

**AGENDA - COUNCIL MEETING - TUESDAY - APRIL 2, 2013 - 1:30 P. M.**  
**COUNCIL CHAMBER - SECOND FLOOR - CITY HALL**  
**901 BAGBY - HOUSTON, TEXAS**

**INVOCATION AND PLEDGE OF ALLEGIANCE** - Council Member Costello

**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

**NOTE: If a translator is required, please advise when reserving time to speak**

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

**RECONVENE**

**WEDNESDAY - APRIL 3, 2013 - 9:00 A. M.**

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

**9:00 A.M.** - **REPORT FROM CITY CONTROLLER AND THE CITY ADMINISTRATION REGARDING THE CURRENT FINANCIAL STATUS OF THE CITY** including but not limited to, a revenue, expenditure and encumbrance report for the General Fund, all special revenue funds and all enterprise funds, and a report on the status of bond funds

**HEARINGS - 9:00 A.M.**

1. Pursuant to Section 370.002 of the Texas Local Government Code, City Council will conduct a public hearing regarding the Juvenile Curfew Ordinance (Ch. 28, Art. V, City of Houston Code of Ordinances) to determine whether the Juvenile Curfew Ordinance should be continued. The Local Government Code requires City Council to conduct public hearings every three years to review and take action to continue the Juvenile Curfew Ordinance. Copies of the Curfew Ordinance and data provided by the Houston Police Department are available for inspection in the Office of the City Secretary. To reserve time to appear and testify call the Office of the City Secretary (832) 393-1100 prior to the commencement of the public hearing. Alternatively, written comments may be submitted to the Office of the City Secretary.

## AGENDA - APRIL 3, 2013 - PAGE 2

### HEARINGS - continued

2. **PUBLIC HEARING** on proposals for the City of Houston to enter into separate Strategic Partnership Agreements with the below named Districts in Harris County, Fort Bend County and Montgomery County; on separate proposals by the City of Houston to annex for limited purposes certain territory within said Districts; and on separate proposals by the City of Houston to annex for limited purposes certain territory in the vicinity of certain Districts:
  1. Harris County Municipal Utility District No. 120
  2. Fort Bend County Municipal Utility District No. 194
  3. White Oak Bend Municipal Utility District
  4. Cinco Municipal Utility District No. 12
  5. Harris County Municipal Utility District No. 345
  6. Cornerstones Municipal Utility District
  7. Harris County Water Control and Improvement District No. 109
  8. Northwest Harris County Municipal Utility District No. 5
  9. Dowdell Municipal Utility District

### MAYOR'S REPORT

#### CONSENT AGENDA NUMBERS 3 through 29

#### PROPERTY - NUMBERS 3 and 4

3. RECOMMENDATION from Director Department of Public Works & Engineering for purchase and pay relocation assistance expenses related to purchase of Parcel AY10-244, owned by Juan Regalado, located at 134 Annette Lane for the **FULTON PAVING AND DRAINAGE PROJECT from East Tidwell to East Parker - DISTRICT H - GONZALEZ**
4. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Hong Hoa Do, declining the acceptance of, rejecting, and refusing the dedication of a portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey, Parcel SY13-024 - **DISTRICT E - MARTIN**

#### PURCHASING AND TABULATION OF BIDS - NUMBERS 5 through 7A

5. ORDINANCE appropriating \$541,383.00 out of Equipment Acquisition Consolidated Fund for Purchase of Ambulance Cabs & Chassis for the Houston Fire Department
  - a. **KNAPP CHEVROLET, INC** for Purchase of Ambulance Cabs & Chassis through the Interlocal Agreement for Cooperative Purchasing with Houston-Galveston Area Council for the Houston Fire Department
6. **TECHNICAL COMMUNITIES, INC** for Purchase of Software License Maintenance Agreement for the VidSys Video Management System from the General Services Administration Schedule 70 Contract through the Cooperative Purchasing Program for the Houston Police Department \$68,862.40 - Grant Fund

**PURCHASING AND TABULATION OF BIDS** - continued

7. ORDINANCE appropriating \$235,463.48 out of Equipment Acquisition Consolidated Fund for Purchase of Earth Moving Equipment for Various Departments
- a. **JOHN DEERE SHARED SERVICES, INC acting through JOHN DEERE CONSTRUCTION RETAIL SALES DIVISION** - \$439,368.35, **MUSTANG MACHINERY COMPANY, LTD. d/b/a MUSTANG CAT** - \$139,988.48, **DOGGETT HEAVY MACHINERY SERVICES, LLC** - \$999,876.00, **HI-WAY EQUIPMENT COMPANY, LLC** - \$644,838.80, and **ROMCO EQUIPMENT COMPANY, LLC** - \$95,475.00 for Purchase of Earth Moving Equipment through the Interlocal Agreements for Cooperative Purchasing with Houston-Galveston Area Council and Texas Local Government Purchasing Cooperative (BuyBoard) for Various Departments - \$2,319,546.63 Enterprise and other Funds

**RESOLUTIONS AND ORDINANCES** - NUMBERS 8 through 29

8. RESOLUTION supporting and approving the proposed development for affordable rental housing of Wilmington House, located at 4000 Wilmington Street in the City of Houston, Texas, and authorizing the allocation of 2013 Housing Tax Credit to such development - **DISTRICT D - ADAMS**
9. ORDINANCE **AMENDING CHAPTER 47 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to City water service and water service charges; containing other provisions relating to the foregoing subject; providing for severability
10. ORDINANCE authorizing the issuance of City of Houston, Texas Public Improvement Refunding Bonds in one or more Series or Subseries (Tax-Exempt and Taxable) as may be further designated and described herein and providing for the payment and security thereof; authorizing the Mayor, the City Controller and/or certain other designated City Officials to approve the sale, principal amount, interest rates, prices and terms thereof; authorizing such officials to determine the outstanding obligations to be refunded and/or defeased and to approve certain other procedures, provisions and agreements related thereto; authorizing the execution and delivery of one or more Purchase Contracts, Paying Agent/Registrar Agreements, Escrow Agreements, and other Agreements; approving the use of a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement in connection with such offerings; authorizing a Bond Counsel Agreement and a Special Disclosure Counsel Agreement; and making certain findings and other declarations necessary and incidental to the issuance of such Refunding Bonds; and declaring an emergency
11. ORDINANCE authorizing the issuance of the City of Houston, Texas Certificates of Obligation (Demolition Program), Series 2013; authorizing the Mayor, City Controller and/or certain other designated City Officials to approve the sale, principal amount, interest rates, prices and terms thereof; authorizing and approving a Purchase Contract, Paying Agent/Registrar Agreement and other related Documents; approving the use a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement in connection with such offering; ratifying the designation of Bond Counsel and Special Disclosure Counsel; making certain findings and other provisions regarding such certificates and matters incident thereto; and declaring an emergency
12. ORDINANCE authorizing the issuance of the City of Houston, Texas Qualified Energy Conservation Tax Notes (QECB Direct Pay to Issuer), Series 2013Q; authorizing the Mayor, City Controller and/or certain other designated City Officials to approve the sale, principal amount, interest rates, prices and terms thereof; authorizing and approving a Purchase Contract, Paying Agent/Registrar Agreement and other related Documents; approving the use of a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement in connection with such offerings; ratifying the designation of Bond Counsel and Special Disclosure Counsel; making certain findings and other provisions regarding such notes and matters incident thereto; and declaring an emergency

**RESOLUTIONS AND ORDINANCES** - continued

13. ORDINANCE authorizing and approving Purchase and Sale Agreement between **MOHAMMAD TARIQ ZAKA, NKA TARIQ ZAKA AND SALMA ZAKA** (Seller) and the City of Houston (Purchaser), for the purchase of 10,000 square feet of land located at 2810 and 2812 Dowling Street, Houston, Harris County, Texas at a price, including due diligence and closing costs, of \$159,638.00; allocating \$79,819.00 of Texas Parks and Wildfire Department Grant Funds; appropriating \$79,819.00 out of Park Consolidated Construction Fund for the Expansion of Emancipation Park
14. ORDINANCE pursuant to and implementing the provisions of Ordinance No. 2012-685, appropriating \$1,800,000.00 of Section 108 HUD-Guaranteed Loan Funds; allocating \$5,550,000.00 of EDI Grant Funds; approving and authorizing the issuance of non-recourse City of Houston notes in the amount of \$1,800,000.00, a contract for loan guarantee assistance and related loan documents between the City of Houston and the **UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT** and a Loan Agreement and related documents between the City of Houston and **806 MAIN, LLC** to provide a \$7,350,000.00 Second Lien Loan to finance acquisition, furniture and equipment costs related to the redevelopment of the building located at 806 Main Street, Houston, Texas - **DISTRICT I - RODRIGUEZ**
15. ORDINANCE appropriating \$49,000.00 out of Equipment Acquisition Consolidated Fund for Purchase of Used All Electric Vehicles for the Fleet Management Department
16. ORDINANCE appropriating \$16,990.69 out of Parks Consolidated Construction Fund for Purchase and Installation of Furniture for Keith Wiess Park Maintenance Facility - **DISTRICT B - DAVIS**
17. ORDINANCE approving and authorizing Revenue Contract between the City of Houston and **ELEMENT MARKETS, LLC** for Emission Credit Brokerage Services for the Public Works & Engineering Department
18. ORDINANCE appropriating \$260,000.00 out of Metro Projects Construction DDSRF; approving and authorizing an Advance Funding Agreement between the City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION** for Installation of Uninterruptable Power Supply Systems and Battery Backups at traffic signals along corridors within the City of Houston
19. ORDINANCE appropriating \$698,448.00 out of Water & Sewer System Consolidated Construction Fund; awarding contact to **SEWER AND STORM MAINTENANCE, LLC**, 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 contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund (4277-73)
20. ORDINANCE appropriating \$1,788,464.00 out of Water & Sewer System Consolidated Construction Fund; awarding contact to **PMG PROJECT MANAGEMENT GROUP, LLC**, for Fire Hydrant and Small Diameter Valve Replacement Project; 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 (11008)

**RESOLUTIONS AND ORDINANCES** - continued

21. ORDINANCE No. 2013-0281, passed first reading March 27, 2013  
ORDINANCE adopting Drainage Impact Fees in accordance with Chapter 395 of the Texas Local Government Code; **AMENDING CHAPTER 47 OF THE CODE OF ORDINANCES OF HOUSTON, TEXAS** and containing findings and other provisions relating to the foregoing subject; containing a savings clause; and providing for severability - **SECOND AND FINAL READING**
22. ORDINANCE No. 2013-0234, passed second reading March 27, 2013  
ORDINANCE granting to **FCC ENVIRONMENTAL, LLC, A Delaware Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions **THIRD AND FINAL READING**
23. ORDINANCE No. 2013-0235, passed first reading March 20, 2013  
ORDINANCE granting to **SPECIALIZED WASTE SYSTEMS, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
24. ORDINANCE No. 2013-0236, passed second reading March 27, 2013  
ORDINANCE granting to **AAA FLEXIBLE PIPE CLEANING CO., INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
25. ORDINANCE No. 2013-0237, passed second reading March 27, 2013  
ORDINANCE granting to **DESIGNING TECHNIQUES LLC dba DURAN'SYOURDUMPSTER.COM, A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
26. ORDINANCE No. 2013-0238, passed second reading March 27, 2013  
ORDINANCE granting to **GREG MORALES dba HOUSTON HARRIS COUNTY SEPTIC TANK SERVICE, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
27. ORDINANCE No. 2013-0239, passed second reading March 27, 2013  
ORDINANCE granting to **CLEAN SERVE INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**
28. ORDINANCE No. 2013-0240, passed second reading March 27, 2013  
ORDINANCE granting to **BERKELEY OUTSIDE SERVICES INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**

**RESOLUTIONS AND ORDINANCES** - continued

29. ORDINANCE No. 2013-0241, passed second reading March 27, 2013  
ORDINANCE granting to **LATINOSI, LLC, A Texas Limited Liability Company**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **THIRD AND FINAL READING**

**END OF CONSENT AGENDA**

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

**MATTERS HELD** - NUMBERS 30 through 35

30. MOTION by Council Member Gonzalez/Seconded by Council Member Bradford to adopt recommendation from Purchasing Agent to **AMEND MOTION #2007-0612, 06/20/07 previously amended by #2012-0419, 06/06/12, TO INCREASE** spending authority from \$34,926,668.33 to \$48,897,335.53 for Chemical, Sodium Hypochlorite for Department of Public Works & Engineering, awarded to **ALTIVIA CORPORATION - TAGGED BY COUNCIL MEMBER GREEN**  
This was Item 7 on Agenda of March 27, 2013
31. ORDINANCE **AMENDING CHAPTERS 1 and 2 OF THE CITY OF HOUSTON FIRE CODE and CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Orders, Permits, and Abatements by Fire Department Officials; containing findings and other provision relating thereto; providing for savings; providing for severability  
**TAGGED BY COUNCIL MEMBER BROWN**  
This was Item 8 on Agenda of March 27, 2013
32. ORDINANCE awarding contract to **FIRST STUDENT, INC** for School Buses Rental Services for the Parks & Recreation Department; providing a maximum contract - 2 Years with three one-year options - \$390,250.00 - Park Special Revenue Fund  
**TAGGED BY COUNCIL MEMBER GONZALEZ**  
This was Item 25 on Agenda of March 27, 2013
33. ORDINANCE appropriating \$293,250.00 out of Street & Traffic Control and Storm Drainage DDSRF as an additional appropriation to Professional Engineering Services Contract between the City of Houston and **OTHON, INC** for Negotiated Work Orders for Design of new and rehabilitation of existing Pump Stations and Flood Warning Systems (Approved by Ordinance No. 2012-0173); providing funding for contingencies relating to construction of facilities financed by the Street & Traffic Control and Storm Drainage DDSRF  
**TAGGED BY COUNCIL MEMBER GREEN**  
This was Item 30 on Agenda of March 27, 2013

**MATTERS HELD** - continued

34. ORDINANCE approving and authorizing agreement with **MITHOFF LAW FIRM** and **COTCHETT, PITRE & MCCARTHY, LLP** relating to the pursuit of damages associated with London Interbank Offered Rate Manipulation - **TAGGED BY COUNCIL MEMBER ADAMS**  
This was Item 65 on Agenda of March 27, 2013
  
35. ORDINANCE awarding contract to **DRC EMERGENCY SERVICES, LLC** for Base Camp Services (Post Disaster) for the City of Houston - 5 Years - **TAGGED BY COUNCIL MEMBER ADAMS**  
This was Item 67 on Agenda of March 27, 2013

**MATTERS TO BE PRESENTED BY COUNCIL MEMBERS** - Council Member Green 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



~~MAR 27 2013~~  
APR 03 2013

MOTION NO. 2013 0185

MOTION by Council Member Costello that the recommendation of the Chief of Police, to set hearing dates to consider whether to continue the Juvenile Curfew Ordinance (Sections 28-171 – 28-175, City of Houston Code of Ordinances), be adopted, and Public Hearings be set for 9:00 a.m., on Wednesday, March 27, 2013 and April 3, 2013, in the City Council Chamber, Second Floor, City Hall.

Seconded by Council Member Bradford and carried.

Mayor Parker, Council Members Brown, Davis, Cohen,  
Martin, Pennington, Rodriguez, Laster, Green, Costello,  
Burks, Bradford and Christie voting aye  
Nays none  
Council Member Noriega absent

Council Member Adams absent on personal business

Council Members Hoang and Gonzalez absent on City business

PASSED AND ADOPTED this 20th day of March 2013.

Pursuant to Article VI, Section 6 of the City Charter, the effective date of the foregoing motion is March 26, 2013.

City Secretary

2

APR 03 2013

1. **PUBLIC HEARING** on proposals for the City of Houston to enter into separate Strategic Partnership Agreements with the below named Districts in Harris County, Fort Bend County and Montgomery County; on separate proposals by the City of Houston to annex for limited purposes certain territory within said Districts; and on separate proposals by the City of Houston to annex for limited purposes certain territory in the vicinity of certain Districts:
  1. Harris County Municipal Utility District No. 120 (Amendment 3)
  2. Fort Bend County Municipal Utility District No. 194 (Amendment 1)
  3. White Oak Bend Municipal Utility District (Amendment 1)
  4. Cinco Municipal Utility District No. 12 (Amendment 2)
  5. Harris County Municipal Utility District No. 345
  6. Cornerstones Municipal Utility District
  7. Harris County Water Control and Improvement District No. 109 (Amendment 3)
  8. Northwest Harris County Municipal Utility District No. 5 (Amendment 1)
  9. Dowdell Municipal Utility District

To: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT: PROPERTY: PURCHASE</b> and pay relocation assistance expenses for Parcel AY10-244, located at 134 Annette Lane for the <b>FULTON PAVING AND DRAINAGE PROJECT</b> (from East Tidwell to East Parker). WBS N-000542-0003-2-01 Owner: Juan Regalado	<b>Page</b> 1 of 1	<b>Agenda Item #</b> 3
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<b>FROM: (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> 3/28/13	<b>Agenda Date</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Knutger, P.E., Director	<b>Council District affected:</b> H Key Map 453B
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<b>For additional information contact:</b> Nancy P. Collins Phone: (832) 395-3130 Senior Assistant Director – Real Estate Planning and Development Services Division	<b>Date and identification of prior authorizing Council Action:</b> Ordinance 2012-0521, passed May 30, 2012
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**RECOMMENDATION: (Summary)**  
Authority be given through Council Motion to PURCHASE and pay relocation assistance expenses for Parcel AY10-244.

**Amount and Source of Funding:** \$111,809.00  
No additional funding required (Funds were appropriated under Ordinance Number 2012-0521)

**SPECIFIC EXPLANATION:**  
**FULTON PAVING AND DRAINAGE PROJECT** (from East Tidwell to East Parker) is coordinated with drainage diversion and outfall improvements associated with Sub-Project I in M-000284 (Airline Drive Drainage Improvements Segment I (Tidwell Outfall)) and provides for the right-of-way acquisition, design and construction of a four-lane divided concrete roadway with storm drainage improvements, curbs, sidewalks, driveways, street lighting, traffic control and necessary underground utilities to meet City of Houston standards and improve traffic flow. This transaction involves the acquisition of 1,595 square feet of land located at 134 Annette Lane.

The City will acquire 1,595 square feet out of land improved with a residential dwelling. The City's offer was based on an appraisal by Gerald A. Teel, MAI, CRE, SGA and Jason M. Mushinski. The valuation was reviewed and recommended for approval by a senior staff appraiser of this department. The breakdown is as follows:

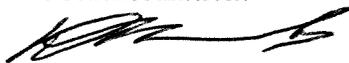
Parcel AY10-244 (Easement)	
1,595 square feet @ \$3.25 PSF .....	\$ 5,184.00(R)
Improvements and Damages .....	\$ 56,510.00
Total Consideration .....	\$ 61,694.00
Title Policy and Services .....	\$ 1,285.00
Estimated relocation assistance expenses .....	\$ 48,830.00
<b>TOTAL AMOUNT</b> .....	<b>\$ 111,809.00</b>

It is recommended that authority be given through Council Motion to PURCHASE the land and improvements thereon and pay relocation assistance expenses for Parcel AY10-244 located at 134 Annette Lane, owned by Juan Regalado, for the **FULTON PAVING AND DRAINAGE PROJECT** (from East Tidwell to East Parker). Parcel AY10-244 contains 0.0366 of an acre (1,595 square feet) of land out of Lot 1, Block 2, Tamey Place, recorded in Volume 35, Page 42 of the Harris County Map Records (H.C.M.R.); said 0.0366 of an acre of land also being out of the same property described in a deed dated April 17, 2000 from Ma Elena Martinez to Juan Regalado, recorded under Harris County Clerk's File (H.C.C.R.) No. U342263; situated in the H.&T.C. R.R. Co. Survey, Section 5, Abstract 428, Harris County, Texas, according to City of Houston approved field notes.

DWK:NPC:dc  
cc: Marta Crinejo

CUIC #20DC15

**REQUIRED AUTHORIZATION**

<b>Finance Department:</b>	<b>Other Authorization:</b>  Daniel R. Menendez, P.E. Deputy Director Engineering and Construction Division	<b>Other Authorization:</b>  Mark L. Loethen, P.E., CFM, PTOE Deputy Director Planning and Development Services Division
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**FULTON PAVING AND DRAINAGE PROJECT  
PARCEL VALUATION  
PARCEL AY10-244**

Following is a breakdown of the consideration for **Parcel AY10-244**:

LAND: (Easement)

1,595 square feet @ \$3.25 PSF.....\$ 5,184.00(R)

IMPROVEMENTS:

Wrought iron fence and gate, wood security  
fence and shrubs .....\$ 3,636.00

DAMAGES TO THE REMAINDER/ COST TO CURE

Due to structure being in proximity to the  
new right-of-way.....\$ 52,874.00

TOTAL PARCEL VALUATION.....\$ 61,694.00

Title Policy and Services.....\$ 1,285.00

ESTIMATED RELOCATION COSTS

Frederico Regalado and Dulce Valdez .....\$ 38,830.00  
Residential (2 bedroom dwelling)  
Tenants have the option to elect moving  
assistance through a fixed schedule room  
count of personal property or through a  
commercial moving company and are  
eligible for rental housing supplement.

Juan Regalado.....\$ 10,000.00  
Owner is eligible for qualified reestablishment  
expenses up to the federal maximum.

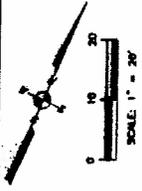
Estimated relocation assistance expenses.....\$ 48,830.00

TOTAL AMOUNT.....\$ 111,809.00

**M. & T. C. R.R. CO. SURVEY  
SECTION 6. ABSTRACT 428**

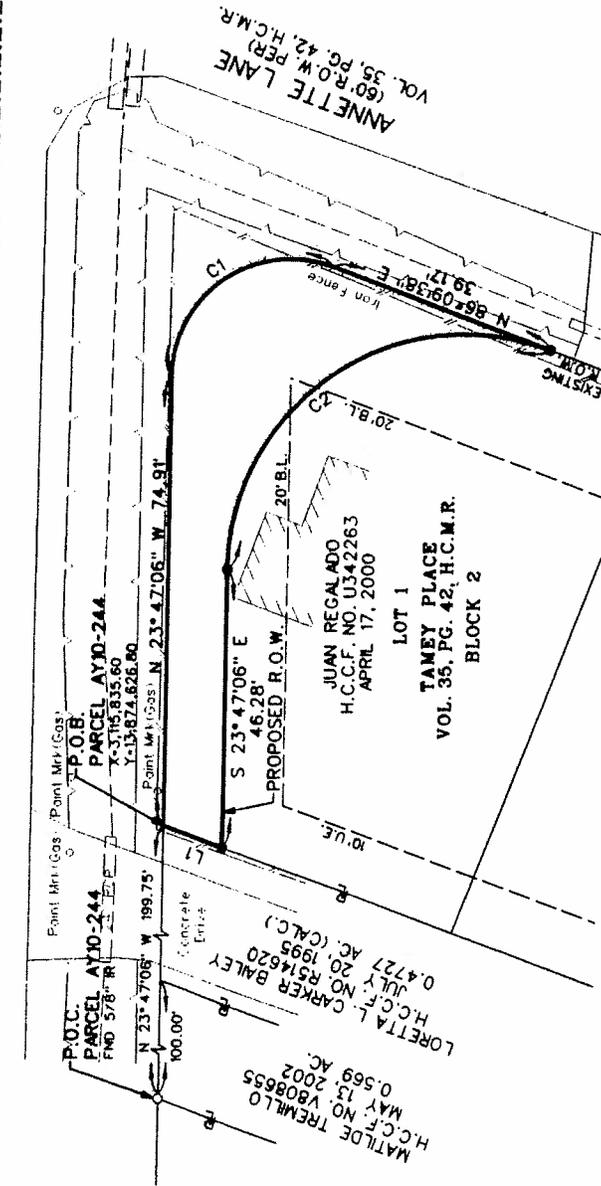
**LEGEND / ABBREVIATIONS**

- FOUND MONUMENT AS NOTED
- SET 5/8" IR W/ PLASTIC CAP STAMPED "LANDTECH CONSULTANTS" UNLESS OTHERWISE NOTED
- PROPERTY LINE
- I.R. = IRON ROD
- I.P. = IRON PIPE
- P.T.P. = PINCHED TOP PIPE
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCING
- H.C.D.R. = HARRIS COUNTY DEED RECORDS
- H.C.M.R. = HARRIS COUNTY MAP RECORDS
- H.C.C.F. = HARRIS COUNTY CLERK FILE (C.M.) = CONTROL MONUMENT
- R.O.W. = RIGHT OF WAY



**FULTON STREET**  
(R.O.W. WIDTH VARIES)  
VOL. 1003, PG. 582  
VOL. 1037, PG. 167 AND  
VOL. 1037, PG. 480, H.C.D.R.  
VOL. 42, PG. 57, H.C.M.R.

PROJECT BASELINE 21+00



I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THIS PLAT REPRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY

*Leo M. Delatorre*  
LEO M. DELATORRE  
REGISTERED PROFESSIONAL LAND SURVEYOR  
STATE OF TEXAS REGISTRATION NO. 5113



LANDTECH CONSULTANTS, INC.  
Civil Engineering • Land Surveying  
2525 North Loop West  
Suite 300 77008  
Houston, Texas (713) 861-7888 Fax (713) 861-4131



APPROVAL  
*[Signature]*  
DATE: 09/13/2011  
RIGHT OF WAY SECTION  
CHIEF SURVEYOR

Sheet 22 of 59

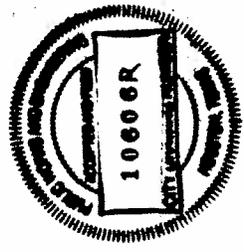
P.O.B. TO COH MON. NO. 5361-8107
S 75° 54' 01" E ~ 488.95'
EXISTING TAKING REMAINING
0.1321 ACRE 0.0366 ACRE 0.1155 ACRE
6.826 SQ. FT. 1.595 SQ. FT. 5.031 SQ. FT.

CURVE	RADIUS	LENGTH	DELTA	CHORD
C1	20.00'	38.38'	109° 56' 43"	N 31° 11' 16" E 32.76'
C2	40.00'	76.76'	109° 56' 43"	S 31° 11' 16" W 65.51'

- NOTES:
- ALL COORDINATES AND BEARINGS SHOWN ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 (CONRS).
  - ALL DISTANCES ARE SURFACE AND MAY BE CONVERTED TO GRID BY MULTIPLYING BY A SCALE FACTOR OF 0.999903944.
  - THIS SURVEY IS ACCOMPANIED BY A SEPARATE METES AND BOUNDS DESCRIPTION OF EVEN DATE.

LINE	BEARING	DISTANCE
L1	S 85° 39' 58" W	10.61'

PARCEL AY10-244  
JUAN REGALADO



KEY MAP No. 453 B GIMS MAP No. 5361 D  
PARCEL NO. AY10-244  
SCALE: 1"=20'  
DATE: 4/21/2010  
SHEET 1 OF 1  
JOB NO.  
WBS NO. M-000542-0003-3  
C.M. NO.

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

<b>SUBJECT:</b> Request for a motion declining the acceptance of, rejecting, and refusing the dedication of a portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey. <b>Parcel SY13-024</b>	<b>Page</b> <u>1</u> of <u>1</u>	<b>Agenda Item #</b>  <span style="font-size: 2em; font-family: cursive;">4</span>
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<b>FROM (Department or other point of origin):</b>  Department of Public Works and Engineering	<b>Origination Date</b>  3/28/13	<b>Agenda Date</b>  APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b>   Daniel W. Krueger, P.E., Director	<b>Council District affected:</b> E  Key Map 576Q <span style="font-size: 1.5em; font-family: cursive;">HP</span>
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<b>For additional information contact:</b>  Nancy P. Collins <span style="font-size: 1.5em; font-family: cursive;">NPC</span> Phone: (832) 395-3130 Senior Assistant Director-Real Estate	<b>Date and identification of prior authorizing Council Action:</b>
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**RECOMMENDATION: (Summary)** It is recommended City Council approve a motion declining the acceptance of, rejecting, and refusing the dedication of a portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey. **Parcel SY13-024**

<b>Amount and Source of Funding:</b> Not Applicable	
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**SPECIFIC EXPLANATION:**  
Hong Hoa Do requested the non-acceptance of a portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey. The street was never paved or used for utility purposes. Further, the City has identified no future need for this street. Hong Hoa Do, the property owner, plans to construct a single family residence in the location of the subject street. The abutting property owners have been notified of Hong Hoa Do's request. The Joint Referral Committee reviewed the request and determined the request could be processed as a non-acceptance.

Therefore, it is recommended City Council approve a motion declining the acceptance of, rejecting, and refusing the dedication of a portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey.

NPC:WSB:tp

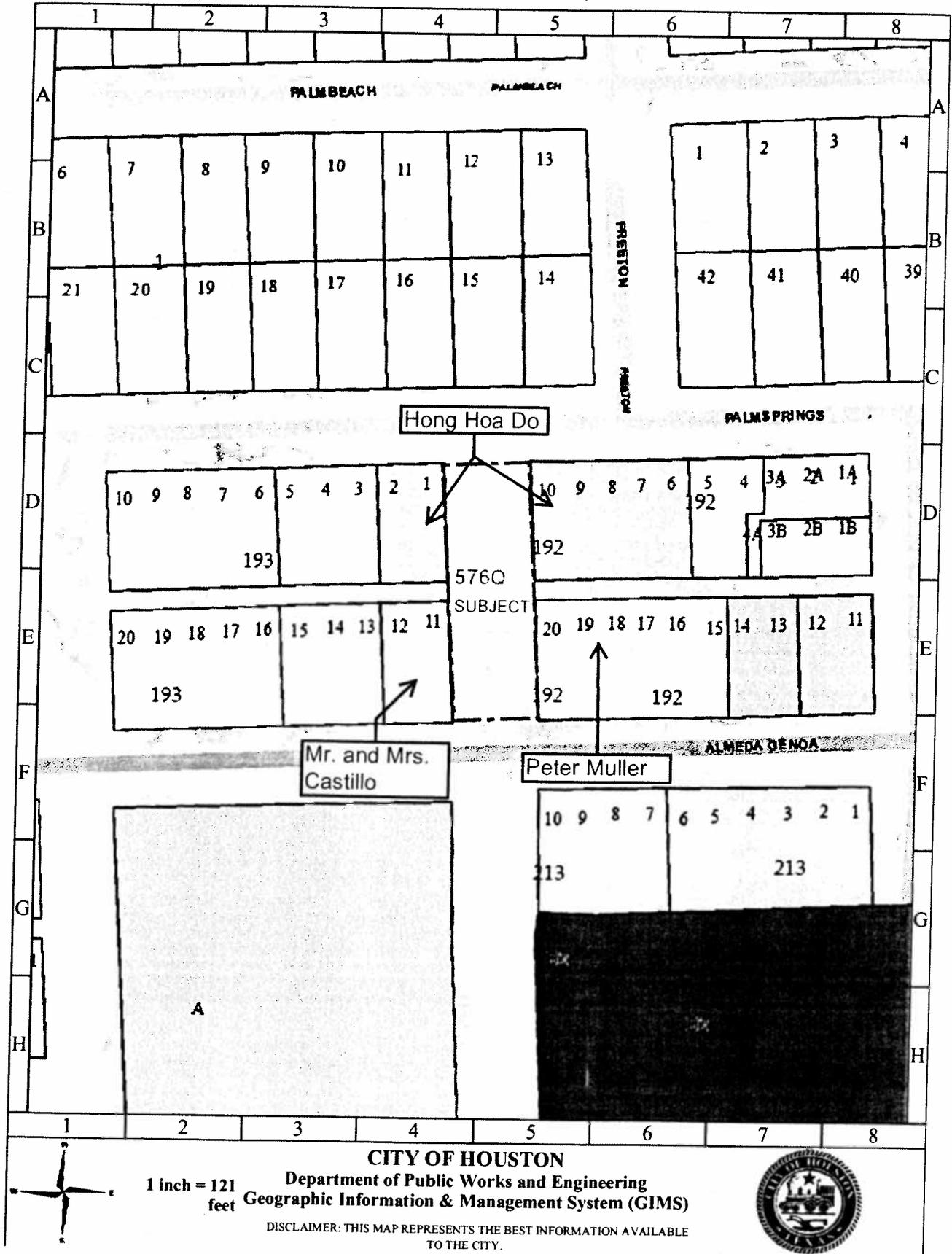
c: Marta Crinejo  
David M. Feldman  
Marlene Gafrick  
Terry A. Garrison  
Daniel Menendez, P.E.  
Jeffrey Weatherford, P.E., PTOE

tp\sy13-024.rc1.doc CUIC #20TP9324

**REQUIRED AUTHORIZATION**

<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>   Mark L. Loethen, P.E., CFM, PTOE Deputy Director Planning and Development Services Division
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Non-acceptance of the portion of 14th Street adjacent to Blocks 192 and 193, located within the Genoa Townsite Subdivision, out of the Juan Sutton Survey. Parcel SY13-024



**REQUEST FOR COUNCIL ACTION**

RCA# 9655

**TO:** Mayor via City Secretary

**Subject:** Purchase of Ambulance Cabs & Chassis Through the Houston-Galveston Area Council (H-GAC) for the Houston Fire Department S38-E24565-H

Category #  
1 & 4

Page 1 of 2

Agenda Item

*5-A*

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

**Origination Date**  
March 15, 2013

**Agenda Date**  
APR 03 2013

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*  
**For additional information contact:**  
Kenneth Hoglund Phone: (832) 393-6901  
Ray DuRousseau Phone: (832) 393-8726

**Council District(s) affected**  
All

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

**RECOMMENDATION: (Summary)**

Approve an ordinance authorizing the appropriation of \$541,383.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) and approve the purchase of ambulance cabs & chassis through the Houston-Galveston Area Council (H-GAC) in the amount of \$541,383.00 for the Houston Fire Department.

Award Amount: \$541,383.00

**Finance Budget**

\$ 541,383.00 - Equipment Acquisition Consolidated Fund (Fund 1800)

**SPECIFIC EXPLANATION:**

The Director of the Fleet Management Department and the City Purchasing Agent recommend that City Council approve an ordinance authorizing the appropriation of \$541,383.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800). It is further recommended that City Council approve the purchase of eighteen ambulance cabs & chassis through the Interlocal Agreement for Cooperative Purchasing with H-GAC for the Houston Fire Department in the amount of \$541,383.00 and that authorization be given to issue a purchase order to the H-GAC contractor, Knapp Chevrolet, Inc. These emergency vehicles will be used citywide by Department personnel for delivery of Emergency Medical Services (EMS) to the citizens of Houston and will be used 24 hours a day, 7 days a week. The funding for these vehicles is included in the adopted FY13 Equipment Acquisition Plan.

The ambulance cabs & chassis will come with a full three-year/36,000-mile bumper-to-bumper warranty and a five-year/100,000-mile warranty on the power train and the life expectancy is three years or 100,000 miles. See the Equipment Usage Summary on Page 2 of 2 for vehicle usage and replacement details. The vehicles that will be replaced have reached their life expectancy and will be sent to auction for disposition. These new vehicles will meet the EPA's current emission standards for low emission vehicles.

**Hire Houston First:**

This procurement is exempt from the City's Hire Houston First Ordinance. Bids/proposals were not solicited because the department is utilizing an Interlocal Agreement for this purchase.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

NDT

*ef*

*5-A*

**EQUIPMENT USAGE SUMMARY**

DESCRIPTION	REQUISITION NO.	QTY	DEPARTMENT FLEET USAGE	EQUIPMENT REPLACEMENT		
ITEM NO. 1, AMBULANCE CAB AND CHASSIS	10157977	18	Houston Fire Department  These vehicles will be used citywide by the Department's EMS personnel to deliver emergency medical services to the citizens of Houston.	<u>Shop No.</u>	<u>Age-Yrs.</u>	<u>Mileage</u>
				32468	12	222,500
				33377	10	222,621
				34361	9	194,000
				34197	9	182,300
				34281	9	176,990
				34280	9	174,943
				35050	8	180,541
				34781	8	215,664
				35053	8	211,646
				36837	7	145,999
				37026	6	244,061
				36499	6	223,136
				36500	6	209,815
				36571	6	203,500
				38524	5	220,000
				38638	5	222,171
				38321	5	197,250
38663	5	181,000				

Buyer: Lena Farris

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 9663**

**Subject:** Purchase of a Software License Maintenance Agreement for the VidSys Video Management System from the GSA Schedule 70 Contract through the Cooperative Purchasing Program for the Houston Police Department

Category #  
5

Page 1 of 1

Agenda Item  
  
6

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

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

**Origination Date**

March 25, 2013

**Agenda Date**

APR 03 2013

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*  
For additional information contact:  
Joseph A. Fenninger Phone: (713) 308-1708  
Ray DuRousseau Phone: (832) 393-8726

**Council District(s) affected**

1  
**Date and Identification of prior authorizing Council Action:**

**RECOMMENDATION: (Summary)**

Approve the purchase of a 17-month software license maintenance agreement for the VidSys Video Management System in the total amount of \$68,862.40 from the General Services Administration (GSA) Schedule 70 Contract through the Cooperative Purchasing Program for the Houston Police Department.

Award Amount: \$68,862.40

**Finance Budget**

\$68,862.40 - Federal/State/Local UASI Grant Fund (Fund 5030)

**SPECIFIC EXPLANATION:**

The Chief of the Houston Police Department and the City Purchasing Agent recommend that City Council approve the purchase of a 17-month software license maintenance agreement for the VidSys Video Management System. The total amount of the agreement is \$68,862.40 from the General Services Administration (GSA) Schedule 70 Contract through the Cooperative Purchasing Program under Section 211 of the E-Government Act of 2002 for the Houston Police Department. Further, HPD requests authorization to issue purchase orders to the GSA contractor, Technical Communities, Inc.

Under the agreement, the contractor will provide software maintenance, upgrades, warranties and 24/7 telephone support. The software provides the video management interface that provides user access and management capabilities for the City's Public Safety Video System (System). It also interfaces with recorders and cameras and accesses other agencies' resources to provide video coverage for incident management and response in the Greater Houston area. The System is located at the Houston Police Department's Data Center and is utilized by City of Houston Public Safety personnel and various other video partner agencies.

**Hire Houston First**

This procurement is exempt from the City's Hire Houston First Ordinance. Bids/proposals were not solicited because the Department is utilizing an Interlocal or Cooperative Purchasing Agreement for this purchase.

Buyer: Carlethya Guillory

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

*[Signature]* 3/25/13

Other Authorization:

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 9584**

**Subject:** Purchase of Earth Moving Equipment through the Houston-Galveston Area Council and the Texas Local Government Purchasing Cooperative (BuyBoard) for Various Departments  
S40-E24428-B&H

Category #  
1 & 4

Page 1 of 2

Agenda Item

*D-7A*

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

**Origination Date**  
February 12, 2013

**Agenda Date**  
APR 03 2013

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

Kenneth Hogleund                      Phone: (832) 393-6901  
Ray DuRousseau                         Phone: (832) 393-8726

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

**RECOMMENDATION: (Summary)**

Approve an ordinance authorizing the appropriation of \$235,463.48 out of the Equipment Acquisition Consolidated Fund (Fund 1800) and approve the purchase of earth moving equipment through the Houston-Galveston Area Council (H-GAC) and the Texas Local Government Purchasing Cooperative (BuyBoard) in the total amount of \$2,319,546.63 for various departments.

Award Amount: \$2,319,546.63

**Finance Budget**

- \$ 235,463.48 - Equipment Acquisition Consolidated Fund (Fund 1800)
- \$ 770,845.46 - Storm Water Fund (Fund 2302)
- \$ 68,147.73 - Dedicated Drainage & Street Renewal (Fund 2310)
- \$1,245,089.96 - Combined Utility System General Purpose Fund (8305)
- \$2,319,546.63 - Total Funding

**SPECIFIC EXPLANATION:**

The Director of the Fleet Management Department and the City Purchasing Agent recommend that City Council approve an ordinance authorizing the appropriation of \$235,463.48 out of the Equipment Acquisition Consolidated Fund (Fund 1800). It is further recommended that City Council approve an award for the purchase of earth moving equipment through the Inter-local Agreements for Cooperative Purchasing with H-GAC and BuyBoard in the total amount of \$2,319,546.63 for various departments and that authorization be given to issue purchase orders to the cooperative purchasing agencies' contractors as shown below. This new earth moving equipment will be used citywide by Department personnel for the repair of water and wastewater utility lines and large water mains; to remove debris and trash from City streets, including storm water inlets and right-of-ways; to re-grade storm water removal ditches and canals and for landscaping and maintenance at City park facilities. The funding for the earth moving equipment is included in the adopted FY13 Equipment Acquisition Plan.

**BuyBoard Contractors:**

**John Deere Shared Services, Inc., acting through John Deere Construction Retail Sales Division:**

Approve the purchase of one 6,450-lb operating weight skid steer loader, one 9,170-lb operating weight skid steer loader, five 4,173-lb operating weight compact excavators, one 8,400-lb operating weight skid steer loader w/hydraulic hammer attachment and two 8,400-lb operating weight skid steer loaders w/milling head attachments in the amount of \$439,368.35.

**Mustang Machinery Company, Ltd. d/b/a Mustang Cat:** Approve the purchase of one 16,800-lb operating weight motor grader in the amount of \$139,988.48.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

NDT

*aug*

*eg*

*NDT*

Date: 2/12/2013	Subject: Purchase of Earth Moving Equipment through the Houston-Galveston Area Council and the Texas Local Government Purchasing Cooperative (BuyBoard) for Various Departments S40-E24428-B&H	Originator's Initials JM	Page 2 of 2
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**H-GAC Contractors:**

**Doggett Heavy Machinery Services, LLC:** Approve the purchase of six 14,220-lb operating weight backhoe loaders w/hydraulic hammer attachments in the amount of \$999,876.00.

**Hi-Way Equipment Company, LLC:** Approve the purchase of two 39,500-lb operating weight carrier-mounted hydraulic telescoping boom excavators in the amount of \$644,838.80.

**ROMCO Equipment Company, LLC:** Approve the purchase of one 18,500-lb operating weight backhoe loader in the amount of \$95,475.00.

This new equipment will meet the EPA's current emission standards for equipment with diesel engines. The skid steer loaders, compact excavators and backhoe loaders will come with a full one-year warranty and the life expectancy varies from ten to fifteen years. The motor grader will come with a full warranty of three years and the life expectancy is fifteen years. See the attached Equipment Usage Summary for equipment usage and replacement details. The equipment that will be replaced has reached its life expectancy and will be sent to auction for disposition.

**Hire Houston First**

This procurement is exempt from the City's Hire Houston First Ordinance. Bids/proposals were not solicited because the departments are utilizing Inter-local Agreements or Cooperative Purchasing Agreements for this purchase.

Attachment: Equipment Usage Summary

Buyer: Jeff Meekins

EQUIPMENT USAGE SUMMARY  
FOR EARTH MOVING EQUIPMENT  
FOR VARIOUS DEPARTMENTS  
S40-E24428 / RCA 9584

DESCRIPTION	REQ. NO.	QTY.	DEPARTMENT/FLEET USAGE	EQUIPMENT REPLACEMENT	
				Shop No.	Age (Yrs.)
Skid Steer Loader, 6,450-lb operating weight	10152761	1	Public Works & Engineering/Public Utilities Division	*Additions to the Department's Fleet.	N/A
Skid Steer Loader, 9,170-lb operating weight	10152762	1	These skid steer loaders will be used at the City's water purification plants by the Division's Drinking Water Operations Branch maintenance personnel to remove grit and debris from aeration and digester basins and to load and unload grass and topsoil. Currently, Drinking Water Operations has two similar units that are shared at various City water facilities. These additional units are required to increase the efficiency and productivity of the Division's maintenance personnel.		
Compact Excavator, 4,173-lb operating weight	10152765	5	Public Works & Engineering/Public Utilities Division	Shop No.	Age (Yrs.)
			These small excavators will be used citywide by the Division's Utility Maintenance Branch to access restricted areas in back lot easements for repair of water and wastewater utility lines. These units are frontline equipment and are essential to complete repairs in a timely and efficient manner.	32660	11
				32661	11
				32662	11
				33497	10
				34213	9
Skid Steer Loader, 8,400-lb operating weight with hydraulic hammer attachment	10154184	1	Public Works & Engineering/Street & Drainage Division	Shop No.	Age (Yrs.)
			This small skid steer loader will be used citywide by the Division's Stormwater Maintenance Branch to remove debris and trash from storm sewers that are located in confined areas that are too small for the Division's larger backhoe loaders. Currently, the Street & Bridge Division has five similar units but none assigned to the Stormwater Maintenance Branch. This additional unit is required to increase the efficiency and productivity of the Stormwater Maintenance Branch.	*Addition to the Department's Fleet.	N/A
Skid Steer Loader, 8,400-lb operating weight with milling head attachment	10154227	1	Public Works & Engineering/Street & Drainage Division	Shop No.	Age (Yrs.)
			This skid steer loader will be used citywide by the Division's Street & Bridge Maintenance Branch to remove heavy debris and trash from City streets and right-of-ways that cannot be removed by street sweepers.	27494	16

EQUIPMENT USAGE SUMMARY  
FOR EARTH MOVING EQUIPMENT  
FOR VARIOUS DEPARTMENTS  
S40-E24428 / RCA 9584

DESCRIPTION	REQ. NO.	QTY.	DEPARTMENT/FLEET USAGE	EQUIPMENT REPLACEMENT	
				Shop No.	Age (Yrs.)
Skid Steer Loader, 8,400-lb operating weight with milling head attachment	10154190	1	Public Works & Engineering/Street & Drainage Division  This skid steer loader will be used citywide by the Division's Storm Water Maintenance Branch to remove heavy debris and trash from storm water drainage inlets on City streets that cannot be removed by street sweepers.	Shop No. 33449	Age (Yrs.) 10
Motor Grader, 16,800-lb operating weight	10159569	1	Parks & Recreation/Greenspace Management Division  This motor grader will be used citywide by the Division's Facility Management & Development Section for construction and maintenance at City community centers and parks.	Shop No. 24643	Age (Yrs.) 18
Backhoe Loader, 14,220-lb operating weight with hydraulic hammer attachment	10152764	6	Public Works & Engineering/Public Utilities Division  These backhoe loaders will be used citywide by the Division's Utility Maintenance Branch to repair City water mains. Currently, the Utility Maintenance Branch has thirty-four similar backhoe loaders in its fleet. The existing units have an average age of fifteen years. With the increasing maintenance requirements for these units and increases in work orders due to the aging of the City's infrastructure, these additional units are required to maintain the Utility Maintenance Branch's front-line and reserve units required to perform the necessary water main repairs.	Shop No. *Additions to the Department's Fleet.	Age (Yrs.) N/A
Carrier-Mounted Hydraulic Telescoping Boom Excavator, 39,500-lb operating weight	10154002	2	Public Works & Engineering/Street & Drainage Division  These large excavators will be used citywide by the Division's Stormwater Maintenance Branch to de-silt and regrade roadside ditches and non-concrete storm water removal canals and waterways.	Shop No. 20023 20024	Age (Yrs.) 21 21
Backhoe Loader, 18,500-lb operating weight	10159570	1	Parks & Recreation/Greenspace Management Division  This backhoe loader will be used citywide by the Division's Facility Management & Development Section for construction and maintenance at City community centers and parks.	Shop No. 28059	Age (Yrs.) 15

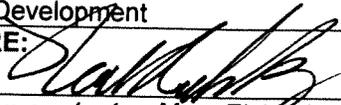
HCD13-57  
 13 - Wilmington  
 Resc  
 8

TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION

SUBJECT: Approval of a City of Houston Resolution supporting and approving the proposed reconstruction of Wilmington House apartment complex located at 4000 Wilmington Street

Category #	Page 1 of 1	Agenda Item # 8
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FROM: Neal Rackleff, Director Housing and Community Development	Origination Date 2/7/2013	Agenda Date APR 03 2013
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DIRECTOR'S SIGNATURE: 	Council District affected: District D
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For additional information contact: Marc Eichenbaum Phone: 713-865-4557	Date and identification of prior authorizing Council action: Ord. No. 2012-665
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**RECOMMENDATION:** The Department recommends approval of a Resolution supporting and approving the proposed reconstruction of Wilmington House apartment complex located at 4000 Wilmington.

Amount of Funding: <p style="text-align: center;">Not Applicable</p>	Finance Budget:
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**SOURCE OF FUNDING**       General Fund       Grant Fund       Enterprise Fund

No Funding is Required

**SPECIFIC EXPLANATION:**

On July 25, 2012, City Council approved an Ordinance authorizing a \$1,000,000 Loan Agreement (HOME funds) between the City of Houston and APV Redevelopment Corporation, a subsidiary of the Houston Housing Authority, for the reconstruction of Wilmington House Apartments (located at 4000 Wilmington Street).

The Housing Authority is currently applying for Housing Tax Credits (HTC) from the Texas Department of Housing and Community Affairs (TDHCA) to fund this project. Because the project is (a) located within one mile or less of an affordable housing development that has received Housing Tax Credits during the last three years, and (b) the project is located in a census tract that has more than 30% Housing Tax Credit units per total households in the census tract, TDHCA requires that the developer obtain approval and a written statement of support from the Governing Body for the project to be considered for HTC by the State.

Due to outstanding need, the Housing and Community Development Department recommends the City of Houston approve this Resolution.

This item was presented to the Housing, Sustainable Growth and Development Committee on February 19, 2013.

cc: City Secretary  
 Legal Department  
 Mayor's Office

**REQUIRED AUTHORIZATION**

Finance Department:	Other Authorization:	Other Authorization:
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**TO: Mayor via City Secretary REQUEST FOR COUNCIL ACTION**

<b>SUBJECT:</b> Ordinance amending Chapter 47 to create an Exceptional Circumstances Adjustment, a Water Adjustment Board, and clarifying other processes relating to water bills and adjustments.		<b>Page</b> 1 of 1	<b>Agenda Item #</b> 9
<b>FROM (Department or other point of origin):</b> Public Works and Engineering Department/Legal Department		<b>Origination Date</b> 3/21/13	<b>Agenda Date</b> APR 03 2013
<b>DIRECTOR'S SIGNATURE:</b> Daniel W. Krueger, P.E. <i>[Signature]</i> David M. Feldman, City Attorney <i>[Signature]</i>		<b>Council District affected:</b> All	
<b>For additional information contact:</b> Susan Bandy Phone: 832.395.2468		<b>Date and identification of prior authorizing Council action:</b>	
<b>RECOMMENDATION: (Summary)</b> That Council enact the proposed ordinance amending the Code of Ordinances to create an Exceptional Circumstances Adjustment for water bill customers and to create a Water Adjustment Board to review decisions regarding water bill disputes.			
<b>Amount and Source of Funding:</b> N/A			
<b>SPECIFIC EXPLANATION:</b> The Combined Utility System (CUS) currently offers two types of bill adjustments: (1) a leak adjustment, which is available to all customers; and (2) one for unusually large bills that is available to single family residence customers and addresses an inexplicable, temporary increase by more than 200% in a customer's bills. In Fiscal Year 11, \$3.2 million in adjustments were made; in Fiscal Year 12, the amount was \$4.8 million. In an effort to address concerns of perceived fair treatment and one-time events that are inadvertent or unknown, a new adjustment is proposed.  The Exceptional Circumstances Adjustment would be intended for domestic use and available to residential customers (single-family and multifamily) and to nonprofit customers. The adjustment would be for one occurrence that does not exceed two months. Details are as follows: <ol style="list-style-type: none"> <li>1. The usage must be higher than five times the customer's monthly average;</li> <li>2. Evidence of an investigation must show that the increased usage was not the result of the customer's failure to take action to address problem;</li> <li>3. The adjustment would be for an amount that exceeds 500% of the customer's average usage, up to a maximum of \$4,000;</li> <li>4. Only one such adjustment is available in a given 24-month period; and</li> <li>5. This adjustment may not be combined with any other adjustment for a single incident.</li> </ol> In addition, the creation of a three-member Water Adjustment Board, appointed by the Mayor and approved by City Council, would hear appeals from customers who are dissatisfied with administrative decisions regarding any type of adjustments authorized by ordinance. The Board, one of whom must hold a master plumber's license: <ol style="list-style-type: none"> <li>1. Will hear appeals on the record of administrative hearings;</li> <li>2. May uphold, reverse, or modify the decision of the hearing examiner in the administrative hearing in the manner authorized by Chapter 47.</li> </ol> Other revisions include: <ol style="list-style-type: none"> <li>1. Clarifying in section 47-40.1, regarding the administrative review, the department will consider the customer's situation and consider information submitted by the customer.</li> <li>2. Clarifying that the independent hearing officer presiding over a water bill dispute has discretion to request additional evidence and to conduct additional investigation as deemed appropriate.</li> <li>3. Clarifying that a customer may invite an independent expert, at the customer's expense, to observe the testing of a meter and allowing the utility official to offer an installment plan to customers who may need time to pay a large bill.</li> <li>4. Reducing the amount a customer must pay for an unusually large bill from 200% to 150% of the customer's average monthly gross quantity.</li> </ol> The financial impact of the adjustment changes will be reviewed after one year.			
<b>Other Authorization:</b>		<b>REQUIRED AUTHORIZATION</b> 20SB42A	

**Sec. 47-5. Connections generally.**

It shall be unlawful for any person other than the authorized employees of the department, persons authorized in writing by the utility official pursuant to the regulations promulgated pursuant to subsection ~~(a) of section 47-17~~(b) of section 47-18 of this Code and persons authorized pursuant to a written contract or agreement therefor executed by the city to make any tap, or connection with or repair or attachment to the water mains or water distribution pipes of the city, or to pipes belonging to the water customers of the city situated on any city property, or to any pipes or mains not metered, or to any fixture connected to said pipes or mains.

\* \* \*

**Sec. 47-18.1. Tap and meter charges for certain acquired customers.**

(a) *Definition.* In this section, "acquired customer" means:

- (1) Any customer occupying the same building or structure to which water service was actually provided by a private utility company at one time, but which utility has since been acquired by the city by purchase, condemnation or gift; or
- (2) Any applicant for water service occupying the same building or structure to which water service was actually provided at one time by a private utility company holding a certificate of convenience and necessity issued by the Public Utility Commission of the State of Texas (or other state agency) to serve the area in which the premises are located, but which utility's certificate of convenience and necessity has been revoked or amended to exclude the area in which the premises are located.

(b) *Applicability; conflicting provisions.* Water taps and water meters installed to serve acquired customers shall be governed by sections ~~47-17 and~~ 47-18 of this Code, except as provided below. This section controls over any conflicting provision of section ~~47-17 or~~ section 47-18.

(c) *Existing meters.* Any acquired customer whose premises in the six months preceding acquisition or decertification of the private utility company were served by a meter formerly owned by a private utility company shall be entitled to a \$50.00 reduction in the amount of any meter charge otherwise applicable. An acquired customer occupying the same building or structure to which water service was actually provided at one time by a private utility company which has been acquired by the city, and whose premises are currently served by a meter formerly owned by a private utility company, may exchange such meter for a meter of like size with no meter charge.

(d) *Installment payments—When due.* When an acquired customer is required to pay a meter charge or tap charge, or both, such payment may be made either in cash or in equal installments. Each such installment shall be 1/18 of the total payment. The first

installment is due at the time that application for the work is made, and the remaining 17 installments come due on the last day of each even-numbered month thereafter.

(e) *Same—Delinquent; subsequent customers.* When an acquired customer begins making any such installment payments but fails to pay all installments, and if another acquired customer desires to make application for water service to the same premises, then the subsequent acquired customer shall be required to pay the full tap and meter charges applicable to the acquired customer who first elected to pay in installments, less any payments or installments made by the first customer and any intervening customers. The subsequent customer may pay such charges in cash or in installments, each of which shall be equal to the installments begun by the first customer. The first such installment shall be due when the subsequent customer makes application, and the installments come due on the last day of each even-numbered month thereafter until the full charges applicable to the subsequent customer are paid.

\* \* \*

**Sec. 47-70.1. Disputing water bills; administrative review and hearing.**

(a) Customers have the right to request an administrative review and/or administrative hearing. The policies governing such review and hearing are prescribed by the utility official and will be available to any person upon request; provided, however, the field investigator for the city shall be authorized to conduct such inquiry or investigation as the investigator or reviewing official shall deem appropriate, including, but not limited to, personal inspection of the customer location and water connection. The reviewing official may also receive and consider information submitted by the customer, to include: Reports from plumbers, engineers, or other relevant sources; and relevant photographs and other tangible information, whether provided by the city or the customer. The customer has 90 days from the date of the first bill that is disputed to request an administrative review or hearing.

(b) An administrative review is an investigation by the department of the customer's account and relevant facts in order to resolve the dispute.

(c) A customer may request an ~~Administrative hearings may be held for to review~~ disputes related to article I, division 1 of article II, and article III of this chapter 47. The hearing shall be set at a reasonable time and place and shall be held before a hearing officer independent of the operation of the city's water and sewer system, designated by the utility official, with the power to correct or adjust water bills. Provided, however, the department shall not provide hearings for the following:

- (1) The terms or denial of a deferred pay agreement;
- (2) The amount, terms or denial of assistance from the W.A.T.E.R. Fund;
- (3) The customer's financial inability to pay for water services;

- (4) The rate schedule;
- (5) The amount of deposit;
- (6) The amount or application of late penalties;
- (7) Requests that are inconsistent with city ordinances;
- (8) The cost of administrative fees; ~~or~~
- (9) A matter where the complainant is not the customer for the account; or
- (10) A decision by the utility official under subsection 47-73(c) of this Code as to whether or not a payment plan should be extended.

(d) The customer has the right to be represented by counsel or any other agent and shall notify the city at least two business days prior to the hearing of such representation. In the event the customer is represented by legal counsel, the city may likewise be represented by legal counsel. Failure of the customer to give advance notice of representation by legal counsel will result in the hearing being postponed unless the city fails to object to such lack of notice. In addition to the evidence presented by the customer and the department, the hearing officer may, at the hearing officer's discretion, request additional evidence from either party and may conduct such additional inquiry or investigation as the hearing officer deems appropriate. The hearing officer shall consider all credible evidence presented and shall, based on a preponderance of the evidence, render a ruling upholding the decision of the department, modifying the decision of the department, or reversing the decision of the department. A record shall be made of the hearing.

(e) Termination of service is suspended by a request for an administrative hearing unless the service was terminated prior to the customer's request for the hearing, the customer closes or transfers his account to a new address, the customer fails to pay charges not in dispute or the customer has prevented the city from obtaining meter readings within the last 60 days.

**Sec. 47-70.2. Acceptance and disposition of donations to the W.A.T.E.R. Fund.**

(a) The utility official is authorized to accept donations to the W.A.T.E.R. Fund, as established by section 36-61 of this Code. The utility official shall place such funds in the city's trust and agency account in trust for the W.A.T.E.R. Fund.

The utility official shall include the following statement on all water and sanitary sewer bills:

'Check if \$1 added as gift to W.A.T.E.R.'

Whenever a customer's water or sanitary sewer payment shall exceed the amount then due by the exact sum of \$1.00 and such customer has checked the box provided on the bill for contributions to the W.A.T.E.R. Fund, the utility official shall deem the excess a contribution in the amount of \$1.00 to the W.A.T.E.R. Fund.

(b) Upon the written approval of the utility official, the department shall apply W.A.T.E.R. funds as a credit to a customer's water and sanitary sewer bill in the same proportion, which the water and sanitary sewer charges bear to the customer's total bill. Such donated and transferred W.A.T.E.R. funds shall be under the general direction and control of the utility official for all purposes and shall under no circumstances be commingled with water, sanitary sewer or other public funds.

**Sec. 47-71. Meter reading not to be combined for billing purposes; exception for umbrella account.**

(a) As used in this section, the following terms shall have the meanings set out below, unless the context clearly indicates another meaning is intended:

*Contiguous:* An establishment is contiguous if all included buildings lie on a continuous tract of land, except for division by a street, alley, sidewalk, right-of-way, natural or man-made waterway, or preserved green area.

*Umbrella account* shall mean a multifamily residential customer account established pursuant to this section.

(b) Except as provided in this section for umbrella accounts, the meter readings of two or more water meters, even though serving a single building or establishment, shall not be combined for billing purposes, but separate billing shall be made for the water metered through each individual meter based on the sliding scale of charges provided by this division, with the charge computed the same as if there were only one meter serving such customer building or establishment.

(c) A multifamily residential customer whose establishment is served by more than one meter may elect to establish an umbrella account under which all meter readings from its establishment are combined for billing purposes. In order to be eligible to establish an umbrella account the following criteria must be met:

- (1) The establishment must be contiguous, and all included buildings must be under the same ownership; and
- (2) The owner of the establishment must complete the application for the umbrella account and agree to the conditions required by this article.

(d) The following types of meters may not be included in an umbrella account:

- (1) Submeters maintained by the customer;
- (2) Meters for which the city bills for water service only, such as outdoor customer meters;
- (3) Meters that measure wastewater discharge only; and
- (4) Meters that determine the usage for a single unit only of the establishment.

(e) The utility official shall promulgate the application form for establishment of the umbrella account. The application shall include information regarding the address or addresses of the multifamily residential establishment, the nature of any factor that may determine whether the buildings or structures are contiguous, the name of the owner, the number of units in the establishment, the number of meters covered by the proposed account, and any other information deemed relevant by the utility official. The application must be signed by the owner or duly authorized agent thereof, and must be notarized.

(f) The utility official shall grant the owner an umbrella account if the utility official is satisfied that all criteria of this section are met, and the owner or his agent has completed the application for an umbrella account. The umbrella account shall be effective for the next billing period after approval by the utility official.

(g) The following events will terminate the umbrella account:

- (1) A transfer of ownership of the establishment in whole or in part; or
- (2) An election in writing by the owner of the establishment to terminate the umbrella account. Any such election to terminate shall not be effective until the end of the billing period during which the owner's notice is received by the department. An umbrella account that is delinquent may not be terminated by owner election.

~~(h) The provisions of this section relating to the establishment of umbrella accounts shall be effective July 1, 1993.~~

#### **Sec. 47-72. Scaling or reduction of bill generally.**

Any scaling or reduction of a water bill as shown by a meter is unlawful and is prohibited, unless such reduction is made in accordance with specific provisions of this division. Any officer or employee of the city scaling or reducing any meter bill, except in accordance with such provisions, shall be personally responsible for the reduction in the bill, and shall be dismissed from the city's service therefor.

**Sec. 47-73. Testing meters; ~~adjustments to bills.~~**

(a) In case any consumer of water questions the ~~correctness~~ accuracy of a city water meter, he may obtain a test thereof upon written request therefor to the department. The customer may additionally request that he be permitted to be present at the removal and testing of the meter in person or by agent, and the customer may also invite an independent expert, at the customer's expense, to observe the removal and testing, provided the customer identifies in the written request the name of the expert and the expert's area of expertise.

(b) Upon the receipt of a written request therefor, the city shall cause the meter to be thoroughly and accurately tested. If the party complaining of the meter has requested that he be present for the removal and testing of the meter, he shall be given reasonable notice of the time thereof and be afforded the opportunity to be present and participate therein.

(c) All meters must meet the accuracy test guidelines of the American Water Works Association. The department shall ~~adjust~~ correct customer bills for up to 24 months on the basis of results of tests performed by the department. If the meter or register is defective, the department shall repair or replace it. If a meter is damaged so that it cannot be tested, the customer's ~~account~~ monthly water usage may be adjusted corrected for up to 24 months based on the average usage. Any correction of the charge associated with a water account may be payable by the customer prorated over future billings equal to the number of past billings for which the correction was accrued; provided, however, in an instance where the utility official finds that such a payment plan would constitute extreme economic hardship, based on a determination that the customer's monthly household income meets the criteria established in section 36-62(2)b of this Code, the utility official may extend the payment plan over additional billings as the official may deem appropriate. A decision by the utility official under this subsection as to whether or not a payment plan should be extended shall be final and not subject to appeal.

(d) When the department retests the meter at the request of the customer, the department shall bill the customer for the cost as follows:

- (1) If a customer requests that a meter be tested that is within the manufacturer's warranty period, and such meter when tested is accurate under the American Water Works Association guidelines; or
- (2) If the department has tested the meter within the previous 12 months, and such meter when retested at the request of the customer is accurate under the American Water Works Association guidelines, then the department shall charge the customer the fees stated for this provision in the city fee schedule for the following:
  - a. Field testing of meters less than three inches.

- b. Bench testing of meters less than three inches, plus cost of the new meter and related electronic devices.
- c. Bench testing three-inch and larger meters, plus cost of the new meter.

(e) If the department re-reads a meter at the customer's request, and the reading verifies that the department's original reading was correct (equal to or greater than the prior reading), the department shall charge the customer the fee stated for this provision in the city fee schedule. Provided, however, that exempt senior customers, disabled veterans and persons with disability are exempt from this fee.

**Sec. 47-74. Adjustment of bill as result of defect in customer's line.**

(a) Any residential, commercial, multifamily or outdoor customer of the city may request a ~~correction~~ an adjustment of any water bill showing excessive usage due to a loss of water through an excusable defect in the customer's water line for a period not to exceed three consecutive months. In order to apply for the ~~correction~~ adjustment the customer must file a sworn written application with the utility official within six months of the repair of the excusable defect. Customers may apply for no more than two such adjustments in any 12-month period for any one account. Such application shall contain the following matters and such other information as the utility official may require:

- (1) The name of the applicant, the address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.
- (2) A statement of the date on which the excusable defect in the applicant's water line was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.
- (3) A written acknowledgment that the applicant makes the statements shown on the application and swears to their veracity for the purpose of inducing the city to grant a reduction in the amount of the water bill for which a ~~correction~~ an adjustment is requested.
- (4) The application must clearly indicate ~~show whether or not there has been~~ any additional water consuming devices placed in use on the applicant's premises during the period covered by such bill.
- (5) Documentation shall be submitted detailing the exact nature and date of repairs to the applicant's water line.

- (6) A statement that the applicant is personally familiar with all of the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.
- (7) The customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and shall state that the applicant certifies that the application contains no false statements.

As used in this section the term "*excusable defect*" shall mean a rupture or leakage of the customer's water lines as may be caused by freezing weather, settlement, corrosion, wear or accident. The term does not apply to defective or out-of-repair faucets.

(b) Applications under this section shall be made on forms prescribed by the director of public works and engineering.

(c) Upon receipt of a properly completed application, the utility official shall review such application, and if he approves the same as being in compliance with this section, the applicant's bill shall be corrected by applying to the amount of water consumption shown thereon in excess of the applicant's average water usage, a rate of charge equal to one-half of the normal rate of such water usage by a customer in the applicant's classification, which reduction in rate shall be accomplished in the following manner:

- (1) The applicant's average usage shall be determined as set out in subsection 47-61(b) of this Code. If the applicant has not been a customer for a sufficient length of time to make such determination, the department shall hold the adjustment for a sufficient period of time to calculate the average water usage.
- (2) From the total water consumption shown on the bill submitted for correction, the average usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."
- (3) The excess usage will be considered consumption beyond the average usage, and  $\frac{1}{2}$  of the regular rate for consumption beyond the average usage (for customers in the applicants' rate classification) will be applied to the excess usage and this will determine the amount the applicant must pay for the excess usage.
- (4) The regular rate for customers in the applicant's rate classification will be applied to the average usage and this amount will be added to the amount due for the excess usage and the total of those two amounts will be the

amount that the applicant must pay for water usage during the period covered by the corrected bill.

- (5) Provided, however, for multifamily residential customers that have established umbrella accounts, "average usage" and "excessive usage" under this section shall be determined with reference to each customer meter rather than the entire account as billed by the department.

(d) If the applicant has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the applicant's average bill, the department shall credit the applicant's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the applicant can show extreme economic hardship to the utility official, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If an applicant discontinues water service before subsequent charges have depleted the credit, the department shall refund to the applicant at the time of discontinuance the remaining credit balance minus any overdue debt the applicant owes the city.

(e) Except as provided by section 47-75.2 of this Code, a determination by the utility official of the amount of an adjustment ~~correction~~ to be made in an applicant's water bill in accordance with the provisions of this section shall be final.

#### **Sec. 47-75. Adjustment of unusually large bill.**

(a) Any single-family residential customer who receives a water bill for any given month that is greater than 200 percent of the average usage of the customer, the customer may request an adjustment of the bill in the manner provided in this section. Provided, that the customer must make an application within six months of receipt of such bill and only one such monthly bill out of any 12 consecutive monthly bills may be adjusted under this section. If the applicant has not been a customer for a sufficient length of time for the department to determine average usage, the department shall delay the adjustment until it can calculate the average usage. In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill and briefly state:

- (1) The reasons for the request for the adjustment;

- (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) That there have been no plumbing repairs or necessity therefor during the month for which an adjustment is sought or that the nature of any plumbing defects was not such as would explain the additional usage; and
- (4) Such other information as the utility official may require.

(b) Upon receiving such application, the utility official shall make an investigation to determine if an error was made, which investigation shall include inspection of the customer's water meter for accuracy and review of the customer's billing record. If the initial investigation reveals a billing or meter error, the utility official shall ~~make an adjustment to~~ correct the error. If the investigation does not reveal an error, the utility official may make such further investigation as the utility official deems advisable and shall give full consideration to the statements contained in the customer's application. If the utility official concludes that, in all reasonable probability, the customer consumed and was charged for more water than has the customer consumed during the month in question but is unable to actually account for such unusual quantity, the utility official shall recompute the bill using as the gross quantity 150 200 percent of the average monthly gross quantity applicable to the customer. Except as provided by section 47-75.2 of this Code, a A determination by the utility official made in accordance with the provisions of this section shall be final.

(c) If the customer has already paid the bill for which an adjustment is authorized under this section and the adjustment is no more than six times the customer's average bill, the department shall credit the customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the adjustment is more than six times the customer's average bill and the customer requests a refund, or the customer can show extreme economic hardship, the department shall refund the amount of the adjustment. The utility official shall determine whether extreme economic hardship exists.

If an customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the customer at the time of discontinuance the remaining credit balance minus any overdue debt the customer owes the city.

~~(d) The provisions of this section shall be cumulative of the provisions of section 47-73 of this Code.~~

#### **Sec 47-75.1. Exceptional circumstances adjustment.**

(a) Under exceptional circumstances as identified in this section an adjustment may be made to a residential or not-for profit account of up to a total of \$4,000 for one

occurrence that does not exceed a two month timeframe. To receive this credit, the following criteria will be used:

- (1) The usage must exceed the customer's average monthly usage by at least five times; and
- (2) Based on an investigation conducted by the department as described in section 47-75 of this Code, the evidence clearly establishes that such increased usage was not the result of the customer's failure to take action reasonably calculated to address the problem.

(b) To calculate the adjustment, the utility official shall recompute the bill using as the gross quantity 500 percent of the average monthly gross quantity applicable to the customer.

(c) A customer may receive no more than one exceptional circumstances adjustment in a twenty-four month period.

(d) The adjustment may not be combined with any other adjustment granted pursuant to this chapter for a single incident.

(e) In order to request such an adjustment, the customer must file an application for the adjustment on a form furnished by the utility official. The application form shall contain a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under Chapter 37 of the Texas Penal Code, and the customer must state that the application contains no false statements. The application shall identify the bill(s) and briefly state:

- (1) The reasons for the request for the adjustment;
- (2) A description of the additional water consuming devices or fixtures, if any, that have been placed in use by the customer during the current month or the preceding 12 months;
- (3) Information on any plumbing repairs or necessity therefor during the month(s) for which an adjustment is sought; and
- (4) Such other information as the utility official may require.

(f) A customer may request a hearing regarding this section following the process set forth in section 47-70.1 of this Code.

(g) Except as provided by section 47-75.2 of this Code, a determination by the utility official made in accordance with the provisions of this section shall be final.

**Sec. 47-75.2. Water adjustment board.**

(a) There is hereby created a water adjustment board. The water adjustment board shall consist of three members appointed by the mayor and approved by city council, each to serve a term of three years unless removed earlier by the mayor. At least one member of the board shall hold or have held a master plumber's license.

(b) The board's jurisdiction shall be limited to reviewing decisions of hearing officers relating to matters eligible for hearings arising under sections 47-73, 47-74, 47-75, and 47-75.1 of this Code.

(c) Not later than ten days following the decision of the hearing officer under section 47-70.1 of this Code the customer may request that the decision be reviewed by the water adjustment board. The review will be based exclusively on the record of the hearing; no additional evidence or information shall be considered. The board may uphold, reverse or modify the decision of the hearing officer in conformance with the provisions of this Code but may not make any adjustment greater than allowed by section 47-73, 47-74, 47-75, or 47-75.1, as applicable, of this Code. The board may be assisted by a member of the legal department in order to ensure proper interpretation of this Code.

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

<b>SUBJECT:</b> Ordinance authorizing the sale of the Public Improvement Refunding Bonds Series 2013A and Series 2013B (Tax Exempt and Taxable) and such other series as may be required to refund and defease certain outstanding obligations of the City; authorizing a Preliminary Official Statement and related agreements pertaining to such bonds.	<b>Category #</b>	<b>Page</b> 1 of <u>2</u>	<b>Agenda Item #</b>  10
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<b>FROM (Department or other point of origin):</b> Finance Department and Office of City Controller	<b>Origination Date:</b> March 27, 2013	<b>Agenda Date</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District Affected:</b> All
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<b>For additional information contact:</b> Jennifer Olenick <b>Phone:</b> 832-393-9112 Charisse Mosely <b>Phone:</b> 832-393-3529	<b>Date and identification of prior authorizing Council action:</b> N/A
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**RECOMMENDATION:** Approve an Ordinance authorizing the sale of the City of Houston, Texas, Public Improvement Refunding Bonds Series 2013A and Taxable Public Improvement Refunding Bonds, Series 2013B or such other series as may be determined, in an aggregate amount not to exceed \$450 million; including authorizing the Mayor and City Controller to approve the par amount, interest rates, price, redemption provisions and terms thereof, execute the purchase contract, approve the distribution of a Preliminary Official Statement and other agreements related to the issuance of the bonds, and making other provisions regarding such bonds and matters incident thereto.

<b>Amount of Funding:</b> N/A <b>Not Applicable</b>	<b>Finance Dept Budget:</b>
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**Source of Funding:**  General Fund     Grant Fund     Enterprise Fund     Other (Specify)

**SPECIFIC EXPLANATION:**  
 The Finance Working Group (the "FWG") is recommending refunding certain outstanding general obligation commercial paper notes, certain outstanding general obligation bonds and certificates of obligation 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. Consistent with the City's financial policies, general obligation, commercial paper notes are later refinanced to fixed rate bonds with a final maturity to match the useful life of the capital improvement project or equipment financed with such commercial paper. This transaction represents the normal refunding of these commercial paper notes by fixed rate refunding bonds. Based on current market conditions, the intent is to refund up to \$125 million of outstanding commercial paper notes.

**Current and Advance Bond Refunding**  
 In addition to the refunding of general obligation commercial paper, the City anticipates refunding certain outstanding public improvement bonds and certificates of obligation to achieve debt service savings on an aggregate basis. The FWG is reviewing current outstanding debt for refunding opportunities.

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

<b>Date:</b> March 27, 2013	<b>Subject:</b> Ordinance authorizing the sale of the Public Improvement Refunding Bonds Series 2013A and Series 2013B (Tax Exempt and Taxable) and such other series as may be required to refund and defease certain outstanding obligations of the City; authorizing a Preliminary Official Statement and related agreements pertaining to such bonds.	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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**Summary**

The FWG expects to issue, concurrently with the Series 2013A and Series 2013B Bonds, certificates of obligation for the demolition program and tax notes to fund various energy conservation projects. The following table further summarizes the approximate allocation of the combined proposed transaction:

**Public Improvement Refunding Bonds Series 2013A and Series 2013B, Certificates of Obligation (Demolition Program), Series 2013 and Qualified Energy Conservation Notes, Series 2013Q**

	<b>Refunding Component</b>	<b>Up To</b>	<b>Use</b>
A.	Refund CP Series G, H, J	\$75,000,000	CIP/Street & Traffic
	Refund CP Series E	\$50,000,000	Equipment
B.	Advance Refundings	\$325,000,000	
	Total	<u>\$450,000,000</u>	
<b>New Money Component</b>			
C.	Certificate of Obligation Series 2013	\$10,000,000	Demolition Program
D.	Qualified Energy Conservation Bonds	\$23,000,000	QECB
	Total	<u>\$33,000,000</u>	
		<b>Grand Total</b>	<b>\$483,000,000</b>

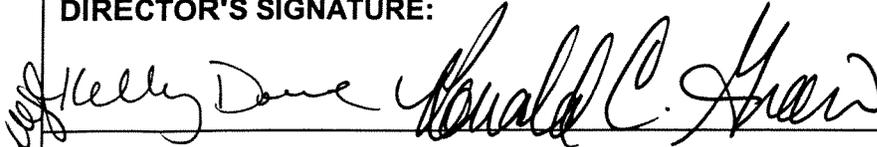
**Recommendation**

This transaction was presented to the Budget and Fiscal Affairs Committee on January 29, 2013.

The Finance Working Group recommends the PIB Series 2013 be issued through a negotiated financing with Rice Financial Products Company serving as book running manager along with Barclays and Wells Fargo as co-senior managers. Backstrom McCarley Berry is recommended as co-manager. Bracewell & Giuliani LLP and Baker Williams & Matthiesen LLP are recommended as co-bond counsel along with Haynes and Boone, LLP and Bratton & Associates as co-disclosure counsel.

<b>SUBJECT:</b> Ordinance authorizing the sale of the Certificates of Obligation (Demolition Program), Series 2013; authorizing a Preliminary Official Statement and related agreements pertaining to such Certificates.	<b>Category #</b>	<b>Page</b> 1 of <u>2</u>	<b>Agenda Item #</b> <u>11</u>
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<b>FROM (Department or other point of origin):</b> Finance Department and Office of City Controller	<b>Origination Date:</b> March 27, 2013	<b>Agenda Date</b> <u>APR 08 2013</u>
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<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District Affected:</b> All
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<b>For additional information contact:</b> Jennifer Olenick <b>Phone:</b> 832-393-9112 Charisse Mosely <b>Phone:</b> 832-393-3529	<b>Date and identification of prior authorizing Council action:</b> N/A
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**RECOMMENDATION:** Approve an Ordinance authorizing the sale of the City of Houston, Texas Certificates of Obligation (Demolition Program), Series 2013 in an aggregate principal amount not to exceed ten million dollars (\$10,000,000); authorizing the Mayor and City Controller to approve the par amount, interest rates, prices, redemption provisions and terms thereof; execute the purchase contract, approve the distribution of a Preliminary Official Statement and other agreements related to the issuance of the Certificates and making provisions regarding such Certificates and matters incident thereto.

<b>Amount of Funding:</b> N/A <b>Not Applicable</b>	<b>Finance Dept Budget:</b>
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**Source of Funding:**  General Fund     Grant Fund     Enterprise Fund     Other (Specify)

**SPECIFIC EXPLANATION:**

**Certificates of Obligation (Demolition Program)**

On June 16, 2010, City Council approved the issuance of the City of Houston Certificates of Obligation (Demolition Program) Series 2010. The funds were used in the continued demolition of buildings and abatement work that had been determined to be dangerous by the Buildings and Standards Commission, a Neighborhood Protection Corps Official, or a registered structural engineer. The issuance was to provide funding for an intended 3 years. The amount that is represented in the subsequent table is intended to continue uninterrupted operation of the program.

The Finance Working Group (the "FWG") is recommending issuing certificates of obligation for demolition of dangerous buildings.

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

<b>Date:</b> March 27, 2013	<b>Subject:</b> Ordinance authorizing the sale of the Certificates of Obligation (Demolition Program), Series 2013; authorizing a Preliminary Official Statement and related agreements pertaining to such Certificates.	<b>Originator's Initials</b>	<b>Page 2 of 2</b>
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**Summary**

The FWG expects to issue, concurrently with the Certificates of Obligation (Demolition Program), Series 2013, public improvement refunding bonds and tax notes to fund various energy conservation projects. The following table further summarizes the approximate allocation of the combined proposed transaction:

**Public Improvement Refunding Bonds Series 2013A and Series 2013B, Certificates of Obligation (Demolition Program), Series 2013 and Qualified Energy Conservation Notes, Series 2013Q**

<b>Refunding Component</b>		<b>Up To</b>	<b>Use</b>
A.	Refund CP Series G, H, J	\$75,000,000	CIP/Street & Traffic
	Refund CP Series E	\$50,000,000	Equipment
B.	Advance Refundings	\$325,000,000	
<b>Total</b>		<b><u>\$450,000,000</u></b>	
<b>New Money Component</b>			
C.	Certificate of Obligation Series 2013	\$10,000,000	Demolition Program
D.	Qualified Energy Conservation Bonds	\$23,000,000	QCEB
<b>Total</b>		<b><u>\$33,000,000</u></b>	
<b>Grand Total</b>		<b><u>\$483,000,000</u></b>	

**Recommendation**

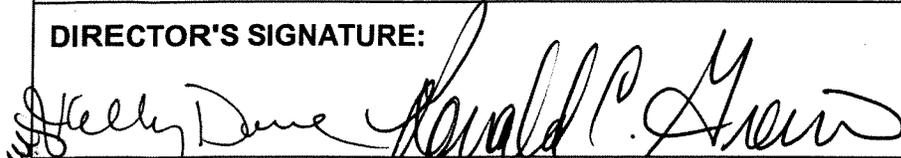
This transaction was presented to the Budget and Fiscal Affairs Committee on January 29, 2013.

The Finance Working Group recommends the PIB Series 2013 be issued through a negotiated financing with Rice Financial Products Company serving as book running manager along with Barclays and Wells Fargo as co-senior managers. Backstrom McCarley Berry is recommended as co-manager. Bracewell & Giuliani LLP and Baker Williams & Matthiesen LLP are recommended as co-bond counsel along with Haynes and Boone, LLP and Bratton & Associates as co-disclosure counsel.

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

<b>SUBJECT:</b> Ordinance authorizing the sale of the Qualified Energy Conservation Notes (QECCB – Direct Payment), Series 2013Q; authorizing a Preliminary Official Statement and related agreements pertaining to such Notes.	<b>Category #</b>	<b>Page</b> 1 of <u>2</u>	<b>Agenda Item #</b> <u>12</u>
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<b>FROM (Department or other point of origin):</b> Finance Department and Office of City Controller	<b>Origination Date:</b> March 27, 2013	<b>Agenda Date</b> APR <b>03</b> 2013
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<b>DIRECTOR'S SIGNATURE:</b> 	<b>Council District Affected:</b> All
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<b>For additional information contact:</b> Jennifer Olenick <b>Phone:</b> 832-393-9112 Charisse Mosely <b>Phone:</b> 832-393-3529	<b>Date and identification of prior authorizing Council action:</b> N/A
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**RECOMMENDATION:** Approve an Ordinance authorizing the sale of the City of Houston, Texas Qualified Energy Conservation Notes (QECCB – Direct Payment), Series 2013Q in an aggregate principal amount not to exceed twenty-three million dollars (\$23,000,000); authorizing the Mayor and City Controller to approve the par amount, interest rates, prices, redemption provisions and terms thereof; execute the purchase contract, approve the distribution of a Preliminary Official Statement and other agreements related to the issuance of the Notes and making provisions regarding such Notes and matters incident thereto.

<b>Amount of Funding:</b> N/A <b>Not Applicable</b>	<b>Finance Dept Budget:</b>
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**Source of Funding:**  General Fund     Grant Fund     Enterprise Fund     Other (Specify)

**SPECIFIC EXPLANATION:**

**Qualified Energy Conservation Bonds**

Authorized by Congress through the Energy Improvement and Expansion Act of 2008, Qualified Energy Conservation Bonds (QECCBs) enable qualified state, tribal and local government issuers to borrow money at attractive rates to fund energy conservation projects. QECCBs are among the lowest-cost public financing tools with interest rates from approximately 0.25% to 1.25% to fund qualified projects.

The U.S. Congress authorized \$3.2 billion of QECCB issuance capacity, which has been allocated to states, local governments and tribal governments based upon population. The state of Texas was allocated approximately \$252 million, of which the City of Houston received an allotment of \$23 million.

The Finance Working Group (the "FWG") is recommending issuance of qualified energy tax notes to fund certain energy conservation projects for various city facilities.

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

<b>Date:</b> March 27, 2013	<b>Subject:</b> Ordinance authorizing the sale of the Qualified Energy Conservation Notes (QECB – Direct Notes), Series 2013Q; authorizing a Preliminary Official Statement and related agreements pertaining to such Notes.	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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**Summary**

The FWG expects to issue, concurrently with the Qualified Energy Conservation Notes (QECB – Direct Notes), Series 2013Q, public improvement refunding bonds and certificates of obligation for the demolition program. The following table further summarizes the approximate allocation of the combined proposed transaction:

**Public Improvement Refunding Bonds Series 2013A and Series 2013B, Certificates of Obligation (Demolition Program), Series 2013 and Qualified Energy Conservation Notes, Series 2013Q**

	Refunding Component	Up To	Use
A.	Refund CP Series G, H, J	\$75,000,000	CIP/Street & Traffic
	Refund CP Series E	\$50,000,000	Equipment
B.	Advance Refundings	\$325,000,000	
	Total	<u>\$450,000,000</u>	
<b>New Money Component</b>			
C.	Certificate of Obligation Series 2013	\$10,000,000	Demolition Program
D.	Qualified Energy Conservation Bonds	\$23,000,000	QCEB
	Total	<u>\$33,000,000</u>	
		<b>Grand Total</b>	<b>\$483,000,000</b>

**Recommendation**

This transaction was presented to the Budget and Fiscal Affairs Committee on January 29, 2013.

The Finance Working Group recommends the PIB Series 2013 be issued through a negotiated financing with Rice Financial Products Company serving as book running manager along with Barclays and Wells Fargo as co-senior managers. Backstrom McCarley Berry is recommended as co-manager. Bracewell & Giuliani LLP and Baker Williams & Matthiesen LLP are recommended as co-bond counsel along with Haynes and Boone, LLP and Bratton & Associates as co-disclosure counsel.

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Purchase and Sale Agreement between Mohammad Tariq Zaka, nka Tariq Zaka and Salma Zaka, (Sellers) and the City of Houston (Purchaser) for the purchase of 10,000 square feet of land located at 2810 and 2812 Dowling Street, Houston, Harris County, Texas for the Houston Parks and Recreation Department. Emancipation Park - WBS No. F-000635-0004-2	<b>Page</b> 1 of 1	<b>Agenda Item</b>  13
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<b>FROM (Department or other point of origin):</b> General Services Department	<b>Origination Date</b> 3/28/13	<b>Agenda Date</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b> Scott Minnix <i>Scott Minnix</i>	<b>Council District affected:</b> D
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<b>For additional information contact:</b> Jacquelyn L. Nisby <i>JLN</i> Phone: 832-393-8023	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION:** Approve a Purchase and Sale Agreement between Mohammad Tariq Zaka, nka Tariq Zaka and Salma Zaka, (Sellers) and the City of Houston (Purchaser) for the purchase of 10,000 square feet of land located at 2810 and 2812 Dowling Street, Harris County, Texas for the Houston Parks and Recreation Department, and appropriate funds.

<b>Amount and Source Of Funding:</b> \$79,819.00 State-Grant Funded - Texas Parks and Wildlife Grant (5010) \$79,819.00 Parks Consolidated Construction Fund (4502) \$159,638.00 Total	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department recommends approval of a Purchase and Sale Agreement with Mohammad Tariq Zaka, nka Tariq Zaka and Salma Zaka (Sellers), and the City of Houston (Purchaser), for the purchase of 10,000 square feet of land located at 2810 and 2812 Dowling Street, for a purchase price of \$150,000.00 plus additional expenses of \$9,638.00 for the Houston Parks and Recreation Department (HPARD).

HPARD secured a 50/50 matching grant for the acquisition of this property through Texas Parks and Wildlife. HPARD desires to purchase this land to create additional parking space for Emancipation Park, which currently has limited parking space for community events. This expansion will enhance and increase the park's usage, as well as be an overall added benefit which the City will reap for years to come.

The following is a breakdown of expected costs:

- \$150,000.00 Purchase Price
- \$5,000.00 Environmental Phase I
- \$2,138.00 Survey
- \$2,500.00 Estimated Closing Costs
- \$159,638.00 TOTAL**

Council will be requested to approve future Purchase and Sale Agreements to expand parking for Emancipation Park under separate Council actions.

SM:HB:JLN:Rb:npb  
xc: Marta Crinejo, Jacquelyn L. Nisby, Anna Russell, Renissa Garza Montalvo, & Lisa Johnson, Mark Ross, Luci Correa

**REQUIRED AUTHORIZATION** CUIC ID# 25 RB145

<b>General Services Department:</b>  <i>Humberto Bautista</i> Humberto Bautista, P.E. Assistant Director	<b>Houston Parks and Recreation Department:</b>  <i>Joe Turner</i> Joe Turner Director
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TO: Mayor via City Secretary **REQUEST FOR COUNCIL ACTION**

HCD13-53

<b>SUBJECT:</b> An Ordinance authorizing the City of Houston to make a \$7,350,000 HUD approved loan, consisting of federal Economic Development Initiative grant funds and Section 108 loan funds, to 806 Main LLC for the renovation of the vacant building, located at 806 Main, into an operating JW Marriott hotel.	<b>Category #</b>	<b>Page 1 of 1</b>	<b>Agenda Item #</b>  14
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<b>FROM</b> Neal Rackleff, Director Housing and Community Development		<b>Origination Date</b> 3/25/13	<b>Agenda Date</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b>	<b>Council District affected:</b> District I
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<b>For additional information contact:</b> Eta Paransky <b>Phone:</b> 713-868-8449	<b>Date and identification of prior authorizing Council action:</b> Ord. # 2012-685 and 2012-698
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**RECOMMENDATION:** Approval of an Ordinance authorizing the City of Houston to make a \$7,350,000 HUD approved loan, consisting of federal Economic Development Initiative grant funds and Section 108 loan funds, to 806 Main LLC for the renovation of the vacant building, located at 806 Main, into an operating JW Marriott hotel.

<b>Amount of Funding:</b> \$1,800,000 - Section 108 Loan Funds \$5,550,000 - EDI Grant \$7,350,000 - Total	<b>Finance Budget:</b>
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**SOURCES OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund  
Section 108 Loan Funds & Economic Development Initiative (EDI) Grant Funds

**SPECIFIC EXPLANATION:**

In July 2012, Council approved the City's submission of an application for federal economic development funds for the renovation of the historic Samuel F. Carter building (constructed in 1910) into an operating JW Marriott hotel. Subsequently, the U.S. Department of Housing and Urban Development (HUD) approved the application. Therefore, the Housing and Community Development Department (HCDD) now seeks approval to make the loan of federal funds per the aforementioned application.

HCDD recommends Council approval to fund a \$7,350,000 interest bearing, repayable loan of federal funds to 806 Main Hotel, LLC ("Borrower") for the \$80.8 million renovation. The loan will partially fund the building's acquisition and furnishings.

The renovation of this historic structure into an operating JW Marriott hotel will contribute to the continued revitalization of Houston's urban core. Besides construction jobs, the owner has indicated the operation of the hotel will create 177 jobs – the majority for low- to moderate-income citizens. This property is located at the corner of Main and Rusk, at the intersection of two light rail lines, which will provide excellent access to low cost transportation. Current market studies for the downtown Houston Central Business District indicate strong demand for a hotel of this caliber, as evidenced by increasing occupancies and significant growth in room revenue.

Pursuant to the HUD approved application, HCDD received approval to utilize \$5,550,000 in EDI grant funds and \$1,800,000 Section 108 loan funds for the redevelopment of the property as a special economic development activity. HUD specifically indicated the proposed 806 Main project meets the applicable Community Development Block Grant national objective of primarily benefiting low- and moderate-income persons through job creation.

Borrower will execute a \$7,350,000 note, repayable over 20 years. The loan represents approximately 9% of the estimated \$80.8 million total cost. Other sources include approximately \$31 million of owner equity and \$42.5 million in bank financing. As the pass through entity, the City and HUD will execute a repayable note pursuant to the Section 108 program. The loan will be secured by a subordinate mortgage on the property. Additionally, the developers will execute a personal guarantee for completion of the renovation and repayment of the note.

806 Main Hotel, LLC is an entity controlled by Pearl Hospitality, which owns and/or operates four (4) hotel properties in Texas. Pearl has renovated several historic properties and has been awarded the prestigious Connie award twice. Pearl Hospitality will be working with non-profits in the area to offer employment opportunities.

NR:EP:LC:RB

**REQUIRED AUTHORIZATION**

<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>
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R

REQUEST FOR COUNCIL ACTION

TO: Mayor via City Secretary

RCA# 9659

Subject: Ordinance for the appropriation of \$49,000.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) for the purchase of Used Electric Powered Vehicles for the Fleet Management Department

Category #  
1

Page 1 of 1

Agenda Item

15

FROM (Department or other point of origin):

Kenneth Hoglund  
Director  
Fleet Management Department

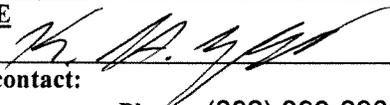
Origination Date

March 21, 2013

Agenda Date

APR 03 2013

DIRECTOR'S SIGNATURE



Council District(s) affected  
All

For additional information contact:

Ralph Stevens Phone: (832) 393-6960  
Larry Benka Phone: (832) 393-6911

Date and Identification of prior authorizing Council Action:

RECOMMENDATION: (Summary)

Approve an ordinance authorizing the appropriation of \$49,000.00 out of the Equipment Acquisition Consolidated Fund (Fund 1800) for the purchase of Used Electric Powered Vehicles for the Fleet Management Department.

Appropriation Amount: \$49,000.00

Finance Budget

\$49,000.00 - Equipment Acquisition Consolidated Fund (Fund 1800)  
\$49,000.00 - Total Appropriation

SPECIFIC EXPLANATION:

The Fleet Management Department recommends that City Council approve an ordinance authorizing the appropriation of \$49,000.00 out of the Equipment Consolidated Fund (Fund 1800) for the purchase of used electric powered vehicles for the Fleet Management Department that will be purchased in a separate procurement.

These vehicles will be used as pilot program to evaluate purchasing used vehicles and the effects from not purchasing a brand new units at a cost of \$38,000 to \$41,000.00 each that may still provide a positive effective way to save fuel and maintenance expense. Purchasing used electric powered vehicles with less than three years usage and low mileage (less than 8,000 miles) may prove to provide an upfront cost savings as we meet the need to provide dependable vehicles for City of Houston drivers.

The purchase will be as follows:

Electric Powered Vehicles: Two used Nissan Leaf electric powered vehicles with less than 8,000 miles in the amount of \$49,000.00.

The funding for this equipment is included in the adopted FY13 Equipment Acquisition Plan.

Larry Benka  
Contract Administrator  
Fleet Management Department

REQUIRED AUTHORIZATION

Finance Department:

Other Authorization:

Other Authorization:

<b>SUBJECT:</b> Appropriate Funds for Issuance of a Purchase Order to Contract Resource Group, L.L.C., through the State of Texas Building and Procurement Commission Contract (TXMAS) for purchase and installation of office furniture at Keith Wiess Park for the Houston Parks and Recreation Department WBS No. F-504A06-0004-5	<b>Page</b> 1 of 1	<b>Agenda Item</b>  16
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<b>FROM (Department or other point of origin):</b>  General Services Department	<b>Origination Date</b> 3/28/13	<b>Agenda Date</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE</b> Scott Minnix <i>Scott Minnix</i> 3/12/13	<b>Council District(s) affected:</b> B
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<b>For additional information contact:</b> Jacquelyn L. Nisby Phone: 832.393.8023	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION:** Appropriate funds for the project.

<b>Amount and Source Of Funding:</b> \$16,990.69 Parks Consolidated Construction Fund (4502)	<b>Finance Budget:</b>
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**SPECIFIC EXPLANATION:** The General Services Department recommends that City Council appropriate \$16,990.69 out of the Parks Consolidated Construction Fund to fund the issuance of a purchase order to Contract Resource Group, L.L.C., through TXMAS, for the purchase and installation of office furniture at Keith Wiess Park for the Houston Parks and Recreation Department (HPARD).

**PROJECT LOCATION:** 12300 Aldine-Westfield (413M)

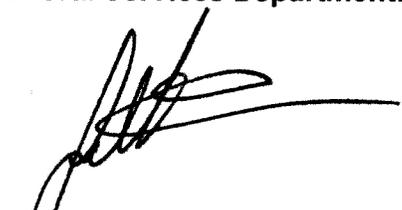
**PROJECT DESCRIPTION:** The project involves the purchase, delivery, and installation of office furniture for the modular office building at Keith Wiess Park. This building will be used as an office and maintenance area by HPARD and possibly the East Aldine Improvement District Bike Patrol.

SM:JLN:RAV:LJ:MS:ms

c: Marta Crinejo, Jacquelyn Nisby, Mark Ross, Christopher Gonzales, Beatrice Ornelas, Leonor Lopez, Luci Correa, Angela Jackson, File 712

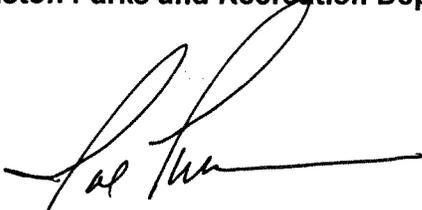
**REQUIRED AUTHORIZATION** NDT CUIC# 25PARK190

**General Services Department:**

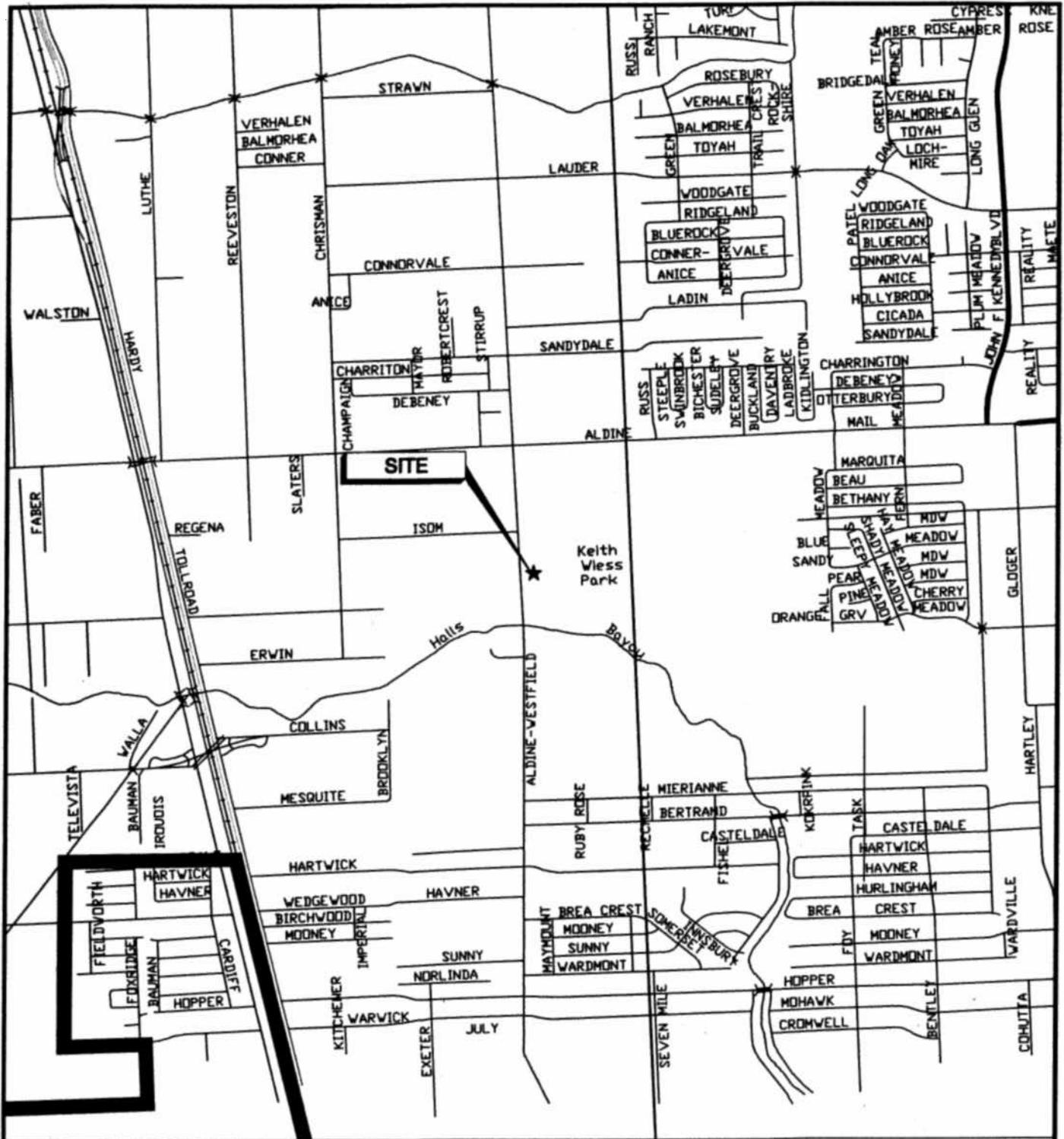


Richard A. Vella  
Chief of Design & Construction Division

**Houston Parks and Recreation Department:**



Joe Turner  
Director



**Keith Weiss Park**  
**12300 Aldine-Westfield**  
**Houston, TX 77093**

**COUNCIL DISTRICT "B"**

**SITE MAP**

**KEY MAP NO. 413M**

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 9520**

**Subject:** Approve an Ordinance Awarding a Contract to the Best Respondent for Emission Credit Brokerage Services for the Public Works and Engineering Department / S10-T24325

Category #  
4

Page 1 of 2

Agenda Item

17

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

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

**Origination Date**

February 20, 2013

**Agenda Date**

APR 03 2013

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

David Guernsey Phone: (832) 395-3640  
Douglas Moore Phone: (832) 393-8724

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

**RECOMMENDATION: (Summary)**

Approve an ordinance awarding a revenue contract to Element Markets, LLC for emission credit brokerage services for the Public Works and Engineering Department.

None Required (Revenue)

**Finance Budget**

**SPECIFIC EXPLANATION:**

The Director of the Public Works and Engineering Department and the City Purchasing Agent recommend that City Council approve an ordinance awarding a three-year revenue contract to Element Markets, LLC, for emission credit brokerage services for the Public Works and Engineering Department (PWE) and other city departments that may need such services. The anticipated revenue generated from the initial sale is estimated at approximately \$4,000,000.00; however, the brokerage firm will retain 0.25 percent of the sale price as its brokerage fee. The City Purchasing Agent and/or PWE 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, and supervision necessary to develop the marketability of the existing emission credits (commodity) owned by PWE or other city departments for the sole purpose of marketing and negotiating the sale of Emission Reduction Credit (ERC), (initially Certificate Numbers 2558 and 2559), which are issued to the City in the amount of 12.4 tons of nitrogen oxides (NOx) and 14.3 tons of volatile organic compounds (VOC) ERCs, respectively. The sale price shall be negotiated by the brokerage firm to receive the most beneficial return for the City, under the current market conditions.

This Request for Proposal (RFP) was advertised in accordance with the requirements of the State of Texas bid laws. Thirty prospective proposers downloaded the solicitation document from SPD's e-bidding website and as a result, proposals were received from Element Markets, LLC, Amerex Brokers, LLC, and BGC Environmental Brokerage Services. The evaluation committee was comprised of staff from PWE's senior management team. The proposals were evaluated based upon the following criteria:

- Proposed Strategy and Operational Plan
- Cost
- Expertise, Experience, and Qualifications
- Financial Strength
- Conformance to RFP Requirements

Element Markets, LLC received the highest overall score.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

*NOX*

18

Date: 2/20/2013	Subject: Approve an Ordinance Awarding a Contract to the Best Respondent for Emission Credit Brokerage Services for the Public Works and Engineering Department / S10-T24325	Originator's Initials GB	Page 2 of 2
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**M/WBE Subcontracting:**

This RFP was issued with a 5% goal for M/WBE participation. Element Markets, LLC has designated the below-named company as its certified M/WBE subcontractor:

NAME	TYPE OF WORK	DOLLAR AMOUNT	PERCENTAGE
Tejas Office Products, Inc.	Administrative	\$500.00	5%

[The computation for the above-listed MWBE dollar amount is as follows: \$4,000,000.00 (sale amount) x .0025 (.25% brokerage fee) = \$10,000 (brokerage fee) x 0.05 (M/WBE Goal) = \$500.00.]

The Mayor's Office of Business Opportunity 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 provides health benefits to eligible employees in compliance with City policy.

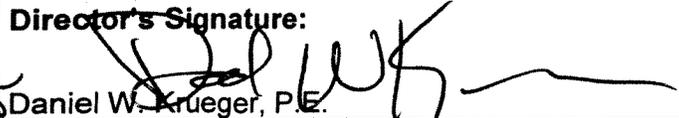
**Hire Houston First:**

The proposed contract requires compliance with the City's 'Hire Houston First' ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

Buyer: Greg Hubbard

<b>SUBJECT:</b> Advance Funding Agreement between the City of Houston and Texas Department of Transportation for Installation of Uninterruptable Power Supply (UPS) systems and Battery Backups at traffic signals along corridors within the City of Houston. WBS No. N-000650-0075-4	Page 1 of	Agenda Item # 18
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<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b>	<b>Agenda Date</b> APR 03 2013
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<b>Director's Signature:</b>  Daniel W. Krueger, P.E.	<b>Council District affected:</b> ALL
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<b>For additional information contact:</b> Jeffrey Weatherford, P.E., PTOE Phone: (832) 395-2461	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)**  
 Adopt an Ordinance approving and authorizing an Advance Funding Agreement between the City of Houston and Texas Department of Transportation (TxDOT) and appropriate funds.

**Amount and Source of Funding:** \$260,000.00 from Fund 4040-Metro Projects Construction DDSRF.  
*M.P. 3/7/2013*

**PROJECT NOTICE/JUSTIFICATION:** The federal law established federally funded programs for transportation improvements to implement its public purposes. Texas Transportation Code, Sections 201.103 and 222.052 established that the State shall construct and operate a system of highways in cooperation with local governments. Texas Transportation Commission Minute Order Number 113074, authorizing the State to undertake and complete highway improvements by the installation of uninterruptable power supply and battery backups at traffic signals citywide.

**DESCRIPTION/SCOPE:** This project consists of installing Uninterruptable Power Supply systems and Battery Backups at traffic signals along multiple corridors within the City of Houston. The system will provide an interface between utility power and traffic signal cabinet. If an outage or interruption occurs, the UPS system will operate the traffic signal by providing battery power for a predetermined length of time.

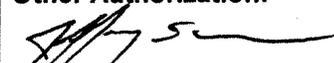
As part of the implementation program the design was completed in house by City of Houston personnel.

The appropriation of local matching funds by the City of Houston and the federal funds by TxDOT will be applied toward construction and contingencies costs, the project will be let by TxDOT.

Funding for the project is as follows:

- \$1,040,000.00 (80%) Texas Department of Transportation (TxDOT)
- \$ 260,000.00 (20%) City of Houston (Local Match)
- \$1,300,000.00

LTS NO.: 4995	REQUIRED AUTHORIZATION	CUIC ID # 20JSW81
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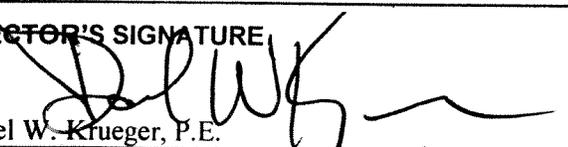
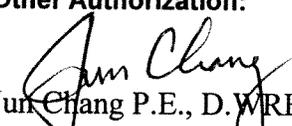
<b>Finance Department:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Jeffrey Weatherford, P.E., PTOE Deputy Director Traffic Operations Division
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CSJ # 0912-71-005  
District #12 - Houston  
Code Chart 64 #19750  
Project: Installation of Uninterruptable Power  
Supply and Battery Backups  
Federal Highway Administration  
CFDA # 20.205  
Not Research and Development

## **ATTACHMENT B PROJECT LOCATION**

### **LIST OF CORRIDORS**

1. Almeda Genoa/Shaver, Telephone to Centerpoint Driveway
2. Richey, Flagstone Terrace to Queens
3. SH 3, Buoy to Edgebrook
4. FM 1960, Mills to Breton Ridge
5. Dixie Farm, SH3 to Kensington Place
6. Bay Area Blvd, Seawolf to Brook Forest
7. El Camino Real, Clear Lake City Blvd to Bay Area Blvd
8. El Dorado, Glenwest to Brook Forest
9. Saturn, Bay Area Blvd to 2<sup>nd</sup> St
10. Space Center Blvd, Clear Lake City Blvd to Bay Area Blvd
11. Almeda, Fuqua to Holcombe
12. Antoine, Gulf Bank to Long Point
13. Bingle / Houston Rosslyn, Pinemont to Chippewa
14. North Park, Rock Springs to US 59
15. W Lake Houston, North Park to Kings Crossing
16. McClellan, Loop 494 to US 59
17. Kingwood, High Valley to US 59
18. Market, Lockwood to IH 10
19. Federal, Market to Dorwayne
20. Dowling, McKinney to Jefferson
21. Cullen, Elgin to Wheeler
22. Westheimer, SH6 to Chimney Rock
23. Richmond, SH6 to McCue
24. Eldridge, Briar Forest to Enclave Pkwy
25. Enclave Pkwy, Eldridge to Briar Forest

<b>SUBJECT:</b> Contract Award for Sanitary Sewer Cleaning and Television Inspection In Support of Rehabilitation WBS# R-000266-0196-4		<b>Page</b> 1 of 2	<b>Agenda Item #</b> 19										
<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering		<b>Origination Date</b> 3/28/13	<b>Agenda Date</b> APR 03 2013										
<b>DIRECTOR'S SIGNATURE</b>  Daniel W. Krueger, P.E.		<b>Council District affected:</b> All											
<b>For additional information contact:</b> Jason Iken, P.E. Senior Assistant Director Phone: (832) 395-4989		<b>Date and identification of prior authorizing Council action:</b> N/A											
<b>RECOMMENDATION: (Summary)</b> Accept low bid, award construction contract, and appropriate funds.													
<b>Amount and Source of Funding:</b> \$698,448.00 from Water and Sewer System Consolidated Construction Fund No. 8500. This project is eligible for low interest funding through a State Revolving Fund (SRF) Non-Equivalency loan. <i>M.P. 2/22/2013</i>													
<b>SPECIFIC EXPLANATION:</b> This project is part of the Neighborhood Sewer Rehabilitation Program and is required to renew/replace various deteriorated neighborhood collection systems throughout the City.													
<b>DESCRIPTION/SCOPE:</b> This project consists of sanitary sewer cleaning and television inspection in support of rehabilitation. The contract duration for this project is 730 calendar days.													
<b>LOCATION:</b> The project area is generally bounded by the City Limits.													
<b>BIDS:</b> Four (4) bids were received on November 15, 2012 for this project as follows:													
<table border="1"> <thead> <tr> <th>Bidder</th> <th>Bid Amount</th> </tr> </thead> <tbody> <tr> <td>1. Sewer and Storm Maintenance, LLC</td> <td>\$665,188.82</td> </tr> <tr> <td>2. EnviroWaste Services Group, Inc.</td> <td>\$674,792.88</td> </tr> <tr> <td>3. Specialized Maintenance Services, Inc.</td> <td>\$716,323.92</td> </tr> <tr> <td>4. CleanServe, Inc.</td> <td>\$796,011.60</td> </tr> </tbody> </table>		Bidder	Bid Amount	1. Sewer and Storm Maintenance, LLC	\$665,188.82	2. EnviroWaste Services Group, Inc.	\$674,792.88	3. Specialized Maintenance Services, Inc.	\$716,323.92	4. CleanServe, Inc.	\$796,011.60		
Bidder	Bid Amount												
1. Sewer and Storm Maintenance, LLC	\$665,188.82												
2. EnviroWaste Services Group, Inc.	\$674,792.88												
3. Specialized Maintenance Services, Inc.	\$716,323.92												
4. CleanServe, Inc.	\$796,011.60												
LTS No. 4872 File/Project No. WW 4277-73													
Finance Department		REQUIRED AUTHORIZATION CUIC# 20JAI450											
Other Authorization:		Other Authorization:  Jun Chang P.E., D.WRE, Deputy Director Public Utilities Division											

<b>Date</b>	<b>Subject:</b> Contract Award for Sanitary Sewer Cleaning and Television Inspection In Support of Rehabilitation WBS# R-000266-0196-4	<b>Originator's Initials</b>	<b>Page</b> 2 of 2
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**AWARD:** It is recommended that this construction contract be awarded to Sewer and Storm Maintenance, LLC, with a low bid of \$665,188.82.

**PROJECT COST:** The total cost of this project is \$698,448.00 to be appropriated as follows:

- Bid Amount \$665,188.82
- Contingencies \$33,259.18

**HIRE HOUSTON FIRST:** Hire Houston First does not apply to this expenditure, because it involves the use of federal funds and is subject to specific procurement rules of the federal government.

**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/WSBE PARTICIPATION:** No City M/WSBE participation goal has been established for this project, as the contract will not be a goal oriented contract per Section 15-82 of the Code of Ordinances.

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

DWK:JC:JI:DR:MB:lt

File No. WW 4277-73

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Contract Award for Fire Hydrant and Small Diameter Valve Replacement Project (UMB), WBS No. S-000035-0158-4, File No. WA 11008	<b>Page</b> 1 of 2	<b>Agenda Item #</b>  20
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<b>FROM: (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date:</b> 3/28/13	<b>Agenda Date:</b> APR 03 2013
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<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E.	<b>Council District affected:</b>  All
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<b>For additional information contact:</b>  A. James Millage Phone: 832.395.5262 Senior Assistant Director	<b>Date and identification of prior authorizing Council action:</b>
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**RECOMMENDATION: (Summary)**  
Accept low bid, award construction Contract and appropriate funds.

**Amount and Source of Funding:**  
\$1,788,464.00 Water and Sewer System Consolidated Construction Fund No. 8500. *U.P. 3/12/2013*

**PROJECT NOTICE/JUSTIFICATION:** This project is required to replace damaged or irreparable fire hydrants throughout the City.

**DESCRIPTION/SCOPE:** Work shall include the replacement of fire hydrants and valves, the height correction of fire hydrants, and the replacement of small diameter valves and ancillary work. The contract duration for this project is 365 calendar days. This is an on-call contract with projects assigned on an as-needed basis.

**LOCATION:** The project area is generally bounded by the City Limits.

**BIDS:** Bids were received on January 31, 2013. The four (4) bids are as follows:

<u>Bidder</u>	<u>Bid Amount</u>
1. PMG Project Management Group, LLC.	\$1,674,727.25
2. Reytec Construction Resources, Inc.	\$1,952,576.05
3. Metro City Construction, L.P.	\$2,004,672.70
4. D.L. Elliott Enterprises, Inc.	\$2,595,101.40

**REQUIRED AUTHORIZATION** CUIC#20AJM279 *NOX*

<b>Finance Department:</b>	<b>Other Authorization:</b>  Dan M. Smith <i>5/1/13</i>	<b>Other Authorization:</b>  Jun Chang, P.E., D.WRE, Deputy Director Public Utilities Division
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<b>Date</b>	<b>Subject:</b> Contract Award for Fire Hydrant and Small Valve Replacement Project (UMB), WBS No. S-000035-0158-4, File No. WA 11008	<b>Originator's Initials</b>	<b>Page 2 of 2</b>
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**AWARD:** It is recommended that this construction Contract be awarded to PMG Project Management Group, LLC. with a low bid of \$1,674,727.25.

**PROJECT COST:** The total cost of this project is \$1,788,464.00 to be appropriated as follows:

- Bid Amount \$1,674,727.25
- Contingencies \$83,736.75
- Engineering and Testing Services \$30,000.00

Engineering and Testing Services will be provided by Tolunay-Wong Engineers, Inc. under a previously approved contract.

**HIRE HOUSTON FIRST:** The proposed contract requires compliance with the City's 'Hire Houston First' ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractor meets the requirements of Hire Houston First.

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

**M/WBE PARTICIPATION:** The low bidder has submitted the following proposed M/WBE participation to satisfy the 11% MBE goal, and 9% SBE goal for this project.

<u>MBE-Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Contract</u>
1. Perez Construction Company	Underground Utilities	\$190,000.00	11.34%
2. Posey's Tractor Service	Underground Utilities	\$190,000.00	11.34%
<b>TOTAL</b>		<b>\$380,000.00</b>	<b>22.68%</b>

<u>SBE-Name of Firms</u>	<u>Work Description</u>	<u>Amount</u>	<u>% of Contract</u>
1. Jerdon Enterprise, L.P.	Underground Utilities	\$190,000.00	11.34%
<b>TOTAL</b>		<b>\$190,000.00</b>	<b>11.34%</b>

DWK:AJM:OS:SM:TC:tc

cc: A. James Millage  
 Sam Lathrum  
 Orin Smith, P.E.

File No. WA 11008

<b>SUBJECT:</b> Ordinance adopting Impact Fees for drainage and amending Chapter 47 of the Code of Ordinances to set the Drainage Impact Fee, in accordance with Chapter 395 of the Texas Government Code.	Code Local	Page 1 of 2	Agenda Item <del>625</del> 23
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<b>FROM (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date</b> 3-13-13	<b>Agenda Date</b> <del>MAR 20 2013</del>
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<b>DIRECTOR'S SIGNATURE:</b> <i>Daniel W. Krueger</i> Daniel W. Krueger, P.E., Director	<b>Council District affected:</b> All <i>408</i>	<del>MAR 27 2013</del> APR 03 2013
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<b>For additional information contact:</b> <i>Mark L. Loethen</i> Mark L. Loethen, P.E., CFM, PTOE Deputy Director (832) 395-2705	<b>Date and identification of prior authorizing Council action:</b> 2010-0879 11/15/2010; 2011-0254 04/06/2011; 2012-1047 12/05/2012; 2013-0060 01/30/2013; 2013-0028 01/16/2013; 2013-0156 03/06/2013
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**RECOMMENDATION: (Summary)**  
Approve an Ordinance to amend Chapter 47 of the Code of Ordinances for imposition of Impact Fees for Drainage, accepting the maximum allowable rates and setting Drainage Impact Fees.

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

**BACKGROUND:** On November 2, 2010, voters of the City of Houston passed Proposition One that established a dedicated pay-as-you-go funding source to renew Houston's drainage systems and streets. As a result, Council amended the City's Charter on November 15, 2010 to create the Dedicated Drainage and Street Renewal Fund (DDSRF) composed of the following four (4) funding sources:

- Developer Impact Fees
- Drainage Charges
- \$0.118 of the City's ad valorem tax levy minus existing debt service
- Third party contracts, grants or payments

This recommendation addresses the requirement for the first funding component with regard to drainage.

State law allows municipalities to charge Drainage Impact Fees for new development projects. This revenue helps offset the City's cost to provide drainage infrastructure to a growing community. Pursuant to Chapter 395 of the Local Government Code, the process of adoption requires the City to perform an engineering study on the program and approve the findings of the report. The report includes Land Use Assumptions, the Capital Improvement Plan (internally known as the "Drainage Impact Fee Improvement Plan" or "DIFIP"), and Impact Fee calculations. The Planning Commission, acting as the Capital Improvements Advisory Committee, approved the Land Use Assumptions and DIFIP at their January 3, 2013 meeting and the Impact Fee calculations at their February 21, 2013 meeting and recommended their adoption by City Council.

The Maximum Impact Fee calculated in the report is based on the cost of all eligible capital improvements within each service area divided by the total increase in service units (1 service unit = 1,000 square feet of impervious area) expected to occur over the ten (10) year span of the DIFIP. While Chapter 395 of the Local Government Code requires that a maximum allowable fee be calculated, any amount up to the maximum allowable fee may be adopted by City Council.

**REQUIRED AUTHORIZATION LTS# 1745** **CUIC ID# 20UPA222**

<b>Finance Department:</b>	<b>Authorization:</b> <i>Mark L. Loethen</i> Mark L. Loethen, P.E. CFM, PTOE Deputy Director Planning and Development Services Division	<b>Other Authorization:</b>
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*copy*

The report establishes the maximum allowable drainage impact fee that can be assessed within each Service Area as:

SERVICE AREA	MAXIMUM FEE PER SERVICE UNIT
Addicks Reservoir	\$0.00
Barker Reservoir	\$0.00
Brays Bayou	\$8.63
Buffalo / White Oak	\$16.38
Clear Creek	\$0.39
Greens Bayou	\$13.41
Hunting Bayou	\$10.24
San Jacinto	\$0.00
Ship Channel	\$0.00
Sims / Vince	\$57.24

Under Chapter 395 of the Local Government Code, the Ordinance adopting the Impact Fees cannot be adopted under an emergency ordinance; therefore, it must be read at two (2) separate City Council meetings. State Law also requires City Council to hold public hearings before adopting the Land Use Assumptions and Capital Improvement Plan and the Drainage Impact Fee calculations. These occurred on Wednesday, January 16, 2013, and Wednesday, March 6, 2013, respectively.

**RECOMMENDATION:** Approve an ordinance accepting the maximum allowable Impact Fees for Drainage within each Service Area and amendments to Chapter 47 of the Code of Ordinances setting the Drainage Impact Fees, in accordance with Chapter 395 of the Texas Local Government Code.

City of Houston, Texas, Ordinance No. 2013-\_\_\_\_\_

**ORDINANCE ADOPTING DRAINAGE IMPACT FEES IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE ("CHAPTER 395"); AMENDING CHAPTER 47 OF THE CODE OF ORDINANCES OF HOUSTON, TEXAS AND CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR SEVERABILITY.**

\* \* \* \*

**WHEREAS**, Houston voters approved an amendment to the City Charter known as Proposition 1 on the ballot, commonly referred to as "ReBuild Houston," at an election held on November 2, 2010, to "provide for the enhancement, improvement and ongoing renewal of Houston's drainage and streets by creating a Dedicated Pay-As-You-Go Fund for Drainage and Streets"; and

**WHEREAS**, the Charter amendment embodied in Proposition 1 was included in the City Charter as Article IX, Section 22, and reads in pertinent part, "All proceeds of developer impact fees, which beginning in fiscal year 2012, and continuing thereafter shall be imposed in an equitable manner as provided by law to recover allocable costs of providing drainage and streets for properties under development"; and

**WHEREAS**, City Council passed Ordinance No. 2011-0254, effective date April 6, 2011, to create a Municipal Drainage and Utility System and establish a schedule of drainage charges to help fund ReBuild Houston; and

**WHEREAS**, City Council passed Ordinance No. 2011-1168, effective date December 14, 2011, which created the City Fee Schedule and provided for removing fees from the Code of Ordinances in order to increase administrative efficiency and reduce costs to tax payers; and

**WHEREAS**, City Council passed Ordinance No. 2012-0097, authorizing a professional services agreement with Kimley-Horn and Associates, Inc., countersigned

on February 7, 2012, in part to develop land use assumptions and a capital improvement plan for the calculation of impact fees consistent with Article IX, Section 22 (the "Study"); and

**WHEREAS**, City Council received the Study, which the City Secretary's Office made available to the public on December 12, 2012; and

**WHEREAS**, the City published notice of a public hearing on adoption of land use assumptions and a capital improvement plan for possible adoption of impact fees for drainage in the Houston Chronicle on December 16, 2012, in accordance with Chapter 395; and

**WHEREAS**, City Council held a public hearing on January 16, 2013, and upon adoption of the aforementioned land use assumptions and a capital improvement plan, known internally as the Drainage Impact Fee Improvement Plan and

**WHEREAS**, City Council adopted the aforementioned land use assumptions and the Drainage Impact Fee Improvement Plan on January 30, 2013; and

**WHEREAS**, the City published notice of a public hearing on the adoption of drainage impact fees in accordance with Chapter 395 on February 3, 2013 in the Houston Chronicle, in accordance with Chapter 395; and

**WHEREAS**, the Planning Commission held a special meeting on February 21, 2013 to review and comment upon the drainage impact fees per service unit in each respective service area as proposed by the Study and recommended by the Department of Public Works and Engineering;

**WHEREAS**, on February 26, 2013, the City Secretary received and made available to the public the Planning Commission's special meeting minutes, containing the comments on the drainage impact fees per service unit in each respective service area;

**WHEREAS**, City Council held a public hearing on the adoption of drainage impact fees on March 6, 2013, in accordance with Chapter 395, City Council now intends to adopt impact fees; and

**WHEREAS**, City Council intends to adopt the maximum fee per service unit as the actual impact fee per service unit, and therefore, no increases to the actual impact fee per service unit may occur until the City amends the drainage impact fee improvement plan; **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 part of this Ordinance.

**Section 2.** That, based upon Section V.C. of the Study and the recommendations of the Planning Commission and the Department of Public Works and Engineering, City Council hereby adopts the drainage impact fees per service unit in the table below ("service unit rates"):

SERVICE AREA	SERVICE UNIT RATES
Addicks Reservoir	\$0.00
Barker Reservoir	\$0.00
Brays Bayou	\$8.63
Buffalo / White Oak	\$16.38
Clear Creek	\$0.39
Greens Bayou	\$13.41
Hunting Bayou	\$10.24
San Jacinto	\$0.00
Ship Channel	\$0.00
Sims / Vince	\$17.72

**Section 3.** That City Council hereby accepts from the Planning Commission comments concerning the Proposed Amendments, which were placed on file with the City Secretary on February 26, 2013, and are attached hereto as "Exhibit B".

**Section 4.** That the Director of the Finance Department shall amend the City Fee Schedule to reflect the unit service rates established by this Ordinance.

**Section 5.** That Chapter 47 of the Code of Ordinances, Houston, Texas, is hereby amended to add Article XV to read as follows:

**"ARTICLE XV. DRAINAGE IMPACT FEES**

**DIVISION 1. GENERAL PROVISIONS**

**Sec. 47-881. Purpose.**

This article is intended to ensure the provision of adequate public drainage facilities to serve new development in the city by requiring each such development to pay its pro rata share of the costs of drainage capital improvements necessitated by and attributable to such new development.

**Sec. 47-882. Authority.**

This article is adopted pursuant to Chapter 395 of the Texas Local Government Code and pursuant to the Houston City Charter, Article IX, Section 22. The provisions of this article shall not be construed to limit the power of the city to utilize other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution for or in conjunction with this article.

**Sec. 47-883. Definitions.**

As used in this article, the following terms and phrases shall have the following meanings:

*Assessment* means the determination of the amount of the service unit rate that may be imposed on new development pursuant to this article as determined at the time specified in section 47-891 of this Code.

*Building permit* means:

- a. With respect to buildings or premises within the corporate limits of the city, the general permit required by the Construction Code; or
- b. With respect to buildings or premises outside the corporate limits of the city or for which a general

permit under the Construction Code is not required, a plumbing permit under the Construction Code or under section 47-14 of this Code.

*Credit* means a certain number of service units attributable to an improved lot with impervious surface for purposes of article XIV of this chapter.

*Drainage* means water transported by or detained in features and improvements, whether natural or man-made, such as streets, curbs, bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and any appurtenances, that use force or gravity to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or man-made watercourses.

*Drainage benefit area* means an area within the city's extraterritorial jurisdiction that may reasonably connect to the city's drainage system.

*Drainage capital improvement or drainage impact fee improvement* means a drainage facility with a life expectancy of three or more years, to be owned or operated by or on behalf of the city.

*Drainage capital improvement plan or drainage impact fee improvement plan* means the plan adopted by city council at least every ten years, as may be amended from time to time, identifying the drainage facilities and their associated costs, necessitated by and attributable to new development, to be financed in whole or in part through drainage impact fees imposed and collected pursuant to this article.

*Drainage facility* means an improvement to land designed or utilized, in whole or part, for the purpose of collecting, storing, pumping or conveying drainage, including an existing facility, the capacity of which has been expanded to service new development. *Drainage facility* includes land, roads, easements or structures and all appurtenances associated with such facilities.

*Drainage impact fee* means a fee imposed by city council on new development to fund or reimburse the costs of drainage capital improvements necessitated by and attributable to such new development. Drainage impact fees do not include requirements for

the dedication or construction of rights-of-way or easements for such facilities, nor payment by persons receiving service from a drainage facility of connection charges imposed to reimburse a property owner for the costs of extending such drainage facility.

*Drainage service area* means an area designated as such by city council within a certain watershed boundary located within the corporate limits of the city.

*Drainage system* means the drainage and drainage facilities owned or controlled in whole or in part by the city, including provisions for additions to the system. Drainage system components, including but not limited to streets, sidewalks, other dedicated improvements, and supporting rights-of-way shall not be considered residential or nonresidential property as defined herein.

*Impervious surface* means any area that has been compacted or covered such that it does not readily absorb water or does not allow water to percolate through to undisturbed underlying soil strata. Surface materials considered impervious shall include, but not be limited to, bricks, pavers, concrete, asphalt, compacted oil-dirt, compacted or decomposed shale, oyster shell, gravel, or granite, and other similar materials. Surface features utilizing such materials and considered impervious shall include, but not be limited to, decks, foundations (whether pier and beam or slab), building roofs, parking and driveway areas, sidewalks, compacted or rolled areas, paved recreation areas, swimming pools, and other features or surfaces that are built or laid on the surface of the land and have the effect of increasing, concentrating, or otherwise altering water runoff so that flows are not readily absorbed.

*Improved lot* means a lot or a tract of land on which the city has recorded impervious surface as determined under Article XIV of this chapter.

*New development* means a project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure, or any use or extension of the use of land, that requires either the issuance of a building permit or connection to the city's drainage system and has not been exempted from compliance by this article or state law.

*Offset* means the amount of the reduction of a drainage impact fee, determined under this article or pursuant to administrative guidelines, that is equal to the value of a drainage

facility or portion thereof included in the drainage impact fee improvement plan and is constructed or financed by a property owner without reimbursement from other city funds.

*Plat* means the plan or map of a subdivision to be filed for record with the county clerk in the county in which the property is located. *Plat* includes a replat, but excludes a development plat.

*Property owner* means the owner in fee of a tract or parcel of land upon which new development is to be located, or his authorized representative.

*Service unit* means 1,000 square feet of impervious surface rounded to the nearest ten square feet for purposes of impact fee calculation.

*Service unit rate* means the drainage impact fee that the city charges per service unit within a certain drainage service area.

**Sec. 47-884. Drainage impact fees, in general.**

(a) Except as otherwise provided herein, each new development within any of the city's drainage service areas shall pay a drainage impact fee for drainage facilities necessitated by and attributable to that development as provided in division 2 of this article. Drainage impact fees shall be assessed against and collected from new development on the basis of service units and shall vary depending on the drainage service area in which the property is located.

(b) The maximum drainage impact fee per service unit assessed against a new development is provided in the drainage impact fee improvement plan. The service unit rates shall never exceed the maximum drainage impact fee per service unit.

(c) The service unit rates shall be published in the city fee schedule and shall be collected from new development as stated in this article. On July 1 of each year beginning on July 1, 2018, and to the extent allowed by subsection (b), the director shall cause the service unit rates in the city fee schedule to be adjusted by an amount equal to the percentage increase (if any) in the designated index for the preceding calendar year multiplied by the service unit rates. The director shall annually calculate the effective service unit rates for each drainage service area on or before June 1 of each year and make all calculations available in his or her office upon request for public inspection.

For purposes of this subsection, the term *designated index* shall mean the United States Producers Price Index for All Commodities (1982=100), as published by the Bureau of Labor Statistics, U.S. Department of Labor. If such index is subject to adjustment later, then the city shall use the adjusted index, together with any correlation factor necessary to relate the later adjusted index to the earlier index, as published by the entity publishing the index, or if such publication is discontinued, the designated index shall then refer to comparable statistics on changes in the cost of living for urban consumers as the same may be computed and published by an agency of the United States or by a responsible financial periodical of recognized authority, which agency or periodical shall be selected by the city.

(d) City council may amend drainage impact fees to be collected from new developments without amending the service unit rates or drainage impact fee improvement plan adopted herein, as long as the impact fees to be collected do not exceed the maximum drainage impact fees per service unit that may be assessed for such facilities.

**Sec. 47-885. Drainage service areas**

(a) The department shall keep, update, and make available to the public maps of the drainage service areas. The drainage service areas may be amended from time to time as part of a new or amended drainage impact fee improvement plan. When the city's corporate limits are altered by general purpose annexation to include land within a natural watershed boundary, the land so annexed shall become part of a drainage service area.

(b) At the time of assessment, the utility official shall determine the appropriate drainage service area or areas for the new development based on the developer's application and the map(s) attached to the most recent land use assumptions adopted by city council.

**Secs. 47-886--47-890. Reserved.**

**DIVISION 2. ASSESSMENT, COLLECTION AND COMPUTATION OF DRAINAGE IMPACT FEES**

**Sec. 47-891. Assessment of fees.**

Assessment of drainage impact fees against new development shall be based on the drainage impact fee per service unit within the applicable drainage service area, established by city council. Except as otherwise provided herein, the utility official shall assess a drainage

impact fee on any building permit application for new development submitted after \_\_\_\_\_, <sup>1</sup> 2014, at the time the building permit application is submitted.

**Sec. 47-892. Time of fee collection.**

Drainage impact fees shall be collected at or before the time of issuance of building permits.

**Sec. 47-893. Computation of fees.**

The department shall compute the drainage impact fees in the following manner:

- (1) Except as otherwise provided in this section, the drainage impact fee shall be calculated by multiplying the applicable service unit rate by the number of service units generated by the new development, rounded to the nearest hundredth.
- (2) The drainage impact fee for new development on an improved lot shall be reduced by a credit determined by the utility official to be equal to the existing impervious surface on which drainage fees are being paid at the time a building permit application is submitted.
- (3) Development of low and moderate cost single family housing is exempt from payment of impact fees. To qualify for this exemption, a house must be a single family residence located within the city limits having an initial purchase price as certified by the property owner that does not exceed the latest available 12-month listing for median price single family housing in the city as published by the Real Estate Center at Texas A&M University. In the event the initial purchase price exceeds this amount, the property owner making the certification shall pay to the city the full amount of the impact fee as calculated under this section. If publication of the median price for single family housing is discontinued by the Real Estate Center at the Texas A & M University, the mayor is authorized to select another publication that lists the median price of single family houses in the city.

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<sup>1</sup> The City Secretary shall insert the month and day of this Ordinance's effective date.

- (4) If the new development involves the alteration of existing structures, new impervious surface created by such altered structure or structures shall be converted to additional service units. If the impervious surface for the new development exceeds the existing impervious surface, the amount of the drainage impact fee due shall be the number of additional service units, rounded to the nearest hundredth, multiplied by the drainage impact fee per service unit then in effect. If the impervious surface for the new development is less than or equal to the existing impervious surface, no impact fee is due.
- (5) The amount of each drainage impact fee due shall be reduced by any allowable adjustments in the manner provided in section 47-894 of this Code.
- (6) If the property owner proposes to increase the number of service units for development following payment of the drainage impact fee, the additional drainage impact fees collected for such new service units shall be determined in the same manner as provided in this section.

**Sec. 47-894. Determination of service units.**

(a) The utility official shall determine the number of service units generated from a new development based on the information contained in the building permit application along with digital map data associated with tax plats and assessment rolls or other similar, reliable data from independent sources authorized by the director.

(b) If the utility official determines that sufficient information is provided along with the building permit application to demonstrate that no drainage will ever flow off all or a significant portion of the property, the director may approve an adjustment in the number of service units. Before an adjustment is made, the property owner shall covenant not to change the property to allow drainage to flow off the property without first obtaining a building permit and paying impact fees on any new development. The director may develop guidelines to determine the amount of drainage that will flow off the property and what constitutes a significant portion of the property.

**Sec. 47-895. Offsets against drainage impact fees.**

(a) A property owner may receive an offset pursuant to a development agreement approved by the city, if

- (1) The property owner constructs or finances a drainage facility included in the drainage impact fee improvement plan;
- (2) The property owner does not receive reimbursement for the drainage facility constructed or financed by the property owner;
- (3) The drainage facility serves only the city drainage system; and
- (4) The offset does not include on-site drainage for the property.

(b) A drainage facility constructed for an offset pursuant to a development agreement must be constructed within the drainage service area in which the property is located. The offset may be associated with the plat of the property that is to be served by the constructed or financed drainage facility. The amount of the offset shall be determined pursuant to rules established in this section and any administrative guidelines promulgated by the director. In no event shall the offset allowable under this subsection exceed the amount of the drainage impact fees due.

(c) Any offset associated with new development shall be applied against the drainage impact fee due at the time that the fee for the building permit is collected.

(d) Any offset provided under this section shall have no effect on on-site drainage requirements associated with the property.

**Sec. 47-896. Development agreements in drainage benefit areas.**

If the director determines that adequate capacity exists within the drainage system, a property owner within a drainage benefit area may voluntarily enter into a development agreement to connect to the drainage system. The director may authorize a development agreement to allow the property owner to construct facilities consistent with section 47-895 of this Code, and any associated rules and guidelines, or pay charges equivalent to drainage impact fees. The drainage impact fee improvement plan, as amended in accordance with Chapter 395 of the Local Government Code, shall account for the connections pursuant to development agreements under this section and shall include projections for voluntary connections to the drainage system from the drainage benefit area.

**Secs. 47-897--47-900. Reserved.**

### DIVISION 3. ADMINISTRATION

#### **Sec. 47-901. Accounting.**

(a) All drainage impact fees collected within a certain drainage service area shall be deposited in a dedicated fund to which interest is allocated in accordance with Section 22, Article IV of the City Charter. All such amounts, together with all interest earned thereon, shall be used solely for the purposes set forth in subsection (b).

(b) The drainage impact fees collected pursuant to this article shall be used to finance or recoup the costs of any drainage impact fee improvements identified in the drainage impact fee improvement plan for the applicable drainage service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorneys' fees, and expert witness fees) and fees paid to an independent qualified engineer or financial consultant for preparing or updating the drainage impact fee improvement plan.

(c) Disbursement of funds shall be authorized by the department at such times as are reasonably necessary to carry out the purposes intended by this article; provided, however, that funds shall be expended within a reasonable period of time, but not to exceed ten years from the date drainage impact fees are deposited in the fund.

(d) An owner of property for which a drainage impact fee has been paid is entitled to a refund for all or a portion of the fee in the following circumstances:

- (1) The city denies service to the property on which the impact fees were paid; and
  - a. The city has the drainage facilities to provide service to the property;
  - b. The city has not constructed the drainage facilities within five years of the date the impact fees were collected; or
  - c. The city has not spent the impact fees within 10 years of the date the impact fees were collected.

- (2) After receiving a completed application for an impact fee refund, the department shall issue a refund to the record property owner. The refund shall include interest calculated from the date of collection to the date of refund at the statutory rate provided in Texas Local Government Code Section 395.024, or its successor statute. A drainage impact fee shall be considered expended on a first-in, first-out basis.
- (3) If a refund is due pursuant to paragraph (2), the department shall divide the difference between the amount of expenditures and the amount of the fees collected by the total number of service units for which drainage impact fees have been paid within the service area for the period to determine the refund due per service unit. The refund to the owner shall be calculated by:
  - a. Multiplying the refund due per service unit by the number of service units of the development for which the fee was paid; and
  - b. Determining interest due based on the amount calculated under subsection (d)(3)a.
- (4) Upon completion of all the drainage facilities identified in the drainage impact fee improvement plan for the drainage service area, the department shall recalculate the drainage impact fee per service unit using the actual costs for the drainage facilities. If the maximum drainage impact fee per service unit based upon actual cost is less than the drainage impact fee per service unit paid, the city shall refund the difference if such difference exceeds the drainage impact fee paid by more than ten percent. If the difference is less than ten percent, no refund shall be due. Refund to the record owner shall be calculated by:
  - a. Multiplying such difference by the number of service units of the development for which the drainage impact fee was paid; and
  - b. Determining interest due based on the amount calculated under subsection (d)(4)a.
- (e) The department shall establish adequate financial and accounting controls to ensure that drainage impact fees disbursed from the fund are utilized solely for the purposes authorized. The department

shall maintain and keep financial records for drainage impact fees that shall show the source and disbursement of all fees collected or expended within a certain drainage service area. The records of the fund into which drainage impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

(f) Nothing in this article shall prevent the city from paying all or part of the drainage impact fees due for a new development pursuant to criteria adopted by city council.

**Sec. 47-902. Impact fee appeals.**

(a) The property owner or applicant for a new development may appeal the following administrative decisions to an administrative hearing official appointed by the director:

- (1) The applicability of a drainage impact fee to the development;
- (2) The amount of the drainage impact fee due;
- (3) The determination of service units;
- (4) The applicability of any credit or offset to the development;
- (5) The amount of any credit or offset; or
- (6) The amount of a refund due, if any.

(b) The burden of proof shall be upon the applicant to demonstrate that the administrative decision was not made in accordance with this article or applicable state law.

(c) The applicant shall file a written notice of appeal with the director within 30 days following the date of the decision from which an appeal is made. If the notice of appeal is accompanied by a payment or other sufficient security satisfactory to the department in an amount equal to the original determination of the drainage impact fee due, the development application may be processed while the appeal is pending. In addition to any other amount collected, the director shall collect from the applicant an administrative fee in accordance with Section 1-14 before considering the applicant's appeal.

**Sec. 47-903. Relief procedures.**

(a) Any person who has paid a drainage impact fee, or an owner of land for which a drainage impact fee has been paid, may petition city council to determine whether any duty required by this article or by chapter 395 of the Texas Local Government Code has not been performed within the time so prescribed. The petition shall be in writing and delivered to the city secretary and shall state the nature of the unperformed duties and request that the duties be performed within 60 days of the request. If city council determines that the performance of the duty is required pursuant to this article and is late in being performed, it shall cause performance of the duty to commence within 60 days of the date of the request and to continue until completion. This subsection shall not apply to matters subject to appeal pursuant to section 47-902 of this Code.

(b) City council may grant a variance from any requirement of this article, upon written request by the property owner subject to the article following a public hearing, but only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.

(c) If city council grants a variance to the amount of the drainage impact fee due for a new development under this section, it shall cause to be appropriated from other city funds the amount of the reduction in the drainage impact fee to the fund for the drainage service area in which the property is located.

**Sec. 47-904. Storm water drainage letters.**

(a) A storm water drainage letter associated with a new development shall automatically expire unless the developer makes progress towards completion of the new development within two years after the developer obtains the storm water drainage letter. If prior to expiration, the developer presents the utility official with evidence of progress towards completion of the project, then the developer shall have an additional two years to complete the project or make additional progress towards completion of the project.

(b) Progress towards completion of the project shall consist of one or more of the following:

- (1) Payment or other provision of consideration authorized under this article for drainage impact fees on the new development;

- (2) Execution of a performance bond, naming the city as obligee, for public infrastructure associated with the new development;
- (3) Provision to the utility official of a copy of a substantially complete application necessary for completion of the new development that the developer has filed and actively pursued with the city or any local, state, or federal agency of competent jurisdiction; or
- (4) Presentation to the utility official of documentation conclusively showing that the developer has spent, in aggregate, more than five percent of the most recent appraised market value of the property associated with the new development towards the development of infrastructure facilities.”

**Section 7.** The Department of Public Works and Engineering shall begin collecting drainage impact fees no sooner than one year after the effective date of this Ordinance.

**Section 8.** 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.** This Ordinance shall take effect immediately upon final passage and approval by the Mayor; however, in the event the Mayor fails to sign this Ordinance within five days of its passage and adoption, it shall take effect in accordance with Article VI, Section 6 of the Houston City Charter.

**PASSED on first reading this \_\_\_\_\_ day of March, 2013**

**PASSED AND FINALLY APPROVED** on second reading this \_\_ day of  
March, 2013.

\_\_\_\_\_  
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.

ALC; asw 03/12/2013

Requested by Daniel W. Krueger, P.E., Director, Department of Public Works &  
Engineering

L.D. File No. 0420900113001

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CLEAN.docx

**REQUEST FOR COUNCIL ACTION**

<b>TO:</b> Mayor via City Secretary		<b>RCA #</b>	
<b>SUBJECT:</b> Ordinances granting Commercial Solid Waste Operator Franchises  <i>22-29 <del>44-48</del></i>		<b>Category #</b>	<b>Page 1 of 1</b> <i>57-64</i>
<b>FROM: (Department or other point of origin):</b> Tina Paez, Interim Director Administration & Regulatory Affairs		<b>Origination Date</b> 03/12/2013	<b>Agenda Date</b> <del>MAR 20 2013</del>
<b>DIRECTOR'S SIGNATURE:</b> <i>Tina Paez</i>		<b>Council Districts affected:</b> <del>MAR 27 2013</del> ALL <i>APR 03 2013</i>	
<b>For additional information contact:</b> Juan Olguin <i>JFO</i> Phone: (713) 837- 9623 Naelah Yahya Phone: (713) 837- 9889		<b>Date and identification of prior authorizing Council Action:</b>	

**RECOMMENDATION: (Summary)**  
Approve ordinances granting Commercial Solid Waste Operator Franchises

<b>Amount of Funding:</b> REVENUE	<b>FIN Budget:</b>
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**SOURCE OF FUNDING:**     General Fund     Grant Fund     Enterprise Fund     Other (Specify)

**SPECIFIC EXPLANATION:**

It is recommended that City Council approve ordinances granting Commercial Solid Waste Operator Franchises to the following solid waste operators pursuant to Article VI, Chapter 39. The proposed Franchisees are:

1. FCC Environmental
2. Specialized Waste Systems, LLC
3. AAA Flexible Pipe Cleaning
4. Designing Techniques LLC dba Duran'sYourDumpster.com
5. Greg Morales dba Houston Harris County Septic Tank Service
6. Clean Serve Inc.
7. Berkeley Outside Services Inc.
8. Latinosi, LLC

The proposed ordinances grant the Franchisees the right to use the City's public ways for the purpose of collecting, hauling or transporting solid or industrial waste from commercial properties located within the City of Houston. In consideration for this grant, each Franchisee agrees to pay to the City an annual Franchise Fee equal to 4% of their annual gross revenue, payable quarterly. To verify Franchisee compliance with the franchise, the City has the right to inspect, and the company has the duty to maintain, required customer records during regular business hours. The franchise contains the City's standard release and indemnification, default and termination, liquidated damages and force majeure provisions. The proposed franchise term is 10 years from the effective date.

The Pay or Play Program does not apply to the solid waste franchises.

**REQUIRED AUTHORIZATION**

Finance Director:

30

APR 03 2013

MOTION NO. 2013

MOTION by Council Member Gonzalez that the recommendation of the Purchasing Agent, to amend Motion No. 2007-0612, passed and adopted June 20, 2007 previously amended by Motion No 2012-0419, passed and adopted June 06, 2012, which authorized award for purchase of Chemical, Sodium Hypochlorite for the Department of Public Works and Engineering, S12-S22472-A2, be adopted, and Motion No. 2007-0612, is hereby further amended to increase spending authority on award to ALTIVIA Corporation from \$34,926,668.33 to \$48,897,335.53.

Seconded by Council Member Bradford

Council Member Hoang absent on City business

Council Member Burks absent due to being ill

On 03/27/2013 the above motion was tagged by Council Member Green.

mla

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 9621**

**Subject:** Amend Council Motion 2007-0612 for Chemical, Sodium Hypochlorite for the Public Works & Engineering Department S12-S22472-A2

Category #  
4

Page 1 of 2      Agenda Item

307

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

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

**Origination Date**

March 04, 2013

**Agenda Date**

~~Mar 27 2013~~  
APR 03 2013

**DIRECTOR'S SIGNATURE**

*Calvin D. Wells*

**Council District(s) affected**  
All

**For additional information contact:**

David Guernsey      Phone: (832) 395-3640  
Ray DuRousseau      Phone: (832) 393-8726

**Date and Identification of prior authorizing**

**Council Action:**  
CM 07-0612, Dtd. 6-20-07, & 12-0419, Dtd. 6-06-12

**RECOMMENDATION: (Summary)**

Amend Council Motion 2007-0612, passed June 20, 2007, which was previously amended by Council Motion 2012-0419, passed June 6, 2012, to increase the spending authority from \$34,926,668.33 to \$48,897,335.53 for chemical, sodium hypochlorite for the Public Works & Engineering Department.

Spending Authority Increased By: \$13,970,667.20

**F & A Budget**

\$13,970,667.20 - Water & Sewer System Operating Fund (8300)

**SPECIFIC EXPLANATION:**

The Director of the Public Works & Engineering Department and the City Purchasing Agent recommend that City Council amend Council Motion 2007-0612, passed June 20, 2007, to increase the spending authority for sodium hypochlorite awarded to ALTIVIA Corporation from \$34,926,668.33 to \$48,897,335.53. The current spending authority is insufficient for the remaining term, and an increase in spending authority in an amount not to exceed \$13,970,667.20 is required to meet the Department's ongoing daily operational needs until a new award can be presented to Council. Sodium hypochlorite is compulsory for the production of potable drinking water and treatment of wastewater, necessary to preserve and protect the public's health and safety. Market survey/Chlor-Alkali indices indicate the City of Houston's current contract price for this product is below the average market price.

This award began June 20, 2007 for a 36-month period with two option years to extend for a total 60-month term, in an amount not to exceed \$34,926,668.33 and was subsequently amended by CM 2012-0419 passed June 6, 2012, to extend the awarded term to June 26, 2015. Expenditures as of March 4, 2013 totaled \$29,479,309.99. All other terms and conditions shall remain as originally approved by City Council.

This award consisted of approximately 60,323,130 pounds of bulk sodium hypochlorite utilized on a daily basis by the Department's Wastewater Operations and Drinking Water Operations Branches to disinfect and treat raw wastewater and potable drinking water at City treatment plants and satellite facilities located citywide. Sodium Hypochlorite (aka bleach) is imperative to maintain compliance with the Environmental Protection Agency and the Texas Commission on Environmental Quality's mandates and standards regarding the application and discharge of water treatment chemicals vital to the public's health and safety.

**M/WBE Subcontracting:**

This contract was awarded with a 3% M/WBE participation goal and the contractor is currently achieving 1% participation due to the selected M/WBE subcontractor going out of business. The Office of Business Opportunity and the Department's Small Business Development and Contract Compliance Section have met with the contractor to select another certified M/WBE subcontractor and will continue to monitor and work with the contractor and new subcontractor to ensure maximum M/WBE participation.

**REQUIRED AUTHORIZATION**

F&A Director:

Other Authorization:

Other Authorization:

*Calvin D. Wells*      *[Signature]*

<b>Date:</b> 3/4/2013	<b>Subject:</b> Amend Council Motion 2007-0612 for Chemical, Sodium Hypochlorite for the Public Works & Engineering Department S12-S22472-A2	<b>Originator's Initials</b> MK	<b>Page 2 of 2</b>
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**Hire Houston First:**

ALTIVIA Corporation is a certified "Hire Houston First" vendor.

Buyer: Martin L. King

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

RCA# 9624

**Subject:** Ordinance amending Fire Code and Chapter 10 of Code of Ordinances

Category #  
6

Page 1 of 1    Agenda Item

318

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

Terry Garrison  
Fire Chief  
Fire

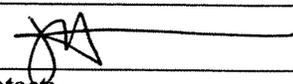
**Origination Date**

February 21, 2013

**Agenda Date**

APR 03 2013  
~~MAR 27 2013~~

**DIRECTOR'S SIGNATURE**



**Council District(s) affected**  
All

**For additional information contact:**

Beda Kent

Phone: (832) 394-6748  
Phone:

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

December 14, 2011; Ord 2011-1168

**RECOMMENDATION: (Summary)**

Approve ordinance amending Fire Code and Chapter 10 of Code of Ordinances

No funding required

**Finance Budget**

**SPECIFIC EXPLANATION:**

Recent court decisions in Texas have emphasized the importance of procedural due process in the enforcement of local ordinances. With no compromise of public safety, the proposed ordinance strengthens due process rights in most administrative proceedings under the Fire Code, helping ensure that property owners have an opportunity to be heard and to cross-examine witnesses and that the administrative decision is made by an impartial hearing officer.

To achieve these goals, the Houston Fire Chief recommends City Council approve an ordinance that will incorporate the administrative process of Article IX of Chapter 10 of the Code of Ordinances, authorizing an Article IX hearing officer to consider most appeals of orders issued under the Fire Code

Proceedings related to permits issued under the Fire Code will continue to be considered by a separate hearing officer, who may be an employee of HFD. Proceedings related to interpretations of the Fire Code will continue to be considered by the Fire Code Board of Appeals.

The proposed ordinance also clarifies the purpose of Notices of Violation under the Fire Code; reiterates HFD's authority to post notices of threats to public health and safety; and revises certain subheadings for ease of use.

B

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

njo

Other Authorization:

8

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**PROPOSED AMENDMENTS TO FIRE CODE**

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**104.5 Notices and orders.** ~~The~~ As may be required to enforce this code, the fire code official is authorized to issue and to serve such notices, or orders, and criminal citations, as well as administrative citations or summonses in the manner prescribed by Article XVIII of Chapter 10 of the City Code ~~as are required to affect compliance with this code in accordance with Sections 109.1 and 109.2.~~

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**105.5 Revocation.** A permit issued under the provisions of this code may be revoked as provided herein after a hearing conducted by the Section 105 hearing official, if the Section 105 hearing official finds from a preponderance of evidence adduced at such hearing that there has been a false statement or misrepresentation as to the material facts in the application or construction documents on which the permit or approval was based, or a violation of the terms and conditions as set forth in this code, including, but not limited to, any one of the following:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations for the permit, as set forth in this code, have been violated.
4. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm than the name for which it was issued.
6. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.
7. The permit was issued in error or in violation of an ordinance, regulation or this code.

**105.5.1 Notice of hearing.** Not later than 14 days prior to the date set for the revocation hearing by the Section 105 hearing official, the permit holder shall be given a written notice by the fire code official which shall set forth:

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

1. The grounds upon which the fire code official will seek revocation of the permit;
2. That a hearing has been scheduled thereon before the Section 105 hearing official and the time, date and place of the hearing; and
3. That the permit holder may appear, may be represented by counsel, may present evidence and may cross examine witnesses presented by the fire code official.

**105.5.2 Hearing.** ~~A~~ Except for hearings related to orders issued under Section 105.5.3, all hearings under this code Section 105 shall be conducted by the fire chief or a representative, hereinafter called "Section 105 hearing official." The fire chief shall not designate any person to be a hearing official under this code who has taken any part in the investigation of the matter that is the subject of the hearing or any person who directly supervised the investigation. The In rendering a decision, the Section 105 hearing official shall consider only the evidence presented at the hearing in rendering a decision. The A decision of the Section 105 hearing official shall be set forth in writing, copies of which and shall be served upon each party in the same manner as the notice of a right to a hearing.

**105.5.3 Emergencies.** ~~Where an emergency exists, the fire code official shall not be required to give a written notice or hearing prior to revoking the permit.~~ **Emergency revocation of permit.** If the revocation of a permit issued under this code reasonably appears to be necessary to abate or ameliorate a serious and immediate fire hazard, the fire code official may revoke the permit without prior notice or hearing. In such circumstances, however, the fire code official must provide the permit holder with an opportunity for a post-revocation hearing in the manner prescribed by Division 8 of Article IX of Chapter 10 of the City Code.

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**SECTION 108  
BOARD OF APPEALS**

**108.1 Board of appeals established.** ~~In order to hear and decide appeals of orders, from decisions or determinations made by of the fire code official relative to the application and interpretation of this code~~ as to the suitability of alternate materials and types of construction, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the Mayor, subject to confirmation by the City Council. The fire code official shall be an ex officio member of said board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. See Appendix A.

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

**108.2 Limitations on authority.** An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of this code. The fire code official shall take action in accordance with the decision of the board.

**108.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to this code.

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**SECTION 109  
VIOLATIONS**

**109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**109.2 Notice of violation.** When the fire code official finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation ("NOV") describing the conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection. The NOV advises the recipient of the existence of a violation of this code but does not initiate a judicial or administrative proceeding. Service of an NOV is not required prior to service of a citation or summons or to other action to enforce this code.

**109.2.1 Service of NOV.** ~~A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either~~ The fire code official may serve (by personal service, or by certified mail, return receipt requested) or by delivering the same to, and leaving it with, some person of responsibility upon the premises an NOV upon such person(s) as the fire code official believes should be notified of the violation. For unattended or abandoned locations, a copy of ~~such notice of violation~~ the NOV ~~may~~ shall be posted on the premises in a conspicuous place at or near the entrance to such premises, in which case a copy of the NOV and a copy of the notice of violation shall be mailed by certified mail, with return receipt requested or a certificate of mailing, to the owner of the property at the owner's last known address of the owner, occupant or both, according to the records of the appraisal district in which the property is located.

**109.2.2 Compliance with orders and notices.** A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

other person responsible for the condition or violation to which the notice of violation pertains.

**109.2.3 Prosecution of violations.** ~~If the notice of violation is not complied with promptly or if a persons owning, operating, or maintaining an occupancy, premises property, or vehicle subject to this code allows a hazard violation of this code to exist or fails to take immediate action to abate a hazard on the occupancy, premises, or vehicle violation when ordered to do so by the fire code official, the fire code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto take any action authorized by this code or other applicable law.~~

**109.2.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

**109.3 General Penalty; continuing violations.** When in this code an act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or wherever in this code the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefor, the violation of any such provision of code shall be punished by a fine of not less than \$500.00, nor more than \$2,000.00; provided, however, that no penalty shall be greater or lesser than the penalty provided for the same offense under the laws of the state. Each day any violation of this code shall continue shall constitute a separate offense. In prosecutions under this code, the various provisions hereof that are designated as exceptions shall not be treated as exceptions within the meaning of Section 2.02 of the Texas Penal Code, and instead, they shall constitute defenses to prosecution within the meaning of Section 2.03 of the Texas Penal Code.

**109.3.1 License suspension/revocation.** The suspension, revocation, cancellation or denial of any license, permit or certificate by the jurisdiction shall not prohibit the imposition of any civil or criminal penalty. The imposition of a civil or criminal penalty by the jurisdiction shall not prohibit the suspension, revocation, cancellation or denial of any license, permit or certificate.

**109.3.2 Enforced removal or abatement.** The application of the foregoing penalty shall not be held to prevent the enforced removal or abatement of any prohibited condition.

**109.3.3 Administrative adjudication of unlawful parking or stopping of vehicle.** The provisions of Article IV of Chapter 16 of the *City Code* shall be applicable to the adjudication of any offense arising under this code that involves the parking or stopping of a vehicle. The fines for parking or stopping of a vehicle shall be as

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

otherwise provided in this section or other provisions of this code, as applicable, but the citation shall be issued and adjudicated in all respects as provided in Article IV of Chapter 16 of the *City Code*.

**109.3.4 Abatement of violation Referral to city attorney.** ~~In addition to the imposition of the penalties herein described other remedies authorized by this code or other applicable law, the fire code official is authorized to institute~~ may refer a violation to the city attorney for appropriate legal action to prevent unlawful construction or to restrain, correct or abate or restrain an activity, condition, or occupancy constituting or resulting from a violation of this code; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

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**SECTION 110  
UNSAFE BUILDINGS**

**110.1 General authority.** ~~If during the inspection of all or part of a property premises, a building or structure or any building system, in whole or in part, violates this code and constitutes a clear and inimical threat to human life, safety or public health or safety, the fire code official shall issue such notices or orders to remove or remedy abate the conditions threat as shall be deemed necessary in accordance with this section are reasonable under the circumstances and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required in accordance with the Construction Code and the procedures set forth in Articles VIII and IX of Chapter 10 of the City Code and this section. Such notices may include one or more placards posted conspicuously at the property stating that the property is a threat to public health or safety, that the Fire Marshal may order an evacuation of the structure or take other action against the property, and that persons who continue to use the building do so at their own risk. The wording of the placard shall be factually accurate, but no particular wording is prescribed.~~

**110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

**110.1.2 Structural hazards.** ~~When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 140.1.~~ Administrative hearing under City Code. The fire

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

code official may schedule a public hearing before a hearing officer as provided by Division 2 of Article IX of Chapter 10 of the City Code and request any relief authorized by the said Article IX.

**110.2 Evacuation.** The fire code official or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the fire code official or the fire department official in charge of the incident.

~~110.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code. If all or part of a property or structure constitutes a serious and immediate fire hazard, the fire code official or a fire department official in charge of an incident may abate or otherwise remedy the said hazard without prior notice or hearing. In such circumstance, however, the fire code official must provide each owner, lienholder, and mortgagee of the subject property with an opportunity for a post-abatement hearing in the manner prescribed by Division 8 of Article IX of Chapter 10 of the City Code.~~

~~110.4 Abatement. The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.~~

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**SECTION 111  
STOP WORK ORDER**

**111.1 Order.** Whenever the fire code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the fire code official is authorized to issue a stop work order.

**111.2 Issuance.** A stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work is authorized to resume.

~~111.2.1 Hearing. Hearing shall be provided notice and conducted in accordance with Sections 105.5.1 and 105.5.2.~~

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

**111.3 Emergencies.** Where an emergency exists, the fire code official shall not be required to give a written notice prior to stopping the work.

**111.4 Failure to comply.** It shall be unlawful to fail to comply with any stop work order.

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**SECTION 202**  
**GENERAL DEFINITIONS**

\* \* \*

**SECTION 105 HEARING OFFICIAL.** The person or persons designated in writing by the Mayor of the City of Houston to consider (a) applications by the fire code official to revoke permits issued under authority of Section 105 of this code; (b) appeals of denials of permits authorized by Section 105 of this code; and (c) appeals of orders issued under authority of Section 105 of this code, except that appeals of orders issued under authority of Section 105.5.3 shall be considered as provided elsewhere in this code. A Section 105 hearing official may be an employee of the Houston Fire Department, except that no person who has taken part, directly or indirectly, in any decision, order, or investigation related to the subject of the hearing shall serve as a Section 105 hearing official. A Section 105 hearing official shall act without bias for or against any hearing participant, including the Houston Fire Department.

\* \* \*

**SERIOUS AND IMMEDIATE FIRE HAZARD.** A condition that violates this code and that in the absence of immediate action by the fire code official or a fire department official in charge of an incident presents a reasonable likelihood of causing serious bodily injury to a human being.

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PROPOSED AMENDMENTS CODE OF ORDINANCES

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**Sec. 10-317. Definitions.**

When used in this article, the following words and phrases have the meaning stated, unless the context of their usage clearly indicates another meaning:

*Building standards official* means the neighborhood protection official or the building official or the fire code official (as defined in the Fire Code), according their respective enforcement responsibilities as provided in this article or in the Fire Code.

\* \* \*

*Hearing officer* means the individual, whether one or more, designated by the mayor to conduct administrative hearings as provided by this article; to consider evidence of violations of this article and of certain provisions of the Fire Code, as provided therein or in by this article, Code; and to enter orders as are supported by the evidence.

\* \* \*

*Serious and immediate hazard* means a condition that violates this article and that in the absence of immediate corrective action by the city presents a reasonable likelihood of causing serious bodily injury to a human being. For purposes of illustration only, examples of serious and immediate hazards include (a) a condition presenting a reasonable likelihood of electrocution or asphyxiation; (b) a structure reasonably likely to collapse; and (c) a vacant structure in which there is a reasonable likelihood that an individual with no right of entry may commit a violent criminal act while shielded from public view. The existence of a serious and immediate hazard may be determined from the personal observation of any person or from circumstantial evidence.

\* \* \*

**Sec. 10-331. Authority of the hearing officer.**

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Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

~~For the enforcement of this article the~~ The hearing officer is authorized to conduct public administrative proceedings hearings and to enter orders to the extent and in the manner provided by this article and to the extent authorized by Subchapter A of Chapter 214, Texas Local Government Code, and by this article, or by the Fire Code.

\* \* \*

DIVISION 8. SPECIAL HEARINGS UNDER THE FIRE CODE

**Sec. 10-411. Appeals of certain orders of the fire code official.**

(a) An order of the fire code official (as defined in the Fire Code) outside the scope of Section 105 and Sections 108.1 through 108.3 of the Fire Code shall be appealed by filing a written request for an administrative hearing, which request must be received by the city secretary within thirty days after the day on which the person filing the request was served with the order. Notwithstanding the previous sentence, an order issued under Section 105.5.3 of the Fire Code shall be appealed in the manner provided by this division. All such requests received by the city secretary shall be forwarded promptly to the fire code official. In the absence of such a request for hearing, the order of the fire code official is final, and no further appeal shall be allowed.

(b) No later than thirty days after the city secretary's receipt of a request to which subsection (a) of this section refers, the fire code official shall give a written notice of hearing to each owner, lienholder, and mortgagee of the subject property in the manner described in Section 214.0011(c), Texas Local Government Code. The notice of hearing shall include the following information:

- (1) That a hearing will be held on a stated date and at a stated time and place, which date shall be as soon as practicable but in any case no later than ninety days after the day on which the city secretary receives a request to which subsection (a) of this section refers;
- (2) That the hearing will be held before a hearing official to consider whether the order was duly authorized by the Fire Code;
- (3) That any person having a legal interest in the property (as evidenced by the real property records of the county in which the property is located) may appear in person, may be represented by an attorney, may present testimony and other evidence, and may cross-examine all witnesses; and

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- (4) That the hearing will be conducted "in accordance with division 8 of article IX of Chapter 10 of the Code of Ordinances, Houston, Texas, which Code is available for public review at [www.houstontx.gov/codes](http://www.houstontx.gov/codes)."

(c) The hearing officer shall conduct the hearing to which subsection (b) of this section refers.

- (1) If the hearing is a record proceeding, the hearing shall be recorded by a court reporter certified by the Texas Court Reporters Certification Board.
- (2) The hearing may be postponed once for good cause shown; the existence of "good cause" shall be determined by the hearing officer in the exercise of his sole but reasonable discretion.
- (3) If no person having a legal interest in the property appears before the hearing officer on the date and at the time for which notice was given, the hearing officer shall dismiss the appeal.
- (4) After consideration of the evidence presented at the hearing, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
- a. A statement of the date, time, and place of the hearing and of the authority pursuant to which the hearing was conducted;
  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A general description of the evidence considered by the hearing officer; and
  - d. A declaration that the order was or was not duly authorized by the Fire Code.
- (5) In the event that the hearing official declares that the order was not duly authorized by the Fire Code, the fire code official shall withdraw the order.

**Sec. 10-412. Hearings after permit revocation or summary abatement.**

(a) Before the fifteenth day after the day on which the fire code official either (1) revokes a permit pursuant to Section 105.5.3 of the Fire Code or (2) summarily abates a serious and immediate fire hazard pursuant to Section 110.3 of the Fire Code, the fire code

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official shall give written notice in the manner described in Section 214.0011(c), Texas Local Government Code, to each owner, lienholder, and mortgagee of the subject property, which notice shall (1) notify the said person(s) of the right to request an administrative hearing to determine whether the permit revocation or summary abatement was duly authorized by law and (2) state an address to which such a request shall be delivered or mailed.

(b) A request responsive to the notice described in subsection (a) of this section must be received by the fire code official within thirty days after the day on which the person submitting the request was served with the notice. In the absence of such a request for hearing, the permit revocation or summary abatement shall be deemed to have been authorized by law.

(c) No later than thirty days after the fire code official's receipt of a request to which subsection (b) of this section refers, the fire code official shall give a written notice of hearing to each owner, lienholder, and mortgagee of the subject property in the manner described in Section 214.0011(c), Texas Local Government Code. The notice of hearing shall include the following information:

- (1) That a hearing will be held on a stated date and at a stated time and place, which date shall be as soon as practicable but in any case no later than ninety days after the day on which the fire code official receives a request to which subsection (b) of this section refers;
- (2) That the hearing will be held before a hearing official to consider whether the permit revocation or summary abatement was authorized by law;
- (3) That any person having a legal interest in the property (as evidenced by the real property records of the county in which the property is located) may appear in person, may be represented by an attorney, may present testimony and other evidence, and may cross-examine all witnesses; and
- (4) That the hearing will be conducted "in accordance with Division 8 of Article IX of Chapter 10 of the Code of Ordinances, Houston, Texas, which Code is available for public review at [www.houstontx.gov/codes](http://www.houstontx.gov/codes)."

(d) The hearing officer shall conduct the hearing to which subsection (c) of this section refers.

- (1) If the hearing is a record proceeding, the hearing shall be recorded by a court reporter certified by the Texas Court Reporters Certification Board.

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- (2) The hearing may be postponed once for good cause shown; the existence of "good cause" shall be determined by the hearing officer in the exercise of his sole but reasonable discretion.
- (3) After consideration of the evidence presented at the hearing, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
  - a. A statement of the date, time, and place of the hearing and of the authority pursuant to which the hearing was conducted;
  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A general description of the evidence considered by the hearing officer; and
  - d. A declaration that the permit revocation or summary abatement was or was not authorized by law.
- (4) In the event that the hearing official declares that the revocation of a permit was not authorized by law, the fire code official shall reissue the permit.
- (5) If no person having a legal or equitable interest in the property appears before the hearing officer on the date and at the time for which notice was given, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
  - a. A statement of the date, time, and place of the hearing and of the authority pursuant to which the hearing was conducted;
  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A statement that no person having a legal or equitable interest in the property appeared before the hearing officer on the date and at the time for which notice was given; and
  - d. A declaration that the permit revocation or summary abatement is presumed to have been authorized by law.

[END]

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**PROPOSED AMENDMENTS TO FIRE CODE**

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**104.5 Notices and orders.** ~~The~~ As may be required to enforce this code, the fire code official is authorized to issue and to serve such notices, or orders, and criminal citations, as well as administrative citations or summonses in the manner prescribed by Article XVIII of Chapter 10 of the City Code ~~as are required to affect compliance with this code in accordance with Sections 109.1 and 109.2.~~

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**105.5 Revocation.** A permit issued under the provisions of this code may be revoked as provided herein after a hearing conducted by the Section 105 hearing official, if the Section 105 hearing official finds from a preponderance of evidence adduced at such hearing that there has been a false statement or misrepresentation as to the material facts in the application or construction documents on which the permit or approval was based, or a violation of the terms and conditions as set forth in this code, including, but not limited to, any one of the following:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations for the permit, as set forth in this code, have been violated.
4. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm than the name for which it was issued.
6. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.
7. The permit was issued in error or in violation of an ordinance, regulation or this code.

**105.5.1 Notice of hearing.** Not later than 14 days prior to the date set for the revocation hearing by the Section 105 hearing official, the permit holder shall be given a written notice by the fire code official which shall set forth:

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1. The grounds upon which the fire code official will seek revocation of the permit;
2. That a hearing has been scheduled thereon before the Section 105 hearing official and the time, date and place of the hearing; and
3. That the permit holder may appear, may be represented by counsel, may present evidence and may cross examine witnesses presented by the fire code official.

**105.5.2 Hearing.** ~~A~~ Except for hearings related to orders issued under Section 105.5.3, all hearings under this code Section 105 shall be conducted by the fire chief or a representative, hereinafter called "Section 105 hearing official." The fire chief shall not designate any person to be a hearing official under this code who has taken any part in the investigation of the matter that is the subject of the hearing or any person who directly supervised the investigation. The In rendering a decision, the Section 105 hearing official shall consider only the evidence presented at the hearing in rendering a decision. The A decision of the Section 105 hearing official shall be set forth in writing, copies of which and shall be served upon each party in the same manner as the notice of a right to a hearing.

**105.5.3 Emergencies.** ~~Where an emergency exists, the fire code official shall not be required to give a written notice or hearing prior to revoking the permit.~~ **Emergency revocation of permit.** If the revocation of a permit issued under this code reasonably appears to be necessary to abate or ameliorate a serious and immediate fire hazard, the fire code official may revoke the permit without prior notice or hearing. In such circumstances, however, the fire code official must provide the permit holder with an opportunity for a post-revocation hearing in the manner prescribed by Division 8 of Article IX of Chapter 10 of the City Code.

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**SECTION 108  
BOARD OF APPEALS**

**108.1 Board of appeals established.** ~~In order to hear and decide appeals of orders, from decisions or determinations made by of the fire code official relative to the application and interpretation of this code as to the suitability of alternate materials and types of construction, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the Mayor, subject to confirmation by the City Council. The fire code official shall be an ex officio member of said board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. See Appendix A.~~

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**108.2 Limitations on authority.** An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall have no authority to waive requirements of this code. The fire code official shall take action in accordance with the decision of the board.

**108.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to this code.

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**SECTION 109  
VIOLATIONS**

**109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**109.2 Notice of violation.** When the fire code official finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation ("NOV") describing the conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection. The NOV advises the recipient of the existence of a violation of this code but does not initiate a judicial or administrative proceeding. Service of an NOV is not required prior to service of a citation or summons or to other action to enforce this code.

**109.2.1 Service of NOV.** ~~A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either~~ The fire code official may serve (by personal service; or by certified mail, return receipt requested) or by delivering the same to, and leaving it with, some person of responsibility upon the premises an NOV upon such person(s) as the fire code official believes should be notified of the violation. For unattended or abandoned locations, a copy of ~~such notice of violation~~ the NOV may shall be posted on the premises in a conspicuous place at or near the entrance to such premises, in which case a copy of the NOV and a copy of the notice of violation shall be mailed by certified mail, with return receipt requested or a certificate of mailing, to the owner of the property at the owner's last known address of the owner, occupant or both, according to the records of the appraisal district in which the property is located.

**109.2.2 Compliance with orders and notices.** A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or

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other person responsible for the condition or violation to which the notice of violation pertains.

**109.2.3 Prosecution of violations.** ~~If the notice of violation is not complied with promptly or if a persons owning, operating, or maintaining an occupancy, premises property, or vehicle subject to this code allows a hazard violation of this code to exist or fails to take immediate action to abate a hazard on the occupancy, premises, or vehicle violation when ordered to do so by the fire code official, the fire code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto take any action authorized by this code or other applicable law.~~

**109.2.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

**109.3 General Penalty; continuing violations.** When in this code an act is prohibited or is made or declared to be unlawful or an offense or misdemeanor, or wherever in this code the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefor, the violation of any such provision of code shall be punished by a fine of not less than \$500.00, nor more than \$2,000.00; provided, however, that no penalty shall be greater or lesser than the penalty provided for the same offense under the laws of the state. Each day any violation of this code shall continue shall constitute a separate offense. In prosecutions under this code, the various provisions hereof that are designated as exceptions shall not be treated as exceptions within the meaning of Section 2.02 of the Texas Penal Code, and instead, they shall constitute defenses to prosecution within the meaning of Section 2.03 of the Texas Penal Code.

**109.3.1 License suspension/revocation.** The suspension, revocation, cancellation or denial of any license, permit or certificate by the jurisdiction shall not prohibit the imposition of any civil or criminal penalty. The imposition of a civil or criminal penalty by the jurisdiction shall not prohibit the suspension, revocation, cancellation or denial of any license, permit or certificate.

**109.3.2 Enforced removal or abatement.** The application of the foregoing penalty shall not be held to prevent the enforced removal or abatement of any prohibited condition.

**109.3.3 Administrative adjudication of unlawful parking or stopping of vehicle.** The provisions of Article IV of Chapter 16 of the City Code shall be applicable to the adjudication of any offense arising under this code that involves the parking or stopping of a vehicle. The fines for parking or stopping of a vehicle shall be as

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otherwise provided in this section or other provisions of this code, as applicable, but the citation shall be issued and adjudicated in all respects as provided in Article IV of Chapter 16 of the *City Code*.

**109.3.4 Abatement of violation Referral to city attorney.** ~~In addition to the imposition of the penalties herein described other remedies authorized by this code or other applicable law, the fire code official is authorized to institute~~ may refer a violation to the city attorney for appropriate legal action to prevent unlawful construction or to restrain, correct or abate or restrain an activity, condition, or occupancy constituting or resulting from a violation of this code; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

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**SECTION 110  
UNSAFE BUILDINGS**

**110.1 General authority.** ~~If during the inspection of all or part of a property premises, a building or structure or any building system, in whole or in part, violates this code and constitutes a clear and inimical threat to human life, safety or public health or safety, the fire code official shall issue such notices or orders to remove or remedy abate the conditions threat as shall be deemed necessary in accordance with this section are reasonable under the circumstances and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required in accordance with the Construction Code and the procedures set forth in Articles VIII and IX of Chapter 10 of the City Code and this section. Such notices may include one or more placards posted conspicuously at the property stating that the property is a threat to public health or safety, that the Fire Marshal may order an evacuation of the structure or take other action against the property, and that persons who continue to use the building do so at their own risk. The wording of the placard shall be factually accurate, but no particular wording is prescribed.~~

**110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

**110.1.2 Structural hazards.** ~~When an apparent structural hazard is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, the fire code official shall immediately notify the building code official in accordance with Section 110.1.~~ Administrative hearing under City Code. The fire

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code official may schedule a public hearing before a hearing officer as provided by Division 2 of Article IX of Chapter 10 of the City Code and request any relief authorized by the said Article IX.

**110.2 Evacuation.** The fire code official or the fire department official in charge of an incident shall be authorized to order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants. Persons so notified shall immediately leave the structure or premises and shall not enter or re-enter until authorized to do so by the fire code official or the fire department official in charge of the incident.

**110.3 Summary abatement.** ~~Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.~~ If all or part of a property or structure constitutes a serious and immediate fire hazard, the fire code official or a fire department official in charge of an incident may abate or otherwise remedy the said hazard without prior notice or hearing. In such circumstance, however, the fire code official must provide each owner, lienholder, and mortgagee of the subject property with an opportunity for a post-abatement hearing in the manner prescribed by Division 8 of Article IX of Chapter 10 of the City Code.

**110.4 Abatement.** ~~The owner, operator, or occupant of a building or premises deemed unsafe by the fire code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.~~

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**SECTION 111  
STOP WORK ORDER**

**111.1 Order.** Whenever the fire code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the fire code official is authorized to issue a stop work order.

**111.2 Issuance.** A stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work is authorized to resume.

**111.2.1 Hearing.** ~~Hearing shall be provided notice and conducted in accordance with Sections 105.5.1 and 105.5.2.~~

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**111.3 Emergencies.** Where an emergency exists, the fire code official shall not be required to give a written notice prior to stopping the work.

**111.4 Failure to comply.** It shall be unlawful to fail to comply with any stop work order.

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**SECTION 202**  
**GENERAL DEFINITIONS**

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**SECTION 105 HEARING OFFICIAL.** The person or persons designated in writing by the Mayor of the City of Houston to consider (a) applications by the fire code official to revoke permits issued under authority of Section 105 of this code; (b) appeals of denials of permits authorized by Section 105 of this code; and (c) appeals of orders issued under authority of Section 105 of this code, except that appeals of orders issued under authority of Section 105.5.3 shall be considered as provided elsewhere in this code. A Section 105 hearing official may be an employee of the Houston Fire Department, except that no person who has taken part, directly or indirectly, in any decision, order, or investigation related to the subject of the hearing shall serve as a Section 105 hearing official. A Section 105 hearing official shall act without bias for or against any hearing participant, including the Houston Fire Department.

\* \* \*

**SERIOUS AND IMMEDIATE FIRE HAZARD.** A condition that violates this code and that in the absence of immediate action by the fire code official or a fire department official in charge of an incident presents a reasonable likelihood of causing serious bodily injury to a human being.

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PROPOSED AMENDMENTS CODE OF ORDINANCES

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**Sec. 10-317. Definitions.**

When used in this article, the following words and phrases have the meaning stated, unless the context of their usage clearly indicates another meaning:

*Building standards official* means the neighborhood protection official or the building official or the fire code official (as defined in the Fire Code), according to their respective enforcement responsibilities as provided in this article or in the Fire Code.

\* \* \*

*Hearing officer* means the individual, whether one or more, designated by the mayor to conduct administrative hearings as provided by this article; to consider evidence of violations of this article and of certain provisions of the Fire Code, as provided therein or in ~~by this article, Code~~; and to enter orders as are supported by the evidence.

\* \* \*

*Serious and immediate hazard* means a condition that violates this article and that in the absence of immediate corrective action by the city presents a reasonable likelihood of causing serious bodily injury to a human being. For purposes of illustration only, examples of serious and immediate hazards include (a) a condition presenting a reasonable likelihood of electrocution or asphyxiation; (b) a structure reasonably likely to collapse; and (c) a vacant structure in which there is a reasonable likelihood that an individual with no right of entry may commit a violent criminal act while shielded from public view. The existence of a serious and immediate hazard may be determined from the personal observation of any person or from circumstantial evidence.

\* \* \*

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~~For the enforcement of this article the~~ The hearing officer is authorized to conduct public administrative ~~proceedings~~ hearings and to enter orders ~~to the extent and~~ in the manner provided by this article and to the extent authorized by Subchapter A of Chapter 214, Texas Local Government Code, and by this article, or by the Fire Code.

\* \* \*

DIVISION 8. SPECIAL HEARINGS UNDER THE FIRE CODE

**Sec. 10-411. Appeals of certain orders of the fire code official.**

(a) An order of the fire code official (as defined in the Fire Code) outside the scope of Section 105 and Sections 108.1 through 108.3 of the Fire Code shall be appealed by filing a written request for an administrative hearing, which request must be received by the city secretary within thirty days after the day on which the person filing the request was served with the order. Notwithstanding the previous sentence, an order issued under Section 105.5.3 of the Fire Code shall be appealed in the manner provided by this division. All such requests received by the city secretary shall be forwarded promptly to the fire code official. In the absence of such a request for hearing, the order of the fire code official is final, and no further appeal shall be allowed.

(b) No later than thirty days after the city secretary's receipt of a request to which subsection (a) of this section refers, the fire code official shall give a written notice of hearing to each owner, lienholder, and mortgagee of the subject property in the manner described in Section 214.0011(c), Texas Local Government Code. The notice of hearing shall include the following information:

- (1) That a hearing will be held on a stated date and at a stated time and place, which date shall be as soon as practicable but in any case no later than ninety days after the day on which the city secretary receives a request to which subsection (a) of this section refers;
- (2) That the hearing will be held before a hearing official to consider whether the order was duly authorized by the Fire Code;
- (3) That any person having a legal interest in the property (as evidenced by the real property records of the county in which the property is located) may appear in person, may be represented by an attorney, may present testimony and other evidence, and may cross-examine all witnesses; and

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- (4) That the hearing will be conducted "in accordance with division 8 of article IX of Chapter 10 of the Code of Ordinances, Houston, Texas, which Code is available for public review at [www.houstontx.gov/codes](http://www.houstontx.gov/codes)."

(c) The hearing officer shall conduct the hearing to which subsection (b) of this section refers.

- (1) If the hearing is a record proceeding, the hearing shall be recorded by a court reporter certified by the Texas Court Reporters Certification Board.
- (2) The hearing may be postponed once for good cause shown; the existence of "good cause" shall be determined by the hearing officer in the exercise of his sole but reasonable discretion.
- (3) If no person having a legal interest in the property appears before the hearing officer on the date and at the time for which notice was given, the hearing officer shall dismiss the appeal.
- (4) After consideration of the evidence presented at the hearing, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
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  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A general description of the evidence considered by the hearing officer; and
  - d. A declaration that the order was or was not duly authorized by the Fire Code.
- (5) In the event that the hearing official declares that the order was not duly authorized by the Fire Code, the fire code official shall withdraw the order.

**Sec. 10-412. Hearings after permit revocation or summary abatement.**

(a) Before the fifteenth day after the day on which the fire code official either (1) revokes a permit pursuant to Section 105.5.3 of the Fire Code or (2) summarily abates a serious and immediate fire hazard pursuant to Section 110.3 of the Fire Code, the fire code

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official shall give written notice in the manner described in Section 214.0011(c), Texas Local Government Code, to each owner, lienholder, and mortgagee of the subject property, which notice shall (1) notify the said person(s) of the right to request an administrative hearing to determine whether the permit revocation or summary abatement was duly authorized by law and (2) state an address to which such a request shall be delivered or mailed.

(b) A request responsive to the notice described in subsection (a) of this section must be received by the fire code official within thirty days after the day on which the person submitting the request was served with the notice. In the absence of such a request for hearing, the permit revocation or summary abatement shall be deemed to have been authorized by law.

(c) No later than thirty days after the fire code official's receipt of a request to which subsection (b) of this section refers, the fire code official shall give a written notice of hearing to each owner, lienholder, and mortgagee of the subject property in the manner described in Section 214.0011(c), Texas Local Government Code. The notice of hearing shall include the following information:

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- (2) That the hearing will be held before a hearing official to consider whether the permit revocation or summary abatement was authorized by law;
- (3) That any person having a legal interest in the property (as evidenced by the real property records of the county in which the property is located) may appear in person, may be represented by an attorney, may present testimony and other evidence, and may cross-examine all witnesses; and
- (4) That the hearing will be conducted "in accordance with Division 8 of Article IX of Chapter 10 of the Code of Ordinances, Houston, Texas, which Code is available for public review at [www.houstontx.gov/codes](http://www.houstontx.gov/codes)."

(d) The hearing officer shall conduct the hearing to which subsection (c) of this section refers.

- (1) If the hearing is a record proceeding, the hearing shall be recorded by a court reporter certified by the Texas Court Reporters Certification Board.

Redline for Ordinance to Amend Fire Code and COH Code Chapter 10  
Based on Draft 2.5 of Proposed Ordinance (March 4, 2013)

- (2) The hearing may be postponed once for good cause shown; the existence of "good cause" shall be determined by the hearing officer in the exercise of his sole but reasonable discretion.
- (3) After consideration of the evidence presented at the hearing, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
  - a. A statement of the date, time, and place of the hearing and of the authority pursuant to which the hearing was conducted;
  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A general description of the evidence considered by the hearing officer; and
  - d. A declaration that the permit revocation or summary abatement was or was not authorized by law.
- (4) In the event that the hearing official declares that the revocation of a permit was not authorized by law, the fire code official shall reissue the permit.
- (5) If no person having a legal or equitable interest in the property appears before the hearing officer on the date and at the time for which notice was given, the hearing officer shall issue a written order, the substance of which order shall be limited to the following:
  - a. A statement of the date, time, and place of the hearing and of the authority pursuant to which the hearing was conducted;
  - b. A list of all persons who attended all or part of the hearing, to the extent known by the hearing officer;
  - c. A statement that no person having a legal or equitable interest in the property appeared before the hearing officer on the date and at the time for which notice was given; and
  - d. A declaration that the permit revocation or summary abatement is presumed to have been authorized by law.

[END]

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

**RCA# 9507**

**Subject:** Approve an Ordinance Awarding Two Contracts for School Buses, Coaches, Mini Buses and Vans Rental Services for the Parks & Recreation Department/S37-L24391

Category #    Page 1 of 2    Agenda Item

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

**Origination Date**  
February 11, 2013

**Agenda Date**  
~~APR 03 2013~~  
~~MAR 27 2013~~

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

**Council District(s) affected**  
All

**For additional information contact:**  
Luci Correa                      Phone: (832) 395-7057  
Douglas Moore                 Phone: (832) 393-8724

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

**RECOMMENDATION: (Summary)**  
Approve an ordinance 1) awarding a contract to First Student, Inc. for a total amount not to exceed \$390,250.00 for school buses rental services; and 2) awarding a contract to GBJ, Inc. dba AFC Transportation for a total amount not to exceed \$346,575.00 for coaches, mini buses and vans rental services for the Parks & Recreation Department.

Maximum Contracts Amount: \$736,825.00

**Finance Budget**

\$736,825.00 - Park Special Revenue Fund (2100)

**SPECIFIC EXPLANATION:**  
The Director of the Parks & Recreation Department and the City Purchasing Agent recommend that City Council approve ordinances awarding two two-year contracts, with three one-year options, to First Student, Inc. in a total amount not to exceed \$390,250.00 for school buses rental services; and to GBJ, Inc. dba AFC Transportation in a total amount not to exceed \$346,575.00 for coaches, mini buses and vans rental services for the Parks & Recreation Department (PRD). The City Purchasing Agent may terminate this contract at any time upon 30-days written notice.

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

**First Student, Inc.:** Award on its low bid for rental services of school buses (Bid Item Nos. 1-8 and 33 and 35) in a total amount not to exceed \$390,250.00.

<u>Company</u>	<u>Total Amount</u>
1. First Student, Inc.	\$390,250.00
2. GBJ, Inc. dba AFC Transportation	\$438,725.00
3. BH Goodman Bus Service, Inc. dba Goodman Bus Service	\$496,793.75

**GBJ Inc. dba AFC Transportation:** Award on its low bid for rental services of coach buses, mini-buses and vans (Bid Item Nos. 9-32 and 34) in an amount not to exceed \$346,575.00.

*AWARDED - 3-27-13*

<u>Company</u>	<u>Total Amount</u>
1. GBJ, Inc. dba AFC Transportation	\$346,575.00
2. BH Goodman Bus Service, Inc. dba Goodman Bus Service	\$271,780.00 (Partial Bid)

The scope of work requires the contractor to provide all labor, supervision, equipment, insurance, licenses, vehicles and transportation services for the PRD. The contracts will be used by PRD to provide transportation for youth and senior citizens who will participate in sponsored field trips and to sporting tournaments/events

**REQUIRED AUTHORIZATION**

**NDT**

Finance Department:	Other Authorization:	Other Authorization:
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Date: 2/11/2013	Subject: Approve an Ordinance Awarding Two Contracts for School Buses, Coaches, Mini Buses and Vans Rental Services for the Parks & Recreation Department/S37-L24391	Originator's Initials JH	Page 2 of 2
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throughout the Houston metropolitan area. PRD community center utilizes these services to sponsor the following programs: Afterschool and Summer Enrichment Program, youth baseball and softball, youth basketball, junior golf, soccer, and flag football. Additionally, PRD will use these services to transport citizens to various events and venues such as the Miller Outdoor Theatre, Houston metropolitan sport tournaments and special events, Street Olympics, the Senior Health Fitness Event, Houston Zoological Gardens, Museum of Fine Arts, Museum of Natural Science, and the Houston Arboretum and Nature Center. The vans, mini-buses and school buses will be used to transport youth to community center-sponsored events and sporting events. The motor coaches will be primarily used to transport senior citizens and tournament participants. There is no other commercial transportation available for these types of activities, which is inclusive of Metro. The utilization of school buses will be used for all other sponsored activities.

**M/WBE Subcontracting:**

This invitation to bid was issued as a goal-oriented contract with an 11% M/WBE participation level. First Student, Inc. has designated the following company as its certified M/WBE subcontractor:

<u>Name</u>	<u>Type of Work</u>	<u>Percentage</u>	<u>Amount</u>
Alamo Bus Service, Inc.	Bus Service	11%	\$42,975.50

GBJ, Inc. dba AFC Transportation has designated the following company as its certified M/WBE subcontractor:

<u>Name</u>	<u>Type of Work</u>	<u>Percentage</u>	<u>Amount</u>
Atlantic Petroleum & Mineral Resources, Inc.	Fuel & warehousing	11%	\$38,123.25

The Office of Business Opportunity will monitor these contracts.

**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 contractors provide health benefits to eligible employees in compliance with City policy.

**Hire Houston First:**

The proposed contract requires compliance with the City's 'Hire Houston First' ordinance that promotes economic opportunity for Houston businesses and supports job creation. In this case, the proposed contractors do not meet the requirements of Hire Houston First; no Hire Houston First firms were within three percent.

Buyer: Joyce Hays

**Estimated Spending Authority**

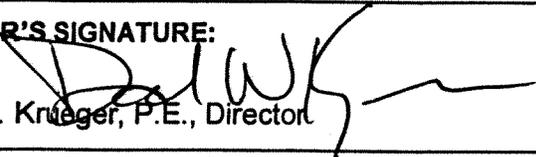
DEPARTMENT	FY 13	OUT YEARS	TOTAL
Parks and Recreation	\$31,825.00	\$705,000.00	<b>\$736,825.00</b>

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> Additional Appropriation to Professional Engineering Services Contract between the City and Othon, Inc. for Negotiated Work Orders for Design of New and Rehabilitation of Existing Pump Stations, and Flood Warning Systems. WBS No. M-000241-0006-3	Page 1 of 2	Agenda Item # <div style="border: 1px solid black; padding: 5px; display: inline-block;">33</div>
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<b>FROM: (Department or other point of origin):</b> Department of Public Works and Engineering	<b>Origination Date:</b> 3/21/13	<b>Agenda Date:</b> APR 03 2013 <del>MAR 27 2013</del>
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<b>DIRECTOR'S SIGNATURE:</b>  Daniel W. Krueger, P.E., Director	<b>Council District affected:</b> ALL <i>PRR</i>
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<b>For additional information contact:</b> <i>Ravi Kaleyatodi</i> 12/10/12 Ravi Kaleyatodi, P.E., CPM Phone: (832) 395-2326 Senior Assistant Director	<b>Date and identification of prior authorizing Council action:</b> Ordinance No. 2012-0173; February 29, 2012
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**RECOMMENDATION: (Summary)**  
 Approve an Ordinance appropriating additional funds for Professional Engineering Services Contract with Othon, Inc.

**Amount and Source of Funding:** \$293,250.00 from Fund 4042 - Street & Traffic Control and Storm Drainage DDSRF. *M.P. 12/12/2012*

Original (previous) appropriation of \$690,000.00 from Fund 4042 - Street & Traffic Control and Storm Drainage DDSRF.

**PROJECT NOTICE/JUSTIFICATION:** This contract is necessary for safety enhancements, improved functionality, and advanced warning system to alert the traveling public.

**DESCRIPTION/SCOPE:** This project is part of the Storm Drainage Capital Improvement Plan (CIP) and is required to provide professional engineering services to perform engineering design, construction of new and rehabilitation of existing City storm water facilities, including storm water pump stations, and flood warning systems at various locations citywide.

**LOCATION:** The project location and limits will be established by the work order.

**PREVIOUS HISTORY AND SCOPE:** The original contract was awarded by Council on February 29, 2012 under Ordinance Number 2012-0173 with a two-year term. Under the terms of the Contract, the Consultant provided Final Design and Construction Phase Basic Services for various locations. Additional funding is now required for continuation of design and construction phase services for other locations.

LTS No. 3835 CUIC ID# 20RRA13

Finance Department	<b>Other Authorization:</b>	<b>Other Authorization:</b>  Daniel R. Menendez, P.E., Deputy Director Engineering and Construction Division
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**SCOPE OF THIS SUPPLEMENT AND FEE:** The requested additional appropriation will accomplish the following tasks: Final Design and Construction Phase Basic Services as defined in each Work Order. The Basic Services and Additional Services fee for each Work Order will be defined depending on the extent of services required for each Work Order. Additional Services include, but are not limited to, site assessment, surveying, geotechnical and environmental services.

The total cost of this supplement is \$293,250.00 to be appropriated as follows: \$255,000.00 for contract services and \$38,250.00 for Capital Improvement Plan cost recovery.

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

**M/WBE INFORMATION:** The M/WBE goal established for this project is 24%. The original Contract amount totals \$ 600,000.00. The Consultant has been paid \$93,369.45 (15.56%) to date. Of this amount, \$19,335.00 (20.71%) has been paid to M/WBE sub-consultants to date. Assuming approval of the requested additional appropriation, the contract amount will increase to \$855,000.00. The Consultant proposes the following plan to meet the M/WBE goal:

<u>Name of Firms</u>	<u>Work Description</u>	<u>Subconsultant Amount</u>	<u>% of Total Contract</u>
1. Paid Prior Commitment	---	\$ 19,335.00	2.26%
2. Associated Testing Laboratories, Inc.	Environmental Site Assessments	\$ 8,550.00	1.00%
3. Geotest Engineering, Inc.	Geotechnical Investigation	\$ 8,550.00	1.00%
4. JAG Engineering, Inc.	Surveying Services	\$ 59,620.00	6.97%
5. Shrader Engineering Inc.	Electrical/Instrumentation Engineering	<u>\$117,695.00</u>	<u>13.77%</u>
<b>TOTAL</b>		<b>\$ 213,750.00</b>	<b>25.00%</b>

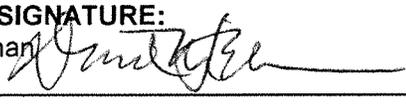
  
DWK:DRM:RK:DPS:RRA:klw

H:\design\A-sw-div\WPDATA\00 - STM ENGR PROJECTS\Storm Water Pump Station (M-0241-6) - D12\_C12\Supplement 1\M-000241-0006-3 RCA (Revised 11-29-2012).docx

c: File No. M-000241-0006-3 (1.2 RCA)

TO: Mayor via City Secretary

REQUEST FOR COUNCIL ACTION

<b>SUBJECT:</b> An Ordinance authorizing an agreement with Mithoff Law Firm and Cotchett, Pitre, & McCarthy, LLP relating to the pursuit of damages associated with London Interbank Offered Rate ("LIBOR") manipulation.		Page 1 of 1	Agenda Item 34
<b>FROM (Department or other point of origin):</b> Legal Department	<b>Origination Date</b> 3/13/13	<b>Agenda Date</b> <del>3/19/2013</del> MAR 20 2013	
<b>DIRECTOR'S SIGNATURE:</b> David M Feldman City Attorney 	<b>Council District affected:</b> All	<del>MAR 27 2013</del> APR 03 2013	
<b>For additional information contact:</b>  Kelly Dowe, Director of Finance - 832-393-9051	<b>Date and identification of prior authorizing Council action:</b>		
<b>RECOMMENDATION:</b> (Summary) Adopt an ordinance approving an agreement for legal services between the City of Houston and the Mithoff Law Firm and Cotchett, Pitre, & McCarthy, LLP, for representation of the City in an action to be initiated against financial institutions who may be liable to the City in connection with LIBOR manipulation.			
<b>Amount and Source Of Funding:</b> Payment to the Mithoff Law Firm and Cotchett, Pitre, & McCarthy, LLP, is contingent upon recovery of funds from defendant financial institutions.			
<b>SPECIFIC EXPLANATION:</b>  City seeks to retain the Mithoff Law Firm and Cotchett, Pitre, & McCarthy, LLP ("Firms") to assist the City with the investigation and prosecution of London Interbank Offered Rate (LIBOR) litigation against financial institutions that participate in setting the LIBOR and engaged in a conspiracy to manipulate LIBOR interest rates upon which a multitude of municipal financial instruments are set, including equity investments; derivative investments such as interest rate swaps, forward purchase agreements, etc.; debt; pensions; mortgages; leases and other municipal transactions. These actions caused the City to pay artificially high rates and/or receive artificially depressed rates of returns on its financial instruments, and to incur unreasonable and excessive fees and costs.  Such work is to be performed by Firms on a contingency fee based on the net recovery (i.e., all amounts received by the City by way of judgment settlement, or other resolution after the deduction of litigation expenses incurred by the Firms). The contingency fee will be 10.5%; however, should the case settle within less than 6 months of filing the complaint, the contingency fee will be 5.25%, and should the case settle within six to twelve months from the filing of the complaint, the fee will be 7.40%.  No settlement or resolution of the dispute will be undertaken without the approval of the City Attorney.			
<b>REQUIRED AUTHORIZATION</b>			
<b>Finance Director:</b>	<b>Other Authorization:</b>	<b>Other Authorization:</b>	

**REQUEST FOR COUNCIL ACTION**

**TO:** Mayor via City Secretary

RCA# 9437

**Subject:** Formal Bids Received for a Pre-Positioned Contract for Base Camp Services (Post Disaster) for the City of Houston S50--L24293

Category #

Page 1 of 2

Agenda Item

35	67	76	27
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**FROM (Department or other point of origin):**  
 Calvin D. Wells  
 City Purchasing Agent  
 Administration & Regulatory Affairs Department

**Origination Date**  
 January 28, 2013

**Agenda Date**  
~~MAR 27 2013~~  
~~MAR 06 2013~~  
 APR 03 2013

**DIRECTOR'S SIGNATURE**  


**Council District(s) affected**  
 All

**For additional information contact:**  
 Dennis Storemski Phone: (832) 393-0875  
 Ray DuRousseau Phone: (832) 393-8726

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

**RECOMMENDATION: (Summary)**  
 Approve an ordinance awarding a pre-positioned contract to DRC Emergency Services, LLC on its low bid for base camp services for the City of Houston.

No funding required at this time.

**Finance Budget**

**SPECIFIC EXPLANATION:**

The Mayor's Office of Public Safety and Homeland Security and the City Purchasing Agent recommend that City Council approve an ordinance awarding a pre-positioned five-year contract to DRC Emergency Services, LLC for base camp services (post disaster) for the City of Houston. The City Purchasing Agent may terminate the agreement at any time upon 30-days written notice to the contractor. The contractor shall be required to provide base camp services for up to 11,500 individuals (employees) during a post disaster period.

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

<u>Company</u>	<u>Amount</u>
1. Country Caterers Barbeque, Inc.	\$28,216,039.00 (Partial Bid - Incomplete)
2. DRC Emergency Services, LLC	\$36,609,500.00
3. Taylor's International Services, Inc.	\$42,737,894.64
4. Selrico Services, Inc.	\$67,741,530.00

- Bidders were asked in the bid solicitation to provide the City with prices for the various types of services, identified on the official bid form, which may be needed in the event of a natural or man-made disaster. The actual amount of each service will be determined at the time of each disaster. **This contract will be activated upon approval of funding by City Council.**

The scope of work requires the contractor to provide all labor, equipment, tools, supervision and transportation, necessary to furnish and construct base camp facilities to include, tent lodging, latrines, tent dining to include boxed meals, recreational tents, tent maintenance facilities for City vehicles, tent medical support facilities, automotive fuel and fuel trucking services, pest control services and associated construction, if required, subsequent to a hurricane, storm, tornado or other disaster related event.

**REQUIRED AUTHORIZATION**

Finance Department:

Other Authorization:

Other Authorization:

Date:  
1/28/2013

Subject: Formal Bids Received for a Pre-Positioned Contract for Base  
Camp Services (Post Disaster) for the City of Houston  
S50--L24293

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Page 2 of 2

**Hire Houston First:**

This procurement included the "Hire Houston First" provision. However, no bids were received from approved "Hire Houston First" firms.

**M/WBE Subcontractor:**

This Invitation to Bid (ITB) was issued as a goal-oriented contract with an 11% M/WBE participation level. DRC Emergency Services, LLC has designated the below-named company as its certified M/WBE subcontractor:

<b><u>Name</u></b>	<b><u>Type of Service</u></b>	<b><u>Dollar Amount</u></b>
Hallmark Capital Group, LLC	Commercial Construction	25% of the contract spending amount at the time of contract activation

The contract will be monitored by the Office of Business Opportunity.

**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.

Buyer: Art Lopez

**BASE CAMP LOCATIONS**

The Houston Police Academy, located at 7000 Aldine Westfield.
The Houston Fire Academy, located at 8030 Braniff.
<b>Other potential locations:</b> 3828 Aberdeen Way, 2902 Berry Road, 8420 Schuller, 8422 Jenson Dr. and 3000 Greens Road.