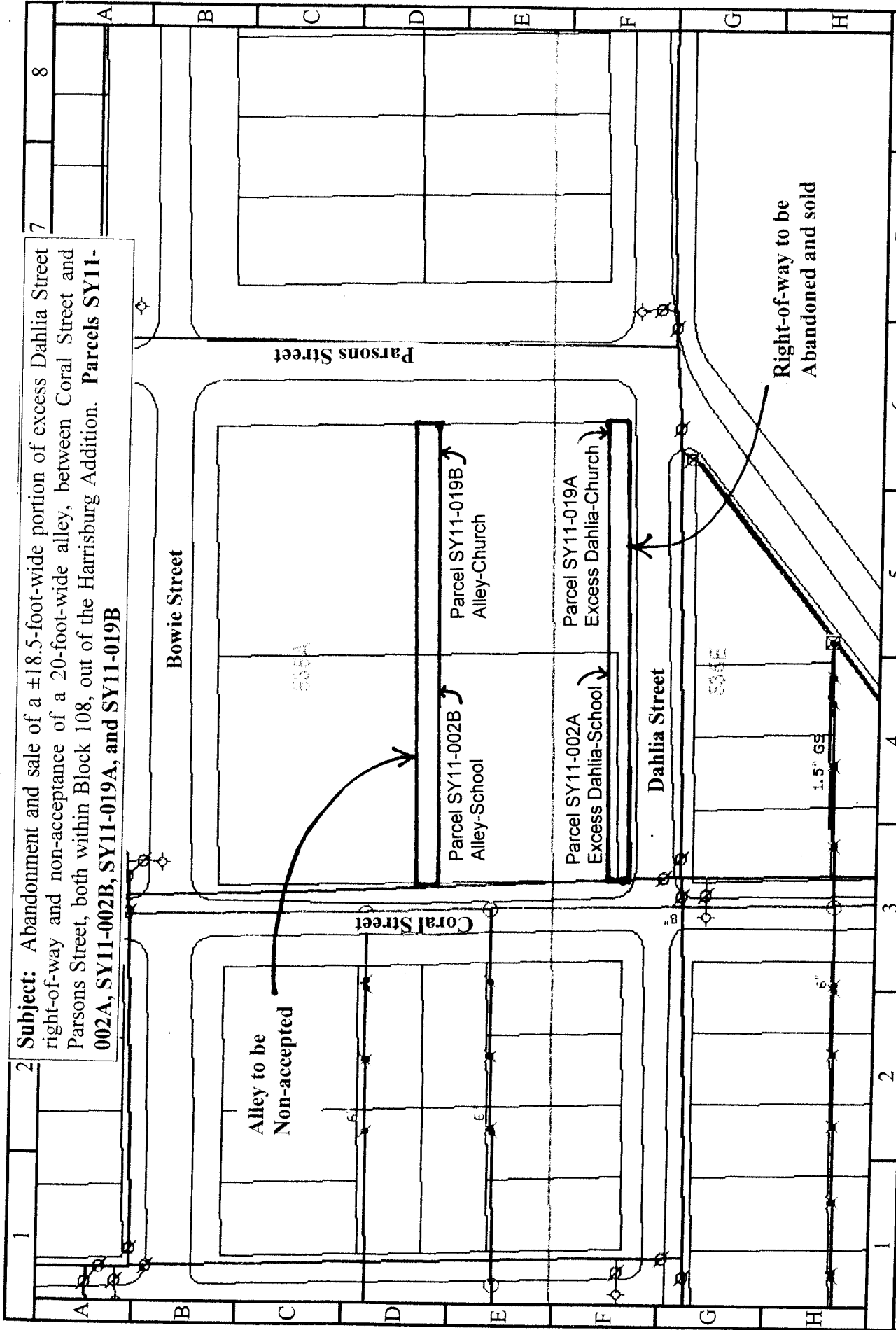
Finance Department:**Other Authorization:****Other Authorization:**Mark L. Loethen, P.E., CFM, PTOE
Acting Deputy Director
Planning and Development Services Division

Date:	Subject: Request for a Motion: (1) authorizing the abandonment and sale of a ±18.5-foot-wide portion of excess Dahlia Street right-of-way and (2) declining the acceptance of, rejecting, and refusing the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition. Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B	Originator's Initials 	Page <u>2</u> of <u>2</u>
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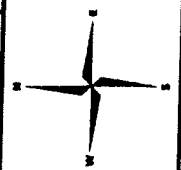
1. The City (1) abandon and sell a ±18.5-foot-wide portion of excess Dahlia Street right-of-way and (2) decline the acceptance of, reject, and refuse the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition;
2. The applicants 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 applicants be required to obtain a letter of no objection from each of the privately owned utility companies for the street right-of-way being abandoned and sold and the alley being non-accepted;
4. The Legal Department be authorized to prepare the necessary transaction documents; and
5. Inasmuch as the value of the property interests is not expected to exceed \$50,000.00, that the value be established by staff appraisal, according to City policy.

MSM:NPC:dob

c: Jun Chang, P.E.
David Feldman
Marlene Gafrick
Terry A. Garrison
Marty Stein
Jeffery Weatherford, P.E., PTOE



Subject: Abandonment and sale of a ±18.5-foot-wide portion of excess Dahlia Street right-of-way and non-acceptance of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of the Harrisburg Addition. **Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B**

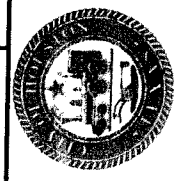


1 inch = 100 feet

CITY OF HOUSTON

Department of Public Works and Engineering
Geographic Information & Management System (GIMS)

DISCLAIMER: THIS MAP REPRESENTS THE BEST INFORMATION AVAILABLE TO THE CITY.
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 FIELD VERIFICATIONS SHOULD BE DONE AS NECESSARY.



REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8764

Subject: Formal Bid Received for Stainless Steel Litter and Recycling Receptacles for the Houston Airport System S44-S23615

Category #
4

Page 1 of 1

Agenda Item

4

FROM (Department or other point of origin):

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

Origination Date

September 28, 2010

Agenda Date

OCT 13 2010

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected
B, I

For additional information contact:

Dallas Evans Phone: (281) 230-8001
Desiree Heath Phone: (832) 393-8742

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an award to Forms + Surfaces, Inc. on its sole bid in an amount not to exceed \$386,873.00 for stainless steel litter and recycling receptacles for the Houston Airport System.

Estimated Spending Authority: \$386,873.00

Finance Budget

\$386,873.00 HAS-Revenue Fund (8001)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an award to Forms + Surfaces, Inc. on its sole bid in an amount not to exceed \$386,873.00 for stainless steel litter and recycling receptacles for the Houston Airport System. It is further requested that authorization be given to make purchases, as needed, for a 12-month term. This award consists of approximately 263 stainless steel litter and recycling receptacles that will be placed in public areas inside terminals at William P. Hobby and George Bush Intercontinental Airports for the collection of recyclable plastic bottles, aluminum cans, and paper. The receptacles will also be used for the collection of litter.

This project was advertised in accordance with the requirements of the State of Texas bid laws and one bid was received. The Strategic Purchasing Division conducted a thorough search for additional suppliers who could possibly provide this commodity. As a result, ten suppliers were identified and notified of the Invitation to Bid (ITB). Subsequent to the receipt of the bid, prospective bidders were contacted to determine the reason for the limited response to the ITB. Prospective bidders advised their company either did not carry the receptacle or one that was of similar nature.

Buyer: John Tatman

Attachment: M/WBE zero-percentage goal document approved by the Affirmative Action Division.

Estimated Spending Authority

DEPARTMENT	FY2011	OUT YEARS	TOTAL
Houston Airport System	\$216,237.00	\$170,636.00	\$386,873.00

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

MT

CITY OF HOUSTON
INTEROFFICE CORRESPONDENCE

TO: Velma Laws
Director
Mayors Office Of Affirmative Action

FROM: J. Goodwille Pierre
Manager-Small Business
Development and Contract
Compliance
Houston Airport System

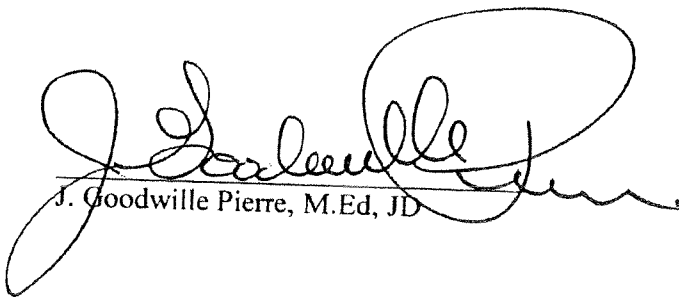
DATE: April 13, 2010

SUBJECT: Approval of 0% Goal for Litter
and Recycle Receptacles for the
Houston Airport System.
Bid #S44-S23615

The Houston Airport System (HAS) requests approval from The Mayor's Office of Affirmative Action and Contract Compliance for a zero (0%) goal for Litter and Recycle Receptacles for the Houston Airport System (Bid #S44-S23615). The total value of this request is \$411,475.00: \$229,988.00 for FY '10 and \$181,487.00 for FY '11.

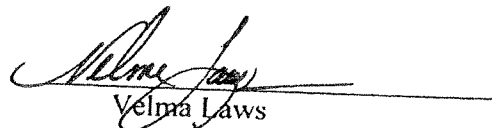
All litter and recycle receptacles will be dropped shipped in two shipments directly to the airport for delivery to airport locations by airport employees.

Because there are no MWBE manufacturers for these receptacles, and little or no MWBE participation potential on this contract, the Houston Airport System is requesting from the Mayor's Office of Affirmative Action and Contract Compliance approval of a Zero (0%) goal for the above referenced bid.



J. Goodwille Pierre, M.Ed, JD

Read and Approved



Velma Laws

JGP:jvw

cc: Ian Wadsworth
Elnora Williams

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8838

Subject: Amend Council Motion No. 2009-0038, Passed January 28, 2009 to Purchase Additional Patrol Vehicles for the Houston Police Department and the Houston Airport System
S38-N22954-A3

Category #
1 & 4

Page 1 of 1

Agenda Item

5+5A

FROM (Department or other point of origin):

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

Origination Date

September 13, 2010

Agenda Date

OCT 13 2010

DIRECTOR'S SIGNATURE

For additional information contact:

Joseph Fenninger Phone: (713) 308-1708
Ray DuRousseau Phone: (832) 393-8726

Council District(s) affected
All

Date and Identification of prior authorizing
Council Action:

CM Nos. 2009-0038, 2009-0769, and 2010-0010

RECOMMENDATION: (Summary)

Approve an ordinance authorizing the appropriation of \$3,604,203.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) and amend Council Motion No. 2009-0038, passed January 28, 2009 to purchase additional patrol vehicles for a total increase of \$3,796,794.00 for the Houston Police Department and the Houston Airport System.

Award Amount: \$3,796,794.00

Finance Budget

\$3,604,203.00 - Equipment Acquisition Consolidated Fund (Fund 1800)
\$ 192,591.00 - HAS - AIF Capital Outlay Fund (Fund 8012)
\$3,796,794.00 - Total Funding

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an ordinance authorizing the appropriation of \$3,604,203.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) for the Houston Police Department. It is further recommended that City Council amend Council Motion No. 2009-0038, passed January 28, 2009 and subsequently amended by Council Motion Nos. 2009-0769 and 2010-0010, passed October 21, 2009 and January 6, 2010, respectively, to purchase 138 additional patrol vehicles for the Houston Police Department and the Houston Airport System for a total increase of \$3,796,794.00, and that authorization be given to issue purchase orders to the awarded supplier, Philpott Motors, Ltd., d/b/a Philpott Ford. These new patrol vehicles will be used citywide and at the George Bush Intercontinental and William P. Hobby Airports by Houston Police Department officers for patrol activities and to respond to emergency incidents. The funding for the patrol vehicles that are funded with the Equipment Acquisition Consolidated Fund (Fund 1800) is included in the adopted Equipment Acquisition Plan.

In July 2008, as a result of advertising this bid in accordance with the requirements of the State of Texas bid laws, a sole bid was received from Philpott Motors, Ltd., d/b/a Philpott Ford. The bid document included a provision that allows the City to purchase additional vehicles provided that the awarded supplier agrees to honor the original bid price. Philpott Motors, Ltd., d/b/a Philpott Ford has agreed in writing to honor its original unit bid price of \$27,513.00 through December 31, 2010.

These new patrol 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 four years or 100,000 miles. See Attachment No. 2, Equipment Usage Summary, for vehicle usage and replacement details. These new patrol vehicles will replace existing units that have exceeded their useful life and will be sent to auction for disposition.

Buyer: Lena Farris

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

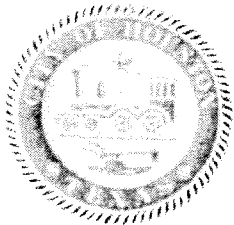
REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

9/28/10



CITY OF HOUSTON

Administration & Regulatory Affairs Department
Strategic Purchasing Division (SPD)

Interoffice

Correspondence

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

From: Lena Farris

Date: June 16, 2008

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 ☐ 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: N22954 Estimated Dollar Amount: \$7,317,000.00

Anticipated Advertisement Date: 6/27/2008 Solicitation Due Date: 7/17/2008

Goal On Last Contract: 0% Was Goal met: Yes ☐ No ☐

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

Name and Intent of this Solicitation:
Patrol Vehicles for the Houston Police Department

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

The only MWBE potential in the purchase of patrol vehicles is the purchase and installation of the aftermarket equipment (lightbars, sirens, push bumpers, etc.)

Strategic Purchasing reviewed the current Affirmative Action MWBE Directory and could not find any suppliers that could provide the after market equipment for the Houston Police Department's patrol vehicles.

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.

ATTACHMENT 1

**EQUIPMENT USAGE SUMMARY
PATROL VEHICLES FOR POLICE DEPARTMENT
N22954A3
RCA 8838**

BID ITEM NO./ DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT/DIVISION FLEET USAGE	EQUIPMENT REPLACEMENT		
				<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
ITEM NO. 1 REAR WHEEL DRIVE, FULL SIZE SEDAN, PATROL VEHICLE	10109171	131	Houston Police Department These vehicles will be used citywide by the department's police officers responding to accidents, crimes and emergency incidents.	28772	12	180,968
				31178	10	120,104
				31240	10	73,685
				31253	9	53,794
				31261	10	114,164
				31293	9	98,368
				31433	9	83,572
				31436	9	94,325
				31464	9	59,573
				31467	9	72,236
				31474	9	81,666
				31475	9	81,895
				31489	9	97,341
				31379	5	129,207
				31553	9	81,892
				32148	9	63,402
				34387	5	129,804
				32199	9	121,880
				32224	9	98,566
				32249	9	89,092
				34630	5	154,428
				32251	9	63,877
				32273	9	112,902
				32286	9	109,487
				32327	7	82,489
				32330	8	81,079
				33070	7	85,334
				35016	5	143,464
				33073	7	116,898
				33079	7	98,005
				33091	7	96,792
				34402	5	143,915
				33099	7	105,220
				33107	7	69,563
				33118	7	136,966
				33120	7	104,777
				33126	7	117,758
				33142	7	128,418
				33158	7	130,589
				<u>33170</u>	7	92,279
				40 Units		

EQUIPMENT USAGE SUMMARY
PATROL VEHICLES FOR POLICE DEPARTMENT
N22954A3
RCA 8838

BID ITEM NO./ DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT/DIVISION FLEET USAGE	EQUIPMENT REPLACEMENT		
				<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
ITEM NO. 1 REAR WHEEL DRIVE, FULL SIZE SEDAN, PATROL VEHICLE (Continued)	10109171		Houston Police Department	35020	5	148,259
				33202	7	102,062
				35022	7	146,229
				33206	4	139,248
				33218	8	106,411
				33220	7	99,984
				35023	7	151,850
				35024	5	129,952
				33222	7	124,354
				35027	5	121,645
				33228	7	67,613
				33247	7	66,707
				33255	7	108,214
				34407	5	111,296
				33585	6	100,242
				33594	6	99,222
				33596	6	79,275
				35030	6	123,080
				33602	6	133,245
				34409	6	115,884
				33604	6	129,161
				33613	6	94,937
				33615	6	96,362
				35185	5	119,982
				33620	6	119,987
				35192	5	137,491
				35196	5	142,249
				34415	5	130,379
				33645	6	128,727
				33651	6	135,567
				33679	6	133,043
				33692	6	99,275
				33694	6	102,420
				34434	5	115,618
				33700	6	104,457
				33710	6	82,005
				33718	6	84,425
				34481	5	116,757
				35759	4	115,160
				<u>33721</u>	6	139,604
				40 Units		

**EQUIPMENT USAGE SUMMARY
PATROL VEHICLES FOR POLICE DEPARTMENT
N22954A3
RCA 8838**

BID ITEM NO./ DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT/DIVISION FLEET USAGE	EQUIPMENT REPLACEMENT		
				<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
ITEM NO. 1 REAR WHEEL DRIVE, FULL SIZE SEDAN, PATROL VEHICLE (Continued)	10109171		Houston Police Department	33730	6	112,926
				33797	6	123,708
				35785	4	105,900
				35174	5	104,442
				33838	6	146,396
				35477	5	105,042
				33848	6	137,715
				34378	5	147,271
				34379	5	127,826
				34387	5	125,479
				34388	5	55,013
				34390	5	118,960
				34392	5	127,527
				35168	5	103,733
				34396	5	100,824
				34399	5	121,028
				34414	5	111,344
				34430	5	151,550
				34432	5	139,092
				35198	5	124,220
				34494	5	119,622
				34551	5	146,288
				34567	5	153,920
				34443	5	162,629
				34444	5	144,418
				34448	5	133,145
				29706	11	118,678
				29880	11	97,497
				29941	11	136,069
				29957	11	142,536
				31183	10	133,128
				31219	10	157,497
				31480	9	103,246
				31490	9	96,446
				32112	9	92,989
				32195	9	97,864
				32315	9	97,958
				33162	7	89,589
				33169	7	92,403
				<u>33176</u>	7	92,237
				40 Units		

**EQUIPMENT USAGE SUMMARY
PATROL VEHICLES FOR POLICE DEPARTMENT
N22954A3
RCA 8838**

BID ITEM NO./ DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT/DIVISION FLEET USAGE	EQUIPMENT REPLACEMENT		
				<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
ITEM NO. 1, REAR-WHEEL DRIVE, FULL SIZE, 4-DOOR PATROL VEHICLES	10109171		Police Department	33213	7	101,303
				33258	7	94,231
				33285	7	95,009
				33614	6	96,228
				33619	6	91,989
				33643	6	97,945
				33699	6	90,167
				33700	6	89,520
				33703	6	96,037
				33704	6	99,886
				<u>35200</u>	6	109,312
				11 Units		
	10111501	4	Houston Airport	<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
	10111502	3	Systems/George R. Bush Intercontinental Airport and William P. Hobby Airport These vehicles will be used by the police officers for patrol activities and to respond to accidents, crimes, and emergency incidents.	32318	9	142,350
				32326	9	146,057
				32296	9	92,636
				33829	9	100,114
				29944	11	61,943
				29945	11	103,773
				<u>32307</u>	9	92,701
				7 Units		

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance authorizing the Preliminary Official Statement, distribution of the Preliminary Official Statement and proceeding with the sale of the Public Improvement Refunding Bonds Series 2010A, Series 2010B and Series 2010C.	Category #	Page 1 of <u>2</u>	Agenda Item # <u>6</u>
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FROM (Department or other point of origin): Finance Department and Office of City Controller	Origination Date: October 8, 2010	Agenda Date OCT 13 2010
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DIRECTOR'S SIGNATURE: 	Council District Affected: All
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For additional information contact: James Moncur Phone: 832-393-1009 Shawnell Holman-Smith Phone: 832-393-3513	Date and identification of prior authorizing Council action: April 28, 2010 – Ordinance No. 2010 – 0328
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RECOMMENDATION: Approve an Ordinance authorizing the Preliminary Official Statement (the "POS"), distribution of the POS, and proceeding with a negotiated sale of the City of Houston, Texas, Public Improvement Refunding Bonds Series 2010A, Series 2010B and Series 2010C in an aggregate amount not to exceed \$700 million; including authorizing the Mayor and City Controller to approve the amount, interest rate, price and terms thereof, execute the purchase contract and other agreements related to the issuance of the bonds, and making other provisions regarding such bonds and matters incident thereto.

Amount of Funding: N/A Not Applicable	Finance Dept Budget:
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Source of Funding:	<input type="checkbox"/> General Fund	<input type="checkbox"/> Grant Fund	<input type="checkbox"/> Enterprise Fund
<input type="checkbox"/> Other (Specify)			

SPECIFIC EXPLANATION:

The Finance Working Group (the "FWG") is recommending refunding certain general obligation commercial paper notes, refunding certain outstanding bonds or certificates of obligation, refunding outstanding Taxable Pension Obligation Note Series 2010 and financing all related costs of issuance.

Commercial Paper

The City has been issuing variable rate commercial paper to fund the adopted Capital Improvement Program and equipment procurements for a number of years. The commercial paper notes are later refinanced to fixed rate bonds that match the useful of the project or equipment being financed. This transaction represents the normal refunding of these commercial paper notes.

Current and Advance Refunding

The FWG is reviewing current outstanding debt for refunding opportunities. Assuming conducive market conditions, any current or advance refundings that results in positive present value savings will be refunded.

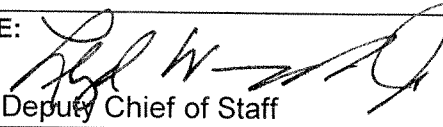
Taxable Pension Obligation Note Series 2010

On April 28, 2010, City Council approved the issuance of an 18-month short-term Taxable Pension Obligation Note with the intention of refunding it into longer-term debt in the future. This transaction would refund the note into Taxable Pension Obligation Bonds Series 2010C.

REQUIRED AUTHORIZATION		
Finance Department Director:	Other Authorization:	Other Authorization:

SUBJECT: An Ordinance approving the issuance and sale of Coastal Water Authority Contract Revenue Refunding Bonds, Series 2010 in an amount up to \$45 million.		Category #	Page 1 of <u>1</u>	Agenda Item# <u>7</u>
FROM (Department or other point of origin): Department of Finance and Office of the City Controller		Origination Date: 10/8/2010		Agenda Date <u>OCT 13 2010</u>
DIRECTOR'S SIGNATURE: <i>Ronald C. Chen</i> <i>Michelle Mitchell by J. Locke</i>		Council District Affected: All		
For additional information contact: James Moncur Shawnell Holman-Smith		Date and identification of prior authorizing Council action:		
Phone: 832-393-1009				
Phone: 832-393-3513				
RECOMMENDATION: (Summary) Approve an Ordinance authorizing the issuance and sale of Coastal Water Authority Contract Revenue Refunding Bonds, Series 2010 in an amount up to \$45 million; approving the form, terms, and substance of the supplemental resolution of the authority relating to the bonds and related agreements; and containing other provisions relating to the subject.				
Amount of Funding: Not Applicable			Finance Budget:	
Source of Funding: <input type="checkbox"/> General Fund <input type="checkbox"/> Grant Fund <input type="checkbox"/> Other (Specify)				
<input type="checkbox"/> Enterprise Fund				
SPECIFIC EXPLANATION:				
<p>The Coastal Water Authority has identified the Coastal Water Authority Contract Revenue Refunding Bonds, Series 1999 (City of Houston Projects) as bonds that may be refunded for present value savings. The recommended issuance of the Coastal Water Authority Contract Revenue Refunding Bonds, Series 2010, in an amount not to exceed \$45 million, will refund these bonds, fund any debt service reserve fund requirement, and pay any costs of issuance.</p> <p>The recommended CWA Series 2010 Bonds will be issued through a negotiated financing with Jefferies & Company, Inc. serving as book running manager along with Ramirez & Co., Inc. and Siebert Brandford Shank & Co., LLC as co-managers. Vinson & Elkins and Bates & Coleman, P.C. are co-bond counsel for CWA.</p>				
Recommendation:				
The Finance Working Group recommends the approval of this item.				
REQUIRED AUTHORIZATION				
Finance Director:		Other Authorization:		Other Authorization:

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

SUBJECT: Ordinance amending Code Of Ordinances related to creation of Fleet Management Department (FMD)		Page 1 of 1	Agenda Item # 8
FROM (Department or other point of origin): Office of the Mayor		Origination Date October 13, 2010	Agenda Date OCT 14 2010
DIRECTOR'S SIGNATURE: NS  Lloyd Waguespack, Jr., Deputy Chief of Staff		Council District affected: All	
For additional information contact: Lloyd Waguespack, Jr. Phone: (832) 393-0856		Date and identification of prior authorizing Council action:	
RECOMMENDATION: (Summary) Adopt an ordinance amending the Code of Ordinances, Houston, Texas, to create the new Fleet Management Department to centralize, oversee and manage fleet services for the City of Houston			
Amount and Source of Funding: Not applicable			
SPECIFIC EXPLANATION: <p>The Mayor's Office requests City Council approval of various amendments to the Code of Ordinances including the addition of Article XVII to Chapter 2 to create the Department of Fleet Management and the position of Director, who shall be appointed by the Mayor and confirmed by Council. Pursuant to the Mayor's commitment in the FY2011 budget to find additional savings by identifying and incorporating efficiencies within City departments, the consolidation of fleet management services into one department is projected to save the City \$10 million in FY 2011 and an additional \$12 million in FY 2012.</p> <p>The FMD will oversee fleet management duties including the specification and acquisition of new vehicles and other related equipment and preparation of any required capital planning to budget for such acquisitions; the permanent assignment of vehicles and other related equipment to city departments; creation and management of the city's motor pool; the management of maintenance and repair for all vehicles and other related equipment; management, control, supervision and authority over all department employees in the performance of duties assigned to the department; the procurement, storage and dispensing of all fuel and supplies necessary to operate the city fleet of vehicles and other related equipment; and the disposal of vehicles and other related equipment.</p> <p>Creation of the FMD will enable the consolidation of the costs and responsibilities associated with maintenance and fueling of the City fleet from seven distinct department divisions into a single department. This consolidation will entail a reduction in fleet maintenance facilities from twenty-nine to less than fifteen, as well as a reduction in fueling sites from ninety-eight to less than fifty, resulting in more efficient and streamlined fleet services operations.</p> <p>The proposed ordinance also amends various parts of the Code of Ordinances to effect the consolidation with respect to definitions, personnel, budgetary authority, and the assignment of responsibilities. The Budget and Fiscal Affairs Committee reviewed this matter on October 5, 2010. No action was taken due to lack of quorum.</p>			

REDLINE for Fleet Management Department Ordinance

Sec. 2-54. Duties of department.

The department of finance and such employees of the department as are assigned to it shall be charged with the following duties:

- (1) Preparation of the mayor's annual operating budget as prescribed by the City Charter and ordinances of the city and all related operational plans.
- (2) Management and oversight of the capital improvement plan including, but not limited to, preparation of the mayor's annual capital improvement budget and all related financial plans.
- (3) Preparation of all the mayor's special funds budgets in the manner required by law.
- (4) Supervision and administration the duties imposed by this Code, ordinances, the City Charter and state law relating to all city-funded pension programs.
- (5) Supervision of all actions necessary to enforce ordinances pertaining to the collection of revenue due and owing to the city.
- (6) Supervision and responsibility for the prompt collection of all ad valorem taxes levied, assessed, due, or becoming due to the city.
- (7) Supervision and responsibility for the preparation of a property tax list and inventory and the appraisal of all the taxable property within the city to the extent provided by law or contract.
- (8) Supervision, responsibility for, and performance of all of the applicable duties prescribed and specified by law pertaining to the rendition, assessment and collection of moneys and the giving of a receipt therefor in the collection of ad valorem taxes by the city.
- (9) Review of revenue-producing activities of the city; recommendation of methods of improving the efficiency of those departments of the city involved in such activities, recommend and assist in implementing methods and procedures designed to increase the revenues and efficiency of the city; and recommendation of new sources of revenue for the city.
- (10) Establishment of a system of management control and improvement through management reports to insure effective use of budgeted funds, personnel and facilities.
- (11) Establishment of a system of internal control and improvement through management analysis of operations of city departments.
- (12) Development, implementation, and management of policies and procedures under the direction of the mayor.
- ~~(13) Management and oversight of fleet planning and operational standards.~~

Sec. 2-56. Authority of director to function in other capacities.

(a) Whenever any provision of this Code or any other city ordinance provides for the taking of any action or the performance of any function by any of the city treasurer, the director of the treasury, the department of treasury, the tax assessor and collector, or the director of the tax department, then the director of the department of finance shall be authorized to take such action or perform such function, or to cause the same to be taken or performed. Provided, however, if the director of the department of finance has elected to designate another person as the city treasurer or tax assessor and collector of the city as authorized in section 2-57 of this Code, then the person so designated shall perform any duty devolving upon that office.

(b) To the extent that any other reference in this Code or in any other ordinance of the city or any reference in any city contract or other document devolves duties relating to ~~fleet management or capital improvement planning~~ upon the general services department or the director or employees of that department ~~those departments~~, then the reference shall be construed to mean the department of finance or the director and employees thereof, as applicable.

Sec. 2-434. Functions.

The department shall:

- (1) Be responsible for construction and remodeling of city buildings, including management and provision of in-house and contract services for design of projects, construction bidding, construction contract management, construction-related testing services and construction-related environmental services;
- (2) Perform facilities management services including review of requirements for space in city buildings, negotiations of city building space leases, whether the city is the lessor or the lessee, assignment of space in city buildings, development of office size and furnishing standards, management of furnishings installations and office moves and related services whether performed directly by the department or by contractors;
- (3) Acquire real property and dispose of surplus real property in coordination with the department of public works and engineering;
- (4) Manage and oversee energy programs for city buildings;
- (5) Manage the purchasing of natural gas, electricity, heated and chilled water and related utilities for use by the city;
- (6) Provide on-site building maintenance and operations services for buildings assigned to the department for that purpose, including janitorial, cleaning, building systems maintenance, minor repairs, carpentry and construction work and security operation and maintenance; and
- ~~(7) Manage and oversee the procurement, delivery, and distribution of fuel; and~~
- ~~(8) Render assistance to other city departments upon request for buildings that may not be under the direct management of the department on issues relating to building management.~~

The foregoing duties and functions shall not extend to aviation department properties, unless so requested by the aviation department.

EXHIBIT A
CITY DEPARTMENTS

Administration and Regulatory Affairs

City Controller

City Council

City Secretary

Convention and Entertainment Facilities

Finance

Fire

Fleet Management

General Services

Health and Human Services

Housing and Community Development

Houston Airport System

Houston Public Library System

Human Resources

Information Technology

Legal

Mayor's Office--311

Mayor's Office--Administration

Mayor's Office--Affirmative Action

Mayor's Office--Citizens' Assistance

Mayor's Office--Houston Emergency Center

Municipal Courts--Administration

Municipal Courts--Judicial

Parks and Recreation

Planning and Development

Police

Public Works and Engineering

Solid Waste Management

Sec. 15-46. Return of bid bonds; rejection of bids.

(a) Upon receipt by the city secretary of a tabulation of bids and a recommendation as to the award of a contract, the city secretary shall return to each bidder who has made a bid deposit the bond, cashier's check or certified check representing such deposit, except that the city secretary shall retain any such deposit made by the lowest and second lowest bidders, as shown by such tabulation. Any deposit so retained shall be returned at such time as a contract has been awarded and signed or at such time as the director of the public works and engineering department, the purchasing agent, the director of general services, the director of fleet management or the director of aviation, depending upon which initiated the contract, requests that it be returned pursuant to the authority granted in subsection (b) below or upon rejection of the bids by city council.

(b) The city council hereby delegates to the directors of the public works and engineering, fleet management, general services, and aviation departments and to the city purchasing agent authority on its behalf to reject all bids pursuant to section 252.043 of the Texas Local Government Code, and the authority to direct the city secretary to return all bid bonds on any project under the following circumstances:

- (1) All bids received exceed the department director's or purchasing agent's estimated costs, and the director or purchasing agent determines that the bids appear to be excessive; or
- (2) The department director or purchasing agent determines that the project or purchase is no longer required; or
- (3) The department director or purchasing agent determines that the city's design or specifications for the project or bid should be revised and new bids should be taken.

The delegation created in this subsection is nonexclusive, and nothing herein shall be construed to preclude the city council from rejecting any or all bids received for any project or purchase.

Sec. 15-83. Program elements.

(a) Based upon a review of data submitted annually by affected city departments, the mayor's affirmative action division shall each year submit a progress report to the city council. The report shall include two percentage figures that are intended to as closely as possible represent the ratio of the prior year's measured utilization and capacities of local MBEs and WBEs to do business in:

- (1) The supply of goods and nonpersonal or nonprofessional services; and
- (2) The performance of personal or professional services.

to the prior year's total local business community utilization and capacity to do business in each of the two-named fields of city contracting.

In addition, the report shall include percentage figures that are intended to as closely as possible represent the ratio of the prior year's measured utilization and capacities of local MBEs and SBEs to do business in construction to the prior year's total local business community utilization and capacity to do business in city construction contracting.

(b) Based upon the measured utilization and capacities identified in subsection (a) above, city council shall from time to time set annual city-wide percentage goals for city contracting with MBEs and WBEs in each of the first two named categories described in subsection (a)(1) and (2) above and for contracting with MBEs and SBEs in the construction category. The adjustment, if any, in the percentage goals shall be made during the first quarter of the fiscal year.

(c) It is the responsibility of each city department to determine which contracts initiated by it are goal-oriented contracts and which are regulated contracts. If the determination is made that a contract is a goal-oriented contract or a regulated contract, the initiating department shall review the contract and shall determine, by reference to the MBE/SBE/WBE register, the number of certified MBEs and WBEs in each of the two named categories described in subsection (a)(1) and (2), above, and for construction, the number of certified MBEs and SBEs in the construction category. The initiating department director or his or her designee shall determine whether the contract is one to which MBE/SBE/WBE provisions should be applied.

- (1) These provisions are not required to be applied in the following circumstances:
 - a. A public or administrative emergency exists which requires the goods or services to be provided with unusual immediacy;
 - b. The service or goods requested are of such a specialized, technical or unique nature as to require the city department to be able to select its contractor without application of MBE/SBE/WBE provisions (such as contracts for expert witnesses, certain financial advisors or technical consultants); or
 - c. If application of MBE/SBE/WBE provisions would impose an unwarranted economic burden or risk on the city or unduly delay

acquisition of the goods or services, or would otherwise not be in the best interest of the city; or

- d. If the possible MBE/SBE/WBE participation level based on MBE, SBE and WBE availability would produce negligible MBE, SBE or WBE participation.

If one of the above-listed conditions is determined to exist, the department director shall certify that determination to the director of the affirmative action division and specify the conditions which lead to the determination. This certification is to be made prior to award of the contract.

- (2) If the contract does not fall within one of the above-listed exceptions, based upon its overall review, the initiating department shall assign an appropriate MBE/SBE/WBE participation level, if any, for the contract (whether goal-oriented or regulated) considering the local availability of certified MBEs, SBEs and, except for construction contracts, WBEs in the contract field.

The intention of this article is to provide administrative flexibility in the application of MBE/SBE/WBE provisions of this Code and in the percentage participation level on a contract-by-contract basis so as not to limit access to city contracting by nonminority-owned, nonwomen-owned or established business enterprises to a greater degree than necessary to meet the city-wide annual goal and the policies and objectives of this article.

(d) The bidding documents and the contract documents for goal-oriented contracts for which an MBE/SBE/WBE participation level has been established shall contain a provision detailing the purposes and objectives of the city's MBE/SBE/WBE ordinance and shall incorporate by reference this article and the then-current motion or ordinance establishing MBE, SBE and WBE annual goals. Regulated contracts which are determined to have significant subcontracting potential for which an MBE/SBE/WBE participation level has been established shall contain contractual provisions (and proposal provisions if submitted for proposals or for bids) requiring the contractor to meet or exceed the determined MBE/SBE/WBE participation level for that contract, or to establish that it has made good-faith efforts to do so, and that notwithstanding such efforts, was unable to meet or exceed the determined participation levels. The directors of the administration and regulatory affairs, general services, fleet management and public works and engineering departments will establish procedures defining good-faith efforts. These procedures will be reviewed and approved by the affirmative action division, the mayor and the city attorney.

Sec. 34-50. Divisions of fire department; general duties and responsibilities of each division.

(a) The fire department shall consist of three ~~four~~ divisions, to be known as the fire suppression division, the fire alarm division, motor repair division and the fire prevention division.

(b) The fire suppression division and its personnel shall be charged with the primary duty of extinguishing fires and conflagrations and preventing the loss of human life and property by fire.

(c) The fire alarm division of the fire department and its personnel shall be charged with the primary duty of operating the fire alarm system in the city, and performing or causing to be performed such other duties and functions as may be assigned to or required of it or them by the mayor, the chief of the fire department, by state law and the provisions of the Charter or ordinances of the city.

~~(d) The motor repair division shall be charged with the primary duty of maintaining and repairing and keeping in good repair and working order any and all of the motor equipment and apparatus of the fire department.~~

~~—(e)~~ The fire prevention division and its personnel shall be charged with the primary duty of conducting inspections, reviewing plans for construction and conducting public information campaigns to reduce the loss of life and property by fire.

(ef) In addition to the duties of the divisions and their personnel, as hereinabove set out, each division and its personnel shall do and perform, or cause to be done and performed, such other duties and functions as may be assigned to or required of such section by the mayor, the fire chief, and the provisions of the state law, the Charter and ordinances of the city.

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATED TO THE CREATION OF A FLEET MANAGEMENT DEPARTMENT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the Administration has recommended that the City's fleet management services be consolidated into one department, to be known as the department of fleet management; and

WHEREAS, as a result of this consolidation, all of the usual functions and duties associated with the management of the City's fleet will be carried out by the new department; and

WHEREAS, the City Council of the City finds that the proposed consolidation of fleet management services into one department is in the best interests of the City, both from an efficiency standpoint and an economic standpoint; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Chapter 2 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article XVII to read as follows:

"ARTICLE XVII. FLEET MANAGEMENT DEPARTMENT

Sec. 2-600. Department created.

There is hereby created the fleet management department of the city.

Sec. 2-601. Director—Position created; appointment.

There is hereby created the position of director of the fleet management department, who shall be appointed by the mayor and confirmed by the city council. Except as provided or limited by the city charter, the director of the fleet management department shall mean the director or the director's designee.

Sec. 2-602. Same—Powers and duties.

The director of the fleet management department shall perform all duties and have all the responsibilities required by this Code and such other functions, duties and powers as may be assigned by the mayor.

Sec. 2-603. Duties of department.

The fleet management department and such employees of the department as are assigned to it shall be charged with the following duties:

- (1) Specification and acquisition of new vehicles and other related equipment and preparation of any required capital planning to budget for such acquisitions;
- (2) Permanent assignment of vehicles and other related equipment to city departments;
- (3) Creation and management of the city's motor pool;
- (4) Management of maintenance and repair for all vehicles and other related equipment;
- (5) Management, control, supervision and authority over all department employees in the performance of duties assigned to the department;
- (6) Procurement, storage and dispensing of all fuel and supplies necessary to operate the city fleet of vehicles and other related equipment; and
- (7) Disposal of vehicles and other related equipment.

Sec. 2-604. Transfer of duties.

To the extent that any other reference in this Code or in any other ordinance of the city or any reference in any city contract or other document devolves duties upon any department or the director or employees of that department whose functions have been reassigned to the fleet management department or the director or employees thereof, then the reference shall be construed to mean the fleet management department or the director or employees thereof, as applicable."

Section 3. That Section 2-54 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting Item (13).

Section 4. That Subsection (b) of Section 2-56 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(b) To the extent that any other reference in this Code or in any other ordinance of the city or any reference in any city contract or other document devolves duties relating to capital improvement planning upon the general services department or the director or employees of that department, then the reference shall be construed to mean the department of finance or the director and employees thereof, as applicable.”

Section 5. That Section 2-434 of the Code of Ordinances, Houston, Texas, is hereby amended by inserting the word *and* at the end of Item (6), deleting Item (7) and renumbering the succeeding Item as appropriate.

Section 6. That Exhibit A to Rule 11, Division 11, entitled “Layoffs,” of the Civil Service Rules for municipal employees, which appears following Section 14-145 in the Code of Ordinances, Houston, Texas, is hereby amended to add, to the list of City departments arranged in alphabetical order, “Fleet Management”.

Section 7. That Subsection (a) and the introductory paragraph of Subsection (b) of Section 15-46 of the Code of Ordinances, Houston, Texas, are hereby amended, respectively, to read as follows:

“(a) Upon receipt by the city secretary of a tabulation of bids and a recommendation as to the award of a contract, the city secretary shall return to each bidder who has made a bid deposit the bond, cashier's check or certified check representing such deposit, except that the city secretary shall retain any such deposit made by the lowest and second lowest bidders, as shown by such tabulation. Any deposit so retained shall be returned at such time as a contract has been awarded and signed or at such time as the director of the public works and engineering department,

the purchasing agent, the director of general services, the director of fleet management or the director of aviation, depending upon which initiated the contract, requests that it be returned pursuant to the authority granted in subsection (b) below or upon rejection of the bids by city council.

(b) The city council hereby delegates to the directors of the public works and engineering, general services, fleet management and aviation departments and to the city purchasing agent authority on its behalf to reject all bids pursuant to section 252.043 of the Texas Local Government Code, and the authority to direct the city secretary to return all bid bonds on any project under the following circumstances:"

Section 8. That Subsection (d) of Section 15-83 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(d) The bidding documents and the contract documents for goal-oriented contracts for which an MBE/SBE/WBE participation level has been established shall contain a provision detailing the purposes and objectives of the city's MBE/SBE/WBE ordinance and shall incorporate by reference this article and the then-current motion or ordinance establishing MBE, SBE and WBE annual goals. Regulated contracts which are determined to have significant subcontracting potential for which an MBE/SBE/WBE participation level has been established shall contain contractual provisions (and proposal provisions if submitted for proposals or for bids) requiring the contractor to meet or exceed the determined MBE/SBE/WBE participation level for that contract, or to establish that it has made good-faith efforts to do so, and that notwithstanding such efforts, was unable to meet or exceed the determined participation levels. The directors of the administration and regulatory affairs, general services, fleet management and public works and engineering departments will establish procedures defining good-faith efforts. These procedures will be reviewed and approved by the affirmative action division, the mayor and the city attorney."

Section 9. That Subsections (a) and (d) of Section 34-50 of the Code of Ordinances, Houston, Texas, are hereby amended, respectively, so that Subsection (a) shall read as shown below, Subsection (d) shall be deleted in its entirety and the subsections succeeding Subsection (d) shall be relettered as appropriate:

“(a) The fire department shall consist of three divisions, to be known as the fire suppression division, the fire alarm division and the fire prevention division.”

Section 10. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 11. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this ____ day of _____, 2010.

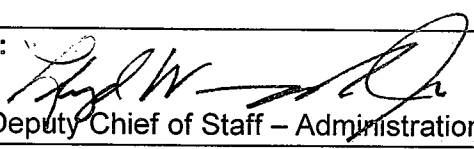
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

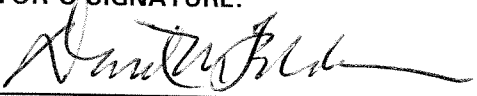
City Secretary

AL
Prepared by Legal Dept. *27 DCC*
MFC:asw 10/8/2010 Assistant City Attorney
Requested by Honorable Annise D. Parker, Mayor
L.D. File No. 0421000113001

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance approving contract between the City of Houston, Texas, and Carolina Software Technologies, Inc. for consulting services to implement a fleet consolidation plan for the City of Houston		Page 1 of 1	Agenda Item # 9
FROM (Department or other point of origin): Office of the Mayor		Origination Date October 13, 2010	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE:  Lloyd Waguespack, Jr., Deputy Chief of Staff – Administration		Council District affected: All	
For additional information contact: <div style="display: flex; justify-content: space-between;"> <div> Lloyd Waguespack Phone: (832) 393-0856 </div> <div> Michelle Mitchell (713) 221-0935 </div> </div>		Date and identification of prior authorizing Council action:	
RECOMMENDATION: (Summary) Adopt an Ordinance approving a contract with Carolina Software Technologies, Inc. for consulting services to implement a fleet consolidation plan for the City of Houston			
Amount and Source of Funding: \$ 800,000 – General Fund (1000) (Not to exceed amount)			
<u>SPECIFIC EXPLANATION:</u> <p>The Mayor's Office request Council approval of an ordinance that would establish a contract between the City of Houston and Carolina Software Technologies, Inc. to implement a fleet consolidation plan for the City of Houston. The project will address six areas: department formation, information systems, strategic vehicle parts partnership, consolidation of fuel sites and control, consolidation of maintenance facilities, fleet re-sizing/ take home vehicle policy, and implementation of motor pool. The contract will be implemented over an estimated two year period, will be terminated upon completion if less than and will not exceed two years.</p> <p>CST was engaged by the City's Finance Department in June 2010 to complete a six week study and develop a recommendation and timeline for fleet consolidation, as well as identify savings. CST has also consulted for the State of Indiana, City of Chicago, City of Detroit and the City of Long Beach.</p> <p>This ordinance was created as a result of a commitment the Mayor gave to Council during the budget process to find additional savings by identifying and incorporating efficiencies within City departments during FY 2011. The consolidation of Fleet Management is projected to save the City \$10 million in FY 2011 and an additional \$12 million in FY 2012.</p> <p>The Mayor's Office will oversee the contract, including accepting and processing invoices, approving reimbursable expenses, if any, may temporarily suspend performance, handle disputes and communicate with consultant on changes or other matters.</p>			

REQUEST FOR COUNCIL ACTION

SUBJECT: Administrative adjudication of certain health and safety violations		Page 1 of 1	Agenda Item # 10
FROM (Department or other point of origin): Legal Department		Origination Date October 7, 2010	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE: MS 		Council District affected: All	
For additional information contact: Lynette Fons Phone: 832-393-6282		Date and identification of prior authorizing Council action: None	
RECOMMENDATION: (Summary) Approve ordinance to adopt a procedure for an administrative adjudication hearing that may impose administrative penalties as an alternative to other available enforcement mechanisms in dealing with dangerous buildings.			
Amount and Source of Funding: N/A			
SPECIFIC EXPLANATION: The Legal Department worked with representatives from Municipal Courts, Public Works & Engineering and Neighborhood Protection in the creation of this proposed amendment to Chapter 10 of the Code of Ordinances, adding a new Article XVIII. The proposed ordinance will allow for an administrative adjudication hearing process, with imposition of administrative penalties, as a more speedy, efficient and effective alternative to the prosecution of certain health and safety violations through the municipal courts, thereby enabling the City to expeditiously address the problem of dangerous buildings. The City of Houston Municipal Court currently adjudicates certain violations of health and safety ordinances described under Section 54.032 of the Texas Local Government Code or adopted under Section 214.001(a)(1) of the Texas Local Government Code. Sections 54.043 and 54.044 of the Texas Local Government Code allow the City to adopt a procedure for an administrative adjudication hearing under which administrative penalties may be imposed for violation of an ordinance outlined above. The City desires to adopt a procedure for an administrative adjudication hearing that may impose administrative penalties as an alternative to other available enforcement mechanisms. The proposed ordinance was presented to the Neighborhood Protection and Quality of Life Committee on October 7, 2010. H:\WPFILES\RCAS\administrative adjudication RCA.wpd			
REQUIRED AUTHORIZATION			
Other Authorization:	Other Authorization:	Other Authorization:	

City of Houston, Texas, Ordinance No. 2010-_____

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO ADMINISTRATIVE ADJUDICATION OF CERTAIN HEALTH AND SAFETY VIOLATIONS; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the City of Houston ("City") Municipal Court currently adjudicates certain violations of health and safety ordinances described under Section 54.032 of the Texas Local Government Code (relating to building safety, fire safety, dangerously damaged or deteriorated buildings, conditions caused by the accumulation of refuse, vegetation or other matter that creates breeding and living places for insects and rodents, and building codes, conditions, uses, and appearance) or adopted under Section 214.001(a)(1) of the Texas Local Government Code (relating to a building that is dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety, and welfare); and

WHEREAS, Sections 54.043 and 54.044 of the Texas Local Government Code allow the City to adopt a procedure for an administrative adjudication hearing under which administrative penalties may be imposed for violation of an ordinance outlined above; and

WHEREAS, Section 54.043 of the Texas Local Government Code requires the administrative adjudication process to contain provisions relating to notice, the conduct of proceedings, permissible orders, administrative penalties, and judicial review; and

WHEREAS, the City desires to adopt a procedure for an administrative adjudication hearing that may impose administrative penalties as an alternative to other available enforcement mechanisms; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Chapter 10 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article XVIII that reads as follows:

"ARTICLE XVIII. ALTERNATIVE ADMINISTRATIVE ADJUDICATION PROCEDURE

Sec. 10-701. In general.

Every violation of an ordinance in this Code or the Construction Code that is described by Section 54.032 of the Texas Local Government Code or adopted under Section 214.001(a)(1) of the Texas Local Government Code may be prosecuted as an administrative offense using the alternative administrative adjudication procedure in this article. The adoption or use of this alternative administrative adjudication procedure does not preclude the city from prosecuting a violation of an ordinance described in this section through criminal penalties and procedures or through the procedures provided in article IX of this chapter.

Sec. 10-702. 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:

Day means a calendar day, unless otherwise specified.

Inspector means all persons designated by the building official or neighborhood protection official to enforce the provisions of chapter 10 of this Code, the Construction Code, and related laws.

Sec. 10-703. Administrative citations and summons.

(a) An administrative citation or summons may be issued for violations described by Section 54.032 of the Texas Local Government Code or adopted under Section 214.001(a)(1) of the Texas Local Government Code. Each citation or summons will include the following information:

- (1) The amount of the administrative penalty, costs, and fees;
- (2) The nature, date, and location of the violation;
- (3) The person's right to a hearing;
- (4) The time, date, and location of the hearing;

- (5) That the failure to timely appear at any scheduled hearing is an admission of liability for the violation for which the citation or summons was issued; and
 - (6) That the inspector who issued the citation or summons is not required to appear at the hearing, but the person charged with the violation may request that the inspector be present by submitting a written request to the clerk of the municipal courts at least 15 days before the hearing. Absent a timely request for the inspector to be present, the person charged is deemed to have waived the right to call and examine that inspector.
 - (7) That if the person charged wants a record of the proceeding or a translator, the person must notify the clerk of the municipal courts at least five days before the hearing date. Absent a timely request, the person is deemed to have waived the right to have a record of the hearing or to have a translator.
- (b) For purposes of this article, a citation may also serve as a summons.

Sec. 10-704. Record of citations and summons.

The original or a copy of the administrative citation or summons shall be kept as a record in the ordinary course of the business of the municipality and is rebuttable proof of the facts it states.

Sec. 10-705. Service of administrative citations and summons.

(a) An administrative citation or summons may be served in the following manner:

- (1) Personal service by:
 - a. Personally handing it to the person charged;
 - b. If the person charged is not available, leaving the citation or summons at the person's residence with any person who is 16 years of age or older; or
 - c. If the person charged is not available, leaving the citation or summons at the person's place of business with any person who is 16 years of age or older and an employee or agent of the person charged; or

- (2) Mailing it by certified mail to the address shown in the appraisal district records of the county in which the premises or property that is the subject of the citation or summons is located; or
- (3) Posting the citation or summons on either:
 - a. The front door of the premises or property; or
 - b. A placard staked to the yard of the premises or property in a location visible from a public street or alley.

(b) If service upon the person charged is by posting the citation or summons on the premises or property, a copy of the citation or summons must also be sent by regular United States mail to the address shown in the appraisal district records of the county in which the premises or property that is the subject of the citation or summons is located.

(c) If service upon the person charged is by posting the citation or summons on the premises or property, a photograph of the posting and a copy of the mailed notice must be forwarded with a copy of the citation or summons to the clerk of the municipal courts.

Sec. 10-706. Responding to citations and summons.

The person charged with the violation may answer the citation or summons by:

- (1) Paying the administrative penalty, costs, and fees prior to the scheduled hearing date. Payment constitutes an admission of liability; or
- (2) Appearing in person at the scheduled administrative hearing at the time, date, and location set forth in the citation or summons.

Sec. 10-707. Failure to appear.

(a) Failure to timely appear at any scheduled hearing is an admission of liability for the violation for which the citation or summons was issued.

(b) The hearing officer shall issue in writing an administrative order of liability and assess against the person charged with the violation the appropriate administrative penalties, costs, and fees.

(c) The administrative order must include:

- (1) The amount of the administrative penalties, costs, and fees;
- (2) Notification of the right to appeal to municipal court within 30 days of the date the hearing officer's order is filed with the clerk of the municipal courts;
- (3) Notification that unless the hearing officer's order is stayed through a properly filed appeal, the administrative penalties, costs, and fees must be paid within 30 days of the date the hearing officer's order is filed with the clerk of the municipal courts; and
- (4) Notification that the city may enforce the hearing officer's administrative order pursuant to the procedure in section 10-711.

(d) Within seven days of the filing of an administrative order of liability with the clerk of the municipal courts, the city shall send a copy of the order to the person charged with the violation. The copy of the administrative order must be sent by regular United States mail to the address shown in the appraisal district records of the county in which the premises or property that is the subject of the citation or summons is located.

Sec. 10-708. Hearing officers--qualifications, powers, duties and functions.

(a) Hearing officers shall be appointed by the mayor to adjudicate administrative citations or summons issued under this article. Appointment shall be made for a two year term to begin as of the date of the appointment.

(b) A hearing officer must meet all of the following qualifications:

- (1) Be a resident of the city at the time of appointment and maintain residency in the city throughout the period of appointment;
- (2) Be a citizen of the United States;

- (3) Be a licensed attorney in good standing; and
 - (4) Have two or more years of experience practicing law in the State of Texas.
- (c) A hearing officer shall have the following powers, duties, and functions:
- (1) To act as the fact finder and determine whether or not the person charged is liable;
 - (2) To assess administrative penalties, costs, and fees;
 - (3) To issue orders compelling the attendance of witnesses and the production of documents;
 - (4) To administer oaths;
 - (5) To question witnesses and consider evidence;
 - (6) To suspend the payment of administrative penalties, costs, and fees for a specific period of time not to exceed one year from the date the administrative order of liability is filed with the municipal court;
 - (7) To make a finding as to the financial inability of a person found liable of a violation to pay administrative penalties, costs, and fees; and
 - (8) To make a finding as to the financial inability of a person found liable of a violation to pay for the transcription of any recording of an administrative hearing or to post an appeal bond.

Sec. 10-709. Hearing procedures.

- (a) Every hearing conducted pursuant to this article must be held before a hearing officer no sooner than 30 days after the citation or summons has been filed in municipal court.
- (b) The person charged must personally appear at the hearing at the time, date, and location set forth in the citation or summons and at any subsequent hearings set because of postponement or continuance.
- (c) The administrative citation or summons is rebuttable proof of the facts that it states.

(d) The formal rules of evidence do not apply at the administrative hearing and any relevant evidence will be admitted if the hearing officer finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary. The hearing officer shall make a decision based upon a preponderance of the evidence presented at the hearing.

(e) Each party shall have the right to call and examine witnesses, to introduce exhibits that are relevant to the issues at the hearing, to cross examine opposing witnesses on any matter relevant to the issues, and to rebut evidence.

(f) The inspector who issued the citation is not required to be present at the hearing, but the person charged with the violation may request that the inspector be present by submitting a written request to the clerk of the municipal courts no later than 15 days before the hearing. Absent a timely request for the inspector to be present, the person charged is deemed to have waived the right to call and examine that inspector.

(g) If the person charged wants a record of the proceeding or a translator, the person must notify the clerk of the municipal courts at least five days before the hearing date. Absent a timely request, the person is deemed to have waived the right to have a record of the hearing or to have a translator.

(h) The hearing officer may examine any witness and may consider any evidence offered by a witness or person charged with a violation.

(i) After hearing the evidence and testimony presented, the hearing officer shall issue a written order.

(1) If the hearing officer determines that the charged party is liable for the violation, then the hearing officer shall issue at the hearing an administrative order of liability for the violation and assess the appropriate administrative penalties, costs, and fees, and notify the person of the right to appeal to municipal court.

(2) If the hearing officer determines that the charged person is not liable for the violation, then the hearing officer shall issue at the hearing an administrative order of non-liability.

(j) A person who has been found liable for a violation may, after the hearing officer has issued an administrative order, but prior to the conclusion of the hearing, assert financial inability to pay the administrative penalties, costs, and fees assessed by the hearing officer. At that time, the hearing officer may stay enforcement of the administrative order and make a determination of financial inability to pay pursuant to sections 10-708 (7) and (8) of this Code.

(k) An administrative order issued by the hearing officer must be filed with the clerk of the municipal courts.

(l) Any record of an administrative hearing must be kept and stored for not less than 45 days after the last day of the administrative hearing. Any administrative hearing that is appealed must be transcribed from the record by a court reporter or other person authorized to transcribe court proceedings. The court reporter or other person transcribing the record of the hearing is not required to have been present at the administrative hearing.

(m) The person seeking to appeal an administrative order to the municipal court shall pay for any transcription of the record of the administrative hearing unless the hearing officer finds, pursuant to section 10-708 of this Code, that the person is unable to pay or give security for the transcription.

Sec. 10-710. Financial inability to pay for administrative penalties, costs, and fees; to pay for transcription of a record; or to post an appeal bond.

(a) A person found by the hearing officer to be financially unable to pay the administrative penalties, costs, and fees assessed must be:

- (1) A resident of the property or premises that is the subject of the administrative order; and
- (2) The sole owner of the property or premises, except that the person may be a co-owner of the property or premises if all other co-owners cannot be located or are themselves financially unable to pay the administrative penalties, costs, and fees as established by credible evidence.

(b) A person claiming a financial inability to pay the administrative penalties, costs, and fees assessed by the hearing officer; to pay for a transcription of the record; or to post an appeal bond must make that claim prior to the conclusion of the administrative hearing before the hearing officer.

(c) A person claiming a financial inability to pay the administrative penalties, costs, and fees; to pay for a transcription of the record; or to post an appeal bond must have an income that does not exceed 50 percent of the Houston Area Median Family Income as determined by the United States Department of Housing and Urban Development.

(d) After receiving a claim that a person found liable for violation under this article is financially unable to pay the administrative penalties, costs, and fees; to pay for a transcription of the record; or to post an appeal bond, the hearing officer may set the matter for hearing and notify all parties of the hearing date by regular United States mail. The hearing officer's determination of whether the person found liable for a violation is financially unable to pay any administrative penalties, costs, or fees assessed by the hearing officer; to pay for a transcript of the record; or to post an appeal bond must be based on all information provided to the hearing officer by the person found liable or by the city attorney in opposition to the claim of financial inability.

(e) If the hearing officer determines that the person found liable for a violation does not have the financial ability to pay the administrative penalties, costs, or fees assessed by the hearing officer; to pay for a transcription of the record; or to post an appeal bond, then the hearing officer shall enter that finding in writing and may order that the penalties, costs, and fees be waived by the city.

Sec. 10-711. Enforcement.

An order issued by the hearing officer or a municipal judge under this article may be enforced by:

- (1) Filing a civil suit for the collection of penalties, costs, and fees assessed against the person; or
- (2) Obtaining an injunction to prohibit the specific conduct that violates the ordinance.

Sec. 10-712. Appeals.

(a) Either party may appeal the determination of the hearing officer by filing a petition and a bond for twice the amount of the administrative penalties, costs, and fees ordered by the hearing officer in municipal court within 30 days after the date the hearing officer's administrative order is filed with the municipal court. An appeals petition will not be accepted if a bond has not been filed with the municipal court, unless the appellant requests and receives a waiver pursuant to 10-712 (b) of this Code.

The municipal court's ruling shall be final.

If the party does not timely file an appeal, then the hearing officer's ruling shall be final.

An appeal stays enforcement of the order of the hearing officer.

(b) An appellant to municipal court may request a waiver of the bond amount on the basis of financial inability to pay, in which case the hearing officer may hold a hearing pursuant to section 10-710 of this Code to determine whether the appellant is indigent and whether the bond amount may be waived. If the hearing officer's administrative order is reversed on appeal, the appeal bond will be returned to the appellant.

(c) If the administrative penalties, costs, and fees assessed in the final judgment are not paid within 30 days after the date the hearing officer's order is filed with the clerk of the municipal courts, the administrative penalties, fees, and costs may be referred to a collection agency and the cost to the city for the collection services will be assessed as costs to the person found liable, at the rate agreed to between the city and the collection agency, and added to the judgment.

(d) If the person found liable for violation timely requested a record of the proceedings pursuant to section 10-709(g) of this Code, and through no fault of the person, the record of the hearing is unavailable, then the municipal judge shall reverse the hearing officer's order and remand the matter to the hearing officer for a new administrative hearing.

(e) Upon receiving the record of the administrative hearing, the municipal judge shall review the record and may grant relief from the administrative order only if the record reflects that the appellant's substantial rights have been prejudiced because the administrative order is:

- (1) In violation of a constitutional or statutory provision;
- (2) In excess of the hearing officer's statutory authority;
- (3) Made through unlawful procedure; or
- (4) Affected by another error of law.

(f) The municipal judge shall rule on the appeal within 30 days after receiving the record of the administrative hearing. The municipal judge shall affirm the administrative order of the hearing officer unless the

record reflects that the order violates one of the standards in subsection(e) of this section. If the record reflects that the hearing officer's order violated one of the standards in subsection(e) the municipal judge may:

- (1) Reverse the hearing officer's order and find the appellant not liable;
- (2) Reverse the hearing officer's order and remand the matter to the hearing officer for a new hearing; or
- (3) Affirm the order, but reduce the amount of the administrative penalties assessed.

(g) The municipal judge's ruling on the appeal must be issued in writing and filed with the clerk of the municipal courts. A copy of the ruling must be sent by the clerk of the municipal courts to the appellant by regular United States mail at the last known address of the appellant as provided to the municipal court for the appeal.

(h) The municipal judge's ruling is a final judgment. If an appeal bond was posted, any administrative penalties, costs, and fees assessed by the municipal judge or by the hearing officer, if affirmed by the municipal judge, will be deducted from the appeal bond. If no appeal bond was posted, any administrative penalties, costs, and fees assessed by the municipal judge or by the hearing officer, if affirmed by the municipal judge, must be paid within 30 days after the municipal judge's ruling is filed with the clerk of the municipal courts, unless the administrative penalties, costs, and fees were waived pursuant to section 10-710(e) of this Code. The city may enforce the municipal judge's ruling pursuant to section 10-711 of this Code.

Sec. 10-713. Amount and disposition of administrative penalties, costs, and fees.

(a) The amount of the administrative penalties will be the same as those provided for criminal penalties throughout this Code and the Construction Code.

(b) When no specific penalty is provided for a violation that is enforced as an administrative offense under this article and that violation pertains to fire, safety, or public health and sanitation, then the violation shall be punished by an administrative penalty not exceeding \$2,000.

(c) Administrative penalties, costs, and fees assessed under this article will be paid into the city's general fund."

Section 3. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

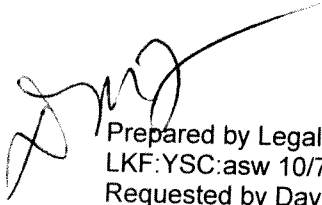
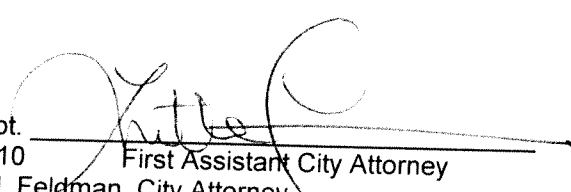
PASSED AND ADOPTED this ____ day of _____, 2010.

APPROVED this ____ day of _____, 2010.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is _____.

City Secretary

 Prepared by Legal Dept. 
LKF:YSC:asw 10/7/2010 First Assistant City Attorney
Requested by David M. Feldman, City Attorney
L.D. File No. _____

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8635

Subject: Approve an Ordinance Amending Various Provisions in the Code of Ordinances to Create a Regulatory Framework for Pedicab and Low-Speed Shuttle Vehicles-for-Hire Operating within the City Limits of the City of Houston.	Category #	Page 1 of 3	Agenda Item 11
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FROM (Department or other point of origin):

Alfred J. Moran, Jr., Director
Administration & Regulatory Affairs Department

Origination Date

October 5, 2010

Agenda Date

OCT 13 2010

DIRECTOR'S SIGNATURE

Council District(s) affected

All

For additional information contact:

Tina Paez

Phone: (713) 837-9630

Christopher Newport

Phone: (713) 837-9533

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an Ordinance amending various provisions of the Houston Code of Ordinances to create a regulatory framework for Pedicab and Low-Speed Shuttle Vehicles-for-Hire operating within the city limits of the city of Houston.

Amount of Funding: N/A

Finance Budget

SOURCE OF FUNDING: N/A

SPECIFIC EXPLANATION:

The Director of the Administration & Regulatory Affairs Department (ARA) recommends that City Council approve an Ordinance amending various provisions of the City of Houston Code of Ordinances (the "Code") to create a regulatory framework for pedicab and low-speed shuttle vehicles-for-hire operating within the city limits of the city of Houston. Specifically, ARA recommends amending Chapter 46, relating to Vehicles-for-Hire, to create specific provisions for the licensing and permitting of pedicab and low-speed drivers, operators and vehicles by the City of Houston. Secondly, ARA recommends that Section 1-10 of the Code be amended to include pedicab and low-speed shuttle licenses and permits among those licenses and permits that can be denied, revoked or refused if a licensee, permittee, or applicant has been convicted of an offense specifically designated in Section 1-10 during the preceding 10-year period. Finally, ARA recommends that Section 45-326 of the Code be amended to provide an exemption that children not be required to wear a helmet if and only if they are a passenger in a pedicab permitted by the City which is being operated by a licensed pedicab driver pursuant to Article III of Chapter 46 of the Code of Ordinances.

In response to development trends toward more concentrated areas of economic activity, over the past two to three years several new modes of public transportation service have emerged supplying short-haul services to passengers in the Houston area, specifically the Central Business District, the Washington Corridor and Midtown. These new services have typically been introduced by young entrepreneurs utilizing either emerging vehicle technology or by applying existing technology in new ways. Previously existent modes and business models of vehicle for hire service, such as taxicab and limousine service, have not adequately addressed these market developments, which has allowed these new modes of service to fill an important gap. That these services have proliferated over the past two years is further evidence that the demand for short-haul service existed but was not being served.

In an effort to safeguard the health and safety of the riding public that is taking advantage of these new public transportation alternatives, ARA recommends that several provisions of the Code of Ordinances be revised to create a new green vehicle category of vehicle for hire service that will initially include low-speed shuttles and pedicabs currently operating outside the existing regulatory scheme. This will also incorporate other green vehicles as the transportation industry evolves and new technologies become available. In preparing these vehicle and operating recommendations, ARA worked closely with other members of the Administration, City Council staff, and vehicle for hire industry. Specifically, taxicab, limousine, jitney, pedicab and low-speed shuttle owners and operators were invited to participate in stakeholder discussions during meetings held on July 26th, August 9th and 26th, and September 2nd and 8th. In recommending these new regulations, ARA intends to communicate to the riding public that green alternatives for public transportation are available in Houston, while providing regulatory certainty to existing and potential suppliers of this service, thereby incentivizing investment in existing or emerging technologies. ARA believes that by accomplishing these goals the City of Houston will foster an unprecedented level of low environmental impact transportation to the citizens of Houston.

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

Date: 10/5/10	Subject: Approve an Ordinance Amending Various Provisions of the Houston Code of Ordinances to Create a Regulatory Framework for Pedicab and Low-Speed Shuttle Vehicles-for-Hire Operating in Houston	Originator's Initials TP	Page 2 of 3
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Recommended Amendments to Chapter 46 of the Houston Code of Ordinances, Related to Vehicles-for-Hire

Many provisions suggested by industry are incorporated into the following recommended amendments. These recommendations address specific safe vehicle operating requirements without prescribing specific equipment which imposes a barrier to entry rather than specifically addressing a potential hazard. Where possible, requirements for both types of vehicles were drafted to mirror existing permitting and licensing requirements for other categories of vehicles for hire. For example, standard requirements such as criminal background checks and drug screens will be mandated for all applicants, and for those that are denied or revoked due process would exist in the form of an administrative hearing. Hygiene and professional appearance requirements are being recommended, as well as operational rules for stopping and standing on the public rights-of-way similar to those for taxicabs, limousines, etc. Recommended provisions unique to these two new categories of vehicles for hire include enhanced insurance requirements and a restriction to operate on roadways with a maximum speed limit of 35 mph. Following are specific recommended provisions for each of the two new categories of vehicles.

Recommended provisions specifically related to low-speed shuttles include:

- Low-speed shuttles shall be defined as: A motorized non-gasoline powered vehicle with a passenger capacity of from 4-8 passengers, including the driver, that is capable of attaining a top speed of at least 20 mph and no more than 25 mph, and that complies with Federal Motor Vehicle Safety Standard Number 500 ("FMVSS 500").
- Maximum vehicle age: 6 years
- Fees:
 - \$400 annual permit fee per vehicle
 - \$10 driver's license application fee (license term is two years)
 - \$25 vehicle inspection fee
 - \$100 company permit application fee (permit term is five years)
 - \$30 per zone/rate per vehicle
- Minimum Insurance: Commercial automobile liability policy that provides a minimum coverage amount of \$500,000 combined single limit per occurrence
- Vehicle Equipment:
 - Must be registered as a motor vehicle under Texas law with all required equipment
 - Seat belt for each passenger
- Operating Restrictions: Permittees will submit requests for zones within which their vehicles may be operated.

Recommended provisions specifically related to pedicabs include:

- Pedicabs shall be defined as: A bicycle or tricycle that transports or is held out to the public as available to transport passengers for hire, including a bicycle that pulls, or to which is attached, a trailer, sidecar or similar device. **Allows the use of both trikes and trailer-bikes to provide service**
- Vehicle Age: Non-motorized vehicles have no maximum age limit
- Fees:
 - \$200 annual permit fee per vehicle
 - \$10 driver's license application fee (license term is two years)
 - \$25 vehicle inspection fee
 - \$100 company permit application fee (permit term is five years)
- Minimum Insurance: Commercial general liability policy that provides a minimum coverage amount of \$1,000,000 combined single limit per occurrence
- Vehicle Equipment:
 - White light visible at least 100 feet from front of vehicle during daylight; 500 feet at night; red reflector and red light on rear of vehicle with same visibility requirements
 - Seat belt for each passenger
 - Braking system capable of stopping a vehicle with a loaded passenger compartment in a linear fashion; trailers must be equipped with a dedicated braking system

In addition to creating provisions specific to pedicab and low-speed shuttle licenses and permits in Chapter 46, other areas of the Code of Ordinances will be affected when these new regulations are enacted. As such, to create a comprehensive

Date: 10/5/10	Subject: Approve an Ordinance Amending Various Provisions of the Houston Code of Ordinances to Create a Regulatory Framework for Pedicab and Low-Speed Shuttle Vehicles-for-Hire Operating in Houston	Originator's Initials TP	Page 3 of 3
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regulatory framework for green vehicles-for-hire, ARA also recommends changes to Chapters 1 and 45 of the Code of Ordinances, as detailed in the following paragraphs.

Recommended amendments to Chapter 1, Section 1-10

Section 1-10 of the Houston Code of Ordinances (the Code) states that licenses or permits governed by Chapter 46 of the Code can be denied, revoked or refused, as applicable, if an applicant, licensee, or permittee has been convicted of designated offenses within the ten-year period immediately preceding the date of filing of the application or has spent time in jail or prison during the ten-year period immediately preceding the date of filing of the application for such a conviction, or is subject to deferred adjudication in connection with the designated offenses.

These designated offenses include those involving: fraud or theft; forgery; the unauthorized use of a motor vehicle; violation of state or federal laws regulating firearms; violence to a person classified as a Class B misdemeanor or higher; prostitution or the promotion of prostitution; rape, sexual assault, rape of a child, sexual abuse of a child, indecency with a child, or resulting in designation of the individual as a "registered sex offender" by any state or the federal government; any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs; or, the use or sale of drugs.

ARA recommends that Section 1-10 of the Code be amended to include pedicab and low-speed shuttle licenses and permits among those licenses and permits that can be denied, revoked or refused if a licensee, permittee, or applicant has been convicted of any of the offenses specifically designated in Section 1-10 during the preceding 10-year period. ARA further recommends that licensees or potential licensees be deemed ineligible if they have three or more moving violations of the traffic laws of the State of Texas or any other state if the violations occurred within the two years immediately preceding the application for or renewal of a license, or of the notice of a hearing for revocation of a license.

Recommended amendments to Chapter 45, Section 45-326

Section 45-326 currently prohibits a child, or parent of a child less than 14 years of age, from "*operating or riding upon a bicycle or any side car, trailer, child carrier, seat or other device attached to a bicycle unless the child is wearing a helmet.*" ARA recognizes the public safety purpose of Section 45-326 and its intent to protect our younger riders. However, in enacting this provision in 1995, City Council could not have foreseen the applicability to public transportation services in the vehicle for hire industry.

In meeting with stakeholders in the pedicab industry, ARA has determined that it is impracticable to require children riding in pedicabs to wear helmets due to sizing, hygiene and enforcement issues. Therefore, ARA recommends that Section 45-326 of the Code be amended to provide an exemption that children not be required to wear a helmet if and only if they are a passenger in a pedicab permitted by the City which is being operated by a licensed pedicab driver pursuant to Article III of Chapter 46 of the Code of Ordinances.

Recommendation:

ARA recommends City Council approval of the recommended revisions to Chapters 1, 45 and 46 of the Code of Ordinances. These recommendations are intended to provide a framework that not only addresses technology currently employed by the vehicle-for-hire industry, but also is flexible enough to allow the application of technologies that have not yet emerged.

These recommendations were presented to the Development and Regulatory Affairs Committee on September 30, 2010.

OCT 13 2010

City of Houston, Texas, Ordinance No. 2010-_____

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CREATION OF A REGULATORY FRAMEWORK FOR THE OPERATION OF PEDICABS AND LOW-SPEED SHUTTLES AS VEHICLES FOR HIRE; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL AND PROVIDING PENALTIES THEREFOR; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, Chapter 46 of the Code of Ordinances provides means by which the city may regulate the operation of vehicles for hire within the city limits; and

WHEREAS, the Regulatory Affairs Division of the Administration and Regulatory Affairs Department is responsible for the oversight and administrative implementation of the city's regulations concerning the issuance of licenses and permits to operators and drivers of vehicles for hire, including the performance of the necessary field enforcement to ensure compliance with all applicable operating requirements; and

WHEREAS, the Regulatory Affairs Division advises that there has been a steady increase in the riding public's use of pedicabs due to a growing demand for an efficient, zero-emission, point-to-point, short-haul transportation option in many of the city's concentrated areas of economic activity; and

WHEREAS, the Regulatory Affairs Division has also observed an increasing trend in the riding public's demand and use of non-traditional motorized transportation as vehicles for hire in the central business district, entertainment venues, and other areas of concentrated economic activity within the city; and

WHEREAS, the Regulatory Affairs Division advises that emerging market trends in alternative vehicle fuels and clean energy systems has created a viable marketplace for the use of eco-friendly motor vehicle platforms as a means of serving the riding public's transportation needs with a reduced impact on the environment;

WHEREAS, the Regulatory Affairs Division recognizes that entrepreneurial ingenuity coupled with the burgeoning availability of non-fossil fueled low-speed motor vehicles manufactured in compliance with federal motor vehicle safety regulations has fostered the use of eco-friendly motor vehicles capable of obtaining moderate speeds as means of addressing a shortage of vehicles for hire serving the core purpose of providing safe, short-haul shuttle service within a defined operation zone; and

WHEREAS, Chapter 46 currently lacks any regulatory provisions addressing the issuance of licenses and permits for the operation of pedicabs and low-speed shuttles as vehicles or hire;

WHEREAS, the Administration and Regulatory Affairs Department recommends that City Council adopt the proposed amendments to Chapter 46 of the Code of Ordinances to incorporate minimum operating requirements and the necessary enforcement mechanisms for the use of pedicabs and low-speed shuttles as transportation options for the general public in the City of Houston; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That the first subparagraph of Section 1-10(c) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Licenses issued pursuant to chapter 46 of this Code for school vehicle operators, pedicab operators and drivers, low-speed shuttle operators and drivers, charter or sightseeing service operators and drivers, chauffeured limousine service operators and drivers, taxicab drivers, and jitney drivers, and permits issued for taxicabs, pedicabs, low-speed shuttles, and jitneys, and franchises issued pursuant to uncodified ordinances for school bus operators:"

Section 3. That the paragraph that appears between Subitems h and i of Section 1-10(c) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, taxicab drivers, pedicab drivers, low-speed shuttle drivers, jitney drivers and chauffeured limousine drivers;"

Section 4. That the paragraph that appears between Subitems i and j of Section 1-10(c) of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, limousine drivers, pedicab drivers, low-speed shuttle drivers, taxicab drivers, and jitney drivers;"

Section 5. That Section 45-326 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Subsection (e) that reads as follows:

"(e) This section shall not be applicable to the operation of a pedicab pursuant to Article III of chapter 46 of this Code."

Section 6. That Chapter 46 is hereby amended by adding a new Article III to read as set forth in Exhibit A, which is attached hereto and incorporated herein.

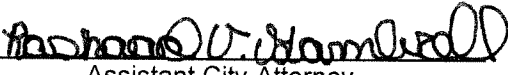
Section 7. That Chapter 46 is also hereby amended by adding a new Article VII to read as set forth in Exhibit B, which is attached hereto and incorporated herein.

Section 8. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 9. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this ____ day of _____, 2010.

Mayor of the City of Houston

Prepared by Legal Dept. 
RVG:asw 10/06/2010

Assistant City Attorney


 Requested by Alfred Jay Moran, Jr., Director, Department of Administration and Regulatory Affairs
L.D. Files No. 0370900087002 and No.0370900087003

EXHIBIT A

ARTICLE III. PEDICABS

DIVISION 1. GENERALLY

Sec. 46-141. Definitions.

When used in this article, the following words and terms shall have the meanings provided in this section, unless the context of their usage clearly indicates another meaning:

Bicycle means a belt-, chain-, or gear-driven device propelled by human power and on which a person may ride and that has two tandem wheels, either of which is more than 14 inches in diameter.

Certification decal means a metal tag, decal, or other evidence of a permit issued by the director for attachment on a pedicab that is operated pursuant to a permit.

Daytime means the period between sunrise and sunset.

Director means the director of the department of administration and regulatory affairs or his duly authorized representatives.

For hire means providing, or offering to provide, a service in exchange for any form of payment or gratuity, whether monetary or otherwise.

License means a pedicab license issued pursuant to this article.

Licensee means any person in physical control of a pedicab who is the holder of a current and valid pedicab driver's license issued pursuant to division 2 of this article.

Metropolitan area means Chambers, Fort Bend, Harris, Liberty, Montgomery, and Waller Counties.

Nighttime means the period between sunset and sunrise.

Pedicab means a bicycle or tricycle used to transport passengers for hire, including a bicycle to which is attached a trailer, sidecar, or similar device.

Pedicab service means the business of transporting passengers for hire by means of a pedicab. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs and jitneys licensed by the city;
- (3) Vehicles operating under a contract with the city; and
- (4) Sightseeing or charter vehicles licensed by the city.

Permit means a permit to operate a pedicab service pursuant to this article.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization and any other entity holding a permit issued pursuant to this article.

Tricycle means a belt-, chain-, or gear-driven device that is propelled by human power and on which a person may ride and that has three wheels in contact with the ground, any of which is more than 14 inches in diameter.

Sec. 46-142. Penalty for violation.

Any person who fails or refuses to comply with the terms and provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as provided by section 1-6 of this Code. Each violation shall constitute and be punishable as a separate offense.

Sec. 46-143. Article cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 3 of article II of chapter 9 of this Code. The director shall not approve the operation of a pedicab upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of pedicabs.

Secs. 46-144–46-150. Reserved.

DIVISION 2. PERMITS AND LICENSES

Sec. 46-151. Permit required.

(a) It shall be unlawful for any person to operate a pedicab service without first obtaining a permit pursuant to the terms of this division.

(b) Each applicant for a permit required by this division must:

- (1) Have no conviction of an offense listed in subsection (c) of section 1-10 of this Code;
- (2) Identify each pedicab the applicant desires to receive a certification decal for, including trade name, if any, serial or identification number and body style of the pedicab;
- (3) Identify the proposed route(s) or area(s) where the applicant desires to operate the pedicab service;
- (4) Provide proof of insurance pursuant to the requirements of this article;
- (5) If a natural person:
 - a. Be 18 years of age or older;
 - b. Be able to read and write the English language;
 - c. Provide written character references from two persons who have known the applicant for at least two years attesting to the applicant's good moral character. Character references shall be from persons who reside in the city unless the applicant has not resided in the city or county for the preceding five-year period; and
 - d. Hold a current and valid class A, B, or C Texas driver's license.
- (6) Not have had a license, permit, or franchise issued under this chapter revoked or not renewed for cause by the city within the five-year period preceding the date of filing of the application;
- (7) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's pedicab service will be operated and that such use of the location is in compliance with any applicable deed restrictions; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

Sec. 46-152. License required.

It shall be unlawful for any person to operate a pedicab without a license issued pursuant to this article. In addition to the permit requirements provided in section 46-151, each applicant for a license required by this article shall also:

- (1) Provide a medical examiner's certificate from a Texas licensed physicians on a certificate form promulgated by the director attesting that the applicant is physically qualified to safely operate a pedicab; and
- (2) Provide evidence that the applicant has passed a drug screening test within the 30-day period preceding the date of filing of the application for license issuance or renewal. The director shall promulgate rules and regulations relating to the drug screening test. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screening for city employees. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The applicant shall bear all costs associated with the drug screening test.

Sec. 46-153. Fees.

- (a) There shall be a fee of \$10.00 for the issuance of a license.
- (b) There shall be a nonrefundable application processing fee of \$100.00 payable upon the filing of an application for a permit.
- (c) In addition to the application processing fee provided in subsection (b) of this section, an annual permit fee of \$200 shall be payable for each pedicab before it is placed into service and annually thereafter on before May 1 of each year.

Sec. 46-154. Application.

- (a) Each person desiring to obtain a license or permit shall apply on forms provided by the director and shall include all information required by this article.
- (b) Each license and permit applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer, director, or holder of ten percent or more of the outstanding stock if a corporation) shall appear at a location specified by the director for identification and fingerprinting to determine the existence of any conviction of any applicable offense(s) set forth in subsection (c) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-155. Review.

- (a) Following review of the application, the director shall provide the applicant with written notification of the approval or denial of the requested permit or license.
- (b) The submission of any false information or a materially incomplete application, including but not limited to an applicant's failure to provide any information reasonably

requested by the director, shall be grounds for denial of the application. In the event of denial, the applicant shall be given written notice of the basis for such action. The applicant shall be entitled to appeal a decision based, in whole or in part, upon section 1-10 of this Code. Notice of any denial shall comply with section 1-9 of this Code and applicable state laws.

(c) If the application is denied on the basis of the applicant's failure to satisfy any other requisites stated in this division, the applicant may request a hearing by submitting a written notice of appeal to the director within 15 days following the date the director's decision is deposited in the United States mail. An informal hearing shall be conducted by an impartial hearing officer who shall render a decision within 30 days from the date of the filing of the appeal. At the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the license or permit.

(d) If the reason for the denial of an application is curable, the director shall allow the applicant, upon a written request, to submit an amendment within the time allowed in subsections (b) and (c) for an appeal, in lieu of filing an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 days following the date the director's decision regarding the amended application is deposited in the United States mail.

(e) A license shall be issued upon the approval of the application therefor. No permit shall not be issued until the applicant has identified each pedicab, if not provided with the application, and has also obtained a satisfactory inspection and certification decal, provided proof of insurance, and provided proof of ownership or lease of each pedicab.

(f) The director shall promulgate regulations and procedures for any required hearings which shall be consistent with sections 1-9 and 1-10 of this Code and applicable state laws.

Sec. 46-156. Transfer; nonexclusive; fee.

(a) A license or permit is personal to the licensee or permittee to whom it is issued and may not be transferred or otherwise assigned. Any change of ownership, partnership interests, corporate officer, director, or holder of ten percent or more of the outstanding shares of stock as shown on the permit application shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an offense listed in section 1-10(c) of this Code. The fee for filing an application amendment shall be \$100.00.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of pedicabs that may be approved, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-157. Terms of licenses and permits; suspension.

(a) A license shall be valid for two years from the date of issuance. A permit shall be valid for five years from the date of issuance.

(b) A license or permit may be terminated at any time for failure to pay any fees imposed pursuant to this article or failure to maintain the requisite insurance pursuant to section 46-176.

(c) A license or permit may be revoked, or refused for renewal, based upon the applicable grounds specified in section 1-10 of this Code by following the procedures specified in section 1-9 of this Code. Additionally, a license or permit may be revoked or refused for renewal following notice and a hearing conducted by an impartial hearing officer appointed by the director if:

- (1) The license or permit was issued in error;
- (2) The applicant provided materially false or incomplete information on the license or permit application; or
- (3) There are three or more instances within any one-year period in which the licensee or permittee or any permittee's employee violates any provision of this article or regulation issued by the director hereunder.

(d) In accordance with regulations promulgated by the director, a permit may be amended, without charge, for the limited purpose of adding, deleting or substituting any number of pedicabs; provided however, the addition, deletion, or substitution of any pedicabs pursuant to a current and valid permit shall require an inspection as provided for in section 46-161, including the payment of the inspection fee.

Sec. 46-158. Change of information.

It shall be the duty of each permittee and licensee to submit to the director any change in information required to be submitted pursuant to this article. Any change in information shall be submitted on the form prescribed by the director within ten calendar days of any change.

Secs. 46-159–46-160. Reserved.

DIVISION 3. PEDICAB OPERATING REQUIREMENTS

Sec. 46-161. Pedicab inspection; fee.

(a) It shall be unlawful for any person to operate or cause to be operated any pedicab unless the pedicab has been inspected as required in this section and has a current and valid certification decal affixed in a manner and location prescribed by the director. There shall be a non-refundable inspection fee of \$25.00 for each pedicab. All pedicabs shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(b) Each pedicab shall be inspected before it is initially placed into service and thereafter before May 1 of each year at such location as the director may specify. The director shall approve the pedicab if he determines that:

- (1) The pedicab is of the approved color scheme and is marked as provided in this article;
- (2) The pedicab is in generally good working condition with no safety-related defects, including inspection or testing of the wheels, brake system, pedicab frame, passenger compartment, audible signaling device, steering mechanism, tires, front lamp, rear lamp, and all reflectors; and
- (3) The pedicab complies with all other requirements of this article.

(c) Upon satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the pedicab. In any prosecution under this section, it shall be presumed that a pedicab has not been inspected as required in this section unless it has a current and valid certification decal affixed.

(d) Replacement certification decals shall be provided only upon reinspection of the pedicab and payment of the applicable inspection fee provided in subsection (a) of this section.

(e) It shall be unlawful to:

- (1) Remove, move, alter, or deface a certification decal;
- (2) Transfer a certification decal from the pedicab for which it was issued to another pedicab;
- (3) Operate a pedicab with a certification decal that was not issued for that pedicab; or

(4) Operate a pedicab with a fictitious or fraudulent certification decal.

(f) The director may inspect any pedicab and any records or documents required to be carried in or on the pedicab at any time upon presentation of identification to the licensee in order to determine compliance with the provisions of this article and the regulations adopted by the director.

Sec. 46-162. Authorized operators.

No pedicab shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the pedicab under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for any person operating under his permit whether the person is an employee or is a person operating under a written agreement. Any person operating a pedicab on the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee. Any person operating a pedicab on the streets or other public property of the city shall be required to secure a license pursuant to this article.

Sec. 46-163. Rate structure and fares.

A permittee shall file all rate structure and fare information with the director. It shall be unlawful for a permittee or licensee to charge a passenger a fare that was not agreed upon with the passenger in advance or to demand a fare from a passenger after agreeing to provide the service for a gratuity only.

Sec. 46-164. Receipt for payment of fare.

No licensee, upon receiving full payment for a fare as authorized by this article, shall refuse to provide a receipt upon the request of any passenger. The permittee of the pedicab shall make available to each licensee a receipt book or other electronic instrument capable of creating a payment record for this purpose.

Sec. 46-165. Posting of pedicab driver's license, fares, and other information.

(a) Each permitted pedicab shall be equipped with a holder mounted in a conspicuous location on the pedicab to ensure that its contents are visible by the passengers. It shall be the duty of the permittee and licensee to post in this holder a photograph of the licensee, the licensee's name, and a copy of the licensee's pedicab license. Each permitted pedicab shall also display the name, trademark, logo, or other identifying information of the permittee and the specific fares charged for services rendered. The size and content of the permittee's information and the posted fares shall be affixed to the pedicab in a manner approved by the director.

(b) It shall be the duty of each permittee and licensee to post a card with the telephone numbers of the director and the permittee for complaint purposes regarding pedicab services or charges. The card shall be mounted adjacent to licensee's pedicab license information and shall inform any passenger that wishes to file a complaint to obtain the pedicab certification decal number as posted on the pedicab, and the date, time, destination, and fare charged. The director shall approve the size of the print, the colors, and the information to be provided so that the information may be easily read by passengers.

Sec. 46-166. Carrying additional passengers.

Any passenger who engages the services of a pedicab shall have the exclusive right to the passenger compartment of the pedicab. It shall be unlawful for a licensee to carry additional passengers unless specific permission is obtained from the passenger who originally engaged the pedicab.

Sec. 46-167. Operation of pedicabs on roadways.

(a) All pedicabs operating on a roadway shall comply with all traffic laws of the state and applicable provisions of this Code.

(b) All pedicabs operating on a roadway and moving slower than the other traffic on the roadway shall ride as near as practicable to the right curb or edge of the roadway, unless:

- (1) The pedicab is passing another vehicle moving in the same direction;
- (2) The pedicab is preparing to turn left at an intersection or onto a private road or driveway;
- (3) A condition on or of the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal, or surface hazard prevents the pedicab from safely riding next to the right curb or edge of the roadway; or
- (4) The person is operating a pedicab in an outside lane that is:
 - a. Less than 14 feet in width and does not have a designated bicycle lane adjacent to that lane; or
 - b. Too narrow for a bicycle and a motor vehicle to safely travel side by side.

(c) A licensee operating a pedicab on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.

(d) Licensees operating pedicabs on a roadway may ride two abreast. Licensees riding two abreast on a laned roadway shall ride in a single lane. Licensees riding two abreast may not impede the normal and reasonable flow of traffic on the roadway. Licensees may not ride more than two abreast unless they are riding on a part of a roadway set aside for the exclusive operation of bicycles, tricycles, or other similar forms of non-motorized transportation.

(e) Each licensee shall pull his or her pedicab to the curb when loading or unloading passengers.

Sec. 46-168. Pedicab condition.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not in good working order, including, but not limited to, the operation of a pedicab that has:

- (1) Exposed rust;
- (2) Ripped upholstery or fabric;
- (3) Visible chips or scratches on any painted surface;
- (4) Exposed wood that is not painted and in good condition;
- (5) Exposed sharp edges; or
- (6) Dirt or debris on any surface accessible to patrons.

Sec. 46-169. Licensee appearance.

(a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with the requirements of this section at all times while operating a pedicab for hire.

(b) Licensees shall be clean-shaven or facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times.

(c) The term "suitably dressed" shall mean wearing appropriate outer garments, including, at minimum, shorts, slacks or trousers, a shirt with collar or blouse with or without a tie, and shoes. A licensee operating a pedicab shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.

(d) Clothing that is not considered appropriate and is not permitted when the licensee is in charge of a pedicab includes: underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, athletic shorts or trunks (jogging or bathing), or sandals.

Sec. 46-170. Pedicab lighting and reflectors.

It shall be unlawful for any permittee or licensee to operate, or cause to be operated, a pedicab that does not have the following:

- (1) A lamp on the front that emits a white light visible from a distance of at least one hundred feet to the front during daytime;
- (2) A lamp on the front that emits a white light visible from a distance of at least five hundred feet to the front during nighttime;
- (3) A red reflector on the rear of a type approved by the Texas Department of Transportation that is visible from fifty feet to three hundred feet to the rear when the reflector is directly in front of lawful upper beams of head lamps on a motor vehicle during nighttime; and
- (4) One lamp that emits a red light visible from a distance of five hundred feet to the rear during nighttime.

Sec. 46-171. Pedicab brakes.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not equipped with a braking system capable of being manipulated by the licensee from his normal position of operation and is capable of causing a pedicab with a loaded passenger compartment to come to a complete stop in a linear path of motion when each wheel of the pedicab is in contact with the ground on dry, level, clean pavement.

Sec. 46-172. Pedicab seat belts.

It shall be unlawful for a permittee or licensee to operate, or cause to be operated, a pedicab that is not equipped with a lap seat belt for each passenger.

Sec. 46-173. Pedicab trailer; limitation on number.

It shall be unlawful to operate a pedicab with more than one attached trailer, sidecar, or similar device.

Sec. 46-174. Pedicab width.

It shall be unlawful to operate a pedicab that is wider than 54 inches at its widest point.

Sec. 46-175. Pedicab operation; conduct.

(a) It shall be unlawful for a licensee operating a pedicab, or a permittee operating a pedicab service, to cause, suffer, or permit a licensee to:

- (1) Operate the pedicab other than on or astride a permanent and regular seat attached to the pedicab;
- (2) Carry at any one time a number of persons in excess of the number of seats available, provided that a passenger under five years of age shall not be considered a person for purposes of this subsection;
- (3) Operate a pedicab in a manner that results in damage to public or private property;
- (4) Fail to exercise due care to avoid colliding with a pedestrian on any roadway or sidewalk;
- (5) Operate a pedicab that is not equipped with an audible signaling device approved by the director and a radio, mobile telephone, or other means of two-way communication that may be used to request assistance in the event of an emergency;
- (6) Permit a person riding on a bicycle, coaster, sled, toy vehicle or roller skates to attach to the pedicab;
- (7) Operate a pedicab while carrying a package, bundle or article if the package, bundle or article prevents the operator from keeping at least one hand on the handlebars;
- (8) Operate a pedicab on any street or adjoining sidewalk that has been closed to vehicular traffic by barricade or similar barrier;
- (9) Permit or allow passengers to ride in or on a pedicab in such a position that the licensee's vision forward or to the side is blocked;
- (10) Refuse to board and convey a passenger on the basis of race, color, religion, sex, national origin, age, or disability, including the refusal to board and

convey any service animal or medical equipment utilized in conjunction with a passenger's disability; or

- (11) Stop or stand to pick up or discharge any passenger in a taxicab zone or any other area designated for other categories of vehicles.

(b) It shall be unlawful for any person to operate a pedicab on a street with a posted speed limit of 35 miles per hour or greater, except for the purpose of crossing that street.

(c) It shall be unlawful for any person, while operating a pedicab, to stop on a street with a posted speed limit of 35 miles per hour or greater in order to pick up or drop off passengers.

(d) It shall be unlawful for any person to operate a pedicab upon any portion of a public sidewalk except as necessary to access locations immediately adjacent to roadways through the use of points of ingress and egress made available for use by motor vehicles operating in compliance with all applicable traffic laws.

(e) It shall be unlawful for any person, while operating a pedicab, to obstruct the flow of pedestrian or vehicular traffic by remaining stopped by a sidewalk, except for the time period necessary to load or unload passengers.

(f) It shall be unlawful to operate a pedicab that does not have a clearly visible manufacturer's serial or identification number. In the case of a pedicab that is not of unibody design, it is sufficient for purposes of this subsection that either the operator's portion or the passenger's portion of the pedicab contain the manufacturer's serial or identification number.

(g) It shall be unlawful to remove, deface, alter or destroy the manufacturer's serial or identification number on a pedicab.

Sec. 46-176. Pedicab insurance.

(a) Before any permit shall be issued to any person, or before renewal of any permit shall be granted, the applicant shall file an insurance policy evidencing insurance coverage complying with the requirements contained in subsection (b) of this section.

(b) The insurance required in subsection (a) shall be in the form of commercial general liability policy. The required policy shall name the city as an additional insured and be issued by a carrier authorized or eligible to transact business in Texas. The insurance shall be a policy of commercial general liability insurance, including broad form coverage, products and completed operations, and personal injury and advertising injury in an amount not less than \$1,000,000 12-month aggregate, and \$1,000,000 per occurrence.

(c) Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director and an endorsement requiring 10 days' written notice of non-payment to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and all pedicabs within such coverage may not be operated. If a proper replacement policy is not provided to the director on or before the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of insurance required in subsection (b) shall be carried by licensees at all times while operating a pedicab and shall be accepted only in the authorized form approved by the director. A copy of the authorized form shall be placed on file for inspection in the offices of the director and city secretary.

Sec. 46-177. Records to be kept by permittee.

Permittees shall maintain business and operations records in compliance with this article and any regulations of the director.

Sec. 46-178. Accident reports.

(a) When a pedicab is involved in an accident or collision that results in any injury or damage to any person or property, including, but not limited to, damage to the pedicab, or injury of the licensee, the licensee shall report the accident or collision to the permittee without delay. The permittee shall keep on the permittee's premises records of all accidents and collisions upon forms to be promulgated by the director, which shall include the following information:

- (1) The permittee's and the licensee's names;
- (2) The licensee's pedicab driver's license number; and
- (3) The time and location of the accident or collision.

(b) Upon one hour's prior request by the director during normal business hours, the permittee shall make the records available for inspection and copying.

Sec. 46-179. Regulations.

The director is authorized to adopt regulations necessary to implement the provisions of this article. A copy of the regulations shall be maintained in the director's office for inspection by the public, and copies shall be made available for purchase for the fees prescribed by law.

EXHIBIT B

ARTICLE VII. LOW-SPEED SHUTTLES

DIVISION 1. GENERALLY

Sec. 46-371. Definitions.

When used in this article, the following words and terms shall have the meanings provided in this section, unless the context of their usage clearly indicates another meaning:

Certification decal means a metal tag, decal, or other evidence of a permit issued by the director for attachment on a low-speed shuttle that is operated pursuant to a permit.

Director means the director of the department of administration and regulatory affairs or his duly authorized representatives.

For hire means providing, or offering to provide, a service in exchange for any form of payment or gratuity, whether monetary or otherwise.

License means a current and valid low-speed shuttle license issued pursuant to division 2 of this article.

Licensee means any person in engaged in the act of driving a low-speed shuttle who is the holder of a current and valid low-speed shuttle driver's license issued pursuant to this article.

Low-speed shuttle means a motorized non-fossil fuel powered vehicle with a seating capacity of 4 to 8 passengers, including the driver, that has an attainable speed of more than 20 miles per hour and not more than 25 miles per hour on a paved level surface, conforms to Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500), and is used to transport passengers for hire. The term does not include:

- (1) A vehicle modified after its original manufacture to meet the speed requirements or safety equipment requirements contained in 49 C.F.R. Section 571.500;
- (2) A golf cart, moped, motorcycle, or tractor;
- (3) An electric bicycle or motor-driven cycle, as defined by Section 541.201 of the Transportation Code;

- (4) A motorized mobility device, as defined by Section 542.009 of the Transportation Code;
- (5) An electric personal assistive mobility device, as defined by Section 551.201 of the Transportation Code; or
- (6) A motor-assisted scooter, as defined in Section 551.351 of the Transportation Code.

Low-speed shuttle service means the business of transporting passengers for hire by means of a low-speed shuttle. Specifically excluded from this definition are:

- (1) Vehicles used in connection with any phase of a funeral or funeral service;
- (2) Taxicabs and jitneys licensed by the city;
- (3) Vehicles operating under a contract with the city;
- (4) Sightseeing or charter vehicles licensed by the city; and
- (5) Pedicabs licensed by the city.

Metropolitan area means Chambers, Fort Bend, Harris, Liberty, Montgomery, and Waller Counties.

Permit means a permit to operate a low-speed shuttle service pursuant to this article.

Permittee means any person, partnership, corporation, firm, joint venture, limited liability company, association, organization and any other entity holding a permit issued pursuant to this article.

Zone means the geographic area in which the low-speed shuttle will generally operate, as filed with the director in accordance with section 46-400 of this Code.

Sec. 46-372. Penalty for violation.

Any person who fails or refuses to comply with the terms and provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as provided by section 1-6 of this Code. Each violation shall be punishable as a separate offense.

Sec. 46-373. Article cumulative.

This article is cumulative of all other applicable laws and ordinances. Without limitation, this article is expressly made cumulative of division 3 of article II of chapter 9 of this Code. The director shall not approve a zone that involves the operation of a low-speed shuttle upon any airport terminal complex unless the permittee has first obtained an airport use permit for use of low-speed shuttles within that zone.

Secs. 46-374–46-390. Reserved.**DIVISION 2. PERMITS AND LICENSES****Sec. 46-391. Permit required.**

(a) It shall be unlawful for any person to operate a low-speed shuttle service without first obtaining a permit pursuant to the terms of this division.

(b) Each applicant for a permit required by this division must:

- (1) Have no conviction of an offense stated in subsection (c) of section 1-10 of this Code;
- (2) Identify the make, model, manufacturer's rated seating capacity and vehicle identification number for each vehicle to be used as a low-speed shuttle;
- (3) Identify the proposed zone(s) where the applicant desires to operate the low-speed shuttle service;
- (4) Provide proof of insurance pursuant to the requirements of this article;
- (5) If a natural person:
 - a. Be 18 years of age or older;
 - b. Be able to read and write the English language;
 - c. Provide written character references from two persons who have known the applicant for at least two years attesting to the applicant's good moral character. Character references shall be from persons who reside in the city unless the applicant has not resided in the city or county for the preceding five-year period; and
 - d. Hold a current and valid class A, B, or C Texas driver's license.

- (6) Not have had a license, permit, or franchise issued under this chapter revoked or not renewed for cause by the city within the five-year period preceding the date of filing of the application;
- (7) Provide evidence that the applicant has a place of business within the metropolitan area from which the applicant's low-speed shuttle service will be operated and that such use of the location is in compliance with any applicable deed restrictions; and
- (8) Provide any other information reasonably requested by the director for administration of this article.

Sec. 46-392. License required.

It shall be unlawful for any person to operate low-speed shuttle without a license issued pursuant to this article. In addition to the permit requirements provided in section 46-391, each applicant for a license required by this division shall also:

- (1) Provide a medical examiner's certificate from a Texas licensed physicians on a certificate form promulgated by the director attesting that the applicant is physically qualified to safely operate a low-speed shuttle; and
- (2) Provide evidence that the applicant has passed a drug screening test within the 30 day period preceding the date of filing of the application for license issuance or renewal. The director shall promulgate rules and regulations relating to the drug screening test. The test procedure shall be equivalent to that prescribed by the mayor for pre-employment drug screening for city employees. The director shall authorize laboratories and facilities that meet nationally recognized standards to obtain samples and perform the tests. The applicant shall bear all costs associated with the drug screening test.

Sec. 46-393. Fees.

- (a) There shall be a fee of \$10.00 for the issuance of a license.
- (b) There shall be a nonrefundable application processing fee of \$100.00 payable upon the filing of an application for a permit.

Sec. 46-394. Annual permit fee.

- (a) An annual permit fee of \$400.00 per low-speed shuttle shall be payable on or before June 1 of each year.

(b) There shall be no fee for the replacement of a low-speed shuttle with another low-speed shuttle.

(c) In the event that any permittee fails to pay the annual permit fee, the permit shall be suspended and no low-speed shuttle may be operated under the permit. If the fee is not paid by the 30th day following the due date, the permit shall terminate and not thereafter be subject to renewal, provided that the former permittee may apply for a new permit in the manner specified in this article.

(d) The fee imposed under this section is based upon an estimate of the fee allowed pursuant to § 502.003 of the Texas Transportation Code in the amount of two percent of gross receipts. Any permittee who wishes to do so may keep a record of gross receipts in the manner prescribed by regulation of the director. Within 90 days following the expiration of any permit year (June 1 to May 31) a permittee who has kept a record of gross receipts in the prescribed form may apply to the director for a refund of any portion of his total fees paid under this section for the previous permit year that exceeds two percent of the permittee's gross receipts from the operation of the vehicle to which the permit pertains. The refund application shall be made on a form promulgated by the director. The application shall state the amount of refund requested and shall be accompanied by copies of records maintained by the permittee in the form approved by the director. The application as well as any supplementary material required by the director must be accompanied by an affidavit signed and sworn to by the permittee. The permittee shall state that the application and all attachments are correct and complete and do not omit any material item, and that the permittee: (i) has personal knowledge of each matter affirmed, or (ii) has conducted a thorough investigation into each matter affirmed. Upon receipt of a complete and timely application, together with any required supplements, and after examining and investigating same, the director shall:

- (1) Refund or credit to the account of the permittee the amount stated on the application; or
- (2) Deny the refund. If the refund is denied, the director shall give written notice of the reason and, upon request, shall afford the permittee an informal hearing on the matter before a impartial hearing official.

Sec. 46-395. Application.

(a) Each person desiring to obtain a license or permit shall apply on forms provided by the director and shall include all information required by this article.

(b) Each license and permit applicant (including the proprietor if a proprietorship, each partner if a partnership, or each corporate officer, director, or holder of ten percent or more of the outstanding stock if a corporation) shall appear at a location specified by the director for identification and fingerprinting to determine the existence of any conviction of

any applicable offense(s) set forth in subsection (c) of section 1-10 of this Code. If so, the director shall follow the procedures set forth in section 1-9 of this Code and conduct a hearing if timely requested.

Sec. 46-396. Review.

(a) Following review of the application, the director shall provide the applicant with written notification of the approval or denial of the requested permit or license.

(b) The submission of any false information or a materially incomplete application, including but not limited to an applicant's failure to provide any information reasonably requested by the director, shall be grounds for denial of the application. In the event of denial, the applicant shall be given written notice of the basis for such action. The applicant shall be entitled to appeal a decision based, in whole or in part, upon section 1-10 of this Code. Notice of any denial shall comply with section 1-9 of this Code and applicable state laws.

(c) If the application is denied on the basis of the applicant's failure to satisfy any other requisites stated in this division, the applicant may request a hearing by submitting a written notice of appeal to the director within 15 days following the date the director's decision is deposited in the United States mail. An informal hearing shall be conducted by an impartial hearing officer who shall render a decision within 30 days from the date of the filing of the appeal. At the hearing, the burden shall be upon the applicant to demonstrate that he is entitled to the license or permit.

(d) If the reason for the denial of an application is curable, the director shall allow the applicant, upon a written request, to submit an amendment within the time allowed in subsections (b) and (c) for an appeal, in lieu of filing of an appeal. If the application is again denied, the applicant shall still be entitled to file an appeal within 15 days following the date the director's decision regarding the amended application is deposited in the United States mail.

(e) A license shall be issued upon the approval of the application therefor. Following approval of an application for a permit, the actual permit shall not be issued until the applicant has provided the make, model, manufacturer's seating capacity and vehicle identification number of each low-speed shuttle, if not provided with the application, and has paid the annual permit fee, obtained a certification decal, provided proof of insurance, provided proof of ownership or lease of each low-speed shuttle, and filed and received approval of all requested zones and rate data for each low-speed shuttle with the director.

(f) The director shall promulgate regulations and procedures for any required hearings which shall be consistent with sections 1-9 and 1-10 of this Code and applicable state laws.

Sec. 46-397. Vehicle inspection; fee.

(a) It shall be unlawful for any person to operate or cause to be operated any low-speed shuttle, unless the low-speed shuttle has been inspected as required in this section and has a current and valid certification decal affixed. There shall be a non-refundable vehicle inspection fee of \$25.00 per low-speed shuttle. All low-speed shuttles shall be maintained in a safe and sanitary condition and shall be thoroughly cleaned and disinfected at least once in each 24-hour period.

(b) Each low-speed shuttle shall be inspected before it is initially placed into service and thereafter before June 1 of each year at such location as the director may specify. The director shall approve the low-speed shuttle if he determines that:

- (1) The low-speed shuttle has current Texas registration and required Texas vehicle inspection stickers for both safety and air quality, if applicable;
- (2) The low-speed shuttle is of the approved color scheme and is marked as provided in section 46-423 of this article;
- (3) The low-speed shuttle is in generally sound working condition with no apparent safety-related defects, including inspection or testing of the speedometer, odometer, horn, windshield wipers, mirrors, steering, service brake, parking brake, tires, high beam indicator, tail lamp, stop lamps, license plate lamp, rear reflectors, turn signal lamps and headlamps;
- (4) The low-speed shuttle has a lap or lap/shoulder seat belt for the driver and for each passenger seating space to the extent the vehicle is so equipped by the manufacturer;
- (5) The low-speed shuttle has no seats that have been added in excess of the manufacturer's specifications; and
- (6) The low-speed shuttle complies with all other requirements of this article.

(c) Upon the satisfactory completion of the inspection, the director shall issue and permanently affix a certification decal to the lower right portion of the windshield of the low-speed shuttle. In any prosecution under this section, it shall be presumed that a low-speed shuttle has not been inspected as required in this section unless it has a current and valid certification decal affixed.

(d) Replacement certification decals shall be provided only upon reinspection of the low-speed shuttle.

(e) The director may inspect any low-speed shuttle and any records or documents required to be carried in or upon the low-speed shuttle at any time upon presentation of identification to the driver in order to determine operation in compliance with the provisions of this article and the regulations adopted hereunder by the director.

Sec. 46-398. Insurance.

(a) Before any permit shall be issued, or before renewal of any permit shall be granted, the applicant shall file proof of insurance coverage evidencing insurance coverage complying with the requirements contained in subsection (b) below or give proof that he is qualified as self-insured, including a certificate of self-insurance issued pursuant to the Texas Motor Vehicle Safety Responsibility Act as now in force or hereafter amended.

(b) The insurance required in subsection (a) shall be in the form of commercial auto liability coverage in an amount not less than \$500,000 combined single limit per occurrence. Additionally, the policy must include an endorsement requiring 30 days' written notice of termination or cancellation to the director and an endorsement requiring 10 days' written notice of non-payment to the director. In the event that a policy terminates or is cancelled without replacement, then each permit to which it pertains shall be suspended, and those low-speed shuttles may not be operated. If a proper replacement policy is not provided to the director on or before the date of termination or cancellation of the policy, the permit shall automatically terminate. Proof of the insurance required in this subsection shall be carried by licensees at all times while operating a low-speed shuttle and shall be accepted only in the authorized form approved by the director. A copy of the authorized form has been placed on file for inspection in the offices of the director and city secretary, and it is adopted as a part of this Code by reference.

Sec. 46-399. Authorized operators.

No low-speed shuttle shall be operated by anyone except the permittee or an employee of the permittee or other person who may be operating the low-speed shuttle under a written agreement specifically incorporating therein any rules, regulations, and conditions as may be reasonably required by the director to ensure compliance with applicable laws and regulations. The permittee shall be responsible for any person operating under his permit whether the person is an employee or is a person operating under a written agreement. Any person operating a low-speed shuttle on the streets or other public property of the city is presumed to be an employee of the permittee or to have entered into a written agreement with the permittee. Any person operating a low-speed shuttle on the streets or other public property of the city shall be required to secure a license pursuant to this article.

Sec. 46-400. Rate structure and fares; zones.

(a) Each low-speed shuttle shall be operated within a zone that has been filed with the director. The permittee shall also file with the director the rate structure or fares to be in effect for each zone. The permittee may file two or more operating zones for the same low-speed shuttle.

(b) The permittee shall submit all proposed zones for review and approval by the director. Rates and zones may be amended periodically. Zones shall not be exclusive. A fee of \$30.00 shall be imposed for each zone, per low-speed shuttle. A fee of \$30.00 shall be assessed for the amendment of all zone or rate information submitted to the director. Each zone application that involves use of airport facilities shall be accompanied by the proof required under section 46-373 of this Code.

(c) Approved zones and all rate information, including compensation by gratuity only, for each low-speed shuttle shall be conspicuously posted on each side of the vehicle in a manner and location approved by the director. The director may assign zone numbers and may assign different colors to signify rate amounts.

(d) It shall be unlawful for a licensee or permittee while in service with any passenger for hire on board to deviate from the zone as filed with the director for that low-speed shuttle.

(e) It shall be unlawful for a licensee or permittee to impose a rate structure or collect a fare other than as filed with the director.

(f) It shall be unlawful to drive or operate or cause to be driven or operated any low-speed shuttle without the current structure or fare posted as provided by the director.

(g) Following notice and a hearing, the director may cancel, alter, or amend any zone authorized in error.

Sec. 46-401. Receipt for payment of fare.

No licensee, upon receiving full payment for a fare as authorized by this article, shall refuse to provide a receipt upon the request of any passenger making a payment. The permittee of the low-speed shuttle shall make available to each licensee a receipt book or other electronic instrument capable of creating a record to be used for this purpose.

Sec. 46-402. Transfer; nonexclusive.

(a) A license or permit is personal to the licensee or permittee to whom it is issued and may not be leased, rented, sold, transferred or conveyed by operation of law or otherwise. Provided, any change of proprietor, change of partnership interests or change

of corporate officer, director or holder of ten percent or more of the outstanding shares of stock as shown on the permit application shall render a permit void, unless an application for transfer is filed within ten days following the effective date of the change. The director shall promulgate procedures for the processing of amendments and may suspend the permit(s) pending the completion of the processing if any additional person who has acquired an interest in the business is determined to have been convicted of an applicable offense as provided in subsection (c) of section 1-10 of this Code. The fee for filing an amended application shall be \$100.00.

(b) Each permit is nonexclusive, and no limits or restrictions shall exist upon the number of low-speed shuttles that may be permitted, provided that each must be operated pursuant to a permit and in accordance with all applicable requirements of this article.

Sec. 46-403. Terms of licenses and permits; suspension.

(a) A license shall be valid for two years from the date of issuance. A permit shall be valid for five years from the date of issuance.

(b) A license or permit may be terminated by operation of law as provided in sections 46-394 and 46-398 of this Code for failure to pay annual permit fees or maintain required insurance.

(c) A license or permit may be revoked or refused for renewal based upon the applicable grounds specified in section 1-10 of this Code by following the procedures specified in section 1-9 of this Code. Additionally, a license or permit may be revoked, or refused for renewal, following notice and a hearing conducted by an impartial hearing officer appointed by the director if:

- (1) The license or permit was issued in error;
- (2) The applicant provided materially false or incomplete information on the license or permit application; or
- (3) There are three or more instances within any period of one year in which the licensee or permittee or any permittee's employee violates any provision of this article or regulation issued by the director.

(d) In accordance with regulations promulgated by the director, a permit may be amended, without charge, for the limited purpose of adding, deleting or substituting any number of low-speed shuttle vehicles; provided however, the addition, deletion, or substitution of any low-speed shuttles pursuant to a current and valid permit shall require an inspection as provided for in section 46-397, including the payment of the inspection fee.

Secs. 46-404–46-420. Reserved.

DIVISION 3. LOW-SPEED SHUTTLE OPERATING REQUIREMENTS

Sec. 46-421. Operating restrictions.

(a) It shall be unlawful for a licensee or permittee to operate or cause to be operated any low-speed shuttle in a zone that has not approved by the director or on any roadway in the city where the posted speed limit exceeds 35 miles per hour, except for the purpose of crossing that roadway. It shall be unlawful for a low-speed shuttle to be operated on a roadway at a speed that exceeds the lesser of the posted speed limit or 25 miles per hour.

(b) It shall be unlawful for a licensee or permittee to operate or cause to be operated any low-speed shuttle upon any portion of a public sidewalk except as necessary to access locations immediately adjacent to a roadway through the use of points of ingress and egress made available for use by motor vehicles operating in compliance with all applicable traffic laws.

Sec. 46-422. Licensee appearance and conduct.

(a) It shall be the duty of every licensee to be hygienically clean, well-groomed, neat, and suitably dressed in compliance with all applicable requirements of this section at all times while operating a low-speed shuttle for hire.

(b) Licensees shall be clean-shaven, and facial hair shall be neatly trimmed. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times.

(c) The term "suitably dressed" shall be interpreted to mean the licensee shall wear slacks or trousers, a shirt with collar or blouse with or without a tie, a dress or suit, shoes, and, if desired, appropriate outer garments.

(d) Clothing that is not considered appropriate and is not permitted, when the licensee is in charge of a low-speed shuttle includes: T-shirts, underwear (as an outer garment), tank tops, body shirts, swimwear, jogging suits, or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing), or sandals; provided however, a licensee operating a low-speed shuttle that is not equipped with an interior air-conditioning system shall be permitted to wear a T-shirt and a short uniform design displaying the permittee's name, trademark, logo, or other similar identifying information. All uniform designs shall be submitted to and kept on file with the director.

(e) No licensee shall permit or allow passengers or employees to stand or ride on the running board, dash board, fender or any outside portion of the vehicle, nor shall a

licensee permit any passenger to stand in such a position that the licensee's vision forward or to the side is blocked.

(f) It shall be unlawful for any licensee to refuse to board and convey a passenger on a basis of race, color, religion, sex, national origin, age, or disability, including the refusal to board and convey any service animal or medical equipment utilized in conjunction with a passenger's disability.

Sec. 46-423. Low-speed shuttle equipment.

(a) It shall be unlawful for any person to drive or operate or cause to be driven or operated any low-speed shuttle that is not marked in a manner and location approved by the director and equipped as provided in this division.

(b) No licensee or permittee shall drive or cause to be driven any low-speed shuttle in the city until the permittee has filed with the director, for approval, the color scheme that he proposes to use in conjunction with the provision of the low-speed shuttle service. In approving or disapproving the color scheme submitted, the director shall consider:

- (1) The color scheme presently in use by the permittee, if any;
- (2) The color schemes of other permittees; and
- (3) Which permittee first used or requested approval of the color scheme.

If the director finds that the permittee is entitled to the use of the requested color scheme because of first or prior use and that it does not deceptively resemble the approved color scheme of another permittee, he shall approve its use by the permittee.

(c) If the color scheme is approved, the permittee shall, within 15 days, deliver to the director a color photograph, of a size and kind to be approved by the director, of a low-speed shuttle of his color scheme, and the permittee shall not change the color scheme without approval of the director.

(d) Additionally, each low-speed shuttle shall:

- (1) Have no taxi meter;
- (2) Have the following signage in letters not less than three inches in height nor less than 5/16 of an inch in brush stroke and of contrasting color to the background:
 - a. The name and telephone number of the permittee and rate structure on the exterior of both front doors;

- b. The telephone number of the permittee on the rear deck or trunk lid;
 - c. The permit number on the right side of the trunk or rear deck, the right side of the hood, and below the rear door handle on each side of the vehicle; and
 - d. The zone name below the permit number on each side of the vehicle. In the event one low-speed shuttle serves multiple zones, a changeable electronic or analog sign shall indicate the zone the vehicle is currently serving. The current zone and rate structure or fare for each low-speed shuttle must be posted in a conspicuous manner in the interior of the vehicle so as to be clearly visible and understood by all passengers;
- (3) Have a dashboard-mounted holder of a type approved by the director in which shall be mounted the operator's license, a photograph of the operator, and the telephone numbers of the director and the permittee for complaint purposes regarding low-speed shuttle services or charges, including instructions that if the passenger wishes to file a complaint, he should obtain the low-speed shuttle permit number as posted on the low-speed shuttle, date, time, destination, and fare charged. The director shall approve the size of the print, the colors, and the information to be provided so that the information may be easily read by passengers; and
- (4) Have a radio, mobile telephone or other means of two-way communication that may be used to request assistance in the event of an emergency.

The information required in item (2) above shall be painted upon the vehicle, provided that the director may allow the zone information only to be posted upon a magnetic sign or other removable sign of durable materials.

Sec. 46-424. Age of vehicle.

No person shall drive or operate or cause to be driven or operated any low-speed shuttle that is more than six years old. For purposes of this requirement, a low-speed shuttle is considered to be six years old on the thirty-first day of May of the sixth year following the manufacturer's model year of the low-speed shuttle, regardless of the date of its original purchase or the date it was first placed into service.

Sec. 46-425. Carrying additional passengers.

Any passenger who engages the services of a low-speed shuttle shall have the exclusive right to the passenger compartment of the low-speed shuttle, and it shall be

unlawful for a licensee to carry additional passengers unless specific permission is obtained from the passenger who originally engaged the low-speed shuttle.

Sec. 46-426. Operating requirements.

(a) It shall be the duty of the licensee to ensure that his low-speed shuttle is operated in accordance with this section.

(b) It shall be unlawful for a licensee to seek or solicit a passenger or passengers in an attempt to engage the services of a low-speed shuttle.

(c) It shall be unlawful for a low-speed shuttle to stop or stand to pick up or discharge any passenger in a taxicab zone or any other area designated for other categories of vehicles. It shall be the duty of each licensee when loading or unloading passengers to pull the low-speed shuttle to the curb and ensure that the low-speed shuttle does not impede normal vehicular and pedestrian movement.

(d) It shall be unlawful for a low-speed shuttle to stop or stand to pick up or discharge any passenger at any place that is not on a street or roadway with a zone submitted to and approved by the director.

(e) It shall be unlawful for a low-speed shuttle to stop or stand upon the public streets or other public property, except as required to comply with lawful traffic control devices and to discharge and pick up passengers.

(f) A log shall be maintained for each low-speed shuttle in a form prescribed by the director setting forth the hours of work of each licensee. No licensee shall operate a low-speed shuttle for more than 12 hours in any 24-hour period and no permittee shall allow or cause any licensee to drive a vehicle in operation as a low-speed shuttle more than 12 hours in a 24-hour period. Each permittee shall maintain the log for a period of six months and shall make the same available for inspection or copying upon request at the offices of the director.

Sec. 46-427. Records to be kept by permittee.

Permittees shall maintain business and operations records in a manner that demonstrates compliance with this article and regulations of the director.

Sec. 46-428. Accident reports.

When a low-speed shuttle is involved in an accident or is in a collision with any other vehicle of any kind whatsoever that results in any injury or damage to any person or property, including, but not limited to, damage to the low-speed shuttle, or injury of the licensee, the licensee shall report the accident to the permittee without delay. The

permittee shall keep on the permittee's premises records of all accidents upon forms to be promulgated by the director, which shall include the following information: The permittee's and the licensee's names, the licensee's low-speed shuttle license number, and the time and location of the accident. Upon one hour's prior request by the director during normal business hours, the permittee shall make the records available for inspection and copying.

Sec. 46-429. Regulations.

The director is authorized to adopt any regulations to implement this article. A copy of the regulations shall be maintained in the director's office for inspection by the public, and copies shall be made available for purchase at the fees prescribed by law.

Sec. 1-10. Same--Specific permits and licenses.

(a) Except as provided in the succeeding sentence applicable to the license enumerated in subsection (2) of this section, the licenses and permits enumerated in this subsection shall be denied if the applicant (i) has been convicted of any of the designated offenses within the seven-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the seven-year period immediately preceding the date of filing of the application for such a conviction, or (ii) is subject to deferred adjudication in connection with any of the above offenses. As to the license listed in subsection (2) of this section, the seven-year limitation shall not apply to any felony conviction for any sexual offense or offense involving violence, including, but not limited to, murder. Additionally, the following licenses and permits shall be subject to denial, revocation, or refusal for renewal, as applicable, if the licensee or permittee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such license or permit shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

- (1) All licenses issued pursuant to article II of chapter 8 of this Code:
 - a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
 - b. Any violation of the ordinances or statutes regulating the business of selling, trading, storing, dismantling or destruction of motor vehicles or motor vehicle parts, accessories, or supplies.
 - c. Any offense involving fraud or misrepresentation.
 - d. Any offense involving theft, robbery, or burglary.
 - e. Any offense involving bribery or perjury.
 - f. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
 - g. Any felony conviction for any violation of any state or federal laws regulating firearms.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of the licenses issued pursuant to article II of chapter 8 as all licenses issued under that article allow persons to engage in businesses connected with the sale, trade, servicing, storage, handling, dismantling, or destruction of motor vehicles or motor vehicle parts, accessories or supplies and city council finds that persons engaged in such businesses have special opportunities to engage in the offenses listed above due to the nature of the businesses and the lack of relevant technical knowledge on the part of many of those persons who deal with such businesses.

- (2) Wrecker driver licenses issued pursuant to subdivision B of division 2 of article III of chapter 8 of this Code:
- a. Any violation of the ordinances or statutes regulating the sale, trade, servicing, storage, handling, dismantling, or destruction of any motor vehicle or motor vehicle parts, accessories, or supplies.
 - b. Any offense involving fraud or misrepresentation.
 - c. Any offense involving felony theft, robbery, or burglary.
 - d. Any offense involving bribery or perjury.
 - e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas.
 - f. Any felony conviction for any violation of any state or federal laws regulating firearms.
 - g. Any offense involving forgery.
 - h. Any offense involving the theft or unauthorized use of a motor vehicle.
 - i. Any offense involving prostitution or the promotion of prostitution.
 - j. Any offense involving rape, sexual abuse, sexual assault, enticing of a child, rape of a child, sexual abuse of a child or indecency with a child.
 - k. Any offense involving the felony possession or delivery of drugs.

- l. Four or more moving violations of the traffic laws of this state or any other state, each of which arises from a separate incident, occurring within any 12 month period during the three years immediately preceding the application for a license or of the notice of a hearing for revocation of a license.
- m. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of a wrecker driver license issued pursuant to subdivision B of division 2 of article III of chapter 8 as that license allows persons to engage in an occupation in which there is a high degree of danger to the public through the involuntary towing and storage of automobiles, and city council finds that such activities involve substantial contact with the public including contact with persons whose vehicles may have become disabled at all hours of day and night and in remote locations. This occupation also affords special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

Provided, however, no such license or permit shall be denied, revoked or refused for renewal if any conviction was set aside as invalid or if it is found that the license should not be revoked, denied or refused for renewal under chapter 53 of the Texas Occupations Code.

Additional provisions relating to the revocation, suspension, and refusal to renew wrecker driver licenses are established in article III of chapter 8 of this Code. The applicable provisions of chapter 8 are cumulative of the provisions of this section and shall also constitute grounds for the revocation, suspension or refusal to renew a wrecker driver license.

- (3) Licenses issued pursuant to section 5-171 of this Code authorizing a person to operate, use or maintain any room or place where persons are permitted to play at any game of dominoes, cards or other games:

Any offense involving gambling or possession of gambling paraphernalia.

Offenses involving gambling and the possession of gambling paraphernalia shall be grounds for denial, revocation or refusal for renewal of such licenses because these businesses offer special opportunities for gambling activities.

- (4) Licenses issued pursuant to the Fire Code of the city:
- a. All permits relating to explosives as required under the Fire Code: any offense involving arson or intoxication.
 - b. All permits relating to flammable liquids as required the Fire Code: any offense involving arson or intoxication.
 - c. All permits for a public fireworks display as required under the Fire Code: any offense involving arson or intoxication.
 - d. All permits for open burning as required under the Fire Code: all offenses involving arson. The above listed offenses shall be grounds for denial, revocation, or refusal for renewal of the above listed Fire Code permits as city council finds that these permits authorize persons to handle substances that can cause substantial injury to persons or destruction of property through the willful or careless action of the permittee.

(5) Reserved.

(b) The authorizations enumerated in this subsection shall be denied if the applicant has been convicted of any of the designated offenses within the five-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the five-year period immediately preceding the date of the filing of the application for such a conviction. Additionally the following authorizations shall be subject to denial, revocation, or refusal for renewal, as applicable, if the holder has been convicted of any of the designated offenses since the application was filed. Provided however, no such authorization shall be denied, revoked or refused for renewal if the conviction was set aside as invalid or if it is found that the authorization should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

- (1) Authorizations for private storage lots issued pursuant to chapter 8, article III, division 3 of this Code:
- a. Any offense involving fraud or theft;
 - b. Any offense involving the unauthorized use of a motor vehicle;
 - c. Any offense involving forgery;
 - d. Any violation of state or federal laws regulating firearms;

- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of the state;
- f. Any offense involving the possession, use of or sale of drugs except for conduct that is classified as no greater than a Class C misdemeanor under the laws of this state;
- g. Any offense involving prostitution or the promotion of prostitution;
- h. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child or indecency with a child; or
- i. Any violation of state laws relating to the operation of motor vehicle storage lots.

The above listed offenses shall be grounds for the denial, revocation or nonrenewal of authorizations issued under division 3, article III of chapter 8, as enumerated, because the authorizations thereunder allow persons to engage in businesses and occupations in which there is a high degree of danger to the public through the voluntary or involuntary storage of automobiles. Such activities involve substantial contact with the public including contact with persons whose vehicles have become disabled at all hours of day and night. These businesses also afford special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

- (2) Permits for sexually oriented business enterprise entertainers and managers issued pursuant to article VIII of chapter 28 of this Code:
 - a. Any of the following offenses as described in chapter 43 of the Texas Penal Code:
 - (i) Prostitution;
 - (ii) Promotion of prostitution;
 - (iii) Aggravated promotion of prostitution;
 - (iv) Compelling prostitution;
 - (v) Obscenity;

- (vi) Sale, distribution or display of harmful material to a minor;
 - (vii) Sexual performance by a child;
 - (viii) Employment harmful to children; or
 - (ix) Possession or promotion of child pornography;
- b. Any of the following offenses as described in chapter 21 of the Texas Penal Code:
 - (i) Public lewdness;
 - (ii) Indecent exposure; or
 - (iii) Indecency with a child;
- c. Sexual assault or aggravated sexual assault as described in chapter 22 of the Texas Penal Code;
- d. Harboring a runaway child as described in chapter 25 of the Texas Penal Code;
- e. Criminal attempt, conspiracy or solicitation to commit any of the above offenses; or
- f. Any violation of article VIII of chapter 28 of this Code.

The above-listed offenses shall be grounds for the denial, revocation or refusal for renewal of a permit under article VIII of chapter 28 of this Code because persons who hold that permit are employed by sexually oriented businesses where there is a high degree of opportunity for unlawful sexual conduct or the solicitation thereof, lewd conduct, obscenity offenses, and conduct harmful to minors. Therefore, the enumerated offenses are directly related to the duties and responsibilities authorized by the subject permit. There is a serious need to protect members of the public and fellow employees of sexually oriented business enterprises from persons who have the foregoing criminal histories.

- (3) All certificates, licenses, permits, registrations, and other authorizations issued pursuant to chapter 47, article XI of this Code:

- a. Any offense involving violation of federal, state and local litter, special waste and hazardous waste laws including, without limitation, those relating to permitting of transporters and biological pretreatment.
- b. Any offense involving fraud or misrepresentation.
- c. Any offense involving forgery.

The above listed offenses shall be grounds for the denial, revocation or refusal to renew certificates, licenses, permits, registrations and other authorizations pursuant to chapter 47, article XI of this Code because the holders thereof engage in activities where there is a high degree of opportunity for the unlawful handling or disposition of waste materials or the alteration or fabrication of records relating thereto.

(4) Permits for valet parking services issued pursuant to chapter 26, article VII, division 2 of this Code:

- a. Any offense involving burglary, fraud or theft;
- b. Any offense involving the unauthorized use of a motor vehicle;
- c. Any offense involving forgery;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of the state;
- f. Any offense involving the possession, use of or sale of drugs except for conduct that is classified as no greater than a Class C misdemeanor under the laws of this state;
- g. Any violation of state laws relating to the operation of motor vehicle storage lots.
- h. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for the denial, revocation or nonrenewal of permits issued under division 2 of article VII of chapter 26, as

enumerated, because the authorizations thereunder allow persons to engage in businesses and occupations in which there is a high degree of danger to the public through the operation of automobiles. Such activities involve substantial contact with the public, including assuming possession of automobiles owned by members of the public. These businesses also afford special opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

- (5) Permits for vehicle immobilization services issued pursuant to chapter 26, article X, division 2 of this Code:
- a. Any offense involving burglary, fraud or theft;
 - b. Any offense involving the unauthorized use of a motor vehicle;
 - c. Any offense involving forgery;
 - d. Any violation of state or federal laws regulating firearms;
 - e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of the state;
 - f. Any offense involving the possession, use of or sale of drugs except for conduct that is classified as no greater than a Class C misdemeanor under the laws of this state;
 - g. Any violation of state laws relating to the operation of motor vehicle storage lots; and
 - h. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

The above listed offenses shall be grounds for the denial, revocation or nonrenewal of permits issued under division 2, article X of chapter 26 of this Code, as enumerated, because the authorizations thereunder allow persons to engage in businesses and occupations in which there is a high degree of danger to the public through the immobilization of automobiles. Such activities involve substantial contact with the public, including contact with persons whose vehicles may be rendered inoperable by an immobilization device at all hours of the day and night. These businesses also afford special

opportunities for theft and fraud. Therefore, there is a serious need to protect the public from the types of criminal conduct represented by such offenses.

(c) The licenses and permits enumerated in this subsection shall be denied if the applicant (i) has been convicted of any of the designated offenses within the ten-year period immediately preceding the date of the filing of the application or has spent time in jail or prison during the ten-year period immediately preceding the date of filing of the application for such a conviction, or (ii) is subject to deferred adjudication in connection with any of the above offenses. Additionally, the following licenses and permits shall be subject to denial, revocation, or refusal for renewal, as applicable, if the licensee or permittee has been convicted of any of the designated offenses since the application was filed. Provided, however, no such license or permit shall be denied, revoked, or refused for renewal if the conviction was set aside as invalid or if it is found that the license or permit should not be denied, revoked or refused for renewal under chapter 53 of the Texas Occupations Code:

Licenses issued pursuant to chapter 46 of this Code for school vehicle operators, pedicab operators and drivers, low-speed shuttle operators and drivers, charter or sightseeing service operators and drivers, chauffeured limousine service operators and drivers, taxicab drivers, and jitney drivers, and permits issued for taxicabs, pedicabs, low-speed shuttles, and jitneys, and franchises issued pursuant to uncodified ordinances for school bus operators:

- a. Any offense involving fraud or theft;
- b. Any offense involving forgery;
- c. Any offense involving the unauthorized use of a motor vehicle;
- d. Any violation of state or federal laws regulating firearms;
- e. Any offense involving violence to any person except for conduct that is classified as no greater than a Class C misdemeanor under the laws of Texas;
- f. Any offense involving prostitution or the promotion of prostitution;
- g. Any offense involving rape, sexual abuse, sexual assault, rape of a child, sexual abuse of a child, indecency with a child, or resulting in designation of the individual as a "registered sex offender" by any state or by the federal government;

- h. Any offense involving the use of or sale of drugs;

In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, taxicab drivers, pedicab drivers, low-speed shuttle drivers, jitney drivers and chauffeured limousine drivers;

- i. Three or more moving violations of the traffic laws of this state or any other state if such violations occurred within the two years immediately preceding the application for or renewal of a franchise or license or of the notice of a hearing for revocation of a franchise or license.

In addition to the offenses listed above, the following shall apply to franchises for school bus operators and licenses for school vehicle operators, limousine drivers, pedicab drivers, low-speed shuttle drivers, taxicab drivers, and jitney drivers;

- j. Any offense involving driving a motor vehicle while intoxicated, whether under the influence of alcohol or drugs, or both.

Each of the foregoing provisions of this subsection shall also be applicable to persons proposed to be listed as drivers by school vehicle licensees and applicants and school bus franchisees and applicants.

The above listed offenses shall be grounds for denial, revocation or refusal for renewal of the above listed licenses, permits, franchises, and listings of drivers authorized thereunder as they allow persons to engage in businesses and occupations in which there is a high degree of personal contact with and danger to the public and a serious need to protect the members of the public utilizing public transportation services from the type of criminal conduct represented by such offenses.

(d) This section shall not limit the right of the city to deny, revoke or refuse to renew any license or permit on any grounds set out in the ordinance relating to such license or permit except insofar as such license or permit is denied or revoked on the basis of a criminal conviction.

Sec. 45-326. Helmet required.

(a) It is unlawful for any child to operate or ride upon a bicycle or any side car, trailer, child carrier, seat or other device attached to a bicycle unless the child is wearing a helmet.

(b) It is unlawful for a parent to suffer or permit a child under 14 years of age to operate or ride upon a bicycle or any side car, trailer, carrier, seat or other device attached to a bicycle unless the child is wearing a helmet.

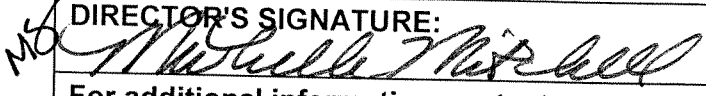
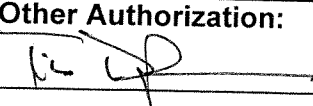
(c) It is a defense to prosecution that the bicycle was not being operated upon a public way at the time of the alleged offense.

(d) It is an affirmative defense to prosecution under this section, upon first offense only, that the person owns or has acquired a helmet prior to the court hearing and promises the court that the helmet will be used in the future.

(e) This section shall not be applicable to the operation of a pedicab pursuant to Article III of chapter 46 of this Code.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance appropriating \$17,430,949.00 in tax increment revenue payments made by Houston Independent School District (HISD), Lone Star Community College, and Port of Houston Authority, and authorizing the transfer of tax increment revenues from the various Tax Increment Funds pursuant to Tri-Party & Interlocal Agreements.		Category # 1	Page 1 of 1	Agenda Item # 12
FROM: (Department or other point of origin): Department of Finance (Economic Development)		Origination Date 10-5-10		Agenda Date OCT 15 2010
DIRECTOR'S SIGNATURE: 		Council Districts affected:		
For additional information contact: Tim Douglass Randell M. Naquin		Date and identification of prior authorizing Council Action: Ord. No. 97-565, 5/21/97; Ord. No. 99-913, 8/18/99; Ord. No. 99-914, 8/18/99		
RECOMMENDATION: (Summary) City Council approve an ordinance appropriating \$17,430,949.00 in tax increment revenue payments made by HISD, Lone Star Community College System, and Port of Houston Authority, and authorizing the transfer of tax increment revenues from the various Tax Increment Funds pursuant to Tri-Party & Interlocal Agreements.				
Amount of Funding: \$17,430,949.00		Finance Budget		
Source of Funding:) [] General Fund [] Grant Fund [] Enterprise Fund [X] Other (Specify) \$17,430,949.00 from various TIRZ funds (See attached ISD Analysis).				
Specific Explanation: <p>State legislation enacted in 2009 provides for the Texas Education Agency (TEA) to pay additional funds to school districts that participate in tax increment reinvestment zones (Zones) based on a specific formula to be applied beginning in Tax Year 2006 (Pass Through Funds). This statutory provision was applied to the 11 Zones in which HISD participates, resulting in TEA paying HISD the additional Pass Through Funds, which HISD, in turn, paid into the applicable Zone Funds according to each Zone's individual agreement(s) for Tax Years 2006, 2007, and 2008.</p> <p>Separately, this appropriation also includes Tax Year 2009 tax increment payments received from Lone Star Community College and Port of Houston Authority to be paid into the various Zone Funds in which these taxing entities participate.</p> <p>As set forth in the attached spreadsheets, \$2,030,682.00 will be transferred into the City's Affordable Housing Fund; \$28,938.00 will be transferred to the General Fund for Zone Administrative costs; \$13,351,299 will be paid to HISD for Educational Facilities Project Costs; \$539,698.80 will be paid to Greater Greenspoint Redevelopment Authority to be held in escrow for Lone Star Community College System; and \$1,480,331.20 will be paid to various Zone redevelopment authorities for approved project costs.</p> <p>cc: Marty Stein, Agenda Director Michelle Mitchell, Director of Finance Anna Russell, City Secretary David Feldman, City Attorney Deborah McAbee, Senior Assistant City Attorney</p>				
REQUIRED AUTHORIZATION				
Finance Director:	Other Authorization:	Other Authorization: 		

TIRZ: SCHOOL DISTRICT INCREMENT TAX YEAR 2006, 2007, AND 2008
"PASS THROUGH FUNDING HISD"

#	TIRZ	Fund #	Total Pass Through Funds Tax Year 2006	Total Pass Through Funds Tax Year 2007	Total Pass Through Funds Tax Year 2008	Total HISD Payments Received (1)	Affordable Housing Transfer to Fund 2409	ISD & CCD Admin. Transfer to General Fund	Payment Amount to ISDs for Educational Facilities (2)	ISD and CCD Increment due to the Redevelopment Authorities	Payee
1	Lamar Terrace	7512	\$ 94,717.00	\$ 360,846.00	\$ 382,568.00	\$ 838,131.00	\$ 279,377.00	\$ -	\$ 558,754.00	\$ -	Special Pay Instruction #1
2	East and West Midtown	7550	\$ 410,321.00	\$ 1,652,742.00	\$ 1,916,381.00	\$ 3,979,444.00	N/A	\$ -	\$ 2,652,963.00	\$ 1,326,451.00	Midtown RA
	Original Annexed		\$ 410,321.00	\$ 1,652,742.00	\$ 1,916,381.00	\$ 3,979,444.00			\$ 2,652,963.00		
3	Market Square	7551	\$ 425,744.00	\$ 1,533,877.00	\$ 1,822,700.00	\$ 3,582,320.00	N/A	\$ -	\$ 3,582,320.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 425,744.00	\$ 1,533,877.00	\$ 1,822,700.00	\$ 3,582,320.00			\$ 3,582,320.00		
4	Village Enclave	7552	\$ 67,076.00	\$ 254,956.00	\$ 304,769.00	\$ 628,801.00	\$ 1,675,372.00	\$ -	\$ 628,801.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 67,076.00	\$ 254,956.00	\$ 304,769.00	\$ 628,801.00			\$ 628,801.00		
5	Memorial Heights	7553	\$ 91,105.00	\$ 329,788.00	\$ 334,735.00	\$ 755,628.00	N/A	\$ -	\$ 755,628.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 91,105.00	\$ 329,788.00	\$ 334,735.00	\$ 755,628.00			\$ 755,628.00		
6	Eastside	7554	\$ 166,185.00	\$ 605,929.00	\$ 608,101.00	\$ 1,380,215.00	N/A	\$ -	\$ 1,380,215.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 166,185.00	\$ 605,929.00	\$ 608,101.00	\$ 1,380,215.00			\$ 1,380,215.00		
7	OST/Alameda	7555	\$ 87,824.00	\$ 321,482.00	\$ 323,454.00	\$ 732,660.00	\$ 647,555.00	\$ -	\$ 732,660.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 87,824.00	\$ 321,482.00	\$ 323,454.00	\$ 732,660.00			\$ 732,660.00		
8	Gulfgate	7556	\$ 24,627.00	\$ 114,301.00	\$ 142,974.00	\$ 281,902.00	N/A	\$ -	\$ 281,902.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 24,627.00	\$ 114,301.00	\$ 142,974.00	\$ 281,902.00			\$ 281,902.00		
9	South Post Oak	7557	\$ 50,822.00	\$ 186,450.00	\$ 193,910.00	\$ 431,182.00	N/A	\$ -	\$ 431,182.00	\$ -	South Post Oak RA
	Original Annexed		\$ 50,822.00	\$ 186,450.00	\$ 193,910.00	\$ 431,182.00			\$ 431,182.00		
10	Lake Houston	7558	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
11	Greenspoint	7559	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
12	CityPark	7560	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
13	Old Sixth Ward	7561	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
14	Fourth Ward	7562	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
15	East Downtown	7563	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
16	Uptown	7564	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
17	Memorial City	7565	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
18	Fifth Ward	7566	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
19	Upper Kirby	7567	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
20	Southwest Houston	7568	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
21	Hardy Yards	7569	\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00	\$ 75,933.00	\$ -	\$ 151,866.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 25,459.00	\$ 97,712.00	\$ 104,628.00	\$ 227,799.00			\$ 151,866.00		
22	Leland Woods	7570	\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00	N/A	\$ -	\$ 349,452.00	\$ -	Special Pay Instruction #1
	Original Annexed		\$ 42,508.00	\$ 150,614.00	\$ 156,330.00	\$ 349,452.00			\$ 349,452.00		
	Total		\$ 1,331,488.00	\$ 7,385,021.00	\$ 8,155,581.00	\$ 16,852,189.00	\$ 2,030,682.00	\$ -	\$ 13,351,299.00	\$ 1,470,208.00	

The table sets forth several requested appropriations: a) recently deposited tax increments received by the City from Houston ISD and LSCC. The table also sets forth several requested expenditures: a) transfers into Fund 2409 for the one-third affordable housing set-aside; b) payment amounts to ISDs for educational facilities; c) transfer amounts into the General Fund for costs associated with the administration of the zones; and d) payments to the various redevelopment authorities for affordable housing.

Special Pay Instructions #1

Payment to Houston Independent School District for Educational TEA Pass Through Funds

\$ 13,351,299.00
\$ 13,351,299.00

Notes:

- 1) ISD = Houston Independent School District
- 2) There is no administrative fees to COH.
- 3) Educational Facilities revenues are set-aside per the Houston ISD and in which the increment is paid to the ISDs for construction of educational facilities inside or outside the zones.
- 4) All Houston ISD payment minus set-aside for affordable housing is returned for payments for Westside High School.
- 5) The RA receives affordable housing increments in the "pass through payment from HISD".

TIRZ: TAX INCREMENT TAX YEAR 2009

FROM LONE STAR COMMUNITY COLLEGE AND PORT OF HOUSTON AUTHORITY

#	TIRZ	Fund #	CCD and Port Authority Payments Received (1)	Affordable Housing Transfer to Fund 2409	Port & CCD Admin. Transfer to General Fund	Footnotes	Payment Amount to ISDs for Educational Facilities (3)	Port and CCD Increment due to the Redevelopment Authorities	Payee
1	Lamar Terrace	7512							
2	Midtown	7550							
		Original							
		Annexed							
3	Market Square	7551	\$ 10,656.00		\$ 532.80			\$ 10,123.20	Main Street Market Square RA
		Original	\$ 10,656.00		\$ 532.80				
		Annexed							
4	Village Enclave	7552							
		Original							
		Annexed							
5	Memorial Heights	7553							
6	Eastside	7554							
7	OST/Alameda	7555							
		Original							
		Annexed							
8	Gulfgate	7556							
9	South Post Oak	7557							
10	Lake Houston	7558	\$	N/A		(1),(2)		\$	
		Original (Humble ISD)							
		Annexed							
11	Greenspoint	7559	\$ 568,104.00	N/A	\$ 28,405.20		\$	\$ 539,698.80	Greater Greenspoint RA (Special #1)
		Aldine ISD					\$		
		Spring ISD					\$		
		Lone Star College (NHMCDD)							
12	CityPark	7560	\$ 568,104.00		\$ 28,405.20	(1), (2)			
13	Old Sixth Ward	7561							
14	Fourth Ward	7562							
15	East Downtown	7563							
16	Uptown	7564							
17	Memorial City	7565							
18	Fifth Ward	7566							
19	Upper Kirby	7567							
20	Southwest Houston	7568							
21	Hardy Yards	7569							
22	Leland Woods	7570							
Total			\$ 578,760.00	\$	\$ 28,938.00		\$	\$ 549,822.00	

The table sets forth several requested appropriations: a) recently deposited tax increments received by the City from Lone Star Community College and Port of Houston Authority payments to the various redevelopment authorities; b) payment amounts from the College for educational facilities; c) transfer amounts into the General Fund for costs associated with the administration of the zones; and d) Special Pay Instructions #1

Educ. Facilities - Lone Star
Community College

\$ 539,698.80 Held in escrow with #11-Greenspoint RA

Total Payment to Greater Greenspoint RA \$ 539,698.80

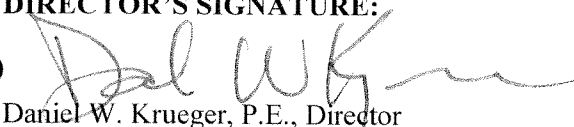


Notes:

- 1) ISD = Independent School District and CCD = Community College District
- 2) The administration fee is calculated at 5% of the net increment revenue rather than the \$25,000 maximum.
- 3) Market Square - County funds received separately effective with TY05 revenue.

Port Authority
Hospital District

10,656.00 \$10,656 received 08/10/10

\$ 10,656.00

SUBJECT: Ordinance authorizing the sale of a 40-foot-wide subsurface pipeline easement within an existing CenterPoint Energy transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59. Parcel SY10-066	Page <u>1</u> of <u>1</u>	Agenda Item # 13
FROM (Department or other point of origin): Department of Public Works and Engineering	Origination Date 10/7/10	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director	Council District affected: I Key Map: 455V 	
For additional information contact: Nancy P. Collins Phone: (713) 837-0881  Senior Assistant Director-Real Estate	Date and identification of prior authorizing Council Action: C.M. 2010-0404 (6/23/2010)	

RECOMMENDATION: (Summary) It is recommended City Council approve an Ordinance authorizing the sale of a 40-foot-wide subsurface pipeline easement within an existing CenterPoint Energy transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59.

Amount and Source of Funding: Not Applicable

SPECIFIC EXPLANATION:

By Motion 2010-0404, passed and adopted on June 23, 2010, City Council authorized the subject transaction. Magellan Pipeline Company, L.P. [Magellan Pipeline GP, LLC (Larry J. Davied, Vice President), General Partner] requested to continue its petroleum pipeline in an east-west direction within an existing CenterPoint easement on City property. CenterPoint owns the adjacent property in fee on the east and west sides of the City's property. The existing CenterPoint easement provides a continuous utility corridor. CenterPoint agreed to allow Magellan Pipeline Company, L.P. to run its pipeline in its fee-owned property and within its easement on City property, subject to City approval.

Since the subject easement is located within land bequeathed to the City via the will of the late John Battaglia for charitable purposes, funds resulting from the conclusion of this transaction will be deposited into The Battaglia Fund, which is administered by the Administration and Regulatory Affairs Department.

Magellan Pipeline Company, L.P. has complied with the Motion requirements, has accepted the City's offer, and has rendered payment in full.

The City will sell to Magellan Pipeline Company, L.P.:

Parcel SY10-066

51,626-square-foot subsurface pipeline easement
Valued at \$0.285 per square foot

\$14,713.00 R

TOTAL SALE

\$14,713.00

Therefore, it is recommended City Council approve an Ordinance authorizing the sale of a 40-foot-wide subsurface pipeline easement within an existing CenterPoint Energy transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59.

DWK:NPC:dob

c: Jun Chang, P.E.
Marlene Gafrick

Daniel Menendez, P.E.
Marty Stein


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CUIC #20DOB051

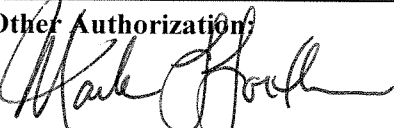
REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:


Alfred J. Moran, Director
Administration and Regulatory
Affairs Department

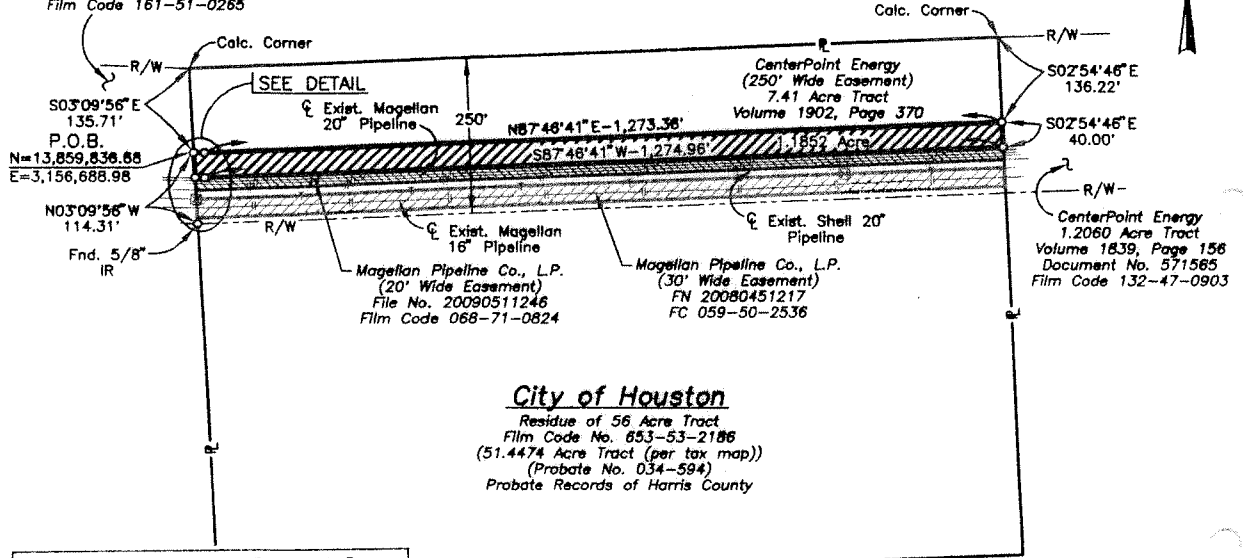
Other Authorization:


Mark L. Loethen, P.E., CFM, PTOE
Acting Deputy Director
Planning and Development Services Division

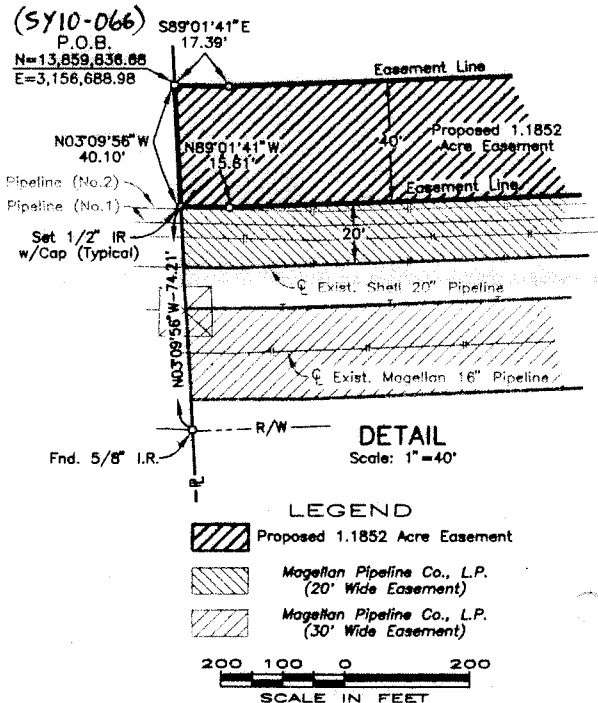
HARRIS COUNTY, TEXAS

REELS & TROBOUGH SURVEY, A-59

CenterPoint Energy
3.551 Acre Tract
Volume 1806, Page 262
Document No. 550474
Film Code 161-51-0265



SUBJECT: Sale of a 40-foot-wide subsurface pipeline easement within an existing CenterPoint Energy transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59. **Parcel SY10-066**



I, Fred P. Langham, Do Hereby Certify That
This Plat Reflects a Survey Made On the Ground
Under my Supervision During January, 2009 & March, 2010.



Exhibit "B"

Fred P. Langham
Registered Professional Land Surveyor No. 4215

NOTES:

- 1) Bearings and Coordinates are Based on the "Texas Coordinate System", South Central Zone, NAD 83 in feet. Scale Factor = 0.99989687
- 2) Description Attached.
- 3) Reference CenterPoint Energy Map No. A470.



GULLETT & ASSOCIATES, INC.
7705 S. LOOP E.
HOUSTON, TEXAS 77012
(713) 644-3219

F.B. 4550, Pgs. 26-33

51,626 Sq. Ft.
1.1852 Acres



CITY OF HOUSTON
PUBLIC WORKS AND
ENGINEERING DEPARTMENT

APPROVAL

[Signature]
CHIEF SURVEYOR

06/30/10
DATE

RIGHT OF WAY SECTION

KEY MAP NO. 455V&456S

GIMS MAP No. 5659 b

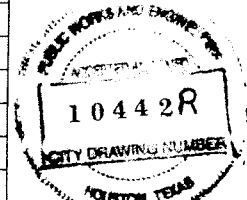
DATE: 03/11/10

PARCEL NO. SY10-066

CIP NO.

GFS NO.

C.M. NO. 2010-0404



MOTION by Council Member Clutterbuck 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 David Turnbo, Gullett & Associates, Inc, 7705 South Loop East, Houston, Texas 77012, on behalf of Magellan Pipeline Company, L.P. (Magellan) [Magellan Pipeline GP, LLC (Larry J. Davied, Vice President) General Partner], for the sale of a 40-foot-wide subsurface pipeline easement within an existing CenterPoint transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59, Parcel SY10-066, be adopted as follows:

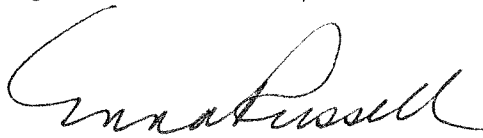
1. The City sell a 40-foot-wide subsurface pipeline easement within an existing CenterPoint Energy transmission easement, within the Battaglia Tract (Parcel Q45-001), out of the Reels and Trobough League Survey, A-59,
2. The applicant be required to furnish the Department of Public Works and Engineering 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 CenterPoint for the 40-foot-wide easement to be sold;
4. The Legal Department be authorized to prepare the necessary transaction documents; and
5. Inasmuch as the value of the property interests is not expected to exceed \$50,000.00, that the value be established by staff appraisal, according to City policy.

Seconded by Council Member Bradford and carried.

Mayor Parker, Council Members Stardig, Johnson, Clutterbuck, Adams, Sullivan, Hoang, Pennington, Gonzalez, Rodriguez, Costello, Lovell, Noriega, Bradford and Jones voting aye
Nays none

PASSED AND ADOPTED this 23rd day of June 2010.

Pursuant to Article VI, Section 6 of the City Charter, the effective date of the foregoing motion is June 29, 2010.


City Secretary

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

R

SUBJECT: An Ordinance Amending Ordinance No. 2009-1059 to substitute a corrected Purchase Agreement between the City of Houston (Seller) and Community Family Centers/Centros Familiares de la Comunidad (Buyer) for the sale of land for the Department of Health and Human Services.		Page 1 of 1	Agenda Item 14
FROM (Department or other point of origin): General Services Department		Origination Date 10-5-10	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Interim Director 9/28/10		Council District affected: 1	
For additional information contact: Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023		Date and identification of prior authorizing Council action: Ordinance No. 2009-1059; November 4, 2009	
RECOMMENDATION: Approve corrected Purchase Agreement to replace a Purchase Agreement between the City of Houston (Seller) and Community Family Centers/Centros Familiares de la Comunidad (Buyer) for the sale of land for the Department of Health and Human Services.			
Amount and Source Of Funding: Revenue - \$142,000.00		Finance Budget:	
<p>SPECIFIC EXPLANATION: On November 4, 2009, Ordinance 2009-1059, City Council approved a Purchase Agreement between the City of Houston (Seller) and Community Family Centers/Centros Familiares de la Comunidad (Buyer) for the sale of two tracts of land located at 7228 Canal Street (Tract 1) and 7301 Avenue F (Tract 2) for a total purchase price of \$156,700.00. Tract 2 is subject to a lease agreement between the City and Special Recreation Services, a Texas non-profit corporation, through 2014. Prior to closing, CFC determined that it no longer had a need for Tract 2 due to its designation as a Protected Landmark. Special Recreation Services desires to purchase Tract 2 for \$14,700.00. Council will be requested to approve a Purchase Agreement with Special Recreation Services for the adjacent tract under a separate Council action.</p> <p>The General Services Department recommends that City Council amend Ordinance No. 2009-1059, to substitute the Purchase Agreement approved by Ordinance 2009-1059, with the corrected Purchase Agreement with CFC for the purchase of Tract 1 (Parcel SY9-038), consisting of 1.2548 acre of land located at 7228 Canal Street for a purchase price of \$142,000.00, which represents the appraised fair market value. Since it was founded in 1972, CFC (formerly Chicano Family Center) has been providing a range of social, health and education services for low-income families in the East End. CFC will enter into a Development Agreement for Tract 1, under which they must begin construction within three years after the date of the Deed or the property may revert back to the City. Once constructed, CFC is obligated to own and operate the non-profit facility for a period of at least 20 years. It is further recommended that City Council authorize the Mayor to execute and the City Secretary to attest a Special Warranty Deed conveying the property to CFC.</p> <p>This sale is in accordance with Section 272.001(b) (4) of the Texas Local Government Code, which permits a political subdivision to sell real property to an independent foundation for development, and is subject to the City's billboard restrictions; historic landmark restrictions; all easements and public utilities; and the applicable covenants, conditions and restrictions.</p> <p>The sale proceeds will be directed to the General Fund.</p> <p>FRC:JLN:RB:ddc</p> <p>xc: Marty Stein, Anna Russell, Jacquelyn L. Nisby and Claudette Manning</p>			
REQUIRED AUTHORIZATION CUIC ID# 25 RB 93			
General Services Department: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Director Real Estate Division		Department of Health and Human Services: <i>Stephen L. Williams</i> Stephen L. Williams, M.Ed., M.P.A. Director	

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Purchase Agreement between the City of Houston (Seller) and Special Recreation Services, Inc. (Buyer) for the sale of 0.2820 acres of land located at 7301 Avenue F (Parcel SY9-039) for the Department of Health and Human Services		Page 1 of 1	Agenda Item <i>15</i>
FROM (Department or other point of origin): General Services Department	Origination Date 10-5-10	Agenda Date OCT 13 2010	
DIRECTOR'S SIGNATURE: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Interim Director <i>9-28-10</i>	Council District affected: 1		
For additional information contact: Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	Date and identification of prior authorizing Council action: Resolution 2010-0043; July 14, 2010		
RECOMMENDATION: Approve and authorize a Purchase Agreement between the City of Houston (Seller) and Special Recreation Services, Inc. (Buyer) for the sale of 0.2820 acres of land located at 7301 Avenue F for a purchase price of \$14,700.00 for the Department of Health and Human Services (Parcel SY9-039).			
Amount and Source Of Funding: Revenue - \$14,700.00		Finance Budget:	
<p>SPECIFIC EXPLANATION: By Resolution No. 2010-0043, City Council designated Parcel SY9-039, the former Magnolia Park City Hall and Central Fire Station, located at 7301 Avenue F, as a Protected Landmark pursuant to Section 33-229 of the Code of Ordinances. The property consists of 0.2820 acre of land and building.</p> <p>Special Recreation Services, Inc. (SRS), a Texas non-profit corporation, desires to purchase the property for \$14,700.00. SRS currently leases the facility and will enter into a Development Agreement that provides for the continued use of the facility to offer health and social services to low-income families. SRS shall own and operate the facility for a period of at least 20 years after the date of the Deed and any renovation of the building must comply with the requirements of its designation as a Protected Landmark.</p> <p>This sale is in accordance with Section 272.001(b) (4) of the Texas Local Government Code, which permits a political subdivision to sell real property to an independent foundation for development, and is subject to the City's billboard restrictions; historic landmark restrictions; all easements and public utilities; and the applicable covenants, conditions and restrictions.</p> <p>Therefore, the General Services Department recommends that City Council approve and authorize a Purchase Agreement with SRS for the above-described land for a purchase price of \$14,700.00, which represents the appraised fair market value. It is further recommended that City Council authorize the Mayor to execute and the City Secretary to attest a Special Warranty Deed conveying the property to SRS.</p> <p>The net sale proceeds will be directed to the Historic Preservation Fund.</p> <p>FRC:JLN:RB:ddc</p> <p>xc: Marty Stein, Anna Russell, Jacquelyn L. Nisby and Claudette Manning</p>			
REQUIRED AUTHORIZATION CUIC ID# 25 RB 92			
General Services Department: <i>Forest R. Christy, Jr.</i> Forest R. Christy, Jr., Director Real Estate Division	Department of Health and Human Services: <i>Stephen L. Williams</i> Stephen L. Williams, M.Ed., M.P.A. Director		

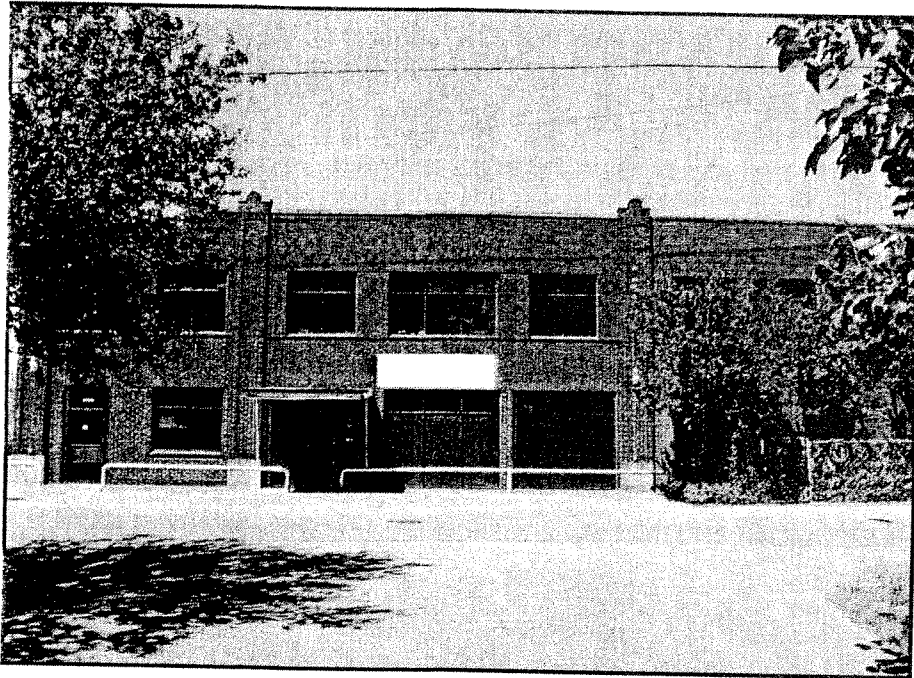
CITY OF HOUSTON

Archaeological & Historical Commission

Planning and Development Department

EXHIBIT A

Magnolia Park City Hall and Central Fire Station
7301 Avenue F



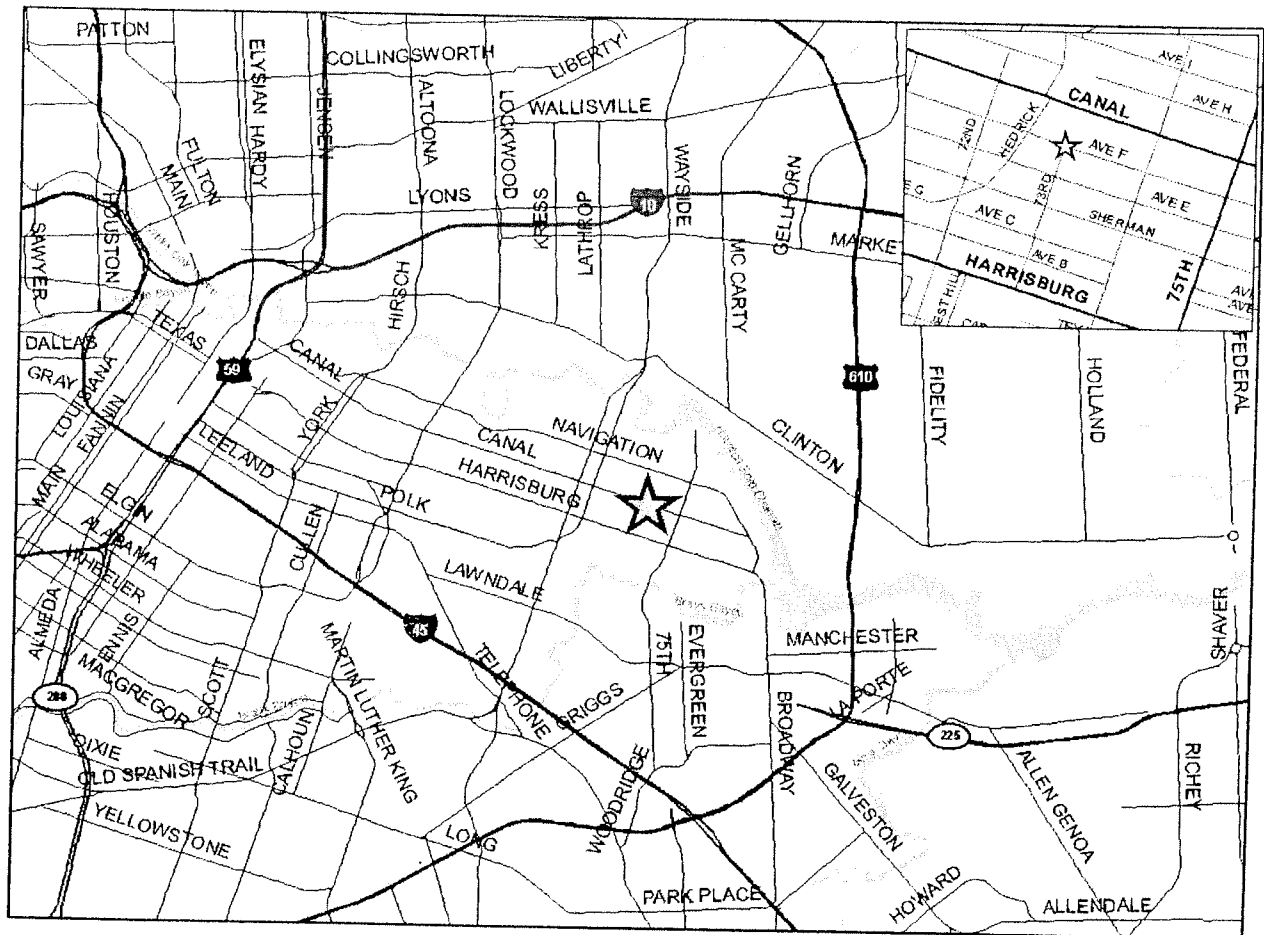
Planning and Development Department

EXHIBIT B

SITE LOCATION MAP

Magnolia Park City Hall and Central Fire Station
7301 Avenue F

NOT TO SCALE



TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Amendment No. 1 to the Evaluation, Repair & Clean-up Services Contract with Texas Drain Technologies, Inc. at George Bush Intercontinental Airport/Houston (IAH), Project No. 642 (WBS # A-000586-0001-3-02, WBS# A-000586-001-3-03 ; Contract No. 4600009899)		Category #9	Page 1 of 2	Agenda Item # 116
FROM (Department or other point of origin): Houston Airport System		Origination Date September 15, 2010	Agenda Date OCT 13 2010	
DIRECTOR'S SIGNATURE: [Signature: Eric R. Potts]		Council District affected: B		
For additional information contact: Eric R. Potts [Signature] Phone: 281-233-1999 Robert Bielek [Signature] 281-233-1941		Date and identification of prior authorizing Council action: 09/02/2009 (O) 2009-802		
AMOUNT & SOURCE OF FUNDING: CIP No. A-0586.05 \$3,800,000.00 Arpt Improvemt Fd (8011) [Signature] \$2,000,000.00 Arpt Syst Bd 98B AMT Construct \$5,800,000.00 Fd (8006)		Prior appropriations: 09/02/09.....\$1,100,000.00 Arpt R & R Fd (8010)		
RECOMMENDATION: (Summary) Enact an Ordinance to approve Amendment No. 1 to the evaluation, repair and clean-up services contract with Texas Drain Technologies, Inc. and appropriate the necessary funds to finance the cost of these services.				
SPECIFIC EXPLANATION: On September 2, 2009, the City entered into a contract with Texas Drain Technologies, Inc. (TDT) for evaluation, repair and clean-up services for the sanitary sewer system at all terminals at George Bush Intercontinental Airport/Houston (IAH). Phase I services provided to date include an in-depth evaluation and identification of problem areas, minor repairs, clean-up, television inspection of sanitary sewer plumbing infrastructure lines and general maintenance services to Terminals B, C and D. It is now requested that Council approve Amendment No. 1 to provide Phase II scope of work which consists of major repairs, rehabilitation work and any additional plumbing of underground pipes in Terminal's A, B, C, D and the FIS building at IAH. The major repairs and rehabilitation work include the following: <ul style="list-style-type: none">• Begin evaluation and identification of problem areas, repairs, clean-up, television inspection and maintenance services to the sanitary sewer plumbing infrastructure lines in Terminal A and the FIS building.• Installing additional grease traps and construct improvements to drain lines/grease trap lines to service expansion of concessions in terminals.• Replace approximately 1,000 feet of 18" pipe under the Terminal A South Apron. This sewer line has exceeded maximum design life (43 yrs.) and some segments of the pipe have failed due to the constant high volume of wastewater carried. The contract term for Phase II is 12 months.				
REQUIRED AUTHORIZATION				
Finance Department:		Other Authorization:		Other Authorization: NOT

Date September 15, 2010	Subject: : Amendment No. 1 to the Evaluation, Repair & Clean-up Services Contract with Texas Drain Technologies, Inc. at George Bush Intercontinental Airport/Houston (IAH), Project No. 642 (WBS # A-000586-0001-3-02, WBS# A-000586-001-3-03 ; Contract No. 4600009899)	Originator's Initials BS	Page 2 of 2
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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.

M/WBE Participation: The Minority Women Disadvantaged Business Enterprise (M/WBE) goal for this contract is ten percent (10%) and will be met by the following certified firms:

Firms	Type of Work	Amount	%
Karami Plumbing and Construction Supply, LLC (MBE)	Plumbing Supplies, Manhole Covers, Pipe Epoxy, Lining and General Materials	\$232,000.00	4.00 %
Boring & Tunneling Company of America, Inc. (SBE)	Boring and Tunnel Excavation	\$232,000.00	4.00 %
Jimerson Underground, Inc. (WBE)	Utilities and Excavation	\$ 72,000.00	1.25 %
Holes, Inc. (WBE)	Concrete Saw Cut & Removal	\$ 58,000.00	1.00 %
Gurrola Reprographics, Inc. (MBE)	Reproduction of Documents	\$ 14,500.00	0.25 %
	Total	\$608,500.00	10.50 %

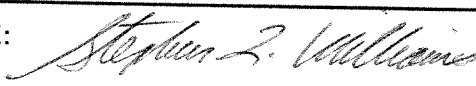
TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance allowing the Houston Police Department to apply for and accept grant funds from the FY 2010 Congressionally Selected Awards Program to provide AFIS Unit Mobile Suspect ID/Booking enhancements.		Category #	Page 1 of 1	Agenda Item # 17						
FROM: (Department or other point of origin): Houston Police Department		Origination Date 10/7/10		Agenda Date OCT 13 2010						
DIRECTOR'S SIGNATURE: Charles A. McClelland, Jr. Chief of Police 		Council Districts affected: All								
For additional information contact: Joseph A. Fenninger  CFO and Deputy Director 713-308-1770		Date and identification of prior authorizing Council Action:								
RECOMMENDATION: (Summary) Adopt an ordinance authorizing an application to and acceptance of grant funds from FY 2010 Congressionally Selected Awards Program to provide AFIS Unit Mobile Suspect ID/Booking enhancements.										
Amount of Funding: <table border="1"> <thead> <tr> <th><u>FY2010 Congressionally Selected Awards Program</u></th> <th><u>Cash Match</u></th> <th><u>Total Funding</u></th> </tr> </thead> <tbody> <tr> <td>\$910,000</td> <td>-0-</td> <td>\$910,000</td> </tr> </tbody> </table>			<u>FY2010 Congressionally Selected Awards Program</u>	<u>Cash Match</u>	<u>Total Funding</u>	\$910,000	-0-	\$910,000	Finance Budget:	
<u>FY2010 Congressionally Selected Awards Program</u>	<u>Cash Match</u>	<u>Total Funding</u>								
\$910,000	-0-	\$910,000								
SOURCE OF FUNDING: <input type="checkbox"/> General Fund <input checked="" type="checkbox"/> Grant Fund <input type="checkbox"/> Enterprise Fund										
<input type="checkbox"/> Other (Specify) FY2010 Congressionally Selected Awards Program: \$910,000										
SPECIFIC EXPLANATION: The FY2010 Congressionally Selected Awards Program provides funding to help improve the functioning of the criminal justice system, prevent and combat juvenile delinquency, and/or provide assistance to victims of crime. The Chief of Police recommends that City Council approve an ordinance authorizing the Houston Police Department to apply to and accept grant funding in the amount of \$910,000 from the FY2010 Congressionally Selected Awards Program. The funding will be used to upgrade several key elements of the Automated Fingerprint Identification System (AFIS) to improve efficiency and enhance public and police officer safety. These elements include: <ul style="list-style-type: none"> ▪ Purchase of additional mobile AFIS tools that allow rapid suspect identification from the field. ▪ Purchase of an additional fingerprint workstation to ascertain the identity of suspects with mental health issues prior to jail booking. ▪ Purchase two mobile booking vehicles to allow HPD to identify and book suspects during large public events and mass arrests. ▪ Enhancements to the current system to allow HPD to perform job applicant-related criminal background checks with the Texas Department of Public Safety's records via an electronic basis rather than a manual basis. ▪ Enhancements to the current system to speed up the electronic file transfer process of obtaining Class B Misdemeanor and Felony identification information from the Harris County Sheriff's Office. ▪ Purchase of Livescan print capture equipment to be used to provide new-hire and on-going print capture training. ▪ Purchase of additional back-end electronic storage equipment to increase the system's print and identification data storage capacity. 										
This grant does not require a cash match.										
REQUIRED AUTHORIZATION 10MAT014C										
Finance Director:	Other Authorization:  9/20/10		Other Authorization:							

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: An ordinance approving and authorizing the grant application to the United States Department of Health and Human Services, Centers for Disease Control for the City's HIV Prevention Activities – Expanded HIV Testing For Disproportionately Affected Populations		Category # 9	Page 1 of 1	Agenda Item # 18
FROM (Department or other point of origin): Stephen L. Williams, M.Ed., M.P.A. Director-Houston Department of Health and Human Services		Origination Date 09/24/2010		Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE: 		Council District affected: ALL		
For additional information contact: Kathy Barton Telephone: 832-393-5045 ; 713-826-5801		Date and identification of prior authorizing Council action:		
RECOMMENDATION: (Summary) An ordinance approving and authorizing the grant application to the United States Department of Health and Human Services, Centers for Disease Control for the City's HIV Prevention Activities – Expanded HIV Testing For Disproportionately Affected Populations				
Amount of Funding: \$5,714,433.00 – Federal Government – Grant Funds (5000)		Revenue	Finance Budget:	
SOURCE OF FUNDING: [] General Fund [X] Grant Fund [] Enterprise Fund [] Other (Specify)				
SPECIFIC EXPLANATION: The Houston Department of Health and Human Services (HDHHS) requests City Council approval and authorization of an application to the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) for the City's HIV Prevention Activities – Expanded HIV Testing For Disproportionately Affected Populations. The total project period is from September 30, 2010 through September 29, 2013. HDHHS requests City Council to authorize the Director to accept and expend approved funding and accept supplemental awards during the entire project period. The objective of the program is to increase the proportion of African American and Hispanic HIV-infected persons in Houston/Harris County who are aware of their status by providing routine HIV screening to 73,600 individuals; ensuring that a minimum of 85% of the people who test positive for HIV receive their test results; and increasing the percentage of diagnosed HIV-infected persons linked to care. Another objective is to increase the proportion of HIV-infected persons in Houston/Harris County who are linked to prevention counseling, medical care, partner services and HIV prevention services by ensuring that a minimum of 80% who receive their HIV positive test result are referred to medical care and have a confirmed first visit for care. The program promotes the adoption of sustainable, routine HIV screening programs in Houston/Harris County, consistent with CDC's 2006 Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings.				
cc: Finance Legal Department Agenda Director				
REQUIRED AUTHORIZATION				
Finance Director	Other Authorization:		Other Authorization:	

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8818

Subject: Approve an Ordinance Awarding a Concession Contract to the Best Respondent for Electrical and Plumbing Services for the Convention & Entertainment Facilities Department S10-T23536

Category #
4

Page 1 of 2

Agenda Item

19

FROM (Department or other point of origin):

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

Origination Date

September 22, 2010

Agenda Date

OCT 13 2010

DIRECTOR'S SIGNATURE

Calvin D. Wells
For additional information contact:
Stephen Lewis Phone: (713) 853-8888
Douglas Moore Phone: (832) 393-8724

Council District(s) affected
All

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an ordinance awarding a concession contract to the best repondent, Smart City Electric, Inc., for electrical and plumbing services for the Convention & Entertainment Facilities Department.

None Required (Revenue)

Finance Budget

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve an ordinance awarding a two-year concession contract, with three one-year options, to Smart City Electric, Inc. to provide electrical and plumbing services to exhibitors at the George R. Brown Convention Center and other Convention & Entertainment Facilities (CEF), as needed. The CEF Director may terminate this contract at any time upon 30-days written notice to the contractor.

The scope of work requires the contractor to provide all labor, materials, equipment, and incidentals necessary for the provision of electrical and plumbing services at the George R. Brown Convention Center facility, and other CEF-department facilities. These services, which generate revenues and other benefits to the CEF department, include:

- 50% to 53% of gross revenues, depending upon the amount of annual gross revenues (under \$2 million: 50%, \$2 million to less than \$2.5 million: 51%, \$2.5 million to less than \$3 million: 52%, and \$3 million and above: 53%).
- Additional \$25,000.00 annually when the GRBCC exceeds \$2.5 million in revenues.
- Advance of up to \$50,000.00 for special services, and
- \$136,310.00 in labor costs for special projects.
- \$25,000.00 per contract year, not to exceed \$125,000.00 over the contract term for marketing efforts and/or additions to its marketing staff for the GRBCC.
- \$25,000.00 per contract year in complimentary services.

Additionally, the contractor will provide the following:

- Service Enhancement Plan to improve service levels and/or reduce expenses.
- A website to service customer orders on-line, and
- An annual CPA statement verifying gross receipts.

Furthermore, the contractor will provide the following special projects and value-added services:

- One full-time IBEW journeyman electrician shall be assigned to operations.
- Invest up to \$190,000.00 in capital expenditures to replace aging equipment.
- Replacement of electrical floor boxes (estimated value: \$212,500.00 over five years).
- Installation of additional 208v five-wire receptacles throughout the convention center, and

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

Date: 9/22/2010	Subject: Approve an Ordinance Awarding a Concession Contract to the Best Respondent for Electrical and Plumbing Services for the Convention & Entertainment Facilities Department S10-T23536	Originator's Initials GB	Page 2 of 2
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- Installation of natural gas connections at six columns.

This Request for Proposal (RFP) was advertised in accordance with the requirements of the State of Texas bid laws. Thirty-six prospective bidders downloaded the solicitation document from SPD's e-bidding website, and as a result, proposals were received from Smart City Electric, Inc., GES/Trade Show Electrical, Edlen Electrical, and Freeman Co. The evaluation committee was comprised of expert staff from the management of CEFD, Reliant Park, Hilton Americas, and Inclusive Management Services. The proposals were evaluated based upon the following criteria:

- Services Supplies/User Costs/Percentage of Gross Revenues Received
- Experience and Reputation/Years in Business/References
- Value-Added Services/Marketing/Business Development
- Client List/Potential of Qualified Business to the GRBCC
- Financial Strength
- M/WBE Participation

Smart City Electric, Inc. received the highest overall score.

M/WBE Subcontracting:

This RFP was issued with a 12% M/WBE participation level of gross revenues minus amounts payable to the City by contractor, payroll costs and overhead costs. **Smart City Electric, Inc.** has designated the below-named companies as its certified M/WBE subcontractors:

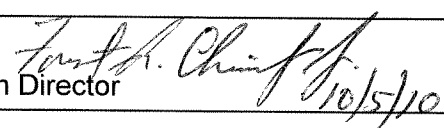

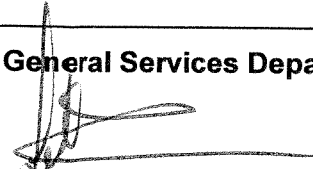
NAME	TYPE OF WORK	DOLLAR AMOUNT	PERCENTAGE
EDH Plumbing Contractors, LLC	Plumbing Services and Labor	\$ 149,500.00	5.5%
Medina Supply, Inc.	Distributor of Electrical Supplies	\$ 604,900.00	22.1%
KJH Consultant Services	Uniforms, Printing, Graphic Design, and Promotional Items	\$ 5,390.00	.019%
Tejas Office Products, Inc.	Office Products and Supplies	\$ 7,600.00	.027%
Scent of a Flower	Promotional and Floral Items	\$ 2,200.00	.008%

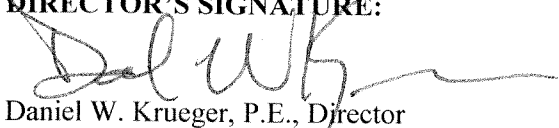


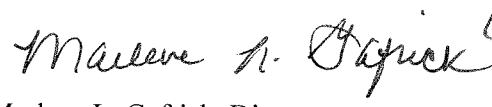
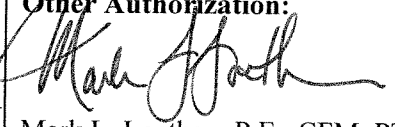
The Affirmative Action Division will monitor this award.

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 has elected to pay into the Contractor Responsibility Fund in compliance with City policy.

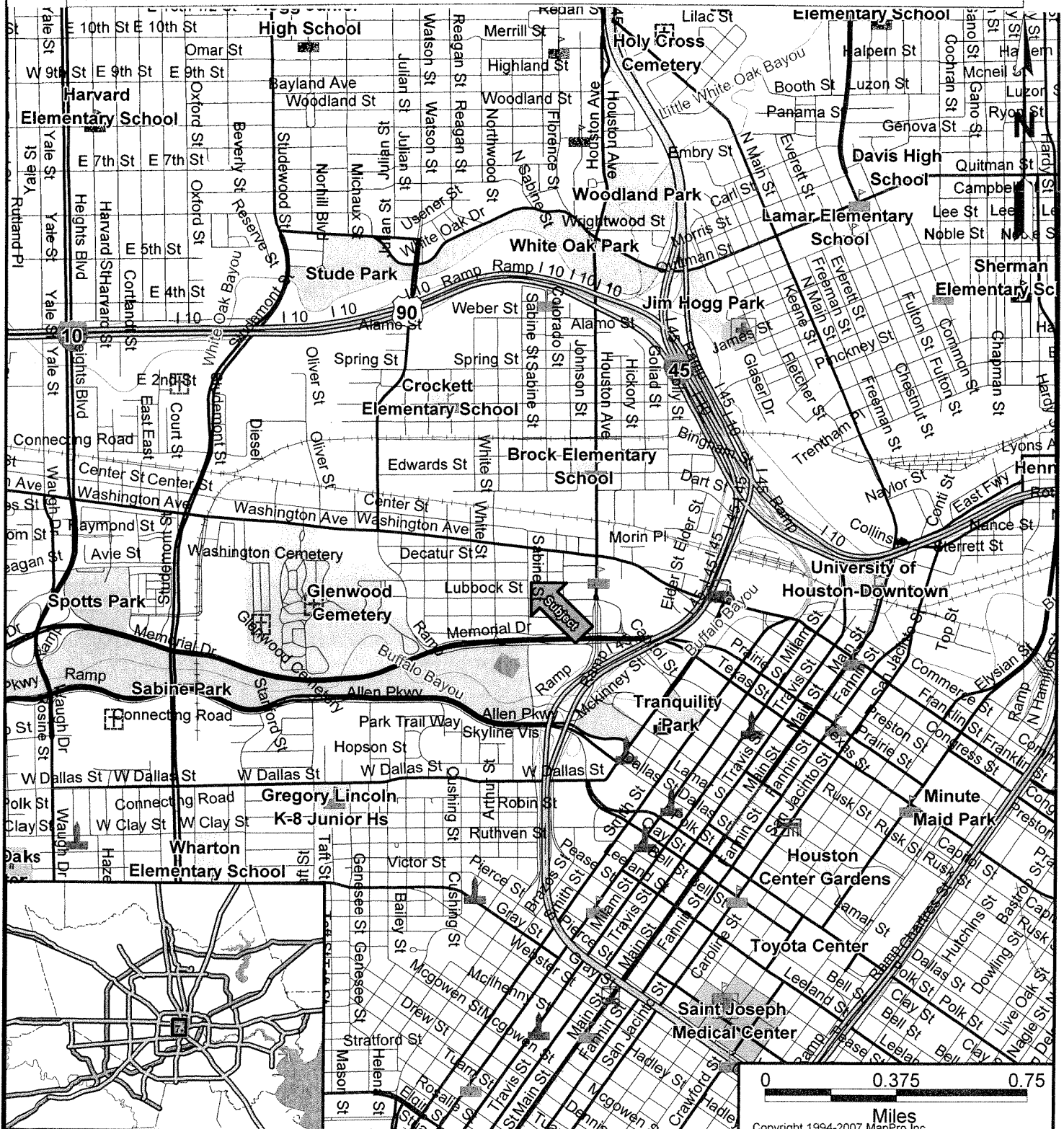
Buyer: Greg Hubbard

SUBJECT: Appropriate Additional Funds Professional Materials Engineering and Testing Services Laboratory Contract Alliance Laboratories, Inc. Pierce Elevated Parking Lot Improvements WBS No: D-000127-0002-4		Page 1 of 1	Agenda Item 20
FROM (Department or other point of origin): General Services Department	Origination Date 10-06-10	Agenda Date OCT 13 2010	
DIRECTOR'S SIGNATURE  Forest R. Christy, Jr., Interim Director	Council District(s) affected: 1		
For additional information contact: Jacquelyn L. Nisby  Phone: 832.393.8023	Date and identification of prior authorizing Council action: Ordinance No. 2008-0480; dated 06/04/2008		
RECOMMENDATION: Appropriate additional funds for the project.			
Amount and Source Of Funding: \$18,000.00 – General Improvement Consolidated Construction Fund (4509)		Finance Budget:	
SPECIFIC EXPLANATION: The General Services Department (GSD) recommends that City Council appropriate an additional \$18,000.00 to the professional materials engineering and testing services laboratory contract with Alliance Laboratories, Inc. to perform material testing to assure quality control during the Pierce Elevated Parking Lot Improvements project.			
PROJECT LOCATION: Pierce Street – Blocks 700 through 1600 (493Q)			
PROJECT DESCRIPTION: The scope of work consists of improvements to nine parking lots along Pierce Street to include installation of new storm sewer lines and grates for drainage improvement; demolition and replacement of the existing asphalt parking surfaces with new asphalt; and concrete work to improve the accessibility to the parking lots.			
PREVIOUS HISTORY AND PROJECT SCOPE: On June 4, 2008, Ordinance 2008-0480, City Council approved a professional materials engineering and testing services laboratory contract with Alliance Laboratories, Inc. to perform materials testing to support the construction of Capital Improvement Plan projects managed by GSD.			
FRC:RAV:JLN:JJR:jr c: Marty Stein, Jacquelyn L. Nisby, Esq., Calvin R. Curtis, Christopher Gonzales, Gabriel Mussio			
REQUIRED AUTHORIZATION		CUIC ID# 25CONS160	
General Services Department:  Richard A. Vella Chief of Design & Construction Division			

SUBJECT: Ordinance repealing Ordinance 74-2051 pertaining to the establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue, within North Side Buffalo Bayou, out of the John Austin Survey, A-1, in favor of building lines established by the Code of Ordinances.		Page <u>1</u> of <u>1</u>	Agenda Item # 21
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date 10-7-10	Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E., Director		Council District affected: H Key Map: 493K 	
For additional information contact: Nancy P. Collins Phone: (713) 837-0881  Senior Assistant Director-Real Estate		Date and identification of prior authorizing Council Action: Ordinance 74-2051 (11/26/74)	
RECOMMENDATION: (Summary) It is recommended City Council approve an Ordinance repealing Ordinance 74-2051 pertaining to the establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue, within North Side Buffalo Bayou, out of the John Austin Survey, A-1, in favor of building lines established by the Code of Ordinances.			
Amount and Source of Funding: Not Applicable			
SPECIFIC EXPLANATION: By Ordinance 74-2051, passed on November 26, 1974, City Council authorized the establishment of building lines in connection with the proposed acquisition of right-of-way for Sabine Street, from Lubbock Street to Washington Avenue. The building lines are referenced in City of Houston, Public Works and Engineering Department Drawing No. 20,440 and the metes and bounds description referred to as the West Building Line. The City has not acquired and does not foresee the need to acquire any additional right-of-way for the widening of Sabine Street. Therefore, it is recommended City Council approve an Ordinance repealing Ordinance 74-2051 pertaining to the establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue, within North Side Buffalo Bayou, out of the John Austin Survey, A-1, in favor of building lines established by the Code of Ordinances. MSM:NPC:dob c: Carl W. Smitha, P.E. Marty Stein Jeffery Weatherford, P.E. PTOE			
s:\dob\eny10-004.rca.doc		CUIC #20DOB047	
REQUIRED AUTHORIZATION			
Finance Department:	Other Authorization:  Marlene L. Gafrick, Director Planning and Development Department	Other Authorization:  Mark L. Loethen, P.E., CFM, PTOE Acting Deputy Director Planning and Development Services Division	

LOCATION MAP

SUBJECT: Ordinance repealing Ordinance 74-2051 pertaining to the establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue, within North Side Buffalo Bayou, out of the John Austin Survey, A-1, in favor of building lines established by the Code of Ordinances



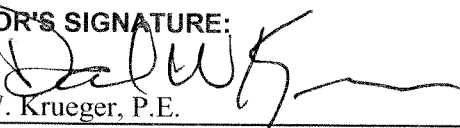
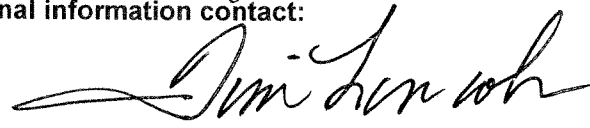


CAUTION:

The location of property arrows shown on this map are approximate only. Inaccuracies may exist on map such as missing, incorrectly drawn, or incorrectly addressed streets. Please report any such inaccuracy to MapPro, Inc. so that appropriate corrections can be made.

Prepared by City of Houston using MapPro Service. MapPro Inc., 5353 West Alabama St, Suite 303, Houston, TX 77056 (713)789-1406

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

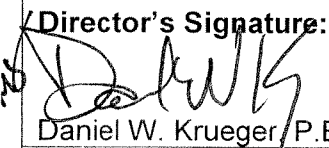

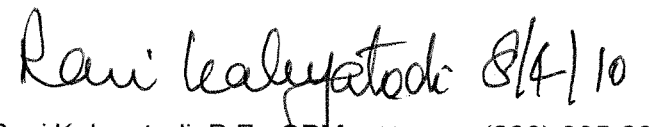

SUBJECT: Ordinance approving Memorandum of Understanding between the City of Houston and Texas Department of Transportation for adoption of TXDOT's federally approved DBE Program		Page 1 of 2	Agenda Item # 22		
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date 10-7-10	Agenda Date OCT 13 2010		
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E.		Council District affected: All			
For additional information contact:  Tim Lincoln Senior Assistant Director Phone: 832-393-2355		Date and identification of prior authorizing Council action: Ordinance No. 2010-0043; Date: 01/20/2010 Ordinance No. 2010-0070; Date: 01/27/2010 Ordinance No. 2010-0101; Date: 02/10/2010 Ordinance No. 2010-0297; Date: 04/21/2010 Ordinance No. 2010-0417; Date: 06/02/2010			
RECOMMENDATION: Adopt Ordinance approving a Memorandum of Understanding with Texas Department of Transportation (TXDOT) to adopt Disadvantaged Business Enterprise (DBE) Program requirements for projects using federal funds awarded under the American Recovery and Reinvestment Act.					
Amount and Source of Funding: Not applicable					
<p>SPECIFIC EXPLANATION: Through the American Recovery and Reinvestment Act 2009 (ARRA), the City of Houston has been awarded federal stimulus funds from the Federal Highway Administration for the construction and design of the street projects listed below. The funding will be transmitted through TXDOT and must be spent in compliance with a federally approved DBE program, such as the program currently adopted by TXDOT. The proposed Memorandum of Understanding would commit the City to use TXDOT's DBE program goals in the FHWA-funded projects.</p> <p>Although the City's current DBE program has been federally approved by the Federal Aviation Authority (FAA), it has not been approved for Federal Highway Administration (FHWA) projects. FHWA does not approve local agency DBE programs due to the way projects are funded, and will therefore only recognize the DBE programs of its recipients (TXDOT). In order to avoid loss of FHWA funds for these projects, it is in the best interest to execute the Memorandum of Understanding with TXDOT, requiring the City to adopt TXDOT's DBE program.</p> <table border="0"> <tr> <td> <u>WBS No.: N-001037-0057-4</u> Antoine: US 290 to IH 10 Liberty: Lockwood to Waco Street/Altoona Aldine Westfield: BW 8 to Little York Rd. Wesleyan: San Felipe to US 59 West Dallas: Shepherd to Montrose Boulevard Beechnut: Beltway 8 to US 59 Harwin: Beltway 8 to US 59 Shepherd/Durham: Memorial Drive to IH 10 Yale: IH 610 to IH 10 Navigation: Lockwood Drive to 77th Street Broadway: Power Street to IH 610 </td> <td> <u>WBS No.: N-001037-0058-4</u> Clinton Drive: IH 610 to Federal Road <u>WBS No.: N-001037-0059-4</u> Jensen: IH 610 to UP Railroad Gessner: Bellaire to US 59 <u>WBS No.: N-001037-0060-4</u> Washington Ave.: Wescott St. to IH 45 Lockwood: IH 610 to Clinton Drive </td> </tr> </table>				<u>WBS No.: N-001037-0057-4</u> Antoine: US 290 to IH 10 Liberty: Lockwood to Waco Street/Altoona Aldine Westfield: BW 8 to Little York Rd. Wesleyan: San Felipe to US 59 West Dallas: Shepherd to Montrose Boulevard Beechnut: Beltway 8 to US 59 Harwin: Beltway 8 to US 59 Shepherd/Durham: Memorial Drive to IH 10 Yale: IH 610 to IH 10 Navigation: Lockwood Drive to 77 th Street Broadway: Power Street to IH 610	<u>WBS No.: N-001037-0058-4</u> Clinton Drive: IH 610 to Federal Road <u>WBS No.: N-001037-0059-4</u> Jensen: IH 610 to UP Railroad Gessner: Bellaire to US 59 <u>WBS No.: N-001037-0060-4</u> Washington Ave.: Wescott St. to IH 45 Lockwood: IH 610 to Clinton Drive
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REQUIRED AUTHORIZATION		CUIC ID #20RJM02			
Finance Department:	Other Authorization:  Daniel R. Menendez, P.E. Deputy Director Engineering and Construction Division	Other Authorization:  Velma Laws, Director Affirmative Action and Contract Compliance			


Date	SUBJECT: Ordinance approving Memorandum of Understanding between the City of Houston and Texas Department of Transportation for adoption of TXDOT's federally approved DBE Program	Originator's Initials	Page <u>2</u> of <u>2</u>
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DWK:DRM:JTL:RJM

U:\MOU DBE RCA (FINAL).DOC

c: Marty Stein
Susan Bandy
Craig Foster
File No. N-001037-0058-3 / 3.7

SUBJECT: Advance Funding Agreement between the City of Houston and Texas Department of Transportation (TxDOT) for the Houston Heritage Corridor Bayou East Trail - Segment 1. WBS No. N-000420-017A-4, TxDOT CSJ 0912-71-822		Page 1 of 2	Agenda Item # 23
From: (Department or Other Point of Origin) Department of Public Works and Engineering	Origination Date 9 / 20 / 10	Agenda Date OCT 13 2010	
Director's Signature:  Daniel W. Krueger, P.E. Phone: (832) 395-2500	Council District affected: H 		
For additional information contact:  Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2326 Senior Assistant Director	Date and identification of prior authorizing Council action: Motion 1993-1995 Dated: 09/22/1993 Ord. No. 1995-1290 Dated: 12/06/1995 Ord. No. 1997-0935 Dated: 07/30/1997 Ord. No. 2005-852 Dated: 06/29/2005 Ord. No. 2010-0081 Dated: 02/03/2010		
RECOMMENDATION: Approve and authorize an Advance Funding Agreement with the Texas Department of Transportation (TxDOT) for the Houston Heritage Corridor Bayou East Trail – Segment 1.			
Amount and Source of Funding: N/A			
PREVIOUS HISTORY AND SCOPE: The Comprehensive Bikeway Program was approved on September 22, 1993 by Motion Number 93-1995 at the recommendation of the Mayor's Task Force on Bicycle Safety and Mobility. On December 6, 1995, Ordinance Number 95-1290 approved an agreement with TxDOT for the design and construction of 12 projects within the Comprehensive Bikeway Program. On July 30, 1997 Ordinance Number 1997-0935 approved an amendment to the agreement to allow all bikeways projects to be designed in English units (foot/pounds system). On June 29, 2005 Ordinance Number 2005-852 approved the Local Match amounting to \$171,551.00. On February 3, 2010 Ordinance Number 2010-0081 approved an additional payment of \$185,347.77. This project is under construction.			
PROJECT NOTICE/JUSTIFICATION: The Bikeway Program provides for the design and construction of approximately 339 miles of bikeways and trails. To date, 319 miles of "On-Street" bikeways and "Off-Street" trails have been completed. An additional 20 miles, mostly "Off-Street" trails are currently under design and/or construction. The Bikeway Program was implemented to develop a citywide network of bicycle facilities to be integrated into an overall transportation network for the Houston area. The eligible costs of the projects are 80% funded by the Federal Highway Administration through the Intermodal Surface Transportation Efficiency Act under Congestion Mitigation and Air Quality Program. The City of Houston provided 20% of the local match; in addition the City is responsible for paying 100% of the costs in excess of federal participation.			
REQUIRED AUTHORIZATION		CUIC ID #20BB168	
Finance Department:	Other Authorization:	Other Authorization:  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division	

Date:	SUBJECT: Advance Funding Agreement between the City of Houston and Texas Department of Transportation (TxDOT) for the Houston Heritage Corridor Bayou East Trail - Segment 1. WBS No. N-000420-017A-4, TxDOT CSJ 0912-71-822	Originator's Initials 	Page 2 of 2
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LOCATION: The trail is bounded by IH-10 on the north, Buffalo Bayou on the south, Elysian on the east and Main Street on the west.

DESCRIPTION/SCOPE: The original advance funding agreement was for both Houston Heritage Corridor East and West segments of the trail. In the original Agreement, the City was responsible for advertising the project for construction bids, awarding the construction contract and providing construction management services. In this agreement, TxDOT will let and manage the construction services in conjunction with the City of Houston. This request is to replace the original agreement only for the Heritage East Segment One.

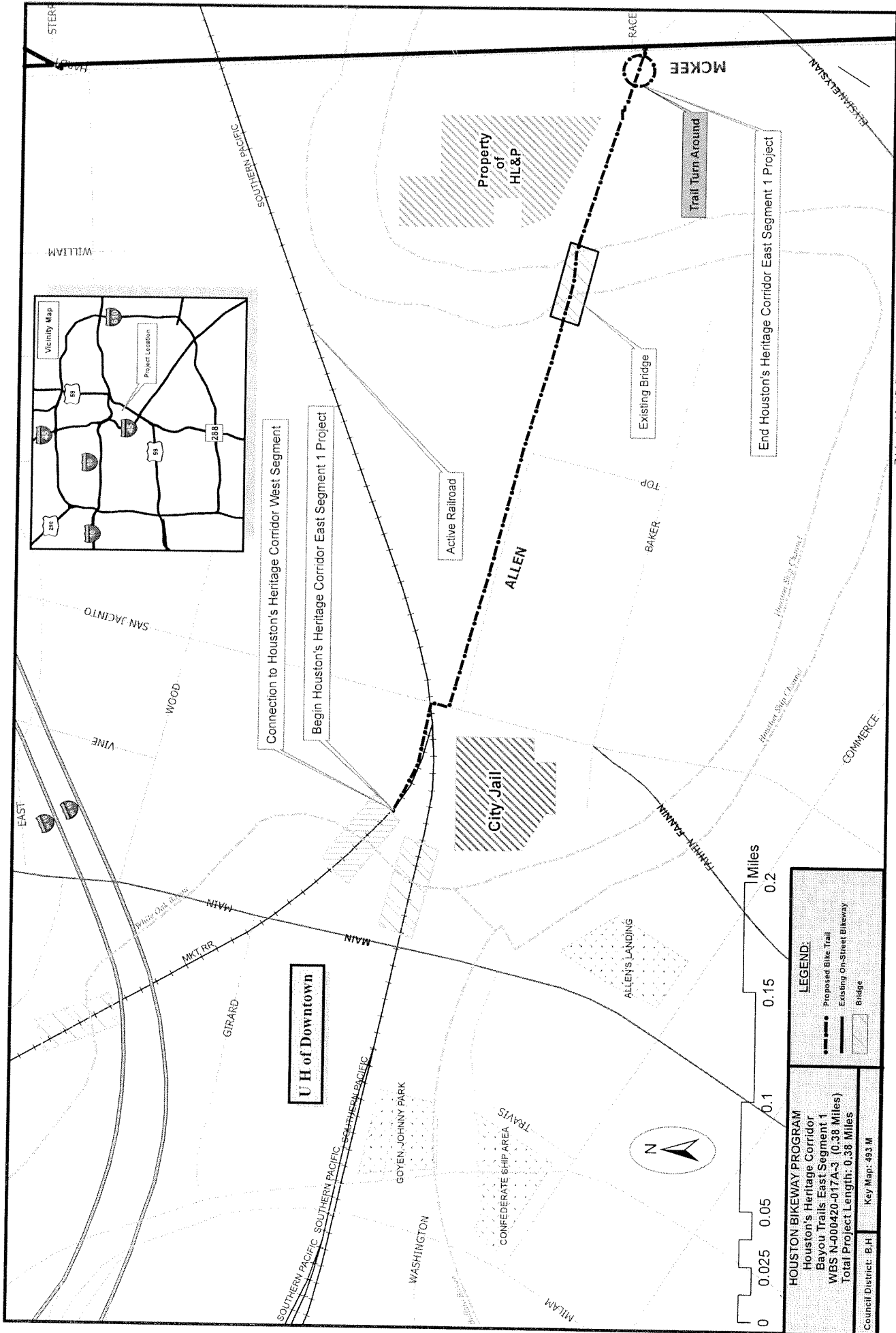
This project consists of constructing a Hike and Bike Trail of approximately 1,593 feet long by 10 feet to 18 feet wide of reinforced concrete and rehabilitating approximately a 405 feet long railroad bridge deck. Part of the trail between San Jacinto Street and West of the Bridge is asphaltic concrete. The project will also include utility adjustments, accessibility ramps, signage, pavement markings, lighting conduit and landscaping.

M/WBE INFORMATION: The project was bid in accordance with TxDOT M/WBE requirements.


DWK:DRM:RK:MW:BB:mg/ddh

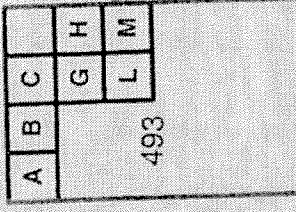
Z:\design\A-NP-DIV\Bikeway Files\Ben\N-0420-17A Herriage Corridor Bayou Trail East, Segment 1\1.0 Design Contract\1.2 RCA\Construction\RCA# 20BB168 060110.rev2.doc

c: Marty Stein
Velma Laws
Susan Bandy
Craig Foster
File No. N-000420-017A (1.2 RCA)





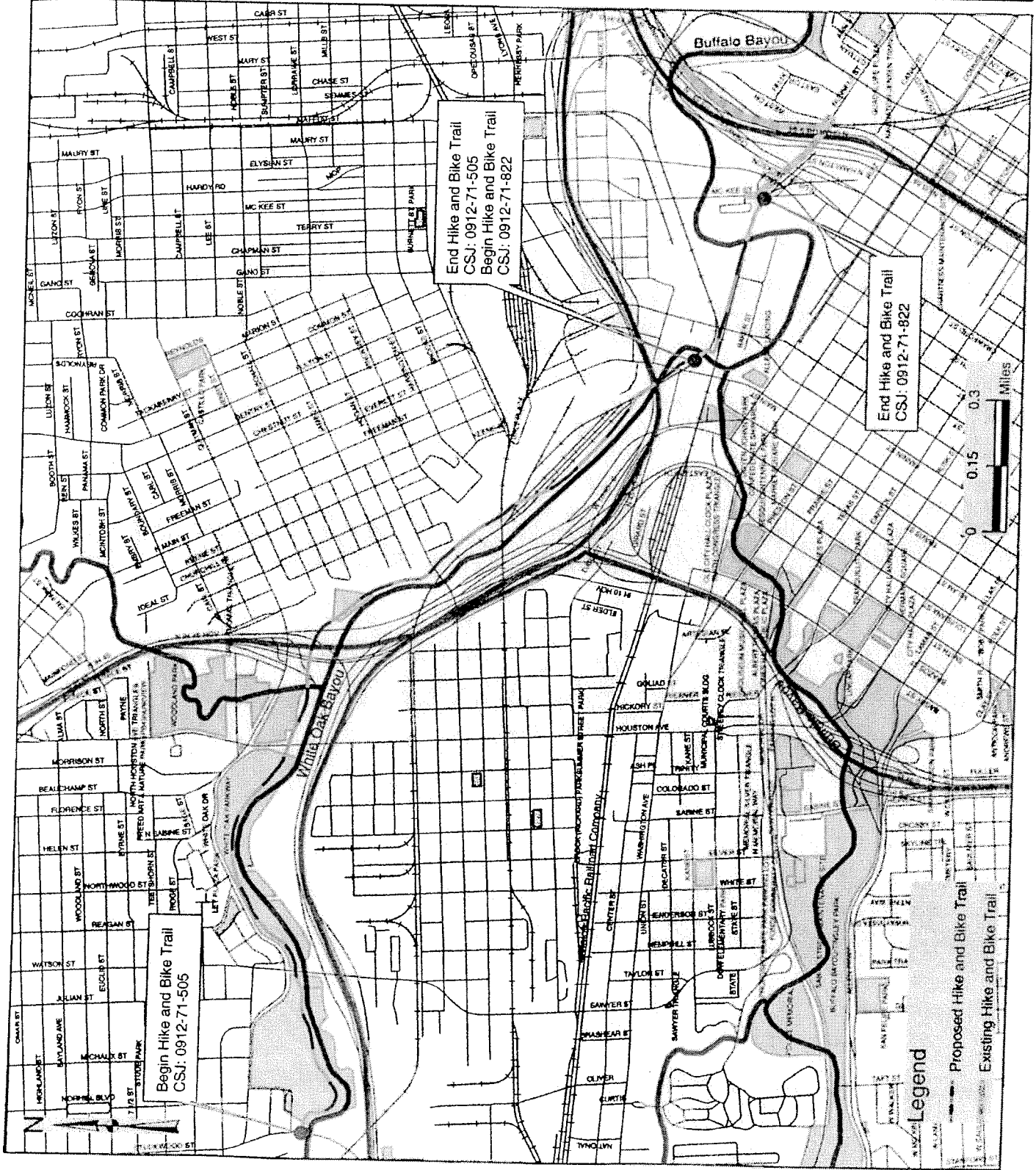
Key Map Location



Attachment "B"




CSJ: 0912-71-822
Houston Heritage Corridor
Bayou Trails West Segment 1
LOCATION:
From West Heritage Corridor RR Trestle
to Johnny Goyen Park Along White Oak
Bayou
DESCRIPTION OF WORK:
Construct Hike and Bike Trail
CSJ: 0912-71-822
Houston Heritage Corridor
Bayou Trails East Segment 1
LOCATION:
From East Heritage Corridor RR Trestle
to McKee St.
Along Abandoned RR track
DESCRIPTION OF WORK:
Construct Hike and Bike Trail

Harris County



TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Contract between the City of Houston and Clay Pope and Cliff Johnson for State and Federal representation related to water and wastewater issues		Page 1 of 1	Agenda Item # 24
FROM (Department or other point of origin): Daniel Krueger, Director of Public Works & Engineering Darrin Hall, Director of the Mayor's Office of Intergovernmental Relations		Origination Date 10/5/10	Agenda Date OCT 19 2010
DIRECTOR'S SIGNATURE 		Council District affected: All	
For additional information contact: Darrin Hall Phone: 832-393-0833		Date and identification of prior authorizing Council action	
RECOMMENDATION: (Summary) Adopt ordinance approving a contract between the City of Houston and Clay Pope and Cliff Johnson for State and Federal representation related to water and wastewater issues.			
Amount and Source of Funding: Maximum contract amount - \$522,000 - 3 years Water & Sewer System Operating Fund 8300 PLR			
SPECIFIC EXPLANATION: <p>The Department of Public Works & Engineering and the Mayor's Office of Intergovernmental Relations recommend City Council approve an agreement with Clay Pope and Cliff Johnson to advocate for the City before both the State Legislature and several State and Federal agencies with regard to water and wastewater related issues.</p> <p>The Texas Commission on Environmental Quality (TCEQ), the Texas Water Development Board (TWDB) and the Texas Parks and Wildlife Department (TPWD), along with the Environmental Protection Agency (EPA), regularly propose new regulations or revise existing regulations related to public water and wastewater utilities that can significantly affect the City's permitting and operational responsibilities.</p> <p>Mr. Pope and Mr. Johnson are currently representing the City under an agreement that ends October 31, 2010. Mr. Pope and Mr. Johnson have very specialized knowledge, a clear understanding of the City's operations and extensive experience advocating the City's position before the State Legislature and State and Federal Agencies. Their participation in on-going projects is critical and the City's position would be impaired by a change in representation. For these reasons the departments are requesting new contract with this team.</p> <p>Some of the team's projects that are ongoing with the TCEQ, TWDB and EPA include: assisting with the development of proposed legislation to address upstream erosion control from aggregate strip mining operations in the San Jacinto River Basin upstream of Lake Houston, and assisting in the negotiations for permits with local and statewide environmental interests to allow the City to develop and use an additional 600,000 ac-ft/year of treated waste water effluent to meet future water resource demands and address environmental freshwater inflows to benefit and sustain the Galveston Bay estuary system.</p> <p>Recent accomplishments include facilitating the Luce Bayou Project water transfer from Lake Livingston in the Trinity River Basin to Lake Houston in the San Jacinto River Basin and the reinstatement of the Caper's Ridge Diversion Point in Certificate of Adjudication No. 08-4261. They have also assisted in the settlement of the protests of the Dayton Canal Water Rights Purchase, and the resolution of contested case issues to amend the certificate to facilitate the City's beneficial use of the acquired water rights in the City's water supply inventory. Other accomplishments with the TCEQ, TWDB and EPA include: permitting Allen's Creek reservoir without going to contested-case hearing; obtained an interpretation of the relevant statute that would allow the City to rebate impact fees to developers for low-income housing; obtained funding for Allen's Creek Reservoir from the TWDB; permitted wet weather facilities that resulted in savings of \$200 million; gained a greater share of funding from the Clean Rivers Program; and obtained numerous renewals for the City's wastewater treatment plants.</p> <p>The proposed contract provides for a two-year term with a one-year renewal option with a maximum contract amount of \$522,000.</p>			
REQUIRED AUTHORIZATION		20UPA78	
Finance Department	Other Authorization: 	Other Authorization: 	

Cliff Johnson
1115 San Jacinto Blvd. , Suite 275
Austin, TX 78701
512-478-4445

Cliff Johnson is a governmental consultant representing a wide range of corporate, municipal, and individual clients on the state and federal level. He possesses extensive government affairs experience relating to the issues of environmental management, transportation, taxation, gaming, and energy.

As a senior advisor to three Texas governors- Governor Rick Perry, Governor George W. Bush, and Governor William P. Clements- Johnson possesses a detailed knowledge and thorough understanding of the Texas political process and his counsel is highly valued. He has participated in the development and implementation of public policy; formulated strategy with key state officials; and facilitated communication between legislative and business leaders at the highest level.

Johnson served as a state agency head from 1989-1991 as one of three appointed commissioners to the Texas Water Commission (TWC), precursor to the current Texas Commission on Environmental Quality. The TWC regulated the generation, storage, and disposal of hazardous waste; allocated water rights; created and supervised water districts, including river authorities; and regulated water quality issues.

Johnson was elected to serve as a state representative from Palestine, Texas, for two legislative terms. He was Chairman of Budget and Oversight for the House Natural Resources Committee in the 70th Legislative Session and a member of the House Environmental Affairs Committee in the 69th Session.

Johnson is involved in ranching, real estate, and several start-up companies around the state. He is a graduate of the University of Texas at Austin.

Clayton Pope
1115 San Jacinto Blvd., Suite 275
Austin, TX 78701
512-480-0820

Clayton Pope is a governmental relations consultant based in Austin, Texas. He has over 25 years of experience in the political and regulatory fields.

Pope works for companies and cities primarily involved in environmental management, economic development, information technology and transportation. He represents clients before the Texas Legislature, Texas Governor's Office, U.S. Environmental Protection Agency, Texas Commission on Environmental Quality, Texas Railroad Commission, Texas General Land Office, Texas Comptrollers Office, Texas Water Development Board, Texas Coastal Coordination Council, and Texas Department of Transportation.

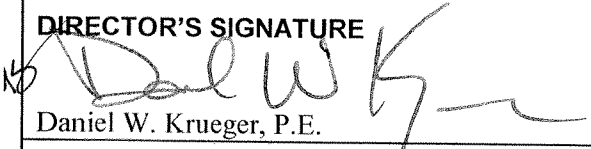
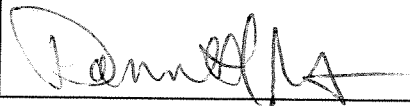
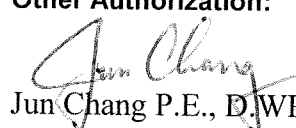
Prior to establishing an independent practice, Clay sub-contracted with Doc Arnold, Mike Toomey and Cliff Johnson working on their clients' interests before the Texas Legislature and state agencies. Term: July 1991 to August 1993.

Clay was the Commissioners' Legislative Assistant at the Texas Water Commission, the predecessor agency to the Texas Commission on Environmental Quality. In this position he represented the commissioners' positions before the Texas Legislature. Term: January 1991 to July 1991.

The Texas House of Representatives employed Clay in various positions. Starting as a Sergeant, commonly known as a Page, he was later assigned to the Appropriations Committee. Next, Representatives Sam Johnson, R-Plano and Cliff Johnson, D-Palestine jointly employed him as a Legislative Assistant and later he became Administrative Assistant to Cliff Johnson. Upon Cliff Johnson moving to Governor Clements' office, he became Legislative Assistant to Ron Lewis, D-Mauriceville and Rick Perry, R-Haskell. Once Cliff Johnson's successor was elected, Dick Swift, D-Palestine, Pope was employed as his Administrative Assistant. Term: September 1985 to January 1991.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Contract Award for Sanitary Sewer Cleaning and Television Inspection In Support of Rehabilitation WBS# R-000266-0155-4		Page 1 of 2	Agenda Item # <i>26</i>										
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date <i>10/5/10</i>	Agenda Date <i>OCT 13 2010</i>										
DIRECTOR'S SIGNATURE  Daniel W. Krueger, P.E.		Council District affected: All											
For additional information contact: Dannelle H. Belhateche, P.E. Senior Assistant Director Phone: (281) 575-2874		Date and identification of prior authorizing Council action: N/A											
RECOMMENDATION: (Summary) Accept low bid, award construction contract, and appropriate funds.													
Amount and Source of Funding: \$724,663.00 from Water and Sewer System Consolidated Construction Fund No. 8500. This project is eligible for low interest funding through the State Revolving Fund (SRF), Tier II.		<i>W.P. 9/23/2010</i>											
SPECIFIC EXPLANATION: This project is part of the Neighborhood Sewer Rehabilitation Program and is required to renew/replace various deteriorated neighborhood collection systems throughout the City.													
DESCRIPTION/SCOPE: This project consists of sanitary sewer cleaning and television inspection in support of rehabilitation. The contract duration for this project is 730 calendar days.													
LOCATION: The project area is generally bounded by the City Limits.													
BIDS: Four (4) bids were received on June 10, 2010 for this project as follows:													
<table border="0"> <thead> <tr> <th><u>Bidder</u></th> <th><u>Bid Amount</u></th> </tr> </thead> <tbody> <tr> <td>1. Specialized Maintenance Services, Inc.</td> <td>\$685,393.40</td> </tr> <tr> <td>2. CleanServe, Inc.</td> <td>\$711,117.20</td> </tr> <tr> <td>3. AUI, LLC.</td> <td>\$822,501.25</td> </tr> <tr> <td>4. Quality Pipe Services, Inc.</td> <td>\$831,161.60</td> </tr> </tbody> </table>		<u>Bidder</u>	<u>Bid Amount</u>	1. Specialized Maintenance Services, Inc.	\$685,393.40	2. CleanServe, Inc.	\$711,117.20	3. AUI, LLC.	\$822,501.25	4. Quality Pipe Services, Inc.	\$831,161.60		
<u>Bidder</u>	<u>Bid Amount</u>												
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2. CleanServe, Inc.	\$711,117.20												
3. AUI, LLC.	\$822,501.25												
4. Quality Pipe Services, Inc.	\$831,161.60												
File/Project No. WW 4277-48		REQUIRED AUTHORIZATION											
Finance Department		CUIC# 20DHB336											
Other Authorization: 		Other Authorization:  Jun Chang P.E., D.WRE, Deputy Director Public Utilities Division											

Date	Subject: Contract Award for Sanitary Sewer Cleaning and Television Inspection In Support of Rehabilitation WBS# R-000266-0155-4	Originator's Initials	Page 2 of 2
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AWARD: It is recommended that this construction contract be awarded to Specialized Maintenance Services, Inc., with a low bid of \$685,393.40.

PROJECT COST: The total cost of this project is \$724,663.00 to be appropriated as follows:

- Bid Amount \$685,393.40
- Contingencies \$34,269.60
- Engineering Testing Services \$5,000.00

Engineering Testing Services will be provided by Coastal Testing Laboratories, Inc. under a previously approved contract.

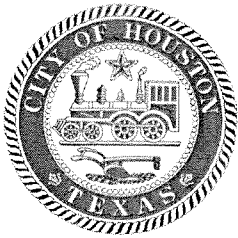
PAY OR PLAY PROGRAM: The proposed contract requires compliance with the City's Pay or Play ordinance regarding health benefits for employees of City contractors. In this case, the contractor provides health benefits to eligible employees in compliance with City policy.

M/WSBE PARTICIPATION: No City M/WSBE participation goal has been established for this project.

All known rights-of-way and easements required for this project have been acquired.

DWK:JC:DHB:JI:DR:mf

cc: Marty Stein
Jun Chang, P.E.
Susan Bandy, CPA
Velma Laws
File No. WW 4277-48



CITY OF HOUSTON

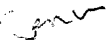
Office of the Mayor

Interoffice

Correspondence

27

To: Anna Russell
City Secretary

From: Jenn Char 
Boards and Commissions

OCT 13 2010

Date: October 4, 2010

Subject: Houston Business Development
Inc., Nominations

NON-CONSENT AGENDA

MISCELLANEOUS

Motion to set a date not less than seven (7) days from October 13, 2010 to receive nominations for following positions on the Houston Business Development Inc., for three year terms. The current expired members are:

Position	Members	Nominated by
Position 2	Dicarlos Davis	Council Member Edwards
Position 4	Harold W. Price	Council Member Johnson
Position 6	Norma Velázquez Harris	Council Member Garcia
Position 8	Ramon Manning	Council Member Green
Position 10	Haroon R. Shaikh	Council Member Khan
Position 12	Sudarshana (Mona) Parikh	Council Member Sekula-Gibbs

/jsk

cc: Ms. Marty Stein

RECEIVED
OCT - 4 2010
CITY SECRETARY

SUBJECT: Amendments to the 2009 Major Thoroughfare and Freeway Plan (MTFP)		Category #	Page 1 of 1	Agenda Item 28 #
FROM (Department or other point of origin): Planning and Development		Origination Date 09/23/09		Agenda Date OCT 13 2010
DIRECTOR'S SIGNATURE: NO <i>Madeline L. Safarik</i>		Council District affected: D OCT 13 2010		
For additional information contact: Michael A. Kramer Phone: 713-837-7781		Date and identification of prior authorizing Council action: 12/2/09, Motion 2009-0868		
RECOMMENDATION: (Summary) Approve a motion adopting the amendments to the 2009 Major Thoroughfare and Freeway Plan (MTFP) and authorize publication of the 2010 MTFP in map form.				
Amount and Source of Funding: N/A			Finance Budget:	
SPECIFIC EXPLANATION: <p>Chapter 33-25 of the Code of Ordinances requires that each year, the Planning Commission prepare and submit to the City Council a Major Thoroughfare and Freeway Plan (MTFP). The MTFP identifies corridor alignments and sets right-of-way requirements for major roadways in the City and extraterritorial jurisdiction (ETJ). The Commission may consider amendments to any portion of the MTFP for deleting, realigning or reclassifying streets designated on the plan or adding one or more streets to the plan. An amendment approved by the Commission is not effective until approved by City Council.</p> <p>Two types of applicants for MTFP amendments were considered by the Commission and are identified by:</p> <ul style="list-style-type: none"> Government - amendments requested by governmental agencies including City of Houston; and Private Sector - amendments requested by the private sector among which included individuals, civic associations, and developers. <p>This year, applications were accepted from February through March 15, 2010. Notification letters were mailed to the affected property owners informing them of an Open House on June 24 at the United Way Community Resource Center and the Planning Commission's public hearing meeting on July 29, 2010.</p> <p>On September 2, 2010, the Planning Commission recommended that City Council approve amendments to the 2009 MTFP. Attachment no. 1 provides a description of the recommended amendments. Attachment no. 2 depicts the general location of each recommended change.</p> <p>City Council approval will authorize publication of the 2010 MTFP in map form.</p> <p>Attachments</p> <p>cc: Marty Stein, Agenda Director David M. Feldman, City Attorney Anna Russell, City Secretary Daniel W. Krueger, P.E., Director, Public Works and Engineering</p>				
REQUIRED AUTHORIZATION				
Finance Director:	Other Authorization:	Other Authorization:		

2010 MAJOR THOROUGHFARE AND FREEWAY PLAN **(Amendments to the 2009 MTFP)**

On September 2, 2010 the City of Houston Planning Commission voted to forward its actions to City Council for adoption as the 2010 MTFP. Four amendments, listed below, reflect changes that will require alterations to the 2009 MTFP. The location of each amendment is illustrated on the map included as Attachment 2.

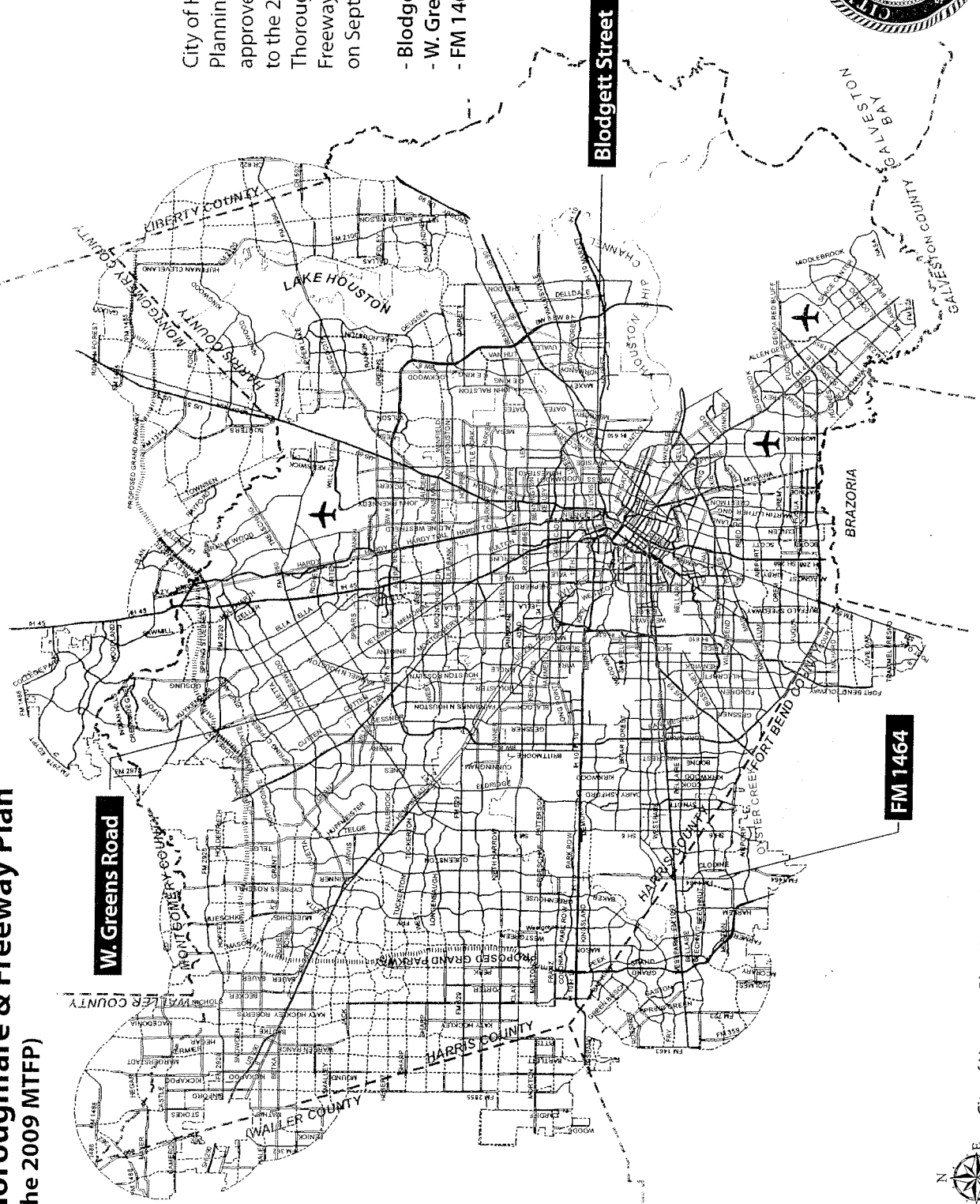
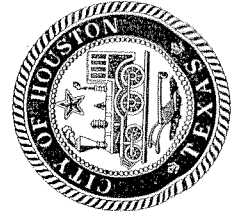
Amendment Name	Jurisdiction	District/Precinct	Applicant
Blodgett Street	City, Harris Co.	Council Dist. D	Walter P. Moore & Assoc. (Private)
<i>Planning Commission action:</i> <u>APPROVED</u> the deletion of Blodgett Street / Wheeler Street connector from Scott Street through the Cullen Boulevard intersection.			
West Greens Road	ETJ, Harris Co.	Harris Co. Pct. 4	Harris County Public Infrastructure Department (Government Sector)
<i>Planning Commission action:</i> <u>APPROVED</u> the realignment of West Greens Road from Cutten Road to the east side of its intersection with Bammel N. Houston Road.			
FM 1464	ETJ, Fort Bend Co.	Fort Bend Co. Pct. 3 & 4	Planning & Development Department (Government Sector)
<i>Planning Commission action:</i> <u>APPROVED</u> the new alignment of FM 1464 as a major thoroughfare between Clodine-Reddick Road and W. Airport Boulevard and <u>DELETED</u> the old alignment between West Bellfort and the new FM 1464 alignment.			

2010 Major Thoroughfare & Freeway Plan (Amendments to the 2009 MTFP)

Attachment 2

City of Houston
Planning Commission
approved amendments
to the 2009 Major
Thoroughfare and
Freeway Plan
on September 2, 2010 for

- Blodgett Street
- W. Greens Road
- FM 1464



LEGEND

MAJOR THOROUGHFARE/TRANSIT CORRIDOR
(R.O.W. ONLY)

- Major Thoroughfare
- TBW Major Thoroughfare
- Proposed Major Thoroughfare
- Transit Corridor Street

MAJOR COLLECTOR
(R.O.W. ONLY)

- Major Collector
- TBW Major Collector
- Proposed Major Collector

FREWAY/EXPRESSWAY
(R.O.W. ONLY)

- Proposed Freeway
- TBW Freeway
- Freeway
- Proposed Grand Parkway
- Houston ETJ

- Water
- Rail Road
- City Limits
- Limited Purpose Annexation
- Waller County
- Houston ETJ



0 5 10 Miles

City of Houston, Planning and Development Department

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8768

Subject: Formal Bids Received for Automotive Lubricants for Various Departments
S32-S23377

Category #
4

Page 1 of 2

Agenda Item

29#

FROM (Department or other point of origin):

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

Origination Date

September 23, 2010

Agenda Date

OCT 13 2010
OCT 08 2010

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:

RECOMMENDATION: (Summary)

Approve various awards, as shown below, in an amount not to exceed \$2,626,887.45 for automotive lubricants for various departments.

Estimated Spending Authority: \$2,626,887.45

Finance Budget

\$2,587,311.17 - General Fund (1000)
\$ 16,230.78 - HAS Revenue Fund (8001)
\$ 23,345.50 - PWE - W&S System Operating Fund (8300)
\$2,626,887.45 - Total

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve various awards, as shown below, in an amount not to exceed \$2,626,887.45 for automotive lubricants 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 various grades and types of lubricants used to ensure proper operation and maintain machinery and equipment owned by the Houston Airport System, Fire, Police, Solid Waste Management, Public Works & Engineering, and Parks and Recreation Departments.

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

ADA Resources, Inc.: Award on its low bid for Group Nos. 1 (Motor and Engine Oil), 3 (Transmission Oil) and 4 (Multi-Purpose Grease and Gear Lubricant) in an amount not to exceed \$1,895,231.15.

COMPANY

TOTAL AMOUNT

1. Romeo Enterprises	\$ 13,899.75 (Partial Bid/Higer Unit Price)
2. Subfin Wholesale Commodities (Bid #1)	\$ 157,197.50 (Partial Bid/Higer Unit Price)
3. Subfin Wholesale Commodities (Bid #2)	\$ 172,155.00 (Partial Bid/Higer Unit Price)
4. Universal Lubricants, LLC	\$ 1,741,666.01 (Partial Bid/Higer Unit Price)
5. Sundance Fuels, Inc.	\$ 1,754,990.83 (Partial Bid/Higer Unit Price)
6. ADA Resources, Inc.	\$ 1,895,231.15
7. Sun Coast Resources, Inc.	\$ 1,918,422.64
8. Pumpelly Oil Company	\$ 1,918,471.69
9. Houston-Pasadena Apache Oil Company	\$ 1,922,827.17
10. Renew Environmental Services	\$ 2,172,615.05

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

Date: 9/23/2010	Subject: Formal Bids Received for Automotive Lubricants for Various Departments S32-S23377	Originator's Initials VD	Page 2 of 2
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COMPANY

TOTAL AMOUNT

11. Atlantic Petroleum & Mineral Resources, Inc.	\$27,099,218.15
12. Q Environmental, Inc.	\$45,448,281.60

Houston-Pasadena Apache Oil Company: Award on its low bid for Group No. 2 (Hydraulic Oil and Fluids) in an amount not to exceed \$731,656.30.

COMPANY

TOTAL AMOUNT

1. Romeo Enterprises	\$ 85,935.00 (Partial Bid/Higher Unit Price)
2. Houston-Pasadena Apache Oil Company	\$ 731,656.30
3. Sundance Fuels, Inc.	\$ 774,440.60
4. ADA Resources, Inc.	\$ 807,418.25
5. Pumpelly Oil Company	\$ 814,260.00
6. Universal Lubricants, LLC	\$ 858,783.70
7. Sun Coast Resources, Inc.	\$ 861,066.05
8. Renew Environmental Services	\$ 914,677.85
9. Atlantic Petroleum & Mineral Resources, Inc.	\$1,275,586.55

M/WBE Subcontracting:

This bid was issued with an 11% goal for M/WBE participation.

ADA Resources, Inc. has designated the below-named company as its certified M/WBE subcontractor:

<u>Company</u>	<u>Type of Service</u>	<u>Amount</u>
Excess House, Inc.	Insurance and Risk Consulting	\$208,475.43

Houston-Pasadena Apache Oil Company has designated the below-named company as its certified M/WBE subcontractor:

<u>Company</u>	<u>Type of Service</u>	<u>Amount</u>
Q Environmental, Inc.	Lubricant Disposal Services	\$80,482.19

The Affirmative Action Division will monitor this award.

Group No. 3, Item No. 5 will not be awarded. This item will be rebid at a later date.

Buyer: Veronica Douglas, CPPB, PSCMC

ESTIMATED SPENDING AUTHORITY

DEPARTMENT	FY 11	OUT YEARS	TOTAL
Fire	\$ 80,000.00	\$ 216,669.96	\$ 296,669.96
Houston Airport System	\$ 3,541.21	\$ 12,689.57	\$ 16,230.78
Public Works & Engineering	\$ 4,669.00	\$ 18,676.50	\$ 23,345.50
Parks & Recreation	\$ 30,000.00	\$ 120,589.77	\$ 150,589.77
Police	\$228,555.65	\$ 806,079.86	\$1,034,635.51
Solid Waste Management	\$228,104.85	\$ 877,311.08	\$1,105,415.93
Total	\$574,870.71	\$2,052,016.74	\$2,626,887.45

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 8828

Subject: Formal Bids Received for Veterinary Supplies for Various Departments
S21-S23476

Category #
4

Page 1 of 2

Agenda Item

30 12

FROM (Department or other point of origin):

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

Origination Date

August 25, 2010

Agenda Date

OCT 0 8 2010
OCT 1 3 2010

DIRECTOR'S SIGNATURE

Calvin D. Wells

Council District(s) affected

All

For additional information contact:

David Atencio Phone: (713) 229-7321
Desiree Heath Phone: (832) 393-8742

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve various awards, as shown below, in an amount not to exceed \$2,180,847.89 for veterinary supplies for various departments.

Estimated Spending Authority: \$2,180,847.89

Finance Budget

\$2,180,847.89 - General Fund (1000)

SPECIFIC EXPLANATION:

The City Purchasing Agent recommends that City Council approve various awards, as shown below, in an amount not to exceed \$2,180,847.89 for veterinary supplies for various departments. It is further requested that authorization be given to make purchases, as needed, for a 60-month period. These awards consist of various vaccinations, pharmaceuticals, and equine supplies that will be used by the Administration and Regulatory Affairs and Police Departments to administer and treat those animals that are under the care of the Bureau of Animal Regulation and Control and the animals employed by the K9 division and mounted patrol units.

This is a line item and price list award. 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 estimated to be purchased; rather, these award recommendations are for the total estimated expenditures projected over the 60-month term 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. Sixteen prospective bidders downloaded the solicitation document from SPD's e-bidding website, and four bids were received as detailed below:

Webster Veterinary Supply, Inc.: Award on its low bid for Group I, (Webster Veterinary Online Catalog) which includes, but is not limited to, canine heartworm test kits, penicillin, various sizes of suture materials, anesthesia, surgical scalpels, syringes, liniments, wound ointments, and topical sprays) in an amount not to exceed \$2,000,000.00.

<u>Company</u>	<u>Sample Pricing Total</u>
1. Webster Veterinary Supply, Inc.	\$440.40
2. MWI Veterinary Supply	\$578.00

Maci Feed & Supply: Award on its low bid for Group II, Item Nos. 6, 8, 11, 13, 18, 21-24, 32, 66, 68, 70, 74, 76, 81, 83, 95, 97, 100, 102, 104 and 106 (liniments hooflex, supplements, shampoos, conditioners, sweat scrapers, hoof nippers, feeders, powders, isopropyl, moisturizers, polishes, weight supplements, synthetic brushes, glycerin soap bars, name plates, saddle under pads and flat wood rasps), and on its sole bid for Group II, Item Nos. 2, 16, 20, 25, 31, 33, 36, 37,

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

MD

Date: 8/25/2010	Subject: Formal Bids Received for Veterinary Supplies for Various Departments S21-S23476	Originator's Initials LM	Page 2 of 2
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38, 40, 42-55, 60-65, 67, 69, 71, 75, 78, 79, 82, 88-94, 96, 99, 103, 107, 108, 111, 112, 116, 129, 130 and 137 (wound treatment sprays, fly masks, girth straps, saddles, rope clamps, various sized flat sided pails, wound ointments, clear hoof polishes, colic supplements, rubber combs, aluminum scoops, cast iron feeders, wool blankets, 600 ft. twisted nylon ropes, bridle holders and hoof knives), and on its low bid meeting specifications for Group II, Item Nos. 17, 56, 57, 86, 87, 131 and 132 (stainless steel buckets, 30 lb. equine electrolytes, mosquito repellent sprays and fly equine ointments) in an amount not to exceed \$180,847.89.

<u>Company</u>	<u>Total Amount</u>
1. MWI Veterinary Supply	\$ 2,454.24 (Partial Bid/Higher Unit Price)
2. Webster Veterinary Supply, Inc.	\$ 18,284.00 (Withdrew Bid)
3. Charlotte's Saddlery	\$ 111,487.25 (Partial Bid/Did Not Meet Specs)
4. Maci Feed & Supply	\$ 180,847.89

A lower bid was received from Webster Veterinary Supply, Inc. for Group II, Item Nos. 56, 57, 66, 86, 87, 131 and 132 but due to an oversight in the computations, the company asked to have their bid withdrawn without prejudice.

A lower bid was received from Charlotte's Saddlery for Item No. 17 but did not meet specifications. This item will be purchased on an as needed basis.

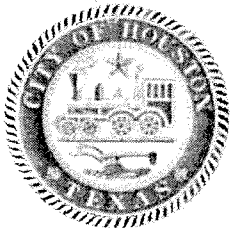
Item Nos. 3, 26, 28, 29, 35, 72, 77, 80, 84, 85, 98, 101, 105, 109, 110, 113-115, 118-121, 123-128, 133-136, 138-152 are not being awarded. These items will be purchased on an as needed basis.

Purchase orders will be issued to the low bidders for Group II, Item Nos. 1, 4, 5, 7, 9, 10, 12, 14, 15, 19, 27, 30, 34, 39, 41, 58, 59, 73, 117, and 122, as the award is less than \$50,000.00.

Buyer: L. Marquez

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

Estimated Spending Authority			
Department	FY11	Out Years	Total
Administration & Regulatory Affairs	\$39,637.72	\$1,960,362.28	\$2,000,000.00
Police	\$39,637.72	\$ 141,210.17	\$ 180,847.89
Total	\$79,275.44	\$2,101,572.45	\$2,180,847.89



CITY OF HOUSTON

Administration & Regulatory Affairs Department
Strategic Purchasing Division (SPD)

RECEIVED
AUG 25 2010

Interoffice

Correspondence

To: Calvin D. Wells, Deputy Director
City Purchasing Agent

From:

Laura A. Marquez

Date:

August 20, 2010

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: 11% New Goal: 0% ✓

If requesting a revision, how many solicitations were received: 4

Solicitation Number: S23476 Estimated Dollar Amount: \$2,179,605.99

Anticipated Advertisement Date: Solicitation Due Date:

Goal On Last Contract: 0% Was Goal met: Yes ☐ No ☐

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

Name and Intent of this Solicitation:

This award is for veterinary supplies that will be used by the ARA-Bureau of Animal Regulation and Control and Police Department to administer and care for animals sheltered at BARC and those animals employed with the K9 and Mounted Patrol Units.

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

Maci Feed & Supply is a local supplier, and it uses company owned trucks to deliver items to the City departments on an as needed basis. A majority of supplies will be picked up by HPD, and all other items will be delivered by Maci Feed & Supply. Maci Feed & Supply delivery trucks are currently under manufacturer's warranty; therefore, there are no opportunities for certified MWBE in automotive repairs.

Webster Veterinary is a division of Patterson Companies, Inc. and is the nation's second largest distributor of consumable veterinary supplies, equipment and software, diagnostic products, vaccines and pharmaceuticals. The higher volume purchases of vaccines and pharmaceuticals will be shipped directly from Patterson Companies based in Sterling, Massachusetts to the City departments via common carrier (UPS/FED EX); therefore, there are no opportunities for certified MWBE in delivery/freight.

Concurrence:

SPD Initiator

Division Manager

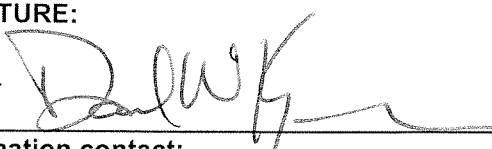
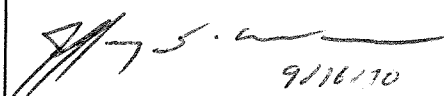
Robert Gallegos, Deputy Assistant Director

*Affirmative Action

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

SUBJECT: Automobile Rental Concession Agreement between the City of Houston and Simply Wheelz, LLC dba Advantage Rent A Car - HOU		Category #	Page of 1 31	Agenda Item # 22
FROM (Department or other point of origin): Houston Airport System		Origination Date September 8, 2010	Agenda Date OCT 9 8 2010 OCT 13 2010	
DIRECTOR'S SIGNATURE: <i>[Signature]</i>		Council District affected: I		
For additional information contact: Ian Wadsworth <i>IWW</i> Phone: 281/233-1682 Chanda Felder <i>CF</i> 281/233-1578		Date and identification of prior authorizing Council action: N/A		
AMOUNT & SOURCE OF FUNDING: REVENUE		Prior appropriations: N/A		
RECOMMENDATION: (Summary) Enact an Ordinance approving and authorizing execution of Automobile Rental Concession Agreement between the City of Houston and Simply Wheelz, LLC dba Advantage Rent A Car at William P. Hobby Airport (HOU).				
<p>SPECIFIC EXPLANATION: In December 2008, Southwest-Tex Leasing Co., Inc. dba Advantage Rent A Car filed for bankruptcy and ceased operations at both George Bush Intercontinental Airport/Houston (IAH) and William P. Hobby Airport (HOU). In spring of 2009, Simply Wheelz, LLC purchased the Advantage name and assets and began operating under the Advantage name in many cities across the country. Simply Wheelz, LLC dba Advantage has re-established rental car operations at IAH earlier this year and is now seeking to re-establish rental car operations at HOU.</p> <p>The terms of this agreement will be consistent with the terms of the existing rental car agreements at HOU. Due to renovations under the Terminal and Central Concourse Expansion project at HOU (Project 417F), all rental car companies are currently operating from interim customer service counters. The completion of new rental car customer service counters is anticipated in the second half of 2011. An RFP will be issued in the first quarter of 2011 to establish rental car counter assignments for all rental car companies.</p> <p>The pertinent terms and conditions of this Automobile Concession Agreement are as follows:</p> <ol style="list-style-type: none"> Term: The term shall commence on the first day of the month following the countersignature date of the City Controller, and shall continue thereafter through May 31, 2012, unless sooner terminated in accordance with terms and conditions of the agreement. Annual Concession Fee: The greater of the Minimum Annual Guarantee (MAG) or 10% of the Gross Revenue. MAG - \$100,000.00 ACDBE Goal: The ACDBE goal is 3.35% of the Gross Revenue. 				
REQUIRED AUTHORIZATION				
Finance Department:		Other Authorization:		Other Authorization:

SUBJECT: Contract Award for Construction services of traffic control devices for the Neighborhood Traffic Management Program. WBS No.: N-000660-0010-4		Category	Page 1 of 2	Agenda Item # <u>35</u>										
FROM (Department or other point of origin): Department of Public Works and Engineering		Origination Date	Agenda Date OCT 06 2010											
DIRECTOR'S SIGNATURE:  Daniel W. Krueger, P.E.		Council District affected: ALL												
For additional information contact: Michael Y. Ereti (713) 837-0506 Assistant Director		Date and identification of prior authorizing Council action: OCT 13 2010												
RECOMMENDATION: (Summary) Accept low bid, award construction contract to ISI Contracting, Inc., and appropriate funds.														
Amount and Source of Funding: \$ 836,228.00 from Street and Bridge Consolidated Construction Fund 4506 <u>M.P. 9/20/2010</u>														
PROJECT NOTICE/JUSTIFICATION: This project is part of the City of Houston's Capital Improvement Plan (CIP) to meet the program goals of the Neighborhood Traffic Management Program, which utilizes traffic calming measures on residential streets to mitigate cut-through traffic and speeding problems to improve quality of life.														
DESCRIPTION/SCOPE: This project consists of concrete pavement repair, and installation or removal of traffic control devices along residential streets with excessive vehicular speeds and mitigation of cut-through traffic. The contract duration for this project is for two (2) years.														
LOCATION: The work will be City wide.														
Bids: Four (4) bids were received on July 8, 2010.														
<table border="0"> <thead> <tr> <th><u>Bidder</u></th> <th><u>Bid Amount</u></th> </tr> </thead> <tbody> <tr> <td>1. ISI Contracting, Inc.</td> <td>\$ 523,065.00</td> </tr> <tr> <td>2. Caan Construction Services, Inc.</td> <td>\$ 598,255.00</td> </tr> <tr> <td>3. Jerdon Enterprise, L.P.</td> <td>\$ 664,512.00</td> </tr> <tr> <td>4. Resicom, Inc.</td> <td>\$ 692,170.00</td> </tr> </tbody> </table>					<u>Bidder</u>	<u>Bid Amount</u>	1. ISI Contracting, Inc.	\$ 523,065.00	2. Caan Construction Services, Inc.	\$ 598,255.00	3. Jerdon Enterprise, L.P.	\$ 664,512.00	4. Resicom, Inc.	\$ 692,170.00
<u>Bidder</u>	<u>Bid Amount</u>													
1. ISI Contracting, Inc.	\$ 523,065.00													
2. Caan Construction Services, Inc.	\$ 598,255.00													
3. Jerdon Enterprise, L.P.	\$ 664,512.00													
4. Resicom, Inc.	\$ 692,170.00													
		REQUIRED AUTHORIZATION		CUIC ID# 20JSW40A										
Finance Department:	Other Authorization:	Other Authorization:  Jeffrey Weatherford, P.E., PTOE Deputy Director Traffic & Transportation Division												

Date	Subject: Contract Award for Construction services of traffic control devices for the Neighborhood Traffic Management Program. WBS No.: N-000660-0010-4	Originator's Initials	Page 2 of 2
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AWARD: It is recommended that this construction contract be awarded to ISI Contracting, Inc. with a low bid of \$523,065.00.

Project Cost: The total cost of the contract award for Neighborhood Traffic Management Program project construction is \$836,228.00 to be appropriated as follows:

Bid Amount	\$523,065.00
Contingencies	\$ 26,153.00
Project Management	\$138,505.00
Construction Management	\$138,505.00
Engineering & Testing Services	\$ 10,000.00

Project & Construction Management costs consist primarily of CIP Salary Recovery to support the Neighborhood Traffic Management Program. Upon the re-establishment of this program, Council was advised that the Salary Recovery was necessary since funding was not available through the General Fund. In a typical CIP project the percentage of the total cost of salary recovery is lower due to the larger overall project cost. The relatively small construction funding available for this program results in the higher percentage of costs.

Engineering and Testing Services will be provided by Terracon Consultants, Inc. under a previously approved contract.

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 for some employees, but will pay into the Contractor Responsibility Fund for others, in compliance with City policy.

M/WBE PARTICIPATION: No MSBE goal is required.

JSW:LHM

cc: Marty Stein
Velma Laws
Tony Henshaw
LaVerne Hollins-McGlothen
Morris Scott
Maria Garcia
Michael Y. Ereti

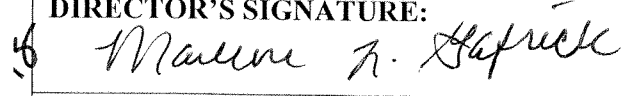
Amendments to

Items

33 and 34

see Agenda

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

SUBJECT: Ordinance amending Chapter 33, Code of Ordinances relating to historic preservation.		Category #	Page 1 of 1	Agenda Item # 73
FROM (Department or other point of origin): Planning and Development		Origination Date October 1, 2010		Agenda Date OCT 6 2010
DIRECTOR'S SIGNATURE: 		Council District affected: All OCT 13 2010 33		
For additional information contact: Michael Schaffer Phone: 713.837.7780		Date and identification of prior authorizing Council action: 3/1/95 Ord No 95-228; 4/21/99 Ord No 99-378; 8/17/05 Ord No 05-969; 3/7/07 Ord No 07-292; 7/18/07 Ord No 07-840; 8/1/07 Ord No 07-885; 3/4/09 Ord No 09-181; 6/09/10 Ord No 10-443		
RECOMMENDATION: (Summary) Adopt ordinance amending Chapter 33 of the Code of Ordinances relating to historic preservation.				
Amount and Source of Funding: N/A			Finance Budget: NA	
SPECIFIC EXPLANATION: The Historic Preservation Ordinance (HPO) was adopted March 1995, and is primarily administered by the Houston Archaeological and Historical Commission (HAHC). The Mayor appointed a task force to review the HPO and make recommendations for amendments to the HPO if needed. In addition, City Council adopted an ordinance (6/09/10 No 10-443) temporarily discontinuing the issuance of waivers for demolition or relocation of historic structures and incompatible new construction within historic districts while the task force considered amendments to the HPO.				
<p>Following the passage of the temporary discontinuance ordinance, the Planning and Development Department provided notice to all property owners within the existing and proposed historic districts of the city's intent to amend the HPO and the date, time and location of five public meetings to be held for the purpose of informing citizens of changes and to seek input from the community. These meetings were held on July 27, July 29, August 3, August 5 and August 10. A Public Hearing was held by the HAHC on August 19 and recommendations were submitted on August 26. A Public Hearing was held by Planning Commission on September 23 and recommendations were submitted on September 30. The amendments were presented to the Development and Regulatory Affairs Council Committee on September 20.</p> <p>The proposed amendments are summarized as follows:</p> <ul style="list-style-type: none">• The application process for designation of historic districts is being streamlined. Applications must be submitted with minimum support level, a map and an inventory of the proposed district, which will be limited to a maximum size. Within 15 days of submittal of a complete application, notice of a public meeting will be sent to all property owners within the proposed district. After the final public meeting, ballots will be sent to the property owners, which must be returned within 15 days of the notice. In order for a district to be designated, the ballots must demonstrate that the application is supported by 60 percent of all tract owners within the proposed district. If less than 60 percent support the designation, the director may modify the boundaries to identify a district where the owners of 60 percent of the tracts support the designation or the application fails. Notice of the public hearing to be held by the HAHC on each final application for designation will be provided to the property owners.• Changes to the issuance of Certificates of Appropriateness include:<ul style="list-style-type: none">○ Exemptions include landscaping, HVAC units, light fixtures, porch ceiling fans and roofs.○ Certain exterior alterations and additions have formulaic mandatory approval criteria for the HAHC.○ Provides criteria for determining the building setback and height requirements for additions and new construction.○ Revised application submittal requirements to demonstrate economic hardship or unusual or compelling circumstance for the demolition of landmarks, protected landmarks and contributing structures.• The ninety-day waiver certificate remains valid for landmarks outside an historic district, but not for structures within historic districts.• Demolition by neglect has been expanded to allow for enforcement.• Design guidelines are required for all districts.				
cc: City Attorney, David Feldman Minnette Boesel, Mayor's Office of Cultural Affairs Deborah McAbee, Legal Department				
REQUIRED AUTHORIZATION				
Finance Director:		Other Authorization:		Other Authorization:

13
~~OCT 28 2010~~

City of Houston, Texas, Ordinance No. 2010-_____

AN ORDINANCE AMENDING CHAPTER 33 OF THE CODE OF ORDINANCES RELATING TO HISTORIC PRESERVATION; MAKING FINDINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; CONTAINING A REPEALER; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, under Article XI, Section 5 of the Texas Constitution, the City of Houston is a home-rule municipality having the full power of self-government and, as set forth in section 51.072 of the Texas Local Government Code, may exercise that authority independent of the powers granted it under the Texas Local Government Code; and

WHEREAS, the City Council finds that the conservation, preservation, protection, enhancement, and perpetuation of sites, landmarks and areas of historical, cultural, architectural, paleontological or archaeological interest is a public policy and public necessity, is required to protect and promote the public health, safety and general welfare of the public and the cultural, economic and educational well being of the public, and represents a compelling public interest; and

WHEREAS, the quality and character of a city is not merely its hope for the future development, but also its retention of the elements of its past; and

WHEREAS, in the exercise of this power, the City Council has adopted Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, (the "Historic Preservation Ordinance") providing for the recognition, protection, enhancement, perpetuation and use of sites, landmarks and areas of historical or archeological interest within the City; and

WHEREAS, the City Council finds that the Historic Preservation Ordinance is necessary and appropriate and is in the public interest as a means to preserve and protect the historic heritage of the City and to protect and promote the health and economic well-being, safety and welfare of the people of the City, and

WHEREAS, the City Council finds that the demolition of historical, cultural and archaeological resources constitutes an irreplaceable loss to the City; and

WHEREAS, the City Council finds that it has designated 16 historic districts containing a significant percentage of contributing and potentially contributing structures, as those terms are defined in the Historic Preservation Ordinance, and also that one or more areas within the City have applied for designation by City Council as historic districts and are subject to the provisions of Section 33-223 of the Code of Ordinances while pending designation (historic districts previously designated and pending designation, collectively, "Historic Districts"); and

WHEREAS, the City Council finds that despite the protections for contributing and potentially contributing structures within Historic Districts provided for in the Historic Preservation Ordinance, approximately 80 percent of the contributing and potentially contributing structures that have been demolished were without the consent of the Houston Archaeological and Historical Commission (the "HAHC"), and all of the contributing and potentially contributing structures that have been relocated were without the consent of the HAHC, due to the applicability of Subsections 33-250(a), (b), and (d) of the Historic Preservation Ordinance to contributing and potentially contributing structures proposed to be demolished within the Historic Districts; and

WHEREAS, the City Council finds that continued applicability of Subsections 33-250(a), (b), and (d) of the Historic Preservation Ordinance will continue to allow for the possibility of demolitions, relocations and new construction incompatible with the criteria of the Historic Preservation Ordinance, further contributing to the erosion of the historic character within the Historic Districts;

WHEREAS, the City Council has determined that Chapter 33 of the Code of Ordinances, Houston, Texas, should be amended to better protect the historic resources of the City and to ensure the preservation of the public health, safety and welfare of the citizens of the City; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Section 33-201 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the definitions of "*conservation plan*," "*contributing*," "*noncontributing*," "*potentially contributing*," and "*potentially contributing structure*."

Section 3. That Section 33-201 of the Code of Ordinances, Houston, Texas, is hereby amended by adding in appropriate alphabetical order the definitions of "*front façade*," "*planning commission*," "*plate height*," and "*roof pitch*," which shall read as follows:

"*Front façade* means the elevation of a building that is parallel to an adjacent public right-of-way. On a corner lot, or lot adjacent to more than one public right-of-way, the front façade is the elevation that contains the main entrance to the building."

"*Planning Commission* means the planning commission of the city."

"*Plate height* means the distance from the subfloor of a building to the top of the framed wall."

"Roof pitch means the slope of a roof surface expressed in inches of vertical rise per twelve inches of horizontal distance."

Section 4. That Section 33-201 of the Code of Ordinances, Houston, Texas, is hereby amended by amending the definitions of "*alteration*," "*certificate of appropriateness*," "*contributing structure*," "*design guidelines*," "*noncontributing structure*," "*ordinary maintenance and repair*," and "*public right-of-way*" to read as follows:

"*Alteration* means any change to the exterior of a building, structure, object or site. Alteration shall include, but is not limited to, changing to a different kind, type or size of roofing or siding materials; changing, eliminating, or adding exterior doors, door frames, windows, window frames, shutters, railings, columns, beams, walls, porches, steps, porte-cocheres, balconies, or ornamentation; or the dismantling, moving or removing of any exterior feature. Alteration includes expanding an existing structure or the construction of an addition to an existing structure. Alteration does not include ordinary maintenance and repair, exterior painting or the addition or replacement of fences."

"*Certificate of appropriateness* means a current and valid permit issued by the HAHC or the director, as applicable, authorizing the issuance of a building permit for construction, alteration, rehabilitation, restoration, relocation or demolition required by this article."

"*Contributing structure* means a building, structure, object or site that reinforces, or that has conditions, which, if reversed, would reinforce, the cultural, architectural or historical significance of the historic district in which it is located, and that is identified as contributing upon the designation of the historic district in which it is located. The term also includes any structure that was identified as "potentially contributing" in any historic district designated prior to _____."¹

"*Design guidelines* means an inventory and analysis of historic resources within a geographic area of the city designated or proposed for designation as an historic district pursuant to the provisions of this article that contains standards for alteration, rehabilitation, restoration, construction, relocation and demolition of buildings, structures, objects or sites in an historic district, and approved by the city council."

¹ Editor to insert the effective date of this ordinance.

“Noncontributing structure means a building, structure, object or site that does not reinforce the cultural, architectural, or historical significance of the historic district in which it is located, and is identified as noncontributing upon the designation of the historic district in which it is located.”

“Ordinary maintenance and repair means any work to correct or prevent deterioration, decay or damage to a building, structure, object or site (or any part thereof), including but not limited to painting or adding or replacing fences, provided that the work does not change the design, character, texture or material of any exterior feature or constitute an ‘alteration’ as defined above.”

“Public right-of-way means an area dedicated to the public for the passage of people or goods.”

Section 5. That Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, is hereby amended to change the term “*planning official*” to the term “*director*” everywhere it appears.

Section 6. That Subsection (f) of Section 33-202 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(f) Prior to any amendment of this article, the HAHC shall conduct one public hearing to solicit public comments on the proposed amendments. The HAHC may make recommendations to the city council with respect to the proposed amendments. The provisions of this subsection shall not apply to any amendment to correct clerical errors or to make nonsubstantive changes in this article.”

Section 7. That the first sentence of Subsection (d) of Section 33-203 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“(d) If a landmark or protected landmark, archaeological site, or a contributing structure located in an historic district is demolished without a certificate of appropriateness required by this article or, in the case of a landmark or archaeological site only, a 90-day waiver certificate issued pursuant to section 33-250 of this Code, or is demolished by the city for public safety reasons after the property owner has received two or more notices of neglect pursuant to Section 33-254 of this Code, the building official shall not issue a building permit, and no other person shall issue any other city permit, for the site where the landmark, protected landmark or

structure was formerly located for a period of 2 years after the date of the demolition.”

Section 8. That Items (6) and (8) of Subsection 33-211(a) of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

- “(6) Position 6 shall be filled by a representative of an organization for commercial businesses with knowledge of and interest in restoration, historic building renovation and compatible new construction.”
- “(8) Position 8 shall be filled by a representative of an organization for remodelers or builders with knowledge of and interest in restoration, historic building renovation and compatible new construction.”

Section 9. That Subsection (d) of Section 33-212 of the Code of Ordinances, Houston, Texas, is hereby amended to replace the term “commission” with the term “HAHC” in both places it appears.

Section 10. That Item (9) of Section 33-214 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

- “(9) Evaluate the effectiveness of the design guidelines in achieving the goals of this article and recommending changes to the design guidelines, if appropriate;”

Section 11. That Subsection (c) of Section 33-221 of the Code of Ordinances, Houston, Texas, is hereby amended to delete the phrase “and the commission.”

Section 12. That Section 33-222 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 33-222. Application for designation of a landmark, archaeological site or protected landmark.

- (a) Application for designation of a landmark or an archaeological site shall be initiated by either:

- (1) The owner of the property for which the application is made or the owner's authorized representative; or
- (2) The HAHC upon instructing the director to prepare an application for designation. Within ten working days following the action of the HAHC initiating an application, the director shall mail notice to the owner of the property or the owner's agent, as shown on the most recent city tax roll, that the HAHC has initiated an application.

(b) Application for designation of a protected landmark shall be initiated by the owner of the property proposed for designation. Application may be made in conjunction with an application for designation of a landmark or at any time after the city council has designated the property as a landmark.

(c) The application for designation of a landmark, protected landmark, or archaeological site shall be filed with the department in the form prescribed by the director. The application shall include a description and photographs of the property or properties and shall address each of the applicable criteria for designation contained in section 33-224 of this Code. The application for designation of a protected landmark shall include an instrument suitable for recording in the real property records, in a form approved by the city attorney, signed by the owner indicating that the 90-day waiver provision of section 33-250 of this Code shall not apply to the protected landmark and that the property is subject to the demolition by neglect provisions of section 33-254 of this Code."

Section 13. That Division 3 of Article VII of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 33-222.1, which shall read as follows:

"Sec. 33-222.1 Application for designation of an historic district.

(a) Application for designation of an historic district shall be initiated by either:

- (1) 10 percent of the owners of tracts in the proposed district; or
- (2) The HAHC upon instructing the director to prepare an application for designation.

(b) The application for designation of an historic district shall be filed with the department in the form prescribed by the director, and shall be subject to the following rules:

- (1) The application shall include a map indicating the boundaries of the proposed historic district, a description and photographs of the properties in the proposed district and shall address each of the applicable criteria for designation contained in section 33-224 of this Code;
- (2) The application shall identify with respect to each building, structure, object or site within the proposed historic district whether it is proposed for designation as a contributing structure or a noncontributing structure;
- (3) The boundaries of the proposed district shall not include more than 400 tracts of land, or if a proposed district falls entirely within one platted subdivision, the boundaries may include up to 500 tracts;
- (4) The proposed boundaries of the district must comprise a continuous land mass without holes inside of it;
- (5) Tracts of publicly owned land, utility easements, and public rights-of-way shall not be counted towards determining support for or against the designation of an historic district, but may be included within the historic district; and
- (6) If a tract of land is owned by more than one person, only the signature of one owner is required to indicate support for initiating an application or for determining public support by returned cards in accordance with this section.

(c) The department shall review each application for initial completeness. Upon determining that the application is initially complete, the director shall schedule and conduct one public meeting on the proposed historic district unless the director determines in her sole discretion that one or more additional meetings is necessary. The director shall give notice of the public meeting in accordance with subsection (d) of this section, including procedures for giving notice of any additional public meeting. The director will establish rules for the conduct of public meetings, and will endeavor to conduct the meeting within or near the proposed historic district, subject to the availability of appropriate space for public assembly. The director will present information on the proposed application and the process for approval at the public meeting.

(d) The director will establish the process for notice and for determining the evidence of support of the application, which shall include

the following:

- (1) Within 15 days after determining the application is initially complete, the director shall mail a notice to the owners of all property within the proposed historic district as indicated on the most current appraisal district records. The director shall give notice to a civic association registered with the department whose area is included, in whole or in part, in the proposed district.

- (2) The notice shall include the following:

- a. The date, time, and location of the public meeting described in subsection (c) of this section;
- b. Any other information the director determines may be useful to the property owners.

(e) After the final public meeting, the director shall mail notice to the owners of all property within the proposed historic district. The notice shall include a card to be returned by the property owner which shall indicate whether the property owner does or does not support designation of the historic district. The card must be placed in the U.S. mail with proper postage affixed and postmarked or delivered to the director not later than the fifteenth day after the date on the notice.

(f) After the deadline for returning cards mailed in accordance with subsection (e) has passed, the director will determine if owners of 60 percent of all the tracts in the proposed district support the designation of the district. If so, the application will be considered final. If the director determines that the owners of less than 60 percent of tracts in the proposed historic district support the designation of the historic district, then the director shall either:

- (1) Modify the boundaries of the proposed historic district if the modification will result in boundaries where the owners of 60 percent of the tracts support designation of the proposed historic district. If the director modifies the boundaries, the application shall be considered final; or
 - (2) Determine that the application fails and that no further action will be taken by the HAHC. The director shall mail notice to the owners of all property within the proposed historic district that the public hearing before the HAHC has been cancelled.
- (g) If a historic district is designated with modified boundaries, any

property excluded from the modified boundaries of the district, as applicable, is ineligible for inclusion within a proposed district for one year from the date of the determination of the director in section (f)(1) of this section. If an application fails, all property within the proposed district is ineligible for inclusion within a proposed historic district for one year from the date of the determination of the director in section (f)(2) of this section.

(h) The HAHC will conduct a public hearing on each final application for designation of a historic district. Following the public hearing, the HAHC may recommend that the boundaries of the proposed historic district be amended in accordance with the intent and general purpose of this article."

Section 14. That Section 33-223 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 33-223. Property pending designation.

(a) Upon initiation of an application for designation of a landmark, archaeological site or historic district that satisfies the minimum age criteria of section 33-224(b) of this Code, the building, structure, object or site proposed for designation as a landmark or archaeological site and any building, structure, object or site located in an area proposed for designation as an historic district shall be subject to the requirements of division 4 of this article as though the building, structure, object, site or area had been designated by the city council. If the HAHC denies an application for certificate of non-designation for any property pursuant to section 33-228 of this Code, the property shall also be subject to the provisions of this section.

(b) The protected status provided in subsection (a) above ends on the earliest of the following dates:

- (1) The day after an action of the city council rejecting an application for designation;
- (2) In the case of an application initiated by the HAHC, the day after an action of the HAHC recommending against the designation;
- (3) In the case of an application for designation of a landmark or archaeological site initiated by the property owner, the day after the withdrawal of the application by the property owner;
- (4) In the case of an application for designation of an historic

district initiated by property owners, the day after the director determines that the application fails; or

- (5) In the case of the denial of a certificate of non-designation by the HAHC, the 181st day after the decision of the HAHC.

For purposes of this article, an application for designation is initiated immediately upon the occurrence of either the filing of an application for designation by the requisite owners pursuant to section 33-222 or section 33-222.1 of this Code or, in the case of an application initiated by the HAHC, the date a majority of the HAHC votes to authorize the preparation of an application."

Section 15. That Subsection (a) of Section 33-224 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting "and the commission," from the first sentence.

Section 16. That Sections 33-225 through 33-227 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Sec. 33-225. Procedures for designation of landmark, historic district and archaeological site.

(a) The HAHC shall review each final application for designation of a landmark, historic district, and archaeological site and shall conduct a public hearing on each application. The director shall make a record of the public hearing. The HAHC shall consider the application and evidence presented at the public hearing. After due consideration, the HAHC shall determine whether to recommend the designation, provided, however, that if the HAHC does not act with respect to an application for designation within 60 days of the public hearing before the HAHC on the designation, the HAHC shall be deemed to have recommended the designation. The recommendation of the HAHC, which shall include the basis for the recommendation, shall be in writing. If the HAHC recommends against designation upon consideration of the application, the application shall be disapproved and no recommendation shall be submitted to the city council.

(b) The director shall submit the recommendation of the HAHC for designation and the application to the city council.

(c) The city council shall consider an application for designation after receiving a recommendation from the HAHC and shall decide whether

to designate the property.

(d) The city secretary shall maintain a copy of a map identifying each landmark, historic district and archaeological site designated by the city council, and additional copies shall be maintained by the director and the building official. The director shall file for recordation in the real property records of the county or counties in which the designated property is located each action of the city council designating a landmark, historic district or archaeological site.

Sec. 33-226. Notice requirements for public hearings.

(a) The director shall give notice of a public hearing before the HAHC on the designation of a landmark or archaeological site initiated by the HAHC not less than 30 days before the date of the public hearing to the owner of the property at the name and address as shown on the most current appraisal district records. If the notice address for the owner as shown on the most current appraisal district records does not coincide with the street address of the property, then the director shall also send a notice addressed occupant to the street address for the proposed landmark or archaeological site. The director shall also publish notice of the public hearing in a newspaper of general circulation in the city not less than 30 days before the date of the public hearing.

(b) The director shall provide notice of a public hearing on the designation of a landmark or archaeological site by letter, first class mail, postage paid, by facsimile transmission or by electronic mail no later than the fifth day before the date of the public hearing to:

- (1) Any civic association registered with the director within whose service area the potential landmark or archaeological site is located; and
- (2) If the owner of the landmark or archaeological site initiated the application for designation, the owner.

(c) The director shall give notice of a public hearing before the HAHC on the designation of an historic district not less than 30 days before the date of the public hearing on designation as follows:

- (1) Notice shall be given by mail to each property owner within the proposed historic district, as shown on the most current appraisal district records.
- (2) Notice shall be published in a newspaper of general circulation

in the city; and

- (3) Notice shall be posted by sign in at least four locations within the district selected by the director at locations reasonably calculated to be seen easily by residents of the district and where each sign will be visible from at least one public right-of-way. In addition, where, in the opinion of the director, because of the size, configuration, traffic patterns or other characteristics of the proposed historic district, additional signs would be beneficial in providing notice, the director shall cause an appropriate number of additional signs to be posted. The signs shall conform to specifications prescribed by the director.

(d) Written notice that is given by mail shall be deemed given when it is deposited in the United States mail, properly addressed, postage paid. The affidavit of a person who has knowledge of the fact that notice was mailed constitutes prima facie evidence that notice has been given as required by this section.

(e) Additional notice need not be given if the public hearing is adjourned or continued to another date, provided that the date, time and place to which the public hearing is adjourned or continued are specified in the public hearing.

Sec. 33-227. Amendment; changes in boundary.

(a) Amendment of any designation of any landmark, protected landmark, historic district or archaeological site and any enlargement of the boundaries of any historic district or archaeological site shall require action by the city council and shall follow the procedures for application, notice, public hearing and recommendation by HAHC used for the designation of the landmark, historic district or archaeological site.

(b) Nothing herein shall be construed to require the city council to follow all of the procedures used in the designation if the amendment is solely for the purpose of correcting minor technical errors, including, but not limited to, errors in property descriptions, that are necessary to implement the intent of the city council with respect to the designation.

(c) Notwithstanding the foregoing, the city council may establish by ordinance a temporary process to allow for reconsideration of the designations of historic districts made or proposed prior to June 9, 2010 in connection with the adoption of amendments to this article."

Section 17. That Subsections (a), (b), (c), and (d) of Section 33-228 of the Code of Ordinances are hereby amended to read as follows:

“Sec. 33-228. Certificate of non-designation.

(a) The owner or owner’s agent of any property may submit an application for a certificate of non-designation with respect to any building, structure, object, site, property or area that has not been designated as a landmark, protected landmark, or contributing structure in an historic district or an archaeological site. Applications shall be filed with the director and shall contain the following information:

- (1) The name, address and daytime telephone number of the owner and the applicant, if different from the owner;
- (2) The address and general description of the property that is the subject of the application;
- (3) A current photograph of the property that is the subject of the application; and
- (4) Information demonstrating whether the property is eligible for designation as a landmark or protected landmark or as a contributing structure in an historic district or an archaeological site.

The application for a certificate of non-designation shall be accompanied by a nonrefundable fee of \$25.00.

(b) The HAHC shall consider an application for certificate of non-designation at a regular meeting within 35 days of the date a complete application for the certificate is filed with the director or at a later time mutually agreed upon in writing by the director and the applicant. The HAHC may continue its consideration of an application for a certificate of designation to its next regular meeting upon finding that specific information is needed by the HAHC to enable it to reach its decision or upon agreement with the applicant for a continuance. If the HAHC does not act upon an application for a certificate of non-designation within the later of 70 days from the date the application is filed with the director or 35 days after the date mutually agreed on by the applicant and director for review of the application by the HAHC, the application shall be deemed approved, unless the applicant consents in writing to an extension to a specified date.

(c) The HAHC shall not grant the certificate of non-designation if it

finds any of the following:

- (1) The building, structure, object, site, property or area is the subject of a pending application for designation as a landmark, protected landmark or archaeological site;
- (2) The building, structure, object, site, property or area is within an area that is the subject of a pending application for designation of an historic district;
- (3) The building, structure, object, site, property or area is eligible for designation as a landmark, protected landmark or archaeological site; or
- (4) The building, structure, object, site, property or area is located in an area that is eligible for designation as an historic district and meets the criteria for contributing structure if the area were to be designated as an historic district.

Otherwise, the HAHC shall grant the certificate of non-designation.

(d) The certificate of non-designation shall expire ten years after the date of its issuance and shall be evidence that the subject of the certificate of non-designation will not be subject to the provisions of this article for a period of ten years from the date of issuance of the certificate of non-designation. The certificate of non-designation shall run with the land and may not be transferred to any other building, structure, object, site, property or area."

Section 18. That Subsections (c) and (d) of Section 33-229 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(c) The recommendation of the HAHC shall be submitted to the city council pursuant to section 33-225 of this Code.

(d) The city secretary shall maintain a copy of a map identifying each protected landmark designated by the city council, and additional copies shall be maintained by the director and the building official. The director shall file for recordation in the real property records of the county or counties in which the designated property is located notice of each action of the city council designating a protected landmark and the form submitted by the owner pursuant to subsection 33-222(c) of this Code."

Section 19. That Section 33-236 of the Code of Ordinances, Houston, Texas, is hereby amended by redesignating Subsections (i) and (j) as Subsections (j) and (k), respectively, and adding a new Subsection (i), which shall read as follows:

“(i) No owner of a protected landmark or contributing structure in an historic district shall allow a protected landmark or contributing structure to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature.”

Section 20. That Subsection (j) of Section 33-236 of the Code of Ordinances, Houston, Texas, as redesignated by this Ordinance, is hereby amended to read as follows:

“(j) No person shall alter, rehabilitate, restore, construct, relocate or demolish any landmark, protected landmark, or any building, structure or object in an historic district or archaeological site, or excavate any archaeological site, without complying with the applicable provisions of this article. It is a defense to prosecution under this section that the director of public works and engineering or a deputy director or an assistant director having supervisory responsibilities over the issuance of building permits has determined (1) that the work to be performed is necessary to correct conditions that are in violation of the life safety requirements for existing buildings as set forth in Chapter 34 and Appendix L of the Building Code; (2) that the work to be performed is the only means for achieving compliance with the life safety requirements; and (3) that, based upon the nature of the life safety violations and the risks associated with their continuation, the provisions of this article should be waived to the extent of the life safety requirements.”

Section 21. That Section 33-237 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 33-237. Exemptions.

(a) A certificate of appropriateness is not required for ordinary maintenance and repair, or for the alteration, rehabilitation, restoration, or construction of the following exterior features: landscaping, HVAC units, light fixtures, porch ceiling fans, and roofs. The operation of this section shall constitute an affirmative defense to prosecution under section 33-236 of this Code.

(b) A certificate of appropriateness is not required for the reconstruction of a noncontributing structure that was completely or partially destroyed by a fire, natural disaster, or other damage not intentionally caused by the owner of the structure only if the reconstruction is built within the same footprint and has the same exterior features as the noncontributing structure."

Section 22. That Section 33-238 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting Item (6).

Section 23. That the first sentence of Subsection (a) of Section 33-238.1 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(a) The applicant for a certificate of appropriateness for demolition or relocation of a landmark, protected landmark, or any contributing structure in an historic district shall give notice of a meeting of the HAHC to consider the application for a certificate of appropriateness not less than ten days before the date of the meeting by posting at least one sign on the property for which the certificate of appropriateness is requested."

Section 24. That Item (2) of Subsection (c) of Section 33-238.1 of the Code of Ordinances, Houston, Texas, is hereby amended to replace the term "commission" with the term "HAHC."

Section 25. That Sections 33-240 through 33-243 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Sec. 33-240. Criteria for issuance of certificates of appropriateness--General.

(a) The HAHC shall be the body responsible for approving certificates of appropriateness unless otherwise provided in this article. The HAHC shall review and approve or disapprove a certificate of appropriateness pursuant to:

- (1) The applicable specific criteria in this division; and
- (2) Design guidelines approved pursuant to section 33-268 of this Code or division 6 of this article for the Old Sixth Ward Protected Historic District, to the extent applicable.

- (3) In the event of a conflict between the criteria in this division and the design guidelines, the design guidelines shall control.

(b) The applicant for a certificate of appropriateness shall have the burden of demonstrating that the application satisfies the criteria applicable to the issuance of the certificate of appropriateness. To approve or disapprove an application for a certificate of appropriateness, the HAHC shall consider and make findings with respect to the relationship between the proposed activity and the applicable criteria. The HAHC shall take into consideration the current needs of the applicant and shall be sensitive to the property owner's financial condition in determining whether to issue a certificate of appropriateness.

Sec. 33-241. Same--Exterior alteration, rehabilitation, restoration and addition.

(a) The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration or addition of an exterior feature of (i) any landmark, (ii) protected landmark, or (iii) any building, structure or object that is part of an archaeological site, upon finding that the application satisfies the following criteria, as applicable:

- (1) The proposed activity must retain and preserve the historical character of the property;
- (2) The proposed activity must contribute to the continued availability of the property for a contemporary use;
- (3) The proposed activity must recognize the building, structure, object or site as a product of its own time and avoid alterations that seek to create an earlier or later appearance;
- (4) The proposed activity must preserve the distinguishing qualities or character of the building, structure, object or site and its environment;
- (5) The proposed activity must maintain or replicate distinctive stylistic exterior features or examples of skilled craftsmanship that characterize the building, structure, object or site;
- (6) New materials to be used for any exterior feature excluding what is visible from public alleys must be visually compatible with, but not necessarily the same as, the materials being replaced in form, design, texture, dimension and scale;

- (7) The proposed replacement of exterior features, if any, should be based on accurate duplication of features, substantiated by available historical, physical or pictorial evidence, where that evidence is available, rather than on conjectural designs or the availability of different architectural elements from other structures;
- (8) Proposed additions or alterations must be done in a manner that, if removed in the future, would leave unimpaired the essential form and integrity of the building, structure, object or site;
- (9) The proposed design for any exterior alteration or addition must not destroy significant historical, architectural or cultural material and must be compatible with the size, scale, material and character of the property and the area in which it is located;
- (10) The setback of any proposed addition or alteration must be compatible with existing setbacks along the blockface and facing blockface(s); and
- (11) The proposed activity will comply with any applicable deed restrictions.

(b) The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration, or addition to a contributing structure in an historic district upon finding that the application satisfies the criteria in subsection (a) or the following criteria, as applicable. The HAHC shall approve an application for an addition to a contributing structure that satisfies the following criteria:

- (1) An addition taller than any point of the roof of the structure conforms to the following standards:
 - a. The addition does not encroach into the front half of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure from the front façade;
 - b. The total added height of the addition does not exceed 1.25 times the plate height of the existing structure; and
 - c. The roof of the new addition does not deviate from the

roof pitch of the existing structure.

- (2) For new additions that are not taller than any part of the roof of the structure and are adjacent to the sides of the front façade of the existing structure, the new addition conforms to the following standards:
 - a. The addition does not encroach into the front thirty percent of the total depth of the existing structure, measured from the front façade of the existing structure to the farthest point of the rear of the existing structure from the front façade;
 - b. The addition is not wider, as measured from the side adjacent to the front façade, than half of the distance that the addition is actually set back from the front facade. For example, if an addition is set back forty percent of the total depth of the existing structure from the front façade, the addition may not be wider than twenty percent of the total length of the existing structure; and
 - c. The roof of the new addition does not deviate from the roof pitch of the existing structure except for cross gable roofs.
 - (3) For new additions that are not taller than any point of the roof of the existing structure and do not encroach past the farthest point of the rear of the existing structure from the front façade, the roof of the new addition does not deviate from the roof pitch of the existing structure except for cross gable roofs.
 - (4) No original building materials are removed from the portion of the structure from the front façade to the addition.
- (c) The HAHC shall issue a certificate of appropriateness for the alteration, rehabilitation, restoration or addition of an exterior feature of any noncontributing structure in an historic district upon finding that the application satisfies the following criteria, as applicable:
- (1) The proposed activity must recognize the building, structure, object or site as a product of its own time and avoid alterations that seek to create an earlier or later appearance;
 - (2) For an addition to a noncontributing structure:

- a. The setback of the addition is no closer to the public right-of-way than the typical setback of existing contributing structures in the historic district;
- b. The height of the eaves of the addition to a noncontributing structure used or intended for use for residential purposes is not taller than the typical height of the eaves of existing contributing structures used for residential purposes in the historic district; and
- c. The height of an addition to a noncontributing structure used or intended for use for commercial purposes is not taller than the height of the existing structure.

(d) Notwithstanding subsections (a), (b), and (c) of this section, the director is authorized to issue a certificate of appropriateness for the following types of alteration of a (i) landmark, (ii) protected landmark, (iii) building, structure or object in an historic district, or (iv) building, structure or object that is part of an archaeological site upon finding that the application satisfies the criteria of the subsection (a) of this section of the Code, as applicable:

- (1) Removal of an inappropriate window or door element that was not original to the structure and replacement with a window or door element that:
 - a. Is appropriate to the historic significance of the structure; and
 - b. Does not change the size, shape or location of any opening, including the trim, molding or other features associated with the opening, from which the window or door elements are to be removed;
- (2) Removal of synthetic exterior wall cladding, such as asbestos, aluminum or vinyl siding, that was not an original feature or characteristic of the structure and replacement with appropriate cladding; and
- (3) Installation of any details including porch elements or detailing that have been partially lost or removed but whose existence has been substantiated by the remaining elements still in existence or historical documentation such as architectural plans or historic photographs.

- (4) Reconstruction of a contributing structure that was completely or partially destroyed by a fire, natural disaster, or other damage not intentionally caused by the owner of the structure only if the reconstruction is built within the same footprint and has the same exterior features as the contributing structure.

If the director disapproves the application, or if the director does not approve the application within 15 business days of receipt of the complete application, the application shall be referred to the HAHC for consideration pursuant to subsections (a), (b), and (c) of this section. The schedule for consideration of an application for a certificate of appropriateness provided by section 33-239 of this Code shall apply to an application considered under this subsection and the administrative process authorized herein shall not suspend any time required for consideration. The director may promulgate rules for the receipt and processing of applications under this subsection.

(e) In reviewing applications for certificates of appropriateness under this section, the HAHC or the director, respectively as appropriate, shall also consider any elements of the proposed activity that may be necessary to enable the property to comply with any other applicable city ordinances or state or federal law so as to facilitate compliance with this ordinance and other applicable laws.

Sec. 33-242. Same--New construction in historic district.

The HAHC shall issue a certificate of appropriateness for new construction in an historic district upon finding that the application satisfies the following criteria:

- (1) The new construction must match the typical setbacks of existing contributing structures in the historic district;
- (2) The exterior features of new construction must be compatible with the exterior features of existing contributing structures in the historic district;
- (3) The proportions of the new construction, including width and roofline, must be compatible with the typical proportions of existing contributing structures and objects in the historic district;
- (4) The height of the eaves of a new construction intended for use for residential purposes must not be taller than the typical height of the eaves of existing contributing structures used for

residential purposes in the historic district; and

- (5) The height of new construction intended for use for commercial purposes must not be taller than the typical height of the existing structures used for commercial purposes in the historic district.

Nothing in the foregoing shall be construed to require or impose a single architectural style in any historic district.

Sec. 33-243. Same--Relocation of landmark, protected landmark, or contributing structure.

(a) The HAHC shall issue a certificate of appropriateness for the relocation of any landmark, protected landmark, or contributing structure upon finding that the application satisfies one or more of the following criteria:

- (1) The landmark, protected landmark, or contributing structure:
 - a. Has architectural or historical value independent of its physical location that will not be diminished with relocation;
 - b. Can be moved without significant damage to its physical integrity;
 - c. Will be relocated to an area that is compatible with the historical and architectural character of the landmark, protected landmark, or contributing structure; and
 - d. If located in an historic district, can be relocated without significantly diminishing the integrity of the historic district in which it is located.
- (2) The relocation is necessary to protect the landmark, protected landmark, or contributing structure from demolition resulting from a public improvement project;
- (3) The applicant has established an unreasonable economic hardship pursuant to the criteria of section 33-247(c) of this Code; or
- (4) The applicant has established unusual or compelling circumstances pursuant to section 33-247(d) of this Code.

(b) Alternatively, the HAHC shall issue a certificate of appropriateness for relocation if relocation of the landmark, protected landmark, or contributing structure has been identified as an alternative to demolition pursuant to section 33-247(f) of this Code.”

Section 26. That Section 33-247 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 33-247. Same--Demolition of landmark, protected landmark or contributing structure, or within archaeological site.

(a) The issuance of a certificate of appropriateness for the demolition of a landmark, a protected landmark, or a contributing structure, or for demolition of a building, structure or object on or in an archaeological site shall be subject to the establishment by the applicant of an unreasonable economic hardship or the establishment of an unusual and compelling circumstance.

(b) An application for a certificate of appropriateness for demolition shall contain the following information:

- (1) A certified appraisal of the value of the property conducted by a certified real estate appraiser;
- (2) The assessed value of the land and improvements thereon according to the two most recent assessments unless the property is exempt from local property taxes;
- (3) All appraisals obtained by the owner in connection with the acquisition, purchase, donation, or financing of the property, or during the ownership of the property;
- (4) All listings of the property for sale or rent that are less than a year old at the time of the application;
- (5) Evidence of any consideration by the owner of uses and adaptive reuses of the property;
- (6) Itemized and detailed rehabilitation cost estimates for the identified uses or reuses, including the basis of the cost estimates;
- (7) A comparison of the cost of rehabilitation of the existing

building with the demolition of the existing building and the construction of a new building;

- (8) Complete architectural plans and drawings of the intended future use of the property, including new construction, if applicable;
- (9) Plans to salvage, recycle, or reuse building materials if a certificate of appropriateness is granted;
- (10) An applicant who is a nonprofit organization shall provide the following additional information:
 - a. A comparison of the cost of performance of the mission or function of the nonprofit organization in the existing building and in a new building;
 - b. The impact of the reuse of the existing building on the organization's program, function or mission;
 - c. The additional cost, if any, attributable to the building of performing the nonprofit organization's function within the context of costs incurred by comparable organizations, particularly in the Houston area;
 - d. Grants received, applied for or available to maintain or improve the property; and
 - e. The nonprofit organization's budget for the current and immediately past fiscal years.
- (c) Determination of an unreasonable economic hardship shall be based upon the following criteria:
 - (1) That the property is incapable of earning a reasonable return, without regard to whether the return is the most profitable return, including without limitation, whether the costs of maintenance or improvement of the property exceed its fair market value;
 - (2) That the property cannot be adapted for any other use, whether by the current owner, by a purchaser or by a lessee, that would result in a reasonable return;
 - (3) That efforts to find a purchaser or lessee interested in

acquiring the property and preserving it have failed; and

- (4) If the applicant is a nonprofit organization, determination of an unreasonable economic hardship shall instead be based upon whether the denial of a certificate of appropriateness financially prevents or seriously interferes with carrying out the mission, purpose, or function of the nonprofit corporation.

(d) Determination of the existence of an unusual or compelling circumstance shall be based upon the following criteria:

- (1) That current information does not support the historic or archaeological significance of the building, structure or object or its importance to the integrity of an historic district, if applicable;
- (2) Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans have on the architectural, cultural, historical or archaeological character of the surrounding area; and
- (3) Whether reasonable measures can be taken to save the building, structure or object from further deterioration, collapse, arson, vandalism or neglect.

(e) If the HAHC determines by a preponderance of credible evidence that the applicant has demonstrated an unreasonable hardship or that an unusual or compelling circumstance exists, the HAHC shall issue a certificate of appropriateness for demolition.

(f) If the HAHC does not issue a certificate of appropriateness for demolition pursuant to subsection (a), the director and the applicant shall explore alternatives to demolition. It shall be the duty of an applicant for a certificate of appropriateness for demolition to participate in good faith in a diligent effort to identify alternatives to demolition. The HAHC, the director and the applicant may consult with recognized historic preservation organizations and other civic groups, public agencies and interested citizens to determine the feasibility of:

- (1) Public or other acquisition of the property, structure, building or object;
- (2) Relocating one or more of the structures or features of the property if to do so would preserve its historic or architectural value; or

- (3) Any other reasonable means of preserving the property, structure, building or object's historic or architectural value."

Section 27. That Section 33-250 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 33-250. Ninety-day waiver certificate.

(a) The director shall not issue a 90-day waiver certificate for any protected landmark or for any property located within the OSWPHD.

(b) The director shall not issue a 90-day waiver certificate for any property located within any historic district.

(c) For landmarks and archaeological sites only, if for any reason a certificate of appropriateness has not been issued on or before the ninetieth day following the scheduled submittal deadline at which a complete application for a certificate of appropriateness was received by the director, then the applicant, upon request to the director, shall be entitled to the immediate issuance of a 90-day waiver certificate, which shall for all purposes be the equivalent of a certificate of appropriateness.

(d) Before the expiration of the 90 days, the applicant shall consult with department staff to explore alternatives to the actions proposed by the applicant to mitigate the reasons for which the certificate was denied. Notwithstanding the foregoing, any landmark or architectural site for which a 90-day waiver certificate is granted pursuant to the provisions of this section shall not be eligible for any tax exemptions or other financial benefit authorized by the city council for the property based on its designation pursuant to this article."

Section 28. That Section 33-253 of the Code of Ordinances, Houston, Texas, is hereby amended to add the word "*planning*" before each instance of the word "*commission*."

Section 29. That Section 33-254 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 33-254. Demolition by neglect.

(a) The owner of a contributing structure located within an historic district or of a protected landmark shall not permit the contributing structure or protected landmark to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature. An owner shall repair the following when necessary:

- (1) A deteriorated or inadequate foundation;
- (2) Defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed with safety;
- (3) Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration, or are insufficient to support the loads imposed with safety;
- (4) Fireplaces and chimneys which bulge, or settle due to defect or deterioration, or are of insufficient size or strength to carry the loads imposed with safety; and
- (5) Deteriorated, crumbling, or loose exterior stucco, mortar, or siding;

(b) The department shall investigate complaints regarding deteriorated or poorly maintained contributing structures and may refer complaints to the appropriate city department for investigation. If needed, the department will notify the property owner of the findings of any investigation and repairs required to comply with this article. If repairs are required, the property owner must develop a plan acceptable to the director to remedy the contributing structure or protected landmark within a specified amount of time, including plans to obtain any required certificates of appropriateness and other city permits. Failure to prepare a plan acceptable to the director or to comply with the provisions of an approved plan shall be a violation of this article."

Section 30. That Division 5 of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, is hereby amended in its entirety to read as follows:

"DIVISION 5. DESIGN GUIDELINES

Sec. 33-266. Application.

The applicants for the designation of an historic district may prepare and submit proposed design guidelines as part of the application. If the applicants do not submit proposed design guidelines, the department shall

prepare design guidelines for consideration by city council within six months after the creation of an historic district.

Sec. 33-267. Requirements.

The proposed historic district design guidelines shall contain:

- (1) A map and description of the proposed historic district, including boundaries; photographs of buildings in the district; an inventory of the age, setting, character and architectural, cultural or historical significance of structures in the district; and objectives to be achieved in the historic district;
- (2) A statement of the architectural, cultural or historical significance of the proposed historic district and a description of structures and features to be preserved; and
- (3) A set of specific standards for reviewing applications for certificates of appropriateness for demolition, construction, alteration, rehabilitation, restoration and relocation that will preserve the integrity of the historic district.

Sec. 33-268. Approval; effect of approval; amendment.

(a) The proposed design guidelines, when submitted by the applicants for designation of an historic district, shall be considered as part of the application for the designation of the proposed district and shall require the approval of the city council.

(b) After approval, the HAHC shall use the criteria within the design guidelines for granting or denying applications for certificates of appropriateness for applicable activities within the boundaries of the historic district.

(c) The HAHC shall conduct a public hearing on amendments to the design guidelines if changes are recommended by the HAHC in any annual report. At the public hearing, interested parties may comment in person or in writing on any recommended amendments to the design guidelines. Following the public hearing, the HAHC may vote to recommend amendments to the design guidelines to city council. No amendment shall be effective unless it is approved by the city council.

(d) A copy of the design guidelines is to be maintained in the office of the city secretary and on the website of the department.

Secs. 33-269--33-274. Reserved.”

Section 31. That Section 33-275 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

“Sec. 33-275. Designation of old sixth ward protected historic district.

In recognition of the unique historical significance of the Old Sixth Ward area and in furtherance of the project plan and reinvestment zone financing plan of the Old Sixth Ward tax increment reinvestment zone (Reinvestment Zone Number Thirteen, City of Houston, Texas), there is hereby designated an area to be known as the Old Sixth Ward Protected Historic District. The purpose of the designation is to provide additional protection against the irretrievable loss or alteration of the historic structures within the OSWPHD and new construction that is not compatible with the historic structures in the district. The area included in the OSWPHD and the contributing and noncontributing structures in the OSWPHD are shown in Appendix G and Appendix H, respectively, to this chapter. The provisions of section 33-250(c) and (d) of this Code shall not apply to a certificate of appropriateness for any structure or property within the OSWPHD. The director shall not issue a 90-day waiver certificate for any property located within the OSWPHD.”

Section 32. The Old Sixth Ward Historic District is abolished except for that part which is within the Old Sixth Ward Protected Historic District, it being the intent of the City Council that the provisions of Article VII of Chapter 33 of the Code or Ordinances, Houston, Texas, apply only to the property within the Old Sixth Ward Protected Historic District established by Ordinance No. 2007-855. Resolution No. 98-24 that created the Old Sixth Ward Historic District is hereby repealed and the establishment of the Old Sixth Ward Protected Historic District by Ordinance No. 2007-855 is hereby reaffirmed.

Section 33. That any complete application for a certificate of appropriateness filed prior to the effective date of this Ordinance shall be governed by the former provisions of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, which are hereby

saved from repeal for the limited purpose of their continued applicability to previously filed applications; provided, however, that at the request of the applicant, an application for certificate of appropriateness shall be considered under the provisions of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, as amended by this Ordinance.

Section 34. That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.



Section 35. That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 552 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 36. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore,

this Ordinance shall be passed finally on such date and shall take effect immediately upon passage and approval by the Mayor.

PASSED AND APPROVED this _____ day of _____, 2010.

Mayor of the City of Houston

Prepared by Legal Dept.  
SOI:dfm October 5, 2010 Assistant City Attorney
Requested by Marlene L. Gafrick, Director, Planning & Development Department
L.D. File No. 0421000048001

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Ordinance of Historic District Transition Provisions for the amended Historic Preservation Ordinance (Chapter 33, Code of Ordinances).		Categor y #	Page 1 of 1	Agenda Item # 3A
FROM (Department or other point of origin): Planning and Development Department		Origination Date October 1, 2010		Agenda Date 09-15-2010
DIRECTOR'S SIGNATURE: <i>Maureen P. Stapp</i>		Council District affected: ALL 34		
For additional information contact: Michael Schaffer Phone: 713-837-7780		Date and identification of prior authorizing Council action: OCT 13 2010		
RECOMMENDATION: (Summary) Adopt the Historic District Transition Provisions for the amended Historic Preservation Ordinance (Chapter 33, Code of Ordinances).				
Amount and Source of Funding: NA			Finance Budget:	
SPECIFIC EXPLANATION: The amendments to the Historic Preservation Ordinance (Chapter 33, Code of Ordinances) are on this Council Agenda for action. If they are approved, this ordinance provides the transition provisions that establish a process for property owners within 15 of the 16 designated historic districts (excluding Old Sixth Ward Protected Historic District) and three pending historic districts to petition city council to reconsider the designation of their districts. After the time period provided for petition and reconsideration has expired, the Director of the Planning and Development Department will report to city council: (1) which districts have failed to request reconsideration, (2) which districts have requested reconsideration, and (3) the Director's recommendation regarding those districts which have requested reconsideration. The city council will then consider the recommendation and decide for each district whether to reaffirm the district's boundary, reduce the boundary or dissolve the district. cc: City Attorney, David Feldman Minnette Boesel, Mayor's Office of Cultural Affairs Deborah, McAbee, City Legal				
REQUIRED AUTHORIZATION				
Finance Director:	Other Authorization:		Other Authorization:	

~~137~~
~~OCT 00 2010~~

City of Houston, Texas, Ordinance No. 2010-_____

AN ORDINANCE ESTABLISHING A PROCESS FOR THE RECONSIDERATION OF THE DESIGNATION OF HISTORIC DISTRICTS WITHIN THE CITY OF HOUSTON DESIGNATED OR PENDING DESIGNATION BY THE CITY COUNCIL IN CONNECTION WITH THE AMENDMENT OF CERTAIN PROVISIONS OF ARTICLE VII OF CHAPTER 33 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO HISTORIC PRESERVATION; MAKING FINDINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, under Article XI, Section 5 of the Texas Constitution, the City of Houston is a home-rule municipality having the full power of self-government and, as set forth in section 51.072 of the Texas Local Government Code, may exercise that authority independent of the powers granted it under the Texas Local Government Code; and

WHEREAS, in the exercise of this power, the City Council has adopted Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, (the "Historic Preservation Ordinance") providing for the recognition, protection, enhancement, perpetuation and use of sites and landmarks of historical or archeological interest within the City; and

WHEREAS, the City Council finds that the Historic Preservation Ordinance is necessary and appropriate and is in the public interest as a means to preserve and protect the historic heritage of the City and to protect and promote the health and economic well-being, safety and welfare of the people of the City, and

WHEREAS, the City Council finds that it has designated 16 historic districts containing a significant percentage of contributing and potentially contributing structures, as those terms are defined in the Historic Preservation Ordinance, and also that one or more areas within the City have applied for designation by City Council as historic districts and are subject to the

provisions of Section 33-223 of the Code of Ordinances while pending designation ("proposed historic districts"); and

WHEREAS, the City Council finds that that despite the protections for structures within the historic districts, the historic character of the historic districts previously designated as well as the proposed historic districts is threatened by continued demolition, relocation, and new construction incompatible with the criteria of the Historic Preservation Ordinance; and

WHEREAS, the City Council finds that such irretrievable destruction and failure to effectively maintain the historic character of the historic districts will have a serious adverse effect on the City's policy to protect and preserve the historical resources of the City and defeat a primary purpose for the creation of the Historic Preservation Ordinance; and

WHEREAS, the City Council finds the adoption of amendments to the Historic Preservation Ordinance by Ordinance No. 2010-____¹ (the "2010 Amendments") to prevent the issuance of a 90-day waiver certificate pursuant to Section 33-250 of the Historic Preservation Ordinance for properties within an historic district is necessary to prevent further erosion of the historic character of the historic districts and the proposed historic districts as well as the protection and preservation of the historic resources of the City; and

WHEREAS, the City Council finds that the petitions for designation of the existing and proposed historic districts were collected when the 90-day waiver certificate was available for properties in an historic district whose application for a certificate of appropriateness was denied by the Houston Archaeological and Historical Commission; and

¹ City Secretary to insert number of the Ordinance appearing as Item 13 on the October 6, 2010 City Council agenda.

WHEREAS, the City Council, the Archaeological and Historic Commission and the Planning Commission all have heard statements from property owners within certain of the existing and pending historic districts that the property owners would not have signed the petition in support of the designation of the historic district without the ability to obtain a 90-day waiver certificate; and

WHEREAS, the amendment of the Historic Preservation Ordinance by the 2010 Amendments is a change in the circumstances that may have led property owners to support designation of one or more historic districts; and

WHEREAS, the City Council finds that it is in the best interest of the City to provide a limited opportunity for property owners to consider and give evidence of continued support of the designation of existing and pending historic districts by establishing a process for reconsideration of designation in all existing and ending historic districts other than the Old Sixth Ward Protected Historic District; and

WHEREAS, the City Council finds that providing forums for the participation of the public and for gathering public opinion aids the identification of historical resources in need of protection and preservation within the City; and

WHEREAS, the City Council finds that the process for reconsideration of designation provides effective and efficient means to identify areas within the City containing a significant percentage of contributing structures and evaluate loss of historic resources that may have occurred, which could result in the adjustment of boundaries of

the historic districts as necessary for the continued protection and preservation of the historical resources of the City; and

WHEREAS, Subsection (c) of Section 33-227 of the Historic Preservation Ordinance, as amended by the 2010 Amendments, provides that the City Council may establish by Ordinance a temporary process to allow for reconsideration of the designations of historic districts made or proposed prior to June 9, 2010 in connection with the adoption of the 2010 Amendments; and

WHEREAS, the City Council finds that the Old Sixth Ward Protected Historic District, by the processes that led to its designation as a protected historic district, has had adequate consideration of designation and does not require reconsideration of its designation; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That the following provisions shall apply to all historic districts previously designated by the City Council other than the Old Sixth Ward Protected Historic District. The owners of property in an historic district previously designated by the City Council who desire the City Council to repeal the designation may submit a request for reconsideration of the designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than 15 days following the date of passage and approval of this Ordinance. The request must be signed by the owners of at least 25 percent of the tracts within the historic

district or proposed historic district. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the designation or proposed designation was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support repeal of the designation of the historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider each request for reconsideration pursuant to the criteria of Section 33-224 of the Code of Ordinances, City of Houston, Texas (the "Code"), the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the repeal of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable to the percentage of property owners required to initiate an application;
- (3) Any changed circumstances identified in the request for reconsideration; and

- (4) The current level of support for repeal of the district.

The Director shall make findings with respect to each request for reconsideration and shall report her findings to the City Council. The director may recommend with respect to a request for reconsideration that the City Council:

- (1) Take no action with respect to the designation of the historic district;
- (2) Repeal the resolution creating the historic district; or
- (3) Amend the resolution designating the historic district to reduce its boundaries.

The City Council shall consider the Director's recommendation and the criteria considered by the Director and determine whether to accept the Director's report and take the actions recommended. The decision of the City Council shall be final.

Section 3. That the following provisions shall apply to the proposed Houston Heights South, Woodland Heights and Glenbrook Valley historic districts, whose applications were filed prior to June 9, 2010 (the "proposed historic districts"). The owners of property in a proposed historic district who desire the City Council to not consider the proposed designation may submit a request for reconsideration of the proposed designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than 15 days following the date of passage and approval of this Ordinance. The request must be signed by the owners of at least 25 percent of the tracts within the proposed historic district. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the proposed designation

was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the proposed designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the proposed historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the proposed historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support designation of the proposed historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider any request for reconsideration of designation of the proposed historic district pursuant to the criteria of Section 33-224 of the Code, the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the rejection of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable to the percentage of property owners required to initiate an application;
- (3) Any changed circumstances identified in the request for reconsideration; and
- (4) The current level of support for designation of the district,

The Director shall make findings with respect to the request for reconsideration and shall

report her findings to the City Council. The director may recommend with respect to the request for reconsideration that the City Council:

- (1) Adopt a resolution creating the historic district and establishing its boundaries; or
- (2) By motion, deny the application for designation.

Notwithstanding any procedural requirements for designation in Article VII of the Code that have not been completed, the City Council shall consider the Director's recommendation and the criteria considered by the Director and determine whether to accept the Director's report and take the actions recommended. The decision of the City Council shall be final. The City Council hereby waives the requirement for public hearings by the HAHC and the Planning Commission for the proposed Woodland Heights and Glenbrook Valley historic districts and finds that the public meeting required by this Section is adequate to give notice to property owners within the proposed historic districts of the proposed designation of the historic districts.

Section 4. That the above procedures are temporary procedures adopted pursuant to Subsection (c) of Section 33-227 of the Historic Preservation Ordinance, as amended by the 2010 Amendments.

Section 5. That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no

portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 552 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 7. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon passage and approval by the Mayor.

PASSED AND APPROVED this _____ day of _____, 2010.

Mayor of the City of Houston

Prepared by Legal Dept. _____

SOI:dfm October 5, 2010 Assistant City Attorney

Requested by Marlene L. Gafrick, Director, Planning & Development Department

L.D. File No. 0421000048001