

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
Bernice H. Taylor, Deputy Comptroller and Clerk

The meeting was called to order by the President.

President: "I will direct the Board members attention to the memorandum from my office dated January 9, 2012, 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 items on the routine agenda."

Comptroller: "Second."

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

MINUTES

Department of Recreation and Parks - Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an agreement with the Stonewood-Pentwood-Winston Neighborhood Association (Association). The installation period is effective upon Board approval for four months. The maintenance period of the agreement is 25 years.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The Association is a covenant organization that has raised funds and hired a contractor to fabricate and install a neighborhood sign in Pentwood Park, located at the corner of 4700 block of Loch Raven Boulevard and Pentwood Road. The execution of this agreement will grant right-of-entry to the Association and its contractor to install the sign and maintain it throughout its useful life.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with the Stonewood-Pentwood-Winston Neighborhood Association.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of General Services - Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an agreement with the U.S. Green Building Council Maryland Chapter, Inc. The agreement is effective upon Board approval through August 14, 2012.

AMOUNT OF MONEY AND SOURCE:

\$24,750.00 - 9916-913900-9197-910013-703032

BACKGROUND/EXPLANATION:

The Department has been provided with funds from the Energy Efficiency and Conservation Block Grant for community education and outreach that will inform the public sector of ways to improve energy conservation and efficiency. The Department's Energy Division and the Department of Planning Office of Sustainability have worked in collaboration to critically review applications for education and outreach awards. The U.S. Green Building Council Maryland Chapter, Inc., based on a strong application, was awarded \$24,750.00 to underwrite an energy education and outreach project that will directly impact teachers, 50-75 students and their parents in several Baltimore City schools.

MBE/WBE PARTICIPATION:

N/A

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with the U.S. Green Building Council Maryland Chapter, Inc.

MINUTES

Department of General Services - Reduction of Letter of Credit

ACTION REQUESTED OF B/E:

The Board is requested to approve a reduction of the letter of credit associated with Developer's Agreement No. 1072 with the Chesapeake Paperboard Center, LLC, and 1500 Woodall, LLC, developer.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

On May 27, 2008, the Board approved a developer's agreement with Chesapeake Paperboard Center, LLC and 1500 Woodall, LLC to perform improvements associated with their mixed use McHenry Row development project. In the course of approval of their developer's agreement an approved letter of credit in the amount of \$780,517.00 has been held by the Department.

The developer desires to reduce their letter of credit by \$300,000.00 to \$480,517.00. The Department has had the project inspected and the remaining \$480,517.00 will protect the interest of the City.

UPON MOTION duly made and seconded, the Board approved a reduction of the letter of credit associated with Developer's Agreement No. 1072 with the Chesapeake Paperboard Center, LLC, and 1500 Woodall, LLC, developer.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of General Services - Grant Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve an authorize execution of a grant agreement with the Johns Hopkins Health System (JHHS).

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The JHHS will donate and install signs in the median of the 1800 Block of Orleans Street which will indicate directions and services provided by the JHHS.

Under the terms of the grant agreement the City will accept the signs but will have no obligation to maintain the signs; that responsibility will become the responsibility of the JHHS.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant agreement with the Johns Hopkins Health System.

MINUTES

Department of General Services - Minor Privilege Permit Applications

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

	<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
1.	231 S. High St.	R&S Enterprises, LLC.	Outdoor seating 35' x 4'
	Annual Charge: \$1,177.50		
2.	343 S. East Ave.	Adam C. Bussey	Garage extension 10' x 2'
	Annual Charge: \$70.00		

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

TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

8 - 12

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 no. 7.

The President **ABSTAINED** on item no. 5.

The Protests on item nos. 5 and 7 was withdrawn.

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Baltimore Development Corporation (BDC)</u>		
1. \$2,474,920.00 M&CC	9910-904856-9600 Constr. Reserve Econ. Dev. & Retention	9910-905856-9601 Econ. Dev. & Retention

This transfer will provide funds to reimburse Baltimore Development Corporation for eligible staff-related operating capital expenditures in connection with City-wide projects and operating costs for Fiscal Year 2011-2012.

2. \$.07 7 th EDF	9910-994001-9600 Constr. Res. Unallocated Res.	9910-903352-9601 Warner Street/ Russell Street
.29 15 th Community	" "	" "
2,265.04 9 th EDF	" "	" "
7.09 16 th Community	" "	" "
3,537.59 17 th Community	" "	" "
<u>\$ 5,810.08</u>		

This transfer will provide funds to cover the deficit in the Warner Street/Russell Street Capital Project Account.

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Housing & Community Development (DHCD)</u>		
3. \$380,000.00 30 th Comm. Dev. Bonds FY'12	9910-902981-9587 Acquisition/ Relocation Fund Reserve	9910-908087-9588 Acquisition/ Relocation

This transfer will provide funds for the Department's citywide acquisition and relocations for fiscal year 2012.

4. \$400,000.00 23 rd Econ. Dev. Bonds	9910-918009-9608 Pratt Street Skywalk - Res.	9910-931010-9607 Hopkins Plaza Enhancements
--	--	---

This transfer will provide additional funds needed to implement the designed improvements to Hopkins Plaza, in coordinated efforts among DHCD, Department of Transportation, and the Department of Recreation and Parks.

5. \$125,000.00 State Revenue	9910-995001-9587 Constr. Reserve DHCD	9910-902345-9588 St. Francis Xavier Head Start
---	---	--

This transfer of State appropriations will support the renovation of the St. Francis Xavier Head Start facility located on N. Caroline Street in East Baltimore.

A PROTEST WAS RECEIVED FROM THE MARYLAND MINORITY CONTRACTORS ASSOCIATION. THE PROTEST WAS WITHDRAWN.

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

January 10, 2012

VIA Facsimile 410-685-4416

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

Dear Mr. President:

I represent the Maryland Minority Contractors Association, Inc. ("MMCA"), its members, clients and constituents. I wish to protest the following agenda items on Your Honorable Board's 01/11/2012 agenda:

- 1) Item no. 5, on page 8, which is a transfer of funds to fund a renovation of St. Francis Xavier Head Start facility on North Caroline Street;
- 2) Item No. 7, on page 9, which is a transfer of funds to fund the National Aquarium's stingray exhibit ND ELECTRICAL SYSTEM.

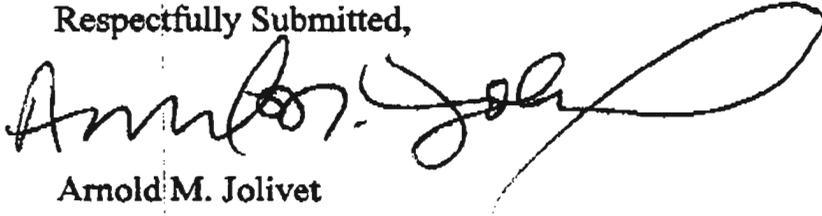
There is no indication that these two (2) items complied with the City's M/WBE Utilization Ordinance as is, indisputably, required. However, if these items did, in fact, comply with the City's M/WBE Ordinance, I hereby withdraw these protests.

Additionally, I wish to assert a protest against Item No. 1, on page 12, which is an unlawful change order to City Transportation Department contracts TR 10005 (Uplands Redevelopment Mass Grading & Infrastructure). As specifically asserted in the proposed change order narrative, the extra and changed work, was work required by the City's Bureau of Solid Waste and, hence, simply does not qualify for a change order to Transportation contract TR 10005. Rather, the proposed change order work is a

completely new and separate contract to itself. It was required to be put out for a separate bid. see Hanna v. Board of Education, 200 md. 49 (1951).

If these items are approved, MMCA, its members, clients and constituents will suffer injury.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Arnold M. Jolivet". The signature is fluid and cursive, with a large, sweeping loop at the end.

Arnold M. Jolivet
Managing Director

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Planning</u>		
6. \$ 69,000.00	9905-901009-9186	9905-903009-9188
21 st Econ.	Planning Dept.	Planning Dept.
Dev. Loan	Init. - Reserve	Init. - Active
G		
56,000.00	" "	" "
22 nd Econ.		
Dev. Loan		
\$125,000.00		

This transfer will provide funds for the Department of Planning to hire a consultant to prepare and produce area master plans and maps and clear the account deficit balance. The consultant will also provide technical assistance to staff on maps and plans.

Mayorality-Related/Department of Planning

7. \$500,000.00	9904-906793-9129	9904-098793-9127
9 th Nat'l.	Nat'l. Aquarium	Nat'l. Aquarium
Aquarium	Ray Tray Exhibit	Ray Tray Exhibit
Loan	Reserve	Active

This transfer will provide funds to the National Aquarium to renovate the 265,000 gallon stingray exhibit built in 1981. The renovations will reinforce the concrete walls in and under the stingray exhibit, and upgrade the electrical system to improve the overall visitor experience at the National Aquarium.

A PROTEST WAS RECEIVED FROM THE MARYLAND MINORITY CONTRACTORS ASSOCIATION. THE PROTEST WAS WITHDRAWN.

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of General Services</u>		
8. \$ 30,000.00	9916-901613-9194	9916-905250-9197
1 st Public	Abel Wolman/	Abel Wolman/
Buildings	Guilford New	Guilford New Fire
GO Bonds	Fire Alarm -	Alarm - Active
	Reserve	

This transfer will provide funds to upgrade the fire alarm system in the Abel Wolman Municipal Building and other downtown municipal buildings.

9. \$ 92,000.00	9916-904845-9194	9916-903845-9197
General Funds	Capital Constr.	Capital Constr. And
	and Maintenance	Maintenance Program
	Program - Reserve	Active

This transfer will provide funds for electrical upgrades, as required in various municipal buildings.

10. \$ 90,000.00	9916-904845-9194	9916-903845-9197
General Funds	Capital Constr.	Capital Constr.
	and Maintenance	Maintenance Program
	Program - Reserve	Active

This transfer will provide funds for architectural design rehabilitation, as required in various municipal buildings.

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

January 10, 2012

VIA Facsimile 410-685-4416

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

Dear Mr. President:

I represent the Maryland Minority Contractors Association, Inc. ("MMCA"), its members, clients and constituents. I wish to protest the following agenda items on Your Honorable Board's 01/11/2012 agenda:

- 1) Item no. 5, on page 8, which is a transfer of funds to fund a renovation of St. Francis Xavier Head Start facility on North Caroline Street;
- 2) Item No. 7, on page 9, which is a transfer of funds to fund the National Aquarium's stingray exhibit ND ELECTRICAL SYSTEM.

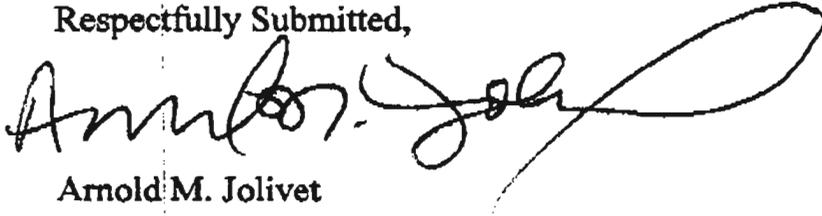
There is no indication that these two (2) items complied with the City's M/WBE Utilization Ordinance as is, indisputably, required. However, if these items did, in fact, comply with the City's M/WBE Ordinance, I hereby withdraw these protests.

Additionally, I wish to assert a protest against Item No. 1, on page 12, which is an unlawful change order to City Transportation Department contracts TR 10005 (Uplands Redevelopment Mass Grading & Infrastructure). As specifically asserted in the proposed change order narrative, the extra and changed work, was work required by the City's Bureau of Solid Waste and, hence, simply does not qualify for a change order to Transportation contract TR 10005. Rather, the proposed change order work is a

completely new and separate contract to itself. It was required to be put out for a separate bid. see Hanna v. Board of Education, 200 md. 49 (1951).

If these items are approved, MMCA, its members, clients and constituents will suffer injury.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Arnold M. Jolivet". The signature is fluid and cursive, with a large loop at the end.

Arnold M. Jolivet
Managing Director

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Recreation and Parks</u>		
11. \$ 70,000.00	9938-906765-9475	9938-904765-9474
Rec. & Parks 24 th	Courts & Fields	Courts & Fields
Series	Renovations FY 09	Renovations FY 09

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1167, Task #2 to Rummel, Klepper & Kahl, LLP.

MINUTES

EXTRA WORK ORDERS AND TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved the

Extra Work Orders and Transfers of Funds

listed on the following pages:

14 - 17

All of the EWOs had been reviewed and approved

by the

Department of Audits, CORC,

and MWBOO, unless otherwise indicated.

The Transfer of Funds was approved

SUBJECT to receipt of a favorable report

from the Planning Commission,

the Director of Finance having reported favorably

thereon, as required by the provisions

of the City Charter.

The President **ABSTAINED** on item nos. 8 and 9.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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>

Department of Transportation

1. EWO #006, \$582,737.55 - TR 10005, Uplands Redevelopment
Mass Grading & Infrastructure

\$18,279,447.78	\$340,802.61	Monumental Paving	-	-
		& Excavating Inc.		

The Bureau of Solid Waste called upon the Department of Transportation to utilize one of their contracts as they did not have a contractor available to perform this type of work. This work had to be completed in time for the Mayor's ribbon cutting ceremony in October for the Super Citizen Convenience Center located at 2830 Sisson Street. Therefore, it was done in advance of Board of Estimates approval. The Department of Transportation personnel and the contractor have agreed to the cost proposal of \$582,737.55.

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

(FILE NO. 55993)

President: "The first item on the non-routine agenda can be found on Page 12, item no. 1 Extra Work Order 006, Contract No. TR 10005. Will the parties please come forward? Nobody? I will entertain a Motion."

Comptroller: "They are here."

President: "Where? Oh I didn't see them. Okay."

City Solicitor: "He's here."

Mr. Arnold Jolivet, Maryland Minority Contractors Assoc.: "Good morning."

BOARD OF ESTIMATES

01/11/2012

MINUTES

President: "It's been withdrawn?"

Deputy Comptroller: "Number 9 was withdrawn."

Deputy Comptroller: "Yes. Page 9 number 7."

President: "Okay."

Mr. Jolivet: "The protest has been withdrawn."

Mayor: "I thought you said 12 number --."

President: "No. I said 12 item number 1."

City Solicitor: "12 number 1."

Director of Public Works: "12 item number 1, right."

President: "I already asked about those two and I know they have been withdrawn. Talking about item number 1 on page 12, the Extra Work Order."

Mr. Jolivet: "The protest also on that item has been withdrawn."

Deputy Comptroller: "I am sorry."

City Solicitor: "Withdrawn. Okay. I MOVE the approval of Page 12, item number 1, with the withdrawal of the bid protest."

Comptroller: "Second."

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

* * * * *

RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC

ATTORNEYS AT LAW

ALAN M. RIFKIN
SCOTT A. LIVINGSTON (MD, DC)
LAURENCE LEVITAN
EDGAR P. SILVER†
MICHAEL V. JOHANSEN
JOEL D. ROZNER (MD, DC)
RICHARD K. REED
NORMAN D. RIVERA
M. CELESTE BRUCE (MD, DC)
JAMIE B. EISENBERG (MD, DC, NY)
CHARLES S. FAX (MD, DC, NY)
CAROLYN JACOBS
PATRICK H. RODDY
ELLEN B. FLYNN (MD, DC, CT)
ERIC L. BRYANT
MICHAEL D. BERMAN (MD, DC)
JOYCE E. SMITHEY (MD, DC, NH)
A. THOMAS PEDRONI, JR.
MELVIN A. STEINBERG†
MICHAEL S. NAGY (MD, VA)
LIESEL J. SCHOPLER (MD, DC)
CHRISTOPHER L. HATCHER
MICHAEL A. MILLER
LINDSAY S. KATZ (NY, NJ)
JULIA E. BRAATEN
LANCE W. BILLINGSLEY†
ELIZABETH K. MILLER†

† OF COUNSEL

(NONLAWYER/CONSULTANT)
JOSH M. WHITE

7979 OLD GEORGETOWN ROAD • SUITE 400
BETHESDA, MARYLAND 20814
(301) 951-0150 • FAX (301) 951-0172
WWW.RLLS.COM

225 DUKE OF GLOUCESTER STREET
ANNAPOLIS, MARYLAND 21401
(410) 269-5066 • FAX (410) 269-1235

14601 MAIN STREET
UPPER MARLBORO, MARYLAND 20772
(301) 345-7700 • FAX (301) 345-1284

800 WASHINGTON AVENUE • SUITE 305
TOWSON, MARYLAND 21204
(410) 583-9433 • FAX (410) 583-9439

January 10, 2012

VIA HAND DELIVERY

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

RE: **BID PROTEST**
Contract No. TR 10018, "Orchard Ridge Phase II"

This law firm, along with Robert Fulton Dashiell, represents Daisy Concrete, Inc. of Maryland ("Daisy"), the lowest responsive and responsible bidder for Baltimore City Department of Transportation ("DOT") Contract No. TR10018, "Orchard Ridge, Phase II" (the "Contract"). The purpose of this letter is to request that the Board of Estimates exercise its authority under the Charter and under Art. V, Sec.28-14 (b) of the Baltimore City Code to waive the minor defect/error in Daisy's bid and award the Contract to Daisy. Daisy protests the award of the Contract to any party *other than* Daisy. In the alternative, Daisy requests rejection of all bids.

As shown in **Exhibit 1**, on May 11, 2007, a certified WBE firm named Best Fence & Decks, doing business as "Best Fence" (the "Old Company"), submitted a quote to Daisy for fence work on a State Highway Administration contract. On November 1, 2011, as shown in **Exhibit 2**, a firm named Best Fence, LLC doing business as "Best Fence" (the "New Company") – with the same MBE/WBE Directory address as the Old Company and using nearly identical stationery – submitted a quote **SIGNED BY THE SAME ESTIMATOR** to Daisy for fence work on Orchard Ridge.

According to State Department of Assessments and Taxation (“SDAT”) records, Best Fence, LLC, the new company, purchased the assets of C.M.F., Inc., d/b/a Best Fence & Decks, the Old Company, pursuant to an Asset Purchase Agreement entered into on January 30, 2009. It is customary in an asset purchase transaction that the seller’s name, *i.e.* good will, is included in the sale so that the public believes it is dealing with the same company. That is precisely what happened here.

Daisy mistakenly, but understandably, consulted only the index of the Directory to verify Best Fence’s continued certification, but not the individual pages that follow where the certification classification appears. Reasonably believing that the new “Best Fence” was the same as the old “Best Fence,” Daisy included it as a WBE in its bid for Orchard Ridge. The loss of WBE credit caused Daisy’s bid to fall short of the WBE goal by \$93,000, or only 1.65%.

I. Background

By way of background, the Department of Transportation published the invitation for bids (“IFB”) for certain construction work under Contract No. 7R10018. The IFB included an MBE goal of 14% and a WBE goal of 4%.

Daisy reviewed the plans and specifications, developed its estimate and made a good faith effort to meet the goals and sub-goals. As part of those good faith efforts, Daisy contacted various MWBOO-certified MBE and WBE firms and entered into the following subcontract agreements as reflected on Daisy’s Part B Statements of Intent:¹

Subcontractor	Services	Supplies	Amount
Daco Construction Corporation	Storm Drain, Concrete, Waterline		\$ 394,000.00
Priority Construction Corporation	Concrete Curb/Gutter, Flatwork, Brick Pavers		\$ 394,000.00
Best Fence, Inc.	Fencing		\$ 93,000.00
Rowen Concrete, Inc.		Ready Mixed Concrete	\$ 27,000.00
Road Safety, LLC	Maintenance of Traffic, Signs		\$ 60,000.00
William T. King, Inc.	Landscaping		\$ 45,000.00

Prior to bid opening, Daisy believed Daco Construction Corporation and Priority Construction Corporation were certified as MBEs. Daisy also believed Best Fence, Rowen Concrete, Inc., Road Safety, LLC and William T. King, Inc. were certified as WBEs. As a result, Daisy believed it had achieved \$788,000 worth of MBE participation (or 14.02% of Daisy’s bid price) and \$225,000 worth of WBE participation (or 4.00% of Daisy’s bid price). Daisy indicated these amounts on the Part C MBE/WBE Participation Affidavit included in its bid. Because Daisy believed it had satisfied the IFB’s MBE and WBE goals, Daisy did not request a waiver of either goal.

¹ Daisy’s MBE package, including Part B Statements of Intent and Part C MBE/WBE Participation Affidavit are attached as Exhibit 3.

At bid opening, the results were as follows:

Bidder	Price	Difference
Daisy Concrete, Inc. of MD	\$5,619,339.90	
American Infrastructure	\$5,780,000.00	+2.9%
P. Flanigan & Sons, Inc.	\$5,958,579.65	+6.0%
Monumental Paving & Excavating, Inc.	\$5,985,401.46	+6.5%
Potts & Callahan, Inc.	\$5,986,057.00	+6.5%
Concrete General, Inc.	\$6,273,982.75	+11.6%
Civil Construction, LLC	\$6,391,395.66	+13.7%
Facchina Construction Co., Inc.	\$6,835,075.20	+21.6%

In the weeks following bid opening, MWBOO reviewed the MBE package submitted by the low bidder, Daisy. An error appeared; Best Fence had recently been certified as an MBE, rather than as a WBE. After adjusting for this error, Daisy exceeded the MBE goal, yet fell short of the WBE goal by only 1.65%, as demonstrated below:

Subcontractor	Services	Supplies	MBE/WBE	Amount	Percentage
Daco Construction Corporation	Storm Drain, Concrete, Waterline		MBE	\$ 394,000.00	7.01%
Priority Construction	Concrete Curb/Gutter, Flatwork, Brick Pavers		MBE	\$ 394,000.00	7.01%
Best Fence, Inc.	Fencing		MBE	\$ 93,000.00	1.65%
Rowen Concrete, Inc.		Ready Mixed Concrete	WBE	\$ 27,000.00	0.48%
Road Safety, LLC	Maintenance of Traffic, Signs		WBE	\$ 60,000.00	1.07%
William T. King, Inc.	Landscaping		WBE	\$ 45,000.00	0.80%
			MBE Total:	\$ 881,000.00	15.68%
			WBE Total:	\$ 132,000.00	2.35%

MWBOO contacted Daisy about the error and Daisy requested the opportunity to correct the mistake. On November 18, 2011, Daisy filed a bid protest to prevent the award of the contract to any party other than Daisy. (Exh. 4). Daisy offered a reasonable suggestion for dealing with the error in its bid—namely, Daisy requested that the Board of Estimates approve conditional award of the Contract to Daisy, conditioned upon Daisy substituting a WBE in place of Best Fence, thereby achieving both the MBE and WBE goals. Daisy offered to replace Best Fence with a certified WBE in order to meet the 4% goal.

As of today, the Board of Estimates' Agenda indicates an intended award of the Contract to P. Flanigan & Sons, Inc. ("Flanigan"), at a price 6% higher than Daisy's.

II. The Board of Estimates Should Allow Correction Of Daisy's Error

The Board of Estimates should waive the minor defect or error in Daisy's MBE/WBE submission. Daisy admits that it made a mistake in not realizing that Best Fence was now an MBE after many years certified as a WBE. The ownership changed from a woman to an

African-American man, but this does not change the fact that Daisy made a good faith effort to meet the goals.

Article V, Section 28-14(b) of the Baltimore City Code provides, "At its discretion, the Board of Estimates may waive minor defects and errors in a bidder's MBE or WBE submission." This is precisely what the Board of Estimates should do in this matter. It is just the sort of "minor defect" or "error" contemplated by Section 28-14(b) that is at issue here. The Board of Estimates should not punish a bidder who demonstrates good faith efforts to meet the both the MBE and WBE goals, yet falls just short of one while exceeding the other due to an error in these circumstances.

By analogy, a "minor defect or error" can be considered a "minor irregularity" as that term is defined at COMAR 21.06.02.04:

- A. A minor irregularity is 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.
- B. The defect or variation in the bid or proposal is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the procurement.

In our view, Daisy does not obtain an unfair competitive advantage over the other bidders. The difference between Daisy's intended MBE and WBE participation and Daisy's actual MBE and WBE participation as reflected in the bid is, at best, trivial when contrasted with the total scope of the procurement.

In fact, Flanigan also had a defect in its MBE/WBE submission. Flanigan met the entire WBE goal by way of a single entity, Morgan Construction Services, Inc. (Cert. No. 05-004638). Flanigan included a Statement of Intent for only one WBE, Morgan Construction Services, Inc. ("MCS").

According to the MWBOO Directory, MCS is owned by Ms. Hattie Morgan. From all indications, MCS is no longer in business.² The business address on MCS' SDAT record, 1608

² By any stretch of the imagination, MCS does not perform a "commercially useful function," as that term is defined in Balt. City Code, Art. V, Section 28-32(a):

In this section, "commercially useful function" means the performance by a business enterprise of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage, and supervise.

Warwick Avenue, is abandoned and boarded up. The business phone number listed on MCS' certification, (410) 383-8978, is disconnected.

Daisy has reason to believe that MCS may be a WBE "front" for either Flanigan or an MBE, L & J Construction Service, Inc. ("L&J"). Hattie Morgan was listed as "Vice President and Treasurer" on L&J's website as recently as February 2005. In 2005, MCS was certified as a WBE by MDOT and MWBOO for hauling, snow removal and trash dumpster services.

From 2005 (when MCS was certified by MDOT) through the end of 2009, MCS was listed as an MBE/DBE on the Participation Schedules of exactly two successful bids at the State Highway Administration ("SHA"): Contract Nos. BA4345177 and BA7065171. Both contracts were awarded to Flanigan, and L&J was also an MBE subcontractor on both contracts. L&J and MCS were described as performing the same exact work on both contracts: "Hauling."

Per SDAT, MCS' former business address – that is now abandoned – was bought in 2010 from Hattie Morgan by Twenty-First Street, LLC ("Twenty-First Street"). Twenty-First Street is owned by Lenzie Johnson, who also owns L&J.

Beyond whether MCS is a legitimate business, MCS is listed as performing an unreasonably high \$250,000 worth of hauling. This amount of hauling is excessive considering the short distance between the work location and Flanigan's Baltimore-area facilities where excess concrete will be deposited. For example, Mike Cook, Daisy's estimator, estimated the total amount of hauling on the contract between the work site and Daisy's *Delaware* facility at around \$200,000. Flanigan's hauling would be for much shorter distances.

With regard to whether a WBE is performing a commercially useful function, Baltimore City Code Art. V, Section 29-32(c) requires evaluation of the following:

- (i) the amount of work subcontracted;
- (ii) industry practices;
- (iii) **whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and with the MBE or WBE credit claimed for its performance of the work; and**
- (iv) other relevant factors.

(emphasis added). An amount of \$250,000 is *not* commensurate with the hauling work to actually be performed on this Contract. As such, it appears Flanigan is merely assigning 4% of the contract amount to its pass-through WBE, MCS, in order to meet the WBE goal regardless of whether MCS is to perform anything resembling \$250,000 worth of work.

A quick review of the MBE/WBE submissions of the next two lowest bidders, Monumental Paving & Excavating, Inc. ("Monumental") and Potts & Callahan, Inc. ("Potts & Callahan") turn up additional errors. In the case of Monumental, Monumental indicated that Haines Industries, Inc. was *both* a WBE and MBE on the Part B Statement of Intent.

B. Harriette Taylor
January 10, 2012
Page 6 of 6

Monumental also attributed an astounding \$430,800 worth of hauling to an MBE, P&J Contracting Company, Inc.

In the case of Potts & Callahan, the Part C MBE/WBE Participation Affidavit indicates only 3.16% WBE participation - .84% less than the 4% goal. Potts & Callahan did not request a waiver of the WBE goal.

In other procurements, where all competitive bids contain defects in the MBE/WBE submissions, the Board of Estimates has used a practical approach. It allows award of the contract to the low bidder provided that the low bidder cure the defect in its MBE/WBE submissions. A similar outcome would be reasonable under the circumstances in this case.

Further, the demonstration of how a bidder will achievement MBE/WBE goals – where the bidder has committed to meeting the goals in the bid's Participation Affidavit – is a matter of responsibility that may be determined after bid opening. *See McDonnell Contracting, Inc.*, MSBCA No. 2084, 5 MSBCA ¶450 (1998). Daisy has committed to meet both the MBE and WBE goals, and has demonstrated by way of its good faith efforts that it will do so.

III. Conclusion

As described above, Daisy's belief that it was dealing with the same company was clearly in good faith and reasonable. I urge you to recognize Daisy's mistake as a minor defect or error and allow Daisy to correct this unfortunate, trivial mistake.

Very truly yours,



Scott A. Livingston

Enclosures

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

**BEST
FENCE**

A Division of CMF, Inc.

CORPORATE OFFICE
P.O. Box 377 Chester, MD 21619
410-643-9613 Fax: 410-643-9626

800-355-BEST

BALT. - WASH. OFFICE
26 8th Ave. NW, Glen Burnie, MD 21061
410-768-9227 Fax: 410-768-8991

May 11, 2007

Daisy Concrete, Inc. of Maryland
3128 New Castle Ave
New Castle, DE 19720RE: BID - I-95/Rt 24 Interchange
Contract No. KH-271-000-002 (R)

Gentlemen:

Congratulations on your apparent low bid on the above referenced project. We would like to confirm our prices, as follows:

Item	Qty	Description	Unit Price	Amount
4045	LS	Type II Safety Fence for BR-1	\$ LS	\$ 12,700.00
4046	LS	Type II Safety Fence for BR-2	LS	23,380.00
4047	LS	Type II Safety Fence for RW-2	LS	21,320.00
4048	LS	Type II Safety Fence for RW-3	LS	16,690.00
4049	4 EA	Anti-Climb Shields for BR-2	525.00	2,100.00
4050	LS	Type III Safety Fence for RW-1	LS	26,500.00
4051	LS	Type III Safety Fence for RW-4	LS	18,800.00
6037	1,880 LF	6 Foot Black Vinyl Chain Link	16.85	31,678.00
6038	15 EA	6 Foot Black Vinyl Terminal Post	198.30	2,974.50
6039	2 EA	6 Foot X 12' W Black Vinyl Double Gate	1,450.00	2,900.00

Notes/Exclusions:

1. Furnished and installed
2. Open shop labor
3. Permits by others.
4. Locating of private underground utilities or obstructions by others.
5. Stakeout of fence line to be by others.
6. Bolts furnished --to be set by others.
7. Maintenance of traffic by others.
8. Prices based on our standard insurance coverage and endorsements
9. Prices good until June 8, 2007 for purpose of acceptance.
10. Best Fence Co. is MDOT certified WBE.

159,142

Very truly yours,

BEST FENCE CO

Ed Veith
Estimator x 12JOE PAIR 6/25/07
x11

"A Minority Business Enterprise"

MD DOT #95-188-MBE • City of Baltimore #B-2796-WBE • Amtrak-MBE

EXHIBIT

tabbles
2

**BEST
FENCE**

800-355-BEST

OFFICE: 410-768-9227
FAX: 410-768-8991
WWW.BESTFENCE.BIZ

BALF-WASH-VA
26 8th Avenue
Glen Burnie, MD 21061

November 1, 2011

To: Estimating

RE: BID
Orchard Ridge Phase II
Contract No. TR10018

Scope:

Item	Qty	Description	Unit Price	Amount
611	3,100 LF	6 Foot Galv. Chain Link Fence w/ Gate	\$ 25.40	\$ 78,740.00
611	3,100 LF	Removal of 6 Foot C/L & Gate (SEE NOTE 5)	2.50	7,750.00
739	106 LF	Tree Protection Fence (on wall)	62.50	6,625.00

Notes/Exclusions:

1. Furnished and installed.
2. Open shop labor
3. Permits by others.
4. Locating of private underground utilities or obstructions by others.
5. We will remove fabric, rails, etc. - posts to be pulled and disposed of by others and restoration to be by others.
6. Stakeout of fence line to be by others.
7. Clearing of fence line, if required, to be by others.
8. Bolts furnished for Item 739 - to be set by others.
9. Price based on our standard insurance coverage and endorsements.
10. Price good until December 2, 2011 for purpose of acceptance.
11. Wage rates noted - certified payrolls provided.
12. Best Fence, LLC is a MDOT certified MBE/DBE. (#09-35)

Very truly yours,

BEST FENCE, LLC

Ed Veith

Ed Veith
Estimator

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE INC. OF MD
Name of MBE or WBE: Daco Construction Corporation

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
Storm drain, concrete, WATERLINE

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 394,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 7 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

Chrock 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 10/27/11
Signature of MBE or WBE (REQUIRED) Date

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



CONTRACT NO. TR10018

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

COMPLETE A SEPARATE FORM FOR EACH MBE AND WBE NAMED IN THIS
BID.
(Make additional copies of this form as needed.)

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

Name of Prime Contractor: Darcy Construction
Name of MBE or WBE: Priority Construction

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
Concrete curb/gutter, Flatwork, Brick Pavers

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 394,000.00 (If this is a requirements
contract, the subcontract amount may be omitted; however, the subcontract percentage
must be included.)

Subcontract percentage of total contract: 7 %

**(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. The subcontractor is currently certified as an MBE or
WBE with the City of Baltimore Minority and Women's Business Opportunity Office to
perform the work described above.

[Signature] 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 11/2/11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: BEST FENCE, INC.

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

FENCING

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 93,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 1.7 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Woman's Business Opportunity Office to perform the work described above.

[Signature] 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 10-05-11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: Rowen Concrete, Inc.

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

Materials/Supplies to be furnished by MBE or WBE:
READY MIXED CONCRETE

Subcontract Amount: \$ 27,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 0.5 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

Chris Cook
Signature of Prime Contractor (REQUIRED) 11-2-11
Date

[Signature]
Signature of MBE or WBE (REQUIRED) 11-2-11
Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: ROAD SAFETY, LLC

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
MAINTENANCE OF TRAFFIC, SIGNS

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 percentage must be included.)

Subcontract percentage of total contract: 1.07 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

[Signature] _____ 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] _____ 11-2-11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE INC. of MD
Name of MBE or WBE: William T. King Inc.

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

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 45,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 0.8 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

[Signature] _____ 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] _____ 11/1/11
Signature of MBE or WBE (REQUIRED) Date

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

PART C: MBE/WBE PARTICIPATION AFFIDAVIT

The Undersigned authorized representative of Contractor does hereby make the following Affidavit: Contractor has read the Bidder Information and Instructions regarding the MBE/WBE Program. Contractor acknowledges the MBE goal of 14% and the WBE goal of 4% for the contract shown at the top of this page. Contractor has achieved the following participation:

MBE-\$ 788,000.00 or 14% and WBE-\$ 225,000.00 or 4% of the total contract amount which is \$ 5,619,339.90

My firm has made 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.

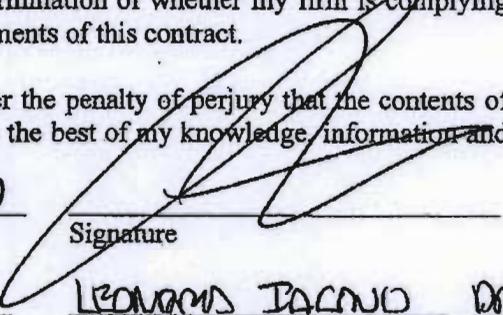
Waisi Concrete Inc Or Mo

Contractor Company Name

102 ROBIN COURT

NEWPORT MD 21804

Address



Signature

LEONARDS TACNO DAWSON

Print Name and Title

Sworn and subscribed before me this 2nd day of NOVEMBER, in the year 2011.

Marcos Hernandez
Notary Public



MAIN OFFICE
3128 New Castle Avenue
New Castle, DE 19720

302-658-4417 Ext. 3033
302-658-7425 Fax
mcook@daisyconstruction.com

Concrete, Inc. of Maryland

"Paving the way since 1973"

November 18, 2011

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

**RE: Contract No. TR10018
Orchard Ridge Phase II**

Dear Clerk,

We are in receipt of a letter dated November 17, 2011 disapproving our MWBE package for the above referenced contract.

We are protesting this decision. In accordance with PROTEST notices, we submit the following:

1. I represent Daisy Concrete, Inc. of MD.
2. The November 17, 2011 states that we failed to achieve the 4% WBE.
3. We will be denied the opportunity to perform this contract for the City of Baltimore at the lowest price submitted.

Very truly yours,

Michael D. Cook
Senior Estimator/Project Manager

MINUTES

EXTRA WORK ORDERS

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

Department of Transportation

2. EWO #018, \$244,000.00 - TR 04311, Pennington Avenue Bascule Bridge Rehabilitation

\$14,530,627.00 \$10,755,903.01 Cianbro Corporation - -

3. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 49,000.00	9950-902575-9509	
MVR	Constr. Reserve	
	Hanover St. Drawbridge	
214,720.00	9950-905512-9509	
Federal	Constr. Reserve	
	Argonne Dr. & 39 th St.	
<u>\$263,720.00</u>	-----	9950-902332-9508-2
		Contingencies
		Pennington Ave. Bridge
		Rehabilitation

This transfer will provide funds to cover the deficit in the account and costs related to TR 04311, Change Order No. 18, Pennington Ave. Bridge Rehabilitation by Cianbro Corporation.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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>

Department of Transportation

- | | | | | |
|--|-----------------|--------------------------------|----|---|
| 4. EWO #019, \$ 0.00 - TR 04311, Pennington Avenue Bascule Bridge Rehabilitation | | | | |
| \$14,530,627.00 | \$10,999,903.01 | Cianbro Corporation | 60 | - |
| 5. EWO #010, \$32,929.73 - Project No. 1003, Rehabilitation of Sinclair Lane Bridge over CSXT RR | | | | |
| \$505,057.00 | \$555,403.97 | AECOM Technical Services, Inc. | - | - |
| 6. EWO #011, \$31,635.49 - Project No. 1003, Rehabilitation of Sinclair Lane Bridge over CSXT RR | | | | |
| \$505,057.62 | \$588,333.70 | AECOM Technical Services, Inc. | - | - |

Department of General Services

- | | | | | |
|--|----------------|------------------------|---|-----|
| 7. EWO #036, \$26,031.00 - PB 08820R, Fallsway Housing and Services Center | | | | |
| \$6,937,000.00 | \$1,142,359.38 | Roy Kirby & Sons, Inc. | - | 100 |

Bureau of Water and Wastewater

- | | | | | |
|--|---------|-----------------------------|-----|----|
| 8. EWO #001, \$ 0.00 - W.C. 1218, Hanover Street Bridge Over Pataspsco River-30" Steel Water Main Replacement | | | | |
| \$748,000.00 | | Casper Colosimo & Son, Inc. | 125 | - |
| 9. EWO #002, \$655,000.00 - S.C. 881, O/C Television Inspection, Cleaning and Lining Sanitary Sewers Using Cured-In-Place Pipe | | | | |
| \$1,750,125.00 | \$ 0.00 | AM-Liner East, Inc. | 0 | 35 |

MINUTES

BOARDS AND COMMISSIONS1. Prequalification of Contractors

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

Compliance EnviroSystems, LLC.	\$	8,000,000.00
DRM Associates, Inc.	\$	1,500,000.00
Danair, Inc.	\$	1,386,000.00
Donald Excavating, Inc.	\$	1,500,000.00
EnerG Test, LLC	\$	1,500,000.00
Genesis Steel Service, Inc.	\$	8,000,000.00
Holmes Lawn Care, Inc.	\$	774,000.00
John W. Tieder, Inc.	\$	8,000,000.00
L.J. Brossoit and Sons, Inc.	\$	2,124,000.00
Lanier Electronics Group, Inc.	\$	1,500,000.00
Romano Concrete Construction Co., Inc. and A.J. Romano Construction, Inc.	\$	8,000,000.00
T & P Contractors, Inc.	\$	378,000.00
Vatica Contracting, Inc.	\$	8,000,000.00
Video Pipe Services, Inc.	\$	45,180,000.00
Weeks Marine, Inc.	\$	1,409,814,000.00

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:

David H. Gleason Associates, Inc.	Architect
EBA Engineering, Inc.	Engineer Land Survey

MINUTES

BOARDS AND COMMISSIONSPrequalification of Architects and Engineers - cont'd

Kimley-Horn and Associates, Inc.	Landscape Architect Engineer Land Survey
McMahon Associates, Inc.	Engineer Land Survey

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

MINUTES

TRAVEL REQUESTSOffice of the Mayor

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
1. Stephanie Rawlings-Blake	Maryland Assoc. of Counties Cambridge, MD Jan. 03 - 06, 2012 (Reg. Fee \$225.00)	General Funds	\$831.93

The subsistence rate for this location is \$166.00 per day. The hotel rate is \$143.00 per night plus a 13.50% occupancy tax for a total of \$162.31 per night. The Office of the Mayor is also requesting approval for an additional \$17.00 per day for a total of \$51.00 to cover the cost of food. The hotel costs and registration fee have been paid using a City issued credit card in the name of Ms. Kathe Hammond.

2. Kimberly Washington	Maryland Assoc. of Counties Cambridge, MD Jan. 03 - 06, 2012 (Reg. Fee \$225.00)	General Funds	\$433.40
------------------------	--	------------------	----------

The registration fee has been paid using a City issued credit card in the name of Ms. Kathe Hammond.

Department of Recreation and Parks

3. JoAnn Cason	2012 National Senior Games Olympics Annual Meeting and Conf. Cleveland, OH Jan. 25 - 28, 2012	Accessory Acct.	\$313.90
----------------	---	--------------------	----------

MINUTES

TRAVEL REIMBURSEMENTOffice of the State's Attorney for Baltimore City

4. Gregg L. Bernstein	Auto	\$1,033.29
	Forefei- ture	

On October 20 - 23, 2011, Mr. Bernstein traveled to La Quinta, California to attend the American College of Trial Lawyers 2011 Annual Meeting. The 2011 Annual Trial Lawyers Meeting included discussions with judges, attorneys, and law professors on various criminal justice ideas and current legal issues. The Office of the State's Attorney for Baltimore City is requesting a \$380.10 reimbursement for transportation, \$353.19 for hotel accommodations, and \$300.00 for registration fees.

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

ABSTAINED on items nos. 1 and 2.

BOARD OF ESTIMATES

01/11/2012

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

The Board is requested to approve an expenditure of funds to pay Emerging Technology Support, LLC by expenditure authorization.

AMOUNT OF MONEY AND SOURCE:

\$11,825.00 - 6000-611212-2013-197500-603020

BACKGROUND/EXPLANATION:

Emerging Technology Support, LLC will provide an instructor to the Baltimore Police Department for a one-week training seminar in Advanced Cellular Network Architecture. The course will be primarily taught to members of the Advanced Technical Team (ATT) of the Baltimore Police Department. This course will provide ATT investigators a broader understanding of what is relevant in the cellular environment while lawfully authorized electronic surveillance is occurring. The training will be held on January 23-27, 2012.

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 Emerging Technology Support, LLC by expenditure authorization.

BOARD OF ESTIMATES

01/11/2012

MINUTESOffice of the State's Attorney - Expenditure of Funds**ACTION REQUESTED OF B/E:**

The Board is requested to approve an expenditure of funds to pay the invoice for Judicial Dialog Systems.

AMOUNT OF MONEY AND SOURCE:

\$10,000.00 - 1001-000000-1151-117900-603026

BACKGROUND/EXPLANATION:

The Judicial Dialog Systems provided software, installation, configuration, and training for the Office of the State's Attorney.

The Judicial Dialog Systems specializes in providing judicial professionals with case management solutions. The organization has been one of the nation's leading providers of customizable case management solutions for prosecuting attorneys, public defenders, and other courtroom and law enforcement professionals. The Judicial Dialog System provided software, installation configuration, and training for the Office of the State's Attorney.

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 invoice for Judicial Dialog Systems.

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mayor's Office of Employment - Modification to Memorandum
Development of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a modification to the memorandum of understanding (MOU) with the State of Maryland, Department of Human Resources, Baltimore City Department of Social Services (BCDSS). The amendment extends the MOU through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:

N/A 4000-808310-6390-456000-404001

BACKGROUND/EXPLANATION:

On June 23, 2010, the Board approved a MOU with the BCDSS for professional services.

The purpose of this amendment is to extend the term of the MOU through June 30, 2012. The funding level of \$1,888,500.00 remains the same as in the original MOU.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the modification to the memorandum of understanding with the State of Maryland, Department of Human Resources, Baltimore City Department of Social Services.

BOARD OF ESTIMATES

01/11/2012

MINUTESBaltimore Development Corporation - Lease Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of a lease agreement with the Baltimore Museum of Industry, Inc. (BMI), tenant, for the rental of the property known as 1415 Key Highway. The period of the agreement is effective upon Board approval for 30 years, with one 20-year renewal option.

AMOUNT OF MONEY AND SOURCE:

\$1.00 - per annum

BACKGROUND/EXPLANATION:

The BMI currently leases City-owned property located at 1415 Key Highway pursuant to a ground and building lease which commenced in October of 1985. The current lease, which has a term of 35 years, expires in October 2025.

The leased property is part of the BMI campus. The BMI is a non-profit organization which owns and operates a museum and exhibits that provide cultural and educational information about the City's current and historic importance as an industrial and port city.

The BMI requested that the City grant it a new lease so that it may make needed capital improvements and facility upgrades to the museum buildings and exhibits.

(FILE NO. 53545)

UPON MOTION duly made and seconded, approved and authorized execution of the lease agreement with the Baltimore Museum of Industry, Inc., tenant, for the rental of the property known as 1415 Key Highway.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of Transportation - Expenditure of Funds**ACTION REQUESTED OF B/E:**

The Board is requested to approve an expenditure of funds to pay Praxair Distributers-GTS Welco by expenditure authorization.

AMOUNT OF MONEY AND SOURCE:

\$6,354.87 - 3001-000000-5000-381902-603026

BACKGROUND/EXPLANATION:

The invoice is for 16 cylinders for oxygen and acetylene that were not turned in and the rental fee for the Department's Bridge Section and the Street Lighting Section. The invoices date back to 2009. Consequently, there is no mechanism in place for the Department to make payment for the goods that have been delivered.

The request is late because of the late submission of the invoice by the vendor.

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 Praxair Distributers-GTS Welco by expenditure authorization.

BOARD OF ESTIMATES**01/11/2012****MINUTES**Department of Transportation - On-Call Task Assignment**ACTION REQUESTED OF B/E:**

The Board is requested to approve an assignment of Task No. 36 to Johnson, Mirmiran & Thompson, Inc., under Project No. 1097, On-Call Construction and Management Services.

AMOUNT OF MONEY AND SOURCE:

\$106,542.57 - 9950-904545-9506-900010-705032

BACKGROUND/EXPLANATION:

The consultant will provide design engineering services in connection with bridge engineering services. The scope of work includes continued project management services for various bridge projects as assigned by the Department.

MBE/WBE PARTICIPATION:

The consultant will comply with Article 5, Subtitle 28 of the Baltimore City Code and Minority and Women's Business Enterprise goals established in the original agreement.

MWBOO SET GOALS OF 27% FOR MBE AND 9% FOR WBE.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved the assignment of Task No. 36 to Johnson, Mirmiran & Thompson, Inc., under Project No. 1097, On-Call Construction and Management Services.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of Transportation - On-Call Task Assignment**ACTION REQUESTED OF B/E:**

The Board is requested to approve an assignment of Task No. 27 to Century Engineering, Inc., under Project No. 1074, On-Call Consultant Services Reconstruction, Rehabilitation and/or Resurfacing Project.

AMOUNT OF MONEY AND SOURCE:

\$104,924.40 - 9950-903324-9527-900020-703032

BACKGROUND/EXPLANATION:

The consultant will provide design engineering services in connection with the Inner Harbor East Bulkhead and Streetscape Design. This design work includes, but will not be limited to surveying and utility designations for an added ADA compliant promenade pedestrian ramp, obtaining a general waterway construction permit through the Maryland Department of Environment, right-of-way utility easement coordination and preparation of plats, and the design of Marina Dock access structures.

MBE/WBE PARTICIPATION:

The consultant will comply with Article 5, Subtitle 28 of the Baltimore City Code and Minority and Women's Business Enterprise goals established in the original agreement.

MWBOO SET GOALS OF 21% FOR MBE AND 7% FOR WBE.

APPROVED FOR FUNDS BY FINANCE

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

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of Transportation - cont'd**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$309,000.00	9950-904324-9528	9950-903324-9527-3
MVR	Constr. Res. Harbor East	Design and Study Harbor East

This transfer will cover the deficit in the account and fund the cost related to BD#08042, Project No. 1074, Task 27, Inner Harbor East Bulkhead and Streetscape Design.

UPON MOTION duly made and seconded, the Board approved the assignment of Task No. 27 to Century Engineering, Inc., under Project No. 1074, On-Call Consultant Services Reconstruction, Rehabilitation and/or Resurfacing Project. The Transfer of Funds was approved, SUBJECT to the receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, in accordance with the provisions of the City Charter.

MINUTES

Department of Transportation - Traffic Mitigation Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a traffic mitigation agreement with The New Pulaski Company Limited Liability Partnership. The agreement will commence upon Board approval and termination will be deemed in writing by the Department.

AMOUNT OF MONEY AND SOURCE:

\$380,000.00 - 6000-917012-2391-596700-600000

BACKGROUND/EXPLANATION:

Baltimore City Ordinance 06-345, approved on November 11, 2006, determined that a traffic impact study was required for the development.

The applicant has applied or intends to apply for a Building Permit in Baltimore City to perform the scope of work for 160,000 square feet of retail space, or 198,000 square feet of warehouse space, or 74,000 square feet of retail and 56,800 square feet of warehouse. The developer will make a one-time contribution in the amount of \$380,000.00 to fund signalization, turn lane construction and median reconstruction at the property's western access point where it intersects with Pulaski Highway.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 52978)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the traffic mitigation agreement with The New Pulaski Company Limited Liability Partnership.

MINUTES

Health Department - Expenditure of Funds

ACTION REQUESTED OF B/E:

The Board is requested to approve the purchase of gift cards for the STD/HIV Prevention Program.

AMOUNT OF MONEY AND SOURCE:

\$1,400.00 - 4000-427911-3042-274404-603026
(280 Rite Aid gift cards @ \$5.00)

BACKGROUND/EXPLANATION:

The Department requests approval to purchase Rite Aid gift cards for the STD/HIV Prevention Program. The incentive cards will be distributed to help reduce the number of new HIV infections, as part of an integral health education/outreach strategy, and to improve the health of persons living with HIV/AIDS. In addition, the cards will be used to enhance the staff's ability to attract people to receive counseling and testing on the STD/HIV testing van.

The STD/HIV Prevention Program adheres to all policies associated with the usage of incentives and has sufficient procedures in place to address the safeguarding and accountability of purchased incentive cards.

The Health Department has a consolidated policy for the purchase, distribution, and documentation of all incentive cards. The central tenets of this policy account for: 1) a single means of procuring all incentive cards through the Board of Estimates; 2) the documentation of each incentive card and its recipient; 3) a monthly reconciliation for all purchases that account for all distributed and non-distributed cards, and; 4) periodic internal reviews of programs' activity vis-à-vis the internal policy, which are to be shared with the Department of Audits.

BOARD OF ESTIMATES**01/11/2012****MINUTES**Health Department - cont'd

This policy has been reviewed by both the Solicitor's Office and by the Department of Audits. Consistent with the original Board of Estimates approval, all requests for payment for the above incentive cards will be subject to Audits approval.

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

UPON MOTION duly made and seconded, the Board approved the purchase of gift cards for the STD/HIV Prevention Program.

MINUTES

Health Department - Expenditure of funds

ACTION REQUESTED OF B/E:

The Board is requested to approve the purchase of gift cards for the Needle Exchange Program (NEP).

AMOUNT OF MONEY AND SOURCE:

\$3,000.00 (600 Rite Aid gift cards @ \$5.00)
1,500.00 (150 Rite Aid gift cards @ \$10.00)
\$4,500.00 - 5000-521112-3041-278200-604051

BACKGROUND/EXPLANATION:

The Department requests approval to purchase Rite Aid gift cards for the NEP. One \$5.00 gift card will be distributed to NEP clients as an incentive for taking HIV/STD tests, and one \$10.00 card will be given to clients for completing various surveys to determine the effectiveness of the program.

The Health Department has a consolidated policy for the purchase, distribution, and documentation of all incentive cards. The central tenets of this policy account for: 1) a single means of procuring all incentive cards through the Board of Estimates; 2) the documentation of each incentive card and its recipient; 3) a monthly reconciliation for all purchases that account for all distributed and non-distributed cards, and; 4) periodic internal reviews of programs' activity vis-à-vis the internal policy, which are to be shared with the Department of Audits.

MINUTES

Health Department - cont'd

This policy has been reviewed by both the Solicitor's Office and by the Department of Audits. Consistent with the original Board of Estimates approval, all requests for payment for the above incentive cards will be subject to Audits approval.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the purchase of gift cards for the Needle Exchange Program.

BOARD OF ESTIMATES

01/11/2012

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

The Board is requested to approve an expenditure of funds to pay the Johns Hopkins University (JHU). The period of the invoice is July 1, 2009 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$14,820.00 - 4000-425610-3040-276905-603051

BACKGROUND/EXPLANATION:

On February 17, 2010, the Board approved the initial agreement with the JHU in the amount of \$245,000.00 for the period July 1, 2009 to June 30, 2010.

On January 15, 2009, the JHU was notified by the DHMH of the supplemental award in the amount of \$14,820.00 for the Ryan White, Part D Outpatient Ambulatory Care Services.

Due to an oversight, the JHU did not submit a budget or invoice for the supplemental award and the agreement expired.

The Department recently received the invoice from the provider. Further delays occurred during the Department's administrative review process.

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

UPON MOTION duly made and seconded, the Board approved the expenditure of funds to pay the Johns Hopkins University. The President **ABSTAINED**.

MINUTES

Health Department - Request for Proposal

ACTION REQUESTED OF B/E:

The Board is requested to approve a Request for Proposal (RFP) for the Safe Streets Initiative. The period of the RFP is March 1, 2012 through June 30, 2013.

AMOUNT OF MONEY AND SOURCE:

\$375,000.00 - 4000-430512-3160-308600-603051
(amount available for one award)

BACKGROUND/EXPLANATION:

Over the past four years, over 3,200 of Baltimore's citizens have been shot or killed. To help address this problem, the Health Department is seeking one community organization to act as the Lead Agency and implement Safe Streets, based on the Cease Fire Chicago model, in a target area within the eligible areas.

Safe Streets Baltimore has been in existence since 2007 and is currently operating in East Baltimore in the McElderry Park Community and in Cherry Hill. A recent evaluation of the initiative by the Johns Hopkins University Bloomberg School of Public Health has shown positive results, including reductions in shooting and homicides, in the current targeted communities.

The approval of this request will allow the Department to establish the application process for selecting the vendor to provide services in accordance with the guidelines and requirements of the RFP.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved the Request for Proposal for the Safe Streets Initiative.

MINUTESHealth Department - Agreements, Revised Notice of Award
and Control Cooperative Agreement

The Board is requested to approve and authorize execution of the below listed agreements, and revised notice of award (NOA) and control cooperative agreement.

AGREEMENTS

1. **EMPOWERING NEW CONCEPTS, INC.** **\$31,775.00**

Account: 4000-418712-3030-274420-603051

The organization will provide intervention services for the D-up Defend Yourself project. The services will incorporate culturally relevant messages, materials, and activities to prevent new HIV infections among African American Men Having Sex with Men (MSM) in Baltimore City. The D-up Defend Yourself project is a community-level intervention that attempts to change social norms and perceptions of Black MSM regarding safer sex practices and improve their sense of self-worth as MSM. The period of the agreement is July 1, 2011 through December 31, 2011.

This agreement is late due to legal issues and the need to obtain an acceptable budget and scope of services which was received on December 1, 2011.

2. **CHASE BREXTON HEALTH SERVICES** **\$60,000.00**

Account: 4000-424512-3023-274427-603051

The organization will provide quality dental health care to HIV positive residents of Baltimore. This agreement will allow the organization to provide services to 40 unique patients, including four new patients.

MINUTES

Health Department - cont'd

The agreement is late because the Infectious Disease and Environmental Health Administration (IDEHA) program-matically manage all Ryan White Part B services. Providers are selected by the IDEHA through a Request for Proposal process. The Department prepares the agreements after receipt of an approved budget and scope of services and processes payments following approval. The period of the agreement is July 1, 2011 through June 30, 2012.

MWBOO GRANTED A WAIVER.

3. **BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS, BALTIMORE CITY PUBLIC SCHOOL SYSTEM (BCPSS)** **\$94,000.00**

Account: 4000-427112-3080-39400-603051

The BCPSS will provide services to children in the Baltimore Infants and Toddlers program who are determined eligible for preschool special education and related services. The period of the agreement is July 1, 2011 through June 30, 2012.

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

REVISED NOA AND CONTROL COOPERATIVE AGREEMENT

4. **DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL CENTER FOR HIV, VIRAL HEPATITIS, STDS AND TB PREVENTION** **\$39,145.00**

Account: N/A

On February 16, 2011 the Board approved the original NOA in the amount \$345,116.00 for the period of January 1, 2011 through December 31, 2011. On September 27, 2011, the

MINUTESHealth Department - cont'd

Department requested approval to carryover \$39,145.00 from calendar year 2010 to 2011. On November 2, 2011 the Board approved the revised NOA for \$99,638.00.

This revised NOA approves the use of the \$39,145.00 in carryover funds from 2010 for a total award of \$483,899.00 for 2011. All other terms and conditions of the original agreement remain the same.

The item is late because it was just received.

AUDITS NOTED THE REVISED GRANT AWARD.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED ITEMS NOS. 1 AND 2 AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing agreements, and revised notice of award and control cooperative agreement.

BOARD OF ESTIMATES

01/11/2012

MINUTES

Department of Housing and Community Development (DHCD) - Contract of Sale

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the contract of sale with the Housing Authority of Baltimore City (HABC) for the below listed properties. The Board is also requested to acquire these properties subject to all municipal liens, interest and penalties that may accrue except water bills. As of December 14, 2011 the properties are free of liens except water bills.

AMOUNT OF MONEY AND SOURCE:

<u>AMOUNT</u>	<u>OWNER</u>	<u>PROPERTY ADDRESS</u>	<u>INT.</u>
\$ 1.00	HABC	1100 Barclay St.	FS
1.00	HABC	1102 Barclay St.	FS
1.00	HABC	1103 Barclay St.	FS
1.00	HABC	1105 Barclay St.	FS
1.00	HABC	1113 Barclay St.	FS
1.00	HABC	1130 Barclay St.	FS
1.00	HABC	411 E. Biddle St.	FS
1.00	HABC	1110 Brentwood Ave.	FS
1.00	HABC	1119 Brentwood Ave.	FS
1.00	HABC	1133 Brentwood Ave.	FS
<u>1.00</u>	HABC	408 E. Chase St.	FS
\$11.00	- 9910-908087-9588-900000-704040		

BACKGROUND/EXPLANATION:

This contract of sale enables the Mayor and City Council of Baltimore to acquire eleven fee simple properties in the Johnston Square Urban Renewal Area for resale through the planning and development efforts of DHCD.

MINUTES

DHCD - cont'd

Pursuant to the provisions of Article 13, § 2-7 of the Baltimore City Code (2000 Edition) and subject to the prior approval of the Board of Estimates, the Department of Housing and Community Development may acquire, for and on behalf of the Mayor and City Council of Baltimore, any single-family or multiple-family dwelling unit or other structure or lot within the City, for development and redevelopment. The Commissioner of Housing has made the required determination with regard to these properties.

The Housing Authority of Baltimore City Board of Commissioners has approved the disposition of these vacant properties. The U.S. Department of Housing and Urban Development has approved the disposition in accordance with 24 CFR, Part 970.

The HABC is exempt from Real Estate Taxes; therefore no taxes are included. All of the liens are miscellaneous bills for cleaning, boarding, demolition and/or stabilization. The properties that are free of liens are included, in case a lien is posted before a deed can be recorded.

PROPERTY ADDRESS

1100 Barclay St.	
1102 Barclay St.	
1103 Barclay St.	
1105 Barclay St.	
1113 Barclay St.	
1130 Barclay St.	
411 E. Biddle St.	
1110 Brentwood Ave.	
1119 Brentwood Ave.	
1133 Brentwood Ave.	
408 E. Chase St.	\$0.00

(FILE NO. 57070)

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of the contract of sale with the Housing Authority of Baltimore City for the above-listed properties. The Board also approved acquiring these properties subject to all municipal liens, interest and penalties that may accrue except water bills. The President **ABSTAINED**.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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

ACTION REQUESTED OF B/E:

The Board is requested to approve the acquisition of the property located at 2168 Hollins Street, Block 0204, Lot 055 by gift from IPJ Properties, LLC, owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

AMOUNT OF MONEY AND SOURCE:

The owner agrees to pay for any title work and all associated settlement costs, not to exceed \$600.00.

BACKGROUND/EXPLANATION:

The DHCD, Land Resources Division strategically acquires and manages vacant or abandoned properties, which enables these properties to be returned to productive use and improve neighborhoods in Baltimore City. IPJ Properties, LLC will pay all current water bills up through the date of settlement. The City's acceptance of this donation is less costly than acquiring the property by tax sale foreclosure or eminent domain. The liens for Block 0204, Lot 055 are itemized as follows:

Cumulative Real Property Taxes 2011-2012

Total Tax	\$ 71.40
Interest/Penalties	0.00
Other	0.00
Tax Sale Interest	0.00
Miscellaneous Bills	405.60
Metered Water (Tax Sale)	0.00
Environmental Fine	750.00
Rental Reg.	<u>135.20</u>
Total	\$ 1,362.20

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

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the approved the acquisition of the property located at 2168 Hollins Street, Block 0204, Lot 055 by gift from IPJ Properties, LLC, owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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

ACTION REQUESTED OF B/E:

The Board is requested to approve the acquisition of the property located at 2204 Boone Street, Block 4039, Lot 014 by gift from Mr. George F. Savage, III, owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

AMOUNT OF MONEY AND SOURCE:

The owner agrees to pay for any title work and all associated settlement costs, not to exceed \$600.00.

BACKGROUND/EXPLANATION:

The DHCD, Land Resources Division strategically acquires and manages vacant or abandoned properties, which enables these properties to be returned to productive use and improve neighborhoods in Baltimore City. Mr. George F. Savage, III will pay all current water bills up through the date of settlement. The City's acceptance of this donation is less costly than acquiring the property by tax sale foreclosure or eminent domain. The liens for Block 4039, Lot 014 are itemized as follows:

Cumulative Real Property Taxes 2011-2012

Total Tax	\$ 119.00
Interest/Penalties	2.33
Other	0.00
Tax Sale Interest	0.00
Miscellaneous Bills	404.47
Metered Water (Tax Sale)	0.00
Environmental Citation	1,390.00
Alley Paving Bill	321.78
Rental Reg.	130.00
Total	\$ 2,367.58

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

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the Board approved the acquisition of the property located at 2204 Boone Street, Block 4039, Lot 014 by gift from Mr. George F. Savage, III, owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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

ACTION REQUESTED OF B/E:

The Board is requested to approve the acquisition of the property located at 434 S. Parrish Street, Block 0708, Lot 080 by gift from 234 Parrish, LLC owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

AMOUNT OF MONEY AND SOURCE:

The owner agrees to pay for any title work and all associated settlement costs, not to exceed \$600.00.

BACKGROUND/EXPLANATION:

The DHCD, Land Resources Division strategically acquires and manages vacant or abandoned properties, which enables these properties to be returned to productive use and improve neighborhoods in Baltimore City. 234 Parrish, LLC will pay all current water bills up through the date of settlement. The City's acceptance of this donation is less costly than acquiring the property by tax sale foreclosure or eminent domain. The liens for Block 0708, Lot 080 are itemized as follows:

Cumulative Real Property Taxes 2011-2012

Total Tax	\$	261.80
Interest/Penalties		10.22
Other		0.00
Tax Sale Interest		0.00
Miscellaneous Bills		0.00
Metered Water (Tax Sale)		0.00
Rental Reg.		135.20
Total	\$	407.22

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

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the Board approved the acquisition of the property located at 434 S. Parrish Street, Block 0708, Lot 080 by gift from 234 Parrish, LLC owner, **SUBJECT** to municipal liens, interest, and penalties, other than current water bills.

MINUTES

DHCD - cont'd

3. THE DEVELOPMENT CORPORATION OF NORTHWEST BALTIMORE, INC. \$ 34,777.00

Account: 2089-208912-5930-429591-603051

The organization will provide housing counseling services, workshops and other aspects of homeownership to eligible low and moderate-income persons. The funds will be used to subsidize the agency's operating costs. The period of the agreement is September 1, 2011 through August 31, 2012.

MWBOO GRANTED A WAIVER.

4. BALTIMORE READS, INC. \$ 38,794.00

Account: 2089-208912-5930-423734-603051

The organization will provide adult literacy services and job readiness training at the Ripken Adult Learning Center. The organization will offer the English as a Second Language Program at its main office. In addition, the services will include Adult Basic Education, Pre-GED and GED classroom instruction, individual tutoring and monthly employability workshops. Non-readers and Pre-GED services will be provided to low and moderate-income City residents. The period of the agreement is July 1, 2011 through June 30, 2012.

FOR FY 2012, MBE AND WBE PARTICIPATION GOALS FOR THE ORGANIZATION WERE SET ON THE AMOUNT OF \$24,000.00, AS FOLLOWS:

MBE: \$3,600.00

WBE: \$1,200.00

MINUTES

DHCD - cont'd

The DHCD began negotiating and processing the CDBG agreements effective July 1, 2011 and beyond, as outlined in the Plan, pending approval of the Resolution. Consequently, the agreements were delayed due to final negotiations and processing.

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

MINUTES

Department of Housing and - Land Disposition and
Community Development Acquisition Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a land disposition and acquisition agreement which outlines the exchange of 1626 N. Durham Street owned by Rhouses, LLC, developer, SUBJECT to any municipal liens, for 3206 Elmley Avenue a comparable property owned by the Mayor and City Council of Baltimore.

AMOUNT OF MONEY AND SOURCE:

The City agrees to pay for all settlement costs, related to the properties the City, not to exceed \$600.00.

Account: 9910-9588-908087-900000-704044

BACKGROUND/EXPLANATION:

The DHCD's Land Resources Division strategically acquires and manages vacant or abandoned properties, ultimately enabling these properties to be returned to productive use and improving Baltimore's neighborhoods.

Ms. Rozita Washington, the authorized agent for Rhouses, LLC, received notice of the City's intent to demolish the property known as 1626 N. Durham Street. Because Rhouses, LLC intended to rehab the property, a "swap" was proposed for the property with a comparable City-owned property that was located in an area better suited for redevelopment. The Rhouses, LLC will deliver a good and marketable title, and as a condition of the exchange, has agreed to rehab the property it is receiving within 12 months from the date of settlement.

With the approval of the Land Disposition and Acquisition Agreement, the City will receive clear and marketable title to the property, subject to any municipal liens, in exchange for the comparable City-owned property. The liens total approximately \$2,116.96.

MINUTES

DHCD - cont'd

Approval of this exchange will allow the City to more expeditiously demolish the hazardous structure and take title to the property for a redevelopment project. The property exchange is less costly than acquiring the property through tax sale foreclosure or eminent domain. This action will further the City's effort to eliminate blight and protect the health and safety of its citizens.

STATEMENT OF PURPOSE AND RATIONALE FOR TRANSFER OF PROPERTY BY MEANS OF COMPARABLE EXCHANGE:

The rationale behind the exchange of properties was to ensure that property owned by the Developer that fell into priority a project area could be acquired by the City in a manner less costly than tax sale foreclosure or condemnation. The property being conveyed as a comparable exchange to the Developer will facilitate redevelopment in an area better suited and poised for rehabilitation.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 57211)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition and acquisition

MINUTES

DHCD - cont'd

agreement which outlines the exchange of 1626 N. Durham Street owned by Rhouses, LLC, developer, SUBJECT to any municipal liens, for 3206 Elmley Avenue a comparable property owned by the Mayor and City Council of Baltimore.

BOARD OF ESTIMATES

01/11/2012

MINUTES

Department of Housing and - Land Disposition Agreement
Community Development with Ghassem Chatrchi

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the land disposition agreement with Mr. Ghassem Chatrchi, developer, for the sale of the property located at 2320 Jefferson Street, in the McElderry Neighborhood.

AMOUNT OF MONEY AND SOURCE:

\$2,500.00 - Sale price

BACKGROUND/EXPLANATION:

Mr. Chatrchi, the developer is also a contractor by trade, and currently owns four other properties on both sides of the street on this block. The property at 2320 Jefferson is City-owned, adjacent to Mr. Chatrchi's property, and has been leaking water into his rental property at 2318 Jefferson Street, whenever it rains. Rather than requesting the City for compensation for the damage, Mr. Chatrchi decided to purchase the City-owned property and fix it. This property continues to deteriorate, while sitting next to the rental property. He proposes to gut, and rehab the vacant property into a single family rental unit. The estimated total rehab cost will be \$52,500.00. The project will be privately financed.

STATEMENT OF PURPOSE AND RATIONALE FOR BELOW THE PROPOSED VALUE DETERMINED BY THE WAIVER VALUATION PROCESS.

The property was priced pursuant to the appraisal policy of Baltimore City. The Waiver Valuation Process was used in lieu of an appraisal and the proposed price was \$4,675.00. The Property will be sold to Mr. Chatrchi below the price determined via the Waiver Valuation process because of the following factors:

1. The sale and the rehabilitation of this property will help to promote a specific benefit to the immediate Community.

MINUTES

DHCD - cont'd

2. The sale and rehabilitation will continue the elimination of blight.
3. The sale and rehabilitation promotes economic development through the subject property's addition to the City's tax rolls.
4. The condition of the subject property requires remediation because of the structural deterioration.

(FILE NO. 57211)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with Mr. Ghassem Chatrchi, developer, for the sale of the property located at 2320 Jefferson Street, in the McElderry Neighborhood.

BOARD OF ESTIMATES

01/11/2012

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 Butler Management, LLC, developer, for the sale of the property located at 2110-2112 Jefferson Street.

AMOUNT OF MONEY AND SOURCE:

\$5,000.00 - Purchase Price

BACKGROUND/EXPLANATION:

A good faith deposit of \$500.00 has been paid by the developer.

The project will consist of the rehabilitation of the property as a single family home. The property is located within and will be redeveloped in accordance with the Middle East Urban Renewal Plan. The purchase price and improvements to the site will be financed through private sources.

In accordance with the City's appraisal policy, the Waiver Valuation process was used in lieu of an appraisal. The Department has determined the fair market value of \$5,000.00 for the property using available real estate data. The vacant building will be sold for \$5,000.00.

BOARD OF ESTIMATES

01/11/2012

MINUTES

DHCD - cont'd**MBE/WBE PARTICIPATION:**

The properties are not subject to Article 5, Subtitle 28 of the Baltimore City Code because they will be sold for less than \$20,000.00 and no city funds will or incentives for the purchase or rehabilitation.

(FILE NO. 57211)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with Butler Management, LLC, developer, for the sale of the property located at 2110-2112 Jefferson Street. The Comptroller **ABSTAINED.**

BOARD OF ESTIMATES

01/11/2012

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 (LDA) with Habitat for Humanity of the Chesapeake, Inc., developer, for the sale of the properties located at 504, 601 - 603, 621, 626, 627, 701, 704, 706, 709, 729, 731, 750, 800, 801, 810, McCabe Avenue and descriptive lots Block 5165, Lot 098 and Block 5165, Lot 099.

AMOUNT OF MONEY AND SOURCE:

<u>Purchase</u>	<u>Property</u>
<u>Price</u>	
\$ 3,500.00 -	504 McCabe Avenue
3,500.00 -	601 - 603 McCabe Avenue
3,500.00 -	621 McCabe Avenue
3,500.00 -	626 McCabe Avenue
3,500.00 -	627 McCabe Avenue
3,500.00 -	701 McCabe Avenue
3,500.00 -	704 McCabe Avenue
3,500.00 -	706 McCabe Avenue
3,500.00 -	709 McCabe Avenue
3,500.00 -	729 McCabe Avenue
3,500.00 -	731 McCabe Avenue
3,500.00 -	750 McCabe Avenue
3,500.00 -	800 McCabe Avenue
3,500.00 -	801 McCabe Avenue
3,500.00 -	810 McCabe Avenue
1,200.00 -	Block 5165, Lot 098
500.00 -	Block 5165, Lot 099
\$54,200.00 -	Purchase Price

BACKGROUND/EXPLANATION:

A good faith deposit of \$5,500.00 has been paid by the developer.

MINUTES

DHCD - cont'd

The project will be financed by Federal grants, Community Development Block Grants, Construction Line of Credit from Local Banks, the City Lead Abatement Fund, and private donations.

The project will consist of gutting and renovating 14 of the properties into single-family homes, construction of a new house on the vacant lot where a single family house once stood and the two descriptive parcels will remain lots.

In accordance with the City's appraisal policy, the Waiver Valuation process was used in determining the price in lieu of an appraisal of the properties. The sale will: 1.) stabilize the immediate community, 2.) eliminate blight, 3.) stimulate economic development, the creation of jobs, real estate and other taxes, and 4.) allow the opportunity to have a quick sale and rehabilitation of multiple properties at one time.

Comparables used to substantiate the sale price of the fourteen structures and one vacant lot are 5205 Craig Avenue, 733 McCabe, and 738 McCabe Avenue. Comparables used to substantiate the two descriptive lots are 1521 Cole Street, 2513 Garrison Blvd and descriptive lot, Block 1476, lot 075.

MBE/WBE PARTICIPATION:

Article 5, Subtitle 28 of the Baltimore City Code, Minority and Women's Business Enterprise Program is fully applicable, and the developer has agreed to abide by its terms.

(FILE NO. 56380)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition agreement with Habitat for Humanity of the Chesapeake, Inc., developer, for the

MINUTES

DHCD - cont'd

sale of the properties located at 504, 601 - 603, 621, 626, 627, 701, 704, 706, 709, 729, 731, 750, 800, 801, 810, McCabe Avenue and descriptive lots Block 5165, Lot 098 and Block 5165, Lot 099.

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

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

1. Curtis Wilson	936 N. Patterson Park Ave.	L/H	\$ 34,200.00
------------------	-------------------------------	-----	--------------

Funds are available in State Funds, account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II, Middle East Renewal Plan.

(FILE NO. 56017)

2. Jeffrey I. Silberman	2224 Barclay St.	G/R \$58.00	\$ 700.00
----------------------------	------------------	----------------	-----------

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

(FILE NO. 57066)

3. Paul Nochumowitz and Amy Nochumowitz	3327 Woodland Ave.	G/R \$120.00	\$ 800.00
--	--------------------	-----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

4. Morents, LLC	3142 Virginia Ave.	G/R \$120.00	\$ 1,100.00
-----------------	--------------------	-----------------	-------------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Options - cont'd</u>			

5. Barbara Wallach	3319 Woodland Ave.	G/R \$96.00	\$ 640.00
--------------------	--------------------	----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Site.

6. Sandel Invest- ments	3325 Woodland Ave.	G/R \$96.00	\$ 800.00
----------------------------	--------------------	----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Site.

7. Marion I. and Henry J. Knott Foundation, Inc.	3351 Woodland Ave.	G/R \$72.00	\$ 600.00
--	--------------------	----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

(FILE NO. 57083)

8. Ellen G. Politzer	821 E. Chase St.	G/R \$90.00	\$ 825.00
----------------------	------------------	----------------	-----------

Funds are available in account no. 9990-907714-9593-900001-704040, Johnston Square Project.

9. Toba W. Grant	1212 Brentwood Ave.	G/R \$89.00	\$ 814.00
------------------	---------------------	----------------	-----------

Funds are available in account no. Funds are available in account no. 9990-907714-9593-900001-704040, Johnston Square Project.

(FILE NO. 57070)

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Options - cont'd</u>			
10. Algenon Ashford	3317 Woodland Ave.	L/H	\$ 6,800.00

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

(FILE NO. 57083)

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

DHCD - Condemnations - cont'd

11. Lots, LLC	1111 N. Gay St.	L/H	\$ 2,727.00
12. Lots, LLC	1117 N. Gay St.	L/H	2,400.00
13. Lots, LLC	1121 N. Gay St.	L/H	<u>3,180.00</u>
			\$ 8,307.00

Funds are available in State Funds, account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II.

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Condemnations</u> - cont'd			
14. Lots, LLC	1113-1115 N. Gay St.	F/S	\$ 4,800.00
15. Lots, LLC	1123 N. Gay St.	F/S	3,000.00
16. Lots, LLC	1131 N. Gay St.	F/S	4,000.00
			<u>\$11,800.00</u>

Funds are available in State Funds, account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II.

(FILE NO. 56017)

17. Al Levitt and Nettie Levitt	4707 Park Heights Ave.	G/R \$90.00	\$ 600.00
------------------------------------	---------------------------	----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

18. Stanley Goldberg and Sonia Goldberg	3343 Woodland Ave.	G/R \$90.00	\$ 600.00
--	--------------------	----------------	-----------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

19. Hallow'd House, LLC	4930 Denmore Ave.	F/S	\$ 7,500.00
-------------------------	-------------------	-----	-------------

Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.

(FILE NO. 57083)

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Condemnations - cont'd</u>			
20. Nachee Miller	1223 Valley St.	F/S	\$ 6,000.00
Funds are available in CDBG Funds, account no. 9990-907714-9593-900001-704040, Johnston Square Project.			
(FILE NO. 57070)			
21. Toluc, Inc.	3142 Virginia Ave.	L/H	\$ 8,200.00
Funds are available in account no. 9910-903187-9588-900000-704040, Park Heights Demo-Woodland/Virginia Corridor.			
(FILE NO. 57083)			

DHCD - Condemnations or Redemptions

22. Morris & Rebecca Harmatz	724 Ensor St.	G/R\$ \$78.00	520.00
Funds are available in City Bond Funds, account no. 9910-908087-9588-900000-704040, Undesignated Project.			
23. Unknown	913 & 915 E. Madison St.	G/R \$60.00	\$ 400.00

This is one ground rent that spans two properties.

Funds are available in City Bond Funds, account no. 9910-908087-9588-900000-704040, Undesignated Project.

The Board is requested to approve acquisition of the ground rent interests by condemnation, or in the alternative may, SUBJECT to the prior approval of the Board, make application to the Maryland Department of Assessments and Taxation to redeem or extinguish the ground rent interests for these properties.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Department of Law - Condemnations and Payments of Settlements</u>			
24. Brown Foss, LLC	945 N. Castle St.	L/H	\$ 10,920.00

On June 23, 2010, the Board approved the previous condemnation action to acquire the leasehold interest in the real property located at 945 N. Castle Street, Baltimore, Maryland, in the amount of \$8,080.00. On November 30, 2010, the City filed a condemnation action to acquire the leasehold interest in the subject property. Brown Foss, LLC had two appraisal reports valuing the property at \$32,000.00 and \$34,000.00. During the pre-trial conference, the parties agreed to settle the condemnation case for 19,000.00. Thus, the Board is requested to approve an additional \$10,920.00.

Funds are available in State Funds account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II Area.

25. Josephine H. Jackson	2027 E. Eager St.	L/H	\$ 2,260.00
-----------------------------	-------------------	-----	-------------

On August 18, 2010, the Board approved the previous condemnation action to acquire the leasehold interest in the real property located at 2027 E. Eager Street, Baltimore, Maryland, in the amount of \$15,740.00. On February 14, 2011, the City filed a condemnation action to acquire the leasehold interest in the subject property. Ms. Jackson valued the property at \$20,000.00 to \$25,000.00. The parties agreed to settle the condemnation case for \$18,000.00. Thus, the Board is requested to approve an additional \$2,260.00.

Funds are available in State Funds account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II Area.

(FILE NO. 56017)

BOARD OF ESTIMATES

01/11/2012

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Dept. of Law - Condemnations and Payments of Settlements - cont'd</u>			
26. Jesus Serrano	838 N. Patterson Park Ave.	L/H	\$ 24,000.00

On February 11, 2009, the Board approved the previous condemnation action to acquire the leasehold interest in the real property located at 838 N. Patterson Park Avenue, Baltimore, Maryland, in the amount of \$63,000.00. On February 18, 2011, the City filed a condemnation action to acquire the leasehold interest in the subject property. Mr. Serrano had an appraisal report valuing the property at \$112,000.00. During the pre-trial conference, the parties agreed to settle the action for \$87,000.00. Thus, the Board is requested to approve an additional \$24,000.00.

Funds are available in State Funds account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II Area.

27. Kimberly M. Davis and Jackson Lee Davis	918 N. Chester St.	L/H	\$ 2,240.00
---	--------------------	-----	-------------

On October 21, 2009, the Board approved the previous condemnation action to acquire the leasehold interest in the real property located at 918 N. Chester Street, Baltimore, Maryland, in the amount of \$16,760.00. On July 29, 2010, the City filed a condemnation action to acquire the leasehold interest in the subject property. Ms. Davis and Mr. Davis, relying on the prior State assessment, valued the property at \$70,200.00; then reduced their demand to \$30,000.00. The parties agreed to settle the action for \$19,000.00. Thus, the Board is requested to approve an additional \$2,240.00.

Funds are available in State Funds account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II Area.

(FILE NO. 560170)

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Dept. of Law - Condemnations and Payments of Settlements - cont'd</u>			
28. PANA Solutions, Inc.	1115 Rutland Ave.	F/S	\$ 10,600.00

On March 9, 2011, the Board approved the previous condemnation action to acquire the fee simple interest in the real property located at 1115 Rutland Avenue, Baltimore, Maryland, in the amount of \$8,900.00. On April 8, 2011, the City filed a condemnation action to acquire the fee simple interest in the subject property. PANA Solutions, Inc. offered an appraisal of \$33,000.00. During the pre-trial conference, the parties agreed to settle the condemnation case for 19,500.00. Thus, the Board is requested to approve an additional \$10,600.00.

Funds are available in State Funds account no. 9910-906416-9588-900000-704040, EBDI Project, Phase II Area.

(FILE NO. 56017)

UPON MOTION duly made and seconded, the Board approved and authorized the foregoing options, condemnations or redemptions, and payments of settlements.

BOARD OF ESTIMATES**01/11/2012****MINUTES**

Office of the Labor Commissioner - Furlough Grievance Settlement Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the furlough grievance settlement agreement between the Baltimore City Fire Department, the Office of the Labor Commissioner and the Baltimore Firefighters, Local 734, IAFF.

AMOUNT OF MONEY AND SOURCE:

\$32,342.16 - 1001-000000-2121-226400-601061

BACKGROUND/EXPLANATION:

On January 25, 2011, a grievance was filed by Local 734, charging the City with violating the furlough plan for FY 2011. The grievance proceeded through the steps and on May 5, 2011, the union filed for arbitration.

A settlement was reached without going to arbitration.

APPROVED FOR FUNDS BY FINANCE**(FILE NO. 57086)**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the furlough grievance settlement agreement between the Baltimore City Fire Department, the Office of the Labor Commissioner and the Baltimore Firefighters, Local 734, IAFF.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of Public Works - Renewal Memorandum of Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of the renewal option for the Memorandum of Agreement with the Housing Authority of Baltimore City (HABC). The period of the renewal is January 1, 2012 through January 13, 2013.

AMOUNT OF MONEY AND SOURCE:

\$360,500.00

BACKGROUND/EXPLANATION:

On January 12, 2011, the Board approved the original MOU with the HABC for the collection and disposal of residential and commercial waste from certain housing developments owned and operated by the HABC. The agreement was for one year, with the option to renew the agreement for four additional one year periods, under the same terms and conditions. This is the first renewal option. The HABC will pay the DPW \$360,500.00 upon execution of this renewal option.

APPROVED FOR FUNDS BY FINANCE**(FILE NO. 57286)**

UPON MOTION duly made and seconded, the Board approved and authorized execution of the renewal option for the Memorandum of Agreement with the Housing Authority of Baltimore City. The President **ABSTAINED**.

BOARD OF ESTIMATES

01/11/2012

MINUTESBureau of Water and Wastewater - On-Call Task Assignment**ACTION REQUESTED OF B/E:**

The Board is requested to approve an assignment of Task No. 010 to Rummel, Klepper & Kahl, LLP (RK&K), under Project No. 1101R, On-Call Construction Claims and Scheduling Services.

AMOUNT OF MONEY AND SOURCE:

\$ 35,000.00	-	9956-905515-9551-900020-705032
35,000.00	-	9960-905729-9557-900020-705032
25,000.00	-	9960-903682-9557-900020-705032
30,000.00	-	9956-906634-9551-900020-705032
45,077.49	-	9956-907612-9551-900020-705032
\$170,077.49		

BACKGROUND/EXPLANATION:

The consultant will provide project management assistance, claims, change order, and schedule reviews, litigation and negotiation support for Sanitary Contracts 779, 839, 812, and 867, and Water Contract 1143. This task may be utilized for these services on additional construction contracts, as necessary, as funding allows.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved the assignment of Task No. 010 to Rummel, Klepper & Kahl, LLP, under Project No. 1101R, On-Call Construction Claims and Scheduling Services. The President **ABSTAINED**.

MINUTES

Bureau of Water and Wastewater - Amendment No. 2 to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment no. 2 to the agreement with Patton Harris Rust & Associates/Jason Consultants, a Joint Venture. The amendment no. 2 extends the agreement through January 14, 2013.

AMOUNT OF MONEY AND SOURCE:

\$113,079.69 - Anne Arundel County
 36,339.22 - Baltimore City
 151,287.16 - Baltimore County
 370,902.93 - Howard County
\$671,609.00 - 9960-905649-9557-900020-703032

BACKGROUND/EXPLANATION:

On January 14, 2009, the Board approved a two-year agreement with the Joint Venture for inspection program for large water mains. The agreement was amended on January 12, 2011 and the contract was extended by one year up to January 14, 2012, and the upset limit was increased to facilitate the urgent inspection and repair design of the 72-inch Herring Run/Marley Neck transmission main in Dundalk on account of a catastrophic break on September 18, 2009. Under this proposed change order, the consultant is requested for inspection of the 60/54 inch Southwest Transmission Main. Amendment no. 2 to agreement will provide additional funds to the agreement and extend the agreement through January 14, 2013. All other terms and conditions of the agreement will remain unchanged.

MBE/WBE PARTICIPATION:

The Joint Venture will continue to comply with all the MBE/WBE goals established in the original agreement.

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

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 43,280.00	9960-906133-9588	
Water Utility	Constr. Res.	
Funds	Meter Replacement	
756,720.00	" "	
<u>Counties</u>		
\$800,000.00		
\$671,609.00	-----	9960-905649-9557-3
		Engineering
<u>128,391.00</u>	-----	9960-905649-9557-9
\$800,000.00		Administration

The funds are required to cover the cost of services for the design, procurement, and review of Project 1080P, Inspection of Large Water Mains.

UPON MOTION duly made and seconded, the Board approved and authorized execution of amendment no. 2 to the agreement with Patton Harris Rust & Associates/Jason Consultants, a Joint Venture. The Transfer of Funds was approved, SUBJECT to the receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, in accordance with the provisions of the City Charter. The President **ABSTAINED.**

MINUTES

Bureau of Water and Waste Water - On-Call Agreement
for Project 1154.2

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an on-call agreement with Rummel, Klepper & Kahl (RKK) for Project No. 1154.2, B/D No. 11755, On-Call Storm Water Study and Engineering. The period of the agreement is effective upon Board approval for three years, or until the upset limit is reached, whichever comes first.

AMOUNT OF MONEY AND SOURCE:

\$1,500,000.00 - Upset limit

BACKGROUND/EXPLANATION:

The consultant will provide on-call civil/structural, mechanical/electrical, environmental, and geotechnical engineering services to improve the City's aging storm drain system. The Storm Water Engineering Office requires these services to modify, upgrade and repair the storm water drain systems. The requests for these services are made on an as-needed basis. The cost of the services rendered will be based on a not to exceed negotiated price for each task assigned.

The Department of Audits and MWBOO will review each task for compliance with the original agreement.

The consultant has been approved by the Architect and Engineer Awards Commission.

MBE/WBE PARTICIPATION:

MBE: EBA Engineering, Inc.	\$ 90,000.00	6.00%
NMP Engineering	165,000.00	11.00%
Consultant s, Inc.		
Prime Engineering, Inc.	<u>150,000.00</u>	<u>10.00%</u>
	\$405,000.00	27.00%

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

WBE: Sunrise Safety Services, Inc.	\$ 45,000.00	3.00%
Albrecht Engineer- ing, Inc.	<u>90,000.00</u>	<u>6.00%</u>
	\$135,000.00	9.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

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

(FILE NO. 55370)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the on-call agreement with Rummel, Klepper & Kahl for Project No. 1154.2, B/D No. 11755, On-Call Storm Water Study and Engineering. The President **ABSTAINED.**

MINUTES

Bureau of Water and Wastewater - Employee Expense ReportsACTION REQUESTED OF B/E:

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

- | | | |
|----|--|----------------------|
| 1. | SHAWN CURRY | \$ 84.92 |
| | August 2011 - Mileage
Account: 2071-000000-5471-609200-603002 | |
| 2. | KENNETH BRIGGS | \$229.22 |
| | August 2011 - Mileage
Account: 2071-000000-5471-609200-603002 | |
| 3. | FELICIA TYLER | \$478.41 |
| | a. August 2011 - Mileage
Account: 2071-000000-5471-609200-603002 | \$249.75 |
| | b. September 2011 - Mileage
Account: 2071-000000-5471-609100-603002
2071-000000-5471-609200-603002 | \$106.54
\$122.12 |
| 4. | TEVON GREEN | \$328.57 |
| | a. August 2011 - Mileage
Account: 2071-000000-5471-609200-603002 | \$234.77 |
| | b. September 2011 - Mileage
Account: 2071-000000-5471-609100-603002 | \$ 93.80 |

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

5.	NICOLE ANDERSON	\$638.81
	a. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$413.48
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 38.26
	Account: 2071-000000-5471-609200-603002	\$187.07
6.	REGINALD SHERDEN	\$288.61
	a. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$139.31
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 47.16
	2071-000000-5471-609200-603002	\$102.14
7.	EDWARD PERRY SR.	\$465.65
	a. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$326.90
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$122.65
	2071-000000-5471-609200-603002	\$ 16.10

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

8.	CYNTHIA THOMPSON	\$354.09
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$ 96.57
	b. August 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$213.65
	2071-000000-5471-609200-603002	\$ 31.66
	c. September 2011 - Mileage	
	Account: 2071-000000-5471-60910-603002	\$ 12.21
9.	STEPHANIE STEWART	\$138.75
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$119.88
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 18.87
10.	ANDREW ROBINSON	\$488.41
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$139.86
	b. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$161.51
	c. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 23.33
	2071-000000-5471-609200-603002	\$163.71

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

11.	DONELL ALLEN	\$861.37
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$227.00
	b. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$356.87
	c. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$112.10
	2071-000000-5471-609200-603002	\$165.40
12.	BRANDON L. ADAMS	\$749.25
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$150.96
	b. August 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$425.13
	c. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 86.58
	d. September 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$ 86.58
13.	JOSHUA LYNN	\$356.88
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$ 80.48
	b. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$175.94
	c. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 3.89
	2071-000000-5471-609200-603002	\$ 96.57

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

14.	JAMES MORRIS	\$471.20
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$160.40
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 89.35
	2071-000000-5471-609200-603002	\$221.45
15.	KAREN AMSTEAD	\$363.53
	a. August 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$203.13
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 89.91
	2071-000000-5471-609200-603002	\$ 70.49
16.	JEFFREY DWYER	\$387.39
	a. July 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$245.31
	b. September 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$ 97.68
	2071-000000-5471-609200-603002	\$ 44.40
17.	GARY FIELDS	\$492.29
	1. August 2011 - Mileage	
	Account: 2071-000000-5471-609100-603002	\$159.30
	2071-000000-5471-609200-603002	\$144.29
	2. September 2011 - Mileage	
	Account: 2071-000000-5471-609200-603002	\$146.51
	2071-000000-5471-609200-603002	\$ 42.19

BOARD OF ESTIMATES

01/11/2012

MINUTES

BW&WW - cont'd

18. ERIC DIGGS		\$406.82
a. August 2011 - Mileage		
Account: 2071-000000-5471-609200-603002		\$203.13
b. September 2011 - Mileage		
Account: 2071-000000-5471-609100-603002		\$ 72.72
2071-000000-5471-609200-603002		\$130.97

The Division of Revenue Measurement and Billing inadvertently failed to have the employee mileage expense reports processed in time to be received by the Bureau of Accounting and Payroll Services within the 40 working days from the last calendar day of the month in which the expenses were incurred, as directed by the Administrative Manual.

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

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved the various expense reports for the above-listed employees. The President **ABSTAINED.**

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:

85 - 113

to the low bidders meeting the specifications,
or rejected bids on those as indicated
for the reasons stated.

The Transfers of Funds were approved
SUBJECT to receipt of favorable reports
from the Planning Commission,
the Director of Finance having reported favorably
thereon, as required by the provisions
of the City Charter.

Item no. 1 was **DEFERRED** one week.

The President **ABSTAINED** on item no. 3b.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Bureau of Purchases

- | | | | | |
|----|--|---------------------------|----|-----------|
| 1. | B50002197, Street
Tree Supply, Delivery,
Planting & Maintenance
Spring 2012 | Holmes Lawn
Care, Inc. | \$ | 99,425.00 |
|----|--|---------------------------|----|-----------|

MWBOO GRANTED WAIVER**A PROTEST WAS RECEIVED FROM LORENZ, INC.**

President: "So the first item on the non-routine agenda can be found on Page 70, item no. 1, B50002197, Street Tree Supply, Delivery. Will the parties please come forward?"

Mr. Mazza: "Ah, where is Mr. Livingston?"

President: "Planting and Maintenance."

Mr. Mazza: "It's Trees."

Mr. Livingston: "My colleague Mike Miller, where are you?"

Mr. Mazza: "Maybe indisposed."

Mr. Livingston: "Perhaps."

Mr. Mazza: "Good morning. I am Joe Mazza the ah -- members of the Board, President of the Board. I am Joe Mazza the City Purchasing Agent and the Bureau of Purchases recommends the award for Tree Supply, Delivery, Planting and Maintenance to Holmes Lawn Care, Inc. The period covered is March 1, 2012 through February 28, 2014, with no renewals and the bid amount is \$99,425.00."

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mr. Livingston: "Good morning, I am Scott Livingston."

President: "Talk in to mic."

Mr. Livingston: "My name is Scott Livingston and with me is my associate Mike Miller who will be handling this matter. We are here on behalf of Lorenz the bid protestor as you will hear in a moment. The solicitation required certain credentials that had to be in existence and submitted as of bid opening, and in this case, the low bidder, Holmes lacked those. In particular a State license called a Tree Expert License issued by the Department of Natural Resources. The fact that he lacked that he -- Holmes the low bidder -- lacked it means it is not eligible for award. That and a few other topics will be addressed by my colleague, Mike Miller."

Mr. Miller: "Good morning Mr. Chairman. Sorry. I would like to introduce Mr. Joseph Lorenz here he is the owner of Lorenz. The contract required that bidders submitted with the bid a Maryland Tree Expert License. Sorry, is it not close, sure thank you. Sometimes it is not (the mic) tall enough for me. And the Tree Expert License is required for planting trees in the public right-of-way. Most of the work on this job is going to require a Tree Expert License or some of it may require a Pesticide License from the Department of is it the Department of Agriculture that requires that?"

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mr. Livingston: "Yes."

Mr. Miller: "Holmes does not have a Pesticide Application License. Holmes does not have a Tree Expert License. The license that they submitted is in fact from a company called Chesapeake Conservation Services. It is not really clear in the bid but it's apparently a subcontractor. We don't know, and essentially what they are doing here is -- you know, if you were pulled over by the Cops when you were driving and he asked to see your license and registration, you wouldn't turn to the person next to you and say 'hey can I use your license here real quick, I need to show him that we are licensed to drive'. That is what is happening here. The request for bids requires the prime contractor to perform at least 51% of the work on this contract, and we don't know how much work Holmes is going to do on this and if they do 51% they are probably going to have to use this Tree Expert License to do the work. They haven't demonstrated that they are responsive and responsible bidder and that is why we think you shouldn't award to them today."

President: "Thank you."

Mr. Mazza: "The RFP requires that the work, first of all it is my understanding that a Tree Expert License does not apply to Planting of Trees. It only applies to maintenance of trees and removal of trees and only trees that are 20 feet tall or higher."

MINUTES

So, the trees that we are planting and not going to be 20 feet high, they are probably not going to be removed, but even if they were, they would be less than 20 feet high. Whether they grow to over 20 feet I don't know if they will do that over the two year period of this contract. So, the fact that the -- it is very unlikely that a lot of the work, certainly not 51% of the work would be involved with a -- would need a Tree Expert License. So, if this guy who is driving the car with his license, he wouldn't be driving it very far. Most of the driving would be done by the other guy with the license that he does have. The RFP required; it didn't say that the bidder has to have a license, it said that the work being done, the pesticide work and the tree expert work had to be done under the supervision of someone with a license. So, when the bid came in, we checked for a license. We saw that a license was supplied, but it was not -- these licenses are issued to individuals by the way, not to companies. So, the license, we saw the license -- good. So that work is going to be done under the supervision of someone with those licenses. Also, I should mention that the pesticide work also won't be 51%, because the RFP is clear and it says that, if a pesticide is to be applied it has to be applied by -- it has to be approved by the Department of Recreation and Parks. So, we don't even know how

MINUTES

much or even if any pesticide work will be done, certainly not 51% of the contract. So, this is basically a tree planting contract and it is a contract that will not require that license for 51% of the work."

Mr. Miller: "I guess if I could just quickly respond. The contract the section where the RFP calls for the license, the Tree Expert License is right after it calls for a certificate of good standing. Well, the City wouldn't accept a certificate of good standing from somebody other than the bidder. So. it pretty obvious that they are asking for a Tree Expert License from the bidder themselves. Furthermore, the Tree Expert License is required in order to plant trees in the public right-of-way. There is probably going to be a lot of that on this contract."

Comptroller: "Regardless of the height?"

Mr. Miller: "Yes, regardless of the height, right Joe?"

Mr. Lorenz: "Any tree work --

President: "You have to come up and identify yourself."

Mr. Miller: "I am sorry. I'm sorry."

Mr. Lorenz: "Joe Lorenz. Any tree work that is within the public right-of-way in the State of Maryland, you have to have a Tree Expert License. In the private sector, outside of right-of-way, the 20 foot rule applies. But within public right-of-way, you're on public space, on public land you have to have a

MINUTES

Tree Expert License to do work of any kind. To plant trees, to maintain them. This work requires maintenance for two years of all the trees. So, chances are within two years the size of trees coming in are going to be above 20 feet anyway in two years."

Mr. Miller: "There is one other issue specifically with the pesticide license. The State Agricultural Article says 'that in order to solicit or to offer to provide pesticide application, you must have the pesticide applicator's license. Now, it is pretty clear that you need to have the license in order to submit a bid to do the pesticide work. I understand that the City is not sure whether they are going to use the pesticide work yet, but in order to offer to do the pesticide work, you have to have the license, and that is another problem that we have with this."

Mr. Mazza: "Right, and I agree with that and I believe the spirit of that law is you wouldn't want a vendor to go out to the public and say hey, I can do pesticide, I can do Tree Expert work for you and basically advertising under false pretences. In this case, there was no false pretences. This vendor was upfront with us saying hey here are the licenses and they are not mine. They are someone else's. They weren't representing

MINUTES

hemselves as having these licenses. They were providing them from someone else."

City Solicitor: "Mr. Mazza, is it your understanding that with regard to the pesticide application that it is permissible under the governing State Law for employees of the bidder to apply pesticide under the supervision of the licensee whose license was tendered with the bid package? And where does that provision come from? Is that State law, City law?"

Mr. Mazza: "I am not sure about the pesticide. I think you are referring to the Tree Expert."

City Solicitor: "I am sorry, the Tree Expert."

Mr. Mazza: "The Tree Expert part and the section is 6-450 excuse me, it is 5-417, License Required Exemption. 'So a person may not engage in the work or the business of a Tree Expert without a license issued under the provisions of this part' and then it goes on to say 'an employee under the supervision of licensed Tree Expert may not be required to have a license in the name of the employee'. So, we interpret that as, as long as the supervisor has the license then the employee does not need it. So, if this person that is supervising with a license that we are -- that is acceptable."

City Solicitor: "A supervising person in your judgment would be the Chesapeake organization whose license was tendered?"

MINUTES

Mr. Mazza: "Yes."

City Solicitor: "And the employees would the employees of the bidding firm?"

Mr. Mazza: "That's -- I don't know that. They may be employees of the bidding firm, they maybe employees of Chesapeake. I don't know how that is going to play out."

City Solicitor: "And had you understood prior to this morning and this session that licensing would be required for all trees in the right-of-way, regardless of size?"

Mr. Mazza: "No, that wasn't my understanding. But I am not an expert, of course under Maryland law I didn't see that when I read it last night. I don't have any reason to doubt that it is there, but I think this points up another point, that this may not be the forum to be discussing that. I mean they did what we asked them for as far as the bid is concerned. If we award this bid, they are required to comply with Maryland law. If they don't then it is the same as any other contract, where the vendor does, that there are remedies that are available elsewhere."

City Solicitor: "Let me ask you this, if the representation is correct, that the planting of all of these trees regardless of size in the public right-of-way required must be done by a licensed person or company or under the supervision of a

MINUTES

licensed person or company, does the company that submitted the low bid have a license to do that work?"

Mr. Mazza: "No. No company has a license. These licenses are for individuals. So, but -- Is there information that there is anyone in that company that has a license?"

Mr. Miller: "I am sorry, Mr. Nilson."

President: "Wait a minute."

Mr. Miller: "Sure."

President: "Comptroller."

Comptroller: "Why would the ---."

President: "The mic, the mic."

Comptroller: "Why would the employees of his company, Lorenz Company, be employees of the Chesapeake; the individual who owns Chesapeake since he has the license?"

Mr. Mazza: "Ah well ---."

Comptroller: "Because you said that the planting has to be done under the supervision the employees have to be supervised by an individual who has the license. So, why would his employees become employees of Chesapeake?"

Mr. Mazza: "Well I don't know that they would. First, we are not recommending award to Lorenz. We are recommending award to Holmes. So Holmes would be the prime. Whether or not this person, Mr. Schafer from Chesapeake, whether or not he comes in

MINUTES

and provides the supervision of Holmes' folks, I don't know. Maybe he will come in with his own folks I don't know the answer to that. But, I do know that what we asked for what we did say was that this work has to be done under the supervision of someone with a license. They provided someone with license."

City Solicitor: "It sounds to me unlike the discussions that preceded this session today; it looked as if maybe this problem relying on the Chesapeake license was only going to apply to a very modest number of trees, and that the vast majority of the work would be perfectly appropriate to be done by the bidder. Now that is being drawn into question, we don't you know we are sort of left taking at face value. Taking the word of the protestant at face value, it seems to me, that we ought to contemplate deferring --."

Comptroller: "Right."

City Solicitor: "A decision on this for a week --"

Comptroller: "Right."

City Solicitor: "and ask that you all together with the user agency look into some of the new information --."

Comptroller: "Right."

City Solicitor: "that has been brought forward. Is there any problem with that from a time sensitivity point of view?"

Mr. Mazza: "No sir."

MINUTES

President: "Madam Mayor."

Mayor: "And I would just ask I know that there have been issues and questions that have come up based on the testimony of the protestant. If there are questions, if you could get them to us so that we can get all of the things answered at the same time."

City Solicitor: "And that is sort of an open invitation to say today anything else that you want to say so that you don't we don't have to repeat all of this next week."

Mr. Miller: "Not a problem, we appreciate it."

President: "Can we entertain a Motion?"

Mr. Mazza: "Purchases has no objection to an extension."

City Solicitor: "No objection to a deferral."

President: "I will entertain Motion for deferral of this of this."

City Solicitor: "Move to deferred decision until the next Board meeting."

Comptroller: "Second."

President: "All in favor say AYE. All opposed NAY. Motion carries."

* * * * *

RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC

ATTORNEYS AT LAW

ALAN M. RIFKIN
SCOTT A. LIVINGSTON (MD, DC)
LAURENCE LEVITAN
EDGAR P. SILVER†
MICHAEL V. JOHANSEN
JOEL D. ROZNER (MD, DC)
RICHARD K. REED
NORMAN D. RIVERA
M. CELESTE BRUCE (MD, DC)
JAMIE B. EISENBERG (MD, DC, NY)
CHARLES S. FAX (MD, DC, NY)
CAROLYN JACOBS
PATRICK H. RODDY
ELLEN B. FLYNN (MD, DC, CT)
ERIC L. BRYANT
MICHAEL D. BERMAN (MD, DC)
JOYCE E. SMITHEY (MD, DC, NH)
A. THOMAS PEDRONI, JR.
MELVIN A. STEINBERG†
MICHAEL S. NAGY (MD, VA)
LIESEL J. SCHOPLER (MD, DC)
CHRISTOPHER L. HATCHER
MICHAEL A. MILLER
JULIA E. BRAATEN
LANCE W. BILLINGSLEY†
ELIZABETH K. MILLER†
† OF COUNSEL

7979 OLD GEORGETOWN ROAD • SUITE 400
BETHESDA, MARYLAND 20814
(301) 951-0150 • FAX (301) 951-0172
WWW.RLLS.COM

225 DUKE OF GLOUCESTER STREET
ANNAPOLIS, MARYLAND 21401
(410) 269-5066 • FAX (410) 269-1235

14601 MAIN STREET
UPPER MARLBORO, MARYLAND 20772
(301) 345-7700 • FAX (301) 345-1294

600 WASHINGTON AVENUE • SUITE 305
TOWSON, MARYLAND 21204
(410) 583-9433 • FAX (410) 583-9439

January 10, 2012

(NONLAWYER/CONSULTANT)
JOSH M. WHITE

VIA HAND DELIVERY

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

RE: **BID PROTEST**
Bureau of Purchases Solicitation No. B50002197
Street Tree Supply, Delivery, Planting & Maintenance – Spring 2012

This law firm represents Lorenz, Inc. (“Lorenz”), the lowest responsive and responsible bidder for Bureau of Purchases Solicitation No. B50002197, “Street Tree Supply, Delivery, Planting & Maintenance - Spring 2012” (the “Request for Bids” or “RFB”). The purpose of this letter is to protest award to any party *other than* Lorenz. As explained below, the low bidder, Holmes Lawn Care, Inc. (“Holmes”), is not qualified to perform the services set forth in the RFB.

I. Background

On or about November 21, 2011, the Baltimore City Department of Finance, Bureau of Purchases (“Bureau”) issued the Request for Bids. In general, the RFB’s scope of work as set forth in Section DS10 is the installation and maintenance of trees, including application of pesticides, for a period of up to two (2) years. With regard to the qualification of bidders, RFB Section SW16 sets forth, in relevant part:

A. Responsiveness: Anyone bidding on this solicitation shall properly complete and sign all bid documents contained herein in Section 'B',

beginning on page B-1, and including all pages and forms that follow thereto, and provide all other required and/or requested valid information and documents, in order to be considered responsive. Refer to paragraph SM2B. Use additional sheets as necessary.

B. Qualification: During the bidding process, the bidder shall also provide all of the additional required and/or requested valid documents and information identified in paragraph SM2.C to demonstrate, to the City's satisfaction, that the bidder is qualified to provide/perform the product(s)/service(s).

C. Refer to paragraph SM2 for a complete list of documents and information to be submitted, and the format that it is to be submitted in.

RFB Section DS11, "Bidder/Prosper Response," required a bidder submit – with its bid – a "copy of license [sic] from the State of Maryland" and "copy of Maryland Tree Expert from the Maryland Department of Natural Resources."

RFB Section SW23.A. sets forth that the City intends to make one award to the lowest responsive and responsible bidder. Pursuant to RFB Section SW6.A., Bidders are required to perform at least 51% of the goods and services specified in the solicitation with their own forces rather than by subcontract.

At bid opening, on December 14, 2011, the bids were as follows:

Bidder	Price
Holmes Lawn Care, Inc.	\$ 99,425.00
Lorenz, Inc.	\$ 142,021.00

As shown on the agenda for the January 12, 2012 Board of Estimates Meeting, the Bureau of Purchases recommends the Board award Contract No. B50002197 to Holmes.

II. Holmes Is Not A Qualified Bidder

Holmes is ineligible for award of the Contract by failing to meet the definitive responsibility criteria; namely, Holmes is not qualified to perform the services set forth in the RFB's scope of work. Proper licensure and experience to perform the scope of work outlined in the contract are definitive responsibility criteria which must be met and are mandatory conditions.¹ Failure to meet a definitive responsibility criterion renders a firm non-responsive.²

¹ See *Michael Scott Cohen LLC*, 5 MSBCA ¶ 492 at pp. 3-4 (2001). In *Michael Scott Cohen*, the MSBCA found that a Procurement Officer erred in waving an RFP mandatory provision requiring two (2) years of legal practice, and that such a requirement was a "mandatory condition to the acceptability of a proposal."

² *D.H. Kim. Enters., Inc.*, B-255124, 94-1 CPD ¶86 at 2 (Feb. 8, 1994).

Reasonable definitive responsibility criteria may not be waived by the Procurement Officer. An offeror must show compliance with definitive responsibility criteria as a precondition to award.³

A. Holmes is not licensed to apply pesticides.

The Maryland Department of Agriculture issues licenses under the Maryland Pesticide Applicator's Law⁴ to persons engaged in the business of pest control. The Pesticide Applicator's Law sets forth the following requirements:

When a pesticide is applied, or at the time a customer enters into a contract with a licensee for pest control or fertilization, a licensee shall provide a customer with the following written information:

(1) Name of licensee;

(2) **Maryland pesticide business license number;**⁵ ...

(Emphasis added). The term "pesticide" is defined as "any substance or mixture of substances used for (1) [p]reventing, destroying, repelling or mitigating any pest; (2) [u]se as a plant regulator, defoliant, or desiccant; or (3) [u]se as a spray adjuvant such as a wetting agent or adhesive."⁶ "Pest control" is defined as:

engaging in, or **offering to engage in**, recommending, advertising, soliciting the use of, supervising the use of, or using, a pesticide or a device for the identification, control, eradication, mitigation, detection, inspection, or prevention of a pest in, on, or around any house, building, water, air, land, plant, structure, or animal.

(Emphasis added).⁷ Pursuant to this language, prior to offering pest control services a firm must be licensed by the Department of Agriculture.

A Maryland Department of Agriculture Pesticide Business License is required to perform the work described in RFB Section DS10.D., "Pesticide Application," which sets forth, "[a]ll application work shall be conducted under the supervision of a certified applicator of pesticides (Category III A or VI)."

As noted above, the RFB set forth as a mandatory condition that an offeror to hold a current Maryland Pesticide Business License, and a copy of the bidder's license or license number must be submitted with the bid. A search of the Maryland Department of Agriculture's

³ See *Pond Security Group Italia, JV*, B-400149.3, (Dec. 22, 2008) (holding that definitive responsibility criteria, including possession of required licenses, must be demonstrated prior to award).

⁴ Md. Code Ann., *Agric.* §§ 5-201 – 5-211 (2010).

⁵ Md. Code Ann., *Agric.* § 5-208(a) (2010) (emphasis added).

⁶ Md. Code Ann., *Agric.* § 5-101(l) (2010).

⁷ Md. Code Ann., *Agric.* § 5-101(i) (2010).

Business License database returns no records for Holmes.⁸ On the contrary, Lorenz possesses the required “3A – Ornamental Exterior” pesticide license as shown on Lorenz’ record from the same database.⁹

Pursuant to RFB Section SW16, the Bureau of Purchases was required to disqualify as non-responsive any bid that did not “provide all other required and/or requested valid information and documents.” Holmes could not provide a valid Pesticide License as required by RFB Section DS11. As a result, the Board of Estimates should reject Holmes’ bid as non-responsive and award the Contract to Lorenz, the low responsive and responsible bidder.

B. Holmes is not licensed to perform tree expert services.

Pursuant to Md. Code Ann., *Nat. Res.* § 5-417, all tree care professionals practicing in Maryland must obtain a Tree Expert license from the Department of Natural Resources. Without a Tree Expert license, they may not practice or advertise tree care services in the state.¹⁰

Pursuant to RFB Section SW16, the Bureau of Purchases was required to disqualify as non-responsive any bid that did not “provide all other required and/or requested valid information and documents.” Upon information and belief, Holmes does not possess a valid Tree Expert License as required by RFB Section DS11. As a result, the Board of Estimates should reject Holmes’ bid as non-responsive and award the Contract to Lorenz, the low responsive and responsible bidder.

III. Conclusion

For the reasons set forth above, Lorenz requests the Board of Estimates reject the Bureau of Purchases’ recommendation of award to Holmes. The Board of Estimates should award the Contract to Lorenz, the low responsive and responsible bidder for the Contract.

Very truly yours,



Scott A. Livingston

Enclosures

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

⁸ See <http://www.kellysolutions.com/MD/searchbyconame.asp>. (Exhibit 1). According to the website, this database was last updated on October 31, 2011.

⁹ Exhibit 2.

¹⁰ See *Nat. Res.* § 5-423.



Maryland Department of Agriculture

Business License Searches

Enter the Name (or part of the name) of the Business to find: and

Name	City	County	Expiration Date
No records returned.			

Total number of Applicators matching Criteria: 0

If you have suggestions for new features, please E-Mail us at developer@kellyreg.com.

If you find erroneous data, please e-mail the department at HowardDW@mda.state.md.us. We will respond to all inquiries as soon as possible.

Date Last Updated: 10/31/2011

[Home](#) [KellySolutions.com](#) Search By: [Business License](#) [Company Name](#) [Business License Category](#)

Copyright © 2002 Kelly Registration Systems





Maryland Department of Agriculture

Business License Searches

Business Name: LORENZ INC
Business License: 28661

Division:
Address Line 1: 8711 LIBERTY ROAD
Address Line 2:
City, State, Zip: RANDALLSTOWN, MD 21133
County: Baltimore

Year Expired: 6/30/2012

Categories:

- 3A Ornamental - Exterior
- 3B Ornamental - Interior
- 3C Turf (e.g., weed, insect or disease control to lawns)
- 6* Right-Of-Way and Weed (e.g., treatment of roadsides or utilities)

If you have suggestions for new features, please E-Mail us at developer@kellyreg.com.

If you find erroneous data, please e-mail the department at HowardDW@mda.state.md.us. We will respond to all inquiries as soon as possible.

Date Last Updated: 10/31/2011

[Home](#) [KellySolutions.com](#) Search By: [Business License](#) [Company Name](#) [Business License Category](#)

Copyright © 2002 Kelly Registration Systems



Tree Experts List



DNR Home

Outdoor Activities What's Going On?

Resource Management

Access DNR

Inside DNR



Welcome to the Tree Experts List

All tree care professionals practicing in Maryland must obtain a license. Without a license, they may not practice or advertise tree care services in the state. As a

public service we make the names and addresses of licensed tree experts available on DNR Online.

Search type:

- Company
- County
- Last Name
- LTE Number

Search for:

holmes

* No Data Found *

Submit Query

Instructions:

To locate a tree expert first select the **search type**, company, county or last name. Then type in whatever additional information you would like to specify in the **search for** box. Then hit the **submit query** button.

NOTE: We use popup windows to give you this fast, easy self-service feature. To use this feature, you must first disable your popup blocker before doing a search. We only use popup windows to bring you the best possible customer service on DNR Online.

Search

Email us with questions, comments, and suggestions
© Copyright 1995-2010 Maryland Department of Natural Resources 1-877-620-8DNR (8367)
DNR Privacy Policy



**MARYLAND DEPARTMENT OF NATURAL RESOURCES
LICENSE TREE EXPERT SEARCH**

Forestry Service

Maryland LTE Listing

Company = Lorenz, Inc.

LORENZ, INC.

Mr. Joseph T. Lorenz, IV
512 Roland Avenue
Baltimore, MD 21208
410-486-0425

Exhibit 4

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Department of Transportation

2.	TR 10018, Orchard Ridge Phase II	P. Flanigan & Sons, Inc.	\$5,958,579.65
	MBE: Bay City Construction, Inc.	\$845,000.00	14.18%
	WBE: Morgan Construction Services, Inc.	\$250,000.00	4.19%

MWBOO FOUND VENDOR IN COMPLIANCE.

A PROTEST WAS RECEIVED FORM DAISY CONCRETE, INC.

3. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNTS:</u>
---------------	-----------------------	---------------------

a. Department of Transportation

\$2,293,270.42	9950-901763-9514	
State Const. Loan	Highways NE - Sector II	
1,000,000.00	9950-909981-9509	
State Const. Loan	In-house Street Resurfacing	
610,000.00	9952-907044-9511	
State Const. Loan	Street Lighting Historical District	

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:

Department of Transportation - cont'd

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNTS:</u>
1,899,596.91	9950-903550-9509	
State Const.	Neighborhood	
<u>Loan</u>	Streets	
\$5,802,867.33		
\$5,045,971.60	-----	9950-915033-9527-6
		Structure and
		Improvements
504,597.16	-----	9950-915033-9527-5
		Inspections
<u>252,298.57</u>	-----	9950-915033-9527-2
\$5,802,867.33		Contingencies
		Federal Resurfacing
		Highways - Sector IV

This transfer will cover the costs associated with the award of Contract No. TR 10018 to P. Flanigan & Sons, Inc.

b. Bureau of Water and Wastewater (BW&WW)

\$ 500,000.00	9960-902930-9558	9960-903931-9557-6
Water Rev.	Const. Res.	Construction
Bonds	Uplands Water	
	Infrastructure	
600,000.00	9956-901930-9549	9956-902931-9551-6
Water Rev.	Const. Res.	Construction
	EBDI Wastewater	
	Infrastructure	

This transfer will assist in funding the award of TR 10018, Orchard Ridge - Phase II. (B/D 10018).

(FILE NO. 56294)

BOARD OF ESTIMATES

01/11/2012

MINUTES

President: "The next item can be found on Page 70 #2, TR 10018, Orchard Ridge Phase II and item no. 3, the associated transfer of funds. Will the parties come forward?"

Ms. Williams: "Good morning."

President: "Good morning."

Ms. Williams: "Shirley Williams with the Minority and Women's Business Opportunity Office. Orchard Ridge Phase II, we found the low bidder Daisy Concrete in non-compliance with the MBE/WBE goal, because Daisy listed as a WBE Best Fence LLC, which is actually an MBE firm. Years ago, there was a Best Fence, certified as a WBE. That company was CMF Inc. d/b/a Best Fence. That company actually sold, this was a female owned company that was sold to an African American in 2009, so that Best Fence is no longer a WBE company. I think what probably happened is that Daisy had done work with CMF Inc. Best Fence in the past and assumed that it was still a WBE company, and I think what happened is, of course that assumption was a mistake and nobody verified the information by going to the directory or by asking the question, if it was still WBE certified. The company did not achieve the WBE goals, so we found the company in non-compliance. The second bidder, American Infrastructure actually made the same kind of error. American Infrastructure listed a WBE firm Bay View that is has not been certified with the City

BOARD OF ESTIMATES

01/11/2012

MINUTES

for over ten years. The mistake was made because American Infrastructure used Bay View on a Department of Transportation contract funded by the State which requires the DBE goal, and the firm is still certified by the State, but not by the City. We recommended P. Flanigan because the MBE and the WBE goal we found to be compliance."

President: "Okay."

Mr. Livingston: "Hi. I am Scott Livingston. I am here on behalf Daisy. I would like to introduce my colleague and friend for 30 years, Bob Dashiell, he will be handling most of this -- Mike Cook."

Mr. Dashiell: "Good morning Mr. President, Madam Mayor, members of the Board. Ms. Smith (sic) is correct except by some omissions. The MBE directory has two parts to it. The first part is simply the alphabetical listing of firms. In that -- these are certified firms. In that alphabetical listing of firms, we find Best Fence with exactly the same -- the new Best Fence, the one that is the MBE with exactly the same address as was previously listed for the WBE company. Ms. Williams is correct, Daisy, in fact did believe that they were dealing with the same company because the new MBE company intended that. If you look at the exhibits that are attached to Mr. Livingston's letter, you will see quotes from the WBE company in 2007 and

BOARD OF ESTIMATES

01/11/2012

MINUTES

from the MBE company in 2011 and the stationary is nearly identical. The only thing that you won't see is the CMF thing about being a division of. The same 800 number, the same logo, the same address and signed by the same person. Signed by the same person, by the same estimator. Yes, Daisy could have if it had any reason to go further in the directory to try to find out what the classification was, but they thought they knew that, and they reasonably thought they knew that and it was intended that they would think they knew that. The reason that the MBE company used Best Fence name, used Best Fence address, and kept the same employee was to make the public think it was the same company, and they achieved their objective. Daisy did. But the directory added to that confusion because it lists the same name and the same address. So yes, is Daisy perfect? No. None of us is. None of us is. But is Daisy so imperfect that the Board should not take a look at Section 28, Title 28 Section 14 of the MBE Ordinance which says 'that the Board should and has the power to waive minor irregularities'. We are talking about \$93,000.00 on a multi-million dollar contract. The contractor here clearly made a good faith effort. As a result of that effort quite frankly, the MBE participation goals are above what was required in the contract. But the contractor here clearly made a good faith, its mistake was reasonable, I submit and if

MINUTES

that reservation of authority to the Board of the Ordinance which is special now. Because the Board -- that Ordinance didn't have to reserve to the Board the power to exercise the discretion to waive anything. The Ordinance itself recognizes the Board plenary authority under the Charter and the Ordinance couldn't take that authority from you. So, by putting that special provision in the law, it was intended to make sure that you understood that you had the power under the law to waive minor irregularities, and that is all this was. There is no reason here to spend an extra \$300,000.00 for P. Flanigan. When in fact you've got a low bidder who made a reasonable and understandable mistake and who is prepared to correct that mistake. You send a message to the bidding community that the MBE -- that as I said before, the obligation to exercise good faith is a two way street. It's a two way street. It's not just an obligation on the prime contractor. I submit the City has to ensure good faith exercise as well, and the notion that no mistake in the MBE submission is waiveable. That no mistake is excusable no matter how small, no matter how understandable, no matter how reasonable simply flies in the face of I think a good faith obligation that perhaps even a constitutional obligation, but it's just not right. Thank you."

MINUTES

Ms. Williams: "When we look at good faith effort, we have to look at more than -- number one, we judge what's within the parameters of the bid. When you consider good faith effort, we have to look at, was any good faith basic due diligence done to verify the information. I don't know how they searched the directory, but this is the first, the search page of the directory. I find it hard to believe and you know, I never know what anybody believes that someone would by-pass the service and the name, they could have input Best, Best not even Best Fence, Best and it would have pulled up a page that said Best Fence MBE African American. Why would somebody by-pass that to go to the very bottom of the page to pull up an alphabetical listing and then thumb through 28 of 200 pages to find Best Fence. That's just an alphabetical listing. It doesn't list any additional information. There is no race or gender information in that list. It's on the individual page, and when you look at the individual page, it's there. It's there."

City Solicitor: "So the point is that the bidder made an assumption as opposed to doing due diligence."

Ms. Williams: "Exactly, an erroneous assumption based on past history working with CMF, Inc., Best Fence. There is no indication to us that any effort was made to verify was the contract -- the subcontractor even asked are you still WBE

BOARD OF ESTIMATES

01/11/2012

MINUTES

certified. We don't have any indication that anything was done to verify the information, and in the bid document, and at the very end of the search page in the directory, there is a recommendation that you call the office to verify the information. The information was not verified."

Mayor: "I see."

President: "Okay."

Mr. Caiola: "Excuse me, may I be heard as well?"

President: "Yes."

Mr. Caiola: "My name is Paul Caiola from Gallagher, Evelius and Jones. With me today is Pierce Flanigan the 4th of P. Flanigan and Sons, and Kevin Mullin also from P. Flanigan & Sons. The invitation for bid in this matter had a goal for WBE participation of 4%. Daisy's missed the goal by more than 40% of the 4%. They put in a bid that had 2.35% WBE participation. In the protest letter you received, they described they're error as minor, but when you consider that the goal is 4%, missing the goal by 40% is hardly a minor error. It's a substantive error. There is much case law from the Maryland Board of Contract Appeals about the substantive nature of MBE and WBE goals, and the importance of meeting the goals. The COMAR section that was cited in the bid protest letter describes a minor irregularity as one which is merely a matter of form and not of substance.

BOARD OF ESTIMATES

01/11/2012

MINUTES

The WBE goals are substantive, they are not form errors. Missing the goals is a substantive mistake and Daisy should not have been awarded the bid for that reason."

Mr. Dashiell: "I am not going to repeat what I've said, but I do want to make sure that you understand that the alphabetical listing in the directory doesn't just list the name, it lists the address of the company. Ms. Williams is correct, that the classification, whether it's an MBE or WBE is not in that listing. But in this case, Daisy's not looking in the additional section because of the history was reasonable. I am not saying that Daisy didn't make a mistake. I'm saying that you have the power and in these circumstances should exercise the power to excuse that mistake, and it's not the kind of mistake that the City ought to spend an additional \$300,000.00 for, because it doesn't affect Flanigan. Whether Daisy made it or not would not cause Flanigan's price to go up or down; had no disadvantage to any other bidder, had nothing to do with any other bidder. You have the power to excuse the mistake and save the \$300 grand. Daisy did not intend to not make the WBE goal, they intended to do that and the fact that they didn't was a mistake. That is all I am saying."

President: "Okay. Okay, I will entertain a Motion."

BOARD OF ESTIMATES**01/11/2012****MINUTES**

City Solicitor: "Move to approve the recommendation and reject the protest."

Director of Public Works: "Second."

President: "All those in favor say AYE. All opposed NAY. The motion carries. Thank you."

RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC

ATTORNEYS AT LAW

ALAN M. RIFKIN
SCOTT A. LIVINGSTON (MD, DC)
LAURENCE LEVITAN
EDGAR P. SILVER†
MICHAEL V. JOHANSEN
JOEL D. ROZNER (MD, DC)
RICHARD K. REED
NORMAN D. RIVERA
M. CELESTE BRUCE (MD, DC)
JAMIE B. EISENBERG (MD, DC, NY)
CHARLES S. FAX (MD, DC, NY)
CAROLYN JACOBS
PATRICK H. RODDY
ELLEN B. FLYNN (MD, DC, CT)
ERIC L. BRYANT
MICHAEL D. BERMAN (MD, DC)
JOYCE E. SMITHEY (MD, DC, NH)
A. THOMAS PEDRONI, JR.
MELVIN A. STEINBERG†
MICHAEL S. NAGY (MD, VA)
LIESEL J. SCHOPLER (MD, DC)
CHRISTOPHER L. HATCHER
MICHAEL A. MILLER
LINDSAY S. KATZ (NY, NJ)
JULIA E. BRAATEN
LANCE W. BILLINGSLEY†
ELIZABETH K. MILLER†
† OF COUNSEL

(NONLAWYER/CONSULTANT)
JOSH M. WHITE

7979 OLD GEORGETOWN ROAD • SUITE 400
BETHESDA, MARYLAND 20814
(301) 951-0150 • FAX (301) 951-0172
WWW.RLLS.COM

225 DUKE OF GLOUCESTER STREET
ANNAPOLIS, MARYLAND 21401
(410) 269-5066 • FAX (410) 269-1235

14601 MAIN STREET
UPPER MARLBORO, MARYLAND 20772
(301) 345-7700 • FAX (301) 345-1284

800 WASHINGTON AVENUE • SUITE 305
TOWSON, MARYLAND 21204
(410) 583-9433 • FAX (410) 583-9439

January 10, 2012

VIA HAND DELIVERY

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

RE: **BID PROTEST**
Contract No. TR 10018, "Orchard Ridge Phase II"

This law firm, along with Robert Fulton Dashiell, represents Daisy Concrete, Inc. of Maryland ("Daisy"), the lowest responsive and responsible bidder for Baltimore City Department of Transportation ("DOT") Contract No. TR10018, "Orchard Ridge, Phase II" (the "Contract"). The purpose of this letter is to request that the Board of Estimates exercise its authority under the Charter and under Art. V, Sec.28-14 (b) of the Baltimore City Code to waive the minor defect/error in Daisy's bid and award the Contract to Daisy. Daisy protests the award of the Contract to any party *other than* Daisy. In the alternative, Daisy requests rejection of all bids.

As shown in **Exhibit 1**, on May 11, 2007, a certified WBE firm named Best Fence & Decks, doing business as "Best Fence" (the "Old Company"), submitted a quote to Daisy for fence work on a State Highway Administration contract. On November 1, 2011, as shown in **Exhibit 2**, a firm named Best Fence, LLC doing business as "Best Fence" (the "New Company") – with the same MBE/WBE Directory address as the Old Company and using nearly identical stationery – submitted a quote **SIGNED BY THE SAME ESTIMATOR** to Daisy for fence work on Orchard Ridge.

According to State Department of Assessments and Taxation (“SDAT”) records, Best Fence, LLC, the new company, purchased the assets of C.M.F., Inc., d/b/a Best Fence & Decks, the Old Company, pursuant to an Asset Purchase Agreement entered into on January 30, 2009. It is customary in an asset purchase transaction that the seller’s name, *i.e.* good will, is included in the sale so that the public believes it is dealing with the same company. That is precisely what happened here.

Daisy mistakenly, but understandably, consulted only the index of the Directory to verify Best Fence’s continued certification, but not the individual pages that follow where the certification classification appears. Reasonably believing that the new “Best Fence” was the same as the old “Best Fence,” Daisy included it as a WBE in its bid for Orchard Ridge. The loss of WBE credit caused Daisy’s bid to fall short of the WBE goal by \$93,000, or only 1.65%.

I. Background

By way of background, the Department of Transportation published the invitation for bids (“IFB”) for certain construction work under Contract No. 7R10018. The IFB included an MBE goal of 14% and a WBE goal of 4%.

Daisy reviewed the plans and specifications, developed its estimate and made a good faith effort to meet the goals and sub-goals. As part of those good faith efforts, Daisy contacted various MWBOO-certified MBE and WBE firms and entered into the following subcontract agreements as reflected on Daisy’s Part B Statements of Intent:¹

Subcontractor	Services	Supplies	Amount
Daco Construction Corporation	Storm Drain, Concrete, Waterline		\$ 394,000.00
Priority Construction Corporation	Concrete Curb/Gutter, Flatwork, Brick Pavers		\$ 394,000.00
Best Fence, Inc.	Fencing		\$ 93,000.00
Rowen Concrete, Inc.		Ready Mixed Concrete	\$ 27,000.00
Road Safety, LLC	Maintenance of Traffic, Signs		\$ 60,000.00
William T. King, Inc.	Landscaping		\$ 45,000.00

Prior to bid opening, Daisy believed Daco Construction Corporation and Priority Construction Corporation were certified as MBEs. Daisy also believed Best Fence, Rowen Concrete, Inc., Road Safety, LLC and William T. King, Inc. were certified as WBEs. As a result, Daisy believed it had achieved \$788,000 worth of MBE participation (or 14.02% of Daisy’s bid price) and \$225,000 worth of WBE participation (or 4.00% of Daisy’s bid price). Daisy indicated these amounts on the Part C MBE/WBE Participation Affidavit included in its bid. Because Daisy believed it had satisfied the IFB’s MBE and WBE goals, Daisy did not request a waiver of either goal.

¹ Daisy’s MBE package, including Part B Statements of Intent and Part C MBE/WBE Participation Affidavit are attached as Exhibit 3.

At bid opening, the results were as follows:

Bidder	Price	Difference
Daisy Concrete, Inc. of MD	\$5,619,339.90	
American Infrastructure	\$5,780,000.00	+2.9%
P. Flanigan & Sons, Inc.	\$5,958,579.65	+6.0%
Monumental Paving & Excavating, Inc.	\$5,985,401.46	+6.5%
Potts & Callahan, Inc.	\$5,986,057.00	+6.5%
Concrete General, Inc.	\$6,273,982.75	+11.6%
Civil Construction, LLC	\$6,391,395.66	+13.7%
Facchina Construction Co., Inc.	\$6,835,075.20	+21.6%

In the weeks following bid opening, MWBOO reviewed the MBE package submitted by the low bidder, Daisy. An error appeared; Best Fence had recently been certified as an MBE, rather than as a WBE. After adjusting for this error, Daisy exceeded the MBE goal, yet fell short of the WBE goal by only 1.65%, as demonstrated below:

Subcontractor	Services	Supplies	MBE/WBE	Amount	Percentage
Daco Construction Corporation	Storm Drain, Concrete, Waterline		MBE	\$ 394,000.00	7.01%
Priority Construction	Concrete Curb/Gutter, Flatwork, Brick Pavers		MBE	\$ 394,000.00	7.01%
Best Fence, Inc.	Fencing		MBE	\$ 93,000.00	1.65%
Rowen Concrete, Inc.		Ready Mixed Concrete	WBE	\$ 27,000.00	0.48%
Road Safety, LLC	Maintenance of Traffic, Signs		WBE	\$ 60,000.00	1.07%
William T. King, Inc.	Landscaping		WBE	\$ 45,000.00	0.80%
			MBE Total:	\$ 881,000.00	15.68%
			WBE Total:	\$ 132,000.00	2.35%

MWBOO contacted Daisy about the error and Daisy requested the opportunity to correct the mistake. On November 18, 2011, Daisy filed a bid protest to prevent the award of the contract to any party other than Daisy. (Exh. 4). Daisy offered a reasonable suggestion for dealing with the error in its bid—namely, Daisy requested that the Board of Estimates approve conditional award of the Contract to Daisy, conditioned upon Daisy substituting a WBE in place of Best Fence, thereby achieving both the MBE and WBE goals. Daisy offered to replace Best Fence with a certified WBE in order to meet the 4% goal.

As of today, the Board of Estimates' Agenda indicates an intended award of the Contract to P. Flanigan & Sons, Inc. ("Flanigan"), at a price 6% higher than Daisy's.

II. The Board of Estimates Should Allow Correction Of Daisy's Error

The Board of Estimates should waive the minor defect or error in Daisy's MBE/WBE submission. Daisy admits that it made a mistake in not realizing that Best Fence was now an MBE after many years certified as a WBE. The ownership changed from a woman to an

African-American man, but this does not change the fact that Daisy made a good faith effort to meet the goals.

Article V, Section 28-14(b) of the Baltimore City Code provides, "At its discretion, the Board of Estimates may waive minor defects and errors in a bidder's MBE or WBE submission." This is precisely what the Board of Estimates should do in this matter. It is just the sort of "minor defect" or "error" contemplated by Section 28-14(b) that is at issue here. The Board of Estimates should not punish a bidder who demonstrates good faith efforts to meet the both the MBE and WBE goals, yet falls just short of one while exceeding the other due to an error in these circumstances.

By analogy, a "minor defect or error" can be considered a "minor irregularity" as that term is defined at COMAR 21.06.02.04:

- A. A minor irregularity is 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.
- B. The defect or variation in the bid or proposal is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the procurement.

In our view, Daisy does not obtain an unfair competitive advantage over the other bidders. The difference between Daisy's intended MBE and WBE participation and Daisy's actual MBE and WBE participation as reflected in the bid is, at best, trivial when contrasted with the total scope of the procurement.

In fact, Flanigan also had a defect in its MBE/WBE submission. Flanigan met the entire WBE goal by way of a single entity, Morgan Construction Services, Inc. (Cert. No. 05-004638). Flanigan included a Statement of Intent for only one WBE, Morgan Construction Services, Inc. ("MCS").

According to the MWBOO Directory, MCS is owned by Ms. Hattie Morgan. From all indications, MCS is no longer in business.² The business address on MCS' SDAT record, 1608

² By any stretch of the imagination, MCS does not perform a "commercially useful function," as that term is defined in Balt. City Code, Art. V, Section 28-32(a):

In this section, "commercially useful function" means the performance by a business enterprise of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage, and supervise.

Warwick Avenue, is abandoned and boarded up. The business phone number listed on MCS' certification, (410) 383-8978, is disconnected.

Daisy has reason to believe that MCS may be a WBE "front" for either Flanigan or an MBE, L & J Construction Service, Inc. ("L&J"). Hattie Morgan was listed as "Vice President and Treasurer" on L&J's website as recently as February 2005. In 2005, MCS was certified as a WBE by MDOT and MWBOO for hauling, snow removal and trash dumpster services.

From 2005 (when MCS was certified by MDOT) through the end of 2009, MCS was listed as an MBE/DBE on the Participation Schedules of exactly two successful bids at the State Highway Administration ("SHA"): Contract Nos. BA4345177 and BA7065171. Both contracts were awarded to Flanigan, and L&J was also an MBE subcontractor on both contracts. L&J and MCS were described as performing the same exact work on both contracts: "Hauling."

Per SDAT, MCS' former business address – that is now abandoned – was bought in 2010 from Hattie Morgan by Twenty-First Street, LLC ("Twenty-First Street"). Twenty-First Street is owned by Lenzie Johnson, who also owns L&J.

Beyond whether MCS is a legitimate business, MCS is listed as performing an unreasonably high \$250,000 worth of hauling. This amount of hauling is excessive considering the short distance between the work location and Flanigan's Baltimore-area facilities where excess concrete will be deposited. For example, Mike Cook, Daisy's estimator, estimated the total amount of hauling on the contract between the work site and Daisy's *Delaware* facility at around \$200,000. Flanigan's hauling would be for much shorter distances.

With regard to whether a WBE is performing a commercially useful function, Baltimore City Code Art. V, Section 29-32(c) requires evaluation of the following:

- (i) the amount of work subcontracted;
- (ii) industry practices;
- (iii) **whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and with the MBE or WBE credit claimed for its performance of the work; and**
- (iv) other relevant factors.

(emphasis added). An amount of \$250,000 is *not* commensurate with the hauling work to actually be performed on this Contract. As such, it appears Flanigan is merely assigning 4% of the contract amount to its pass-through WBE, MCS, in order to meet the WBE goal regardless of whether MCS is to perform anything resembling \$250,000 worth of work.

A quick review of the MBE/WBE submissions of the next two lowest bidders, Monumental Paving & Excavating, Inc. ("Monumental") and Potts & Callahan, Inc. ("Potts & Callahan") turn up additional errors. In the case of Monumental, Monumental indicated that Haines Industries, Inc. was *both* a WBE and MBE on the Part B Statement of Intent.

B. Harriette Taylor
January 10, 2012
Page 6 of 6

Monumental also attributed an astounding \$430,800 worth of hauling to an MBE, P&J Contracting Company, Inc.

In the case of Potts & Callahan, the Part C MBE/WBE Participation Affidavit indicates only 3.16% WBE participation - .84% less than the 4% goal. Potts & Callahan did not request a waiver of the WBE goal.

In other procurements, where all competitive bids contain defects in the MBE/WBE submissions, the Board of Estimates has used a practical approach. It allows award of the contract to the low bidder provided that the low bidder cure the defect in its MBE/WBE submissions. A similar outcome would be reasonable under the circumstances in this case.

Further, the demonstration of how a bidder will achievement MBE/WBE goals – where the bidder has committed to meeting the goals in the bid's Participation Affidavit – is a matter of responsibility that may be determined after bid opening. *See McDonnell Contracting, Inc.*, MSBCA No. 2084, 5 MSBCA ¶450 (1998). Daisy has committed to meet both the MBE and WBE goals, and has demonstrated by way of its good faith efforts that it will do so.

III. Conclusion

As described above, Daisy's belief that it was dealing with the same company was clearly in good faith and reasonable. I urge you to recognize Daisy's mistake as a minor defect or error and allow Daisy to correct this unfortunate, trivial mistake.

Very truly yours,



Scott A. Livingston

Enclosures

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



BEST FENCE

A Division of CMF, Inc.

CORPORATE OFFICE
P.O. Box 377 Chester, MD 21619
410-643-9613 Fax: 410-643-9626

800-355-BEST

BALT. - WASH. OFFICE
26 8th Ave. NW, Glen Burnie, MD 21061
410-768-9227 Fax: 410-768-8991

May 11, 2007

Daisy Concrete, Inc. of Maryland
3128 New Castle Ave
New Castle, DE 19720

RE: BID - I-95/Rt 24 Interchange
Contract No. KH-271-000-002 (R)

Gentlemen:

Congratulations on your apparent low bid on the above referenced project. We would like to confirm our prices, as follows:

Item	Qty	Description	Unit Price	Amount
4045	LS	Type II Safety Fence for BR-1	\$ LS	\$ 12,700.00
4046	LS	Type II Safety Fence for BR-2	LS	23,380.00
4047	LS	Type II Safety Fence for RW-2	LS	21,320.00
4048	LS	Type II Safety Fence for RW-3	LS	16,690.00
4049	4 EA	Anti-Climb Shields for BR-2	525.00	2,100.00
4050	LS	Type III Safety Fence for RW-1	LS	26,500.00
4051	LS	Type III Safety Fence for RW-4	LS	18,800.00
6037	1,880 LF	6 Foot Black Vinyl Chain Link	16.85	31,678.00
6038	15 EA	6 Foot Black Vinyl Terminal Post	198.30	2,974.50
6039	2 EA	6 Foot X 12' W Black Vinyl Double Gate	1,450.00	2,900.00

159,142

Notes/Exclusions:

1. Furnished and installed
2. Open shop labor
3. Permits by others.
4. Locating of private underground utilities or obstructions by others.
5. Stakeout of fence line to be by others.
6. Bolts furnished --to be set by others.
7. Maintenance of traffic by others.
8. Prices based on our standard insurance coverage and endorsements
9. Prices good until June 8, 2007 for purpose of acceptance.
10. Best Fence Co. is MDOT certified WBE.

Very truly yours,

BEST FENCE CO

Ed Veith
Ed Veith
Estimator x 12

*JOE PAUL GUSTAF
x 11*

"A Minority Business Enterprise"

MD DOT #95-188-MBE • City of Baltimore #B-2796-WBE • Amtrak-MBE

EXHIBIT

tabbles
2

**BEST
FENCE**

800-355-BEST

OFFICE: 410-768-9227
FAX: 410-768-8991
WWW.BESTFENCE.BIZ

BALTIMORE, VA
26 8th Avenue
Glen Burnie, MD 21061

November 1, 2011

To: Estimating

RE: BID
Orchard Ridge Phase II
Contract No. TR10018

Scope:

Item	Qty	Description	Unit Price	Amount
611	3,100 LF	6 Foot Galv. Chain Link Fence w/ Gate	\$ 25.40	\$ 78,740.00
611	3,100 LF	Removal of 6 Foot C/L & Gate (SEE NOTE 5)	2.50	7,750.00
739	106 LF	Tree Protection Fence (on wall)	62.50	6,625.00

Notes/Exclusions:

1. Furnished and installed.
2. Open shop labor
3. Permits by others.
4. Locating of private underground utilities or obstructions by others.
5. We will remove fabric, rails, etc. - posts to be pulled and disposed of by others and restoration to be by others.
6. Stakeout of fence line to be by others.
7. Clearing of fence line, if required, to be by others.
8. Bolts furnished for Item 739 - to be set by others.
9. Price based on our standard insurance coverage and endorsements.
10. Price good until December 2, 2011 for purpose of acceptance.
11. Wage rates noted - certified payrolls provided.
12. Best Fence, LLC is a MDOT certified MBE/DBE. (#09-35)

Very truly yours,

BEST FENCE, LLC

Ed Veith

Ed Veith
Estimator

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE INC. OF MD
Name of MBE or WBE: Daco Construction Corporation

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
Storm drain, concrete, WATERLINE

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 394,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 7 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

Chrook 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 10/27/11
Signature of MBE or WBE (REQUIRED) Date

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



CONTRACT NO. TR10018

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

COMPLETE A SEPARATE FORM FOR EACH MBE AND WBE NAMED IN THIS
BID.
(Make additional copies of this form as needed.)

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

Name of Prime Contractor: Darcy Construction
Name of MBE or WBE: Priority Construction

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
Concrete curb/gutter, Flatwork, Brick Pavers

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 394,000.00 (If this is a requirements
contract, the subcontract amount may be omitted; however, the subcontract percentage
must be included.)

Subcontract percentage of total contract: 7 %

**(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. The subcontractor is currently certified as an MBE or
WBE with the City of Baltimore Minority and Women's Business Opportunity Office to
perform the work described above.

[Signature] 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 11/2/11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: BEST FENCE, INC.

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

FENCING

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 93,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 1.7 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Woman's Business Opportunity Office to perform the work described above.

[Signature] 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] 10-05-11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: Rowen Concrete, Inc.

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

Materials/Supplies to be furnished by MBE or WBE:
READY MIXED CONCRETE

Subcontract Amount: \$ 27,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 0.5 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

Chris Cook
Signature of Prime Contractor (REQUIRED) 11-2-11
Date

[Signature]
Signature of MBE or WBE (REQUIRED) 11-2-11
Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE, INC. OF MD

Name of MBE or WBE: ROAD SAFETY, LLC

Brief Narrative Description of the Work/Service to be performed by MBE or WBE:
MAINTENANCE OF TRAFFIC, SIGNS

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 percentage must be included.)

Subcontract percentage of total contract: 1.07 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

[Signature] _____ 11-2-11
Signature of Prime Contractor (REQUIRED) Date

[Signature] _____ 11-2-11
Signature of MBE or WBE (REQUIRED) Date

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

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

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

(Make additional copies of this form as needed.)

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

Name of Prime Contractor: DAISY CONCRETE INC. of MD
Name of MBE or WBE: William T. King Inc.

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

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 45,000.00 (If this is a requirements contract, the subcontract amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 0.8 %

(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. The subcontractor is currently certified as an MBE or WBE with the City of Baltimore Minority and Women's Business Opportunity Office to perform the work described above.

[Signature] 11-2-11
Signature of Prime Contractor (REQUIRED) Date
[Signature] 11/1/11
Signature of MBE or WBE (REQUIRED) Date

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

PART C: MBE/WBE PARTICIPATION AFFIDAVIT

The Undersigned authorized representative of Contractor does hereby make the following Affidavit: Contractor has read the Bidder Information and Instructions regarding the MBE/WBE Program. Contractor acknowledges the MBE goal of 14% and the WBE goal of 4% for the contract shown at the top of this page. Contractor has achieved the following participation:

MBE-\$ 788,000.00 or 14% and WBE-\$ 225,000.00 or 4% of the total contract amount which is \$ 5,619,339.90

My firm has made 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.

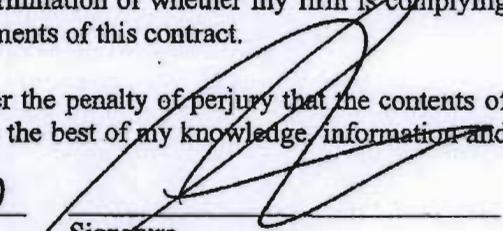
Waisi Concrete Inc Or Mo

Contractor Company Name

102 ROBIN COURT

NEWPORT MD 21804

Address



Signature

LEONARD JACNO DAMSANT

Print Name and Title

Sworn and subscribed before me this 2nd day of NOVEMBER, in the year 2011.

Marcos Hernandez
Notary Public



MAIN OFFICE
3128 New Castle Avenue
New Castle, DE 19720

302-658-4417 Ext. 3033
302-658-7425 Fax
mcook@daisyconstruction.com

Concrete, Inc. of Maryland

"Paving the way since 1973"

November 18, 2011

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

**RE: Contract No. TR10018
Orchard Ridge Phase II**

Dear Clerk,

We are in receipt of a letter dated November 17, 2011 disapproving our MWBE package for the above referenced contract.

We are protesting this decision. In accordance with PROTEST notices, we submit the following:

1. I represent Daisy Concrete, Inc. of MD.
2. The November 17, 2011 states that we failed to achieve the 4% WBE.
3. We will be denied the opportunity to perform this contract for the City of Baltimore at the lowest price submitted.

Very truly yours,

Michael D. Cook
Senior Estimator/Project Manager

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:

Department of Public Works (DPW)/
Department of Recreation and Parks

4.	RP 11848, Riverside Park Pathway Improvements	Allied Contract- ors, Inc.	\$ 737,400.00
	MBE: Priority Construction Corporation	\$217,686.00	29.52%
	WBE: McCall Trucking, Inc.	\$ 32,940.00	4.46%
	William T. King, Inc.	12,000.00	1.63%
	Total:	<u>\$ 44,940.00</u>	<u>6.09%</u>

MWBOO FOUND VENDOR IN COMPLIANCE.

A PROTEST WAS RECEIVED FROM MACHADO CONSTRUCTION COMPANY.

5. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNTS:</u>
\$325,500.00	9938-908764-9475	
Rec. & Parks	Reserve	
24 th Series	Park & Playground	
	Renovation FY09	
212,500.00	9938-913001-9475	
State	Reserve	
	Unallotted	
50,000.00	9938-903792-9475	
Rec. & Parks	Reserve	
25 th Series		
150,000.00	9938-903792-9475	
State	Reserve	
<u>\$738,000.00</u>	Park & Playground	
	Renovation FY10	

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:

Department of Recreation and Parks - cont'd

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNTS:</u>
\$538,000.00	-----	9938-907764-9474 Active Park & Playgrounds Renovation FY09
<u>200,000.00</u> \$738,000.00	-----	9938-904792-9474 Active Park Rehabilitation Program FY10

This transfer will provide funds to cover costs associated with the award of the Riverside Park Pathway Improvements, Contract No. RP11848 to Allied Contractors, Inc.

President: "The third item on the non routine agenda can be found on Page 72 and 73, item number 4 and 5, RP 11848, Riverside Park Pathway Improvements and the associated Transfer of Funds."

Mr. Siri: "Good morning. Michael Siri on behalf of Machado Construction. Mr. President and the members of the Board, Machado Construction is bringing forth this bid protest for RP 11848, because it believes it's the lowest responsive bidder at \$675,071.00 which was \$63,329.00 less than the next bidder. The issue before the Board is whether or not there was a -- the prequalification of Machado. In this case, Machado was up for renewal of its prequalification and submitted its renewal on October 4, 2011. Its renewal was -- prequalification was

BOARD OF ESTIMATES

01/11/2012

MINUTES

scheduled to expire on October 27th. A day before the bid was due; Machado Construction calls the Construction Qualification Committee of the Public Works and requests what's the status of the prequalification. Mr. Augins from that Committee informs Machado Construction that they have been approved."

City Solicitor: "Approved by whom?"

Mr. Siri: "That the Committee has approved them."

City Solicitor: "And would be recommending them for action by the Board of Estimates?"

Mr. Siri: "Yes. So as a result of that representation Machado Construction submits a bid on November 2nd for this project where they are the low bidder. It comes to their attention on November 21st that the letter from a letter from the Board of Public Works that the bid is rejected, because of this -- because the approval of the prequalification had not been approved by the Board until November 9th. For this period of time Machado was under the impression that it was prequalified and we submit to the Board that they were prequalified, that got the approval of the committee that it was a routine agenda item, and that by not awarding to Machado that -- by not awarding the bid to Machado that the City will paying an additional \$63,000.00. Machado, Mr. Machado is here to my left, he is an MBE and he has been an MBE since 1987. He has been prequalified

MINUTES

with Baltimore City for a period of 18 years, and this was just a renewal process. The purpose of the bid process is to make everything fair, and the question that I am presenting to the Board is a question of the letter of law versus the spirit of the law. There is case law out there that says that the Board should make every effort to abide by the -- to make sure that the process is fair. Mr. Machado and Machado Construction was prequalified company. They were informed that their bid was approved by the committee and as a result, they submitted this bid and they are the lowest responsible bidder."

President: "Go ahead."

Ms. Winner: "Good morning, Leslie Winner in the City's Solicitor's Office. The rules for prequalification are very clear. At section 2.1 it states 'all prime contractors intending to bid on any City work in excess of \$25,000.00 shall annually, annually establish proof of their qualification for the work they propose to perform before being permitted to submit a bid, and it's possession of a valid certificate or certification prequalification is deemed proof of qualification. Machado even though he had been prequalified in the past was not prequalified at the time that this bid was submitted. Therefore, he is not qualified to do this contract under the law. The fact that he had been prequalified in the past does

MINUTES

not mean he was prequalified at the time the bid was submitted. Submission of the prequalification form is not in itself proof that you would be prequalified even if he was able to ascertain that the Board would eventually move on that. The Board had not moved on that yet, and only the Board of Estimates has the authority to prequalify candidates who wish to bid in the City. The submission of a document prior to being prequalified is not proof that you will be prequalified even if you might have been prequalified in the past."

City Solicitor: "Can I ask a question or two of the Machado representatives? My understanding of the factual chronology here without going into detail, is that the company was made aware or mindful of the fact that in August that its prequalification precertification would need to be renewed and that it was also given information about the length of time that they might expect it would take to complete that renewal process and yet I don't think that the actual renewal application was filed until sometime into the month of October, which was not allowing the reasonably predicatable amount of processing time. Can you tell me whether that's also your understanding and can you tell me why the delay in filing the recertification papers from August until October?"

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mr. Machado: "Good morning, I am Mario Machado. The August date does not ring a bell with me. The October 4th is when we got notification and from what I remember, and that day we hand delivered it down to Mr. Augins."

City Solicitor: "It may be that there was an August notification, but it just didn't come to your attention."

Mr. Machado: "I didn't see it. I don't know anything about that."

City Solicitor: "I would also presume though that you're generally aware, you have records that tell you when the last time that you were certified was, so that you would have known. Had you been totally scrupulous and attentive to all these details you would have known when the certification was going to expire."

Mr. Machado: "Yes."

City Solicitor: "Yes."

Mr. Siri: "And I also believe that they changed the method of notice this past year from letter form to an electronic form."

City Solicitor: "Right."

Mr. Siri: "So."

City Solicitor: "The odd email that flies in at Saturday night."

Mr. Siri: "Yeah."

BOARD OF ESTIMATES

01/11/2012

MINUTES

City Solicitor: "I know that watching your Blackberry's."

Mr. Siri: "Right."

Mr. Machado: "The only other thing that I would like to add from point of view of course that is that it is a renewal, it is --

City Solicitor: "No."

Mr. Machado: "it is not an actual prequalification."

City Solicitor: "No."

Mr. Machado: "And if you are working on a City job and your prequalification drops for a week or two,

City Solicitor: "Right."

Mr. Machado: "you don't shut the job down and send the contractor of the job --

City Solicitor: "I understand."

Mr. Machado: "until its -- that is all I've got."

Director of Public Works: "If I may. I think it's my understanding that there was a transition to the electronic you were being notified in two ways. One is the document and then the other one by email. Is that correct?"

City Purchasing Agent: "I'm not certain of that, sir."

Mr. Machado: "I have no record of that."

Director of Public Works: "Okay."

President: "Okay. I will entertain a Motion."

BOARD OF ESTIMATES

01/11/2012

MINUTES

City Solicitor: "I MOVE to approve the recommendation of the agency and reject the protest based on the language pretty clear language of the law. I know that you folks have done great work for the City over the years. We are sorry this happened but the rules are the rules as they sometimes say."

Comptroller: "Second."

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

Ms. Winner: "Thank you."

* * * * *

BOWIE & JENSEN, LLC

ATTORNEYS AT LAW
6TH FLOOR 29 W. SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
HTTP://WWW.BOWIE-JENSEN.COM/
INFO@BOWIE-JENSEN.COM
(410) 583-2400
FAX (410) 583-2437

MICHAEL W. SIRI

SIRI@BOWIE-JENSEN.COM

November 29, 2011

VIA FIRST CLASS MAIL AND OVERNIGHT MAIL

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

RE: *Bid Protest for RP 11848 – Riverside Park Pathway Improvements*

Dear Honorable President and Members of the Board of Estimates:

Machado Construction Co., Inc. (“Machado”), a Baltimore-based minority business enterprise, requests that the Board of Estimates awards the Riverside Park Pathway Improvements Project – RP 11848 (“Project”) to Machado, the lowest responsible bidder for the Project by a total of \$62,329.00. Machado received a letter from the Department of Public Works on November 21, 2011, deeming Machado’s November 2, 2011 bid for the Project as “unacceptable.” Specifically, the Department of Public Works claims that Machado failed to meet the prequalification requirement as stipulated in the Notice of Letting. This determination, however, fails to account for the fact that Machado’s renewal for prequalification had been recommended for approval to the Board of Estimates prior to the bid submission, the fact that the Board of Estimates did approve Machado’s prequalification, and the fact that Machado has been prequalified with Baltimore City for a period of approximately 18 years. As outlined below, Machado should be awarded the Project, as the lowest qualified bidder and at a savings of \$62,329.00 to Baltimore City.

On October 4, 2011, after receiving notice from the City of Baltimore, Machado hand-delivered its renewal application to the Contractors Qualification Committee. Machado’s prequalification was set to expire on October 27, 2011. See Certificate of Prequalification approved on October 27, 2010, attached hereto as **Exhibit A**. On November 1, 2011, Machado contacted the Contractors Qualification Committee regarding the status of the renewal

application and was informed that the renewal had been approved and a recommendation would be presented to the Board of Estimates.

On November 2, 2011, Machado submitted its bid for the Project. See Bid or Proposal dated November 2, 2011, attached hereto as **Exhibit B**. On the same day, the bids for the Project were opened and Machado was the lowest bidder for the Project, with a bid of \$675,071.00. See Bid Results, dated November 2, 2011, attached hereto as **Exhibit C**. The next lowest bidder, Allied Contractors, Inc.'s \$737,400.00, was \$62,329.00 more than Machado's.

On November 9, 2011, Machado formally received its Certificate of Prequalification from the Contractors Qualification Committee. See Certificate of Prequalification, approved on November 9, 2011, attached hereto as **Exhibit D**. On November 21, 2011, Machado received a letter from the Department of Public Works, stating that its low bid for the Project was unacceptable because Machado was not prequalified at the time of the bid submission. See Letter from the Department of Public Works, dated November 21, 2011, attached hereto as **Exhibit E**.

After receipt of the letter, Machado immediately contacted Doreen Diamond, the Contract Administrator, regarding its low bid and issues relating from the prequalification renewal. Further, on behalf of Machado, on November 28, 2011, I contacted Ms. Diamond regarding the same. Ms. Diamond indicated that she would begin the process of investigating Machado's claims. She also stated that there had not been any recommendation to the Board of Estimates regarding the award of the Project pending this investigation.

This letter follows immediately after my telephone conversation with Ms. Diamond; however, the urgency of the situation requires this prompt correspondence. We are hopeful that the Department of Public Work's investigation will conclude in a recommendation of the award for the Project to Machado. We strongly believe that based on the facts surrounding the renewal process, Machado should be awarded this Project. Specifically, Machado has and continues to be a prequalified contractor for the City of Baltimore. Machado's renewal for prequalification had been submitted almost one month prior to the due date for the bid and Machado had received confirmation that its prequalification was recommended for approval. Further, Machado has been a prequalified MBE for a period of over 18 years. Lastly, by awarding the Project to Machado, the City of Baltimore will be awarding the Project to a fully qualified minority business owned company at a savings of \$62,329.00.

The fundamental purpose of procurement regulations is to create the opportunity for fair competition in order to advance the governmental authority's interest. Thus, while a general contractor should make every effort to comply with the bid requirements, "it is the duty of an administrative agency to secure the most advantageous contracts possible for the accomplishment of its work." Board of Estimates of Carroll County v. Allender, 206 Md. 466, 476 (1955).

A bidder's variation from specifications will not exclude him from consideration for the award of the contract unless it is so substantial as to give him a special advantage over the other bidders. In judging whether or not the omission or irregularity in a bid is so substantial as to invalidate it, the court must be careful not to thwart the purpose of the competitive bidding by declaring the lowest bid invalid on account of variations that are not materials.

As such, Machado respectfully requests an opportunity to speak with the Board of Estimates regarding the award of the Project. Please contact me if you have any questions or concerns. Machado intends to supplement this letter with additional information prior to the scheduled Board of Estimates meeting in which the Project will be discussed. Thank you.

Very Truly Yours,



Michael W. Siri

Enclosures

cc: Doreen Diamond, Contract Administrator, Baltimore City Department of Public Works
(via first class mail w/ enclosures)
Maria Thompson, Supervisor, Baltimore City Department of Public Works
(via first class mail w/ enclosures)

CERTIFICATE OF PREQUALIFICATION

This Certifies that: **MACHADO CONSTRUCTION CO., INC**
2930 HAMMONDS FERRY ROAD
BALTIMORE, MARYLAND 21227
MARIO MACHADO, PRESIDENT

NUMBER: **2421**
EFFECTIVE DATE: **10/27/2010**
EXPIRATION DATE: **10/27/2011 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 **\$8,000,000.00** less the contractual amount of all uncompleted work under contract.

This Certificate limits the holder to the classification of work indicated below:

A. PAVING

- A02210 GRADING**
- A02601 PORTLAND CEMENT CONCRETE PAVING**
- A02602 BITUMINOUS CONCRETE PAVING**

B. UTILITIES

- B02553 DUCT LINE CONSTRUCTION**
- B02554 DRAINAGE STRUCTURES (MANHOLES, INLETS, ETC.)**

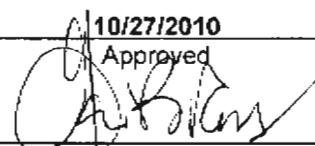
C. HIGHWAY BRIDGES AND HIGHWAY GRADE SEPARATION STRUCTURES

- C03300 CONCRETE CONSTRUCTION**

D. ROADSIDE IMPROVEMENTS

- D02620 CURBS, GUTTERS, SIDEWALKS**



 10/27/2010
 Approved


 Signature of Authorization
 Contractors Qualification Committee

From: 410.247.3103 Page: 6/8 Date: 11/28/2011 10:27:32 AM

CITY OF BALTIMORE

CONTRACTORS QUALIFICATION COMMITTEE

CERTIFICATE OF PREQUALIFICATION

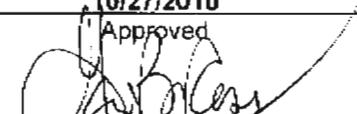
This Certifies that: **MACHADO CONSTRUCTION CO., INC**
2930 HAMMONDS FERRY ROAD
BALTIMORE, MARYLAND 21227
MARIO MACHADO, PRESIDENT

NUMBER: **2421**
EFFECTIVE DATE: **10/27/2010**
EXPIRATION DATE: **10/27/2011 12:01 AM**

- D02800 LANDSCAPING**
- F. BUILDING CONSTRUCTION AND MAINTENANCE SPECIALTIES**
 - F03300 CONCRETE CONSTRUCTION**
- G. OTHER SPECIALTIES**
 - G90017 BRICK PAVERS, ARCHITECTURAL PAVING**
 - G90025 STREET LIGHTING AND POWER LINES**
 - G90027 HIGHWAY SIGNING AND LIGHTING**

10/27/2010

Approved



Signature of Authorization
Contractors Qualification Committee

CONTRACT NO. RP 11848

SECTION 00300

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

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

CONTRACT NUMBER RP 11848

III. BID OR PROPOSAL

Bids Due Wednesday, November 2, 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 120 Consecutive Calendar Days

Liquidated Damages \$250.00 per Calendar day

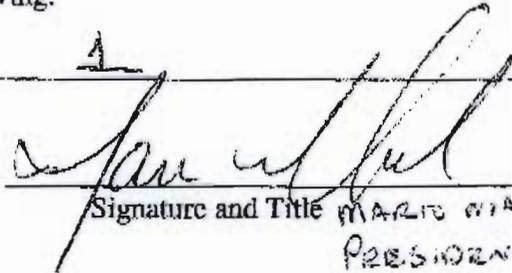
Made this 2 day of NOVEMBER 20 11

By MACHADO CONSTRUCTION Co. INC.
(Name)

2930 HAMMONDS FERRY ROAD BALTIMORE, MD 21227
(Address)

The Bidder shall sign below to signify the following:

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

1

Signature and Title MARIO MACHADO
PRESIDENT

To The Board of Estimates of Baltimore City:

Gentlemen:

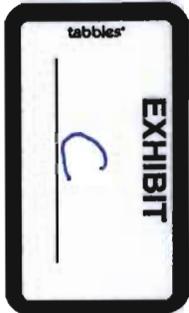
I/We the undersigned Contractor, have familiarized myself/ourselves with the Requirements and Stipulations of the Contract Documents, and the site of the proposed work, and fully understand and appreciate the extent and character of the work to be done under the Contract.



DEPARTMENT: Recreation and Parks
PROPOSAL FOR: RP 11848, Riverside Park Pathway Improvements

OPENING DATE: **RECV'D:** 11/02/11
OPENED: 11/02/11

Bidder	Address	Bid Amount		Bid Bond	C h k	Check Amount	Date Check Returned	Check Receipt For
		<input checked="" type="checkbox"/> Lump	<input type="checkbox"/> Item					
Allied Contractors, Inc.	204 E. Preston St. Baltimore, MD 21202	\$	737,400.00					
Potts & Callahan, Inc.	500 W. 29th St. 21211	\$	1,086,300.00					
Machado Construction	2930 Hammonds Ferry Road Baltimore MD 21227	\$	675,071.00					
P. Flanigan & Sons, Inc.	2444 Loch Raven Road Baltimore MD 21218	\$	954,762.00					
E&R Services, Inc.	146 Arabian, Inc. Bowie, MD 20715	\$	878,600.00					
Bensky Construction Co., LLC	1015 Leslie Ave. 21228	\$	749,777.00					



CERTIFICATE OF PREQUALIFICATION

This Certifies that: **Machado Construction Co., Inc**
2930 Hammonds Ferry Road
Baltimore, MD 21227
Mario Machado, President

NUMBER: **2421**
EFFECTIVE DATE: **11/9/2011**
EXPIRATION DATE: **11/9/2012 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 **\$8,000,000.00** less the contractual amount of all uncompleted work under contract.

This Certificate limits the holder to the classification of work indicated below:

A. Paving

- A02210 Grading**
- A02601 Portland Cement Concrete Paving**
- A02602 Bituminous Concrete Paving**

B. Utilites

- B02551 Water Mains**
- B02553 Duct Line Construction**
- B02554 Drainage Structures (Manholes, Inlets, Etc.)**

C. Highway Bridges And Highway Grade Separation Structures

- C03300 Concrete Construction**



11/9/2011

Approved

Signature of Authorization
Contractors Qualification Committee

CITY OF BALTIMORE

CONTRACTORS QUALIFICATION COMMITTEE

CERTIFICATE OF PREQUALIFICATION

This Certifies that: **Machado Construction Co., Inc**
2930 Hammonds Ferry Road
Baltimore, MD 21227
Mario Machado, President

NUMBER: **2421**
EFFECTIVE DATE: **11/9/2011**
EXPIRATION DATE: **11/9/2012 12:01 AM**

D. Roadside Improvements

- D02620 Curbs, Gutters, Sidewalks**
- D02710 Fencing And Guard Rail**
- D02800 Landscaping**

F. Building Construction And Maintenance Specialties

- F02200 Earthwork And Site Preparation**
- F03300 Concrete Construction**

G. Other Specialties

- G90017 Brick Pavers, Architectural Paving**
- G90025 Street Lighting And Power Lines**
- G90027 Highway Signing And Lightng**
- G90029 All Types Of Pavement Markings**

11/9/2011

Approved



Signature of Authorization

Contractors Qualification Committee

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKK, Mayor



DEPARTMENT OF PUBLIC WORKS

CONTRACT ADMINISTRATION
1105 Abel Wolman Municipal Building
Baltimore, Maryland 21202

November 21, 2011

Machado Construction Co., Inc.
2930 Hammonds Ferry Road
Baltimore, MD 21227

RE: RP 11848- Riverside Park Pathway Improvements

Dear Sir or Madam:

On November 2, 2011 bids were received and opened for RP 11848- Riverside Park Pathway Improvements.

The City of Baltimore requires that all contractors bidding on a contract must be first prequalified by the City of Baltimore Contractors Qualification Committee as stipulated in the Notice of Letting. After further review it has been determined that your firm was not prequalified at the time bids were due.

Therefore, the Law Department has found your bid to be unacceptable. Should you have questions regarding this decision, please contact Contract Administration at 410-396-4041.

Sincerely,

Doreen Diamond
Contract Administrator

Cc: File

Visit Our Website @www.baltimorecity.gov



BOARD OF ESTIMATES

01/11/2012

MINUTES

Parking Authority of - Parking Facility Operations
Baltimore City (PABC) and Management Agreements

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the parking facility operations and management agreements with Chesapeake Parking Associates, for the 1.) Lexington Street Garage located at 501 E. Lexington Street, and 2.) Water Street Garage located at 414 Water Street. The period of the agreement is July 01, 2011 through November 30, 2012.

AMOUNT OF MONEY AND SOURCE:1. LEXINGTON STREET GARAGE

\$ 51,000.00 - 2075-000000-2321-407500-603026 Mgmt & Incentive Fee
254,827.00 - 2075-000000-2321-407500-603016 Operating Expenses
\$305,827.00

2. WATER STREET GARAGE

\$ 59,500.00 - 2075-000000-2321-407300-603026 Mgmt. & Incentive Fee
 387,000.00 - 2075-000000-2321-407300-603016 Operating Expenses
535,848.00 - 2075-000000-2321-407300-603038 Security
\$982,348.00

BACKGROUND/EXPLANATION:

The PABC has evaluated and foresees the tremendous potential benefit of geographically grouping the City's parking facilities that require contracted professional management firms. Accordingly, the PABC has developed a schedule for undertaking this endeavor. This schedule requires that nearly all of the current management agreements receive extensions so that the termination dates for the anticipated groups are the same, while allowing the PABC enough time to issue requests for proposals for the management of these groups of facilities.

MINUTES

PABC - cont'd

The PABC expects to realize the following benefits:

- Better management of the facilities.
 - The Managers and staff of one facility can assist at another nearby facility whenever the need arises (i.e. special events; emergencies). This will improve customer service and oversight of the facilities operations, which means better controls and greater revenues.
 - Customers and customer groups will be shifted more effectively between facilities to maximize space utilization, customer satisfaction, and parking revenues. Currently, if a group inquires about parking at a garage that has a waiting list, they may or may not be referred to another PABC garage that is merely blocks away and has availability, but is operated by a competing firm.
 - Parking management firms will become, out of necessity, true experts in parking within the geographic areas they are operating. They will need to know, and will be better incentivized to know, "all things parking" in those areas (i.e. parking demand generators; parking supply; parking rates; new parking facility construction; parking facility renovations; trends; etc.).
- Additional revenues (as a result of the items listed above)
- Cost savings
 - Management fees are very likely to be lower per facility as a result of these groupings.
 - Personnel costs should be lower because of the ability to "share" management and staff between locations more easily.

MINUTES

PABC - cont'd

- o Repairs and maintenance costs would be lower because management firms would be able to get quotes for multiple nearby locations.
- o Insurance costs should be lower with greater volume of spaces.
- There would be less frequent garage management RFP cycles, saving the PABC and the garage management firm's time and money.

The PABC management contract expiration schedule has been modified as the process of issuing, procuring, and awarding the management agreements for the groups of parking facilities continue to progress.

The modified schedule requires the management agreements to receive extensions so that the termination dates for the anticipated groups are the same, while allowing the PABC enough time to issue requests for proposals for the management of these groups of facilities.

The PABC has been satisfied with the operation of the Lexington Street and Water Street Garages under Chesapeake Parking Associates and believes that the continued operation with Chesapeake Parking Associates during the restructuring process will be beneficial to the City and the PABC.

The agreements are late because there was a delay in getting signatures from Chesapeake Parking Associates, as a result of multiple changes in upper management over the last several months. These changes, however, did not affect the facilities' operations.

MINUTES

PABC - cont'd

MBE/WBE PARTICIPATION:

MWBOO SET THE MBE GOAL AT 17% AND THE WBE GOAL AT 9%.

Lexington Street Garage

MBE: TGM, Inc. (Expired)
Unique Pressure Washing, LLC

WBE: Sign Solutions
Sue Ann's
Fitch Dustdown

Water Street Garage

MBE: TGM, Inc. (Expired)
Unique Pressure Washing, LLC

WBE: Sign A Rama
Sue Ann's
Fitch Dustdown
B&B Lighting

The MBE goals were not met during the reporting period because of budget cuts preventing them from contracting many services during the reporting period.

MWBOO FOUND VENDORS IN COMPLIANCE

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

(FILE NO. 55987)

UPON MOTION duly made and seconded, the Board approved and

MINUTES

PABC - cont'd

authorized execution of the parking facility operations and management agreements with Chesapeake Parking Associates, for the 1.) Lexington Street Garage located at 501 E. Lexington Street, and 2.) Water Street Garage located at 414 Water Street.

BOARD OF ESTIMATES**01/11/2012****MINUTES**

Office of Civil Rights & - Hearing Examiner Services Agreement
Wage Enforcement Community
Relations Commission

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the hearing examiner services agreement with Mr. Alan B. Jacobson. The period of the agreement is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$5,000.00 - 1001-000000-1561-171501-601009 - @ \$100.00 hour

BACKGROUND/EXPLANATION:

Mr. Jacobson will serve as a Hearing Examiner for the Community Relations Commission.

On an as needed basis, at the direction of the Commission, the Hearing Examiner will perform the duties delineated in the Baltimore City Code, Article 4, §4-3, as applicable pursuant to the law and standards established by the Commission and the Baltimore City Code.

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 hearing examiner services agreement with Mr. Alan B. Jacobson.

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 Edison Commercial, LLC, landlord, on behalf of the Department of Public Works, Bureau of Solid Waste, tenant, for the rental of the property located at 1825-1829 Edison Highway, consisting of approximately 13,917 square feet.

AMOUNT OF MONEY AND SOURCE:

\$69,800.00 - 9916-903845-9197-910052-709099

BACKGROUND/EXPLANATION:

On October 26, 2011, the Board approved a lease agreement with Edison Commercial, LLC, landlord, on behalf of the Department of Public Works, Bureau of Solid Waste, tenant, for the rental of the property located at 1825-1829 Edison Highway. The lease agreement included improvements in the amount of \$70,000.00.

The agreement outlined that the landlord would perform the improvements at the site and the City would reimburse the landlord. After the lease approval, the Department of General Services determined that additional improvements were needed. These additional improvements resulted in an additional cost of \$69,800.00, making the total cost of improvements not to exceed \$139,800.00. All other terms and conditions of the original lease agreement remain unchanged.

The Space Utilization Committee approved this amendment to lease agreement at its meeting of December 13, 2011.

(FILE NO. 57261)

MINUTESSpace Utilization Committee - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to lease agreement with Edison Commercial, LLC, landlord, on behalf of the Department of Public Works, Bureau of Solid Waste, tenant, for the rental of the property located at 1825-1829 Edison Highway, consisting of approximately 13,917 square feet.

BOARD OF ESTIMATES**01/11/2012****MINUTES**Department of Real Estate - Landlord Waiver Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of the landlord waiver agreement with Capital Resource Partners V, L.P. and Healthcare Finance Group, LLC in partnership with Glass Substance Abuse, aka Glass Health Programs, Inc., tenant for the property known as 2490 Giles Road.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The tenant has entered into a loan agreement with Capital Resource Partners V, L.P. and Healthcare Finance Group, LLC. The loan agreement is a security interest for certain property that is located in or on the premises (the collateral). The City agrees that the collateral will remain the personal property of the tenant, and it will not be deemed to be a fixture affixed to the premises. The City further agrees not to take any action to enforce any liens, with regards to the collateral.

All other terms and conditions of the original lease remain in full force and effect.

(FILE NO. 57250)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the landlord waiver agreement with

MINUTES

Department of Real Estate - cont'd

Capital Resource Partners V, L.P. and Healthcare Finance Group, LLC in partnership with Glass Substance Abuse, aka Glass Health Programs, Inc., tenant for the property known as 2490 Giles Road.

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. <u>COMPROMISE TECHNOLOGY, INC.</u> | <u>\$21,914.00</u> | <u>Renewal</u> |
| Solicitation No. 08000 - Annual Renewal of Sam's Software - Enoch Pratt Free Library - Req. No. R591581 | | |

On May 1, 2011, the City Purchasing Agent approved the initial award in the amount of \$21,274.31. The award contained four 1-year renewal options. This renewal in the amount of \$21,914.00 is for the period February 1, 2012 through January 31, 2013, with three one-year renewals remaining.

- | | | |
|--|--------------------|-----------------|
| 2. <u>THE GUN SHOP</u> | <u>\$43,900.00</u> | <u>Only Bid</u> |
| Solicitation No. B50002221 - Force on Force Marker Rounds - Police Department - Req. No. R590868 | | |

The period of the award is January 11, 2012 through January 11, 2013, with three one-year renewals remaining.

- | | | |
|---|--------------------|------------------------------------|
| 3. <u>NCS PEARSON, INC.</u> | <u>\$38,073.00</u> | <u>Agreement/
Ratification</u> |
| Solicitation No. 08000 - Online Licenses - Department of Housing and Community Development - Req. No. R579939 | | |

The Board is requested to approve and authorize execution of an agreement with NCS Pearson, Inc. The period of the agreement is September 1, 2011 through August 31, 2012, with four 1-year renewal options.

The vendor is the sole provider of the On-line Work Sampling Assessment System. The Web-based system is used for on-line management and reporting for teacher-entered child assessment data that tracks each child's development and produces reports that meet Federal and State Head Start Program Performance Standards. Service started at the beginning of the 2011 school year.

(FILE NO. 57210)

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|--|--------------|---------------------------|
| 4. PARKSON CORPORATION | \$150,000.00 | Sole Source/
Agreement |
| Solicitation No. 08000 - Hycor Parts - Department of Public Works, Bureau of Water and Wastewater - Req. No. R580228 | | |

The Board is requested to approve and authorize execution of an agreement with Parkson Corporation. The period of the agreement is January 11, 2012 through January 10, 2015, with one 2-year renewal option.

This requirement is specific for items which must be compatible with the existing installed equipment. The vendor is the original manufacturer and supplier for these items.

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

- | | | |
|---|--------------|----------|
| 5. JOHNSON & TOWERS | \$300,000.00 | Increase |
| Solicitation No. 08000 - OEM Parts and Service for Allison Transmissions - Department of General Services, Fleet Management Division - P.O. No. P508438 | | |

On June 3, 2009, the Board approved the initial award in the amount of \$400,000.00. Additional funds are necessary due to an increase in the use of parts and service for Allison Transmissions. This increase in the amount of \$300,000.00 will make the award amount \$700,000.00.

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

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 the equipment and/or service is recommended.

6. INERGY PROPANE d/b/a

UNITED PROPANE	\$ 45,000.00	Increase
----------------	--------------	----------

 Solicitation No. 06000 - Propane Delivery - Department of Recreation and Parks - P.O. No. P516255

On February 25, 2011, the City Purchasing Agent approved the initial award in the amount of \$22,000.00. Subsequent actions have been approved. Authority is being requested to increase the contract due to increased usage beyond the original estimate. A new solicitation for propane (B50001944) will be opened on January 25, 2012. This increase in the amount of \$45,000.00 will make the total award amount \$108,750.00. The contract will expire on March 31, 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 the equipment and/or service is recommended.

MWBOO GRANTED A WAIVER.

7. WASTE EQUIPMENT SALES

& SERVICE, LLC,	\$1,000,000.00	Increase
-----------------	----------------	----------

 Solicitation No. B50001524 - OEM Parts and Services for FUSO Mitsubishi Trucks - Department of General Services, Fleet Management - P.O. No. P514834

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

On August 10, 2010, the Board approved the initial award in the amount of \$225,000.00. Subsequent actions have been approved. An increase is needed due to a higher than anticipated demand for parts and service under this contact, and to increase the contingency inventory. This increase in the amount of \$1,000,000.00 will make the total award amount \$1,725,000.00. The contract will expire on September 30, 2013.

MWBOO GRANTED A WAIVER.

- | | | |
|---|--------------|---------|
| 8. POWER & COMBUSTION,
INC. | \$600,000.00 | Renewal |
| Solicitation No. B50000251 - Provide Boiler Repair and Related Services - Agencies - Various - P.O. No. P501238 | | |

On January 16, 2008, the Board approved the initial award in the amount of \$491,445.00. The award contained two 1-year renewal options. Subsequent actions have been approved. This renewal in the amount of \$600,000.00 is for the period January 12, 2012 through January 11, 2013.

MWBOO SET GOALS OF 17% MBE AND 0% WBE

MBE: Horton Mechanical Contractors, 17%
Inc.

This is a requirements contract, therefore dollar amounts will vary.

MWBOO FOUND VENDOR IN COMPLIANCE.

- | | | |
|--|--------------|----------|
| 9. BELTWAY INTERNATIONAL | \$300,000.00 | Increase |
| Solicitation No. B50001092 - O.E.M. Parts & Service for International, GMC Heavy Duty, and Mack Trucks - Department of General Services - P.O. No. P509143 | | |

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

On July 15, 2009, the Board approved the initial award to Bob Bell Automotive Group in the amount of \$600,000.00 and Beltway International in the amount of \$500,000.00.

Subsequent increases have been approved to Beltway International. Additional funds are required due to an increase in the use of parts and service. This increase in the amount of \$300,000.00 to Beltway International will make the total award amount \$1,150,000.00.

MWBOO GRANTED A WAIVER.

- | | | |
|---|--------------|---------------------------|
| 10. DAS SOLUTIONS,
LLC | \$150,000.00 | Sole Source/
Agreement |
| Solicitation No. 08000 - MagnaDrive - Department of Public Works, Bureau of Water and Wastewater - Req. No. R590130 | | |

This requirement is specific for items which must be purchased from the authorized distributor of the original manufacturer. The vendor is the sole authorized distributor for the State of Maryland.

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

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|--|--------------|----------|
| 11. INTERSTATE TRUCK
EQUIPMENT, INC. | \$100,000.00 | Increase |
| Solicitation No. 06000 - OEM Parts and Service for Seagrave
Fire Apparatus - Department of General Services, Fleet
Management - P.O. No. P502097 | | |

On April 30, 2008, the Board approved the initial award in the amount of \$114,000.00. Subsequent actions have been approved. Additional funds are required due to an increase in the use of OEM Parts and Service for Service Fire Apparatus. The contract will expire on April 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 the equipment and/or service is recommended.

MWBOO GRANTED A WAIVER.

- | | | |
|---|--------------|---------|
| 12. ARC ENVIRONMENTAL,
INC. | \$100,000.00 | Renewal |
| Solicitation No. B50001310 - Services for Lead Testing -
Agencies - Various - Req. P512249 | | |

On February 17, 2010, the Board approved the initial award in the amount of \$40,950.00. The award contained two 1-year renewal options. This renewal in the amount of \$100,000.00 is for the period February 15, 2012 through February 14, 2013, with one 1-year renewal option remaining.

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

13. VERIZON SELECT SERVICES, INC.	\$1,100,000.00	Sole Source
Solicitation No. 08000 - Enhanced 911 Service - Police Department - Req. No. R592179		

The vendor is the sole provider of Enhanced 911 Service in Maryland and is regulated by the Maryland Public Service Commission.

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

(FILE NO. 55899)

14. CORRELLI, INC.	\$1,000,000.00	
FLEETPRIDE	0.00	
WASTE EQUIPMENT	0.00	
	<u>\$1,000,000.00</u>	Increase
Solicitation No. B50000020 - Aftermarket Parts and Service for Heavy Equipment - Department of General Services, Fleet Management - P.O. No. P507301		

On October 10, 2007, the Board approved the initial award to Correlli, Inc. in the amount of \$1,000,000.00, Fleetpride in the amount of \$1,000,000.00 and Waste Equipment in the amount of \$1,000,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. Additional funds are required for Correlli, Inc. due to an increase use of aftermarket parts and service for heavy equipment from the vendor. This increase in the amount of \$1,000,000.00 will make the award amount for Correlli, Inc. \$3,350,000.00.

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|---|--------------|---------|
| 15. NULINX INTERNATIONAL,
INC. | \$ 36,000.00 | Renewal |
| Solicitation No. 08000 - COPA-Web-based Software Package -
Department of Housing and Community Development - Req. No.
R579957 | | |

On January 12, 2011, the Board approved the initial award in the amount of \$36,000.00. The award contained four 1-year renewal options. This renewal in the amount of \$36,000.00 is for the period January 12, 2012 through January 11, 2013, 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 the equipment and/or service is recommended.

- | | | |
|---|--------------|----------|
| 16. ASSOCIATED BUILDING
MAINTENANCE CO., INC. | \$ 16,560.00 | Increase |
| Solicitation No. B50001546 - Provide Janitorial Services for
Area A - Police Department and Department of General Services
- P.O. No. P515606 | | |

On November 24, 2010, the Board approved the initial award in the amount of \$461,556.00. The award contained an option to renew. Subsequent actions have been approved. This increase is for additional services for City Hall. This increase in the amount of \$16,560.00 will make the award amount \$1,401,228.00. The contract will expire on November 2, 2013.

MBE: CJ Maintenance 17%
WBE: My Cleaning Service 9%

This is a requirements contract, therefore dollar amounts will vary.

MWBOO FOUND VENDOR IN COMPLIANCE.

BOARD OF ESTIMATES

01/11/2012

MINUTES

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>		
17. BALTIMORE AUTO SUPPLY	\$350,000.00	
UNI-SELECT USA, INC.	\$ 0.00	
PARTS AUTHORITY SOUTHERN	\$ 0.00	
GLOBE ELECTRIC	\$ 0.00	
SALVO LIMITED PARTNERSHIP	\$ 0.00	
QUALITY AUTOMOTIVE	\$ 0.00	
WAREHOUSE		
CRW PARTS	\$ 0.00	
ROK BROTHERS, INC.	\$ 0.00	
SERVICE PARTS d/b/a	\$ 0.00	
PAPA AUTO PARTS		
FLEETPRIDE, INC.	\$ 0.00	
	<u>\$350,000.00</u>	Increase

Solicitation No. B50001427 - Aftermarket Parts and Supplies for Cars and Light Trucks - Department of General Services - P.O. No. P514297

On June 30, 2010, the Board approved the initial award in the amount of \$695,000.00. The Board is requested to approve an increase in the amount of \$350,000.00 to Baltimore Auto Supply. With this increase, the total award amount will be \$1,045,000.00.

MWBOO GRANTED A WAIVER.

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|---------------|-------------|----------------------|
| 18. PSR, INC. | \$44,322.00 | Settlement Agreement |
|---------------|-------------|----------------------|
- Solicitation No. 06000 - IBM z10 Mainframe Agreement - Mayor's Office of Information Technology - Req. No. To be determined.

The Board is requested to approve and authorize execution of the settlement agreement with PSR, Inc.

On February 16, 2011, the Board approved the initial award in the amount of \$550,401.00. The Mayor's Office of Information Technology determined that there was no longer a need for this contract and subsequently, the Board approved termination of this contract for convenience on August 10, 2011.

(FILE NO. 57272)

UPON MOTION duly made and seconded, the Board approved the foregoing informal awards and increases and Extensions to Contracts. UPON FURTHER MOTION duly made and seconded, the Board approved and authorize execution of the agreements (item no. 3), NCS Pearson, Inc., (item no. 4) Parkson Corporation, (item no. 10) DAS Solutions, LLC, and (item no. 18, settlement agreement) PSR, Inc. The President **ABSTAINED** on items. Nos. 4, 10, and 18. The Comptroller **ABSTAINED** on item nos. 8 and 16.

BOARD OF ESTIMATES

01/11/2012

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

19. COLDSRING CO., INC.	\$500,000.00	Extension
Solicitation No. B50000874 - Baltimore City Weatherization Assistance Program - HVAC 2009 - Department of Housing and Community Development - P.O. No. P506282		

On January 14, 2009, the Board approved the initial award in the amount of \$400,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. However, MWBOO found the contractor in non-compliance with M/WBE goals on November 7, 2011, thus the contract will not be renewed. An extension is needed to allow time to rebid this requirement. The period of the extension is January 14, 2012 through April 13, 2012.

MWBOO SET GOALS OF 27% MBE AND 7% WBE.

MBE: DW Plumbing	\$ 4,610.00	0.76%
Noah's Plumbing	\$ 9,050.00	1.49%
BMC Services	\$ 5,900.00	0.97%

WBE: Cleo Services	\$11,565.00	1.9%
---------------------------	-------------	------

MWBOO FOUND VENDOR IN NON-COMPLIANCE.**A PROTEST WAS RECEIVED FROM COLDSRING COMPANY, INC.**

President: "The third item on the non routine agenda can be found on Page 90, item number 19, Solicitation No. B50000874, Baltimore Weatherization Assistance Program HVAC 2009. Will the parties please come forward?"

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mr. Mazza: "Good morning Mr. President, members of the Board. My name is Joe Mazza, I am the City Purchasing Agent, and the Bureau of Purchases recommends the award of Solicitation No. -- excuse me recommends an extension of Solicitation No. B50000874 Baltimore City Weatherization Assistance Program and that extension period is from January 14, 2012 through April 13, 2012, in the approximate amount of \$500,000.00."

Mr. Dashiell: "Good morning again Mr. President. Madam Mayor, members of the Board. I am Robert Dashiell again. I represent the Coldspring Company. I thought Mr. Scott, Mr. Scott is seated over there in the chair. He might come forward since the matter applies to him. My understanding is that the only -- is that the reason the Department the Bureau of Purchasing has not elected not to renew Coldspring's contract and opts to rebid the work subject to the approval of the extension that purchasing has requested today, is because of the impression, the understanding that the Coldspring Company failed to achieve the required MBE and WBE participation from the date of the original award through October 2011, that's my understanding of the -- Mr. Mazza has confirmed that in a conversation yesterday. I want to I apologize for not giving you a 20 page piece of paper. I don't have 20 pages, but I do want to add --."

MINUTES

City Solicitor: "That's Mr. Livingston job he does that, he is the 20 page guy."

Mr. Dashiell: "I do want to I do just want to have you look at, if you will, a copy of an email and an attachment that I sent to Ms. Williams office yesterday which pretty much summarizes and very succinctly the position that Coldspring has on the matter. Coldspring was never notified by Ms. Williams' office of any deficiency number one; but more importantly to the extent that Coldspring was deficient in its MBE or WBE utilization; it resulted solely from the fact that the City did not pay them. The City, the Bureau of Purchasing, the record on timely payment and full payment to Coldspring is horrendous. They were never paid in full or on time from day one. In fact there is several hundred thousand dollars in approved unpaid invoices outstanding even as we speak. Now under the ordinance, most people think and the way that it is always is that the bidder and or the contractor has a responsibility, but the fact of the matter is, under the ordinance, the City has a responsibility. The responsibility of the user agency under Title V, Section 28 they have a responsibility to see that the contractor gets paid within 30 days. That is number one. That is a condition precedent to the contractor's obligation to pay the subcontractor within seven days. Ms. Williams's office also has

BOARD OF ESTIMATES

01/11/2012

MINUTES

an obligation to notify both the contractor of any alleged deficiency. The contractor, Coldspring is only responsible for a deficiency if its failure was unjustified. How can its failure not be justified if it is not being paid? The fact is, Coldspring here and you will see from the attachment, Coldspring spent significantly more money than what appears in the agenda to MBE's and WBE's. Most of that money was advanced by Coldspring at a time when it wasn't even required to pay it. Coldspring spent half of that money buying materials and equipment that the subcontractors were supposed to furnish which they didn't have the money to furnish because they hadn't been paid, because Coldspring hadn't been paid. Coldspring's - Coldspring's failure if it was to achieve the goal clearly resulted and resulted solely from the fact that it has and never was paid in a timely way by the City and the statute does not permit the City in my judgment to take adverse action based upon that failure and as I said initially, my understanding is, but for the impression, or but for the assertion that Coldspring failed to achieve its goal this matter wouldn't even be on the agenda, because the contract would have been renewed for an additional year, as it had been the year previously. So, this is a situation where if there has been a breach of contract, it wasn't Coldspring that breached a contract. It was the City that

MINUTES

breached a contract by not paying, by not paying the company. Let me just get it all now, because that is not the only way -- this thing, the way this contract has been with all due respect, the way this contract has been administered, it is almost like it was designed to fail. In the middle of the contract, the City changed the wage scale from a living wage scale to the application of Davis Bacon. That adjustment almost doubled the payroll cost for all the employees. Not just Coldspring, but the employees of the subcontractors. Guess who has paid that to date? Coldspring, no adjustment has yet been made in the amount of its contract paid to Coldspring by the City. They have been arguing about that for several months now Mr. Scott will tell you. So, here you've got non-payment, slow payment, no payment and now an extra bill and unfunded liability that Coldspring has also had. If it wasn't for the fact that Coldspring apparently had a considerable amount of working capital, I don't even know how it could it have afforded to perform on this contract. Coldspring is not at fault here. If it has failed to meet its' MBE and WBE goals, it is only because it wasn't paid, only because it was placed an additional financial burden, unfunded financial burden by the City, and its contract should be renewed and its work and effort should be applauded, really, rather than be penalized by not having its contract renewed. Thank you."

BOARD OF ESTIMATES

01/11/2012

MINUTES

President: "But what's before us today is an extension."

Mr. Dashiell: "Yes, Mr. President."

President: "So, if we don't vote for this extension he doesn't have any work."

Mr. Dashiell: "Yes. But the point I am trying to make is this, Mr. Mazza, he will correct me if I am wrong. If the Board finds that Coldspring was not in default of its MBE obligations, Mr. Mazza and Purchasing would renew the contract, which would void the need for the extension."

President: "Well that is not before us right now, is what I am trying to make."

Mr. Dashiell: "But my point is, if we deal with the MBE issue today, I think Purchasing will withdraw the request for the extension and simply renew the contract as it had previously. I could be wrong. I am not trying to put words in Mr. Mazza's mouth."

Director of Public Works: "If I may ask. Isn't a renewal--."

President: "Can you talk into the mic?"

Director of Public Works: "Sorry. Isn't a renewal at the option of the City?"

Mr. Dashiell: "Yes."

City Solicitor: "And wouldn't the City, wouldn't it be appropriate for the City in determining whether or not to renew

MINUTES

to take into consideration the fact that of the 2.6 million dollars that Coldspring has received, it has actually only paid to WBE's 1.6% according to your submittal rather than 7%, and I understand that you said there are reasons why the numbers are so long, but they are quite low."

Mr. Dashiell: "Mr. Nilson, the fact that there is a reason, not just a reason but a justifiable reason under the ordinance is critical. We are not just talking about somebody who missed the goal. We are talking about there being a justifiable reason and that is what this is all about; whether or not the reason is justifiable, and my position is, that the ordinance requires that it be justifiable."

City Solicitor: "Well."

Mr. Mazza: "If I may. The MBE goal I probably getting into Shirley's area here. The MBE goal applies to the amount of money that you are paid. The amount of money that the prime is paid a certain fraction of that money should be work that is awarded to minority vendors. If a prime is not paid, the City doesn't expect them to pay any money to the minority. The fact is --."

City Solicitor: "At least not with regard with the unpaid amount."

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mr. Mazza: "Right, the unpaid amount. Now in this case by its own admission Coldspring provided us information yesterday, that of the \$2,600,000.00 that they were paid, timely or not, only 11.7% of that went to MBE's and only 1.6% of that went WBE's, and the goals are 17% which was missed by 6%, and 7%."

President: "Mr. Mazza, we are going to vote on what is before us and I would encourage that you all talk about this, because we can only vote on what is before us and that's to extend the contract for four months."

Mr. Dashiell: "May I just make one final point Mr. President. This is a requirement's contract. It's not building a building, so whether or not you meet the goal, you have to look at it as the contract progresses. The reason why, non-payment means you got no subs. If you don't have subs that mean you have got to do the work with your own forces. The minute you do that, you automatically cause the amount of money paid you to get out of kilter with the amount that you are supposed to paying a sub-contractor. One thing leads to the other, and as I said, if I am wrong about not my assumption but what I was told by Purchasing, which is that, if the Board found that Coldspring was not in default, Purchasing would be renewing the contract and not asking this extension, then I have no argument. If Purchasing says, we don't want to award the contract -- we don't

BOARD OF ESTIMATES

01/11/2012

MINUTES

want to renew Coldspring's contract for any reason other than the one that is wrong, I have no argument. But what they said to the Board and what they said to my client was, the only reason we are not renewing it, is because you defaulted on your MBE goals, and that is the only reason we are here."

President: "Mr. Mazza, once we do this extension, it will go out to bid again. Am I correct?"

City Purchasing Agent: "That's the purpose of the extension. To allow us time to bid."

President: "And he has an opportunity to rebid on this job?"

Mr. Mazza: "Yes sir."

City Solicitor: "But you might not want to take advantage of this if his experience has been as bad as Mr. Dashiell's says, but he does have that opportunity absolutely right."

President: "Okay. Well I am going to entertain a Motion."

City Solicitor: "I MOVE to reject the protest and approve the extension."

Director of Public Works: "Second."

Comptroller: "Second."

President: "All those in favor say AYE. Those opposed NAY. The Motion carries."

Mayor: "And please NOTE my abstention. My abstention, it has already been stated."

MINUTES

President: "Please NOTE the Mayor **Abstains**. Would you get with them and just to try to figure something out?"

Mr. Mazza: "Yes Sir."

* * * * *

HJM HARRIS JONES & MALONE, LLC

2423 MARYLAND AVENUE
SUITE 100
BALTIMORE, MARYLAND 21218

LISA HARRIS JONES
DIRECT DIAL: (410) 366-1500
FAX NUMBER: (410) 366-1501
lisa.jones@mdlobbyist.com

December 20, 2011

VIA HAND DELIVERY

City of Baltimore Board of Estimates:

Mayor Stephanie Rawlings-Blake
City Hall, Room 250
100 North Holliday Street
Baltimore, Maryland 21202

City Council President Bernard C. "Jack" Young
City Hall, Room 400
100 North Holiday Street
Baltimore, Maryland 21202

Joan M. Pratt, Comptroller
City Hall, Room 204
100 North Holliday Street
Baltimore, Maryland 21202

George Nilson, City Solicitor
City Hall, Room 101
100 North Holiday Street
Baltimore, Maryland 21202

Al Foxx, Director
Department of Public Works
200 N. Holliday Street, Room 600
Baltimore, Maryland 21202

Re: Solicitation No. B5000874 – Baltimore City Weatherization Assistance Program – HVAC 2009 – Department of Housing and Community Development – P.O. No. P506282

Dear Mister President and Members of the Board of Estimates:

This office represents Coldspring Co., Inc. ("Coldspring") with respect to Solicitation No. B5000874/ P.O. No. P506282 (the "Contract"), referenced above. On behalf of Coldspring, we hereby protest item number 16 on the Board of Estimates' (the "Board") agenda for December 21, 2011.

Coldspring was neither on notice that the Contract would be terminated, nor that this item would be discussed at the December 21, 2011 meeting of the Board. Coldspring would appreciate an opportunity to address the Board with respect to its M/WBE compliance under the Contract. However, due to the truncated timeframe, we will not have sufficient time to prepare in advance of tomorrow's meeting.

Due to the lack of notice and the limited time to prepare, we request that this item be deferred to the next Board meeting scheduled for January 11, 2012.

Respectfully Submitted,



Lisa Harris Jones

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mayor's Office of Human Services - Agreements and Memoranda of
Homeless Services Program Understanding

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

1. **ASSOCIATED CATHOLIC CHARITIES, INC. (ACC) \$ 14,649.00**

Account: 5000-525112-3573-333751-603051

The ACC will hire a Case Manager to provide services to approximately 14 residents of the Holden Hall Single Room Occupancy located at 761 W. Hamburg Street. The services will include but not be limited to assisting residents in making a successful transition from homelessness through life skills training, provision of basic needs, and employment services.

2. **SAINT VINCENT DE PAUL OF BALTIMORE, INC. (SVDP) \$115,300.00**

Account: 5000-523112-3571-333729-603051 \$ 57,796.00
 5000-529112-3572-333729-603051 \$ 57,504.00

The SVDP will assist approximately 28 chronically homeless men and women in accessing and sustaining permanent housing settings. The services will include eviction prevention, identifying affordable units, accessing housing subsidies, assisting with lease agreements, securing furnishings, etc. Once housed, the SVDP will provide intensive case management.

MWBOO GRANTED A WAIVER.

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

3. **SAINT VINCENT DE PAUL OF SOCIETY (SVDP)** **\$ 63,558.00**
- | | | |
|----------|--------------------------------|--------------|
| Account: | 5000-523112-3571-333729-603051 | \$ 14,017.00 |
| | 5000-529112-3572-333729-603051 | \$ 49,541.00 |

The SVDP will assist approximately 32 chronically homeless men and women and assist them in accessing housing and related services. The SVDP will provide emergency services, counseling, crisis-intervention, information, health services, legal services, mental health services and referrals, and a meal program to chronically homeless individuals in Baltimore City.

MWBOO GRANTED A WAIVER.

4. **UNIVERSITY OF MARYLAND, BALTIMORE, (UMB)** **\$ 15,631.00**

Account: 4000-431309-3570-564057-603051

The UMB's Office of Substance Abuse Studies will provide an evaluator who provides research and evaluation services for the Substance Abuse and Mental Health Services Administration (SAMHSA) Homeward Bound Housing First Project. Under this contract, the evaluator will finalize the process and outcome evaluations of the Housing First project funded by the SAMHSA. The evaluator will provide implementation and process and outcome evaluation of this program. The period of the agreement is September 30, 2011 through March 9, 2012.

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

5. **GOVANS ECUMENICAL DEVELOPMENT CORPORATION (GEDCO)** **\$ 93,486.00**

Account:	5000-525112-3573-333750-603051	\$ 73,805.00
	5000-523112-3571-333750-603051	\$ 19,681.00

GEDCO will provide linkage to services and advocacy counseling to individuals moving from homelessness to housing and are residing at Harford House Single Room Occupancy (SRO) located at 1517 E. North Avenue or the Micah House SRO, located at 5207 York Road. The services will be provided to 59 men and women at any given point in time.

MWBOO GRANTED A WAIVER.

6. **BALTIMORE CITY DEPARTMENT OF SOCIAL SERVICES (BCDSS)** **\$ 19,548.00**

Account: 5000-529112-3572-333717-603051

The BCDSS will provide a secure, temporary and safe environment for vulnerable and frail families and individuals who are not able to utilize the traditional shelter system because of situational issues; e.g. communicable illness, families too large to go to shelter, single men with children, disability, families and children requiring emergency placement due to unexpected emergencies or during winter emergencies and other disasters. The BCDSS will also provide transportation vouchers and bus passes, when available to homeless persons or families thus ensuring ready access to immediate safe and secure shelter systems.

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

7. **BALTIMORE CITY DEPARTMENT OF SOCIAL SERVICES (BCDSS)** **\$196,056.00**

Account: 5000-523112-3571-333717-603051

The BCDSS will provide crisis intervention and direct grants to low income families and individuals to prevent eviction. The funding is designated for eviction prevention grants for tenants who demonstrate that with the help of the grant and their ability to pay future rent, they are able to maintain their housing and avoid homelessness. A tenant with a court-ordered eviction may receive up to \$700.00 during fiscal year 2012 to pay back rent and rent related fees.

MWBOO GRANTED A WAIVER.

8. **METROPOLITAN BALTIMORE QUADEL CONSULTING CORPORATION, SUBSIDIARY OF QUADEL CONSULTING CORPORATION (QUADEL)** **\$238,534.00**

Account: 4000-490912-3573-333686-603051

Quadel will provide two full-time equivalent (FTE) inspectors to complete inspection work of housing units used to provide housing for formerly homeless clients of the MOHS. Additionally, the MOHS will provide one FTE inspector who will remain an employee of the MOHS, but will work under the direction of Quadel.

MWBOO GRANTED A WAIVER.

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

9. **ECHO HOUSE MULTI SERVICE CENTER, INC.** **\$18,800.00**
(ECHO HOUSE)

Account: 5000-523112-3571-333738-603051

Echo House will use the funds to provide comprehensive assessment, crisis intervention, financial assistance, case management, transportation, mediation of landlord/tenant conflicts, food, and referrals for homeless individuals and families in Baltimore City. The funds will be used for eviction prevention activities and may not be used for utility turnoffs or other emergency situations involving energy payments.

10. **PROJECT PLASE, INC.** **\$72,240.00**

Account: 4000-496211-3573-267826-603051

Project PLASE, Inc. will provide housing and supportive services to approximately ten homeless men and women with HIV/AIDS. Housing will be provided in ten Single Room Occupancy (SRO) units at the permanent housing facility located at 1814 Maryland Avenue. The organization will hire staff to provide support services to the clients to enable them to remain stable, connect with resources in the community, and maintain permanent housing. The period of the agreement is October 1, 2011 through September 30, 2012.

MWBOO GRANTED A WAIVER.

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

11. PROJECT PLASE, INC. \$170,954.00

Account: 4000-496211-3572-591426-603051

Project PLASE, Inc. will provide transitional housing and support services to approximately 12 single, medically fragile homeless individuals with HIV/AIDS, who reside at the transitional housing facility located at 1814 Maryland Avenue. In addition, these individuals also have histories of substance abuse and/or chronic mental illness. The support services will enable the clients to remain stable, connect with resources in the community, and access long-term or permanent housing. The period of the agreement is October 1, 2011 through September 30, 2012.

MWBOO GRANTED A WAIVER.

The agreements are late because of delays at the administrative review level.

MEMORANDA OF UNDERSTANDING (MOU)

12. HOWARD COUNTY HOUSING COMMISSION \$223,522.00

Account: 4000-490811-3573-267875-603051

The period of the MOU is July 1, 2010 through June 30, 2013.

BOARD OF ESTIMATES

01/11/2012

MINUTES

Mayor's Office of Human Services/ - cont'd
Homeless Services Program

13. **HOWARD COUNTY HOUSING COMMISSION** **\$198,288.00**

Account: 4000-490912-3573-333675-603051

The period of the MOU is July 1, 2011 through June 30, 2014.

Howard County will comply with all the terms expressed in 24 CFR Part 574, Housing Opportunity for Persons With Aids (HOPWA) Rules and Regulations. Through these MOUs, Howard County will provide intensive case management services and short-term rental assistance to eligible HIV/AIDS clients of Howard County, assigning sufficient staff to the HOPWA program related to the administration of the program.

The MOUs are late because the Department recently received the signed MOUs from Howard County.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED (ITEM NOS. 1-5 AND 8-11) AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the various agreements and the memoranda of understanding. The Comptroller **ABSTAINED** on item no. 9.

BOARD OF ESTIMATES

01/11/2012

MINUTESDepartment of Recreation and Parks - On-Call Task Assignment**ACTION REQUESTED OF B/E:**

The Board is requested to approve task assignment no. 003, to GWWO, Inc. under Project No. 1164, On-Call Architectural Design Services.

AMOUNT OF MONEY AND SOURCE:

\$182,437.00 - 9938-904744-9474-000000-703032

BACKGROUND/EXPLANATION:

GWWO, Inc will perform the final design services for the Clifton Park Recreation Center Gymnasium.

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

THE TRANSFER OF FUNDS FOR THIS TASK ASSIGNMENT, IN THE AMOUNT OF \$185,000.00, WAS APPROVED BY THE BOARD ON NOVEMBER 16, 2011.

UPON MOTION duly made and seconded, the Board approved task assignment no. 003, to GWWO, Inc. under Project No. 1164, On-Call Architectural Design Services.

BOARD OF ESTIMATES

01/11/2012

MINUTESPersonnel - Department of General Services

The Board is requested to approve and authorize execution of the following agreement. The period of the agreement is effective upon Board approval for one year.

	<u>Hourly Rate</u>	<u>Amount</u>
JAN M. WALECKA	\$40.91	\$75,000.00
Accounts: 9916-903052-9197-910098		\$25,000.00
9916-908170-9197-910098		\$35,000.00
9916-909910-9197-910098		\$15,000.00

Ms. Walecka will work as an Architectural Construction Projects Management Specialist. Her duties will include but not be limited to managing multiple and ongoing specialty architectural designs as well as construction contracts for municipal buildings and facilities. Ms. Walecka will provide direction in master planning architectural and financial aspects and represent the Department with City, State and Federal agencies to provide architectural project management services on complex, LEED certified projects. The LEED certified projects will include scoping, design, and engineering as well as through the construction phase. She will ensure design compliance with applicable standards and specifications with City, State and Federal agencies. Ms. Walecka will interface with the agencies and contractual representatives for authorization of changes or payment services.

The Personnel matter has been approved by the Expenditure Control Committee.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with Ms. Jan M. Walecka.

MINUTES

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.

Bureau of Water and
Wastewater

- SC 8526, Sludge Digester
Facilities at the Back River
Wastewater Treatment Plant
BIDS TO BE RECV'D: 01/18/2012
BIDS TO BE OPENED: 01/18/2012

Bureau of Water and
Wastewater

- WC 1203, Various Locations,
Infrastructure Rehabilitation
for the M&CC of Baltimore
BIDS TO BE RECV'D: 01/18/2012
BIDS TO BE OPENED: 01/18/2012

Bureau of Water and
Wastewater

- SC 884, Roof Replacement of
Shop and Maintenance Facility
At Back River Wastewater
Treatment Plant
BIDS TO BE RECV'D: 01/25/2012
BIDS TO BE OPENED: 01/25/2012

BOARD OF ESTIMATES

01/11/2012

MINUTES

- | | |
|---------------------------------------|---|
| <u>Bureau of Water and Wastewater</u> | <ul style="list-style-type: none"> - WC 845R, Nitrification Filters and Related Work for the Enhanced Nutrient Removal Facilities at PWWTP <u>BIDS TO BE RECV'D: 02/01/2012</u> <u>BIDS TO BE OPENED: 02/01/2012</u> |
| <u>Bureau of Water and Wastewater</u> | <ul style="list-style-type: none"> - WC 7760, Leakin Park Stream Restoration at Fairmount Storm Drain <u>BIDS TO BE RECV'D: 01/25/2012</u> <u>BIDS TO BE OPENED: 01/25/2012</u> |
| <u>Dept. of Transportation</u> | <ul style="list-style-type: none"> - TR 12009, Dredging the Inner Harbor Water Channels <u>BIDS TO BE RECV'D: 01/18/2012</u> <u>BIDS TO BE OPENED: 01/18/2012</u> |
| <u>Dept. of General Services</u> | <ul style="list-style-type: none"> - PB 10866, Canton Library No. 4, Renovations <u>BIDS TO BE RECV'D: 01/25/2012</u> <u>BIDS TO BE OPENED: 01/25/2012</u> |
| <u>Bur. of Purchases</u> | <ul style="list-style-type: none"> - B50002190, Disparity Study for the City of Baltimore <u>BIDS TO BE RECV'D: 01/25/2012</u> <u>BIDS TO BE OPENED: 01/25/2012</u> |

BOARD OF ESTIMATES

01/11/2012

MINUTES

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

Department of Transportation - TR 09303, Rehabilitation of West Baltimore Trail and Implementation of Pedestrian Improvements, Edmondson Avenue and Pulaski Street

Allied Contractors, Inc.
Machado Construction Co. Inc.
Civil Construction, LLC
Monumental Paving and Excavating, Inc.

Department of Transportation - TR 12008, Resurfacing Highways at Various Locations Citywide
Emergency JOC III

M. Luis Construction, Co.
P. Flanigan & Sons

Bureau of Purchases - B50002211, Fiber Optic Cable Installation, Maintenance and Repair Services

VT Group Integrated Solutions a/k/a
VT Milcom, Inc
Highlander Contracting Company, LLC
KCI Technologies
Intelect Corporation
James Communications, Inc.

MINUTES

<u>Bureau of Purchases</u>	- <u>B50002216, Request for Offers to Provide Dog Food & Supplies</u>
----------------------------	---

THERE WERE NO BIDS RECEIVED.

<u>Bureau of Purchases</u>	- <u>B50002236, Office Moving Services</u>
----------------------------	--

*Moving Masters, Inc.
 Walters Relocation, Inc.
 Allen & Son Moving Storage, Inc.

UPON FURTHER MOTION, the Board found the bid of Moving Masters, Inc. (R&A Movers, Inc.) **NON-RESPONSIVE** because of the company's failure to submit the bid in a timely manner as required in the bid instructions.

* * * * *

There being no objections, the Board UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, January 18, 2012.

JOAN M. PRATT
 Secretary