

MINUTES

REGULAR MEETING

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

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 course the meeting, designated Mr. Edward J. Gallagher, Director of Finance, to represent the Mayor and exercise her power at this Board meeting.

The meeting was called to order by the President.

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President: "I would direct the Board members attention to the memorandum from my office dated June 6, 2011 identifying matters to be considered as routine agenda items together with any corrections and additions that have been noted by the Deputy Comptroller. I will entertain a motion to approve all of the items contained on the routine agenda."

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

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Comptroller: "Second."

President: "All those in favor say AYE. All opposed NAY.

Motion carries. The routine agenda has been adopted."

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MINUTES

Space Utilization Committee - First Extension and
Amendment to Lease

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the first extension and amendment to lease with Orion Properties I, LLC, landlord, for the rental of approximately 6,258 square feet of space on the 6th floor located at 231 E. Baltimore Street. The first extension and amendment to lease agreement exercises the 5-year renewal option through August 14, 2016.

AMOUNT OF MONEY AND SOURCE:

<u>Period</u>	<u>Rent</u>
8/15/11 - 8/14/12	\$ 93,870.00
8/15/12 - 8/14/13	\$ 93,870.00
8/15/13 - 8/14/14	\$100,128.00
8/15/14 - 8/14/15	\$106,386.00
8/15/15 - 8/14/16	\$106,386.00

Account: 1001-000000-2501-259500-603013

BACKGROUND/EXPLANATION:

The leased premises will be used for offices of the Board of Liquor License Commissioners. The original lease agreement terminates August 14, 2011, with the option to renew for an additional five year term, commencing August 15, 2011 and terminating August 14, 2016.

MINUTESSpace Utilization Committee - cont'd

In addition to the renewal, this first extension and amendment to lease agreement will reflect a rent reduction for the renewal term. All other provisions, conditions and terms of the original lease agreement will remain in full force and effect.

The Space Utilization Committee approved this first extension and amendment to lease agreement on May 24, 2011.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 55526)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the first extension and amendment to lease with Orion Properties I, LLC, landlord, for the rental of approximately 6,258 square feet of space on the 6th floor located at 231 E. Baltimore Street. The Mayor **ABSTAINED**.

MINUTESSpace Utilization Committee - Amendment to Lease Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an amendment to lease agreement with Harlem Park Neighborhood Council, Inc., landlord, for the rental of approximately 3,000 square feet of space located at 600 N. Carey Street. The amendment to lease agreement extends the period of the agreement through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:

<u>Annual Rent</u>	<u>Quarterly Rent</u>
\$14,250.00	\$3,562.50

Account: 5000-560110-2250-248201-603013

BACKGROUND/EXPLANATION:

The leased premises will be used for municipal purposes in the operation of the Baltimore City Police Department/Mayor's Office of Criminal Justice Collaborative Supervision & Focused Enforcement Violence Prevention Initiative Program.

The original lease agreement was for the period July 1, 2009 through June 30, 2010 with one automatic one-year renewal period. All other terms and conditions of the original agreement will remain in effect.

The Space Utilization Committee approved this amendment to the lease agreement at its meeting on May 24, 2011.

APPROVED FOR FUNDS BY FINANCE**(FILE NO. 57104)**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to lease agreement with

MINUTES

Space Utilization Committee - cont'd

Harlem Park Neighborhood Council, Inc., landlord, for the rental of approximately 3,000 square feet of space located at 600 N. Carey Street.

MINUTESSpace Utilization Committee - Amendment to Lease Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an amendment to lease agreement with 2655 Matthews, LLC, Landlord, for the rental of approximately 37,200 square feet of space located at 601 E. 27th Street.

AMOUNT OF MONEY AND SOURCE:

<u>Period</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
11/01/11 - 10/31/12	\$187,740.97	\$15,645.08
11/01/12 - 10/31/13	\$193,289.62	\$16,107.47
11/01/13 - 10/31/14	\$199,004.73	\$16,583.73
11/01/14 - 10/31/15	\$204,891.29	\$17,074.27
11/01/15 - 10/31/16	\$210,954.45	\$17,579.54
11/01/16 - 10/31/17	\$217,199.50	\$18,099.96
11/01/17 - 10/31/18	\$223,631.91	\$18,635.99

*Annual increase in rent is \$2,786.00 each year.

Account: 1001-000000-1070-109200-603013

BACKGROUND/EXPLANATION:

The leased premises will be used for archive storage space and offices for Legislative Reference. The term of the original lease agreement is for ten years which commenced on November 1, 2008 through October 31, 2018, with an option to renew for an additional five year period.

A couple of months ago, the HVAC units were stolen from the rooftop of 601 E. 27th Street which affects the leased space. Within the 37,200 square feet of space there is approximately 4,000 square feet of space which was not previously temperature and humidity controlled. This area is used for historical material. The State Archivist has recommended that historical material be temperature and climate controlled. The Landlord agreed to also install the temperature and humidity control for the additional 4,000 square feet. The cost for the new temperature and humidity control for this area was estimated to be \$19,500.00.

MINUTESSpace Utilization Committee - cont'd

It was negotiated that the Landlord would install the temperature and climate control in the historical area along with the replacement of the stolen HVAC units. Beginning November 1, 2011, the rental rate for the remaining seven (7) years of the initial term will be increased to cover the Landlord's expenses for the temperature and humidity control. The increase will be \$2,786.00 per year.

All other provisions, conditions and terms of the original lease agreement will remain in full force and effect.

The Space Utilization Committee approved this amendment to lease agreement on May 10, 2011.

APPROVED FOR FUNDS BY FINANCE**(FILE NO. 55981)**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to lease agreement with 2655 Matthews, LLC, Landlord, for the rental of approximately 37,200 square feet of space located at 601 E. 27th Street.

MINUTESSpace Utilization Committee - Amendment to Lease Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an amendment to lease agreement with Garwyn Medical Center LLC, landlord, for the rental of approximately 2,088 square feet of space located at 2300 Garrison Boulevard, Suite 290. The amendment to lease agreement exercises the 5-year renewal option through June 30, 2016.

AMOUNT OF MONEY AND SOURCE:

<u>Period</u>	<u>Annual Rent</u>	<u>Monthly Rent</u>
7/1/11 - 6/30/12	\$31,320.00	\$2,610.00
7/1/12 - 6/30/13	\$32,259.60	\$2,688.30
7/1/13 - 6/30/14	\$33,227.39	\$2,768.95
7/1/14 - 6/30/15	\$34,224.21	\$2,852.02
7/1/15 - 6/30/16	\$35,250.94	\$2,937.58

Account: 4000-423211-3080-294100-603013

BACKGROUND/EXPLANATION:

The leased premises will be used by the Health Department's WIC Program. The term of the original lease agreement is for five years, commencing on July 1, 2006 and terminating June 30, 2011, with the option to renew for an additional five year period.

This amendment to the lease agreement exercises the renewal option for an additional five year period commencing July 1, 2011 and terminating June 30, 2016. In addition to the renewal, this amendment to lease agreement will reflect a rent reduction for the renewal term. All other provisions, conditions and terms of the original lease agreement will remain in full force and effect.

MINUTESSpace Utilization Committee - cont'd

The Space Utilization Committee approved this amendment to lease agreement at its meeting of May 10, 2011.

APPROVED FOR FUNDS BY FINANCE**(FILE NO. 56325)**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to lease agreement with Garwyn Medical Center LLC, landlord, for the rental of approximately 2,088 square feet of space located at 2300 Garrison Boulevard, Suite 290.

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Fire and Police Employees' - Actuarial Services and
Retirement System (F&P) Consulting Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an actuarial services and consulting agreement with Mercer (US) Inc. (Mercer). The period of the agreement is July 01, 2011 through December 31, 2011.

AMOUNT OF MONEY AND SOURCE:

\$200,000.00 - 6000-604112-1540-171400-603018
(not to exceed)

No general funds are involved in this transaction. All funds and expenses will be expended from the F&P Trust Funds.

BACKGROUND/EXPLANATION:

Mercer has demonstrated its expertise in providing competent actuarial consulting services for the F&P over many years. Therefore, the F&P Board desires that Mercer continue to serve as the F&P actuary. This agreement will be with the Baltimore office of this global actuarial firm.

Mercer will serve as the F&P's actuary during the first six months of the 2012 fiscal year and advise the F&P Board on matters regarding the administration of the actuarial funds of the F&P. This includes calculating the annual valuation of the F&P's assets and liabilities, projecting the City's annual contribution, reviewing the actuarial section of the F&P's Comprehensive Annual Financial Report, and conducting F&P's statutorily mandated triennial experience study. The fixed fee is \$144,000.00 plus non-fixed fees and technology surcharge. The total will not exceed \$200,000.00.

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Fire and Police - cont'd

MWBOO GRANTED A WAIVER

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 57217)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the actuarial services and consulting agreement with Mercer (US) Inc. The Comptroller **ABSTAINED**.

MINUTESEmployees' Retirement System - Printing Services Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an agreement with Time Printers, Inc. The period of the agreement is effective upon Board approval for one year with three additional one-year renewals.

AMOUNT OF MONEY AND SOURCE:

\$15,000.00 - 6000-604010-1520-169800-603007
(not to exceed)

No general funds are involved in this transaction.

BACKGROUND/EXPLANATION:

The Employee's Retirement System solicited prices from five local printing firms to print its newsletter, brochures, and annual financial reports. Time Printers, Inc. was selected based on their capabilities, cost-effective pricing, and prior experience producing Employees' Retirement System materials.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with Time Printers, Inc.

The Comptroller **ABSTAINED**.

MINUTESDepartment of Audits - Audit Report and Related Audit Digest

The Board is requested to **NOTE** receipt of the following Audit Report and Related Digest:

Audit of the Baltimore City Police Department Death and Relief Fund for the Calendar Years Ended December 31, 2010 and 2009.

The Board **NOTED** receipt of the Audit report and related digest.

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OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Dept. of Housing and Community Development (DHCD) - Options</u>			
1. People's Homesteading Group, Inc.	1109 McDonogh St.	F/S	\$ 24,000.00
Funds are available in account 9910-906416-9588-900000-704040, EBDI 1548 Phase 2E Project.			
2. Maurice L. and Cattie R. Bailey	1759 E. Preston St.	F/S	\$ 157,500.00
Funds are available in account 9910-906416-9588-900000-704040, EBDI Project, Phase II.			
3. Estate of Kathleen Green	1749 E. Preston St.	L/H	\$ 10,450.00
Funds are available in account 9910-906416-9588-900000-704040, EBDI Project, Phase II.			
4. Evelyn Elizabeth Saunders, Amariah Dennis Johnson, Jr., Estate of Catherine A. Johnson	1238 N. Gay St.	L/H	\$ 6,760.00
Funds are available in account 9910-906416-9588-900000-704040, EBDI Project, Phase II.			

(FILE NO. 56017)

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD</u> - cont'd			
5. Mary A. Burley	2769 Tivoly Ave.	F/S	\$ 48,000.00
Funds are available in account 9990-908326-9593-900001-704040, Coldstream Homestream Montebello Project.			
6. Shirley Ann Rucker	2714 Tivoly Ave.	L/H	\$ 46,533.00
Funds are available in account 9990-908326-9593-900001-704040, Coldstream Homestream Montebello Project.			

(FILE NO. 57188)DHCD - Condemnation

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

7. Intercoastal Investment Trust, LTD	4331 Park Heights Avenue	G/R \$96.00	\$ 640.00
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Funds are available in account 9910-903187-9588-900000-704040,
Park Heights Project.

(FILE NO. 57083)

UPON MOTION duly made and seconded, the Board approved the options and condemnation.

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Police Department - Amendment No. 1 to Memorandum of Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment no. 1 to memorandum of agreement with the Maryland Emergency Management Agency (MEMA).

AMOUNT OF MONEY AND SOURCE:

\$9,578.00 - 4000-478911-2015-210713-600000

BACKGROUND/EXPLANATION:

On February 23, 2011, the Board approved a memorandum of agreement with MEMA for the FFY2010 Urban Area Security Initiative in the amount of \$2,740,971.00. MEMA has issued amendment no. 1 to the memorandum of agreement, providing a supplemental award in the amount of \$9,578.00, making the total award \$2,750,549.00. The FFY2010 Urban Area Security Initiative is intended to help strengthen the nation and Maryland against risks associated with potential terrorist attacks, and focuses on developing integrated systems for prevention, protection, response, and recovery.

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 amendment no. 1 to the memorandum of agreement with the Maryland Emergency Management Agency.

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Police Department - Interagency Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an interagency agreement between the Baltimore Police Department and the Circuit Court for Baltimore City. The period of the interagency agreement is October 1, 2010 through September 30, 2011.

AMOUNT OF MONEY AND SOURCE:

\$135,000.00 - 4000-435210-2250-670003-607001

BACKGROUND/EXPLANATION:

On September 30, 2009, the Board approved acceptance of the FY 2009 Justice Assistance Grant V Award from the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. The period of the grant is October 1, 2008 through September 30, 2012.

Under the terms of this interagency agreement, the Circuit Court for Baltimore City will use the funds to support a Community Services Site Supervisor, a Clerk, and three Case Investigators. These individuals will assist with the development and implementation of work projects and investigative activities that support community anti-crime goals.

The interagency agreement is late because of delays in the signatory process.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the interagency agreement between the Baltimore Police Department and the Circuit Court for Baltimore City.

MINUTESDepartment 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 20** favorable reports on Transfers of Funds approved by the Board of Estimates at its meetings on May 11 and May 18, 2011.

The Board **NOTED** receipt of the 20 favorable reports.

MINUTES

EXTRA WORK ORDERS AND TRANSFERS OF FUNDS

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UPON MOTION duly made and seconded,

the Board approved the

Extra Work Orders and Transfers of Funds

listed on the following pages:

1652 - 1653

All of the EWOs had been reviewed and approved

by the

Department of Audits, CORC,

and MWBOO, unless otherwise indicated.

The Transfer of Funds was approved

SUBJECT to receipt of a favorable report

from the Planning Commission,

the Director of Finance having reported favorably

thereon, as required by the provisions

of the City Charter.

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

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EXTRA WORK ORDERS

<u>Contract</u>	<u>Prev. Apprvd.</u>	<u>Contractor</u>	<u>Time</u>	<u>%</u>
<u>Awd. Amt.</u>	<u>Extra Work</u>		<u>Ext.</u>	<u>Compl.</u>
<u>Bureau of Water and Wastewater</u>				
1. EWO #018, \$162,750.00 - W.C. 1198 Urgent Need Work				
<u>Infrastructure Rehabilitation Various Locations</u>				
\$10,473,325.00	\$4,725,229.33	Spiniello Companies	0	75
<u>Department of Transportation</u>				
2. EWO #002, \$3,450.00 - TR 10307, Resurfacing Highways @				
<u>Various Locations, Southeast - Sector IV</u>				
\$1,973,777.10	\$0.00	P. Flanigan & Sons, Inc.	90	-
3. EWO #015, \$76,000.00 - TR 04311, Pennington Avenue Bascule				
<u>Bridge Rehabilitation</u>				
\$14,530,627.00	\$10,594,827.92	Cianbro Corpora- tion	-	-
4. EWO #016, \$60,185.09 - TR 04311, Pennington Avenue Bascule				
<u>Bridge Rehabilitation</u>				
\$14,530,627.00	\$10,670,827.92	Cianbro Corpora- tion	-	-
5. EWO #004, \$377,000.00 - TR 10011RR Conduit System Repairs @				
<u>Various Locations Citywide JOC</u>				
\$2,139,020.00	\$480,120.00	Allied Contrac- tors, Inc.	-	-
6. EWO #004, \$160,000.00 - TR 08053, Repairs for Bridge No. BC				
<u>5101 Russell Street Over Ostend Street</u>				
\$764,492.00	\$67,757.45	John W. Brawner Contracting Co., Inc.	-	-

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EXTRA WORK ORDERS

Department of Transportation - cont'd

7. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$173,798.01 MVR	9950-903311-9507 Constr. Res. Russell St. Viaduct	
41,734.24 MVR	9950-902302-9507 Constr. Res. Potee Street	
154,467.76 <u>MVR</u>	9950-905834-9509 Constr. Res. Forest Park Avenue Bridge	
\$370,000.01	-----	9950-901837-9514-2 Contingencies Structural Repairs Bridges - Russell St. over Ostend St.

This transfer will clear the deficit in the account and fund the costs associated with Change Order #004 for John Brawner, under Project No. TR 08053, Repairs for Bridge No. 5101 on Russell Street over Ostend Street.

MINUTES

CITY COUNCIL BILL:

10-0631 - Charter Amendment - Nonlapsing Funds for Quality Schools - Reinvesting in our Youth for the purpose of expressly authorizing the establishment of 1 or more continuing, nonlapsing funds for purposes of enhancing the educational environment in Baltimore City, by creating modern state-of the-art schools; and submitting this amendment to the qualified voters of the City for adoption or rejection.

LAW DEPARTMENT

The Law Department recommends deleting the terms "expand recreational activities" in line 3 of page 2 and deleting "and curriculum" in line 4 of page 2.

Subject to the necessary amendment discussed herein, the Law Department approves this resolution seeking to create one or more non-lapsing funds for form and legal sufficiency. The Law Department cannot opine, however, on whether the placement of money into or appropriations from the funds will conflict with applicable state law or with any current or future agreement with BCPSS.

FINANCE DEPARTMENT

The Finance Department does not support Bill Number 10-0631 for the following reasons. First, the designation of funds for a particular purpose, in this case to enhance the educational environment in Baltimore City, limits the flexibility of current or future administrations to allocate resources according to current priorities. The Department of Finance believes that decisions regarding the allocation of resources among priorities, including enhancing the educational environment in Baltimore City, ought to be part of the annual budget planning process rather than adding language to the City Charter or Code to commit funds to

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CITY COUNCIL BILL:

one purpose or another for the current year and years into the future. Second, to the extent this bill provides the City Council the authority to dedicate proceeds from fines, fees and programs to this fund by ordinance, this could potentially put the City's operating budget at risk during the course of a given fiscal year. For these reasons, the Department of Finance opposes Bill Number 10-0631.

UPON MOTION duly made and seconded, the Board approved Bill No. 10-0631 and directed that the bill be returned to the City Council with the recommendation that it also be approved and passed by that Honorable Body. The President **ABSTAINED**.

MINUTES

Law Department - Settlement and Release Agreements

The Board is requested to approve and authorize execution of the settlement and release agreements for the following claims:

1. Donta Ball v. Mayor and City Council of Baltimore \$ 80,000.00

Account: 2044-000000-1450-164878-603070

2. Thomas v. Albert Marcus, et al. \$ 70,000.00

Account: 1001-000000-2041-195500-603070

3. Jacqueline Allen v. Floyd Jones \$200,000.00

Account: 1001-000000-2041-195500-603070

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

The President voted **NO** on items nos. 2 and 3.

MINUTES

TRANSFERS OF FUNDS

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UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

1658 - 1662

SUBJECT to receipt of favorable reports

from the Planning Commission,

the Director of Finance having

reported favorably thereon,

as required by the provisions of the

City Charter.

The Mayor **ABSTAINED** on item nos. 1 and 2.

The President **ABSTAINED** on item nos. 5 and 6

MINUTES**TRANSFER OF FUNDS**

	<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Planning Department/Mayoralty Related</u>			
1.	\$ 250,000.00	9904-905786-9129	9904-907786-9127
	8 th Nat'l Aquarium Loan	Nat'l Aquarium in Baltimore Reserve	Nat'l Aquarium in Baltimore Active

This transfer will provide funds to the National Aquarium in Baltimore for renovations and upgrading of its electrical systems at the facilities on Piers 3 and 4. The Aquarium will purchase and have installed a new load management system and electrical panels to replace the 1981 system. This project will improve the power usage and exhibit quality at the facility.

2.	\$ 500,000.00	9904-902783-9129	9904-903783-9127
	3 rd Lyric Opera House Loan	The Lyric Opera House Reserve	The Lyric Opera House Active

This transfer will provide funds to the Lyric Opera House to cover costs associated with the renovations and expansion of the backstage area. The expansion will create a more spacious backstage area enabling greater use of the facility by more diverse production companies.

(FILE NO. 56638)

MINUTES

TRANSFER OF FUNDS

	<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Transportation</u>			
3.	\$ 79,052.49	9950-902510-9507	
	Federal	Constr. Res.	
		Bowleys Lane	
		Resurfacing	
	19,763.12	9950-902437-9507	
	State	Constr. Res.	
		Digital Harbor	
		Bulkheads	
	<u>\$ 98,815.61</u>	-----	9950-905818-9506-5
			Inspections
			Baltimore City
			Downtown
			Infrastructure
			Improvements

This transfer will cover the costs associated with task No. 21 on Project 1097 BD# 08063 with Whitman, Requardt & Associates to provide Construction Management Inspection Services for the project, Baltimore City Downtown Infrastructure Improvements.

4.	\$ 2,707.82	9950-902108-9509	9950-904779-9514-2
	MVR	Const. Res.	Contingencies
		Cedonia	Resurf. Russell St.
		(Fleetwood -	from City Line to
		Walnut)	Waterview Ave. &
			Bush St. to Lee St.

This transfer will cover the shortage in funds associated with the change order #5 on the project TR 08037 with M. Luis Construction Co., Inc.

MINUTES

TRANSFER OF FUNDS

	<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Housing and Community Development (DHCD)</u>			
5.	\$ 656,767.00	9910-904912-9587	9910-910715-9588
	29 th Community	AHP Bond Fund	Johnston Square
	Development Bonds		
6.	\$ 123,000.00	9990-906940-9593	9990-903938-9587
	35 th Community	Oliver	Reserve
	Development Bonds	Redevelopment	Account

The transfers will provide additional funds for the acquisition and rehabilitation of scattered site vacant properties in the Johnston Square community for low and moderate income households and represents the balance of funds required for a federally mandated match for the HABC's stimulus grants. This transfer also reserves a portion of the Oliver Redevelopment funding.

(FILE NO. 57070)

7.	\$ 661,794.89	9991-922989-9587	9991-908720-9593
	36 th Community	Loan Repayment	Harlem Park
	Development Block		
	Grant		
8.	\$ 225,000.00	9991-917986-9587	9991-908720-9593
	36 th Community	Housing Repair	Harlem Park
	Development Block	Assistance	
	Grant		
9.	\$ 53,205.11	9990-915986-9587	9991-908720-9593
	35 th Community	Housing Repair	Harlem Park
	Development Block	Assistance	
	Grant		

The transfers will provide funds for the stabilization of Harlem Park. The scope of work includes stabilization of the interior, roof repairs and restoration/preservation of bay windows and cornices.

MINUTES

TRANSFER OF FUNDS

	<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Recreation and Parks</u>			
10.	\$ 20,000.00	9938-904809-9475	9938-905809-9474
	State	Reserve - City Park Maintenance FY11	Active - City Park Maintenance FY11

This transfer will provide funds to cover the costs associated with the reconstruction of the park pavilion in Druid Hill Park.

11.	\$ 60,000.00	9938-903789-9475	9938-902789-9474
	Rec. & Parks 25 th Series	Reserve - Rec. Facility Renov.	Active - Recreation Facility Renov.

This transfer will provide funds to cover the costs associated with the improvements at Ambrose Kennedy and Callowhill Pools.

12.	\$ 7,500.00	9938-913001-9475	
	State	Reserve Unallotted	
	32,500.00	9938-904758-9475	
	MVR	Reserve Major Park Improv. FY09	
	<u>\$40,000.00</u>	-----	9938-901758-9474
			Active - Major Park Improv. FY09

This transfer will provide funds to cover the costs associated with the furnishing and installing park signs in Druid Hill Park.

MINUTES**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of General Services</u>		
13. \$ 134,366.00	9916-903866-9194	9916-904866-9197
Federal Revenue	Electric Vehicle Infrastructure Program Reserve	Electric Vehicle Infrastructure Program Active

This transfer will provide funds to purchase, install and market electric vehicle charging equipment. This project will provide public electric vehicle charging stations in various locations throughout the City.

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

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

AB Construction, Inc.	\$	8,000,000.00
Berg Corporation	\$	8,000,000.00
Carl M. Weber Steel Service, Inc.	\$	3,204,000.00
Comus Construction, LLC	\$	1,500,000.00
Dominion Contracting Co., Inc.	\$	810,000.00
Drake, Inc.	\$	4,464,000.00
Fru-Con Construction, LLC.	\$	500,000,000.00
blanket guarantee of \$500,000,000.00 from the parent corporation, Balfour Beatty, LLC		
Great Lakes Dredge and Dock Company, LLC	\$	879,057,000.00
Independence Excavating, Inc.	\$	293,994,000.00
Johnston Construction Company and Affiliate	\$	39,312,000.00
Piping and Corrosion Specialties, Inc.	\$	8,000,000.00
T & D Plumbing & Heating Co., Inc.	\$	4,707,000.00
Wohlsen Construction Company	\$	204,228,000.00

2. Prequalification of Architects and Engineers

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

AB Consultants, Inc.	Landscape Architect Engineer Survey
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MINUTES

BOARDS AND COMMISSIONSPrequalification of Architects and Engineers - cont'd

A Squared Plus Eng. Support Group, LLC	Engineer
Biohabitats, Inc.	Landscape, Architect, Engineer
Crabtree, Rohrbaugh & Associates, Architects	Architect
Dynamic Corporation	Architect Engineer
Foundation Test Group, Inc.	Engineer
Gant Brunnett Architects, Inc.	Architect
GEO-Technology Associates, Inc.	Landscape Architect Engineer
Holbert Apple Associates, Inc.	Engineer
Integrated Management Services d/b/a IMS Engineers	Engineer Survey
QPS, Inc. d/b/a Qodesh CM	Engineer
Morris & Ritchie Associates, Inc.	Architect Landscape Architect Engineer Survey
Tidewater, Inc.	Engineer
Tucker, Young, Jackson, Tull, Inc.	Engineer

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

MINUTES**TRAVEL REQUESTS**Health Department

	<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
1.	Michael O'Leary	National Environmental Health Assoc. 75 th Annual Education Conf. Columbus, OH June 17 - 21, 2011 (Reg. Fee \$0.00)	EPA Grant	\$1,225.05

The subsistence rate for this location is \$150.00 per day; the hotel rate is \$134.00 plus occupancy taxes in the amount of \$89.90. The Department is requesting and additional \$24.00 per day to cover meals and incidental expenses.

Department of Public Works

2.	Abiola Akin-Ajayi	AWWA Annual Conference & Exposition 2011 Washington, DC June 12 - 16, 2011 (Reg. Fee \$1,005.00)	Water Engineering Funds	\$1,385.60
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The Department is requesting an additional \$20.00 per day for five days for a total of \$100.00 because the attendee will be required to pay for parking each day for her personal vehicle.

The Board, UPON MOTION duly made and seconded, approved the travel requests.

MINUTES

Fire Department - FY 2011 Budget Modification

ACTION REQUESTED OF B/E:

The Board is requested to approve the FY 2011 Operation Care budget modification for the Baltimore Health Care Access, Inc. (BHCA) for a service program known as Operation Care. .

AMOUNT OF MONEY AND SOURCE:

(\$11,565.39) - 1001-000000-6100-618500-603026

BACKGROUND/EXPLANATION:

On August 11, 2010 the Board approved the original agreement with the Baltimore Health Care Access, Inc. (BHCA) for a service program known as Operation Care. Due to staffing delays at the beginning of this agreement the BHCA, is requesting a budget modification to cover the actual personnel costs and additional expenditures related to the program and the delivery of services.

This modification will reduce the approved amount from \$146,724.36 to \$135,158.97 for this project. A request to carry forward the balance of \$11,565.39 to cover expenditures for the next fiscal year will be forthcoming. This request is only for the approval of the expenditure modification for this contract period. A separate request will be forwarded to the Board for approval for the contract next year.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved the FY 2011 Operation Care budget modification for the Baltimore Health Care Access, Inc. for the service program known as Operation Care.

MINUTES

Parking Authority for Baltimore City (PABC) - Parking Facility Operations and Management Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the parking facility operations and management agreement with Landmark Parking, Inc. The period of the agreement is April 1, 2011 through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:

\$545,054.00 - 2075-000000-5800-407600-603016 Maint. and Repair
 32,400.00 - 2075-000000-5800-407600-603026 Mgmt. & Incentive
 79,866.00 - 2075-000000-5800-407600-603038 Security
\$657,320.00

BACKGROUND/EXPLANATION:

This 15-month agreement will allow the PABC to finalize the process of awarding a new agreement for the operation and management of the Penn Station Parking Garage. The PABC has been working toward award of long-term agreements for groups of facilities to management firms. This award was delayed but will be awarded within the term of the agreement.

The PABC has been satisfied with the operation of the garage and believes the continued operation by the Landmark Parking, Inc. during the completion of the process will be beneficial to the City and the PABC.

The agreement is late because the M/WBE sub-contractors lost certification with the State of Maryland and/or the City's Minority and Women's Business Opportunity Office during the initial contracting process.

MBE/WBE PARTICIPATION:

MBE: Charles E. Dorsey	\$ 58,367.00	61.87%*
WBE: Eastwood Painting Co., Inc.	\$ 11,500.00	12.19%
Sign Solutions, Inc.	1,956.00	2.07%
Sue Ann's Office Supply	412.00	0.44%
	<u>\$ 13,868.00</u>	<u>14.70%</u>

MINUTES

PABC - cont'd

*Charles E. Dorsey has replaced Total Garage Management on this contract.

MWBOO FOUND THE VENDOR IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

(FILE NO. 55987A)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the parking facility operations and management agreement with Landmark Parking, Inc.

MINUTES

Parking Authority of Baltimore City (PABC) - Parking Facilities
Rate Increase

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize an increase to the rates at the Caroline Street, Fleet & Eden Street, Little Italy, and Market Center parking facilities.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The rates charged for parking at these City-owned facilities have not been increased since 2006. However, the operating costs have continued to increase. Inflation, insurance costs, health insurance, and payroll costs for staff (all staff at City-owned facilities are paid at a minimum, the City's living wage), utilities, and improvements to the facilities (better lighting, revenue control equipment, security cameras, etc.) have all contributed to the continuing increases in operating expenses.

The PABC performed a survey of the parking rates in the areas surrounding the facilities. The rate surveys showed that the fees charged at these facilities are generally the lowest or among the lowest, relative to other parking facilities within the area. To bring the rates charged at City facilities in line with their surrounding facilities, the PABC staff developed the rate change recommendations. The rate changes were unanimously approved by the PABC Board of Directors.

Pursuant to Article 31, § 13(f)(2) of the Baltimore City Code, subject to the approval of the Board of Estimates, the PABC may set the rates for any parking project. The PABC believes that rate changes are warranted at this time.

MINUTES

RATE ADJUSTMENTS ARE IN BOLD

Location	Proposed Transient Rate Changes			Proposed Monthly Rate Changes	
Caroline Street Garage		Current Rate	Proposed Rate	Regular Rate	
	Up to 1 hour	\$4.00	\$5.00	Current Rate	Proposed Rate
	Up to 2 hours	\$5.00	\$5.00	\$100.00	\$110.00
	Up to 3 hours	\$6.00	\$5.00		
	Up to 4 hours	\$7.00	\$7.00		
	Up to 5 hours	\$8.00	\$8.00		
	6 to 12 hours	\$10.00	\$11.00		
	12 to 24 hours	\$10.00	\$12.00		
Evenings/Weekends	\$3.00	\$3.00			
Fleet & Eden Garage		Current Rate	Proposed Rate	Regular Rate	
	Up to 1 hour	\$4.00	\$5.00	Current Rate	Proposed Rate
	Up to 2 hours	\$6.00	\$6.00	\$130.00	\$135.00
	Up to 3 hours	\$8.00	\$8.00		
	Up to 4 hours	\$10.00	\$10.00		
	5 to 12 hours	\$10.00	\$12.00		
	12 to 24 hours	\$10.00	\$13.00		
Evenings/Weekends	\$3.00	\$3.00			
Little Italy Garage		Current Rate	Proposed Rate	Regular Rate	
	Up to 1 hour	\$4.00	\$5.00	Current Rate	Proposed Rate
	Up to 2 hours	\$5.00	\$6.00	\$100.00	\$110.00
	Up to 3 hours	\$6.00	\$7.00		
	Up to 4 hours	\$7.00	\$8.00		
	Up to 5 hours	\$8.00	\$9.00		
	6 to 12 hours	\$10.00	\$12.00		
	12 to 24 hours	\$10.00	\$13.00		
Evenings/Weekends	\$3.00	\$3.00			
Market Center		Current Rate	Proposed Rate	Regular Rate	
	Up to 1 hour	\$3.00	\$3.00	Current Rate	Proposed Rate
	Up to 2 hours	\$4.00	\$4.00	\$80.00	\$90.00
	Up to 3 hours	\$6.00	\$6.00		
	4 to 24 hours	\$7.00	\$8.00		
	Early Bird	\$6.00	\$7.00		

(FILE NO. 55987A)

UPON MOTION duly made and seconded, the Board approved and

MINUTES

PABC - cont'd

authorized the increase to the rates at the Caroline Street, Fleet & Eden Street, Little Italy, and Market Center parking facilities. The President voted **NO**.

MINUTES

Department of General Services - Confidentiality and
Nondisclosure Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a confidentiality and nondisclosure agreement with Verde Energy, LLC. (Verde Energy). The period of the agreement is effective upon Board approval for three years.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

Verde Energy has a proprietary technology that uses nitrogen to generate electricity. Baltimore City's Patapsco Waste Water Treatment Plant (PWWT) produces nitrogen as a byproduct of its wastewater treatment process. The City would like Verde Energy to test its technology at the PWWT. If the test is successful, it has the potential to save the City substantial costs in electricity. This agreement requires the City of Baltimore to keep in confidence information that is proprietary to Verde Energy in a technical process that uses nitrogen to generate electricity.

(FILE NO. 57232)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the confidentiality and nondisclosure agreement with Verde Energy, LLC.

MINUTES

Department of General Services - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with The Greater Mondawmin Coordinating Council. The agreement is effective upon Board approval for five years.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

In an effort to acknowledge the cultural significance of the Parkway Community, The Greater Mondawmin Coordinating Council has requested to place sculptures in the median in Tioga Parkway, between W. Forest Park Avenue and Fairview Avenue. The Greater Mondawmin Coordinating Council will pay for the sculptures and will be responsible for the maintenance of the sculptures.

MBE/WBE PARTICIPATION:

N/A

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant agreement with The Greater Mondawmin Coordinating Council.

MINUTES

Department of General Services (DGS) - Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an agreement with HY-TEK Bio, LLC (HY-TEK). The period of the agreement is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$255,000.00 - 9916-913900-9197-910004-703032
(ARRA Stimulus Funds)

BACKGROUND/EXPLANATION:

The Department has received a grant award from the Energy Efficiency Community Block Grant (EECBG), administered by the Department of Energy (DOE), for a clean energy demonstration project to be conducted at the Back River Waste Water Treatment Plant (BRWWTP) by HY-TEK. The DOE has approved the use of EECBG funds for this collaboration. HY-TEK has developed a revolutionary algae bioreactor system that efficiently scrubs green house gas emissions and other contaminants from the flue exhaust of power plants, while simultaneously generating enough algae on a 24/7 basis to serve as seed stock for the production of bio-fuels. The Department is contracting with HY-TEK to setup a demonstration scale operation at the BRWWTP methane burning 3.0 megawatt power plant to confirm the technology's scrubbing potential and its ability to generate algae seed stock in quantities that can ultimately provide substantial bio-fuels for the City's fleet and oil burning boilers.

It is hereby certified, that the above procurement is of such a nature that no advantage will result in seeking nor would it be

MINUTES

DGS - cont'd

practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11, (d)(i) of the City Charter, the procurement of equipment and/or service is recommended.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

(File NO. 57233)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with HY-TEK Bio, LLC.

MINUTES

Department of General Services (DGS) - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with the Historic East Baltimore Community Action Coalition (HEBCAC). The period of the agreement is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$46,800.80 - 9916-913900-9197-910013-703032
(ARRA Stimulus Funds)

BACKGROUND/EXPLANATION:

The Department has received a grant award from the Energy Efficiency Community Block Grant for facility upgrades and retrofits that will significantly improve energy efficiency in Baltimore City non-profit facilities.

The DGS's Energy Division and the Department of Planning's Office of Sustainability have worked in collaboration to solicit, review, and numerically score "Energy Efficiency Grant" applications from Baltimore non-profits for use of these funds.

HEBCAC received a qualifying score. Under the terms of this grant agreement, HEBCAC will use the funds to implement improvements to the Weinberg Center, located at 901 North Milton Avenue. HEBCAC will fund a portion of the cost in the amount of \$37,114.32.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

(FILE NO. 57233)

UPON MOTION duly made and seconded, the Board approved and

MINUTES

DGS - cont'd

authorized execution of the grant agreement with the Historic East Baltimore Community Action Coalition.

MINUTES

Department of General Services (DGS) - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with A Step Forward, Inc. (ASF). The period of the agreement is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$40,000.00 - 9916-913900-9197-910013-703032
(ARRA Stimulus Funds)

BACKGROUND/EXPLANATION:

The Department has received a grant award from the Energy Efficiency Community Block Grant for facility upgrades and retrofits that will significantly improve energy efficiency in Baltimore City non-profit facilities.

The DGS's Energy Division and the Department of Planning's Office of Sustainability have worked in collaboration to solicit, review, and numerically score "Energy Saver Grant" applications from Baltimore non-profits for use of these funds.

The ASF received a qualifying score. Under the terms of this grant agreement, the ASF will use the funds for proposed energy efficiency upgrades to several of the properties it operates. The ASF will fund a portion of the costs in the amount of \$24,500.00.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

(FILE NO. 57233)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant agreement with A Step Forward, Inc.

MINUTESDepartment of General Services - Minor Privilege Permit Applications

The Board is requested to approve the following applications for a Minor Privilege Permit. The applications are in order as 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.	2332 E. Hoffman Street	Eugenio De Jesus Gomez	Retain awning w/ signage 32' x 2½', eight fluorescent tubes
	Annual Charge: \$555.20		
2.	6-8 W. Cross Street	West Cross Street, LLC	Retain awning w/ signage 18½' x 3', one banner sign 2½' x 1½', four tubes
	Annual Charge: \$292.55		
3.	1500-1530 W. Fayette Street	Franklin Square Housing Limited Partnership	Nine Planters, six @ 12' x 2'6", one @ 10' x 2'6", one @ 24' x 2'6", one @ 26' x 2'6"
	Annual Charge: \$1,155.00		
4.	1501-1535 W. Fayette Street	Franklin Square Housing Limited Partnership	Eight Planters, two @ 24' x 2'6", four @ 25' x 2'6", two @ 12' x 2'6"
	Annual Charge: \$1,512.00		

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

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

MINUTES

Department of Communications Services - Amendment to Contract

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment to contract with Millennium Technologies, LLC. The amendment extends the period of the contract through June 30, 2012. The Board is also requested to authorize payment by Expenditure Authorization.

AMOUNT OF MONEY AND SOURCE:

\$ 407,904.00 - (\$33,992.00 per month) maintenance services
7,000.00 - monthly estimated equipment services charged
to various agencies accounts

Account No. 2039-000000-1330-158400-603084

BACKGROUND/EXPLANATION:

On June 23, 2010, the Board approved the renewal of an agreement with Millennium Technologies, LLC (Millennium). Millennium has been providing the installation of equipment, and changes to equipment as needed. The City's voice infrastructure is in poor condition in many locations, and Millennium has extensive knowledge and experience with the City's voice infrastructure and existing equipment. Continued maintenance and service by this vendor is necessary because of the age of the City's system.

A consultant has been engaged to assist with the telecommunication needs of the City. A request for proposals was issued and an award is expected in the fall. However Millennium's services will be needed during the early phase of

MINUTES

Department of Communications Services - cont'd

the transition. Maintenance services will be included in the implementation of the new technologies.

MWBOO GRANTED A WAIVER

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 56613)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to contract with Millennium Technologies, LLC. The Board also authorized payment by Expenditure Authorization. The Comptroller **ABSTAINED.**

MINUTES

Department of Transportation - Expenditure of Funds

ACTION REQUESTED OF B/E:

The Board is requested to approve an expenditure of funds to pay the Baltimore Gas and Electric Company (BGE).

AMOUNT OF MONEY AND SOURCE:

\$50,665.00 - 9950-901106-9527-900010-707072

BACKGROUND/EXPLANATION:

The expenditure of funds will cover costs associated with TR 05032, Newkirk Street Reconstruction.

The BGE, as the only electricity distribution company does the relocation and adjustment of their electric distribution facilities. This estimated cost has been submitted and approved by the Department's Engineering and Construction Division. The BGE will be reimbursed for actual work performed. The services are necessary for the Reconstruction of Newkirk Street including the relocation of distribution facilities to provide clearance for highway improvements.

APPROVED FOR FUNDS BY FINANCE**AUDITS REVIEWED AND HAD NO OBJECTION.**

UPON MOTION duly made and seconded, the Board approved the expenditure of funds to pay the Baltimore Gas and Electric Company.

MINUTES

Department of Transportation - Partial Release of Retainage Agreements

The Board is requested to approve and authorize execution of the release of retainage agreements with the following contractors for the various contracts:

- | | <u>Contractor</u> | <u>Contract No.</u> | <u>Retainage Amount</u> |
|----|--|---------------------|-------------------------|
| 1. | P. FLANIGAN & SONS,
INC. | TR 07016 | \$78,587.12 |
| | Account: 9950-903832-9514-900000-200001 | | |
| | All work on Contract No. TR 07016 was substantially completed on February 5, 2009, and the contractor has requested a partial release of retainage in the amount of \$78,587.12. The City holds funds in the amount of \$80,587.12. The remaining \$2,000.00 is sufficient to protect the interests of the City. | | |
| 2. | P. FLANIGAN & SONS,
INC. | TR 09014 | \$76,717.30 |
| | Account: 9950-901783-9514-000000-200001 | | |
| | All work on Contract No. TR 09014 was substantially completed on October 1, 2010, and the contractor has requested a partial release of retainage in the amount of \$76,717.30. The City holds funds in the amount of \$78,717.30. The remaining \$2,000.00 is sufficient to protect the interests of the City. | | |
| 3. | P. FLANIGAN & SONS,
INC. | TR 09023 | \$61,979.38 |
| | Account: 9950-910702-9527-000000-200001 | | |
| | All work on Contract No. TR 09023 was substantially completed on February 9, 2010, and the contractor has requested a partial release of retainage in the amount of \$61,979.38. The City holds funds in the amount of \$63,979.38. The remaining \$2,000.00 is sufficient to protect the interests of the City. | | |

MINUTES

Department of Transportation - cont'd

MBE/WBE PARTICIPATION:

MWBOO has approved the release.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the release of retainage agreements with the foregoing listed contractors for the various contracts.

MINUTES

Department of Transportation - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of understanding (MOU) with the C.A.R.E. Community Association, Inc. (Association). The period of the MOU is effective upon Board approval for two years.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The purpose of the MOU is to establish a framework for the Association to install intersection art at the intersection of McElderry Street and North Chester Street at the sole cost of the Association.

The Association will subsequently perform ongoing maintenance of all aspects of the project.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the memorandum of understanding with the C.A.R.E. Community Association, Inc.

MINUTES

Department of Transportation - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of understanding (MOU) with the Hamilton-Lauraville Main Street, Inc. (Association). The period of the MOU is effective upon Board approval for two years.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The purpose of the MOU is to establish a framework for the Association to install intersection art in the intersections of Harford Road and Hamilton Avenue and Harford Road and Montebello Terrace at the sole cost of the Association.

The Association will subsequently perform ongoing maintenance of all aspects of the project.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the memorandum of understanding with the Hamilton-Lauraville Main Street, Inc.

MINUTES

Department of Transportation (DOT) - On-Call Task Assignment

ACTION REQUESTED OF B/E:

The Board is requested to approve an assignment of Task No. 1 to Rummel, Klepper & Kahl, LLP (RK&K), under Project No. 1113, On-Call Consultant Services for Federal Aid Resurfacing and Reconstruction Projects for the City of Baltimore.

AMOUNT OF MONEY AND SOURCE:

\$1,611,589.25 - 9950-904402-9508-900010-703032

BACKGROUND/EXPLANATION:

This task assignment provides for a second component of the Boston Street - Ponca to Conkling Alignment Study. The Boston Street Realignment will extend from S. Conkling Street to O'Donnell Street.

The project will increase roadway capacity and improve vehicle operation issues associated with Canton Rail Road crossing and industrial truck traffic near the I-95 interchange. The realignment will include a divided four lane roadway, sidewalks, a spur to existing Boston Street, and a bridge connecting the proposed alignment to match the grade of O'Donnell Street.

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

MINUTES

DOT - cont'd

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$1,418,198.54 Federal	9950-908402-9509 Constr. Res. Boston/O'Donnell Connector	
102,069.37 MVR	" "	
250,000.00 <u>MVR</u>	9950-902876-9509 Constr. Res I-895 Holabird Ave. Ramp	
\$1,770,267.91	-----	9950-904402-9508-3 Design & Studies Mt. Royal Avenue Streetscape Improvements

This transfer will fund costs associated with Task No. 1 on Project No. 1113 with Rummel, Klepper & Kahl, LLP for engineering design services for the project, Boston Street/O'Donnell Connector Road.

(FILE NO. 55370)

UPON MOTION duly made and seconded, the approved the assignment of Task No. 1 to Rummel, Klepper & Kahl, LLP, under Project No. 1113, On-Call Consultant Services for Federal Aid Resurfacing and Reconstruction Projects for the City of Baltimore. The transfer of funds was approved SUBJECT to receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, as required by the Provisions of the City Charter.

MINUTES

Department of Transportation - On-Call Consultant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an on-call agreement with Sabra Wang & Associates, Inc., for Project No. 1142, Traffic Signals & ITS and Traffic Engineering On-Call Consulting Services. The period of the agreement is effective upon Board approval for three years or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$1,000,000.00 - Amounts to be determined with each (upset limit) individual project.

BACKGROUND/EXPLANATION:

The Department has negotiated and procured the consulting agreement approved by the Office of Boards and Commissions and the Architectural and Engineering Awards Commission. The Department desires to utilize the services of Sabra Wang & Associates, Inc.

The cost of services rendered will be on actual payroll rates not including overhead and burdens times a set multiplier. The payroll rates and multiplier have been reviewed by the Department of Audits. The consultant will assist with field survey and design for traffic signals, detectors, closed circuit television traffic monitoring, variable message signs, field condition inspection, and associated work.

MINUTESDepartment of Transportation - cont'd**DBE PARTICIPATION:**

SABRA WANG & ASSOCIATES, INC. WILL COMPLY WITH TITLE 49 CODE OF FEDERAL REGULATIONS PARTS 26 (49CFR26) AND THE DBE GOALS ESTABLISHED IN THE AGREEMENT.

DBE: Sabra Wang & Associates, Inc.	\$ 890,000.00	89.00%
Datta Consultants, Inc.	40,000.00	4.00%
Connor Support Services, LLC.	40,000.00	4.00%
Transtech Engineering Consultants, Inc.	30,000.00	3.00%
Total DBE	\$1,000,000.00	100.00%

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the on-call agreement with Sabra Wang & Associates, Inc., for Project No. 1142, Traffic Signals & ITS and Traffic Engineering On-Call Consulting Services.

MINUTESDepartment of Transportation - On-Call Consultant Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an on-call agreement with URS Corporation, for Project No. 1123, On-Call Transportation Planning/Policy/Feasibility Studies. The period of the agreement is effective upon Board approval for two years or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$1,500,000.00 - amount to be determined with each individual (upset limit) project.

BACKGROUND/EXPLANATION:

The Department has negotiated and procured the consulting agreement approved by the Office of Boards and Commissions and the Architectural and Engineering Awards Commission. The Department now desires to utilize the services of the USR Corporation.

The cost of services rendered will be on actual payroll rates not including overhead and burdens times a set multiplier. The payroll rates and multiplier have been reviewed by the Department of Audits. The consultant will assist with feasibility analysis and alternative development for highway, bridge and transit projects, including identifying planning, engineering, environmental, operational, safety, land use, growth management and community concerns, which may result from selected alternatives.

MBE: RJM Engineering, Inc.	\$195,000.00	13.00%
Williams Associates- Engineers, P.A.	<u>120,000.00</u>	<u>8.00%</u>
Total	\$315,000.00	21.00%

MINUTES

Department of Transportation - cont'd

WBE: Mahan Rykiel	\$105,000.00	7.00%
Associates, Inc.		
CGB Consulting	30,000.00	2.00%
Total	<u>\$135,000.00</u>	<u>9.00%</u>

MWBOO FOUND VENDOR IN COMPLIANCE.

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the on-call agreement with URS Corporation, for Project No. 1123, On-Call Transportation Planning/Policy/Feasibility Studies.

MINUTES

Department of Transportation - Task Assignment

ACTION REQUESTED OF B/E:

The Board is requested to approve task assignment no. 13, with Rummel, Klepper & Kahl, LLP for Project No. 1038, On-Call Bridge Design.

AMOUNT OF MONEY AND SOURCE:

\$181,247.51 - 9950-908301-9527-900020-703032

BACKGROUND/EXPLANATION:

The consultant will provide for alternate design for Keith Avenue interchange, process documentation for road side tree permit, prepare right-of-way plats including metes and bound surveys, and additional signal and lighting design.

MBE/WBE PARTICIPATION:

The consultant will comply with Article 5, Subtitle 28 of the Baltimore City Code MBE and WBE goals established in the original agreement.

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

(FILE NO. 55370)

UPON MOTION duly made and seconded, the Board approved task assignment no. 13, with Rummel, Klepper & Kahl, LLP for Project No. 1038, On-Call Bridge Design.

MINUTES

Mayor's Office of Human Services (MOHS)/- Grant Agreements
Baltimore Homeless Services (BHS)

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

1. **PRISONER'S AID ASSOCIATION** **\$951,649.00**
OF MD, INC.

Account: 4000-496311-3573-591225-603051

The organization will provide housing in conjunction with supportive services to 76 homeless clients. The organization will also provide payments for monthly rental subsidies, security deposits and/or payment for damage to the property if applicable. The period of the agreement is April 1, 2011 through March 31, 2012.

2. **BALTIMORE HEALTH CARE ACCESS, INC.** **\$162,688.00**

Account: 4000-496211-3571-591410-603051

The organization will provide outreach services to approximately 90 street dwelling homeless individuals and 15 families residing in abandoned buildings, alleys, doorways, and from shelters that are disconnected from their communities and the formal social service network. The period of the agreement is February 1, 2011 through January 31, 2012.

3. **MARIAN HOUSE** **\$201,023.00**

Account: 4000-496211-3572-591419-603051

The organization will provide transitional housing and comprehensive supportive services to 43 single homeless women and four families. The organization will also provide safe temporary housing, a goal oriented program of personal counseling, and education/employment assistance. The period of the agreement is February 1, 2011 through January 31, 2012.

MINUTES

MOHS/BHS - cont'd

4. **NEWBORN HOLISTIC MINISTRIES, INC.** **\$ 40,169.00**

Account: 4000-496211-3573-591424-603051

The organization will provide supportive services to homeless women that are residents of the Martha's Place Single Room Occupancy located at 590 Presstman Street, Baltimore City. The residents will be graduates of the Martha's Place six month residential transitional housing program. The goal of the program will be to stabilize the mental and physical health of the clients by providing a safe, affordable and supportive place to live as independently as possible. The period of the agreement is February 1, 2011 through January 31, 2012.

The grant agreements are late because of a delay by the Department of Housing and Urban Development in granting the award.

5. **PRISONER'S AID ASSOCIATION** **\$557,232.00**
OF MD, INC.

Account: 4000-496311-3573-591225-603051

The organization will provide housing in conjunction with supportive services to 30 female homeless clients. The period of the agreement is July 26, 2011 through July 25, 2012.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

MINUTES

Department of Housing and Community Development (DHCD) - Assumption of HOME Loan

ACTION REQUESTED OF B/E:

The Board is requested to approve assumption of an existing City HOME Investment Partnerships Program Loan by Broadway Financial, LLC, an entity related to Stern Properties. The Board is also requested to authorize the Commissioner of the Department of Housing and Community Development to execute any and all documents necessary to effectuate this transaction SUBJECT to review and approval by the Law Department.

AMOUNT OF MONEY AND SOURCE:

No additional funds are requested.

BACKGROUND/EXPLANATION:

In 1993 the Board approved a HOME Investment Partnership Program Loan in the amount of \$1,410,000.00 (HOME loan) to the Broadway Courts Limited Partnership (the original borrower), whose general partner is Struever Brothers Real Estate Development Corporation. The proceeds of the HOME loan were used to finance certain costs for acquisition and hard costs for the new construction and rehabilitation of 47 units of elderly rental housing, located at 919-931 N. Broadway (the project).

The HOME loan was subordinate to the first-priority loan made by the State of Maryland's Department of Housing and Community Development (the State) from its Rental Housing Production Program (RHPP) in the original principal amount of \$1,000,000.00 (the RHPP loan). Additional construction financing was provided by equity generated by the sale of Low Income Housing Tax Credits and interim bridge financing was provided by the Baltimore Community Development Financing Corporation.

The HOME loan has a permanent loan period of 30 years (the permanent loan period) with an interest rate of 1% per annum. The payments of principal and interest are due and payable at maturity. If at the end of the permanent loan period, all of

MINUTES

DHCD - cont'd

the terms and conditions of the HOME loan documents were complied with during the period of affordability, the outstanding principal balance of the loan would be forgiven at the maturity date. The outstanding balance of the HOME loan including interest as of December 31, 2010, is approximately \$1,627,322.00 (\$217,322.00 represents accrued interest through 2010).

The project has struggled financially since its inception, largely because of unanticipated high operating costs. Historically, the most burdensome expenses have been the costs of providing building security and utility services. At the closing of the original financing in 1993, the State required the original borrower to establish a \$320,000.00 operating reserve to address unforeseen needs. Unfortunately, the account was depleted in 2007.

As a result of the project's financial issues, over the course of the past several years, the original borrower has attempted to sell the property to more capable and experienced owner/operators. In order to address the project's financial shortcomings, the original borrower requested that the requirements to begin making fully amortizing payments on the State debt on February 1, 2010, be eliminated.

In order to allow the original borrower to locate a purchaser for the property, the State has agreed to delay the commencement of the fully amortizing payments until January 2011. The agreement was contingent upon the original borrower bringing the project's escrow and replacement reserve accounts current and continuing to make the required monthly escrow and the replacement reserve payments, which the original borrower completed in September 2010 with a payment of \$12,796.00 to the State.

In September 2010, the original borrower entered into a contract to sell the property to Broadway Financial, LLC (purchaser), an entity affiliated with Stern Properties (Stern Properties). The purchaser agreed to assume all of the original borrower's debts related to the project as of the closing date of the purchase.

MINUTES

DHCD - cont'd

These debts include all of the outstanding payables, the balance of the RHPP loan, and the balance of the HOME loan. Stern Properties has purchased a number of properties in Baltimore City, several of which were at one time financed, in part, by either the State or the City.

In order to approve the assumption of the RHPP loan, the State is requiring that the RHPP loan be extended for a new 40-year term and that the principal will be fully amortized over this new 40-year term at an interest rate of 1%. Previously deferred interest will be payable out of surplus cash, but will not capitalize. The State is also requiring that the term of the HOME loan be extended to match the term of the RHPP loan.

Stern Properties assumed the day-to-day management of the Broadway Court Apartments in October 2010. Since that time and at their own expense, Stern Properties has made a number of improvements to the project's physical condition. The previous security issues appear to have improved and the utility costs appear to have stabilized after peaking in 2007.

If the project remains in the hands of the current owner, in all likelihood, it will face foreclosure in the near future, thereby jeopardizing the continued existence of 47 housing units currently rented and available to elderly residents, who are not earning more than 50% of the Area Median Income.

The City will receive the following key benefits from the transaction:

- Stern Properties has agreed to pay the City a \$10,000.00 assumption fee upon the closing of the transaction, and
- Stern Properties has agreed to comply with the HOME restrictions for the remaining life of the existing City debt, which means that the City will not be obligated to repay these funds from non-Federal sources should a foreclosure occur and the requirements of the HOME program be violated.

MINUTES

DHCD - cont'd

MBE/WBE PARTICIPATION:

Article 5, Subtitle 28 of the Baltimore City Code Minority and Women's Business Enterprise Business Program is fully applicable and no request for a waiver or exception has been made.

THE DIRECTOR OF FINANCE REVIEWED AND RECOMMENDED APPROVAL.

(FILE NO. 57237)

UPON MOTION duly made and seconded, the Board approved assumption of the existing City HOME Investment Partnerships Program Loan by Broadway Financial, LLC, an entity related to Stern Properties. The Board also authorized the Commissioner of the Department of Housing and Community Development to execute any and all documents necessary to effectuate this transaction SUBJECT to review and approval by the Law Department.

MINUTES

Department of Housing and - Lien Release
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve the release of liens, plus all accrued interest and/or penalties on the vacant property located at 1814 North Warwick Avenue, for the transferee, Coppin State University.

AMOUNT OF MONEY AND SOURCE:

\$37,174.90, lien amount, plus all accrued interest
and/or penalties

BACKGROUND/EXPLANATION:

Pursuant to the Annotated Code of Maryland, Tax Property 14-806, the Board has the authority to release liens against real property under certain circumstances. In this case, the property in question complies with all requirements under the lien release law:

- the property is a vacant house,
- the liens exceed the assessed value of the property, and
- the transferee, Coppin State University, will redevelop the property and return it to productive use within a reasonable time and eliminate blighting conditions.

The transferee, will redevelop the vacant property, return it to productive use within a reasonable time, and eliminate blighting conditions. Coppin State University will assemble this property as part of a 10-acre site for the construction of a new academic building. The release of liens on the property will make it financially feasible for redevelopment and prevent tax abandonment.

MINUTES

DHCD - cont'd

Prior to settlement, transferee will pay the purchase price listed in the Agreement of Sale in the amount of \$11,200.00. This amount exceeds the flat tax, water charges, which totals \$5,829.79. The amount paid will be applied to satisfy the water bill, real estate taxes, flat tax first, and then other liens that have accrued prior to the date of this lien release.

Any additional property tax assessments, water charges, and liens that accrue from the date of this lien release will be the responsibility of the transferee to pay prior to settlement. Failure to record the deed and pay the assessed value of \$11,200.00, within 120 days from the date of approval by the Board, will void this release.

(FILE NO. 56674)

UPON MOTION duly made and seconded, the Board approved the release of liens, plus all accrued interest and/or penalties on the vacant property located at 1814 North Warwick Avenue, for the transferee, Coppin State University.

MINUTES

Department of Housing and - Lien Release
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve the release of liens, plus all accrued interest and/or penalties on the vacant property located at 5405 Seward Avenue, for the transferee, Mr. James R. Billings.

AMOUNT OF MONEY AND SOURCE:

\$17,000.00, lien release, plus all accrued interest
and/or penalties

BACKGROUND/EXPLANATION:

Pursuant to the Annotated Code of Maryland, Tax Property 14-806, the Board has the authority to release liens against real property under certain circumstances. In this case, the property in question complies with all requirements under the lien release law:

- the property is a vacant house,
- the liens exceed the assessed value of the property, and
- the transferee, Mr. Billings, will redevelop the property and return it to productive use within a reasonable time and eliminate blighting conditions.

The transferee will rehabilitate the property into a single family home. The release of liens on the property will make it financially feasible for redevelopment and prevent tax abandonment.

Prior to settlement, transferee will pay the appraised value of the property of \$17,000.00. This amount exceeds the flat tax and water charges for the property, which totals \$9,498.23. The amount paid will be applied to satisfy the water bill, real estate taxes, flat tax first, and then other liens that have accrued prior to the date of this lien release.

MINUTES

DHCD - cont'd

Any additional property tax assessments, water charges, and liens that accrue from the date of this lien release will be the responsibility of the transferee to pay prior to settlement. Failure to record the deed and pay the appraised value of \$17,000.00, within 120 days from the date of approval by the Board, will void this release.

UPON MOTION duly made and seconded, the Board approved the release of liens, plus all accrued interest and/or penalties on the vacant property located at 5405 Seward Avenue, for the transferee, Mr. James R. Billings.

MINUTES

Department of Housing and - Land Disposition Agreement
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the land disposition agreement with K. Group Limited Partnership, developer, for the sale of the property located at 1207 Dundalk Avenue.

AMOUNT OF MONEY AND SOURCE:

\$15,600.00 - Sale price

BACKGROUND/EXPLANATION:

A good faith deposit of \$1,000.00 has been received from the Developer. The property will be sold at the appraised value.

The project will consist of the conversion of this vacant lot into additional parking spaces for the adjacent property.

MBE/WBE PARTICIPATION:

The property is not subject to Article 5, Subtitle 28 of the Baltimore City Code because they will be sold at market value.

(FILE NO. 57211)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with K. Group Limited Partnership, developer, for the sale of the property located at 1207 Dundalk Avenue.

MINUTES

Department of Housing and - Head Start Agreements
Community Development

The Board is requested to approve and authorize execution of the various agreements. The period of the agreement is October 1, 2010 through September 30, 2011.

1. **UNITY METHODIST CHURCH/UMOJA HEAD START PROGRAM** **\$ 68,355.00**

Account: 5000-586811-6051-517000-603051

Under the terms of this agreement, the funds will be used to allow the organization to administer a six-week summer program for 15 children. A Mental Health Consultant will provide services focusing on school readiness. The children will also be provided with opportunities to go on field trips.

2. **METRO DELTA EDUCATIONAL PROGRAMS, INC./ YUBI HEAD START PROGRAM** **\$ 42,377.00**

Account: 5000-586811-6051-517100-603051

Under the terms of this agreement, the funds will be used to allow the organization to administer an eight-week summer program for 20 children. The program will focus on school readiness, specifically focusing on remedial activities using the Creative Curriculum. The program will schedule field trips to the Aquarium, the Zoo, and other outdoor activities for the children.

3. **ST. PAUL COMMUNITY OUTREACH CENTER, INC./ ST. PAUL COMMUNITY HEAD START PROGRAM** **\$ 61,632.00**

Account: 5000-586811-6051-515800-603051

Under the terms of this agreement, the funds will be used to allow the organization to administer a six-week summer program for 15 children. A Mental Health Consultant and staff will provide services focusing on school readiness. The children will also be provided with opportunities to go on field trips.

MINUTES

DHCD - cont'd

The agreements are late because of delays in the administrative review process.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

ABSTAINED on item no. 2. The President **ABSTAINED on item nos.**

1-3.

MINUTES

Department of Housing - Ratification
and Community Development

ACTION REQUESTED OF B/E:

The Board is requested to ratify payments to TerraLogos:eco Architecture, pc (TerraLogos) for work completed after the expiration of Contract No. 33015. The period of the invoices is August 1, 2010 through March 31, 2011.

AMOUNT OF MONEY AND SOURCE:

\$29,411.90 - 1001-000000-2602-261000-603026

BACKGROUND/EXPLANATION:

On November 5, 2008, the Board approved a contract with TerraLogos to provide professional services pertaining to the development and implementation of specifications relating to the threshold levels of "green" sustainable building and site practices. The original project was expected to be completed under this contract by October 31, 2010, and the contract contained an optional extension period of three months, ending on January 31, 2011. TerraLogos was unable to complete the scope within the time allotted because the City requested additional work be done. Because of an oversight, the initial extension period was not submitted to the Board for approval, but TerraLogos continued to work as requested.

No payments have been made to the contractor during this period, and ratification will allow payments to be made to the consultant.

The additional time was needed for two reasons:

- 1) three critical members of the dedicated project team from the DHCD and the Department of Planning left City employment (two of which were the only LEED AP's on the team and one was the Superintendent of Mechanical Inspections with critical energy modeling knowledge). As a result, more consultant time was required than budgeted in order to meet deadlines.

MINUTES

DHCD - cont'd

2) The consultant was needed to participate in pre-development and waiver meetings as the Department did not have the in-house skills necessary to manage this LEED related work.

Additionally, the consultant's services were needed to provide additional training for current staff and any new staff hired to manage this work. TerraLogos has been invaluable. Until the City has LEED trained staff, the Department will continue to need their services to assure the success of the program.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board ratified payments to TerraLogos:eco Architecture, pc for work completed after the expiration of Contract No. 33015.

MINUTES

Department of Housing - Second Agreement
and Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a second agreement with TerraLogos: eco Architecture, pc. (TerraLogos). The period of the second agreement is effective upon Board approval through January 31, 2012, with an option for one additional three month term.

AMOUNT OF MONEY AND SOURCE:

\$50,000.00 - 1001-000000-2602-261000-603026

BACKGROUND/EXPLANATION:

On November 5, 2008, the Board approved a contract with TerraLogos to provide professional services pertaining to the development and implementation of specifications relating to the threshold levels of "green" sustainable building and site practices. The contract expired on October 31, 2010.

The extended service of TerraLogos is needed for two main reasons:

- 1) Three critical members of the dedicated project team from DHCD and the Planning Department left City employment (two were the only LEED AP's on the team and one was the Superintendent of Mechanical Inspection with critical energy modeling Knowledge). As a result, more consultant time is required than was budgeted in order to meet deadlines.
- 2) The consultant is needed to participate in pre-development and waiver meetings as the City still does not have the in-house skills necessary to manage this LEED-related work. Additionally, their services are needed to provide additional training for current staff and any new staff hired to manage this work, and to make all necessary adjustments to the Baltimore City Green Building Standards during and after the one year evaluation period which started on September 16, 2010.

MINUTES

DHCD - cont'd

Until the City has LEED-trained staff, the invaluable service of TerraLogos is critical to assure the success of the program.

MWBOO GRANTED A WAIVER

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the second agreement with TerraLogos: eco Architecture, pc.

MINUTESDepartment of Finance - PILOT Payment FY 2012**ACTION REQUESTED OF B/E:**

The Board is requested to approve the revised schedule of Payment in Lieu of Taxes (PILOT) payments for FY 2012.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

Whenever there is a change in the rental schedule of an apartment house built under Section 202, the National Housing, or any subsequent section which accomplishes the same purpose of Section 202, the owners of such property will furnish the revised schedules of rents to the Department. The Department uses the revised rental schedules to calculate the new PILOT payment.

The actual amount of change of PILOT payments for the fiscal year 2011-2012 will be as follows:

	Increase <u>(Decrease)</u>	<u>New Pilot</u>
Advent Senior Housing	\$ 1,056.00	\$ 30,648.00
Belleveu Manchester	\$ (801.60)	\$ 25,638.00
Bon Secours, Benet House	\$23,530.20	\$121,627.20
Concord Apartments	\$ 7,698.54	\$111,763.02
Daniels Housing	\$ 4,279.20	\$ 25,675.20
Epiphany	\$ 1,698.24	\$ 23,735.04
Good Samaritan	\$ 4,602.00	\$135,596.40
Hanover Square	\$15,195.70	\$194,119.20
Memorial Apartments	\$10,748.16	\$109,134.00
Micah House	\$ 1,458.30	\$ 21,113.10
Naomi Project Ltd. Part.	\$ 1,829.40	\$ 21,997.40

MINUTES

Department of Finance - cont'd

	<u>Increase (Decrease)</u>	<u>New Pilot</u>
Southern School	\$ 630.00	\$ 57,934.80
St. James Terrace	\$ 3,755.52	\$ 83,615.76
St. Mary's (East & West)	\$ 1,033.20	\$131,677.20
Westminster House Apts.	\$ 2,415.12	\$120,101.76
Woodbourne Woods, Inc.	\$ 2,215.20	\$ 75,572.40

(FILE NO. 57156)

UPON MOTION duly made and seconded, the Board approved the revised schedule of Payment in Lieu of Taxes payments for FY 2012.

MINUTES

Health Department - Agreements and an Amendment to Agreement

The Board is requested to approve and authorize execution of the various agreements and an amendment to agreement.

AGREEMENTS

1. **THE JOHNS HOPKINS UNIVERSITY (JHU)** **\$437,289.00**

Account:	1001-000000-3030-271500-603051	\$166,525.00
	1001-000000-3023-605700-603051	\$270,764.00

The JHU will provide medical care, nursing care, and STD/HIV support services to patients attending clinics operated by the Health Department. The medical care services will include obtaining a medical history, performing appropriate physical examinations, assessing patients' problems, and resolution of identified problems by appropriate medical management. The JHU will also provide medical oversight and direct supervision of clinical services including but not limited to STD care, TB care, HIV counseling and testing, HIV primary care, and contraceptive services for women. The period of the agreement is July 1, 2010 through June 30, 2011.

This agreement is late because budget revisions and funding concerns delayed processing.

2. **THE JOHNS HOPKINS UNIVERSITY (JHU)** **\$327,071.00**

Account: 4000-422511-3030-271513-603051

The JHU will provide comprehensive sexually transmitted disease (STD) prevention systems - surveillance services. The services emphasize surveillance and data management. The surveillance manager and the epidemiologist will complete all the reports required for internal management, external funding agencies, and respond to custom queries. The period of the agreement is January 1, 2011 through December 31, 2011.

This agreement is late because funds were awarded late in the grant year.

MINUTES

Health Department - cont'd

3. THE JOHNS HOPKINS UNIVERSITY (JHU) \$ 72,338.00

Account: 4000-422211-3041-606100-603051

The JHU will provide Enhanced AIDS and HIV Surveillance services. The JHU will have on-site personnel facilitate HIV surveillance within its medical institution. The activities will include, but not be limited to: retrieving data from the medical records at JHU sites which will facilitate HIV reporting to the Centers for Disease Control, participate in special surveillance projects, either demonstration or clinical research, which will focus on enhanced surveillance of HIV infected persons and retrieval and submission of electronic data which support surveillance and reporting activities for the State of Maryland. The period of the agreement is July 1, 2010 through June 30, 2011.

This agreement is late because the original award letter was misplaced and it was necessary to obtain an acceptable budget and scope from provider.

4. COMMUNITIES ORGANIZED TO IMPROVE LIFE, INC. \$ 57,627.00
(COIL)

Account: 4000-433511-3024-268412-603051

The organization will operate a senior program, which will serve as the community focal point for seniors and their caregivers. The services to be provided will include, but not be limited to transportation, social, recreation, and educational programs, information and assistance, outreach and wellness. The period of the agreement is October 1, 2010 through September 30, 2011.

This agreement is late because of the transition between the Commission on Aging and Retirement Education and the Health Department and the finalization of the grant approval and the provider budget required more time than anticipated.

MINUTES

Health Department - cont'd5. **FAYETTE LEASING CO., LLC.** **\$0.00**

The organization will function as a volunteer station for the Retired Senior Volunteer Program. The Retired Senior Volunteer Program (RSVP) has been funded since 1982 by the Corporation for National and Community Service, an agency of the executive branch of the Federal Government to implement the RSVP.

The Department's RSVP is awarded funds to pay administrative staff to arrange volunteer work with other non-profit, private agencies and organizations where services are performed by persons 55 years of age and over. The period of the agreement is December 1, 2010 through March 31, 2012.

The agreement is late because it was just signed and returned to the Department.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

AMENDMENT NO. 1 TO AGREEMENT6. **STATE OF MARYLAND, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT** **\$0.00**

On October 10, 2007, the Board approved the original agreement which allowed the Baltimore City Health Department (BCHD) to be the administrator for the Lead Hazard Reduction Grant and Loan Program and set aside funds provided by Maryland Department of Housing and Community Development (DHCD) for Lead Remediation to terminate on September 30, 2010.

MINUTESHealth Department - cont'd

On April 1, 2011, administration of the Lead Remediation Program was transferred to the Baltimore City Housing Department. Selected files will be retained at the Health Department for resolution of Housing and Urban Development Audit findings and full disbursement of pending rehabilitation expenses. Files that have been submitted by BCHD to the City's Housing Department for processing that are not currently approved for rehabilitation financing will be assigned and processed by the Baltimore City Housing Department.

This amendment extends the term of the agreement through July 31, 2011 to allow for completion of existing case files being held by the BCHD.

AUDITS NOTED THE TIME EXTENSION.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the various agreements and the amendment to agreement. The President **ABSTAINED** on items nos. 1, 2, and 3.

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

The Board is requested to approve expenditure of funds to sponsor the annual Senior Companion Program Recognition Luncheon on June 24, 2011 at the Forum Caterers.

AMOUNT OF MONEY AND SOURCE:

\$4,689.90 - Forum Caterers (135 guests @ \$28.95 ea. = \$3,908.25
+ \$781.65 service charge)
1,200.00 - The Kuumba Ensemble (music/entertainment)
400.00 - C.W. Wells Transportation, LLC
272.00 - Flowers by Gina
75.90 - Performa Performance, Inc.
1,200.00 - Acclaimed Promotional Specialties, Inc.
\$7,837.80 - 4000-423509-3110-306500-604014

BACKGROUND/EXPLANATION:

The Senior Companion Program (SCP) is part of the Senior Corps, a network of national service programs. The programs provide older Americans with the opportunity to apply their life experiences to meeting community needs and brings together volunteers and homebound people in Baltimore City who have difficulty with simple everyday tasks. Senior Companions assist with shopping, errands, and light chores in addition to providing companionship.

This event is funded every year to recognize the SCP volunteers and is funded by the grantor, the Corporation for National and Community Services.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the expenditure of funds to sponsor the annual Senior Companion Program Recognition Luncheon on June 24, 2011 at the Forum Caterers.

MINUTESHealth Department - Employees Expense Reports

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

<u>Employee</u>	<u>Month</u>	<u>Amount</u>
1. DELANE BRANCH-HINES,	January 24, 2011	\$ 94.92
2. VIVIAN REED	August 2010	\$133.88
3. KRYSTAL JESSUP	November 2010	\$188.56

Account: 1001-000000-3100-295900-604003

Ms. Branch-Hines is a School Health Aide. Ms. Reed and Ms. Jessup are Medical Office Assistants. The employees expense report is to reimburse these employees for uniforms during the month indicated.

4. FRIEDA A. JONES	December 2010	\$129.00
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Account: 5000-533111-3044-273300-603002

5. FREDERIC GRANT		\$ 75.55
	December 2010	\$ 47.50
	January 2010	\$ 28.05

Account: 5000-532811-3044-273300-603002

Ms. Jones and Mr. Grant are Guardianship Specialists. The expense report is to reimburse the employees for mileage.

BACKGROUND/EXPLANATION:

The Administrative Manual, in Section 240-11, states that Employee Expense Reports that are submitted more than 40 work

MINUTES

Health Department - cont'd

days after the last calendar day of the month in which the expenses were incurred require Board of Estimates approval.

The Department apologizes for the lateness.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

MINUTES

Health Department - Grant Award Agreements

The Board is requested to approve and authorize acceptance of the grant award agreements with the indicated grantors.

<u>Grantors</u>	<u>Amount</u>
1. MARYLAND DEPARTMENT OF AGING	\$ 59,441.00

Account: 4000-433412-3023-273300-404001

This Notification of Grant Award is for the FY12 Senior Health Insurance Program. The award provides funds to support public education about health insurance plan options to Baltimore City senior residents and their families. The funds will also supplement the Senior Information and Assistance Program. The period of the grant award is April 1, 2011 through March 31, 2012.

2. THE ABELL FOUNDATION	\$169,000.00
--------------------------------	---------------------

Account: 6000-620812-3100-297100-406001

The grant funds will be used to support the Baltimore Vision Screening Initiative for students in Baltimore City Public Schools. The period of the grant award is June 1, 2011 through May 31, 2012.

The grant awards are late because they were recently received from grantors.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved and authorized acceptance of the grant award agreements with the above listed grantors.

MINUTES

Health Department - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of understanding (MOU) with the Maryland Department of Health and Mental Hygiene (DHMH), Office of Health Services. The period of the grant award is July 1, 2011 through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:

The Health Department will be awarded the Administrative Care Coordination Unit (ACCU) Extension-Healthy Start Grant in the form of a supplement supported by 50% State and 50% matching Federal Funds in accordance with the Local Health Department funding award on the Unified Funding Document.

BACKGROUND/EXPLANATION:

This MOU is entered into between the DHMH, Office of Health Services (Medicaid), and Baltimore City Health Department, the Local Health Department (LHD), for the purpose of defining the responsibilities of the ACCU Extension Healthy Start Grant.

The ACCU Extension-Healthy Start Grant means funds originating in the LHD funding system made by the DHMH to the BCHD, which is reflected on the Unified Funding Document and is subject to all administrative and fiscal policy originating in the LHD Funding System and all conditions of award.

The BCHD, as the Local Health Department will inform Medicaid in writing by the date determined by BCHD's fiscal year, the amount of State Match designated for the State share for the ACCU Extension - Healthy Start Grant.

MINUTESHealth Department - cont'd

Within 30 days of receipt of an invoice from the DHMH, the BCHD will provide payment to Medicaid for the State match portion of the ACCU-Extension-Healthy Start grant; maintain sufficient records/documentation to separately identify and support costs as claimed as administrative costs and all expenditures charged to the grant; comply with all conditions set forth in the conditions of award; and assure that any costs claimed under this MOU does not duplicate costs claimed through other federal funding.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the memorandum of understanding with the Maryland Department of Health and Mental Hygiene, Office of Health Services.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

* * * * *

On the recommendations of the City agencies

hereinafter named, the Board,

UPON MOTION duly made and seconded,

awarded the formally advertised contracts

listed on the following pages:

1724 - 1757

to the low bidders meeting the specifications,

or rejected bids on those as indicated

for the reasons stated.

The Board **DEFERRED** item no. 1 for 1 week.

The President **ABSTAINED** on item nos 5, 6, 7, and 8.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

1. B50001849, Provide Floor Stripping and Waxing Services for Various City of Baltimore Agencies
- RESCIND AWARD AND REJECT ALL BIDS** - On March 30, 2011, the Bureau of Purchases received seven bids. On May 4, 2011, the Board awarded the contract to Affordable Carpet Cleaning Corporation. It was later discovered that a key agency requirement had been inadvertently omitted from the solicitation. It is therefore considered to be in the City's best interest to re-bid this requirement at a later date.

A PROTEST HAS BEEN RECEIVED FROM AFFORDABLE CARPET CLEANING, CORPORATION.

A PROTEST HAS BEEN RECEIVED FROM THE MARYLAND MINORITY CONTRACTORS ASSOCIATION.

President: "The first item on the non-routine agenda can be found on Page 81, item no. 1. Floor Stripping and Waxing Services for Various City Agencies. Representatives from Affordable Carpet Cleaning, the protestant, and the Bureau of Purchases please come forward."

Mr. Joe Mazza, City Purchasing Agent: "Good morning Mr. President, Honorable members of the Board. My name is Joe Mazza I am the City Purchasing Agent. The item before us today is a recommendation that the Board reject all bids and rescind an award for solicitation no. B50001849, to Provide Floor Stripping and Waxing Services for the City of Baltimore. The situation is this, we crafted the solicitation working with the Department of

MINUTES

General Services, and one of the General Services requirements for this solicitation was that green products be used in this work. The buyer understood that but made a clerical error and did not include that requirement in the contract and did not realize that the requirement had been omitted. So, when the bids came in, we had seven bids, and when they came in the low bidder was Multicorp Corporation. They were 30% lower than the second lowest bid, but they did not list green products. So, when General Services and the buyer looked at that they said well, 'we are supposed to have green products, they did not offer green products, therefore, they are non-responsive.' So, we went over that -- passed over that bid and went to the lowest next lowest bidder, actually it was tie for the two next lowest bidders and one of them Affordable Carpet did offer green products. So, the buyer said, 'fine, that is good, that is what we want, and so we will award to the second lowest bidder.' Subsequent to that, we got a call from Multicorp saying that -- asking why they had been passed over. When we told them, they pointed out to us -- well that requirement, you were passed over because you didn't have green products and -- then they pointed out to us that that was not in the solicitation. That was the first time we realized that we had inadvertently omitted that requirement. Therefore, we had unjustly passed over the lowest

MINUTES

responsive, responsible bidder and had erroneously awarded to Affordable Carpet. So our only cause of action at that point was rescind the award and rebid the requirement."

President: "Okay."

Mr. Jolivet: "Good morning."

Mayor: "Good morning."

Mr. Jolivet: "Arnold M. Jolivet and I just want to say to the Board that this is an unprecedented request by the Bureau of Purchases. I have been coming to this Board for 27 years and I have never seen the Bureau or any other agency doing what the Bureau is doing in this case, and I am alarmed because Mrs. Valentine and Affordable Carpet is an innocent party here. An innocent victim really, that Mr. Mazza and the Bureau of Purchases are trying to disqualify her for no fault of her own, and what concerns me and I would ask this Board to look very strongly that the Bureau of Purchases never attempted to cancel or rescind this contract until Multicorp made a compliant. Now Multicorp had ample opportunity to appeal to this Board on what is it? May 4th, when the Board originally considered this matter, that they were sufficient notice that the Bureau of Purchases had declared them or deemed them not to be a responsive responsible bidder. My concern is, they waited and slept on their rights and they waived their right to protest. We have an

MINUTES

official -- the Board in its wisdom has set up an official bid protest system. A process that seems to work for all involved. Now, my concern would be is that by allowing this Board -- allowing Multicorp to circumvent and back door the bid process and now file a compliant vicariously through the Bureau of Purchases. That is not right. In all due respect to the Bureau of Purchases, they are not coming to this Board with clean hands. Mrs. Valentine and Affordable Carpet did everything that they did. They were not a part of the boo boo's that were made at the Bureau of Purchases. So, why now an innocent party; they come to this Board with clean hands as an innocent party, now why all of a sudden we would penalize them? They followed all of the procedures; they did not sleep on their rights. They were very conscious. I would say Mr. President and other members of this Board, I would literally admonish you to please let's not do and support -- I know that you are tempted and you want to support the Bureau of Purchases. But ladies and gentlemen the Bureau of Purchases is wrong as wrong can be. I have never seen a City agency as wrong as this particular case. So, I am going to ask you to please let's do the right thing. This lady works hard, she runs her company. She dotted all the I's and crossed all the T's and she comes to this Board this morning with clean hands. She has done nothing wrong. It would

MINUTES

be totally inappropriate and unfair really to now after she has been awarded the contract, she has relied on being awarded the contract. She has taken steps to purchase products, hire people and you are really going to disadvantage her if you take this award away from her. Now, the Bureau of Purchases in all honesty has admitted that they made a mistake, and I think you ought to accept what they have said to you in terms of how they arrived at this situation. But, again, it comes down to this Board allowing an apparent low vendor who did not get the contract to back door the process and file a compliant, file a protest without even filing a protest, and I say to you this is wrong. This is wrong. The apparent low vendor as I said to you before slept on their rights. They had an opportunity, a very ample opportunity to file a protest according to the City's protest bid protest procedure which is, they are very well known and now by sleeping on their rights and not following the protest and now coming up at a late date, this protest is only here. This request is only here because after the bid and after the award, substantially after, the award I might add, that Multicorp came to Mr. Mazza's office and threatened to file a court case. Now that is fine, they have every right, but I say to you, they slept on their rights, they should have filed a protest. Now let me just say one other thing and then I am

MINUTES

going to be -- I am going to try to finish, and that is, I just wish that this Board was in a position to know the struggles that this young lady has had over the years in building her company and trying to be a good citizen. She comes to this Board this morning again, having done absolutely nothing wrong. Nothing, and for the Board to follow this recommendation and rescind this contract and I might add, the other vendor I would like to ask the Board to look at when the Bureau put this contract out for bid initially, they in fact put a provision in their which allowed the Bureau to reject all bids after the bids came in. But, and this is a nicety, they did not have the provision in the contract which allowed the Bureau or perhaps this Board to rescind the contract after award without cause, without cause. Obviously, the Board has broad discretion, unfettered discretion and some would argue to rescind or reject a bid that is pretty well common law. But, to rescind a bid after the award when there is no discernable bad faith or fault on the part of the vendor is unheard of, unheard of. Twenty seven years and I have never seen it. So, I am going to impress on this Board this morning very, very, very much so that it really pains my heart to see a very fine young African American lady who trying to do good for herself, and you are going to set her back like this to take to rescind this contract. It is not

MINUTES

fair Mr. President, it is truly not fair, and I want to make that point, and the Board has all the latitudes. Multicorp certainly had a right, had a right to protest this contract, but the Board would be wrong and it would send a bad precedent to rescind this contract when Multicorp did not even file a protest, and I am going to say, I bet there is no one here from Multicorp today. I bet you that the Bureau of Purchases is doing their bidding. I would ask if there is anyone in this room today from Multicorp? Not so."

President: "You need to be talking to us, Mr. Jolivet."

Mr. Jolivet: "But my point is Mr. President, Multicorp is here is an excellent example of them using the system for their advantage through the Bureau of Purchases. It is wrong. Now if Multicorp had an interest in a legitimate interest in having this contract rescinded, why aren't they here?"

President: "We hear you Mr. Jolivet. We hear you. You already been stated on it. We hear exactly what you are saying. Mr. Mazza, did you have a response?"

Mr. Mazza: "Yes. Mr. Jolivet makes a very convincing case, however it is not the case that was made either by Ms. Valentine or Mr. Jolivet in their protest. They did not make that argument that he is making today. Frankly, I think it is a very convincing argument. It is one that I had not thought of. So,

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I would request that the Board defer this action until we can consider the revised protest by Mr. Jolivet."

Mr. Jolivet: "It is not a revised protest. Mr. President, I am sorry Mr. Mazza, go ahead."

President: "You may finish Mr. Mazza."

Mr. Mazza: "Because I honestly did not consider that, and that is a good point that he has made and it is not in his original protest. It is before me now and so I would like to defer for another week."

City Solicitor: "Which point. I am sorry. Which point are you concerned about? The factual point, he has made an assertion now that of his client, that client committed expenditures of money and worsened her position based on the award that this Board made on May 9th. That was not asserted in the bid protest. That's a new factual assertion and I just --."

Mr. Jolivet: "I --."

City Solicitor: "Wait please. So, I am concerned as to whether that is the reason for the deferral or whether it is the argument that this is allowing a back door belated protest."

Mr. Mazza: "It is the second one, the back door belated. Because the other argument the vendor should not have relied on the Board's award, because it is very clear in the solicitation the procedure or steps that would follow the award, that they

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would be given a notice of an award and they would not be cleared to begin work until the appropriate documents had been returned. So, I am not swayed by that argument, but I am swayed by the argument of a --."

City Solicitor: "You are affected by the argument."

Mr. Mazza: "Affected by the argument of a -- I am sorry, I am not a lawyer. That this was a non-standard action in fact I had not followed that, and I would like a little time to consider that revised protest."

City Solicitor: "I mean there had been circumstances despite Mr. Jolivet's saying that this has never happened in his 27 years, when an award has been made by the Board and circumstances came to light, after the making of the award and the City either did not issue a notice to proceed or terminated a notice to proceed after it had been given. In fact, we have litigated such an issue and prevailed on it. That was in the construction arena. So, it wasn't a Joe Mazza, Purchasing Department activity. But, you know, these things do happen sometimes and this is a mistake pretty clearly that came to light by maybe there is some disagreement about the precise sequence of events of how we learned about it, but a mistake that quote 'victimized' end quote your client as well as the client that did not protest. The client who was the low bidder

MINUTES

here. So, I think my inclination would be to let Mr. Mazza have what he requested, which is a week to ponder your eloquent argument Mr. Jolivet."

Mr. Mazza: "Right and to look as you said at the --."

City Solicitor: "History and circumstances and that sort of thing."

Mr. Mazza: "I would also like to make another point that Multicorp never came to my office. I never talked to Multicorp. Multicorp never threatened me with a lawsuit. So, I don't know where Mr. Jolivet --."

President: "We are going to ask for a Motion to defer this item until this is resolved by Mr. Mazza and the protestant."

City Solicitor: "I would make such a Motion."

Comptroller: "Second."

President: "A one week."

City Solicitor: "For one week."

Comptroller: "Second."

President: "All those in favor say AYE. Those opposed NAY. This Motion carries. It will be deferred."

* * * * *

Affordable Carpet Cleaning, Corp.

P.O. Box 19442

Baltimore, Maryland 21206

Phone: 410-325-7004 Fax: 410-325-6990

Email No. barnes.acc@verizon.net

Board of Estimates, et.al.

City Hall, Room 204

100 N. Holliday Street

Baltimore, Maryland 21202

Attn: Clerk

LETTER OF PROTEST

BOARD OF ESTIMATES

Affordable Carpet Cleaning, Corp.

**- Protest Regarding Rescinding of Solicitation Number
B50001848 - Provide Floor Stripping and Waxing Services for
Various City of Baltimore Agencies**

ACTION REQUESTED OF B/E:

DO NOT RESCIND AND/OR REJECT an award for Affordable Carpet Cleaning, Corporation, P.O. Box 19442, Baltimore, Maryland 21206 for the period covered is May 11, 2011 through May 10, 2012, with four one-Year renewal options.

AMOUNT OF MONEY AND SOURCE OF FUNDS:

\$60,000

Account No.: 1001-000000-1982-192500-603016

BACKGROUND/EXPLANATION:

1. Affordable Carpet Cleaning, Corporation has been in business servicing the Federal, State and City Government, as well as, Commercial clients since 1996, we incorporated in 2004. We provide Carpet Cleaning, Stripping and Waxing, Janitorial Services, Post-Construction Cleaning and Water Restoration services throughout Baltimore City and the State of Maryland. Since May 2004 to the present, we hold contracts and provide the above services to The Baltimore Public City School System. We are based in Baltimore and hires Baltimore residents. We have always been and still, in Good Standing with the City of Baltimore and State of Maryland.
2. On March 30, 2011, we submitted a bid for the above said Bid Solicitation. In that Bid it instructed the vendor to submit a list of products we uses. I submitted a List of Go-Green products that we currently use; this rendered us the "lowest most responsible responsive

bidder" in accordance with the Specification of the Bid. "The lowest bidder did not submit products of acceptable quality and, therefore was found to be non-responsive".

NOTE: Go-Green Products are safe and effective and friendly to our environment, their cost is more expensive than other harsh chemical cleaning products.

3. On May 5th, 2011, I telephoned Ms. Ashley Pertee, Buyer to follow up on the above mentioned Bid, in which our company appeared to be compatible. She informed me that it had been approved. Then, On May 13th, 2011, I again, telephoned Ms. Pertee, because my Company had not received the Award Letter once a Bid is approved. Ms. Pertee stated that the bid was being rescinded. I asked Ms. Pertee, why was it being rescinded, she said that I submitted in my bid that my company uses Go Green Products. I informed Ms. Pertee that in accordance with the instructions given in the Bid Solicitation, BCS-850001849, Page 14, DS6, A and Page 18, SM2, A6, I was required to submit the list of product that my Company uses. Ms. Pertee stated that they should have stated in the Bid Specification that the Venders should use Green Products. I asked to speak to her Supervisor; however, she was not available. I then asked for the number of the Purchasing Agent Mr. Joe Mazza; I telephoned him and left a message on his voice mail for a return call.

On, May 18th, 2011, I again, telephoned Ms. Sue Ziegler, Procurement Supervisor; I asked her why was she rescinding an Award already approved? She told me that they should have put in the Bid Specifications that the Vendors shall use Green Products. Ms. Ziegler said it was unfair to the other Vendor(s), Multi-Corp, who was the lowest bidder not to have the opportunity to list Green Products. I asked Ms. Ziegler why should my company be punished because we uses green products, this makes my company a more responsible and qualified bidder.

Ms. Ziegler stated that since my company was not the lowest bidder the Purchasing Agent can hand it over to the lowest bidder, Multi-corp, because they may file a complaint that they were the lowest bidder. I informed MS. Ziegler that it is not just the lowest bidder that is awarded, the Specification state it's the "lowest most responsible responsive bidder". Ms. Ziegler said that since Multi-corp was the lowest bidder she would rather not hand the bid over to them because this would then give Multi-corp the option to increase their Bid, since they would be required to use more expensive Green Products.

Ms. Ziegler stated that she would rather rescind; then she can incorporate that the Vendor(s) shall use Green Products in the Bid Solicitation. I informed Ms. Ziegler that what she is doing is not fair and that I feel as though I should pursue the matter further. Ms. Ziegler informed me that the Purchasing Agent can change his mind at any time, if he has justification to rescind an approval. Ms. Ziegler informed me that either way I cannot win. I did inform Ms. Ziegler that she was on speaker phone and that there were other(s) that may be listening to our conversation. I informed Ms. Ziegler that I made additional purchases in support of this bid when I was told it was approved. Ms. Ziegler stated that I should have waited for a Purchase Order. Ms. Ziegler, stated it was too late that they have already sent a letter to Rescind. Ms. Ziegler suggested that I speak further with Mr. Joe Mazza, Purchase Agent. I told Ms. Ziegler that I called Mr. Mazza on April 13th, 2011; however, he did not return my call.

On May 18th, 2011, I received a call from Mr. Mazza. He stated that he was returning my call. I informed Mr. Mazza of the conversation between Ms. Ziegler and myself regarding the Rescinding of the Bid Contract that was approved by the Board of Estimate for my company. I stated to Mr. Mazza that I understood that they were rescinding the bid because I submitted a List of Green

Products; and that the lowest bidder, Multi-corp, list of products were not green products. Mr. Mazza said that he needed to talk with Ms. Ziegler, because he thought that there was something else with the Bid, and he would call me back.

Approximately, fifteen (15) minutes later I received another call from Mr. Mazza he informed me that Ms. Ziegler was in the room and that he had me on speaker phone. I informed Mr. Mazza that I too, had him on speaker phone and that Mr. Robert Valentine was in the room with me. Mr. Mazza stated that they would be sending a Letter to Rescind not only due to the omission of the Green Products, but they needed to change the Scope of Work. He stated that they have already submitted a new Solicitation on Citibuy, BCS No. BCS B50001972, Request for Bids to Provide Floor Stripping and Waxing Services for Various City of Baltimore Buildings; (this is the same Title under a different BCS Number) therefore, he will have to go ahead with the Rescind.

4. I have reviewed both Solicitation Documents bearing the same Title, but under different BCS Numbers. The second Solicitation BCS-50001972 that was submitted, shows no substantial or significant changes in the Scope of Work, that my company is not qualified in handling, below is the variations of both solicitations, they reads as follows:

BCS-50001849

BCS-B50001972

D56. CLEANING SOLUTIONS/CHEMICALS

Pg.14, Para A, was omitted. Paragraph A. is Paragraph B on the new Solicitation, BCS-50001972, PAGE 14.

Pg.13, Para. A: "The cleaning solutions/chemicals used shall conform to all EPA regulations and shall be approved Green Products only."

5. The only significant change in the Scope of Work regarding the first Solicitation BCS-50001849 and the second Solicitation BCS-B50001972, is that they have incorporated an additional paragraph which states "The cleaning solutions/chemicals used shall conform to all EPA regulations and shall be approved Green Products only".

I Protest the Rescinding of this contract (BCS-B50001849) because my company was in compliance with the Specifications of the Bid. My company was the lowest most responsible responsive bidder under the instructions and specifications set forth in the Bid. The Bid was a valid contract between Affordable Carpet Cleaning, Corp. and the City of Baltimore, Department of Finance, Bureau of Purchases. This valid contract has been approved by the Bureau of the Budget on 28th 2011, and the City of Baltimore, Board of Estimates, on May 4, 2011. There are no significant changes that my company and its employees are not equipped and experienced in handling. We now have been placed at a great disadvantage, based upon the already released Bidder Documents and/or knowledge that have been obtained by the other Bidder(s), through their examination of our Company's Policies and Procedures. Also, rescinding this Bid has placed us at another disadvantage of being selected for any future Bid(s) awards of this nature. Due to no fault of my company it appears unlawful for the City to renege on this valid contract which my company is qualified in honoring. Therefore, I pray that the Board of Estimates **DO NOT RESCIND THIS BID SOLICITATION APPROVAL**.

Corine Valentine 5-24-11
Corine Valentine, President Date

MMCA- Maryland Minority Contractors Association, Inc.

A Chapter of the American Minority Contractors and Businesses Association, Inc.-AMCBA

Baltimore, Maryland 21210

443-413-3011 Phone

410-323-0932 Fax

June 7, 2011

VIA Facsimile 410-685-4416

The Honorable President and Members

Baltimore City Board of Estimates

Attention: Clerk to the Board

City Hall-Room 204

Baltimore, MD 21202

Re: Protest Against the Honorable Board of Estimates Approving the Bureau of Purchases' Recommendation to Rescind Award and Reject all bids on B50001849-Provide Floor Stripping and Waxing Services for Various City of Baltimore Agencies-Item No. 1-Page 81- Board of Estimates 06/08/2011 Agenda

Dear Mr. President:

I represent Maryland Minority Contractors Association, Inc. (MMCA) and Affordable Carpet Cleaning Corporation (Affordable Carpet) and we strongly protest your Honorable Board voting to approve the Bureau of Purchases' recommendation to rescind the above cited city contract award and reject all bids thereon. Affordable Carpet is a member of MMCA and both MMCA and Affordable Carpet will suffer irreparable injury if for any reason(s) your Honorable Board accepts the recommendation of the Bureau of Purchases and votes to rescind award and reject all bids on B50001849.

Inasmuch as the owner and Chief Executive Officer of Affordable Carpet is an African American female, we strongly believe and submit that the Bureau of Purchases' recommendation to "rescind" the subject award and to "reject" all bids thereon is racially motivated and driven, and moreover is not made in good faith. Additionally, the Bureau of Purchases has failed to make a prima facie case in support of Your Honorable Board rescinding this award and rejecting all bids thereon. The Bureau has merely alleged as reason(s) for its recommendation to rescind and reject this award that, after Your Honorable Board's May 4, 2011 formal award, "it was later discovered that a key agency requirement had been inadvertently omitted from the solicitation." No more detailed information describing the "key agency requirement" that "had been inadvertently omitted from the solicitation," was provided to Affordable Carpet or any other bidder. As the successful bidder on B50001849, Affordable Carpet possessed a protected property interest in B50001849, and as such, the Bureau of Purchases was required to identify and inform Affordable Carpet of the exact and specific "key agency requirement [that] had been inadvertently omitted from the solicitation." The Bureau of Purchases failed both the contract awardee and the City in the very arbitrary and discriminating manner in which the Bureau decided and ultimately managed this procurement.

Finally, Your Honorable Board must reject the Bureau's recommendations to rescind B50001849 and to reject all bids thereon due to serious and unacceptable misconduct on the part of both the contract buyer and on part of the Chief, Bureau of Purchases. Indeed, the record shows that both the contract buyer and the Chief, Bureau of Purchases wrongfully engaged in discussions and conversations with the owner of Affordable Carpet, on separate occasions, which were highly disrespectful and racially offensive and insulting to the owner of Affordable Carpet. These conversations were all intended and designed to force the owner of Affordable Carpet to withdraw its bid and protest.

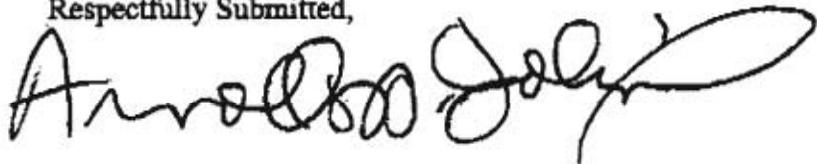
It is important to point out that in past cases wherein the Bureau legitimately "later discovered that a key agency requirement had been inadvertently omitted from the solicitation," involving white-owned vendors, the Bureau did not recommend that Your Honorable Board "rescind" the award and reject all bids. For example, on 12-8-2010, the Bureau selected and the Board approved a contract to Harris and Harris for collection of City delinquent parking fines. The Bureau later discovered that a "key agency requirement had been inadvertently omitted from the solicitation", that being the requirement that the contractor maintained a local office within the city. Rather than having Your Honorable Board rescind its earlier contract award to Harris, the Bureau merely requested Your Honorable Board on 1-19-2011 to "amend" Harris' contract to add a requirement that Harris be required to maintain a local Baltimore office. To illustrate the Bureau's strong favorable treatment toward white-owned vendors, although the contract amendment was approved in January, 2011, the Bureau has yet to require Harris to open and maintain a local Baltimore office as specifically required by the amended contract.

CONCLUSION

For the above stated reasons, Your Honorable Board must reject the Bureau of Purchases' recommendations to rescind B50001849, and to reject all bids thereon. The Board should not and must not countenance the arbitrariness and wrong-doings of the Bureau and its officials in this procurement.

I intend to appear at Your Honorable Board's Public meeting on 06/08/2011 to give oral arguments as to why Your Honorable Board must reject the Bureau's recommendations to rescind B50001849 and to reject all bids thereon. Thank You for your kind and favorable consideration of this matter.

Respectfully Submitted,



Arnold M. Jolivet
Managing Director

Cc: Ms. Corine Valentine
President/CEO, Affordable Carpet Cleaning, Corp.

MMCA- Maryland Minority Contractors Association, Inc.

A Chapter of the American Minority Contractors and Businesses Association, Inc.-AMCBA

Baltimore, Maryland 21210

443-413-3011 Phone

410-323-0932 Fax

REVISED PROTEST

June 7, 2011

VIA Facsimile 410-685-4416

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

Re: Protest Against the Honorable Board of Estimates Approving the Bureau of Purchases' Recommendation to Rescind Award and Reject all bids on B50001849-Provide Floor Stripping and Waxing Services for Various City of Baltimore Agencies-Item No. 1-Page 81-Board of Estimates 06/08/2011 Agenda

Dear Mr. President:

I represent Maryland Minority Contractors Association, Inc. (MMCA) and Affordable Carpet Cleaning Corporation (Affordable Carpet) and we strongly protest your Honorable Board voting to approve the Bureau of Purchases' recommendation to rescind the above cited city contract award and reject all bids thereon. Affordable Carpet is a member of MMCA and both MMCA and Affordable Carpet will suffer irreparable injury if for any reason(s) your Honorable Board accepts the recommendation of the Bureau of Purchases and votes to rescind award and reject all bids on B50001849.

COMPT/BOE JUN 7 '11 PM 2:41

The Bureau of Purchases has failed to make a prima facie case in support of Your Honorable Board rescinding this award and rejecting all bids thereon. The Bureau has merely alleged as reason(s) for its recommendation to rescind and reject this award that, after Your Honorable Board's May 4, 2011 formal award, "it was later discovered that a key agency requirement had been inadvertently omitted from the solicitation." No more detailed information describing the "key agency requirement" that "had been inadvertently omitted from the solicitation," was provided to Your Honorable Board, Affordable Carpet or any other bidder. As the successful bidder on B50001849, Affordable Carpet possessed a protected property interest in B50001849, and as such, the Bureau of Purchases was required to identify and inform Affordable Carpet of the exact and specific "key agency requirement [that] had been inadvertently omitted from the solicitation." The Bureau of Purchases failed both the contract awardee and the City in the very arbitrary and discriminating manner in which the Bureau decided and ultimately managed this procurement.

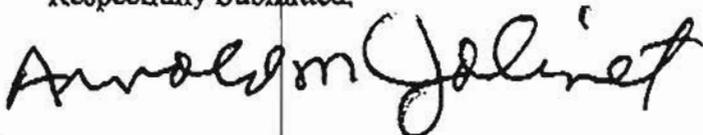
It is important to point out that in past cases wherein the Bureau legitimately "later discovered that a key agency requirement had been inadvertently omitted from the solicitation," the Bureau did not recommend that Your Honorable Board "rescind" the award and reject all bids. For example, on 12-8-2010, the Bureau selected and the Board approved a contract to Harris and Harris for collection of City delinquent parking fines. The Bureau later discovered that a "key agency requirement had been inadvertently omitted from the solicitation", that being the requirement that the contractor maintained a local office within the city. Rather than having Your Honorable Board rescind its earlier contract award to Harris, the Bureau merely requested Your Honorable Board on 1-19-2011 to "amend" Harris' contract to add a requirement that Harris be required to maintain a local Baltimore office. Although the Bureau alleges that it awarded Affordable Carpet the subject contract in error, inasmuch as Affordable carpet has substantially relied on the correctness of the Bureau's award, the Bureau and this Honorable Board are estopped from "rescinding," this award and from "rejecting" all bids thereon.

CONCLUSION

For the above stated reasons, Your Honorable Board must reject the Bureau of Purchases' recommendations to rescind B50001849, and to reject all bids thereon. The Board should not and must not countenance the imperfections and shortcomings of the Bureau and its officials in this procurement.

I intend to appear at Your Honorable Board's Public meeting on 06/08/2011 to give oral arguments as to why Your Honorable Board must reject the Bureau's recommendations to rescind B50001849 and to reject all bids thereon. Thank You for your kind and favorable consideration of this matter.

Respectfully Submitted,



Arnold M. Jolivet
Managing Director

Cc: Ms. Corine Valentine
President/CEO, Affordable Carpet Cleaning, Corp.

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

2. B50001705, Mowing & Debris Removal for Vacant Lots and Abandoned Properties Evergreen Landscape & Design Corp. \$ 779,600.00

MBE: Grass Roots Landscaping Company, Inc. \$210,492.00 27.00%

WBE: Rags 2 Riches Cleaning Services \$ 77,960.00 10.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

3. B50001829, Case Management System Legal Files Software, Inc. \$ 34,734.00

MWBOO GRANTED A WAIVER

4. B50001918, Square Tapered Steel Poles Power-Lite Industries, Inc. \$ 12,375.00

MWBOO GRANTED A WAIVER

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Water & Wastewater

5.	SC 871R, Improve- ments to Herring Run Interceptors Phase I from Argonne Drive to 675 Feet Southeast of Harford Road	Cruz Contractors, LLC.	\$11,735,403.00
MBE:	HGP, LLC	\$205,369.00	1.75% ¹
	Pioneer Contracting Company, Inc.	273,620.00	2.33%
	K-O Construction, Inc.	310,815.00	2.65%
	R.E. Harrington Plumbing & Heating	<u>130,000.00</u> \$919,804.00	<u>1.11%</u> 7.84%
WBE:	Comer Construction, Inc.	\$ 80,000.00	.68%
	Haines Industries, Inc.	50,000.00	.43%
	R & R Contracting Utilities, Inc.	230,000.00	1.96%
	Best Fence, LLC		See Note ²
	William T. King, Inc.	<u>60,000.00</u>	<u>.51%</u>
		\$420,000.00	3.58%

¹ Not more than 25% of each MBE or WBE goal may be attained by expenditures to MBE/WBE suppliers that are not manufacturers; therefore, the maximum value allowed has been applied.

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Bureau of Water & Wastewater - cont'd

² Best Fence, LLC is listed on Part B: WBE Participation Disclosure Form. Best Fence, LLC is certified as a MBE with Baltimore City and cannot be used to meet the WBE goal.

MWBOO FOUND VENDOR IN COMPLIANCE.

A PROTEST HAS BEEN RECEIVED FROM ROBERT FULTON DASHIELL ON BEHALF OF CARP-SECA CORPORATION.

A PROTEST HAS BEEN RECEIVED FROM BRADSHAW CONSTRUCTION COMPANY.

CORRESPONDENCE IN OPPOSITION OF CARP SECA'S PROTEST HAS BEEN RECEIVED FROM ASMAR, SCHOR & MCKENNA ON BEHALF OF CRUZ CONTRACTORS OF MARYLAND, LLC.

6. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 9,139,531.29	9956-905410-9549	
Water Utility	Constr. Reserve	
Funds	Improve Herring	
	Run Interceptor	
6,351,199.71	" "	
Balto. County		
\$15,490,731.00		
\$ 1,173,540.00	-----	9956-911411-9551-3
		Extra Work
1,173,540.00	-----	9956-911411-9551-3
		Engineering

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RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Bureau of Water & Wastewater

704,124.00	-----	9956-911411-9551-5
		Inspection
11,735,403.00	-----	9956-911411-9551-6
		Construction
<u>704,124.00</u>	-----	9956-911411-9551-9
\$15,490,731.00		Administrative

The funds are required to cover the costs of the award for SC 871R, Improvements to the Herring Run Interceptor Phase I, Argonne Drive to Harford Road.

President: "The second item on the non-routine agenda can be found on page 82 - 83 item nos. 5 and 6, SC 871R, Improvements to Herring Run Interceptors Phase I from Argonne Drive to 675 Feet Southeast of Harford Road and related Transfer of Funds. Will representatives from the Department of Public Works and Carp Seca Corporation please come forward?"

John Friesner: "Mr. President, Madam Mayor, members of the Board, my name is John Friesner from the Department of Public Works. Sanitary Contract 871R, Improvements to Herring Run Interceptors is the reason we are here this morning. Five bids were received; they range from \$11,735,403.00 to \$14,235,300.00. We are recommending award to the low bidder, Cruz Contractors, LLC, and we have received multiple protests about that recommendation."

President: "Okay"

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Robert Dashiell: "Mr. President and Members of the Board my name is Robert Dashiell and I represent the Carp Seca Corporation along and with me is the Vice president Steve Lewis and I would be remiss if I did not acknowledge my boss over there, Lisa Jones."

President: "You can go ahead."

Robert Dashiell: "Okay. Mr. President and Members of the Board we filed a protest because the recommendation from the Department of Public Works frankly - as supported by the Law Department's memorandum I believe would cause this Board to seriously undermine the integrity of the bidding process and violate certain established, well known established principles including the City's own green book specification which says that matters outside of the four corners of the bid will not be considered in determining the - - either the responsiveness of the bidder or the responsibility of the bidder and I have to put this in some context for you because public procurement is not like private contracting. There is a higher standard required because public procurement involves not just taxpayer dollars but also the public trust and so in every case the ultimate objective is to making sure there is a level playing field and every bidder is treated exactly the same, that no bidder is given the opportunity to have what's been called - - so called

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"Two bites at that apple". Now placed in that context I want to discuss just a couple seconds the issues that we have raised. Not necessarily in the order of importance but in the order that they occurred in the some of the papers that I have written. The first involves the Bid bond and the consent of surety issue. The Bid documents require and the City Charter in fact require that the bids submitted to the City are irrevocable. In this instance Cruz Contracting submitted a bid bond which -- on the City's bid bond form, which reflected its acknowledgement of the obligation with respect to the duration of the bid bond and acknowledged its obligation if awarded a contract to furnish the necessary surety bonds. In its bid however, and with -- no time limitation, so far so good, along with that bid bond however, it submitted another document -- it says gratuitously I think that's true, nevertheless they submitted another document called "Consent of Surety" now the consent of surety -- ahh -- the Consent of Surety acknowledges the fact that if awarded the contract the surety would in fact provide the performance and payment bonds that would be required. The consent of surety form qualified the terms of the bid bond because of the Consent of Surety the insurer says "I will only issue those performance and payment bonds if the City makes timely award of the contract." That is a significant qualification. That is a

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significant qualification, it qualifies -- it conditions -- the surety's obligation to do the very things it was obliged to do under the terms of bid bond. It is no different than if it had been scratched out and inserted the word timely in that. It is absolutely no difference. Now, of course the - - Cruz argues that the Consent of Surety form was submitted along with this bid gratuitously. Now I probably would have said the same thing. I think that what this Board has to think is that it was submitted for a good reason, that it was intended to have a certain purpose. I believe and I submit that it is possible, and that another thing I want to emphasize here, we might want to talk about what Cruz really intended, we are talking about whether based upon the four corners of its bid there was the opportunity to make the argument, if there was the opportunity to make the argument, the bid is non-responsive. That is public procurement law and its harsh, granted it is harsh but it was designed so and made so over the years because of the public trust and the requirement that all the bidders have the level playing field. So, in effect the bid bond does not conform to the requirements of the specifications and the City Charter and therefore the bid itself is non-responsive. Now, with respect to the other issues, there are issues with respect to --

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Michael Crawley: "May I respond?"

Robert Dashiell: "I heard that, you want me to stop and allow -

Mayor: "If that is okay with you?"

Robert Dashiell: "Yeah, Sure."

Michael Crawley: "Mr. President and members of the Board, my name is Michael Crawley. -- Hello -- Mr. President and members of the Board, my name is Michael Crawley; I am here today on behalf of Cruz Contracts to respond as an interested party being notified as to the intent to award the contract. I would like to say a number of things, I will respond point by point and step back when another issue is raised. But, as a preliminary matter, I think that you should understand the context within which -- that the award of a procurement or intent to award was raised and in this instance the protester has a burden of proving that the procurement officer's decision was contrary, capricious or abuse of discretion. So, within that context, analyzing the first issue of the bid bond I would like to point out that the bid bond was not modified in any manner it was the bid bond form submitted by the solicitation and the consent of surety was intent to issue payment bonds, it was not to issue consent to be bound by the bid bond. The bid bond and the payment bonds are two completely different items. The bid bond is a- um- is insurance submitted by the Contractor stating that

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if he is awarded the contract and he pulls out for some reason then he owes money to the City for its losses. A payment bond is something that a contracting -- a contractor issues with his surety throughout the course of the project if something goes wrong and the contractor can't satisfy the damages incurred by any sub-contractors, that those sub-contractors can pursue the payment bond surety, Hartford in this instance, for their damages and then there is also a performance bond so for instance if Cruz contractors or any contractors who issued the performance bond could not satisfy the obligation of the contract; became insolvent due to bankruptcy or whatever then the surety would be obliged to finish the project cooperating with the City. So, the payment bond, performance bond and bid bond are two completely different sureties, they are two completely different issues. The bid bond that Cruz Contractors issued was issued on the exact same document that the solicitation was offered on it was not modified in anyway. A Consent of Surety, which is something New York and New Jersey often requires and Cruz Contractors often does business up there, as well was sent by its -- by Hartford, the surety, gratuitously, which means it was not requested. It was just sent to indicate it was willing to issue the payment and performance bond surety for the project. Now, a bid bond is an issue of

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responsiveness which means that if there is a defect in the bid bond then you can ding the solicitation, ding the bid proposal right off the bat and its gone. A payment bond -- a performance bond are issues of responsibility which means that if there is a problem with it the contracting office has the right and obligation to contact the contractor or whomever to determine whether or not they can award them the contract. So, we should be very clear that these are two entirely different issues. The bid bond was in the contract, in the solicitation as it was supposed to be and the consent of surety was gratuitously provided and even setting aside all of that, putting timely in a consent of surety which is not at all related to a bid bond and does not even make a bid irregular, its just the use of the word timely, which means that once the bid is awarded we will comply with everything that the City demands. So, even if the initial argument submitted by Carp-Seca was valid the use of the word timely would not even modify anything in the first place. So, on those two bases I would respectfully suggest and humbly submit that you respect the contracting office's wishes to award the contract to in this regards to Cruz Contractors."

Mayor: "Do you have anything to add?"

Michael Schrock: "Michael Schrock, Assistant City Solicitor. I just wanted to add, echo what Cruz Contractors' attorney said in

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furthermore I think he got a little ahead of the case in that the bid bond has been executed and it is effective. So, if Cruz Contractors does not end up signing the contract, if the Board decides to award it to them then and the performance bonds were actually executed then the City can collect on that 2% of the bid of the award amount so that's really where we are at, we are not even really to the point of the performance and payment bonds issue. I just wanted to clarify that."

City Solicitor: "Now I think Mr. Schrock wrote a memorandum on May 18, 2011 in which you addressed this issue and made in shorter, fewer words the point that was made by Cruz's counsel here, have you heard or read anything from Mr. Dashiell otherwise since then to change the views expressed in that May 18, memorandum?"

Michael Schrock: "No, I haven't."

City Solicitor: "Thank you."

President: "I will let you respond, Okay."

Robert Dashiell: "The issue here is not whether a bid bond is different from a performance and payment bond. The issue here is in the very terms of the bid bond itself it requires that the contractor provide the performance and payment bonds. Now that same contractor has submitted a consent of surety limiting its obligation to do so by requiring that the contract be timely

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awarded. That is not rocket science its just the words of the document and the document was submitted with the bid and it was submitted to have a point. I am not -- we do not have to know what that point was, all we have to know is that it was there, its a consent of surety and it says it will perform only if the award is timely made which is in direct contradiction of the obligation set forth in the bid bonds. The next point is we had this very issue, very issue Mr. President, several years ago for another client of mine who did not use the City's bid bond form they used the AIA bid form. The only distinction between the AIA bid form and the City's bid form is that the AIA bid form said on its face that it was only good for 90 days. The contract came before this Board within that 90 day period but the client was held, the bid was thrown out as non-responsive simply because it had been qualified by the 90 day term. Simply because of that very reason and I am submitting to you that, that Consent of Surety is a qualification upon the obligation that is required to be -- that is required to be undertaken under the bid bond. Now, I am going to move on, I am going to move on."

City Solicitor: "Go ahead."

Robert Dashiell: "The other requirements which go to the legal sufficiency, the legal sufficiency of various signatures on the bid documents. Now, remember keep in mind the law requires that

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these issues be determined from within the four corners of the bid itself. Anytime you have to go outside the bid for clarification, for modification, for understanding you have already violated the terms of the applicable law. In this case, in this case Cruz submitted bid documents signed by a person who identified himself only as a member. Cruz is an "LLC"; it is authorized to enter into contracts signed by a managing member, by a managing member. Nearly all of the documents that were signed by Antonio Cruz, Antonio Cardozo, I'm sorry who identified himself only as a member. Now, the City learned after the fact that supposedly back in December Mr. Cardozo's position within the company was elevated within the company on December 29th, he was made a managing member which happened to be about two weeks before this bid was submitted. I submit to you that the opportunity after bids are submitted to create a set of scenarios, if you will that conforms to the facts as you would want them to be is too enticing. I submit to you that the Board ought not to accept that, that you ought stay within the green book specifications, you are to stay within the applicable law and - and - because that's is the only thing, that's the only guarantee that there has been a level playing field. That's the only guarantee that nobody has done anything after the bids are submitted that is intended to affect the contents and the very

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substance of the very bid, and the obligation of the bidder to be bound by the terms of the offer is obviously a material concern. Obviously the obligation of the bidder to be bound by the terms of the bid is essential. We don't know, and I read this Law Department's response, the Law Department says that the bid affidavit was signed by all of the members, we don't know that. There is nothing in the bid that says those seven or eight signatures constitute all of the members of the "LLC". The Law Department says, the Law Department says that Mr. Cardoza is a managing member, we don't know that, because it does not appear within the four corners of the bid documents, in fact and I will make this, I will tie this into my third and final argument so we can sort of package it up and move it along. The third and final argument which also has to do with "Legal sufficiency of a signature" and it is not an MBE issue, it has to do with one of the MBE's that Cruz included in its Bid to perform, supposedly to perform certain work on this job. Let me point out two things. Number 1, we don't know who signed that form on behalf of Cruz, there is a signature but no name under it, that's on one side, if you look at the document, its attached to the exhibits I have submitted to you, we don't even know who signed off on behalf of Cruz, you can't read the signature. It is very much unlike other signatures that appear

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in the document purporting to be Antonio Cardozas', but it doesn't matter, there is no name under it. So, the form fails for that reason. Secondly, an issue that have been raised and discussed previously, and the Law Department never addressed, is the issue of the rubber stamp, the issue of the rubber stamp. Now, the question is not whether somebody can use a rubber stamp as symbol of their signature, you can use an "X" if you want. That's not my point, but the law says that you have got to have something that signifies the signature was authorized to be used. I can order a signature stamp on the internet, I have a copy of your signature (indicates the Mayor), I have a copy of President Young's signature, I am not sure if I have a copy of Mr. Nilson's, I can go home and order all the signature stamps I want. On the internet, \$10.00, \$15.00, how do we know that Robert Harrington authorized that stamp could be used, the Law says the only way you can accept a rubber stamp is if there is an original of something or the corporate seal or something attesting to that; that indeed was an authorized act. We don't have that here from Robert Harrington. It may have been supplied afterwards, but what if it had not been supplied afterwards? What if, what if the authorization for the first time came afterwards? That is the danger in allowing documents and information after the bid to be submitted. In fact one of the

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cases submitted by the Law Department confirms my point about rubber stamp signatures. The Comptroller General said that a stamped signatures that has not been authenticated is not acceptable. So, we all agree on that point. Now, the only response that I seen from anybody is somewhere in the area of MBE's, that's alright we can allow that after the fact. Well you know that might be true standing in front of the Maryland Department of Transportation or even in front of the Board of Public Works, but that has never been true in Baltimore City. In Baltimore City under this ordinance we have always said, this Board has always said, in fact I'm going to tell you this, (SC 871) that my client was the low bidder on, there was the single issue of a comma in the description of the MBE's work; that wasn't initialed, supposedly by the MBE. Now, afterwards the MBE submitted the same document to the City confirming that it indeed they had agreed to it, we were disqualified; for a comma. We were not permitted after bid opening to - to, even though it was submitted, it was not given any concern or regard whatsoever and the job was rebid. You didn't hear about it because in most cases you don't hear discussion when contracts are rebid so the information would not have been brought to your attention, but that's what happened. We lost that first contract because of a comma. So, here we have a situation where you have a

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rubber stamp, no corporate seal, no original signature from any officer of the company and its on a document that is signed by supposedly a prime contractor and we don't even know who signed it because there is no name under it. Mr. President, with all these factors, with all these factors, this has not been a level playing field for my client. These are not minor things, this is public procurement, this is public trust. Thank you."

President: "Thank you, anybody want to respond to that."

Michael Crawley: "I would, Mr. President, members of the Board Counsel for Carp Seca set forth two issues I will address them one at a time. The first issue being that the signature of Mr. Cardoza did not evince an intent to be bound and I want to note that, that is really the issue. It is whether or not the signatures in the bid evinced an intent to be bound and whether or not from that bid submission Cruz Contractors would in fact be bound. I would like to note that within the bid documents itself Cruz Contractors submitted the bid - ahh - the signatures of all twelve members of Cruz Contractors. I think that, that went above and beyond the LLC evinced an intent to be bound and that is the Law. So, with those signatures and with Mr. Cardoza as a member executing and signing that throughout we evinced the intent and beyond that Mr. Cardozo executed an affidavit with the bid bond attesting to this fact. So, he swore under oath

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and the penalty of perjury that as a member of Cruz Contractors it evinced an intent to be bound. It is sort of a straight faced test argument, when reading this bid would you think that the Bid indicated or evinced an intent for Cruz Contractors to be bound? It is patently obvious that he did, notwithstanding the points raised by opposing counsel. Furthermore, there is some law, - some law on this fact and I don't know the extent to which this body is bound by MSBCA decisions but it is there and somewhat persuasive in that they are a body that rules on contracting matters with the State and - ah - in the matter of Century Construction the MSBCA ruled that the signature of a non-officer of a corporation on affidavit who is in fact authorized to sign the affidavit does not render a bid nonresponsive. Well, in this instance we have a member of the LLC who swore upon the penalty of perjury that Cruz Contractors would be bound so if, if the level set forth in Century is any indication of Maryland Law on this matter then by all means Cruz Contractors has risen to that level and far past it in evincing an intent to be bound in its bid submission. I would like to see if uhm --

City Solicitor: "You have to move this quickly --

Michael Schrock: "First off -- authorized people authorized persons of Cruz Contractors signed the bid documents and that is

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shown, the operating agreement shows that that those persons were managing members, members, we had them all sign, they signed - even Federal Contract Law, Maryland Contract Law says after the bid is received you can look at and request documents that show who has the authority to sign documents. So, that is not outside the four corners of -- you know -- its something that is allowed, it is something to responsibility, not responsiveness. And finally, I would like to add on that Century case that he mentioned, I mean there is a line right in here even says "regarding the MBE utilization" this is a State Case "affidavit, in this case the terms of the contract themselves require compliance with the applicable MBE goals which are bids due, or solicitation, thus an improperly signed MBE utilization affidavit or even no affidavit at all will not diminish the contractor's MBE obligations."

President: "Okay, well does anyone -- is any representative from Bradshaw here? Are they here Okay"

City Solicitor: "Well, ahh they filed, they filed the first protest raising the ahh unbalanced Bid allegations against both of the companies up here represented before us."

President: "Okay, Well, I am calling for the motion."

City Solicitor: "I think the only other issue here regarding Mr. Dashiell you presented in writing which is the names not the

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same? The issue about the name not registered, is that right?

Is that the only other issue that you have?"

Robert Dashiell: "You mean about the Registration in Maryland, if I -- if I could "

City Solicitor: "Is that the only other issue that you have?"

Robert Dashiell: "That is the only other issue that I haven't spoken to, but can I have ten seconds?"

City Solicitor: "You can Ask Mr. President."

President: "You can only have ten seconds because we have to move on."

Robert Dashiell: "The case that the Law Department references talks about a signature on an affidavit that is, that is after the bidders intent has been clearly established by other documents. Cruz's documents created the ambiguity here because there is a signature of a person who claims to be a managing member who under Law is the only one who could sign, which questions Mr. Cardoza's signature. Secondly, again, the Law Department again today has, the only response they have to the rubber stamp issue is somehow or another it is okay to fix that after the Bid. Well, it wasn't okay for us to fix it after the bid when on 871, why is okay now for them to fix something that goes to the very essence of the commitment itself after the bid? That's wrong, that is not fair."

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City Solicitor: "In making the motion to reject the Bid Protest and authorize the award of the Bid as recommended by the Department, I would just like to say in regards to Carp Seca because I have some personal knowledge of this, they have been a terrific contractor -- they have responded to community requests for since (inaudible) and that the Mayor certainly remembers fondly, where they reached out and went above and beyond and did things for the benefits of the community. So, they are the perfect contractor -- that you know that doesn't you know alter the fact that we are here to reach just rulings in connection with your bid protest and so I would move that we reject it."

President: "I will entertain a Motion."

Comptroller: "Second."

President: "All those in favor say AYE. All opposed NAY. Please note that I **ABSTAIN**. The Motion carries. Thank you."

* * * * *

Robert Fulton Dashiell, Esquire, P.A.

1498 Reisterstown Road, Suite 334
Pikesville, MD 21208-3842
410-547-8820 – Office * 443-637-3718 – Fax

Robert Fulton Dashiell
robertdashiell@dashlell-lawoffice.com

Senchal D. Barrolle
sbarrolle@dashlell-lawoffice.com
(NY, NJ and DC only)

April 14, 2011

Honorable Members of Baltimore City Board of Estimates
C/O Harriett Taylor, Secretary/Deputy Comptroller
100 Holliday, Suite 204
Baltimore, Maryland 21202

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

Re: Sanitary Contract # 871R

Dear Board Members:

I understand that a recommendation is to be made to award the above referenced contract (the "Contract") to Cruz Contractors, LLC ("Cruz"). Please accept this protest by my client, Carp-Seca Corporation ("Carp-Seca"), to the award of the Contract to Cruz or any party other than Carp-Seca, the bidder that submitted the lowest, responsive bid. The amount of Carp-Seca's bid was \$11,911,911.00; Cruz's bid's was \$11,735,403. For the reasons set forth below, we submit that the bid submitted by Cruz was non-responsive and must, therefore, be rejected.

A. BID SUBMISSION DEFECTS

1. Art. VI, sec.11 (h) (1) (iv) of the Charter provides that "once filed all bids are irrevocable". That requirement is incorporated in section 2113.13 of the City Standard Specifications (Green Book) and on the bid bond form included in the bid documents for the Contract. It is clear, therefore, that the irrevocability of bids is mandatory and non-compliance may

not be excused as a minor irregularity. McNamara-Lunz Vans and Warehouses, Inc., Comp. Gen. Dec. B-188100 (1977); Madigan Construction Company, Inc., MSBCA-1350 (1987). Cruz attached a consent of surety form to its bid bond which requires the city to make "timely award" (Exh.1), thereby modifying the mandatory bid irrevocability term to a period determined by Cruz and/or its surety as "timely". Cruz, then, reserved the right to withdraw its bid at any time by claiming the City had taken too long to make an award. That modification may neither be corrected nor explained after bid opening because to do so would afford Cruz the proverbial "two bites at the apple". As this Board determined in a similar case involving V&S Contractors about ten years ago, the fact that Cruz may not have withdrawn its bid is irrelevant.

2. Cruz Contractors, LLC is a New Jersey limited liability company which, pursuant to title 4A-1002 (a) of the Corporations and Associations Article of the Maryland Code (the "Code"), is registered to do business in Maryland under the name Cruz Contractors of Maryland, LLC. Pursuant to 4A-1007 of the Code, issues relating to Cruz's internal affairs are to be resolved in accordance to the provisions of the laws of the state of New Jersey. NJ Code, **42:2B-27, (a)(1)**, says:

Unless otherwise provided in an operating agreement, the management of a limited liability company shall be vested in its members in proportion to the then current percentage or other interest of members in the profits of the limited liability company owned by all of the members, the decision of members owning more than 50 percent of the then current percentage or other interest in the profits controlling; **(2) provided, however, that if an operating agreement provides for the management, in whole or in part, of a limited liability company by one or more managers, the management of the limited liability company, to the extent so provided, shall be vested in the manager.**

The affidavit submitted by Cruz certifying its bid price is not signed, but directs attention to a separate sheet which purports to set forth the signatures of members of Cruz (Exh.2) There is no indication whether the signatories constitute all of Cruz's members or of what ownership or voting percentage the signatories have or control. For that reason, the affidavit would be totally ineffective but for the designation of Licinio Cruz as the managing member. That's because under New Jersey law the managing member is vested with management authority, unless otherwise provided in Cruz's operating agreement, which was not submitted. Significantly, the general bidder affidavit (Exh.3), bid bond (Exh.4) and all of the M/WBE Statements of Intent (Exh.5) are signed not by Licinio Cruz, the managing member, but by or purportedly by Antonio Cardoso as a member.

Cruz did not submit an attestation by the managing member or other members of Cardoso's authority to sign the bid bond, general affidavit or any other documents on behalf of the company. Thus, there is nothing within the four corners of Cruz's bid from which it can be determined that Cardoso had such authorization. Section 2113.10 of the Standard Specifications (Green Book), as well as the bid documents, requires all bids to be properly executed, meaning signed where required by an authorized individual. Where, as here, required bid documents are signed by an individual without the apparent authority to do so and whose authority cannot be determined from within the four corners of the bid, the bid must be rejected as non-responsive.

3. As stated in paragraph 2 above, Cruz is authorized to do business in the State of Maryland as Cruz Contractors of Maryland, LLC (Exh.6). However, the bid was submitted by Cruz Contractors, LLC. If this was the only irregularity in Cruz's bid the City might properly regard it as minor. With all the other issues discussed above, this variation adds to the uncertainty of the bidder's authority.

B. MBE NON COMPLIANCE

The MBE participation goal on the contract is 7%. Cruz submitted a Statement of Intent (SOI) with a minority firm named R.E. Harrington Heating and Plumbing (Harrington) as part of its MBE package (Exh.7). Without the proposed Harrington subcontract Cruz's bid would be deemed non-compliant, as no waiver request was submitted. In addition to the discrepancy regarding the authority of the Cruz signatory to the Harrington SOI, the purported stamped signature of Harrington was not attested to and cannot be authenticated from the bid documents. The corporate seal is not imprinted over the stamped signature and it is not attested to by the corporate secretary. Accordingly, the City cannot determine from the bid documents who affixed the Harrington signature stamp or whether that person was authorized to do so.

In a case of first impression, the Maryland State Board of Contract Appeals (MSBCA) considered the issue of stamped signatures in Baltimore Pile Driving and Marine Construction, MSBCA 2549 (2006). There MSBCA reversed the decision of the State Highway Administration and found that the stamped signature of the low bidder did not render its bid non responsive because it was **attested to by the original, manually scribed signature of the corporate secretary and embossed with the corporate seal** and the stamp was affixed thereto by the signer. None of those qualifying facts is present here. Moreover, as stated previously, extrinsic evidence, information obtained from sources other than the four corners of the bid documents, may not be relied upon

to cure that defect. Thus, we respectfully submit that the Harrington subcontract may not be counted towards Cruz's MBE goal because, as a matter of law, the Harrington SOI is unsigned by Harrington.

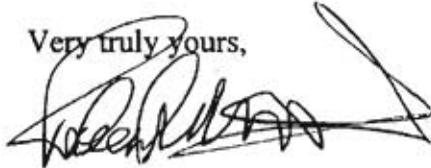
C. Conclusion

Succinctly put, the issue is whether a reasonable person could conclude that a genuine question exists as to whether the bid documents submitted by Cruz were properly executed. If the answer to that query is yes, the City must reject Cruz's bid as non-responsive because to do otherwise would afford Cruz the proverbial "two bites at the apple." This the law prohibits. See, S. W. Monroe Constr. Co., B-256382, 94-1CPD ¶ 362 (Comp. Gen. 1994) ("post-bid opening explanations as to what is included in a bid cannot be considered, since they would give bidders 'two bites at the apple'; a bidder could decide after viewing the bids whether or not to provide an explanation that would make its bid acceptable."); Gammon Technical Products, Inc., B-257497, 94-1 CPD ¶ 370 (Comp. Gen. 1994) ("the bidder may not be given the opportunity, after bid opening, to explain or remedy the bid defect because the government would have no recourse against the bidder regardless of whether the bidder chooses to cure the defect or allows it to remain; the bidder would have the unfettered choice, after bid opening, of remaining in the competition or abandoning its bid. To allow a bidder such 'two bites at the apple' is inconsistent with the principles of competitive bidding."); R. O. Contracting Co., B-235496, 89-2 CPD ¶ 200 (Comp. Gen. 1989) ("A nonresponsive bid cannot be made responsive by explanations after bid opening.....to permit RO to explain its bid or to insert a price for these costs would be providing it two bites at the apple and according it the advantage of deciding after bid opening whether to make its bid responsive."); Welch Constr., Inc., B-183173, 75-1 CPD ¶ 146 (Comp. Gen. 1975) ("The integrity of the competitive bidding system demands that all bidders be treated equally and that all be allowed to compete on an equal basis An essential element of this concept is that bidders not be permitted to decide, after bid opening, whether or not to have their bids rejected. Any such procedure, 'which permits a bidder "two bites at the apple," tends to subvert the purposes of the statutes governing procurement under competitive procedures.").

Based upon the facts present here, we respectfully submit that the crucial question must be answered in the affirmative and,

therefore, that the contract must be awarded to Carp-Seca as the lowest responsive and responsible bidder.

Very truly yours,

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

Robert Fulton Dashiell, Esq.

Exhibit List

1. Cruz Consent of Surety
2. Cruz Bid Price Affidavit
3. General Affidavit
4. Bid Bond
5. Statements of Intent
6. Cruz Maryland Registration
7. Harrington Statement of Intent

**HANOVER INSURANCE
CONSENT OF SURETY**

We, the undersigned, **The Hanover Insurance Company**, a corporation organized and existing under the laws of the State of NH and authorized to do business in the State of MD with offices at Worcester, Ma. do hereby consent and agree with MAYOR AND CITY COUNCIL OF BALTIMORE

that if the foregoing proposal of CRUZ CONTRACTORS LLC

for SC 871R - IMPROVEMENTS TO HERRING RUN INTERCEPTORS PHASE 1 FROM ARGONNE DRIVE TO 675 FEET SOUTHEAST OF HARFORD ROAD

be accepted and the contract be timely awarded to CRUZ CONTRACTORS LLC

we will, upon its being so awarded and entered into, become surety for the said

CRUZ CONTRACTORS LLC

in a sum not to exceed ONE HUNDRED PERCENT OF BID AMOUNT

Dollars (\$____) for the faithful performance of said contract.

Signed, Sealed and dated this 12TH day of JANUARY, 2011

THE HANOVER INSURANCE COMPANY

By: Pamela Boyle

Pamela Boyle

Attorney-in-fact

JAN 19 PM 04:24

ACKNOWLEDGEMENT OF SURETY

State of New Jersey]
County of Passaic]-ss

On 01/12/2011, before me personally came PAMELA BOYLE to me known, who, being by me duly sworn, did depose and say that she is an attorney-in-fact of THE HANOVER INSURANCE COMPANY the corporation described in and which executed the within instrument; that she knows the corporate seal of said corporation, and that the seal affixed to the within instrument is such corporate seal, and that she signed the said instrument and affixed the said seal as Attorney-in-Fact by authority of the Board of Directors of said corporation and by authority of this office under the Standing Resolutions thereof.

My Commission expires:

Averia DeBose
Notary Public

AVERIA I DEBOSE
NOTARY PUBLIC
STATE OF NEW JERSEY
OFFICE: 111 NEW BRUNSWICK ST. SUITE 201

JAN 19 PM04:24

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWERS OF ATTORNEY
CERTIFIED COPY

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

Louis A. Vlahakis, Michael Culmen, Pamela Boyle, Lisa Nosal, and/or Robert E. Culmen

of Totowa, NJ and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated

any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows: Any such obligations in the United States, not to exceed Forty Million and No/100 (\$40,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Assistant Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of claim and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by a Vice President and an Assistant Vice President, this 22nd day of September 2008.



THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Mary Jeanne Anderson, Vice President

Robert K. Grannon, Assistant Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 22nd day of September 2008, before me came the above named Vice President and Assistant Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



Barbara A. Starlick
Notary Public

My commission expires on November 3, 2011

I, the undersigned Assistant Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America:

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereof, granted and executed by the President or any Vice President in conjunction with any Assistant Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 12TH day of JANUARY, 20 11.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Stanley L. Grant, Assistant Vice President

JAN 19 PM 04:24

NOTE: NO INFORMATION OTHER THAN THAT INCLUDED IN OR ATTACHED TO THIS ORIGINAL BID DOCUMENT (WHERE SUCH ATTACHMENT IS PERMITTED) WILL BE USED IN DETERMINING AWARD.

ORIGINAL (NOT TO BE DETACHED)
NOTICE TO BIDDERS

CITY OF BALTIMORE
DEPARTMENT OF PUBLIC WORKS
BUREAU OF WATER AND WASTEWATER

THE COMPLETE (ORIGINAL)
CONTRACT BOOK AND
DUPLICATE OF BID OR
PROPOSAL MUST BE
INCLUDED IN THE
BID ENVELOPE

CONTRACT NUMBER SC 871R

III. BID OR PROPOSAL

Bids Due January 12, 2011

Certified Check or Bank Cashier's Check or Bank Treasurer's Check or Bid Bond Equal to Two Percent (2%) of the Total Bid Submitted.

Days of Completion 540 Consecutive Calendar Days

Liquidated Damages \$500 per Calendar day

Made this 12th day of JANUARY 20 11

By CRUZ CONTRACTORS LLC
(Name)

952 HOLMDEL ROAD, HOLMDEL, NJ 07733
(Address)

The Bidder shall sign below to signify the following:

I/We have received Addendum Nos. ONE
for this Contract.



Signature and Title

To The Board of Estimates of Baltimore City: ANTONIO CARDOSO-MEMBER

I/We the undersigned Contractor, have familiarized myself/ourselves with the Requirements and Stipulations of the Contract Documents, and the site of the proposed work, and fully understand and appreciate the extent and character of the work to be done under the Contract.

JAN 19 PM04:22

The foregoing prices are to include and cover the furnishing of all materials and labor requisite and proper, and the providing of all necessary machinery, tools, apparatus and means for performing the work and the doing of all the above mentioned work as set forth and described in the Contract Documents.

Note: Each and every person Bidding and Named above must sign here.

In case of Firms, give the first and last name of each member, in full, with Title.

In case a Bid shall be submitted by or in behalf of any Corporation, it must be signed in the name of such Corporation by some authorized Officer or Agent, thereof, who shall also subscribe his Name and Title. If practicable, the Seal of the Corporation shall be affixed.

In case a Bid shall be submitted by a joint venture ("JV"), the document that established the JV must be submitted with the bid for verification purposes, and Officers or Agents of all of the firms that are part of the Joint Venture must sign below as acknowledgement of their participation in this bid.

See attached Member's Signatures

WITNESS _____ (SIGNED) _____

(TITLE) _____

WITNESS _____ (SIGNED) _____

(TITLE) _____

WITNESS _____ (SIGNED) _____

(TITLE) _____

JAN 19 PM04: 22



Member's Signatures

Licinio Cruz
Licinio Cruz - Manager Member

Francesco Cangialosi
Francesco Cangialosi - Member

Antonio Cardoso
Antonio Cardoso - Member

Augusto Castanheira
Augusto Castanheira - Member

Maria Clemente
Maria Clemente - Member

Antonio Alves
Antonio Alves - Member

Eugenio Afonso
Eugenio Afonso - Member

Daniel Figueiredo
Daniel Figueiredo - Member

Jose Salgado
Jose Salgado - Member

Manuel Dos Santos
Manuel Dos Santos - Member

Jose Rodrigues
Jose Rodrigues - Member

Eduardo Gomes
Eduardo Gomes - Member

Subscribed and sworn to me this 12th day of January, 2011

Notary Public *Lisa E. Gulino*
My commission expires on _____

JAN 19 PM04:23

LISA E. GULINO
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES 12/28/2011

A. BID/PROPOSAL AFFIDAVIT

INSTRUCTIONS: The following Bid/Proposal Affidavit is a material and integral part of this Bid. Each Bidder shall read it carefully and enter all information required therein prior to executing it before a Notary Public. Failure to properly complete and execute this Bid/Proposal Affidavit will cause your bid to be found non-responsive and it will be rejected by the Board of Estimates.

1. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) Member and the duly authorized representative of (business name) Cruz Contractors LLC and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

2. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

N/A

3. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

JAN 19 PM 04:23

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, false pretences, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the City of Baltimore's Minority and Women's and Business Enterprises Law, Baltimore City Code, Article 5, Subtitle 28;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)-(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (8) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C(1)-(7) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

N/A

4. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

JAN 19 PM04:23

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or

suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

N/A

5. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland and/or Article 5, Subtitle 40, of the Baltimore City Code; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

N/A

6. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

7. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Disclosure By Persons Doing Public Business, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a municipal corporation or a political subdivision of the

JAN 19 PM04:23

State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

8. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

- (1) The business named above is a (domestic) (foreign x) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation.

(If not applicable, so state). _____

- (2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the City of Baltimore and the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, the Department of Labor, Licensing, and Regulation and the City of Baltimore, as applicable.

9. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

10. CERTIFICATION OF WORK CAPACITY AND PREQUALIFICATION CLASSIFICATIONS

I FURTHER AFFIRM THAT:

We hold Certificate No. 30443780 which expires on April 30, 2011.

We have the Work Capacity to perform this contract as provided in the Standard Specifications and in accordance with the rules, regulations and requirements of the Baltimore City Contractors' Qualification Committee.

Furthermore, our current Certificate of Prequalification includes work Classifications covering Contract Items to a total of at least Fifty Percent (50%) of the Aggregate Amount Bid.

JAN 19 PM04:23

11. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit shall be included in my Bid/Proposal and that my failure to furnish it will be considered cause for my Bid/Proposal to be rejected. I further

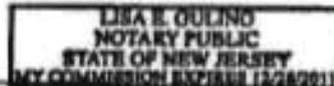
acknowledge that this Affidavit is subject to applicable laws of the United States, the State of Maryland and the City of Baltimore, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify or waive, on behalf of the City of Baltimore, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland and Baltimore City with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

By: [Signature]
Name/Title Antonio Cardoso-Member

Subscribed and sworn to me this 12th day of January 20 11

[Signature]
Notary Public



My commission expires on _____

JAN 19 PM04:24

F. BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____

CRUZ CONTRACTORS LLC

as Principal, and THE HANOVER INSURANCE COMPANY

as Surety, are hereby held and firmly bound unto the Mayor and City Council of Baltimore as Owner, in the amount of at least Two Percent (2%) of the Total Bid submitted for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns. Signed this 12TH day of JANUARY, 20¹¹.

The condition of the above obligation is such that WHEREAS the Principal has submitted to the Board of Estimates of the Mayor and City Council of Baltimore a certain Bid, attached hereto, and hereby made a part hereof to enter into a Contract, in writing, for

SC 871R – Improvements to Herring Run Interceptors Phase I

From Arzonne Drive to 675 Feet Southeast of Harford Road

NOW, THEREFORE,

- (a) If said Bid shall be rejected or in the alternate.
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the form of Contract attached here to (properly completed in accordance with said Bid), and shall furnish a bond for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith and shall in all other respects perform the Agreement created by the acceptance of said bid.

JAN 19 PM04:24

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event, exceed the penal amount of this obligation, as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their Hand and Seals, and such of them as are Corporation have caused their Corporate Seals to be hereto affixed and these presents to be signed by their proper Officers, the day and year first set forth above.

ATTEST:

PRINCIPAL

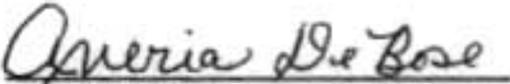
CHIZ CONTRACTORS LLC



ANTONIO CARDOSO-MEMBER

(SEAL)

ATTEST:



AVERIA DEROSE

SURETY THE HANOVER INSURANCE COMPANY



PAMELA BOYLE, ATTY-IN-FACT (SEAL)

JAN 19 PM04:24

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.

Contract Name and Number: Improvements to Harriar Bwn Interceptors Phase I from
Argonne Drive to 675 feet Southeast of Harford Road, SC 871R

Name of Prime Contractor: Cruz Contractors LLC

Name of MBE or WBE: R. E. Harrington Heating & Plumbing

MBE or WBE Certification Number: Baltimore MBE# 03985

Work/Service to be performed by MBE or WBE:
Underground Utilities; Earthwork and site preparation

Materials/Supplies to be Furnished by MBE or WBE:

Subcontract Amount: \$ 130,000.00 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 1.11 %

African American ___ % Asian American ___ %
Hispanic American ___ % Native American ___ %

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

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

[Signature] 1-12-11
Signature of Prime Contractor (REQUIRED) Date

Robert E. Harrington 1/11/11
Signature of MBE or WBE (REQUIRED) Date

JAN-24-1996 23:47

SANITARY CONTRACT NO. 871R

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Harrier Run Interceptors Phase I
from Arrows Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC
Name of MBE or WBE: William T. Koo, Inc.
MBE or WBE Certification Number: 90-00164

Work/Service to be performed by MBE or WBE:
Landscaping, seeding, topsoil, installation
of trees

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 60,000.⁰⁰ (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentages must be included.)
Subcontract percentage of total contract: .51 %

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

African American _____ % Asian American _____ %
Hispanic American _____ % Native American _____ %

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

[Signature]
Signature of Prime Contractor (REQUIRED)
Antonio Cardozo - Member

January 12, 2011

Date

[Signature] V.P.
Signature of MBE or WBE (REQUIRED)

1/12/11
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.

Contract Name and Number: Improvements to Herring Run Interceptors Phase I from Argonne Drive to 675 feet Southeast of Harford Road, SC 871R

Name of Prime Contractor: Cruz Contractors LLC

Name of MBE or WBE: R & R CONTRACTING UTILITIES, INC.

MBE or WBE Certification Number: 95-002874 Exp. 2/19/11

Work/Service to be performed by MBE or WBE:
Sitework and Utilities

Materials/Supplies to be Furnished by MBE or WBE :

Subcontract Amount \$ 230,000.00 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 1.96 %

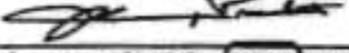
African American ___ % Asian American ___ %
Hispanic American ___ % Native American ___ %

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

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


Signature of Prime Contractor (REQUIRED)
Antonio Cardoso-Member

1/12/11
Date


Signature of MBE or WBE (REQUIRED)
Jennifer DiPietro, President

December 31, 2010
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I
from Arzonne Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC
Name of MBE or WBE: Cover Construction Inc.
MBE or WBE Certification Number: 09-005338

Work/Service to be performed by MBE or WBE:
Trucking / Hauling Services
HEAVY EQUIPMENT AND TRUCK RENTAL
Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 30,000 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 6.8%

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

African American..... % Asian American... %
Hispanic American... % Native American. %

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

[Signature]
Signature of Prime Contractor (REQUIRED)
Antonio Cardoso - Member
[Signature]
Signature of MBE or WBE (REQUIRED)

January 12, 2011
Date
1/12/11
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART
B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I
from Argonne Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC

Name of MBE or (WBE) Haines Industries, Inc.

MBE or WBE Certification Number: 88-00011

Work/Service to be performed by MBE or (WBE):

TRAFFIC MAINTENANCE, INSTALLATION OF PERMANENT
ROAD SIGNS, SIGNAL CONTROL

Materials/Supplies to be furnished by MBE or (WBE):

Subcontract Amount: \$ 50,000.00 (If this is a requirements contract, the
subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 43%

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

African American _____ % Asian American _____ %

Hispanic American _____ % Native American _____ %

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

Antonio Cardozo
Signature of Prime Contractor (REQUIRED)
Antonio Cardozo - Member

January 12, 2011

Date

Elizabeth H. Sluder
Signature of MBE or WBE (REQUIRED)

1-11-11
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I from Arnone Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC
Name of MBE or WBE: Best Feng LLC
MBE or WBE Certification Number: 10-357933

Work/Service to be performed by MBE or WBE:
Fencing - landscape

Materials/Supplies to be furnished by MBE or WBE:
same

Subcontract Amount: \$ 30,672.00 (If this is a requirement contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 26%

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

African American..... % Asian American... %
Hispanic American.... % Native American . %

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

[Signature]
Signature of Prime Contractor (REQUIRED)
Antonio Cardoso

January 12, 2011
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

January 11, 2011
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I
from Aronson Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC
Name of MBE or WBE: K-O Construction, Inc.
MBE or WBE Certification Number: 89-000192

Work/Service to be performed by MBE or WBE:
Concrete Construction/Sewer Construction

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 310,815.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 2.65 %

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

African American..... % Asian American... %
Hispanic American..... % Native American . %

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

[Signature]
Signature of Prime Contractor (REQUIRED)

January 12, 2011
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

January 11, 2011
Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I
from Arceaus Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC

Name of MBE or WBE: PIONEER CONTRACTING CO, INC

MBE or WBE Certification Number: 96-002975

Work/Service to be performed by MBE or WBE:
BITUMINOUS CONCRETE PAVING, Masonry, Excavation,
EROSION AND SEDIMENT CONTROL

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 273,420.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 2.33%

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

African American _____ % Asian American _____ %
Hispanic American _____ % Native American _____ %

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

[Signature] _____ 01/12/11
Signature of Prime Contractor (REQUIRED) Date
[Signature] _____ 01/11/11
Signature of MBE or WBE (REQUIRED) Date

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.
(Make additional copies of this form as needed.)

Contract Number and Title: SC-871R - Improvements to Herring Run Interceptors Phase I
from Argonne Drive 675 feet Southeast of Harford Road

Name of Prime Contractor: Cruz Contractors LLC
Name of MBE or WBE: HCLP LLC
MBE or WBE Certification Number: 09-005268

Work/Service to be performed by MBE or WBE:

Materials/Supplies to be furnished by MBE or WBE:
Construction Material - Pipes

Subcontract Amount: \$ 220,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)
Subcontract percentage of total contract: 1.87 %

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

African American 100 % Asian American... _____ %
Hispanic American ... _____ % Native American . _____ %

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

[Signature]
Signature of Prime Contractor (REQUIRED)
Antonio Ortiz Member
[Signature]
Signature of MBE or WBE (REQUIRED)

January 12, 2011
Date
1/12/11
Date

PART D: MBE/WBE PARTICIPATION AFFIDAVIT
--

The Undersigned authorized representative of Contractor does hereby make the following Affidavit:

Contractor acknowledges the MBE goal of 7 % and the WBE goal of 3 % for the contract SC-871R - Improvements to Herring Run Interceptors Phase I from Argonne Drive 675 feet Southeast of Harford Road.

My firm will make good faith efforts to achieve the MBE and WBE participation goals for this contract. I understand that, if awarded the contract, my firm must submit to the Minority and Women's Business Opportunity Office (MWBOO) copies of all executed agreements with the MBE and WBE firms being utilized to achieve the participation goals and other requirements of Article 5, Subtitle 28 of the Baltimore City Code (2007 Edition). I understand that these documents must be submitted prior to the issuance of a notice to proceed.

I understand that, if awarded the contract, my firm must submit to the MWBOO canceled checks and any other documentation and reports required by MWBOO on a quarterly basis, verifying payments to the MBE and WBE firms utilized on the contract.

I understand that, if I am awarded this contract and I find that I am unable to utilize the MBEs or WBEs identified in my Statements of Intent, I must substitute other certified MBE and WBE firms to meet the participation goals. I understand that I may not make a substitution until I have obtained the written approval of MWBOO.

I understand that, if awarded this contract, authorized representatives of the City of Baltimore may examine, from time to time, the books, records and files of my firm to the extent that such material is relevant to a determination of whether my firm is complying with the MBE and WBE participation requirements of this contract.

I do solemnly declare and affirm under the penalty of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

Cruz Contractors LLC

Contractor Company Name

952 Holmdel Road, Holmdel, NJ 07733

Address

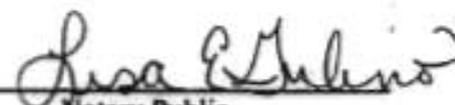


Signature

Antonio Cardoso-Member

Print Name and Title

Sworn and subscribed before me this 12 day of January, in the year 2011.



Notary Public

LISA E. GULINO NOTARY PUBLIC STATE OF NEW JERSEY MY COMMISSION EXPIRES 12/31/11
--

LIMITED LIABILITY COMPANY REGISTRATION

(for non-Maryland Limited Liability Company)

- 1.) FULL LEGAL NAME IN HOME JURISDICTION:
Cruz Contractors LLC

- 2.) NAME IT WILL USE IN MARYLAND IF DIFFERENT FROM ABOVE:
Cruz Contractors of Maryland LLC
(MUST INCLUDE "LIMITED LIABILITY COMPANY", "LLC" or "LC")

- 3.) STATE OF FORMATION: New Jersey

- 4.) DATE OF FORMATION: March 2006

- 5.) ADDRESS IN STATE OF FORMATION:
952 Holmdel Rd., Holmdel, NJ 07733

- 6.) NATURE OF BUSINESS IN MARYLAND: Microtunneling, Heavy Highway, Utilities and Bridges & Tunnels.

- 7.) NAME AND ADDRESS (NO P.O. BOXES) OF RESIDENT AGENT FOR SERVICE OF PROCESS IN MARYLAND:
The Corporation Trust Incorporated
351 West Camden Street, Baltimore, Maryland 21201

RECEIVED
JAN 10 2008

IF NO RESIDENT AGENT IN MARYLAND IS NAMED OR IF THE AGENT CANNOT BE FOUND OR SERVED, THIS DEPARTMENT IS APPOINTED AS RESIDENT AGENT OF THIS LIMITED LIABILITY COMPANY.

HAS THIS LIMITED LIABILITY COMPANY DONE BUSINESS IN MARYLAND PRIOR TO THIS REGISTRATION?

YES NO

(IF IT HAS, AN ADDITIONAL \$200 PENALTY MUST ACCOMPANY THIS REGISTRATION)

SIGNED *Antonio Cardoso*
Authorized Person
Antonio Cardoso-Member

I HEREBY CONSENT TO MY DESIGNATION IN THIS DOCUMENT AS RESIDENT AGENT FOR THIS LIMITED LIABILITY COMPANY.

SIGNED BY *Joanne McCarthy*
Resident Agent

Joanne McCarthy
Vice President

Revised 8/98

State of Maryland
Department of
Assessments and Taxation



Martin O'Malley
Governor

C. John Sullivan, Jr.
Director

Paul B. Anderson
Administrator

Charter Division

Date: 12/14/2010

THE CORPORATION TRUST INCORPORATED
351 W CAMDEN ST
BALTIMORE MD 21201-7912

THIS LETTER IS TO CONFIRM ACCEPTANCE OF THE FOLLOWING FILING:

ENTITY NAME : CRUZ CONTRACTORS OF MARYLAND LLC A/K/A CRUZ CONTRACTORS LLC
DEPARTMENT ID : Z13873898
TYPE OF REQUEST : REGISTRATION
DATE FILED : 12-10-2010
TIME FILED : 08:30 AM
RECORDING FEE : \$100.00
EXPEDITED FEE : \$50.00
FILING NUMBER : 1000362000960510
CUSTOMER ID : 0002518337
WORK ORDER NUMBER : 0003734917

PLEASE VERIFY THE INFORMATION CONTAINED IN THIS LETTER. NOTIFY THIS DEPARTMENT IN WRITING IF ANY INFORMATION IS INCORRECT. INCLUDE THE CUSTOMER ID AND THE WORK ORDER NUMBER ON ANY INQUIRIES. EVERY YEAR THIS ENTITY MUST FILE A PERSONAL PROPERTY RETURN IN ORDER TO MAINTAIN ITS EXISTENCE EVEN IF IT DOES NOT OWN PERSONAL PROPERTY. A BLANK RETURN WILL BE MAILED BY FEBRUARY OF THE YEAR FOR WHICH THE RETURN IS DUE.

Charter Division
Baltimore Metro Area (410) 767-1350
Outside Metro Area (888) 246-5941

JAN 19 PM04:23

EFFECTIVE DATE: 12-10-2010
STATE OF FORMATION: NEW JERSEY
PRINCIPAL OFFICE: 952 HOLMDEL ROAD
HOLMDEL NJ 07733
RESIDENT AGENT: THE CORPORATION TRUST INCORPORATED
351 WEST CAMDEN STREET
BALTIMORE MD 21201-7912

JAN 19 PM04:23

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

COMPLETE A SEPARATE FORM FOR EACH AND EVERY MBE AND WBE NAMED IN PART B OR BID WILL BE CONSIDERED NON-RESPONSIVE.

Contract Name and Number: Improvements to Herring Run Interceptors Phase I from Argonne Drive to 675 feet Southeast of Harford Road, SC 871R

Name of Prime Contractor: Cruz Contractors LLC

Name of MBE or WBE: R. E. Harrington Heating & Plumbing

MBE or WBE Certification Number: Baltimore MBE# 03985

Work/Service to be performed by MBE or WBE, Underground Utilities; Earthwork and site preparation

Materials/Supplies to be Furnished by MBE or WBE :

Subcontract Amount: \$ 130,000.00 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 1.11 %

African American % Asian American %
Hispanic American % Native American %

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

1-12-11
Date

Robert E. Harrington
Signature of MBE or WBE (REQUIRED)

1/11/11
Date

JSA #5

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 · Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820
Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

April 28, 2011

John Freisner, Contracts Administration
Department of Public Works
Abel Building, Suite 601
101 Holiday Street
Baltimore, Maryland 21201

Re: Carp Seca Corporation/DPW #871R

Dear Mr. Freisner:

As you know, I represent the Carp Seca Corporation, the lowest responsive and responsible bidder for the above referenced procurement. I am writing to request that my client and I be given at least a week's prior notice of the date on which this contract is to be considered by the Board of Estimates. The reason for this request is that I have a number of trials scheduled during the months of May and June and, notwithstanding my efforts to reserve Wednesday mornings for Board appearance, ultimately I have no control over court scheduling. With timely notice, I will be able to seek a continuance in the event of a scheduling conflict. Please forward this request to any other City official who may have authority in this matter.

Thanks.

Very truly yours,

Robert Fulton Dashiell

Robert Fulton Dashiell, Esquire

RFD/ktt

Cc-Harriet Taylor, Deputy Comptroller,
Secretary, Board of Estimates

Box #5

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 · Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820
Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

April 28, 2011

John Freisner, Contracts Administration
Department of Public Works
Abel Building, Suite 601
101 Holiday Street
Baltimore, Maryland 21201

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Thanks.

Very truly yours,

Robert Fulton Dashiell

Robert Fulton Dashiell, Esquire

RFD/ktr

Cc-Harriet Taylor, Deputy Comptroller,
Secretary, Board of Estimates

Y 87 #5

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 - Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820
Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

April 28, 2011

John Freisner, Contracts Administration
Department of Public Works
Abel Building, Suite 601
101 Holiday Street
Baltimore, Maryland 21201

Re: Carp Seca Corporation/DPW #871R

Dear Mr. Freisner:

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Thanks.

Very truly yours,

Robert Fulton Dashiell

Robert Fulton Dashiell, Esquire

RFD/ktt

Cc-Harriet Taylor, Deputy Comptroller,
Secretary, Board of Estimates

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 · Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820
Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

May 25, 2011

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

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

C/o Harriett Taylor, Secretary/Deputy Comptroller

Re: Sanitary Contract # 871R/Opposition to Law Department Recommendation

Dear Board Members:

As you know, I represent Carp-Seca Corporation in connection with its bid for the above referenced contract. I have received a copy of a memorandum dated April 18, 2011, to you from Asst. City Solicitor Michael Schrock in which he recommends that my client's protest be denied and the contract awarded to Cruz. For the reasons set forth herein below, I respectfully urge you not to follow Mr. Schrock's recommendation and, instead, award the contract to my client.

The Board's consideration of the issues presented in my client's protest must be guided by two inexorable principles: (i) a bid must "*unequivocally demonstrate the bidder's intent to pursue the requirements of the contract.....*" *Century Construction, Inc.*, Docket No. MSBCA 2385 (2004); and (ii) it is the "obligation and responsibility of the State to be able to identify a binding offer *not from extraneous material or collateral inquiry but solely from the four (4) corners of the document(s) submitted as an offeror's bid*". *Baltimore Pile Driving & Marine Construction, Inc.*, *State Highway Administration*, Docket 2549 (2006). Likewise,

the City's Standard Specifications (sec.0021.13.08 C) provides that "*No information other than that included in or attached to the original Bid (where such attachment is permitted) will be used in determining award.*" Adherence to these principles insures a level playing field and protects the integrity of the bidding process by preventing the use of extraneous documents or information to obtain two bites at the apple. The recommendation from the Law Department makes a mockery of these fundamental principles.

1. **Modification of Bid Irrevocability Requirement-** Cruz's bid bond properly acknowledges Cruz's obligation to enter into a contract and furnish payment and performance bonds if awarded the contract, whenever the City may decide to make such award. The Consent of Surety submitted by Cruz, however, says that the surety's obligation to furnish payment and performance bonds, as promised in the bid bond, is subject to "timely award" of the contract. Thus, the issue is not, as the Law Department suggests, whether the bid bond form was expressly modified; rather, it is whether Cruz's Consent of Surety reserved the opportunity to accept or reject the City's award based upon timeliness. Whether that was Cruz's intent cannot be determined from "within the four corners" of its bid. For that reason the Law Department consulted with Cruz's surety which, not surprisingly, denied that Cruz intended to make such a reservation. The surety asserts that the word "timely" meant whenever the City decided. The surety's letter is a collateral source which may not be relied upon and, in any event, belies logic and common sense. If, in fact, no modification or qualification of the obligation of the bid bond was intended there was no need to submit the Consent of Surety containing the word "timely" in the first place. The opportunity to declare an intended award by the City to be untimely cannot be explained away after bid opening because it is the opportunity itself that renders the bid non responsive.
2. **Authorization of Signatory to Bid and Bid Documents-** The Law Department correctly states that the IFB does not require the submission of any particular document as proof of the signature authority of the persons who execute a bid. However, both the IFB and applicable law require that a bid be signed by authorized persons. It is, therefore, incumbent upon a bidder to submit whatever evidence is necessary to make that determination. As was the case with respect to the Consent of Surety issue discussed above, here again, the Law Department references the terms of a collateral document, Cruz's original and amended operating agreement (the "Agreement"), to establish that

Cruz's bid was signed by "all" of its members and that Antonio Cardoso was a "manager". Without the Agreement, which was not submitted with Cruz's bid, the Law Department has no basis for its conclusion that Cruz's bid was signed "all" of its members or that Antonio Cardoso was a managing member. Significantly, section 5.1.2 of the Agreement states that the authority to sign documents is conferred solely upon the managing member(s), thus negating any inference of the authority of ordinary members to sign bid documents that might otherwise apply by operation of law. Although he was supposedly made a managing member just two weeks before bid date, Mr. Cardoso apparently did not recall that event and signed the bid documents only as a member.

The Law Department contends that a number of decisions of the US Comptroller General permit this Board to rely upon the "facts" derived from the Agreement in support of its finding that Mr. Cardoso was a manager and, therefore, an authorized signer. Indeed that has been the Comptroller's opinion since 1970. There is no such authority, however, under Maryland law. To the contrary, external proof of signature authority has only been permitted as to bid documents deemed not to affect the "bidder's legal obligation....." to enter into and perform the contract. See *Century Engineering*, supra.¹ Moreover, as shown above, the City's Green Book expressly prohibits such reliance. Thus the Board, if it were to follow the Law Department's recommendation, would deviate from specifications that were incorporated in the bid documents by which all bidders were bound. Even more, to follow the Law Department's course and rely upon a bidder's internal documents that could be created at any time after bid opening to serve as the basis for determining compliance with a mandatory bid requirement would set a dangerous precedent.²

3. MBE Requirements. Neither in its response to DPW nor its memorandum to this Board did the Law Department address the legal issue of the rubber stamped signature purportedly used by one of Cruz's prospective MBE subcontractors. It is undisputed that Cruz's bid is noncompliant without full credit for Harrington's presumed participation. As

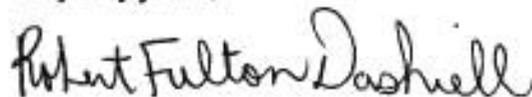
¹ In *Century* the MSBCA, in dicta, suggested that even the failure to include an MBE utilization affidavit in the bid as required was a matter of responsibility, not responsiveness, which could be cured after bid opening. COMAR was subsequently amended to make it clear that MBE failure to submit required MBE documents was a matter of responsiveness. COMAR 21.11.03.09 C (3) and (4).

² The City's Standard Specifications (sec.0021.13.10 A.) states that "Anyone executing a Bid as an agent of the corporation shall file with the bid, legal evidence of its authority to do so." This clearly demonstrates the City's desire that signature authority be established prior to or with the bid submission.

shown previously, such an unverified signature is unacceptable under Maryland law. *Baltimore Pile Driving, supra*. Moreover, in *Cambridge Marine Indus., Inc.*, 61 Comp. Gen.187 (1981), relied upon by the Law Department, the Comptroller General said "A bid with a typewritten or rubber-stamped name of the bidder, *but without any signature*, is nonresponsive." It was Cruz's obligation to verify not just that a firm named Harrington was certified to perform the work described but, most importantly, that the rubber stamped signature was verified. No such verification was contained in its bid and Cruz has offered none subsequently.

In accordance with long standing Board precedent, the requirements of the City Standard Specifications, public procurement law as determined by the Maryland Board of Contract Appeals and best practices, you are respectfully urged to reject the Law Department's recommendation and award the contract to Carp-Seca Corporation as the lowest responsive and responsible bidder.

Very truly yours,

A handwritten signature in cursive script that reads "Robert Fulton Dashiell". The signature is written in black ink and is positioned above the printed name.

Robert Fulton Dashiell, Esquire

Cc-Carp-Seca Corporation

January 28, 2011

Honorable President and Members of the Board of Estimates
c/o Clerk, Board of Estimates
City Hall, Room 204
100 N. Holliday Street
Baltimore, MD 21202

Bernard C. Young, President City Council/Board of Estimates
Stephanie Rawlings-Blake, Mayor
Joan M. Pratt, Comptroller
George Nilson, City Solicitor
Col. Alfred H. Foxx, Director, Public Works

Re: Sanitary Contract #871R Bid Date: January 12, 2010

Dear Board Members,

Please accept this protest by Bradshaw Construction Corporation, of the award of the above referenced contract to either Cruz Contractors or Carp-Seca Corporation.

Both Cruz Contractors (apparent low bidder) and Carp-Seca (apparent second low bidder) have each submitted what should be considered an unresponsive and/or unbalanced bid. According to City of Baltimore Department of Public Works Specifications For Materials, Highways, Bridges, Utilities and Incidental Structures: 00 51 00.05 "To better ensure fair competition and to permit a determination of the lowest Bid, unresponsive Bids or unbalanced and/or conditional Bids may be rejected by the Board of Estimates at its sole discretion."

In the Bid Item Tabulation for both Cruz Contractors and Carp-Seca, they have submitted a unit price for Cubic Yards of Contingent Rescue Shaft and Linear Feet of Hand Tunneling (Bid Items 816 and 826 respectively) of \$1.00. This is either an attempt to gain a bidding advantage by providing an unbalanced bid, or it is ignoring the information and expertise provided by the Engineers of this project, thus making their bids unresponsive. It is evident that each Contractor has no intention of providing the work called for at the unit price bid if the contingency arises.

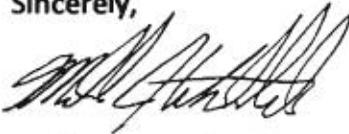
These unit prices appear even more unresponsive and/or unbalanced when you compare them to the non-contingent bid item unit prices for tunnel shafts (Items 802-807) and tunneling (Item 801). In submitting a unit price of \$1.00 per Cubic Yard of Contingent Rescue Shaft Excavation, both contractors are providing a total of \$1,178 for all Rescue Shafts required. In comparison,

Cruz has submitted an average Non-Contingent Tunnel Shaft price of \$187,500, and Carp-Seca an average price of \$424,167 per shaft. For Non-Contingent Tunneling, Cruz Contractors and Carp-Seca submitted a unit price of \$3,600 and \$1,700 per Linear Foot of Tunnel, respectively. In light of these vast pricing differences, it cannot be reasonably believed that each of these contractors provided a fair and competitive price for these bid items. Therefore, it is hoped that the Board of Estimates will use its discretion and reject these bids.

In addition to providing an unbalanced and/or unresponsive bid, Cruz Contractors also violated the requirements of the MBE Utilization goal. Part B of the Bid Form MBE package states "Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers." The goal on this project for MBE participation was 7%. Therefore the maximum allowable utilization for a non-manufacturer supplier was 1.75% of the total bid amount. Cruz Contractors' total bid amount was \$11,735,403. They submitted a non-manufacturer supplier (HGP LLC.) for participation of \$220,000 which is 1.87% of the total bid amount. This is in direct violation of the instructions to bidders.

Due to the fact that both Cruz Contractors and Carp-Seca Corporation have provided unbalanced and/or unresponsive bids, Bradshaw Construction requests that their bids be rejected by the Board of Estimates.

Sincerely,



Michael J. Wanhatalo
Bradshaw Construction Corporation

CC: BCC Bid File
Mr. Howard Wright, Contract Administrator, Baltimore City DPW

FROM	NAME & TITLE	Michael Schrock, Assistant City Solicitor <i>MS</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Law Department 171 City Hall		
	SUBJECT	SC 871R - Bid Protest Against Cruz Contractors, LLC		

TO

DATE:

May 18, 2011

The Honorable President and
 Members of the Board of Estimates
 215 City Hall

On April 14, 2011, Robert Dashiell, attorney for Carp-Seca Corporation ("Carp-Seca"), filed the attached formal bid protest letter recommending the City not award the above referenced contract to Cruz Contractors, LLC ("Cruz"). On May 6, 2011, Michael Crowley, attorney for Cruz Contractors, LLC, filed the attached letter of opposition to the bid protest of Carp-Seca. The Department of Public Works ("DPW") forwarded Cruz's bid and the cited correspondence to the Law Department for review. In this memorandum, the Law Department responds to the bid protest of Carp-Seca and recommends the contract be awarded to Cruz, the lowest responsive and responsible bidder.

I. FACTS

Five (5) bids were received and opened by the Board of Estimates on January 12, 2011 for this solicitation. These bids were proffered by the following companies:

<u>BIDDER</u>	<u>AMOUNT</u>
Cruz Contractors, LLC	\$11,735,403
Carp-Seca Corporation	\$11,911,911
Bradshaw Construction Corp.	\$12,749,000
James W. Fowler Company	\$13,504,244
Northeast Remsco Construction, Inc.	\$14,235,300

On January 21, 2011, DPW forwarded to the Law Department an email from Mr. Dashiell, on behalf of Carp-Seca, alleging six (6) material defects in the bid submission of Cruz. On March 1, 2011, the Law Department responded to DPW in the attached memorandum that it was of the opinion that the alleged defects were not material and fatal to Cruz's bid ("March Memorandum"). Mr. Dashiell, on behalf of Carp-Seca, formally filed a bid protest with the Board of Estimates on April 14, 2011. Mr. Crowley, on behalf of Cruz, then formally filed an opposition to the bid protest of Carp-Seca on May 6, 2011.

II. ANALYSIS – THE ALLEGED DEFECTS IN THE BID PROTEST ARE NOT MATERIAL, NOR FATAL TO CRUZ’S BID

Following are the Law Department’s responses to Carp-Seca’s allegations of bid defects (#1-3) in paragraph A. of its formal protest letter dated April 14, 2011. The Minority & Women’s Business Opportunity Office of the Law Department separately responded to Carp-Seca’s claims of MBE Non Compliance at paragraph B. of this protest letter.

1. Allegation of improper modification of City’s bid bond by submission of the consent of surety form with “timely awarded” language

The City’s bid bond has not been modified by the “timely awarded” language in Hanover Insurance’s consent of surety form which was provided as part of Cruz’s bid. The consent of surety form does not contradict the language of the City’s bid bond, which was executed by Cruz. See the Law Department’s response to Alleged Defect #6 in its March Memorandum. Further, as pointed out by Cruz’s counsel, the consent of surety form relates to the performance and payment bonds, not the bid bond in question.

Further, Carp-Seca’s counsel refers to cases which are not similar to the case in point and do not support his allegations of defects in Cruz’s bid bond. In *McNamara-Lunz Vans and Warehouses, Inc.*, Comp. Gen. Dec. B-188100 (1977), a bid was rejected when the name on the bid bond (two entities of the joint venture) and the name on the bid (one entity of the joint venture) were different. In *Madigan Construction Company, Inc.*, MSBCA-1350 (1987), a bid was rejected as the bid bond reflected the wrong obligee (United States Postal Service vs. the State of Maryland) and an inadequate extension period of sixty (60) days. In *V&S Contractors, Inc.*, MSBCA-2134 (1999), a bid was rejected when the submitted bid bond form did not include a required material provision (i.e., allowance for an extension of the bid). In *S.W. Monroe Constr. Co.*, B-256382, 94-1CPD ¶ 362 (Comp. Gen. 1994), a bid was rejected as it did not include required pricing options (i.e., case where it was impossible to determine if landscaping costs were in the base bid). In *Gammon Technical Products, Inc.*, B-257497, 94-1 CPD ¶ 370 (Comp. Gen. 1994), a bid was rejected as bidder did not sign a required Certificate of Procurement Integrity (i.e., bidder was not allowed to execute his signature on a required document after the opening of the bid). In *R.O. Contracting Co.*, B-235496, 89-2 CPD ¶ 200 (Comp. Gen. 1989), a bid was rejected as bidder failed to provide unit price and cost data for dredging certain materials that were required by amendment to the bid. In *Welch Constr., Inc.* B-183173, 75-1 CPD ¶146 (Comp. Gen. 1975), a bid was rejected as it did not contain a required certification.

2. Allegation of unauthorized signature(s) on bid documents submitted by Cruz

First, there is no specific requirement in the bid that a bidder provide a resolution or other document advising to the identity and/or position of the authorized signer for the bidder. See the Law Department’s response to Alleged Defect #1 in its March Memorandum.

Second, the Operating Agreement provided by Cruz corroborates that the members and managers of Cruz who signed its bid documents had the authority to do so. Antonio

5/18/2011

Cardoso is authorized to sign documents on behalf of Cruz. See the Law Department's responses to Alleged Defects #1, #2, and #4 in its March Memorandum.

Third, federal case law supports that the government can accept proof of the authority of an individual to sign a certificate or bid after bid opening. This does not violate the proverbial "two bites at the apple" quoted by Carpe-Seca's counsel. In reviewing bid protests, the Comptroller General of the United States has consistently ruled that a bidder may establish after bid opening the authority of an individual to sign a certificate or bid. See *Schmidt Engineering & Equipment, Inc.*, B-250480.2, B-250480.3, 93-1 CPD ¶ 470 (Comp. Gen. 1993), citing *W.G. Yates & Sons Constr. Co.*, B-248719, Aug. 11, 1992, 92-2 CPD P 97; *Cambridge Marine Indus., Inc.*, 61 Comp. Gen. 187 (1981), 81-2 CPD P 517; and *Hutchinson Contr.*, B-251974, May 18, 1993, 93-1 CPD P.

Finally, it was reasonable for Cruz to incorporate by reference an additional signature page which has all the signatures of Cruz's members. See the Law Department's response to Alleged Defect #3 in its March Memorandum.

3. Allegation that Cruz used an improper corporate name in its bid

Cruz can use the name of "Cruz Contractors LLC" in Maryland. The letter dated December 14, 2010 from the Maryland State Department of Assessments and Taxation ("SDAT") refers to "Cruz Contractors of Maryland LLC a/k/a Cruz Contractors LLC. A/k/a means "also known as" so Cruz could use either name in Maryland. See the Law Department's response to Alleged Defect #5 in its March Memorandum.

Further, there is no confusion that Cruz Contractors LLC is the same entity as Cruz Contractors of Maryland LLC. Cruz's public filing, which was accepted by the SDAT, ensures that persons have notice of the name(s) it may use in Maryland.

III. CONCLUSION

In summary, the City should award the contract to Cruz as it is the lowest responsive and responsible bidder. The alleged defects made by Carp Seca are not material, nor fatal to Cruz's bid.

Please do not hesitate to contact me at 396-1267 if you have any questions, or if I can be of further assistance to you in this matter.

Attachments:

- Memorandum dated March 1, 2011 by Michael Schrock, Assistant City Solicitor
- Letter of Bid Protest dated April 14, 2011 from Robert Dashiell, attorney for Carp-Seca Corporation
- Letter of Opposition to Bid Protest dated May 6, 2011 by Michael Crowley, attorney for Cruz Contractors, LLC

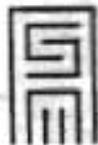
The Honorable President and Members of the Board of Estimates

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5/18/2011

MDS/mda

cc: George Nilson, Solicitor
Lealie Winner, Chief Solicitor, Contracts
Shirley Williams, Chief Solicitor, MWBOO
Alfred H. Foxx, Director, DPW
Rudy Chow, Bureau Head, Water and Wastewater, DPW
John Friesner, Construction Contract Administrator, DPW
Michael C. Crowley, Esq. (Attorney for Cruz Contractors, LLC)
Robert Dashiell, Esq. (Attorney for Carp Seca Corporation)



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THE PRACTICE OF SOLUTIONS

Charles M. Asmar (DC, MD)
Laurence Schor (DC, MD)
Susan L. Schor (DC, MD, VA)
John J. McKenna, Jr. (DC, MBE)
Jordan M. Samuel (DC, MD, VA)
Christopher A. Taggi (DC, MD, VA)
Dennis C. Ehlers (DC, GA, TN)
Glenn W.D. Golding (DC, MD, VA)
David A. Edelstein (DC, VA, NJ)
Michael C. Crowley (DC, MD, VA)

OF COUNSEL
Brett L. Antonides (DC, VA)
Eugene E. Tibbs, Jr. (DC, TN)
Honorable J. James McKenna
Retired (MD, DC)

May 6, 2011

Via Facsimile and FedEx

Baltimore City Board of Estimates
C/O Harriet Taylor, Secretary / Deputy Comptroller
C/O Clerk Board of Estimates
100 N. Holliday St., Suite 204
Baltimore, MD 21202
Fax: (410) 685-4416

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

Re: Contract No. SC 871R; Department of Public Works – Bureau of Waste
and Wastewater;
Opposition to Bid Protest of Carp-Seca Corporation

Dear Members of the Board:

This firm is counsel to Cruz Contractors of Maryland, LLC a/k/a Cruz Contractors, LLC ("Cruz"). Cruz is a New Jersey limited liability company registered and licensed to do business in Maryland. Cruz maintains a resident agent in Maryland with an address of 351 West Camden Street, Baltimore, MD 21201.

Cruz submitted the low bid (\$11,735,403.00) in response to Invitation for Bid No. SC 871R (the "IFB") issued by the City of Baltimore ("City"). Cruz has been informed by the City that it intends to award the contract (the "Contract") to Cruz as the lowest responsive and responsible bidder. Therefore, as an actual bidder whose direct economic interest would be affected by a failure or refusal of the City to award the Contract as planned, and the low bidder and putative awardee, Cruz is clearly an interested party in any protest action against the planned award and should be allowed to intervene in any such action.

Cruz is in receipt of a bid protest (the "Protest") filed by Carp-Seca Corporation ("Carp-Seca"), the apparent second lowest bidder (\$11,911,911.00), protesting the planned award to Cruz. On behalf of Cruz, we respectfully request that the instant letter be accepted by the Board

Baltimore City Board of Estimates
May 6, 2011
Page 2

of Estimates ("Board") as Cruz's motion to intervene and opposition to the Protest. Additionally, and for the reasons set forth below, we request that the Protest be dismissed or denied and that this letter be made a part of the record of the Protest and procurement.

The Protest asserts that Cruz's bid in response to the IFB (the "Bid") is non-responsive for the following four reasons: (1) that the use of the word "timely" in the Consent of Surety submitted by Cruz with its bid, and executed by Cruz and The Hanover Insurance Company ("Hanover"), somehow renders the Bid revocable which, in turn, makes the Bid non-responsive; (2) that the Cruz member who executed the Bid documents and affidavits did not have the "apparent authority" to do so; (3) that the submission of the Bid by Cruz under the entity name Cruz Contractors, LLC is "irregular"; and (4) that Cruz failed to meet the applicable MBE participation goal because the affidavit of R.E. Harrington Heating and Plumbing ("Harrington") was executed with a rubber stamp signature, and no other corporate seal, thereby rendering it ineffective. As discussed below in more detail, Carp-Seca's arguments are without merit and have no support in the facts, language of the IFB, language of the Bid, and/or applicable law.

As a preliminary matter, it should be noted that "the contest of a procurement award is a serious matter and [the protester] has the burden of proving that a Procurement Officer's award of a contract was contrary to law or regulation or otherwise unreasonable, arbitrary capricious or an abuse of discretion." *Accenture, LLP*, MSBCA Nos. 2640 & 2669 (2010) at pg. 65. As shown below, Carp-Seca has failed to meet its burden and, therefore, its Protest must be dismissed or denied. Furthermore, the Maryland State Board of Contract Appeals ("MSBCA") has "expressed well-founded reluctance to substitute its judgment for that of an agency, in part because it is the procuring agency that will have to 'live with the results' of its decision." *Id.*, citing *Klein's of Aberdeen*, MSBCA 1773, 4 MSBCA ¶ 354 (1994) at pg. 7. We urge the Board to apply the same reluctance to substitute its judgment and uphold the City's award decision. Reviewing the Protest in light of the above-stated legal standards, and holding it up to reason, logic, undisputed facts, and Maryland law, starkly reveals the baseless nature of the Protest.

(A) Carp-Seca Fails to Acknowledge that the Consent of Surety and the Bid Bond are Two Separate Documents and, Even if They Were Not, the Use of the Word "Timely" Was of No Effect and Certainly Did Not Render the Bid Revocable.

The Protest is rife with mis-statements of law and incorrect factual conclusions. Carp-Seca cites to *McNamara-Lunz Vans and Warehouses, Inc.*, Comp. Gen. Dec. B-188100 (1977); *Madigan Construction Company, Inc.*, MSBCA 1350 (1987); and *V & S Contractors, Inc.*, MSBCA No. 2134 (1999)¹ as authority for its assertion that the use of the word "timely" in the

¹ The Protest makes reference to a *V & S Contractors* case but fails to provide a legal citation. A review of this *V & S Contractors* opinion issued by the MSBCA makes it clear that the Protester is referring to this MSBCA case.

Baltimore City Board of Estimates
May 6, 2011
Page 3

Cruz surety Bid bond's Consent of Surety document was not a minor irregularity but a material defect that rendered the bid bond revocable thereby allowing Cruz to withdraw its bid at any time. Protest at 2. There are both factual and legal reasons why this argument is without merit.

First and foremost, the Consent of Surety form referenced in the Protest is **not** the bid bond or a part of the same. A review of the Bid shows that the bid bond submitted by Cruz was properly executed on the form provided by the City and is compliant in all respects. See **Exhibit 1** (bid bond). The Consent of Surety gratuitously provided by Cruz's surety, and upon which Carp-Seca's entire argument hinges, is actually a statement from Hanover that, should Cruz be awarded the Contract, it would serve as the payment and performance bond surety for the project. See **Exhibit 2** (Consent of Surety). Thus, this Protest basis completely falls apart at the realization that Carp-Seca has based its argument on a document that is not the bid bond or part of the bid bond, as it mistakenly assumes. Moreover, Cruz argues that the fact that the term at issue is in a document relating to payment and performance bonds makes any alleged discrepancy an **issue of responsibility** and not one of responsiveness. Cf *American Paving*, MSBCA, 2498 (2005). Therefore, Carp-Seca's argument must fail for this reason as well.

Additionally, even if Carp-Seca had targeted the proper document with its first allegation, there is no support for the argument that, by including the non-specific word "timely", Hanover (and thus Cruz) intended to, or somehow did, condition Cruz's Bid in terms of time for acceptance. Even if the term had been included in a bid bond document, and it was not, the most logical interpretation of "timely" in **boilerplate language** in a bid bond document provided by the surety is that it was agreeing to issue the bid bond during and covering the applicable period in which the City was allowed to review bids and make an award. "Timely" is defined as: "(1) coming early or at the right time; (2) appropriate to the time." The Merriam Webster Dictionary, Home and Office Edition, pg. 541 (1998). Thus, pursuant to the generally accepted definition of "timely", the Consent of Surety simply set forth that should the City act as it always does and/or as it is allowed to do by law or regulation in awarding the Contract, then Hanover was willing to act as surety for the project. Carp-Seca has failed to meet its burden to prove that the term means anything else or that its inclusion somehow impermissibly limited or conditioned the Bid so as to render it non-responsive. However, because Cruz has shown that the referenced document refers to the later issuance of payment and performance bonds by Hanover, and not the bid bond, the point is moot.

Furthermore, Carp-Seca has failed to meet its burden in showing that the use of the word "timely" rises to the level of a "minor irregularity", much less a "material defect". A "minor irregularity", see Protest at 2, is defined as "one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid or proposal from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to other bidders or offerors." COMAR 21.06.02.04. **Even if** the term "timely" had been included in a bid bond document, and the same had any effect at all on the terms of the

Baltimore City Board of Estimates
May 6, 2011
Page 4

bid bond document, at most it must be deemed a "minor irregularity" which would not have any material effect on either Cruz's Bid or the City's decision to award to Cruz.

Finally, the only similarity between the matter before the Board and that of *V & S Contractors*, relied on by Carp-Seca, is that both were related to a bond of some kind. In *V & S Contractors* a "review of the bid submitted by V & S revealed that V & S failed to use either the [Maryland Aviation Administration] Bid bond form or a bid bond form that was similar in all material respects, and the Procurement Officer by letter dated May 06, 1999, rejected V & S's bid." *Id.* The agency bid form that V & S failed to use contained language stipulating that the surety waived any objection to the Principal's possible 90-day extension of time to allow the state more time to accept the bid. *Id.* at 2-3. The MSBCA found that the "90-day extension provision is a material term and must be expressly stated in the bid form" and that without it the bid was non-responsive. *Id.* at 5. Without the 90-day extension language, "V & S would be allowed the proverbial 'two bites at the apple.'" *Id.* at 6, citing *Madigan Construction Company, Inc.*, MSBCA 1350, 2 MSBCA ¶ 162 (1987) at pg. 5. In contrast, Cruz used the bid bond form supplied by the City of Baltimore in its Bid. Cruz did not in any way remove (or add) a "material term" from or to the City's bond form. Furthermore, Carp-Seca cannot credibly argue that the surety's inclusion of the non-specific term "timely"² rises to the level of removing a specific 90-day extension period which is critical to the agency's ability to award contracts.

(B) The Bid was Executed by a Managing Member and, In Any Event, by Law, Any Member's Signature Serves to Bind an LLC.

Carp-Seca alleges that the bid was not executed by a Cruz member with authority to do so. To begin with, the bid is signed by all twelve (12) members of the bidder, Cruz Contractors, LLC doing business in Maryland as Cruz Contractors of Maryland, LLC.³ The signature page is dated and time stamped by the City of Baltimore. Therefore, all members of the LLC agreed to enter into a Contract with the City and there can be no question of authority or lack of knowledge by the other members, or that acceptance of the Bid would not legally bind Cruz to perform. This argument is inane.

² Again, this assumes, for the sake of argument, that the language at issue was part of the bid bond which, Cruz has shown, is not the case. This fact serves to further distinguish *V&S Contractors*, which involved a bid bond.

³ Apparently, there were an insufficient number of spaces (only three) on the provided signature page for all 12 members of Cruz to sign. An additional page with the appropriate signatures (*i.e.*, including the names and titles) of all 12 members was provided as part of the Bid. Cruz notes that one of the members, Licinio Cruz, who signed that page is a managing member and so identified herself. Therefore, even if Cardoso were not a managing member, or all 12 members had not signed, the signature of one of the four managing members was provided and bound Cruz.

Baltimore City Board of Estimates
May 6, 2011
Page 5

In addition, Carp-Seca misguidedly complains about the member signature on other sections of the Bid.⁴ Each section or page about which it complains contains the appropriate and requisite signature of a person authorized to bind Cruz – specifically, Mr. Antonio Cardoso. That is because Mr. Cardoso is an authorized and **managing member** of Cruz, and he specifically provided the required and properly executed affidavit to the City of Baltimore attesting to this fact. *See* BP-17 through BP-21.⁵ In the required affidavit Mr. Cardoso affirms that he “possess[s] the legal authority to make this affidavit on behalf of myself and the business for which I am acting.”

There is no IFB provision that required Cruz to provide a copy of its Operating Agreement with its Bid. The IFB only required the bidder to provide the affidavit discussed above and authorized signatures, which Cruz indisputably provided. Nevertheless, as the City has been advised, the Cruz Operating Agreement expressly indicates, among other things, the names of all the LLC members, and all those members are listed on the signature page of the Bid. *Cf* **Exhibit 3** (Operating Agreement) and **Exhibit 4**, (Bid signature page).

The other terms of the Operating Agreement put to rest any remaining argument by Carp-Seca, stating, *inter alia*,

- at §5.1.1, that pursuant to the Limited Liability Company Act of the State of New Jersey (the “Act”), N.J.S.A. 42:2B-1, *et seq.*, “the Members, within the authority granted by the Act and the terms of this Agreement shall have the complete power and authority to manage and operate the Company and make all decisions affecting its business affairs”;
- in §5.1.2 that “all decisions and documents relating to the management operation of the Company shall be made and executed by the Manager of the Company, who shall be elected from among the Members. The Manager shall serve at the pleasure of the Members and in accordance with authority and power granted by the Act. Initially the Manager of the Company shall be Licinio (Lee) Cruz who is also a Member.” Licinio (“Lee”) Cruz, who is also a member, signed the Bid submittal as the managing member of the Company;

⁴ Specifically, it complains about Protest Exhibit 7, BB1 and 2, BP17-21, and the MWBE-9 form for each subcontractor H Corp., LLC, Pioneer Contracting Co., K-O Construction, Inc., Best Fence, LLC, Haines Industries, Inc., Komer Construction, Inc., R&R Contracting Utilities, Inc., William T. King, Inc., and R. E. Harrington Heating and Plumbing.

⁵ BP17-BP21 is the only requirement in the bid package that, among other things, required Mr. Cardoso to affirm that he was a duly authorized representative of Cruz, and that he possessed legal authority to make the affidavit on behalf of the bidder.

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- in an amendment executed by all of the members, that three additional members were designated as Managers with authority equal to that of Lee Cruz, and those individuals were **Antonio Cardoso**, Francesco Cangialosi and Jose Salgado, all of whom signed the bid submittal. The fact that Antonio Cardoso, who signed the other pages of the Bid about which Carp-Seca complains, is a duly appointed managing member of Cruz eviscerates Carp-Seca's argument.

Cruz notes that New Jersey statute, N.J.S.A. 42:2B-27a.(1), contemplates that a limited liability company can by its Operating Agreement "provide for the management, in whole or in part, . . . by one or more managers . . ." Thus, the Bid signed by all the members, the affidavit signed by Antonio Cardoso, and the other pages of the Bid signed by Mr. Cardoso (as both a Member and Managing Member) provide exactly what is permitted by the Company's Operating Agreement and New Jersey law, as well as what was requested in the City's IFB. Additionally, the Bid contained a "Member's Signatures" page wherein Antonio Cardoso affixed his signature. **Exhibit 4. Member's Signatures.**

Furthermore, even if Mr. Cardoso were not a managing member or a member, the MSBCA, when reviewing a similar issue, has held that the signature of a non-officer of a corporation on an affidavit who is, in fact, authorized to sign the affidavit does not render a bid non-responsive. *Century Construction, Inc.*, MSBCA No. 2385 (2004) at pg. 7. In *Century Construction*, the President of the corporation signed the bid proposal and the bid bond, but the corporation's estimator, an employee, signed the bid/proposal affidavit, MBE utilization affidavit and subcontractor utilization affidavit (collectively the "affidavits"). *Id.* at 2. The MSBCA stated that "[w]e find that none of the issues raised by Appellant regarding the affidavits would afford System 42 the opportunity to refuse to perform any material obligation under the Contract. Accordingly, the matters raised by Appellant regarding the affidavits relate to matters of responsibility, not responsiveness." *Id.*

(C) The Bid was Submitted by an Entity Authorized to Conduct Business in Maryland.

In a Protest filled with questionable assertions, this one is perhaps the most specious. Carp-Seca argues that it is "irregular" that "Cruz is authorized to do business in the State of Maryland as Cruz Contractors of Maryland, LLC [] however, the bid was submitted by Cruz Contractors, LLC." Protest at 3. Notably, the Protest does not argue that this alleged "irregularity" renders the Bid non-responsive or has any other legal effect. That is because there is no legal effect. Regardless, as Carp-Seca has failed to provide any legal support whatsoever for its "irregularity" argument, it should be discarded out of hand.

Notably, Carp-Seca itself questions the validity of this argument when it concedes that "if this was the only irregularity in Cruz's Bid the City might properly regard it as minor." Protest at

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3. Carp-Seca goes on to suggest, with no legal authority, that the Board should adopt some totality of the circumstances (or totality of the irregularities?) standard when it states that "this variation adds to the uncertainty of the bidder's authority." *Id.* The fact that there are no other problems with Cruz's Bid, and that Carp-Seca itself admits that the matter is minor, should dispose of this argument.

Most importantly, Carp-Seca is totally wrong on the facts. The Bid contains a confirmation letter from the Maryland State Department of Assessments and Taxation ("SDAT") wherein it is acknowledged that the entity name is "Cruz Contractors of Maryland A/K/A Cruz Contractors, LLC." See **Exhibit 5** (SDAT Letter). Cruz also registered as a limited liability company ("LLC") in Maryland showing the full legal name a "Cruz Contractors, LLC" and the "name it will use in Maryland if different" as "Cruz Contractors of Maryland, LLC." See **Exhibit 6** (LLC registration form). Cruz is clearly and properly registered, licensed, and identified in the Bid, and is undeniably authorized to enter into a Contract with the City. There is absolutely no question as to the legal entity involved, or that it will be bound to the City upon its award of the Contract.

(D) The Harrington Affidavit Complies with Maryland Law.

The final argument raised by Carp-Seca is that Cruz failed to meet the MBE participation goal for the Contract because the affidavit submitted by Harrington was signed by the President of Harrington with a rubber stamp. Protest at 3. This argument fails for a number of legal reasons.

First, the law of Maryland provides that "to the extent that an appeal deals with alleged acts or omissions by an agency regarding MBE issues, **no bid protest concerning such alleged acts or omissions may be filed.**" *Williamsburg Cabinetry, LLC*, MSBCA No. 2664 (2009) (emphasis added). The acceptance of the Cruz bid and its MBE plan, regardless of whether or not the Harrington affidavit was executed with a rubber stamp, was a non-reviewable decision made by the City regarding an MBE issue and no bid protest concerning it may be entertained. This alone should dispose of Carp-Seca's last ground for protest.

Even if Carp-Seca were able to get around this clear cut law, the legal argument regarding the acceptance of a rubber stamp signature fails as well. The Protest cites to *Baltimore Pile Driving & Marine Construction, Inc.*, MSBCA No. 2549 (2006), as authority for the assertion that the alleged rubber stamped signature on the Harrington affidavit rendered the bid non-responsive. In *Baltimore Pile Driving*, the contractor's President rubber stamped his signature onto both the Comprehensive Signature Page and the bid bond. *Id.* at 3 Noting that the question of principal importance was whether the offer was susceptible to revocation, the MSBCA asserted that the rubber stamp, which was accompanied by the original signature of the corporate secretary and embossed with the corporate seal, was sufficient. *Id.* at 11. The Board

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went on to state that "COMAR is evidence of a deliberate intention to create a different, looser standard in Maryland governing the requirement for signing a bid, allowing the use of a rubber stamp signature without the federal necessity of accompanying the bid with proof of corporate authorization of the use of a rubber stamp." *Id.* at 13-14.

Notably, in the instant Protest, Carp-Seca's argument relates not to the execution of the bid or the bid bond, but that of an MBE participant's affidavit. "So long as the bid unequivocally demonstrates the bidder's intent to pursue the requirements of the contract, the affidavits accompanying a bid that pertain to such requirements will relate to the issue of responsibility, not responsiveness." *Century Construction, Inc.*, MSBCA No. 2385 (2004). Furthermore, the MBE participation goal is just that, a goal (albeit an important goal) and not a requirement which, upon any failure to meet it, would render the bid non-responsive. Therefore, not only is a rubber stamp signature sufficient for a Bid, much less a document provided by someone else in support of an MBE goal, but any question regarding such document(s) would amount to an issue of responsibility and not one of responsiveness. That being the case, the agency may review the matter after the opening of the bids and selection of the lowest bidder and not as part of its responsiveness determination, as asserted by Carp-Seca.

Conclusion

For the above stated reasons, Cruz Contractors of Maryland, LLC a/k/a Cruz Contractors, LLC respectfully requests that this Honorable Board of Estimates dismiss and deny the Bid Protest filed by Carp-Seca Corporation.

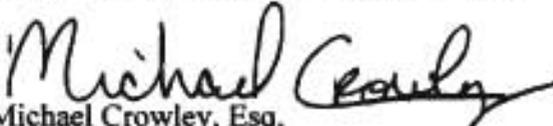
ASMAR | SCHOR
MCKENNA

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Please contact the undersigned if you have any questions.

Very truly yours,

ASMAR, SCHOR & MCKENNA, PLLC


Michael Crowley, Esq.

Enclosures

cc: Cruz Contractors of Maryland, LLC
Robert Dashiell, Esq.
Alfred H. Foxx - *Director*
600 Abel Wolman Municipal Building
Baltimore, MD 21202
(Fax) 410-539-6119

Mr. Michael Shrock, Assistant Solicitor
Baltimore City Law Department
100 Holliday Street - City Hall
Baltimore, MD 21202
(fax) 410-576-7203

F. BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____

CRUE CONTRACTORS LLC

as Principal, and THE HANOVER INSURANCE COMPANY

as Surety, are hereby held and firmly bound unto the Mayor and City Council of Baltimore as Owner, in the amount of at least Two Percent (2%) of the Total Bid submitted for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns. Signed this 12TH day of JANUARY, 2011.

The condition of the above obligation is such that WHEREAS the Principal has submitted to the Board of Estimates of the Mayor and City Council of Baltimore a certain Bid, attached hereto, and hereby made a part hereof to enter into a Contract, in writing, for

SC 871R - Improvements to Herring Run Interceptors Phase I

From Argonne Drive to 675 Feet Southeast of Harford Road

NOW, THEREFORE,

- (a) If said Bid shall be rejected or in the alternate.
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the form of Contract attached here to (properly completed in accordance with said Bid), and shall furnish a bond for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection therewith and shall in all other respects perform the Agreement created by the acceptance of said bid.

EXHIBIT
1

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event, exceed the penal amount of this obligation, as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their Hand and Seals, and such of them as are Corporation have caused their Corporate Seals to be hereto affixed and these presents to be signed by their proper Officers, the day and year first set forth above.

ATTEST:

PRINCIPAL

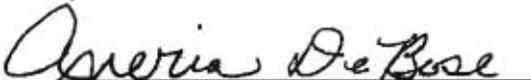
CRUZ CONTRACTORS LLC



ANTONIO CARDOSO-MEMBER

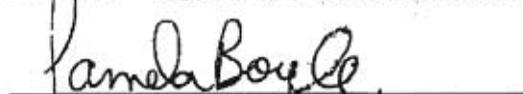
(SEAL)

ATTEST:



AVERIA DEBOSE

SURETY THE HANOVER INSURANCE COMPANY



PAMELA BOYLE, ATTY-IN-FACT (SEAL)

**HANOVER INSURANCE
CONSENT OF SURETY**

We, the undersigned, The Hanover Insurance Company, a corporation organized and existing under the laws of the State of NH and authorized to do business in the State of

MD with offices at Worcester, Ma. do hereby consent and agree with MAYOR AND CITY COUNCIL OF BALTIMORE

that if the foregoing proposal of CRUZ CONTRACTORS LLC

for SC #71R - IMPROVEMENTS TO HERRING RUN INTERCEPTORS PHASE 1 FROM ARGONNE DRIVE TO 675 FEET SOUTHEAST OF HARFORD ROAD

be accepted and the contract be timely awarded to CRUZ CONTRACTORS LLC

we will, upon its being so awarded and entered into, become surety for the said

CRUZ CONTRACTORS LLC

in a sum not to exceed ONE HUNDRED PERCENT OF BID AMOUNT

Dollars (\$_____) for the faithful performance of said contract.

Signed, Sealed and dated this 12TH day of JANUARY, 2011

THE HANOVER INSURANCE COMPANY

By: Pamela Boyle

Pamela Boyle

Attorney-in-fact

JAN 19 PM04:24

EXHIBIT

2

CRUZ CONTRACTORS LLC

**A New Jersey Limited Liability Company
(Member-Managed)**

OPERATING AGREEMENT

THIS OPERATING AGREEMENT is made and entered into on February 20, 2008, by and among:

Eugenio Afonso, Antonio Alves, Francesco Cangialosi, Antonio Cardoso, Augusto Castanheira, Maria G. Clemente, Licinio Cruz, Manuel Dos Santos, Daniel Figueiredo, Eduardo Gomes, Jose Rodrigues, Jose Salgado

(collectively referred to in this agreement as the "Members").

SECTION 1. THE LIMITED LIABILITY COMPANY

1.1 *Formation.* Effective April 1, 2006, the Members did form a limited liability company under the name Cruz Contractors LLC (the "Company") on the terms and conditions in this Operating Agreement (the "Agreement") and pursuant to the Limited Liability Company Act of the State of New Jersey (the "Act"). The Members did file with the appropriate agency within the State of New Jersey charged with processing and maintaining such records all documentation required for the formation of the Company. The rights and obligations of the parties are as provided in the Act except as otherwise expressly provided in this Agreement.

1.2 *Name.* The business of the Company will be conducted under the name Cruz Contractors LLC.

1.3 *Purpose.* The purpose of the Company is to engage in any lawful act or activity for which a Limited Liability Company may be formed within the State of New Jersey.

1.4 *Office.* The Company will maintain its initial principal business office within the State of New Jersey at the following address: 952 Holmdel Road, Holmdel, NJ 07733.

1.5 *Registered Agent.* Licinio (Lee) Cruz is the Company's initial registered agent in the State of New Jersey, and the registered office is 950 Holmdel Road, Holmdel, NJ 07733.

1.6 *Term.* The term of the Company commenced on April 1, 2006 and shall continue perpetually unless sooner terminated as provided in this Agreement.

1.7 *Names and Addresses of Members.* The Members' names and addresses are attached as Schedule 1 to this Agreement.

1.8 *Admission of Additional Members.* Except as otherwise expressly provided in this Agreement, no additional members may be admitted to the Company through issuance by the Company of a new interest in the Company without the prior unanimous written consent of the Members.

1.8.1 *Waiting List.* It is agreed by the parties that a waiting list of persons wanting to buy an Ownership Interest of the Company's is hereby created, and that presently on said list are those persons set forth on Schedule 4. The pool of Ownership Interests to be made

available for purchase by those persons on the waiting list shall be limited to those to be sold by Member Licinio (Lee) Cruz as provided for under this Agreement and any Ownership Interests redeemed under section 8.5 (Death Buyout). No new Ownership Interests of the Company will be made available for purchase by those on the waiting list. All sales of Ownership Interests, in terms of price and number of Ownership Interests, to any person on the waiting list must be approved by a three quarter (3/4) super majority of the Members of the Company at any given time.

SECTION 2. CAPITAL CONTRIBUTIONS

2.1 *Initial Contributions.* The Members initially shall contribute to the Company capital as described in Schedule 2 attached to this Agreement.

2.2 *Additional Contributions.* No Member shall be obligated to make any additional contribution to the Company's capital without the prior unanimous written consent of the Members.

2.3 *No Interest on Capital Contributions.* Members are not entitled to interest or other compensation for or on account of their capital contributions to the Company except to the extent, if any, expressly provided in this Agreement.

2.4 *Capital Accounts.* The company shall establish a Capital Account for each Member on a cumulative basis in accordance with federal income tax accounting principals. Each account shall be maintained in accordance with the following provisions:

- (a) Each Member's Capital Account shall initially equal such Member's initial capital contributions as set forth in Schedule 2 herein. Each Member's Capital

Account shall be increased by:

- (i) The amount of Company net profit allocated to him pursuant to this Agreement;
- (ii) Any additional capital contribution;
- (iii) Such other increase as may be appropriate and recommended by the CPA;

(b) Each Member's Capital Account shall be decreased by:

- (i) The amount of Company net loss allocated to him pursuant to this Agreement;
- (ii) The amount of distributions made to him from time to time under this Agreement;
- (iii) All other Company expenditures not otherwise accounted for in the Company's Profit and Loss accounting procedures but required to be charged to the Member's under Federal and State law.

SECTION 3. ALLOCATION OF PROFITS AND LOSSES; DISTRIBUTIONS

3.1 *Profits/Losses.* For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis by the Company's independent Certified Public Accountant (CPA) and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company as set forth in Schedule 2 as amended from time to time in accordance with U.S. Department of the Treasury Regulation 1.704-1.

3.2 *Distributions.* The Members shall distribute available funds in those amounts as may be decided by them to be in the best interest of the Company annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as

determined by the Manager. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to U.S. Department of the Treasury Regulation 1.704.1(b)(2)(ii)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in U.S. Department of the Treasury Regulation 1.704.1(b)(2)(ii)(d).

3.3 *No Right to Demand Return of Capital.* No Member has any right to any return of capital or other distribution except as expressly provided in this Agreement. No Member has any drawing account in the Company.

SECTION 4. INDEMNIFICATION

The Company shall indemnify and save harmless any person who was, or is, a party defendant or is threatened to be made a party defendant, in a pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that he is, or was, a Member of the Company, Manager, employee or agent of the Company, or is, or was, serving at the request of the Company, against all expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, if the Members determine that he acted in good faith and in a manner he reasonably believed to be in the best interest of the Company, and with respect to any criminal action proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement,

conviction, or upon a plea of "Nolo Contendere" or its equivalent, shall not in itself create a presumption that the person did, or did not, act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, that he had, or did not have, reasonable cause to believe that his/her conduct was lawful

SECTION 5. POWERS AND DUTIES OF MANAGERS

5.1 *Management of Company.*

5.1.1 The Members, within the authority granted by the Act and the terms of this Agreement shall have the complete power and authority to manage and operate the Company and make all decisions affecting its business and affairs.

5.1.2 Except as otherwise provided in this Agreement, all decisions and documents relating to the management and operation of the Company shall be made and executed by the Manager of the Company, who shall be elected from among the Members. The Manager shall serve at the pleasure of the Members and in accordance with the authority and power granted by the Act. Initially the Manager of the Company shall be Licinio (Lee) Cruz who is also a Member.

5.1.3 Third parties dealing with the Company shall be entitled to rely conclusively upon the power and authority of the Manager to manage and operate the business and affairs of the Company.

5.2 *Decisions by Members.* Whenever in this Agreement reference is made to the decision, consent, approval, judgment, or action of the Members, unless otherwise expressly provided in this Agreement, such decision, consent, approval, judgment, or action shall mean a Majority of the Members.

5.3 *Withdrawal by a Member.* A Member has no power to withdraw from the Company, except as otherwise provided in Section 8.

SECTION 6. SALARIES, REIMBURSEMENT, AND PAYMENT OF EXPENSES

6.1 *Organization Expenses.* All expenses incurred in connection with organization of the Company will be paid by the Company.

6.2 *Salary.* No compensation will be paid to a Member for the performance of his duties under this Agreement unless the compensation has been approved by a Majority of the Members.

6.3 *Legal and Accounting Services.* The Company may obtain legal and accounting services to the extent reasonably necessary for the conduct of the Company's business.

**SECTION 7. BOOKS OF ACCOUNT, ACCOUNTING REPORTS, TAX RETURNS,
FISCAL YEAR, BANKING**

7.1 *Method of Accounting.* The Company will use the method of accounting previously determined by the Members, in consultation with its CPA, for financial reporting and tax purposes.

7.2 *Fiscal Year; Taxable Year.* The fiscal year and the taxable year of the Company is the calendar year.

7.3 *Banking.* All funds of the Company will be deposited in a separate bank account or accounts in a banking institution in the name of the Company as determined by a Majority of the Members. Company funds will be invested or deposited with an institution, the accounts or deposits of which are insured or guaranteed by an agency of the United States government.

SECTION 8. TRANSFER OF MEMBERSHIP INTEREST (ALSO, OWNERSHIP INTEREST)

8.1 *Sale or Encumbrance Prohibited.* Except as otherwise permitted in this Agreement, no Member may voluntarily or involuntarily transfer, sell, convey, encumber, pledge, assign, or otherwise dispose of (collectively, "Transfer") an interest in the Company without the prior written consent of a majority of the other nontransferring Members determined on a per capita basis.

8.2 *Right of First Refusal.* Notwithstanding Section 8.1, a Member may transfer all or any part of the Member's interest in the Company (the "Interest") as follows:

8.2.1 The Member desiring to transfer his Interest must first provide written notice (the "Notice") to the other Members, said Notice to specify the price to be established by the CPA as per Section 8.2.7 of this Agreement (the "Offer").

8.2.2 For a period of 30 days after receipt of the Notice, the Members may acquire all, but not less than all, of the Interest at the price specified in the Offer. If the other Members desiring to acquire the Interest cannot agree among themselves on the allocation of the Interest among them, the allocation will be proportional to the Ownership Interests of those Members desiring to acquire the Interest.

8.2.3 Closing of the sale of the Interest will not take place less than 45 days after expiration of the 30-day notice period.

8.2.4 If the other Members fail or refuse to notify, in writing, the transferring Member of their desire to acquire all of the Interest proposed to be transferred within the 30-day period following receipt of the Notice, then the Members will be deemed to have waived their right to acquire the Interest for the price described in the Offer, and the transferring Member may sell and convey the Interest to any other person or entity at any price and under terms and conditions available. In the event that the Transferring Member is unable to sell his interest to any other person or entity, he may re-offer to sell his interest to the other Members, as

provided for hereunder, at a discounted price of seventy five (75%) percent of the CPA value. The discounted price shall not apply to any Member who retires and is bought out under this Agreement.

8.2.5 Notwithstanding the foregoing provisions of Section 8.2, should the sole remaining Member be entitled to and elect to acquire all the interests of the other Members of the Company in accordance with the provisions of Section 8.2, the acquiring Member may assign the right to acquire the interests to a spouse, lineal descendant, or an affiliated entity if the assignment is reasonably believed to be necessary to continue the existence of the Company as a limited liability company.

8.2.6 Notwithstanding anything contained in this Agreement to the contrary, if any spouse or lineal descendant of any of the Members is a full time employee of the Company, such spouse or descendant may become a Member of the Company by any manner of transfer whatsoever (e.g. gift, sales, devise, etc); and any such transfer shall not be subject to the restrictions otherwise set forth in this Agreement. Provided, however, as a condition to the application of this subsection, such spouse or descendant must enter into an agreement with the remaining Members, in form and manner reasonably acceptable to them, providing that such spouse or descendant Member shall be bound by the terms of this Agreement as if he or she was a party hereto.

8.2.7 *Buy-out of Licinio (Lee) Cruz* Notwithstanding anything contained in this Agreement to the contrary, it is agreed that Member Licinio (Lee) Cruz (Lee) shall be bought out of his Ownership Interest by the Company as follows: five (5%) percent of the net worth of the Company, as determined under this Agreement, each year during the five (5) year period commencing December 31, 2007. The value to be paid to Lee for his interest will be calculated based on the net worth of the Company at the end of each calendar year as

determined by the Company's CPA, and further adjusted by said CPA up or down by that portion of the fair market value of all Company real estate and other investments, such as machinery and equipment, stocks, bonds, etc. not reflected in the Company's book value for those assets (CPA Value). Payments to Lee shall be made at the end of each calendar quarter, following the year of calculation, for one quarter of the amount determined to be due as per this paragraph. The amount due Lee shall be determined by the CPA and be conclusive. Upon the payment being made each calendar quarter, Lee agrees to transfer to the Company part of his Ownership Interest that corresponds to the amount received in payment. The interest so transferred to the Company shall immediately become available for purchase by the remaining Members, or any number of them, desiring to so purchase, in proportion to their ownership interests, and then to those persons on the Eligibility List (schedule 4); under the terms and conditions agreed upon by the Members.

The balance of Lee's interest in the Company at the end of the above five (5) year period i.e. the remaining seventeen and fifty six one hundredths (17.578%) percent of his ownership percentage interest shall be paid over the next five (5) year period in yearly amounts of 3.515% of the net worth of the Company, as determined under this Agreement, in the same fashion and manner as the first five (5) years. At the option of the Company, the full value of the then outstanding interest owned by Lee may be paid in full at any time during the second five (5) year period. In such event the net worth of the Company shall be determined in the same manner as set forth in the previous paragraph except that the date of determination shall be the date that the Company elects to buy out the balance of Lee's Ownership Interest in lump sum, and that value then multiplied by Lee's outstanding ownership interest to arrive at the amount to be paid in full satisfaction of his interest.

Payment of that lump sum amount shall be made within sixty (60) days after the

determination of the Company's net worth is finalized for this purpose. Lee's employment position with the Company shall terminate at such time as all monies due Lee for his Ownership Interests are paid in full. Lee, however has the option, anytime during the second five (5) year period to terminate his employment with the Company, in which event, the value of his Ownership Interest shall be calculated as provided for herein and fixed as of the date of employment termination and the Company shall pay that amount plus interest at the then prime rate as promulgated by the Company's main banking institution over the balance of the second five (5) years in quarterly installments.

Upon the termination of Lee's employment with the Company, as provided in this Section 8.2.7, the remaining Members agree to indemnify and hold harmless Lee against any and all claims that may arise, after Lee's employment termination, on account of any contracts then on the books of the company, whether as relates to claims by the bonding company, banks, vendors et al, to whom Lee provided his personal guarantee during the period that he was employed by the Company.

8.2.8 *Retirement of Member* Any Member deciding to retire from the Company as a Member Employee and from the construction industry in general, i.e. with no further employment in any sector of the construction industry, shall have the right to retain his interest in the Company and not be obligated to sell his Ownership Interest. In such event the retiring Member shall be entitled to receive only the Economic Rights as defined in this Agreement, as relate to his interest. Said retiring Member shall have the right to sell his interest in accordance with the terms of this Agreement at any time after retirement in the same manner as had he decided to sell prior to his retirement, except that the price to be

paid for his interest shall be not less than the CPA Value established by the CPA in Section 8.2.7.

8.3 *Substituted Parties.* Any Transfer in which the Transferee becomes a fully substituted Member is not valid unless and until:

(1) The transferor and assignee execute and deliver to the Company the documents and instruments of conveyance necessary or appropriate, in the opinion of counsel to the Company, to effectuate the transfer and to confirm the agreement of the permitted assignee to be bound by the provisions of this Agreement; and

(2) The transferor furnishes to the Company an opinion of counsel, satisfactory to the Company, that the transfer will not cause the Company to terminate for federal income tax purposes or that any termination is not adverse to the Company or the other Members.

8.4 *Incompetency or Bankruptcy of Member.* On the adjudicated incompetence, or bankruptcy of a Member, the successor in interest to that Member (whether a bankruptcy trustee, or otherwise) will get only the right to receive distributions whenever made by the Company and the said Member's allocable share of taxable income, gain, loss, deduction, and credit (the "Economic Rights"), until such time as a majority of the other Members determine on a per capita basis, to admit the Transferee as a fully substituted Member in accordance with the provisions of Section 8.3.

8.4.1 Any transfer of Economic Rights pursuant to Section 8.4 will not include any right

to participate in the management of the Company, including any right to vote or consent, and will not include any right to information on the Company or its operations or financial condition. Following any transfer of only the Economic Rights of a Member's Interest in the Company, the transferring Member's power and right to vote or consent to any matter submitted to the Members will be eliminated, until such time, if any, as the Transferee of the Economic Rights becomes a fully substituted Member.

8.5 *Death Buy Out.* Notwithstanding the foregoing provision of Section 8, the Members covenant and agree that on the death of any Member, the Company, by providing written notice to the estate of the deceased Member within 60 days of the death of the Member, shall purchase, acquire, and redeem the Interest of the deceased Member in the Company pursuant to the provision of Section 8.5 as follows:

8.5.1 The value of each Member's Interest in the Company will be determined on the date this Agreement is signed, and the value will be endorsed on Schedule 3 attached hereto and made a part of this Agreement. The value of each Member's Interest will be redetermined unanimously and endorsed by the Members annually, unless the Members unanimously decide to redetermine those values more frequently. The purchase price for a decedent Member's interest conclusively is the value last determined before the death of such Member, provided, however, that if the latest valuation is more than two years before the death of the deceased Member, the provisions of Section 8.5.2 will apply in determining the value of the Member's Interest in the Company.

8.5.2 If the Members have failed to value the deceased Member's Interest within the

prior two-year period, the value of each Member's Interest in the Company on the date of death, in the first instance, will be determined by mutual agreement of the surviving Members and the personal representative of the estate of the deceased Member. If the parties cannot reach an agreement on the value within 30 days after the appointment of the personal representative of the deceased Member, then the surviving Members and the personal representative each must select a qualified appraiser within the next succeeding 30 days. The appraisers so selected must attempt to determine the value of the Company Interest owned by the decedent at the time of death based solely on their appraisal of the total value of the Company's assets and the amount the decedent would have received had the assets of the Company been sold at that time for an amount equal to their fair market value and the proceeds (after payment of all Company obligations) distributed in the manner contemplated in Section 8. The appraisals may not consider and discount for the sale of a minority Interest in the Company. In the event the appraisers cannot agree on the value within 30 days after being selected, the two appraisers must, within 30 days, select a third appraiser. The value of the Interest of the decedent in the Company and the purchase price of it will be the average of the two appraisals nearest in amount to one another. That amount will be final and binding on all parties and their respective successors, assigns, and representatives. The costs and expenses of the third appraiser and any costs and expenses of the appraiser retained but not paid for by the estate of the deceased Member will be offset against the purchase price paid for the deceased Member's Interest in the Company.

8.5.3 Closing of the sale of the deceased Member's Interest in the Company will be held at the office of the Company on a date designated by the Company, but not later than 90 days after agreement with the personal representative of the deceased Member's estate

on the fair market value of the deceased Member's interest in the Company; provided, however, that, if the purchase price is determined by appraisals as set forth in Section 8.5.2, the closing will be no later than 60 days after the final appraisal and purchase price is determined. If no personal representative has been appointed within 60 days after the deceased Member's death, the surviving Members have the right to apply for and have a personal representative appointed.

8.5.4 At closing, the Company will pay the purchase price for the deceased Member's interest in the Company. If the purchase price is less than \$1,000.00, the purchase price will be paid in cash; if the purchase price is \$1,000.00 or more, the purchase price will be paid as follows:

(1) \$1,000.00 in cash, bank cashier's check, or certified funds;

(2) An amount equal to the insurance proceeds, if any, received by or on behalf of the Company as a result of the death of the deceased Member from insurance policies provided for herein, shall be immediately paid to the deceased Member's estate at the time of the closing; if, however, such proceeds exceed the redemption price (or the remaining balance thereof), the excess shall be and remain the property of the Company; and

(3) By the Company executing and delivering its promissory note for the balance of the purchase price, with interest at the prime interest rate stated by the primary banking institution utilized by the Company, its successors and assigns, at the time of the deceased Member's death. Interest will be payable monthly, with the principal sum being due and payable in five equal annual installments. The promissory note will contain provisions that the principal sum may be paid in whole or in part at any time, without penalty.

(4) The Company shall have the right of offset against the payment of the purchase price any outstanding monetary obligations of the deceased Member to the Company. Such right of offset shall be applied against the portion or portions of the purchase price that is first to be paid.

8.5.5 At the closing, the deceased Member's estate or personal representative must assign to the Company all of the deceased Member's Interest in the Company free and clear of all liens, claims, and encumbrances, and, at the request of the Company, the estate or personal representative must execute all other instruments as may reasonably be necessary to vest in the Company all of the deceased Member's right, title, and interest in the Company and its assets. If either the Company or the deceased Member's estate or personal representative fails or refuses to execute any instrument required by this Agreement, it is agreed that the other party is hereby granted the irrevocable power of attorney to execute and deliver on behalf of the failing or refusing party all instruments required to be executed and delivered by the failing or refusing party. Upon the transfer of the deceased Member's interest to the company, that interest shall be immediately made available for purchase by those persons on the waiting list (Schedule 4), in accordance with the terms and conditions set forth in this Agreement.

8.5.6 On completion of the purchase of the deceased Member's Interest in the Company, the Ownership Interests of the remaining Members will increase proportionately to their then-existing Ownership Interests.

8.6 *Insurance Policies* The parties agree that the insurance policies if any, insuring the life or lives of the Members listed on Schedule 5 shall be kept in full force and effect and

that the Company shall pay the premiums thereon for so long as such insured person is a Member, a former Member, or a deceased Member to whom the purchase price of his interest has not yet been paid in full. Upon the death of a former Member the insurance proceeds of the life insurance policy on his life shall be paid over to his estate in partial or full satisfaction of monies due on the purchase price. Any excess proceeds shall remain the property of the Company.

Upon the payment in full of the redemption price to a former Member, such former Member shall have the right to purchase from the Company any policy or policies owned by it insuring the life of the former Member that are listed on Schedule 5.

8.7 Transfers Null and Void Any transfer or other disposition of Ownership Interests in the Company (including, without limitation, any transfer of the same to the spouse or former spouse of Members in connection with a divorce or other matrimonial proceeding) in a manner not authorized by this Agreement, whether voluntary or involuntary, by operation of law, judgment, decree, execution, attachment, or otherwise, shall be null and void and the Company shall refuse to transfer on its books and records any such Ownership Interests so transferred or disposed of in violation of this Agreement.

8.8 Forced Buy-out of Members It is agreed among the parties that any Member may be compelled (Compelled Member) to sell his interest in the Company at any time that the Remaining Members of the Company, except that the Compelled Member shall not have a vote, vote by at least a three quarter (3/4) majority to that effect. In such an event, the Compelled Member shall transfer his interest to the Company in the same manner as if he had voluntarily decided to sell his interest per the terms of this Agreement; except that, however, in such an event the Company shall pay in full the total consideration for the

Compelled Member's Ownership Interest no later than sixty (60) days after completion by the Compelled Member of all requirements needed to effect transfer of his interest; the right to compel a sale under this paragraph shall be for or without cause.

Notwithstanding this section 8.8, in the event that any Member retires as provided in section 8.2.8 of this Agreement or becomes disabled, for any reason, and is unable to perform his job duties as prior to disability, that Member may not be compelled to sell his interest in the Company except by an unanimous vote to that effect by the other Members.

8.9 Assignability / Guarantees In the event that, at any time during the buy-out of a Membership Interest the Company and / or the remaining Member Guarantors are unable to pay the then due purchase price, to the Transferring Member, and the same shall be past due by sixty (60) days, the Company shall have the option, with the written consent of the Transferring Member, to assign that unpaid-for interest to the other Members, or any of them, or to a third party, who shall then pay the Transferring Member the amount due.

The Members, other than the Member who is the transferor, agree to personally guarantee all purchases of Membership Interests by the Company.

SECTION 9. DISSOLUTION AND WINDING UP OF THE COMPANY

9.1 *Dissolution.* The Company will be dissolved on the happening of any of the following events:

9.1.1 Sale, transfer, or other disposition of all or substantially all of the property of the

Company;

9.1.2 The agreement of all of the Members;

9.1.3 By operation of law; or

9.1.4 The death, incompetence, expulsion, or bankruptcy of a Member, or the occurrence of any event that terminates the continued membership of a Member in the Company, unless there are then remaining at least the minimum number of Members required by law and all of the remaining Members, within 120 days after the date of the event, elect to continue the business of the Company.

9.2 *Winding Up.* On the dissolution of the Company (if the Company is not continued), the Members must take full account of the Company's assets and liabilities, and the assets will be liquidated as promptly as is consistent with obtaining their fair value, and the proceeds, to the extent sufficient to pay the Company's obligations with respect to the liquidation, will be applied and distributed, after any gain or loss realized in connection with the liquidation has been allocated in accordance with Section 3 of this Agreement, and the Members' Capital Accounts have been adjusted to reflect the allocation and all other transactions through the date of the distribution, in the following order:

9.2.1 To the payment and discharge of the expenses of liquidation and of all the Company's debts and liabilities to persons or organizations other than Members;

9.2.2 To the payment and discharge of any Company debts and liabilities owed to Members; and

9.2.3 To Members in the amount of their respective adjusted Capital Account balances on the date of distribution.

SECTION 10. GENERAL PROVISIONS

10.1 *Amendments.* Amendments to this Agreement may be proposed by any Member. A proposed amendment will be adopted and become effective as an amendment only on the written approval of all of the Members.

10.2 *Governing Law.* This Agreement and the rights and obligations of the parties under it are governed by and interpreted in accordance with the laws of the State of New Jersey (without regard to principles of conflicts of law).

10.3 *Entire Agreement; Modification.* This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter of this Agreement. No agreements, understandings, restrictions, representations, or warranties exist between or among the members other than those in this Agreement or referred to or provided for in this Agreement. No modification or amendment of any provision of this Agreement will be binding on any Member unless in writing and signed by all the Members. This Agreement supersedes and renders void that Operating Agreement executed by the Members under date of June 20, 2007.

10.4 *Attorney Fees.* In the event of any suit or action to enforce or interpret any provision of this Agreement (or that is based on this Agreement), the prevailing party is entitled to recover, in addition to other costs, reasonable attorney fees in connection with the suit, action, or arbitration, and in any appeals. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided.

10.5 *Further Effect.* The parties agree to execute other documents reasonably necessary to further effect and evidence the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.

10.6 *Severability.* If any term or provision of this Agreement is held to be void or unenforceable, that term or provision will be severed from this Agreement, the balance of the Agreement will survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.

10.7 *Captions.* The captions used in this Agreement are for the convenience of the parties only and will not be interpreted to enlarge, contract, or alter the terms and provisions of this Agreement.

10.8 *Notices.* All notices required to be given by this Agreement will be in writing and will be effective when actually delivered or, if mailed, when deposited as certified mail, postage prepaid, directed to the addresses first shown above for each Member or to such

other address as a Member may specify by notice given in conformance with these provisions to the other Members.

10.9 *Dismissal of Member as Employee* By at least a three quarter (3/4) majority of all Members (except that the Member being dismissed shall not have a vote) a Member employee of the Company may be dismissed as an employee. All rights of the dismissed employee as a Member of the Company existing at the effective date of dismissal shall remain in effect after dismissal. The dismissed Member employee shall be bought out of the Company in the same manner as if he were compelled to sell his interest as set forth in section 8.8 above.

10.10 *One Man – One Vote* Regardless of the percentage interest owned by each of the Members, whenever a vote is required under this Agreement, each Member shall have one vote. At the request of any Member, any such vote shall be by secret ballot.

10.11 *Compensation Committee* It is agreed that a Compensation Committee, of three (3) Members, is hereby established whose authority and responsibility is to determine compensation packages for all Company employees, including Member employees, from time to time in the best interest of the Company. The Compensation Committee shall be comprised of the following Members:

Antonio Cardoso

Maria G. Clemente

Licinio (Lee) Cruz

The members of this committee may be changed at the beginning of each calendar year, starting with January 1, 2008, by a three quarter vote of all Members.

Notwithstanding the above, the initial compensation packages to be paid to the Member employees shall be the same as those afforded to each Member employee by their previous

employer prior to the formation of the Company as a Limited Liability Company.

10.12 *Union Membership* Any decision to permit a Company employee to join any union shall be by a majority vote of all Member employees.

10.13 *Further Actions* Whenever it is necessary for the Members, or any of them, to take action, or to permit any action to be taken (including but not limited to the preparation and execution of documents), to fully carry out the intention of this Agreement, the Members hereby agree to take such action or to permit such action to be taken.

10.14 *Gender, etc.* As used herein, the masculine gender shall include the feminine gender or neuter gender, and vice versa, and the singular shall include the plural, and vice versa, wherever appropriate to the context hereof.

10.15 *Binding Effect* This Agreement shall inure to the benefit of and shall be binding upon the parties hereto, their personal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, the parties to this Agreement execute this Operating Agreement
as of the date and year first above written.

WITNESS:

[Signature]
[Signature]

MEMBERS:

[Signature]
Eugenia Afonso
[Signature]
Antonio Alves
[Signature]
Francesco Cangialosi
[Signature]
Augusto Castanheira
[Signature]
Antonio Cardoso
[Signature]
Maria G. Clemente
[Signature]
Licinio (Lee) Cruz
[Signature]
Daniel Figueiredo
[Signature]
Eduardo Gomes
[Signature]
Jose Rodrigues
[Signature]
Jose Salgado
[Signature]
Manuel O. dos Santos

Listing of Members – Schedule 1

CRUZ CONTRACTORS LLC

OPERATING AGREEMENT

LISTING OF MEMBERS

As of the 1st day of April, 2006, the following is a list of Members of the Company:

NAME:	ADDRESS:
Mr. Eugenio Afonso	82 Bardine Court , Colonia, NJ 07087
Mr. Antonio Alves	150 Main Street, Port Monmouth, NJ 07758
Mr. Augusto Castanheira	516 Pratt Place, Linden, NJ 07105
Mr. Francesco Cangialosi	907 Wellington Place, Aberdeen, NJ 07747
Mr. Antonio Cardoso	629 Belgrove Drive, Kearny, NJ 07032
Mrs. Maria G. Clemente	952 Holmdel Road, Holmdel, NJ 07733
Mr. Licinio Cruz	952 Holmdel Road, Holmdel, NJ 07733
Mr. Daniel Figueiredo	630 Summit Road, Union, NJ 07083
Mr. Eduardo Gomes	18 Chestnut Street, Kearny, NJ 07032
Mr. Jose Rodrigues	477 Cranford Terrace, Union, NJ 07083
Mr. Jose Salgado	156 Lafayette Street, Newark, NJ 07105
Mr. Manuel O. dos Santos	48 Jefferson Street, Newark, NJ 07105

AMENDMENT TO ORIGINAL OPERATING AGREEMENT

THIS AMENDMENT TO THE OPERATING AGREEMENT is made and entered into on December 29, 2010, by and among:

Eugenio Afonso, Antonio Alves, Francesco Cangialosi, Antonio Cardoso, Augusto Castanheira, Maria G. Clemente, Licinio Cruz, Manuel Dos Santos, Daniel Figueiredo, Eduardo Gomes, Jose Rodrigues, Jose Salgado
(Collectively referred to in this agreement as the "Members").

Amending:

SECTION 5. POWERS AND DUTIES OF MANAGERS

5.1.2 Except as otherwise provided in this Agreement, all decisions and documents relating to the management and operation of the Company shall be made and executed by the Managers of the Company, who shall be elected from among the Members. The Managers shall serve at the pleasure of the Members and in accordance with the authority and power granted by the Act. The Managers of the Company shall be Licinio (Lee) Cruz, Antonio Cardoso, Francesco Cangialosi and Jose Salgado who are also Members.

IN WITNESS WHEREOF, the parties to the Amendment of this Agreement execute this Amendment as of the date and year first above written.

WITNESS:

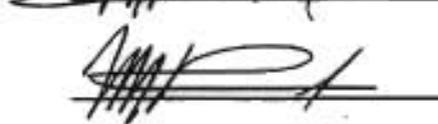




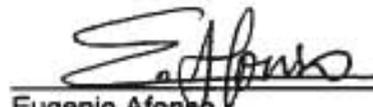


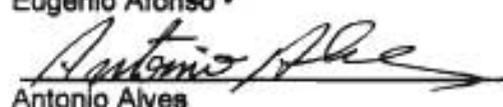






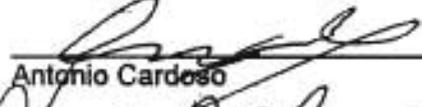
MEMBERS:



Eugenio Afonso


Antonio Alves


Augusto Castanheira

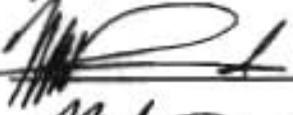

Francesco Cangialosi


Antonio Cardoso


Maria G. Clemente


Licinio Cruz





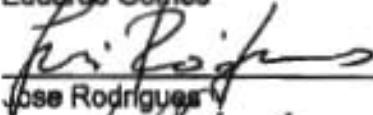


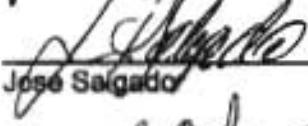


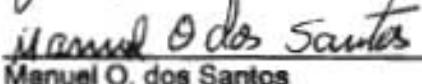




Daniel Figueiredo


Eduardo Gomes


Jose Rodriguez


Jose Salgado


Manuel O. dos Santos
Manuel O. dos Santos



Member's Signatures

Licínio Cruz

Licínio Cruz - Manager Member

Francesco Cangialosi

Francesco Cangialosi - Member

Antonio Cardoso

Antonio Cardoso - Member

Augusto Castanheira

Augusto Castanheira - Member

Maria Clemente

Maria Clemente - Member

Antonio Alves

Antonio Alves - Member

Eugenio Abruso

Eugenio Abruso - Member

Daniel Figueiredo

Daniel Figueiredo - Member

Jose Salgado

Jose Salgado - Member

Manuel Dos Santos

Manuel Dos Santos - Member

Jose Rodrigues

Jose Rodrigues - Member

Eduardo Gomes

Eduardo Gomes - Member

Subscribed and sworn to me this 12th day of January, 2011

Notary Public *Lisa E. Gulino*
My commission expires on _____

LISA E. GULINO
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES 12/28/2011

JAN 19 PM04:23



State of Maryland
Department of
Assessments and Taxation

Charter Division



Martin O'Malley
Governor

C. John Sullivan, Jr.
Director

Paul B. Anderson
Administrator

Date: 12/14/2010

THE CORPORATION TRUST INCORPORATED
351 W CAMDEN ST
BALTIMORE MD 21201-7912

THIS LETTER IS TO CONFIRM ACCEPTANCE OF THE FOLLOWING FILING:

ENTITY NAME : CRUZ CONTRACTORS OF MARYLAND LLC A/K/A CRUZ CONTRACTORS LLC
DEPARTMENT ID : E13873898
TYPE OF REQUEST : REGISTRATION
DATE FILED : 12-10-2010
TIME FILED : 08:30 AM
RECORDING FEE : \$100.00
EXPEDITED FEE : \$50.00
FILING NUMBER : 1000362000960510
CUSTOMER ID : 0002518337
WORK ORDER NUMBER : 0003734917

PLEASE VERIFY THE INFORMATION CONTAINED IN THIS LETTER. NOTIFY THIS DEPARTMENT IN WRITING IF ANY INFORMATION IS INCORRECT. INCLUDE THE CUSTOMER ID AND THE WORK ORDER NUMBER ON ANY INQUIRIES. EVERY YEAR THIS ENTITY MUST FILE A PERSONAL PROPERTY RETURN IN ORDER TO MAINTAIN ITS EXISTENCE EVEN IF IT DOES NOT OWN PERSONAL PROPERTY. A BLANK RETURN WILL BE MAILED BY FEBRUARY OF THE YEAR FOR WHICH THE RETURN IS DUE.

Charter Division
Baltimore Metro Area (410) 767-1350
Outside Metro Area (888) 246-5941

EXHIBIT

5

LIMITED LIABILITY COMPANY REGISTRATION

(for non-Maryland Limited Liability Company)

- 1.) FULL LEGAL NAME IN HOME JURISDICTION:
Cruz Contractors LLC

- 2.) NAME IT WILL USE IN MARYLAND IF DIFFERENT FROM ABOVE:
Cruz Contractors of Maryland LLC
(MUST INCLUDE "LIMITED LIABILITY COMPANY", "LLC" or "LC")

- 3.) STATE OF FORMATION: New Jersey

- 4.) DATE OF FORMATION: March 2006

- 5.) ADDRESS IN STATE OF FORMATION:
952 Holmdel Rd., Holmdel, NJ 07733

- 6.) NATURE OF BUSINESS IN MARYLAND: Microtunneling, Heavy Highway, Utilities and Bridges & Tunnels.

- 7.) NAME AND ADDRESS (NO P.O. BOXES) OF RESIDENT AGENT FOR SERVICE OF PROCESS IN MARYLAND:
The Corporation Trust Incorporated
351 West Camden Street, Baltimore, Maryland 21201

REC-10-2006

IF NO RESIDENT AGENT IN MARYLAND IS NAMED OR IF THE AGENT CANNOT BE FOUND OR SERVED, THIS DEPARTMENT IS APPOINTED AS RESIDENT AGENT OF THIS LIMITED LIABILITY COMPANY.

HAS THIS LIMITED LIABILITY COMPANY DONE BUSINESS IN MARYLAND PRIOR TO THIS REGISTRATION?

YES NO

(IF IT HAS, AN ADDITIONAL \$200 PENALTY MUST ACCOMPANY THIS REGISTRATION)

SIGNED *Antonio Cardone*
Authorized Person
Antonio Cardone-Member

I HEREBY CONSENT TO MY DESIGNATION IN THIS DOCUMENT AS RESIDENT AGENT FOR THIS LIMITED LIABILITY COMPANY.

SIGNED BY *Joanne McCarthy*
Resident Agent

Joanne McCarthy
Vice President

Revised 5/05

EXHIBIT
6

1 0 A 20

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 · Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820

Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

April 28, 2011

John Freisner, Contracts Administration
Department of Public Works
Abel Building, Suite 601
101 Holiday Street
Baltimore, Maryland 21201

Re: Carp Seca Corporation/DPW #871R

Dear Mr. Freisner:

As you know, I represent the Carp Seca Corporation, the lowest responsive and responsible bidder for the above referenced procurement. I am writing to request that my client and I be given at least a week's prior notice of the date on which this contract is to be considered by the Board of Estimates. The reason for this request is that I have a number of trials scheduled during the months of May and June and, notwithstanding my efforts to reserve Wednesday mornings for Board appearance, ultimately I have no control over court scheduling. With timely notice, I will be able to seek a continuance in the event of a scheduling conflict. Please forward this request to any other City official who may have authority in this matter.

Thanks.

Very truly yours,

Robert Fulton Dashiell

Robert Fulton Dashiell, Esquire

RFD/ktt

Cc-Harriet Taylor, Deputy Comptroller,
Secretary, Board of Estimates

Robert Fulton Dashiell, Esq. P.A.

1498 Reisterstown Road, Suite 334 · Baltimore, Maryland 21208

Robert Fulton Dashiell
robertdashiell@dashiell-lawoffice.com

Tel.: (410) 547-8820
Fax: (443) 637-3718

Senchal Dashiell Barrolle
sbarrolle@dashiell-lawoffice.com
(NY, NJ and DC only)

May 25, 2011

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

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

C/o Harriett Taylor, Secretary/Deputy Comptroller

Re: Sanitary Contract # 871R/Opposition to Law Department Recommendation

Dear Board Members:

As you know, I represent Carp-Seca Corporation in connection with its bid for the above referenced contract. I have received a copy of a memorandum dated April 18, 2011, to you from Asst. City Solicitor Michael Schrock in which he recommends that my client's protest be denied and the contract awarded to Cruz. For the reasons set forth herein below, I respectfully urge you not to follow Mr. Schrock's recommendation and, instead, award the contract to my client.

The Board's consideration of the issues presented in my client's protest must be guided by two inexorable principles: (i) a bid must *"unequivocally demonstrate the bidder's intent to pursue the requirements of the contract..."* *Century Construction, Inc.*, Docket No. MSBCA 2385 (2004); and (ii) it is the *"obligation and responsibility of the State to be able to identify a binding offer not from extraneous material or collateral inquiry but solely from the four (4) corners of the document(s) submitted as an offeror's bid"*. *Baltimore Pile Driving & Marine Construction, Inc.*, *State Highway Administration*, Docket 2549 (2006). Likewise,

the City's Standard Specifications (sec.0021.13.08 C) provides that *"No information other than that included in or attached to the original Bid (where such attachment is permitted) will be used in determining award."* Adherence to these principles insures a level playing field and protects the integrity of the bidding process by preventing the use of extraneous documents or information to obtain two bites at the apple. The recommendation from the Law Department makes a mockery of these fundamental principles.

1. **Modification of Bid Irrevocability Requirement-** Cruz's bid bond properly acknowledges Cruz's obligation to enter into a contract and furnish payment and performance bonds if awarded the contract, whenever the City may decide to make such award. The Consent of Surety submitted by Cruz, however, says that the surety's obligation to furnish payment and performance bonds, as promised in the bid bond, is subject to "timely award" of the contract. Thus, the issue is not, as the Law Department suggests, whether the bid bond form was expressly modified; rather, it is whether Cruz's Consent of Surety reserved the opportunity to accept or reject the City's award based upon timeliness. Whether that was Cruz's intent cannot be determined from "within the four corners" of its bid. For that reason the Law Department consulted with Cruz's surety which, not surprisingly, denied that Cruz intended to make such a reservation. The surety asserts that the word "timely" meant whenever the City decided. The surety's letter is a collateral source which may not be relied upon and, in any event, defies logic and common sense. If, in fact, no modification or qualification of the obligation of the bid bond was intended there was no need to submit the Consent of Surety containing the word "timely" in the first place. The opportunity to declare an intended award by the City to be untimely cannot be explained away after bid opening because it is the opportunity itself that renders the bid non responsive.
2. **Authorization of Signatory to Bid and Bid Documents-** The Law Department correctly states that the IFB does not require the submission of any particular document as proof of the signature authority of the persons who execute a bid. However, both the IFB and applicable law require that a bid be signed by authorized persons. It is, therefore, incumbent upon a bidder to submit whatever evidence is necessary to make that determination. As was the case with respect to the Consent of Surety issue discussed above, here again, the Law Department references the terms of a collateral document, Cruz's original and amended operating agreement (the "Agreement"), to establish that

IN WITNESS WHEREOF, the parties to this Agreement execute this Operating Agreement
as of the date and year first above written.

WITNESS:

[Signature]

MEMBERS:

[Signature]
Eugenia Alonso

[Signature]
Antonio Alves

[Signature]
Francesco Cangialosi

[Signature]
Augusto Castanheira

[Signature]
Antonio Cardoso

[Signature]
Maria G. Clemente

[Signature]
Licio (Lee) Cruz

[Signature]
Daniel Figueiredo

[Signature]
Eduardo Gomes

[Signature]
Jose Rodrigues

[Signature]
Jose Salgado

[Signature]
Manuel O. dos Santos

[Signature]
Manuel O. dos Santos

Listing of Members -- Schedule 1

CRUZ CONTRACTORS LLC

OPERATING AGREEMENT

LISTING OF MEMBERS

As of the 1st day of April, 2006, the following is a list of Members of the Company:

NAME:	ADDRESS:
Mr. Eugenio Afonso	82 Birdine Court, Colonia, NJ 07067
Mr. Antonio Alves	150 Main Street, Port Monmouth, NJ 07758
Mr. Augusto Castanheira	516 Pratt Place, Linden, NJ 07105
Mr. Francesco Cangialosi	907 Wellington Place, Aberdeen, NJ 07747
Mr. Antonio Cardoso	629 Belgrove Drive, Kearny, NJ 07032
Mrs. Maria G. Clemente	952 Holmdel Road, Holmdel, NJ 07733
Mr. Licinio Cruz	952 Holmdel Road, Holmdel, NJ 07733
Mr. Daniel Figueredo	630 Summit Road, Union, NJ 07083
Mr. Eduardo Gomes	18 Chestnut Street, Kearny, NJ 07032
Mr. Jose Rodrigues	477 Cranford Terrace, Union, NJ 07083
Mr. Jose Salgado	156 Lafayette Street, Newark, NJ 07105
Mr. Manuel O. dos Santos	48 Jefferson Street, Newark, NJ 07105

AMENDMENT TO ORIGINAL OPERATING AGREEMENT

THIS AMENDMENT TO THE OPERATING AGREEMENT is made and entered into on December 29, 2010, by and among:

Eugenio Afonso, Antonio Alves, Francesco Cangialosi, Antonio Cardoso, Augusto Castanheira, Maria G. Clemente, Licinio Cruz, Manuel Dos Santos, Daniel Figueiredo, Eduardo Gomes, Jose Rodrigues, Jose Salgado
(Collectively referred to in this agreement as the "Members").

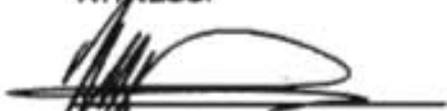
Amending:

SECTION 5. POWERS AND DUTIES OF MANAGERS

5.1.2 Except as otherwise provided in this Agreement, all decisions and documents relating to the management and operation of the Company shall be made and executed by the Managers of the Company, who shall be elected from among the Members. The Managers shall serve at the pleasure of the Members and in accordance with the authority and power granted by the Act. The Managers of the Company shall be Licinio (Lee) Cruz, Antonio Cardoso, Francesco Cangialosi and Jose Salgado who are also Members.

IN WITNESS WHEREOF, the parties to the Amendment of this Agreement execute this Amendment as of the date and year first above written.

WITNESS:







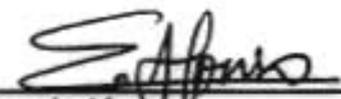


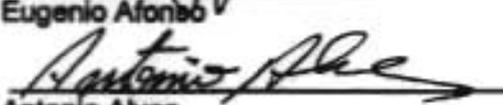


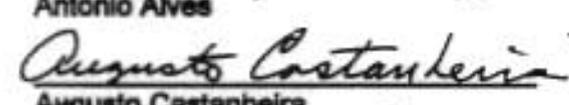




MEMBERS:

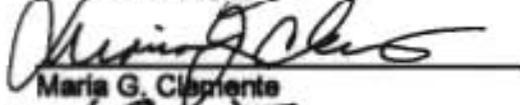


Eugenio Afonso


Antonio Alves


Augusto Castanheira


Francesco Cangialosi


Antonio Cardoso


Maria G. Clemente


Licinio Cruz





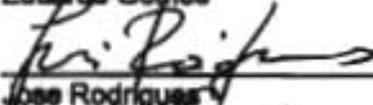




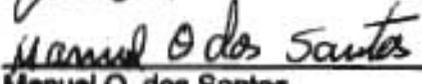




Daniel Figueiredo


Eduardo Gomes


Jose Rodriguez


Jose Salgado


Manuel O. dos Santos
Manuel O. dos Santos

State of Maryland
Department of
Assessments and Taxation

Charter Division



Martin O'Malley
Governor

C. John Sullivan, Jr.
Director

Paul B. Anderson
Administrator

Date: 12/14/2010

THE CORPORATION TRUST INCORPORATED
351 W CAMDEN ST
BALTIMORE MD 21201-7912

THIS LETTER IS TO CONFIRM ACCEPTANCE OF THE FOLLOWING FILING:

ENTITY NAME : CRUZ CONTRACTORS OF MARYLAND LLC A/K/A CRUZ CONTRACTORS LLC
DEPARTMENT ID : 213873898
TYPE OF REQUEST : REGISTRATION
DATE FILED : 12-10-2010
TIME FILED : 08:30 AM
RECORDING FEE : \$100.00
EXPEDITED FEE : \$50.00
FILING NUMBER : 1000362000960510
CUSTOMER ID : 0002518337
WORK ORDER NUMBER : 0003734917

PLEASE VERIFY THE INFORMATION CONTAINED IN THIS LETTER. NOTIFY THIS DEPARTMENT IN WRITING IF ANY INFORMATION IS INCORRECT. INCLUDE THE CUSTOMER ID AND THE WORK ORDER NUMBER ON ANY INQUIRIES. EVERY YEAR THIS ENTITY MUST FILE A PERSONAL PROPERTY RETURN IN ORDER TO MAINTAIN ITS EXISTENCE EVEN IF IT DOES NOT OWN PERSONAL PROPERTY. A BLANK RETURN WILL BE MAILED BY FEBRUARY OF THE YEAR FOR WHICH THE RETURN IS DUE.

Charter Division
Baltimore Metro Area (410) 767-1350
Outside Metro Area (888) 246-5941

EXHIBIT

5

LIMITED LIABILITY COMPANY REGISTRATION

(for non-Maryland Limited Liability Company)

- 1.) FULL LEGAL NAME IN HOME JURISDICTION:
Crus Contractors LLC
- 2.) NAME IT WILL USE IN MARYLAND IF DIFFERENT FROM ABOVE:
Crus Contractors of Maryland LLC
(MUST INCLUDE "LIMITED LIABILITY COMPANY", "LLC" or "LC")
- 3.) STATE OF FORMATION: New Jersey
- 4.) DATE OF FORMATION: March 2006
- 5.) ADDRESS IN STATE OF FORMATION:
952 Holmdel Rd., Holmdel, NJ 07733
- 6.) NATURE OF BUSINESS IN MARYLAND: Manufacturing, Heavy Highway, Utilities and Bridges & Tunnels.
- 7.) NAME AND ADDRESS (NO P.O. BOXES) OF RESIDENT AGENT FOR SERVICE OF PROCESS IN MARYLAND:
The Corporation Trust Incorporated
351 West Camden Street, Baltimore, Maryland 21201

REC-10-2006

IF NO RESIDENT AGENT IN MARYLAND IS NAMED OR IF THE AGENT CANNOT BE FOUND OR SERVED, THIS DEPARTMENT IS APPOINTED AS RESIDENT AGENT OF THIS LIMITED LIABILITY COMPANY.

HAS THIS LIMITED LIABILITY COMPANY DONE BUSINESS IN MARYLAND PRIOR TO THIS REGISTRATION?

YES NO

(IF IT HAS, AN ADDITIONAL \$200 PENALTY MUST ACCOMPANY THIS REGISTRATION)

SIGNED

[Signature]
Authorized Person
Antitake Cardless Member

I HEREBY CONSENT TO MY DESIGNATION IN THIS DOCUMENT AS RESIDENT AGENT FOR THIS LIMITED LIABILITY COMPANY.

SIGNED BY

[Signature]
Resident Agent

Joanne McCarthy
Vice President

Revised 5/05

EXHIBIT

6

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Water & Wastewater

7. SC 894, Cleaning of Outfall Sewershed 99-inch and Outfall Interceptor Metra Industries, Inc. \$6,482,175.00

MBE: Riviera Enterprises, Inc. t/a REI/DRAYCO \$129,650.00 2.00%

WBE: R&R Contracting Utilities, Inc. \$ 64,850.00 1.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

A PROTEST HAS BEEN RECEIVED FROM VIDEO PIPE SERVICES, LLC.

CORRESPONDENCE IN OPPOSITION TO VIDEO PIPE SERVICES, LLC'S PROTEST HAS BEEN RECEIVED FROM METRA INDUSTRIES, INC.

8. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$3,871,000.00	9956-909612-9549	
Wastewater	Constr. Reserve	
Revenue Bonds	Sewer System	
	Rehab. - Main	
	Outfall	
1,093,516.99	" "	
Balto. County		
3,591,954.01	Constr. Reserve	
Wastewater	Wastewater Rehab.	
<u>Revenue Bonds</u>	Prog.- Herring Run	
\$8,556,471.00		

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

Bureau of Water & Wastewater - cont'd

\$ 648,218.00	-----	9956-904694-9551-2
		Extra Work
648,218.00	-----	9956-904694-9551-3
		Engineering
388,930.00	-----	9956-904694-9551-5
		Inspection
6,482,175.00	-----	9956-904694-9551-6
		Construction
388,930.00	-----	9956-904694-9551-9
<u>\$8,556,471.00</u>		Administration

The funds are needed to cover the costs of SC 894, Cleaning of Outfall Sewershed and 99 inch outfall interceptor.

President: "The third item on the non routine agenda can be found on Page 84 and 85, item 7 and 8, Cleaning of Outfall Sewer Shed 99-inch and Outfall Interceptors and related transfer of funds. Will representatives from Video Pipe Services the protestant and the Department of Public Works please come forward. Are they here? (No response) Okay. I will entertain a Motion."

City Solicitor: "I MOVE the approval of the recommended -- the action recommended on item 7 on Page 84, SC 894."

Director of Public Works: "Second."

President: "All those in favor say AYE. All opposed NAY. Please note that I **ABSTAIN**. The Motion carries."

MINUTES

* * * * *

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Water & Wastewater - cont'd

9.	WC 1215, Sidewalk Restoration	P & J Contracting Co., Inc.	\$1,436,500.00	
	MBE: Priority Construction Corp.		\$245,000.00	17.05%
	WBE: D & O Contracting Services, Inc.		\$ 29,200.00	2.03%

Department of Transportation

10.	TR 07025R, Mount Auburn Cemetery Perimeter Rehab.	P & J Contracting Co., Inc.	\$ 609,181.00	
	MBE: Sparks Quality Fence Co. Priority Construction Corporation		\$125,000.00 40,000.00 <u>\$165,000.00</u>	20.52% 6.57% 27.09%
	WBE: William T. King, Inc. D & O Contracting Services, Inc. Cleo Enterprises, Inc.		\$ 35,768.00 19,400.00 6,000.00 <u>\$ 61,168.00</u>	5.87% 3.18% .98% 10.03%

P 84#7



VIDEO PIPE SERVICES, INC.

Specializing in today's needs for environmental protection.
1566 Harding Highway • Newfield, NJ 08344-5220 • Tel (856) 697-1900 • Fax (856) 697-0757

February 7, 2011

Honorable Joan M. Pratt, C.P.A.
Baltimore City Comptroller
City Hall, Room 204
100 North Holloday Street
Baltimore, MD 21202

**RE: SC 894- Cleaning of Outfall Sewer Shed 99-inch and Outfall Interceptor
Protest of Bid**

Dear Comptroller Pratt:

This letter constitutes a formal protest to the award of the above contract to Metra Industries, Inc. (Metra) the lowest bidder at \$6,482,175.00, or to Carp-Seca Corp. (Carp-Seca) the second lowest bidder at \$10,999,999.00, and a request that this contract be awarded to Video Pipe Services, Inc. (VPS) as the lowest responsible and responsive bidder at \$11,945,350.00

I am Vice President of the Carylon Corporation,(Carylon) and Executive Vice President of VPS. VPS is one of eighteen (18) subsidiaries of Carylon. The primary business of Carylon is sewer cleaning and inspection of sewers. I have worked my entire career for Carylon, over 40 years. Unlike VPS, Metra and Carp-Seca are not in the sewer cleaning and pipe inspection business. On information and belief, neither company have the men or equipment to fulfill the contract requirement of performing "at least fifty one percent (51%) of the Contract Bid total with their own forces" as stated on page 25 of the City of Baltimore's Contract Specifications (Exhibit A). Further, on the City of Baltimore website it does not show Carp-Seca as prequalified in category G90058, Wastewater Collection System Maintenance, a requirement to bid this contract.

Contract SC-894 calls for heavy cleaning of sanitary sewers and internal inspection of sanitary sewers. Metra is a pipe installer, lining and tunneling contractor. I refer you to their website at www.metraindustries.com, including the "construction services" section (Exhibit B). Only number ten on their list of services refers to cleaning; it states they do "cleaning and cement mortar lining." However, this is not sewer cleaning. Scale is removed from the interior of small diameter water mains in preparation for coating with cement for corrosion protection requiring different equipment and skills from sewer cleaning. What Metra primarily does is installation and reconstruction of pipe. To my knowledge they offer no cleaning, CCTV or sonar inspection of sewers. On their website there are no pictures of jet/vacuum trucks or any other equipment pertaining to the requirements of this contract. VPS has completed work for Metra in Maryland and New Jersey doing the sewer inspection and sewer cleaning required when Metra was the prime contractor on pipe installation and

Honorable Joan M. Pratt, C.P.A.
Baltimore City Comptroller
February 7, 2011
Page 2

reconstruction contracts. It was our understanding we were retained as subcontractors because Metra does not have the men or equipment to perform pipe cleaning and inspection.

Likewise, Carp-Seca is not in the sewer cleaning and pipe inspection business, but is in the tunneling and excavation industry. National Water Main Co., another subsidiary of Carylon, has worked as a subcontractor for Carp-Seca in New York City when their contracts called for televising and cleaning of sewers. Carp-Seca was the contractor on a May 2006 project (Lower Gwynns Run Interceptor) to install 13,000 feet of 30-inch pipe. Carp Seca did the micro tunneling for the pipes to be installed. There are references to their micro tunneling work on this project in the December 2006 issue of the periodical, "Tunnel Business" in an article by its editor, James W. Rush (see Exhibit C). The website for Carp-Seca is down, apparently for the stated reason that it is under renovation. It seems apparent that Carp-Seca is a tunneling contractor, and does not have the experience, workers or equipment to perform 51% of the Contract Bid total with their own forces.

For comparison purposes, go to the Carylon website, www.caryloncorp.com and see VPS under "Companies of Carylon". Click on "Sewer Cleaning" and "Digital TV Inspection" and you will see photos of our "state of the art" equipment that clearly depicts these services (Exhibit D). VPS has two custom state-of-the-art vehicles purchased at a cost of over \$700,000 each that combine CCTV/sonar inspection, as well as high-flow combination jet/vacuum trucks, hydraulic pumps, bucket machines and clamshell trucks designed specifically for large diameter sewer cleaning, as required by this Contract. VPS has specialized in this work since its incorporation in 1963.

It is my understanding that the governmental agency, despite having prequalified a bidder, must reject the bid if information is discovered following its prequalification that the bidder is not qualified or responsible to perform the work. As previously stated, Carp-Seca was never pre-qualified to perform the work, and should be excluded on this basis alone. A bid is not responsive when the bidder has failed in a material respect to conform to the requirements of the solicitation, including the specifications. The failure of Metra Industries and Carp-Seca to conform to another material section of the specifications, that is be able to perform at least fifty one percent (51%) of the Contract bid total with their own forces, I believe disqualifies both contractors from being awarded this Contract. Further, neither company is a sewer cleaning or pipe inspection contractor like VPS.

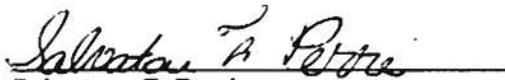
Honorable Joan M. Pratt, C.P.A.
Baltimore City Comptroller
February 7, 2011
Page 3

For the reasons set forth herein, it is respectively requested that the bids of Metra and Carp-
Seca be rejected, and that the Contract be awarded to VPS, the lowest responsive and
responsible bidder.

Thank you for your consideration of this matter. I await your reply.

Sincerely yours,

VIDEO PIPE SERVICES, INC.



Salvatore F. Perri
Executive Vice President

Enclosure
Sent via Overnight Delivery Service

shall be just cause for the annulment of the Award. It is understood and agreed that in the event of annulment of the Award, the Bidder shall immediately forfeit, to the use of the City, the amount of the certified check and/or Bid bond deposited with its Proposal, not as penalty, but as liquidated damages. As an alternative remedy, the City may elect to start the running of the Contract time (without allowing the Contractor to start work) or to pursue any other remedy allowed to the City under the law or equity.

00 51 00.08 SUBMISSIONS PRIOR TO AWARD

- A. Prior to award, the Bidder must submit a Work capacity statement, under oath. These forms must be fully completed and returned within five (5) days after the date of receipt of those forms by the Contractor. The Work capacity statement shall show the volume of Work actually being performed for the City and for others as of the date Bid. The total dollar volume will be a charge against the Contractor's Work capacity after credit for Work performed has been allowed.
- B. Subletting will be permitted within the limits of the Specifications when prequalified Subcontractors are proposed following the opening of Bids. Request for subletting by a Contractor must be accompanied by a Work capacity statement and consent of Surety for each Subcontractor requested. The Prime Contractor must perform at least fifty one percent (51%) of the Contract Bid total with its own forces.
- C. Only prequalified Subcontractors will be approved to perform subcontract Work.

00 55 00 NOTICE TO PROCEED

00 55 00.01 NOTICE TO PROCEED AND PROSECUTION OF WORK

Subject to the provisions of 00 51 00.07 (Contractor to execute required documents and start Work promptly). The Contractor shall begin the Work to be performed under the Contract at the time and/or on the date stated in the "Notice to Proceed" given by the Engineer to the Contractor. Commencement of Work by the Contractor prior to Notice to Proceed shall be deemed and taken as a waiver of this notice on the Contractor's part, and the Contractor accepts sole responsibility for any such early commencement of Work prior to receipt of Notice to Proceed and the specified commencement date set forth therein. The place where the Work is to be started either will be stated in the Notice to Proceed or the Contract Documents and/or marked on the job site. The Work shall be prosecuted from as many different points, in such part or parts and at such times as may be directed and/or permitted in the Contract Documents, and shall be conducted in such a manner and with sufficient materials, equipment and labor as is considered necessary to insure its completion within the time set forth in the Contract Documents. Should the prosecution of the Work for any reason be discontinued by the Contractor with the consent of the Engineer, it shall notify the Engineer at least twenty-four (24) hours before again resuming operation.



Metra Industries

Navigation: [Pipeline Rehabilitation](#) - [History](#) [Construction Services](#) - [About Metra](#)



Construction Services:

- Large Diameter Pipe
- Small Diameter Pipe
- Pump Stations
- Tunneling
- Slip Lining
- Chambers/Vaults/Manholes
- Service Renewals
- Hazardous Remediation
- Pipe Bursting
- Cleaning & Cement Mortar Lining

Gallery

- Press
- Metra / Wendy's Race Team

Chambers/Vaults/Manholes

METRA INDUSTRIES has the expertise to install both pre-fabricated and poured in place concrete chambers, vaults, and manholes. Deep shaft excavations, sheeting and shoring services are also available.

[Contact Us](#)

Exhibit B



Expansive Mortar

By James W. Rush

Situated near the shores of the Chesapeake Bay, Baltimore is a major port city and the cultural and commercial center of Maryland. Referred to by some as the country's northernmost Southern city, and others as its southernmost Northern city, Baltimore has an identity all its own that is reflected by another nickname, "Charm City."

And while Baltimore is unique in many ways, it shares the same problems confronted by many cities of its size – aging sewer and water systems that are in need of repairs and upgrades. Faced with a consent decree to address sanitary and combined sewer overflows, the city has been actively engaged in a series of sewer system improvement projects to reduce the number of overflows and address capacity issues for future needs.

One of the most recent projects is the Lower Gwynns Run Interceptor, which was designed as a 13,000-ft stretch of 30-in. pipe through residential and commercial areas in the city's western side. Plans called for most of the pipeline to be installed by microtunneling through moderately hard to soft rock and mixed face conditions.

Carp-Seca Corp. was awarded the project and began work in May 2006. However, once work got under way, crews found the Baltimore terrain anything but charming.

"The main challenges were in the variation of the rock mass quality," said Paul Headland, an engineer/geologist with Black & Veatch. Headland was involved on the design of the project with his former employer, URS Corp. "Along the alignment there was piedmont, metamorphic rock – gneiss, schist, amphibolite and

quartzite – all highly variable both in terms of the rock profile and the rock properties themselves."

In some cases, the rock was harder than anticipated, so hard in fact that it stopped the microtunneling crew in its tracks.

"There were sections of rock that were in excess of 37,000 psi," said Steve Leius of Carp-Seca Corp. "We tried changing cutters and cutterheads, but there were certain areas where we were not able to achieve penetration."

While crews were able to microtunnel a good portion of the planned alignment, they had to find other means for the areas with hard rock. One of the tools that they turned to was expansive mortar, a product whose roots can be traced back 150 years, according to Mike Daigh, founder of Daigh Co., the distributor for the Di-mite brand of rock-splitting mortar.

Daigh said that expanding mortar was used in Italy more than a century ago for splitting blocks of rock in quarry applications. He added that it gained prominence in the civil construction industry in the 1970s in Japan. "In Japan, there were concerns about blasting for rock excavation because of the urban density as well as liquefied soils."

The technology has been in use in civil projects in the United States, including Yucca Mountain, the Carnegie Hall expansion and East Side Access projects in New York, and a jacked box tunnel in frozen ground in Boston. Daigh says that the product is ideal in situations where blasting is restricted or where there are seismic or vibration concerns.

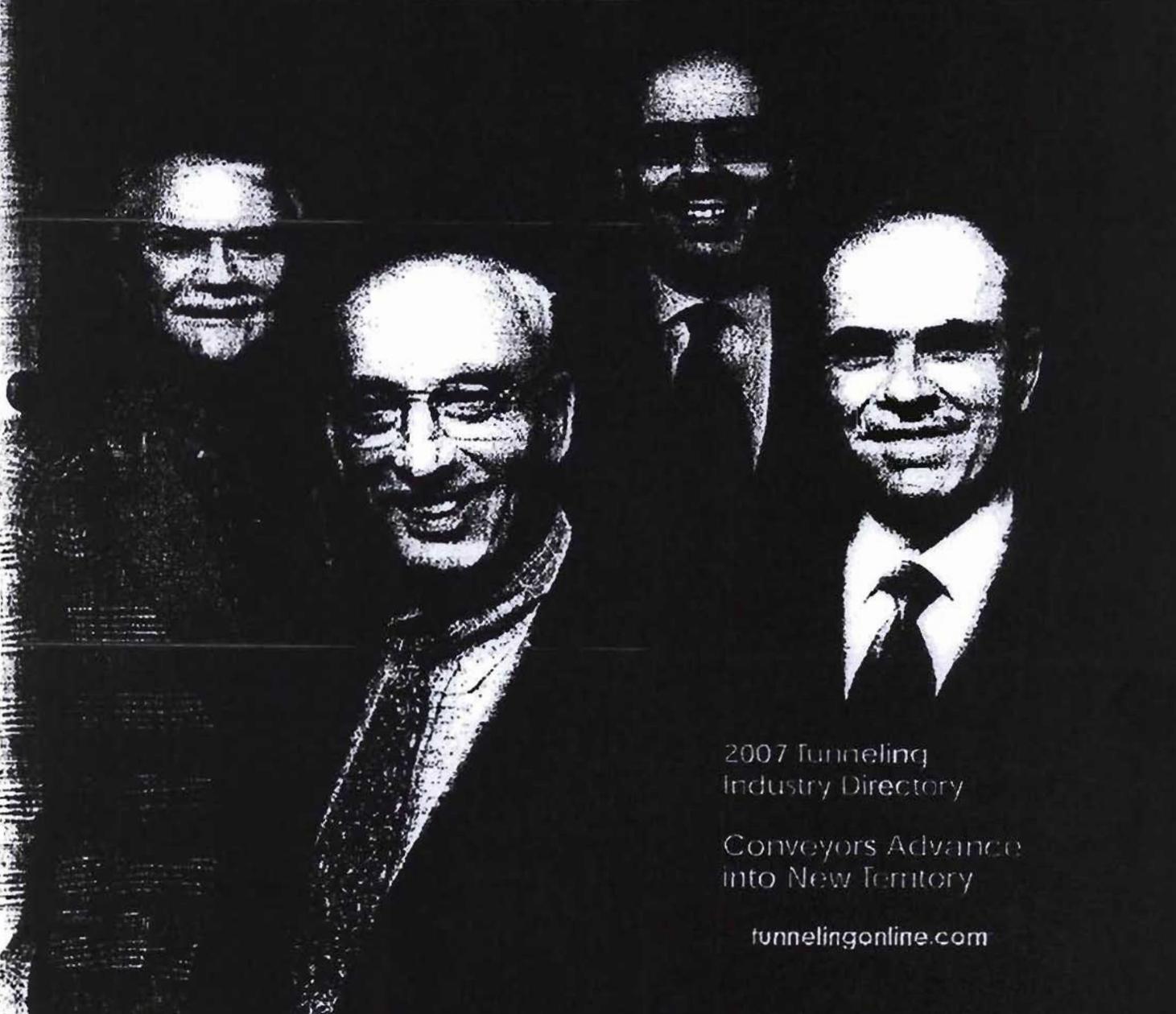


Exhibit D
Video Pipe Services, Inc.
Sewer Cleaning and Inspection
Equipment

Tunnel Business

Parsons Brinckerhoff-

Connecting the Past & Present
with State-of-the-Art Solutions



2007 Tunneling
Industry Directory

Conveyors Advance
into New Territory

tunnelingonline.com



Metra Industries

- Pipeline Rehabilitation
- History
- Construction Services
- About Metra



- Large Diameter Pipe
- Small Diameter Pipe
- Pump Stations
- Tunneling
- Slip Lining
- Chambers/Vaults/Manholes
- Service Renewals
- Hazardous Remediation
- Pipe Bursting
- Cleaning & Cement Mortar Lining

- Gallery
- Press
- Metra / Wendy's Race Team

Large Diameter Pipe
METRA INDUSTRIES has over 25 years of experience assembling, installing and testing pipelines.

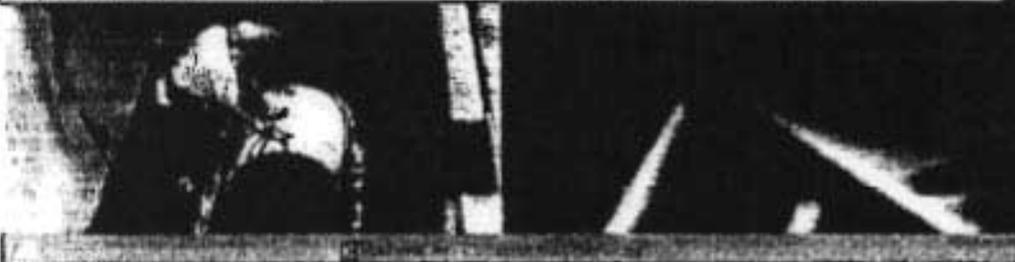
- Contact Us

Metra Industries utilizes techniques such as:
-Open Cut,
-Trenching
-Tunnel Boring
-Horizontal Directional Boring
-Pipe Bursting

METRA INDUSTRIES

Metra Industries

• [Pipeline Rehabilitation](#) • [History](#) • [Construction Services](#) • [About Metra](#)



[Large Diameter Pipe](#)
[Small Diameter Pipe](#)
[Pump Stations](#)
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[Service Renewals](#)
[Hazardous Remediation](#)
[Pipe Bursting](#)
[Cleaning & Cement Mortar Lining](#)

- [Gallery](#)
- [Press](#)
- [Metra / Wendy's Race Team](#)

Slip Lining

A common problem in today's aging infrastructure is the excess infiltration leaking into our pipelines. Deterioration of pipelines increases the costs associated with treating and pumping waste and storm water. METRA INDUSTRIES utilizes techniques such as Slip Lining, CIPP, Pipe Bursting, and Cement Mortar Lining of existing pipelines to solve these problems.

Contact us at and let us suggest the correct method to resolve your problem.

[Contact Us](#)

[Home](#)

METRA INDUSTRIES

84#7

Muller Place
Little Falls, New Jersey 07424
(973) 812-0333
FAX (973) 812-0330

Honorable Joan M Pratt, C.P.A.
Baltimore City Comptroller
City Hall, Room 204
100 North Holladay Street
Baltimore, MD 21202

March 10, 2011

RE: SC 894-Cleaning of Outfall Sewer Shed 99-inch and Outfall Interceptor

Dear Mrs. Pratt:

This Letter is in response to a protest letter from Video Pipe Services for the SC 894 Cleaning of outfall Sewershed 99-inch and outfall Interceptor.

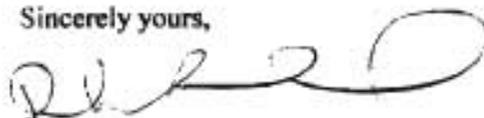
Metra Industries has an unblemished work history with The City of Baltimore . We have completed dozens of projects for the City of Baltimore, and are pre-qualified with The City of Baltimore for this very work as stated in the Notice of Letting page number NOL-1 The Prequalification Category required for bidding on this project is G90058 – Sewerage System Maintenance (Collection System) for Sanitary Contract No. 894.(see attached)

Metra Industries has the expertise, ability, equipment, and manpower to complete all the work on this project with its own forces. We will however subcontract a portion of this work to Local MBE and WBE Subcontractors, along with continuing to employ our local labor force.

Metra Industries has demonstrated their ability to not only perform work for The City of Baltimore, but with its means and methods save the City money on its contracts. Metra Industries as stated in Mr. Perri's Letter, is the Lowest Bidder at \$6,482,175.00 and Video Pipe Services the Highest Bidder at a cost to the City of \$11,945,350.00. Video Pipe's bid will cost the city's tax payers \$5,463,175.00 more for the same work. Not only was Video Pipe Services 5 Million Dollars more than Metra's Bid for the same work it is also Millions of dollars over the Cost Qualification Range for the same work as also stated in the Notice of Letting for Contract 894.

Metra's bid satisfies all the requirements of the contract documents and Metra should be deemed the lowest responsible bidder and awarded the above referenced contract. If for any reason the City determines Metra's bid to be non-responsive, they will be left with only one bidder and an inflated price.

Sincerely yours,



Robert DePonte
Vice President
Metra Industries

**CITY OF BALTIMORE
DEPARTMENT OF PUBLIC WORKS
BUREAU OF WATER AND WASTEWATER**

NOTICE OF LETTING

Sealed Bids or Proposals, in duplicate addressed to the Board of Estimates of the Mayor and City Council of Baltimore and marked for **Sanitary Contract No. 894 – Cleaning of Outfall Sewershed 99-Inch and Outfall Interceptor (From N. Bond Street to 6300 Block of E. Lombard Street)** will be received at the Office of the Comptroller, Room 204 City Hall, Baltimore, Maryland until 11:00 A.M. on **January 12, 2011**. Positively no bids will be received after 11:00 A.M. Bids will be publicly opened by the Board of Estimates in Room 215, City Hall at Noon. The Contract Documents may be examined, without charge, at the Department of Public Works Service Center located on the first floor of the Abel Wolman Municipal Building, 200 N. Holliday Street, Baltimore, Maryland 21202 as of **December 3, 2010** and copies may be purchased for a non-refundable cost of \$50. **Conditions and requirements of the Bid are found in the bid package.** All contractors bidding on this Contract must first be prequalified by the City of Baltimore Contractors Qualification Committee. Interested parties should call (410) 396-6883 or contact the Committee at Room 634, Charles L. Benton Bldg., 417 E. Fayette St., Baltimore, Maryland 21202. **If a bid is submitted by a joint venture ("JV"), then in that event, the agreement that established the JV shall be submitted with the bid for verification purposes.** The Prequalification Category required for bidding on this project is **G90058 – Sewerage System Maintenance (Collection System)**.

Cost Estimate Range for this work shall be \$5,000,001.00 to \$10,000,000.00.

A "Pre-Bidding Information" session will be conducted at **300 Abel Wolman Municipal Building, Large Conference Room, 200 N. Holliday Street, Baltimore, MD 21202** on **December 9, 2010** at **10:00 AM**.

Principal Items of work for this project are:

Heavy Cleaning and inspection of large diameter sewers, including manholes, and structures:
Circular Sewers - 3,940 LF - 99" diameter & 660 LF - 102" diameter
Arch Sewer - 3,950 LF - 144" wide x 129" high & 11,775 LF - 147" wide x 132" high

The MBE goal is 2 %

The WBE goal is 1 %

APPROVED:

APPROVED:

Clerk, Board of Estimates

Chief, Water and Wastewater
Engineering Division

Chief Solicitor

Acting Head, Bureau of Water and
Wastewater

Chief, Minority and Women's Business
Opportunity Office

Director of Public Works

CERTIFICATE OF PREQUALIFICATION

This Certifies that **METRA INDUSTRIES**
50 MULLER PLACE
LITTLE FALLS, NEW JERSEY 07424
GARY E. STIVALY, PRESIDENT

NUMBER **3264**
EFFECTIVE DATE **9/29/2010**
EXPIRATION DATE **9/29/2011 12:01 AM**

has filed prequalification papers with the City of Baltimore in accordance with the Charter Amendment and is hereby prequalified to perform work in City of Baltimore projects not to exceed **\$25,704,000.00** less the contractual amount of all uncompleted work under contract.

This Certificate limits the holder to the classification of work indicated below:

B. UTILITIES

- B02551 WATER MAINS**
- B02552 SEWER CONSTRUCTION**
- B02554 DRAINAGE STRUCTURES (MANHOLES, INLETS, ETC.)**

C. HIGHWAY BRIDGES AND HIGHWAY GRADE SEPARATION STRUCTURES

- C03300 CONCRETE CONSTRUCTION**
- C03420 PRECAST CONCRETE CONSTRUCTION**

D. ROADSIDE IMPROVEMENTS

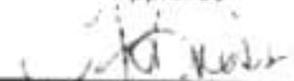
- D02800 LANDSCAPING**

E. BUILDING CONSTRUCTION (GENERAL)-OFFICES, APART., SCHOOLS, GARAGES, SPORT FAC., ETC.

- E13003 WATER AND/OR SEWER TREATMENT PLANTS AND PUMPING STATIONS**

9/29/2010

Approved



Signature of Authorization
Contractors Qualification Committee

CERTIFICATE OF PREQUALIFICATION

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F. BUILDING CONSTRUCTION AND MAINTENANCE SPECIALTIES

F02200 EARTHWORK AND SITE PREPARATION

G. OTHER SPECIALTIES

G90031 INSTALLATION OF PREFABRICATED SIDING AND WALLS

G90032 PIPE AND STRUCTURAL WELDING

G90058 WASTEWATER COLLECTION SYSTEM MAINTENANCE(CLEANING, LINING AND MINOR REPAIRS)

G90099 LINING SEWERS AND DRAINS VIA CURED IN-PLACE PIPE

9/29/2010

Approved

Signature of Authorization
Contractors Qualification Committee

Metra Industries

Regional office

1531 S. Edgewood Street

Suite 15

Baltimore, MD 21207

Telephone (410) 368-4090

Fax (410) 368-4092

Fax Cover Sheet

To: Joe Diastak From: W. Pugh

Fax #: 973-812-6596 Date: 3-9-11

Pages Including Cover 11

Project: SC 894

Re: Protest Letter

Comments:

VIDEO PIPE SERVICES, INC.

Specializing in complex needs for environmental protection.

12000 Ridgely Highway • Manassas, VA 20108-0228 • Tel (800) 882-1900 • Fax (800) 882-0757

February 7, 2011

Honorable Joen M. Pratt, C.P.A.
 Baltimore City Comptroller
 City Hall, Room 204
 100 North Holladay Street
 Baltimore, MD 21202

**RE: SC 894- Cleaning of Outfall Sewer Shed 99-inch and Outfall Interceptor
 Protest of Bid.**

Dear Comptroller Pratt:

This letter constitutes a formal protest to the award of the above contract to Metra Industries, Inc. (Metra) the lowest bidder at \$6,482,175.00, or to Carp-Seca Corp. (Carp-Seca) the second lowest bidder at \$10,999,999.00, and a request that this contract be awarded to Video Pipe Services, Inc. (VPS) as the lowest responsible and responsive bidder at \$11,945,350.00.

I am Vice President of the Carylton Corporation, (Carylton) and Executive Vice President of VPS. VPS is one of eighteen (18) subsidiaries of Carylton. The primary business of Carylton is sewer cleaning and inspection of sewers. I have worked my entire career for Carylton, over 40 years. Unlike VPS, Metra and Carp-Seca are not in the sewer cleaning and pipe inspection business. On information and belief, neither company have the men or equipment to fulfill the contract requirement of performing "at least fifty one percent (51%) of the Contract Bid total with their own forces" as stated on page 25 of the City of Baltimore's Contract Specifications (Exhibit A). Further, on the City of Baltimore website it does not show Carp-Seca as prequalified in category G90058, Wastewater Collection System Maintenance, a requirement to bid this contract.

Contract SC-894 calls for heavy cleaning of sanitary sewers and internal inspection of sanitary sewers. Metra is a pipe installer, lining and tunneling contractor. I refer you to their website at www.metraindustries.com, including the "construction services" section (Exhibit B). Only number ten on their list of services refers to cleaning; it states they do "cleaning and cement mortar lining." However, this is not sewer cleaning. Scale is removed from the interior of small diameter water mains in preparation for coating with cement for corrosion protection requiring different equipment and skills from sewer cleaning. What Metra primarily does is installation and reconstruction of pipe. To my knowledge they offer no cleaning, CCTV or sonar inspection of sewers. On their website there are no pictures of jet/vacuum trucks or any other equipment pertaining to the requirements of this contract. VPS has completed work for Metra in Maryland and New Jersey doing the sewer inspection and sewer cleaning required when Metra was the prime contractor on pipe installation and

Honorable Joan M. Pratt, C.P.A.
Baltimore City Comptroller
February 7, 2011
Page 2

reconstruction contracts. It was our understanding we were retained as subcontractors because Metra does not have the men or equipment to perform pipe cleaning and inspection.

Likewise, Carp-Seca is not in the sewer cleaning and pipe inspection business; but is in the tunneling and excavation industry. National Water Main Co., another subsidiary of Carylon, has worked as a subcontractor for Carp-Seca in New York City when their contracts called for televising and cleaning of sewers. Carp-Seca was the contractor on a May 2006 project (Lower Gwynns Rtn Interceptor) to install 13,000 feet of 30-inch pipe. Carp-Seca did the micro tunneling for the pipes to be installed. There are references to their micro tunneling work on this project in the December 2006 issue of the periodical, "Tunnel Business" in an article by its editor, James W. Rush (see Exhibit C). The website for Carp-Seca is down, apparently for the stated reason that it is under renovation. It seems apparent that Carp-Seca is a tunneling contractor, and does not have the experience, workers or equipment to perform 51% of the Contract Bid total with their own forces.

For comparison purposes, go to the Carylon website, www.caryloncorp.com, and see VPS under "Companies of Carylon". Click on "Sewer Cleaning" and "Digital TV Inspection" and you will see photos of our "state of the art" equipment that clearly depicts these services (Exhibit D). VPS has two custom state-of-the-art vehicles purchased at a cost of over \$700,000 each that combine CCTV/sonar inspection, as well as high-flow combination-jet/vacuum trucks, hydraulic pumps, bucket machines and clamshell trucks designed specifically for large diameter sewer cleaning, as required by this Contract. VPS has specialized in this work since its incorporation in 1963.

It is my understanding that the governmental agency, despite having prequalified a bidder, must reject the bid if information is discovered following its prequalification that the bidder is not qualified or responsible to perform the work. As previously stated, Carp-Seca was never pre-qualified to perform the work, and should be excluded on this basis alone. A bid is not responsive when the bidder has failed in a material respect to conform to the requirements of the solicitation, including the specifications. The failure of Metra Industries and Carp-Seca to conform to another material section of the specifications, that is be able to perform at least fifty one percent (51%) of the Contract bid total with their own forces, I believe disqualifies both contractors from being awarded this Contract. Further, neither company is a sewer-cleaning or pipe inspection contractor like VPS.

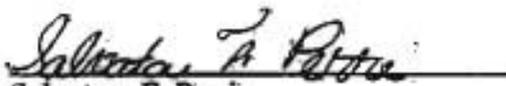
Honorable Joan M. Pratt, C.P.A.
Baltimore City Comptroller
February 7, 2011
Page 3

For the reasons set forth herein, it is respectively requested that the bids of Metra and Carp-
Seca be rejected; and that the Contract be awarded to VPS, the lowest responsive and
responsible bidder.

Thank you for your consideration of this matter. I await your reply.

Sincerely yours,

VIDEO PIPE SERVICES, INC.



Salvatore F. Perri
Executive Vice President

Enclosure
Sent via Overnight Delivery Service

Jan. 21. 2011 3:15PM

VIDEO PIPE SERVICES

No. 8239.

shall be just cause for the annulment of the Award. It is understood and agreed that in the event of annulment of the Award, the Bidder shall immediately forfeit, to the use of the City, the amount of the certified check and/or Bid bond deposited with its Proposal, not as penalty, but as liquidated damages. As an alternative remedy, the City may elect to start the running of the Contract time (without allowing the Contractor to start work) or to pursue any other remedy allowed to the City under the law or equity.

00 51 00.05: SUBMISSIONS PRIOR TO AWARD:

- A. Prior to award, the Bidder must submit a Work capacity statement, under oath. These forms must be fully completed and returned within five (5) days after the date of receipt of those forms by the Contractor. The Work capacity statement shall show the volume of Work actually being performed for the City and for others as of the date Bid. The total dollar volume will be a charge against the Contractor's Work capacity after credit for Work performed has been allowed.
- B. Subletting will be permitted within the limits of the Specifications when prequalified Subcontractors are proposed following the opening of Bids. Request for subletting by a Contractor must be accompanied by a Work capacity statement and consent of Surety for each Subcontractor requested. The Prime Contractor must perform at least fifty one percent (51%) of the Contract Bid total with its own forces.
- C. Only prequalified Subcontractors will be approved to perform subcontract Work.

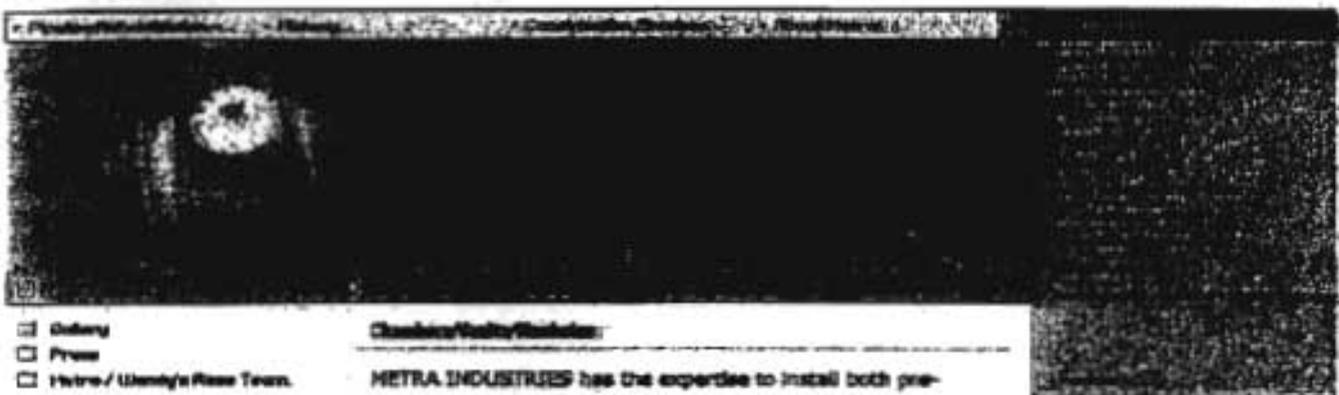
00 55 00: NOTICE TO PROCEED:

00 55 00.01: NOTICE TO PROCEED AND PROSECUTION OF WORK:

Subject to the provisions of 00 51 00.07 (Contractor to execute required documents and start Work promptly). The Contractor shall begin the Work to be performed under the Contract at the time and/or on the date stated in the "Notice to Proceed" given by the Engineer to the Contractor. Commencement of Work by the Contractor prior to Notice to Proceed shall be deemed and taken as a waiver of this notice on the Contractor's part, and the Contractor accepts sole responsibility for any such early commencement of Work prior to receipt of Notice to Proceed and the specified commencement date set forth therein. The place where the Work is to be started either will be stated in the Notice to Proceed or the Contract Documents and/or marked on the job site. The Work shall be prosecuted from as many different points, in such part or parts and at such times as may be directed and/or permitted in the Contract Documents, and shall be conducted in such a manner and with sufficient materials, equipment and labor as is considered necessary to insure its completion within the time set forth in the Contract Documents. Should the prosecution of the Work for any reason be discontinued by the Contractor with the consent of the Engineer, it shall notify the Engineer at least twenty-four (24) hours before again resuming operation.



Metra Industries



- Delivery
- Price
- Metro / Wendy's Race Team

Chambers/Vaults/Manholes:

METRA INDUSTRIES has the expertise to install both pre-fabricated and poured in place concrete chambers, vaults, and Manholes. Deep shaft excavations, sheeting and shoring services are also available.

Contact Us

026

Exhibit B



Metra Industries



- Gallery
- Press
- Metra / Wendy's Race Team

Large Diameter Pipe

METRA INDUSTRIES has over 25 years of experience assembling, installing and testing pipelines.

Contact Us

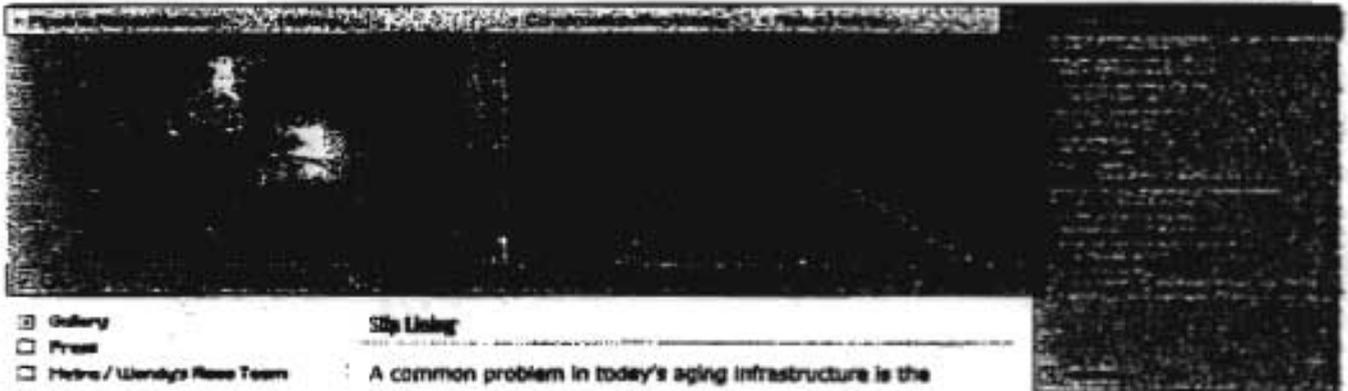
Metra Industries utilizes techniques such as:

- Open Cut
- Trenching
- Tunnel Boring
- Horizontal Directional Boring
- Pipe Bursting

1/23



Metra Industries



- Gallery
- Press
- Metro / Wendy's Race Team

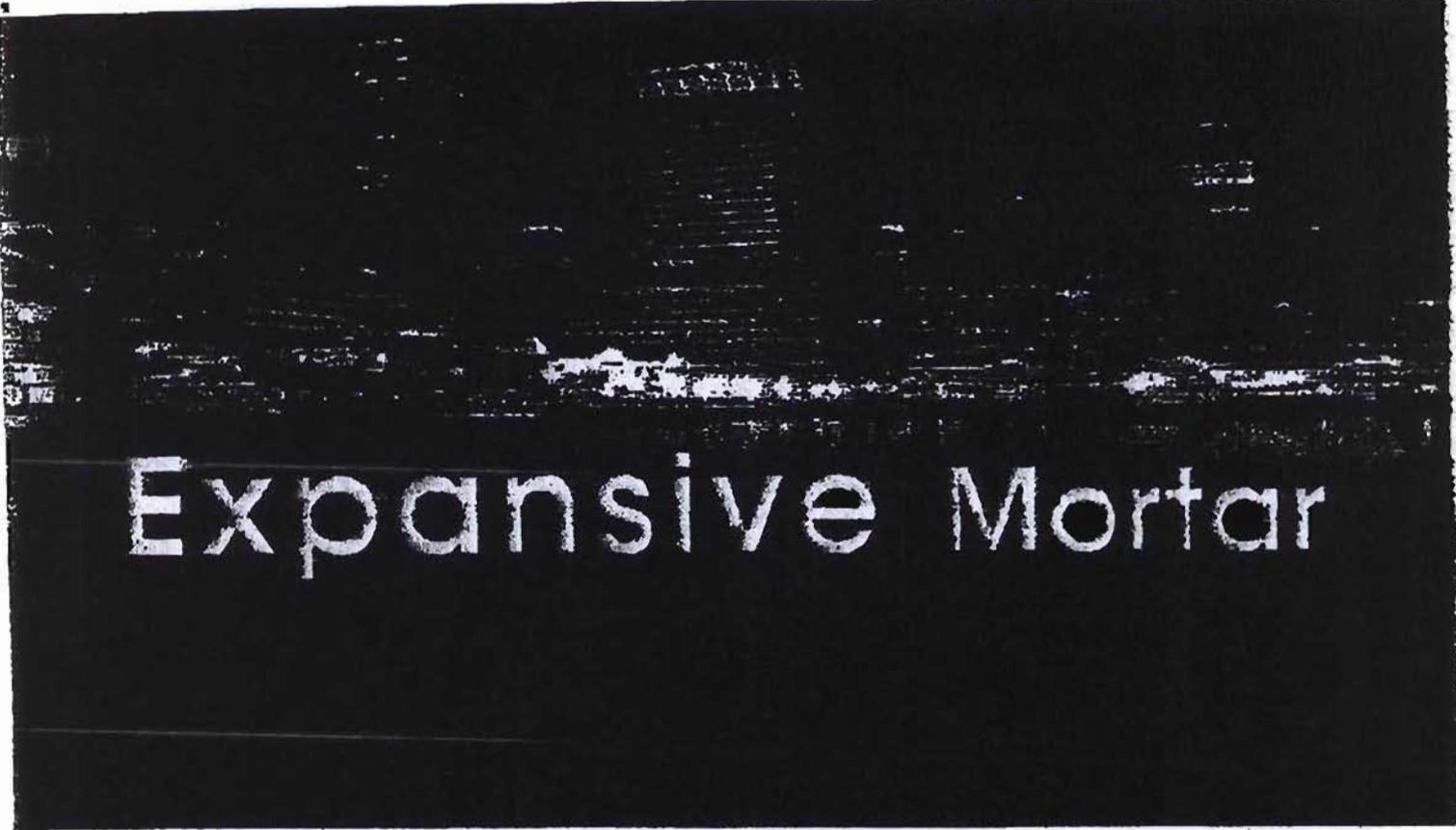
Contact Us

Slip Lining

A common problem in today's aging infrastructure is the excess infiltration leaking into our pipelines. Deterioration of pipelines increases the costs associated with treating and pumping waste and storm water. METRA INDUSTRIES utilizes techniques such as Slip Lining, CIPP, Pipe Bursting, and Cement Mortar Lining of existing pipelines to solve these problems.

Contact us at and let us suggest the correct method to resolve your problem.

0112



Expansive Mortar

By James W. Rush

Situated near the shores of the Chesapeake Bay, Baltimore is a major port city and the cultural and commercial center of Maryland. Referred to by some as the country's northernmost Southern city and others as its southernmost Northern city, Baltimore has an identity all its own that is reflected by another nickname, "Charm City."

And while Baltimore is unique in many ways, it shares the same problems confronted by many cities of its size — aging sewer and water systems that are in need of repairs and upgrades. Faced with a constant decree to address sanitary and combined sewer overflows, the city has been actively engaged in a series of sewer system improvement projects to reduce the number of overflows and address capacity issues for future needs.

One of the most recent projects is the Lower Gwynns Run Interceptor, which was designed as a 13,000-ft stretch of 30-in. pipe through residential and commercial areas in the city's western side. Plans called for most of the pipeline to be installed by microtunneling through moderately hard to soft rock and mixed face conditions.

Carp-Seca Corp. was awarded the project and began work in May 2006. However, once work got under way, crews found the Baltimore terrain anything but charming.

"The main challenges were in the variation of the rock mass quality," said Paul Headland, an engineer/geologist with Black & Veatch. Headland was involved on the design of the project with his former employer, URS Corp. "Along the alignment there was piedmont, metamorphic rock — gneiss, schist, amphibolite and

quartzite — all highly variable both in terms of the rock profile and the rock properties themselves."

In some cases, the rock was harder than anticipated, so hard in fact that it stopped the microtunneling crew in its tracks.

"There were sections of rock that were in excess of 37,000 psi," said Steve Letus of Carp-Seca Corp. "We tried changing cutters and cutterheads, but there were certain areas where we were not able to achieve penetration."

Finding an Alternate Solution

While crews were able to microtunnel a good portion of the planned alignment, they had to find other means for the areas with hard rock. One of the tools that they turned to was expansive mortar, a product whose roots can be traced back 150 years, according to Mike Daigh, founder of Daigh Co., the distributor for the Da-mite brand of rock-splitting mortar.

Daigh said that expanding mortar was used in Italy more than a century ago for splitting blocks of rock in quarry applications. He added that it gained prominence in the civil construction industry in the 1970s in Japan. "In Japan, there were concerns about blasting for rock excavation because of the urban density as well as liquefied soils."

The technology has been in use in civil projects in the United States, including Yocco Mountain, the Carnegie Hall expansion and East Side Access projects in New York, and a jacked box tunnel in frozen ground in Boston. Daigh says that the product is ideal in situations where blasting is restricted or where there are seismic or vibration concerns.

Tunnel Business

Parsons Brinckerhoff-

Contractor for the \$1.2-billion, 1.5-mile-long, two-level, two-lane, two-way, 100-ft-dia. tunnel for the

new \$1.2-billion, 1.5-mile-long, two-level, two-lane, two-way, 100-ft-dia. tunnel for the

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2011 Tunneling
Industry Directory

Contractors, Suppliers
and More Directory

tunnelingonline.com



Exhibit D
Video Pipe Services, Inc.
Sewer Cleaning and Inspection

MINUTES

PERSONNEL MATTERS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

all of the Personnel matters

listed on the following pages:

1759 - 1760

All of the Personnel matters have been approved

by the EXPENDITURE CONTROL COMMITTEE.

All of the contracts have been approved

by the Law Department

as to form and legal sufficiency.

MINUTES**PERSONNEL**Circuit Court

	<u>Hourly Rate</u>	<u>Amount</u>
1. LAUREN ARMSTRONG	\$32.40	\$ 58,900.00
2. JASON GREENBERG	\$32.40	\$ 58,900.00

Account: 5000-544411-1100-117000-601009

Ms. Armstrong and Mr. Greenberg will each continue to work as an Assistant Counsel for the Civil Division. They will be responsible for reviewing motions and making recommendations in a wide variety of civil non-domestic cases, performing legal research, and drafting opinions and orders, etc. The salary shows a 4.9% increase from the previous contract period. The period of the agreement is effective upon Board approval for one year.

Department of Recreation and Parks

3. MARCIA FROOMER	\$20.00	\$ 40,000.00
--------------------------	---------	---------------------

Account: 5000-577709-4780-369200-601009

Ms. Froomer will work as a Workforce Development Coordinator. Her duties will include, but are not limited to organizing and training non-traditional workforces (Youthworks, Civic Justice Corps, Tuerk House, and Park Stewarts) to maintain park assets. In addition she will assess, train, and evaluate the Department's full-time workforce so they can perform more sophisticated job tasks such as conducting skill needs assessments, locating and scheduling trainers, and evaluating skill acquisitions. The period of the agreement is effective upon Board approval for one year.

MINUTES**PERSONNEL**Department of Recreation and Parks - cont'd

	<u>Hourly Rate</u>	<u>Amount</u>
4. SARAH HOPE	\$20.00	\$ 40,000.00

Account: 5000-577709-4780-369200-601009

Ms. Hope will work as a Certified Playground Safety Inspector. Her duties will include, but are not limited to inspection of all 128 playgrounds twice each year to assess deficiencies. Noting needed repairs and bringing them into compliance with all safety standards. In addition Ms. Hope will communicate needed repairs to maintenance staff, develop a maintenance regime with the Chief of Park Maintenance as well as assist in organizing a replacement regime by creating a chart for each playground.

MINUTES

Department of Human Resources - Fire Training Academy Assignment
Pay Stipend - Pilot Program

ACTION REQUESTED OF B/E:

The Board is requested to approve the implementation of a six-month pilot program that will establish a salary stipend for positions in Fire Local 734 and 964 that are on permanent assignment to the Fire Academy.

AMOUNT OF MONEY AND SOURCE:

\$58,000.00 - 1001-000000-2112-226000-601061

BACKGROUND/EXPLANATION:

The stipend will be paid to those positions in Fire Local 734 and 964 that are on permanent assignment to the Fire Academy in the amount of \$100.00 per pay.

The Fire Department has proposed establishing a pilot program to test the impact of a salary stipend. A stipend in the amount of \$100.00 per pay will be applied to those 22 fully qualified members of Local 734 and 964 who are permanently assigned to the Fire Academy as instructors for the length of their assignment. This is intended as an incentive to attract and retain highly qualified instructors in Fire and EMS at the Fire Training Academy and to foster increased stability, consistency and quality of instruction so critical to optimum Fire operations.

The stipend amount will be manually entered in the Human Resources Information System (HRIS) by the Department of Human Resources as additional pay attached to a specialized pay code. It will not be part of the employees' base compensation, nor be subject to negotiation or impacted by any Cost of Living increase. It will be removed immediately upon the individual's reassignment from the Fire Academy. This is not to establish any precedent and will not be applicable to other administrative non-shift assignments within the Fire Department. It will not be applied in conjunction with any other incentive for Fire Academy assignments and will not be applicable to Command Staff or other MAPS positions.

MINUTES

DHR - cont'd

If at the end of the six-month trial period it is determined that the stipend is insufficient incentive to produce the desired number of highly qualified long-term instructors at the Fire Academy then the stipend will be discontinued and all Fire Academy positions will become studied for replacement by civilian training positions with the requisite occupational-specific instructor certifications as they become vacant.

UPON MOTION duly made and seconded, the Board approved the implementation of a six-month pilot program that will establish a salary stipend for positions in Fire Local 734 and 964 that are on permanent assignment to the Fire Academy. The President voted **NO**.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|--|-------------|---------|
| 1. ALL HANDS
FIRE EQUIPMENT | \$45,000.00 | Low Bid |
| Solicitation No. B50001937 - Partner Rescue Saws - Fire
Department - Req. No. R572842 | | |

The period of the award is June 8, 2011 through June 7, 2012 with three one-year renewal options.

- | | | |
|---|-------------|---------|
| 2. SSP, INC. DBA
JORGENSEN LOCKERS | \$44,217.34 | Low Bid |
| Solicitation No. 07000 - Mobile Lockers for Engine 26 - Fire
Department - Req. No. R573982 | | |

- | | | |
|---|--------|-------------|
| 3. MARYLAND INDUSTRIAL
TRUCKS, INC. | \$0.00 | Termination |
| Solicitation No. 08000 - Video Pipeline Inspection Systems -
Department of Public Works - P.O. P515348 | | |

On November 10, 2010 the Board approved the initial award for the period of one year with two one-year renewal options in the approximate amount of \$30,000.00 for video pipeline inspection systems. The manufacturer, RS Technical Services, Inc. has terminated their Representative Agreement with this vendor. It is therefore recommended that the contract be terminated for convenience.

- | | | |
|--|-------------|---------|
| 4. ODORITE COMPANY
OF BALTIMORE | \$30,000.00 | Low Bid |
| Solicitation No. B50001928 - Cello Chemical Cleaning Products
- Baltimore Convention Center - Req. Nos. Various | | |
| 5. PREEMINENCE, INC. | \$25,798.50 | Low Bid |
| Solicitation No. B50001959 - Charm City Circulator Benches -
Department of Transportation - Req. No. R571754 | | |

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

6. SYSTEMS INTEGRATION, INC.	\$38,328.96	Sole Source
------------------------------	-------------	-------------

Solicitation No. 08000 - Maintenance, Licenses, and Support for IVR System - Department of Finance - Req. No. R576643

The support and licenses are for proprietary software that is customized for use by the Bureau of Revenue Collections and only available from Systems Integration, Inc. (SII). The pricing is considered fair and reasonable.

7. F & F AND A. JACOBS AND SONS, INC.	\$25,000.00	Low Bid
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Solicitation No. B50001968 - Honor Guard Uniforms - Fire Department - Req. No. R573930

The period of the award is May 26, 2011 through May 25, 2012, with two one-year renewal options.

8. LAMB AWARDS & ENGRAVING	\$25,000.00	Renewal
-------------------------------	-------------	---------

Solicitation No. B50001100 - Trophies and Recognition Awards - Agencies Various - P.O. No. P508972

On July 1, 2009, the Board approved the initial award in the amount of \$75,000.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This renewal in the amount of \$25,000.00 is for the period July 1, 2011 through June 30, 2012 with one 1-year renewal option remaining.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

- | | | |
|------------------------------------|-------------|---------|
| 9. EXCALIBUR COMPUTER SYSTEMS, LLC | \$60,000.00 | Renewal |
|------------------------------------|-------------|---------|
- Solicitation No. 08000 - Maintenance and Enhancement of IVIC Software - Department of Transportation - P.O. No. P513918

On June 23, 2010, the Board approved the initial award in the amount of \$50,000.00. The award contained two 1-year renewal period July 15, 2011 through July 14, 2012, with one 1-year renewal remaining.

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

- | | | |
|--------------------|---------|---------|
| 10. SAFEWARE, INC. | \$ 0.00 | Renewal |
|--------------------|---------|---------|
- Solicitation No. B50001499 - Respirators, Replacement Parts and Fit Test Services - Agencies Various - P.O. No. P514560

On June 30, 2010, the Board approved the initial award in the amount of \$163,791.23. The award contained three 1-year renewals. This renewal is for the period July 1, 2011 through July 6, 2012, with two 1-year renewal options remaining.

MWBOO GRANTED A WAIVER.

- | | | |
|-----------------------|---------|---------|
| 11. TYRRELLTECH, INC. | \$ 0.00 | Renewal |
|-----------------------|---------|---------|
- Solicitation No. B50001500 - Materials Used for Signs, Banners, Posters, Etc. - Department of Public Works - P.O. No. P513929

On June 30, 2010, the Board approved the initial award in the amount of \$52,581.50. The award contained four 1-year renewal options. This renewal is for the period July 14, 2011 through July 13, 2012, with three 1-year renewal options remaining.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

12. VERIZON BUSINESS

SERVICES	\$250,000.00	Renewal
----------	--------------	---------

Solicitation No. 08000 - Replacement of Equipment for 911 Center and Lease and Maintenance of Enhanced 911 Customer Premise Equipment - Police Department - P.O. No. P513704

On June 16, 2010, the Board approved the initial award in the amount of \$2,089,600.00. The award contained four 1-year renewal options. This renewal in the amount of \$250,000.00 is for the period June 16, 2011 through June 15, 2012, with three 1-year renewal options remaining.

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

(FILE NO. 55899)

13. COMCAST BUSINESS

SERVICES	\$37,119.60	Renewal
----------	-------------	---------

Solicitation No. 06000 - Internet Service - Fire Department - Req. No. R556272

On November 24, 2010, the Board approved the initial award in the amount of \$32,619.60. The award contained four 1-year renewal options. Subsequent actions have been approved. This renewal in the amount of \$37,119.60 is for the period June 30, 2011 through June 29, 2012, with three 1-year renewal options remaining.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

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

MWBOO GRANTED A WAIVER.

(FILE NO. 53405A)

- | | | |
|--|--------------------|-----------------|
| 14. <u>MAYER BROS</u> | <u>\$35,000.00</u> | <u>Increase</u> |
| Solicitation No. B50001719 - Inlet Heads (A,E,H,J) -
Department of Public Works, Bureau of Water and Wastewater -
P.O. No. P515571 | | |

On December 8, 2010, the Board approved the initial award in the amount of \$18,000.00. Due to increased usage, an increase in the amount of \$35,000.00 is necessary, making the award amount \$53,000.00.

MWBOO GRANTED A WAIVER.

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|--|--------------------|----------------|
| 15. <u>DRAEGER SAFETY, INC.</u> | <u>\$50,000.00</u> | <u>Renewal</u> |
| Solicitation No. 08000 - Draeger Safety Breathing Systems,
Parts and Maintenance - Fire Department - P.O. No. P503068 | | |

On July 23, 2008, the Board approved the initial award in the amount of \$265,571.00. The award contained an option to renew. Subsequent actions have been approved. This renewal in the amount of \$50,000.00 is for the period July 23, 2011 through July 22, 2013.

MWBOO GRANTED A WAIVER.

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INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
<u>Bureau of Purchases</u>		
16. NIGHTMARE GRAPHICS	\$120,000.00	Renewal

Solicitation No. B50000972 - T Shirts and Other Active Wear - Agencies - Various P.O. No. P514789

On June 17, 2009, the Board approved the initial award in the amount of \$119,573.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This renewal in the amount of \$120,000.00 is for the period June 17, 2011 through June 16, 2012, with one 1-year renewal option remaining.

MWBOO GRANTED A WAIVER.

17. HD SUPPLY WATERWORKS, LIMITED PARTNERSHIP, D/B/A		
HD SUPPLY	\$ 65,000.00	
SMITH-BLAIR, INC.	30,000.00	
	<u>\$ 95,000.00</u>	Renewal

Solicitation No. B50000514 - Repair and Service Seal Clamps - Req. Nos. P503734 and P503735 - Departments - Various

On July 16, 2008, the Board approved the initial award in the amount of \$150,000.00. A subsequent action was approved. This is the second of three 1-year renewal options. This renewal in the amount of \$95,000.00 is for the period July 20, 2011 through July 19, 2012.

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

18. DEPENDABLE RELIABLE SERVICE	\$ 69,000.00	Renewal
PERSONAL TOUCH HOME AIDES OF BALTIMORE, INC.	90,000.00	Renewal
PB HEALTH HOME CARE AGENCY, INC.	<u>107,000.00</u>	Renewal
	<u>\$266,000.00</u>	

Solicitation No. 06000 - Provide In-Home Personal Care/Home-maker Services - Req. Nos. P510613, P510614, & P510684 - Health Department

On November 26, 2008, the Board approved the initial award. Subsequent actions have been approved. This is the final renewal in the amount of \$266,000.00 is for the period July 1, 2011 through June 30, 2012.

MWBOO GRANTED A WAIVER.

19. ACS STATE AND LOCAL SOLUTIONS, INC.	\$1,200,000.00	Increase
Solicitation No. BP 07149 - EMS Billing Services - Fire Department - Req. No. P509065		

On December 12, 2007, the Board approved the initial award in the amount of \$3,300,000.00. Additional funds are required to meet the City's increased requirements for the remainder of the initial term. The contract expires December 31, 2011, with two one-year renewal options.

MBE: Kidd International Home Care, Inc.	\$634,799.88	16.83%
WBE: TRG Networking, Inc.	\$212,460.00	5.63%

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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

20. WAGE WORKS, INC.	\$12,000.00	Renewal
Solicitation No. BP 06164 - Pre-Tax Transit Benefit Administrator - Department of Human Resources - P.O. No. P514345		

On June 21, 2006, the Board approved the initial award in the amount of \$725,400.00. The award contained three 1-year renewal options. Subsequent actions have been approved. The significantly lower amount of funds is requested since award is due to lower than anticipated usage of the program. This is the final renewal in the amount of \$12,000.00 for the period June 28, 2011 through June 27, 2012.

MWBOO GRANTED A WAIVER.

21. PROPERTYROOM.COM, INC.	\$25,000.00	Renewal
Solicitation No. 06000 - Personal Property On-Line Auction Service - Police Department - Req. No. P513287		

On July 23, 2008, the Board approved the initial award. The award contained two 1-year renewal options. Subsequent actions have been approved. The vendor provides on-line auction and other services for the disposal of evidence items no longer required. This is the final renewal in the amount of \$25,000.00 is for the period July 23, 2011 through July 22, 2012.

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

MWBOO GRANTED A WAIVER.

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INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

22. BALTIMORE AUTO		
RECYCLING, INC.	\$ 7,000.00	Extension
Solicitation No. BP 04163 - Sale of Scrap Vehicles - Department of Public Works and Department of Transportation - Req. to be Determined		

On July 16, 2004, the Board approved the initial award in the amount of \$230,400.00. Subsequent actions have been approved. A solicitation for this requirement (B50001913- Sale of Scrap Vehicles) was issued on April 8, 2011 by posting on CitiBuy, eMarylandmarketplace, and in local news papers and no bids were received. It is considered to be in the best interest of the City to extend this contract until such time as the market for these services improves. Baltimore Auto Recycling, Inc. has been the City's contractor for the last two contracts and was the only bidder on the most recent contract. The period of the extension is July 1, 2011 through June 30, 2012.

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

23. UNDER CAR SPECIALISTS		
INC. d/b/a MEINEKE		
CAR CARE CENTER		
DEER AUTOMOTIVE GROUP		
LLC t/a LIBERTY FORD	\$25,000.00	Extension & Increase
Solicitation No. BP 07017 - Motor Vehicle Exhaust System Repairs - Department of General Services - PO. No. P513945		

On August 08, 2007, the Board approved the initial award in the amount of \$165,000.00. A new solicitation, B50001978 has been advertised for this requirement. An extension, covering

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INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

the period July 01, 2011 through October 31, 2011 is needed to allow time to make an award and to provide for a transition period. The additional funds are required for Meineke Car Care Center because of an increased need for exhaust system repairs with that contractor.

MWBOO GRANTED A WAIVER.

24. XEROX CORPORATION	\$2,750,000.00	Renewal
Solicitation No. 06000 - Copier Equipment and Services - Various Agencies - PO. No. P511826		

On May 29, 2002, the Board approved the standardization for copier equipment and supplies. The initial award was to the Xerox Corporation. Subsequent approvals were been made. The first of two one-year renewal options is requested for the amount of \$2,750,000.00

MBE: NEO Technology, Inc 5.0%

MWBOO FOUND VENDOR IN COMPLIANCE.

UPON MOTION duly made and seconded, the Board approved the informal awards, renewals, increases to contracts and extensions. The Mayor **ABSTAINED** on item no. 4. The President **ABSTAINED** on item no. 14.

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Charles Village Community Benefits - Revised Bylaws
District Management Authority

ACTION REQUESTED OF B/E:

The Board is requested to approve the revised bylaws for the Charles Village Community Benefits District Management Authority (CVCBD).

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

Mr. Jeff Millard, President of the CVCBD Board of Directors has submitted the revised bylaws for the CVCBD. At its meeting on March 8, 2011, the CVCBD Board unanimously approved these revised bylaws. However, in order to be official, the Baltimore City Code requires that the revised bylaws be approved by the Board of Estimates (Subtitle 6, Section 6-4(13), Baltimore City Code, Article 14).

The CVCBD Board of Directors worked for over four years revising its bylaws, examining every section, paragraph and word, editing the original in order to achieve greater clarity and improve the governance process. The CVCBD's legal counsel, Mr. John McCauley of the Venable law firm and a parliamentarian, Ms. Colette Trohan, of A Great Meeting, Inc. have also reviewed and commented on the revision of the bylaws.

Lastly, and most importantly, residents of the CVCBD had many opportunities to comment in person. All Board and Governance Committee meetings have been advertised in advance and were open to the public. On two occasions, the Board scheduled special meetings specifically to hear and discuss public comments on the proposed revised bylaws. The first was at the CVCBD Fall Meeting on October 23, 2007 and the second was at the Fall Meeting on October 13, 2009. The CVCBD advertised both meetings in community newsletters and City newspapers in the months prior

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CVCBD - cont'd

to the meetings; and also in direct mailings to all 3,800 surcharge, tax paying residents. In addition, the proposed bylaws have been regularly posted on the CVCBD's website, www.charlesvillage.org, along with an invitation for public comment.

This document and written comment from the public were reviewed in the fall and winter of 2010 by the City legal office in cooperation with the CVCBD legal counsel and members of the CVCBD Board and appropriate revisions were made.

PROTESTS HAVE BEEN RECEIVED FROM MR. STEPHEN J. GEWIRTZ, MS. PAMELA WILSON, MR. CHRISTIAN WILSON AND MS. JOAN L. FLOYD.

(FILE NO. 55254)

[Clerk's NOTE At 10:30 a.m. during the protest of Revised By-Laws for Charles Village Community Benefits District Management Authority the Honorable Mayor Rawlings-Blake excused herself from the meeting and Mr. Edward Gallagher, Director of Finance sat acted on behalf of the Mayor for the remainder of the meeting.]

President: "The fourth item on the non-routine agenda can be found on page 100 to 101, Charles Village Community Benefits District Management Authority Revised Bylaws. I invite representatives from the Management Authority, as well as those who have submitted official protests to come forward at this time to testify on the proposed revised bylaws, only. Will the parties please come forward?"

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City Solicitor: "We are going to hear now only with regard to the Bylaw --."

President: "Bylaws only."

Mr. Millard: "Good morning Mr. President."

President: "Good morning."

Mr. Millard: "Members of the Board. I am Jeff Millard, the President of the Charles Village Community Benefits District Management Authority I am out representing the Board of Directors today, in seeking the Board of Estimates approval of changes to our Bylaws. These Bylaws were developed by the Governance Committee of the Board of Directors over the last six or seven years and were unanimously approved and duly submitted to the Board of Estimates. They were then sent to the Law Offices of the City who had some recommendations and changes that were reviewed by our Authority's Counsel, John McCauley who is here with us today. Changes were made on those recommendations and the Board of Directors of the Authority approved those changes. The Bylaws have not been updated or changed since June 9, 2003, the changes before you are primarily being made to clarify vague and inconsistent language in our current bylaws and to respond to certain issues that arose in the lawsuit brought by certain community members against the City and the Authority. These changes have been vetted with the

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community who are largely supportive of the changes. As this is a legal document, I would like Mr. McCauley to address the Board and answer any questions that you may have."

Mr. McCauley: "Good morning ladies and gentlemen."

President: "Good morning."

Mr. McCauley: "My name is John McCauley, I represent the Charles Village Community Benefits District Management Authority. I am outside counsel on a volunteer basis. I'd just like to say a few, very brief words about the bylaws. Mr. Millard explained why they were necessary. They really are, there are some inaccuracies in them, the original bylaws are hard to follow and they lack provisions that enable the Board to comply with City law. So this -- these revisions are necessary and they are a result of a fair process. I read each of the protestors letters with care as I know you did and I saw nothing in any of those letters to suggest that the process for revising these bylaws was anything other than open, fair and rigorous. There was no complaint about process. In fact the bylaws have been reviewed by City's Law Department, they have been reviewed multiple times by outside counsel, they were reviewed by a parliamentarian specially engaged by the Board and they have been the subject of open meetings and comments from the public and they are constantly posted on the Board's website. These

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bylaws are well within the Board's authority. In fact the only provision that I can see that the protestors have signaled out for criticism as inconsistent with something in the enabling legislation or the City Ordinance is the very provision that has been in the bylaws since 1996 and previously approved by the Board of Estimates that is the provision concerning voting members on the Board being representatives of corporate owners of property. Not only was this settled by the Board of Estimates in 1996, it was settled by the Court of Appeals of Maryland after a law suit involving a trial in the Circuit Court, an appeal in the Court of Special Appeals and then finally a final disposition of in the Court of Appeals. This issue has long been settled. There are no conflicts with the enabling legislation and the Board's authority is well described in the City Code. The City Code says the Board may establish its own procedures relating to the internal administration of the authority subject of course to the enabling legislation. This is what the bylaws do. They provide needed flexibility and needed tools for the Board, for example the City Code has a requirement of minimum representation with respect to several civic associations and business associations that serve the district. In order to comply with those minimum representation requirements, the Board needs the tool to fill seats that are

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left vacant by one or more of those associations. These bylaws provide those tools, and do nothing more than what the City and the City Council and the Mayor have already authorized through legislation. Thank you."

President: "Are there any questions?"

Comptroller: "I have a question. You said in your opinion that that would be the only challenge, that revision that you just stated. For the record, could you state what the other bylaw revisions are?"

Mr. McCauley: "Yes, there are several revisions to the bylaws. I have a copy of the bylaws. Actually the bylaws have been overhauled so it is hard to point out which one particularly has been revised. I do have a copy of the bylaws that highlight in red those provisions as to which a protest has been lodged."

City Solicitor: "And just to -- so you know that document was circulated to members of the Board yesterday afternoon."

Mr. McCauley: "Right."

City Solicitor: "The double line or highlighting version."

Mr. McCauley: "Yes, and I would say it is a highlighted version. It in no way purports to show all the different changes to the bylaws. But it does show in red all of the provisions, some of them are old and carryovers from the previous bylaws and some of them are new. As to which a protest

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has been lodged and then it provides some endnotes that describes the way those bylaws are particularly within the authority of the Board confirmed by the City Council and President, City Council and Mayor and the legislation. But to answer your question, there are in terms of new provisions, there are provisions for filling vacant Board seats. I think that is probably one of the most significant. There are provisions for quadrant representative elections that are little different from the old bylaws. Let me explain that. If you have specific questions on those I will be happy to answer, I don't want to take up too much of your time, because I know your time is valuable. But, the quadrant elections for example, the signal change which I think the protestors have focused on, it that in past practice the quad reps are these four at large, and by the way those are discretionary, they are voting Board members but the City Code does not require those, it simply allows those, and historically the Benefits District has allowed quadrant representatives to be voted on by representatives by each quadrant. Now that election is held at the fall meeting each year, which is held in October, and it is a public meeting. Historically, in the past someone could nominate someone to stand for that election at the meeting itself. But the bylaws, also the old bylaws also somewhat incongruously and a little

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inconsistently said that the qualifications or eligibility of that nominee to stand for election had to be vetted in advance of the meeting. So, this provided a needed fix because it requires that anybody in the District can make nominations but they must be submitted in writing in advance so that the proper procedures can go forward to assure their eligibility. We had an issue with that before and this cures that. So those are some of the new provisions. There is a provision on removal of Board members and a number of others but unless you have specific questions I would be happy to answer. You may have further questions after you have heard the protests"

President: "Thank you."

Comptroller: "Yes."

Mayor: "Well that is good."

President: "Thank you."

City Solicitor: "I would just ask those here to protest to try avoid repeating what has been covered in your written materials and try to avoid duplicating what your colleagues have to say today before the Board. Thank you."

Mr. Wilson: "Mr. President, members of the Board good morning. The neighborhood is constantly expected --

President: "You have to identify yourself."

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Mr. Wilson: "I am sorry. My name is Christian Wilson. I live at 9 East 27th Street. Excuse me a senior moment. I am 70 years old. The neighborhood is constantly expected to monitor the activities of the CVCBDMA, because it refuses to follow the laws that enacted it and attempts to create a facility that takes away the rights of the citizens it is supposed to serve. In the latest additions of the bylaws, they continue to attempt a document that has no relationship to the existing legislation, so that they can put forth their agenda. It is frightening to think that this group of individuals feels the necessity to accomplish this and continues to undermine the legislation that was intended as an entity that provided supplemental services to the community for a fee. No doubt they believe that once they rewrite the bylaws that they can quell any opposition to their management of same by pointing out to the bylaws while ignoring the basic principle of what they were supposed to provide. Each year they put forward a document that we in the neighborhood must review and attempt to convince our government that it falters along the guidelines of the enactment legislation. I am sure that all here at the Board of Estimates must be weary as we are in this annual attempt to control the community of Charles Village. There are more important issues that face the City at the current time other than the attempts by a few residents of

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the community to control the population of this area of northern Baltimore. Certainly the schools need improvements. The streets need to be safe so the residents of this community can enjoy living in the City. Let us simply tell the CVCBDMA to stop these constant attempts of changing what was agreed upon and start actually doing what the legislation enacted them to accomplish. Let's stop wasting time each year on these bylaws that mean very little except to corrupt the legislation that enacted the CVCBD. Thank you very much."

President: "Thank you."

Mr. Gewirtz: "I am Steven Gewirtz, 3007 Guilford Avenue. I have lived there since 1970, so I have certainly watched this benefits district from the beginning and first of all let me say that yes they did describe the bylaws at a couple of public meetings and they don't tend to call them hearings. They always call them public meetings. Yes they did describe them and the opinion was generally negative but they went ahead with it anyway so, you may say it is vetted before the community, what they are saying is they described it to the community, the community said no and they went ahead with it anyway. Particularly you are hearing a lot of discussion the provision that how easy it would be for the Board to pass an amendment to the bylaws in the future. It makes no sense to just say the

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majority of those present is all it takes to pass a bylaws amendment. That just makes no sense. The other thing that I have seen over the years with this benefits district from day one is just an arrogance on the part of those who created it. They don't really care what the community thinks and they just think they are entitled, and you know this relates to the budget and they have just called something from North Baltimore Patch its an article entitled 'Mayor proposes Benefits District Tax Increase', and David Hill the Executive Director says the Mayor's opposition is purely election year politics. So, the fact that people don't want their taxes raised just to have more trashcans is election year politics. That just shows the arrogance of the people living in this benefits district. Thank you."

President: "Thank you."

Ms. Wilson: "My name is Pamela Wilson and I am a resident and property owner surcharge taxpayer in Charles Village and resident in Charles Village. First, I would just like to address what Mr. McCauley brought up about the section that I have always been protesting that they have erroneously placed a 1996 amendment that says, a property owner which is an owner of a property which is utilized for commercial purposes may designate an individual to represent the owner. Well, this

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creates a third level of voting seat if this is placed improperly, which it has been, and you can see from here that they requested, the Benefits District requested this to be placed on page 2 section 2.202 capital B capital I and then it becomes in parenthesis a small (iv) for four. Well, they made up or they just ignored that and they placed it under the area that deals with voting members and that is actually capital B, but there is no capital I, and number four which is the second part of their amendment that was requested and approved would probably go in at the very end and would not indicate to anybody and suggest that a voting seat could be occupied by a representative of a property owner. So, this ties into a lot of what I have to say. For the past seven years, the CVCBD has been attempting to rewrite their bylaws. Each time the proposed bylaws are presented to the authority almost yearly, such an authority such as the BOE the new bylaws are not approved. So, the CVCBD goes back to the drawing room and then tries to get these bylaws passed by presenting them in a different format, rather than onerous parts of previously proposed bylaws or by simply amending the present ones when necessary as they have in the past. At the very least, the CVCBD must not be allowed to propose new bylaws that suggest new voting criteria that would break the City Code governing the Board of Directors, that

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remove important descriptive words using paragraphs from the City Code, descriptive words such as 'professionals within the District.' It's very important when they quote a section from the City Code, why did they're move in the District. That is important or the word hearing, when there is meeting to be held. They don't like the word hearing and a hearings suggest/tells the public they have a right to protest or say something or have some kind of voice, or take away the control from the community that was set up to run the CVCBD. The bylaws under discussion here are now presented in such a manner that it is difficult to know whether you are reading the City Code or the bylaws of the benefits district. This in itself is a problem, because it can confound and confuse but the Board only community into thinking that what they are reading in the bylaws is actually the governing law of the City. As noted in my protest to the BOE these bylaws -- new bylaws appear to provide, as I was mentioning before, a voting seat for ineligible person by misplacement of the 1996 BOE approved bylaw amendment. This can not be tolerated, because when earlier approved bylaw amendments are misplaced or descriptive words in the City Code are deleted from the new bylaws and when the bylaws quote City Code the confusion of the Board as to what is the governing law may seriously affect the Board's fiduciary responsibility to the

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surtax payers. Among other problems with these proposed new bylaws is giving the power to the Board to remove a member with or without cause and this is totally unacceptable. A few years ago we protested when the Benefits District wanted to amend the bylaws to allow the Board to remove a member for moral turpitude; that is a symbol but is being used against gay people in the past, and we did not like that. This Board should never have the authority to decide on the community member's morality or to give itself such powers as are now requested. If a member can be removed without cause as is requested now or any Board member ever been more than a yes man to any proposal for fear that he or she will loose his or her position on the Board, or any Board member ever have the strength and stamina to stand up and say something that may be harmful to the community when they may face such censure. These bylaws are now voting seats and empower the treasurer and secretary of the Board to be handed to the Administrator, a person who may merely carry out the orders of the Board. Where are the rights of the community under these proposed new bylaws? Thank you for your time."

President: "Thank you."

Ms. Floyd: "Thank you. Joan Floyd 2828 N. Howard Street. Thank you for the opportunity. You have read my letter, my protest, which is a couple of years old, I think, and you have

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read the bylaws in great detail, including the removal clause, which Mr. McCauley sort of briefly in passing mentioned as Ms. Wilson just spoke to. These are not the bylaws the Benefits District Management Authority. These are the bylaws of a private club. They disenfranchise any member who does not march in lock step with those who are in power. These bylaws are undemocratic. We should be electing democratically electing all the members of this management authority as they do in other parts of the Maryland right now, all the members. Here we currently are allowed to elect four of the total of 19, we are allowed to elect four. These bylaws put an end to elections and I will explain. It is not an election if those in power can remove the voters' choice and replace that person with someone they find more acceptable than those in power. That is not an election. That is not an election by anyone's standard. It is not a democracy if a member may be removed by those in power just for disagreeing with them. That is not a democracy, that is a private club, which you cannot have at the expense of the taxpayers. These bylaws are offensive, they are fundamentally undemocratic and they are absolutely un-American. They stand for taxation without representation. It is really that simple. So, I ask you not to approve what you have in front of you. Thank you."

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President: "Do you have a question?"

Comptroller: "Mr. Nilson, could you respond -- are these bylaws revisions in conflict with City?"

City Solicitor: "The bylaw provisions as I have reviewed them are not in conflict with City law. Many of the provisions that are objected to by the protestants have either been specifically affirmed in the course of the litigation, previously, adopted by the Board of Estimates in its prior action or necessary to fill gaps. The one issue that the last speaker identified to I would be interested in hearing from the Board about, and the bylaws do empower the Board to remove a Board member with or without cause by a majority vote. I think a majority plus one if I remember correctly, and I think it is about to get into membership of the total Board, as opposed to having it come down to a meeting. There is nothing private clubish or fundamentally undemocratic about a body being able to remove one of its members. It happens all the time in the Congress for example; there is a Congressman, not suggesting that circumstances would come into play in Charles Village but a Congressman who right now is under threat of a prospective removal only, if somebody is removed by Congress as would be the case here, there would be a seat that would be available for election. So, I invite Mr. McCauley or

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anybody from the Board to address the issue of removal without cause. If I may."

Ms. Floyd: "Excuse me but --."

President: "Let's hear from him first."

Ms. Floyd: "That would not be for no cause."

President: "Excuse me, we are going to hear from him first, and then we will hear from you. Mr. McCauley."

Mr. McCauley: "Yes, thank you Mr. President. Yes, the Board certainly debated this. I think Ms. Wilson made the point best. I think she misspoke, I believe it was unintentional, she said the Board -- we have been here before the Board of Estimates and have been rejected on bylaws on multiple occasions. That is not correct. I think what she meant was, and this is correct, that the Board has time and again held meetings, listened to the concerns of the public and gone back and addressed those in new bylaws provisions or revised bylaws provisions. So, it has been entirely responsive to public comments. So, I think that point was actually made nicely. As to you point Mr. Nilson, yes it is a provision that does provide with or without cause removal. It has never been exercised in any way arbitrarily. I understand the concerns of the protesters with regard to that, but it is within the Board's discretion to establish that bylaw. It is within the discretion conferred by the City Code and I think the

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struggle in the Board and in the Governance Committee was how do we do we write a for cause provision that doesn't just generate more and more and more a process or dispute and there is process in place for anyone who is removed. There is due process in the bylaws themselves."

City Solicitor: "Well, I understand that the struggle of having to define for a cause and it would be simply therefore to say it doesn't really matter whether a Board member being removed has violated a for cause standard because you didn't want to adopt it, but it is I won't say an unacceptable extreme but it is a big solution that moves the Board significantly in one direction to say we solved the problem by allowing that same majority to move somebody to remove somebody without cause and I guess I am you know I would agree with the proposition that the cause or the provision that we are now talking about is not anywhere contrary to the law. It is within the Board's discretion. I am just trying to understand why you would reserve to the Board the authority to remove without cause by a quote 'mere majority' as opposed to a super majority which would better ensure that the without cause removal is not abused."

Mr. McCauley: "I can't, I don't have authority to speak to different ways it could have been done. But I can tell you this, that the -- it is not as extreme or draconian as you may

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imagine and the reason is, there is a constant refreshment of Board members. Every year there is an election of quadrant reps and the civic associations can send new and different members to the Board when they want to, and if they don't like the way the Board is exercising it's discretion with regard to this provision, they can make their displeasure known. It is not as though this is a group of people who are feathering their nests or this is a --."

City Solicitor: "I realize that. You double their pay and it doesn't have any consequence on the budget."

Mr. McCauley: "Exactly. I mean these are all volunteers who are trying to get a difficult job done and they are doing it in the best way they know how, and if somebody doesn't like the way they have exercised their discretion, they have the power and the tools to change the composition of the Board."

President: "You wanted to make your response before we call for the vote?"

Ms. Floyd: "I don't, well first of all Mr. McCauley made some reference to what has never been used arbitrarily, it is has never been in the bylaws. So, I don't exactly know what that was in reference to. Regardless of all the other arguments, it is fundamentally undemocratic and it is not really (inaudible) here, and you are talking about public money and they are

MINUTES

charging us a surtax that is mandatory. They take your house if you don't pay the tax. So they are all -- you it is very much a real deal here. This is not a even the Board or commission this is a taxing authority, unlike in other jurisdictions in Maryland, people do have absolute ability to elect their entire management authority."

City Solicitor: "We are focused really here on the removal question, respectfully."

Ms. Floyd: "And you don't remove someone that the voters have elected. I am sorry."

Mr. McCauley: "I just want to point out one thing that the current bylaws do not have specific provisions for removal of Board of Directors members. However, anything that is not covered specifically by the bylaws is covered by or can be covered the Robert's rules which it does have removal provisions. So, the Governance Committee decided to rather than leave it sit there and have to have somebody learn Robert's Rules to go through that whole process to overtly put it in there to make sure that everybody understood that you have a responsibility and obligation to the Board and that the Board can deal with people who flagrantly flaunt the mission of the Board in a manner specific in the by-laws."

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City Solicitor: "I will say that without such a provision it really shows Roberts rules really gives the Board the right remove Board members not for cause, but because they flaunt the mission or speak out and express --"

Mr. McCauley: "That is our understanding of the current bylaws."

City Solicitor: "Unsettling views."

Mr. Gewirtz: "May I add a comment. You spoke exactly to the point of it, unsettling views. That's what upsets them. They can't stand dissent. The other thing that I would point out is if you take the example of congress it takes a 2/3^{rds} majority to expel a member."

City Solicitor: "That is what I was going to get to the super majority issue."

Mr. Gewirtz: "And the City Council I believe it is three quarters. So, that should be more of a model than just saying ten people can decide to throw somebody off the Board -- (inaudible)."

City Solicitor: "I don't know whether what I am about to suggest is either agreeable to my colleagues because we haven't really talked about this issue and if it is not agreeable then they will tell me about it, by not seconding my motion, or whether it is going to create a procedural problem. I would MOVE to

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approve the amendments submitted with one exception, and that is that I would require that in connection with the removal of 'not for cause' that the action of the Board be by a 2/3rd votes of the Board members and if there is problem legally with us imposing that on you then I would say we would reject the not for cause, no cause and you can go back and move forward with the proposal the 2/3 proposal. But I have some concerns myself about removal without cause on a quote 'mere majority'. So I MOVE approval with the one caveat that if it is going to be without cause it has got to be with 2/3rd voters."

Comptroller: "I agree."

Director of Public Works: "I agree with that."

Mr. McCauley: "Thank you Mr. Nilson and that would be agreeable to the authority. We would accept your conditional approval. We will go back to the Board to implement the very suggestion you made and --."

City Solicitor: "That way if you really agree with that any implement that suggestion you don't need to come back here. So, I think I heard a second."

President: "Is there a second?"

Director of Public Works: "There is a second."

President: "All those in favor say AYE. All opposed NAY. AYE's have it Motion carries."

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City Solicitor: "Thank you all."

Ms. Floyd: "Just for point of clarification, what is the status right now of this set of bylaws?"

City Solicitor: "It is approved with one change and they are going to go back and ratify or confirm that change within the community."

Ms. Floyd: "So it is approved for removal without cause?"

President: "Right."

City Solicitor: "I am sorry. No. They are approved as submitted by a majority plus one with cause or without cause by a 2/3^{rds} majority."

Ms. Floyd: "So without cause. Okay. Thank you."

President: "Thank you."

* * * * *

3007 Guilford Avenue,
Baltimore, MD 21218-3926.
410-243-1850 (home),
443-226-3214 (cell)
ggwirtz@bellatlantic.net
March 21, 2011

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

In re: Protest of the proposed new bylaws of the Charles Village Community Benefits District

Dear Board of Estimates:

I hereby protest the proposed new bylaws adopted by the board of the Charles Village Community Benefits District (CVCBD) on March 8, 2011 and submitted to you for your approval, and I ask to be heard when you consider the proposed new bylaws. I submit below several reasons that the bylaws should be rejected. Let me add that there are many more reasons that can be given.

1. Under the proposed bylaws (Article IV Section 7B), the Executive Committee may act for the board whenever there are "emergent circumstances" and a quorum of the board cannot be convened in time to meet the emergency. This would make it possible to have a quorum of the board meet in January to elect the officers (the Executive Committee) and never again convene a quorum of the board, at which point all actions needed from the board including the adoption of a budget and tax rate would constitute "emergent circumstances." In short, the board would be giving all of its powers to the Executive Committee. At a minimum, no action of the Executive Committee to act for the full board should be valid unless later ratified by the full board.
2. CVCBD is a government. It levies a tax and spends the tax revenues. That is the act of a government, not of a nonprofit, not of a quasi-government. Adoption of the tax rate should require the affirmative votes of a majority of the authorized voting membership, i.e. it should require 10 votes. The 15 member Baltimore City Council needs 8 affirmative votes to set the tax rate, even if there are vacancies on the Council. We should expect the same from our CVCBD board.
3. To remove a member of the board should require cause and should require the votes of 3/4 of the authorized voting membership of the board (i.e. it should require 15 votes). It should not be possible for a mere majority to remove and then possibly replace a member without cause. The removal of a member of the

City Council requires cause and the affirmative votes of 3/4 of the authorized membership of the City Council.

4. Article IV Section 1B3 allowing someone who is neither a registered voter nor a property owner within the District to be a voting member of the board is contrary to both the State and City enabling legislation, and something similar has previously been rejected by the Board of Estimates. The State enabling legislation provides that whatever criteria were used to determine who would be allowed to vote in the referendum on creation of CVCBD would become the criteria for who would be allowed to serve as a voting member of the CVCBD board, and absent a change in the State enabling legislation, that can never change. I will not discuss whether it is desirable to allow a business owner who does not meet the criteria set forth in the law to be voting member of the board, because the fact is that CVCBD must operate within its enabling legislation.

5. Article IV Section 3B permits a resident or business owner within the District to nominate someone for a position as a quadrant representative on the board. It does not permit someone who owns property within the District but is not a resident to make a nomination, even though Section 3C of the same article permits that person to vote for a quadrant representative.

6. Article X makes it far too easy to amend the bylaws. Any amendment should require the affirmative votes of at least a majority of the authorized board members, i.e. 10 votes to submit a bylaws amendment to the Board of Estimates. Indeed, it takes the affirmative votes of 60% of the authorized membership of each house of the Maryland General Assembly to submit a constitutional amendment to the voters of Maryland. One could argue that it should take 12 affirmative votes to submit an amendment to the bylaws to the Board of Estimates.

7. Article IV Section 3B takes away from the voters of Charles Village the right to make nominations for quadrant representatives from the floor at the election meeting. Instead, it requires notice in advance to the leadership of CVCBD that someone is planning to run. Moreover, it leaves it to the honesty of the Chair of the Governance Committee to state whether a nomination has properly been submitted to him. And while it requires nominations to be submitted in advance, it does not require that a list of nominees appear on the CVCBD website in advance of the election meeting.

8. Several things are missing from the proposed bylaws. There is no provision to prohibit conflicts of interest. There is no provision to prohibit discrimination in the delivery of services based on whether the person requesting such services is or is not a supporter of CVCBD, despite a history of such discrimination. There is no requirement that a fiscal agent for CVCBD operate as though it were subject to the Open Meetings and Public Information Acts. These are things that should be covered in any bylaws.

If I were designing CVCBD from scratch, I would set it up based on the principle of one person one vote. Right now, depending on where one lives within the District, one may be a member of at most one, two or three of the community organizations represented on the board. And as is illustrated by the fact that there presently is only one person named to the board from the three business organizations represented on the board, it is not clear to what extent some of those organizations really exist and whom they actually represent. But there is a far better model for setting up a board for a government such as CVCBD, namely the New England town meeting. If CVCBD were set up that way, there would be a meeting every April, open to all residents of the District and to all owners of property subject to the surtax. At that meeting, the entire board (to keep up the analogy, the selectpersons) would be elected to take office immediately, and the budget and tax rate would be adopted by the meeting. I pick April because that would allow adequate time for the budget and tax rate to be transmitted to the Board of Estimates for its approval before the beginning of the July 1 to June 30 fiscal year. I realize that adoption of such a form of governance for CVCBD would require a change in the City enabling legislation (part of the City Code) and therefore cannot be adopted through amending the bylaws, but it would give CVCBD far more legitimacy within Charles Village. Right now, most Charles Villagers think, rightly in my view, that they can have little influence on CVCBD, and therefore they do not attend either of the two annual public meetings. My proposal would change that entirely.

Unfortunately, you the Board of Estimates cannot amend the City enabling legislation that created CVCBD. You can only accept or reject the proposed bylaws. I urge you to reject them. Having several years ago been a member of the CVCBD board for two years, I know that the leadership of the board of CVCBD is very adept at bullying the members of the board and that few members are willing to defy the leadership on any issue. But the proposed bylaws are an attempt by the leadership to grab even more power. They should be rejected.

Sincerely,



Stephen J. Gewirtz,
Homeowner and CVCBD taxpayer since the inception of CVCBD
And Coordinator of a Charles Village Court Watch program

By fax – 1 page only to: 410-685-4416 –
BOE Hearing rescheduled for May 18, 2011 – URGENT REQUEST

9 East 27th Street
Baltimore, MD 21218
410-889-6277 (home),
pwilson@portlightinc.com
May 2, 2011

Honorable President and Members of the Board of Estimates,
c/o Ms. Bernice H. Taylor, Clerk to the Board of Estimates,
Room 204, City Hall,
100 North Holliday Street,
Baltimore, Maryland 21202.

Dear Mayor Rawlings-Blake and Members of the Board of Estimates:

Re: Protest of the proposed new bylaws of the Charles Village Community
Benefits District – BOE Hearing rescheduled for May 18, 2011

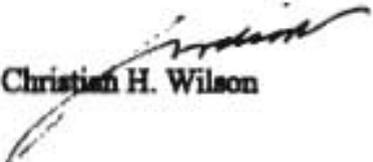
We received on Saturday a letter from Ms. Taylor, Clerk, Board of Estimates, advising us that the hearing on the proposed bylaws of the Charles Village Community Benefits District (CVCBD) would again be deferred, this time until May 18, 2011, because "the attorney for the CVBD will not be available until May 18". As we submitted a protest to these Bylaws for the first hearing on April 20th, Ms. Taylor has been diligent in keeping us aware of the deferrals that have since been granted to the CVCBD. Each time this hearing was rescheduled we were prepared to attend to express our protest in person.

Unfortunately, we will both be out of town on May 18th and canceling our plans would result in a large financial loss for us. Therefore, since we made ourselves available on the original date for this hearing, April 20th, and for each of the deferrals of April 27th, and May 4th, we ask you for a deferral on our behalf. We can make ourselves available on the two following Wednesdays, May 25th and June 1st.

We look forward to your consideration and thank you.

Respectfully yours,


Pamela J. Wilson


Christian H. Wilson

By fax – 6 pages only to: 410-685-4416 –
PROTEST - BOE Hearing on April 20, 2011

9 East 27th Street
Baltimore, MD 21218
410-889-6277 (home),
pwilson@portlightinc.com
April 18, 2011

Honorable President and Members of the Board of Estimates,
c/o Clerk to the Board of Estimates,
Room 204, City Hall,
100 North Holliday Street,
Baltimore, Maryland 21202.

Dear Mayor Rawlings-Blake and Members of the Board of Estimates:

**Re: Protest of the proposed new bylaws of the Charles Village Community
Benefits District – BOE Hearing on April 20, 2011**

As residents and property owners within the boundaries of the Charles Village Community Benefits District (CVCBD) and subject to payment of said surtax we hereby protest the proposed new bylaws adopted by the Board of the CVCBD on March 8, 2011 and submitted to you for your approval. We ask to be heard when you consider the proposed new bylaws at the BOE hearing. We urge you to reject these proposed new bylaws and we elaborate below:

I. Conflicts with the City Code and Enabling Legislation.

These proposed Bylaws, in many parts, conflict with the City Code and would therefore cause harm to us and to our community because the legislation provides for many protections for our community. Bylaws cannot rewrite the law as these proposed bylaws attempt to do. Bylaws are merely a guide providing more detailed methods for carrying out the powers provided to the Authority under its legislation. The proposed new bylaws are presented in a format to look like the City Code's Subtitle 6, Art. 14 so that it is difficult for an individual, or even a CVCBD Board member, to distinguish whether one is reviewing the legislation or the bylaws. Rather than just supplementing the law these proposed bylaws are written to look like the existing legislation, copying large parts of the legislation, but omitting and distorting important parts of the legislation.

Protest letter to the Board of Estimates
Dated: April 18, 2011 - Re: CVCBD bylaws

By conflicting with the law both in verbiage and intent the proposed bylaws would confuse and confound both the community and Board Members. The City Code demands certain requirements of the Authority's Board but the proposed bylaws disregard and change these requirements. The City Code set up protections for the community that the CVCBD is to serve and the Board of Estimates holds the power to uphold the law against these attempts to thwart it under the guise of bylaws changes.

City Code, Subtitle 6, Art. 14, 6-6

"Board of Directors, (g) *Bylaws, rules and regulations.*

- (1) **The Board may adopt such bylaws, rules and regulations as it deems necessary in carrying out the powers of the Authority, so long as the same shall not be inconsistent with the terms of this subtitle or of any ordinance amendatory or supplementary hereto or of the Enabling Legislation"**
- (2) **All bylaws shall be subject to the approval of the Board of Estimates.**
- (3) **The Board may establish its own procedures relating to the internal administration of the Authority, except as may be restricted by the Enabling Legislation or this subtitle."**

II. Example of Conflicts with the City Code.

The City Code lists the only two criteria by which individuals are allowed to fill voting seats to govern as the CVCBD Authority. Other persons, such as representatives of certain entities are allowed under law to have seats on the Board, but unless such people qualify under at least one of only two criteria, they can only occupy non-voting seats. There is plainly no third Eligibility Criteria to allow for a voting member who is not either a property owner subject to the tax nor a registered voter within the District.

City Code, Subtitle 6, Art. 14, 6-6

"Board of Directors, (c) *Minimum representation.*

- (7) **At least a majority of the Board shall be composed of owners or representatives of property owners subject to the tax imposed by this subtitle. A voting member of the Board must be eligible to vote in the election under [paragraph] 6-15 of this subtitle." [see below]**

Protest letter to the Board of Estimates
Dated: April 18, 2011 - Re: CVCBD bylaws

City Code, Subtitle 6, Art. 14, 6-15

Election approval process, (b) *Eligibility criteria.*

The following persons are eligible to vote subject to the limitation that no person may have more than 1 vote:

- (1) owners of property within the District which is subject to tax under [paragraph 6-8]; and
- (2) voters registered to vote within the District."

The following proposed bylaws changes quoted below conflicts with the City Code quoted above and creates a third eligibility criteria not allowed in the Enabling Legislation:

The proposed bylaws, Article IV Board of Directors"Section 1. Composition of the Board.

B. A voting member of the Board must meet one of the following criteria:

1. An owner of property within the District that is subject to the Surtax; or
2. A voter registered to vote within the District; or
3. An individual designated to represent an owner of a property that is subject to the Surtax and utilized for commercial purposes if the individual is (a) a tenant of the owner, (b) a corporate officer or partner of a tenant of the owners, or (c) a business representative or agent of the owner, provided that the owner authorizes and designates in writing the individual to represent the owner on the Board."

III. The proposed language of the by-law changes does nothing to protect the democratically enacted legislation from potential fraud and mismanagement.

In fact some of the language contained in the proposed bylaws is so onerous that it fails to recognize the legislation that created this tax-funded governmental agency by vote of the registered voters and property owners in the affected area. Listed herunder are some of the more egregious proposed changes to the existing by-laws, but there are considerably more that need to be reviewed prior to consideration by the Board of Estimates.

(A) The proposed bylaws, Article IV Board of Directors. C. While this portion quotes from the legislations in part it removes from this paragraph the important designations outlined in the City Code (see below):

City Code, (Subtitle 6, Art. 14, 6-6 "Board of Directors, (e) *Minimum representation. (8)*" that states "The Board shall endeavor to maintain representatives on the Board from professionals practicing in the District, the retail merchants within the District, and the

Protest letter to the Board of Estimates
Dated: April 18, 2011 - Re: CVCBD bylaws

tenants of properties in the District". These designations for professionals and retail merchants are missing from the proposed bylaws and must be restored to avoid future lawsuits should practicing professionals and retail merchants from outside the District be assigned to seats on the board. The clear intent of the law was to have the Benefits District governed by individuals who would be directly affected by this taxing authority.

If the proposed bylaws are written in such a manner that they quote almost the entire City Code rather than just fill in details to assist in the running of this governmental entity, then they must adhere to precisely what is written in the legislation or it confuses and confounds the public and the Board.

(B) The proposed bylaws, Article III, Officers, Section 1, Officers, E. This proposes that "Any or all of the duties of the Secretary or Treasurer may be delegated by the Board to the Executive Director". To begin with, that the City Code and Enabling Legislation provides only for an Administrator, and does not provide for the hiring of an Executive Director which title would elevate the position, powers and salary beyond that envisioned in the enabling legislation. And allowing the Administrator to perform these duties is not allowed by the City Code as these voting positions are to be filled by other voting Board Members. Delegating the duties of Secretary or Treasurer to an employee is not a wise nor prudent act and gives said employee, the Administrator, far too much authority and power over the operations of the Authority.

City Code, (Subtitle 6, Art. 14, 6-6 "Board of Directors, (h) Officers). "The Board shall select from among its members individuals to serve as officers, at the pleasure of the Board, as president, vice-president, treasurer, and secretary of the Authority, delegating to these individuals responsibilities as the Board deems appropriate."

(C) The proposed bylaws, Article I, Name, Location and Powers, Section 3, Powers F. states "The Board has the sole power to determine whether any representative of a neighborhood organization, business association, or individual, is eligible under the Code to serve on the Board." Under normal circumstances this should be acceptable since the Code specifically states the 2 criteria to fill voting seats on the Board. However, since the Board has consistently attempted to put into their bylaws an additional criteria for filling Board voting seats, the Board has not shown its conviction to comply with the Code so that the Board cannot be solely entrusted to determine eligibility to serve on the Board of Directors.

Protest letter to the Board of Estimates
Dated: April 18, 2011 - Re: CVCBD bylaws

(D) The proposed bylaws, Article IV, Board of Directors, Section 8, Removal of a Board Member states "A Board member may be removed with or without cause" This section is an abomination since any eligible Board member has the right to continue their service on the Board unless there is serious "cause" to remove said Board member. If this portion of the proposed bylaws is allowed to stand then discrimination, whether it is for gender, race, politics or even disagreement as to Board issues and decisions, can cause someone to lose his/her seat on the Board. Removal of a Board member without cause sets up a Board where fear of removal will affect members' votes so that opposing voices and honest discourse cannot occur. There must be justifiable cause for the removal of a Board member.

(E) The proposed bylaws, Article IV, Board of Directors, Section 2, Representation on Board A. 2., The last paragraph states that if any of these associations [listed in the City Code as comprising the representative community association representation on the Board] fails to fill one of the Board seats hereby allocated to it with a qualified individual, "the Board may, ...appoint a member from one of the other associations listed above, except that the Board may not fill more than one of an association's vacant seats unless the association is determined in the Board's reasonable judgment to be defunct or to have effectively ceased to function." This gives the Board the power to determine which of the City Code named representative organizations are not sufficiently functional so that they may fill those seats with their own choice for Board member voting seats. If the original make-up of the voting Board is to be changed, then this must be dealt with by a change in the legislation as was done previously for changes to the names of participating organizations in the past and not by bylaw additions to the legislation.

(F) The proposed bylaws, Article V Meetings Section 2, Spring and Fall Meetings and Section 5, Notice of Board Meetings. These Sections address the City Code required Fall Hearings but specifically eliminate the word "Hearing" and does not even make mention of public comments at these meetings. (see City Code below)

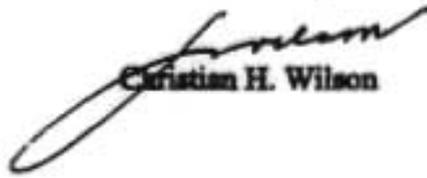
City Code, (Subtitle 6, Art. 14, 6-7 "Annual Financial Plan, (b) Public Hearing). Before adopting the Financial Plan, the Board shall arrange for a public hearing to be held on the Financial Plan. The hearing...." Without the word "hearing" the public will not know that they will have a chance for comment on the surtax that they must pay.

Protest letter to the Board of Estimates
Dated: April 18, 2011- Re: CVCBD bylaws

Therefore, we ask you to please do not approve these proposed bylaws.

Respectfully yours,


Pamela J. Wilson


Christian H. Wilson

JOAN L. FLOYD

2828 N. Howard Street – Baltimore, Maryland 21218
410-662-9104 (home) 410-662-8480 (fax) joanlfloyd@hotmail.com (e-mail)

8 December 2009

The Hon. Joan Pratt, Secretary
Baltimore City Board of Estimates
100 N. Holliday Street
Baltimore, MD 21202

Re: Opposition to proposed CVCBD Bylaws (December 9 agenda, page 49)

Dear Madame Secretary:

Absolute power over taxpayers and their money, with absolutely no accountability, is the theme of the proposed new CVCBD Bylaws.

With these new Bylaws, the small group that now runs the CVCBD and wants to control all the surtax money is attempting to turn lemons into lemonade: Reformers being elected to the Board? No problem – we'll just boot them out for no cause. Organizations named in the City Code don't send representatives to serve on the Board? No problem – we'll just hand-pick people to fill those places. Can't get a quorum of 10 Board members to show up? No problem – we'll just run this thing through the Executive Committee. The community doesn't support us? No problem – *we don't need anyone's support but our own.*

A non-elected, self-selecting Board, with members accountable to no one but each other, must not be allowed to collect and spend half a million dollars of surtax money. It might not even be the way to run a private corporation; it is most certainly not the way to run an entity that controls taxpayers' dollars.

By approving these Bylaws, you will be sending a strong message to Benefits District taxpayers, many of whom – like myself – are longtime critics of this marginal, poorly run, wasteful and historically unaccountable entity and who wish to get out from under its thumb. You will be endorsing the Benefits District's long-time message to dissenters: "Pay up and shut up."

You have the opportunity to turn this around and send a message to the people now in power at the Benefits District. You can demand more accountability from them, not less. You can reject these Bylaws and elevate the needs of the taxpayers over those who run the CVCBD.

Thank you.

Joan L. Floyd

MINUTES

Bureau of the Budget and
Management Research (BBMR)

- FY 2012 Budget and Property
 Tax Surcharge Rate - Charles
 Village Community Benefits
District

ACTION REQUESTED OF B/E:

The Charles Village Community Benefits District (CVCBD) requests the Board to approve the FY 2012 budget and an increase in the property tax surcharge rate.

The Department of Finance does not recommend the increase in the property tax surcharge.

AMOUNT OF MONEY AND SOURCE:

\$891,485.00 - Estimated Revenue

The District is requesting an increase in the surcharge rate to \$0.1340 per \$100.00 of assessed property value.

BACKGROUND/EXPLANATION:

The District submitted its request for FY 2012 to the Bureau of the Budget and Management Research.

The property tax surcharge has not changed since the inception of the District. The increase will be the first property tax surcharge increase since the inception of the District in FY 1997.

The increased rate meets the legislative requirement that a rate adjustment cannot yield revenue greater than 5% more than the prior year. The requested increase is the result of declining property assessments.

Overall, Fiscal 2012 revenues have increased 13.5% or \$106,118.00 to \$891,485.00. The revenue from the property surcharge represents 85.1% of the District's FY 2012 budget and has increased by 5.0% from FY 2011. Grants and contributions revenue has increased by 103.2% or \$65,000.00 to \$128,000.00 in FY 2012.

MINUTES

BBMR - cont'd

The BBMR has concerns about the sustainability of the assessment amounts driving the surcharge income. Given the current economic climate, the Bureau would anticipate reduced property assessments in the future and correspondingly, reduced surcharge revenue. Close attention will need to be paid to these conditions and maintaining budget reserves. The Bureau encourages the District to work toward building a reserve at a minimum of approximately three months of its annual budget which is approximately \$200,000.00. The District currently has \$100,000.00 in their reserve fund going into Fiscal 2012.

The management team for the district has been a positive force in the Charles Village area since it began operations, and it has taken positive steps to assure a sound financial operation.

However, the BBMR does not support increasing the surcharge tax rate at this time and recommends that the CVCBD resubmit its budget request based on the current surcharge tax rate of \$0.1200/\$100.00 assessed of property value. At the current rate, the CVCBD's surcharge revenue would be \$679,335.00, which is \$79,150.00 less than the proposed budget but \$270,925.00 (66%) more than Fiscal 2007 level. This revenue level would allow the CVCBD to maintain its core services. While the new spending initiatives proposed by the CVCBD (increasing crew member wages, hiring a VISTA volunteer, adding new trash cans) are meritorious, they do not appear to warrant a surcharge increase in the current economic environment.

<u>Revenue</u>		<u>Expenses by Program</u>	
Prop. Tax Surcharge	\$ 758,485.00	Administration	\$ 83,809.00
Grants/Contributions	128,000.00	Sanitation	649,653.00
Other	5,000.00	Safety	93,507.00
Total	\$ 891,485.00	Outreach	64,516.00
		Total	\$891,485.00

MINUTES

BBMR - cont'd

Expenses by Category

Personnel	\$588,635.00
Oper. Costs	93,975.00
Facil. Exp.	48,100.00
Special Projs.	72,000.00
Overhead	88,775.00
Total	\$891,485.00

PROTESTS HAVE BEEN RECEIVED FROM MR. STEPHEN J. GEWIRTZ, MR. DAVID T. HILL AND J. BERLIN, MS. PAMELA WILSON AND MR. CHRISTIAN WILSON.

REPOSSES TO MR. GERWITZ'S PROTEST WERE RECEIVED FROM THE CHARLES VILLAGE COMMUNITY BENEFITS DISTRICT.

THE BUREAU OF BUDGET AND MANAGEMENT DOES NOT RECOMMEND APPROVAL OF THE BUDGET AND PROPERTY SURCHARGE RATE.

A PROTEST HAS BEEN RECEIVED FORM MS. JOAN FLOYD.

(FILE NO. 55221C)

President: "The fifth item on the non-routine agenda can be found on Pages 102-104, FY 2012 Budget and Property Tax Surcharge Rate for Charles Village Benefits District. Will the parties please come forward? Same parties?"

Andrew Kleine, City Budget Director: "Good morning Mr. President, Madam Comptroller, members of the Board, I'm Andrew Kleine, the City Budget Director. The Charles Village Benefits District is seeking the Board's approval for a Fiscal 2012 Budget that includes a property tax surcharge increase from .12¢ per \$100.00 of accessible value to 13.4¢ per \$100.00 of

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accessible value. The additional \$79,000.00 in revenue generated by the rate increase would be used not to maintain current services, but for a series of new initiatives, including rat abatement, block reader, and security camera projects, purchasing 55 new trashcans, hiring a Vista Volunteer, and increasing workers' hourly wages. These are all worthy initiatives. However, in the year when the City continues to tighten its belt without raising taxes, the same should be expected of the Benefits Districts. Charles village has seen its surcharge revenue grow \$271,000.00 or 66% since fiscal 2007. In that time, it has greatly expanded its services. It has increased street sweeping, bulk trash collection, alley cleaning, leaf removal, and more. It is reasonable for the Board to ask that the Benefits District either defer its new initiatives or fund them by reprioritizing within its base budget, which would increase by 3.4% even without the higher surcharge. The Finance Department recommends that the Board not approve this proposed budget and direct the Benefits District to develop a budget that does not rely on increasing the surcharge rate. Thank you."

President: "Thank you."

Jeff Millard, President CVCBD: "Good morning again. The Authority was formed in '94 to promote and market the District,

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provide supplemental security and maintenance services, provide amenities in public areas, provide park and recreational programs and functions, and other services and functions, as requested by the Authority and approved by the Mayor and City Council. Up until now, the Authority has been largely unable to provide park and recreational funded programs and functions, but has built a very good supplemental safety and sanitation program, working with the City Sanitation Department, the Northern District Police force, local vendors, and area not-for-profits, such as JHU and Union Memorial. This has only been possible with the funds collected from the surtax and generous donations of JHU, local businesses, and individuals. A great deal of progress has been made in the past four or five years due to the increase in tax revenues, which are now predicted to decline by the City Finance Department due to lower assessments. This decline will negatively impact services and potentially jobs in our community and this is not acceptable to the large majority of our residents and businesses. Please keep in mind as we discuss this issue that the residents and businesses of Charles Village ask to supplement the services the City is providing and that we voluntarily, by in large, seek this tax rate increase. The Authority revenues have increased prior to 2012 without raising the tax rate. This year, our revenues will

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drop without the increase and may cost two or three jobs to be lost from the Authority. This is due to the Board's strong feeling that the staff should receive a raise over a short time period to the level of the living wage. This is based on moral grounds as well as for competitive reasons. We have lost good employees to the Downtown Benefits District and the Midtown Benefits District due to our lower pay rate. The City has previously approved rate increases for those two organizations, which has put us at a competitive disadvantage. The four community groups in the Authority support this increase, some with the recommendation that the rate be reduced in the future as more properties begin to pay the tax and assessment increase. This is up to the Board to assess, but I would be happy to have it happen, as long as there was no impact to services and the quality and quantity of services that we continue to receive remain high. That service level is the prime reason for seeking this rate increase. City Finance Department our last three authorization hearing and prior hearings is recommending that we build a reserve equal to about three months of our operating expenses. We began this process about five years ago without much success until the last two years. After a large expense for a new truck that is now necessary due to atrophic failure the engine and transmission we are about half way there. The

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budget that you are looking at continues to add funds to the reserve, which we hope to reach by the end of the 2013 budget. This issue is covered in our protest by the DMA and I fail to see how reducing the revenue that we currently receive is going to help us to add to the reserve. The community supports the need for the services levels are now receive in order to remain one of the best neighborhoods in America. This is certainly beneficial to Charles Village and certainly promotes and markets the district, which is one of our stated goals. This level of recognition is certainly good for Baltimore as well. Please pass the budget as submitted for the benefits of Charles Village, the employees of the authority and the City of Baltimore, and we have several people that wish to speak to a couple of the issues that have been raised in the protest including Mr. Hill."

Mr. Hill: "My name is David Hill and I am the Executive Director of the Charles Village Community Benefits District. Jeff has done an excellent job of summarizing the position of the Benefits District. So, I am not going to reiterate all of that. What I do want to point out is or re-emphasize is that first of all the program the proposed budget and surcharge increase was unanimously approved by the Board of Directors which consists of primarily of property owners in the district

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plus a couple residents who are voters. Furthermore, prior to that vote, all four of the member associations that would be Abell, Harwood, Charles Village and Old Goucher also voted to support this budget and this surcharge increase. In addition, I have here today emails from property owners and residents supporting the proposed budget and surcharge increase as well a petition. Which we will distributed for a couple of hours at the festival, and I think they totaled over almost 80 different individuals represented either by email or signature, and last but not least, a large group of people have taken the time out of their day to come here and show their support. So I would say in moment that I will step aside and let them say a few words. I would like to submit these to the Board if you want to look at them."

Ms. Erickson: "Hello, my name is Jennifer Erickson and I am the Charles Village Civic Association President and as a result per the Ordinance, one of two of the CVCBD representatives to the Board and I am also the secretary of the Benefits District Board. I am here as the CVCA President to advocate on behalf of the CVCA per approval of the surtax increase from 12¢ to 13.4¢ The CVCA Board of Directors overwhelming gave its support to its two representatives to vote to approve these measures. We have actively promoted our membership to attend benefits district

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meetings, question and provide input both to the CVCA its view and concerns and to also share the same with the Benefits District. As a result of our memberships as well as community and per the email list our membership and community membership meetings and Board discussion the CVCA supports the surtax increase. We do not give the support lightly, for example we specifically recognize the surtax increase affects us personally as residential and commercial property owners. We are in effect advocating increasing our own taxes in order to maintain the supplementary services the Benefits District provides. I wanted to point out the other three districts, the Waterfront is \$0.17 per \$100.00, Midtown is \$0.1320, Downtown is \$21.3 million (sic \$0.2139), we are at \$0.12. I think Jeff pointed out pretty nicely we literally lose people that we get to know in our neighborhood that clean our streets to other areas, because they pay more money. We are asking for our rate to be included within the range on the other three. While the BBMR advocates that no increase will allow the Benefits District to maintain its core services, the shortfall of doing nothing results in a decreased budget of approximately \$80,000.00. This shortfall of keeping our rate at \$0.12 is roughly two to three full time equivalent of staff who typically make about \$25,000.00 a year. This will absolutely result in the Benefits District providing

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significantly less services. Something and/or someone will have to be cut. I am not convinced that this factor has truly been factored in. The Benefits District would have to be the one to look its community and employees in the eye and tell them that although the Charles Village Community advocated to maintain and improve services and keep personnel employed, we were not able to do it. I recognize that the BMMR's argument notes that the purpose is meritorious, it mentions new trashcans. Those new trashcans are not part of the budget. They are through donations only. It is a grant initiative. However, with no budget increase, cuts will happen not just a freeze or no increase in wages. The lack of increase is far reaching for future years. It is shortsighted given the built in cap of 5%. Not approving the increase means accepting a lower budget level without allowing any room to adjust if the property tax collections fall. If they don't fall, the CVCBD starts from a deficit of service level living within that cap. All three of the other Benefits Districts have received increases as recently as last year I think. Why should our ask be any different. Asking for an increase is the hard thing to do. Charles Village was recognized in 2008 as one of America's top neighborhoods by the American Planning Association. Sandy Sparks is going to hand out that if you care to look at that. Included in this Charles

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Village honor were other notable neighborhoods from across the country including Society Hill in Philadelphia among others. Part of the Charles Village living experience includes the Benefits District as specifically noted in there, in fact part of this honor reflects the fact that Charles Village was groundbreaking in asking for its own Benefits District, doing the hard thing when others were not. While we recognize this is an election year, please give Charles Village's voting residents the benefit of understanding that this is a self-imposed tax. We are advocating for it, please know that we residents understand maintaining our status quo \$0.12 will absolutely be an impact to service. We are ethnically and socially diverse neighborhood which we love and while we recognize not every single person agrees with everything as would be expected in our community the CVCA is here to give its support for the surtax increase. Thanks."

Ms. Sparks: "Sandy Sparks, I would like to speak on behalf of history. In the beginning the Charles Village Community Benefits District was the idea for it was widely accepted as a good solution for community problems and the Midtown area quickly fell in line to create their own district. I had the privilege to be the Executive Director there from 1998 to 2002, and in 1999 we raised that surcharge. Because we were in the

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same situation as we are today. We are facing a decline in assessments so the regular stream was going to decrease. We projected the decrease in 1999 and Jack Lapidus was our treasurer, would be \$60,000.00. We went to the communities. We had a large meeting at the University of Baltimore. We presented the facts. If you have this much revenue, you have these many employees. If you have a lose of \$60,000.00 you are going to lose this many services, it is pretty simple. We received unanimous support for the increase. You never heard any dissent from Midtown about increasing their fee. At that time it was based on a \$.40 per \$100. But it amounted to \$.01 now. It was successful and I really believe that we need to look forward not back. We need to see that this is a strategic move on behalf of the Charles Village Community Benefits Board and Administration who worked in the last few years so diligently to improve their operation so in order to be as efficient and as affective as possible they need this increase, and it would behoove you to respond to the wishes of the large majority of people. You only see the same people protesting as we have always seen, since 1990 well some people came here later. But believe me, there is not some hue and cry out there of no taxes, people need this. Please be strong and support this increase. Thank you."

President: "Thank you."

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Mr. Moyes: "Hi, my name is Thayn Moyes and I am the quad three representative I am also the CVDBD Treasurer, and I was just recently elected to the position and I came in sort suspicious as to where the funding was going and what not, that is why I chose to become the Treasurer. And, uh looking through the budget I find it very efficient. It is a clean budget, there is not much waste. Existists like the trashcans, like the rat abatement are a quad two grant funding that is not what we are talking about here. The idea that we are trying to increase this funding to do these initiatives is spurious. The real issue here is whether or not CV -- the Charles Village employees deserve to have a living wage. That is where the majority of the funding are going to go. That is an issue. If we are going to request for instance as many people have that Walmart which is moving into the 25th St. Station requires their employees to have living wage, we should have the exact same expectation as the local community governments, and -- so when we are looking that was my big selling point on this budget; living wage. Can we afford in a year like this to allow our employees to make a living wage? The other issue is the aspect of parity. Does Charles Village deserve the parity of funding that Midtown, Downtown deserve? Are we a less beneficial community? Do we not deserve the same amount of funding so that we can provide the

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same services? Is Charles Village less of a valued community than Midtown than Downtown? That is the real question that I would be thinking if I were in your seats right now. What is the value of Charles Village? We are asking for it to be a more valuable, more vibrant, more lively and cleaner community. Is it worth it?"

President: "Thank you."

Ms. Burdick: "Good afternoon -- morning I guess it is. I am Jennifer Burdick I live in the 2900 block of St. Paul Street. I've lived in Charles Village on both Calvert Street and St. Paul Street since 1973. I run my business out of my home so I represent the North Charles Village Business Association on the Benefits Board. Recently, I have been serving on the Governance Committee, so I have been able to see the impact of the management authority on my neighborhood over all these years, and it is remarkable how much gets done with so little money and I don't want to repeat what everybody else has said, but providing our seven or eight employees a living wage is just absolutely critical. The City requires it, in contracts, so why can't we require it with our employees? Thank you so much."

Mr. Pyeron: "Good morning Mr. President, members of the Board, my name is Jason Pyeron, I am the Treasurer of the Old Goucher Community Association. I am also the Governance Chair for the

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CVCBDMA. Old Goucher Community Association is in strong support of this increase as to maintain and possibly even improve services in our area."

President: "Thank you."

City Solicitor: "Before we get to the protestants and I assume that the four of you would all be opposed to the budget as being presented and whether the budget be adopted with no rate increase. Is that a correct assumption? I have a question for Mr. Kleine and then a question to the representatives of the District. Mr. Kleine, I am trying to figure out what to make of the two different factual assertions that if the rate stays the same, whether we will continue to grow or as the District said, if the rate stays the same the revenue is predicated to diminish. How do I make sense of this?"

Mr. Kleine: "Sure the budget submitted by the Benefits District shows that looking at total funds, without the rate increase, well let me start with the rate increase overall revenue will increase by 13.5%, that includes a grant line item. Without the rate increase it would increase by 3.4%."

City Solicitor: "So I take it that some of that rate increase is because of grants and not because of assessments?"

Mr. Kleine: "That is correct."

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City Solicitor: "So, if the assessment revenue will go down, I take it that is what the District would say, it will go down if the rate doesn't increase."

Mr. Kleine: "It will go down about \$43,000.00."

City Solicitor: "Okay. And I guess the second question before when I asked an unrelated question -- I was a little bit taken by the arguments that say the other Benefits District are now taxed are overly taxed at a higher level than meanwhile Charles Village are down at the lowest level of the pecking order. Does that have any impact on your views at all?"

Mr. Kleine: "Each Benefits District is a different size, has different needs. It is true that the Charles Village has the lowest surcharge rate. However, our perspective is you know looking at the growth in revenue since 2007, the expansion of services, I believe I heard that even without this rate increase, the Benefits District would choose to reprioritize its budget to provide some wage increases for its workers. That might mean having to scale back other services but that is the kind of thing we are all going through and we think that should apply to the Benefits District."

City Solicitor: "Right, believe me those who work under the tutelage of the Budget Department are familiar with that so, I have mixed feelings as I sit here. The question for the

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District which is can you tell us whether what the position -- what position has been taken by the other community associations that are part of your quad representation or who function in the area has been relative to this issue of increasing the rate. I mean how many of them have endorsed it? How many of them have stayed silent? How many of them have opposed it, if any?"

Mr. Millard: "All four the member neighborhood associations have endorsed this budget and the surcharge increase. When I say neighborhood associations, I am talking about Abell, Harwood, Old Goucher and Charles Village. Those are the ones that make up the --."

City Solicitor: "And overall have expressly endorsed this budget?"

Mr. Millard: "That is correct. They have. Could I address one or two points that were made a moment ago, which are very misleading I think inaccurate. The fact is that we will, if the rate stays the same at \$0.12 per \$100.00 we will loose a substantial amount of money its 40 odd thousand dollars, which represents in surcharge revenue compared to what we are making -- bringing in this year. That represents almost two full time equivalent positions. I must cut the staff if the rate stays at \$0.12 per \$100.00. Adding in the grants and saying that somehow

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that means we get a 3% increase is very misleading. You have to keep the grants separate because --."

City Solicitor: "I understand you don't need grants to fund permanent employees.""

Mr. Millard: "They don't fund staff. They are going to fund the lead abatement project, the trashcan initiative, the proposed security camera project. That is what the grants are for and those are completely separate from any staffing and supplies and those kind of issues. I would also like to point out that if the rate stays at \$0.12 per \$100.00 our revenue would drop to \$679,000.00. I think that is correct which is almost substantially lower than this year. It has been suggested why don't' you wait a year to come forward and ask for this increase. Well the problem is and it was alluded by Jennifer is that we have a 5% cap on increases. We can raise the rate but only at a maximum of 5% more than the proceeding year's budget. So we would be behind again next year if we came back to you and asked for an increase. This is what happened in the 1990's, where the Board did not increase the rates during the 1990's even though assessments were going down. As a result, services declined and declined and declined and declined and as a result complaints also increased as to the benefit of having of a Benefits District. The \$230,000.00 increase that

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was alluded to since 2007 that is correct, but that also only part of the story. We were so far dug in the hole during the 1990's by refusing to raise the increase that the \$230,000.00 increase that we realized over the last few just barely gets us out of the hole."

City Solicitor: "Right."

Mr. Millard: "In comparison to 1995 dollars."

City Solicitor: "If we were to withhold approval today and direct that you come back to the Board with two budgets for us to look at; one that you have presented today and another one your best shot at your best budget with no rate increase and to do that by the end of June, would you be able to do as a Board organization? Is that perhaps that you could do it and get back to us to share both of those budgets with us?"

Mr. Millard: "I could --."

City Solicitor: "I am not saying that is what we are going to do, I am just saying if we were to --."

Mr. Millard: "I could do it administratively, but of course anything I do has to go through the Board."

City Solicitor: "I understand that."

Mr. Millard: "That was the awkward part."

City Solicitor: "My question is redirected to you both administratively and also to the Board."

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Mr. Hill: "I think mechanically it is possible to do that, now I would ask you two things. I believe we have an obligation to go to the public with these so, if we have to go through that whole process again with notification in other words we are going to go way past the end of the month."

City Solicitor: "Well, I know for example on the current budget you advertise it three times, so I do think you are required to do that. Oh you are required to do? By your bylaws."

Ms. Wilson: "They are very strenuous upon."

Mr. Hill: "My second question is then, can the City then assuming that something gets changed or the rate gets increased can that be implemented for July 1st, if we come back at the end of the month?"

Mr. Gewirtz: "Can I say something on this because it is directly relevant."

President: "Wait a minute. Are you finished Mr. Nilson?"

City Solicitor: "I am done."

President: "Okay, go ahead."

Mr. Gewirtz: "Yeah, I want to say first of all in response to the last question at the budget meeting, they actually presented three budgets. One of which was the one that held the tax rate the same. So they already presented it to the community and in fact of the nine Board members who were at that meeting the

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middle lot wanted to keep the tax rate the same, so I think this could hold -- I mean the Board can just decide to adopt that budget since it was already voted. I mean one difference I would make when you say all those protestors do want a living wage. Some of just feel that we don't quite as many employees as are there. The issue is how many trashcans do we need in the neighborhood. We have trashcans on St. Paul Street that just fill up every morning overflow, so that there trash left next to them. Rats get at it and that is why -- they claim when they try to pick it up three times a day, that is what we don't need. We don't need to provide facilities for people to leave their household trash for the Benefits District. That should be a regular weekly trash pick up. That is really what the issue is. I want to add another point. Last year we protested the budget one of the things that I said was instead of adding two additional employees that should use that money to pay a living wage then. They rejected that. So just be aware of that."

President: "Who else."

Ms. Wilson: "I would like to comment on a few of the things. My name is Pamela Wilson again, surtax payer resident of Charles Village. In 1994, when this Benefits District was created it was not so widely accepted as Ms. Sparks would have us believe. In fact the State law was revised at one point to allow for a

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lower percentage to be the vote. A lower percentage of qualified people to elect than was originally put into the State law, and that to me indicates that maybe it wasn't going to be as widely accepted. Secondly, we know that that the Charles Village Civic Association Board makes decisions without taking a vote of its members. Now they may hear from their members, they may have their members talk. But they make their own decision. So, you are not hearing from that part of the community in large, and I believe the others may I don't know, but I know that the Charles Village Civic Association says that their Board makes the decisions. Now, they are also considering they are talking about how their surcharge tax, their income is going to go down. Well in very short while when the Walmart Development comes in they are going to be flushed with a whole bunch of new money \$65,000.00 a year and this is may hit at the very time when the taxes when our properties are reevaluated this will come in and be the cushion on the other side for this."

City Solicitor: "I would ask if the remaining protestors would just defer for a moment and allow me to make a Motion and then we may be able to move the proceedings to a conclusion. The Motion would be that we not accept the budget that is being presented with its tax increase. We direct the Board to go back

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and prepare a budget consistent with maintenance of the same current tax rate."

Comptroller: "Second."

President: "All those in favor say AYE. Those opposed NAY. The Motions fails."

Deputy Comptroller: "No --"

Comptroller: "The Motion carries."

President: "The Motion --."

Director of Public Works: "Passes."

President: "The Motion passes, I am sorry. If there is no more business before the Board, the meeting will recess until bid opening at 12:00 noon. Thank you."

* * * * *

3. CVCBD proposes to hire a VISTA worker at minimal cost to recruit block leaders. At a previous time several years ago, CVCBD had a VISTA worker who had set up a program of block captains, yet it was extremely difficult even to find out who the block captains were or how to contact them. On my own block, there were three of them, yet they at no time made known to the residents what services they could request from CVCBD. I have strong doubts that the proposed program will be any different. While the expense will be minimal, it is totally unnecessary.
4. I will note that I do agree with the proposal to pay a living wage to the hourly employees of CVCBD. But we have more of them than would be needed if CVCBD provided fewer trash cans.
5. Residents and property owners in Charles Village voted to create CVCBD based on a promise that we would have 24/7 security patrols, and for a period of time, we did have patrols provided under contract by Wackenhut. Security patrols were discontinued several years ago, and none are in the proposed budget. We will have only minimal safety services, some of which duplicate services provided by Northern District Police and the State's Attorney's Office.

For the reasons given above, I strongly urge the Board of Estimates to reject the proposal by the board of CVCBD to increase the supplemental tax rate from 0.12% to 0.134% of the assessed value of each taxable property in Charles Village.

Sincerely,



Stephen J. Gewirtz, Ph.D.,
Homeowner and CVCBD taxpayer since the inception of CVCBD
And Coordinator of a Charles Village Court Watch program



Charles Village Community Benefits District
"Keeping Charles Village Safe and Clean"

May 27, 2011

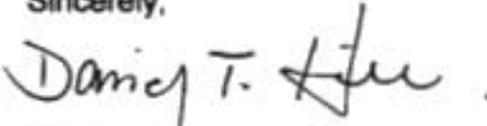
Board of Estimates
Attention: Clerk
Room 204 City Hall
100 N. Holliday Street
Baltimore, MD 21202

Dear Sir/Madam:

Please find enclosed our responses to the protest submitted by Mr. Steven Gewirtz regarding the Charles Village Community Benefits District's proposed budget for FY 2012 which will be reviewed by the Board of Estimates on June 8, 2011.

If I can be of further assistance please feel free to call.

Sincerely,



David T. Hill
Executive Director, CVCBD

Enclosure

Charles Village Community Benefits District Responses to Gewirtz Protest against the Proposed FY 2012 Budget

1. Proposed Surcharge Tax Increase

Response:

In March, the voting members of the CVCBD Board of Directors, who are *all* property owners and/or residents of Charles Village, voted unanimously to approve the proposed program, budget and increased surcharge rate for FY 2012. Furthermore, prior to the Board's vote, all four of the Boards of the member association (Harwood Community Association, Charles Village Civic Association, Abell Improvement Association, and Old Goucher Community Association) also voted to approve the program, budget, and increased surcharge tax for FY 2012.

Mr. Gewirtz is now one of only a very small handful of property owners in Charles Village who regularly complain about the Benefits District. From his (and his like-minded colleagues) various official protests and comments in meetings, it is clear that his real objection to the Benefits District is that "it provides services that should be provided by the City and therefore represents an unnecessary additional layer of government". Although many residents may agree that the City *should* provide all of the service that the Benefits District provides, they are realistic enough to know that the City for various reasons is *not* providing them and is not likely to any time in the near future. Furthermore, most residents understand that there are some services that the Benefits District provides that the City will *never* provide. An example of this type is "sweeping sidewalks" a service that takes up a large amount of staff time.

Consequently, as we know from the positive feedback we routinely receive, most residents appreciate and support the service mix provided by the CVCBD staff; several long-time residents have spontaneously stated that they "have never seen Charles Village look so clean". Most residents want these CVCBD services to continue because they know that the City cannot and/or will not provide them. And, they are willing to pay a modest increase in the surcharge tax to continue to receive and to enhance them.

2. CVCBD Collecting Household Trash

Response:

Mr. Gewirtz claims that increased collection of household trash by the CVCBD sanitation team accounts for most of the increase in our monthly trash bag from 800 bags per month in 2006 to 4500 per month in 2011. Actually more than ¾ of the increase is due to two other factors: 1. doubling the size of our sanitation team during that period and 2. increasing the frequency of sweeping streets during that same period from 2 times per month in 2006 to at least 2 times per week in 2011 (the main streets are swept at least 3 times per week).

Nevertheless, we are aware that some of the increase in our monthly "bag count" is due to staff having to collect household trash that residents have left in and around our trash baskets. We anticipated this issue prior to implementing our "trash basket initiative" in 2007. The correct solution to this problem is, of course, that all residents *should* put their household trash out in tight fitting lids on designated City trash collection days for their area. The CVCBD routinely conducts "educational" activities (such as distributing flyers) to increase residents' awareness of their legal responsibilities in this regard. However, we are not so naive as to think that everyone will comply; there will always be some residents who disregard sanitation rules and illegally dump their household trash. The CVCBD Board and staff believed in 2007 and still believe it is far better that these offending residents leave their household trash in and around our trashcans where CVCBD staff can pick it up on a daily basis than to leave it in the alleys where it may be neglected for several days and attract rats.

3. Proposed VISTA Volunteer

Response: It is true, as Mr. Gewirtz states, that the CVCBD had a Block Leader program up until several years ago developed by several previous VISTA volunteers. Unfortunately, we reluctantly discontinued the program for lack of funds at that time (about \$10,000 per year). In its extensive deliberations about the coming fiscal years' service mix, the CVCBD Board of Directors felt strongly that this component should be reinstated to further enhance the effectiveness of our sanitation and community safety programs.

4. Living Wage for Workers

Response: We are pleased that Mr. Gewirtz supports giving our workers a living wage. However, we disagree - for the reasons stated in #1 above - that we would need fewer workers if we did not maintain 85 trash baskets throughout the District.

5. Disbanding Security Patrols

Response: The Executive Director, Board of Directors and community spent almost 6 months in 2008-2009 discussing the effectiveness of Benefits District's service mix, especially its security patrol program. All meetings were open to the public; many, including Mr. Gewirtz, attended and participated. The decision was made to eliminate the Safety Patrol because it was ineffective and would cost far too much money to make it effective. Consequently, we decided to replace it with a Community Safety Program. At the same time, we decided to enhance our Sanitation Services. In June 2009, the Executive Director discussed this process and these decisions in his presentation to the Board of Estimates of the FY 2010 Financial Plan.

After another exhaustive review of the CVCBD service mix between January and March 2011, the Board decided once again - for exactly the same reasons - not to fund a safety patrol program and to continue with the current Community Safety Program.

By fax – 2 pages only to: 410-685-4416 –
PROTEST - BOE Hearing on June 8, 2011

9 East 27th Street
Baltimore, MD 21218
410-889-6277 (home),
pwilson@portlightinc.com
June 3, 2011

Honorable President and Members of the Board of Estimates,
c/o Clerk to the Board of Estimates,
Room 204, City Hall,
100 North Holliday Street,
Baltimore, Maryland 21202.

Dear Mayor Rawlings-Blake and Members of the Board of Estimates:

**Re: Protest of the proposed new Charles Village Community
Benefits District Management Authority's Budget
– BOE Hearing on June 8, 2011**

This is to advise the Board of Estimates that we are protesting the new Charles Village Community Benefits (CVCBD) Budget based on its tax rate increase for the following reasons:

1. Any increase in the surtax will harm resident property owners, business owners and property owners who utilize their property as a rental business. In these difficult economic times an increase in the surtax rate would be another burden for already financially strapped individuals and businesses.
2. The "Supplemental Services" to be provided under the enabling legislation are not essential services –
of which the sanitation portion basically substitutes for individuals and business owners who are not adhering to the City's requirements for cleaning the area around one's property and
the only successful CVCBD safety program is the new, year-old "Court Watch" for which a community person, Mr. Gerwitz, volunteers his time free of cost.

We support increases for the sanitation workers so that they may enjoy a 'living wage' but this can and should be accomplished through proper budgeting by the CVCBD of the surtaxes required to be paid by property owners within the District.

Protest letter to the Board of Estimates
Dated: June 3, 2011 - Re: CVCBD Budget

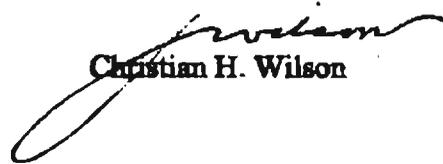
Just as individuals must adjust their budgets based to what they take in, the CVCBD must be held accountable to live within a budget that does not take more out of individuals' budgets. The property owners of Charles Village can live with cuts in supplemental services if necessary but they will live less well if they must take more out of their budgets to pay higher surtaxes.

Therefore, we ask you to please do not approve the proposed budget increases in the tax rate.

Respectfully yours,



Pamela J. Wilson



Christian H. Wilson

P. 102-104

Taylor, Harshita

From: [Redacted]
Sent: Friday, May 27, 2011 11:21 AM
To: Harshita, [Redacted], [Redacted]
Subject: CVCHD

Dear Mr. Taylor,

I'd be voicing my opposition the CVCHD budget. I do not support their mission.

Vertical text on the right edge of the page, possibly a scan artifact or page number.

By fax – 2 pages only to: 410-685-4416 –
PROTEST - BOE Hearing on June 8, 2011

9 East 27th Street
Baltimore, MD 21218
410-889-6277 (home),
pwilson@portlightinc.com
June 3, 2011

Honorable President and Members of the Board of Estimates,
c/o Clerk to the Board of Estimates,
Room 204, City Hall,
100 North Holliday Street,
Baltimore, Maryland 21202.

Dear Mayor Rawlings-Blake and Members of the Board of Estimates:

**Re: Protest of the proposed new Charles Village Community
Benefits District Management Authority's Budget
– BOE Hearing on June 8, 2011**

This is to advise the Board of Estimates that we are protesting the new Charles Village Community Benefits (CVCBD) Budget based on its tax rate increase for the following reasons:

1. Any increase in the surtax will harm resident property owners, business owners and property owners who utilize their property as a rental business. In these difficult economic times an increase in the surtax rate would be another burden for already financially strapped individuals and businesses.

2. The "Supplemental Services" to be provided under the enabling legislation are not essential services –
of which the sanitation portion basically substitutes for individuals and business owners who are not adhering to the City's requirements for cleaning the area around one's property and
the only successful CVCBD safety program is the new, year-old "Court Watch" for which a community person, Mr. Gerwitz, volunteers his time free of cost.

We support increases for the sanitation workers so that they may enjoy a 'living wage' but this can and should be accomplished through proper budgeting by the CVCBD of the surtaxes required to be paid by property owners within the District.

Protest letter to the Board of Estimates
Dated: June 3, 2011 - Re: CVCBD Budget

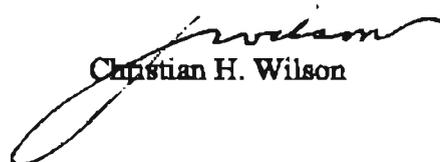
Just as individuals must adjust their budgets based to what they take in, the CVCBD must be held accountable to live within a budget that does not take more out of individuals' budgets. The property owners of Charles Village can live with cuts in supplemental services if necessary but they will live less well if they must take more out of their budgets to pay higher surtaxes.

Therefore, we ask you to please do not approve the proposed budget increases in the tax rate.

Respectfully yours,



Pamela J. Wilson



Christian H. Wilson

JOAN L. FLOYD

2828 N. Howard Street – Baltimore, Maryland 21218
410-662-9104 (home) 410-662-8480 (fax) joanlfloyd@hotmail.com (e-mail)

7 June 2011

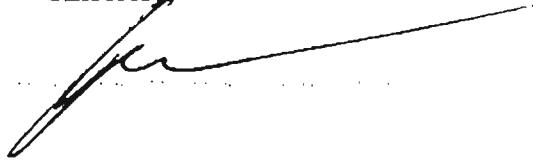
The Hon. Joan Pratt, Secretary
Baltimore City Board of Estimates
100 N. Holliday Street
Baltimore, MD 21202

Re: Opposition to proposed CVCBD Budget and Surtax Rate (Agenda for 8 June)

Dear Madame Secretary:

Please add my protest to the chorus of disapproval over the proposed CVCBD Budget and Surtax Rate for FY 2012. The people who run the Authority could do much more with less; instead, each year they seek to collect and spend the maximum. As always, bad fiscal policy.

Sincerely,



Joan L. Floyd
Owner of property subject to the CVCBD Surtax

CC:PT/BOE JUN 7 '11 AM



Charles Village Community Benefits District
"Keeping Charles Village Safe and Clean"

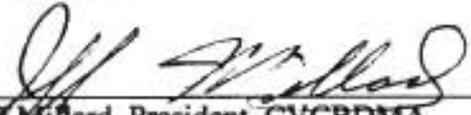
BOARD OF DIRECTORS'

RESOLUTION

BUDGET FY 2012

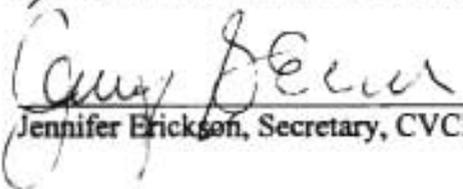
A meeting of the Board of Directors was held pursuant to and in accordance with the Bylaws of the Charles Village Community Benefits District Management Authority on March 8, 2011. Jeff Millard, President, presided. Acting upon the following resolution, motion made and duly carried, it was:

RESOLVED: That the budget for the Charles Village Community Benefits District Management Authority for fiscal year 2012 (July 1, 2011 – June 30, 2012) is \$847,110 (see attached).



Jeff Millard, President, CVCBDMA

4-13-11
Date



Jennifer Erickson, Secretary, CVCBDMA

4/13/11
Date



Charles Village Community Benefits District
"Keeping Charles Village Safe and Clean"

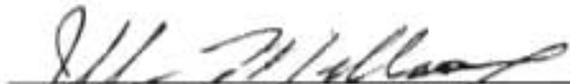
BOARD OF DIRECTORS'

RESOLUTION

SURCHARGE TAX RATE FY 2012

A meeting of the Board of Directors was held pursuant to and in accordance with the Bylaws of the Charles Village Community Benefits District Management Authority on April 12, 2011. Jeff Millard, President, presided. Acting upon the following resolution, motion made and duly carried, it was:

RESOLVED: That the tax surcharge rate for fiscal year 2012 (July 1, 2011 – June 30, 2012) be changed from \$.12 to no more than \$.134 per \$100 of the assessed property value for all properties in the Charles Village Benefits District that are subject to the tax surcharge. Furthermore, the Finance Committee is hereby authorized to adjust the rate downward from \$.134 per \$100 if necessary to ensure that the projected surcharge revenue for FY 2012 (based on City estimates) does not exceed \$758,485.



Jeff Millard, President, CVCBDMA

4-13-11
Date



Jennifer Erickson, Secretary, CVCBDMA

4/13/11
Date

BOARD APPROVED BUDGET FY 2012

Income/Expense	FY 2012	Admin	% Total	Sanitation	% Total	Safety	% Total	Outreach	% Total	FY 2011	FY Variance
ANTICIPATED INCOME											
Property Tax Surcharge	758,485	68,264		561,279		75,849		53,094		722,367	36,118
Exempt Property Contribution	63,000	5,670		46,620		6,300		4,410		63,000	-
Grants *	65,000	5,850		48,100		6,500		4,550		-	65,000
Program Revenue	5,000	450		3,700		500		350		-	5,000
Total Anticipated Income	891,485	80,234		659,699		89,149		62,404		785,367	106,118
ANTICIPATED EXPENSES											
Personnel Expenses: Salaries											
Executive Director	67,889	27,159	40%	23,764	35%	6,790	10%	10,185	15%	66,866	1,023
Office Assistant	26,696	10,678	40%	9,344	35%	2,670	10%	4,004	15%	26,100	596
Coordinator (Safety)	40,000	4,000	10%	-	0%	18,000	45%	18,000	45%	36,050	3,950
Worker (Safety/San.)	24,960	-	0%	12,480	50%	12,480	50%	-	0%	21,170	3,790
Supervisor (Sanitation)	40,000	4,000	10%	36,000	90%	-	0%	-	0%	37,080	2,920
Asst Sup (Sanitation)	27,040	-	0%	27,040	100%	-	0%	-	0%	23,577	3,463
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	20,354	4,606
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	21,170	3,790
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	20,354	4,606
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	20,354	4,606
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	20,853	4,107
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	21,093	3,869
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	20,853	4,107
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	19,240	5,720
Worker (Sanitation)	24,960	-	0%	24,960	100%	-	0%	-	0%	19,240	5,720
Worker (Sanitation) half time		-								14,040	(14,040)
Worker (Sanitation) weekend		-								14,430	(14,430)
Sanitation Workers - Seasonal Workers	6,000	-	0%	6,000	100%	-	0%	-	0%	11,770	(5,770)
Subtotal Salaries	457,234	45,838	10%	339,268	74%	39,839	9%	32,189	7%	434,593	22,641
Personnel Expenses: Benefits											
Payroll Taxes	58,440	5,944	10%	44,580	75%	4,758	8%	4,183	7%	56,497	2,943
Workers' Comp. Insurance	9,800	982	10%	7,272	74%	856	9%	680	7%	11,250	(1,450)
Retirement Plan	2,652	266	10%	1,968	74%	232	9%	187	7%	2,652	-
Payroll Service Fees	4,178	419	10%	3,101	74%	365	9%	294	7%	4,680	(501)
Health Insurance	55,328	5,547	10%	41,054	74%	4,833	9%	3,895	7%	55,770	(441)
Subtotal Benefit Expenses	131,400	13,158	10%	97,875	75%	11,043	8%	8,227	7%	130,849	551
Subtotal Personnel Expenses	588,635	58,996	10%	437,143	74%	50,882	9%	41,416	7%	565,442	23,192
Program Expenses											
Printing/Publishing/Web	12,000	1,203	10%	8,904	74%	1,048	9%	845	7%	10,200	1,800
Supplies	38,000	3,810	10%	28,196	74%	3,319	9%	2,675	7%	32,400	5,600
Uniforms	9,000	902	10%	6,678	74%	786	9%	634	7%	7,000	2,000
Contract Labor/VISTA	10,500	3,000	29%	-	0%	-	0%	7,500	71%	2,000	8,500
Auto Insurance	7,000	702	10%	5,194	74%	611	9%	493	7%	6,600	400
Vehicle Operating (fuel, maintenance)	17,475	1,752	10%	12,966	74%	1,526	9%	1,230	7%	20,000	(2,525)
Subtotal Program Expenses	93,975	11,368	12%	61,838	66%	7,282	8%	13,377	14%	78,200	15,775
Facility Expenses											
Equipment	3,500	351	10%	2,597	74%	306	9%	246	7%	5,000	(1,500)
Janitorial/Cleaning	2,000	201	10%	1,484	74%	175	9%	141	7%	3,000	(1,000)
Maintenance/Additions	1,000	100	10%	742	74%	87	9%	70	7%	2,000	(1,000)
Rent	30,600	3,060	10%	22,705	74%	2,673	9%	2,154	7%	30,600	-
Telephone	6,000	602	10%	4,452	74%	524	9%	422	7%	7,260	(1,260)
Utilities	3,000	301	10%	2,210	74%	263	9%	212	7%	3,940	(940)
Subtotal Facilities	48,100	4,822	10%	35,680	74%	4,202	9%	3,386	7%	53,800	(5,700)
Overhead Expenses											
Accounting/Legal	14,000	1,404	10%	10,388	74%	1,223	9%	986	7%	15,500	(1,500)
Advertising	3,000	301	10%	2,226	74%	262	9%	211	7%	3,000	-
Board Meeting Expenses	600	60	10%	445	74%	52	9%	42	7%	2,000	(1,400)
Public Meeting Expenses	2,500	251	10%	1,855	74%	218	9%	176	7%	2,000	500
Computer Support	4,800	481	10%	3,562	74%	419	9%	338	7%	4,800	-
Dues and Subscriptions	2,500	251	10%	1,855	74%	218	9%	176	7%	1,430	1,070
Equipment Rental	1,500	150	10%	1,113	74%	131	9%	106	7%	2,000	(500)
D and O Insurance	2,000	201	10%	1,484	74%	175	9%	141	7%	1,900	100
Property and Liability Insurance	3,500	351	10%	2,597	74%	306	9%	246	7%	4,000	(500)
Postage	3,500	351	10%	2,597	74%	306	9%	246	7%	3,500	-
Travel	3,500	351	10%	2,597	74%	306	9%	246	7%	1,500	2,000
Office Expenses	2,000	201	10%	1,484	74%	175	9%	141	7%	3,500	(1,500)
Interest and Banking Expense	1,000	100	10%	742	74%	87	9%	70	7%	1,000	-
Subtotal Overhead Expenses	44,400	4,452	10%	32,945	74%	3,878	9%	3,126	7%	46,130	(1,730)
Special Projects: The expenses for the following projects and the Grant Income (above) are linked: we will spend the money ONLY if we are awarded the grants.											
Rat Abatement Project	18,000	-	0%	9,000	50%	9,000	50%	-	0%	10,000	8,000
Security Camera Pilot Project	10,000	0	0%	0	0%	10,000	100%	0	0%	0	10,000
Trash Baskets *	17,000	-	0%	17,000	100%	-	0%	-	0%	-	17,000
CVCBD support grant funded projects	7,000	-	0%	3,500	50%	3,500	50%	-	0%	-	7,000
Total Anticipated Expenses	847,110	79,637		617,318		68,652		61,305		741,572	105,537
Reserve	44,375										
Total	891,485										

MINUTES

Bureau of the Budget and - FY 2012 Budget and Property Tax
Management Research (BBMR) Surcharge Rate - Waterfront
Management District

ACTION REQUESTED OF B/E:

The Board is requested to approve the FY 2012 budget and property tax rate for the Waterfront Management District (District).

AMOUNT OF MONEY AND SOURCE:

\$2,421,718.00 - estimated revenue

The proposed FY 2012 property tax surcharge rate is \$0.17 per \$100.00 of assessed value. The surcharge rate is exactly the same as it was for FY 2011.

BACKGROUND/EXPLANATION:

The District submitted its request for FY 2012 to the Bureau of the Budget and Management Research.

FY 2012 revenues have increased by \$498,435.00 or 25.9% from FY 2011. Revenue from the surcharge is anticipated at \$1,685,618.00 and represents 69.9% of the total budget. The surcharge revenue has increased by \$300,335.00 or 21.7% from FY 2011. Other revenue increased from FY 2011 by \$236,500.00 primarily due to planned fundraising related to the Healthy Harbor Initiative.

The BBMR has concerns about the sustainability of the assessment amounts driving the surcharge income. Given the current economic climate, the BBMR would anticipate reduced property assessments in the future and correspondingly, reduced surcharge revenue. Close attention will need to be paid to these conditions and maintaining budget reserves. The BBMR encourages the District to work toward building a reserve fund at a minimum of approximately three months of its annual budget.

The District's fiscal management has been sound and it has been a positive force in the Waterfront area since its inception.

MINUTES

BBMR - cont'd

<u>Revenue</u>		<u>Expenses by Program</u>	
Tax Surcharge	\$1,685,618.00	Maintenance	\$ 397,578.00
City Grant/Leases	406,000.00	Landscaping	410,000.00
Other	330,100.00	Hospitality &	
Total	\$2,421,718.00	Safety	889,474.00
		Marketing	207,000.00
		Sustainability	330,000.00
		Administration	151,350.00
		Deprec. & Res.	36,316.00
			\$2,421,718.00

THE BUREAU OF THE BUDGET AND MANAGEMENT RESEARCH REVIEWED AND RECOMMENDED APPROVAL OF THE BUDGET AND THE PROPERTY TAX SURCHARGE RATE.

(FILE NO. 55221D)

UPON MOTION duly made and seconded, the Board approved the FY 2012 budget and property tax rate for the Waterfront Management District. The Mayor **ABSTAINED**. The Comptroller **ABSTAINED**.

MINUTES

Bureau of the Budget and
Management Research (BBMR)

- FY 2012 Budget and Property Tax
 Surcharge Rate - Midtown
Community Benefits District

ACTION REQUESTED OF B/E:

The Board is requested to approve the FY 2012 budget and property tax surcharge rate for the Midtown Community Benefits District (Midtown).

AMOUNT OF MONEY AND SOURCE:

\$1,273,800.00 - Estimated Revenue

The proposed FY 2012 property tax surcharge rate is \$0.132 per \$100.00 of assessed property value. The surcharge rate is exactly the same as it was for FY 2011.

BACKGROUND/EXPLANATION:

The District submitted its request for FY 2012 to the Bureau of the Budget and Management Research.

FY 2012 revenues are down 1.7% or \$22,466.00 to \$1,273,800.00. The revenue decrease is primarily due to a 2% decrease in the surcharge tax revenue in the amount of \$1,206,800.00 for FY 2012. The revenue from the property tax surcharge represents 95% of the District's FY 2012 budget. Midtown will continue to work with the Baltimore Police Department to provide additional foot patrol. Foot patrol will increase in the Midtown in FY 2012 from three evenings a week to four evenings a week. Revenue from non-profit groups is unchanged from FY 2011 at \$60,000.00.

The BBMR has concerns about the sustainability of the assessment amounts driving the surcharge income. Given the current economic climate, the Bureau would anticipate reduced property assessments in the future and correspondingly, reduced surcharge revenue. Close attention will need to be paid to these conditions and maintaining budget reserves. The Bureau encourages the Midtown to work toward building a reserve fund at a minimum of approximately three months of its annual budget.

MINUTES

BBMR - cont'd

<u>Revenue</u>		<u>Expenses by Program</u>	
Tax Surcharge	\$1,206,800.00	Safety	\$ 288,781.00
Contributions	60,000.00	Clean & Green	831,350.00
Serv/Misc.	7,000.00	Maintenance	
Income		Admin/Plng.	153,669.00
Total	\$1,273,800.00	Total	\$1,273,800.00

THE BUREAU OF THE BUDGET AND MANAGEMENT RESEARCH REVIEWED AND RECOMMENDED APPROVAL OF THE BUDGET AND THE PROPERTY TAX SURCHARGE RATE.

(FILE NO. 55221A)

UPON MOTION duly made and seconded, the Board approved the FY 2012 budget and property tax surcharge rate for the Midtown Community Benefits District. The Comptroller **ABSTAINED**.

MINUTES

Bureau of the Budget and Management Research (BBMR) - FY 2012 Budget and Property Tax Surcharge Rate - Downtown Management District

ACTION REQUESTED OF B/E:

The Board is requested to approve the FY 2012 budget and property tax surcharge rate for the Downtown Management District (Downtown).

AMOUNT OF MONEY AND SOURCE:

\$7,075,206.00 - Estimated Revenue

The proposed FY 2012 property tax surcharge rate is \$0.2139 per \$100.00 of assessed property value. The surcharge rate is exactly the same as it was for FY 2011.

BACKGROUND/EXPLANATION:

The Downtown submitted its request for FY 2012 to the Bureau of the Budget and Management Research.

FY 2012 revenues decreased 3.7% or \$275,639.00 to \$7,075,206.00. The property tax surcharge revenue decreased by \$209,241,000.00 or 3.1% to \$6,500,000.00. This significant decrease is due to lower property assessments. Other grants and fees revenue has decreased by \$66,398.00 or \$246,690.00 due primarily to expiring grants.

The BBMR has concerns about the sustainability of the assessment amounts driving the surcharge income. Given the current economic climate, the Bureau would anticipate reduced property assessments in the future and correspondingly, reduced surcharge revenue. Close attention will need to be paid to these conditions and maintaining budget reserves.

The Downtown's fiscal management has been sound and it has a positive force in the Downtown area since it began its operations.

MINUTES

BBMR - cont'd

<u>Revenue</u>		<u>Expenses by Program</u>	
Tax Surcharge	\$6,488,516.00	Public Safety	\$2,270,323.00
		Public Space	2,047,184.00
		Maintenance	
DPW Grant	340,000.00	Beautification	545,308.00
Grants/Fees	246,690.00	Marketing	564,763.00
Total	\$7,075,206.00	Administration	713,825.00
		Capital Improv.	
		Reserve	933,803.00
		Total	\$7,075,206.00

THE BUREAU OF THE BUDGET AND MANAGEMENT RESEARCH REVIEWED AND RECOMMENDED APPROVAL OF THE BUDGET AND THE SURCHARGE TAX RATE.

(FILE NO. 55221B)

UPON MOTION duly made and seconded, the Board approved the FY 2012 budget and property tax surcharge rate for the Downtown Management District The Mayor **ABSTAINED**.

MINUTES

Bureau of Water and Wastewater - Amendment to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment to the agreement with Johnson, Mirmiran and Thompson, Inc. (JMT), under Project No. 1077J, On-Call Mechanical Engineering Services. The amendment to agreement will extend the period of the agreement through September 3, 2014, or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

No additional funds are requested.

BACKGROUND/EXPLANATION:

On September 3, 2008, the Board approved the original agreement with the JMT to provide On-Call Mechanical Engineering Services under Project No. 1077J for a period of three years. The consultant has been awarded tasks under this on-call agreement that will likely substantially exceed the original period of the agreement.

This amendment to the agreement will extend the period of the agreement through September 3, 2014. All other terms and conditions of the original agreement remain unchanged.

The consultant was approved by the Architectural and Engineering Awards Commission.

MBE/WBE PARTICIPATION:

The consultant will comply with Article 5, Subtitle 28 of the Baltimore City Code and the MBE and WBE goals established in the original agreement.

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE TIME EXTENSION AND WILL REVIEW THE TASK ASSIGNMENTS.

(FILE NO. 55986A)

UPON MOTION duly made and seconded, the Board approved and

MINUTES

Bureau of Water and Wastewater - cont'd

authorized execution of the amendment to the agreement with Johnson, Mirmiran and Thompson, Inc., under Project No. 1077J, On-Call Mechanical Engineering Services. The President

ABSTAINED.

MINUTES

Bureau of Water and Wastewater- Partial Release of Retainage Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a partial release of retainage agreement with Brayman Construction Corporation for Contract No. WC 1137R, Anchorage System at Prettyboy Dam.

AMOUNT OF MONEY AND SOURCE:

\$251,930.65 - 9960-904635-9557-900020-200001

BACKGROUND/EXPLANATION:

All work on Contract No. WC 1137R is substantially completed, except items on the punch list. The contractor has requested a partial release of retainage in the amount of \$251,930.65. The City holds \$301,930.65 in retainage. The remaining \$50,000.00 is sufficient to protect the interests of the City.

MBE/WBE PARTICIPATION:

MWBOO FOUND VENDOR IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the partial release of retainage agreement with Brayman Construction Corporation for Contract No. WC 1137R, Anchorage System at Prettyboy Dam. The President **ABSTAINED.**

MINUTES

Bureau of Water and Wastewater - Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an agreement with BG&E.

AMOUNT OF MONEY AND SOURCE:

\$67,914.00 - 9960-904727-9557-900020-706078

BACKGROUND/EXPLANATION:

The contract is to relocate existing 33KV electric service facilities feeding the Deer Creek Pumping Station. This work will be done under BG&E Contract No. 2010920, WC 1168, Deer Creek Pumping Station Improvements, extension/relocation.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with BG&E. The President

ABSTAINED.

MINUTES

Bureau of Water and Wastewater - Amendment No. 02 to the
Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of Amendment No. 02 to the Agreement with Johnson, Mirmiran, and Thompson, Inc. for Project No. 1033, Engineering Support Services. The period of the agreement is extended through June 19, 2012 or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$	715,508.49	-	9956-904531-9551-900020-703032
	242,172.10	-	9960-906531-9557-900020-703032
	22,015.65	-	2070-000000-5601-399001-603026
	33,023.47	-	4000-435810-2010-683906-605003
	22,015.65	-	1001-000000-1470-165810-603015
	22,015.65	-	1001-000000-2101-225100-605008
	22,015.65	-	6000-617210-2303-251600-603026
	22,015.63	-	9916-903845-9197-910025-706063
	<u>\$1,100,782.29</u>		

BACKGROUND/EXPLANATION:

The Department would like to exercise the second extension option to accommodate the completion of the current scope of work and to fulfill contract requirements. Johnson, Mirmiran, and Thompson, Inc. would continue providing engineering support services for utility GIS and the consent decree projects.

On June 20, 2007 Johnson, Mirmiran, and Thompson, Inc. was awarded an agreement to provide engineering technical support, as well as quality assurance and quality control of the sewershed data being loaded into the Utility Geographic Information as required by the United States EPA Consent Decree Program. Johnson, Mirmiran, and Thompson, Inc. provided the management of applications development, data management as well

MINUTESBureau of Water and Wastewater - cont'd

as the maintenance of the Utility database, and management of the Automated Image Retrieval Database, which included three one-year extension options. On July 14, 2010, the Board approved an amendment for an additional year and \$994,194.34 in additional funds to allow Johnson, Mirmiran, and Thompson, Inc. to continue providing engineering support services. The Department now would like to exercise the second extension option to accommodate the completion of the current scope of work and to fulfill the contract requirements. This expenditure authorization will allow funding to be encumbered for the second one-year extension to provide Street Center Line enhancements for the incoming 911 System Upgrade, and to add the position of GIS Technician for one of the sub-consultants.

The Consultant was approved by the Architectural and Engineering Awards Commission on August 30, 2006

MBE/WBE PARTICIPATION:

MBE: Enterprise Information Solutions	\$ 34,481.66	3.13%
Advanced Technology Solutions	<u>207,667.14</u>	<u>18.87</u>
	\$242,148.80	22.00%
 WBE: Ross Technology Services	 \$ 54,328.82	 4.94
Peer Consultants, P.C.	<u>25,952.75</u>	<u>2.36</u>
	\$ 80,281.57	7.30%

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

MINUTESBureau of Water and Wastewater - cont'd**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
1. \$781,484.42	9956-906144-9549	9956-904531-9551-3
Wastewater	Constr. Res.	Engineering
Utility Fund	Mapping Program	
2. \$264,111.66	9960-907099-9558	9960-906531-9557-3
Wastewater	Constr. Res.	Engineering
Revenue Bonds	Mapping Program	

The funds are needed to cover the cost of Project 1033, Amendment No. 2, Engineering Support Services Utility GIS and the current account deficit.

(FILE NO. 55986A)

UPON MOTION duly made and seconded, the Board approved and authorized execution of Amendment No. 02 to the Agreement with Johnson, Mirmiran, and Thompson, Inc. for Project No. 1033, Engineering Support Services. The transfer of funds was approved SUBJECT to receipt of a favorable report from the Planning

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Bureau of Water and Wastewater - cont'd

Commission, the Director of Finance having reported favorably thereon, as required by the Provisions of the City Charter. The President **ABSTAINED.**

MINUTESBureau of Water and Wastewater - Sole Source Negotiations**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize sole source negotiations with Severn Trent Water Purification, Inc. (Severn Trent) for its patented Tetra Deep Bed™ Denitrification Filters (Tetra System) at the Back River Wastewater Treatment Plant (BRWWTP), as a part of the Bureau's new Enhanced Nutrient Removal (ENR) facility.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

It is anticipated that the agreement with Severn Trent, when finally negotiated and presented to the Board for approval, will be in the range of \$25,000,000.00 to \$30,000,000.00. Most of the cost will be passed through the construction contract, rather than in a direct payment by the City to Severn Trent. All ENR costs will be provided by the State of Maryland, Maryland Department of the Environment (MDE).

The Bureau is designing a new ENR facility at the BRWWTP under an agreement with Whitman, Requardt, and Associates, LLP (WR&A) in support of the Chesapeake Bay Agreement and Bay Restoration Fund with the objective of reducing nutrients (nitrogen and phosphorus) discharged from the BRWWTP and subsequently into the Chesapeake Bay.

The WR&A has confirmed the recommendations of a previous comprehensive study performed by the WR&A, in association with Metcalf & Eddy, Inc., and AECOM, that the ENR facility will comprise of a denitrification filter treatment system. This treatment system is furnished by a small number of vendors under patented systems. All of these vendors have unique features and formats of their filter systems. Therefore, the other segments of the ENR facility will have to be designed around the specific features of the pre-selected filter system of the vendor.

MINUTESBureau of Water and Wastewater - cont'd

WR&A, Metcalf & Eddy Inc., and AECOM have recommended that for denitrification treatment filters, the Tetra System furnished by Severn Trent is superior technically and is the only system with widespread experience at plants sizes comparable to the BRWWTP. The Tetra System is unique among the vendors supplying denitrification filters because they have a proven track record of achieving the limit-of-technology nutrient discharge goals of the BRWWTP. The negotiated price and terms and conditions of the Tetra System will be included in the SC-877 construction contract. On April 26, 2011 the consultant summarized the City's evaluation and pilot testing efforts and recommended the Tetra Systems as a sole source.

The Bureau of Water and Wastewater agrees with the consultant's determination and recommends approval of this request. The Bureau utilized this pre-selection process on the Patapsco Wastewater Treatment Plant, SC-852 denitrification filter project.

MBE/WBE PARTICIPATION:

The sole source cost will be exempted from MBE/WBE participation in accordance with Baltimore City Code, Article 5, Subtitle 28.

UPON MOTION duly made and seconded, the Board approved and authorized sole source negotiations with Severn Trent Water Purification, Inc. for its patented Tetra Deep Bed™ Denitrification Filters at the Back River Wastewater Treatment Plant, as a part of the Bureau's new Enhanced Nutrient Removal facility. The President **ABSTAINED**.

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Department of Housing and - Land Disposition Agreement with
Community Development Sandtown Habitat for Humanity

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the land disposition agreement with Sandtown Habitat for Humanity, developer, for the sale of the property located at 1333, 1553, N. Fulton Avenue; 1363, 1605, 1612, 1618, 1622, 1626, 1630, 1632 N. Gilmor Street; 1422, 1424, 1444 N. Mount Street; 1512, 1703 and 1705 Presstman Street, in the Sandtown Winchester Urban Renewal Area.

AMOUNT OF MONEY AND SOURCE:

\$32,000.00 (\$2,000.00/per property) - Sale price

BACKGROUND/EXPLANATION:

The Sandtown Habitat for Humanity, is a nationally known non-profit organization, and they proposes to gut, and rehab sixteen vacant properties for single family homeownership for low income families in the Sandtown-Winchester Urban Renewal Area. The estimated total rehab cost, per property, will be \$83,000.00 - \$90,000.00 in private funding. Sandtown Habitat for Humanity will provide its own construction financing. Each selected homebuyer family will invest at least 330 hours of "sweat equity" hours on their home. Sandtown Habitat for Humanity is the developer as well as the builder for this project.

STATEMENT OF PURPOSE AND RATIONALE FOR SALE BELOW THE APPRAISED VALUE:

There are 16 properties for sale in this project. The properties were priced pursuant to the appraisal policy of Baltimore City and using the Valuation Waiver. The Properties will be sold to Sandtown Habitat for Humanity below the prices determined via Valuation Waiver because of the following factors:

1. their sale and rehabilitation promote a specific benefit to the immediate Community,

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DHCD - cont'd

2. their sale and rehabilitation will eliminate blight,
3. their sale and rehabilitation promote economic development through the subject properties to the City's tax role, and
4. the subject properties' condition requires remediation because of the structural deterioration.

MBE/WBE PARTICIPATION

The developer has signed the Commitment to Comply with Article 5, Subtitle 28 of the Baltimore City Code, Minority and Women's Business Enterprise Program.

(FILE NO. 56506)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with Sandtown Habitat for Humanity, developer, for the sale of the property located at 1333, 1553, N. Fulton Avenue; 1363, 1605, 1612, 1618, 1622, 1626, 1630, 1632 N. Gilmore Street; 1422, 1424, 1444 N. Mount Street; 1512, 1703 and 1705 Presstman Street, in the Sandtown Winchester Urban Renewal Area.

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PROPOSAL AND SPECIFICATIONS

Bureau of Water and Waste Water/ - ER 4019, East Stony Run
Surface Water Management Division Stream Restoration

BIDS TO BE RECV'D: 7/20/2011

BIDS TO BE OPENED: 7/20/2011

This item was **WITHDRAWN**.

* * * * *

President: "If there is no further business, the Board is in recess until twelve o'clock noon for the receiving and opening of bids."

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

BIDS, PROPOSALS AND CONTRACT AWARDS

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

Department of General Services - PB 11811, Former Answorth
Paint Factory - Demolition
3200 East Biddle Street
BIDS TO BE RECV'D: 06/15/2011
BIDS TO BE OPENED: 06/15/2011

Department of Transportation - TR 11011, Citywide Traffic
Calming (JOC)
BIDS TO BE RECV'D: 06/15/2011
BIDS TO BE OPENED: 06/15/2011

Department of Transportation - TR 11303, Resurfacing Highways
at Various Locations Southeast
Sector IV
BIDS TO BE RECV'D: 06/15/2011
BIDS TO BE OPENED: 06/15/2011

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Bureau of Purchases - B50001863, Uniform & Locker
Rental with Laundry Service
BIDS TO BE RECV'D: 06/15/2011
BIDS TO BE OPENED: 06/15/2011

Bureau of Purchases - B50001972, Floor Stripping and
Waxing Services for Various
City Buildings
BIDS TO BE RECV'D: 06/15/2011
BIDS TO BE OPENED: 06/15/2011

* * * *

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 Purchases - B50001876, Nurses for School
Health Suites

Abundant Grace Health
RCM Health Care Services
Delta T Group Maryland,
Inc.
Excell Staffing and
Personnel Services
FEM Nursing Services, Inc.
Towsend Careers
Trustworthy Staffing
Solutions, LLC
Arbor E&T, LLC d/b/a
Care Resources
Nursing & Health Services
Training Consultants, Inc.
Core Medical Group
ATC Healthcare Services, Inc.
Dependable Nursing Services, LLC
Staffing Etc.

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Bureau of Purchases

- B50001934, Mowing Services
for Medians

Lorenz, Inc.

*H.F. Huber & Sons, Inc.

Bureau of Purchases

- B50001954, Emergency Medical
Supplies

Prime Source Services, LLC

All Med Alliance MED

Al Cardiology.Com

B&W Healthcare Corporation

Henry Schein EMS

Southeastern Emergency

Equipment

Amerisochi Inc.

*Kentron Health Care, Inc.

Quad Med

Bound Tree Medical, Inc.

Dealmed Medical Supplies

Progressive Medical

International

Bureau of Purchases

- B50001955, Thermoplastic
Blocks

Ennis Paint, Inc.

*Sherwin Williams Co.

*UPON FURTHER MOTION, the Board found the bid of H.F. Huber & Sons, Inc., Kentron Health Care, Inc., and the Sherwin Williams Co. **NON-RESPONSIVE** because of the companies' failure to submit a complete Bid Book and Duplicate Bid, as required the bidding instructions.

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Bureau of Purchases

- B50001962, School Bus and
General Liability Claim
Services

Johns Eastern Co., Inc.
PMA Management Corporation

* * * *

There being no objections, the Board UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, June 15, 2011.



JOAN M. PRATT
Secretary