

BOARD OF ESTIMATES

NOVEMBER 2, 2011

MINUTES

REGULAR MEETING

Honorable Bernard C. "Jack" Young, President
Honorable Stephanie Rawlings-Blake, Mayor
Honorable Joan M. Pratt, Comptroller and Secretary
George A. Nilson, City Solicitor
Alfred H. Foxx, Director of Public Works
David E. Ralph, Deputy City Solicitor
Ben Meli, Deputy Director of Public Works
Bernice H. Taylor, Deputy Comptroller and Clerk

The meeting was called to order by the President.

President: "I will direct the Board members attention to the memorandum from my office dated November 1, 2011, identifying matters to be considered as routine agenda items together with any corrections and additions that have been noted by the Deputy Comptroller. I will entertain a motion to approve all of the items containing the routine agenda."

City Solicitor: "Move the approval of all items contained on the routine agenda."

Comptroller: "Second."

President: "All those in favor say 'AYE', All opposed 'NAY'. The motion carries. The routine agenda has been adopted."

MINUTES

BOARDS AND COMMISSIONS1. Prequalification of Contractors

In accordance with the Rules for Qualification of Contractors, as amended by the Board on October 30, 1991, the following contractors are recommended:

Blastech Enterprises, Inc.	\$ 41,346,000.00
Bruce & Merrilees Electric Company	\$158,247,000.00
Comer Construction, Inc.	\$ 8,000,000.00
Corky Wells Electric, Inc. d/b/a CW Electric	\$ 8,000,000.00
Ecological Restoration & Management, Inc.	\$ 8,000,000.00
Economic International Construction Company, Inc.	\$ 2,646,000.00
J.F. Fischer, Inc.	\$ 53,399,241.00
Midatlantic Marking, Inc. and Affiliate	\$ 11,862,000.00
N.A.A., Inc.	\$ 5,571,000.00

2. Prequalification of Architects and Engineers

In accordance with the Resolution Relating to Architectural and Engineering Services, as amended by the Board on June 29, 1994, the Office of Boards and Commissions recommends the approval of the prequalification for the following firms:

BLV Engineering Associates, Inc.	Engineer
Ceepco Contracting, LLC	Engineer

There being no objections, the Board, UPON MOTION duly made and seconded, approved the prequalification of contractors and architects and engineers for the listed firms.

MINUTES

Baltimore Development - Business Relocation Agreement and
Corporation (BDC) Relocation Payment

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a business relocation agreement and the relocation payment to Second Chance, Inc.

AMOUNT OF MONEY AND SOURCE:

\$600,000.00 - 9910-904354-9601 - 22nd EDF
300,000.00 - BDC cash on-hand
\$900,000.00

BACKGROUND/EXPLANATION:

The BDC has been authorized by the City to oversee the development and implementation of the Carroll Camden Urban Renewal Plan dated March 6, 2002. As a result of the acquisition and demolition activities proposed for the area and in accordance with all applicable federal, state, and local statutes and regulations, including but not limited to, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Second Chance, Inc. is entitled to business relocation assistance and reimbursement.

Second Chance Inc. currently operates a non-profit architectural antiques and salvage business in City-owned buildings located at 1501, 1601, 1633, 1645, and 1725 Warner Street and 2102 Oler Street. Second Chance, Inc. also conducts business in 1400 Warner Street, however this building is not owned by the City. As stated above per federal, state and local statutes and regulations, the City is required to reimburse for moving and reestablishment expenses. Second Chance, Inc. has elected to conduct a self move and a Business Relocation Agreement has been executed. The agreement requires Second Chance, Inc. to relocate from City-owned buildings by February 25, 2012 in consideration for \$900,000.00.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

MINUTESBDC - cont'd**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 203,303.11 20 th EDF	9910-901870-9600 Const. Res. Business Incubators & Center	9910-904354-9601 W. Balto. Ind. & Coml. Dev.
91,406.39 22 nd EDF	9910-901860-9600 Const. Res. Industrial & Coml.	9910-904354-9601 W. Balto. Ind. & Coml. Dev.
305,290.50 22 nd EDF	9910-905575-9600 Const. Res. E. Balto. Ind. & Coml. Dev.	9910-904354-9601 W. Balto. Ind.
<u>\$ 600,000.00</u>	& Coml. Dev.	

This transfer will provide a portion of the funds (\$300,000.00 is already in a capital budget fund) for the comprehensive cost associated with the relocation of Second Chance, Inc. from buildings located at 1400, 1501, 1601, 1633, 1645, and 1725 Warner Street, and 2102 Oler Street. This relocation is necessary for the redevelopment of approximately 11.89 acres of property along Warner Street and is in accordance with the Carroll Camden Urban Renewal Plan.

(FILE NO. 57254)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the business relocation agreement and the relocation payment to Second Chance, Inc. The transfer of

MINUTES

BDC - cont'd

funds was approved SUBJECT to receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, as required by the Provisions of the City Charter.

MINUTES

Office of the State's Attorney- Grant Acceptance
and Grant Agreements

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the acceptance of the below listed grant award agreements from the Governor's Office of Crime Control and Prevention(GOCCP) The period of the grant award agreement is October 1, 2011 through September 30, 2012.

1. FAMILY BEREAVEMENT **\$210,000.00**

Account: 4000-402312-1156-117900-601001

The Family Bereavement Program addresses the needs of homicide survivors. The program assists with grief and loss, as well as provides counseling to family members. The grant funds provide salary support.

2. JUVENILE COURTS VICTIM SPECIALIST **\$ 45,000.00**

Account: 4000-404112-1150-118300-601001

The Juvenile Courts Victim Specialist program provides assistance to victims of juvenile crime. The Juvenile Courts Division tries all juveniles in the Baltimore City Juvenile Courts who are charged with committing delinquent acts. The grant funds provide salary support.

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Office of the State's Attorney - cont'd

3. INTEGRATED CASE MANAGEMENT SYSTEM \$100,000.00

Account: 4000-400212-1151-117900-603026

The City's Integrated Case Management System increases the efficiency and effectiveness in case preparation. The project enhances the exchange and access to all criminal justice data in any agency in the Baltimore City criminal justice system. Grant funds provide equipment and technical resources.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED THE SUBMITTED DOCUMENTATION AND FOUND THAT IT CONFIRMED THE GRANT AWARD.

UPON MOTION duly made and seconded, the Board approved and authorized the acceptance of the aforementioned grant award agreements from the Governor's Office of Crime Control and Prevention.

MINUTES

Department of Planning - Report on Previously
Approved Transfers of Funds

At previous meetings, the Board of Estimates approved Transfers of Funds subject to receipt of favorable reports from the Planning Commission, the Director of Finance having reported favorably thereon, as required by the provisions of the City Charter. Today, the Board is requested to **NOTE 11** favorable reports on Transfers of Funds approved by the Board of Estimates at its meetings on October 12 and 19, 2011.

The Board **NOTED** the **11** favorable reports.

MINUTESDepartment of Recreation and Parks - Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an agreement with Hord Coplan Macht, Inc. for Project No. 1164, On-Call Architectural Design Services. The period of agreement is effective upon Board approval for 36 months or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$1,500,000.00 - Upset Limit

BACKGROUND/EXPLANATION:

The Consultant will provide architectural design services for renovation and improvement of various City park and recreation facilities.

MBE/WBE PARTICIPATION:

MBE:	KUMI Construction Management Corp.	0-24%
	Sidhu Associates, Inc.	0-24%
	TLB Associates, Inc.	0-24%
	Bhargava International, Inc.	0-24%
		24.00%
WBE:	Foundation Test Group, Inc.	0-10%
	Carroll Engineering, Inc.	0-10%
		10.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

AUDITS NOTED THIS ON-CALL AGREEMENT AND WILL REVIEW TASK ASSIGNMENTS.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with Hord Coplan Macht,

MINUTES

Department of Recreation and Parks - cont'd

Inc. for Project No. 1164, On-Call Architectural Design
Services.

MINUTES

Department of General Services - Right-of-Entry Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a right-of-entry agreement with Frederick F. Hinze.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The Department of Public Works, Bureau of Water and Wastewater is proposing to repair a storm drain line running through the property located at 314 Edgevale Road, owned by Frederick F. Hinze.

This repair is being performed under the Department of Public Works On-Call Maintenance Contract.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the right-of-entry agreement with Frederick F. Hinze. The President **ABSTAINED**.

MINUTESDepartment of General Services - Minor Privilege Permit Applications

The Board is requested to approve the following applications for a Minor Privilege Permit. The applications are in order as the Minor Privilege Regulations of the Board and the Building Regulations of Baltimore City.

<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
1. 3310 Greenmount Ave.	Franklin Brothers Realty, LLC	One flat sign 8' x 3'
Annual Charge: \$35.20		
2. 3322 Greenmount Ave.	Ogbazion Ghebregiorgis	One awning with signage 24 ½' x 2 ½', six fluorescent tubes
Annual Charge: \$480.50		
3. 1 - 21 E. Mount Vernon Place	JHP, Inc.	One banner sign 17.75' x 2.5', one banner sign 13.5' x 8', one banner sign 15' x 30', one banner sign 22' x 8'
Annual Charge: \$1,089.70		
4. 2900 Greenmount Ave.	J. S. Ham, LLC	One flat sign 7' x 3'
Annual Charge: \$35.20		

MINUTES

DGS - cont'd

<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
5. 3435 Greenmount Ave.	Larjak Properties #2, LLC	Retain awning over egress stairway 16' 4" x 3'2"

Annual Charge: \$108.35

Since no protests were received, there are no objections to approval.

There being no objections, the Board, UPON MOTION duly made and seconded, approved the minor privilege permits.

MINUTES

Fire and Police Employees' - Supplement to Subscription
Retirement System (F&P) Agreement and Common
Interest Purchase Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the 1.) supplement to subscription agreement with Clarion Lion Properties Fund, LLC, and 2.) a common interest purchase agreement with Nationate-NederlanderIntervest II, B. V. and Clarion Partners LPF GP, LLC (Clarion Partners).

AMOUNT OF MONEY AND SOURCE:

\$1,300,000.00 of F&P funds (approximately)

No general funds are involved in this transaction.

BACKGROUND/EXPLANATION:

In 2003, the F&P Board of Trustees conducted a search for core real estate managers with the objective of allocating a portion of the F&P System's real estate allocation to a core real estate commingled fund. Clarion Lion Properties Fund, LP, formerly Clarion Lion Properties Fund, LLC (the Fund), was selected as a result of the search. A subscription agreement for the investment of approximately \$35,000,000.00 of the F&P's assets was approved by the Board on December 10, 2003.

The fund has returned for the F&P an annual return of 3.87% from 2003 through September 30, 2011. For the 12 month trading period beginning October 1, 2010 through September 30, 2011, the fund returned 23.34% for the F&P. ING Groep, N.V. (ING) was the original fund sponsor. In June 2011, ING sold Clarion Partners, its U.S. based real estate investment manager, to Clarion Partners Management. ING is now offering to sell its shares in the Fund to each shareholder at a substantial discount. The F&P's investment advisor, Summit Strategies Group, has advised the F&P to accept this offer to purchase the proffered shares.

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F&P - cont'd

MBE/WBE PARTICIPATION:

The Minority and Women's Business Opportunity Office has waived MBE/WBE utilization requirements for this selected source, professional services agreement.

(FILE NO. 56054)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the 1.) supplement to subscription agreement with Clarion Lion Properties Fund, LLC, and 2.) the common interest purchase agreement with Nationate-NederlanderInterinvest II, B. V. and Clarion Partners LPF GP, LLC. The Comptroller **ABSTAINED**.

MINUTES

Health Department - Agreements

The Board is requested to approve and authorize execution of the various agreements. The period of the agreement is July 1, 2011 June 30, 2012, unless otherwise indicated.

1. **BON SECOURS BALTIMORE HEALTH CORPORATION** **\$ 90,000.00**

Account: 4000-422011-3030-513221-603051

The organization will provide HIV Rapid Testing, counseling, and referral services to individuals in the emergency department at Bon Secours Hospital. The target population will be any individual in the emergency department that requests to be tested and/or agrees to be tested.

The agreement is late because of the delay in receiving an acceptable budget justification from the provider.

MWBOO GRANTED A WAIVER.

2. **PLANNED PARENTHOOD OF MARYLAND, INC. (PPM)** **\$200,000.00**

Account: 5000-530012-3080-595800-603051

The organization will provide expanded access to preconception care as an integrated part of family planning visits. It will also develop a preconception care toolkit and work with a nutrition consultant to refine offerings of the nutrition component within the PPM preconception program at the PPM Baltimore City Health Center.

MWBOO GRANTED A WAIVER.

The agreement is late because it was just completed.

AUDITS REVIEWED AND HAD NO OBJECTION.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the aforementioned agreements.

MINUTES

Health Department - Employee Expense Report

ACTION REQUESTED OF B/E:

The Board is requested to approve the expense report for Ms. Cindy Carr for the months of May and July 2011.

AMOUNT OF MONEY AND SOURCE:

\$ 86.19 - May 2011
63.29 - July 2011
\$149.48 - 4000-422511-3030-271510-603002

BACKGROUND/EXPLANATION:

Ms. Carr failed to timely submit her expense report. The Department apologizes for the lateness. The Administrative Manual, in Section 240-11, states that Employee Expense Reports that are submitted more than 40 work days after the last calendar day of the month in which the expenses were incurred require Board of Estimates approval.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the expense report for Ms. Cindy Carr for the months of May and July, 2011.

MINUTES

Health Department - Employee Expense Report

ACTION REQUESTED OF B/E:

The Board is requested to approve the expense report for Mr. Harvey Pyatt for the month of April 2011.

AMOUNT OF MONEY AND SOURCE:

\$100.00 - April 2011 - 1001-000000-3021-268600-603022

BACKGROUND/EXPLANATION:

The Department seeks to reimburse Mr. Pyatt for the renewal of his State of Maryland Environmental Sanitarian License. He paid for the renewal on April 28, 2011. He incorrectly thought he could seek reimbursement in July 2011, because his license did not expire until June 30, 2011. The Department apologizes for this error.

The Administrative Manual, in Section 240-11, states that Employee Expense Reports that are submitted more than 40 work days after the last calendar day of the month in which the expenses were incurred require Board of Estimates approval.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the expense report for Mr. Harvey Pyatt for the month of April 2011.

MINUTES

Health Department - Notification of a Grant Award

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize acceptance of a notification of a grant award from the Maryland State Department of Education. The period of the grant award is August 23, 2011 through September 30, 2012.

AMOUNT OF MONEY AND SOURCE:

\$1,622,231.00 - 4000-427112-3080-294300-404001

BACKGROUND/EXPLANATION:

This grant is being awarded under Part C, Part B, and Part B 619 of the Individuals with Disabilities Education Act and State General funds to support early intervention services to infants and toddlers with disabilities and their families.

The notification of grant award is late because the Department was notified on September 16, 2011.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED THE SUBMITTED DOCUMENTATION AND FOUND THAT IT CONFIRMED THE GRANT AWARD.

UPON MOTION duly made and seconded, the Board approved and authorized acceptance of a notification of the grant award from the Maryland State Department of Education.

MINUTES

Health Department - Revised Notice of Grant Award

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize acceptance of a revised notice of a grant award (NGA) from the Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for HIV, Viral Hepatitis, STDS and TB Prevention.

AMOUNT OF MONEY AND SOURCE:

\$99,638.00 - 4000-422111-3030-271400-404001

BACKGROUND/EXPLANATION:

On February 16, 2011, the Board approved the original NGA in the amount of \$345,116.00, for the budget period January 1, 2011 through December 31, 2011.

This revised notice of grant award provides the remaining amount of the 100% total funding for the 12-month budget period, January 1, 2011 through December 31, 2011 (FY 2011) and makes the total amount of the grant \$444,754.00. All other terms and conditions remain unchanged.

The revised NGA is late because it was just received.

APPROVED FOR FUNDS BY FINANCE

**AUDITS REVIEWED THE SUBMITTED DOCUMENTATION AND FOUND THAT IT
CONFIRMED THE GRANT AWARD.**

UPON MOTION duly made and seconded, the Board approved and authorized acceptance of the revised notice of the grant award from the Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for HIV, Viral Hepatitis, STDS and TB Prevention.

MINUTESHealth Department- Ratification and Expenditure of Funds**ACTION REQUESTED OF B/E:**

The Board is requested to ratify an agreement with the Johns Hopkins University (JHU). The period of the agreement is September 10, 2010 through September 29, 2011.

The Board is further requested to approve and authorize an expenditure of funds to pay the JHU.

AMOUNT OF MONEY AND SOURCE:

\$140,668.00 - 4000-421711-3030-271500-603051 - Federal

BACKGROUND/EXPLANATION:

On May 31, 2011, the Department's program manager requested an agreement with the JHU for Alcohol-Exposed Pregnancy (AEP) Intervention Services. The budget was initially incomplete. After numerous requests, an agreement with the JHU for a revised budget, was submitted on August 8, 2011. The agreement was prepared and mailed to the JHU on August 16, 2011 for signature.

On September 20, 2011, the Department received the signed agreement. However, during the routing process the agreement expired on September 29, 2011. The Department is requesting the Board ratify the agreement and authorize payment to the JHU.

MWBOO GRANTED A WAIVER

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE RATIFICATION.

UPON MOTION duly made and seconded, the Board approved ratification of the agreement with the Johns Hopkins University. The Board also approved and authorized an expenditure of funds to pay the JHU. The President **ABSTAINED**.

MINUTESPolice Department - Addendum to Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an addendum to agreement with L. Hicks, Incorporated, d/b/a as The Hicks Police Training System, Inc. The period of the addendum to the agreement is effective upon Board approval for nine months.

AMOUNT OF MONEY AND SOURCE:

\$123,500.00 - 6000-611212-2013-197500-603020

BACKGROUND/EXPLANATION:

This addendum provides for the instruction of six academy classes and two Diamond Standard Training classes for officers as well as the associated expenses. It is anticipated that the contract terms will be completed by June 30, 2012.

The Hicks Police Training System, Inc. is designated to provide practical instruction and reinforce the learning process with a four-part memory retention method which consists of audio, visual, kinesthetic, and mechanical anchoring techniques in each of its courses. The Department has utilized this training from 2008 to present and wishes to continue to engage the contractor for training of Baltimore City Police Officers and to expand the training for Police Academy Trainees. This is a highly specialized program only available directly from the vendor.

It is hereby certified, that the above procurement is of such a nature that no advantage will result in seeking nor would it be practical to obtain competitive bids. Therefore, pursuant to

MINUTES

Police Department - cont'd

Article VI, Section 11 (d)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of an addendum to agreement with L. Hicks, Incorporated, d/b/a as The Hicks Police Training System, Inc.

MINUTES

Police Department- Expenditure of Funds

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize a payment to John E. Reid and Associates, Inc. by Expenditure Authorization. The expenditure is for a seminar on November 15, 2011 through November 17, 2011.

AMOUNT OF MONEY AND SOURCE:

\$12,600.00 - 4000-458011-2015-683900-603020

BACKGROUND/EXPLANATION:

The Department continues to strive to provide its members with the best possible training and in keeping with this mission the Department will be providing 40 members the opportunity to attend a seminar by John E. Reid and Associates, Inc. on "The Technique of Interviewing & Interrogation." John E. Reid and Associates, Inc. are national experts and have taught over 300,000 participants from law enforcement and government at every level nationally in every U.S. state, as well as internationally. The objective of this training is to set forth nine techniques in interviewing and interrogation skills to achieve the most successful results.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized the payment to John E. Reid and Associates, Inc. by Expenditure Authorization.

MINUTESPolice Department - Expenditure of Funds

The Board is requested to approve and authorize an expenditure of funds to pay the following vendor for costs associated with the memorial services that were held on September 8, 2011 for William H. Torbit, Jr.

1. **HARRISON MEMORIAL ACCESSORIES, LLC** **\$6,299.00**

Account: 1001-000000-2041-196400-603050

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized the expenditure of funds to pay the above indicated vendor for costs associated with the memorial services that were held on September 8, 2011 for William H. Torbit, Jr.

MINUTES

Police Department - Grant Award Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant award agreement with the Governor's Office of Crime Control and Prevention (GOCCP). The period of the grant award agreement is October 1, 2011 through September 30, 2012.

AMOUNT OF MONEY AND SOURCE:

\$41,740.00 - 4000-470412-2024-212600-600000

BACKGROUND/EXPLANATION:

The Department's Crime Laboratory Enhancement program assists in developing and implementing strategies specifically intended to increase efficiency in the Department's crime lab. The program provides overtime to reduce the Firearms and Latent Unit backlog, and targets training to meet certification and accreditation requirements. The grant funds provide for overtime and related training.

This grant award agreement is late because the award was just received by the Department.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant award agreement with the Governor's Office of Crime Control and Prevention.

MINUTES

Police Department- Grant Award Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a grant award and approve and authorize execution of the agreement with the U.S. Department of Homeland Security. The period of the grant award agreement is September 1, 2011 through May 31, 2014.

AMOUNT OF MONEY AND SOURCE:

\$281,693.00 - 4000-470512-2041-695300-600000

BACKGROUND/EXPLANATION:

The Department's 2011 Metropolitan Medical Response System Program, enhances local medical incident management's ability to coordinate and respond to a mass casualty event during the crucial first hours, until significant external resources arrive and become operational. Eligible activities include planning, training, exercises, equipment and personnel.

This grant award agreement is late because the award was just received.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved acceptance of the grant award and approved and authorized execution of the agreement with the U.S. Department of Homeland Security.

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CITY COUNCIL BILLS:

11-0650 - An ordinance concerning the sale of properties - 601-603, 621, 701, 709, 750, 801, and 810 McCabe Avenue for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in certain properties that are known as 601-603, 621, 701, 709, 750, 801, and 810 McCabe Avenue and are no longer needed for public use; and providing for a special effective date.

ALL REPORTS RECEIVED WERE FAVORABLE.

11-0716 - An ordinance concerning the sale of sale of property - 1206 McCulloh Street for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in certain property known as 1206 McCulloh Street (Block 0416, Lot 028) and no longer needed for public use; and providing for a special effective date.

ALL REPORTS RECEIVED WERE FAVORABLE.

11-0724 - An ordinance concerning the sale of property - former beds of certain alleys bounded by Riverside Road, Levin Road, and Meadow Road for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in the former beds of certain alleys bounded by Riverside Road, Levin Road, and Meadow Road and no longer needed for public use; and providing for a special effective date.

THE DEPARTMENT OF GENERAL SERVICES SUPPORTS PASSAGE OF CITY COUNCIL BILL NO. 11-0724 PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0722 AND 11-0723 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED.

ALL REPORTS RECEIVED WERE FAVORABLE.

MINUTES

CITY COUNCIL BILLS:

11-0727 - An ordinance concerning the sale of property - former beds of certain alleys bounded by Barclay Street, 24th Street, Greenmount Avenue, and 23rd Street for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in the former beds of certain alleys bounded by Barclay Street, 24th Street, Greenmount Avenue, and 23rd Street and no longer needed for public use; and providing for a special effective date.

THE DEPARTMENT OF GENERAL SERVICES SUPPORTS PASSAGE OF CITY COUNCIL BILL NO. 11-0727 PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0725 AND 11-0726 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED.

ALL REPORTS RECEIVED WERE FAVORABLE.

11-0751 - An ordinance concerning the sale of property - former bed of Eager Street for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in a certain parcel of land known as the former bed of Eager Street, extending from Chester Street Easterly 266.6 feet, more or less, to Collington Avenue, and no longer needed for public use; and providing for a special effective date.

THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF REAL ESTATE SUPPORT PASSAGE OF CITY COUNCIL BILL NO. 11-0751 PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0749 AND 11-0750 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED.

ALL REPORTS RECEIVED WERE FAVORABLE.

MINUTES

CITY COUNCIL BILLS:

11-0754 - An ordinance concerning the sale of property - former beds of certain streets and alleys in the area bounded by Ensor Street, Monument Street, Aisquith Street, and Oldtown Mall for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in certain parcels of land known as the former beds of certain streets and alleys in the area bounded by Ensor Street, Monument Street, Aisquith Street, and Oldtown Mall and lying within the Oldtown Urban Renewal Project and no longer needed for public use; and providing for a special effective date.

THE DEPARTMENT OF GENERAL SERVICES SUPPORTS PASSAGE OF THE CITY COUNCIL BILL, AS PROPOSED TO BE AMENDED PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0752 AND 11-0753 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED. THE DEPARTMENT OF REAL ESTATE SUPPORTS PASSAGE OF CITY COUNCIL BILL NO. 11-0754 PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0752 AND 11-0753 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED.

ALL REPORTS RECEIVED WERE FAVORABLE.

11-0786 - An ordinance concerning the sale of property - former beds of certain streets and alleys bounded by Poppleton Street, Fayette Street, Fremont Avenue, and Baltimore Street for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in certain parcels of land known as the former beds of certain streets and alleys bounded by Poppleton Street, Fayette Street, Fremont Avenue, and Baltimore Street

MINUTES

CITY COUNCIL BILLS:

and no longer needed for public use; and providing for a special effective date.

THE DEPARTMENT OF GENERAL SERVICES AND THE DEPARTMENT OF REAL ESTATE SUPPORT PASSAGE OF CITY COUNCIL BILL NO. 11-0786 PROVIDED THE COMPANION CITY COUNCIL BILL NOS. 11-0784 AND 11-0785 FOR OPENING AND CLOSING OF NECESSARY STREETS AND ALLEYS FOR CONSOLIDATION AND DEVELOPMENT ARE APPROVED.

ALL REPORTS RECEIVED WERE FAVORABLE.

11-0787 -An ordinance concerning the sale of property - Block 1250, Lot 7C and the former beds of portions of front Street and Terminal Street for the purpose of authorizing the Mayor and City Council of Baltimore to sell, at either public or private sale, all its interest in certain properties known as Block 1250, Lot 7C and the former beds of portions of Front Street and Terminal Street and no longer needed for public use; and providing for a special effective date.

ALL REPORTS RECEIVED WERE FAVORABLE.

UPON MOTION duly made and seconded, the Board approved bill nos. 11-0650, 11-0716, 11-0724, 11-0727, 11-0751, 11-0754, 11-0786, and 11-0787 and directed that the bills be returned to the City Council with the recommendation that they also be approved and passed by that Honorable Body. The President **ABSTAINED**.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Dept. of Housing and Community Development - Condemnations</u>			

1. Harvey Carmel, Personal Representa- tive of the Estate of Lee Carmel	2023 Guilford Ave.	G/R \$68.50	\$ 456.67
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The Board is requested to approve acquisition of the ground rent interest by condemnation, or in the alternative may, SUBJECT to the prior approval of the Board, make application to the Maryland Department of Assessments and Taxation to redeem or extinguish the ground rent interest for this property.

2. Fieldcrest Limited Partnership	438 E. 20 th St.	G/R \$65.00	\$ 433.33
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Funds are available in UDAG funds, account no. 9912-910713-9591-900000-704040, Barclay Project.

Dept. of Housing and Community Development - Options

3. Groundlease Management, LLC.	408 E. 20 th St.	G/R \$120.00	\$1,100.00
4. Christopher A. LaBanz	436 E. 20 th St.	G/R \$65.00	\$ 596.00

Funds are available in UDAG funds, account no. 9912-910713-9591-900000-704040, Barclay Project.

(FILE NO. 57066)

In the event that the option agreement/s fail/s and settlement cannot be achieved, the Department requests the Board's approval to purchase the interest in the above property/ies by condemnation proceedings for an amount equal to or lesser than the option amounts.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Department of Law - Payment of Settlements</u>			
5. Joan E. Lilly (Prior owner)	2214 E. Madison St.	F/S	\$3,000.00

On April 07, 2010, the Board approved the acquisition, by condemnation, of the fee simple in 2214 E. Madison Street in the amount of \$30,000.00. The prior owner of the property interest valued the property at \$74,500.00. The parties agreed to settle the action for \$33,000.00. Therefore, the Department is requesting the Board to approve payment of the balance in the amount of \$3,000.00.

Funds are available in account no. 9910-904415-9588-900000-704040.

6. 4 th Baltimore Acquisition, LLC (Prior owner)	915 N. Castle St.	L/H	\$6,600.00
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On December 22, 2010, the Board approved the acquisition, by condemnation, of the leasehold interest in 915 N. Castle Street in the amount of \$8,400.00. The prior owner of the property interest valued the property at \$25,000.00. The parties agreed to settle the action for \$15,000.00. Therefore, the Department is requesting the Board to approve payment of the balance in the amount of \$6,600.00.

Funds are available in account no. 9910-906416-9588-900000-704040.

UPON MOTION duly made and seconded, the Board approved the aforementioned options, condemnations, and payment of settlements.

MINUTES

Mayor's Office of Information - Ratification
Technology (MOIT)

ACTION REQUESTED OF B/E:

The Board is requested to ratify the purchase of software licensing and payment to IBM. The period of the ratification for the software license is June 1, 2010 through August 31, 2011.

AMOUNT OF MONEY AND SOURCE:

\$328,371.00 - 1001-000000-1472-165810-603035

BACKGROUND/EXPLANATION:

On November 3, 2010 the Board approved an informal award for MOIT for Solicitation No. 08000 - IBM Hardware & Software Maintenance on a sole source basis in the amount of \$460,000.00. The award was required for annual hardware and software maintenance and IBM agreed to bill the City based on the GSA scheduled contract for IT commodities and services.

Originally, pricing for the software was not included in the first proposal quote that was associated with the GSA contract that IBM initially submitted to the City. As a result, the initial award amount was incorrect. IBM's original invoicing did not distinguish between whether the billing was for software or hardware support resulting in the error from both MOIT and Purchases. This caused funding to be spent on software that was not covered under the total amount allocated for the contract. IBM did credit the City for the licensing overage but additional funding is still required for the software support for the remainder of the contract term. The software purchased supports all of the revenue generating systems within the City.

The Bureau of Purchases will be submitting a separate informal increase request to the Board in the amount of \$1,328,211.00 for software and hardware maintenance.

MINUTES

MOIT - cont'd

The Department apologizes for not noticing the error before the initial award was made. MOIT will work directly with IBM to coordinate and clarify all future purchase proposals so that a similar error does not occur.

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE RATIFICATION.

(FILE NO. 57272)

UPON MOTION duly made and seconded, the Board approved ratification of the purchase of software licensing and payment to IBM. The President **ABSTAINED.**

MINUTES

Department of Transportation - Resolution

ACTION REQUESTED OF B/E:

The Board is requested to approve a resolution for the utilization of the Design Build procurement method for public works projects. The resolution will be effective upon Board approval.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

Design-Build is a project delivery method by which the City contracts with an entity that has responsibility for the design and construction of the project under a single contract with the City.

This project delivery method for public works may be advertised for award based on Request for Proposal. Authority for the use of this procurement method is established by Article V, Section 11(h)(1)(ii) of the Baltimore City Charter, which provides that the Board of Estimates may award a contract "...or in the case of Requests for Proposals to the highest scoring responsive and responsible bidder." In order to advertise and award a contract under design-build, the sponsoring agency must satisfy numerous criteria and receive approval of the Design-Build Executive Committee, comprised of several Cabinet members.

MBE/WBE PARTICIPATION:

Minority and Women's Business Enterprise participation goals will be assigned separately for the design and construction phases of each contract to be advertised.

The resolution is submitted as follows:

MINUTES

Department of Transportation - cont'd

RESOLUTION
OF
THE BOARD OF ESTIMATES OF BALTIMORECITY
FOR
UTILIZATION OF THE DESIGN-BUILD METHOD

WHEREAS, the Mayor and City Council of Baltimore, acting by and through the Board of Estimates, pursuant to Article VI, Section 11(a) of the Charter of Baltimore City, 1996 Edition, as amended, ("Charter") is responsible for awarding contracts and supervising all purchasing by the City; and

WHEREAS, the Charter, states, inter alia, at Article VI, Section 17, that "...no expenditure for any new improvement shall be made out of any appropriation in the Ordinance of Estimates, unless the plans for such improvement are first submitted to and approved by the Board of Estimates."; and

WHEREAS, the Charter, states, in pertinent part, at Article VI, Section (h)(ii) that "After opening of bids, the Board of Estimates shall award the contract, as an entirety to the lowest responsive and responsible bidder or...in the case of Requests for Proposals to the highest scoring responsive and responsible bidder."

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ESTIMATES OF BALTIMORE CITY, that the following policy be formally adopted by this Board:

1. The Board of Estimates has determined that it is in the best interests of the City to permit alternative project delivery methods for public works project which may be

MINUTES

Department of Transportation - cont'd

advertised for award based on a Request For Proposals utilizing the Design-Build Alternative Project Delivery Method.

2. The Board of Estimates hereby adopts the **Design-Build Project Delivery Procedures**, a copy of which is attached as **Exhibit I**.

3. This Resolution shall take effect upon the date of approval by the Board of Estimates.

A LETTER OF PROTEST WAS RECEIVED FROM COMMUNITY CHURCHES UNITED FOR BALTIMORE JOBS.

A LETTER OF PROTEST WAS RECEIVED FROM THE MARYLAND MINORITY CONTRACTORS ASSOCIATION, INC.

(FILE NO. 57270)

UPON MOTION duly made and seconded, the Board approved and adopted the resolution for the utilization of the Design Build procurement method for Public Works projects.

MMCA- Maryland Minority Contractors Association, Inc.
A Chapter of the American Minority Contractors and Businesses Association, Inc.-AMCBA
Baltimore, Maryland 21210
443-413-3011 Phone
410-323-0932 Fax

September 27, 2011

VIA Facsimile 410-685-4416

The Honorable President and Members
Baltimore City Board of Estimates
Attention: Clerk to the Board
City Hall-Room 204
Baltimore, MD 21202

Dear Mr. President:

I represent the Maryland Minority Contractors Association, Inc. ("MMCA"). I also represent Mr. Josh Matthews and JCM Controls, Inc., a State and City certified MBE firm.

I wish to protest the following described proposed transfer of funds, contracts and Board's Resolutions which appear on the Board's 09/28/2011 agenda:

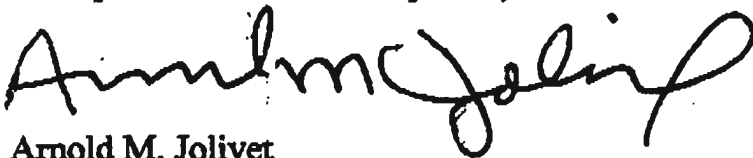
- 1) The Board's approval for item No.5 appearing on page 9, which is a proposed transfer of funds by the City Department of General Services to fund a \$4, 168, 580.00 Energy performing contract with Johnson Controls, Inc. (JCI). This protest is based on the fact that the underlying City DGS's contract awarded by this Board on July 20, 2011 is void and unenforceable inasmuch as the subject contract was not competitively bid as specifically required by Article VI, § 11et seq., of the City's governing Charter. This Board should not and must not fund a City contract that is void and unenforceable for lack of compliance with the City's mandatory competitive bidding charter provision;
- 2) The Board's approval for the item appearing on pages 14-16, to include related Exhibit No. I, titled "Board of Estimates Policy regarding the Use of Design-Build Project Delivery," a 15 page document, which should be more appropriately be

made available for public comment, especially from the engineering and construction industries, since the proposal makes major and radical changes in the City's Public works contract award process; and

- 3) The Board's approval for item appearing on pages 17-18, which is a proposed agreement with Whitman, Requardt and Associates, LLP, for on-call Traffic Engineering Services. The protest is based upon the fact that the proposed contract award discriminates unlawfully against our African American-owned engineering firms.

MMCA, its members, clients and constituents will suffer injury if Your Honorable Board rejects the above protests.

Thank you for your favorable consideration of these protests, and I look forward to appearing at the Board's 09/28/2011 public meeting to give oral argument as to why these protests must be accepted by the Board.

A handwritten signature in black ink, appearing to read "Arnold M. Jolivet". The signature is fluid and cursive, with the first name "Arnold" being more prominent and the last name "Jolivet" written in a more compact, stylized manner.

Arnold M. Jolivet
Managing Director

9/27/2011

From: Community Churches United for Baltimore Jobs
601 Cumberland St.
Baltimore, Maryland 21216

To: Board of Estimates c/o
Clerk to the Board of Estimates
Room 204, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

To Whom It May Concern:

Community Churches United for Baltimore Jobs is a faith-based alliance comprised of various congregations whose goal is to uplift the community by helping residents attain their full potential through job training and spiritual guidance.

The issue we are protesting is the request of the Boards to approve a resolution for the utilization of the Design to Build procurement method for public works projects. This particular procurement method fails to consider the benefits of have local residents working on local construction project. If this resolution passes it will promote contracts to use "race to the bottom tactics" ultimately shutting the community out of employment opportunities.

Thank you,

Community Churches United for Baltimore Jobs

COMPT/EGE SEP 27 11 PM 2011

BOARD OF ESTIMATES POLICY REGARDING THE USE OF DESIGN-BUILD PROJECT DELIVERY

SECTION I: PURPOSE

The purpose of this policy, which may be used by any agency responsible for the construction of public works, is to establish guidelines for the use of the design-build project delivery method. Authority for the use of design-build is established by Article VI, Section 11(h)(1)(ii) of the Baltimore City Charter, which provides that the Board of Estimates may award a contract “..in the case of Requests for Proposals to the highest scoring responsive and responsible bidder...”

SECTION II: DEFINITIONS

The following definitions are provided to assist in implementing this policy.

A. Affiliate means:

1. Any Person/entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Proposer or any Principal Participant; or
2. Any Person/entity for which 10% or more of the equity interest in such Person/entity is held directly or indirectly, beneficially or of record, by (1) the Proposer, (2) any Principal Participant, or (3) any Affiliate under part (A) of this definition.

B. Alternative Technical Concept (ATC) - any concept that is proposed as an alternative to the Base Technical Concept. ATCs include any project alignment other than described in the Request for Proposal and any other modification of the project as defined in the requirements of the scope of work.

C. Best and Final Offer (BAFO) – is a proposal requested by the contracting agency when the evaluation team believes that the price proposal could or should be better, or when some elements of the technical proposal require clarification.

D. Base Technical Concept (BTC) -- the design concept and performance requirements set forth in the Scope of Work and in other parts of the Request for Proposal for the work to be designed and constructed.

E. Best Value (BV) -- a selection process based on a combination of value and price offered by a Proposer. The process gives credit for factors defined in the Design Build Procurement Plan and Request For Proposals, which may include but are not limited to design excellence, functional efficiency, team experience, construction methodology, and contract time, and weighs these factors relative to the price proposal of the Proposer.

- F. City -- the City of Baltimore
- G. City's Project Manager -- the person representing the City and having direct supervision of the administration and execution of the Contract under the direction of the Department Director.
- H. Confidential Meeting – As allowed by Section V and VIII, under certain circumstances it may be in the best interest of the City to hold a confidential meeting with one or more of the Proposers individually. Attendance shall be limited to members of the Proposal Evaluation Team and designated technical resource members as deemed necessary by the Proposal Evaluation Team.
- I. Conceptual Plans -- preliminary plans, developed to the 30% stage of completion level that convey the basic intent and parameters of the project. The design may need to be developed by the Preliminary Design Team to a greater level (>30%) of detail to establish, for example, right-of-way needs, utility relocations and environmental impacts.
- J. Contracting Agency – is the department responsible for the particular public work to be constructed.
- K. Contract Specifications (CS) - A part of the Request for Proposals or Invitation for Bids. The Contract Provisions; General Provisions; Terms and Conditions; Special Provisions and Special Provision Inserts; Miscellaneous Contract Details; and the Proposal Form Packet. Appendices are provided, when appropriate, to include such items as Soil, Stormwater Management and Structural Boring Logs, Traffic / Accident Data, Test Pit Logs, and other information determined to be necessary or desired to be provided to the Design Build Contractor.
- L. Control - means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise, when considered in the context of Section X.
- M. Designer -- a Principal Participant, Specialty Subcontractor, or in-house designer that leads the team furnishing or performing the design of the project.
- N. Design-Build (D-B) -- a project delivery methodology by which the City contracts with an entity that has responsibility for the design and construction of the PROJECT under a single contract with the City.
- O. Design-Builder -- the entity selected pursuant to the Request for Proposals that enters into the Contract with Baltimore City to design and construct the PROJECT.
- P. Design-Build Executive Committee – includes the Directors of the Departments of Transportation, Public Works and General Services, the Chief of the Minority and Women's Business Opportunity Office, and the City Solicitor. The Chairman of the Executive Committee shall be appointed by the Mayor from among the members
- Q. Design-Build Procurement Plan (DBPP) – the project-specific plan developed by the Contracting Agency, approved by the Design Build Executive Committee and

- recommended to the Board of Estimates by virtue of the Request for Proposal requirements that govern the procurement method to be used on the project.
- R. Invitation for Bids (IFB) - a written solicitation issued by the City to solicit proposals for design and construction services in a one step, low bid design-build procurement process.
 - S. Preliminary Design Team (PDT) -- In-house and/or consultant staff responsible for the development of the project's Advertisement Package -- Conceptual Plans, Request For Proposals, and Contract Specifications.
 - T. Principal Participant -- any of the following entities:
 - A) The Proposer;
 - B) If the Proposer is a joint venture, partnership, limited liability company, or other form of association, any joint venture, partner, or member; and/or
 - C) Any Person holding (directly or indirectly) a 15% or greater interest in the Proposer.
 - U. Project -- the improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.
 - V. Project Management Team (PMT) -- the representatives of the CITY lead by the CITY Project Manager assigned to the project.
 - W. Proposal Evaluation Team (PET) -- the representatives of the CITY responsible for proposal evaluation. The Proposal Evaluation Team consists of not more than 5 members, at least one of whom must be from a City agency other than the procuring agency. In addition, the Proposal Evaluation Team may use non-voting technical resource members who can provide expertise in areas including, but not limited to: Contract Management, Engineering, Construction, Procurement, Legal or any other area that requires specialized knowledge and expertise.
 - X. Proposer -- an entity submitting a Proposal or Statement of Qualifications for the project in response to the Request for Proposals.
 - Y. Reduced Candidate List (RCL) -- the list of those Proposers that have submitted SOQs, and that the City determines, through evaluation in accordance with the DBPP are the most highly qualified proposers to perform the Work.
 - Z. Request for Proposals (RFP) -- a written solicitation issued by the City to solicit proposals for design and construction services in a two step design-build procurement process. The RFP includes: Step One: Request for Qualifications and Step Two: Request for Technical and Price Proposals.
 - AA. Request for Qualifications (RFQ) -- the first step in the two step RFP process, the RFQ is the written solicitation issued by the City seeking SOQs to be used to identify and create a Reduced Candidate List (RCL) of the most highly qualified D-B Proposers to receive the Step Two: Request for Technical and Price Proposals for the PROJECT.

BB. Statement of Qualifications (SOQ) -- the information prepared and submitted by a Proposer in response to the RFQ.

CC. Work - the furnishing of all labor, material, equipment, and other incidentals necessary or convenient to the successful completion of the PROJECT and the carrying out of all the duties and obligations imposed by the Contract.

Section III: Types of Projects Suitable for Design-Build Project Delivery

1. The following categories are types of projects that generally may be suited for Design-Build contracts:
 - a. Emergency and repair projects
 - b. Projects directly supporting economic development/enhancement
 - c. Projects using specialty or innovative designs and construction methods or techniques
 - d. Projects to maximize the use of available funding (i.e. Federal, Bonds, , etc.)
 - e. Projects deemed by the City to have expedited scheduling requirements
 - f. Projects that do not lend themselves to normal Design-Bid-Build procedures
2. Paragraph 1 of this Section is not intended to limit the decision making authority of the Design-Build Executive Committee.

Section IV: Establishing the Use of Design-Build Project Delivery

1. When a Contracting Agency seeks to use the Design-Build project delivery method for a project, the contracting agency shall:
 - a. As early as reasonable in the project development phase, and at a minimum prior to achieving 30% design approvals, request evaluation by the Design-Build Executive Committee of the Contracting Agency's Design Build Procurement Plan.
 - b. In advance of meeting with the Design-Build Executive Committee, provide to the members of the Design-Build Executive Committee the Design-Build Procurement Plan containing, at a minimum, the following items:
 - i. Project Description and Scope of WorkProject budget and funding sources
 - ii. Project Management Team, including project manager/engineer, construction manager and any consultants retained for service on the project.

- iii. Project Management/Oversight Plan
- iv. Project Schedule
- v. Project stakeholders and coordination requirements
- vi. Project right-of-way requirement and status of right-of-way acquisition, if any
- vii. Project requirements for utility and railroad coordination, if any, and identification of responsibility for obtaining utility and railroad approvals
- viii. Required local, state or federal environmental approvals and the status of each, if required, as well as an identification of responsibility for obtaining environmental approvals
- ix. Reasons for using Design-Build method of project delivery
- x. Analysis of project risks and risk mitigation plans
- xi. Proposed Procurement methodology (see Section V) and scoring plan, including whether project construction cost or project life-cycle cost shall be the basis for scoring of the cost proposal.
- xii. Preliminary identification of Proposal Evaluation Team members and non-voting technical resource members, who shall remain confidential
- xiii. Proposed methods for cost review/cost containment on change orders
- xiv. Requested stipend amount and number of stipends to be paid, if any
- xv. Proposed use of Alternative Technical Concepts with evaluation plan, if appropriate
- xvi. Proposed MBE/WBE or DBE goals, as established by the Minority/Women's Business Opportunity Office
- xvii. Request for waiver of Section X of this policy, if any.
- xviii. Additional information which may be useful to the Executive Committee, if any

2. Upon receipt of the Design-Build Procurement Plan from the Contracting Agency, the Design-Build Executive Committee shall convene and consider the appropriateness of the Contracting Agency request relative to the best interests of the City. The Design-

Build Executive Committee may:

- a. Approve the request of the Contracting Agency; or,
 - b. Approve the request of the Contracting Agency, subject to certain modifications of the project plan; or,
 - c. Reject the request of the Contracting Agency; or,
 - d. Defer a decision on the request pending further information
3. In making its recommendation, the Design-Build Executive Committee shall consider:
 - a. The Design-Build Procurement Plan submitted by the contracting agency.
 - b. The capacity of the Contracting Agency to suitably manage a project under the design-build project delivery method.
 - c. Whether the project is of sufficient size and technical complexity to warrant an alternative method of project delivery.
 - d. The availability and suitability of local engineering and construction firms to engage in design-build project delivery vs. design-bid-build project delivery.
4. A decision of the Design-Build Executive Committee to approve a request shall be unanimous among the members participating in the decision. Should the Design-Build Executive Committee approve the request of the Contracting Agency, the Contracting Agency may proceed with developing the Request For Proposals in accordance with the Design-Build Procurement Plan.
5. Proposal scoring for Best Value procurements shall be calculated using points and may include pass/fail factors for mandatory requirements. The Design-Build Executive Committee shall not approve any scoring methodology in which the value of the price proposal is less than 50%.
6. Except when the Director of Finance has declared that an emergency pursuant to Section 11(e) of the City Charter, the Design-Build Executive Committee may not recommend to the Board of Estimates any duration for the advertisement of the

Invitation for Bids which is less than 42 calendar days.

Section V: Authorized Design-Build Procurement Methodologies

The Design-Build Executive Committee may approve and recommend to the Board of Estimates only the following project selection methodologies:

1. One-Step Low-Bid:

- a. Upon approval of the Board of Estimates to advertise the Invitation for Bids, the Board shall open bids and award the contract, as an entirety, to the lowest responsive and responsible bidder.

2. Two-Step, Low-Bid

- a. Upon approval of the Board of Estimates to advertise the RFP: Step One Request for Qualifications , the Board shall receive and refer all Proposers Statement of Qualifications to the Contracting Agency for evaluation.
- b. The Proposal Evaluation Team shall evaluate the Statement of Qualifications and establish the Reduced Candidate List pursuant to the Design Build Procurement Plan. The Reduced Candidate List shall be limited to no more than five Proposers.
- c. The Contracting Agency shall request that the Board of Estimates notify the Proposers included in the Reduced Candidate List and provide the RFP: Step Two Technical and Price Proposal to only the Reduced Candidate List.
- d. Upon receipt of the Technical and Price Proposals from the Reduced Candidate List, the Board of Estimates shall receive and refer the Technical Proposal only to the Contracting Agency.
- e. The Proposal Evaluation Team shall evaluate the Technical Proposal on a pass/fail basis. The Board of Estimates shall then open the Price Proposals of

those Proposers having received a passing Technical Proposal rating;
Proposers receiving a failing rating on the Technical Proposal shall have their
Price Proposals returned unopened.

- f. The Board of Estimates shall award the contract, as an entirety, to the lowest responsive and responsible bidder.

3. Best Value

- a. Upon approval of the Board of Estimates to advertise the RFP: Step One Request for Qualifications, the Board shall receive and refer the Statement of Qualifications by all Proposers to the Contracting Agency for evaluation.
- b. The Proposal Evaluation Team shall evaluate the Statement of Qualifications and establish the Reduced Candidate List pursuant to the Design Build Procurement Plan. The reduced candidate list shall be limited to no more than 5 Proposers.
- c. The Contracting Agency shall request that the Board of Estimates notify the Proposers of the Reduced Candidate List and provide the RFP: Step Two Technical and Price Proposal to only the Reduced Candidate List.
- d. Upon receipt of the Technical and Price Proposals from the Reduced Candidate List, the Board of Estimates shall receive and refer the Technical Proposal only to the Contracting Agency.
- e. The Proposal Evaluation Team shall evaluate the Technical Proposal and establish a technical score pursuant to the DBPP.
- f. After evaluation and scoring of the Technical Proposals is complete, the Board of Estimates shall refer the Price Proposals to the Contracting Agency for scoring. The Project Evaluation Team shall combine the Technical and Price scores to establish the total score for each Proposal. If the Project Evaluation Team decides not to solicit a Best and Final Offer pursuant to Paragraph G of this Section, the Contracting Agency shall recommend to the Board of Estimates award of the contract to the highest scoring Proposer.

- g. Proposers scoring at least 70% of the total score and within 10% of the top scoring proposer, including the top scoring proposer, shall be considered within the Competitive Range. The Proposal Evaluation Team may, at its sole discretion, request Proposers within the Competitive Range :
 - i. Further develop or refine certain concepts into a Best and Final Offer.
 - ii. Meet with the Proposal Evaluation Team in a Confidential Meeting to discuss the Proposal, its strengths and weaknesses, and any other information necessary for the proposer to develop a Best and Final Offer.
- h. All Proposers within the Competitive Range shall be afforded equal opportunity to submit a Best and Final Offer, but are not required to do so. If the Competitive Range includes only one proposer, or if the price proposals for all proposers within the Competitive Range exceed the available funding, the Proposal Evaluation Team may, at its sole discretion, expand the Competitive Range to include additional Proposers. Written requests for Best and Final Offers shall include specific instruction for the Best and Final Offer submittals, and shall require submittal to the Board of Estimates on or before an established date.
- i. Best and Final Offer submittals received by the Board of Estimates shall be referred to the Contracting Agency in the same manner as the initial Technical and Price Proposals. The Proposal Evaluation Team shall score the Best and Final Offer Proposals anew in the same manner at the initial Technical and Price Proposals. Scoring of the Best and Final Offer replaces the scoring of the initial offer, except that should a Proposer fail to submit a Best and Final Offer, or submit a non-responsive Best and Final Offer, the Initial Technical and Price Proposal for that Proposer shall remain under consideration. Proposers that were outside the initial Competitive Range and from whom a Best and Final Offer was not solicited are not considered.
- j. Scoring of Technical and Price Proposals, whether for initial scoring or Best and Final Offer scoring, shall be as follows:

- i. Price Points awarded = Lowest Responsive price of all Proposers divided by the Proposer's price, multiplied by the percentage weight for the price proposal as designated in the approved Design Build Procurement Plan scoring plan.

For example, the lowest price proposal is \$12,200,000. Another Proposer submits a price proposal of \$12,700,000. The price proposal is weighted at 60% and technical proposal is weighted at 40%.

						Price Weight		Price Points
Low Proposer	\$	12,200,000	=	0.961	x	60.00%	=	57.66
Proposer Scored	\$	12,700,000						

- ii. Technical Points awarded = Proposer Technical Points as scored by the Proposal Evaluation Team, divided by maximum possible Technical Points, multiplied by the percentage weight for the technical proposal as designed in the approved Design Build Procurement Plan scoring plan.

						Technical Weight		Technical Points
Scored Points	71	=	0.888	x	40.00%	=	35.52	
Max. Possible	80							

- iii. The final score of each Proposer shall equal the number of points scored on the Technical Proposal plus the number of points scored on the Price Proposal.
- k. The Contracting Agency shall recommend to the Board of Estimates award of the contract to the highest scoring Proposer as calculated in Paragraph (j) of this Section.
- l. Should the Project Evaluation Team determine that only one Proposer has submitted a Proposal within the competitive range, the Project Evaluation

Team may conduct limited negotiations with the Proposer. Said negotiations shall be limited to clarification of technical approach to the project, schedule, and cost. The Project Evaluation Team may not negotiate with the Proposer on any item which would materially affect the Scope of Work such that a re-issuance of the RFP would be warranted.

4. For the purpose of this section, the initial offer submitted to the Board of Estimates shall satisfy the 90-day maximum period allowable under Article VI, Section 11(c) of the City Charter.

Section VI: Payment of Stipends

1. For Two Step Procurements, The Design Build Procurement Plan approved by the Design Build Executive Committee and recommended to the Board of Estimates may include payment of a stipend to Proposers on the Reduced Candidate List who submit a responsive and responsible Technical and Price Proposal.
2. Notwithstanding Paragraph (1) of this Section, a stipend shall not be paid to the Proposer awarded the contract.
3. With its proposals, a Proposer must submit a plan for how the stipend will be divided among the Proposer and those subconsultants and subcontractors participating in the development of the Proposal. Nothing in this paragraph shall require that the Principal Participant make payment to any subconsultant or subcontractor; however, the stipend plan shall be agreed to in writing by all subconsultants and subcontractors participating in the development of the Proposal in order for stipend payment to be made to the Proposer.
4. No stipend for any one Proposer may exceed $2/10^{\text{th}}$ of one percent (0.2%) of the City engineer's estimated project's total design and construction cost.

5. In order to receive payment of the stipend, the Proposer shall submit such supporting documentation as may be required by the Contracting Agency in order to establish that the work performed in developing the Proposal is equal to the value of the stipend.
6. The terms and conditions of the stipend agreement and distribution plan shall be included in the RFP and the stipend agreement shall be executed with the submission of the Proposal. The payment of the stipend shall be conditioned on the right to use any ideas or information contained in the Proposal in connection with any Contract awarded for the project, or in connection with any subsequent procurement, subject to the obligation to pay a stipend. Proposers shall have the option to waive the stipend payment, and the agreement shall provide for such indication. Waiver of stipend payment shall have no bearing on the responsiveness of the Proposal.

SECTION VII: Participation by Minority and Women-Owned Businesses

1. It is the policy of the Board of Estimates that all current policies relating to the use of minority and women-owned business or disadvantaged business enterprises, as may be required on certain federally funded projects, be applied to contracts procured using the Design-Build project delivery method.
2. In establishing the MBE/WBE goals, MWBOO shall set separate goals for the design and construction elements of the project. It is recognized that changes in MBE/WBE subcontractors may be required as the final design and construction process moves ahead. It is the City's intent to approve such changes provided that prequalification standards have been met and that achievement of the overall project MBE/WBE goals is unaffected by the change in subcontractor(s).
3. Upon requesting that a DBE goal be established for certain federally-funded projects, the Contracting Agency shall request that the goal-setting agency establish separate goals for the design and construction elements of the project.

SECTION VIII: Alternate Technical Concepts

1. If included in the approved Design Build Procurement Plan, the Request for Proposals may allow Proposers to incorporate innovative Alternative Technical Concepts (ATCs) into their proposals that differ from the Base Technical Concept provided in the RFP. The RFP shall include specific information regarding the submittal format, acceptable time period and any limitations on acceptable subject matter for ATC submission.
2. ATCs received by the Board of Estimates shall be referred to the Contracting Agency for review by the Proposal Evaluation Team. ATCs shall be considered confidential. The handling, review and approval processes for the ATC's by the City shall be conducted with the utmost sensitivity. Following review, the Contracting Agency shall respond to the Proposer in one of the following manners:
 - a. The ATC is approved as submitted.
 - b. The ATC may be resubmitted for approval subject to certain modifications.
 - c. The ATC is not approved and shall not be resubmitted.
 - d. A Confidential Meeting is requested to further clarify and discuss the ATC. Discussions at said meeting shall be strictly and narrowly contained to the details of the ATC and shall not discuss any other matters. After the Confidential Meeting, the Contracting Agency shall respond in writing to the Proposer in accordance with a, b or c above.
3. Approved ATC's may be included in the project at the option of the Proposer. The Proposer shall indicate within the Proposal which approved ATC's are being used, and these ATC's shall become part of the Contract Specifications.

SECTION IX: Change Orders for Design and Construction

All change orders for a Design-Build project shall be approved by the Department of Audits, Change Order Review Committee and the Board of Estimates prior to advising the contractor to proceed with the change.

SECTION X: Prequalification, Limitations on Participation by Certain Firms, and Conflicts of Interest

1. All Proposers participating on a Design-Build proposal shall be pre-qualified by the Office of Boards and Commissions in accordance with the policies in effect at the time of the proposal. At a minimum, the Principal Participant(s) and all named design firms and design subconsultants shall be prequalified as of the date of RFP Statement of Qualifications (if required) or Technical and Price Proposal submission. Provided that all member firms of a joint venture are individually prequalified, the joint venture entity is not required to be pre-qualified.
2. Any Person that has or will receive monetary compensation as a consultant or subconsultant under a contract with the City to develop the conceptual plan, RFP, and/or has been retained to review the City's proposed plans for this procurement, or any Person that is the employer of an individual that has been so retained, may not submit a Proposal for this procurement or be part of any Proposer submitting a proposal. The violation of this paragraph shall result in a Proposer not being considered responsible in the submission of its bid or proposal.
3. Participation by any of the following Persons on more than one Proposal will be deemed an organizational conflict of interest disqualifying the affected Proposers:
 - i. Principal Participant, Designer, subconsultant responsible for performing more than 15% of the design
 - ii. Subcontractor responsible for performing more than 20% of the construction
 - iii. an Affiliate of any such Person in i. and ii.

All Proposers affected by the conflict of interest will be disqualified, even if a Proposer is unaware of the conflict of interest, or if the Person or Affiliate causing the conflict is intended to have a different or lesser role than that described above. The violation of this paragraph shall result in a Proposer not being considered responsible in the submission of its bid or proposal.

4. By submitting its Proposal, each Proposer agrees that, if an organizational conflict of interest is thereafter discovered, the Proposer must make an immediate and full

written disclosure to the City that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the City may, at its discretion, cancel the Contract. If the Proposer was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the City, the City may terminate the Contract for default.

5. Where it is found that the requirements of paragraph 2 or 3 of this Section would unreasonably restrict competition or limit the participation of specialty consultants, subconsultants, suppliers or construction firms, the contracting agency with approval from the Design Build Executive Committee may request the Board of Estimates to waive the relevant portions of this Section. Any such waiver shall be prominently indicated in the RFP.

SECTION XI: CONFLICT WITH STATE OR FEDERAL LAWS AND REGULATIONS

Where a project is governed by state or federal law or regulation and a particular requirement of same is in conflict with this policy, the state or federal law or regulation shall take precedence.

SECTION XII: OTHER CITY POLICIES

Unless specifically addressed herein, all policies adopted by the Board of Estimates relating to the procurement process remain in full force and effect. These policies include, but are not limited to: prequalification, minority and women-owned business participation, bid and surety bonds, wage rates, apprenticeship programs, and Employ Baltimore, etc.

SECTION XIII: TRANSPARENCY

.....In the interest of providing transparency to the public on the use of the design-build project delivery method, the Executive Committee shall:

1. Provide on an annual basis, not later than August 31st, a description and the status of all projects using design-build, information regarding minority- and women-owned business participation on each project, as well as implementation or policy challenges and recommendations related thereto.
2. On a quarterly basis, convene an advisory committee or public meeting of stakeholders from the contracting, architectural and engineering community and other interested parties, to hear from those stakeholders regarding policy and implementation challenges and opportunities with regard to design-build project delivery.

.....

MINUTES

TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

3668 - 3671

SUBJECT to receipt of favorable reports

from the Planning Commission,

the Director of Finance having

reported favorably thereon,

as required by the provisions of the

City Charter.

The Mayor **ABSTAINED** on item nos. 2 and 7.

MINUTES

TRANSFERS OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Transportation</u>		
1. \$ 989,036.81	9950-906301-9528	9950-908301-9527-2
State Rev.	Constr. Res.	Contingencies
	Broening Hwy.	Broening Hwy.
	Infrastructure	Infrastructure

This transfer will move the appropriation in the account to match the amount received from State-MDOT towards the project. This transfer will also cover costs associated with Project No. 1038 B/D No. 07026 Task No. 14 expenses related to Broening Highway Infrastructure with Rummel, Klepper & Kahl, LLP.

2. \$ 200,000.00	9950-912764-9507	
Other	Constr. Res.	
	Hwy - Balto. St.	
	Skywalk Demo	
103,756.00	9950-904489-9509	
Other	Constr. Res.	
	HCD StreetImprov.	
<u>\$303,756.00</u>	-----	9950-909826-9508-2
		Contingencies
		Hopkins Plaza
		Pedestrian Bridge

This transfer will move the appropriation in the project account for Hopkins Plaza Pedestrian Bridge to match Downtown Partnership of Baltimore's contribution toward this project.

MINUTES

TRANSFERS OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Recreation and Parks</u>		
3. \$ 25,000.00	9938-901761-9475	9938-902761-9474
Rec. & Parks	Reserve	Active
25 th Series	Patterson Park	Patterson Park
	Recreation Ctr.	Recreation Ctr.
	Expansion	Expansion

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1066, Task #36 assigned to Hord Coplan Macht, Inc.

4. \$ 15,000.00	9938-905776-9475	
State	Reserve	
	Recreation Facility	
	Expansion FY12	
 \$ 5,000.00	9938-905776-9475	
Rec. & Parks	Reserve	
26 th Series	Recreation Facility	
	Expansion FY12	
<u>\$ 20,000.00</u>	-----	9938-906776-9474
		Active
		Recreation
		Facility
		Expansion FY12

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1164, Task #1 assigned to GWWO, Inc.

MINUTES**TRANSFERS OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of General Services</u>		
5. \$200,000.00	9916-909931-9194	9916-909910-9197
5th Public	Reserve	Active
Building	Community Action	Community Action
Loan	Centers	Centers

This flooring is well beyond its service life at the Community Action Centers. This transfer will cover the cost to replace the tile flooring. Tile is more sustainable and healthier than carpet.

6. \$300,000.00	9916-913933-9194	9916-902513-9197
5th Public	Reserve	Active
Building	Historic Public	Historic Public
Loan	Buildings	Buildings

Theroofs on both the McKim Free School (McKim) and the 1781 Friends Meeting House (Friends) are in need of repair. This transfer will replace the Friends roof and repair the McKim roof. Funds will also be used to perform a market assessment of 15 Historic properties for the future maximum beneficial use.

7. \$ 100,000.00	9904-907787-9129	9904-908787-9127
23 rd Econ.	Reserve	Active
Dev. Loan	Port Discovery	Port Discovery
	Children Museum	Children Museum

This transfer will provide funds to cover various capital costs at Port Discovery Children's Museum. These include: renovations to the HVAC system to replace existing HVAC equipment with more efficient equipment designed for the building's current use, new roof and front doors to improve energy efficiency and safety, and other capital improvements.

MINUTES

TRANSFERS OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Housing and Community Development</u>		
8. \$ 75,000.00	9910-942002-9588	
25 th Comm. Dev.	Choice	
	Neighborhoods	
25,000.00	9910-913032-9588	
25 th Comm. Dev	Safe-Safe Assist for	
	Emergencies	
150,000.00	9910-995001-9587	
<u>23rd Comm. Dev.</u>	Unallocated Reserve	
	HCD	
\$250,000.00	-----	9910-903125-9588
		Community Housing
		Assistance Inc.
		(CHAI)

The Associated Jewish Charities is using the money for reimbursement of electrical costs associated with the development of Comprehensive Housing Assistance Incorporation's new headquarters located at 5908 Park Heights Avenue.

MINUTES

EXTRA WORK ORDERS AND TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved the

Extra Work Orders and Transfers of Funds

listed on the following pages:

3673 - 3675

All of the EWOs had been reviewed and approved

by the

Department of Audits, CORC,

and MWBOO, unless otherwise indicated.

The Transfer of Funds was approved

SUBJECT to receipt of a favorable report

from the Planning Commission,

the Director of Finance having reported favorably

thereon, as required by the provisions

of the City Charter.

The President **ABSTAINED** on item nos. 3 - 8.

MINUTES

EXTRA WORK ORDERS

<u>Contract</u>	<u>Prev. Apprvd.</u>	<u>Time</u>	<u>%</u>
<u>Awd. Amt.</u>	<u>Extra Work</u>	<u>Contractor</u>	<u>Ext. Compl.</u>

Department of Transportation

- | | | | |
|--|--------------|---------------------------|-----|
| 1. EWO #003, \$ 11,413.27 - Project 889, Edmondson Ave. Bridge over Gwynns Falls and CSXT Railroad | | | |
| \$1,068,231.15 | \$189,296.42 | Greenhorne & O'Mara, Inc. | 0 - |

Department of General Services

- | | | | |
|--|-----------------|--------------------------------------|-------|
| 2. EWO #084, \$240,807.00 - PB 05801R, Baltimore City Central Garage | | | |
| \$17,950,000.00 | \$12,754,477.99 | Whiting-Turner Contracting Co., Inc. | 0 100 |

On March 24, 2011, the Department of General Services met with Whiting-Turner Contracting Co. Inc. to review and resolve all of the remaining construction change order requests that totaled \$380,000.00 for the Central Garage project. This change order compensates Whiting-TurnerContracting Co. Inc. for the remaining unresolved issues.

Bureau of Water and Wastewater

- | | | | |
|--|-----------------|--|------|
| 3. EWO #029, \$ 29,325.00 - SC 812, Improvements to the Lower Gwynns Run Interceptor | | | |
| \$21,206,342.00 | \$ 3,461,774.54 | Carp Seca Corporation | 0 99 |
| 4. EWO #008, \$159,300.0 - W.C 1212, Water Appurtenance Installations | | | |
| \$ 4,997,010.40 | \$208,275.12 | R.E. Harrington Plumbing & Heating, Inc. | 0 27 |

MINUTES

EXTRA WORK ORDERS

Contract	Prev. Apprvd.	Time	%
<u>Awd. Amt.</u>	<u>Extra Work</u>	<u>Contractor</u>	<u>Ext. Compl.</u>

Bureau of Water and Wastewater

5. EWO #005 1,857,000.00 - S.C. 829, Primary Settling Tanks
 Rehabilitation at the Back River Wastewater Treatment Plant
 \$9,720,000.0 \$ 72,072.95 Mid Eastern 0 54
 Builders, Inc.

The contract documents indicated the concrete walls for Primary Settling Tank (PST) Nos. 3, 4, 5, 6, and 7 were to be cleaned and painted. Upon inspection, it was discovered that the exterior concrete walls of the effluent trough at PST Nos. 3, 4, 5, 6, and 7 were badly deteriorated and in need of repair. The contractor was directed to remove and replace the walls for each of the five PST's.

7. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 500,000.00	9956-903561-9549	
Wastewater Rev.	Constr. Res. Primary	
Bonds	Tank Renovations	
500,000.00	" "	
<u>Counties</u>		
\$1,000,000.00		
\$1,000,000.00	-----	9956-904561-9551-2
		Extra Work

The funds are required to cover the cost of extra work for SC 829, Primary Settling Tanks Rehabilitation at Back River WWTP.

MINUTES

EXTRA WORK ORDERS

Contract	Prev. Apprvd.		Time	%
<u>Awd. Amt.</u>	<u>Extra Work</u>	<u>Contractor</u>	<u>Ext.</u>	<u>Compl.</u>

Bureau of Water and Wastewater

7. EWO #001, \$ 0.00 - SC 881, On-Call Television Inspection, Cleaning and Lining Sanitary Sewers Using Cured-In Place Pipe				
\$ 1,750,125.00 -	AM-Liner East, Inc.	180	29	

The Bureau of Water and Wastewater is requesting a 180-day non-compensable time extension for sanitary contract 881. The time extension will allow the Bureau to complete the On-call Television Inspection, Cleaning and Lining Sanitary Sewers Using Cured-In Place Pipe with available funds until a new contract can be advertised and awarded.

8. EWO #018, \$26,984.62 - SC 878, Repair & Replacement of Existing Sanitary Sewers at Various Locations				
\$ 2,893,528.30 \$ 250,319.44 R.E. Harrington	Plumbing & Heating	0	74	

THE TRANSFER OF FUNDS NEEDED TO COVER THE COST OF EXTRA WORK FOR SC 878, REPAIR & REPLACEMENT OF EXISTING SANITARY SEWERS AT VARIOUS LOCATIONS WAS APPROVED BY THE BOARD ON OCTOBER. 26, 2011.

MINUTES

Department of Housing and - Acquisition by Gift
Community Development (DHCD)

ACTION REQUESTED OF B/E:

The Board is requested to approve the acquisition of the property located at 3014 Westwood Avenue by gift from Motti Mulleta, owner, **SUBJECT** to municipal liens, interest, and penalties, other than water bills.

AMOUNT OF MONEY AND SOURCE:

The owner agrees to pay for any title work and all associated settlement costs, not to exceed \$600.00 total. Therefore, no City funds will be expended.

BACKGROUND/EXPLANATION:

The DHCD's Land Resources Division strategically acquires and manages vacant or abandoned properties, which enables these properties to be returned to productive use and improve neighborhoods in Baltimore City.

Motti Mulleta will pay all current water bills up through the date of settlement. The City's acceptance of this donation is less costly than acquiring the property by tax sale foreclosure or eminent domain. The liens for 3014 Westwood Avenue are itemized as follows:

Cumulative Real Property Taxes 2011-2012

Total Taxes	\$ 71.40
Interest/Penalties	0.00
Other	0.00
Tax Sale Interest	0.00
Miscellaneous Bills	0.00
Metered Water (Tax Sale)	0.00
Rental Registration	<u>130.00</u>
Total Municipal Liens	\$201.40

MINUTES

DHCD - cont'd

The listed municipal liens, other than current water bills, will be administratively abated after settlement.

UPON MOTION duly made and seconded, the Board approved the acquisition of the property located at 3014 Westwood Avenue by gift from Motti Mulleta, owner, **SUBJECT** to municipal liens, interest, and penalties, other than water bills.

MINUTES

Department of Housing and - Acquisition by Gift
Community Development (DHCD)

ACTION REQUESTED OF B/E:

The Board is requested to approve the acquisition of the property located at 906 N. Dukeland Street, by gift from Maher Mohamed Elmaghraby, owner, **SUBJECT** to municipal liens, interest, and penalties, other than water bills.

AMOUNT OF MONEY AND SOURCE:

The owner agrees to pay for any title work and all associated settlement costs, not to exceed \$600.00 total. Therefore, no City funds will be expended.

BACKGROUND/EXPLANATION:

The DHCD's Land Resources Division strategically acquires and manages vacant or abandoned properties, which enables these properties to be returned to productive use and improve neighborhoods in Baltimore City.

Maher Mohamed Elmaghraby will pay all current water bills up through the date of settlement. The City's acceptance of this donation is less costly than acquiring the property by tax sale foreclosure or eminent domain. The liens for 906 N. Dukeland Street are itemized as follows:

Cumulative Real Property Taxes 2011-2012

Total Taxes	\$595.00
Interest/Penalties	0.00
Other	0.00
Tax Sale Interest	0.00
Miscellaneous Bills	348.30
Metered Water (Tax Sale)	0.00
Rental Registration	0.00
Total Municipal Liens	<u>\$943.30</u>

MINUTES

DHCD - cont'd

The listed municipal liens, other than current water bills, will be administratively abated after settlement.

UPON MOTION duly made and seconded, the Board approved the acquisition of the property located at 906 N. Dukeland Street, by gift from Maher Mohamed Elmaghraby, owner, **SUBJECT** to municipal liens, interest, and penalties, other than water bills.

MINUTES

Department of Housing and - Land Disposition Agreement
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the land disposition agreement with RBN Consulting, LLC, developer, for the sale of the property located at 1307 E. Pratt Street.

AMOUNT OF MONEY AND SOURCE:

\$9,000.00 - Sale price

BACKGROUND/EXPLANATION:

A good faith deposit of \$900.00 has been received from the developer.

The project will consist of a private residence and office space for the developer. The purchase price of the property and the cost of renovation will be financed with private funds and a \$5,000.00 grant from the Good Neighbor Program.

The subject property was priced pursuant to the appraisal policy of BaltimoreCity. The Valuation Waiver process was used in lieu of an appraisal in determining the price for this property. The subject property was priced at \$8,900.00.

MBE/WBE PARTICIPATION:

The property is not subject to Article 5, Subtitle 28 of the Baltimore City Code.

(FILE NO. 57211)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with RBN Consulting, LLC, developer, for the sale of the property located at 1307 E. Pratt Street.

MINUTES

Department of Housing and Community Development - Agreements

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the below listed agreements. The period of the agreement is July 1, 2011 through June 30, 2012

- | | |
|---|-------------|
| 1. INNOVATIVE HOUSING INSTITUTE, INC. (IHI) | \$91,503.00 |
|---|-------------|

Account:	2089-208911-5930-427543-603051	\$30,000.00
	2089-208912-5930-427543-603051	\$61,503.00

The organization will provide 114 non-elderly, disabled, low and moderate-income families with one-time subsistence assistance grants through the Enhanced Leasing Assistance Program (ELAP) established in accordance with the Consent Decree entered in Bailey v. the Housing Authority of Baltimore City (HABC) and the U.S Department v. HABC. The IHI is responsible for obtaining funds to cover a portion of the expenses and has requested the Department to provide CDBG funds to provide one-time subsistence assistance grants to ELAP participants. The participant expenses include leasing application fees, security deposits and utilities (electricity and telephone) installation fees.

MWBOO GRANTED A WAIVER.

- | | | |
|----|--|-------------|
| 2. | CHESAPEAKE CENTER FOR YOUTH
DEVELOPMENT, INC. | \$39,425.00 |
|----|--|-------------|

Account: 2089-208912-5930-695434-603051

The CDBG funds will be used to subsidize the operating costs of the sub-grantee's "A Foot in the Door" (A-FIND) Employment Initiatives. A-FIND will support the needs of low and moderate-income youth and families in the Brooklyn/Curtis Bay area by providing job readiness, life skills, and life skills training classes to youth. In addition, the organization will post job opportunity listings, and organize job fairs that will connect employers to community members and supporting vocational resource services.

MINUTES

DHCD - cont'd

3. **COMMUNITY LAW CENTER, INC. (CLC)**

\$81,294.00

Account: 2089-208912-5930-423629-603051

The organization will provide legal services and technical assistance to community-based and faith based organizations regarding drug nuisance abatement, illegal dumping and the elimination of vacant blighting properties. The CLC will also provide real estate research and analysis to devise strategies for the reduction of foreclosures and real estate scams.

MWBOO SET GOALS OF 0% MBE AND 0% WBE.

On June 22, 2011, the Board approved the Resolution authorizing the Commissioner of the Department of Housing and Community Development (DHCD), on behalf of the Mayor and City Council, to file a Federal FY 2011 Annual Action Plan for the following formula programs:

1. Community Development Block Grant (CDBG)
2. HOME Investment Partnership Act (HOME)
3. Housing Opportunity for People with AIDS (HOPWA)
4. Emergency Shelter Grant Entitlement (ESG)

Upon approval of the resolution, the DHCD's Contract Section began negotiating and processing the CDBG agreements as outlined in the Plan effective July 1, 2011 and beyond. Consequently,

MINUTES

DHCD - cont'd

this agreement was delayed due to final negotiations and processing.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing agreements.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
--------	-----------------	-------------

Bureau of Purchases

1. INERGY PROPANE

D/B/A UNITED PROPANE	\$25,000.00	Increase
----------------------	-------------	----------

Solicitation No. 06000 - Propane Delivery for Mount Pleasant Ice Arena - Department of Recreation and Parks - Req. No. P516255

On February 25, 2011, the Board approved the initial award in the amount of \$22,000.00. On May 27, 2011 the City Purchasing Agent approved an increase in the amount of \$7,000.00. On September 14, 2011, the Board approved an increase in the amount of \$9,500.00. Authority is requested to increase this award to meet agency requirements while a City-wide solicitation is being prepared. This increase in the amount of \$25,000.00 will make the award amount \$63,500.00.

2. PRO-FIX MEDICAL REPAIR

AND SALES LLC	\$75,000.00	Sole Source
---------------	-------------	-------------

Solicitation No. 08000 - Stretcher Repair - Fire Department - Req. No. R588694

The vendor is the manufacturer's sole authorized repair and service provider in this area for the stretchers currently in use by the Fire Department.

It is hereby certified that the above procurement is of such a nature that no advantage will result in seeking nor would it be practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11 (d)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
--------	-----------------	-------------

Bureau of Purchases

- | | | |
|--|-------------|---------|
| 3. CITIZENS PHARMACY
SERVICES | \$50,000.00 | Renewal |
| Solicitation No. 08000 - Labeled Medications - Health
Department - P.O. No. P515281 | | |

On November 3, 2010, the Board approved the initial award in the amount of \$50,000.00. The award contained three 1-year renewal options. This renewal in the amount of \$50,000.00 is for the period November 3, 2011 through November 2, 2012, with two 1-year renewal options remaining.

It is hereby certified that the above procurement is of such a nature that no advantage will result in seeking nor would it be practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11 (d)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

4. `

- | | | |
|--|---------|-----------|
| 5. FOUNDATION | \$ 0.00 | Extension |
| Solicitation No. 06000 - Landscaping Services - Department of
Transportation - Req. No. R559918 | | |

On November 3, 2010, the Board approved the initial award in the amount of \$90,000.00. This extension is necessary to provide additional time for the contractor to complete the work required.

MWBOO GRANTED A WAIVER.

(FILE NO. 55550)

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
--------	-----------------	-------------

Bureau of Purchases

- | | | |
|---|----------------|---------|
| 6. DELTA CHEMICAL CORPORATION | \$2,000,000.00 | Renewal |
| Solicitation No. B50000204 - Aluminum Sulfate - Department of Public Works, Bureau of Water and Wastewater - P.O. No. P501116 | | |

On November 21, 2007, the Board approved the initial award in the amount of \$1,404,850.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$2,000,000.00 is for the period January 1, 2012 through December 31, 2012.

MWBOO GRANTED A WAIVER.

- | | | |
|---|------------------|---------|
| 7. FCC ENVIRONMENTAL LLC | Revenue Contract | Renewal |
| Solicitation No. B50001691 - Waste Oil and Related Items Recovery Services - Department of General Services, Fleet Management Division - P.O. No. P515774 | | |

On December 22, 2010, the Board approved the initial award. The award contained four 1-year renewal options. This renewal is for the period December 22, 2011 through December 21, 2012, with three 1-year renewal options remaining.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
---------------	------------------------	--------------------

Bureau of Purchases

- | | | |
|---|--------------|---------------------|
| 8. IPT, LLC, d/b/a
Paylock | \$600,000.00 | Term Purchase Order |
| Solicitation No. 08000 - Parking Enforcement - Department of
Transportation - P.O. No. P511410 | | |

On October 15, 2008, the Board approved the initial award in the amount of \$601,800.00. On December 9, 2009, the Board approved an increase in the amount of \$1,300,000.00. Due to a delay in receiving the agency's requirement to renew Solicitation No. 08000 - Parking Enforcement, it expired on October 14, 2011, with two 1-year renewal options remaining. It is requested that a term purchase order be approved under the same terms and conditions of the contract for the period October 15, 2011 through October 14, 2012, with one 1-year renewal option remaining.

- | | | |
|--|---------|---------------------|
| 9. RHINEHART RAILROAD
CONSTRUCTION, INC. | \$ 0.00 | Term Purchase Order |
| Solicitation No. 08000 - Railroad Emergency and Inspections -
Department of Transportation - P.O. No. P515069 | | |

On October 13, 2010, the Board approved the initial award in the amount of \$45,540.00. Due to a delay in receiving the agency's requirement to renew this contract Solicitation No. 08000 - Railroad Emergency and Inspections, it expired on October 12, 2011, with a one 1-year renewal option remaining. The term purchase order covers the remainder of what would have been the renewal period under the same terms and conditions of the contract for the period October 13, 2011 through September 12, 2012.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases

10. ASSOCIATED BUILDING
 MAINTENANCE CO., INC. \$ 38,463.00 Extension
 Solicitation No. B5001546 - Provide Janitorial Services for
 Area A - Agencies Various - Req. Nos. Various

On November 24, 2010, the Board approved the initial award in the amount of \$461,556.00. This extension is requested in lieu of a renewal, in order to provide additional time to determine whether the vendor is in compliance with MBE/WBE goals.

MWBOO assigned goals of 17% MBE and 9% WBE on June 29, 2010 and is reviewing the vendor's performance towards these goals.

11. ASSOCIATED BUILDING
 MAINTENANCE, CO., INC. \$ 34,077.00 Extension
 Solicitation No. B5001548 - Provide Janitorial Services for
 Area C - Agencies Various - Req. Nos. Various

On November 24, 2010, the Board approved the initial award in the amount of \$408,924.00. This extension is requested in lieu of a renewal, in order to provide additional time to determine whether the vendor is in compliance with MBE/WBE goals.

MWBOO assigned goals of 17% MBE and 9% WBE on June 29, 2010 and is reviewing the vendor's performance towards these goals.

UPON MOTION duly made and seconded, the Board approved the foregoing informal awards, renewals, and increases and

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
---------------	------------------------	--------------------

Bureau of Purchases - cont'd

extensions to contracts. The Mayor **ABSTAINED** on item no. 4. The President **ABSTAINED** on item no. 4 and item no. 5

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

* * * * *

On the recommendations of the City agencies

hereinafter named, the Board,

UPON MOTION duly made and seconded,

awarded the formally advertised contracts

listed on the following pages:

3691 - 3692

to the low bidders meeting the specifications,

or rejected bids on those as indicated

for the reasons stated.

The Comptroller **ABSTAINED** on item no. 1.

Item no. 5 was **DEFERRED** for one week.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

- | | | | |
|----|--|-------------------------------|--------------|
| 1. | B50001745, On-Call
Marketing and Public
Relations Services | Sahara Communications
Inc. | \$220,000.00 |
|----|--|-------------------------------|--------------|

This is a requirements contract, so amounts will vary.

MBE: Fade 2 Blac Event Video & Event Production, Inc.	15.00%
Afro-American Newspaper	<u>5.00%</u>
	20.00%

WBE: CCPress.Net	10.00%
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MWBOO FOUND VENDOR IN COMPLIANCE.

- | | | | |
|----|--|--------------------------|--------------|
| 2. | B50002042, Outsourcing
DNA Lab Work | Orchid Cellmark,
Inc. | \$200,000.00 |
|----|--|--------------------------|--------------|

MWBOO GRANTED A WAIVER.

- | | | | |
|----|--|--------------------------------|--------------|
| 3. | B50002092, Terex Loader
Model TL160 | Valley Supply and
Equipment | \$ 98,828.58 |
|----|--|--------------------------------|--------------|

MWBOO GRANTED A WAIVER.

- | | | | |
|----|---|---|--------------|
| 4. | B50001654, Quick Lime
For Water Filtration
Plants | Greer Industries,
Inc. d/b/a Greer Lime
Company | \$300,000.00 |
|----|---|---|--------------|

MWBOO GRANTED A WAIVER

MINUTES

Bureau of Water and Wastewater

5. SC 845, Nitrification Filters and Related Work for the ENR at Patapsco Wastewater Treatment Plant
- REJECTION** - On August 10, 2011, the Board received and opened four bids for SC 845. All bidders were found to be non-responsive. The Department of Public Works, Bureau of Water and Wastewater requests the Board reject all bids as being in the best interest of the City. Permission to advertise will be requested at a later date.

A LETTER OF PROTEST HAS BEEN RECEIVED FROM FRU-CON CONSTRUCTION, LLC.

A LETTER OF PROTEST HAS BEEN RECEIVED FROM PC CONSTRUCTION COMPANY.

HJM **HARRIS JONES & MALONE, LLC**

2423 MARYLAND AVENUE
SUITE 100
BALTIMORE, MARYLAND 21218

LISA HARRIS JONES
DIRECT DIAL: (410) 366-1500
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November 1, 2011

Honorable Members of Baltimore City Board of Estimates
100 Holliday, Suite 204
Baltimore, Maryland 21202

Stephanie Rawlings-Blake, Mayor
Joan Pratt, Comptroller
Bernard "Jack" Young, President City Council
George Nilson, City Solicitor
Alfred Foxx, Director, Public Works

c/o Harriett Taylor, Secretary/Deputy Comptroller

Re: Sanitary Contract #845/PC Construction Company

Dear Board Members:

We recognize and acknowledge your policy against hearing protests over recommendations for rejection of bids and that such a recommendation is before you in connection with the above referenced procurement. Nonetheless, we urge you to consider the option of making award to the low bidder, our client, which you have previously elected to utilize in situations where, as here, all of the bidders have been deemed non-compliant.

Very truly yours,


Lisa Harris Jones

RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC

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November 1, 2011

VIA HAND DELIVERY

Ms. Harriet Taylor, Deputy Comptroller
Secretary
Baltimore City Board of Estimates
City Hall
100 N. Holliday Street, Suite 204
Baltimore, Maryland 21202

RE: **BID PROTEST**
Department of Public Works ("DPW")
Sanitary Contract No. 845
Nitrification and Related Work
Patapsco Wastewater Treatment Plant

This law firm represents Fru-Con Construction, LLC ("Fru-Con"), the lowest responsive and responsible bidder for DPW Sanitary Contract No. 845 (the "Contract" or "SC845"). The purpose of this letter is to protest (1) DPW's recommendation that that Board of Estimates ("Board") should reject all bids, and (2) DPW's determination that Fru-Con's bid is non-responsive as a result of untidy penmanship on a Statement of Intent that was signed prior to bid submission.

Fru-Con requests the Board instruct DPW to investigate whether there indeed was a "change" to the terms of the agreement between Fru-Con and an MBE firm, Top Roofing, Inc. ("Top Roofing"), as DPW apparently believes. If DPW finds upon such investigation that there was no "change" – rather, that the Statement of Intent contains imperfect penmanship – DPW should recommend award to Fru-Con, the lowest responsive and responsible bidder.

COMPT/BOE NOV 1 11 AM 10:57

I. Executive Summary

On August 10, 2011, bids were opened on SC No. 845. Fru-Con's bid was approximately 1.3% (or approximately \$1.2M) higher than the low bidder. On August 16, 2011, DPW determined that Fru-Con's MBE/WBE Forms were compliant with the requirements. (Exh. A).

Two months later, however, DPW questioned the MBE/WBE and Prime Contractor's Statement of Intent ("Part B") between Fru-Con and Top Roofing. DPW looked closely at the second digit of the "Subcontract Amount" and found an imperfection in the penmanship. An image of the relevant portion of the Statement of Intent which was included in the original bid, appears as follows:

Name of Prime Contractor: Fru-Con Construction, LLC
Name of MBE or WBE: Top Roofing, Inc
Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
Roofing work
Materials/Supplies to be furnished by MBE or WBE:
roofing materials, fasteners, nails, shingles, misc wood
supplies for roofing work
Subcontract Amount: \$ 1,000,325.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 1.1 %

MWBOO became concerned about the presence of this untidy second numeral "0" and wondered if it was supposed to be the numeral "3" in the subcontract amount of \$1,000,325.00. Sworn affidavits, attached to this document, prove that Fru-Con and Top Roofing, by their top-level officials, agreed to the subcontract amount of \$1,000,325.00 prior to submission of the bid, which included Statement of Intent. The MBE, Top Roofing, should not lose this subcontract merely because the handwriting was untidy.

Thomas Cox, the owner of Top Roofing, followed a practice whereby MBE/WBEs and prime bidders routinely sign their Statements of Intent in advance. Both parties—the MBE/WBE and the prime bidder—expect the MBE/WBE to give its subcontract quote on bid day. Both parties also expect the prime bidder to fill out the Statement of Intent according to the agreement before bid submission.

As is more fully explained below, the practice of signing the Statements of Intent prior to completion of the subcontract amount allows MBE/WBEs to compete on equal footing with non-

MBE/WBEs. All subcontractors wait until the last minute so they can base their quotes on the best prices from their suppliers, who offer those prices at the last minute (sometimes literally) before bid submission. On the other hand, City officials are rightfully concerned about this practice because, in rare instances on other procurements, other contractors have used the blank forms to make false statements.¹

The MBE firm should not be harmed simply because the City suspects a mistaken second digit – “3” – was written over with heavy ink so that the intended “0” is accurately shown. Fru-Con and Top Roofing agreed, pre-bid, to the subcontract amount of \$1,000,325. This amounts to 1.1% of Fru-Con’s total contract price subject to MBE goals. Imperfect penmanship by Fru-Con’s employee should not prevent award of the contract to Fru-Con and award of the subcontract to Top Roofing.

a. Events Leading To Bid Submission

Several weeks prior to bid submission, Top Roofing’s President, Mr. Cox, had talked to Fru-Con representatives regarding the roofing items that Top Roofing might quote to Fru-Con. Mr. Cox had similar discussions with other prospective contractors that were potential bidders on the prime contract. (See Affidavit of Thomas Cox, attached as **Exh. F**).

On the morning of bid opening, August 10, 2011, Thuc Nguyen, a Fru-Con estimator, spoke in a telephone call with Melva Jenkins, Vice-President of Operations at Top Roofing. She offered Fru-Con a subcontract quote of \$1,000,325 for certain components of roofing work within the scope of SC845. (See Ms. Jenkins’ Affidavit, attached as **Exh. B**). Mr. Nguyen made detailed notes on the Telephone Bid sheet including details of the components of work and amount quoted by Top Roofing. (See Mr. Nguyen’s Affidavit, attached as **Exh. C**). Ms. Jenkins followed up the verbal quote in typewritten letters from Top Roofing dated August 10, 2011.

Meanwhile, in the minutes prior to bid submission, Michael Fischer, Fru-Con Vice-President of Operations, spoke by cell phone to Benjamin Johns, a Fru-Con staffer who was sitting in his car at a parking garage near City Hall. Mr. Fischer told Mr. Johns to fill in the subcontract amount of \$1,000,325 for the roofing work and Mr. Johns wrote in this amount. It was at this moment when the final bid price was decided, so Mr. Fischer was in a position to tell Mr. Johns that Top Roofing’s quote of \$1,000,325 represented 1.1% of Fru-Con’s total price (subject to the MBE/WBE goals.) Mr. Johns filled in the percentage “1.1%” as the “subcontract percentage” to complete the requirements of the Statement of Intent. This is supported by the sworn affidavits of Mr. Johns and Mr. Fischer, attached as **Exhs. D** and **E**, respectively.

¹ See *Jay Dee/Mole Joint Venture v. Mayor of Baltimore*, 725 F. Supp. 2d 513 (D. Md. 2010), where the City rescinded the contract award when it was discovered that prime bidder had completed the Statement of Intent – which had been signed in advance – in a manner that misrepresented the scope of work and dollar value of various MBE/WBE quotes.

The subcontract amount was hand-written by Mr. Johns. Within seconds of mistakenly beginning to write a “3,” Mr. Johns corrected the numeral to the intended “0.” A few minutes later, Mr. Johns delivered Fru-Con’s bid with “\$1,000,325.00” expressed, although inartfully, as the Subcontract Amount on the Statement of Intent.

Prior to bid submission at 11:00 am on August 10, Top Roofing and Fru-Con were – and remain – in agreement about their mutual assent to a subcontract in the amount of \$1,000,325 for certain roofing work.

b. Fru-Con and Top Roofing Followed Routine Practices For Their Statement of Intent.

It is helpful to describe the background whereby bidders comply with the requirement to submit the Statement of Intent to subcontract between an MBE/WBE and a prime contractor. For years, prime bidders have been required to award a percentage of their subcontract work to MBE/WBEs or else request a waiver where, despite good faith efforts, they were not able to achieve the MBE/WBE goals. Until recent years, bidders were not required to identify the names of the MBE/WBEs to which the successful bidder would actually award the subcontract—rather, bidders merely promised to achieve the goal.

Problems arose, among other reasons, because primes might rely on a subcontract quote to a certain MBE/WBE if the bidder is successful. After bid opening, however, the successful bidder might disavow any such agreement. The successful bidder might only let the subcontract to the MBE/WBE if it (the MBE/WBE) accepted less favorable subcontract terms, to put it mildly. It seemed appropriate to provide MBE/WBEs with protection from such nefarious practices.

To address this problem, bidders must now furnish the names of the intended MBE/WBEs, a description of the scopes of work for each MBE/WBE, and the subcontract dollar amount. These agreements are expressed in a Statement of Intent. The Statement of Intent must be submitted along with the bid, or else the bid must be rejected as non-responsive.²

The Statement of Intent Form provides spaces for the signatories to indicate the date of execution. Neither the Statement of Intent form, nor the specifications for SC845, prohibits execution of the Statement of Intent at the same moment as the parties conclude their negotiations about scope of work or dollar amount.

² On information and belief, the low bidder on SC845 failed to submit a Statement of Intent covering millions of dollars of subcontract work supposedly intended for some unidentified MBE/WBE. It undermines procurement integrity if, after bid opening and public disclosure of the bids, the low bidder is in a position to elect to accept the contract by suddenly producing a Statement of Intent to meet the MBE/WBE goals. The potential harm is easy to illustrate: suppose the low bidder suddenly did not want the contract now that the other bids are revealed, the bidder would simply not produce the Statement of Intent in hopes of getting its improvident bid rejected.

The Statement of Intent Form does not provide a space for the MBE/WBE to authorize, or consent to letting, the prime to fill in the subcontract amount. The Statement of Intent Form could be revised, for instance, so the MBE/WBE could simply check a box stating: "The MBE/WBE authorizes the prime to write in the amount of the subcontract and the percentage of total contract on the Statement of Intent, provided the prime expresses those amounts strictly in accordance with the subcontract quote to be furnished by Mr./Ms. _____ prior to bid submission."

To accommodate the requirement for signatures on the Statements of Intent, Top Roofing and Fru-Con followed the standard step-by-step practice to assure that (a) the parties agreed to the same description of the scope of work and the subcontract amount, (b) Top Roofing executed the Statement of Intent early enough so that Fru-Con, as a practical matter, could submit the Statement of Intent along with the timely bid, and (c) Top Roofing was protected against the risk of bid shopping .

The prime bidder is expected to complete the Form properly, including a statement showing the percentage that the MBE/WBE subcontractor represents out of the total dollar value of the prime bid. It is not until the last minute that the prime bidder is in a position to calculate the "subcontract percentage of the total contract." Finally, the prime submits the Statement of Intent—with the correct information on the Form as previously executed—along with the bid.

This routine arrangement is reasonable under the circumstances. For starters, MBE/WBEs deserve the same opportunities as non-MBE/WBE subcontractors. All subcontractors want to wait until the last minute before submitting quotes. This is for two reasons: (1) this is time when suppliers offer subs their lowest prices for materials, and (2) subcontractors do not want to be victimized by prime contractors that might engage in "bid shopping" (*i.e.*, the prime might disclose the early quotes to other subs in hopes of getting lower quotes immediately prior to submission of the bid).

c. Post-Bid Submission Events

As noted, by DPW's letter dated August 16, 2011, Fru-Con's bid, including the Statements of Intent for 17 MBE/WBEs, was deemed compliant with the bidding requirements for SC845. MBE/WBE Participation Forms were compliant with the requirements, including the Statement of Intent between Top Roofing and Fru-Con. This notice of compliance has not been rescinded.

In October, doubts arose about the validity of the Top Roofing Statement of Intent apparently because the subcontract amount was written – with the consent of Top Roofing – on bid submission date but *after* Top Roofing and Fru-Con had executed the Statement of Intent.

This doubt arose from imperfection in the penmanship of the second digit of the subcontract amount. DPW was concerned that the subcontract amount might not exactly reflect what both Top Roofing and Fru-Con intended and, if so, why that "change" in amount was not

initialed by the parties. In contrast, as shown by the affidavits of the individuals involved, there was no doubt on the parties' part.

II. DPW's Policy Justification For Rejection Of All Bids Is Harmful to MBE/WBE Firms And Is Not In The Best Interest Of The City.

On Monday, October 31, 2011, the Board of Estimates' draft agenda included an agenda item for SC845, which read as follows:

On August 10, 2011, the City received and opened four bids for SC 845. All of the bidders were found to be non-responsive. the Department of Public Works, Bureau of Water and Wastewater requests the Board reject of all bids in the best interest of the City. Permission to advertise will be requested at a later date.

There has been no formal explanation of the reason for this abrupt recommendation to reject all bids. By rejecting all bids, the City risks awarding SC845 to a higher-priced vendor, significantly delaying project completion, and harming the ability of MBE/WBEs to compete for subcontracts.

Apparently, DPW is going to require all MBE/WBE Statements of Intent must be signed by the bidder and MBE/WBE firm *after* the intended subcontract amount is entered and the percentage of total bid is written on the Statement of Intent.

For some time now, it has been the industry standard for bidders to acquire blank Statements of Intent, signed by MBE/WBE firms, and subsequently fill in amounts and scopes of work agreed to by both parties. An abuse of this practice occurred in the case of Sanitary Contract No. 839R. As described in the U.S. District Court decision in *Jay Dee/Mole Joint Venture v. Mayor of Baltimore*, 725 F. Supp. 2d 513 (D. Md. 2010), a low bidder falsely represented the scope of work and subcontract amount on a pre-signed Statement of Intent.

In that case, the low bidder, Jay Dee/Mole Joint Venture ("JDM"), inaccurately represented on the Statements of Intent the scope of work and subcontract amount quoted by two MBE/WBE firms. The City awarded the contract to JDM on the condition that executed MBE/WBE subcontracts would be submitted within 30 days. JDM failed to enter into a subcontract with one of the MBEs firms, rendering JDM in violation of the contract terms.

The problem in *Jay Dee/Mole* was described as follows:

JDM's bid was submitted in bad faith--that is, JDM knew it had not reached a meaningful agreement with either K-O or R&R at the time of its bid submission--thereby undermining the integrity of both the competitive bidding process and the City's M/WBE laws.

...

JDM had demanded subcontract terms--requiring R&R to provide large amounts of materials and equipment--which R&R never contemplated or agreed to at the time the Statement of Intent was filed with JDM's bid. One of two inferences must be drawn from that action: either JDM lacked an actual, meaningful agreement with R&R at the time the Statement of Intent was filed (because JDM understood the "agreement" to mean one thing and R&R reasonably understood it to mean something materially different), or JDM and R&R did reach an agreement but JDM later used its leverage as the contract awardee to try to strong-arm R&R into accepting new terms.

Id. at 521-22, 527.

It appears that the City is concerned that such a situation could occur again. Perhaps such concerns underlie Addendum No. 2 to another DPW contract, Contract No. SC851, "Painting Rehabilitation of Elevated Water Tank & Lox Tanks at the Patapsco Wastewater Treatment Plant." On October 19, 2011, DPW issued this Addendum including a letter to bidders that stated the following:

Please adhere closely to the following instructions when completing and submitting Form Part B:

1. **IT IS NOT ACCEPTABLE FOR AN MBE OR WBE FIRM TO SIGN A BLANK FORM PART B FOR LATER COMPLETION BY THE PRIME CONTRACTOR.**
2. If it is necessary to change information on a Form B after it is completed and signed, including the computation of the "Percentage of Total Contract", EACH CHANGE MUST BE INITIALED.
3. An altered form may result in rejection of the entire bid.

A revised copy of the Part B: MBE/WBE and Prime Contractor's Statement of Intent is enclosed. Larger type has been added to call attention to the requirement for putting initials next to ALL post-signature changes.

DPW seems poised to change its longstanding administrative policy regarding the Statements of Intent.³ It is one thing for the City, going forward, to establish a new policy that "it is not acceptable for an MBE or WBE firm to sign a blank Form Part B for later completion by

³ Fru-Con does not anticipate favorable results from the City's new policy that requires bidders to fill in the subcontract amount and percentage prior to execution. MBE/WBE firms will need to execute final Statements of Intent – including their subcontract amount – prior to the day of bid opening. This means that the final price submitted by MBE/WBE firms will be exposed, allowing non-MBE/WBE firms to significantly underbid these prices without MBE/WBE firms having the ability to submit lower, more competitive prices prior to bid opening. In addition, prime bidders' total prices will be exposed to dozens of MBE/WBEs – prior to bid submission – as soon as the prime shows the MBE/WBE the percentage that the MBE/WBE's quote represents of the prime's total contract price. This could lead to troublesome results for both MBE/WBEs and prime bidders.

the prime contractor.” It is another thing for the City to introduce this new policy, retroactively, where the MBE/WBE and the prime mutually assented to the terms of the Statement of Intent.

This new prohibition will deny MBEs the same opportunity to compete for subcontracts as non-MBE/WBEs. All subcontractors, MBE/WBEs and non-MBE/WBEs alike, fear the risk that if they provide a final subcontract quote too soon, a bidder can “shop” the bid around and see if other subcontractors would offer to do the work at a lower price. All subcontractors, MBE/WBEs and non-MBE/WBEs, want to be free to revise quotes and work scopes at the last minute when their suppliers provide updated pricing and the prime is putting together its final bid. By rejecting all bids for SC845 and requiring a new round of bids conforming with this new policy concerning Statements of Intent, the ability of MBE/WBE firms to compete for subcontract work on SC845R will be greatly reduced.⁴

The Board similarly runs the risk of awarding the Contract at a higher price than that which Fru-Con is currently offering, and delaying completion in the amount of time that a new round of procurement will take. It is in the best interest of the City to award the contract to Fru-Con, the lowest responsive and responsible bidder, who has also met the Contract’s MBE/WBE participation goals.

III. Fru-Con’s Bid Is Responsive Because No Term Was Changed On The Statement Of Intent.

Insofar as DPW determines that Fru-Con’s bid is non-responsive because of the Statement of Intent, it is wrong. Fru-Con’s bid conforms in all material respects to the requirements contained in the invitation for bids. *See* COMAR 21.01.02.01B(78). At worst, the imperfect penmanship on the Statement of Intent would constitute a minor defect in Fru-Con’s MBE submission that the Board may waive at its discretion pursuant to Balt. City Code Art V, § 28-14(b).

DPW’s determination, apparently, is based on its belief that Fru-Con improperly “changed” one numeral of the subcontract amount on the Statement of Intent. In fact, no such “change” occurred: Fru-Con did not change or alter its commitment to subcontract with Top Roofing, should the City execute the Contract with Fru-Con.

It should be noted that the Statement of Intent is not a contract itself. Imperfect penmanship on the Statement of Intent amounts to a *mistake in the terms of the bid*, similar to a case where a number on a bid’s schedule of prices is unclear or unspecified. By analogy with State procurement, where a bid contains a typographical or transpositional mistake, and the intended correction of the mistake is clearly evident on the face of the bid documents, that

⁴ Fru-Con understands that the City intends to begin electronic bidding procedures in the near future. As a result, this new policy will become superfluous in that Statements of Intent will likely be submitted electronically and will not be “signed” by the MBE/WBE firm in any way. It does not make sense for DPW to institute a new requirement that DPW will quickly abandon as soon as electronic bidding begins.

correction may be made. *See, e.g., Flippo Construction, Inc.*, MSBCA No. 2320, 6 MSBCA ¶528 at 7 (2003); COMAR 21.05.02.12C.

The intended subcontract amount is clear from the face of the Statement of Intent. The percentage of the total bid amount available for MBE/WBE participation indicated on the Statement of Intent, which is “1.1%,” means there is only one reasonable interpretation of the unclear numeral. The amount \$1,000,325 is 1.06% (or 1.1% rounded-up) of \$94,576,271, which was the amount of Fru-Con’s bid excluding Item Nos. 402-408 and 418 pursuant to the City’s Q&A instructions.⁵

If the amount on the Statement of Intent were construed as \$1,300,325, this amount would equal 1.37% (or 1.4% rounded-up) of the total bid amount available for MBE/WBE participation. The intended amount of MBE/WBE participation indicated on the Statement of Intent is amenable to *only* one reasonable interpretation. The mistake must be corrected and the bid is responsive.

In addition, Fru-Con indicated on Part C, the “MBE/WBE Participation Affidavit,” an MBE participation amount of \$16,311,817.00. This total MBE participation amount *only* corresponds with an amount of \$1,000,325 committed to Top Roofing. If the Top Roofing Statement of Intent were to indicate \$1,300,325, Fru-Con’s Part C would indicate a total of \$16,611,817.00 worth of MBE participation, which it does not. The intended correction is obvious from both the Statement of Intent and Part C.

As recently explained by the Court of Appeals in an analogous situation, *John L. Mattingly Constr. Co. v. Hartford Underwriters Ins. Co.*, 415 Md. 313, 326-327 (2010) (internal citations and quotations omitted):

Maryland adheres to the principle of the objective interpretation of contracts. Our task in determining the meaning of a contract is necessarily focused on the four corners of the agreement. When the clear language of a contract is unambiguous, the court will give effect to its plain, ordinary, and usual meaning, taking into account the context in which it is used. In contrast, a contract is ambiguous if it is subject to more than one interpretation when read by a reasonably prudent person. If the contract is ambiguous, the court must consider any extrinsic evidence which sheds light on the intentions of the parties at the time of the execution of the contract.

Determining whether language in a contract is susceptible to more than one meaning requires an examination of “the character of the contract, its purpose, and the facts and circumstances of the parties at the time of execution.” *Pacific Indem. Co. v. Interstate Fire & Casualty Co.*, 302 Md. 383, 388 (1985).

⁵ It appears that all bidders correctly calculated their MBE/WBE percentages based on this calculation.

The terms of the Statement of Intent can only be read as \$1,000,325 for two reasons. First, as discussed above, the Statement of Intent is unambiguous because there is only one reasonable interpretation when read by a reasonably prudent person. The percentage shown on the Statement of Intent corresponds to \$1,000,325—not \$1,300,325.

Second, if the Board were to consider the Statement of Intent ambiguous, the Board could consider extrinsic evidence in order to determine the meaning of the ambiguous subcontract amount. In this case, Top Roofing's written quote evidences the amount agreed to between the parties and the affidavits of the individuals involved demonstrate that the parties agreed to \$1,000,325.00

Either way, the Statement of Intent must be read as \$1,000,325.00. There is no other reasonable interpretation of the subcontract amount shown on the Statement of Intent.

IV. Fru-Con's Bid Was Submitted In Good Faith And Reflects A Meaningful Agreement With Top Roofing.

As described above, the flaw in Jay Dee/Mole's bid for SC852R exhibited one of two flaws exhibiting a lack of good faith: (1) either the prime had not reached a "meaningful agreement" with the subcontractor, or (2) the prime attempted to use "leverage" to negotiate more favorable terms after bid opening with the subcontractor.

Neither of these flaws apply to Fru-Con and Top Roofing. First, Fru-Con and Top Roofing had an actual meaningful agreement with Top Roofing at the time the Statement of Intent was filed because the parties both had a mutual understanding as to the terms of the intended subcontract. The terms offered by Top Roofing were accepted, without alteration, by Fru-Con.

Second, Fru-Con has never sought to change the terms of the agreement. It is true that where acceptance of a subcontract offer substantially varies the terms of the offer, the supposed acceptance is really a counter-offer. *See Pavel Enters. v. A. S. Johnson Co.*, 342 Md. 143, 163 (1996). However, the subcontract "acceptance" here was not a variation at all. In fact, it was a "mirror image" of the terms offered by Top Roofing.

To hold that Fru-Con's bid is not responsive as a result of the sloppy correction of a single digit to match the agreement reached between the parties would be both arbitrary and detrimental to the best interest of the City.

V. Conclusion and Relief Requested

The Board of Estimates should call upon DPW to more fully analyze the issues arising

out of this procurement. DPW should evaluate whether the MBE/WBE and prime acted fairly in their method of filling out the Statement of Intent Forms. If so, the contract should be awarded to Fru-Con.

As DPW will observe, the MBE signed the Statement of Intent early on and authorized the prime to fill in the blanks later on. The MBE agreed to give its subcontract quote on bid day with the understanding that the prime would accurately fill in the subcontract amount. The MBE called in (and later faxed) its subcontract quote, and the prime wrote the agreed upon amount on the pre-signed Statement of Intent. The MBE and prime, Top Roofing and Fru-Con, agreed on the deal and consented to this procedure, mostly to accommodate the City's requirements for submission of the Statement of Intent along with the bid.

DPW properly determined that Fru-Con's bid was responsive and compliant with the MBE/WBE requirements in August. In October, however, DPW set forth new rules. DPW decided all bids are non-responsive based, apparently, on these new rules about timing for completion of the Forms for "Statements of Intent."

It is unfair to apply the new rules retroactively to SC845, especially without giving the MBE, Top Roofing, a reasonable opportunity to provide details prior recommending hasty action of the Board of Estimates. DPW may conclude that MBEs, going forward, must execute the Statements at the same time as the Forms are filled out. Maybe DPW needs to provide more protection against for MBEs against the problems where prime bidders – in bad faith – misstate the subcontract amounts quoted.

Top Roofing and Fru-Con do not have such problems and do not need any such protection. On the facts presented in this case, the MBE and prime agreed to a subcontract amount for certain opportunity to enter the roofing subcontract.

Fru-Con's bid is responsive. The imperfect penmanship on the Statement of Intent is, at worst, a minor defect in Fru-Con's MBE submission that the Board may waive at its discretion pursuant to Balt. City Code Art. V, § 28-14(b). The Board should allow MBE/WBEs to continue to enjoy the same ability as non-MBE/WBEs to submit subcontract quotes at the last possible minute prior to bid opening. For the reasons set forth above, the Board should award Sanitary Contract No. 845 to Fru-Con, the lowest responsive and responsible bidder for the Contract.

Very truly yours,



Scott A. Livingston

Enclosures

cc: Leslie S. Winner, Esq., Department of Law (via email to leslie.winner@baltimorecity.gov)

CITY OF BALTIMORE
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF PUBLIC WORKS
CONTRACT ADMINISTRATION
1105 Abel Wolman Municipal Building
Baltimore, Maryland 21202

CERTIFIED MAIL: 7010-1870-0003-1305-2585

August 16, 2011

Fru-Con Construction, LLC
4310 Prince William Pkwy., Suite 200
Woodbridge, VA 22192

**RE: S.C. 845-Nitrification Filters and Related Work for the Enhanced Nutrient Removal
Facilities at the Patapsco Wastewater Treatment Plant**

To Whom It May Concern:

Bids were opened on August 10, 2011 for the above mentioned project. The City of Baltimore Minority and Women's Business Opportunity Office has found your bid to be in Compliance with Article 5 Section 28 of the Baltimore City Code.

To further your proposal, we are forwarding herewith, two (2) copies of the Work Capacity Statements, along with an extra copy for your file. These forms must be fully completed and returned to this office within five (5) days of receipt.

Please contact the Office of Contract Administration at (410) 396-4041 should you have any questions regarding this requirement.

Sincerely,

LATONIA WALSTON
CONTRACT ADMINISTRATOR II

Enclosures

cc: Misrak Shiferaw
File

Visit Our Website @ www.baltimorecity.gov



AFFIDAVIT OF MELVA JENKINS

1. I, MELVA JENKINS, am over the age of 18 and competent to testify as to the facts herein stated.

2. I am Vice President of Operations at Top Roofing, Inc. ("Top Roofing"). My responsibilities include estimation and project management. In that role, I regularly develop estimates for roofing projects. On average, I prepare between 20 and 30 bids per month, in the approximate range of \$50,000 to \$1,500,000.

3. I have worked in the roofing business for over 20 years, starting as a Laborer.

4. Top Roofing is certified as a Minority Business Enterprise ("MBE") by the Baltimore City Minority and Women's Business Opportunity Office ("MWBOO") for work including roofing, carpentry and sheetmetal. Top Roofing's MWBOO Certification Number is 00-003887.

5. In July and August 2011, I reviewed the plans and specifications for Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845") with a focus on roofing work.

6. After reviewing the plans and specifications for SC845, I discussed SC845 with Thomas Cox, Top Roofing's owner and President. Mr. Cox and I decided to compete for the roofing work in SC845.

7. On the morning of August 10, 2011 – the date of bid opening – I had a phone call with Thuc Nguyen, an Estimator at Fru-Con Construction, LLC ("Fru-Con"). I gave Mr. Nguyen Top Roofing's price for the roofing work contained in SC845. I described to Mr. Nguyen three separate components of work comprising Top Roofing's bid: (1) Metal Roof Panels (\$507,800); (2) Metal Wall Panels/Sidings (\$120,000); and (3) Built-up Asphalt Roofing

(\$372,525). After describing the various scopes of work, I confirmed the total bid amount as \$1,000,325. During this phone call, I told Mr. Nguyen that I would follow up with a written quote.

8. Following the phone call, I sent Fru-Con a written quote indicating the same prices identified during my phone call with Mr. Nguyen. A copy of this written quote is attached as **Exhibit 1** to this Affidavit.

9. I expected Fru-Con to complete and submit a "Part B" Statement of Intent reflecting this quote if Fru-Con decided to award a subcontract to Top Roofing.

10. In recent days, I reviewed a copy of the "original" Statement of Intent submitted with Fru-Con's bid for SC845. I believe it shows the pre-bid agreement between Top Roofing and Fru-Con that Top Roofing would perform the roofing work on SC845 for \$1,000,325 if Fru-Con was awarded the contract. This amount has remained constant and was never changed.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Dated: 10/28/11

Melva Jenkins
Melva Jenkins

STATE OF Maryland:

COUNTY OF Baltimore City

I, Dan C. Harris, a Notary Public, in and for the State and County aforesaid, do hereby certify that **Melva Jenkins** who is personally known to me as (or proven by the oath of credible witnesses to be) the person named in the foregoing Affidavit bearing date on the 28th day of October, 2011, and hereto annexed, personally appeared before me in said State and County, and acknowledged the same to be his act and deed, and that it was executed for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 28th day of October, 2011.

My commission expires: 1/18/2014

Dan C. Harris
Notary Public





Top Roofing Inc

5406 Morello Road
Baltimore, Maryland 21214
Ph. 443-253-4523
Fax 410-426-4031

To: Fru-Con Construction

August 10, 2011

Attn: Estimating

Project Name: Patapsco WWTP

Metal Roof (approx total 32,300 sq. ft.)

We propose to provide material, labor, supervision and insurance to complete the following scope of work as described below:

- Furnish and install ATAS Standing Seam metal roofs as per project specifications according to manufacturer guidelines
- All associated gutter, downspouts and related accessories
- All standard manufacturer's details necessary to obtain manufacturer's warranty for total roofing system as per project specifications provided.

All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 507,800.00

Five Hundred Seven Thousand Eight Hundred Dollars

Please do not hesitate to contact me should you have questions or concerns.

Respectfully submitted,

Melva Jenkins / Estimator
Ph - 443-708-2007
Fax - 443-759-8118
Cell - 443-609-7223

Tom Cox / Estimator
Ph - 443-253-4523
Fax - 410-426-4031

Top Roofing Inc

5406 Morello Road
Baltimore, Maryland 21214
Ph. 443-253-4523
Fax 410-426-4031

To: Fru Con Construction

August 10, 2011

Attn: Estimating

Project Name: Patapsco WWTP

Metal Wall Panels (approx total 6,000 sq. ft.)

We propose to provide material, labor, supervision and insurance to complete the following scope of work as described below:

- Furnish and install ATAS metal wall panels as per project specifications according to manufacturer guidelines
- All associated accessories
- All standard manufacturer's details necessary to obtain manufacturer's warranty for total wall panel system as per project specifications provided.

All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 120,000.00

One Hundred Twenty Thousand Dollars

Please do not hesitate to contact me should you have questions or concerns.

Respectfully submitted,

Melva Jenkins / Estimator

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Fax - 443-759-8118

Cell - 443-609-7223

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5406 Morello Road
Baltimore, Maryland 21214
Ph. 443-253-4523
Fax 410-426-4031

To: Fru-Con Construction
Attn: Estimating
Project Name: Patapsco WWTP
BUR (approx total 51,000 sq. ft.)

August 10, 2011

We propose to provide material, labor, supervision and insurance to complete the following scope of work as described below:

- Furnish and install Firestone BUR as per project specifications according to manufacturer guidelines.
- All standard manufacturer's details necessary to obtain manufacturer's warranty for total roofing system as per project specifications provided.

All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 372,525.00

Three Hundred Seventy Two Thousand Five Hundred Twenty Five Dollars

Please do not hesitate to contact me should you have questions or concerns.

Respectfully submitted,

Melva Jenkins / Estimator
Ph - 443-708-2007
Fax - 443-759-8118
Cell - 443-609-7223

Tom Cox / Estimator
Ph - 443-253-4523
Fax - 410-426-4031



AFFIDAVIT OF THUC NGUYEN

1. I, THUC NGUYEN, am over the age of 18 and competent to testify as to the facts herein stated.

2. I am an Estimator at Fru-Con Construction, LLC ("Fru-Con").

3. In my role as an Estimator, I was responsible for soliciting and compiling bid prices from potential subcontractors, including those that bid on roofing work within the scope of Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845").

4. A few days before bid opening for SC845, I spoke with Thomas Cox, the owner and President of Top Roofing, Inc. ("Top Roofing"). Mr. Cox instructed me to speak with his Vice President of Operations, Melva Jenkins.

5. On the morning of August 10, 2011, I had a phone call with Ms. Jenkins. Ms. Jenkins gave me Top Roofing's prices for the three scopes of roofing work contained in SC845. Ms. Jenkins confirmed the total bid amount as \$1,000,325, which was comprised of three components of work: (1) Metal Roof Panels (\$507,800); (2) Metal Wall Panels/Sidings (\$120,000); and (3) Built-up Asphalt Roofing (\$372,525). Ms. Jenkins confirmed each scope of work and the pricing of each as I read them back to her. I documented the results of this phone call on the "Telephone Bid" form attached to this Affidavit as **Exhibit 1**.

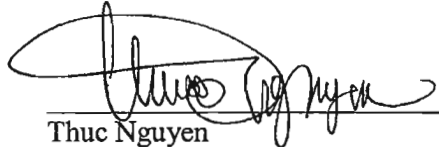
6. Ms. Jenkins followed up our phone call with a written quote. This written quote is attached to this Affidavit as **Exhibit 2**.

7. Top Roofing's quote was added to a spreadsheet with other final subcontract quotes for review by Michael Fischer, Fru-Con's Vice President.

8. Top Roofing's final subcontract quote of \$1,000,325 was the lowest quote received from all potential roofing subcontractors for SC845.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Dated: 10/24/2011


Thuc Nguyen

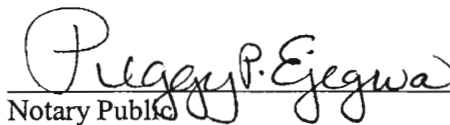
STATE OF Virginia:

COUNTY OF Prince Williams:

I, Peggy Patricia Ejegwa a Notary Public, in and for the State and County aforesaid, do hereby certify that **Thuc Nguyen** who is personally known to me as (or proven by the oath of credible witnesses to be) the person named in the foregoing Affidavit bearing date on the 24th day of October, 2011, and hereto annexed, personally appeared before me in said State and County, and acknowledged the same to be his act and deed, and that it was executed for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 24th day of October, 2011.

My commission expires: 8/31/2015


Notary Public

Peggy Patricia Ejegwa
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7392439
My Commission Expires 8/31/2015





Top Roofing Inc

5406 Morello Road
Baltimore, Maryland 21214
Ph. 443-253-4523
Fax 410-426-4031

To: Fru-Con Construction

August 10, 2011

Attn: Estimating

Project Name: Patapsco WWTP

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All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 507,800.00

Five Hundred Seven Thousand Eight Hundred Dollars

Please do not hesitate to contact me should you have questions or concerns.

Respectfully submitted,

Melva Jenkins / Estimator

Ph - 443-708-2007

Fax - 443-759-8118

Cell - 443-609-7223

Tom Cox / Estimator

Ph - 443-253-4523

Fax - 410-426-4031

Top Roofing Inc

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Baltimore, Maryland 21214
Ph. 443-253-4523
Fax 410-426-4031

To: Fru Con Construction

August 10, 2011

Attn: Estimating

Project Name: Patapsco WWTP

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All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 120,000.00

One Hundred Twenty Thousand Dollars

Please do not hesitate to contact me should you have questions or concerns.

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Project Name: Patapsco WWTP

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We propose to provide material, labor, supervision and insurance to complete the following scope of work as described below:

- Furnish and install Firestone BUR as per project specifications according to manufacturer guidelines.
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All of the above tasks will be performed in a workmanlike manner for the sum of:

\$ 372,525.00

Three Hundred Seventy Two Thousand Five Hundred Twenty Five Dollars

Please do not hesitate to contact me should you have questions or concerns.

Respectfully submitted,

Melva Jenkins / Estimator
Ph - 443-708-2007
Fax - 443-759-8118
Cell - 443-609-7223

Tom Cox / Estimator
Ph - 443-253-4523
Fax - 410-426-4031



AFFIDAVIT OF BENJAMIN JOHNS

1. I, BENJAMIN JOHNS, am over the age of 18 and competent to testify as to the facts herein stated based on my personal knowledge of the facts.
2. I am an Assistant Project Manager at Fru-Con Construction, LLC ("Fru-Con").
3. On August 10, 2011, Mr. Jeffrey Tedder and I served as "bid runners," assigned to submitting, on behalf of Fru-Con, our bid for Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845").
4. I was given numerous bid documents including "Part B" Statements of Intent for the MBE/WBEs with which Fru-Con intended to award subcontracts. Fru-Con's Vice-President, Mr. Michael Fischer, partially filled in some blanks on the Statements of Intent with blue ink; namely, the "Work/Service to be performed" and "Materials/Supplies to be furnished." The blanks for "Subcontract Amount" and "Subcontract percentage of total contract" were not filled in.
5. Mr. Tedder and I arrived at the parking garage near City Hall on the morning of August 10, 2011, and called Mr. Fischer. As is routine in bidding on Baltimore City contracts, the Statements of Intent could only be completed immediately prior to bid submission – set for 11:00 a.m. in the case of SC845 – because it is not until the last minute that Fru-Con is in a position to determine the *final* total contract price for the whole project.
6. As is routine in these situations, Mr. Fischer read out the amounts to be entered on each bid form, and we handwrote the numbers on "Part B" Statements of Intent for each of the MBE/WBE subcontractors. I completed the "original" Statements of Intent, while Mr. Tedder completed the "duplicate" Statements of Intent.

7. For the roofing subcontractor, Top Roofing, Inc. ("Top Roofing"), Mr. Fischer said the subcontract amount was "one million, three-hundred twenty-five dollars" (\$1,000,325).

8. While Mr. Fischer read the number over the phone, I simultaneously completed the "Subcontract Amount" blank on the Statement of Intent. When I got to the second digit, I hastily wrote the top half of a "3." I mistakenly thought Mr. Fischer was going to state that the subcontract amount would be "one million, three-hundred twenty-five *thousand* dollars."

9. The top half of the "3" never became a full "3." Halfway through writing the digit, I realized my near mistake and finished writing the intended "0" over the top half of the "3." The heavy ink on the top part of the zero merely reflects my imperfect penmanship to make sure the subcontract amount was exactly as Mr. Fischer stated, "one million, three-hundred twenty-five dollars."

10. In order to confirm this amount, I recited the number "one million, three-hundred twenty-five dollars" and Mr. Fischer confirmed this amount.

11. My imperfect penmanship did not change Fru-Con's intention to enter into a subcontract with Top Roofing in the amount of \$1,000,325.

12. Mr. Fischer then told us that Top's subcontract amount was "one-point-one percent" (1.1%) of Fru-Con's total contract. I handwrote "1.1" on the "Subcontract percentage of total contract" blank of the Top Roofing Statement of Intent.


13. A photocopy of the "original" Top Roofing Statement of Intent is attached to this Affidavit as **Exhibit 1**.

14. I double-checked the "duplicate" Statements of Intent completed by Mr. Tedder for accuracy. Mr. Tedder simultaneously double-checked my "original" copies.

15. After sealing the bid documents in an envelope, we submitted the bid prior to the 11:00 a.m. deadline for bid submission.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Dated: 10-24-2011



Benjamin Johns

STATE OF Virginia :

COUNTY OF Prince William:


I, Peggy Patricia Ejegwa, a Notary Public, in and for the State and County aforesaid, do hereby certify that **Benjamin Johns** who is personally known to me as (or proven by the oath of credible witnesses to be) the person named in the foregoing Affidavit bearing date on the 24th day of October, 2011, and hereto annexed, personally appeared before me in said State and County, and acknowledged the same to be his act and deed, and that it was executed for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 24th day of October, 2011.

My commission expires: 08/31/2015



Notary Public

 **Peggy Patricia Ejegwa**
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7392439
My Commission Expires 8/31/2015





SANITARY CONTRACT NO. 845

**PART B: MBE/WBE AND PRIME CONTRACTOR'S
STATEMENT OF INTENT**

COMPLETE A SEPARATE FORM FOR EACH MBE AND WBE NAMED IN THIS
BID.

(Make additional copies of this form as needed.)

**PART A: INSTRUCTIONS MUST BE REVIEWED BEFORE COMPLETING THIS
FORM, WITH PARTICULAR ATTENTION PAID TO SECTIONS 2, 6a, AND 6c.**

Name of Prime Contractor: Fru-Con Construction, LLC

Name of MBE or WBE: Top Roofing, Inc

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:

Roofing work

Materials/Supplies to be furnished by MBE or WBE:

roofing materials, fasteners, nails, shingles, misc wood
supplies for roofing work

Subcontract Amount: \$ 1,000,325.00 (If this is a requirements
contract, the subcontract amount may be omitted; however, the subcontract percentage
must be included.)

Subcontract percentage of total contract: 1.1 %

**(If MBE sub-goals apply, please indicate the sub-goal covered by
this Statement of Intent.)**

African American..... 0 % Asian American... 0 %

Hispanic American.... 0 % Native American . 0 %

The undersigned Prime Contractor and subcontractor agree to enter into a contract
for the work/service indicated above for the dollar amount or percentage indicated to meet
the MBE/WBE participation goals, subject to the prime contractor's execution of a
contract with the City of Baltimore. The subcontractor is currently certified as an MBE or
WBE with the City of Baltimore Minority and Women's Business Opportunity Office to
perform the work described above.

Michael R. Fischer
Signature of Prime Contractor (REQUIRED)
Michael R. Fischer, Vice President

July 13, 2011
Date

Thomas Cox
Signature of MBE or WBE (REQUIRED)

July 1, 2011
Date

**ANY CHANGES TO THE INFORMATION ON THIS FORM MUST BE INITIALED BY BOTH
PARTIES**



AFFIDAVIT OF MICHAEL FISCHER

1. I, MICHAEL FISCHER, am over the age of 18 and competent to testify as to the facts herein stated.

2. I am Vice President at Fru-Con Construction, LLC ("Fru-Con").

3. I was responsible for selecting subcontractors with relation to Fru-Con's bid for Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845")

4. On August 10, 2011, I provided Messrs. Benjamin Johns and Jeffrey Tedder with bid documents including "Part B" Statements of Intent for the MBE/WBE firms Fru-Con intended to subcontract with. I completed the blanks on the Statements of Intent for "Work/Service to be performed" and "Materials/Supplies to be furnished" in blue ink. The blanks for "Subcontract Amount" and "Subcontract percentage of total contract" were not filled in. Messrs. Johns and Tedder were instructed to travel to Baltimore with the bid documents, where they would complete the blanks pursuant to my instructions before submitting the bid.

5. On August 10, 2011, I accepted a subcontract bid from Top Roofing, Inc. ("Top Roofing") in the amount of \$1,000,325 for roofing work on SC845. Fru-Con and Top Roofing never agreed upon any subcontract amount other than \$1,000,325.

6. Once Messrs. Johns and Tedder had arrived in Baltimore, I instructed them to complete the "Part B" Statement of Intent for Top Roofing with the agreed-upon amount of "one million, three-hundred twenty-five dollars" (\$1,000,325). I re-read the intended subcontract amount as "one-zero-zero-zero-three-two-five" in order to clarify the digits I intended to include on the Statement of Intent.

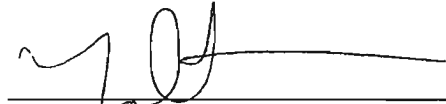
7. Mr. Johns recited the number "one million, three-hundred twenty-five dollars" to me over the phone in order to confirm its accuracy.

8. I next instructed Messrs. Johns and Tedder to complete the "Subcontract percentage of total contract" blank with the amount of "one-point-one percent" (1.1%).

9. After providing Messrs. Johns and Tedder with all of the bid information to be completed on the various forms – including the Top Roofing Statement of Intent – I instructed them to submit the "original" and "duplicate" bids prior to the 11:00 a.m. deadline.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Dated: 10/24/11

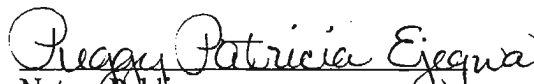

Michael Fischer

STATE OF Virginia:

COUNTY OF Prince Williams:

I, Peggy Patricia Ejegwa, a Notary Public, in and for the State and County aforesaid, do hereby certify that **Michael Fischer** who is personally known to me as (or proven by the oath of credible witnesses to be) the person named in the foregoing Affidavit bearing date on the 24th day of October, 2011, and hereto annexed, personally appeared before me in said State and County, and acknowledged the same to be his act and deed, and that it was executed for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 24th day of October, 2011.


Notary Public

My commission expires: 8/31/2015

Peggy Patricia Ejegwa
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7392439
My Commission Expires 8/31/2015





AFFIDAVIT OF THOMAS COX

1. I, THOMAS COX, am over the age of 18 and competent to testify as to the facts herein stated.
2. I am the owner and President of Top Roofing, Inc. ("Top Roofing").
3. Top Roofing is certified as a Minority Business Enterprise ("MBE") by the Baltimore City Minority and Women's Business Opportunity Office ("MWBOO") for work including roofing, carpentry and sheetmetal. Top Roofing's MWBOO Certification Number is 00-003887.
4. In August 2011, I reviewed the plans and specifications for Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845") with a focus on roofing work.
5. After reviewing the plans and specifications for SC845, I discussed SC845 with Melva Jenkins, Top Roofing's Vice President of Operations. Ms. Jenkins and I decided to compete for the roofing work in SC845.
6. A few days before the August 10, 2011 bid opening for SC845, Thuc Nguyen, and Estimator at Fru-Con Construction, LLC, contacted me regarding a subcontract opportunity for roofing work on Baltimore City Department of Public Works Sanitary Contract No. 845 ("SC845"). I instructed Mr. Nguyen to contact Ms. Jenkins directly to discuss a quote from Top Roofing.
7. On August 9, 2011, Ms. Jenkins and I discussed the various scopes of roofing work in SC845 at length in order to assist her in preparing a bid. Ms. Jenkins identified three distinct components of work: (1) Metal Roof Panels (\$507,800); (2) Metal Wall Panels/Sidings (\$120,000); and (3) Built-up Asphalt Roofing (\$372,525). The total amount of the subcontract bid was \$1,000,325.

8. I approved these amounts and instructed Ms. Jenkins to contact Mr. Nguyen to submit Top Roofing's subcontract bid.

9. When Ms. Jenkins submitted Top Roofing's subcontract quote, I signed a blank "Part B" Statement of Intent and sent it to Fru-Con. I expected Fru-Con to complete and submit a "Part B" Statement of Intent reflecting this quote if Fru-Con decided to award a subcontract to Top Roofing.

10. In recent days, I reviewed a copy of the "original" Statement of Intent submitted with Fru-Con's bid for SC845. I believe it evidences the pre-bid agreement between Top Roofing and Fru-Con that Top Roofing would perform the roofing work on SC845 for \$1,000,325 if Fru-Con was awarded the contract.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Dated: 10-28-11

Thomas Cox
Thomas Cox

STATE OF Maryland:

COUNTY OF Baltimore City

I, Ann C. Harris, a Notary Public, in and for the State and County aforesaid, do hereby certify that **Thomas Cox** who is personally known to me as (or proven by the oath of credible witnesses to be) the person named in the foregoing Affidavit bearing date on the 28th day of October, 2011, and hereto annexed, personally appeared before me in said State and County, and acknowledged the same to be his act and deed, and that it was executed for the purposed therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 28th day of October, 2011.

My commission expires: 1/18/2014

Ann C. Harris
Notary Public



MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>Baltimore City Fire Department</u>			
1. Scott Brillman	International Assoc. of Emergency Managers Conf. Las Vegas, NV Nov. 11 - 17, 2011 (Reg. Fee \$1,105.00)	FY 09 MMRS Grant	\$2,655.36

The Department has prepaid the registration fee in the amount of \$1,105.00 with a City issued credit card assigned to Mr. Robert Maloney. The disbursement to Mr. Brillman will be in the amount of \$1,550.36.

Baltimore Police Department

2. Todd R. Ring Gregory A. Eads Randy J. Pope	Explosive Handlers & Breaching Course Bartow, FL Nov. 13 - 18, 2011 (Reg. Fee \$1,250.00 ea.)	Asset Forfeiture Funds	\$6,450.00
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Department of Public Works

3. Lisa Jones	American Water Works Assoc. Water Quality Technology Conference & Expo. Phoenix, AZ Nov. 12 - 17, 2011 (Reg. Fee \$795.00)	Water Utility Fund	\$2,262.85
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The hotel accommodations for Ms. Jones cost \$190.00 per night plus a 13.27% tax. The allowed subsistence for her travel destination is \$177.00 per day. The Department is requesting an additional \$52.00 (\$13.00 per day) to cover the hotel expenses and \$160.00 (\$40.00 per day) for meals. The additional amounts requested have been included in the total.

MINUTES

TRAVEL APPROVAL/REIMBURSEMENT - cont'dHealth Department

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
4. Brian Schleter	2011 National Conf. on Health Communication, Marketing & Media Atlanta, GA August 9 - 11, 2011 (Reg. Fee \$415.00)	General Funds	\$1,018.33

Mr. Schleter traveled to Atlanta, GA from August 9 - 11, 2011 to attend the 2011 National Conference on Health Communication, Marketing and Media. The Department paid the registration of \$415.00 and airfare of \$212.40 using a City issued credit card assigned to Ms. DourakineRosarion. The Department is requesting the Board to retroactively approve the total travel expenses in the amount of \$1,018.33. The Department failed to follow AM 240-3, which requires Board of Estimates approval for travel requests exceeding \$800.00. The Department recognizes that incurring expenses without required authorization is a serious matter. The responsible employees have been counseled and the Department has reinforced the AM 240-3 policy to all managers and fiscal staff. The Board is requested to authorize a reimbursement of \$390.93 to Mr. Schleter for the following:

Food	\$ 46.83
Hotel	303.60
Limo/Taxi	40.50
Reimbursement Total	\$390.93

The subsistence rate allowed for this request at the time of travel was \$188.00 per day for a total of \$376.00.

MINUTES

TRAVEL REIMBURSEMENT

<u>Name</u>	<u>To Attend</u>	<u>Source</u>	<u>Fund Amount</u>
<u>Bureau of Water and Wastewater- Reimbursement</u>			
5. ThakBakhru		Waste Water Utility Eng.	\$61.50

On May 11, 2011 the Board approved the travel request in the amount of \$1,257.00 for Mr. Bakhru to attend the National Pretreatment and Pollution Workshop. Mr. Bakhru traveled to St. Louis, MO from May 18 - 20, 2011. The subsistence rate for this location is \$171.00 per day, however the Department only requested \$136.00 per day and did not request occupancy taxes.

The hotel cost was \$129.00 per day plus \$20.31 per day for occupancy taxes. The attendee was left with \$6.00 to cover meals and incidental expenses. The Department is requesting the Board to approve reimbursement to Mr. Bakhru in the amount of \$61.50 to cover meals paid for by the attendee over the approved amount.

UPON MOTION duly made and seconded, the Board approved the travel requests and the travel reimbursements. The President
ABSTAINED on item no. 5.

MINUTES

Department of Housing - Agreement
and Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an agreement with the Associated Catholic Charities, Inc., delegate agency for St. Jerome's Head Start program. The period of the agreement is July 1, 2011 through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:

\$1,616,122.00 - 4000-486312-6051-516600-603051

BACKGROUND/EXPLANATION:

The organization will provide Head Start services for 276 children and their families in the City. On July 13, 2011, the Board approved a two month advance in the amount of \$323,225.00. The total amount of the agreement is \$1,939,347.00.

The funding will be for the operation of the St. Jerome's Head Start program for the fiscal year beginning July 1, 2011.

This agreement is late because of delays in the administrative process.

MBE/WBE PARTICIPATION:

MWBOO GRANTED A WAIVER OF THE MBE/WBE GOALS, WHICH WAS REQUESTED BY THE PROVIDER.

OF THE TOTAL CONTRACT AMOUNT OF \$1,939,347.00, \$1,933,047.00 IS FOR ITEMS THAT ARE PROPRIETARY AND NON-SEGMENTABLE.

MBE: 27%

MINUTES

DHCD - cont'd

WBE: 10%

MWBOO FOUND VENDOR IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with the Associated Catholic Charities, Inc., delegate agency for St. Jerome's Head Start program. The President **ABSTAINED**.

MINUTES

PERSONNEL MATTERS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

all of the Personnel matters

listed on the following pages:

3699 - 3700

All of the Personnel matters have been approved

by the EXPENDITURE CONTROL COMMITTEE.

All of the contracts have been approved

by the Law Department

as to form and legal sufficiency.

MINUTES

PERSONNELDepartment of General Services

	<u>Hourly Rate</u>	<u>Amount</u>
1. WILLEM T. ELSEVIER	\$38.19	\$70,000.00

Account: 9916-903845-9197-910098-703009

Mr. Elsevier will continue to work as a Special Architectural Project Specialist. His duties will include, but are not limited to managing multiple design and construction contracts for municipal buildings and facilities. He will provide direction in architectural planning and financial matters, and submit progress reports on a weekly basis. In addition, Mr. Elsevier will represent the Department with City, State, and Federal agencies by providing consultation services to ensure design compliance with applicable standards and specifications. He will interface with representatives of these agencies for the authorization of changes or payment services. The period of the agreement is effective upon Board approval for one year.

Department of Public Works

2. JANICE BROWN-HYATT	\$20.76	\$38,053.00
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Account: 1001-000000-1901-190700-601009

Ms. Brown-Hyatt, retiree, will continue to work as a Special Communications Coordinator. She will be responsible for conducting site surveys, reviewing blueprints and floor plans pertaining to the installations of communication equipment and services, serving as liaison with the Department of Communication Services regarding relocations, new installations, disconnections and other routine agency

MINUTES

PERSONNELDepartment of Public Works - cont'd

transactions. Ms. Brown-Hyatt will work 1,833 hours during the contract period. The period of the agreement is effective upon Board approval for 1-year.

THE DEPARTMENT OF PUBLIC WORKS IS REQUESTING A WAIVER OF THE 1,200 HOUR CEILING AS STIPULATED IN AM 212-1 PART 1.

Department of Human Resources (DHR)

	<u>Hourly Rate</u>	<u>Amount</u>
3. JEFFREY G. COMEN	\$200.00 for the first session \$170.00 for ea. succeeding session \$325.00 for ea. written report	\$ 7,000.00

Account: 1001-000000-1601-172500-603026

Mr. Comen will continue to work as a Hearing Officer. The Baltimore Charter permits an investigation for employees discharged, reduced, or suspended for more than 30 days after completion of the probationary period. The Hearing Officer presides over this investigation and submits a recommendation to the Civil Service Commissioners for approval. The period of the agreement is effective upon Board approval for one year.

MINUTES**PROPOSALS AND SPECIFICATIONS**

1. Bureau of Water and Wastewater - SWC 7763, Drainage Repairs and Improvements at Various Locations
BIDS TO BE RECV'D:12/07/2011
BIDS TO BE OPENED:12/07/2011
2. Bureau of Water and Wastewater - SC 895, Improvements to Maryland Avenue Sub-Sewershed Sewers
BIDS TO BE RECV'D:12/07/2011
BIDS TO BE OPENED:12/07/2011
3. Department of Public Works/
Department of Recreation
Parks - . RP 11865, Roofing Replacement and Related Work Clifton Park Maintain Shop Building
BIDS TO BE RECV'D:12/07/2011
BIDS TO BE OPENED:12/07/2011

There being no objections, the Board, UPON MOTION duly made and seconded, approved the Proposals and Specifications to be advertised for receipt and opening of bids on the dates indicated. The President **ABSTAINED** on item nos. 1 and 2.

* * * * *

Clerk: "The Board is now in session for the receiving and opening of bids."

MINUTES**BIDS, PROPOSALS AND CONTRACT AWARDS**

Prior to the reading of bids received today and the opening of bids scheduled for today, the Clerk announced that the following agencies had issued an Addendum extending the dates for receipt and opening of bids on the following contract. There were no objections.

Bureau of Purchases - B50001886, Vehicle Leasing
BIDS TO BE RECV'D: 11/09/2011
BIDS TO BE OPENED: 11/09/2011

MINUTES

Thereafter, UPON MOTION duly made and seconded, the Board received, opened, and referred the following bids to the respective departments for tabulation and report:

Department of Transportation - TR 10018, Orchard Ridge
Phase II

Concrete General, Inc.
Potts & Callahan, Inc.
Monumental Paving & Excavating, Inc.
P. Flanigan & Sons, Inc.
Facchina Construction Co., Inc.
Daisey Concrete, Inc. of MD
American Infrastructure
Civil Construction, LLC

Department of Recreation - RP 11848, Riverside Park
and Parks Pathway Improvements

Allied Contractors, Inc.
Potts & Callahan, Inc.
Machado Construction
P. Flanigan & Sons, Inc.
E&R Services, Inc.
Bensky Construction Co., LLC

Bureau of Purchases - B50002080, DNA LabPromega
Daily Consumables

Promega Corporation
Amerisochi, Inc.
Product Unlimited

MINUTES

Bureau of Purchases- B50002146, Integrated
Financial Budget System

Questica, Inc.
Power Plan Corporation
Neubrain, LLC
Mo' mix Solutions
The Business & Technology
Resource Group
CGI Technologies & Solutions
Technolab International Corp.
Affinity Global Solutions

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There being no objections, the Board UPON MOTION duly made
and seconded, adjourned until its next regularly scheduled
meeting on Wednesday, November 9, 2011.

JOAN M. PRATT
Secretary