

MINUTES**REGULAR MEETING**

Bernard C. "Jack" Young, President
Stephanie Rawlings-Blake, Mayor - **ABSENT**
Joan M. Pratt, Comptroller and Secretary
George A. Nilson, City Solicitor
Rudy Chow, Director of Public Works
Harry Black, Director of Finance
David E. Ralph, Deputy City Solicitor
Kimberly Morton, Deputy Director of Public Works
Bernice H. Taylor, Deputy Comptroller and Clerk

The meeting was called to order by the President.

Pursuant to Article VI, Section 1(c) of the revised City Charter effective July 1, 1996, the Honorable Mayor, Stephanie Rawlings-Blake, in her absence during the meeting, designated Mr. Harry Black, Director of Finance, to represent the Mayor and exercise her power at this Board meeting.

President: "I would direct the Board members attention to the memorandum from my office dated March 31, 2014, 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 contained on the routine agenda."

MINUTES

City Solicitor: "Move approval of all of the items 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 -- has been adopted. In the interest of promoting the order and efficiency of these hearings, persons who are disruptive to the hearings will be asked to leave the hearing room immediately."

MINUTES**BOARDS AND COMMISSIONS**1. Prequalification of Contractors

In accordance with the Rules for Prequalification of Contractors, as amended by the Board on October 31, 1991, the following contractors are recommended:

A.R. Marani, Inc.	\$	8,000,000.00
Asbestos Specialists, Inc.	\$	8,000,000.00
B.S. Environmental, Inc.	\$	2,241,000.00
Berg Corporation	\$	8,000,000.00
Day and Sons, Inc.	\$	4,320,000.00
Erosion Control & Landscape Services, Inc.	\$	1,500,000.00
French Construction Services, Inc.	\$	3,429,000.00
Kalkreuth Roofing & Sheet Metal, Inc.	\$	8,000,000.00
L.R. Willson & Sons, Inc.	\$	8,000,000.00
Mar-Allen Concrete Products, Inc.	\$	1,500,000.00
Michels Corporation	\$	1,970,127,000.00
Midasco LLC	\$	90,126,000.00
Ryan Restoration, Inc.	\$	1,500,000.00
Savin Engineers, P.C.	\$	36,288,000.00
Schemm Electric Co., Inc.	\$	8,000,000.00
ServiceMax, Inc.	\$	1,500,000.00
World Wide Corporation	\$	1,500,000.00

MINUTES**BOARDS AND COMMISSIONS** - cont'd2. 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:

BVF Engineering, Inc.	Engineer
Bayland Consultants & Designers, Inc.	Engineer Property Line Survey
Bryant Associates, Inc.	Engineer Land Survey
Endesco, Inc.	Engineer
Hatch Mott MacDonald, LLC	Architect Land Architect Engineer Land Survey
Precision Measurements, Inc.	Land Survey
Tucker, Young, Jackson, Tull, Inc.	Engineer

There being no objection, the Board, UPON MOTION duly made and seconded, approved the prequalification of Contractors and Architects and Engineers for the listed firms.

MINUTES

Space Utilization Committee - Lease Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a Lease Agreement with the Department of Transportation lessee, for the rental of the entire basement level of space located at 3002 Druid Park Drive. The period of the Agreement is March 1, 2014 through February 28, 2015, with one 1-year renewal option.

AMOUNT OF MONEY AND SOURCE:

Annual Rent

\$1.00 - if demanded.

BACKGROUND/EXPLANATION:

The lessee will use the leased premises for storage purposes. The space is being leased "As Is."

The lessee will be responsible for janitorial and security services and any improvements to the premises, only upon receiving landlord's approval.

The Space Utilization Committee approved this lease on March 25, 2014.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Lease Agreement with the Department of Transportation lessee, for the rental of the entire basement level of space located at 3002 Druid Park Drive.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Department of Law - Payments of Settlements</u>			
1. Glenn H. Goldberg (1/2 interest) and Ronnie Marc Goldberg, Trustee of the Ronnie Marc Goldberg Revocable Trust (1/2 interest) (previous owners)	2022 E. Biddle Street	G/R \$90.00	\$ 75.00

On September 12, 2012, the Board approved the acquisition, by condemnation, of the reversionary interest (i.e., ground rent) in 2022 East Biddle Street for the amount of \$750.00 (i.e., a 12% cap rate), based upon an independent appraisal report. The former owners argued that the City should pay the \$1,058.82 (i.e., 8.5% cap rate). The parties agreed to settle the case for \$825.00 (i.e., an additional 10% above the previously approved valuation). Therefore, the Board is requested to approve an additional \$75.00 in settlement of this case.

2. Glenn H. Goldberg (1/2 interest) and Ronnie Marc Goldberg, Trustee of the Ronnie Marc Goldberg Revocable Trust (1/2 interest) (previous owners)	2436 E. Eager Street	G/R \$60.00	\$ 50.00
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On December 19, 2012, the Board approved the acquisition, by condemnation, of the reversionary interest (i.e., ground rent) in 2436 East Eager Street for the amount of \$500.00 (i.e., a 12% cap rate), based upon an independent appraisal report. The property owner argued that the City should pay the \$705.88 (i.e., 8.5% cap rate). The parties agreed to settle the case for a total of \$550.00 (i.e., an additional 10% above the previously approved valuation).

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
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Therefore, the Board is requested to approve an additional \$50.00 in settlement of this case.

Funds are available in account no. 9910-910634-9588-900000-704040.

Department of Housing and Community Development - Options

3. Ina Sally Axelrad n/k/a Sally Axelrad Bratman	1040 N. Stricker Street	G/R \$65.00	\$ 596.00
4. Barbara L. Himple, a/k/a Barbara Goode and Travis J. Goode	1949 N. Patterson Park Avenue	L/H	\$17,400.00

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

DHCD - Condemnations

5. Ebony Neal, the Personal Repre- sentative of the Estate of Vivian C. Gregg, deceased, and Henry Clarence Judd	1423 Ensor Street	G/R \$78.00	\$ 520.00
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Funds are available in account no. 9910-905507-9588-900000-704040, AG Demolition Project.

MINUTES**OPTIONS/CONDEMNATION/QUICK-TAKES:**

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Condemnations - cont'd</u>			
6. Prakash Rampatsingh	1040 N. Stricker Street	L/H	\$29,250.00

DHCD - Payments of Settlement

7. The Estate of Leoni- das G. Newton, deceased (previous owner)	2624 Puget Street	F/S	\$14,000.00
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On February 12, 2014, the Board approved the acquisition, by condemnation, of the fee simple interest in 2624 Puget Street for \$27,000.00. This price was determined by the higher of two appraisals. The previous owners agreed to settle the condemnation suit for \$41,000.00. The previous owner is entitled to the balance of \$14,000.00.

Funds are available in account no. 9910-905507-9588-900000-704040, AG Demolition Project.

8. Armin Jaeger, IIC (previous owner)	1613 E. North Avenue	G/R \$120.00	\$ 200.00
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On November 27, 2013, the Board approved the acquisition, by condemnation, of the ground rent interest in 1613 E. North Avenue for \$800.00. This price was determined by the higher of two appraisals. The previous owner agreed to settle the condemnation suit for \$1,000.00. The previous owner is entitled to the balance of \$200.00.

Funds are available in account no. 9910-904403-9588-900000-704040, Great Blacks in Wax Project.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Condemnations - cont'd</u>			
9. Benjamin Eisenberg, Alan G. Eisenberg and Irwin D. Eisenberg	1617 Harlem Avenue	G/R \$90.00	\$ 600.00

Funds are available in account no. 9910-905507-9588-900000-704040, AG Demolition Project.

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.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the options, condemnations/quick takes, and the payments of settlement.

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 21** favorable reports on Transfers of Funds approved by the Board of Estimates at its meetings on March 5, 12, 19, 2014. Also included in this total is one transfer from October 30, 2013 that was inadvertently left off of the reviewed and approved capital transfers, but was previously approved by the Board of Estimates at its meeting on March 19, 2014.

The Board **NOTED 21** favorable reports on Transfers of Funds approved by the Board of Estimates at its meetings on March 5, 12, 19, 2014 and one transfer previously approved by the Board of Estimates at its meeting on March 19, 2014.

MINUTES

Mayor's Office of Employment - TRANSFER OF LIFE-TO-DATE
Development SICK LEAVE

The Board is requested to approve the transfer of LIFE-TO-DATE sick leave days from the listed City employees to the designated employee, Patricia White.

The transfer of sick leave days is necessary in order for the designated employee to remain in pay status with continued health coverage. The City employees have asked permission to donate the sick leave days that will be transferred from their LIFE-TO-DATE sick leave balances as follows:

<u>NAMES</u>	<u>DAYS</u>
Teresa Maith	1
Raymond Holmes	5
Deborah Harris	3
Jacqueline Hinton	5
Amy E. Frost	2
Roslyn Speed	2
Joy Carol Brown	1
Cynthia Jefferson	<u>2</u>
TOTAL	21

THE LABOR COMMISSIONER RECOMMENDED APPROVAL.

UPON MOTION duly made and seconded, the Board approved the transfer of LIFE-TO-DATE sick leave days from the listed City employees to the designated employee, Patricia White.

MINUTES

Health Department - Agreements

The Board is requested to approve and authorize execution of the various Agreements.

1. **GREENMOUNT SENIOR CENTER, INC.** **\$ 69,646.00**

Accounts: 4000-433514-3024-295909-603051	\$ 41,746.00
4000-436114-3255-316200-603051	\$ 27,900.00

The organization will operate a senior program which serves as the focal point for seniors and their caregivers. Services will include but are not limited to transportation, social, recreational, and educational programs, information and assistance, outreach, and wellness. The period of the Agreement is October 1, 2013 through September 30, 2014.

The Agreement is late because the Health Department was waiting on a final budget and signatures from the provider.

MWBOO GRANTED A WAIVER.

2. **BALTIMORE MEDICAL SYSTEM, INC.** **\$365,000.00**
(BMS)

Account: 1001-000000-3100-295900-603051

The BMS will work with the Health Department to provide School Health Services which consist of School Health Suite Coverage and School Based Health Centers (SBHC). The BMS will provide services at Tench Tilghman Elementary/Middle School, Dr. Rayner Browne Elementary/Middle School, Collington Square Elementary/Middle School, Friendship Academy of Science and Technology Middle/High School, Maritime Industries Academy High School, Harford Heights Elementary and Northwestern High School. Services will also be provided at Vanguard Collegiate Middle School, and William C. March Middle School.

MINUTES

Health Dept. - cont'd

The BMS will maintain approval from the Maryland Medical Assistance Program for designation of the school-based clinics at Collington Square Elementary/Middle School, Maritime Industries Academy High and Friendship Academy of Science and Technology at SBHC. The period of the Agreement is August 21, 2013 through June 30, 2014.

The Agreement is late because of revisions to the scope of work and budget.

MWBOO GRANTED A WAIVER.

3. **BALTIMORE MEDICAL SYSTEM, INC. (BMS)** **\$101,663.00**

Account: 1001-000000-3100-295900-603051

The BMS was awarded funding from the Health Resources and Services Administration to operate School-Based Health Centers, previously operated by the Baltimore City Health Department at Patterson Senior High and Paul Laurence Dunbar High Schools. In order to maintain continuity of services, and avoid disruption to students and their families, the BMS is awarding funds to the Department to continue operations at the School-Based Centers until the end of the school year. The period of the Agreement begins on the date that the BMS receives the required approvals and will end on June 30, 2014.

This agreement is late because it was just finalized.

4. **THE JOHNS HOPKINS UNIVERSITY (JHU)** **\$236,467.00**

Account: 4000-424514-3023-599604-603051

The JHU will provide comprehensive, HIV primary and specialty care to uninsured/underinsured clients in the Baltimore Eligible Metropolitan Area. The period of the Agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

MINUTES

Health Dept. - cont'd

5. **THE JOHNS HOPKINS UNIVERSITY (JHU)** **\$ 30,001.00**

Account: 4000-424514-3023-599653-603051

The JHU will provide services directed to immediately solve problems through a peer client advocate. Services will include but are not limited to assistance with legal, financial, housing, transportation and other psychosocial issues that will support the pregnant woman with the ultimate goal of prevention of mother to child transmission of HIV and maintenance or improvement in maternal health. The period of the Agreement is July 1, 2013 through June 30, 2014.

6. **HEALTH CARE FOR THE HOMELESS, INC.** **\$140,400.00**

Account: 4000-424513-3023-599638-603051

The organization will provide outpatient ambulatory health services for the Ryan White Part B Program. The services also include comprehensive primary care to 60 HIV+ positive persons experiencing homelessness and will provide at least 150 encounters. The period of the Agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

The agreements are being presented at this time because the Infectious Disease and Environmental Health Administration programmatically manages Ryan White Part B services. The providers are asked to submit a budget, budget narrative, and scope of services. The Department thoroughly reviews the entire package before preparing a contract and submitting it to the Board. These budgets are many times revised because of inadequate information from the providers. This review process is required to confirm with the grant requirements.

MINUTES

Health Dept. - cont'd

7. **CRIBS FOR KIDS, INC.** **\$0.00**

The Cribs for Kids, Inc., a non-profit organization is the owner of the service mark "Cribs for Kids," and has granted the Health Department use of the Licensed Trademark, U.S. Federal Registration No. 3,078,862. The Department will use the license trademark to promote and enhance Baltimore's safe-sleep educational program, with the intervention of a safety-approved crib and other products that will constitute a safe sleep environment to families. The period of the Agreement is effective upon Board approval for one year, with an automatic renewal if the Department is not in default at the end of the term.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED (EXCEPT ITEM NO. 7) AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing agreements. The President **ABSTAINED** on item nos. 4 - 5.

MINUTES

Health Department - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a Grant Agreement with the University of Maryland School of Medicine, Center for Infant and Child Loss (CICL).

AMOUNT OF MONEY AND SOURCE:

\$2,500.00 - 6000-618614-3080-728100-406001

BACKGROUND/EXPLANATION:

The Department has received a grant from the CICL in support of the Safe Sleep Summit scheduled for April 10, 2014. The funds will be used to assist with payments for food, beverages, and printed materials for the event.

MBE/WBE PARTICIPATION:

N/A

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 execution of the Grant Agreement with the University of Maryland School of Medicine, Center for Infant and Child Loss.

MINUTES

Health Department - Renewal of Sponsorship Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize exercising the third renewal option of the Sponsorship Agreement with the Baltimore County Department of Aging (BCDA). The period of the renewal is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$15,000.00	-	5000-536015-3044-295900-603026
<u>10,000.00</u>	-	<u>4000-433515-3023-295900-603026</u>
\$25,000.00		

BACKGROUND/EXPLANATION:

On August 15, 2012, the Board approved the initial Sponsorship Agreement with the BCDA, in the amount of \$25,000.00, for the "2013 Edition" of the Regional Community Resource Directory in production from May - December 2012. The agreement contained four 1-year renewal options.

On August 14, 2013, the Board approved an amendment that changed the language in the Agreement from "2013 Edition" to "Annual Edition," to allow the Department to pay annually for production of the Regional Community Resource Directory. The Board also approved the second renewal option, with two 1-year renewal options remaining.

This is the third renewal option with one 1-year option remaining. All other terms and conditions of the original Sponsorship Agreement remain unchanged.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

MINUTES

Health Department - cont'd

UPON MOTION duly made and seconded, the Board approved exercising the third renewal option of the Sponsorship Agreement with the Baltimore County Department of Aging.

MINUTES

Health Department - Employee Expense Reports

ACTION REQUESTED OF B/E:

The Board is requested to approve an Employee Expense Report of Mr. Garland Chase.

AMOUNT OF MONEY AND SOURCE:

\$ 6.78 - 4000-424614-3030-294500-603002
October 2013 - Mileage

19.21 - 4000-424614-3030-294500-603002
November 2013 - Mileage

15.00 - 4000-424614-3030-294500-603003
\$40.99 November 2013 - Parking

BACKGROUND/EXPLANATION:

When Mr. Chase's expense statement was submitted, the Immunization Program was in the process of relocation. As a result, the paperwork was mixed up and overlooked.

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 Employee Expense Report of Mr. Garland Chase.

MINUTES

Baltimore Development Corporation (BDC) - Landlord Subordination

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a Landlord Subordination on behalf of the National Aquarium in Baltimore.

AMOUNT OF MONEY AND SOURCE:

No City Funds Required.

BACKGROUND/EXPLANATION:

The Landlord Subordination will facilitate necessary energy efficiency upgrades to the City-owned real property located in Piers 3 and 4 in the Inner Harbor East Urban Renewal Plan collectively known as the National Aquarium in Baltimore (Aquarium).

Pursuant to an Amended and Restated Lease Agreement dated July 1, 2001, between the Mayor and City Council of Baltimore (the City) and the Aquarium, the City is the owner of certain real property located on Piers 3 and 4 in the Inner Harbor East Urban Renewal Plan and currently leases the property to the Aquarium. The Aquarium intends to enter into a Master Equipment Financing Agreement between the Aquarium and Maryland Clean Energy Center, as Issuer, and Bank of America Public Capital Corp., as Lender for certain improvements which will be located upon the City-owned property. This is being done as part of an energy-efficiency upgrade to the Aquarium. Pursuant to this agreement, the City agrees to subordinate the City's interest in the new improvements being installed at the Aquarium to the Lender in order to facilitate the financing and installation of the equipment.

MINUTES

BDC - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Landlord Subordination on behalf of the National Aquarium in Baltimore. Acting on behalf of the Mayor, the Director of Finance **ABSTAINED**.

MINUTES

Department of Transportation - Employee Expense Reports

ACTION REQUESTED OF B/E:

The Board is requested to approve the various expense reports for the following employees:

1. **KOHL FALLIN** **\$ 66.61**

Account: 1001-000000-2301-249000-603002
November 2013 - Mileage

The mileage reimbursement is late because the Project Identification Number was incorrect.

2. **MICHELLE WASHINGTON** **\$185.32**

Account: 1001-000000-6971-605100-603002
October 2013 - Mileage
November 2013 - Mileage

The Department of Transportation, Traffic Division received the original reimbursement request beyond the Department of Finance's deadline for reimbursement. The submitting employee is new with the section has been advised of the procedure.

3. **VALORIE LaCOUR** **\$ 97.38**

Account: 1001-000000-2301-249000-603002
November 2013 - Mileage

The mileage reimbursement is late because the Project Identification Number was incorrect.

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.

MINUTES

Department of Transportation - cont'd

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the expense reports for the foregoing employees.

MINUTES

Bureau of Water and Wastewater - Amendment No. 3 to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of Amendment No. 3 to Agreement with Rummel, Klepper & Kahl, LLP (RKKL) under Project 1128R, Urgent Need Water Design and Engineering Services. This Amendment No. 3 extends the period of the Agreement through October 18, 2014.

AMOUNT OF MONEY AND SOURCE:

\$0.00 - 9960-908714-9557-900020-702064

BACKGROUND/EXPLANATION:

On January 19, 2011, the Board approved the original two-year agreement with the RKKL for Urgent Need Water Design and Engineering Services. On June 6, 2012, the Board approved amendment no. 1 to the agreement. On June 12, 2013, the Board approved amendment no. 2 to the agreement which increased the upset limit and extended the period of the agreement through April 18, 2014.

The consultant was asked to provide additional water design services related to replacement and rehabilitation of existing water mains at various locations identified by the City.

Under this proposed Amendment No. 3, the consultant will continue to provide engineering services for on-going tasks related to water main replacements. In order to complete these tasks, it is necessary to extend the period of the agreement by six-months through October 18, 2014. All other terms and conditions remain unchanged.

MBE/WBE PARTICIPATION:

The consultant will continue to comply with all terms and conditions of the Minority and Women's Business Enterprise Programs, in accordance with the Baltimore City Code, Article 5, Subtitle 28.

MINUTES

Bureau of Water and Wastewater - cont'd

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE TIME EXTENSION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Amendment No. 3 to Agreement with Rummel, Klepper & Kahl, LLP under Project 1128R, Urgent Need Water Design and Engineering Services.

MINUTES

Bureau of Water and Wastewater - Amendment No. 3 to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of Amendment No. 3 to Agreement with Patton Harris Rust & Associates under Project 1128P, Urgent Need Water Design and Engineering Services. This Amendment No. 3 extends the period of the Agreement through October 11, 2014.

AMOUNT OF MONEY AND SOURCE:

\$0.00 - 9960-911713-9557-900020-702064

BACKGROUND/EXPLANATION:

On January 12, 2011, the Board approved the original two-year agreement with Patton Harris Rust & Associates for Urgent Need Water Design and Engineering Services. On March 14, 2012, the Board approved amendment no. 1 to the agreement. On June 5, 2013, the Board approved amendment no. 2 to the agreement which increased the upset limit and extended the period of the agreement through April 11, 2014.

The consultant was asked to provide additional water design services related to replacement and rehabilitation of existing water mains at various locations identified by the City.

Under this proposed Amendment No. 3, the consultant will continue to provide engineering services for on-going tasks related to water main replacements. In order to complete these tasks, it is necessary to extend the period of the agreement through October 11, 2014. All other terms and conditions remain unchanged.

MINUTES

Bureau of Water and Wastewater - cont'd

MBE/WBE PARTICIPATION:

The consultant will continue to comply with all terms and conditions of the Minority and Women's Business Enterprise Programs, in accordance with the Baltimore City Code, Article 5, Subtitle 28.

APPROVED FOR FUNDS BY FINANCE**AUDITS NOTED THE TIME EXTENSION.**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Amendment No. 3 to Agreement with Patton Harris Rust & Associates under Project 1128P, Urgent Need Water Design and Engineering Services.

MINUTES

Bureau of Water and Wastewater - Agreement for Post
Award Services

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an Agreement for Post Award Services with Johnson, Mirmiran & Thompson, Inc. under SC 886, Improvements to Sludge Blending Tanks at the Patapsco Wastewater Treatment Plant. The period of the Post Award Services Agreement is effective upon Board approval for three years, or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$ 84,884.52 - Baltimore City
180,379.59 - Baltimore County
\$265,264.11 - 9956-904539-9551-900020-703032

BACKGROUND/EXPLANATION:

Johnson, Mirmiran & Thompson, Inc. will provide Post Award Services for Improvements to Sludge Blending Tanks at the Patapsco Wastewater Treatment Plant. Services will include coordination, submittal reviews, maintaining a status log, monitoring testing requirements and results, conducting site visits, responding to requests for information, evaluating change orders, attend progress meetings, finalize record drawings, and prepare operation and maintenance manuals. The consultant will also provide conditional and final inspections.

MBE/WBE PARTICIPATION:

MBE: Phoenix Engineering, Inc.	\$ 71,688.46	27.03%
WBE: Carroll Engineering, Inc.	\$ 26,527.74	10.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

MINUTES

Bureau of Water and Wastewater - cont'd

AUDITS REVIEWED AND FOUND THE BASIS FOR COMPENSATION CONSISTENT WITH CITY POLICY.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Agreement for Post Award Services with Johnson, Mirmiran & Thompson, Inc. under SC 886, Improvements to Sludge Blending Tanks at the Patapsco Wastewater Treatment Plant.

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 a Land Disposition Agreement (LDA) with Oakford 2932, LLC. for the sale of 2932 Oakford Avenue.

AMOUNT OF MONEY AND SOURCE:

\$24,500.00 - Purchase Price

BACKGROUND/EXPLANATION:

The DHCD's Land Resources Division, on behalf of the Mayor and City Council, strategically acquires, and manages vacant or abandoned properties, ultimately enabling these properties to be returned to productive use and improving Baltimore's neighborhoods. The City has agreed to convey the property known as 2932 Oakford Avenue to Oakford 2932, LLC.

The City may dispose of the property by virtue of the following legal authorities: Article 28, Subtitle 8 of the Baltimore City Code (2011 Edition) (hereinafter, "the City Code"); Article II, Section 15 of the Baltimore City Charter, 2011 Edition; and Article 13 § 2-7 (h) of the City Code.

STATEMENT OF PURPOSE AND RATIONALE FOR SALE:

The property was sold for \$24,500.00 via auction. Pursuant to the appraisal policy under "Exceptions to Requiring an Appraisal," no appraisal is required for the sale of properties under an approved Board of Estimates Policy which allows for an alternative method in determining value such as a Broker Price Opinion. Sale of City-owned property via auction was approved on November 3, 2010.

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Land Disposition Agreement with Oakford 2932, LLC. for the sale of 2932 Oakford Avenue.

MINUTES

Department 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 to 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.	1120 S. Hanover Street	Thirty-Seven West Cross Street, LP	Retain awning 33' x 2½', single face electric sign 6' x 4', three recessed lights
	Annual charge: \$ 250.48		
2.	1132 S. Hanover Street	BSH, Inc.	Retain bracket sign 4' x 2', four spot reflectors
	Annual charge: \$ 175.90		
3.	1035 Light Street	Annamarie Christopher	Awning 14'6" x 4', flat sign 10' x 2½'
	Annual charge: \$ 159.04		
4.	436 E. Fort Avenue	1237-39 Wall Street, LLC	Retain cornice sign 7' x 2', four spot reflectors
	Annual charge: \$ 105.60		

MINUTES

Department of General Services - cont'd

	<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
5.	4545 Harford Road	Christ Power Church and Ministries, Inc.	Single face electric sign 8' x 3'
	Annual charge: \$ 70.30		
6.	1137 W. Baltimore Street	Lofton McLean, Jr.	Retain awning w/ signage 28' x 2½', four spot reflectors
	Annual charge: \$ 252.60		
7.	901 Eastern Avenue	Joseph A. Oliveri	Retain awning 12' x 2' three spot reflectors
	Annual charge: \$ 105.50		

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

UPON MOTION duly made and seconded, the Board approved the foregoing applications for a Minor Privilege Permit.

MINUTES

Department of Finance - Special Fund Appropriation Transfer

ACTION REQUESTED OF B/E:

The Board is requested to approve an appropriation adjustment order (AAO) - Grant Fund transfer within the Baltimore City Health Department from Service 715 (Health Administration) to Service 308 (Maternal and Child Health).

AMOUNT OF MONEY AND SOURCE:

\$45,000.00 - From: Health Department, Service 715
6000-600014-3001-568000-406001
Unallocated Special Grant Funds

To: Health Department, Service 308
6000-618714-3080-595600-406001
Zanvyl and Isabelle Krieger Fund

The source of funds is a grant from the Zanvyl and Isabelle Krieger Fund accepted by the Board on March 19, 2014.

BACKGROUND/EXPLANATION:

The AAO is necessary to provide funding for training for frontline supervisors of the Department's home visiting programs and for the completion of the B'More Fit for Healthy Babies Pilot Program.

Initially, special funding was appropriated within an unallocated special fund account in the Fiscal 2014 Ordinance of Estimates. This AAO will allow funding to be moved from the unallocated grant source, in accordance with the actual grant award.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

MINUTES

Department of Finance - cont'd

UPON MOTION duly made and seconded, the Board approved the appropriation adjustment order - Grant Fund transfer within the Baltimore City Health Department from Service 715 (Health Administration) to Service 308 (Maternal and Child Health).

MINUTES

TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

1152 - 1155

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.

MINUTES**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Bureau of Water and Wastewater</u>		
1. \$400,000.00	9956-906114-9549	9956-904531-9551-3
Wastewater	Constr. Res.	Engineering
Utility Funds	Mapping Program/ GIS	
\$400,000.00	9960-907099-9558	9960-906531-9557-3
Water Utility	Constr. Res.	Engineering
Funds	Mapping Program/ GIS	

The funds are needed to cover the cost of Requisition 660202, Utility GIS Aerial Photography.

Department of Planning

2. \$ 50,000.00	9904-924009-9129	9904-926009-9127
24 th Eco. Dev.	Center Stage 50 th	Center Stage 50 th
Loan	Anniversary	Anniversary
	Renovation -	Renovation - Active
	Reserve	

This transfer will provide funds to Center Stage Theater for study and design costs, and building renovations. Center Stage Theater, located at 700 N. Calvert Street will renovate the theater in response to their 50th Anniversary. Improvement plans include public and non-performances space, the building exterior and infrastructure to better support new and changing technologies.

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. \$ 6,904.31	9938-901729-9474	
General Fund	Active - Clifton Park Master Plan	
	-----	9938-906807-9474
\$ 2,292.17		Active - Baltimore Playlot Program FY 12
	-----	9938-901750-9474
<u>4,612.14</u>		Active - Park Building Renovation FY 08
\$ 6,904.31		

This transfer will provide funds to clear account deficits.

4. \$10,000.00	9938-917027-9475	9938-919027-9474
State	Reserve - Clifton/ Wegworth Parks Courts	Active - Clifton/ Wegworth Parks Courts

This transfer will provide funds to cover the costs associated with design services for Clifton Park Tennis Courts.

5. \$20,000.00	9938-902719-9475	9938-901719-9474
MVR	Reserve - Druid Hill Park Neigh- borhood Access	Active - Druid Hill Park Neighborhood Access

This transfer will provide funds to cover the costs associated with design and administration services for Druid Hill Park Neighborhood Access 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>		
6. \$ 5,000.00 General Fund HUR Eligible	9938-918020-9475 Reserve - Patterson Park Roadway Improve- ments	9938-919020-9474 Active - Patterson Park Roadway Improvements
This transfer will provide funds to cover the costs associated with design services for Patterson Park Roadway Improvements.		
7. \$30,000.00 General Fund	9938-916022-9475 Reserve - Community Center Master Plan	9938-901743-9474 Active - Recreation & Parks Facility Improvements
This transfer will provide funds to cover the costs associated with construction administration services for the Morrell Park Recreation Center and to reconcile the account's deficit.		
8. \$10,000.00 Rec. & Pks. 27 th Series	9938-915017-9475 Reserve - Riverside Park Fields	9938-916017-9474 Active - Riverside Park Fields
This transfer will provide funds to cover the costs associated with design services for Riverside Park Fields.		
9. \$10,000.00 Rec. & Pks. 26 th Series	9938-933005-9475 Reserve - Gwynns Falls Athletic Fields	9938-934005-9474 Active - Gwynns Falls Athletic Fields
This transfer will provide funds to cover the costs associated with design and administration services for roadway improvements at Gwynns Falls/Leakin Park.		

MINUTES**TRANSFERS OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Recreation and Parks</u>		
10. \$40,000.00	9938-916022-9475	9938-917022-9474
General Fund	Reserve - Community Center Master Plan	Active - Community Center Master Plan

This transfer will provide funds to cover the costs associated with electric service upgrades at various community centers.

11. \$ 5,000.00	9938-935010-9475	9938-936010-9474
Rec. & Parks 26 th Services	Reserve - Park Lighting & Signage	Active - Park Lighting & Signage

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1165, Task No. 6 to Mahan Rykiel Associates, Inc.

12. \$11,000.00	9938-925004-9475	9938-928004-9474
State	Reserve - Stony Run Trail	Active - Stony Run Trail

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1165, Task No. 7 to Mahan Rykiel Associates, Inc.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|---|--------------|---------|
| 6. TENNANT SALES AND SERVICE COMPANY | \$ 60,000.00 | Renewal |
| Contract No. B50001931 - PM Maintenance for Tennant Machines - Convention Center - P.O. No. P516995 | | |

On May 11, 2011, the Board approved the initial award in the amount of \$30,000.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$60,000.00 is for the period May 9, 2014 through May 10, 2015. The above amount is the City's estimated requirement.

MWBOO GRANTED A WAIVER.

- | | | |
|---|--------------|---------|
| 7. ALLIED CONTRACTORS, INCORPORATED | \$200,000.00 | Renewal |
| Contract No. B50001768 - Requirements for Concrete Sidewalk and Other Structural Repairs at Various Locations - Recreation and Parks, etc. - P.O. No. P516895 | | |

On April 20, 2011, the Board approved the initial award in the amount of \$344,300.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This renewal in the amount of \$200,000.00 is for the period April 20, 2014 through April 19, 2015, with one 1-year renewal option remaining. The above amount is the City's estimated requirement.

MWBOO SET GOALS OF 27% MBE AND 10% WBE.

MBE: JM Murphy Enterprises, Inc.	\$2,764.79	5%
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WBE: S & L Trucking, LLC		0
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MWBOO FOUND VENDOR IN COMPLIANCE.

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. HD SUPPLY WATERWORKS,
LIMITED PARTNERSHIP | \$15,000.00 | Increase |
| Contract No. B50001992 - Various Water Tools - Department of
Public Works - P.O. No. P517287 | | |

On June 13, 2011, the City Purchasing Agent approved the initial award in the amount of \$20,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. Due to the unusually high number of water main breaks this winter an increase in the amount of \$15,000.00 is necessary. This increase in the amount of \$15,000.00 will make the total award amount \$55,000.00. The contract expires on June 12, 2014 with no renewal options remaining. The above amount is the City's estimated requirement.

- | | | |
|--|--------------|---------|
| 9. POWER-LITE INDUSTRIES
INC. | \$200,000.00 | Renewal |
| Contract No. B50001368 - Steel Sub Base for Light Poles -
Department of Transportation - P.O. No. P513112 | | |

On April 28, 2010, the Board approved the initial award in the amount of \$385,200.00. The award contained two 1-year renewal options. On March 13, 2013, the Board approved the first renewal in the amount of \$200,000.00. This final renewal in the amount of \$200,000.00 is for the period April 21, 2014 through April 20, 2015. The above amount is the City's estimated requirement.

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>
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Bureau of Purchases

10. GEIGER PUMP AND EQUIPMENT

<u>COMPANY</u>	<u>\$100,000.00</u>	<u>Increase</u>
Contract No. 08000 - ITT Gould and ITT-Allis Chalmers Pumps Parts - Department of Public Works, Water and Wastewater - P.O. No. P525232		

On October 16, 2013, the Board approved the initial award in the amount of \$100,000.00. This increase in the amount of \$100,000.00 is necessary to include the requirements of the Environmental Services Division and an increase in usage of these parts. This increase in the amount of \$100,000.00 will make the award amount \$200,000.00. The above amount is the City's estimated requirement.

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 (e)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

11. LORENZ LAWN & LANDSCAPE

<u>INC. d/b/a LORENZ, INC.</u>	<u>\$800,000.00</u>	<u>Renewal</u>
Contract No. B50001231 - Mowing Services for Recreation and Parks - Department of Recreation and Parks - P.O. No. P512903		

On April 14, 2010, the Board approved the initial award in the amount of \$578,960.00. The award contained four 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$800,000.00 is for the period April 14, 2014 through April 13, 2015 with no renewal options remaining.

MWBOO SET GOALS OF 27% MBE AND 10% WBE.

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

MBE: 4 Evergreen Lawn Care	\$557,606.00	20%
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WBE: Fouts Lawn Care	\$490,601.00	18%
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MWBOO found the vendor in non-compliance on March 6, 2014 and recommended that the vendor be given 60 days from date of renewal to come into compliance.

MWBOO FOUND VENDOR IN NON-COMPLIANCE.

12. FREEMIRE & ASSOCIATES,
INC. \$100,000.00 Sole Source
 Solicitation No. 08000 - Dezurik Plug Valves - Department of
 Public Works, Bureau of Water and Wastewater - Req. No. R655802

An Intent to Waive Competition was advertised (B50003428) with no responses received. The vendor is the sole distributor of the manufacturer's OEM valves and parts.

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 (e) (i) of the City Charter, the procurement of the equipment and/or service is recommended.

UPON MOTION duly made and seconded, the Board approved the informal awards, renewals, increases to contracts, and extensions. Acting on behalf of the Mayor, the Director of Finance **ABSTAINED** on item no. 6. The President Voted **NO** on item no. 7.

MINUTES

Bureau of Purchases - Master Lease Financing

ACTION REQUESTED OF B/E:

The Board is requested to authorize the Department of Finance to seek Master Lease financing for the purchase of vehicles, to be awarded to vendors in separate solicitations with subsequent Board approvals as required.

AMOUNT OF MONEY AND SOURCE:

\$29,888,398.05 - City's Master Lease through the Bureau of Treasury Management

BACKGROUND/EXPLANATION:

No additional funds are required. The total cost will be financed through the City's Master Lease program administered by the Bureau of Treasury Management.

On April 13, 2013, the Board approved the City's use of a Master Lease vehicle financing approach, as part of the City's 10-Year Financial Plan. This is the second round of such financing. The awards for provision of specific vehicles have already received Board approval, or approval will be sought as required. This request for Board approval authorizes the financing of the future purchase of the following vehicles by gross vehicular weight (GVW) class.

	<i>Vehicle Count</i>	<i>Estimated Costs</i>
6-Year Tranche Total	197	\$5,209,243.80
<8,500 GVW	156	\$4,107,590.40
8,501- 10,000 GVW	25	\$971,825.40
>10,001 GVW	4	\$27,745.50
Specialty Equipment	12	\$102,082.50
10-Year Tranche Total	141	\$24,679,154.25

MINUTES

Bureau of Purchases -

8,501 - 10,000 GVW	18	\$1,485,902.40
>10,001 GVW	4	\$207,096.60
14,001 - 16,000 GVW	8	\$1,442,807.88
19,501-26,000 GVW	1	\$151,815.00
26,001- 33,000 GVW	4	\$523,162.87
>33,001 GVW	96	\$20,638,553.00
Specialty Equipment	10	\$229,816.50
<hr/>		
Total Financing Amount	338	\$29,888,398.05

A PROTEST WAS RECEIVED FROM MS. KIM TRUEHEART.

The Board of Estimates received and reviewed Ms. Trueheart's protest. As Ms. Trueheart does not have a specific interest that is different from that of the general public, the Board will not hear her protest. Her correspondence has been sent to the appropriate agency and/or committee which will respond directly to Ms. Trueheart.

UPON MOTION duly made and seconded, the Board authorized the Department of Finance to seek Master Lease financing for the purchase of vehicles, to be awarded to vendors in separate solicitations with subsequent Board approvals as required.

Kim A. Trueheart

April 1, 2014

Board of Estimates
Attn: Clerk
City Hall, Room 204
100 N. Holliday Street,
Baltimore, Maryland 21202

Dear Ms. Taylor:

Herein is my written protest of the item described below from this week's Board of Estimates agenda and my request for information under the Maryland Public Information Act, State Government Article §§10-611 to 628.

The following details are provided to initiate this action as required by the Board of Estimates and I fully understand that the details in paragraphs 1-4 are NOT required by the Maryland Public Information Act:

The following details are provided to initiate this action as required by the Board of Estimates:

1. Whom you represent: Self
2. What the issues are:
 - a. Page 38, Bureau of Purchases - Master Lease Financing - Vehicles, if approved:
 - i. Fails to disclose details of the City's Master Lease Program administered by the Bureau of Treasury Management;
 - ii. Fails to disclose the procedure used to estimate the cost of the vehicles to be procured.
3. How the protestant will be harmed by the proposed Board of Estimates' action: I am an underserved, disparately treated, over-taxed citizen of Baltimore City and a victim of poor fiscal planning, management an administration by the Finance Department of Baltimore City.
4. The remedy I seek and respectfully request is that this action be withdrawn until the Finance Department discloses to the public, for inspection, the terms and conditions of the City's Master Lease Program and the procedure used to estimate the cost of the vehicles to be procured.

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial. If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

I also anticipate that I will want copies of some or all of the records sought. Therefore, please advise me as to the cost, if any, for obtaining a copy of the records and the total cost, if any, for all the records described above. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy. Electronic copies are acceptable.

Email: ktrueheart@whatfits.net
5519 Belleville Ave
Baltimore, MD 21207

I look forward to reviewing disclosable records promptly and, in any event, to a decision about all of the requested records within 30 days. Thank you for your cooperation.

If you have any questions regarding this request, please telephone me at (410) 205-5114.

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Sincerely,
Kim Trueheart, Citizen & Resident

5519 Belleville Ave
Baltimore, MD 21207

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTION

* * * * *

On the recommendations of the City agency
hereinafter named, the Board,
UPON MOTION duly made and seconded,
awarded the formally advertised contracts
listed on the following pages:

1164 - 1212

to the low bidders meeting the specifications,
and rejected the bid as indicated
for the reasons stated.

The Transfers of Funds were approved
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 President Voted **NO** on item nos. 1 and 2.

The Comptroller Voted **NO** on item nos. 1 and 2.

The Comptroller **ABSTAINED** on item no. 6.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Department of Transportation

1. TR 11320, Greyhound Roy Kirby & Sons, \$6,605,032.00
 Intermodal Terminal, Inc.
 2110 Haines Street

DBE: Roane's Rigging & Transfer	\$ 820,000.00	12.41%
GE Frisco	850,000.00	12.87%
	<u>\$1,670,000.00</u>	<u>25.28%</u>

A PROTEST WAS RECEIVED FROM COMMERCIAL INTERIORS, INC.
 SUPPLEMENTAL PROTESTS WERE RECEIVED FROM COMMERCIAL
 INTERIORS, INC.

2. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$3,526,397.14	9950-905645-9528	
FED	Construction Reserve	
	Intercity/Intermodal	
	Terminal	
1,300,000.00	" " "	
Others		
1,900,000.00	9950-903621-9509	
Others	Liberty Heights Ave.	
	& Druid Hill	
569,690.20	9950-903606-9509	
Others	Internal Streets	
660,503.20	9950-903550-9509	
<u>GF(HUR)</u>	Neighborhood Street	
	Reconstruction	
\$7,956,590.54		
\$6,605,032.00	-----	9950-906645-9527-6
		Structure & Improvements
686,900.34	-----	9950-906645-9527-5
		Inspection
664,658.20	-----	9950-906645-9527-2
<u>\$7,956,590.54</u>		Contingencies
		Greyhound Intermodal
		Terminal

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Department of Transportation - cont'd

This transfer will fund the costs associated with award of Project TR11320, Greyhound Intermodal Terminal, 2110 Haines Street to Roy Kirby & Sons, Inc. in the amount of \$6,605,012.00.

President: "The first item on the non-routine agenda can be found on Page 40 and 41, Recommendation for Contracts Awards/Rejections, Item 1, TR11320, Greyhound Intermodal Terminal, 2110 Haines Streets and Item 2, the related Transfer of Funds. Will the parties please come forward? This is the Greyhound Intermodal Terminal."

Mr. Robert Fulton Dashiell, Esquire: "Good, good morning, Mr. President. Actually, I'm looking around, oh, the lawyer, the lawyer's here walking in now. My name, my name is Robert Dashiell. My daughter and I represent Commercial Interiors d/b/a Commercial Construction."

City Solicitor: "Mr. Dashiell, I just have a quick procedural question for you. Uh -- are you registered --"

Mr. Dashiell: "It's in the bag."

City Solicitor: "-- as a lobbyist upstairs?"

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

Mr. Dashiell: "It's in the bag."

City Solicitor: "Thank you very much. Okay."

Mr. Dashiell: "Senchal Barrole will be arguing, she'll be arguing Part A, which relates to the non-responsiveness issue, I'll be dealing with the DBE issues, if you don't mind."

President: "Thank you."

Mr. William Johnson: "Uh -- good morning. William Johnson, DoT Director, City of Baltimore. Um -- with regards to the um -- contract in question, the Department of Transportation has awarded the uh -- contract to the lowest responsive bidder on the project. We, uh -- uh -- Roy Kirby bid \$6.6 million 500 hundred, I mean 5,012 dollars on the, on the contract. Uh -- they included two DBE firms, GE Frisco and Roane's Rigging. Um -- we reviewed their bid and found it in compliance. We uh -- reviewed the uh -- status of the two MBEs, as well as the Scope of Work. Uh -- we verified the NAICS codes for both DBE contractors. Um -- and we had an independent evaluation done by a consultant um -- because there were so much discussion about

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

the award, uh -- and verified that the uh -- MBE participation amount was verified at 25.3 percent, so that's the basis of the award."

Ms. Senchal Barrole: "Good morning, Mr. President, members of the Board. With respect --"

President: "State your name please."

Ms. Barrole: "My name is Senchal Barrole, representing Commercial Interiors, Inc. doing business as Commercial Instruction - Construction. With respect to the issues that have been raised with respect to Commercial Interiors, Inc., there are two that we have been made aware of. One is that um -- there is some confusion over the use of the trade name, Commercial Construction as opposed to Commercial Interiors. Counsel for Kirby, as you are aware, noted that on the manda -- on the sign-in sheet for the mandatory pre-bid meeting, it was signed Commercial Construction um -- and in addition it was noted that um -- Commercial Interiors, Inc. is not pre-qualified with the City as doing business as Commercial Construction, um -- but

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

rather only as Commercial Interiors. In response to that, saying that we would note that there is no mandate, even at the State level, that a trade name be registered, and it's certainly not unlawful to use a trade name and that there is no actual confusion as to the identity of the bidder in this instance. There's even a letter addressed to our client, um -- dated March 19th from the Board addresses them as Commercial Interiors, Inc. doing business as Commercial uh -- Construction. There's also a red herring, I believe, a red herring, I believe noted in the letter that says there's another entity by the name of Commercial Construction, Inc. that is not in good standing with the State Department of Assessments and Taxation. However, there's no allegation anywhere that uh -- Commercial Interiors, Inc. signed any documents as Commercial Construction, Inc., only that the trade name of Commercial Construction is used, and in addition, when you look at pre -- pre-qualifications, certainly, a company would not be required to pre-qualify simply for the use of a trade name and there's not a requirement on that application that you list every trade name that you would potentially be using.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

So, our uh -- position is essentially it's a trade name; it's lawfully used; there's no actual confusion so the argument that because of that use of a trade name, the bidder somehow uh -- non-responsive and/or suggests irresponsibility -- non-responsibility rather, is frivolous. The second issue there was uh -- raised a concern about the bid bond not being executed by the principal. We've acknowledged that that was a mistake on the part of Commercial Interiors doing business as Commercial Construction, however there's a case uh -- on point in the State of Maryland, which actually arose out of a case in Baltimore City where the Court found that an equity bid bond, uh -- sorry not a bid bond, but a bond related to performance. In that case, which required indemnification, was able to be performed if it was clear that the intent was that the surety would be held responsible, and so our position on that is, that yes it was a mistake, however there's no question in this case that the surety would be liable for the bid bond, which is much more limited than a performance bond, assuming that future contractual documents are signed, the obligation on

MINUTES**RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS**

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

the bid bond is complete, and so that also should not be concerted an issue. One of the exhibits attached to our uh -- letter dated March 31, 2014, is a letter from the surety, I could pause if you would like to find, but uh -- a letter from the surety indicating its intent to be bond, bound. It's written by the President of Delmarva Surety, Thomas A. Whipple, and so that's also not a reason to consider Commercial uh -- Interiors, Inc. doing business as Commercial Construction as being uh -- as their bid being non-responsive, and so we urge you to reject the legal opinion. I'd also point out that with respect to the issue of non-responsiveness, in the first instance, it should also be considered that there was an actual bid bond submitted, and so we'd also say that in thinking about that consideration, it's a different case when you have a bid that's submitted and there's no bid bond that's been submitted at all, certainly that's non-responsive. Once a bid bond has actually been submitted, we submit, or propose that, the standard is lower whereby you're looking at the sufficiency of the bid, you're not looking at it as an instance where there's a total absence of a

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

bid bond, and again, the surety, having agreed to be bound, and the bond in question, being very limited in the nature of a bid bond, we suggest that, that also is a non-issue and that in fact it is Commercial Interiors, Inc. doing business as Commercial Construction, which is the lowest responsible and responsive bidder in this matter."

President: "Any questions?"

Mr. Johnson: "Just a, just a point of clarity. I indicated earlier that we were recommending award to the lowest responsive bidder. Um -- the lowest responsive bidder was Roy Kirby. They were the lowest bidder, and has been deemed responsive. The second lowest bidder was Commercial Interiors. Um -- their bid amount was \$6,664,306.00, which is about \$50 to \$60,000.00 higher than the lowest bidder. So, the two bids are very close, but the lowest bidder was Roy Kirby, the second bidder was Commercial Interiors."

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

City Solicitor: "And, well, let me suggest as a matter of procedure, Mr. President, I think the first issue for us to address and resolve is the questions raised by Mr. Dashiell and his client relative to the lowest bidder, Roy Kirby, so perhaps, and I think only if that remains an open question unresolved, do we need to turn to the issues with regard to the second lowest bidder, and I think Mr. Dashiell is about to address his remarks to um -- to the Roy Kirby situation, so I would suggest that he do that and then we hear from uh -- the department and the attorney general, if that's called for on the Roy Kirby issue first."

Mr. Dashiell: "Thank you Mr. Nilson, that's exactly what I was about to do. Again my name is Robert Dashiell, I represent Commercial Interiors d/b/a Commercial Construction. We're joined at the podium by the vice president, Mr. Marty Glaze, and you've heard the very excellent presentation by the young lady to my immediate left, whom I am very familiar with. I, I, I get, I get to talk about the nitty-gritty kind of stuff, the

MINUTES

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

down low kind of stuff, and the fact of the matter is that, and I'm only going to address the things that we can identify, that we know about because, quite frankly, in the, in the STB letter, which was dated March 31, happened to be the same day I filed the protest by the way, but nevertheless, in the STB letter, they referred to um -- um -- an item called Special Construction, Item No. 401 and I don't know what that is, so I'm not even going to address that, and, and I'm just going to address frankly Roane's Rigging & Transfer, uh -- and extent to which Roane's Rigging is not certified by MDoT to perform the work that's listed for them, which under item uh -- let's see, under item for Air Conditioning, \$409,000.00 for heating, ventilating and air conditioning, is listed for Roane's Rigging, and Roane's Rigging is simply not certified for that work. The NAICS code, and just let me, let me, let me, you all don't know this, but so, so, so I don't want to take too much time, in the Maryland Department of Transportation, over the last few years, they've, they've tried to get away from the business of describing contractor work, by, by, in narrative terms, and

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

they've adopted a process of assigning a NAICS code so that it can be clear to everybody who is certified to do what. Eventually I think the City may itself move in that direction, but we haven't gotten there quite yet. The, the, the NAICS code for Roane's Rigging, according to the directory of MDoT is 238290, that's the NAICS code. I'm going to give you some copies. The NAICS code for heating, ventilation, air conditioning is 238220. Now I don't know, I don't know what the consultant looked at, I don't know what NAICS code the consultant investigated, but I do know that 238220 is not the same as 238290. I know that for sure -- and Roane's Rigging is not certified to, to do the work that's listed under 238220, which is plumbing, heating and air conditioning and specifically furnish and install light commercial AP, mechanical systems and things like -- that is precisely what is described on the STB letter uh, for which Kirby is claiming \$409,000.00 Credit. Now, uh, something's wrong somewhere. Either, either the State made a mistake and intended to give Roane's Rigging uh -- 23 uh --

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

8220 or the STB made a mistake and didn't properly investigate the NAICS codes at all. But in any event, you can see in black and white, I mean this is not rocket science, you can see in black and white that 238220 is heating, ventilation and air conditioning, which is exactly what is described on the submission from the, from the uh, consultant, for \$409,000.00 for Roane's Rigging. Exactly what they say. Roane's Rigging is a rigging company. Rigging companies dismantle rooftop units and they put them back together and they haul them away. They don't install HVAC. Never have. Another thing that, that you won't find in the STB is any analysis of the actual quotes received from the DBEs. If I were going, if I were going, if I were going to determine whether or not the DBE was going to do a certain work, the first thing I would do is look at the quote they gave the prime contractor. Where is it? You don't see it from Roane's Rigging and you don't see it for GE Frisco. In fact you don't even see any reference to it by the, by the, by the consultant. Wouldn't that be where we started? And then I would look to see whether or not there was some sort of

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

agreement between the prime contractor and the -- and the MBE or DBE, signed saying, 'I'm going to do that work'. Where's that? Missing, as well. All you have here quite frankly is a piece of paper that the consultant was asked to put together to support the decision the agency had already made. That's what you've got here. You want to make a decision on that basis? Fine. But let's call it what it is. Let's call it what it is. Let's be honest about it and say we want to give this contract to Roy Kirby. That's all I'm going to say. Thank you. I'm done. Your podium."

Mr. Johnson: "As I indicated earlier, we did review the NAICS codes, uh -- for all of the contractors; The Scopes of Work. We verified those things with the State, based on their NAICS codes; there are more codes than, than for the one that Mr. Dashiell has indicated, uh -- and there's an expanded scope of work beyond that, so -- we verified it, we checked it with our consultants, it was re-verified and reconfirmed, uh -- we determined that this is the lowest responsive bidder and, and we've based our award on the fact that they are the lowest responsive bidder, so --"

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President: "Okay. Um -- I have a question. Um -- in reference to the argument that Mr. Dashiell made about um -- Roane's Rigging & Transfer. Um -- are they going to do air conditioning installment?"

Mr. Johnson: "They are certified to do boilers, to do duct work, all associated with HVAC work. This is all part of their NAICS codes, so they are certified to do boilers, uh -- duct work, etc., that would have to be done as part of installation HVAC work. The bigger part, another part of what they're going to be doing is uh -- machinery and equipment breakdown, relocation, and re-setup, so it's all part of their Scope, and, go ahead --"

Comptroller: "-- where -- the um -- they are --"

President: "Can you talk in the mic?"

Comptroller: "Do you have -- that they are approved or qualified to do that?"

Mr. Johnson: "Yes, I do have some paperwork here. This is a list of all the codes that Roane's Rigging is certified to do."

City Solicitor: "Can you, can you tell me whether they are

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certified to do work under NAICS Code 238220?"

Comptroller: "Not on here."

Mr. Johnson: "I don't see that specific code. I do see codes that deal with boiler and pipe installation, which is all part of HVAC."

City Solicitor: "Which they are certified to do?"

Mr. Johnson: "Yes."

City Solicitor: "Um hmm."

Mr. Johnson: "As well as uh -- duct installation and insulation."

City Solicitor: "So there are at least those other two codes that would encompass the kind of work that you would expect Roane to be doing on this project?"

Mr. Johnson: "If it's part of HVAC work, yes."

City Solicitor: "Right."

Mr. Johnson: "A major portion of it."

President: "Okay, any, any other comments?"

City Solicitor: "Gentlemen in the background, do you wish to speak, be heard?"

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

President: "You have to state your name and --"

Mr. Frank Laws: "What the agency did and what the protester did not do is to break down for you the process, uh -- that goes into putting together the bid for particular work."

City Solicitor: "You have to identify yourself."

Mr. Laws: "It's been 40 years, 30 years since the last time I was here, so um -- Frank Laws on behalf of Roy Kirby & Sons. When the contractor on bid day is putting together his bid package, what he's doing is getting a series of bids and numbers from a variety of trades. He then takes that information and breaks up parts of it, for the developing his scope of work for the particular trades. With respect to Roane's Rigging, what the City did was to examine the components that go into the HVAC work, so that with respect to those components that Roane's Rigging is certified to do, and that agency, that company's been doing work for Baltimore City for a good 20 years, with respect to those components, and adding them together with the other components in their scope of work, the City determined, quite correctly, that the bid received from Roane's Rigging was work

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that they were certified to do, that they're competent to do, and correctly awarded the contract."

City Solicitor: "And I just have to ask you the same question I asked Mr. Dashiell, are you registered as a procurement lobbyist upstairs with the Ethics Board?"

Mr. Laws: "Probably not."

City Solicitor: "You have to do that, you need to do that this week if you wouldn't mind."

Mr. Laws: "Sounds good. Thank you sir."

City Solicitor: "Thank you."

President: "Mr. Dashiell."

Mr. Dashiell: "Mr. President, um -- I've conferred with my client. So far as we can determine, there's no boiler work involved in this project, and the fact of the matter remains, that, that, again, unless, unless the United States government, Mexico and Canada are wrong in how they describe the information on the NAICS code, because that's, it occurs on a treaty between those three countries, unless they meant to include under 238920 everything they listed under 238220, then this, this argument

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we've heard today doesn't make any sense. If we let them go by the NAICS code and the description of the work, that's here, in front of us, under 238220, I think it is, which is not included under the codes for, for Roane's Rigging, then the work as described by the consultant on the sheet, now the consultant doesn't say anything about boilers. I want you to know that, there's nothing about boilers, it says heating, ventilation and air conditioning, doesn't say boiler work, doesn't say anything about installing duct or any of that, it says heating, ventilation and air conditioning. That -- those words exactly are those that are described under 238220. This is after, this is after the fact analysis that's been offered to you today. The fact of the matter is Roane's Rigging has never installed a duct, Roane's Rigging, and this is a pre-fabricated building by the way. The building itself is a steel structure that's pre-fabricated that's being brought here and erected by the manufacturer, not by Roane's, not by GE Frisco, not by any of them. Roane's Rigging has never installed a duct in a building in its history, but as I said, I don't want to, I'm not going to

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as they say beat a dead horse."

Mr. Marty Glaze: "Mr. President, Board, uh --"

City Solicitor: "Please identify yourself, I'm sorry, for the record."

Mr. Glaze: "I'm sorry. My name is Marty Glaze, I'm Vice-President for Commercial Construction, uh -- Commercial Interiors doing business as Commercial Construction. Council President, and Board, uh -- thank you for this opportunity to speak, and hopefully be heard. I come before you this morning as a concerned business leader, a minority contractor, and a lifelong resident of Baltimore City to express my disappointment with the process and the resulting decision. Like, like the heavyweight fighter that beats his opponent half to death to hear that he has lost the decision, or the student who feels like he's aced a math test to find that he has failed because the teacher disagrees that one plus one is two, two times two is four, with a square root of 49 of seven, or the parent who finds out his child has been murdered because his music was too loud, then later witnesses the killer set free even though all of the

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evidence pointed towards guilty. I draw these visual analogies to emphasize what I consider a blatant disregard for the MBE/DBE process and the African-Americans, which we're all too familiar with these kinds of decisions. For anyone to look at a DBE plan that has a lumber company and a rigging company to do \$2 million dollars' worth of work on a proj -- on a -- on a project that doesn't have any lumber in it, and has limited rigging included, is preposterous. Out of the \$6 million dollars, \$3 million dollars of that six is a building. They're suggesting that two million dollars of the three, are to be done by these two contractors. So, so, so they're not doing electrical work, they're not doing plumbing work, they're not doing the painting, they're not doing the flooring, they're not doing any kitchen equipment -- for anybody to look at that and say that it's right is wrong. I don't care who, and if you read the consultant's analysis, I do not read where they're agreeing, they're just suggesting that it's plausible that they could do that work. I'm telling you it's not plausible. The NAICS codes are very specific, okay? Very specific to what you can do, and if you

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look at the NAICS codes for these two firms, they do not meet anything that could possibly amount to \$2 million dollars, and I'll, I'll take it further to say if this does move forward, okay?, I would hope that somebody is monitoring this project, and shows me that those two contractors are employing and doing \$2 million dollars' worth of work on this project, okay? Because unlike other small minority contractors who don't have the resources to be able to come before you and fight this, this is something that we heard, have heard as minority contractors has been going on forever, and it's not right. It's not right. I'm black and white, right is right, wrong is wrong and this is wrong, and for anybody to just say differently, shouldn't be in positions to make decisions. Thank you."

President: "I'll entertain a Motion."

City Solicitor: "I would MOVE to um -- to deny the protest and proceed with the recommendation of the Department of Transportation."

Director of Public Works: "Second."

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DOT, TR 11320, Greyhound Intermodal Terminal - cont'd

President: "All those in favor say Aye. All opposed Nay. Please note that Council President Young votes **NO**. I don't feel comfortable that um -- this company could actually do the work that they say that they can do and as this contract moves forward, I'm asking that um -- it be monitored to make sure that these um -- firms are actually doing the work that they said they are going to be doing. So, I don't know who's going to do the monitoring, but I want it to be monitored and I want you to come back before this Board to let us know that this company is actually doing what they said that they can do."

Comptroller: "I also vote **NO** because I'm not convinced that based on their certifications that they will be able to meet the amount that has been set aside for them."

President: "Um -- is there a "Second?" All those in favor say Aye. All opposed Nay."

Comptroller: "Nay."

President: "The Motion carries."

Robert Fulton Dashiell, Esq. P.A.

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Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
MD, DC, NY

April 1, 2014

VIA ELECTRONIC DELIVERY

Board of Estimates of Baltimore City
C/O Joan M. Pratt, Comptroller/ Secretary
City Hall
100 N. Holliday Street, Suite 204
Baltimore, Maryland 21202

RE: TR 111320- Greyhound Intermodal Terminal/Protest Supplement

To the Honorable President and Members:

As you know, we represent Commercial Interiors, Inc. Please accept this as a supplement to the letter of protest hand-delivered on March 31, 2014. This relates to the failure of the proposed awardee to comply with the DBE participation requirement set forth in the solicitation.

We previously indicated that the total bid amount submitted by Kirby was \$6,605,012. Of that amount Kirby indicated that \$3,104,012 was for site work, none of which is included with the NAICS certifications of the two DBE's included in Kirby's bid. We further indicated that the purchase and erection of the pre-engineered building as required in the contract specifications is likely to cost about \$1,200,000, including the canopy.

Our client did receive a lower estimate for the building (\$694,082.00) which it does not believe included the required canopy. Nonetheless, we believe that we should inform you of all facts we deem relevant. If Kirby's is able to purchase and install the building for approximately \$500,000 less than our client (\$1,200,000- \$700,00.00), that would still leave only \$2,800,000 of its bid amount from which it claims it will obtain \$1,670,000 in DBE participation from its two DBE's. Neither of the two DBE's has a NAISC code for available work reasonably valued at anywhere near that amount!

Again, the apparent low bidder and proposed awardee has demonstrated neither compliance nor a good faith intent to do so.

The lowest responsive bid was submitted by Commercial Interiors, Inc./d/b/a Commercial Construction.

Very truly yours

A handwritten signature in black ink, appearing to read 'Robert Fulton Dashiell', with a long horizontal line extending to the right.

Robert Fulton Dashiell

Robert Fulton Dashiell, Esq. P.A.

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Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
MD, DC, NY

March 31, 2014

VIA HAND DELIVERY

Board of Estimates of Baltimore City
C/O Joan M. Pratt, Comptroller/ Secretary
City Hall
100 N. Holliday Street, Suite 204
Baltimore, Maryland 21202

RE: TR 111320- Greyhound Intermodal Terminal

To the Honorable President and Members:

We represent Commercial Interiors, Inc. This letter is in response to the letter to our client dated March 19, 2014 stating that, based upon an opinion of the Law Department, its bid was declared non responsive. (Exh.1). For the reasons stated below, we urge you to reject that opinion. Further, we urge you to award the contract to our client as the responsible bidder who submitted the lowest responsive bid.

A. The Responsiveness of Commercial Interiors' Bid

The Baltimore City Charter mandates, with respect to contracts required to be advertised by means of invitations for bid, that award be made to the responsible bidder that submits the lowest bid. The charter does not, however, define responsible. Historically, this Board has adopted the definition of responsible set forth in the Code of Maryland Regulations (COMAR), where responsible is defined as "a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability that shall assure good faith performance." 21.01.02.01 (77). In conjunction with and part of the requirement of bidder responsibility this Board has adopted the principle of bid responsiveness, which under COMAR means a bid that "conforms in all material respects to the requirements contained in the invitation for bids." COMAR 21.01.02.01 (78). Accordingly, award of contracts solicited by invitations for bid is required to be made to the responsible bidder that submits the lowest responsive bid.

The primary indicia of bidder responsibility in the City are prequalification through the Department of Public Works Contractor Qualification Committee (Boards and Commissions). To be awarded or to perform a construction contract of \$25,000 or more, a bidder must be prequalified, that is the Contractor Qualification Committee must have determined that the contractor has both the financial and technical resources needed to perform the work in accordance with the applicable plans and specifications- generally referred to as having been prequalified. Bid documents may only be purchased by contractors who have been prequalified for the amount and type of work for which bids are solicited. Further, bids submitted for such contracts by prequalified bidders must be accompanied by bid bonds or other acceptable bid security.

A bid bond is a very limited kind of performance bond; it is designed to assure only that a bidder, if successful, will, in fact, enter into the contract he has bid upon, and to provide a secure fund to compensation the owner if he fails to do so. The condition of the bond is that the principal will execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the bid. Md. Regs. Code. Tit. 21 § 21.06.07.03. Its function and its legal effect end once a contract is signed, for at that point the condition of the bond has been satisfied. COMAR 21.06.07.03 . See Board of Education v. Allender, 206 Md. 466, 476, 112 A.2d 455 (1955). A bidder that cannot furnish a bid bond is not responsible. Baltimore v. De Luca-Davis Constr. Co., 210 Md. 518, 536 (1956). Consequently, a bid in response to a solicitation that requires a bid bond, submitted without the requisite bond, is non- responsive because it fails to conform to a material requirement contained in the solicitation. COMAR 21.01.02.01 (78).

Where, as here, a bid bond has been submitted the issue is whether it is sufficient. In judging the sufficiency of a bid bond the question is whether it could be enforced if the bidder subsequently fails to execute required contract documents and to provide performance and payment bonds. **TJ's Marine Constr. LLC**, B-402227, Jan. 7, 2010, 2010 CPD ¶ 19 at 3. That determination is made by examination of the face of the bid bond provided by a bidders' surety, and is limited to whether the surety is clearly bound by the terms of that bid bond. **Stay, Inc.**, B-237073.2, Feb. 26, 1990, 90-1 CPD para. 225 at 3. Thus, a bid bond is defective, rendering a bid nonresponsive, only if it is not clear that the bond will bind the surety. **All Star Maint., Inc.**, B-234820, Mar. 24, 1989, 89-1 CPD para. 305 at 2. Where a corporate surety is designated, a bid bond is proper "on its face" when it has been duly executed by the surety's agent, the surety has agreed to be obligated for the penal amount of the bond, and the surety appears on the Treasury Circular list of acceptable sureties. See **Stay, Inc., supra, at 3.**¹

¹ TJ Marine Constr. LLC, Stay, Inc. and All Star Maint. are decisions of the U.S. Government Accountability Office.

Commercial Interiors' bid bond was duly and properly executed by its surety and is enforceable. See Aetna Indemnity Co. vs. The Baltimore, Sparrows Point and Chesapeake Railway Company, 117 Md. 523(1912) (On appeal from the Circuit Court for Baltimore City-Court rejected surety's claim that it was not liable on bond because it had not been signed by principal). The letter from the surety attached hereto as Exhibit 2, confirms its obligation. Thus, the opinion of the Law Department that Commercial Interiors' bid was non-responsive because it was not signed by Commercial Interiors is contrary to prevailing law and, therefore, erroneous.

In addition to questioning the enforceability of the bid bond submitted by our client, the Law Department, according to the Board Secretary, determined that Commercial Interiors' use of the assumed name Commercial Construction and/or Commercial Construction, Inc., in the bid and at the pre-bid conference caused the City to be so uncertain as to the identity of the bidder as to render the bid non responsive. That contention is pure sophistry. First, the Law Department does not dispute the fact that Commercial Interiors, Inc. is a Maryland corporation in good standing and prequalified by the City to bid for and be awarded the contract. Secondly, it is abundantly clear that Commercial Interiors, Inc. designated and intended the name Commercial Construction and/or Commercial Construction, Inc. as its trade name. Indeed, that is precisely how the Comptroller addressed Commercial Interiors, Inc. in the letter informing it of the Law Department's opinion.² Thirdly, Commercial Interiors, Inc. is the principal named in the bid bond which, for the reasons shown above, is enforceable against the surety notwithstanding the fact that it was stamped, but not signed by Commercial Interiors, Inc. In sum, it would be both arbitrary and unreasonable if this Board were to find that the bid submitted by Commercial Interiors, Inc. was non-responsive due to confusion over the identity of the bidder.

B. The Non Compliance of the Apparent Low Bidder

The bidding documents for the contract set forth a goal of 25% for participation of disadvantaged business enterprises (DBE's). The firm recommended to you for award of the contract, Roy Kirby & Sons, Inc. ("Kirby"), neither requested a waiver from that requirement, nor demonstrated bonafide intent to comply. Kirby submitted a bid of \$6,605,012.000 (Exh.3) and made a representation that it would achieve the mandated level of DBE participation by entering into a subcontract with Roane's Rigging & Transfer, Inc. for 12.41% (\$819,682.00) (Exh.4), and with G.E. Frisco Co. Inc., for 12.87% (\$850,065.00) (Exh.5).

² The argument that the City didn't know who the bidder was in the bid submitted by Commercial Interiors, Inc., is as genuine as a contention would be that the City confuses the public when it refers to itself as "City of Baltimore" or as "The Mayor and City Council of Baltimore", rather than it as "Mayor and City Council of Baltimore", its legal name.

Roane's Rigging is certified in NAICS 238290- machinery movers, dismantling of machinery and other industrial equipment (Exh.6). G.E.Frisco is certified as a subcontractor in NAICS 321912 and 332312- cutting lumber and fabrication of light steel such as rebar. (Exh.7). We believe that almost half of Kirby's total bid amount must be expended for the purchase and erection (approximately \$1,200,000, Exh.8), finishing (plumbing, HVAC, painting, etc.) and site work of the pre-engineered building, leaving only about \$3,000,000, from which Kirby must obtain \$1,670,000 of participation from firms certified only to perform machinery moving and dismantling and fabrication of rebar. There is no equipment to be dismantled or hauled other than the transport of the pre-engineering building to the jobsite and the value of non- structural steel as established by an independent estimate is only \$158,597 (Exh.9).³ In sum, Kirby's bid is non-responsive because it failed to demonstrate compliance with the applicable DBE goals and it did not request a waiver.

C. Conclusion

For the foregoing reasons, we respectfully submit that the contract should be awarded to Commercial Interiors, Inc., as the responsible bidder that submitted the lowest, responsive bid.

Very truly yours



Robert Fulton Dashiell

³ Rather than put forward a legitimate effort to obtain prices from DBE's for available work or supplies it appears that Kirby wrongly assumed that it would suffice simply to insert the names of two certified DBE's. Prior to 2004, Kirby's assumption would have been correct. However, changes in the State MBE law enacted that year and codified in COMAR 21.11.03.09 C (4) (a) demonstrate that that is not true today.

Exhibit 1

CITY OF BALTIMORE

BOARD OF ESTIMATES

Room 204, City Hall
Baltimore, Maryland 21202
410-396-4755



BERNARD C. "JACK" YOUNG
PRESIDENT, CITY COUNCIL

STEPHANIE RAWLINGS-BLAKE
MAYOR

JOAN M. PRATT
COMPTROLLER

RUDOLPH S. CHOW, P.E.
DIRECTOR OF PUBLIC WORKS

GEORGE A. NILSON
CITY SOLICITOR

BERNICE H. TAYLOR
DEPUTY COMPTROLLER
AND CLERK TO THE BOARD

March 19, 2014

Mr. D. Scott Peterson, VP
Commercial Interiors, Inc. d/b/a Commercial Construction
7464 New Ridge Road, Suite 5
Hanover, Maryland 21076

Re: TR 111320-Greyhound Intermodal Terminal, 2110 Haines Street

Dear Mr. Peterson:

Please be advised that your bid opened on June 26, 2013 on the above-mentioned contract, after legal review, was considered **NON-RESPONSIVE** due to your company's failure to comply with the bidding instructions as mandated by the solicitation's instructions.

After receiving and reviewing protests, the Department of Transportation ("DOT") referred your bid on TR 11320 to the Law Department for review. Upon review by the Law Department, numerous material defects were identified, including the failure to include a validly executed Bid Bond, making your bid non-responsive. The Law Department opined for the reasons stated below, that your bid is materially defective, non-responsive and should not be accepted.

It is unclear whether "Commercial Construction," "Commercial Interiors d/b/a Commercial Construction, Inc.," "Commercial Interiors d/b/a Commercial Construction" or "Commercial Interiors Inc." actually submitted the bid as variations of these names appear on different documents in the bid. By way of example, the mandatory pre-bid meeting was attended by "Commercial Construction." In Section III of the Bid, the bidder is listed as "Commercial Interiors, Inc. d/b/a Commercial Construction." The BID/PROPOSAL AFFIDAVIT, pg. 941 of the Bid Book was executed in the name of, Commercial Interiors, Inc."

The MDOT DBE Form B, at pg. 960, was executed by "Commercial Interiors, Inc." Page 966 of the Bid Book, the bidder's certification of work capacity and pre-qualification, was signed by "Commercial Interiors, Inc." and bears a notary's seal. Certification CM 32-34, pg. 967, was not properly completed and while executed, there is no company name listed as required.

Commercial Interiors, Inc. d/b/a
Commercial Construction
TR 11320-Greyhound Intermodal Terminal
March 19, 2014
- Page 2 -

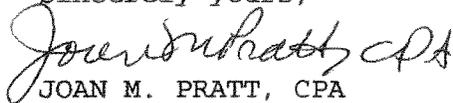
The Bid Bond, pg. 968, purports to provide a bond for, "Commercial Interiors, Inc.," but the form was signed only by the surety. The name, "Commercial Interiors, Inc.," was typed in on the signature line. The line for the bidder's SEAL is also blank.

Neither "Commercial Construction" nor "Commercial Construction, Inc." is pre-qualified to bid on Projects by the City of Baltimore. For the above reasons, the Law Department determined that your bid was materially defective and non-responsive.

Please make arrangements to pick-up your bid package, which will be available in City Hall, Room 204, until June 11, 2014. Materials not picked up by this time will be discarded.

For complete information on all procedures to follow when submitting a contract for the Department of Transportation, please contact them at 410-396-6815. For contracts other than the Department of Transportation, please contact the appropriate City Agency.

Sincerely yours,



JOAN M. PRATT, CPA
Comptroller
and
Secretary to the Board

cc: William Johnson
Laetitia Griffin

Exhibit 2



DELMARVA SURETY

*Mayor and City Council of Baltimore
100 N. Holiday Street
Baltimore, MD 21202*

*Contractor: Commercial Interiors, Inc.
Project: Greyhound Intermodal Bus Terminal New Construction
FTA Project No. MD-04-0021-00
RE: Bid Bond Validity*

Dear Sir or Madam:

Please be advised that I am the President of Delmarva Surety Associates, Inc. in Timonium and Attorney-In-Fact for Hartford Fire Insurance Company.

It is our opinion that a bid bond, unsigned by a principal but signed by a surety, is in fact enforceable as bid security for a project.

This enforceability is based on the fact that the surety company has executed the bond and is therefore a party to the bond with the owner (in this case Baltimore City). Baltimore City would have the bid security necessary to fulfill the bidder's obligation under the bid requirements.

The principal (in this case Commercial Interiors, Inc.) would be obligated to the surety for the bid security based on both common law and their General Agreement of Indemnity.

It is our opinion that the failure of a principal to execute a bid bond would not void the surety's obligation under the bid security, and therefore is fully enforceable as bid security for the aforementioned bid.

As always, I may be reached at my office, 410-561-3593 extension 223, or on my cell, 410-428-8628 for any questions you may have.

Very Truly Yours,

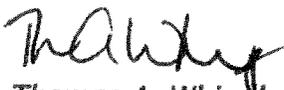

*Thomas A. Whipple
President*

Exhibit 3

Exhibit 4

Prime Contractor	Project Description	Solicitation Number
Roy Kirby & Sons, Inc.	Greyhound Intermodal Terminal Baltimore, Maryland	TR11320

LIST INFORMATION FOR EACH CERTIFIED DBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE DBE PARTICIPATION GOAL.

COLUMN 1	COLUMN 2	COLUMN 3
		Unless the bidder/offeree requested a waiver in MDOT DBE Form A - Federally Funded Contracts for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND DBE CLASSIFICATION	FOR PURPOSES OF ACHIEVING THE DBE PARTICIPATION GOAL, refer to sections 6, 7 and 8 in Part I - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.
<p>RORNES RISSING & Transfer, Inc.</p> <p>Tier 2</p> <p><input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable).</p> <p>Please submit written documents in accordance with Section 5 of Part 1 - Instructions</p>	<p>Certification Number: <u>87-026</u></p> <p>(If dually certified, check only one box.)</p> <p><input checked="" type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other DBE Classification</p>	<p>3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</p> <p><u>12.41</u> % (Percentage for purposes of calculating achievement of DBE Participation goal)</p> <p>3.2. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 6(E) IN PART 1- INSTRUCTIONS).</p> <p>_____ % Total percentage of Supplies/Products</p> <p>x _____ 60% (60% Rule)</p> <p>_____ % (Percentage for purposes of calculating achievement of DBE Participation goal)</p>

Please check if Continuation Sheets are attached.

Exhibit 5

PARTS 4 AND 5 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE 1 OF 2

Prime Contractor	Project Description	Solicitation Number
Roy Kirby & Sons, Inc.	Greyhound Intermodal Terminal Baltimore, Maryland	TR11320

LIST INFORMATION FOR EACH CERTIFIED DBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE DBE PARTICIPATION GOAL.

COLUMN 1	COLUMN 2	COLUMN 3
		Unless the bidder/offeror requested a waiver in MDOT DBE Form A - Federally Funded Contracts for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND DBE CLASSIFICATION	FOR PURPOSES OF ACHIEVING THE DBE PARTICIPATION GOAL, refer to sections 6, 7 and 8 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.
GE Frisco Co Tier 2 <input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: <u>86-090</u> (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input checked="" type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other DBE Classification	3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS) <u>12.87%</u> (Percentage for purposes of calculating achievement of DBE Participation goal) 3.2 TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 5(E) IN PART 1 - INSTRUCTIONS) _____ % Total percentage of Supplier Products x _____ 60% (60% Rule) _____ % (Percentage for purposes of calculating achievement of DBE Participation goal)

Please check if Continuation Sheets are attached.

Exhibit 6



The MDOT Directory of Certified MBE, DBE, SBE and ACDBE Firms

[BACK](#) | [EXIT](#)

Custom Search Complete Details

SEARCHING ELIGIBLE CODES AND FIRMS ONLY
 FIRM NAME like "ROANE"
 DISPLAYING ALL CODES

1 firm was found using the above criteria. Download this result set as an [XLS file](#) (0 KB).

Firm Details	NAICS - Product and Service Description
<p><u>Firm Name:</u> ROANE'S RIGGING & TRANSFER, INC</p>	<p>238290 - MBE/DBE/SBE - OTHER BUILDING EQUIPMENT CONTRACTORS MACHINERY MOVERS, DISMANTLING OF MACHINERY AND OTHER INDUSTRIAL EQUIPMENT, RIGGING, INTERIOR DEMOLITION DONE IN CONJUNCTION WITH RIGGING, HAULING HEAVY EQUIPMENT, MILLWRIGHTING & WELDING, CRANE SERVICES</p>
<p><u>Minority Status - Cert # - Date:</u> AFRICAN AMERICAN / FEMALE 87-028 2/23/1987</p>	<p>238990 - MBE/DBE/SBE - ALL OTHER SPECIALTY TRADE CONTRACTORS MODULAR FURNITURE SYSTEMS ATTACHMENT & INSTALLATION</p>
<p><u>Address:</u> P O BOX 519 OWINGS MILLS, MD 21117 BALTIMORE COUNTY</p>	<p>493110 - MBE/DBE/SBE - GENERAL WAREHOUSING AND STORAGE</p>
<p><u>Contact:</u> KIMBERLEE ROANE</p> <p><u>Phone - Fax - Email - Website:</u> (P) 410-325-7608 (F) 410-254-2476 ROANESRIGGING@VERIZON.NET WWW.ROANESRIGGING.COM</p>	
<p><u>References:</u> CHASNEY & CO 5808 YORK ROAD BALTIMORE, MD 21212 MIKE CHASNEY 410-433-1800</p> <p>G E TIGNALL 14 MCCANN AVENUE COCKEYSVILLE, MD 21030 MIKE HARPER 410-686-3000</p> <p>WM SCHLOSSER 2400 51ST PLACE HYATTSVILLE, MD 20781 PETER SCHLOSSER 301-773-1300</p>	

Exhibit 7



The MDOT Directory of Certified MBE, DBE and ACDBE Firms

[BACK](#) | [EXIT](#)

Custom Search

SEARCHING ELIGIBLE CODES AND FIRMS ONLY
 FIRM NAME like "G" and "E" and "FRISCO"
 DISPLAYING ELIGIBLE CODES ONLY

1 firm was found using the above criteria. Download this result set as an [XLS file](#) (0 kB).
 Select a firm name to view the individual firm profile or [view all profiles](#) at once.

You can [make a custom list](#) of firms based on this result set.

Check the box next to each firm for the list and select [make list](#) or [exit list mode](#).

make list

Firm Details

FRISCO, G.E. CO., INC.
 2 S.E. CRAIN HIGHWAY
 UPPER MARLBORO, MD 20774
 ASIAN AMERICAN SUB-CONTINENT
 86-090

NAICS - Product and Service Description

- 113310 - MBE/DBE - LOGGING

- 321912 - MBE/DBE - CUT STOCK, RESAWING LUMBER, AND PLANING

- 332312 - MBE/DBE - FABRICATED STRUCTURAL METAL MANUFACTURING
 (SPECIFICALLY: LIGHT FABRICATION OF STEEL INCLUDING WELDING, CUTTING, BENDING OF SMALL STEEL PLATES, BEAMS, REBAR ETC)

- 423310 - MBE/DBE - LUMBER, PLYWOOD, MILLWORK, AND WOOD PANEL MERCHANT WHOLESALERS

- 423320 - MBE/DBE - BRICK, STONE, AND RELATED CONSTRUCTION MATERIAL MERCHANT WHOLESALERS

- 423330 - MBE/DBE - ROOFING, SIDING, AND INSULATION MATERIAL MERCHANT WHOLESALERS

- 423390 - MBE/DBE - OTHER CONSTRUCTION MATERIAL MERCHANT WHOLESALERS

- 423510 - MBE/DBE - METAL SERVICE CENTERS AND OTHER METAL MERCHANT WHOLESALERS
 (SPECIFICALLY: STORM DRAINAGE PIPE, STEEL PLATE, STEEL BEAMS, STEEL LAGGING)

- 423610 - MBE/DBE - ELECTRICAL APPARATUS AND EQUIPMENT, WIRING SUPPLIES, AND RELATED EQUIPMENT MERCHANT WHOLESALERS
 (SPECIFICALLY: ELECTRIC ACTUATOR, ELECTRIC AIR)

- 423720 - MBE/DBE - PLUMBING AND HEATING EQUIPMENT AND SUPPLIES (HYDRONICS) MERCHANT WHOLESALERS

- 423830 - MBE/DBE - INDUSTRIAL MACHINERY AND EQUIPMENT MERCHANT WHOLESALERS
 (SPECIFICALLY: WASTE WATER TREATMENT EQUIPMENT, TANKS, AERATORS, DIFFUSER VALVES)

- 423840 - MBE/DBE - INDUSTRIAL SUPPLIES MERCHANT WHOLESALERS

make list

Exhibit 8

1,156,616



BRACER CONSTRUCTION LLC

GENERAL CONTRACTOR

PHONE: 410-867-0131

FAX: 410-867-0139

5871-C DEALE CHURCHTON ROAD

PO BOX 747

DEALE, MD 20751

BRACERCONST@COMCAST.NET

June 18, 2013

Commercial Construction
7464 New Ridge Road
Suite 5
Hanover, MD 21976
ATTN: Dave Lowe
REF: Greyhound Terminal

BRACER CONSTRUCTION will supply and erect a pre engineered metal building

SPECIFICATIONS ARE AS FOLLOWS:

BUILDING WIDTH: 52'

BUILDING LENGTH: 183'

EAVE HEIGHT: Per drawings

ROOF PITCH: 2 ½:12

GOVERNING CODE: 2009 IBC

FRAME TYPE: Rigid frame single slope, HSS tube steel

DESIGN LOADS: 30# Live, 30# Snow, 90 MPH wind, Exposure C, 10# collateral,
H/400 frame deflection

ROOF PANELS: 4" thick insulated roof panels

WALL PANELS: 3" thick insulated wall panels

DOORS: None

WINDOWS: None



BRACER CONSTRUCTION LLC
GENERAL CONTRACTOR

PHONE: 410-867-0131
FAX: 410-867-0139
5871-C DEALE CHURCHTON ROAD
PO BOX 747
DEALE, MD 20751
BRACERCONST@COMCAST.NET

FRAMED OPENINGS: Per drawings for louvers and fans by others

TRIM: Gutter, downspouts, snobars

BUS CANOPY: 28' x 183' bus canopy included

ROOF CURBS: Framed openings and roof curbs for rooftop equipment

TOWER STRUCTURE: Included, roofing excluded

EXCLUSIONS: Item 117 in specs referencing On Job Training, anchor bolts, special paint finishes, metal stud work, PVC thermoplastic roofing, and any items not specified in this proposal

PAYMENTS TERMS:

Progress Payments: Remainder on 30-day progress payments

TOTAL PROPOSED PRICE: \$1,156,616.00

This proposal is valid for a period of thirty (30) days from this date and delivery of building must be within 120 days. After this time bidder reserves the right to amend or withdraw entire bid or any portion thereof.

If this proposal is acceptable please sign and return one copy to us. We look forward to working with you on your project.

Respectfully,


Arthur L. Spencer

ACCEPTED BY:

Exhibit 9

NO.	DESCRIPTION	UNIT	QUANTITY	LBS / FT	TOTAL QUANTITY	UNIT COST	LABOR	MATERIAL	EQUIPMENT/ SUBCONTRACT	AMOUNT	TRADE SUBTOTAL	
STRUCTURAL STEEL												
	HSS 10X6X3/8 beams	LF	35	38	1,330	\$2.50			\$3,325	\$3,325		
	HSS 8X6X3/8 beams	LF	540	33	17,820	\$2.50			\$44,550	\$44,550		
	HSS 8X6X1/2 beams	LF	115	42	4,830	\$2.50			\$12,075	\$12,075		
	HSS 12X4X1/4 beams	LF	20	26	43	\$2.50			\$108	\$108		
	HSS 12X6X3/8 beams	LF	10	43	430	\$2.50			\$1,075	\$1,075		
	HSS 8X6X1/2 columns	LF	200	42	8,400	\$2.50			\$21,000	\$21,000		
	HSS 3 1/2X 3 1/2X 5/16 beams	LF	32	13	416	\$2.50			\$1,040	\$1,040		
	HSS 3 1/2X 3 1/2X 3/8 beams	LF	30	18	540	\$2.50			\$1,350	\$1,350		
	HSS 3 1/2X 3 1/2X 5/16 columns	LF	55	13	715	\$2.50			\$1,788	\$1,788		
	Base plates & anchors	EA	27		0	\$225.00			\$6,075	\$6,075		
	Angle 6 x4 x 3/8	LF	760	13	9,880	\$3.00			\$29,640	\$29,640		
	Connections & misc	%	15.00%			\$122,025			\$18,304	\$18,304		
	Metal decking	SF	270		270	\$5.00			\$1,350	\$1,350		
	Shop drawings	EA	1		1	\$2,500.00			\$2,500	\$2,500		
	Light gage joists	LS	0		0				\$0	\$0		
	Metal studs	LS	0		0				\$0	\$0		
											by others	
											by others	
											Total Existing Conditions	
											\$144,179	
											\$14,418	
											\$158,597	
											Total	
											small quantity factor 10%	

ALL PRE-ENGINEERED BUILDING COMPONENTS EXCLUDED

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Department of Transportation - cont'd

3. TR 07309, Rehabilitation of Roadways Around East Baltimore Life Science Park Phase 1C P. Flanigan & Sons, Inc. \$2,333,454.75

DBE:	Fallsway Construction Co., LLC	\$175,000.00	7.50%
	Priority Construction Corp.	224,770.50	9.63%
	Sunrise Safety Services, Inc.	24,705.00	1.06%
	Bay City Construction, Inc.	<u>136,070.00</u>	<u>5.83%</u>
		\$560,545.50	24.02%

4. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$2,146,778.37	9950-902627-9528	
FED	Construction Reserve	
	Park Circle Intersec-	
	tion Improvements	
\$1,866,763.80	-----	9950-902335-9527-6
		Structure & Improvements
186,676.38	-----	9950-902335-9527-5
		Inspection
93,338.19	-----	9950-902335-9527-2
<u>\$2,146,778.37</u>		Contingencies EBDI Life Sciences

This transfer will partially fund the costs associated with award of Project TR 07309, Rehabilitation of Roadways around East Baltimore Life Science Park Phase 1C with P. Flanigan & Sons, Inc. in the amount of \$1,866,763.80. The local match will come from account no. 9910-906426-9588.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Department of Housing & Community Development

5. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 536,694.59	9910-904979-9587	9910-906426-9588
Motor Vehicle Revenue (MVR)	East Baltimore Redevelopment Reserve	East Baltimore Infrastructure

This transfer will move appropriations into the East Baltimore Infrastructure account for the rehabilitation of roadways around East Baltimore Life Science Park-Phase 1C.

6. B50003276, Building Deconstruction Humanim, Inc. \$ 690,289.00

(Dept. of Housing & Community Development)

MWBOO SET MBE GOALS AT 27% AND WBE GOALS 10%.

MBE: L&J Waste Recycling, LLC 17%*

WBE: Morgan Construction Services, Inc. 10%

MWBOO FOUND VENDOR IN NON-COMPLIANCE.

*Bidder did not achieve the MBE goals and did not request a waiver.

Six bids were received and opened on January 29, 2013. Five bids were determined to be non-responsive. The award is recommended to the lowest, qualified, responsive, and responsible bidder.

The Bureau of Purchases is requesting approval of this award with the condition that the bidder comes into compliance within ten days of the award.

A PROTEST WAS RECEIVED FROM JLN CONSTRUCTION SERVICES, LLC.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

President: "The next item on the non-routine agenda can be found on Page 42, Recommendations for Contract Awards/Rejections, Item 6, B50003276, Building Deconstruction. Will the parties please come forward?"

Mr. Robert Fulton Dashiell: "Uh -- again Mr. President, Good morning. My name is Robert Fulton Dashiell. I represent, represent JLN, the company that submitted the lowest responsive bid on this project. I also represent the Maryland Minority Contractors Association, who is represented here also today by its President, somewhere. Uh -- was here. Uh -- standing to my immediate left is Mr. Nnamdi, President of JLN and my client, and Mr. Pless Jones, who is President of the Maryland Minority Contractors Association, is uh -- to Mr. Nnamdi's immediate left. Thank you."

Mr. Tim Krus: "Tim Krus, City Purchasing Agent. This is the award of Building Deconstruction to Humanim, Inc. for \$690,289.00."

Mr. Dashiell: "Uh -- if I may, the basis -- the basis for our protest, Mr. President, and members of the Board, is simply

MINUTES**RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS**

DHCD - B50003276 - cont'd

this -- this is an invitation, this solicitation was by way of an Invitation For Bids. That's plain and simple. It's not an RFP. It's not a Request for Proposals. There's no technical proposals for evaluation. It's just a flat old, traditional old-fashioned, garden variety Invitation For Bids. It's determined on the basis of, when the bids are opened on the Bid Date, it's who's got the lowest bid, and who's bid otherwise complies with the -- with the stated requirements in the bid documents and the only other one that matters was the submission of the bid bond. My client submitted a bid bond and, and, uh -- and it complied with the, with the applicable MBE requirements. You know from the man -- manner in which it was placed in the agenda that the proposed awardee did not comply, did not demonstrate compliance with the applicable MBE requirements of the contract, nor did they request a waiver. Now the only way -- that this Board historically has ever awarded a contract and permitted the awardee after the fact, to demonstrate compliance, is if, curiously, the same situation that's proposed here, which is to

MINUTES**RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS**

DHCD - B50003276 - cont'd

say that either it was the only bidder, or that all the other bidders were non-compliant, were non-responsive. We had seven bidders, I think, for this contract, and guess what? The other six were all found to be non-responsive for some undisclosed reason. If you look at my protest letter, you won't find any - you won't find any substance in it. The reason that you won't find any substance in it is because even as I stand here today, I don't have the foggiest idea what in my client's bid was determined to be non-responsive; nor has, I have no idea. I mean, this is the kind of thing that caused a Vice President to resign and a county executive to go to jail, both in Baltimore County. This is the kind of thing that is the reason why there is a state procurement law so that it can be transparent, so that you can't invoke a, or even have a situation to where you can't have favoritism. You can't have an Invitation for Bids, open them up publicly, and then go decide in the back room who's going to get the contract. Don't help me."

City Solicitor: "Mr. Dashiell --"

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mr. Dashiell: "Don't help me, you can't do that. And, and, I, I wish I could be more precise and specific about what my objection is, but again, I don't, and Pless Jones doesn't know. He, his company was one of the bidders, and he's also the president of Maryland Minority Contractors Association, of which JLN is a member. We, we stand here today completely unaware of what in the world it was that caused sev -- six bidders to submit non-responsive bids. On a plain old garden variety deconstruction project."

City Solicitor: "Mr. Dashiell, have you asked informally or otherwise on what basis any of the other bidders were ruled to be non-responsive?"

Mr. Dashiell: "My clients have inquired, and they can tell you what information they were given, but again, it seems to me Mr. Nilson, in a public process, we're not talking about private works, we're talking about public works, in a public process, when you open bids publicly and you declare, now let me tell you what happens ordinarily when an IFB bid is determined to be non-responsive."

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

It's done on the day of bid, because somebody looks at it, there's no bid bond present, the bid has not been executed, and you send it away immediately. You don't wait weeks after the fact, without ever telling the bidders what happened, without ever telling the bidders they can pick up their bids. There's no letter, there's no communication ever in writing from the City saying to these clients, telling them why their bids were non-responsive. This is a public process, Mr. Nilson."

City Solicitor: "I think, I'm sorry, I think the answer to my question was, "Yes" your clients asked uh -- somebody, for that information, right."

Mr. Dashiell: "Yes, yes one of my clients at least tried to find out what the basis was."

President: "You have to state your name."

Mr. Dashiell: "Tell them what you heard."

Comptroller: "State your name."

Mr. Nnamdi Iwuoha: "Good, good morning. My name is Nnamdi Iwuoha, I'm the President of JLN Construction Services. Um -- at the time the bid was submitted --"

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mr. Dashiell: "No, the question is, what were, have you been told about why your bid was determined to be non-responsive? If anything, that's the question."

Mr. Iwuoha: "Actually, nobody has told me why my bid was non-responsive. Based on the bid documents --"

Mr. Dashiell: "No, no."

President: "Mr. Dashiell, um -- if you're going to talk to him --"

Mr. Dashiell: "Mr. Nnamdi, we've got a very few minutes here. I don't want a dissertation about what you -- I don't want any speculation. Has anyone from the City sent you a letter, sent you an e-mail, called you, and said, 'This is why your bid is non-responsive'? Yes or no?"

Mr. Iwuoha: "No."

Mr. Dashiell: "Okay."

Comptroller: "I have a question."

President: "Comptroller."

Mr. Krus: "Tim Krus, City Purchasing Agent. If I could --"

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Comptroller: "I have a question."

President: "Comptroller first."

Mr. Krus: "Certainly."

Comptroller: "Could you, based on what I just heard, there were several non-responsive bidders. Could you enumerate for us, for the Board, why they were non-responsive?"

Mr. Krus: "Certainly, and I know that you had sent an e-mail late that we didn't get a chance to respond to. We had six bidders for this, uh -- five bidders were non-responsive. The scope of this work is deconstruction, um -- which includes salvage and workforce development goals in order to comply with the terms of the deconstruction contract. So, in addition to the salvage requirements, the deconstruct -- the deconstruction contractors were - were -- were required to meet specific workforce development goals and clearly identify how they were going to meet those requirements and document those requirements. That particular requirement was not only addressed in the basic solicitation, but also in the addendum that we submitted on January 8th, noting that perspective bidders

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

should clearly identify both how they intend to meet this requirement and how they intend to document it as exemptions are likely to be limited. We received absolutely no questions from any of the contractors about this portion of the solicitation."

City Solicitor: "Would you say, I'm sorry, you received no questions or no information?"

Mr. Krus: "We received no questions. We have a Question and Answer tab on the bid. There were no questions submitted by the contractors on this, there were no exemptions from this major provision of the contract uh -- requested, and we proceeded to evaluate the bids and determined that only one bidder remaining had been responsive to these critical requirements in the contract. They were also the low bidder, and that is why we are recommending them for the award."

City Solicitor: "And I'm sorry, and what were the requirements? You said there were requirements. Well, could you -- could you be a little more specific?"

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mr. Krus: "The requirements --"

City Solicitor: "about the requirements that were not responded to by the other bidders?"

Mr. Krus: "The creation of a minimum of 24 full-time equivalent jobs for the duration of the contract and the performance of 90 percent of all labor by City residents."

Comptroller: "So the -- are the workforce goals -- they are required in the solicitation?"

Mr. Krus: "Absolutely."

Comptroller: "And can you provide us a copy of the addendum? Another question I have is where's the bidder to sign um -- to evidence that its commitment to abide by the law? Is there a place for the bidder to sign?"

Mr. Krus: "We had decided that by including the local hiring law with the solicitation that the bidder, in submitting their basic bid affidavit, is agreeing to comply with that, just as it is agreeing to comply with other items of the solicitation."

Comptroller: "What -- so, so my question is, the bidder agrees

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

to the local hiring when, among the affidavits it is executing, it is executing Affidavit Eight on Page B3? It reads, 'This is to certify that the bidder, offer or person on his behalf, has examined and understands the specifications, including general conditions and the bid documents, has had an adequate opportunity to ask questions, has visited the City's facility, or has otherwise familiarized himself with the local conditions under which the work is to be performed and that his bid or proposal is based upon the specifications and requirements as described in the solicitation documents.' So wouldn't that suffice if they signed --"

Mr. Krus: "That that is correct. That is all they need to sign, and we have determined in the City that that suffices."

Mrs. Erin Sher-Smyth: "Good morning. Erin Sher-Smyth, Bureau of Purchases, and I just want to address that there are two components - one is the local hiring, uh -- which has certain requirements, but this solicitation actually had additional requirements, so uh -- merely signing the bid would not have fulfilled the requirements of the solicitation which clearly in

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

more than one place said that you had to address it and say how you would meet the requirement to have the 24 full-time positions."

City Solicitor: "That, that's the one that's not covered by the law, the 24 full-time positions?"

Mrs. Sher-Smyth: "Correct. So to comply with local hiring, you actually don't need to have any new positions as long as your new positions are advertised and filled in accordance with local hires. So this solicitation actually requires additionally that there be 24 new positions, which you can comply with local hiring and actually create no new positions if you feel you don't need any. So this was uh -- really a workforce and training solicitation in which the 24 uh -- primarily City residents would be trained to deconstruct buildings. This was the material part of the solicitation."

Comptroller: "Can you show me where the additional requirements are in the bid?"

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mrs. Sher-Smyth: "Um hmm."

Mr. Krus: "So, under Scope, letter A, so that's really the first paragraph of the entire solicitation -- calls out the general requirement and then on Page 33, Section F at the very top, notes the specific requirement and then the January 8th addendum number three, references what you just saw on -- at the top of Page 33 to make absolutely certain that bidders complied with this specific requirement of the bid."

City Solicitor: "And was Humanim, as the current low bidder, the only --?"

Mr. Krus: "That's correct."

City Solicitor: "Um -- respondent to address the 24 percent in local hiring?"

Mr. Krus: "That is correct. JLN essentially submitted what um - - paperwork that they were a construction company and talked about that aspect of their business but never specifically addressed the plan and procedures that we called out for in those sections."

Mr. Dashiell: "Mr. President, um -- uh -- let me start, let me

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DHCD - B50003276 - cont'd

start with the question that Mr. Nilson asked me to ask Mr. Krus, is, did you, prior to putting the item on the agenda for this Board, ever send a letter or communication to the other six bidders telling them what you've said here today about why the bids were non-responsive? I know the answer is no."

Mr. Krus: "Well, Mr. Dashiell, we did not --"

Mr. Dashiell: "Okay."

Mr. Krus: "-- because it is not the process that we use, and that has been used for decades --"

Mr. Dashiell: "I know the process --"

Mr. Krus: "-- and all across the country in public procurement."

Mr. Dashiell: "But all across the country, in public procurement, bids are open on bid day and that's -- and then awarded to the low bidder, and if there's not, if the bid is not in compliance on bid day, you tell them on bid day that they're not in compliance and you tell them why. Furthermore, the requirement --"

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DHCD - B50003276 - cont'd

Mr. Dashiell: "Let me finish. Furthermore, any requirement that a bidder here, or contractor, as a matter must employ 24 people is absolutely unconstitutional on its face. You cannot dictate to me under the Constitution how many people I have to hire. Mr. Nilson, so much opined to that in response to a bill that you sponsored, Mr. President."

Mr. Krus: "Well Mr. Dashiell, I can't speak to that because that was also not part of your argument and protest."

Mr. Dashiell: "That's because I didn't know what the basis was. And I still don't know. You haven't given me a piece of paper saying this."

Mr. Krus: "Your client called and I explained what the basis was."

City Solicitor: "And actually, just to clarify, Mr. Dashiell, the Law Department -- neither the Law Department, or I, has ever addressed or raised issues with regard to the requirement that you do work and include in that the creation of a certain number of new jobs, that's separate from a local hiring requirement. Yes, the Council President and I have had some uh -- communications back and forth over the last year over local

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DHCD - B50003276 - cont'd

hiring, but the 24 percent is different and I don't regard that as violating --"

Mr. Dashiell: "It's not, it's not 24 percent."

City Solicitor: "Twenty-four positions, 24 positions."

Mr. Dashiell: "And your mandate that I hire 24 positions is equivalent to your taking my property without due process. You cannot, you cannot mandate that. You cannot. And in -- in -- in fact, such a provision as that has been held unconstitutional in other jurisdictions and if I'd known about it in advance, I'd have the cases to be able to tell you about it."

City Solicitor: "Well --"

Mr. Dashiell: "But that's the whole problem here, Mr. Nilson. What you're -- what you're -- what you're studiously avoiding, which is the transparency of the process. You don't have anything -- I'm going to say this one more time. In a process that has public works contracting, this is a public works contract, we start with the Charter provision that says that bids are going - that it's going to be publicly advertised and that bids are going to be open, and based upon those bids that

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

are opened that day, you award to the lowest responsive and responsible bidder. If you get a bid that day that is non-responsive, you immediately notify the bidder your bid is non-responsive, come pick your package up. That never happened here."

City Solicitor: "I am, I am, I am uh -- I am supportive of the notion that information should be robustly provided generally, and certainly when asked for, and I'm sorry that, that didn't happen here. In this particular instance though, the issue seems fairly clear cut right now, it's not a complicated question, it is, here's a provision that was clearly provided for in the specifications that were, or that were in the Request for Bids that went out on the street, um -- and that was apparently pretty clearly not provided by your clients and the other bidders, except for the low bidder. So no harm no foul --"

Mr. Dashiell: "Mr. Nilson. Mr. Nilson, there is no way that you can demonstrate in advance of knowing what work is going to be performed precisely, how many people you're going to hire. My

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DHCD - B50003276 - cont'd

client and every other bidder signed a bid affidavit. Yes, that is curious, isn't it that the low bidder was one. But, I don't know what the low bidder said because we haven't been provided that either. But, the fact of the matter is --"

President: "Let him finish. Let him finish."

Mr. Dashiell: " The fact of the matter is, in a, in a public bid opening process, you've got to disclose on the day the bids are opened, the basis for making the award, not six months later, not two months later, after you've examined the bids and come up with something -- and the fact of the matter is when they signed the bid affidavit, they agreed to be bound by everything that's in it, and nobody, nobody in the world can tell you in advance how they're goin-- how they're going to achieve a goal of hiring 24 people when you don't even know if you're going to need 24 people to do the job."

Mr. Krus: "Tim Krus, City Purchasing Agent. I would, excuse me, we're having a little problem with the mic -- the uh -- the public copies of all bid responses have been available in the Comptroller's Office throughout this process if Mr. Dashiell and

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DHCD - B50003276 - cont'd

anyone else, would want to have seen how Humanim more, much more than adequately, responded to this requirement."

President: "Um - Comp -- Comptroller."

Comptroller: "Can you show this Board how the low bidder - bidder complied?"

Mr. Krus: "Certainly."

Ms. Sher-Smyth: "I would like to continue to respond. The failure of the second low bidder and the other bidders, besides the one low bidder, Humanim, to, in any way, understand that this was a very important component, shows that they did not clearly read the solicitation, uh -- nor did they plan on complying with it, and when we specifically asked for documentation, that has always been grounds for finding non-responsive when there was no mention of this material portion of the work."

City Solicitor: "And, and I, I would add that the issue of local, I would -- I would also add the issue of local hiring requirements has been, has not been um -- brought forward, or

MINUTES

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DHCD - B50003276 - cont'd

has not been hidden in the dark, it's been a very open, notorious issue that's been the subject of a lot of press attention um -- back and forth between the Council and the Law Department. So um -- one could not say that they were not aware that this had become a priority of the City in, in various ways through its procurements."

President: "Comptroller."

Comptroller: "Are you saying --"

President: "Talk in the mic."

Comptroller: "Are you saying that they complied because in the company background it says Details is a division of Humanim, a workforce development, job training, and job creation non-profit? Where does it say --"

Mr. Krus: "They've actually, they've actually submitted --"

Comptroller: "Let me see."

Mr. Krus: "First paragraph on that page."

Comptroller: "Oh, that would be 24 FTE."

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mr. Krus: "Correct."

Comptroller: "Did you say 24 percent?"

City Solicitor: "Twenty-four."

Mr. Krus: "He had misspoken."

Mr. Dashiell: "May I see?"

Comptroller: "Sure."

Mr. Dashiell: "What it, what it says is, the RFP rightly requires 24 FTE jobs be created through this project to maximize the effort. Details will provide to maximize the effort, whatever that effort is. Details, which I guess, is a sub-contractor, will provide industry specific training to each employee on the project. It doesn't say anywhere that they're going to provide 24, it acknowledges that's what the RFP says. But, nowhere does it say you're going to do it. It says we're going to provide training. It doesn't say that at all."

President: "I entertain a Motion."

City Solicitor: "Uh --"

President: "You want to speak, Mr. Jones?"

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

DHCD - B50003276 - cont'd

Mr. Pless B. Jones, Sr.: "Pless B. Jones, Sr., President of the Maryland Minority Contractors Association, also President of P&J Contracting. We also bid on this contract, and we did sign the affidavit and the specs clearly say what they want you to do, but this is an indefinite quantity contract. You might not get, you might get one building to deconstruct, you might get two, you might not get any. They don't have to give you any and some of the buildings uh -- have been standing for 15 years, so therefore you're not going to be able to deconstruct them, so what's this Humanim going to do once he has to take the building down? Have you had any experience in doing that? So there's a lot of questions about this bid, that for some reason, I guess they want him to have the bid. So, I guess either way you're going to give it to him -- but doesn't -- there's a lot, a lot to be desired about the contract. The way it's written -- and also how it's being implemented. Uh -- as Maryland Minority Contractors Association, we just want things to be fair and clear. You know, we have an opportunity to bid and if we're the

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DHCD - B50003276 - cont'd

low bidder, we get it; if we don't, it goes to the next guy. But, I really don't feel like this is, this bid is a clear process, the way it should be. Um -- I think that the second, the second bidder, Nnamdi, he signed it, he agreed to do everything that's in the bid, and you can't say how many people. Your intent is to get 24 new positions, but if you don't get the work, you can't get any. So, it's really open."

Mr. Krus: "Tim Krus, uh -- um -- we have many other demolition contracts. This is not a standard demolition contract, this is building deconstruction with a workforce development component and clearly Humanim was quite responsive to this and they are qualified to do this work."

Mr. Dashiell: "Mr. President, I must say this, and I'm going to stop. As Mr. Jones just indicated, this is essentially a requirements contract. We don't know how many buildings are even going to be deconstructed, let alone how many employees you need to do the work, and, as I said, unless I just completely

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DHCD - B50003276 - cont'd

failed at reading, there is nothing in that submission that I just read that said we're going to achieve the hiring of 24 full-time people. It says we acknowledge that in the RFP, and we have people that are going to provide some training to employees, but it never says how many because they wouldn't, because they couldn't, just like we couldn't."

Mr. Krus: "It actually says industry specific training to each of these employees on the project, not only providing safety and productivity, it also increases the marketability of the individual for jobs beyond this, and then they begin to detail the particular industry specific training that they are going to provide these 24 employees."

President: "I entertain a Motion."

City Solicitor: "It may seem ironic given my involvement in local hiring issues, but I MOVE for denial of the protest and approval of the recommendation of the Bureau of Purchases."

President: "Okay. All those in favor say Aye. All those opposed Nay."

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSDHCD - B50003276 - cont'dComptroller: "I **ABSTAIN.**"President: "Please note that Comptroller Pratt **ABSTAINS.**"Bureau of Purchases

7.	B50003329, Heavy Duty Transmission & Differentials Rebuild & Repair Service	Holabird Enterprises of Maryland, Inc. t/a Trans-Tech Transmission Center	\$1,000,000.00
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(Dept. of General Services
Fleet Management)

MWBOO GRANTED A WAIVER.

8.	B50003355, O.E.M. Parts & Service for Bobcat Equip- ment	Metro Bobcat, Inc.	\$ 250,000.00
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(Dept. of General Services
Fleet Management)

MWBOO GRANTED A WAIVER.

Robert Fulton Dashiell, Esq. P.A.

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Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
MD, DC, NY

March 31, 2014

VIA HAND DELIVERY

Board of Estimates of Baltimore City
C/O Joan M. Pratt, Comptroller/ Secretary
City Hall
100 N. Holliday Street, Suite 204
Baltimore, Maryland 21202

RE: B50003276- Building Deconstruction

To the Honorable President and Members:

We represent JLN Construction Services, LLC (“JLN”), the responsible bidder that submitted the lowest responsive bid for the above referenced solicitation. According to the item description on the Board’s Agenda for last week, the bid submitted by JLN, like those of all the other bidders except that of the proposed awardee, was declared non-responsive for some undisclosed reason. For the reasons stated below, we urge you to award the contract to our client as the responsible bidder who submitted the lowest responsive bid.

The Baltimore City Charter mandates, with respect to contracts required to be advertised by means of invitations for bid, that award be made to the responsible bidder that submits the lowest bid. The charter does not, however, define responsible. Historically, this Board has adopted the definition of responsible set forth in the Code of Maryland Regulations (COMAR), where responsible is defined as “a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability that shall assure good faith performance.” 21.01.02.01 (77). In conjunction with and part of the requirement of bidder responsibility this Board has adopted the principle of bid responsiveness, which under COMAR means a bid that “conforms in all material respects to the requirements contained in the invitation for bids.” COMAR 21.01.02.01 (78). Accordingly, award of contracts solicited by invitations for bid is required to be made to the responsible bidder that submits the lowest responsive bid.

The primary indicia of bidder responsibility in the City are prequalification through the Department of Public Works Contractor Qualification Committee (Boards and Commissions). To be awarded or to perform a construction contract of \$25,000 or more, a bidder must be prequalified, that is the Contractor Qualification Committee must have determined that the contractor has both the financial and technical resources needed to perform the work in accordance with the applicable plans and specifications- generally referred to as having been prequalified. Bid documents may only be purchased by contractors who have been prequalified for the amount and type of work for which bids are solicited.

JLN is prequalified to perform the work described in the solicitation and it submitted the lowest bid that conforms in all material respects, including minority and/or women's business enterprise participation, with the requirements of the solicitation. Accordingly, this Board may either reject all bids or award the contract to our client. You should sternly reject the unprecedented and unlawful procedure adopted by the Purchasing Bureau of apparently treating a solicitation by IFB as though it was a request for proposals (RFP).

Very truly yours

A handwritten signature in black ink, appearing to read "Robert Fulton Dashiell", written over a horizontal line.

Robert Fulton Dashiell

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

9. B50003259, Water Husky Envelope \$ 50,045.00
Bill Envelopes Products, Inc.

(Dept. of Public Works,
Bur. of Water & Wastewater)

MWBOO GRANTED A WAIVER.

10. B50003396, Auto- Cummins Cooling \$ 800,000.00
Motive Radiators Products, Inc. d/b/a
& Heaters Cummins Radiator Co.

(Dept. of General Services,
Fleet Management)

MWBOO GRANTED A WAIVER.

RESCISSION AND RE-AWARD

11. B50003274, RESCIND AWARD to Orly Industry, Inc.
Polyethylene Liners On January 8, 2014, the Board approved
for all Baltimore the initial award to Orly Industry,
City Agencies Inc. The solicitation required that
the vendor supply Polyethylene liners
(Dept. of Rec. & to all City agencies. The vendor is
Parks, etc.) not able to deliver liners per the
contract's requirements.

RE-AWARD

Central Poly-Bag Corp. \$ 258,420.00
(next lowest responsible
and responsive bidder)

On October 7, 2013, it was determined that no goals would
be set because of no opportunity to segment the contract.

MWBOO GRANTED A WAIVER.

MINUTES

TRAVEL REQUESTS

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>Department of Recreation and Parks</u>			
1. Ernest W. Burkeen, Jr.*	MD Recreation & Parks Assn. Conf.	General Funds	\$9,033.86
Robert Wall	Ocean City, MD		
Tracey Estep	Apr. 7 - 11, 2014*		
Ronnie Daniels	Apr. 8 - 11, 2014		
Thomas Jeannetta	(Reg. Fee \$195.00)		
Todd Clary	(Reg. Fee \$141.00)**		
David Carter			
Lynetta Cromer**			
Gwendolyn Fields-Walker**			
Devon Brown			
Joseph E. Burch**			
Corinne Parks			

** For first time attendees and new members the registration fee is \$85.00 and membership dues is \$56.00; making the total fee \$141.00. As indicated below the registration or registration and membership fees were pre-paid by Expenditure Authorization or City card issued to the attendee.

<u>Attendees</u>	<u>Registration/ Membership</u>	<u>City Credit</u>	<u>Expenditure Authorization</u>
Mr. Burkeen	Registration		000137375
Mr. Wall	Registration		000137375
Ms. Estep	Registration		000137375
Mr. Daniels	Registration		000137375
Mr. Jeannetta	Registration		000137989

Mr. Burkeen will be disbursed \$632.00. Ms. Estep and Messrs. Wall and Jeanetta will be disbursed \$625.54 each. Mr. Daniels will be disbursed \$474.00.

MINUTES

TRAVEL REQUESTS

<u>Name</u>	<u>To Attend</u>	<u>Funds</u>	<u>Amount</u>
<u>Department of Recreation and Parks - cont'd</u>			
<u>Attendees</u>	<u>Registration/ Membership</u>	<u>City Credit</u>	<u>Expenditure Authorization</u>
Mr. Clary	Registration		000137970
Mr. Carter	Registration	Credit Card	
Ms. Cromer	Registration & Membership		000137970
Ms. Fields- Walker	Registration & Membership		000137970

Mr. Clary, Mr. Carter, and Ms. Cromer will be disbursed \$625.54. Ms. Fields-Walker will be disbursed \$474.00.

Mr. Brown	Registration		000137970
Mr. Burch	Registration & Membership	Credit Card	
Ms. Parks	Registration	Credit Card	

Mr. Brown and Ms. Parks will be disbursed \$625.54 each. Mr. Brown will be disbursed \$271.00 for mileage and food.

A PROTEST WAS RECEIVED FROM MS. KIM TRUEHEART FOR ITEM NO. 1.

The Board of Estimates received and reviewed Ms. Trueheart's protest. As Ms. Trueheart does not have a specific interest that is different from that of the general public, the Board will not hear her protest. Her correspondence has been sent to the appropriate agency and/or committee which will respond directly to Ms. Trueheart.

Kim A. Trueheart

April 1, 2014

Board of Estimates
Attn: Clerk
City Hall, Room 204
100 N. Holliday Street,
Baltimore, Maryland 21202

Dear Ms. Taylor:

Herein is my written protest on behalf of the underserved and disparately treated citizens of the Baltimore City who appear to be victims of questionable management and administration within the Department of Recreation and Parks.

The following details are provided to initiate this action as required by the Board of Estimates:

1. Whom you represent: Self
2. What the issues are:
 - a. Page 45, TRAVEL REQUESTS - Department of Recreation and Parks, if approved:
 - i. This request expends approximately \$10,000 of scarce recreation funds that should more appropriately be used to serve underserved residents;
 - ii. Demonstrates this administration's disdain for prioritizing investments in our children;
 - iii. Highlights the fact that the word "children" does not appear in the entire agenda and that none of the expenditures in this week's agenda are focused on children;
 - iv. Appears to be a public funded vacation for recreation staff who have failed to deliver quality services and programming for our children;
 - b. Please provide access to the document(s) that discloses when the revised recreation center strategic plan will be released to the public;
3. How the protestant will be harmed by the proposed Board of Estimates' action: As a citizen I have witnessed the continued disinvestment in municipal recreation facilities, programs and services. This action services to highlight what I perceive to be disparate policy and practices within the Department of Recreation and Parks which continue to diminish the quality and availability of recreational programs and services available to me and more importantly to our underserved children!

I look forward to the opportunity to address this matter in person at your upcoming meeting of the Board of Estimates on April 2, 2014.

If you have any questions regarding this request, please telephone me at (410) 205-5114.

Sincerely,
Kim Trueheart, Citizen & Resident

ktrueheart@whatfits.net
5519 Belleville Ave
Baltimore, MD 21207

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Funds</u>	<u>Amount</u>
<u>Police Department</u>			
2. Ebony Lee Monique Brown	2014 International Conference on Sexual Assault, Domestic Violence, and Trafficking April 21 - 25, 2014 Seattle, WA (Reg. Fee \$545.00 ea.)	GTEAP Grant	\$4,090.00
<u>Department of Transportation</u>			
3. Laetitia Griffin Khadriah Ward Evan Smith	FTA Region 3 FY14 Triennial Review Workshop April 6 - 8, 2014 Philadelphia, PA	General Funds	\$1,651.89
<u>Department of Planning</u>			
4. Laurie Feinberg	2014 National Planning Conference Atlanta, GA April 25 - 29, 2014 (Reg. Fee \$1,105.00)	General Funds	\$2,478.43

The subsistence rate for this area is \$189.00 per day. The Hotel rate is \$184.00 per night plus a \$121.00 hotel tax. The Department of Planning is requesting additional subsistence in the amount of \$35.00 per day for the cost of meals and incidental expenses. The additional subsistence totaling \$140.00 has been added to the total.

The registration was purchased using a City issued credit card assigned to Mr. Jamie Cramer. Therefore, the disbursement amount to Ms. Feinberg will be \$1,373.45.

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Funds</u>	<u>Amount</u>
<u>Department of Planning</u>			
5. Jessica Varsa	2014 National Planning Conference Atlanta, GA Apr. 25 - 29, 2014 (Reg. Fee \$765.00)	Unified Planning Work Program Grant	\$1,660.95

The airfare and registration fee were prepaid on a City-issued credit card assigned to Ms. Jaime Cramer. Therefore, Ms. Varsa will be disbursed \$627.00.

Mayor's Office

6. Kathe Hammond	Nat'l Forum for Black Public Administrators Conference San Antonio, TX Apr. 11 - 15, 2014 (Reg. Fee \$495.00)	General Funds	\$2,111.32
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The subsistence rate for this location is \$176.00 per night. The hotel rate is \$199.00 per night and the occupancy tax is \$33.33 per day. The Department is requesting additional subsistence of \$23.00 per day to cover the cost of the hotel and \$40.00 per day to cover the cost of food and incidentals. The airfare and hotel costs have been prepaid on a City-issued credit card assigned to Ms. Hammond. Therefore, Ms. Hammond will be disbursed \$715.00.

MINUTES**TRAVEL APPROVAL & REIMBURSEMENT**Baltimore City Fire Department

7.	Nicole Errett	\$1,372.39
	Shani Buggs	1,354.34
	Shannon Egan	255.00
		<u>\$2,981.73</u>

On November 02 - 06, 2014, Ms. Nicole Errett, Ms. Shani Buggs, and Ms. Shannon Egan of the Mayor's Office of Emergency Management traveled to Boston, MA to attend the Annual American Public Health Association Meeting. The Fire Department is requesting the Board to ratify the travel request and approve reimbursement for each representative.

The Fire Department is requesting approval of expenses for transportation, parking, hotel accommodations, registration, meals and incidental expenses. The reimbursements are as follows:

Nicole Errett

Transportation:	\$ 155.80
Parking:	56.00
Hotel	717.00
Hotel Tax	103.59
Meals & Incidentals:	120.00
Registration:	220.00
	<u>\$1,372.39</u>

Shani Buggs

Transportation:	\$ 155.80
Parking:	60.00
Hotel	717.00
Hotel Tax	103.59
Meals & Incidentals:	95.97
Registration:	220.00
	<u>\$1,354.34</u>

MINUTES**TRAVEL APPROVAL & REIMBURSEMENT**

Baltimore City Fire Department - cont'd

Shani Buggs

Registration: \$ 255.00

A City issued credit card assigned to Ms. Connor Scott was used to pay airfare in the amount of \$155.80 and registration fee in the amount of \$220.00 for Ms. Errett and Ms. Shani. However, Ms. Shannon Egan was a late addition to this travel and therefore she paid her registration fee of \$255.00 with a personal credit card.

In addition, Ms. Egan secured her airfare, lodging, and food expenses personally and therefore is only seeking reimbursement for her registration fee in the amount of \$220.00. The reimbursement amount to Ms. Errett, Ms. Buggs, and Ms. Egan will be \$996.59, \$978.54, and \$220.00, respectively.

UPON MOTION duly made and seconded, the Board approved the foregoing travel requests and travel reimbursements. Acting on behalf of the Mayor, the Director of Finance **ABSTAINED** on item no. 6.

MINUTES

PROPOSALS AND SPECIFICATIONS

1. Department of Transportation - TR 13305, Resurfacing Highways
at Various Locations Northwest
- Sector II
BIDS TO BE RECV'D: 05/07/2014
BIDS TO BE OPENED: 05/07/2014

2. Department of Public Works/
Dept. of Recreation & Parks - RP 11864, Rita Church
Community Center Gymnasium
BIDS TO BE RECV'D: 05/07/2014
BIDS TO BE OPENED: 05/07/2014

3. Department of Public Works/
Bureau of Solid Waste - SWC 13310-R, Cell 6 Leachate
Conveyance System Improvements
at the Quarantine Road
Landfill
BIDS TO BE RECV'D: 05/07/2014
BIDS TO BE OPENED: 05/07/2014

There being no objections, the Board, UPON MOTION duly made and seconded, approved the above-listed Proposals and Specifications to be advertised for receipt and opening of bids on the date indicated.

MINUTES

President: "There being no more business before this Board, this Board will recess until bid opening at 12 noon."

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 Addenda extending the dates for receipt and opening of bids on the following contracts. There were no objections.

Bureau of Purchases - B50003417, On-Site Preventative Maintenance for Heavy Duty Vehicles
BIDS TO BE RECV'D: 04/09/2014
BIDS TO BE OPENED: 04/09/2014

Bureau of Water and Wastewater - W.C. 1234, East Cold Spring Lane from Hillen Road to Grindon Avenue, Installation of New 12" Water Main
BIDS TO BE RECV'D: 04/09/2014
BIDS TO BE OPENED: 04/09/2014

Bureau of Water and Wastewater - W.C. 1263, South SBIC Neighborhood-Water Main Replacements
BIDS TO BE RECV'D: 04/09/2014
BIDS TO BE OPENED: 04/09/2014

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:

Bureau of Water and Wastewater - W.C. 1247, E. Fort Avenue
Bridge Over CSX, 20-Inch Water
Main Replacement

Spiniello Infrastructure

Bureau of Purchases - B50003420, Automotive Paint and
Supplies

NO BIDS WERE RECEIVED.

Bureau of Purchases - B50003406, Zamboni Ice Resur-
facing Machine

NO BIDS WERE RECEIVED.

Bureau of Purchases - B50003392, TV25 Master Control
Upgrade Equipment

CEI Sales, LLC
Contract Video Specialists
The Lerro Corporation

MINUTES

There being no objections, the Board, UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, April 9, 2014.


JOAN M. PRATT
Secretary