

MINUTES**REGULAR MEETING**

Stephanie Rawlings-Blake, President
Sheila Dixon, Mayor
Joan M. Pratt, Comptroller and Secretary
George A. Nilson, City Solicitor
David E. Scott, Director of Public Works
Donald Huskey, 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.

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:

ACM Services, Inc.	\$ 8,000,000.00
Advanced Tank Services, Co.	\$ 1,500,000.00
Clark Construction Group, LLC	\$2,173,152,000.00
Diversified Environmental, Inc.	\$ 8,000,000.00
Fountain Craft Manufacturing Co.	\$ 1,150,000.00
Meadville Land Service, Inc.	\$ 21,582,000.00
Midlantic Marking, Inc.	\$ 7,476,000.00
North Point Builders, Inc.	\$ 8,000,000.00
Paniagua's Enterprises, Inc.	\$ 5,676,000.00
Poole & Kent Corporation	\$6,832,450,000.00
Sunryse Construction Services, Inc.	\$ 8,000,000.00
Total Environmental Concepts, Inc.	\$ 8,000,000.00

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:

AIA Engineering, Ltd.	Engineer
ECS Mid-Atlantic, LLC	Engineer
Floura Teeter Landscape Architects, Inc.	Engineer
Leach Wallace Associates, Inc.	Engineer
Sanders Designs, P.A.	Architect

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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 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. 300 N. Charles St.	Gala, LLC	Double face banner sign 6' x 3'
Annual Charge: \$140.60		
2. 723 S. Broadway	Riverfront, LLC	One bracket sign 43" x 22", one flat sign 6' x 1'
Annual Charge: \$ 87.90		
3. 21 S. Broadway	Heber I. Portillo	One flat sign 6'10" x 3'9", one barber pole
Annual Charge: \$ 87.90		
4. 4709 Harford Rd.	The Neighborhoods of Greater Lauraville, Inc.	Community identification sign

The sign will be placed in the median at the intersection between Woodbourne Ave. and Perring Pkwy. The association is a non-profit and it has been the City's practice not to charge for these signs.

Annual Charge: Waived

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Department of General Services - cont'd

	<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
5.	404 W. Saratoga Street	Robert Peters	Retain awning w/ signage 12' x 3', two spot reflectors four fluorescent tubes
	Annual Charge: \$1,247.80		
6.	420 S. Chester Street	Roman Catholic Archbishop of Baltimore	Two 5" conduit @ 50'
	Annual Charge: \$ 350.00		
7.	4530½ Harford Rd.	Luis F. Cabrera	Retain flat sign 16' x 2'
	Annual Charge: \$ 119.51		
8.	762 Washington Boulevard	Brownback Properties, LLC	Bracket sign 6.25 square feet
	Annual Charge: \$ 52.70		

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**CITY COUNCIL BILLS:**

09-0334 - An Ordinance concerning Repeal of Franchise - Private Bridgeway Above and Across the Bed of Hunter Street for the purpose of repealing Ordinance 05-31, approved May 16, 2005, which granted permission to Printers' Square Apartments Limited Partnership, to use and maintain a private enclosed bridgeway above and across the Hunter Street right-of-way; and providing for a special effective date.

ALL REPORTS RECEIVED WERE FAVORABLE. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SUPPORTS THE ADOPTION OF BILL NO. 09-0334 AND DEFERS TO THE REPORT OF THE PLANNING COMMISSION FOR FURTHER COMMENT.

09-0335 - An Ordinance concerning Repeal of Franchise - Private Bridgeway Above and Across the Bed of Hunter Street for the purpose of repealing Ordinance No. 05-32, approved May 16, 2005, which granted permission to Printers' Square Apartments Limited Partnership, to use and maintain a private enclosed 2-story bridgeway above and across the Hunter Street right-of-way; and providing for a special effective date.

ALL REPORTS RECEIVED WERE FAVORABLE. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SUPPORTS THE ADOPTION OF BILL NO. 09-0335 AND DEFERS TO THE REPORT OF THE PLANNING COMMISSION FOR FURTHER COMMENT.

UPON MOTION duly made and seconded, the Board approved City Council Bills Nos. 09-0334 and 09-0335 and directed that the bills be returned to the City Council with the recommendation that they also be approved and passed by that Honorable Body.

The President **ABSTAINED.**

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

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

1. Robert S. Smith	1001 N. Chester St.	F/S	\$215,250.00
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Funds are available in State funds, account no. 9910-906416-9588-900000-704040, EBDI Project Phase II.

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

Dept. of Housing and Community Development - Quick-takes

2. Home Sweet Home, LLC	2022 Ashland Ave.	F/S	\$15,300.00
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Funds are available in State funds, account no. 9910-906416-9588-900000-704040, EBDI Project Phase II.

3. Shawn Garrison and Varun Kumar Chawla	932 N. Chester St.	F/S	\$28,000.00
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Funds are available in State funds, account no. 9910-906416-9588-900000-704040, EBDI Project Phase II.

FILE NO. 56017

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

MINUTES

TRANSFERS OF FUNDS

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UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

3669 - 3671

SUBJECT to receipt of favorable reports

from the Planning Commission,

the Director of Finance having

reported favorably thereon,

as required by the provisions of the

City Charter.

Item no. 1 was **WITHDRAWN**.

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Housing and Community Development</u>		
1. \$280,000.00	9910-906979-9587-	9910-904418-9588-
28 th Comm.	655700-600000	900000-706063
Dev. Bonds	East Baltimore	EBDI Demolition
<p>This transfer will provide funds to East Baltimore Development Incorporated for boarding and cleaning vacant properties in the EBDI development area.</p>		
<u>Department of Recreation and Parks</u>		
2. \$ 30,000.00	9938-904793-9475	9938-904793-9474
Rec. & Parks	Reserve - City	Active - City Park
25 th Series	Parks Maintenance	Maintenance
<p>This transfer will provide funds to cover the costs associated with the Mount Clare Security Upgrades Project.</p>		
3. \$ 65,000.00	9938-904793-9475	9938-904793-9474
Rec. & Parks	Reserve - City	Active - City Park
25 th Series	Park Maintenance	Maintenance
<p>This transfer will provide funds to cover the costs associated with the upgrade of the water distribution system at Cylburn Arboretum under Purchase Order P505158.</p>		
4. \$110,000.00	9938-908779-9475	9938-908779-9474
Gen. Fund	Reserve - Druid Hill Park Pool & Bathhouse	Active - Druid Hill Park Pool & Bathhouse
	Renovation	Renovation
<p>This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1066, Task #15 to Hord Coplan Macht, Inc.</p>		

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Recreation and Parks - cont'd</u>		
5. \$ 35,000.00 State	9938-903795-9475 Reserve - Community Parks and Play- grounds FY'10	9938-903795-9474 Active - Community Parks and Play- grounds FY'10

This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1066, Task #16 to Hord Coplan Macht, Inc.

6. \$ 30,000.00 MVR	9938-907740-9475 Reserve - Jones Falls Greenway Phase V	9938-907740-9474 Active - Jones Falls Greenway Phase V
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This transfer will provide funds to cover the costs associated with design services under On-Call Contract No. 1064, Task #21 to Greenman-Pedersen, Inc.

7. \$110,000.00 MVR	9938-906757-9475 Reserve - Herring Run Greenway Phase I	9938-901751-9474 Active - Herring Run Greenway Phase I
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This transfer will provide funds to cover the costs associated with design service under On-Call Contract No. 1064, Task #22 to Greenman-Pedersen, Inc. and reconcile the account's deficit.

MINUTES

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Transportation</u>		
8. \$ 58,840.36 MVR	9950-902363-9509 Const. Res. - Sinclair Lane over CSX	9950-901363-9508-3 Design & Studies Rehab. of Sinclair Lane Bridge over CSXT RR

This transfer will cover the costs associated with the assignment of Task #6 on Project 1003 to DMJM Harris for the additional engineering towards the design of the project.

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Health Department - Grant Agreements and Agreements and
Declarations of Covenants and Restrictions

The Board is requested to approve and authorize execution of the various agreements for the Lead Abatement Action Program.

1. **HOLABIRD INVESTMENTS, LLC** **\$7,750.00**

The property is located at 828 Woodward Street.

2. **HOLABIRD INVESTMENTS, LLC** **\$7,820.00**

The property is located at 1274 Washington Boulevard.

Account: 4000-428008-3050-282900-603026

The City has received grant funds from the Department of Housing and Urban Development for certain lead hazard reduction activities, as outlined in the regulations for the Federal Lead Hazard Reduction Program.

Holabird Investments, LLC has applied to the City for a grant to undertake the lead hazard reduction work on the above listed properties. The grantee's contribution of 20% of the total project cost will be deposited into a non-interest bearing account of the City, and disbursed by the City to the Certified Contractor or other parties due payment, in accordance with the construction contract and the agreement.

Holabird Investments, LLC or its certified contractor will perform the services and provide materials for the project on the properties and agrees that the project will be subject to occupancy and rental covenants and restrictions in the form required by the City for a three year period from the time the lead hazard reduction work is completed.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant agreements with the Holabird Investments, LLC for the Lead Abatement Action Program.

BOARD OF ESTIMATES

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MINUTES

Health Department - Employee Expense Report Reimbursement

The Board is requested to approve and authorize a reimbursement of employee expenditures to Madeleine Shea.

AMOUNT OF MONEY AND SOURCE:

<u>Month</u>	<u>Amount</u>
April 2009	\$14.85 - 1001-000000-3050-279700-603002
May 2009	19.25 - 1001-000000-3050-279700-603002
May 2009	34.60 - 1001-000000-3050-279700-603003
Total	\$68.70

BACKGROUND/EXPLANATION:

Ms. Shea's Employee Expense Statements were submitted on time but were misplaced during the in-house routing process.

An employee expense statement must be received by the Bureau of Accounting and Payroll Services within 40 workdays from the last calendar day of the month in which the expenses were incurred. Expenses submitted after that time will not be reimbursed without written approval of the Board (AM-240-11). The Department is requesting approval to reimburse the employee.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTIONS.

UPON MOTION duly made and seconded, the Board approved and authorized a reimbursement of employee expenditures to Madeleine Shea.

BOARD OF ESTIMATES

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MINUTES

Health Department - Agreements

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

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

1. **GOODWILL INDUSTRIES OF THE CHESAPEAKE** **\$0.00**
INC./GOODWILL - NORTH

The period of the agreement is July 1, 2009 through June 30, 2010.

2. **PENNSYLVANIA AVENUE REDEVELOPMENT** **\$0.00**
COLLABORATIVE, INC.

The period of the agreement is September 1, 2009 through June 30, 2010.

The above-listed organizations will serve as host agencies for the Senior Community Service Employment Program. This program provides part-time work experience or volunteer service opportunities for persons, aged 55 years or older, with no upper age limitation. The placement of Senior Citizen Aides in non-profit or governmental agencies will allow those agencies to provide services that would otherwise not be available because of the lack of funds.

The agreements are late because they were just finalized.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the various agreements for the Senior Community Service Employment Program.

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Health Department - Agreements

The Board is requested to approve and authorize execution of the various agreements. The period of the agreement is July 1, 2009 through June 30, 2010.

1. **BALTIMORE HEALTH CARE ACCESS, INC.** **\$ 50,000.00**

Account: 4000-422810-3080-294200-603051

The organization will partner with Baltimore Medical System to provide a medical home for uninsured pregnant women within their communities where they can access proper and timely care. This will reduce the dependence on hospital emergency rooms for non-emergency services. The Salud Desde el Principio/Health from the Start Program will include a clearly defined set of services and provide culturally sensitive interpreters who will attend the necessary appointments with the pregnant women.

2. **SISTERS TOGETHER AND REACHING, INC.** **\$ 50,000.00**
 (STAR)

Account: 4000-422010-3030-273142-603051

The organization will increase HIV testing opportunities by providing linkages to care and increase the use of clinical and preventive services to 1,000 high risk clients who are unaware of their HIV status. STAR will provide staffing, social marketing and purchase materials for HIV Oraquick confidential counseling and testing through the NIA III mobile unit during traditional and non-traditional hours.

The agreements are late because of delays in the budget process and the development of the scope of work.

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Health Dept. - cont'd

3. CHASE BREXTON HEALTH SERVICES, INC. \$ 49,348.00

Account: 4000-424510-3040-278119-603051

The organization will provide substance abuse treatment to patients living with HIV/AIDS related illnesses to access and maximize treatment and improve their physical and emotional health, support the patient, and assist with behavioral changes so that substance use can be reduced and eliminated.

4. CHASE BREXTON HEALTH SERVICES, INC. \$ 64,326.00

Account: 4000-424510-3040-278118-603051

The organization will provide ongoing medical case management services to HIV+ individuals seeking medical care. It will provide initial intakes, care planning, ongoing monitoring and follow-up with all HIV positive clients, identify real and perceived barriers to health care, and develop plans to address and overcome these concerns.

5. CHASE BREXTON HEALTH SERVICES, INC. \$ 40,000.00

Account: 4000-424510-3040-278127-603051

The organization will provide dental health care to HIV positive residents of Baltimore City for uninsured and underinsured HIV positive individuals, to whom access to and availability of quality services is limited. The period of the agreement is July 1, 2009 through June 30, 2010.

This agreement is late because budget revisions delayed processing.

MINUTES

Health Department - cont'd

7. **UNIVERSITY OF MARYLAND, BALTIMORE (UMB)** **\$141,125.00**

Account:	4000-452608-2010-210701-603051	\$ 35,000.00
	4000-423110-3150-307900-603051	\$106,125.00

The UMB will complete the partially drafted Citywide pandemic flu response plan, convene meetings with City agencies as needed to update/revise City agency pandemic flu plans, and write brief protocol for the City's Health Department Incident Command on setting up an alternative Health Operation Center in an emergency. The UMB will continue to assist with Continuity of Operations Planning. The UMB will also plan maintenance and promotion of the planning initiative through the City's Health employee orientations and other avenues, assist in development/drafting of City medical surge plan, attend emergency preparedness meetings at the request of the Office of Public Health Preparedness and Response (OPHPR) Director, and participate in emergency preparedness and response training at the request of the OPHPR Director.

This agreement is late because it was recently returned to the Department from the provider.

MWBOO GRANTED A WAIVER.

8. **THE JOHN HOPKINS UNIVERSITY (JHU)** **\$ 22,371.00**

Account: 4000-422609-3030-273000-603051

The JHU will partner with the Department for the Sexually Transmitted Disease (STD) Surveillance Network. The principal investigator will represent the project on all conference calls with the other project sites as they occur. Attend STD surveillance network meeting, supervise

MINUTES

Health Dept. - cont'd

the activities of the STD Surveillance network epidemiologist and ensure that all data and reports are provided to the Centers for Disease Control (CDC) in accordance with the CDC specified deadlines. The period of the agreement is September 30, 2008 through September 29, 2009.

The agreement is late because the grant was recently received.

9. **VINCENT T. COVELLO, PH. D.** **\$ 4,590.20**

Account: 4000-423109-3150-307900-603020

Dr. Covello, PH. D. will conduct a one-day Health Risk and Crisis Communication Training that includes anthrax or pandemic flu examples for group discussion. The training will address the science of risk communication, risk perception, trust determination, critical criteria for effective risk communication, and message mapping in the context of public health. The period of the agreement is for one day beginning and ending on July 9, 2009.

The item is being presented at this time because revisions to the budget delayed processing.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

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Health Department - Grant Awards

The Board is requested to approve acceptance of the grant awards.

1. **MARYLAND STATE, DEPARTMENT OF EDUCATION** \$ 459,272.00

Account: 5000-585810-5750-668800-405001

These grant funds are provided under Part C, American Recovery and Reinvestment Act of 2009.

The grant funds will be used to support the Department's early intervention services through the Baltimore Infants and Toddlers Program, in accordance with the State of Maryland Infants and Toddlers Program/Preschool services for federal funds from Part C. The period of the agreement is July 1, 2009 through September 30, 2010.

2. **MARYLAND STATE, DEPARTMENT OF EDUCATION** \$ 2,105,437.00

Account: 4000-427110-3080-294300-400000

IDEA Part C	\$ 761,234.00
IDEA Part B	\$ 130,759.00
Part B (619)	\$ 9,000.00
State General Funds	\$ 1,204,444.00

These grant funds are provided for the Fiscal Year 2010 Consolidated Local Implementation for Part C, Part B, and Part B (619), of the Individuals with Disabilities Education Action (IDEA) and State General Funds.

The grant funds will be used to support the Department's early intervention services through the Baltimore Infants and Toddlers Program, in accordance with the State of Maryland Infants and Toddlers Program/Preschool services for federal funds from Part C, Part B, and Part B (619), of the IDEA and State General Funds. The period of the agreement is July 31, 2009 through September 30, 2010.

MINUTES

Health Department - cont'd

The grant awards are late because the Department recently received the notification of the grants from the grantor.

MBE/WBE PARTICIPATION:

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved the acceptance of the foregoing grant awards.

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Health Department - Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an agreement with Chateau Foghorn Limited Partnership. The period of the agreement is August 1, 2009 through March 31, 2010.

AMOUNT OF MONEY AND SOURCE:

\$ 0.00

BACKGROUND/EXPLANATION:

Chateau Foghorn Limited Partnership's Ruscombe Garden Apartments will serve as a volunteer station for the RSVP.

The RSVP has been funded since 1982 by the Corporation of National and Community Services (CNCS), an agency of the executive branch of the federal government.

The Department is awarded funds to pay administrative staff to arrange volunteer work with other non-profit, private agencies and organizations where services are performed by persons 55 years of age and over. The period of the agreement is April 1, 2009 through March 31, 2010.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with the Chateau Foghorn Limited Partnership. The President **ABSTAINED**.

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

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a land disposition and acquisition agreement with Ray Kunjal to exchange 1928 Perlman Place for 3703 W. Belvedere Avenue.

AMOUNT OF MONEY AND SOURCE:

The City agrees to pay for all settlement costs, not to exceed \$1,200.00 total.

9910-908087-9588-900000-704044

BACKGROUND/EXPLANATION:

<u>OWNER</u>	<u>PROPERTY</u>	<u>Block / Lot</u>
Ray Kunjal	1928 Perlman Place	4171 117

In exchange for:

<u>OWNER</u>	<u>PROPERTY</u>	<u>Block / Lot</u>
M&CC	3703 W. Belvedere Ave.	4575 019

Mr. Kunjal received notice of the City's intent to demolish his property at 1928 Perlman Place, which is part of the demolition of the entire block of 1900 Perlman Place. Because he was in the process of rehabbing the property, an exchange was proposed for the 1928 Perlman Place property with a comparable City owned property that is located in an area better suited for rehabilitation. Mr. Kunjal will deliver good and marketable title.

The City will convey 3703 W. Belvedere Avenue, which will contribute to the revitalization of the Park Heights community. As a condition of the exchange, Mr. Kunjal has agreed to rehabilitate the property at 3703 W. Belvedere Avenue within 18 months of the date of transfer.

MINUTES

DHCD - cont'd

The determination of comparability is based on an appraisal conducted for both 1928 Perlman Place and 3703 W. Belvedere Avenue, which determined that the properties are valued at \$7,400.00 and \$8,100.00, respectively.

The City will receive clear and marketable title to the property located at 1928 Perlman Place, in exchange for the comparable City property at 3703 W. Belvedere Avenue.

This exchange will allow the City to expeditiously demolish the severely blighted block of 1900 Perlman Place. The property exchange is less costly than acquiring the properties 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 the severity of blight on the 1900 block of Perlman Place could be successfully eliminated, while simultaneously ensuring that a willing and able developer could contribute to the revitalization of Baltimore City in an area better suited and poised for rehabilitation.

MBE/WBE PARTICIPATION:

N/A

FILE NO. 57083

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition and acquisition agreement with Ray Kunjal to exchange 1928 Perlman Place for 3703 W. Belvedere Avenue.

BOARD OF ESTIMATES

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MINUTES

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

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a land disposition and acquisition agreement with Tadesse & Associates, Inc. to exchange 1217 Bayard Street for 141 S. Poppleton Street.

AMOUNT OF MONEY AND SOURCE:

The City has agreed to pay for title work and associated settlement costs on the properties the City is receiving, not to exceed \$600.00.

9910-908087-9588-900000-704044

BACKGROUND/EXPLANATION:

<u>OWNER</u>	<u>PROPERTY</u>	<u>Block / Lot</u>
Tadesse & Associates, Inc.	1217 Bayard St.	0778 012

In exchange for:

<u>OWNER</u>	<u>PROPERTY</u>	<u>Block / Lot</u>
M&CC	141 S. Poppleton St.	0253 018

The property at 1217 Bayard Street was sold to Tadesse & Associates, Inc. on April 3, 2007 for \$10,935.30 for redevelopment. Unfortunately, the redevelopment of the lot was halted because of community protests that the lot has been used as a community horseshoe pit for a number of years. Because the organization intended to redevelop this property, an exchange

MINUTES

DHCD - cont'd

was proposed for the 1217 Bayard Street property with a comparable City-owned property that is located in an area better suited for redevelopment. Tadesse & Associates, Inc. will deliver good and marketable title to 1217 Bayard Street.

The City will convey 141 S. Poppleton Street, which will contribute to the revitalization of the Hollins Market community. As a condition of the exchange, Tadesse & Associates, Inc. has agreed to rehabilitate the property at 141 S. Poppleton Street within 18 months of the date of transfer.

The City will receive clear and marketable title to the property located at 1217 Bayard Street, in exchange for the comparable City properties at 141 S. Poppleton Street.

The property exchange is less costly than acquiring the properties 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 the property owned by Tadesse & Associates, Inc., which has been long used as a community managed open space could be acquired by the City in a manner less costly than tax sale foreclosure or condemnation. The property that is being conveyed as a comparable exchange to Tadesse & Associates, Inc. will enable the developer to redevelop in an area better suited and poised for rehabilitation.

FILE NO. 56358

UPON MOTION duly made and seconded, the Board approved and authorized execution of the land disposition and acquisition agreement with Tadesse & Associates, Inc. to exchange 1217 Bayard Street for 141 S. Poppleton Street.

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MINUTES

Department of Housing and - Final Relocation Expenses
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve the final payment of relocation expenses to Moran Towing of Maryland, Inc. (Moran Towing).

AMOUNT OF MONEY AND SOURCE:

\$300,000.00 - 9910-903072-9588-900000-704046

BACKGROUND/EXPLANATION:

On September 14, 2009, a verbal agreement was reached between the City and Moran Towing, whereby Moran Towing would vacate its current lease with the City of the recreation pier, located at 1715 Thames Street. The current lease expires on January 21, 2018.

On January 16, 2008, the Board approved a land disposition agreement (LDA) with Recreation Pier Developers, LLC, developer, for the development of a 132-room hotel on the site of the recreation pier.

In accommodation to the City and the developer, Moran Towing will relocate permanently to another location on S. Clinton Street. Due to the expense of this relocation, the City and the developer agree to pay Moran Towing a total of \$600,000.00. This expense is to be equally shared between the City and the developer. The City will pay one half of the agreed upon costs incurred by Moran Towing of Maryland, Inc. in conjunction with the early termination of lease.

These relocation funds will be placed in escrow with a title company at the property purchase settlement and disbursed to Moran Towing, in accordance with an escrow agreement. The developer's settlement of the purchase of the recreation pier is estimated to be within 30 days of the approval of this relocation expense payment request.

BOARD OF ESTIMATES

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MINUTES

DHCD - cont'd

The LDA provides for an agreement between the developer and Moran Towing regarding a temporary relocation and return. It has been determined infeasible for a temporary displacement and return. Therefore, a permanent relocation of Moran Towing to a site within the City has been agreed upon. This will extend Moran Towing's presence within the City and will enhance the economic development aspect of the pier reconstruction and development as a hotel and benefit the public participation in the use of the site.

The projected relocation costs increased as a result of the permanent displacement and the City and the developer's participation in the costs is at a discount to the actual costs and will settle all claims by the tenant.

APPROVED FOR FUNDS BY FINANCE**FILE NO. 55390**

President: "We have one item today on the non-routine agenda. I would ask for individuals involved on pages 24-25, Department of Housing and Community Development, relocation expenses, Moran Towing lease agreement, to come forward. Good morning to you all."

Mr. Walter Horton, Real Estate Officer:

Good morning. On page 24 the Moran Towing relocation payment, we have a question concerning the payments when the LDA obligates the developer to make payments for all costs. We are concerned why the City is making these payments?"

BOARD OF ESTIMATES

9/30/09

MINUTES

DHCD - Moran Towing - cont'd

Mr. Paul Graziano, Commissioner Department of Housing and Community Development: "Okay, thank you. I wanted to introduce some of the parties here Joe Clarke who represents the development entity for the hotel, Paul Swenson from Moran Towing, and Jeff Scherr his attorney. Let me just give you a little background. We did a Land Disposition Agreement (LDA) for this project for a 130-room hotel in January of 2008. There was a back and forth with between the developer and Moran Towing for quite a period of time. The original LDA did contemplate a temporary either an accommodation on the site while the construction was going on or a temporary move at the most of Moran and that it would be returned to the finished site with the hotel and Moran coexisting on the pier. There were some extreme challenges there earlier this year, I think in the spring, I personally got involved in terms of sitting down and discussing and mediating between the parties a technical solution to this challenge. Through that process, it became

MINUTES

DHCD - Moran Towing - cont'd

clear that the concept of them coexisting on the pier was just not feasible. It was not good for either party. It created a huge number of technical challenges. So, we then looked at another solution which was a permanent relocation. Now, we wanted to do a permanent relocation that would maintain Moran as an ongoing business in the Port of the Harbor of Baltimore. Because they are a long standing institution, we wanted to treat them fairly and make sure we did not, frankly, drive them out of the City. So with that in mind, we worked together. Moran identified a site on Clinton Street. The site is actually a much better location in terms of the structure of the pier and all - its very solid. The pier they are on obviously has some serious issues. So they were happy with the new location. The hotel obviously, was happy, the hotel developers, in the sense of being able to move forward. So, then we had to negotiate what the terms of this separate would be. Because again, there was a -- oh, I did not mention that there was an eight and half year term remaining on the lease at the Recreation Pier and so Moran had the legal and the contractual right to remain there for another eight and half

MINUTES

DHCD - Moran Towing - cont'd

years at a lease that was actually below market. So, Moran got an appraisal of the value of the buyout of the lease that was identified as a - by John Hentschel as \$1,470,000.00 for the value of the remaining term of the lease. We alternatively suggested, let us look at a way to not buyout the lease but to cover - to relocate you to another good location in the City without huge out-of-pocket expenses to you as a business that is being displaced but had an eight and half lease. So, we looked at - they got construction estimates for during the work on the pier and an office space that related to the business which the current facility also has, Rec Pier has. We took the value of the construction and we prorated that value. We took eight-twentieth because we figure that it would be eight years left on the lease by the time they moved and there was a 20-year on the

MINUTES

DHCD - Moran Towing - cont'd

new pier. So, we took eight-twentieth of the value of the new construction and we took the differential on the lease rent for the eight years that this current lease would remain again after they moved. We just took the difference between two and then we took the net present value of that because, if they are paying rent eight years from now, the dollar of eight years from now is not worth as much as the dollar today. We took the net present value of the lease differential plus eight-twentieth of value of the construction plus some incidental costs for physically moving.

President: "We need a blackboard for this."

Mr. Graziano: "I am sorry."

President: "We need a blackboard for this."

Mr. Graziano: "So, those three items were added up and we agreed with the developers, the hotel developers, that we would split the costs, 300 for the City, 300 for the developer. Because again, these were extraordinary costs that were never

MINUTES

DHCD - Moran Towing - cont'd

contemplated but it would be totally unfair to Moran to say 'you guys move and we are not going to -- you pick up the costs and they had a legal and contractual right to stay. So really, those were the reasons we wanted to treat Moran fairly keep them in the business. It was absolutely essential. The hotel could not move forward without it. The final point, the sense of urgency is that, the lease option for the new pier on Clinton expires, I believe at midnight today, and this is moving all so quickly because we were negotiating right under the wire and they have construction estimates that include steel pricing which also cannot be held. So, we respectfully ask the Board to approve this item and I think that the reasons for deviating from the original LDA terms really are clear. It really was a change in circumstances in terms of permanent move versus temporary.

Mr. Horton: "Going back, can you explain the Fiscal impact of this deal has on the City?"

MINUTES

DHCD - Moran Towing - cont'd

Mr. Graziano: "Yes. This deal well the \$350,000.00 proceeds to the City at the time of settlement of the sale of the property to the developers; \$300,000.00 of that we would apply to toward this cost in this resolution. The hotel would conservatively general approximately \$1,200,000.00 a year in real property and hotel occupancy revenues for the City and the Moran will be paying taxes at the new location on Clinton Street. They are not paying taxes today on the recreation pier and I do not have the exact number for that but that would be another annual payment."

Mayor: "What's our source of um --"

Mr. Graziano: "The \$300,000.00 would come out at the closing. We are getting \$350,000.00 sales proceeds from the developer. We would put \$300,000.00 of that and they would put \$350,000.00 up and that would go towards the costs of making Moran whole."

BOARD OF ESTIMATES

9/30/09

MINUTES

DHCD - Moran Towing - cont'd

Mr. Graziano: "We think it's a win-win. We keep a long standing business in the City. We have a new hotel and a \$1,200,000.00 plus in additional revenue per year."

President: "Any other questions, Is there a motion?"

City Solicitor: "I Move approval with the item requested on pages 24 and 25."

Director of Public Works: "Second."

President: "All those in favor, say aye. 'AYE' motion carries."

Mr. Graziano: I would also like to thank Bill Burgee and David Sowell from my staff who worked very hard on this and Peter Engel whose down in Washington today.

President: "I was wondering -- that's who I was looking for."

Mr. Graziano: "Yes, he is down in Washington. We are doing design."

President: "Got you."

MINUTES

Department of Housing and - Local Government Resolutions
Community Development

The Board is requested to approve and authorize execution of the listed local government resolutions.

The organizations are applying to the State of Maryland's Community Legacy Program (CLP). A local government resolution of support is required by the State for all applications to the program for funding.

<u>Organization</u>	<u>Amount</u>
1. THE NATIONAL GREAT BLACKS IN WAX MUSEUM, INC.	\$150,000.00 (CLP)

The National Great Blacks in Wax Museum, Inc. located at 1601-1649 East North Avenue proposes the Up On The Roof: A Green Roof System Planning and Design Project. The funds will be used to develop a plan for the design of a cost effective, eco-friendly green roof system. The green roof plan will provide the Museum with a concise framework for identifying and implementing practical and measurable green roof design, construction, operations and management solutions. It will also identify strategies that incorporate energy savings and water efficiency, such as storm water management, water-wise landscaping and the use of clean and renewable energy sources.

The institution has embarked on a growth plan to refine its programs and vision. The result will be a City block expansion of the Museum, the physical and economic revitalization of a significant section of the East North Avenue Corridor, and a museum that will serve as a national model for outreach and education, bringing positive change to at-risk youth and families and community empowerment and renewal.

MINUTES

DHCD - cont'd

2. **GREATER HARVEST HOUSING CORPORATION, \$ 32,000.00**
INC. (CLP)

The Greater Harvest Housing Corporation, Inc. proposes the Recreation Renaissance Project located at 122 N. Vincent Street. The funds will be used to remove and replace the entire roof, purchase four new full flush security doors, install a motorized rolling gate over the two front doors and paint and repair the exterior of the building.

The mission of this organization is to increase its capacity and strengthen its commitment to being a vital component in the successful planning and development of the Franklin Square neighborhood.

UPON MOTION duly made and seconded, the Board approved and adopted the resolution.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Housing and Community - Grant Agreements
Development/Homeless Services

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

1. **PROJECT PLASE, INC.** **\$104,382.00**

Account: 4000-492910-3570-333736-603051

The organization will provide 50 transitional shelter beds to homeless men and women of Baltimore City at 139 E. North Avenue, 201 E. North Avenue and 2031 St. Paul Street. The funds will be used to offset the cost of providing supportive services, client assistance and operating costs of the program, including, but not limited to insurance, utilities, telephone supplies and food. The period of the agreement is July 1, 2009 through June 30, 2010.

2. **PRISONER'S AID ASSOCIATION OF MD.** **\$ 32,198.00**

Account: 4000-496210-3570-591425-603051

The organization will employ the services of 1 FTE Case Manager who will provide intensive case management and support services to 33 homeless individuals and four families with a primary history of disability due to substance abuse and/or mental illness, as appropriate for Shelter Plus Care Housing. The period of the agreement is July 1, 2009 through June 30, 2010.

The agreements are late because of delay at the administrative level.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Housing and - Expenditure of Funds
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize an expenditure of funds to pay Kennedy Personnel Services.

AMOUNT OF MONEY AND SOURCE:

\$ 897.76 - 1001-000000-1770-180099-603026
2,972.55 - 1001-000000-1770-180099-603026
3,012.45 - 1001-000000-1770-180099-603026
\$6,882.76

BACKGROUND/EXPLANATION:

The funds will be used to pay for clerical services that were provided by Kennedy Personnel Services for the period August 22 - 29, 2008 for 45 hours, September 1 - 28, 2008 for 149 hours, and September 29, 2008 - October 25, 2008 for 150 hours.

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

UPON MOTION duly made and seconded, the Board approved and authorized an expenditure of funds to pay Kennedy Personnel Services.

MINUTES

Department of Housing and - Head Start Agreements
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the various Head Start agreements. The period of the agreement is July 1, 2009 through June 30, 2010.

1. **ST. PAUL COMMUNITY OUTREACH** **\$1,173,815.00**
CENTER, INC.

Account: 4000-486310-6050-515899-603051

Under the terms of this agreement, in the amount of \$1,173,815.00, the organization will provide Head Start services to 202 children and their families. A two-month advance of funds, in the amount of \$234,763.00, was approved by the Board on July 22, 2009. With the advance, the total contract amount is \$1,408,578.00.

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

MBE: Rufus Ingram, CPA	\$15,000.00	1.06%
Citywide Bus Company*		
Solomon's Termite & Pest	<u>1,800.00</u>	<u>0.13%</u>
	\$16,800.00	1.19%

*Citywide Bus Company is no longer certified as an MBE with the City of Baltimore.

WBE: BFPE International, Inc.	\$ 250.00	0.02%
Nicole Harrell, CPA,	<u>11,400.00</u>	<u>0.81%</u>
LLC	\$11,650.00	0.83%

Provider requested and was granted a waiver of the balance of the MBE/WBE goals. Of the total amount of \$1,408,578.00, \$1,290,159.00 is for items that are proprietary and non-segmentable.

MINUTES

Department of Housing and - cont'd
Community Development

2. **ST. VERONICA'S ROMAN CATHOLIC CHURCH** **\$1,689,989.00**
CONGREGATION, INC./ST. VERONICA'S
HEAD START PROGRAM

Account: 4000-486310-6050-515999-603051

Under the terms of this agreement, in the amount of \$1,689,989.00, the organization will provide Head Start services to 289 children and their families. A two-month advance of funds, in the amount of \$337,998.00, was approved by the Board on July 22, 2009. With the advance, the total contract amount is \$2,027,987.00.

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

MBE: DSQ Solutions, LLC	\$ 15,000.00	0.73%
Eric's Catering, LLC	200,000.00	9.86%
E. Jackson & Son, Inc.	6,000.00	0.30%
Missouri Landscaping	1,500.00	0.08%
Rufus Ingram, P.A.	7,124.00	0.36%
	<u>\$229,624.00</u>	

WBE: Naiman & Associates, P.A. \$23,273.00 1.14%

Provider requested and was granted a waiver of the balance of the MBE/WBE goals. Of the total amount of \$2,027,987.00, \$1,828,056.00 are for items that are proprietary and non-segmentable.

MINUTES

Department of Housing and - cont'd
Community Development

3. **UNITY UNITED METHODIST CHURCH/** **\$1,075,772.00**
UMOJA HEADSTART PROGRAM

Account: 4000-486310-6050-517099-603051

Under the terms of this agreement, in the amount of \$1,075,772.00, the organization will provide Head Start services to 187 children and their families. A two-month advance of funds, in the amount of \$215,154.00, was approved by the Board on July 22, 2009. With the advance, the total contract amount is \$1,290,926.00.

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

MBE: DSQ Solutions, LLC	\$ 17,220.00	1.33%
Genesis Office	5,730.00	0.44%
Systems, Inc.		
Black Tie Caterers, LLC	<u>129,600.00</u>	10.03%
	\$152,550.00	

WBE: Naiman & Associates, P.A. \$11,400.00 0.88%

Provider requested and was granted a waiver of the balance of the MBE/WBE goals. Of the total amount of \$1,290,926.00, \$1,180,348.00 are for items that are proprietary and non-segmentable.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Housing and - cont'd
Community Development

4. **UNION BAPTIST CHURCH/HARVEY** **\$ 1,230,525.00**
JOHNSON HEAD START PROGRAM

Account: 4000-486310-6050-516099-603051

The organization will provide Head Start services to 214 children and their families. A two-month advance of \$246,105.00 was approved by the Board on July 22, 2009. With the advance, the total contract amount is \$1,476,630.00.

MBE: Rufus Ingram, P.A.	\$13,800.00	0.93%
Time Printers, Inc.	1,000.00	0.07%
Fleming Transportation	2,000.00	0.13%
B & B Lighting Supply, Inc.	2,500.00	0.17%
Sue-Ann's Office Supply, Inc.	15,000.00	1.02%
	\$34,300.00	2.32%

WBE: Expressly Yours, Gloria, Inc. \$ 2,000.00 0.14%

Provider requested and was granted a waiver of the balance of the MBE/WBE goals. Of the total contract amount of \$1,476,630.00, \$1,383,055.00 is for items that are proprietary and non-segmentable.

MINUTES

Department of Housing and - cont'd
Community Development

5. **ST. FRANCIS XAVIER CHURCH/** **\$1,731,614.00**
ST XAVIER HEAD START PROGRAM

Account: 4000-486310-6050-516999-603051

The organization will provide Head Start services to 301 children and their families. A two-month advance of \$346,323.00 was approved by the Board on July 22, 2009. With the advance, the total contract amount is \$2,077,937.00.

MBE: Calmi Electrical Co.	\$ 1,500.00	0.07%
C&T Transportation, Inc.	3,000.00	0.14%
E. Jackson & Son, Inc.	6,500.00	0.31%
Time Printers, Inc.	2,500.00	0.12%
	<u>\$13,500.00</u>	<u>0.64%</u>

WBE: Hinton Webb & Assoc., LLC	\$ 9,000.00	0.43%
Nicole Harrell, CPA, LLC	9,500.00	0.46%
	<u>\$18,500.00</u>	<u>0.89%</u>

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

Provider requested and was granted a waiver of the balance of the MBE/WBE goals. Of the total contract amount of \$2,077,937.00, \$1,836,268.00 is for items that are proprietary and non-segment able.

MWBOO FOUND THE VENDORS IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing Head Start agreements. The Comptroller **ABSTAINED** on items nos. 1, 2, and 4.

BOARD OF ESTIMATES

9/30/09

MINUTES

Fire Department - Memorandum of Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of agreement with the Maryland Emergency Management Agency (MEMA). The period of the agreement is October 1, 2008 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$210,716.00 - 1001-000000-1930-262100

BACKGROUND/EXPLANATION:

The grant is for the 2009 Emergency Management Performance Grant Program and must be matched dollar-for-dollar with local in-kind assistance. The funds will be used to enhance and strengthen emergency management capabilities at the state and local level.

This request is late because the award letter and MOA were received from MEMA on June 17, 2009 and required some changes by the City Law Department which required additional time to complete the memorandum of agreement.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the memorandum of agreement with the Maryland Emergency Management Agency.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Employment Agreements

The Board is requested to approve and authorize execution of the following agreements. The period of the agreement is effective upon Board approval for one year.

	<u>Name</u>	<u>Hourly Rate</u>	<u>Amount</u>
1.	DARLENE A. TYSON-HILL	\$14.42	\$30,000.00
2.	KATE V. WOOD	\$14.42	\$30,000.00
3.	LAVERN D. HICKS	\$14.42	\$30,000.00
4.	SYLVIA M. FORRESTER	\$14.42	\$30,000.00
5.	BARBARA A. DAIS	\$14.42	\$30,000.00
6.	THERESA A. ANDERSON	\$14.42	\$30,000.00
7.	JOSEPH I. MCMAHON, JR.	\$14.42	\$30,000.00
8.	KIM T. KOERBER	\$14.42	\$30,000.00
9.	DOROTHIA PARKER-JOHNSON	\$14.42	\$30,000.00
10.	MICHAEL L. LINGNER	\$14.42	\$30,000.00
11.	SHARON F. ALSTON	\$14.42	\$30,000.00

Account: 1001-000000-2010-197600-601009

On January 3, 1996, the Board approved a waiver to Administrative Manual Policy AM 212-1, which allowed the Baltimore Police Department to hire retired Police Officers as contract employees.

The retirees will perform a variety of tasks, previously performed by full-duty Police Officers, which are supportive in nature. This will allow the Department to continue to assign active Police Officers to crime fighting duties.

MINUTES

Police Department - cont'd

The retirees will receive no benefits other than workman's compensation and F.I.C.A.

APPROVED FOR FUNDS BY FINANCE

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

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of understanding (MOU) with the House of Ruth Maryland, Inc. The period of the agreement is effective upon Board approval through December 31, 2010.

AMOUNT OF MONEY AND SOURCE:

\$88,749.00 - 5000-585310-5750-650400-607001

BACKGROUND/EXPLANATION:

On September 2, 2009, the Board approved acceptance of a grant award from the Governor's Office of Crime Control and Prevention (GOCCP), in the amount of \$91,029.00, for the Department's Lethality Assessment Project Initiative.

The project will provide Police Officers responding to domestic calls with an additional tool to evaluate potential danger to domestic violence victims. By using this tool, the officers connect victims with needed support and services in order to decrease domestic violence fatalities.

This MOU will allow the House of Ruth Maryland, Inc. to implement and administer this project.

The MOU is late because notification of the award was recently received from the GOCCP.

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 memorandum of understanding with the House of Ruth Maryland, Inc.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an agreement with the House of Ruth Maryland, Inc. The period of the agreement is July 1, 2009 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$275,000.00 - 6000-613109-2250-243300-607001

BACKGROUND/EXPLANATION:

Under Baltimore City Code, Article 5, Section 48-1 (2000 Edition), \$25.00 of each marriage license fee collected in Baltimore City is segregated into a special fund resulting from an extra fee imposed on marriage licenses in the Circuit Court of Baltimore City. The FY 2010 estimate of \$275,000.00 is based on a projection of 11,000 licenses to be issued during the year.

One hundred percent of the monies are allocated for eligible domestic violence shelters in Baltimore City that operate a 24-hour intake facility. The monies are distributed to the House of Ruth Maryland, Inc. in proportion to the number of domestic violence victims it serves. The Department is the City agency designated to administer and disburse the funds under Baltimore City Code, Article 5, Section 48-1 (2000 Edition).

This agreement is late because there was a delay in receiving pertinent information from the House of Ruth Maryland, Inc.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with the House of Ruth Maryland, Inc.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Grant Award Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of a grant award agreement with the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA). The period of the agreement is October 1, 2008 through September 30, 2012.

AMOUNT OF MONEY AND SOURCE:

\$1,275,360.00 - 4000-435210-2250-670001-600000

BACKGROUND/EXPLANATION:

The Department has received a FY 2009 Jag V grant award from the DOJ, OJP, BJA to continue supporting its crime reduction and prevention strategy. Specifically, the funds will be used to upgrade the Department's mobile data communication system.

The grant award agreement is late because notification of the award was recently received by the Department.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the grant award agreement with the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Consultant Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of a consultant agreement with Ms. Shelly Brown. The period of the agreement is effective upon Board approval through December 31, 2009.

AMOUNT OF MONEY AND SOURCE:

\$25,836.00 - 4000-453908-2010-210700-600000
(\$30.00 per hour)

BACKGROUND/EXPLANATION:

On December 24, 2008, the Board approved a memorandum of agreement (MOA) with the Maryland Emergency Management Agency (MEMA). This MOA awarded grant funds to the Department from the U.S. Department of Homeland Security, under the FY08 Homeland Security Grant Program, in the amount of \$2,391,955.00.

Ms. Brown will work as a grant analyst on a part-time basis to monitor the Department's FY08 Homeland Security grants. She will track, document the expenditures by other City agencies, and complete reimbursement requests. In addition, Ms. Brown will ensure adequate inventories are maintained for Homeland Security equipment purchases and assist the Department with activities related to the grant management performance and compliance.

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the consultant agreement with Ms. Shelly Brown.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Grant Adjustment Notice**ACTION REQUESTED OF B/E:**

The Board is requested to approve a grant adjustment notice (GAN) from the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP) for the Washington Village/Pigtown Neighborhood Planning Council (WPNPC). The GAN will extend the period of the award through December 31, 2009.

AMOUNT OF MONEY AND SOURCE:

No additional funds are requested.

BACKGROUND/EXPLANATION:

On February 18, 2009, the Board approved acceptance of a grant award for the WPNPC's Weed and Seed Project, which is a federal anti-crime program. The WPNPC is one of three Weed and Seed sites in Baltimore City. The WPNPC allocated \$37,500.00 of its Weed and Seed funds to the Department as reimbursement for Police Officer overtime in the community. The Police Officers will assist the WPNPC in accomplishing its Weed and Seed initiatives. This GAN will extend the period of the award to provide for the deployment of officers through December 31, 2009.

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

UPON MOTION duly made and seconded, the Board approved the grant adjustment notice from the U.S. Department of Justice, Office of Justice Programs for the Washington Village/Pigtown Neighborhood Planning Council.

BOARD OF ESTIMATES

9/30/09

MINUTES

Police Department - Grant Adjustment Notice**ACTION REQUESTED OF B/E:**

The Board is requested to approve a grant adjustment notice (GAN) from the U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), National Institute of Justice (NIJ) for the DNA Backlog Reduction Program. The GAN will extend the period of the award through March 31, 2010.

AMOUNT OF MONEY AND SOURCE:

No additional funds are requested.

BACKGROUND/EXPLANATION:

On November 14, 2007, the Board approved the initial grant award from the DOJ, OJP, NIJ, in the amount of \$344,432.00, for the DNA Backlog Reduction Program. The period of the award was October 01, 2007 through September 30, 2008. On September 10, 2008, the Board approved a GAN extending the period of the award through September 30, 2009. However, additional time is needed in order to expend the funds on personnel contracts that will be submitted to the Board for approval at a later date. This GAN extends the period of the award through March 31, 2010.

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

UPON MOTION duly made and seconded, the Board approved the grant adjustment notice from the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice for the DNA Backlog Reduction Program.

BOARD OF ESTIMATES

9/30/09

MINUTES

CARE - cont'dGRANT AWARDS

3. **MARYLAND DEPARTMENT OF** **\$217,713.00**
THE AGING (MDoA)

Account: 5000-533810-3250-687200-600000

The grant is for the Money Follows the Person Program (MFP). The MFP Rebalancing Demonstration offered through the Centers for Medicare and Medicaid Services (CMS) was created to promote a series of rebalancing objectives and efforts to reduce or eliminate barriers to receiving long term care services in home and community settings rather than in institutional settings. Older adults and disabled individuals will have a choice of where they live and receive long-term care services. The MFP staff will provide education regarding Medicaid community services and application assistance to nursing home residents interested in returning to the community. Staff will also perform transitional case management including transitional housing coordination. Transitional funds and flex funds will be utilized in conjunction with traditional waiver services to assure that participant needs are met in the community.

4. **MARYLAND DEPARTMENT OF** **\$881,304.00**
THE AGING (MDoA)

Account: 5000-532810-3250-319900-600000

The grant will allow CARE to utilize funds to provide a variety of services to low-income adults, age 50 and above who are approved for the Home and Community Based Services Waiver for Older Adults.

MINUTESCARE - cont'd

The program will provide individuals who are at risk of nursing home placement an opportunity to obtain needed services in their home or in an Assisted Living facility. Some of the services include personal care, respite care, assisted living, environmental assessments, behavioral consultants, diet and nutrition services, and home delivered meals. CARE administers the Waiver Program for Baltimore City Residents.

The period of the grant awards is July 1, 2009 through June 30, 2010.

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

APPROVED FOR FUNDS BY FINANCE

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

BOARD OF ESTIMATES

9/30/09

MINUTES

Commission on Aging and - Grant Award and Revision
Retirement Education (CARE)

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of the Fiscal Year 2010 State Allocation original and revised notification of grant award from the Maryland Department of Aging (MDoA). The period of the grant is July 1, 2009 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$ 600,090.00	-	5000-533610-3250-316900-600000	Senior Nutrition
1,326,560.00	-	5000-535410-3250-319800-600000	Senior Care
307,070.00	-	5000-533110-3250-319800-600000	Guardianship
184,906.00	-	5000-534010-3250-319900-600000	Subsidized Assisted Housing
215,467.00	-	5000-534110-3250-319900-600000	Senior Information Assistance
0.00	-	5000-535610-3250-524200-600000	Information Technology
159,810.00	-	5000-535510-3250-319800-600000	Vulnerable Elderly Program Initiative
141,321.00	-	5000-533510-3250-319800-600000	State Ombudsman
<u>\$2,935,224.00</u>			
<u>- 18,256.00</u>	-	5000-535410-3250-319800-600000	Senior Care Funds
\$2,916,968.00	-		Revised Award Amount

BACKGROUND/EXPLANATION:

The original award for Fiscal Year 2010 was in the amount \$2,935,224.00. The original award was revised to adjust the amount of funds to be utilized by the Senior Care Program. The award for this program was reduced from \$1,326,560.00 to \$1,308,304.00 making the difference of \$18,256.00. The original award of \$2,935,224.00 was reduced to \$2,916,968.00.

MINUTES

CARE - cont'd

The funds will provide a variety of services for older adults residing in Baltimore City.

This request is late because CARE recently received notification of the grant award.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved acceptance of the Fiscal Year 2010 State Allocation original and revised notification of grant award from the Maryland Department of Aging.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Recreation - Grant Award and Agreement
and Parks

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a grant award from the Family League of Baltimore, Inc. (FLBC) and authorize execution of the grant agreement. The period of the agreement is July 1, 2009 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$32,000.00 - 6000-678410-4800-116849-60xxxx
22,200.00 - 6000-678410-4800-116853-60xxxx
\$54,200.00

BACKGROUND/EXPLANATION:

The FLBC has elected to award funding to the Department in support of two high-quality after-school enrichment programs: Performing Arts at the Cahill Recreation Center and the Children's Variety Theatre in the Therapeutic Division. The programs will provide activities that emphasize academic achievements as well as athletics and the arts.

This request is late because it was recently received from the FLBC.

APPROVED FOR FUNDS BY FINANCE

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

FILE NO. 55358

UPON MOTION duly made and seconded, the Board approved acceptance of the grant award from the Family League of Baltimore, Inc. and authorize execution of the grant agreement.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Recreation - Grant Award
and Parks

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a grant award from the National Recreation and Parks Association (NRPA). The period of the grant is effective upon Board approval through April 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$5,000.00 - 2096-796697-7960-869700-600000

BACKGROUND/EXPLANATION:

For several years, the Department has sponsored fishing programs at the Patterson Park Boat Lake and Middle Branch Park. The "Take Me Fishing Program" grant will support and provide for the expansion of these programs to other locations, such as Canton Waterfront Park and Lake Roland. The grant will also be utilized to purchase fishing gear and to provide a fishing program for summer camp participants. Children will receive one hour of fishing instruction and one hour of environmental study.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved acceptance of the grant award from the National Recreation and Parks Association.

MINUTES

Department of Recreation and Parks - Payment of Back Wages

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize payment of back wages to Ms. Rebecca Feldberg, City Arborist.

AMOUNT OF MONEY AND SOURCE:

\$37,411.46 - 3001-000000-5050-385200-601001

BACKGROUND/EXPLANATION:

Ms. Feldberg was terminated from her position as City Arborist on February 5, 2009. Ms. Feldberg filed an appeal with the Civil Service Commission and was granted a hearing. On July 17, 2009, in response to a recommendation by the Hearing Officer, the Commission reversed the termination with back pay.

NOTED FOR FUNDS BY FINANCE.

UPON MOTION duly made and seconded, the Board approved and authorized payment of back wages to Ms. Rebecca Feldberg, City Arborist.

BOARD OF ESTIMATES

9/30/09

MINUTES

TRANSFER OF LIFE-TO-DATE SICK LEAVE

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

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

1. Circuit Court for Baltimore City - Employee Fallyn Moog

<u>NAME</u>	<u>DAYS</u>
Karla Cromartie	5
Charles F. Madden	5
Jan Bowser	3
Sharon George	3
Delane Morris	3
Sara Walsh	3
Jasmine N. Bennett	1
Brenda Graham	<u>1</u>
	24

2. Mayor' Office of Employment Development - Employee Beverly Loukas

Cheryl Horton	5
Ena Clarke	5
Leslie Saunders, Jr.	5
Shaborah Wright	3
Teresa Maith	2
Charles Makell	2
Michael Wells	1
Betty Yelity	1
Anthony Onyango	1
Cynthia Jefferson	1
Joy Brown	1
Deborah Harris	1
Patricia Anderson	<u>1</u>
	29

MINUTES

TRANSFER OF LIFE-TO-DATE SICK LEAVE - Waiver Request3. Office of the State's Attorney - Employee William Cecil

THE OFFICE OF THE STATE'S ATTORNEY IS REQUESTING A WAIVER OF AM-203-3, DONATION OF SICK LEAVE THAT PROVIDES THAT THE RECIPIENT CAN RECEIVE NO MORE THAN 30 DAYS OF TRANSFERRED SICK LEAVE DAYS IN A ONE-YEAR PERIOD.

<u>NAME</u>	<u>DAYS</u>
Charles Blomquist	5
Lawrence Doan	5
Julie Drake	5
Charles Fitzpatrick	5
Donald Giblin	5
David Grzechowiak	5
Andrew Kowalczyk	5
Tonya LaPolla	5
Nicole Lomartire	5
Douglas Ludwig	5
David Mabrey	5
Andrea Mason	5
Grant McDaniel	5
Martin McGuire	5
Terence Nash	5
Paul O'Connor	5
Katie O'Hara	5
Ernest Reitz	5
Traci Robinson	5
Christine Tacka	5
Gerard Volatile	5
	<u>105</u>

Mr. William Cecil has been employed by this agency for 18 years and prior to his present medical condition, which developed last year, he had accrued over 175 sick days. The waiver of AM-203-3 is requested due to the extenuating circumstances surrounding Mr. Cecil's medical condition.

THE LABOR COMMISSIONER RECOMMENDED APPROVAL.

UPON MOTION duly made and seconded, the Board approved the

MINUTES

TRANSFER OF LIFE-TO-DATE SICK LEAVE - cont'd

transfer of LIFE-TO-DATE sick leave days from the listed City employees to the designated employees, Fallyn Moog, Beverly Loukas, and William Cecil. The Board also approved the request for a waiver of AM-203-3, donation of sick leave for Employee William Cecil.

MINUTES

Department of Public Works - Amendment to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment to agreement with Moffatt & Nichol, under Project 1086M, Urgent Need Storm Water Engineering Services. The amendment extends the agreement through October 2, 2010 or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$250,000.00 - 9958-902439-9520-900020-703031

BACKGROUND/EXPLANATION:

On October 1, 2008, the Board approved the initial agreement with the consultant to provide urgent need engineering services to improve the City's storm drain system. The agreement was for one year with an upset limit in the amount of \$250,000.00.

The scope of work includes preparation of contract documents, borings, hydraulic analysis, project management, field investigation, emergency services, and geotechnical services. The consultant was approved by the Architectural and Engineering Awards Commissions.

This amendment to the agreement will increase the upset limit by \$250,000.00 and make the total contract amount \$500,000.00. The amendment to agreement will also extend the contract for one year. All other terms and conditions of the agreement will remain unchanged.

The original agreement contains the following percentages.

MBE:	Sabra Wang & Associates	\$27,500.00	
	EBA Engineering	<u>25,000.00</u>	
		\$52,500.00	21.00%

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Public Works - cont'd

WBE: Constellation Design Group \$17,500.00 7.00%

AUDITS NOTED THE TIME EXTENSION AND THE INCREASE IN THE UPSET LIMIT.

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$300,000.00	9958-522-439	9958-520-439-3
Other Funds	Constr. Res.	Design
	On-Call Storm Drain	
	Design & Engineering	
	Services	

This transfer will provide funds to cover the costs of design services under Project 1086M to improve the City's storm drain system.

(In accordance with Charter requirements, a report has been requested from the Planning Commission, the Director of Finance having reported favorably thereon.)

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to agreement with Moffatt & Nichol, under Project 1086M, Urgent Need Storm Water Engineering Services. The transfer of funds was approved subject to receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, as required by the provisions of the City Charter.

MINUTES

PERSONNEL MATTERS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

all of the Personnel matters

listed on the following pages:

3728 - 3732

All of the Personnel matters have been approved

by the EXPENDITURE CONTROL COMMITTEE.

All of the contracts have been approved

by the Law Department

as to form and legal sufficiency.

MINUTES**PERSONNEL**Commission on Aging and Retirement Education

	<u>Hourly Rate</u>	<u>Amount</u>
1. VERONICA HALL	\$11.24	\$ 21,918.00

Account: 4000-433510-3250-319740-601009

Ms. Hall will work as a Receptionist. Her duties will include but are not limited to answering the telephone and relaying calls to staff, maintaining files, receiving, opening, sorting, delivering and distributing mail. The period of the agreement is October 1, 2009 through September 30, 2010.

2. KILDIA CEPEDA	\$39.00	\$ 8,424.00
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Account: 4000-436109-3250-319704-601009

Ms. Cepeda will work as a Family Caregiver Training Instructor for the National Family Caregivers Program. Her duties will include but are not limited to providing training and education classes for family caregivers, volunteers and grandparents of Hispanic ethnicity. She will maintain personal and confidential files. The period of the agreement is October 1, 2009 through September 30, 2010.

3. CLARA MCKEN	\$10.00	\$ 10,400.00
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Account: 4000-436109-3240-319702-601009

Ms. McKen will continue to work as a Caregiver Information and Assistant Worker. She will be responsible for answering the telephones and assisting caregivers with providing information on the programs and services that are provided through the National Family Caregivers Program. The period of the agreement is October 1, 2009 through September 30, 2010.

BOARD OF ESTIMATES

9/30/09

MINUTES

PERSONNELCARE - cont'd

	<u>Hourly Rate</u>	<u>Amount</u>
4. CAROLYN WILLIAMS	\$ 7.25	\$ 7,540.00

Account: 5000-534110-3250-319900-601009

Ms. Williams will continue to work as a Senior Aide. She will be responsible for answering and screening calls in CARE's Call Center and referring callers who require more than the general information to CARE's Information and Assistance Counselors. She will also complete intake forms as appropriate, attend trainings, meetings and workshops. The period of the agreement is October 1, 2009 through September 30, 2010.

5. HELEN WOODS	\$ 7.25	\$ 7,540.00
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Account: 4000-433510-3250-319700-601009

Ms. Woods will continue to work as a Food Service Aide for the Sandtown Winchester Senior Center. Her duties will include, but are not limited to setting-up and serving meals. She will also order meals, supplies and maintain inventory records. The period of the agreement is October 1, 2009 through September 30, 2010.

6. ANITA HORWATH	\$21.00	\$22,340.00 (\$500.00 included for parking and toll fees)
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Account: 4000-436109-3250-319704-601009

Ms. Horwath will continue to work as an Artistic Director. Her duties will include, but will not be limited to coordinating and implementing the Ages on Stages Program for CARE, forming an improvisational acting ensemble with students from the Baltimore School for the Arts and senior

BOARD OF ESTIMATES

9/30/09

MINUTES

PERSONNELCARE - cont'd

	<u>Hourly Rate</u>	<u>Amount</u>
adults in the community, and creating scenes from life experiences that address critical social issues and issues germane to caregivers. In addition, Ms. Horwath will provide a wide array of services related to approximately 90 performances that will reach 20-25 individuals at 90 sites providing education on HIV/AIDS and the impact on seniors. The period of the agreement is October 1, 2009 through September 30, 2010.		
7. IVAN FORNEY	\$17.00	\$ 33,650.00 (\$500.00 included for parking and toll fees at the rate of \$0.55 per mile)

Account: 4000-436109-3250-319702-601009

Mr. Forney will work as a Community Outreach Liaison with the National Family Caregivers Program (NFCP). He will develop partnerships with key community organizations, faith-based organizations, and community leaders to inform them about the NFCP and other CARE services. He will also seek their assistance with outreach to families. In addition, Mr. Forney will conduct family and public education programs for Baltimore City caregivers in targeted regions. The period of the agreement is October 1, 2009 through September 30, 2010.

MINUTES**PERSONNEL**CARE - cont'd**AMENDMENT TO AGREEMENT**

	<u>Hourly Rate</u>	<u>Amount</u>
8. BETTIE WALKER	\$ 7.25	\$ 729.00

Account: 4000-436109-3250-319704-601009

On May 27, 2009, the Board approved a one-year agreement, in the amount of \$6,760.00, for Ms. Ford to work as an Office Assistance at the rate of \$6.50 per hour.

On July 24, 2009, the Board approved the Federal rate increase for the minimum wage from \$6.50 per hour to \$7.25 per hour. This amendment to the agreement, effective July 24, 2009, will increase Ms. Walker's hourly rate to \$7.25 per hour and change her maximum salary from \$6,760.00 to \$7,489.00. This is an increase of \$729.00. All other terms and conditions of the agreement remain unchanged.

Baltimore City Police Department

9. GINO M. INOCENTES	\$19.23	\$40,000.00
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Account: 4000-453509-2250-526602-601009

Mr. Inocentes will work as a Forensic Video Analyst/Video Producer for the Baltimore Police Department's Education and Training Section. He will be responsible for providing forensic video analysis and producing promotional training, special events and critical incident videos. The period of the agreement is September 30, 2009 through September 29, 2010.

MINUTES

PERSONNELDepartment of Transportation10. a. Create the following new class:

31192 - Program Coordinator
 Grade 112 (\$44,300.00 - \$62,600.00)

b. Create the following position:

31192 - Program Coordinator
 Grade 112 (\$44,300.00 - \$62,600.00)
 Job No. to be assigned by BBMR

Costs: \$58,453.00 - 6000-617200-2300-249000-601001

Commission on Aging and Retirement Education (CARE)

11. **LUCRETIA SHANNON** \$14.00 **\$17,972.00**

Account:	4000-433410-3250-319900-601009	\$ 8,986.00
	5000-534110-3250-319900-601009	\$ 8,986.00

Ms. Shannon will work as a Contract Service Specialist II. She will be responsible for scheduling and conducting community outreach programs for various programs with the CARE. The programs will include but not be limited to Benefits Checkup and the Senior Health Insurance Program (SHIP). She will also prepare Benefits Checkup reports for seniors as requested and provide individualized counseling for seniors and their families' regarding the Benefits Checkup report. The period of the agreement is October 1, 2009 through September 30, 2010.

BOARD OF ESTIMATES

9/30/09

MINUTES

TRAVEL REQUESTS

<u>Name</u>	<u>To Attend</u>	<u>Amount</u>
<u>Baltimore Police Department</u>		
1. Gisselle A. Fredericks Carl E. Buchanon	Advanced Forensic Microscopy: Glass Class Chicago, IL December 12 - 18, 2009	\$ 0.00
<u>Mayor's Office of Government Relations</u>		
2. Janelle Mummey	Maryland Municipal League Fall Conf. October 22 - 24, 2009 (Reg. Fee \$402.00)	\$ 863.90
The allowed per diem for this area \$109.00 per day. The hotel rate is \$160.00 per night. The Department is requesting an additional \$102.00 to cover the cost of lodging.		
<u>Baltimore City Health Department</u>		
3. Catherine Watson Tonya Johnson	Healthy Teen Network Tampa, FL October 20 - 24, 2009 (Reg. Fee \$405.00 ea.)	\$ 2,584.24
<u>Baltimore City Fire Department</u>		
4. Timothy Biermann John Liszewski	Structural Collapse Squad Leader Course Virginia Beach, VA Oct. 9 - 17, 2009 (Reg. Fee \$595.00)	\$ 9,844.00
Michael Mayo Christopher Boettcher Eugene Vonberger Gordon Wallace	Structural Collapse Technician Course Oct. 9 - 17, 2009 (Reg. Fee \$1,295.00)	

BOARD OF ESTIMATES

9/30/09

MINUTES

TRAVEL REQUESTS

	<u>Name</u>	<u>To Attend</u>	<u>Amount</u>
<u>Baltimore City Fire Department - cont'd</u>			
5.	Charles Mueller	FEMA Logistics	\$ 2,584.24
	Joseph Hucalak	Specialist Training	
	Ronald Hodges	Ocala, FL	
	Michael Hitt	Oct. 5 - 9, 2009	
	Keith Boswell	(Reg. Fee \$1,000.00 ea.)	

The Fire Department is requesting the Board to approve additional funds for a car rental in the amount of \$696.10. The rental vehicle is needed to transport equipment to the training site from the airport and back.

If official City business at the event site will require extensive inspection trips, tours, or other unusual but necessary land travel, the Board of Estimates must approve funds for such expenses in advance of the trip. (AM-240-8)

The Board, UPON MOTION duly made and seconded, approved the travel requests. The Mayor **ABSTAINED** on item no. 2.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of General Services - Developer's Agreement No. 1140

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of developer's agreement no. 1140 with OLF Senior Housing, Inc., developer.

AMOUNT OF MONEY AND SOURCE:

\$ 91,825.00

BACKGROUND/EXPLANATION:

The developer would like to install various utilities and services to its proposed construction located in the vicinity of 6424 East Pratt Street and 200 Kane Street. This agreement will allow the organization to do its own installation, in accordance with Baltimore City standards.

An irrevocable letter of credit for the amount of \$91,825.00 has been issued to OLF Senior Housing, Inc., which assumes 100% of the financial responsibility.

MBE/WBE PARTICIPATION:

N/A

UPON MOTION duly made and seconded, the Board approved and authorized execution of developer's agreement no. 1140 with OLF Senior Housing, Inc., developer.

MINUTES

Department of General Services - Renewable Energy
Credit Sales Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the execution of a renewable energy credit sales agreement with Element Markets, LLC.

AMOUNT OF MONEY AND SOURCE:

\$541.75 - Revenue Contract

BACKGROUND/EXPLANATION:

The production of electric power from the renewable resources of the digest gas produced at Back River Waste Water Treatment Plant qualifies for the sale of Renewable Energy Credits. The Northeast Maryland Waste Disposal Authority is handling the sale on behalf of the City.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of a renewable energy credit sales agreement with Element Markets, LLC.

BOARD OF ESTIMATES

9/30/09

MINUTES

Sheriff's Office - Grant Award**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize acceptance of a grant award from the Governor's Office of Crime Control and Prevention, award number (BJRA-2009-1023). The period of the award is July 01, 2009 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$50,000.00 - 5000-563010-1180-670600-601005

BACKGROUND/EXPLANATION:

The Sheriff's Office Overtime Warrant Initiative enhances the service of the Baltimore City Circuit Court Violation of Probation (VOP) warrants by creating a weekly overtime warrant service detail. Under this grant, violators of probation are categorized, identified, and targeted for arrest. This program reduces violent crime by utilizing the principles of the Governor's Violence Prevention Initiative that assists Parole and Probation in arresting violent offenders under their supervision, and prevents the dismissal of the cases due to failure to serve VOP warrants in a timely manner.

The grant is being presented at this time because it was recently awarded.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved and authorized acceptance of the grant award from the Governor's Office of Crime Control and Prevention, award number (BJRA-2009-1023).

BOARD OF ESTIMATES

9/30/09

MINUTES

Mayor's Office of
Employment Development

- Maryland Business
Works Training Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the Maryland Business Works Training agreement with SmartLogic Solutions, LLC. The period of the agreement is November 16, 2009 through December 19, 2009.

AMOUNT OF MONEY AND SOURCE:

\$995.00 - 4000-805310-6310-522005-603051

BACKGROUND/EXPLANATION:

The agreement authorizes SmartLogic Solutions, LLC to provide 32 hours of training for 2 incumbent employees of SmartLogic Solutions, LLC through an initiative known as Maryland Business Works.

Incumbent employees will be able to obtain information about the latest innovations, usage and hands-on experience in interactive web applications, enabling the company to maintain a competitive advantage in various software technologies. Training will be Web 2.0 Expo New York.

The amount of this agreement will not exceed \$995.00 of Federal funds. The cost represents 50% of the total cost of the training.

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Maryland Business Works Training agreement with SmartLogic Solutions, LLC.

BOARD OF ESTIMATES

9/30/09

MINUTES

Mayor's Office of
Employment Development

- Amendment #1 Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of Amendment #1 to an agreement with Women Entrepreneurs of Baltimore, Inc. The period of the agreement is August 1, 2008 through June 30, 2010.

AMOUNT OF MONEY AND SOURCE:

\$80,000.00 - 4000-893409-6310-459805-603051

BACKGROUND/EXPLANATION:

On August 28, 2008, the Board approved an agreement in the amount of \$283,392.00. The original agreement is being amended to increase the total amount of the compensation by \$80,000.00 to \$363,392.00

All other terms of the original agreement remain in effect and unchanged.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTIONS.

UPON MOTION duly made and seconded, the Board approved and authorized execution of Amendment No. 1 to the agreement with Women Entrepreneurs of Baltimore, Inc.

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:

3741 - 3745

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 and 2 was **WITHDRAWN**.

Item no. 5 is **DEFERRED** until October 7, 2009.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:**Bureau of Water and Wastewater**

1. WC 1160, Montebello Kinsley Construction, \$39,181,250.00
 Plant 2 & Finished Inc.
 Water Reservoir Cover

MBE: K&K Adams, Inc. \$ 720,900.00 1.84%
 W. Concrete, Inc. 3,750,000.00 9.57%
 Metro Flooring, Inc. 7,550.00 0.02%
 FSR Business Flooring, LLC 1,715.00 0.004%
 Chesapeake Contracting Services,* 3,616,000.00 9.23%
 Inc.

WBE: Barbie's Recycling & Hauling, Inc. \$ 628,000.00 1.60%
 Moisture Proof & Masonry, Inc. 225,000.00 0.57%
 Winshire Interior Construction, 56,000.00 0.14%
 Inc.
 Superior Painting & Contracting 130,000.00 0.33%
 Co., Inc.
 Abby Enterprises, LLC 4,358.00 0.01%

***THE BIDDER INCORRECTLY LISTED CHESAPEAKE CONTRACTING SERVICES AS A WBE. CHESAPEAKE SERVICES, INC. IS CERTIFIED WITH BALTIMORE AS A MBE.**

MWBOO FOUND VENDOR NON-COMPLIANT.

THE DEPARTMENT IS RECOMMENDING APPROVAL SUBJECT TO THE CONTRACTOR COMING INTO COMPLIANCE WITH THE MBE/WBE PROGRAM WITHIN 7 DAYS.

2. **TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$23,664,029.05	9960-558-709	
Rev. Bonds	Constr. Res.	
	Montebello Covered	
	Water Reservoir	
17,739,805.05	" "	
Counties		

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Bureau of Water and Wastewater - cont'd

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
6,022,863.87	9960-558-713	
Rev. Bonds	Constr. Res.	
	Towson Finished	
	Water Res. Cover	
3,949,997.08	" "	
Counties		
<u>\$51,376,695.00</u>		
\$3,918,125.00	-----	9960-904694-557-2
		Extra Work
3,918,125.00	-----	9960-904694-557-3
		Design
2,008,320.00	-----	9960-904694-557-5
		Inspection
39,181,250.00	-----	9960-904694-557-6
		Construction
<u>2,350,875.00</u>	-----	9960-904694-557-9
		Administration
\$51,376,695.00		

This transfer is required to cover the costs associated with the award of contract WC 1160, Montebello Plant 2 Finished Water Reservoir Cover.

LETTERS OF PROTEST HAVE BEEN RECEIVED FROM TYDINGS & ROSENBERG LLP REPRESENTING FRU-CON CONSTRUCTION CORPORATION, OBER, KALER, GRIMES & SHRIVER REPRESENTING THE WHITING-TURNER CONTRACTING CO., VENABLE LLP REPRESENTING PIZZAGALLI CONSTRUCTION COMPANY AND ROBERT FULTON DASHIELL, ESQ., P.A. REPRESENTING KINSLEY CONSTRUCTION CO., INC. AND THE MARYLAND MINORITY CONTRACTORS ASSOCIATION, INC.

July 23, 2009

Dana P. Moore

T 410-244-7799
F 410.244.7742
dpm03@venable.com

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

RE: Protesting Disqualification of Pizzagalli
Construction Company from WC 1160
Montebello Plant 2 Finished Water Reservoir Cover

Dear Clerk:

I represent Pizzagalli Construction Company ("Pizzagalli"). Pizzagalli protests the July 2, 2009 finding of the City of Baltimore Minority and Women's Business Opportunity Office (MWBOO) that Pizzagalli's bid submission package for WC 1160 – Montebello Plant 2 Finished Water Reservoir Cover ("WC 1160") is non-compliant for failure to initial changes to the "Statement of Intent" form. Pizzagalli was notified of MWBOO's finding by way of a letter dated July 9, 2009 and received by Pizzagalli on July 13, 2009. The deadline for filing this protest is noon on the day before the contract is to be awarded by the Board of Estimates at its regularly scheduled Wednesday meeting. WC 1160 is not in a position to be awarded and has not yet been included on the Board of Estimates agenda. Accordingly, this protest is timely.

In clarifying the finding of non-compliance for failure to initial changes to the Statement of Intent form, MWBOO's July 9, 2009 letter explains that "the Department of Public Works does not recommend contract awards to firms whose bids do not comply with Article 5 Section 28 of the Baltimore City Code." That Code section does not require that changes or corrections to a bid submission package be initialed by the contractor and subcontractor. Consequently, the disqualification of Pizzagalli for failing to initial changes is without basis.

The baseless disqualification of its bid substantially harms Pizzagalli because the disqualification eliminates the company from a significant competitive bid process for which it is qualified and should be selected. Accordingly, Pizzagalli protests MWBOO's disqualification. Further, Pizzagalli protests the awarding of WC 1160 to any other bidder than Pizzagalli. Additional factual support for this protest follows.

Baltimore City Board of Estimates
July 23, 2009
Page 3

initialed. Pizzagalli should not be disqualified for failing to satisfy a requirement that does not exist.

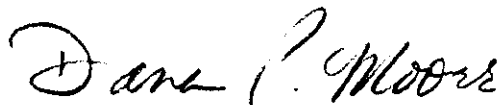
**Pizzagalli's Bid Irregularity,
If Any, is Minor and Curable**

Assuming for the sake of argument that MWBOO rules or other unspecified rules of Baltimore City procurement did indeed require Pizzagalli to initial changes made in its Statement of Intent, the failure to do so is a minor irregularity and is curable. The absence of initials in no way alters the substance of the contract or subcontract, Pizzagalli's ability to perform under the contract and, most significantly, Pizzagalli's satisfaction of the bid's WBE/MBE goals. Further, the omission is easily corrected by adding the initials of the Pizzagalli and Comer Construction, the subcontractor, at each changed entry on the "Statement of Intent".

Conclusion

For all of the reasons stated above, Pizzagalli protests its disqualification from bidding on WC 1160. Pizzagalli requests that the basis for the disqualification be found to be minor, curable, cured, waivable and waived. Further, Pizzagalli protests the awarding of WC 1160 to any bidder other than Pizzagalli.

Sincerely,



Dana Petersen Moore, Esq.
For Pizzagalli Construction Company

cc: Mayor Sheila Dixon
Comptroller Joan M. Pratt
City Council President Stephanie Rawlings Blake
City Solicitor George Nilson
David Scott, Director of Public Works
Shirley Williams, Director, MWBOO

Baltimore City Board of Estimates

July 23, 2009

Page 4

David Borsykowsky, Esq., General Counsel,
Pizzagalli Construction
Linda Sue Comer, President, Comer Construction
John Friesner, Contract Administrator at
City of Baltimore

ROBERT FULTON DASHIELL, ESQ., P.A.

1498 Reisterstown Road #334 | Pikesville, Maryland 21208
410-547-8820 (office) | 443-637-3718 (fax)

robertdashiell@dashiell-lawoffice.com

June 9, 2009

Bernice H. Taylor, Deputy Comptroller
Clerk, Board of Estimates of Baltimore City
100 Holliday St # 204
Baltimore, MD 21202

RE: Kinsley Construction, Inc. / WC 1160- Montebello Plant 2
Finished Water Reservoir Cover (the "Contract")

Dear Deputy Comptroller Taylor:

Please be advised that I represent Kinsley Construction, Inc. ("Kinsley"), the lowest, responsible and responsive bidder on the above referenced Contract. By letter dated May 27, 2009, the contract administrator for the Department of Public Works ("DPW") advised that DPW would not recommend award of the Contract to Kinsley because Chesapeake Contracting Services ("Chesapeake"), designated by Kinsley as a WBE was, in fact, certified as an MBE, resulting in a finding that Kinsley's bid was non-compliant with respect to WBE participation. Please accept his protest of the award of the Contract to any firm other than Kinsley. For your convenience, I have included five copies of this letter for distribution to the members of the Board of Estimates (the "Board").

I have reviewed this matter with Chesapeake and the Minority and Women's Business Opportunity Office (MWBOO). Based upon my assessment of all the information made available to me, I believe that at all times material to this matter Chesapeake satisfied all of the requirements for certification as a WBE and should have been certified as such in June 2008. The facts which led me to this conclusion are:

1. Chesapeake was formed in 1991 by W. William Nicholsonne and was shortly thereafter certified by the City as an MBE.
2. Kimberly Nicholsonne, William's daughter, has been the president and chief operating officer of the Company since her father's death in January 2007.
3. Ms. Nicholsonne has owned 53% of the issued and outstanding shares of common stock of Chesapeake since November 2007.
4. Since February 2008, Mary Nicholsonne, William's widow, has owned 31% of the issued and outstanding shares of common stock of Chesapeake. As of that date Kimberly and her mother have, together, owned 84% of the issued and outstanding shares of common stock of Chesapeake.
5. Chesapeake's bylaws, which have remained unchanged from the time it was formed, provide that directors are elected and may be removed, with or without cause, by majority vote of its shareholders.

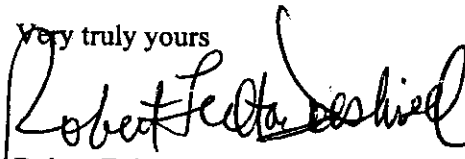
6. On or about June 20, 2008, Chesapeake applied for certification as a WBE.
7. On May 12, 2009, MWBOO, in its first response to Chesapeake's application, denied Chesapeake certification both as an MBE and a WBE because neither minorities nor women constituted a majority of the members of Chesapeake's board of directors.
8. On May 23, 2009, MWBOO granted Chesapeake certification as an MBE, but affirmed its denial of Chesapeake's application for WBE certification on the grounds that women had not comprised a majority of its Board of Directors for at least 12 months.
9. In rendering its May 23rd decision MWBOO did not take into the fact that from 2007 to the present women had the exclusive authority to elect and remove all members of Chesapeake's board.
10. Chesapeake has filed a request with MWBOO for reconsideration of the May 23rd decision.

In certifying Chesapeake as an MBE, notwithstanding the fact that minorities did not have numerical superiority on its board of directors for more than 12 months, MWBOO recognized that Chesapeake's minority shareholders possessed actual control of the company because they controlled membership on its board of directors. Because those minority shareholders are also female, Chesapeake's request for WBE certification should have been approved as well. Thus, MWBOO's decision in May 2009 denying Chesapeake's request was clearly erroneous.

Although Chesapeake was not listed as a WBE, Chesapeake advised my client that it had submitted an application for WBE certification in June 08 and expressed great confidence that its application would be approved. My client relied upon that assurance, in disregard of the stern warning in the bid documents relating to verification of M/WBE status. Ordinarily that would end the matter. However, as is true in every solicitation issued by the City, the bid documents for the Contract acknowledge and reserve to the authority to waive minor irregularities. .

There is no question here over Chesapeake's certification to perform the work for which it was designated. Nor, for the reasons stated above, should there be any question that Chesapeake was entitled to certification as a WBE long before the bid date of the Contract. Under these circumstances, the Board has the authority to and, I believe, should waive the non-compliance on my client's part as a minor irregularity.

Very truly yours



Robert Fulton Dashiell

RFD/ltucker

ATTORNEYS AT LAW

TYDINGS & ROSENBERG LLP

TIT MERITAS LAW FIRMS WORLDWIDE

100 EAST PRATT STREET
15TH FLOOR
BALTIMORE MARYLAND 21202

+10.752.9700

FAX +10.727.5460

TOWSON MD OFFICE

+10.337.0407

FAX +10.337.3758

www.tydingslaw.com

FRANKLIN M. LEE

410.752.9734

flee@tydingslaw.com

July 29, 2009

HAND DELIVERED

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

**Re: *Bid Protest of Fru-Con Construction Corporation
In the Matter of Montebello Plant 2 Finished Water Reservoir Cover
Water Contract No. 1160 (WC 1160)***

To Whom It May Concern:

Please be advised that the law firm of Tydings & Rosenberg LLP represents Fru-Con Construction Corporation ("Fru-Con"). We formally submit this bid protest on Fru-Con's behalf opposing the City's disqualification of its bid in the above-referenced matter, and further contesting the City's apparent or potential decision to award this contract to another bidder, or in the alternative, to reject all bids and to re-bid this project. For the reasons set forth below, Fru-Con respectfully requests that this Board waive the technical defect in one of its bid forms that resulted from the inadvertent omission of M/WBE subcontractor material/supplies information that was nevertheless provided in other forms contained elsewhere within its bid. Fru-Con further requests that the City then award this contract to Fru-Con as the next lowest responsible bidder whose bid is qualified and within the acceptable cost range per the City Engineer's estimate.

Factual Summary

On April 22, 2009, Fru-Con submitted a bid in a timely fashion in response to Contract Bid No. WC 1160 – Montebello Plant 2 Finished Water Reservoir Cover. Fru-Con's bid was in the amount of \$48,327,000. At bid opening, Fru-Con's bid was ranked as the seventh apparent low bid among a total of ten bids submitted. Upon information and belief, each of the six bidders ranked ahead of Fru-Con were disqualified for various reasons, thus leaving Fru-Con as

Board of Estimates
July 29, 2009
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the lowest responsible bidder.¹ However, July 23, 2009, correspondence from Doreen Diamond, Contract Administrator for the Baltimore City Department of Public Works, to Fru-Con, stated that the City of Baltimore Minority and Women's Business Opportunity Office ("MWBOO") had found that Fru-Con's bid submission package for this contract was non-compliant due to a failure to list the "Work/Service or Materials/Supplies" for M/WBE subcontractors, Genesis Steel Service, P&J Contracting Company, and Stella May Contracting, on its Part C – Statement of Intent Form. Accordingly, pursuant to Article 5, Section 28 of the Baltimore City Code, the Department of Public Works disqualified Fru-Con's bid from consideration. (See Attachment A)

In all other respects, the submitted "Part C – Statement of Intent" forms were complete (*i.e.*, they were executed by both Fru-Con and each of the M/WBE subcontractors indicating an intent to enter into a subcontract agreement upon contract award for the indicated work/service and for the identified dollar amount. (See Attachment B) Moreover, any ambiguity regarding the intent of the parties on the M/WBE subcontractors' scopes of work was removed when Fru-Con also submitted with its bid for each of these M/WBE subcontractors EPA Forms 6100-3 and 6100-04 (DBE Subcontractor Participation Form) executed by Fru-Con and by each respective M/WBE subcontractor. (See Attachment C). These fully executed EPA forms clearly provided a description of supplies or services to be provided by each M/WBE subcontractor and, like the Part C forms, delineated an identical dollar amount each was to be paid for such supplies and services.² As of this date, the Department of Public Works has failed to recommend contract award to Fru-Con or any another bidder, and upon information and belief, is considering recommending rejection of all bids and re-bidding this project.

Argument

A. The Inadvertent Omission of M/WBE Materials/Supplies Information from a Single Form Is a Technical Defect, Not A Substantive One, When the Missing Information Is Repeatedly Provided on Other Mandatory Forms Submitted With the Bid

Although, Fru-Con did not include a description of the specific supplies, materials and/or services to be provided by its intended M/WBE subcontractors on its Part C – Statement of Intent forms submitted with its bid, it is irrefutable that Fru-Con provided this precise information on three other forms that were submitted in a timely fashion as part of its bid – "Part F – Solicitation

¹ The six disqualified bidders whose bids were apparently lower than Fru-Con at bid opening were (1) Kinsley (\$39,188,750); (2) Whiting-Turner (\$39,497,000); (3) Allan A. Meyers (\$40,317,600); (4) Pizzagalli (\$40,339,000); (5) Archer Western (\$42,022,945); and (6) Clark (\$47,873,000).

² MBE subcontractor Genesis Steel Service is listed as performing "supply and install rebar" for \$3,466,892 or the equivalent of 7.1% of the prime contract amount; MBE subcontractor P & J Contracting Corporation is listed as performing "Sitework" for \$2,995,000 or the equivalent of 6.1% of the prime contract amount; and WBE subcontractor Stella May Contracting, Inc. is listed as performing "Site Piping" for \$6,132,011 or the equivalent of 12.6% of the prime contract amount.

Board of Estimates

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of Firms Prime (Construction) Contractor," "EPA Form 6100-3 (DBE Subcontractor Performance Form)," and "EPA Form 6100-4 (DBE Subcontractor Utilization Form)." (See Attachments D and B, respectively). It is worth noting that while the Part F form was not required to be executed, the EPA Form 6100-3 was executed by both Fru-Con and the M/WBE subcontractor in all three cases. Like the City of Baltimore's MWBOO Part C Form, execution of the EPA Forms create a legal duty on the part of prime contractors and subcontractors to be truthful about their stated intended participation. Fraudulent representations in bid documents relating to intended DBE or MBE Program participation in order to obtain federal (and even local) government contracts can be grounds for prosecution under the federal RICO Act and the False Claims Act. See 18 U.S.C. §§ 1341, 1343, and 31 U.S.C. §§ 3729-3733; see also *U. S. v. Leahy*, 464 F.3d 773 (7th Cir. 2006). In *Leahy*, the 7th Circuit Court of Appeals upheld a prosecution under the federal RICO Act against a scheme perpetrated by a white businessperson to defraud the City of Chicago's MBE program. The fact that on the "Part F" form and the EPA Form 6100-4, as well as on the executed EPA Form 6100-3, Fru-Con included the required information regarding the scope of M/WBE subcontractor supplies and services to be provided is clearly indicative of its intent. More importantly, the representations made by Fru-Con and its M/WBE subcontractors on these executed EPA forms were substantive and binding, not just for EPA purposes, but also for purposes of compliance with the City of Baltimore's MBE program. Accordingly, Fru-Con's inadvertent omission of the M/WBE subcontractor scope of work information on a single form was a technical defect devoid of any substantive meaning or consequence. The City should not disqualify Fru-Con's bid by literally elevating "form" over substance in this instance.

B. The Board of Estimates Has the Discretion to Waive Technical Defects in Bids When the Interest of the City May So Require

Under the Article 5, Section 28-14(b) of the Baltimore City Code, the Board of Estimates may, at its discretion, waive minor defects and errors in a bidder's MBE or WBE submission. Moreover, Section 00 51 00.01 A on page 23 of the City of Baltimore specifications for this bid, specifies that the Board of Estimates reserves the right and sole discretion to "waive technical defects, if in its judgment, the interest of the City may so require." For the reasons stated above, Fru-Con's defect in its bid is an inadvertent technical defect that in no way substantively alters its responsibilities under the M/WBE program requirements. The fact that Fru-Con has disclosed the scope of work intended for its M/WBE subcontractors on three pieces of paper in its bid instead of four does not prejudice other bidders, nor does it substantively alter the nature or quality of its commitment to comply with the City's M/WBE participation goals.

Board of Estimates

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Page 4

C. The Interests of the City Weigh Heavily In Favor of the Waiver of Fru-Con's Technical Defect In Its Bid

There are several public interest considerations that weigh heavily in favor of the City's waiver of this technical defect:

1. The six bids that are ranked lower in price than Fru-Con have all been disqualified, and Fru-Con's bid of \$48,327,000 is the next lowest bid. With the waiver of this technical defect, Fru-Con's bid would be the last qualified bid to fall below the acceptable price range which is within 110% of the City Engineer's cost estimate for this project which has been stated to be slightly above \$44 million. Resorting to awarding this contract to the eighth, ninth, or tenth bidders would cost the City upwards of an additional \$3 million that is neither budgeted for, nor within the City's acceptable price range.
2. Failure to waive this technical bid defect would most likely require the City to re-bid this contract, which would then likely cause substantial further delays in contract award and start-up of construction for this important water project.
3. Upon information and belief, a substantial portion of the funding for this contract is coming from EPA on condition that bid opening is completed by September 30th, that recommendation and approval of a bid for contract award is made by the Maryland Department of the Environment by October 30th, and that the City issues a notice to proceed with construction no later than December 31, 2009. Given the lengthy history of this procurement, it is highly unlikely that this bid can be formally re-advertised and re-issued, evaluated by City staff and MDE, and awarded within a time frame to permit construction to begin by year's end. In the current round of bidding, bid opening occurred on April 22.nd Yet, three months later, there still is no recommended contract award by the City, nor has the City's contract award been submitted for approval by the Maryland Department of the Environment. As roughly only sixty days now remain until the federal bid opening deadline, the City would be engaging in highly risky behavior in attempting to re-bid this project on an expedited basis. Whatever gains the City might obtain through more competitive bidding under a re-bid scenario would be more than offset by the very real threat of loss of federal funding in the likely event the City misses one or more of its conditional deadlines.
4. Waiver of Fru-Con's technical defect in its bid would permit the City to award the contract to Fru-Con as the lowest responsible bidder, satisfy all of its M/WBE requirements, and meet all of its timeline conditions necessary to maintain its eligibility for full federal funding for this project. Given that the City is already under mandate from EPA to perform this work, and that current budgetary concerns place a premium on

TYDINGS & ROSENBERG LLP

Board of Estimates

July 29, 2009

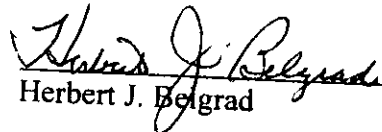
Page 5

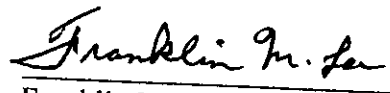
City tax dollars, it is clearly in the City's interest to subsidize the cost of this project with federal funding to the maximum extent possible.

Conclusion

For all of the aforementioned reasons, the Board of Estimates should use its discretion to waive the technical defect in Fru-Con's Part C form, and award the contract to Fru-Con as the lowest responsible bidder conditioned upon the approval of the Maryland Department of the Environment.

Respectfully submitted,


Herbert J. Belgrad


Franklin M. Lee

Tydings & Rosenberg LLP
100 E. Pratt Street, 26th Floor
Baltimore, Maryland 21202
Telephone No. (410) 752-9700
Fax No. (410) 727-5460

Attorneys for Fru-Con Construction Corp.

Enclosures

cc: The Honorable Sheila Dixon, Mayor
The Honorable Joan Pratt, Comptroller
The Honorable Stephanie Rawlings-Blake, President of City Council
The Honorable George Nilson, City Solicitor
The Honorable David Scott, Director of Public Works
Shirley Williams, Esquire, Chief of MWBOO

Attachment A

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF PUBLIC WORKS

CONTRACT ADMINISTRATION
1105 Abel Wolman Municipal Building
Baltimore, Maryland 21202

CERTIFIED MAIL RECEIPT NO. 7003 3110 0003 6561 4990

July 23, 2009

JUL 24 2009

Fru-Con Construction Corp.
4310 Prince William Pkwy, Ste 200
Woodbridge, VA 22192

RE: WC 1160 – Montebello Plant 2 Finished Water Reservoir Cover

Dear Sir or Madam:

On July 20, 2009 the City of Baltimore Minority and Women's Business Opportunity Office (MWBOO) found your bid submission package for WC 1160 Montebello Plant 2 Finished Water Reservoir Cover to be non-compliant. The reason stated was: On part C, statement of intent form, Bidder did not list the Work/Service or Materials/Supplies for Genesis Steel Service, P & J Contracting Company, and Stella May Contracting. The Department of Public Works does not recommend contract awards to firms whose bids do not comply with, Article 5 Section 28 of the Baltimore City Code.

If you require further clarification of this decision, please contact the Department of Public Works' Office of Compliance at (410) 396-8497. As a courtesy, your firm will be contacted by the Office of Contract Administration prior to the recommendation to award this contract.

Sincerely,

DOREEN DIAMOND
CONTRACT ADMINISTRATOR

Cc: DPW-Office of Compliance



Attachment B

WATER CONTRACT NO. 1160

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Fru-Con Construction Corporation

Name of MBE or WBE: Genesis Steel Service

MBE or WBE Certification Number: 90-000652 (9-20-09)

Work/Service to be performed by MBE or WBE:

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 3,466,892 (If this is a requirements contract, the
subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 7.1 %

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)
Michael R. Fischer

04/22/09
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

4-20-09
Date

Roland Pead - President

P4J

WATER CONTRACT NO. 1160

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTERELLO PLANT 1 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Fru-Con Construction Corporation

Name of MBE or WBE: P & J Contracting

MBE or WBE Certification Number: 89-000118

Work/Service to be performed by MBE or WBE:

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 2,995,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 6.1 %

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

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

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

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

04/22/09

Date

[Signature]
Signature of MBE or WBE (REQUIRED)

3/6/09
Date

04361

WATER CONTRACT NO. 1160 7084

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Fru-Con Construction

Name of MBE or WBE: Stella May

MBE or WBE Certification Number: 96-003096 Baltimore City

exp 11/9/2011

Work/Service to be performed by MBE or WBE:

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 6,132,011 (If this is a requirements contract, the
subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 12.62 %

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

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

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

Signature of Prime Contractor (REQUIRED)
Michael R. Fishoer

04/22/09
Date

Signature of MBE or WBE (REQUIRED)
Stella M. Miller, President

4/21/09
Date

MMCA-MARYLAND MINORITY CONTRACTORS ASSOCIATION, INC.
A Chapter of American Minority Contractors and Businesses Association, Inc.
Baltimore, MD 21210
443-413-3011
410-323-0932 Fax
arnoldmjolivet@starpower.net

September 22, 2009

Connected copy

VIA FACSIMILE 410-685-4416

The Honorable President and Members
Baltimore City Board of Estimates
Second Floor, City Hall
Baltimore, Maryland 21202
Attention: Ms. B. Harriett Taylor, Esquire
Clerk to the Board

**Subject: Protest Against Various Contract Awards-
Board of Estimates' Agenda, September 23, 2009**

Dear Madam President:

I represent the Maryland Minority Contractors Association, Inc. (MMCA) in its own independent right, and its members and constituents in protesting Your Honorable Board's approval of the above referenced Board Agenda items. It is well settled that an association, like MMCA herein, possesses the requisite standing to represent its members, its constituents and itself:

"[A]n Association [like MMCA] has standing to bring suit on behalf of its members when:
(a) its members would otherwise have standing to sue in their own rights;
(b) the interest it seeks to protect are germane to the organization's purpose; and
(c) neither the claim asserted nor relief requested requires the participation of individual members in the lawsuit."

See Hunt v. Washington Apple Advertising Commission, 432 U. S., 333, 343 (1977); See also NAACP v. Button, 371 U.S. 415 (1963). ("An association and its members are one and the same.")

We hereby protest the following described proposed contract awards, increase or modifications on your 9/23/2009 agenda:

1. We protest the award of item number 18 on page 87 for the reason that the proposed increase violates competitive bidding requirements of Article VI, § 11 of the City Charter and moreover, fails to meet and satisfy the 13.21% WBE utilization goals established by the City's MWBOO.

2. We protest the proposed sole source award described in item number 19,
88 on page 88, for the reason that the proposed award violates the mandatory
competitive bidding requirements of Article VI, § 11 of the City Charter.
AMS Moreover, this proposed award violates Article 5, Subtitle 28 of the Baltimore
City Code (M/WBE Utilization Requirements).

3. We protest the BPW's proposed award of WC 1160-Montebello Plant 2 &
Finished Water Reservoir Cover – to Kinsley Construction, Inc. This
item is found on pages 91-92 of Your Honorable Board's 9/23/09 agenda.
The proposed awardee has failed to comply with the procedural requirements
of Article 5, Subtitle 28 of the City Code (M/WBE Utilization Requirements).

Please allow me to speak briefly on each of these items. Thank you for your kind consideration of the
above stated items.

Sincerely,



Arnold M. Jolivet
Managing Director

Attachment C

Water Contract # 1160

OCTOBER 1, 2008

Environmental
Protection Agency
 OMB Control No: _____
 Approved: _____
 Approval Expires: _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR Genesis Steel Service		PROJECT NAME Montebello Plant 2 Water Res.
ADDRESS Baltimore MD. 21221 330 Back River Neck Road		HID/PROPOSAL NO.
TELEPHONE NO. 410-338-1894		E-MAIL ADDRESS director@1554 Verizon.NET
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES AND TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	SCYBLYA INSTALL REBAR ✓	348,892 ✓
Currently certified as MBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Signature of Prime Contractor Michael R. Fischer Print Name		Date 04/22/09
Signature of Subcontractor Roland Poed Print Name		Title Vice President
		Date 4.20.2009
		Title President

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

SANITARY CONTRACT No. 829

OCTOBER 1, 2008



Environmental
Protection Agency

Civil Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

SUBPROPOSAL NO. WC 1160	PROJECT NAME Montebello Plant 2 Finished Water Cover
NAME OF PRIME BIDDER/PROPOSER Fru-Con Construction Corporation	E-MAIL ADDRESS _____
ADDRESS 4310 Prince William Parkway, Suite 200, Woodbridge VA 22192	
TELEPHONE NO. 703-586-6100	FAX NO. 703-586-6101

The following subcontractors' will be used on this project			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?
Genesis Steel Service 330 Back River Rd Baltimore MD 21221 410-238-1890	Supply & Install Rebar	\$46,872	MBE

I certify under penalty of perjury that the foregoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 41 CFR Part 33 Section 33.302(a).

	4/22/2009
Signature Of Prime Contractor	Date
Michael R. Fischer	Vice President
Print Name	Title

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into a contractual relationship with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-1 (DBE Subcontractor Utilization Form)

SANITARY CONTRACT No. 829

OCTOBER 1, 2008



Environmental
Protection Agency

Civil Control No. _____
Approval _____
Approval Expires _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR P & J Contracting		PROJECT NAME Montebello Plant 2 Finished Water Cover
ADDRESS 3010 Ridgewood Avenue Baltimore, MD 21215		PROJECT ORAL NO. WC 1160
TELEPHONE NO. 410-977-6253		E-MAIL ADDRESS
PRIME CONTRACTOR NAME Fru-Con Construction Corporation		
CONTRACT ITEM NO.	TYPE OF WORK OR DESCRIPTION OF SERVICES AND QUANTITY	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	SHAWK ✓	2,995,000
Contract with Prime Contractor DBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Signature of Prime Contractor Michael R. Fischer		Date 4/22/2009
Print Name		Title Vice President
Signature of Subcontractor P. J. Jones		Date 4/17/09
Print Name P. J. Jones		Title PRESIDENT

Subcontractor is advised that company, firm, or individual is not eligible for DBE status if it is a contractor or previously contractor pursuant to an EPA award of financial assistance.

EPA FORM 6100-5 (DBE Subcontractor Performance Form)

SANITARY CONTRACT No. 829

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

KID/PROPOSAL NO. WC 1160	PROJECT NAME Montebello Plant 2 Finished Water Cover
NAME OF PRIME BIDDER/PROPOSER Fru-Con Construction Corporation	E-MAIL ADDRESS
ADDRESS 4310 Prince William Parkway, Suite 200, Woodbridge VA 22192	
TELEPHONE NO. 703-588-8100	FAX NO. 703-588-8101

The following subcontractors will be used on this project			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?
P & J Contracting Corporation 3010 Ridgewood MD 21215 Baltimore MD 21215 410-977-8253	Stencils ✓	258,000 ✓	MBE ✓

I certify under penalty of perjury that the foregoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 41 CFR Part 33 Section 33.302(a).

4/22/2009
Signature Of Prime Contractor Date

Michael R. Fischer Vice President
Print Name Title

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide work or services to a project under a contract or subcontract.

EPA FORM 400-1 (DBE Subcontractor Utilization Form)

3064

Water Contract # 1160

OCTOBER 1, 2008

Environmental
Protection Agency

OMB Control No.	_____
Approved	_____
Approval Expires	_____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR Stella May Contracting, Inc.		PROJECT NAME Montebello Plant 2
ADDRESS 1512 Edgewood Rd. Edgewood, MD 21040		DBE PROPOSAL NO. 1160
TELEPHONE NO. 410-679-8306		E-MAIL ADDRESS _____
PRIME CONTRACTOR NAME _____		
CONTRACT ITEM NO.	ITEM OR WORK OR DESCRIPTION OF SERVICE BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	TYPE 1 ipm ✓	6,132,011
Currently certified as an MBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Signature of Prime Contractor Michael R. Fischer		Date 4/22/09
Print Name _____		Title Vice President
Signature of Subcontractor Stella M. Miller		Date 4/21/09
Print Name Stella M. Miller		Title President

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to the DBE contract of financial assistance.

EPA FORM 6120-3 (DBE Subcontractor Performance Form)

SANITARY CONTRACT No. 829

OCTOBER 1, 2008




Environmental
Protection Agency

Civil Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

BID/PROPOSAL NO. WC 1160	PROJECT NAME Montebello Plant 2 Finished Water Cover
NAME OF PRIME BIDDER/PROPOSER Fru-Con Construction Corporation	E-MAIL ADDRESS
ADDRESS 4310 Prince William Parkway, Suite 200, Woodbridge VA 22192	
TELEPHONE NO. 703-586-8100	TAX NO. 703-586-8101

The following subcontractors will be used on this project:			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN LBE OR WBE
Stella May Contracting 1512 Edgewood Rd. Edgewood MD 21040 410-679-8306	<i>Site Imp'g</i>	<i>6,133,000</i>	<i>WBE</i>
<p>I certify under penalty of perjury that the foregoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 36 Section 36.322(a).</p> <p>  Signature of Prime-Contractor </p> <p> Date: <u>4/22/2009</u> </p> <p> Michael R. Fischer Print Name </p> <p> Vice President Title </p>			

Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor or prime contractor pursuant to WCTPA Section of 1643022-20000000

EPA FORM 6100-1 (DBE Subcontractor Utilization Form)

Attachment D

PART F: SOLICITATION OF FIRMS PRIME (CONSTRUCTION) CONTRACTOR

Complete one form for each subcontractor

Project Name: MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Total Contract Amount (Prime Construction Contractor): _____

Please answer the following questions for each subcontract

Procurement Category: Check only one procurement category for each subcontract being reported under the above referenced project. Construction ☒ Equipment ☐ Services ☐ Supplies ☐

Summary of Subcontractors Solicited

- 1 Number of firms solicited (attach documentation): 143
 2 Number of M/WBE firms that responded (attach documentation): 71

Details of Selected Firm

- 3 Name of Firm: Genesis Steel Service
 4 Address: 330 Back River Neck Rd, Baltimore, MD 21221
 5 Contact Person (Name and Phone): Roland Peed, 410-238-1890
 6 Total amount of Subcontract \$ 3,466,892

7 Type of Subcontract Work:

Type of Work	Cost	Type of Work	Cost
<u>Rebar 54Y</u>	<u>\$ 1,466,64</u>		\$
	\$		\$

- 8 Is the firm a Minority Business Enterprise? (MBE) Yes ☒ No ☐
 9 Is the firm a Women Business Enterprise? (WBE) Yes ☐ No ☐
 10 If response to question 8 or 9 is yes, please complete the following:

- o M/WBE Certification Number: 90-000652
 Certification Date: _____
 Expiration Date (if applicable): 09-20-09
- o Certifying Agency: City of Baltimore

Ms. Kay G. Bee, Program Manager, MWQFA
 1800 Washington Blvd., Baltimore MD 21230
 Phone: 410-537-3146, E-mail: kbee@mda.state.md.us
 MDE/WQFA-PN0098 October 1, 2008
 TTY Users 1-800-735-2258

PART F: SOLICITATION OF FIRMS **PRIME (CONSTRUCTION) CONTRACTOR**

Complete one form for each subcontractor

Project Name: MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER
 Total Contract Amount (Prime Construction Contractor): _____

Please answer the following questions for each subcontract

Procurement Category: Check only one procurement category for each subcontract being reported under the above referenced project. Construction ☒ Equipment ☐ Services ☐ Supplies ☐

Summary of Subcontractors Solicited

- 1 Number of firms solicited (attach documentation): 148
 2 Number of M/WBE firms that responded (attach documentation): 71

Details of Selected Firm

- 3 Name of Firm: P & J Contracting
 4 Address: 3010 Ridgewood Ave, Baltimore MD 21215
 5 Contact Person (Name and Phone): Sham Vij 410-367-4103
 6 Total amount of Subcontract \$ 2,995,000

Type of Subcontract Work:

Type of Work	Cost	Type of Work	Cost
<u>Site work</u>	<u>\$ 2,995,000</u>		\$
	\$		\$

- 8 Is the firm a Minority Business Enterprise? (MBE) Yes ☒ No ☐
 9 Is the firm a Women Business Enterprise? (WBE) Yes ☐ No ☐
 10 If response to question 8 or 9 is yes, please complete the following:

- o M/WBE Certification Number: 89-000119
 Certification Date: _____
 Expiration Date (if applicable): 05/01/09
 o Certifying Agency: City of Baltimore

Ms. Kay G. Bee, Program Manager, MWQFA
 1800 Washington Blvd., Baltimore MD 21230
 Phone: 410-537-3146, E-mail: kbee@mdc.state.md.us
 MDE/WQFA-PB0098 October 1, 2005
 TTY Users 1-800-735-2258

PART F: SOLICITATION OF FIRMS PRIME (CONSTRUCTION) CONTRACTOR

Complete one form for each subcontractor

Project Name: **MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER**

Total Contract Amount (Prime Construction Contractor): _____

Please answer the following questions for each subcontract

Procurement Category: Check only one procurement category for each subcontract being reported under the above referenced project. Construction ☒ Equipment ☐ Services ☐ Supplies ☐

Summary of Subcontractors Solicited

1 Number of firms solicited (attach documentation): 143
 2 Number of M/WBE firms that responded (attach documentation): 71

Details of Selected Firm

3 Name of Firm: Stella May Contracting, Inc
 4 Address: 1512 Edgewood Rd, Edgewood, MD 21040
 5 Contact Person (Name and Phone): Stella Miller, 410-679-8306
 6 Total amount of Subcontract \$ 6,132,000
 7 Type of Subcontract Work:

Type of Work	Cost	Type of Work	Cost
Site V. pin	\$ 6,132,000		\$
	\$		\$

8 Is the firm a Minority Business Enterprise? (MBE) Yes ☐ No ☐

9 Is the firm a Women Business Enterprise? (WBE) Yes ☒ No ☐

10 If response to question 8 or 9 is yes, please complete the following:

- o M/WBE Certification Number: 96-003096
 Certification Date: _____
 Expiration Date (if applicable): 01/09/2011
- o Certifying Agency: City of Baltimore

:

Ms. Kay G. Bee, Program Manager, MWQFA

1800 Washington Blvd., Baltimore MD 21230

Phone: 410-537-3146, E-mail: kbee@mdc.state.md.us

MD&WQFA-FR0098 October 1, 2005

TTY Users 1-800-735-2258

ROBERT FULTON DASHIELL, ESQ., P.A.

1498 Reisterstown Road #334 | Pikesville, Maryland 21208
410-547-8820 (office) | 443-637-3718 (fax)

robertdashiell@dashiell-lawoffice.com

June 9, 2009

Bernice H. Taylor, Deputy Comptroller
Clerk, Board of Estimates of Baltimore City
100 Holliday St # 204
Baltimore, MD 21202

RE: Kinsley Construction, Inc. / WC 1160- Montebello Plant 2
Finished Water Reservoir Cover (the "Contract")

Dear Deputy Comptroller Taylor:

Please be advised that I represent Kinsley Construction, Inc. ("Kinsley"), the lowest, responsible and responsive bidder on the above referenced Contract. By letter dated May 27, 2009, the contract administrator for the Department of Public Works ("DPW") advised that DPW would not recommend award of the Contract to Kinsley because Chesapeake Contracting Services ("Chesapeake"), designated by Kinsley as a WBE was, in fact, certified as an MBE, resulting in a finding that Kinsley's bid was non-compliant with respect to WBE participation. Please accept his protest of the award of the Contract to any firm other than Kinsley. For your convenience, I have included five copies of this letter for distribution to the members of the Board of Estimates (the "Board").

I have reviewed this matter with Chesapeake and the Minority and Women's Business Opportunity Office (MWBOO). Based upon my assessment of all the information made available to me, I believe that at all times material to this matter Chesapeake satisfied all of the requirements for certification as a WBE and should have been certified as such in June 2008. The facts which led me to this conclusion are:

1. Chesapeake was formed in 1991 by W. William Nicholsonne and was shortly thereafter certified by the City as an MBE.
2. Kimberly Nicholsonne, William's daughter, has been the president and chief operating officer of the Company since her father's death in January 2007.
3. Ms. Nicholsonne has owned 53% of the issued and outstanding shares of common stock of Chesapeake since November 2007.
4. Since February 2008, Mary Nicholsonne, William's widow, has owned 31% of the issued and outstanding shares of common stock of Chesapeake. As of that date Kimberly and her mother have, together, owned 84% of the issued and outstanding shares of common stock of Chesapeake.
5. Chesapeake's bylaws, which have remained unchanged from the time it was formed, provide that directors are elected and may be removed, with or without cause, by majority vote of its shareholders.

EXHIBIT

9

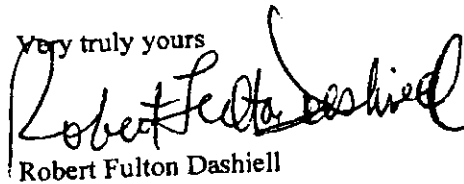
6. On or about June 20, 2008, Chesapeake applied for certification as a WBE.
7. On May 12, 2009, MWBOO, in its first response to Chesapeake's application, denied Chesapeake certification both as an MBE and a WBE because neither minorities nor women constituted a majority of the members of Chesapeake's board of directors.
8. On May 23, 2009, MWBOO granted Chesapeake certification as an MBE, but affirmed its denial of Chesapeake's application for WBE certification on the grounds that women had not comprised a majority of its Board of Directors for at least 12 months.
9. In rendering its May 23rd decision MWBOO did not take into the fact that from 2007 to the present women had the exclusive authority to elect and remove all members of Chesapeake's board.
10. Chesapeake has filed a request with MWBOO for reconsideration of the May 23rd decision.

In certifying Chesapeake as an MBE, notwithstanding the fact that minorities did not have numerical superiority on its board of directors for more than 12 months, MWBOO recognized that Chesapeake's minority shareholders possessed actual control of the company because they controlled membership on its board of directors. Because those minority shareholders are also female, Chesapeake's request for WBE certification should have been approved as well. Thus, MWBOO's decision in May 2009 denying Chesapeake's request was clearly erroneous.

Although Chesapeake was not listed as a WBE, Chesapeake advised my client that it had submitted an application for WBE certification in June 08 and expressed great confidence that its application would be approved. My client relied upon that assurance, in disregard of the stern warning in the bid documents relating to verification of M/WBE status. Ordinarily that would end the matter. However, as is true in every solicitation issued by the City, the bid documents for the Contract acknowledge and reserve to the authority to waive minor irregularities.

There is no question here over Chesapeake's certification to perform the work for which it was designated. Nor, for the reasons stated above, should there be any question that Chesapeake was entitled to certification as a WBE long before the bid date of the Contract. Under these circumstances, the Board has the authority to and, I believe, should waive the non-compliance on my client's part as a minor irregularity.

Very truly yours



Robert Fulton Dashiell

RFD/tucker

G.W. WHITING
(1883-1974)

FOUNDED 1909

WILLARD HACKERMAN
PRESIDENT AND CEO

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

HAMPTON PLAZA, 300 EAST JOPPA ROAD, TOWSON
BALTIMORE, MARYLAND 21286-3048
410-821-1100
FAX 410-337-5770
www.whiting-turner.com

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BIO-TECH/PHARMACEUTICAL
HIGH-TECH/CLEANROOM

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS

(410) 494-7433

May 14, 2009

VIA FACSIMILE: (410) 539-7292

City of Baltimore
Contract Administration
Abel Wolman Municipal Building
200 Holliday Street, Room 201
Baltimore, Maryland 21202
Attention: Mr. John Friesner

Dear Mr. Friesner,

Upon reviewing the bid submissions for WC 1160 - Montebello Water Plant 2 Improvement, it was noticed that Kinsley Construction named Chesapeake Contracting Services (certification #97-003190) for \$3,616,000 to perform pre-cast concrete work. Kinsley identified this work as being 9.2% of their total WBE participation package.

Whiting-Turner questions the responsiveness of Kinsley's bid based on the understanding that Chesapeake Contracting Services is certified as a MBE (African American) by both the City of Baltimore and MDOT. We are unable to locate any documentation from the City of Baltimore or MDOT that lists Chesapeake Contracting Services as a WBE. Therefore we feel that Kinsley's bid does not meet the WBE requirements of the contract. Please clarify our interpretation.

I can be reached at the number above to discuss this matter further. Thank you for your assistance.

Yours truly,
THE WHITING-TURNER CONTRACTING COMPANY



Al Tyler
Project Manager

CC: Bernard LaHatte, W-T Vice President
Tara Macer, COB Contract Administrator

HEADQUARTERS: BALTIMORE, MARYLAND

WT

OFFICES NATIONWIDE



*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 2772
RECIPIENT ADDRESS 84105397292
DESTINATION ID
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G.W.C. WHITING
(1883-1974)

FOUNDED 1909

WILLARD HACKERMAN
PRESIDENT AND CEO

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

HAMPTON PLAZA, 300 EAST JOPPA ROAD, TOWSON
BALTIMORE, MARYLAND 21286-3048
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MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS

(410) 494-7433

May 14, 2009

VIA FACSIMILE: (410) 539-7292

City of Baltimore
Contract Administration
Abel Wolman Municipal Building
200 Holliday Street, Room 201
Baltimore, Maryland 21202
Attention: Mr. John Friesner

Dear Mr. Friesner,

Upon reviewing the bid submissions for WC 1160 -- Montebello Water Plant 2 Improvement, it was noticed that Kinsley Construction named Chesapeake Contracting Services (certification #97-003190) for \$3,616,000 to perform pre-cast concrete work. Kinsley identified this work as being 9.2% of their total WBE participation package.

Whiting-Turner questions the responsiveness of Kinsley's bid based on the understanding that Chesapeake Contracting Services is certified as a MBE (African American) by both the City of Baltimore and MDOT. We are unable to locate any documentation from the City of Baltimore or MDOT that lists Chesapeake Contracting Services as a WBE. Therefore we feel that Kinsley's bid does not meet the WBE requirements of the contract. Please clarify our interpretation.

I can be reached at the number above to discuss this matter further. Thank you for your assistance.

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Law Department - Minority and Women's Business Opportunity Office

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MWBOO Certification Directory: Search Results

Search All by Keyword for "Chesapeake Contracting" 5/8/2009 2:13:27 PM

----- 1 companies found.

CHESAPEAKE CONTRACTING SERVICES, INC.--(MBE)--African American--
Cert#: 97-003190
Kimberly M. Nicholsonne
2025 Inverness Avenue, Suite 220, Baltimore, MD 21230-
Phone: (410)644-2027 Fax: (410)644-2406
Email: info@chesapeakecs.com
SERVICE DESCRIPTION: CURTAINWALL, FUME-FREE REMOTE CONTROLLED
DEMOLITION, GLASS, GLAZING, LOUVERS, METAL PANELS,
MISCELLANEOUS METALS, PRECAST, REFRACTORY REMOVAL,
STOREFRONTS, STRUCTURAL STEEL
Cert expiration: 3/27/2008 Extension date: 5/30/2009

Baltimore City Law
Department
100 N. Holliday Street
Suite 101
Baltimore, MD 21201
(410) 396-3297

Minority & Women's
Business Opportunity
Office
City Hall, Room 101
100 N. Holliday Street
Baltimore, MD 21202
(410) 396-4355

Information in this directory should be verified with the
Minority and Women's Business Opportunity Office (410)396-4355

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PART B: WBE PARTICIPATION DISCLOSURE FORM

Use this form to list WOMEN'S Business Enterprises that you will use to meet the WBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and WBE goal is 6% or \$6,000; then participation limit for WBE suppliers that are non-manufacturers is \$1,500 or 25% of the 6% WBE goal.)

Prime Contractor's Name: Kinsley Construction, Inc.

Prime Contractor's Address: PO Box 2886, York, PA 17405

Contract Number & Title: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

WBE SUBCONTRACTORS

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
Barbie's Recycling & Hauling	08-071	04-18-11	\$628,000	1.6%
Moisture Proof Masonry	01-00401	12-02-10	\$225,000	0.6%
Chesapeake Contracting Services	97-003190	04-24-11		9.2%
Winshire Int. Const.	01-004031	12-09-10	\$56,000	1.4%
TOTAL DOLLAR AMOUNT OF CONTRACT			\$	39,178,750
TOTAL DOLLAR AMOUNT OF WBE SUBCONTRACTS			\$	
TOTAL WBE PERCENTAGE OF ENTIRE CONTRACT			%	

Form Prepared by:

Jonathan R. Kinsley 717-741-3841 4/22/09
Name and Title Phone # Date
Jonathan R. Kinsley, President/COO

(If necessary, attach additional copies of this page. Each additional page must be signed and dated.)

WATER CONTRACT NO. 1160

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Kinsley Construction

Name of MBE or WBE: CHESAPEAKE CONTRACTING SERVICES, INC

MBE or WBE Certification Number: Balto. City #97-003190 04/21/11

Work/Service to be performed by MBE or WBE:
PRECAST INSTALLATION

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ ~~1,100,000.00~~ 3,616,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 9.2 % RS 4-22

African American 74 % Asian American %
Hispanic American % Native American %

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

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

Douglas A. Coff
Signature of Prime Contractor (REQUIRED)

04-22-09
Date

Dale R. Wilson, President
Charles R. Thomas, VP
Signature of MBE or WBE (REQUIRED)
Charles R Thomas ,VP

April 21, 2009
Date

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form

NAME OF SUBCONTRACTOR Chesapeake Contracting Services	PROJECT NAME Montebello Plant 2 Finished Water Reservoir Closure
ADDRESS 2025 Inverness Ave Balto. MD. 21230	CONTRACT NO. 1160
TELEPHONE NO. (410) 644-2064	E-MAIL ADDRESS www.chesapeakecs.com
PRIME CONTRACTOR NAME Kinsley Construction	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR
	Install precast concrete - furnish	3,616,000

Charles P. Jones VP. April 21, 2009
 Subcontractor Signature Title/Date
Michael A. Hoff 04-22-09
 Senior Estimator

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Participation Form)

PART B: WBE PARTICIPATION DISCLOSURE FORM

Use this form to list WOMEN'S Business Enterprises that you will use to meet the WBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and WBE goal is 6% or \$6,000; then participation limit for WBE suppliers that are non-manufacturers is \$1,500 or 25% of the 6% WBE goal.)

Prime Contractor's Name: Kinsley Construction, Inc.

Prime Contractor's Address: PO Box 2886, York, PA 17405

Contract Number & Title: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

WBE SUBCONTRACTORS

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
Superior Painting	93-002176	12-19-10	\$130,000	33%
Abbey Enterprises	01-004020	08-13-10	\$4,358	.01%

TOTAL DOLLAR AMOUNT OF CONTRACT

\$ 39,188,750

TOTAL DOLLAR AMOUNT OF WBE SUBCONTRACTS

\$ 4,699,358

TOTAL WBE PERCENTAGE OF ENTIRE CONTRACT

11.9 %

Form Prepared by:

Name and Title

Jonathan R. Kinsley, President/COO

717-741-3841

Phone #

4/22/09

Date

PART B: MBE PARTICIPATION DISCLOSURE FORM

Use this form to list MINORITY Business Enterprises that you will use to meet the MBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and MBE goal is 15% or \$15,000; then participation limit for MBE suppliers that are non-manufacturers is \$3,750 or 25% of the 15% MBE goal.)

Prime Contractor's Name: Kinsley Construction, Inc.

Prime Contractor's Address: PO Box 2886, York, PA 17405

Contract Number & Title: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

MBE SUBCONTRACTORS

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
K.K. Adams, Inc.	89000175	01-07-11	\$720,900	1.8%
W. Concrete, Inc.	08-004910	02-03-10	\$3,750,000	9.6%
Metro Flooring	00-003879	11-26-09	\$7,550	.02%
FRS Business Flooring	07-004910	08-02-09	\$1,115	.004%

TOTAL DOLLAR AMOUNT OF CONTRACT \$ 39,188,750

TOTAL DOLLAR AMOUNT OF MBE SUBCONTRACTS \$ 4,480,165

TOTAL MBE PERCENTAGE OF ENTIRE CONTRACT 11.4 %

Form Prepared by:

Jonathan R. Kinsley 717-741-3841 4/22/09
 Name and Title Phone # Date
 Jonathan R. Kinsley, President/COO

(If necessary, make additional copies of this page. Each additional page must be signed and dated.)

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Enter full or partial information in ONE of the following fields:

Service Description:	<input type="text"/>	Separate multiple Codes with spaces.
Service Code:	<input type="text"/>	
Owner Last Name:	<input type="text"/>	
Owner First Name:	<input type="text"/>	
Company Name:	<input type="text" value="Chesapeake contracting"/>	

Select type of business OR race

☐ Minority Business Enterprise (MBE)
 ☒ Women's Business Enterprise (WBE)
 ☐ All

Baltimore City Law Department
 100 N. Holliday Street
 Suite 101
 Baltimore, MD 21201
 (410) 396-3297

Minority & Women's Business Opportunity Office
 City Hall, Room 101
 100 N. Holliday Street
 Baltimore, MD 21202
 (410) 396-4355

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11:23:19 AM

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Enter full or partial information in ONE of the following fields:

Service Description:

Service Code:

Owner Last Name:

Owner First Name:

Company Name:

Separate multiple Codes with spaces.

Baltimore City Law Department
100 N. Holliday Street
Suite 101
Baltimore, MD 21201
(410) 396-3297

Minority & Women's Business Opportunity Office
City Hall, Room 101
100 N. Holliday Street
Baltimore, MD 21202
(410) 396-4355

Select type of business OR race

☒ Minority Business Enterprise (MBE)

Select one to search

☐ Women's Business Enterprise (WBE)

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9:18:10 AM

----- 1 companies found.

CHESAPEAKE CONTRACTING SERVICES, INC.--(MBE)--African American--
Cert#: 97-003190

Kimberly M. Nicholsonne

2025 Inverness Avenue, Suite 220, Baltimore, MD 21230-

Phone: (410)644-2027 Fax: (410)644-2406

Email: info@chesapeakecs.com

SERVICE DESCRIPTION: CURTAINWALL, FUME-FREE REMOTE CONTROLLED
DEMOLITION, GLASS, GLAZING, LOUVERS, METAL PANELS,

**Baltimore City Law
Department**
100 N. Holliday Street
Suite 101
Baltimore, MD 21201
(410) 396-3297

**Minority & Women's
Business Opportunity
Office**
City Hall, Room 101
100 N. Holliday Street
Baltimore, MD 21202
(410) 396-4355

MISCELLANEOUS METALS, PRECAST, REFRACTORY REMOVAL,
STOREFRONTS, STRUCTURAL STEEL
Cert expiration: 3/27/2008 Extension date: 6/27/2009

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Service Code:

Separate multiple Codes with spaces

Owner Last Name:

Owner First Name:

Company Name:

Select type of business OR race

☒ Minority Business Enterprise
(MBE)

☐ Women's Business Enterprise
(WBE)

☐ A

Select one to search

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----- 1 companies found.

CHESAPEAKE CONTRACTING SERVICES, INC.--(MBE)--African American
 Cert#: 97-003190
 Kimberly M. Nicholsonne
 2025 Inverness Avenue, Suite 220, Baltimore, MD 21230-
 Phone: (410)644-2027 Fax: (410)644-2406
 Email: info@chesapeakecs.com
 SERVICE DESCRIPTION: CURTAINWALL, FUME-FREE REMOTE CONTROL
 DEMOLITION, GLASS, GLAZING, LOUVERS, METAL PANE
 MISCELLANEOUS METALS, PRECAST, REFRACTORY REMOV
 STOREFRONTS, STRUCTURAL STEEL
 Cert expiration: 3/27/2008 Extension date: 6/27/2009

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THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

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SPECIALTY CONTRACTING
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HEALTHCARE
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FAX 410-337-0900
www.whiting-turner.com

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WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS
410-337-2335

July 2, 2009

Re: WC 1160 – Montebello Plant 2 Finished Water
Reservoir Cover

Ms. Shirley Williams
Minority and Woman's Business Opportunity Office
City Hall, Room 101
100 N. Holliday Street
Baltimore, MD 21202

Dear Ms. Williams,

This is in response to your e-mail to me of July 1, 2009, in which you invited Whiting-Turner to provide information which can "clarify, not modify, your MBE/WBE submission." The City has indicated that it believes the Part C submission is non-compliant because it listed all scopes of work rather than just those the subcontractor in question was going to perform.

Our submission is accurate as written and we believe it is fully compliant with Article 5, Section 28 of the Baltimore City Code. Doracon is in fact going to perform all of the scopes of work listed in our submission. So the listing of all scopes is accurate. If there is a concern about an alleged inconsistency between that submission and the EPA form, it is explained by the difference in timing in the signing of those two forms as explained below. However, any difference in the EPA form is irrelevant to the issue of the compliance of the MBE/WBE submission with the City Code.

The original bid due date for this project was April 8, 2009 with an estimated value of \$40-\$50M, MBE goal 11% (\$4.4 - \$5.5M). The bid date was subsequently postponed to April 22, 2009.

April 3, 2009 – WT met with DCI, discussed all the services we could consider them to perform on this project, including work associated with the City of Baltimore office trailer complex, and signed the Part C, Statement of Intent form. The items listed for "Work/Service to be performed by MBE" is a list of all the services that DCI is certified to perform because that is in fact the scope of services we were negotiating.

April 14, 2009 – Addendum No. 5 is issued and clarified the necessity to include the EPA form with the bid submission.

April 20, 2009 – WT met with DCI again, discussed a scope of services, and signed the EPA form. The value of the scope of services listed was \$3,000,000.

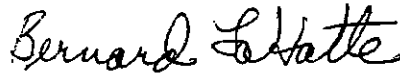
April 22, 2009 – WT submits a bid of approximately \$39.5M, MBE goal of 11.39%, \$4.5M (significantly lower than the City's estimated value of \$50M).

We did not feel the need to modify the Part C, Statement of Intent form because at the time of signing we were negotiating a scope of work inclusive of all the services listed. We have since negotiated a scope including all of those services. DCI is going to perform all of the services listed. The value of that additional work is approximately \$475,000, increasing our MBE participation to 12.5%.

Our track record with the City's MBE/WBE program and the MBE/WBE community is exemplary. We have and will continue to meet or exceed the established goals whenever possible. That is exactly what we will do if successful on this award.

We trust the above information provides clarifications you invited.
Should you have any questions/comments please contact us. Thanks you for your consideration.

Very truly yours,
THE WHITING-TURNER CONTRACTING COMPANY

A handwritten signature in black ink, reading "Bernard LaHatte". The signature is written in a cursive style with a large, stylized "B" and "L".

Bernard LaHatte
Vice President

Attachments: Part C, Statement of Intent; EPA form

cc: Monica Wilson (City of Baltimore, Office of Compliance), John Friesner (City of Baltimore, Contract Administration), AJ Tyler (WT), WT File

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: The Whiting-Turner Contracting Company

* Name of MBE or WBE: DORACON CONTRACTING, INC.

* MBE or WBE Certification Number: 94-002536

* Expiration Date: 3/31/2010

Work/Service to be performed by MBE or WBE:

Demolition, Drainage Structures, Duct Line Construction, Earthwork & Site Preparation, Erosion Control, Electronic Safety
Cables, Grading, Sewer Construction, Water Mains, Construction Management, Hauling, Paving, Fire and Security Systems
Clearing and Grubbing, Site Concrete, Carpentry, Metal Framing, Drywall, Painting, Furnish and Install Communications,
Materials/Supplies to be furnished by MBE or WBE: voice, data, media, Audio/Visual and IT Infrastructure Systems, Electrical

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

Subcontract percentage of total contract: _____ %

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

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

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

4/4
Signature of Prime Contractor (REQUIRED)

4/3/09

Date

* James D. Willy Vice President
Signature of MBE or WBE (REQUIRED)

4/3/09

Date

Water Contract # 1160

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR DAACON CONTRACTING INC		PROJECT NAME Monticello
ADDRESS 3500 E. Bidwell ST. Baytown, TX 77528		BID/PROPOSAL NO. 1160
TELEPHONE NO. 410-558-0600		E-MAIL ADDRESS
PRIME CONTRACTOR NAME Whiting-Turner		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	Sediment & Erosion DEMOLITION EXCAVATION UTILITIES	See MBE/LAB SBI Form
Currently certified as an MBE or WBE under EPA's DBE Program? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Signature of Prime Contractor Ryan Fox		Date 4-20-09
Print Name		Title Project Engineer
Signature of Subcontractor Dennis G. Cullup		Date 4-20-09
Print Name DENNIS G. CULLUP		Title Vice President

*Subcontractor is defined as a company, firm, joint venture or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

Tyler, Al

From: LaHatte, Bernard
Sent: Monday, July 20, 2009 11:13 AM
To: Tyler, Al
Subject: FW: WC 1160 - Montebello Plant @ Finished Water Reservoir Cover
FYI.
Bernie

From: Williams, Shirley A. [mailto:Shirley.A.Williams@baltimorecity.gov]
Sent: Thursday, July 16, 2009 1:06 PM
To: LaHatte, Bernard; Ronald Lipscomb
Cc: Wilson, Monica; Friesner, John
Subject: RE: WC 1160 - Montebello Plant @ Finished Water Reservoir Cover

Gentlemen:

Forgive my delay in responding to both your letters of explanation; however, I wanted to wait until we were nearing the completion of evaluating the bids for the project. I have reviewed both letters carefully; unfortunately, I am not inclined to modify my decision. Because of the import of the Statement of Intent to the MBE/WBE Program, it should only reflect the services and amount agreed upon at the time. It should not include those services about which you are conducting ongoing negotiations.

Mr. LaHatte, I appreciate your firm's willingness to consider the expertise of minority subcontractors beyond a specified goal, and Mr. Lipscomb I have always appreciated your advocacy for the program –I hope that does not change. Hopefully, an incident of this type will not recur.

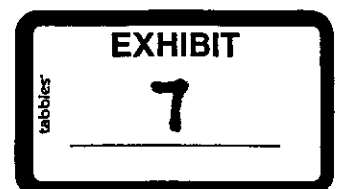
Shirley A. Williams

From: LaHatte, Bernard [mailto:Bernard.lahatte@Whiting-Turner.com]
Sent: Thursday, July 02, 2009 2:50 PM
To: Williams, Shirley A.
Cc: Wilson, Monica; Friesner, John
Subject: WC 1160 - Montebello Plant @ Finished Water Reservoir Cover

Ms. Williams,

Please see the attached letter. Hard copies will follow. Thanks.
<<Mont Letter resp to SW7-1-09 MWBOO.pdf>>

7/20/2009



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.

FILE COPY

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

WATER CONTRACT NUMBER 1160

NOTICE TO BIDDERS

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

III. BID OR PROPOSAL

Bids Due April 8, 2009

DUPLICATE

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 1400 Consecutive Calendar Days

Liquidated Damages \$4,000 per Calendar day

Made this 22nd day of April 2009

By The Whiting-Turner Contracting Company
(Name)

300 East Joppa Road Towson, MD 21204
(Address)

The Bidder shall sign below to signify the following:

I/We have received Addendum Nos. 1, 2, 3, 4, 5
for this Contract.

Bernard LaHalle Vice President
Signature and Title

To The Board of Estimates of Baltimore City:

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.

\$39,497,000.



NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

2

[illegible]

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

BUREAU OF WATER & WASTEWATER		END OF CATEGORY NO. 2	NO ALTERNATES
WATER CONTRACT NO. 1160			

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM, FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

	END OF CATEGORY NO. 3 NO ALTERNATES
BUREAU OF WATER & WASTEWATER	WATER CONTRACT NO. 1160

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

BUREAU OF WATER & WASTEWATER		END OF CATEGORY NO. 4	NO ALTERNATES
			WATER CONTRACT NO. 1160

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

BUREAU OF WATER & WASTEWATER		END OF CATEGORY NO. 5	NO ALTERNATES
			WATER CONTRACT NO. 1160

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM. FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

	END OF CATEGORY NO. 8 NO ALTERNATES
BUREAU OF WATER & WASTEWATER WATER CONTRACT NO. 1160	

NOTE - THIS PROPOSAL SHALL BE FILLED IN BY THE BIDDER WITH THE PRICES WRITTEN IN WORDS AND NUMERALS, AND THE EXTENSIONS SHALL BE MADE BY HIM, FOR COMPLETE INFORMATION CONCERNING THESE ITEMS SEE SPECIFICATIONS SPECIAL PROVISIONS, AND CONTRACT FORM.

10501

BUREAU OF WATER & WASTEWATER WATER CONTRACT NO. 1160

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

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

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

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

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

WITNESS L. Albert Tye Jr. (SIGNED) Bernard LaHatte

(TITLE) Vice President

WITNESS _____ (SIGNED) _____

(TITLE) _____

WITNESS _____ (SIGNED) _____

(TITLE) _____

A. BID/PROPOSAL AFFIDAVIT

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

1. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) Vice President and the duly authorized representative of (business name) The Whiting-Turner Contracting Co. and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

2. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

N/A

3. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, false pretences, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of the City of Baltimore's Minority and Women's and Business Enterprises Law, Baltimore City Code, Article 5, Subtitle 28;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

(8) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C(1)—(7) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

N/A

4. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

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

N/A

5. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland and/or Article 5, Subtitle 40, of the Baltimore City Code; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

N/A

6. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

7. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Disclosure By Persons Doing Public Business, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a municipal corporation or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

8. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

(If not applicable, so state). N/A

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

9. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

10. CERTIFICATION OF WORK CAPACITY AND PREQUALIFICATION CLASSIFICATIONS

I FURTHER AFFIRM THAT:

We hold Certificate No. 274 which expires on 7/23/09.

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

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

11. ACKNOWLEDGEMENT

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

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

By: Bernard LaHatte, Vice President
Name/Title

Subscribed and sworn to me this 22nd day of April 2009.

[Signature]
Notary Public

My commission expires on April 23, 2013.

C. ASSURANCES FOR COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

The contractor is required to comply with the following Federal laws and regulations:

1. Non-discrimination in Employment in accordance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.
2. Debarment in accordance with the Executive Order 12549 and Executive Order 11246
3. Anti-kickback in accordance with the Copeland "Anti-Kickback" Act (18 U.S.C.874)
4. Contract Work Hours and Safety Standards in accordance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.327-330).
5. Compliance with Guidelines Contained in 40 CFR247-254(RCRA-Section 6002).

I do solemnly declare and affirm that I am obligated to comply with the above Federal laws and regulations.

It is understood that non-compliance with any one of the above Federal laws and regulation will be the sufficient reason to cause termination of the contract.

The Whiting-Turner Contracting Company
Contractor

Signed by:

Bernard LaBette
Authorized Officer

4/22/09
Date

Bernard LaBette
Name (Print)

Vice President
Title (Print)

MAYOR AND CITY COUNCIL OF BALTIMORE
MINORITY AND WOMEN'S BUSINESS PROGRAM
BALTIMORE CITY CODE, ARTICLE 5, SUBTITLE 28

FOR USE ON STATE REVOLVING LOAN FUNDED PROJECTS

BIDDER INFORMATION AND FORMS

CONTRACTING AGENCY: BUREAU OF WATER AND WASTEWATER

CONTRACT NUMBER: WATER CONTRACT NO. 1160

CONTRACT TITLE: MONTEBELLO PLANT 2 FINISHED WATER
RESERVOIR COVER

Pursuant to Article 5, Subtitle 28 of the Baltimore City Code (2007 Edition) -- Minority and Women's Business Program, Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) participation goals apply to this contract.

The MBE Goal is 11 %

MBE Sub-goals:

African American	<u> </u> %
Asian American	<u> </u> %
Hispanic American	<u> </u> %
Native American	<u> </u> %
Total	<u>11</u> %

**The total of the sub-goals is the MBE contract goal for this contract.*

The WBE Goal is 11 %

Bid Requirements

Bid must include a commitment to utilize MBEs and WBEs at a percentage that equals or exceeds the contract goals stated above. Bidder must submit the following completed documents WITH THE BID:

- (1) MBE and WBE Participation Disclosure Forms
- (2) Statement of Intent Form(s) signed by both Bidder and MBE or WBE
- (3) MBE/WBE Participation Affidavit

Any bid that does not include the MBE/WBE Participation Disclosure Form, signed Statement of Intent Form(s) and MBE and WBE Participation Affidavit is non-responsive and will be rejected.

Bidder must keep a record of bidder's efforts to obtain MBE and WBE participation.

Verifying Certification

Each bidder is responsible for verifying that all MBEs and WBEs to be used on a contract are certified by the Minority and Women's Business Opportunity Office (MWBOO) before bid

opening. A directory of certified MBEs and WBEs is available from MWBOO. Since changes to the Directory occur daily, the bidder should call MWBOO at 410-396-4355 to verify certification, expiration dates, and services that the MBE or WBE is certified to provide.

Contract Requirements

During the term of the contract, any unjustified failure to comply with the MBE and WBE participation requirements is a material breach of contract.

Before final payment may be made under the contract, the contractor must submit the Subcontractor Utilization Form with its final payment request. The Subcontractor Utilization Form will include a list of the names of all subcontractors utilized on the contract, both MBE/WBE and non-MBE/WBE, the total amount paid to each subcontractor, and the owner's race/ethnicity and sex.

Substitution of MBE or WBE

The Minority and Women's Business Opportunity Office must approve substitution of an MBE or WBE specified at bid opening. Any unjustified failure to comply with this requirement is a material breach of contract.

Waiver Requests

If a bidder is unable to comply with a contract goal, the bidder may submit a waiver request with the bid. The waiver request must be made on the MBE/WBE Participation Waiver Request Form. No waiver will be granted unless the waiver request includes documentation that demonstrates a good faith effort to comply with the goals.

MBE and WBE Participation Standards

Participation of M/WBEs

The total dollar value of a contract with a company certified as both MBE and WBE (M/WBE) may be counted toward either the MBE goal or the WBE goal, but not to both. The bidder must choose the goal to which the contract value is applied.

Non-affiliation

A bidder may not use an MBE or WBE to meet a contract goal if:

1. the bidder has a financial interest in the MBE or WBE
2. the bidder has an interest in the ownership or control of the MBE or WBE
3. the bidder is significantly involved in the operation of the MBE or WBE

(Art. 5, §28-41)

A bidder that is an MBE or WBE may NOT use itself to meet a contract goal.

Commercially Useful Function

The bidder may count toward the contract goals only expenditures to MBEs and WBEs that perform a commercially useful function in the execution of the contract. Commercially useful function means the performance of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage and supervise. (Art.5, §28-32).

Subcontracting by MBE or WBE

A bidder may not count toward its contract goal any agreement with a certified MBE or WBE subcontractor who intends to subcontract more than 10% of the dollar amount of the services to be performed under its agreement with the bidder. This restriction does not apply to an MBE's or WBE's contracts for the purchase of materials, equipment, or supplies as an incident to the performance of services under its agreement with the bidder. (Art. 5, §28-34)

Manufacturers

A bidder may count toward the contract goal its entire expenditure to a certified MBE or WBE manufacturer. (Art. 5, §28-36)

Suppliers

~~Manufacturers~~ - A bidder may count toward the contract goal 100% of its expenditure to a certified MBE or WBE supplier who manufactures the goods supplied.

Non-Manufacturers - A bidder may count 100% of its expenditure to a certified MBE or WBE supplier who is a wholesaler warehousing the goods supplied; or who is a manufacturer's representative. However, only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (Art. 5, §28-37)

Joint Ventures

A bidder may count toward the contract goal the portion of its expenditure to a joint venture that is equal to the percentage of the MBE or WBE participation in the joint venture. The MBE or WBE member of the joint venture must have an interest in the control, management, and operation of the joint venture commensurate with the member's percentage of ownership. The MBE or WBE that is a member of the joint venture must be responsible for a clearly defined portion of the work to be performed, equal to its share in the ownership, control, and management of the joint venture. (Art. 5, §28-33)

Insurance companies and travel agents

A bidder may count toward the contract goals only 15% of its expenditure to a MBE or WBE insurance company or travel agent. (Art. 5, §28)

Financial institutions

A bidder may count toward the contract goals only the fees charged and earned by an MBE or WBE financial institution. (Art. 5, §28)

If you would like to receive a copy of Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition) please call MWBOO at 410-396-4355.

MAYOR AND CITY COUNCIL OF BALTIMORE
MINORITY AND WOMEN'S BUSINESS OPPORTUNITY OFFICE

**MBE AND WBE PARTICIPATION
REQUIRED FORMS**

Name of Bidder (Proposer) The Whiting-Turner Contracting Company

Address 300 East Joppa Road Towson MD 21286

Contracting Agency BUREAU OF WATER AND WASTEWATER

Contract (Project) Title MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR
COVER

Contract Number: WATER CONTRACT NO. 1160

Bid Due Date: April 8, 2009

MBE GOAL: 11 % WBE GOAL: 11 %

MBE Sub-goals:

African American	__%
Asian American	__%
Hispanic American	__%
Native American	__%
Total	<u>11</u> %

**The total of the sub-goals is the MBE contract goal for this contract.*

THIS PACKAGE OF MBE AND WBE PARTICIPATION FORMS IS DUE WITH THE BID.

FOR MORE INFORMATION OR ASSISTANCE WITH THESE FORMS, CONTACT:

Minority and Women's Business Opportunity Office (MWBOO)
Baltimore City Department of Law
Room 101 City Hall
100 N. Holliday Street
Baltimore, Maryland 21202
410-396-4355

PART A: INSTRUCTIONS

The requirements of the Article 5, Subtitle 28 of the Baltimore City Code (2000 Edition), are a part of this contract and are incorporated by reference. **FAILURE OF ANY BIDDER, CONTRACTOR OR SUBCONTRACTOR TO COMPLY WITH ARTICLE 5, SUBTITLE 28 SHALL BE A MATERIAL BREACH OF CONTRACT.**

The following are included:

Part A: Instructions

Part B: ~~MBE and WBE Participation Disclosure Form~~

Part C: Statement of Intent Form - A Statement of Intent Form shall be completely executed for each and every MBE and WBE named in Part B.

Part D: MBE/WBE Participation Affidavit - to be completed by Bidder.

Part E: Demonstration by Prime Contractor in applying M/WBE Affirmative Steps form

Part F: Solicitation of Firms form

Part G: MBE/WBE Participation Waiver Request Form. If you are unable to meet the MBE and WBE participation goals for this contract, the law requires you to submit a waiver request with the bid.

Part H: Subcontractor Utilization Form

ALL FORMS ARE DUE WITH BID.

For any Contract not competitively bid and awarded by the Board of Estimates, this form is due before the Board of Estimates approves the Contract or Agreement.

PART B: MBE PARTICIPATION DISCLOSURE FORM

Use this form to list MINORITY Business Enterprises that you will use to meet the MBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and MBE goal is 15% or \$15,000; then participation limit for MBE suppliers that are non-manufacturers is \$3,750 or 25% of the 15% MBE goal.)

Prime Contractor's Name: The Whitely-Trause Contracting Company

Prime Contractor's Address: 300 East Joaze Road

Contract Number & Title: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

MBE SUBCONTRACTORS

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
<u>Dorcas</u>			<u>3,000,000</u>	<u>7.6%</u>
<u>Genesis</u>			<u>1,500,000</u>	<u>3.8%</u>

TOTAL DOLLAR AMOUNT OF CONTRACT \$ 39,497,000

TOTAL DOLLAR AMOUNT OF MBE SUBCONTRACTS \$ 4,500,000

TOTAL MBE PERCENTAGE OF ENTIRE CONTRACT 11.39 %

Form Prepared by:

At Tyler Project Manager (410) 494-7433 4/22/09
Name and Title Phone # Date

(If necessary, make additional copies of this page. Each additional page must be signed and dated.)

PART B: WBE PARTICIPATION DISCLOSURE FORM

Use this form to list WOMEN'S Business Enterprises that you will use to meet the WBE Participation Goal. Please be reminded that:

- The same subcontractor may not be used to meet both the MBE and WBE goals.
- If Bidder is an MBE or WBE, Bidder may not use itself to meet either of the contract goals.
- Only 25% of each contract goal may be attained by expenditures to MBEs or WBEs that are non-manufacturing suppliers. (i.e. If bid amount is \$100,000 and WBE goal is 6% or \$6,000; then participation limit for WBE suppliers that are non-manufacturers is \$1,500 or 25% of the 6% WBE goal.)

Prime Contractor's Name: The Whiting-Turner Contracting Company

Prime Contractor's Address: 300 East Jones Road Towson, MD 21286

Contract Number & Title: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

WBE SUBCONTRACTORS

Name:	Certification Number	Expiration Date	\$ Amount of Subcontract	% of Total Contract
<u>Eastwood</u>			<u>47,000</u>	<u>.12 %</u>
<u>Haines</u>			<u>55,000</u>	<u>.14 %</u>
<u>Janis Radallata</u>			<u>25,000</u>	<u>.06</u>
<u>NR Eyer</u>			<u>3,325,000</u>	<u>8.42</u>
<u>Monumental Supply</u>			<u>900,000</u>	<u>2.28</u>
TOTAL DOLLAR AMOUNT OF CONTRACT			\$ <u>39,497,000</u>	
TOTAL DOLLAR AMOUNT OF WBE SUBCONTRACTS			\$ <u>4,352,000 4,352,000</u>	
TOTAL WBE PERCENTAGE OF ENTIRE CONTRACT			<u>11.02</u> %	

Form Prepared by:

<u>Al Tyler, Project Manager</u>	<u>410 494-7433</u>	<u>4/22/09</u>
Name and Title	Phone #	Date

(If necessary, make additional copies of this page. Each additional page must be signed and dated.)

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: The Whiting-Turner Contracting Company

* Name of MBE or WBE: DORACON CONTRACTING, INC.

* MBE or WBE Certification Number: 94-002536

* Expiration Date: 3/31/2010

Work/Service to be performed by MBE or WBE:

Demolition, Drainage Structures, Duct Line Construction, Earthwork + Site Preparation, Erosion Control, Electronic Safety
Gabions, Grading, Sewer Construction, Water Mains, Construction Management, Hauling, Paving, Fire and Security Systems
Clearing and Grubbing, Site Concrete, Carpentry, Metal Framing, Drywall, Painting, Furnish and Install Communications
Materials/Supplies to be furnished by MBE or WBE: voice, data, media, Audio/Visual and IT Infrastructure Systems, Electrical

Subcontract Amount: \$ 3,000,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 7.6 %

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

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

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

4/4
Signature of Prime Contractor (REQUIRED)

4/3/09

Date

* James D. Kelly, Vice President
Signature of MBE or WBE (REQUIRED)

4/3/09

Date

Water Contract # 1160

OCTOBER 1, 2008



Environmental
Protection Agency

QMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR UBAACON CONTRACTING INC		PROJECT NAME Mohidullo
ADDRESS 3500 E. Bidell St. Bay City, MI 48206		BID/PROPOSAL NO. 1160
TELEPHONE NO. 410-558-0600		E-MAIL ADDRESS
PRIME CONTRACTOR NAME Whiting-Turner		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	SEDIMENT & EROSION DEMOLITION EXCAVATION UTILITIES	See MBE/LAB SBI Form
Currently certified as an MBE or WBE under EPA's DBE Program? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Signature of Prime Contractor Ryan Fox		Date 4-20-09
Print Name Ryan Fox		Title Project Engineer
Signature of Subcontractor Dennis G. Cullip		Date 4-20-09
Print Name Dennis G. Cullip		Title Vice President

Subcontractor is defined as a company, firm, joint venture or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial resources.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

WATER CONTRACT NO. 1160

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Whiting-Turner Contracting Co.

Name of MBE or WBE: Genesis Steel Service, Inc.

MBE or WBE Certification Number: 90-000652 exp 09/20/09

Work/Service to be performed by MBE or WBE:
Structural Steel, misc. metals, fencing + Guardrail
Reinforcing Steel, Pre-cast Erection

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 1,500,000 (If this is a requirements contract, the subcontract
dollar amount may be omitted.)

Subcontract percentage of total contract: 3.8 %

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

4/15/09
Date

Roland Reed - President
Signature of MBE or WBE (REQUIRED)

4-15-09
Date

Roland Reed

OCTOBER 1, 2008

Environmental
Protection Agency
 OMB Control No. _____
 Approved: _____
 Approval Expires: _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR ¹ Genesis Steel Service		PROJECT NAME Montebello Plant 2 Water Res.
ADDRESS Baltimore MD. 21221 330 Back River Neck Road		BID/PROPOSAL NO. Water Contract 1160
TELEPHONE NO. 410-238-1890		E-MAIL ADDRESS erector8155@verizon.net
PRIME CONTRACTOR NAME Whiting-Turner Contracting Company		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
401	Furnish and Install Reinforcing Steel Furnish and Erect Precast and Prestressed Concrete	See MBE/WBE SOI Form
Currently certified as an MBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u>Ed A. Shady</u> <u>4/20/09</u> Signature of Prime Contractor Date <u>Calvin G. Eldredge</u> <u>Asst. Project Manager</u> Print Name Title <u>Roland Reed</u> <u>4.20.2009</u> Signature of Subcontractor Date <u>Roland Reed</u> <u>President</u> Print Name Title		

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-5 (DBE Subcontractor Performance Form)

WATER CONTRACT NO. 1160

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

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

Contract Name and Number: WATER CONTRACT NO. 1160 MONTEBELLO PLANT 2
FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: Whiting-Turner

Name of MBE or WBE: EASTWOOD PAINTING & CONTRACTING

MBE or WBE Certification Number: DO-013931

Work/Service to be performed by MBE or WBE:
PAINTING

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Amount: \$ 92,000 (If this is a requirements contract, the subcontract
dollar amount may be omitted.)

Subcontract percentage of total contract: .12 %

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

9/22/09
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

4-21-08
Date

00301

Water Contract # 1160

OCTOBER 1, 2008

Environmental
Protection Agency
 CME Contract No. _____
 Approved _____
 Approval Expires _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR EASTWOOD PAINTING & Co., Inc.		PROJECT NAME HONTBOLD PLANT 2
ADDRESS 7008 FIFTH AVE, SUITE 140		ENVIRONMENTAL NO. 1160
TELEPHONE NO. 410-282-6417		E-MAIL ADDRESS EASTWOODPAINTING@AOL.COM
PRIME CONTRACTOR NAME Whiting - Turner		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PERFORM	PERCENT OF WORK SUBMITTED TO PRIME CONTRACTOR
401	SEE MBE/WBE SOI Form	SEE MBE/WBE SOI Form
Currently certified as an DBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Signature of Prime Contractor [Signature] Date 9/22/09 Print Name Brent Miller Title Project Engineer Signature of Subcontractor [Signature] Date 4/21/09 Print Name Cynthia A. Miller Title President		

Subcontractor is defined as a company, firm, joint venture or individual who enters into an agreement with a contractor to provide services pursuant to an EPA contract or financial assistance.

EPA FORM 8100-3 (DBE Subcontractor Performance Form)

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

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

Contract Name and Number: WATER CONTRACT NO. 1160

MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: The Whiting-Turner Contracting Company

* Name of MBE or WBE: Haines Industries, Inc.

* MBE or WBE Certification Number: 88-000111

* Expiration Date: 5/21/09

Work/Service to be performed by MBE or WBE:

Traffic Maintenance, Erosion Control, Light Landscaping

Materials/Supplies to be furnished by MBE or WBE:

Signature:

Subcontract Amount: \$ 55,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Signature:

Subcontract percentage of total contract: .14 %

African American _____ %

Asian American _____ %

Hispanic American _____ %

Native American _____ %

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

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

Signature of Prime Contractor (REQUIRED)

3/3/09
Date

* Signature of MBE or WBE (REQUIRED)

2/27/09 *
Date

00301

Water Contract # 1160

OCTOBER 1, 2008

Environmental
Protection Agency
 OMB Control No: _____
 Approved: _____
 Approval Expires: _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR <u>Haines Industries</u>		PROJECT NAME <u>Montebello</u>
ADDRESS <u>1011 Oakleaf Ave</u>		BID/PROPOSAL NO. <u>1160</u>
TELEPHONE NO. <u>410-764-7119</u>		E-MAIL ADDRESS
PRIME CONTRACTOR NAME <u>Whiting & Turner</u>		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PERCENT OF WORK SUBMITTED TO PRIME CONTRACTOR
		See MBE/DBE SOI Form
Currently certified as an MBE or WBE under EPA's DBE Program? <u>Yes</u> <u>No</u>		
Signature of Prime Contractor <u>Ryan Fox</u>		Date <u>4/21/09</u>
Print Name		Title <u>Project Engineer</u>
Signature of Subcontractor <u>Elizabeth H. Sheldon</u>		Date <u>4/21/09</u>
Print Name <u>Elizabeth H. Sheldon</u>		Title <u>President</u>

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

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

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

Contract Name and Number: Montibello Plant 2 - finished reservoir WC N° 1160
cover/Baltimore MD

Name of Prime Contractor: Whiting-Turner Contracting Company

Name of MBE or WBE: Janis Rettaliata

MBE or WBE Certification Number: 90-1546 (Baltimore City); 90-0682 (MD State)

Work/Service to be performed by MBE or WBE:

professional conventional and digital photographic services

Materials/Supplies to be furnished by MBE or WBE:

photographic prints

Subcontract Amount: 25,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: .06 %

African American % Asian American %

Hispanic American % Native American %

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

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

MTC
Signature of Prime Contractor (REQUIRED)

4/17/09
Date

Janis Rettaliata
Signature of MBE or WBE (REQUIRED)

04/17/2009
Date



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR JANIS RETTALIATA		PROJECT NAME Montebello Plant 2 finished water cover
ADDRESS 5502 N Medwick Garth/Balt MD 21228		EID/PROPOSAL NO. Baltimore City WC 1160
TELEPHONE NO. 410-744-8614		E-MAIL ADDRESS jrett60@verizon.net
PRIME CONTRACTOR NAME Whiting-Turner Contracting Co		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
	professional still photography documentation of pre-existing conditions, monthly progress status and completion of work	See mBE/wBE SDE Form
Currently certified as an MBE or WBE under EPA's DBE Program? XX Yes _____ No		
Signature of Prime Contractor Ryan Fox		Date 4-21-09
Print Name Ryan Fox		Title Project Engineer
Signature of Subcontractor Janis Rettaliata		Date 20 April 2009
Print Name janis rettaliata		Title owner

Balt City WBE #90-1546

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: THE WHITING TURNER CONTRACTING COMPANY

Name of ~~MBE~~ or WBE: N R EYLER, INC.

~~MBE~~ or WBE Certification Number: 07-004947

Work/Service to be performed by ~~MBE~~ or WBE:

MECHANICAL

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

Subcontract Amount: \$ 3,325,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 8.42 %

African American % Asian American %

Hispanic American % Native American %

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

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

Signature of Prime Contractor (REQUIRED)

Date

Nicole Eyler

4/22/09

Signature of ~~MBE~~ or WBE (REQUIRED)

Date

NICOLE R. EYLER, PRESIDENT

Water Contract # 1160

OCTOBER 1, 2008

Environmental
Protection Agency
 OMB Control No. _____
 Approved: _____
 Approval Expires: _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR N. R. EYLER INC.		PROJECT NAME MONTEBELLO WFP
ADDRESS 7909 PHILADELPHIA RD		BID/PROPOSAL NO. W1160
TELEPHONE NO. 410-866-4900		E-MAIL ADDRESS NEYLER@MECHCONT.COM
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES EID TO PRIME	PERCENT OF WORK SUBMITTED TO PRIME CONTRACTOR
401	MECHANICAL	
Currently certified as an MBE or WBE under EPA's DBE Program? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Signature of Prime Contractor: <u>N. R. EYLER</u> Date: <u>4-21-09</u> Title: <u>Project Engineer</u> Signature of Subcontractor: <u>Nicole R. Eyler</u> Date: <u>4/22/09</u> Title: <u>PRESIDENT</u>		

*Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-5 (DBE Subcontractor Performance Form)

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: The Whiting-Turner Contracting Company

* Name of MBE or (WBE) MONUMENTAL SUPPLY CO. INC.

* MBE or (WBE) Certification Number: 01-004078
CITY OF BALTIMORE

* Expiration Date: 7/9/2009

Work/Service to be performed by MBE or WBE:

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

SUPPLIER OF INDUSTRIAL PIPE, VALVES, FITTINGS, HVAC SUPPLIES,
HEAT PUMPS, AND ROFERS

Subcontract Amount: \$ 900,000 (If this is a requirements contract, the subcontract dollar amount may be omitted.)

Subcontract percentage of total contract: 2.28 %

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

4/20/09
Date

* [Signature]
Signature of MBE or WBE (REQUIRED)

4/20/09 *
Date

OCTOBER 1, 2008

Environmental
Protection Agency
 OMB Control No. _____
 Approved: _____
 Approval Expires: _____

 Disadvantaged Business Enterprise Program
 DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR ¹ <i>MONUMENTAL SUPPLY CO. INC</i>		PROJECT NAME <i>MONTEBELLO PHASE 2 FINISHED WATER</i>
ADDRESS <i>401 SOUTH HAVEN ST BALTO MD 21224</i>		BID/PROPOSAL NO. <i>WC 1160</i>
TELEPHONE NO. <i>410-232-9900</i>		E-MAIL ADDRESS
PRIME CONTRACTOR NAME <i>The Whiting-Turner Construction Company</i>		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
<i>401</i>	<i>CONSTRUCTION MATERIAL SUPPLIER Plumbing and Heating equipment and supplies</i>	<i>See MBE/WBE SOL Form</i>
Currently certified as an MBE or WBE under EPA's DBE Program? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Signature of Prime Contractor <i>[Signature]</i>		Date <i>4/20/09</i>
Print Name <i>TRACY ROGERS</i>		Title <i>PROJECT ENGINEER</i>
Signature of Subcontractor <i>[Signature]</i>		Date <i>4/20/09</i>
Print Name <i>DAVID J. CORRETS</i>		Title <i>Controller</i>

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

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

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

Contract Name and Number: WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Name of Prime Contractor: _____

Name of MBE or WBE: _____

MBE or WBE Certification Number: _____

Work/Service to be performed by MBE or WBE:

Materials/Supplies to be furnished by MBE or WBE:

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

Subcontract percentage of total contract: _____ %

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

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

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

Signature of Prime Contractor (REQUIRED)

Date

Signature of MBE or WBE (REQUIRED)

Date

PART D: MBE/WBE PARTICIPATION AFFIDAVIT

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

Contractor acknowledges the MBE goal of 11 % and the WBE goal of 11 %

for Contract No./Title WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

with the City of Baltimore.

My firm will make good faith efforts to demonstrate the five (5) affirmative steps and 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 (2000 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.

The Whiting-Turner Contracting Company
 Contractor Company Name

Bernard LaHatte
 Signature

300 East Joppa Road Towson, MD 21286
 Address

Bernard LaHatte, Vice President
 Print Name and Title

Sworn and subscribed before me this 22nd day

of April, in the year 2009.

[Signature]
 Notary Public

**PART E: DEMONSTRATION BY PRIME CONTRACTOR IN
APPLYING M/WBE AFFIRMATIVE STEPS**

MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard Suite 515 Baltimore MD 21230-1718
1-800-633-6101 <http://www.mde.state.md.us>

**Utilization of Minority and Women's Business Enterprises (M/WBE)
Demonstration by Prime Contractor in applying M/WBE Affirmative Steps**

Project Name: **MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER**

Procurement Category: Check box for all M/WBE procurement categories being reported under the above referenced project. Construction ☐ Equipment ☐ Services ☐ Supplies ☐

Please answer the following questions

A: Develop list of M/WBE firms

- | | | | |
|----|---------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| A1 | Did you develop a list of M/WBE firms? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| A2 | Did you obtain a list of M/WBE firms from the Loan Recipient/Owner? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| A3 | Did you contact US-SBA/MBDA/MDOT? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

B: Smaller work components and delivery schedules

- | | | | |
|----|---------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| B1 | Did you break down the contract into smaller components? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| B2 | Did the contract sub-components have reasonable delivery schedules? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

C: Solicitation of M/WBE firms (Use Attachment 1 for each subcontract)

- | | | | |
|----|-------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| C1 | Did you use the M/WBE list to solicit M/WBE sub-contractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C2 | Did you advertise for sub-contract bids in minority publications? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C3 | Did you send invitation for bids to M/WBE trade associations? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C4 | Did M/WBE firms bid/provide proposal for sub-contractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C5 | Did you select any M/WBE firms as sub-contractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

Supporting Documentation

In support of the actions taken in items A, B, C and D (above), please attach: (1) this checklist along with supporting documentation for "Yes" answers and an explanation for "No" answers; (2) Solicitation of Firms Form (Attachment 1)

Examples of supporting documentation include: (i) List of M/WBE firms that you developed (or website location); (ii) list of sub-contract work elements possible under the contract; (iii) proof of contact with M/WBE firms as potential contractors (copies of invitations for bids/RFP, contact letters, faxes and telephone call sheets, etc.; (iv) copies of all procurement advertisements; and, (v) list of all contractors that submitted bids/RFP.

Dorand Collette, Vice President
Prime Contractor's Name and Title

Bernard LaHatte
Prime Contractor's Signature/Date

MDE USE ONLY

Comments:

Compliance Demonstrated:

Yes ☐

No ☐

Reviewer: _____

Date: _____

PART F: SOLICITATION OF FIRMS **PRIME (CONSTRUCTION) CONTRACTOR**

Complete one form for each subcontractor

Project Name: MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Total Contract Amount (Prime Construction Contractor): _____

Please answer the following questions for each subcontract

Procurement Category: Check only one procurement category for each subcontract being reported under the above referenced project. Construction ☐ Equipment ☐ Services ☐ Supplies ☐

Summary of Subcontractors Solicited

- 1 Number of firms solicited (attach documentation): _____
- 2 Number of M/WBE firms that responded (attach documentation): _____

Details of Selected Firm

- 3 Name of Firm: _____
- 4 Address: _____
- 5 Contact Person (Name and Phone): _____
- 6 Total amount of Subcontract \$ _____

7 Type of Subcontract Work:

Type of Work	Cost	Type of Work	Cost
	\$		\$
	\$		\$

8 Is the firm a Minority Business Enterprise? (MBE) Yes ☐ No ☐

9 Is the firm a Women Business Enterprise? (WBE) Yes ☐ No ☐

10 If response to question 8 or 9 is yes, please complete the following:

- o M/WBE Certification Number: _____
- o Certification Date: _____
- o Expiration Date (if applicable): _____
- o Certifying Agency: _____

Ms. Kay G. Bee, Program Manager, MWQFA
 1800 Washington Blvd., Baltimore MD 21230
 Phone: 410-537-3146, E-mail: kbee@mde.state.md.us
 MDE/WQFA-FIN009B October 1, 2005
 TTY Users 1-800-735-2258

PART G: MBE/WBE PARTICIPATION WAIVER REQUEST FORM

Name of Bidder (Proposer) _____

Address _____

Contracting Agency BUREAU OF WATER AND WASTEWATER

Contract (Project) Title MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Contract Number: WATER CONTRACT NO. 1160 Bid Due Date: April 8, 2009

Goals on this contract: 11 % MBE 11 % WBE

Sub-Goals on this contract:

African American % Asian American %

Hispanic American % Native American %

I have achieved % MBE % WBE

African American % Asian American %

Hispanic American % Native American %

I am requesting a waiver of % MBE % WBE

African American % Asian American %

Hispanic American % Native American %

I have contacted MWBOO for assistance Yes No

Number of MBE firms contacted: (Attach a list of names)

Number of WBE firms contacted: (Attach a list of names)

Explain why waiver is being requested:

Attach documentation of your good faith efforts to secure, contact and negotiate with MBEs and WBEs, including:

- (1) the reasons your company is unable to secure sufficient MBE/WBE participation to meet the stated goals.
- (2) The efforts made by your company to select portions of the contract to be performed by MBEs and WBEs
- (3) For each MBE or WBE that placed a bid that you consider to be unacceptable, a statement that explains the basis for that conclusion.

Signature of Authorized Company Representative

Date

PART H: SUBCONTRACTOR UTILIZATION FORM

THIS FORM MUST BE INCLUDED WITH REQUEST FOR FINAL PAYMENT.

Prime Contractor's Name: _____

Contract Title: MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

Contract Number: WATER CONTRACT NO. 1160

Total Contract Dollar Amount: _____

Provide the following information for EACH AND EVERY subcontractor, both MBE/WBE and NON-MBE/WBE used on this contract. (Duplicate form if necessary.)

Name of Subcontractor	Goods or services provided on subcontract
Race/ethnicity AND sex of subcontractor's owner	Dollar amount of subcontract
Dollar amount paid to date	If amount paid to date is less than subcontract dollar amount, explain why.

Name of Subcontractor	Goods or services provided on subcontract
Race/ethnicity AND sex of subcontractor's owner	Dollar amount of subcontract
Dollar amount paid to date	If amount paid to date is less than subcontract dollar amount, explain why

Name of Subcontractor	Goods or services provided on subcontract
Race/ethnicity AND sex of subcontractor's owner	Dollar amount of subcontract
Dollar amount paid to date	If amount paid to date is less than subcontract dollar amount, explain why

Prime Contractor's signature _____

Date _____

C.

BALTIMORE APPRENTICESHIP TRAINING PROGRAM

MAYOR AND CITY COUNCIL OF BALTIMORE, MARYLAND

THE BALTIMORE APPRENTICE TRAINEE PROGRAM (BATP)

BID FORM

Contracting Agency DPW – BUREAU OF WATER AND WASTEWATER

Contract (Project Title) MONTEBELLO PLANT 2 FINISHED WATER
RESERVOIR COVER

Scheduled Bid Due Date April 8, 2009

THIS APPRENTICE TRAINEE FORM IS DUE WITH THE BID.

FOR MORE INFORMATION ABOUT THIS FORM OR ASSISTANCE, CONTACT:

Minority and Women's Business Opportunity Office (MWBOO)
100 N. Holliday Street, Rm. 101
Baltimore, MD 21202
(410) 396-4355
Thomas B. Corey, Chief

MWBOO (12/00)

MAYOR AND CITY COUNCIL OF BALTIMORE, MARYLAND

THE BALTIMORE APPRENTICE TRAINEE PROGRAM (BATP)

PART I.

The City of Baltimore has established an Apprenticeship Trainee Program which requires all bidders on City Construction Projects costing \$1,000,000.00 dollars or more to participate in an Apprenticeship/OJT Training Program certified by the State of Maryland.

Training and upgrading of minorities and women toward journeyman status is a primary objective of this Training Provision. The purpose for this objective is to insure a pool of qualified minorities and women to replace those journeymen who, in the natural course of events will leave the workforce.

The bidder, shall commit to use its best efforts to meet the BATP requirements set forth in these contract documents. If awarded this contract, the bidder shall notify each firm with which the bidder proposes to contract, of the BATP requirements and make these requirements a material part of the subcontract where appropriate.

The bidder hereby designates:

NAME Al Tucker

TITLE Project Manager

PHONE # (410) 494-7432

as the person who has been charged by the bidder with the responsibility for carrying out and reporting the bidders compliance with this program.

1. The Bidder shall use its best efforts to comply with the BAT Program requirements set forth in these contract documents. Failure to implement and carry out the BAT Program requirements set forth in these contract documents shall be a material breach of this contract and grounds for termination of the contract.
 2. The contractor shall prepare and submit to the contracting agency a plan for apprentice participation together with the construction schedule. The agency engineer shall designate the number of trainees and hours to be utilized and the area in which the trainees are to be required.
 - A. The draft construction schedule submitted to the contracting agency shall include a copy of the state certified apprentice/ojt program in which the bidder is participating, required labor resources by trade in order to determine the availability of apprentice opportunities, and a trade breakdown of anticipated participation by apprentices. The construction schedule and any updates shall include the apprentice participation by trade.
 - B. Apprentice participation shall be distributed throughout each technical discipline or trade designated by the engineer.
 - C. The contracting agency will review and approve the apprenticeship participation plan and forward a copy of the approved plan to MWBOO.
 - D. Goals for trainees will be based on the contractor's current utilization (Exhibit I in the contract document) and the availability of minorities and females in specified trade areas as indicated in the publication of the Maryland Department of Labor, Licensing and Regulation, Office of Labor Market Analysis and Information.
 - E. The specific efforts proposed to be undertaken by the contractor or its subcontractors if additional efforts are required to implement the BAT Program.
 - F. With each progress payment request, the contractor shall submit a BAT Program Report (AA2A) and a written projection for the following month of Apprentice hourly participation by trade.
 - G. The BAT Program participation plans shall apply to all change orders and extra work orders.
 - H. Requests for modifications or amendments of the contractors must be submitted to the contracting agency with copies to MWBOO.
- The contractor will receive a written response to the request.

Page 3

PART II. AFFIDAVIT

The undersigned, being first duly sworn, on oath states to the City of Baltimore on behalf of the bidder as follows:

1. The bidder gives assurance that it will provide opportunity for training and employment for minorities and women in apprenticeship positions, and other positions whether with the bidder or subcontractors, employed on the project.
2. The bidder gives assurance that it will use its best efforts to comply with the BAT Program.
3. The bidder will maintain records in an easily retrievable and understandable form that will document any and all openings and opportunities for apprentice/trainee and, where appropriate, will make these requirements a part of all subcontract agreements on this project.
4. Bidder acknowledges that any and all bids which fail to include this form duly executed and notarized with the M/WBE portion of the bid documents may be declared as non-responsive by the Baltimore City Board of Estimates.
5. The bidder agrees to submit all forms as required in Part I & III of this document.

The Whiting-Turner Contracting Company
Name of Bidder

W.C. 1160
Name of Project Contract

By Bernard LaHatte

Title Vice President

Date 4/22/09

Page 4

I hereby certify that on this 22nd day of April, 2009, before me the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore City or County, personally appeared Bernard LaHalle

who acknowledged himself-herself to be the (title)
Vice President of (company) The Whiting-Turner Contr. Co.
and being duly authorized, executed the foregoing affidavit for the purposes and
uses therein contained.

[Signature]
Signature of Notary Public

April 23, 2013 (SEAL)
My Appointment Expires

THE BALTIMORE APPRENTICE TRAINEE PROGRAM (BATP)**INSTRUCTIONS****Part III****I. Advertisement for Construction Bids (Contracting Agency)**

All bid advertisements for construction projects where the cost is estimated to be \$ 1,000,000.00 or more shall include the following language:

~~"The City of Baltimore has established an apprentice participation program requirement for this contract."~~

II. Bid Documents

All bid documents where the cost of the bid is estimated to be \$1,000,000.00 or more shall include the BATP BID FORM unless otherwise determined by the agency engineer.

The BATP Bid Form Must Be Submitted With The Bid.**III. Pre-Bid Conference**

If there is a pre-bid conference, an MWBOO Compliance Representative shall be present to discuss the BAT Program.

IV. The following forms must be submitted as indicated.

A. The Plan for the Apprenticeship Participation must be completed and submitted for each area of training as designated by the agency engineer before the notice to proceed is issued.

B. The Maryland Apprenticeship Agreement forms must be submitted with each Progress Payment request to the contracting agency or as new trainees are hired.

C. With each progress payment request, the prime contractor must submit the MWBOO AA2 and AA2A to the contracting agency.

D. If an apprentice is terminated, the contracting agency shall be informed within 10 working days. A new Apprentice Agreement form on the replacement trainee should be attached.

E. MWBOO forms AA1 and 1A shall be submitted semi-annually on June 30th and December 31st of each year to the contracting agency.

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ATTACHMENT**V. Penalties and Sanctions**

A. A determination by the Board of Estimates after recommendation by the Minority and Women's Business Opportunity Office (MWBOO) that the contractor has failed to comply with any portion of the BATP rules as herein provided and described, or its approved apprenticeship plan, shall subject the offending party to any or all of the following:

1. suspension of contract;
2. withholding of funds;
3. rescission of contract based upon a material breach of contract;
4. disqualification of a bidder, contractor for a period of not to exceed two years;
5. payment of liquidated damages.

B. Violation; disqualification. It is a violation of this program to:

1. Willfully falsify, conceal or cover up by a trick, scheme or device a material fact, or make any false, fictitious or fraudulent statements or representations or make use of any false, fictitious or fraudulent statement or entry.
2. Willfully obstruct, impede, or attempt to obstruct or impede any authorized official or employee who is investigating the validity of any activity under the BATP.

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BALTIMORE APPRENTICE TRAINEE PROGRAM TRAINEE REVIEW

PROJECT NUMBER: WATER CONTRACT NO. 1160 DATE: _____
 PROJECT NAME: MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER
 CONTRACTOR: _____
 TRAINEE'S SUPERVISOR: _____
 CONTRACTOR'S EEO OFFICER: _____

Name	Race	Classification	Rqd. Prog. Hrs.	Actual Training for the Month	Actual Training Hours to Date	Min. Rate	Pres. Rate	Jmymn. Rate
1. _____	_____	_____	_____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____	_____	_____	_____	_____

Signed: _____ Date: _____
 To Be Submitted With Each
 Payout Request by the Subcontractor
 to the Prime Contractor

CITY OF BALTIMORE

SEMI ANNUAL TRAINEE REPORT

ADMINISTRATION CENTER		PERIOD ENDING		LEGEND		BA - BLACK AMERICAN		AA - ASIAN AMERICAN		HA - HISPANIC AMERICAN		AI - AMERICAN INDIAN		
LINE NO	TRAINING CLASSIFICATION A	NUMBER RECEIVING TRAINING DURING REPORT PERIOD B				NUMBER STARTING TRAINING DURING REPORT PERIOD C				NUMBER COMPLETING TRAINING DURING REPORT PERIOD D				TOTAL HRS OF TRAINING DURING PERIOD
		TOTAL	BA	AA	AI	HA	O	TOTAL	BA	AA	AI	HA	O	TOT
03	EQUIPMENT OPERATOR													
04	MECHANICS													
05	TRUCK DRIVERS													
06	IRON WORKERS													
07	CARPENTERS													
08	CEMENT MASONS													
09	ELECTRICIANS													
10	PIPEFITTERS													
11	PAINTERS													
12	OTHER SKILLS													
13	TOTAL													
14		NUMBER OF FEMALES RECEIVING TRAINING				NUMBER OF FEMALES STARTING TRAINING				NUMBER OF FEMALES COMPLETING TRAINING				
NUMBER OF NEW HIRES RECEIVING TRAINING						NUMBER IN PRENTICESHIP TRAINING				NUMBER OF TERMINATIONS PRIOR TO COMPLETION OF TRAINING				
NUMBER OF UPGRADES RECEIVING TRAINING						NUMBER IN OTHER JOB TRAINING				NUMBER OF PROJECTS UNDER WAY DURING REPORTING PERIOD AND CONTAINING TRAINING SPECIAL PROVISIONS				
COMMENTS:														
REPORT PREPARED BY (SIGNATURE) AND TITLE OF CITY OFFICIAL												DATE AA1		

CONTRACT NO: WATER CONTRACT NO. 1160
 PROJECT NAME: MONTEBELLO PLANT 2 FWR COVER
 CONTRACTOR: _____
 SUBCONTRACTOR: _____

TRAINEE'S NAME: _____
 CLASSIFICATION: _____
 START DATE: _____
 WAGE RATE: _____

MONTH ____ YEAR ____		PHASES											
DATE	DAILY TOTAL												
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
MONTHLY • TOTAL													
PREV. • TO TAL													
GRAND • TO TAL													
REQ'D • HO URS													

CERTIFIED CORRECT BY
DATE: _____

INSTRUCTOR'S COMMENTS:

DISTRIBUTION: Original Project Engineer:

MWBOO (AA2A)

REVIEWED BY:
CITY OF BALTIMORE

SIGNATURE

DATE

BALTIMORE APPRENTICE TRAINEE PROGRAM
CONTRACTOR'S SEMIANNUAL TRAINEE REPORT

PROJECT NO

WATER CONTRACT NO. 1160

PROJECT NAME:

MONTEBELLO PLANT 2 FWR COVER

INSTRUCTIONS - This report is to be completed by the contractor semiannually for each individual employed on this contract (including any subcontractor under it) who has received training during the reporting period under the training special provisions (a part of the contract proposal). The report is to be submitted by the 10th of the month following the reporting period (July 10, and January 10). The original of this report is to be furnished to the trainer and two copies submitted to the City of Baltimore

1. NAME OF CONTRACTOR		1.A. ADDRESS
NAME OF SUBCONTRACTOR (IF APPLICABLE)		
2. NAME OF TRAINEE	2A. SEX (check one) F _____ M _____	2.B. ADDRESS
3. AGE OF TRAINEE	4. SOCIAL SECURITY NO.	5. EMPLOYEE STATUS (check one) UP-GRADE _____ NEW _____ HIRE _____
6. ETHNIC GROUP DESIGNATION (check one) Black _____ Hispanic _____ American _____ Asian _____ American _____ Indian _____ American _____ White _____		

7. SUMMARY OF PREVIOUS TRAINING (ENTER AMOUNT AND TYPE OF TRAINING RECEIVED BY TRAINEE ON OTHER CONTRACTS UNDER APPROVED TRAINING PROGRAMS)

8. JOB CLASSIFICATION OF TRAINEE	9. DATE TRAINING STARTED ON THIS CONTRACT	10. TYPE OF ON THE JOB TRAINING (Check one) _____ Apprenticeship other _____
----------------------------------	-------------------------------------------	------------------------------------------------------------------------------------

REPORTING PERIODS

INSTRUCTIONS: One vertical column is to be completed for each succeeding reporting period and the form submitted. Enter June 30, Dec. 30, as applicable in

HOURS OF TRAINING DATA								
11. PROVIDED DURING REPORT PERIOD								
12. PROVIDED TO DATE								
13. REMAINING TO COMPLETE THE APPROVED PROGRAM								
14. TERMINATION (IF TRAINING WAS TERMINATED PRIOR TO COMPLETION OF APPROVED PROGRAM EXPLAIN REASON FOR TERMINATION)								
15. REPORT PREPARED BY (SIGNATURE AND TITLE OF CONTRACTOR'S REPRESENTATIVE)							16. DATE	
17. REPORT REVIEWED BY (SIGNATURE AND TITLE OF CITY OF BALTIMORE OFFICIAL)							18. DATE	

MWBOO (1A)

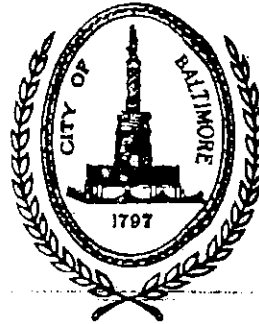
C. BALTIMORE CITY'S YOUTHWORKS

TO: Mayor's Office of Employment Development ("MOED")

FROM: The Whiting-Turner Contracting Company
(Legal name of Bidder)

Pursuant to Executive Order, the aforesaid Bidder hereby presents MOED with the following information to assist its outreach efforts for the Baltimore City YouthWorks Program:

Contact Person: Al TylerAddress: 300 East Joppa RoadTowson, MD 21286Telephone Number: (410) 484-7433Facsimile Number: (410) 337-6800E-mail address: al.tyler@whiting-turner.com

D. BALTIMORE CITY RESIDENTS FIRST PROGRAM**Baltimore City Residents First**

Baltimore City Residents First is designed to create opportunities for businesses that receive municipal contracts to access qualified City job seekers to meet their workforce needs. The initiative will also ensure that City dollars contribute to the local economy and improve the lives of employable Baltimoreans.

Baltimore City Residents First meets business development need by helping employers save time and money in the recruitment process. This service also offers businesses customized training resources that build worker pipelines for hard-to-fill job vacancies, and provides easy access to tax credit programs that supports investments in the City's growth. Every year, hundreds of area employers tap the Mayor's Office of Employment Development's resources to assist their expansion efforts. We look forward to serving you as well.

**Baltimore City Residents First
Instruction Sheet**

1. Complete the *Baltimore City Residents First* Certification Statement contained in the bid document and submit it with your bid package.
2. Contact the Mayor's Office of Employment Development (MOED) within two (2) weeks of receiving the award to schedule a meeting. MOED will assist you with your employment plan, discuss other services provided by MOED and explain the employment report requirements. You will not receive your first payment under the contract until MOED verifies that the meeting has been scheduled.

Rosalind Howard or Susan Tagliaferro
Baltimore City Residents First
Mayor's Office of Employment Development
3001 East Madison Street
Baltimore, Maryland 21205
Phone 443-984-3014. • Fax 410-361-9648
rhoward@oedworks.com
stagliaferro@oedworks.com

-or-

BCRF@oedworks.com

3. Complete the Employment Reports as requested on June 30th and December 31st during each and every year of the contract and at the end of the contract and submit to:

Baltimore City Residents First
Mayor's Office of Employment Development
3001 E. Madison Street
Baltimore, Maryland 21205

- or -

BCRF@oedworks.com

4. The City will not release a final payment or any and all retainage held by the City until the Employment Reports are submitted.

**Baltimore City Residents First
Certification Statement**

Contract Title	Contract Number	Contracting Agency	Bid Due Date
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER	WATER CONTRACT NO. 1160	DPW - BUREAU OF WATER AND WASTEWATER	April 8, 2009

To promote the commitment to utilize *Baltimore City Residents First* to meet its employment needs, all businesses awarded contracts, franchises and development opportunities with the City of Baltimore, shall comply with the terms of the Executive Order as described in the bid specification. Under this agreement, contract awardees will complete and submit this certification statement with the bid package. Excluded from this Executive Order are professional service contracts, emergency contracts, and contracts for \$24,999.00 or less.

I Bernard LaHalle, Vice President, representing The Whiting-Turner Contracting Company
(Name and Title) (Name of Bidder)

certify that this contract representative will schedule a meeting with the Mayor's Office of Employment Development within two weeks of award to share the workforce plan for this contract. In addition, if there is a need for additional employees, I agree to interview qualified *Baltimore City Residents First*. I agree to submit an Employment Report indicating the number of total workers and number of City residents on payroll as of June 30th and December 31st during each and every year of the contract and at the end of the contract as a condition of release of a final payment or any and all retainage.

Name: Al Tyler Title: Project Manager

Signature: [Signature] Date: 4/22/09

Telephone: (410) 494-7433 Email: al.tyler@whiting-turner.com

Rosalind Howard or Susan Tagliaferro
Baltimore City Residents First
Mayor's Office of Employment Development
3001 East Madison Street
Baltimore, Maryland 21205
Phone 443-984-3014. • Fax 410-361-9648
rhoward@oedworks.com
stagliaferro@oedworks.com

-or-

BCRF@oedworks.com

*Baltimore City Residents First***Employment Report**

Contract Title	Contract Number	Contracting Agency	Contract Start Date	Contract End Date
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER	WATER CONTRACT NO. 1160	DPW - BUREAU OF WATER AND WASTEWATER		

To promote the commitment to utilize *Baltimore City Residents First* to meet its employment needs, all businesses awarded contracts, franchises and development opportunities with the City of Baltimore, shall comply with the terms of the Executive Order as described in the bid specification. Under this Executive Order, contract awardees will complete and submit the Employment Report indicating the number of total workers and the number of City residents on payroll for this contract as of June 30th and December 31st during each and every year of the contract and at the end of the contract and forward a copy to:

Baltimore City Residents First
Mayor's Office of Employment Development
 3001 E. Madison Street
 Baltimore, Maryland 21205
 - or -
BCRF@oedworks.com

The following information is hereby submitted by the undersigned as its Employment Report for the period:
 (please circle one)

December 31, 20__ June 30, 20__ End of Contract Date _____

Position	City Residents	Total Workers
Electricians		
Plumbers, Pipefitters and Steamfitters		
Iron Workers, Structural and Reinforcing		
Carpenters		
Cement Masons		
Laborers		
Power Equipment Operators		
Brick Masons		
Cement Finishers		
Concrete Workers		
Food Service Workers		
Transportation Workers		
Managers		
Clerical		
Other-Specify		
Other-Specify		

Name: _____ Signature: _____

Title: _____ Date: _____

Telephone: _____ Email: _____



The Mayor's Office of Employment Development provides businesses with a pipeline of qualified, skilled job candidates and supports businesses in retaining and developing their employees. We offer customized workforce solutions including outreach and recruitment, applicant prescreening, assessment and testing services, tax credit information, human resources support and training funds for new or existing employees. Training funds are available through several programs.

Customized Training is a business-driven program that helps companies train and hire people to fit their job-specific needs. Business Services recruits and pre-screens training applicants. The available positions must be full-time and meet minimum salary requirements. Companies accepting Customized Training grants must agree to hire successful participants. The training can be employer-based, on-the-job, or offered by qualified vendors.

Maryland Business Works enables small businesses and/or companies in high-growth industries to upgrade the skills of their existing employees. Businesses can access up to \$25,000 to support their staff development needs. This incumbent worker funding encourages promotion, creates additional job opportunities and improves worker retention by increasing employee skill levels. Funding is limited and is available on a first-come, first-served basis.

MOED works closely with other local, state and federal agencies to promote the link between the city's workforce and economic development initiatives.

For Further Information Contact:

Rosalind Howard or Susan Tagliaferro
Baltimore City Residents First
Mayor's Office of Employment Development
3001 East Madison Street
Baltimore, Maryland 21205
Phone 443-984-3014. • Fax 410-361-9648

rhoward@oedworks.com
stagliaferro@oedworks.com

-or-

BCRF@oedworks.com

E. BID BOND

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

as Principal, and _____

as Surety, are hereby held and firmly bound unto the Mayor and City Council of Baltimore as Owner, in the amount of at least Two Percent (2%) of the Total Bid submitted for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns. Signed this _____ day of _____, 20_____.

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

for WATER CONTRACT NO. 1160 - MONTEBELLO PLANT 2 FINISHED WATER
RESERVOIR COVER

NOW, THEREFORE,

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

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

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

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

ATTEST:

PRINCIPAL

(SEAL)

ATTEST:

SURETY

(SEAL)

IV. AGREEMENT

THIS AGREEMENT, made this _____ Day of _____

in the year 20____, by and between _____

hereinafter called the "Contractor", and the Mayor and City Council of Baltimore, a Municipal Corporation, hereinafter called the "City".

WHEREAS, the Contract designated as WATER CONTRACT NO. 1160, MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER to be performed in strict accordance with the Contract Documents, which Standard Specifications, Plans and other Contract Documents are in all respects made a part hereof, has recently been awarded to the Contractor by the City, through the Agency of its Board of Estimates, at and for a sum equal to the aggregate cost of the work, labor, materials and supplies done or furnished at the prices and rates respectively named therefore in the Proposal attached hereto; and

WHEREAS, it was one of the conditions of said award that a formal Contract should be executed by and between the Contractor and the City evidencing the terms of said award.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, That the Contractor doth hereby covenant and agree with the City that it will well and faithfully construct, and complete the said Work in accordance with each and every one of the conditions, covenants, stipulations, terms and provisions contained in the Contract Documents, at and for a sum equal to the aggregate cost of the work, labor, materials and supplies done or furnished at the prices and rates respectively named therefore in the Proposal attached hereto, and will well and faithfully comply with and conform to each and every obligation imposed upon it by the Contract Documents, or by the terms of said award. Time is of the essence of this Agreement.

And the City doth hereby covenant and agree with the Contractor that it will pay the Contractor, when due and payable under the terms of the Contract Documents and of said award, the above mentioned sum; and that it will well and faithfully comply with and perform each and every obligation imposed upon it by the Contract Documents or by the terms of said award.

In WITNESS WHEREOF, Said _____

has caused this Agreement to be signed in its name by its President/Vice President and its Corporate Seal to be hereunto and duly attached and the City has caused these presents to be signed by the Mayor of Baltimore City and the Corporate Seal of the City to be hereunto affixed, duly attested by the Custodian of the City Seal.

ATTEST:

SIGNATURE

SIGNATURE

PRINT NAME AND TITLE

(SEAL)

ATTEST:

Mayor and City Council of Baltimore

Custodian of the City Seal

By: _____

SHEILA DIXON, MAYOR

APPROVAL OF AGREEMENT
FOR
BUREAU OF WATER AND WASTEWATER
WATER CONTRACT NO. 1160

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED:

Chief Solicitor

Head, Bureau of Water and Wastewater

APPROVED:

APPROVED:

Chief, Water and Wastewater
Engineering Division

Director of Public Works

V. BONDSA. PERFORMANCE BOND

Principal	Business Address of Principal
Surety a Corporation of the State of and authorized to do business in the State of Maryland	Obligee Mayor and City Council of Baltimore
Sum of Bond (Equal to Contract Price) SUM OF _____ Dollars (\$ _____)	
Contract Number and Identification City of Baltimore Department of Public Works Bureau of Water and Wastewater Water Contract No. 1160 MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER	Date of Contract _____, 20 Date Bond Executed _____, 20

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL above named and SURETY above named, are held and firmly bound unto the OBLIGEE above named in the full and just sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL is entering into a certain Contract with the OBLIGEE described and dated, as shown above and attached hereto, and is required under the Provisions of the Public General Laws of Maryland to give a bond conditioned as hereinafter set forth.

NOW THEREFORE, if the PRINCIPAL shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the OBLIGEE, with or without notice to the SURETY, and during the term or terms of any maintenance, repair, guaranty and warranty required under the Contract, and

PERFORMANCE BOND

shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the SURETY being hereby waived, and shall indemnify and save harmless the Mayor and City Council of Baltimore, its agents and employees against and from all costs, expenses, damages, injury or loss to which the said Mayor and City Council of Baltimore, its agents and employees, may be subjected by reason of any wrongdoing, misconduct, want of care or skill, negligence or default on the part of said PRINCIPAL, its agents or employees, or in any manner arising directly or indirectly from any and all causes whatsoever, in or about the execution or performance of the Contract, during the Original term of said Contract and/or any authorized extension or modification thereof and/or during the term or terms of any maintenance, repair, guaranty and warranty required under the Contract, then this obligation shall be null and void; otherwise to remain in full force and effect.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the OBLIGEE, or the successors or assigns of OBLIGEE.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several Seals on the date indicated above, the Name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

ATTEST: as to principal

SIGNATURE

SIGNATURE

PRINT NAME

ATTEST: as to surety

PRINT NAME AND TITLE

(SEAL)

SIGNATURE

SIGNATURE

PRINT NAME

PRINT NAME AND TITLE

(SEAL)

AGENT (COMPANY):

AUTHORIZED BY:

NAME AND TITLE

PERFORMANCE BOND

APPROVED:

APPROVED:

Mayor of Baltimore City

Director of Public Works

Comptroller

Head, Bureau of Water and Wastewater

Chief, Water and Wastewater
Engineering Division

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED BY BOARD OF ESTIMATES:

Chief Solicitor

Clerk

Date

B. PAYMENT BOND

Principal	Business Address of Principal
Surety a Corporation of the State of	Obligee Mayor and City Council of Baltimore
and authorized to do business in the State of Maryland	
Sum of Bond (Equal to Contract Price) SUM OF _____ Dollars (\$ _____)	
Contract Number and Identification City of Baltimore Department of Public Works Bureau of Water and Wastewater Water Contract No. 1160 MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER	Date of Contract _____, 20 Date Bond Executed _____, 20

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL above named and SURETY above named, are held and firmly bound unto the OBLIGEE above named in the full and just sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL is entering into a certain Contract with the OBLIGEE described and dated, as shown above and attached hereto, and is required under the Provisions of the Public General Laws of Maryland to give a bond conditioned as hereinafter set forth.

NOW THEREFORE, the condition of this obligation is such that if the PRINCIPAL shall promptly make payments to all persons supplying labor and/or material in the prosecution of the work provided for in said Contract and any and all duly authorized extensions and/or modifications of said contract that may hereafter be made, notice of such extensions and/or modifications to the SURETY being hereby waived, and any maintenance, repair, guaranty and warranty required under the Contract, then this obligation to be null and void; otherwise they remain in full force and effect.

PAYMENT BOND

A suit or action commenced hereunder shall comply with applicable Provisions of the Public General Laws of Maryland. No suit or action shall be commenced hereunder against the OBLIGEE, its successors or assigns, nor shall OBLIGEE be liable for any costs or expenses of such suit.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several Seals on the date indicated above, the Name and corporation seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

 ATTEST: as to principal

 SIGNATURE

 SIGNATURE

 PRINT NAME

 PRINT NAME AND TITLE (SEAL)

ATTEST: as to surety

 SIGNATURE

 SIGNATURE

 PRINT NAME

 PRINT NAME AND TITLE (SEAL)

AGENT (COMPANY): _____

AUTHORIZED BY: _____
 NAME AND TITLE

PAYMENT BOND

APPROVED:

Mayor of Baltimore City

Comptroller

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Chief Solicitor

APPROVED:

Director of Public Works

Head, Bureau of Water and Wastewater

Chief, Water and Wastewater
Engineering Division

APPROVED BY BOARD OF ESTIMATES:

Clerk

Date

NOTICE TO BIDDERS**SUPPLEMENTAL BIDDING INSTRUCTION**

The following instruction supplements the bidding instructions found elsewhere in the Bid Book and those referenced therein.

EACH BIDDER IS HEREBY NOTIFIED THAT HE/SHE/IT MUST COMPLETELY FILL IN THE ORIGINAL BID AND THE REQUIRED BID/PROPOSAL AFFIDAVIT AND DOCUMENTS LOCATED IN THE BID BOOK. THE ORIGINAL BID, (WHICH MUST REMAIN ATTACHED TO THE BID BOOK) PLUS THE FULLY COMPLETED DUPLICATE BID MUST BE SUBMITTED IN THE BID ENVELOPE, IF ONE IS PROVIDED FOR THAT PURPOSE.

FAILURE TO FOLLOW THESE SIMPLE DIRECTIONS WILL CAUSE YOUR BID TO BE DECLARED UNRESPONSIVE AND THE BID WILL BE REJECTED BY THE BOARD OF ESTIMATES.

MINORITY AND WOMEN'S BUSINESS PROGRAM

- ❖ INCLUDED IN THIS CONTRACT IS A MINORITY AND WOMEN'S BUSINESS PROGRAM PACKAGE.
- ❖ MINORITY AND WOMEN'S BUSINESS PROGRAM PACKAGE FORMS MUST BE COMPLETED AND SUBMITTED WITH YOUR BID PROPOSAL.
- ❖ FAILURE TO SUBMIT THE INFORMATION AT THE TIME REQUESTED WILL BE CAUSE TO HAVE YOUR BID REJECTED.

BALTIMORE APPRENTICESHIP TRAINEE PROGRAM (BATP)

- ❖ INCLUDED IN THIS CONTRACT IS A BALTIMORE APPRENTICESHIP TRAINEE PROGRAM PACKAGE (BATP DOCUMENTS).
- ❖ BATP FORMS MUST BE COMPLETED AND SUBMITTED WITH YOUR BID PROPOSAL.
- ❖ FAILURE TO SUBMIT THE INFORMATION AT THE TIME REQUESTED WILL BE CAUSE TO HAVE YOUR BID REJECTED.
- ❖ COMPLETED BATP FORMS ARE ONLY REQUIRED FOR BIDS OF \$1,000,000.00 OR MORE.
- ❖ NOTE: ORIGINAL BATP FORMS ARE INCLUDED IN THE ACCOMPANYING MANILA BID ENVELOPE IF THE ENGINEER'S ESTIMATE FOR A PROJECT IS \$ 750,000.00 OR MORE.

**BALTIMORE CITY RESIDENTS FIRST PROGRAM AND
BALTIMORE CITY'S YOUTHWORKS PROGRAM**

- ❖ ALSO INCLUDED IN THIS CONTRACT ARE A BALTIMORE CITY RESIDENTS FIRST PACKET AND A BALTIMORE CITY'S YOUTHWORKS PROGRAM FORM.
- ❖ THE ACCOMPANYING MANILA BID ENVELOPE CONTAINS BALTIMORE CITY RESIDENTS FIRST PACKET AND BALTIMORE CITY'S YOUTHWORKS PROGRAM FORM ORIGINAL DOCUMENTS WHICH MUST BE COMPLETED FOR ALL CONTRACTS.
- ❖ ALL FORMS IN THE BALTIMORE CITY RESIDENTS FIRST CERTIFICATION PACKET AND THE SINGLE PAGE BALTIMORE CITY'S YOUTHWORKS FORM MUST BE COMPLETED AND SUBMITTED WITH YOUR BID PROPOSAL
- ❖ FAILURE TO SUBMIT THE INFORMATION AT THE TIME REQUESTED MAY BE CAUSE TO HAVE YOUR BID REJECTED.

OCTOBER 1, 2008

REQUIREMENTS AND CONTRACT PROVISIONS FOR THE PROJECT
FINANCED THROUGH THE MARYLAND WATER QUALITY REVOLVING LOAN
FUND AND THE MARYLAND DRINKING WATER REVOLVING LOAN FUND
DEPARTMENT OF THE ENVIRONMENT
STATE OF MARYLAND

The project or segment thereof to be constructed in accordance with these contract documents is subject to the following requirements. In the event of conflict with other requirements of the contract documents, the following requirements control unless the requirement is a minimum requirement. Nothing in this document shall be construed to prohibit the owner from requiring additional assurances, guarantees, indemnities, or other contractual requirements from any other party to this agreement.

I. ASSURANCES FOR COMPLIANCE WITH THE FOLLOWING FEDERAL LAWS AND REGULATIONS:

1. NON-DISCRIMINATION IN EMPLOYMENT
2. DEBARMENT
3. ANTI-KICKBACK
4. CONTRACT WORK HOURS AND SAFETY STANDARDS.
5. COMPLIANCE WITH CFR 40 247- 254 (RCRA - SECTION 6002)

II. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

- GUIDANCE DOCUMENTS AND FORMS (EPA & STATE FORMS)

(Performance of the good faith steps are required, regardless of goal achievement. All information is to be submitted to the owner, prior to the owner's award of the contract, UNLESS OTHERWISE DIRECTED BY THE OWNER.)

III. PRESIDENTIAL DOCUMENTS

- ATTACHMENT II

EXECUTIVE ORDER 13202 of February 17, 2001

EXECUTIVE ORDER 13208 of April 8, 2001

IV. SEVERABILITY

V. PROJECT SIGN

OCTOBER 1, 2008

I. ASSURANCES

The contractor is required to comply with the Federal laws and regulations in regard to non-discrimination in employment, debarment, anti-kickback, and contract work hours and safety standards as delineated below.

1. Non-discrimination in Employment:

The contractor is required to comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.

The contract for the work under this proposal will obligate the prime contractor and its subcontractors not to discriminate in employment practices.

The contractor shall not maintain or provide for his/her employees the facilities, which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis.

The contractor must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain his/her eligibility to receive the award of the contract.

The contractor must be prepared to comply in all respects with the Contract Provisions regarding non-discrimination, as stipulated under the Labor Standards.

2. Debarment:

Under Executive Order 12549, an individual or organization debarred from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a sub-agreement thereunder for \$25,000 or more.

Therefore, the bidder as an individual or as an organization, presently debarred, suspended, proposed for debarment, will be declared ineligible to participate in bidding the proposed contract as a prospective recipient of financial assistance from the Maryland Department of the Environment.

The contractor shall not enter into any sub-contract with any individual, firm or organization debarred from Government contracts pursuant to Executive Order 11246.

3. Anti-kickback:

The contractor and/or its sub-contractors shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874). Any evident illicit kickback practice in any shapes or forms will cause termination of the contract.

4. Contract Work Hours and Safety Standards:

The contractor and/or its sub-contractors shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).

5. Compliance with 40 CFR: 247- 254 (RCRA - Section 6002)

The contractor shall comply with the guidelines contained in 40 CFR 247- 254 (Section 6002 of the Resource Conservation and Recovery Act).

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State and local recipients and sub-recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.

At the time of bidding, the apparent low bidder shall sign the form of "Assurances for Compliance with Federal Laws and Regulations" pertaining to non-discrimination in employment, debarment, anti-kickback, and contract work hours and safety. The form is appended herewith in Section I.

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ASSURANCES FOR COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

The contractor is required to comply with the following Federal laws and regulations:

1. Non-discrimination in Employment in accordance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.
2. Debarment in accordance with the Executive Order 12549 and Executive Order 11246.
3. Anti-kickback in accordance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874).
4. Contract Work Hours and Safety Standards in accordance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).
5. Compliance with Guidelines Contained in 40 CFR 247-254 (RCRA - Section 6002).

I do solemnly declare and affirm that I am obligated to comply with the above Federal laws and regulations. It is understood that non-compliance with any one of the above Federal laws and regulation will be the sufficient reason to cause termination of the contract.

The White-Traut Contracting Company
Contractor

Signed by:

Bernard LaHalle
Authorized Officer

4/22/09
Date

Bernard LaHalle
Name (Print)

Vice President
Title (Print)

OCTOBER 1, 2008

**Maryland Department of the Environment
Maryland Water Quality & Drinking Water Revolving Loan Fund Programs
Disadvantaged Business Enterprise Program (DBE)
Guidance for Prime (Construction & A/E) Contractors**

The Maryland Water Quality and Drinking Water Revolving Loan Fund Programs (RLF) receive federal funds from the U.S. Environmental Protection Agency (EPA). The funds are used to provide low interest rate loans to finance water quality and drinking water capital projects. As a condition of federal grant awards, EPA regulations require that loan recipients and sub-recipients (i.e., prime contractors and subcontractors) make a good-faith effort to award a fair share of work to DBEs who are small business enterprises (SBE's), minority business enterprises (MBE's) and women's business enterprises (WBE's). A/E service consultants who receive loan funds are also considered as prime contractors and must comply with DBE requirements. Additionally, EPA's DBE rule requires loan recipients and sub-recipients to adhere to the terms and conditions in Appendix A attached hereto.

To ensure compliance with EPA DBE requirements, the MWQFA has developed guidance for both Loan Recipients and Prime Contractors (sub-recipients) to undertake certain good faith efforts to provide opportunities for DBE firms to participate in contracts. EPA regulations require evidence of the demonstration of the six good faith efforts in trying to achieve the DBE participation goals. MDE's negotiated DBE participation goals with EPA for any project during FY 2007 - 2009 are below. The goals below are not a quota and apply to DBE participation only.

<i>Procurement Category</i>	<i>MBE Goal (%)</i>	<i>WBE Goal (%)</i>
Construction	11	11
Equipment	11	11
Services	12	10
Supplies	11	11

Good Faith Efforts: The following good faith efforts apply to the procurement categories involving EPA financial assistance funds (See Appendix B: EPA Good Faith Efforts):

- Step 1:** Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities by placing qualified DBEs on solicitation lists whenever they are potential sources.
- Step 2:** Establishing delivery schedules, where the requirement permits to encourage participation by DBEs. The prime contractor should allow a 30-day minimum advertising period for bidding.
- Step 3:** Dividing total requirements, when economically feasible, into small tasks or quantities, to permit maximum participation of DBEs.
- Step 4:** Encourage contracting with a consortium of DBEs, when a contract is too large for one of these firms to handle individually.
- Step 5:** Using the services and assistance of the Maryland Department of Transportation (MDOT), the United States Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce (See Appendix C).
- Step 6:** Require each sub-contractor, if subcontracts are to be let, to take the steps 1-5.

Please submit all information to:
DBE Coordinator, MWQFA
1800 Washington Blvd., Baltimore MD 21230
Phone: 410-537-3146, FAX: 410-537-3968
<http://www.mde.state.md.us>

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Disadvantage Business Enterprise Program (DBE)

Guidance for Prime (Construction & A/E) Contractors

Demonstration of the Six Good Faith Efforts. See Appendices A & B for additional bidding instructions and contract administrative provisions.

A: Prime contractors are required to undertake good faith efforts. Steps 1 & 5 can be attained by developing a bidders list of qualified DBE firms that can bid as sub-contractors. The prime contractors should advertise in minority, local and regional newspapers and obtain a bidders list from the loan recipient to supplement their list. The bidders list used during sub-contractor solicitation must be available throughout the project's construction period.

In developing bidders list of qualified DBE firms for participation as sub-contractors in construction, equipment, services, and supplies, the prime contractors should contact and gather information from different resources (See Appendix C) such as:

- Loan Recipient
- U.S. Small Business Administration (US-SBA)
- Minority Business Development Agency (MBDA) of the US Department of Commerce
- Maryland Department of Transportation (MDOT)

The DBE bidders lists may be classified with Standard Industrial Classification (SIC) or NAICS codes, should be updated periodically, and should be made available to sub-contractors to solicit additional sub-contractors, if necessary. The prime contractor is required to keep the bidders list throughout the project's construction period.

B: Prime contractors are also required to undertake good faith efforts. Steps 2, 3, & 4, can be utilized during the project planning, design and/or pre-bidding phase, to assure that qualified DBE firms have procurement opportunities in construction, equipment, services, and supplies.

To provide procurement opportunities to DBE firms, the Prime Contractor should undertake the following:

- Conduct pre-bid meetings to inform potential bidders/contractors about DBE requirements and provide guidance in undertaking the required good faith efforts.
- Use the bidders list developed in Item A (above) to solicit DBE firms as sub contractors.
- Invite DBE firms, where appropriate, to meetings, conferences, etc., to inform them of procurement opportunities and develop, where possible, reasonable contract and delivery schedules that encourage and facilitate participation by DBEs.
- Determine if a project can be broken down into smaller components/contracts to allow opportunity for DBE firms to bid as sub-contractors.
- For projects broken down into smaller components (e.g., painting, roofing, excavation, pipe laying, etc.) ensure that the delivery schedules are reasonable.
- Encourage DBE firms, where appropriate, to apply as a consortium, or as part of a consortium of DBEs, when a contract is too large for one of these firms to handle individually.

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MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard Suite 515 Baltimore MD 21230-1718

410 537 3146 1-800-633-6101 <http://www.mde.state.md.us>Disadvantaged Business Enterprise (DBE) Good Faith Efforts Checklist
To be completed by Prime (Construction & A/E) Contractor

Project Name:

W.C. #1160 - Monticello Water Plant #2Procurement Category: Check box for all M/WBE procurement categories being reported under the above referenced project. Construction ☒ Equipment ☐ Services ☐ Supplies ☐

For each procurement action, please answer the following questions

A: Develop Bidders List of DBE firms

- | | | | |
|----|------------------------------------------------------------------------|-----------------------------------------|----------------------------------------|
| A1 | Did you develop a Bidders List of DBE firms? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| A2 | Did you advertise in minority, local, regional papers or Dodge Report? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| A3 | Did you send invitation for bids to DBE trade associations? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| A4 | Did you contact US-SBA/MBDA/MDOT? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| A5 | Did you receive Bidders List from Loan Recipient? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| A6 | Did you provide MDE with Bidders List? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

B: Smaller work components and delivery schedules

- | | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| B1 | Did DBE firms have opportunities to bid as sub contractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| B2 | Did you break down the project, where economically feasible, into smaller components for DBE firms to bid as sub-contractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| B3 | Do project components have reasonable delivery schedules? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| B4 | Did you allow a reasonable time for DBEs to bid? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| B5 | Did you encourage DBEs to bid as a consortium due to project size? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

C: Solicitation Summary of DBE firms (Prime Contractor must fill EPA Form 6100-4)

- | | | | |
|----|--------------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| C1 | Did you use the Bidders List to solicit subcontractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C2 | Did DBE firms bid as sub contractors (provide list, work type, & price)? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C3 | Did you select any DBE firms as sub-contractor? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| C4 | Is the subcontractor using any additional subcontractors? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

Prime contractor must fill out EPA Form 6100-4. Prime contractor must provide EPA Forms 6100-2 & 6100-3 to each subcontractor. Prime contractor must submit completed EPA Form 6100-3 & 6100-4 to loan recipient.

Supporting Documentation

In support of the actions taken in items A, B, and C, (above), all prime contractors must attach this checklist along with supporting documentation for "Yes" answers and an explanation for "No" answers. Examples of supporting documentation include: (i) Bidders List of DBE firms; (ii) list of sub-contract work elements possible under the prime contract; (iii) proof of contact with DBE firms as potential sub contractors (copies of invitations for bids/RFP, contact letters, faxes and telephone call sheets, etc.); (iv) copies of all procurement advertisements; and, (v) list of all sub contractors that submitted bids/RFP.

Bernard LaHatte, Vice President

Prime Contractor's Name and Title

Bernard LaHatte 4/2/09

Prime Contractor Official's Signature/ Date

Contact Phone # 410 821-1100

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No. _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

BID/PROPOSAL NO. <i>W.C. 1160</i>	PROJECT NAME <i>Montello Water Plant #2 Finished Water Reservoir Construction</i>
NAME OF PRIME BIDDER/PROPOSER <i>Whiting-Turner Contracting Co.</i>	E-MAIL ADDRESS <i>al.tylee@whiting-turner.com</i>
ADDRESS <i>300 E. Joppa Road Towson MD 21286</i>	
TELEPHONE NO. <i>(410) 821-1100</i>	FAX NO. <i>(410) 337-6900</i>

The following subcontractors ¹ will be used on this project:			
COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?
<i>* See Part B "MBE/WBE Participation Disclosure Forms from C.B. & Dohmeyer & Partner "C" MBE/WBE and Prime Contractor's Statement of Intent from C.B. & Dohmeyer. *</i>			
<p>I certify under penalty of perjury that the foregoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).</p>			
<i>Bernard LaHette</i> Signature Of Prime Contractor		<i>4/22/09</i> Date	
<i>Bernard LaHette</i> Print Name		<i>Vice President</i> Title	

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

OCTOBER 1, 2008

Environmental
Protection Agency

OMB Control No:	_____
Approved:	_____
Approval Expires:	_____

Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Utilization Form to this address.

EPA FORM 6100-4 (DBE Subcontractor Utilization Form)

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? ____ Yes ____ No		
Signature of Prime Contractor		Date
Print Name		Title
Signature of Subcontractor		Date
Print Name		Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

OCTOBER 1, 2008

Environmental
Protection AgencyOMB Control No. _____
Approved: _____
Approval Expires: _____Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form

NAME OF SUBCONTRACTOR ¹	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	E-MAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

Subcontractor Signature _____	Title/Date _____
-------------------------------	------------------

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-2 (DBE Subcontractor Participation Form)

OCTOBER 1, 2008

Environmental
Protection Agency

OMB Control No:	_____
Approved:	_____
Approval Expires:	_____

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.

OCTOBER 1, 2008

APPENDIX A: EPA DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

EPA's Disadvantaged Business Enterprise Program rule applies to contract procurement actions funded in part by EPA assistance agreements awarded after May 27, 2008. The rule is found at Federal regulation Title 40, Part 33. Specific responsibilities are highlighted below.

Loan Recipient Responsibilities:

- Include MDE's DBE guidance in each contract with a primary contractor, *MDE, October 2008*.
- Employ the six Good Faith Efforts during prime contractor procurement (§ 33.301).
- Require prime contractor to comply with the following prime contractor requirements of Title 40 Part 33:
 - a) To employ the six Good Faith Efforts steps in paragraphs (a) through (e) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).
 - b) To provide EPA form 6100-2 – *DBE Subcontractor Participation Form* to all DBE subcontractors (Optional submittal by subcontractors) (§ 33.302(e)).
 - c) To submit EPA forms 6100-3 – *DBE Program Subcontractor Performance Form* and 6100-4 – *DBE Program Subcontractor Utilization Form* with bid package or proposal. (§ 33.302 (f) and (g)).
 - d) To pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
 - e) To notify recipient in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor (§ 33.302(b)).
 - f) To employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§ 33.302(c)).
 - g) To employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33. (§33.302(d)).
 - h) Provide grant recipient DBE participation achievements with bid proposal
- Maintain records documenting its compliance with the requirements of Title 40 Part 33, including BIDDERS LIST and documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Prime Contractor Responsibilities:

- Employ the six Good Faith Efforts steps in paragraphs (a) through (e) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).

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- Provide EPA form number 6100-2 – *DBE Program Subcontractor Participation Form* and form number 6100-3 – *DBE Program Subcontractor Performance Form* to each DBE subcontractor prior to opening of the contractor's bid or proposal (§ 33.302(e) and (f)).
- Complete EPA form number 6100-4 – *DBE Program Subcontractor Utilization Form* (§ 33.302(g)).
- Submit to recipient with its bid package or proposal the completed EPA form number 6100-4, plus an EPA form number 6100-3 for each DBE subcontractor used in the contractor's bid or proposal (§ 33.302(f) and (g)).
- Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
- Notify the recipient in writing prior to prime contractor termination of a DBE subcontractor for convenience (§ 33.302(b)).
- Employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§ 33.302(c)).
- Employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33. (§33.302(d)).
- Provide grant recipient DBE participation achievements with bid proposal.
- Maintain records documenting its compliance with the requirements of Title 40 Part 33, including BIDDERS LIST documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Subcontractor Responsibilities:

- May submit EPA form 6100-2 – *DBE Subcontractor Participation Form* to Romona McQueen, EPA Region 3 DBE Coordinator (§ 33.302(e)).
- Must complete EPA form 6100-3 – *DBE Program Subcontractor Performance Form*, and submit it to the prime contractor soliciting services from the subcontractor prior to the opening of bids for the prime contract.

EPA Form	Requirement	Provided By	Completed By	Submitted To
EPA Form 6100-2	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors (Optional)	EPA Region 3 DBE Coordinator Romona McQueen
EPA Form 6100-3	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors with Prime Contractor's Signature	Loan Recipients as part of a bid or proposal package
EPA Form 6100-4	Loan Recipients required to have prime contractors complete the form	Loan Recipients	Prime Contractors	Loan Recipients as part of a bid or proposal

Source: Federal Requirements and Contract Provisions for Special Appropriation Act Projects, US Environmental Protection Agency, Region III, June 2008

OCTOBER 1, 2008

APPENDIX B: TITLE 40 PART 33 SUBPART C—GOOD FAITH EFFORTS

§ 33.102 When do the requirements of this part apply?

The requirements of this part apply to procurement under EPA financial assistance agreements performed entirely within the United States, whether by a loan recipient or its prime contractor, for construction, equipment, services, and supplies.

§ 33.106 What assurances must EPA financial assistance recipients obtain from their contractors?

The recipient must ensure that each procurement contract it awards contains the term and condition specified in Appendix A to this part concerning compliance with the requirements of this part.

§ 33.206 Is there a list of certified MBEs and WBEs?

EPA OSDBU will maintain a list of certified MBEs and WBEs on EPA OSDBU's Home Page on the Internet. Any interested person may also obtain a copy of the list from EPA OSDBU. The Maryland Department of Transportation will also have a bidders list.

§ 33.301 What does this subpart require?

A recipient, including one exempted from applying the fair share objective requirements by § 33.411, is required to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, even if it has achieved its fair share objectives under subpart D of this part:

- (a) Ensure DBEs are made aware of contracting opportunities fully practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs, arrange periods for contracts, and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

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- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

§ 33.302 Are there any additional contract administration requirements?

- (a) Loan recipient must require its prime contractor to pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient.
- (b) Its prime contractor must notify loan recipient in writing prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (c) If a DBE subcontractor fails to complete work under the subcontract for any reason, the recipient must require the prime contractor to employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor.
- (d) A recipient must require its prime contractor to employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of this part.
- (e) A recipient must require its prime contractor to provide EPA Form 6100-2—DBE Program Subcontractor Participation Form to all of its DBE subcontractors. EPA Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have, for example reasons why the DBE subcontractor believes it was terminated by the prime contractor. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to the appropriate EPA DBE Coordinator.
- (f) A recipient must require its prime contractor to have its DBE subcontractors complete EPA Form 6100-3—DBE Program Subcontractor Performance Form. A recipient must then require its prime contractor to include all completed forms as part of the prime contractor's bid or proposal package.
- (g) A recipient must require its prime contractor to complete and submit EPA Form 6100-4—DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package.
- (h) Copies of EPA Form 6100-2—DBE Program Subcontractor Participation Form, EPA Form 6100-3—DBE Program Subcontractor Performance Form and EPA Form 6100-4—DBE Program Subcontractor Utilization Form may be obtained from EPA OSDBU's Home Page on the Internet or directly from EPA OSDBU.
- (i) A recipient must ensure that each procurement contract it awards contains the term and condition specified in the Appendix A concerning compliance with the requirements of this part. A recipient must also ensure that this term and condition is included in each procurement contract awarded by an entity receiving an identified loan under a financial assistance agreement to capitalize a revolving loan fund.

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§ 33.410 Can a recipient be penalized for failing to meet its fair share objectives?

A recipient cannot be penalized, or treated by EPA as being in noncompliance with this subpart, solely because its MBE or WBE participation does not meet its applicable fair share objective. However, EPA may take remedial action under § 33.105 for a recipient's failure to comply with other provisions of this part, including, but not limited to, the good faith efforts requirements described in subpart C of this part.

Source: Federal Requirements and Contract Provisions for Special Appropriation Act Projects, US Environmental Protection Agency, Region III, June 2008

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**APPENDIX C: RESOURCE LISTING AND CONTACT INFORMATION
FOR UTILIZATION OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

Resource Listing	Contact	Website if applicable
State of Maryland Governor's Office of Minority Affairs The mission of the Governor's Office of Minority Affairs (GOMA) is facilitating minority business enterprise activities through coordinating and promoting government programs aimed at strengthening and preserving the state's minority and women owned businesses.	Governor's Office of Minority Affairs Suite 1502 6 Saint Paul Street Baltimore MD 21202 767-8232 1-(877) 558-0998 F-(410) 333-7568 info@mdminoritybusiness.com	http://www.oma.state.md.us/
U.S. Small Business Administration (SBA) In addition to the national office, the SBA has local district and regional offices to assist small businesses in contracting with the public and private sector.	Website	www.sba.gov/businessop/findop/matchmaking.html
CCR/Pro-Net is an extensive database that combines the SBA's Pro-Net database and the DOD's Central Contractor Registration database of small businesses.	CCR Assistance Center 888-227-2423 269-961-5757 DSN: 661-5757	www.ccr.gov/ Select "Dynamic Small Business"
U. S. Small Business Administration (SBA) - MD. District Office	City Crescent Bld. 6 th Floor 10 South Howard St. Baltimore MD 21201 Phone: 410 962-6195	www.sba.gov/md/index.html
Minority Business Development Administration (MBDA): The MBDA is an agency within the U.S. Dept. of Commerce, created to foster the development and growth of minority businesses in the U.S. and coordinates resources in the public and private sectors to help MBE's. Recipients and bidders should contact the centers and provide notices of contracting opportunities. Also, see the Phoenix database, which matches minority companies with business opportunities.	1401 Constitution Ave NW Washington, D.C. 20230 Email: support@mbda.gov 1.888.324.1551	www.mbda.gov/
Standard Industrial Classification Codes (SIC) or North American Industry Classification System (NAICS) codes visit the website.	Website	www.sba.gov/size/sizetable2002.html
Maryland Department of Transportation (MDOT) and the Minority/Disadvantaged Business Enterprise (MDOT - MBE/DBE). Loan	Office Address 7201 Corporate Drive Hanover, MD 21076	www.mdot.state.md.us/MBE_Program/index.html

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recipients and bidders may locate qualified M/WBE's through the MBE/WBE Directory.	Or Mailing Address: P.O. Box 548 Hanover, MD 21076	http://www.e-mdot.com/MBE_Program/directory Click on "Proceed to Directory. Select any combination of the fields to identify M/WBE's for the specific project opportunities.
U.S. EPA Office of Small, Disadvantaged Business Utilization (OSDBU) – OSDBU's mission includes "fostering opportunities for partnerships, contracts, subagreements, and grants for small and socioeconomically disadvantaged concerns". One of the resources to assist prime contractors is a listing of small and disadvantaged businesses (a vendor profile system) registered with OSDBU.	US.EPA Office of Small Programs 1200 Pennsylvania Avenue NW Mail Code 1230T Washington, D.C. 20460	http://cfpub.epa.gov/sbvps/ http://www.epa.gov/osdbu/ Select "search the OSDBU Registry" Click on the search criteria of interest (ethnicity, size, SIC, etc.)
National Black Chamber of Commerce	1350 Connecticut Ave. N.W. Suite 405 Washington D.C. 20036 Phone: 202 466-6888 Fax: 202 466-4918	www.nationalbcc.org Email: info@nationalbcc.org
Virginia Hispanic Chamber of Commerce (Northern Va.)	8300 Boone Blvd., 4 TH Floor Vienna, VA 22182 Phone: 804.378.4099 Fax: 703 893-1269	www.vahcc.com
U.S. Hispanic Chamber of Commerce	2175 K Street NW Suite 100 Washington, D.C. 20037	www.ushcc.com
National Association of Minority Contractors (NAMC)	666 11 Street N.W. Suite 520 Washington D.C. 20001 Phone: 202 347-8250	www.namcline.com
Maryland/Washington Minority Contractors (MWMCA)	1107 North Point Blvd, Suite 227 Baltimore, MD 21224 410.282.6101 410.282.6102 –fax	www.mwmca.org
National Association of Women's Business Owners (NAWBO) – National	1760 Old Meadow Rd. Ste 500 McLean VA 22102 Phone: 800.556.NAWBO 703.506.3268 703.506.3266-fax	www.nawbo.org

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NAWBO Baltimore Regional Chapter	4404 Silverbrook Lane, Suite E-204 Owings Mills MD 21117 Phone: 410 876-0502 410.654.9734-fax	www.nawbomaryland.org Email: info@nawbomaryland.org
NAWBO Delaware Chapter	P.O. Box 4657 Greenville Station Greenville, DE 19807-4657 Phone: 302 355.9945	www.nawbodelaware.org Email: info@nawbodelaware.org
MD/DC Minority Supplier Development Council (MSDC)	10770 Columbia Pike Lower Level, Suite L100 Silver Spring MD 20901 Phone: 301 592-6710 Fax: 301 592-6704	http://mddccouncil.org/
National Minority Supplier Development Council, Inc. (NMSDC)	1040 Avenue of the Americas, 2 nd Floor New York, New York 10018 Phone: 212 944-2430 212.719.9611-fax	www.nmsdcus.org/
UIDA Business Services is a Native American Procurement and Technical Assistance Center-maintains a comprehensive database of Native American owned firms	86 South Cobb Drive, MZ:0510 Marietta, GA 30063-0510 Phone, 770 494-0431 770.494.1236-fax or Northeast Region 2340 Dulles Corner Blvd Mail Stop: 1n01 Herndon, VA 20171 Phone: 703.561.3120 703.561.3124-fax	www.uida.org
Diversity Business (A multi-cultural online resource)	200 Pequot Avenue Southport, CT 06890 Phone 203.255.8966 203.255.8501-fax	www.diversitybusiness.com/
National Association of Women in Construction	327 S. Adams Street Fort Worth, TX 76104 Phone: 1-800-552-3506 Phone: 817.877.5551 817.877.0324-fax	www.nawic.org/

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III PRESIDENTIAL DOCUMENTS

PRESIDENTIAL EXECUTIVE ORDER 13202 OF FEBRUARY 17, 2001 and PRESIDENTIAL EXECUTIVE ORDER 13208 OF APRIL 8, 2001 are appended as Attachment II.

IV. SEVERABILITY

In the event any provision of the within and foregoing Requirement, including any attachment thereto, shall be held illegal, invalid, unconstitutional or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

V. PROJECT SIGN

The prime contractor shall provide and erect a sign at a prominent location at each construction site. The owner shall approve the site for the sign erection. The sign shall be prepared in accordance with detailed instructions to be provided by Maryland Department of the Environment (MDE).

It shall be the responsibility of the contractor to protect and maintain the sign in good conditions throughout the life of the project.

Attachment II

Presidential Documents

Executive Order 13202 of February 17, 2001

**Preservation of Open Competition and Government Neutrality
Towards Government Contractors' Labor Relations on
Federal and Federally Funded Construction Projects**

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the taxpayers; (4) expand job opportunities, especially for small and disadvantaged businesses; and (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects, it is hereby ordered that:

Section 1. To the extent permitted by law, any executive agency awarding any construction contract after the date of this order, or obligating funds pursuant to such a contract, shall ensure that neither the awarding Government authority nor any construction manager acting on behalf of the Government shall, in its bid specifications, project agreements, or other controlling documents:

(a) Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

(b) Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

(c) Nothing in this section shall prohibit contractors or subcontractors from voluntarily entering into agreements described in subsection (a).

Sec. 2. Contracts awarded before the date of this order, and subcontracts awarded pursuant to such contracts, whenever awarded, shall not be governed by this order.

Sec. 3. To the extent permitted by law, any executive agency issuing grants, providing financial assistance, or entering into cooperative agreements for construction projects, shall ensure that neither the bid specifications, project agreements, nor other controlling documents for construction contracts awarded after the date of this order by recipients of grants or financial assistance or by parties to cooperative agreements, nor those of any construction manager acting on their behalf, shall contain any of the requirements or prohibitions set forth in section 1(a) or (b) of this order.

Sec. 4. In the event that an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, performs in a manner contrary to the provisions of sections 1 or 3 of this order, the executive agency awarding the contract, grant, or assistance shall take such action, consistent with law and regulation, as the agency determines may be appropriate.

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11228 Federal Register/Vol. 68, No. 36/Thursday, February 22, 2001/Presidential Documents

Sec. 5. (a) The head of an executive agency may exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds that special circumstances require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

(b) A finding of "special circumstances" under section 5(a) may not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations, or concerning employees on the project who are not members of or affiliated with a labor organization.

Sec. 6. (a) The term "construction contract" as used in this order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The term "executive agency" as used in this order shall have the same meaning it has in 5 U.S.C. 105, excluding the General Accounting Office.

(c) The term "labor organization" as used in this order shall have the same meaning it has in 42 U.S.C. 2000e(d).

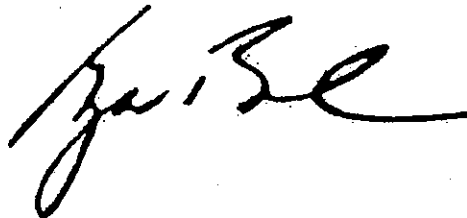
Sec. 7. With respect to Federal contracts, within 60 days of the issuance of this order, the Federal Acquisition Regulatory Council shall take whatever action is required to amend the Federal Acquisition Regulation in order to implement the provisions of this order.

Sec. 8. As it relates to project agreements, Executive Order 12836 of February 1, 1993, which, among other things, revoked Executive Order 12818 of October 23, 1992, is revoked.

Sec. 9. The Presidential Memorandum of June 5, 1997, entitled "Use of Project Labor Agreements for Federal Construction Projects" (the "Memorandum"), is also revoked.

Sec. 10. The heads of executive departments and agencies shall revoke expeditiously any orders, rules, regulations, guidelines, or policies implementing or enforcing the Memorandum or Executive Order 12836 of February 1, 1993, as it relates to project agreements, to the extent consistent with law.

Sec. 11. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it, create any right to administrative or judicial review, or any right, whether substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
February 17, 2001

OCTOBER 1, 2008

18717

Federal Register

Vol. 68, No. 70

Wednesday, April 11, 2001

Presidential Documents

Title 3—

The President

Executive Order 13208 of April 8, 2001

Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects


By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*, and in order to (1) promote and ensure open competition on Federal and federally funded or assisted construction projects; (2) maintain Government neutrality towards Government contractors' labor relations on Federal and federally funded or assisted construction projects; (3) reduce construction costs to the Federal Government and to the tax payers; (4) expand job opportunities, especially for small and disadvantaged businesses; (5) prevent discrimination against Government contractors or their employees based upon labor affiliation or lack thereof; and (6) prevent the inefficiency that may result from the disruption of a previously established contractual relationship in particular cases; thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects, it is hereby ordered that Executive Order 13202 of February 17, 2001, is amended by adding to section 8 of that order the following new subsections:

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Federal Register / Vol. 66, No. 70 / Wednesday, April 11, 2001 / Presidential Documents

- (c) The head of an executive agency, upon application of an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of the foregoing, may exempt a particular project from the requirements of any or all of the provisions of sections 1 and 3 of this order, if the agency head finds: (i) that the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of the foregoing had issued or was a party to, as of the date of this order, bid specifications, project agreements, agreements with one or more labor organizations, or other controlling documents with respect to that particular project, which contained any of the requirements or prohibitions set forth in sections 1(a) or (b) of this order; and (ii) that one or more construction contracts subject to such requirements or prohibitions had been awarded as of the date of this order.



THE WHITE HOUSE,
April 6, 2001.

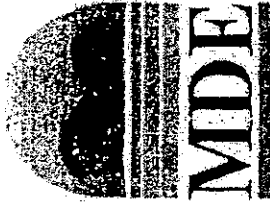
[FR Doc. 01-0008
Filed 4-10-01; 8:00 am]
Billing code 3193-01-P

OCTOBER 1, 2008

THE CONSTRUCTION SITE SIGN FOR PROJECTS FINANCIALLY
SUPPORTED BY STATE REVOLVING LOAN FUNDS
AND OTHER FUND SOURCES

White Background Light Blue Scroll Black Letters

**UNDER THE DIRECTION
OF THE
MARYLAND DEPARTMENT
OF THE
ENVIRONMENT**



**APPROVED BY THE
MARYLAND BOARD
OF
PUBLIC WORKS**

Martin O'Malley, Governor
 Peter V.R. Franchot, Comptroller
 Nancy K. Kopp, Treasurer

Total Project Cost:	
State Loan:	
State Grant:	
Federal Funds:	
Other Funds:	
Local Funds:	

A PROJECT FINANCIALLY SUPPORTED BY THE

STATE OF MARYLAND

PROJECT TITLE

4'

8'

OCTOBER 1, 2008

PROJECT SIGN

- THE MATERIAL FOR THE SIGN SHALL BE EXTERIOR DENSITY OVERLAID PLYWOOD OR EQUAL
- ADEQUATE SUPPORT OF THE SIGN SHALL BE PROVIDED
- THE SIGN SHALL BE POSTED AT A PROPER LOCATION AND AT DISTANCE ABOVE TO PERMIT PUBLIC VIEWING
- MDE DECAL TO BE PROVIDED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT

**REQUIREMENTS AND CONTRACT PROVISIONS FOR PROJECTS
FINANCED THROUGH THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009 (ARRA)
MARYLAND DEPARTMENT OF THE ENVIRONMENT
(LOAN)**

The project or segment thereof to be constructed in accordance with these contract documents is subject to the following requirements. In the event of conflict with other requirements of the contract documents, the following requirements control unless the requirement is a minimum requirement. Nothing in this document shall be construed to prohibit the owner from requiring additional assurances, guarantees, indemnities, or other contractual requirements from any other party to this agreement.

- I. REQUIREMENT AND CONTRACT PROVISIONS FOR THE PROJECT
FINANCED THROUGH THE MARYLAND WATER QUALITY REVOLVING
LOAN FUND AND THE MARYLAND DRINKING WATER REVOLVING
LOAN FUND (OCTOBER 1, 2008).**
- II. THE PREVAILING FEDERAL WAGE RATES AS DETERMINED U.S.
DEPARTMENT OF LABOR UNDER THE DAVIS-BACON AND RELATED
ACTS. AVAILABLE AT: <http://www.gpo.gov/davisbacon/md.html>**

Notwithstanding any other provision of law and in a manner consistent with other provisions in the American Recovery and Reinvestment Act of 2009 (ARRA), all laborers and mechanics employed by contractors and sub contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C.App.) and section 3145 of title 40, United States Code. Most recent Federal prevailing wages can be obtained from: <http://www.gpo.gov/davisbacon/md.html>

III. AMERICAN IRON, STEEL, AND MANUFACTURED GOODS

All ARRA funded work must be completed using iron, steel, and manufactured goods produced in the United States. The contractor must provide a list of all iron, steel, and manufactured goods not produced in the United States to be precluded from ARRA funding.

The owner reserves the right to proceed with one or more of the following:

- a. After award of the contract to the low bidder, modify all or a portion of an individual bid item or items by change order to substitute items to iron, steel, and manufactured goods produced in the United States.
- b. After award of the contract to the low bidder, delete all or a portion of an individual bid item or items by change order. Unit prices shall not be affected as bid.
- c. Substitute ARRA funding with other fund sources and/or local monies.
- d. Reject the bid.

**IV. ESTIMATED LABOR UTILIZATION FORM TO BE COMPLETED BY THE
SELECTED CONTRACTOR FOR ITS EMPLOYEES AND EACH
SUBCONTRACTOR.**

As part of the ARRA, the Maryland Department of the Environment is required to report on number of jobs created or prevented from being lost by the Stimulus project. To assist in this, the contractor is required to submit these estimates shortly after the contract award and before the first progress payment is made:

Employed By	Estimated Number of Employees to Be Used by the Project	Hired Within the Past 6 Months
General Contractor Firm: _____		
Sub-Contractor Firm: _____		
Sub-Contractor Firm: _____		
Sub-Contractor Firm: _____		
Sub-Contractor Firm: _____		
Sub-Contractor Firm: _____		

E. BID BOND

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

The Whiting-Turner Contracting Company

as Principal, and Fidelity and Deposit Company of Maryland

as Surety, are hereby held and firmly bound unto the Mayor and City Council of Baltimore as Owner, in the amount of at least Two Percent (2%) of the Total Bid submitted for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, personal representatives, successors and assigns. Signed this 22nd day of April, 2009.

The condition of the above obligation is such that WHEREAS the Principal has submitted to the Board of Estimates of the Mayor and City Council of Baltimore a certain Bid, attached hereto, and hereby made a part hereof to enter into a Contract, in writing,
for WATER CONTRACT NO. 1160 - MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

NOW, THEREFORE,

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

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

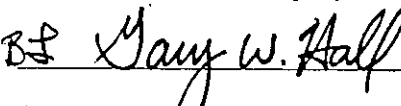
The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

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

ATTEST:

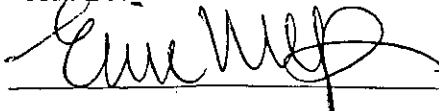

W. DANIEL WHITE
EXECUTIVE VICE PRESIDENT
ASSISTANT SECRETARY

PRINCIPAL: The Whiting-Turner Contracting Company

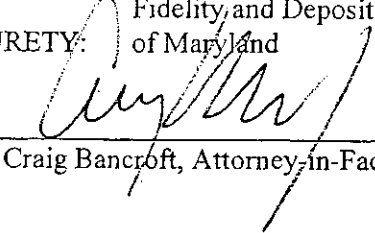

GARY W. HALL
SR. VICE PRESIDENT

(SEAL)

ATTEST:



SURETY: Fidelity and Deposit Company of Maryland


Craig Bancroft, Attorney-in-Fact (SEAL)

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, corporations of the State of Maryland, by DAVID S. HEWETT, Vice President, and GREGORY E. MURRAY, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Gary A. PYNE, Stephen M. MUTSCHELLER, Brian E. WILCOX, Robert F. WHITE, Gary L. BERGER, Shari L. BOWERS, R. Nelson OSTER, Craig BANCROFT, Joshua B. HAUSERMAN and William R. MILLER, all of Brooklandville, Maryland, EACH its true and lawful agent and Attorney in fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, on the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Gary A. PYNE, Brian E. WILCOX, Robert F. WHITE, Gary L. BERGER, Shari L. BOWERS, R. Nelson OSTER, Craig BANCROFT, Joshua B. HAUSERMAN, Stephen M. MUTSCHELLER, dated February 8, 2008.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seals of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, this 15th day of January, A.D. 2009.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY



Gregory E. Murray

By:

David S. Hewett

Gregory E. Murray Assistant Secretary

David S. Hewett

Vice President

State of Maryland } ss:
City of Baltimore }

On this 15th day of January, A.D. 2009, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came DAVID S. HEWETT, Vice President, and GREGORY E. MURRAY, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, and the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Companies aforesaid, and that the seals affixed to the preceding instrument is the Corporate Seals of said Companies, and that the said Corporate Seals and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Constance A. Dunn

Constance A. Dunn

Notary Public

My Commission Expires: July 14, 2011

THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
OFFICE/HEADQUARTERS
RETAIL/SHOPPING CENTERS
HEALTHCARE
BIO-TECH/PHARMACEUTICAL
HIGH-TECH/CLEANROOM

300 East Joppa Road
Baltimore, MD 21286
410-821-1100
FAX 410-337-6900
www.whiting-turner.com

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS

410-337-2335

June 23, 2009

**Re: WC 1160 – Montebello Plant 2 Finished Water
Reservoir Cover**

**Ms. Doreen Diamond
Dept. of Public Works
Contract Administration
City of Baltimore
1105 Abel Wolman Municipal Building
Baltimore, MD 21202**

Dear Ms. Diamond,

Today we received your letter dated June 19, 2009 regarding WC 1160 – Montebello Plant 2 Finished Water Reservoir Cover. We strongly disagree with Minority and Women's Business Opportunity Office's (MWBOO) findings.

We hereby request the opportunity to meet with your office, as well as MWBOO and the Department of Public Works Office of Compliance to understand your position and have the opportunity to discuss the issues with you prior to your office taking further action.

Please contact us to set up a mutually agreeable meeting time.

Very truly yours,
THE WHITING-TURNER CONTRACTING COMPANY



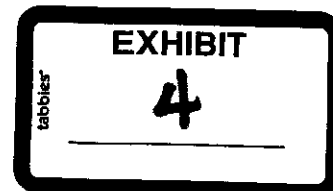
Bernard LaHatte
Vice President

cc: Monica Wilson (City of Baltimore, Office of Compliance), Shirley Williams (City of Baltimore, MWBOO), Al Tyler (WT), WT File

HEADQUARTERS: BALTIMORE, MARYLAND



OFFICES NATIONWIDE



CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF PUBLIC WORKS

CONTRACT ADMINISTRATION
1105 Abel Wolman Municipal Building
Baltimore, Maryland 21202

CERTIFIED MAIL RECEIPT NO. 7008 3230 0001 9601 3410

June 19, 2009

The Whiting-Turner Contracting Company
300 East Joppa Road
Towson, MD 21286

RE: WC 1160 – Montebello Plant 2 Finished Water Reservoir Cover

Dear Sir or Madam:

On June 17, 2009 the City of Baltimore Minority and Women's Business Opportunity Office (MWBOO) found your bid submission package for WC 1160 Montebello Plant 2 Finished Water Reservoir Cover to be non-compliant. The reason stated was: On Part C, Statement of Intent form, Bidder listed all services subcontractor is certified to perform instead of the services to be performed on this contract. The Department of Public Works does not recommend contract awards to firms whose bids do not comply with, Article 5 Section 28 of the Baltimore City Code.

If you require further clarification of this decision, please contact the Department of Public Works' Office of Compliance at (410) 396-8497. As a courtesy, your firm will be contacted by the Office of Contract Administration prior to the recommendation to award this contract.

Sincerely,

DOREEN DIAMOND
CONTRACT ADMINISTRATOR

Cc: DPW-Office of Compliance



THE WHITING-TURNER CONTRACTING COMPANY

(INCORPORATED)

ENGINEERS AND CONTRACTORS

CONSTRUCTION MANAGEMENT
GENERAL CONTRACTING
DESIGN-BUILD
SPECIALTY CONTRACTING
OFFICE/HEADQUARTERS
RETAIL/SHOPPING CENTERS
HEALTHCARE
BIO-TECH/PHARMACEUTICAL
HIGH-TECH/CLEANROOM

300 East Joppa Road
Baltimore, MD 21286
410-821-1100
FAX 410-337-6900
www.whiting-turner.com

INSTITUTIONAL
DATA CENTERS
SPORTS AND ENTERTAINMENT
INDUSTRIAL
WAREHOUSE/DISTRIBUTION
MULTI-FAMILY RESIDENTIAL
ENVIRONMENTAL
BRIDGES, CONCRETE

WRITER'S DIRECT NUMBER IS

410-337-2335

June 30, 2009

**Re: WC 1160 – Montebello Plant 2 Finished Water
Reservoir Cover**

**Ms. Shirley Williams
Minority and Woman's Business Opportunity Office
City Hall, Room 101
100 N. Holliday Street
Baltimore, MD 21202**

Dear Ms. Williams,

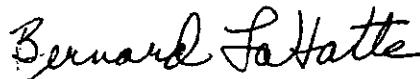
On June 23, 2009 we received a letter dated June 19, 2009 from the City of Baltimore, Department of Public Works (DPW) – Contract Administration, see attached. We responded immediately to Contract Administration, and we copied the letter to Ms. Monica Wilson, DPW – Office of Compliance and to you, City of Baltimore Minority and Woman's Business Opportunity Office (MWBOO). To date we have received a response from Ms. Wilson, Office of Compliance and a response from Mr. Friesner with Contract Administration. Each of those offices deferred to your office for a response. Since to date we have not received a response from your office, we felt the need to contact you directly.

As stated in our previous letter, we strongly disagree with MWBOO's finding, and we again request the opportunity to meet with your office, as well as Contract Administration and Office of Compliance to understand your position and have the opportunity to discuss the issues with you prior to your office taking further action.

Please contact us to set up a mutually agreeable meeting time.

Thank you for your consideration in this matter.

Very truly yours,
THE WHITING-TURNER CONTRACTING COMPANY



Bernard LaHatte
Vice President

Attachments: City of Baltimore Letter, dated June 19, 2009; Whiting-Turner letter dated June 23, 2009

cc: Monica Wilson (City of Baltimore, Office of Compliance), John Friesner (City of Baltimore, Contracts Administration), Al Tyler (WT), WT File



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

ADDENDUM NO. 5

DATE: April 14, 2009

For
DRAWING, SPECIFICATIONS, PROPOSAL, CONTRACT AND BOND

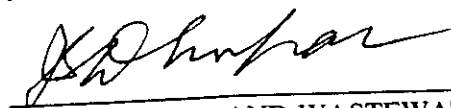
For
WATER CONTRACT NO. 1160
MONTEBELLO PLANT 2 FINISHED WATER RESERVOIR COVER

FOR THE MAYOR AND CITY COUNCIL OF BALTIMORE

TO THE BIDDERS: PLEASE ATTACH TO YOUR CONTRACT DOCUMENTS. THIS
ADDENDUM IS HEREBY MADE A PART OF THE CONTRACT DOCUMENTS ON
WHICH THE CONTRACT WILL BE BASED, AND IS ISSUED TO MODIFY, EXPLAIN
AND/OR CORRECT THE ORIGINAL DRAWINGS AND SPECIFICATIONS.

PLEASE ACKNOWLEDGE THIS ADDENDUM ON THE BID OR PROPOSAL PAGE
WHERE INDICATED

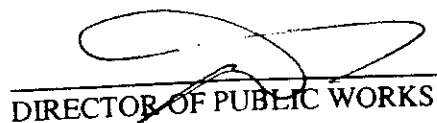
APPROVED:



CHIEF, WATER AND WASTEWATER ENGINEERING DIVISION



HEAD, BUREAU OF WATER AND WASTEWATER



DIRECTOR OF PUBLIC WORKS



OCTOBER 1, 2008

**REQUIREMENTS AND CONTRACT PROVISIONS FOR THE PROJECT
FINANCED THROUGH THE MARYLAND WATER QUALITY REVOLVING LOAN
FUND AND THE MARYLAND DRINKING WATER REVOLVING LOAN FUND
DEPARTMENT OF THE ENVIRONMENT
STATE OF MARYLAND**

The project or segment thereof to be constructed in accordance with these contract documents is subject to the following requirements. In the event of conflict with other requirements of the contract documents, the following requirements control unless the requirement is a minimum requirement. Nothing in this document shall be construed to prohibit the owner from requiring additional assurances, guarantees, indemnities, or other contractual requirements from any other party to this agreement.

I. ASSURANCES FOR COMPLIANCE WITH THE FOLLOWING FEDERAL LAWS AND REGULATIONS:

1. NON-DISCRIMINATION IN EMPLOYMENT
2. DEBARMENT
3. ANTI-KICKBACK
4. CONTRACT WORK HOURS AND SAFETY STANDARDS.
5. COMPLIANCE WITH CFR 40 247- 254 (RCRA - SECTION 6002)

II. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

- GUIDANCE DOCUMENTS AND FORMS (EPA & STATE FORMS)

(Performance of the good faith steps are required, regardless of goal achievement. All information is to be submitted to the owner, prior to the owner's award of the contract, UNLESS OTHERWISE DIRECTED BY THE OWNER.)

III. PRESIDENTIAL DOCUMENTS

- ATTACHMENT II

EXECUTIVE ORDER 13202 of February 17, 2001

EXECUTIVE ORDER 13208 of April 8, 2001

IV. SEVERABILITY

V. PROJECT SIGN

OCTOBER 1, 2008

I. ASSURANCES

The contractor is required to comply with the Federal laws and regulations in regard to non-discrimination in employment, debarment, anti-kickback, and contract work hours and safety standards as delineated below.

1. Non-discrimination in Employment:

The contractor is required to comply with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.

The contract for the work under this proposal will obligate the prime contractor and its subcontractors not to discriminate in employment practices.

The contractor shall not maintain or provide for his/her employees the facilities, which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis.

The contractor must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain his/her eligibility to receive the award of the contract.

The contractor must be prepared to comply in all respects with the Contract Provisions regarding non-discrimination, as stipulated under the Labor Standards.

2. Debarment:

Under Executive Order 12549, an individual or organization debarred from participation in Federal assistance or benefit programs may not receive any assistance award under a Federal program, or a sub-agreement thereunder for \$25,000 or more.

Therefore, the bidder as an individual or as an organization, presently debarred, suspended, proposed for debarment, will be declared ineligible to participate in bidding the proposed contract as a prospective recipient of financial assistance from the Maryland Department of the Environment.

The contractor shall not enter into any sub-contract with any individual, firm or organization debarred from Government contracts pursuant to Executive Order 11246.

3. Anti-kickback:

The contractor and/or its sub-contractors shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874). Any evident illicit kickback practice in any shapes or forms will cause termination of the contract.

4. Contract Work Hours and Safety Standards:

The contractor and/or its sub-contractors shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).

5. Compliance with 40 CFR: 247- 254 (RCRA - Section 6002)

The contractor shall comply with the guidelines contained in 40 CFR 247- 254 (Section 6002 of the Resource Conservation and Recovery Act).

OCTOBER 1, 2008

State and local recipients and sub-recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.

At the time of bidding, the apparent low bidder shall sign the form of "Assurances for Compliance with Federal Laws and Regulations" pertaining to non-discrimination in employment, debarment, anti-kickback, and contract work hours and safety. The form is appended herewith in Section I.

OCTOBER 1, 2008

ASSURANCES FOR COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

The contractor is required to comply with the following Federal laws and regulations:

1. Non-discrimination in Employment in accordance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967.
2. Debarment in accordance with the Executive Order 12549 and Executive Order 11246.
3. Anti-kickback in accordance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874).
4. Contract Work Hours and Safety Standards in accordance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330).
5. Compliance with Guidelines Contained in 40 CFR 247-254 (RCRA - Section 6002).

I do solemnly declare and affirm that I am obligated to comply with the above Federal laws and regulations. It is understood that non-compliance with any one of the above Federal laws and regulation will be the sufficient reason to cause termination of the contract.

Contractor

Signed by: _____
Authorized Officer

Date

Name (Print)

Title (Print)

OCTOBER 1, 2008

**Maryland Department of the Environment
Maryland Water Quality & Drinking Water Revolving Loan Fund Programs
Disadvantaged Business Enterprise Program (DBE)
Guidance for Prime (Construction & A/E) Contractors**

The Maryland Water Quality and Drinking Water Revolving Loan Fund Programs (RLF) receive federal funds from the U.S. Environmental Protection Agency (EPA). The funds are used to provide low interest rate loans to finance water quality and drinking water capital projects. As a condition of federal grant awards, EPA regulations require that loan recipients and sub-recipients (i.e., prime contractors and subcontractors) make a good-faith effort to award a fair share of work to DBEs who are small business enterprises (SBE's), minority business enterprises (MBE's) and women's business enterprises (WBE's). A/E service consultants who receive loan funds are also considered as prime contractors and must comply with DBE requirements. Additionally, EPA's DBE rule requires loan recipients and sub-recipients to adhere to the terms and conditions in Appendix A attached hereto.

To ensure compliance with EPA DBE requirements, the MWQFA has developed guidance for both Loan Recipients and Prime Contractors (sub-recipients) to undertake certain good faith efforts to provide opportunities for DBE firms to participate in contracts. EPA regulations require evidence of the demonstration of the six good faith efforts in trying to achieve the DBE participation goals. MDE's negotiated DBE participation goals with EPA for any project during FY 2007 - 2009 are below. The goals below are not a quota and apply to DBE participation only.

<i>Procurement Category</i>	<i>MBE Goal (%)</i>	<i>WBE Goal (%)</i>
Construction	11	11
Equipment	11	11
Services	12	10
Supplies	11	11

Good Faith Efforts: The following good faith efforts apply to the procurement categories involving EPA financial assistance funds (See Appendix B: EPA Good Faith Efforts):

- Step 1:** Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities by placing qualified DBEs on solicitation lists whenever they are potential sources.
- Step 2:** Establishing delivery schedules, where the requirement permits to encourage participation by DBEs. The prime contractor should allow a 30-day minimum advertising period for bidding.
- Step 3:** Dividing total requirements, when economically feasible, into small tasks or quantities, to permit maximum participation of DBEs.
- Step 4:** Encourage contracting with a consortium of DBEs, when a contract is too large for one of these firms to handle individually.
- Step 5:** Using the services and assistance of the Maryland Department of Transportation (MDOT), the United States Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce (See Appendix C).
- Step 6:** Require each sub-contractor, if subcontracts are to be let, to take the steps 1-5.

Please submit all information to:
DBE Coordinator, MWQFA
1800 Washington Blvd., Baltimore MD 21230
Phone: 410-537-3146, FAX: 410-537-3968
<http://www.mde.state.md.us>

OCTOBER 1, 2008

Disadvantage Business Enterprise Program (DBE)

Guidance for Prime (Construction & A/E) Contractors

Demonstration of the Six Good Faith Efforts. See Appendices A & B for additional bidding instructions and contract administrative provisions.

A: Prime contractors are required to undertake good faith efforts. Steps 1 & 5 can be attained by developing a bidders list of qualified DBE firms that can bid as sub-contractors. The prime contractors should advertise in minority, local and regional newspapers and obtain a bidders list from the loan recipient to supplement their list. The bidders list used during sub-contractor solicitation must be available throughout the project's construction period.

In developing bidders list of qualified DBE firms for participation as sub-contractors in construction, equipment, services, and supplies, the prime contractors should contact and gather information from different resources (See Appendix C) such as:

- Loan Recipient
- U.S. Small Business Administration (US-SBA)
- Minority Business Development Agency (MBDA) of the US Department of Commerce
- Maryland Department of Transportation (MDOT)

The DBE bidders lists may be classified with Standard Industrial Classification (SIC) or NAICS codes, should be updated periodically, and should be made available to sub-contractors to solicit additional sub-contractors, if necessary. **The prime contractor is required to keep the bidders list throughout the project's construction period.**

B: Prime contractors are also required to undertake good faith efforts. Steps 2, 3, & 4, can be utilized during the project planning, design and/or pre-bidding phase, to assure that qualified DBE firms have procurement opportunities in construction, equipment, services, and supplies.

To provide procurement opportunities to DBE firms, the Prime Contractor should undertake the following:

- Conduct pre-bid meetings to inform potential bidders/contractors about DBE requirements and provide guidance in undertaking the required good faith efforts.
- Use the bidders list developed in Item A (above) to solicit DBE firms as sub contractors.
- Invite DBE firms, where appropriate, to meetings, conferences, etc., to inform them of procurement opportunities and develop, where possible, reasonable contract and delivery schedules that encourage and facilitate participation by DBEs.
- Determine if a project can be broken down into smaller components/contracts to allow opportunity for DBE firms to bid as sub-contractors.
- For projects broken down into smaller components (e.g., painting, roofing, excavation, pipe laying, etc.) ensure that the delivery schedules are reasonable.
- Encourage DBE firms, where appropriate, to apply as a consortium, or as part of a consortium of DBEs, when a contract is too large for one of these firms to handle individually.

OCTOBER 1, 2008

MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard Suite 515 Baltimore MD 21230-1718

410 537 3146 1-800-633-6101 <http://www.mde.state.md.us>**Disadvantaged Business Enterprise (DBE) Good Faith Efforts Checklist**
To be completed by Prime (Construction & A/E) ContractorProject Name: Procurement Category: Check box for all M/WBE procurement categories being reported under the above referenced project. Construction ☐ Equipment ☐ Services ☐ Supplies ☐*For each procurement action, please answer the following questions***A: Develop Bidders List of DBE firms**

- | | | | |
|----|------------------------------------------------------------------------|------------------------------|-----------------------------|
| A1 | Did you develop a Bidders List of DBE firms? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| A2 | Did you advertise in minority, local, regional papers or Dodge Report? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| A3 | Did you send invitation for bids to DBE trade associations? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| A4 | Did you contact US-SBA/MBDA/MDOT? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| A5 | Did you receive Bidders List from Loan Recipient? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| A6 | Did you provide MDE with Bidders List? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

B: Smaller work components and delivery schedules

- | | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------------|
| B1 | Did DBE firms have opportunities to bid as sub contractors? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B2 | Did you break down the project, where economically feasible, into smaller components for DBE firms to bid as sub-contractors? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B3 | Do project components have reasonable delivery schedules? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B4 | Did you allow a reasonable time for DBEs to bid? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| B5 | Did you encourage DBEs to bid as a consortium due to project size? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

C: Solicitation Summary of DBE firms (Prime Contractor must fill EPA Form 6100-4)

- | | | | |
|----|--------------------------------------------------------------------------|------------------------------|-----------------------------|
| C1 | Did you use the Bidders List to solicit subcontractors? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C2 | Did DBE firms bid as sub contractors (provide list, work type, & price)? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C3 | Did you select any DBE firms as sub-contractor? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| C4 | Is the subcontractor using any additional subcontractors? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Prime contractor must fill out EPA Form 6100-4. Prime contractor must provide EPA Forms 6100-2 & 6100-3 to each subcontractor. Prime contractor must submit completed EPA Form 6100-3 & 6100-4 to loan recipient.

Supporting Documentation

In support of the actions taken in items A, B, and C, (above), all prime contractors must attach this checklist along with supporting documentation for "Yes" answers and an explanation for "No" answers. Examples of supporting documentation include: (i) Bidders List of DBE firms; (ii) list of sub-contract work elements possible under the prime contract; (iii) proof of contact with DBE firms as potential sub contractors (copies of invitations for bids/RFP, contact letters, faxes and telephone call sheets, etc.; (iv) copies of all procurement advertisements; and, (v) list of all sub contractors that submitted bids/RFP.

Prime Contractor's Name and Title _____

Prime Contractor Official's Signature/ Date _____

Contact Phone # _____

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

BID/PROPOSAL NO.	PROJECT NAME
NAME OF PRIME BIDDER/PROPOSER	E-MAIL ADDRESS
ADDRESS	
TELEPHONE NO.	FAX NO.

The following subcontractors¹ will be used on this project:

COMPANY NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	TYPE OF WORK TO BE PERFORMED	ESTIMATE D DOLLAR AMOUNT	CURRENTLY CERTIFIED AS AN MBE OR WBE?

I certify under penalty of perjury that the foregoing statements are true and correct. In the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302(c).

Signature Of Prime Contractor

Date

Print Name

Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No:	_____
Approved:	_____
Approval Expires:	_____

**Disadvantaged Business Enterprise Program
DBE Subcontractor Utilization Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Utilization Form to this address.

EPA FORM 6106-4 (DBE Subcontractor Utilization Form)

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form

NAME OF SUBCONTRACTOR ¹		PROJECT NAME
ADDRESS		BID/PROPOSAL NO.
TELEPHONE NO.		E-MAIL ADDRESS
PRIME CONTRACTOR NAME		
CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES BID TO PRIME	PRICE OF WORK SUBMITTED TO PRIME CONTRACTOR
Currently certified as an MBE or WBE under EPA's DBE Program? ____ Yes ____ No		
Signature of Prime Contractor		Date
Print Name		Title
Signature of Subcontractor		Date
Print Name		Title

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

EPA FORM 6100-3 (DBE Subcontractor Performance Form)

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

**Disadvantaged Business Enterprise Program
DBE Subcontractor Performance Form**

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Performance Form to this address.

EPA FORM 6100-J (DBE Subcontractor Performance Form)

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No: _____
Approved: _____
Approval Expires: _____

**Disadvantaged Business Enterprise Program
DBE Subcontractor Participation Form**

NAME OF SUBCONTRACTOR ¹	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	E-MAIL ADDRESS
PRIME CONTRACTOR NAME	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

Subcontractor Signature _____	Title/Date _____
-------------------------------	------------------

¹Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

OCTOBER 1, 2008



Environmental
Protection Agency

OMB Control No:	_____
Approved:	_____
Approval Expires:	_____

Disadvantaged Business Enterprise Program DBE Subcontractor Participation Form

The public reporting and recordkeeping burden for this collection of information is estimated to average fifteen (15) minutes. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed EPA DBE Subcontractor Participation Form to this address.

OCTOBER 1, 2008

APPENDIX A: EPA DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

EPA's Disadvantaged Business Enterprise Program rule applies to contract procurement actions funded in part by EPA assistance agreements awarded after May 27, 2008. The rule is found at Federal regulation Title 40, Part 33. Specific responsibilities are highlighted below.

Loan Recipient Responsibilities:

- Include MDE's DBE guidance in each contract with a primary contractor, *MDE, October 2008*.
- Employ the six Good Faith Efforts during prime contractor procurement (§ 33.301).
- Require prime contractor to comply with the following prime contractor requirements of Title 40 Part 33:
 - a) To employ the six Good Faith Efforts steps in paragraphs (a) through (e) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).
 - b) To provide EPA form 6100-2 – *DBE Subcontractor Participation Form* to all DBE subcontractors (Optional submittal by subcontractors) (§ 33.302(e)).
 - c) To submit EPA forms 6100-3 – *DBE Program Subcontractor Performance Form* and 6100-4 – *DBE Program Subcontractor Utilization Form* with bid package or proposal. (§ 33.302 (f) and (g)).
 - d) To pay its subcontractor for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
 - e) To notify recipient in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor (§ 33.302(b)).
 - f) To employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§ 33.302(c)).
 - g) To employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33. (§33.302(d)).
 - h) Provide grant recipient DBE participation achievements with bid proposal
- Maintain records documenting its compliance with the requirements of Title 40 Part 33, including BIDDERS LIST and documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Prime Contractor Responsibilities:

- Employ the six Good Faith Efforts steps in paragraphs (a) through (e) of § 33.301 if the prime contractor awards subcontracts (§ 33.301(f)).

OCTOBER 1, 2008

- Provide EPA form number 6100-2 – *DBE Program Subcontractor Participation Form* and form number 6100-3 – *DBE Program Subcontractor Performance Form* to each DBE subcontractor prior to opening of the contractor's bid or proposal (§ 33.302(e) and (f)).
- Complete EPA form number 6100-4 – *DBE Program Subcontractor Utilization Form* (§ 33.302(g)).
- Submit to recipient with it bid package or proposal the completed EPA form number 6100-4, plus an EPA form number 6100-3 for each DBE subcontractor used in the contractor's bid or proposal (§ 33.302(f) and (g)).
- Pay subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the recipient (§ 33.302(a)).
- Notify the recipient in writing prior to prime contractor termination of a DBE subcontractor for convenience (§ 33.302(b)).
- Employ the six good faith efforts described in § 33.301 if soliciting a replacement subcontractor after a DBE subcontractor fails to complete work under the subcontract for any reason. (§ 33.302(c)).
- Employ the six good faith efforts described in § 33.301 even if the prime contractor has achieved its fair share objectives under subpart D of Part 33. (§33.302(d)).
- Provide grant recipient DBE participation achievements with bid proposal.
- Maintain records documenting its compliance with the requirements of Title 40 Part 33, including BIDDERS LIST documentation of its, and its prime contractors', good faith efforts (§ 33.501(a)).

Subcontractor Responsibilities:

- May submit EPA form 6100-2 – *DBE Subcontractor Participation Form* to Romona McQueen, EPA Region 3 DBE Coordinator (§ 33.302(e)).
- Must complete EPA form 6100-3 – *DBE Program Subcontractor Performance Form*, and submit it to the prime contractor soliciting services from the subcontractor prior to the opening of bids for the prime contract.

EPA Form	Requirement	Provided By	Completed By	Submitted To
EPA Form 6100-2	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors (Optional)	EPA Region 3 DBE Coordinator Romona McQueen
EPA Form 6100-3	Loan Recipients required to have prime contractors provide form to Subcontractors	Prime Contractors	DBE Subcontractors with Prime Contractor's Signature	Loan Recipients as part of a bid or proposal package
EPA Form 6100-4	Loan Recipients required to have prime contractors complete the form	Loan Recipients	Prime Contractors	Loan Recipients as part of a bid or proposal

Source: Federal Requirements and Contract Provisions for Special Appropriation Act Projects, US Environmental Protection Agency, Region III, June 2008

OCTOBER 1, 2008

APPENDIX B: TITLE 40 PART 33 SUBPART C—GOOD FAITH EFFORTS

§ 33.102 When do the requirements of this part apply?

The requirements of this part apply to procurement under EPA financial assistance agreements performed entirely within the United States, whether by a loan recipient or its prime contractor, for construction, equipment, services, and supplies.

§ 33.106 What assurances must EPA financial assistance recipients obtain from their contractors?

The recipient must ensure that each procurement contract it awards contains the term and condition specified in Appendix A to this part concerning compliance with the requirements of this part.

§ 33.206 Is there a list of certified MBEs and WBEs?

EPA OSDBU will maintain a list of certified MBEs and WBEs on EPA OSDBU's Home Page on the Internet. Any interested person may also obtain a copy of the list from EPA OSDBU. The Maryland Department of Transportation will also have a bidders list.

§ 33.301 What does this subpart require?

A recipient, including one exempted from applying the fair share objective requirements by § 33.411, is required to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, even if it has achieved its fair share objectives under subpart D of this part:

- (a) Ensure DBEs are made aware of contracting opportunities fully practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs, arrange periods for contracts, and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

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Offices In
Maryland
Washington, D.C.
Virginia

August 5, 2009

HAND DELIVERY

The Honorable Joan M. Pratt
Comptroller and Secretary
City of Baltimore Board of Estimates
Room 204, City Hall
100 N. Holliday Street
Baltimore, MD 21202

Re: Water Contract No. 1160
Montebello Plant 2 Finished Water Reservoir Cover
BID PROTEST

Dear Comptroller Pratt:

This firm represents The Whiting-Turner Contracting Company concerning the above-referenced matter. For the reasons stated below, Whiting-Turner requests that the City of Baltimore Board of Estimates ("Board") sustain Whiting-Turner's bid protest and consider its bid for Water Contract No. 1160 ("Contract") responsive to the MBE participation requirements set forth in the Invitation for Bids ("IFB") and compliant with Article 5, Subtitle 28 of the Baltimore City Code. Whiting-Turner also requests that the Board deny Kinsley Construction, Inc.'s ("Kinsley") bid protest on the grounds that Kinsley's bid clearly does not satisfy the WBE requirements for the Contract. As a result, the Board must award the Contract to Whiting-Turner as the lowest responsive and responsible bidder.

EXECUTIVE SUMMARY

Whiting-Turner submitted a bid for the Contract on April 22, 2009 in the amount of \$39,497,000, listing Doracon Contracting, Inc. ("Doracon") as one of its two MBE subcontractors. Whiting-Turner is the lowest responsive bidder because the only lower bidder was rejected because it offered a WBE that was not certified by Minority and Women's Business Opportunity Office ("MWBOO"). Whiting-Turner's MBE Part C Participation Statement stated that at the time the bid was submitted it intended to award to Doracon a subcontract for \$3,000,000 and was to include at least certain of the services listed on the form. After bid opening, Whiting-Turner and Doracon negotiated a scope of work that now includes all of the services listed in Part C for approximately \$475,000 more

The Honorable Joan M. Pratt

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than the \$3,000,000 stated on the form (total participation with Doracon of \$3,475,000), increasing Whiting-Turner's total MBE participation to 12.5%, well above the minimum required by the IFB.

Whiting-Turner's bid, and in particular Part C, was responsive because it stated accurately the amount and services intended to be awarded to Doracon at the time of bid opening. By e-mail dated July 16, 2009 from Shirley A. Williams, MWBOO rejected the participation statement for Doracon stating that it should "only reflect the services and amount agreed upon at the time. It should not include those services about which you are conducting ongoing negotiations." In reaching this decision, MWBOO (1) mistakenly concluded that at the time of bid opening Whiting-Turner did not intend to award a contract to Doracon for \$3,000,000 to include at least some of the services identified in the participation form and (2) interpreted the City's MBE requirement in a manner inconsistent with the underlying purpose of Article 5, Subtitle 28 of the Baltimore City Code. Accordingly, Whiting-Turner respectfully protests MWBOO's decision to reject its bid on the grounds that it was nonresponsive and requests that the Board award the Contract to Whiting-Turner as the lowest responsive and responsible bidder.

BACKGROUND

The City of Baltimore Department of Public Works ("DPW") issued an IFB in January 2009 for the Contract. All bidders were required originally to submit their bid packages by 11:00 a.m. on Wednesday, April 8, 2009, although the bid receipt date was subsequently extended to April 22, 2009. On April 14, 2009, DPW issued Addendum No. 5 to the Contract, which required bidders to submit additional forms in their bid packages. One of the additional forms (titled "Requirements and Contract Provisions for the Project Financed Through the Maryland Water Quality Revolving Fund and the Maryland Drinking Water Revolving Loan Fund") required all bidders to submit EPA Form 6100-3 and EPA Form 6100-4, as part of the State's disadvantaged business enterprise ("DBE") program. A copy of that part of Addendum No. 5 is attached as Exhibit 1.

Whiting-Turner submitted a responsive bid on April 22, 2009 in the amount of \$39,497,000, listing Doracon as one of its two MBE subcontractors. A copy of Whiting-Turner's duplicate bid is attached as Exhibit 2. With respect to Doracon, Whiting-Turner submitted the "Part C: MBE/WBE and Prime Contractor's Statement of Intent" form, stating that Whiting-Turner intended to award a \$3,000,000 subcontract to Doracon (7.6% of the total Contract) for certain services in the following scope of work: demolition, drainage structures, duct line construction, earthwork and site preparation, erosion control, electronic safety, gabions, grading, sewer construction, water mains, construction management, hauling, paving, fire and security systems, clearing and grubbing, site concrete, carpentry, metal framing, drywall, painting, furnish and install communications,

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The City's Part C statement of intent fulfills the requirements of § 28-48(c). However, Part C is not (and was never meant to be) a final agreement between a bidder and a proposed MBE subcontractor; instead, it represents what the parties intend to do in the future, pursuant to a subcontract, once the prime contract has been awarded. Thus, the statement of intent is a commitment by the bidder that if it is awarded the contract, it "intends" to comply with the promises set forth in the intent to participate and other statements. Any initial terms, conditions, or understandings between the bidder and the MBE/WBE that are associated with the statement of intent are not final until incorporated into the subcontract, which cannot be executed until after the prime contract has been awarded.

On the date the bid was submitted, Whiting-Turner's Part C statement stated accurately the dollar amount and services intended to be awarded to Doracon. When Whiting-Turner submitted its bid on April 22, 2009, it intended to award a subcontract to Doracon for at least \$3,000,000 for certain of the services listed in Part C, all of which Doracon is certified by MWBOO to perform. At the time the bid was submitted, however, Whiting-Turner and Doracon had not finally decided which of the listed services would be included in the subcontract, but they did intend to include in the subcontract only services among those listed. After bid opening, the parties continued to negotiate the services which Doracon would provide under the Contract. It subsequently turned out that the parties negotiated a scope of work that now includes all of the services listed in Part C for approximately \$475,000 more than the \$3,000,000 intended originally, bringing Whiting-Turner's total MBE participation to 12.5%.

Whiting-Turner's bid submission precisely "reflect[ed] the services and amount agreed upon at the time," as stated in Ms. Williams' e-mail. Its bid was appropriate—and responsive—because it represented the state of negotiations, and thus what was intended, with Doracon at bid opening. Ms. Williams' further statement that Part C "should not include those services about which you are conducting ongoing negotiations" is a standard which is impossible to meet because scope of work negotiations are never final until the subcontract is signed. Part C requires only a statement of intent and not a final commitment of the scope of work.

Rather than mislead the City about the potential dollar value of a subcontract and a scope of services that had not been finalized between the parties, Whiting-Turner properly listed the \$3,000,000 amount that had been confirmed at the time of bid and all of the scopes of work which were the subjects of discussions. The fact that Whiting-Turner and Doracon continued to negotiate does not alter Whiting-Turner's intent at bid opening in any way.⁴

⁴ In *Apollo Paving Co., Inc.*, MSBCA Docket No. 1092 (October 26, 1982), the Maryland State Board of Contract Appeals found that a bidder had unequivocally demonstrated its intent to be bound because sufficient evidence existed in its bid documents to require the bidder to perform, even if it wanted to withdraw. Here,

The Honorable Joan M. Pratt
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Page 6

Instead, the continuing negotiations ultimately helped advance the City's mission of ensuring the full and equitable participation by MBEs in the performance of City contracts.⁵

Furthermore, Whiting-Turner's Part C statement of intent fully complies with how MWBOO has reviewed the form in the past. Based on Whiting-Turner's experience, the Part C form is acceptable if the services listed do not match exactly the services that ultimately comprise the subcontract between the parties. In other words, MWBOO has never—based on Whiting-Turner's experience—sought to alter a subcontract if that final agreement between the parties did not match exactly every item initially listed in Part C at bid opening. Accordingly, the Board must consider Whiting-Turner's bid responsive to the Contract's MBE participation requirements set forth in the IFB and the Code.

B) MWBOO And The Board Must Interpret The MBE Participation Requirements Liberally To Ensure The Full And Equitable Participation Of MBEs In The Performance Of City Contracts

Section 28-5(a) of the Code requires that the "provisions of this subtitle are to be liberally construed to accomplish its policies and purposes." The "policies and purposes" of the City's MBE participation requirement are "to promote equal business opportunity in the City's contracting process by encouraging full and equitable participation by [MBEs] in the provision of goods and services to the City on a contractual basis" in order "to overcome the effects of past discrimination and to prevent ongoing discrimination in the City's contracting process. See § 28-3(a) and (b).

The Code requires MWBOO to be zealous but practical in its enforcement of the MBE bid requirements so that the City can maximize MBE participation in its contracts at the lowest price. However, despite the Code's clear call to be liberally construed, MWBOO has reviewed bidders' MBE (and WBE) submissions in a manner inconsistent with the purposes of Article 5, Subtitle 28, causing the City either to rebid contracts unnecessarily or to award contracts to substantially higher bidders. Based on Whiting-Turner's understanding, thus far MWBOO has rejected the five or six lowest bids for this Contract and is now considering a sixth or seventh bid that is approximately \$8,500,000 (approximately 20%) more than Whiting-Turner's bid. While some of MWBOO's decisions may be justified because of material defects in the bids, as will be discussed for Kinsley in Part C below, others are for minor defects the waiver of which would not

there is sufficient evidence in Whiting-Turner's bid, specifically in Parts C-D and EPA Form 61000-4, to demonstrate that Whiting-Turner intended at bid opening to award a \$3,000,000 subcontract to Doracon for certain services listed in Part C. This evidence would certainly be sufficient to bind Whiting-Turner to its bid if it somehow wanted to withdraw after bid opening.

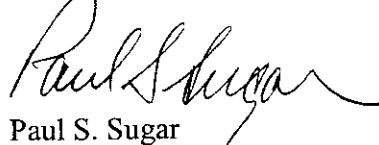
⁵ It is important to note that the bid documents, even without the potential \$475,000 increase, unequivocally state Whiting-Turner's intent to enter into agreements with certified MBEs and WBEs for an amount exceeding the Contract's minimum participation goal.

The Honorable Joan M. Pratt
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Page 8

CONCLUSION

Whiting-Turner respectfully requests that the Board sustain Whiting-Turner's bid protest and consider its bid fully responsive to the MBE requirements set forth in the IFB and the Code. Whiting-Turner also requests that the Board deny Kinsley's bid protest on the grounds that Kinsley's bid clearly does not satisfy the City's WBE participation requirements for the Contract. The Board should award the Contract to Whiting-Turner as the lowest responsive and responsible bidder.

Sincerely,



Paul S. Sugar

JBB/PSS/lmf/pl
Attachment

cc: City of Baltimore Board of Estimates (w/attachment) (via hand delivery)
Leslie S. Winner, Esq., Baltimore City Law Department (w/attachment)
(via hand delivery)
Shirley A. Williams, City of Baltimore Minority and Women's Business
Opportunity Office (w/attachment) (via hand delivery)
Bernard LaHatte, The Whiting-Turner Contracting Company (via first class mail)



**CITY OF BALTIMORE
DEPARTMENT OF PUBLIC WORKS
BUREAU OF
WATER AND WASTEWATER
TABULATION OF BIDS**



**WATER CONTRACT NO: 1160
Montebello Plant 2-Finished Water Reservoir
Cover**

**BIDS OPEN DATE: 4/22/2009
ENGINEER'S ESTIMATE: \$44,045,357.00**

	BIDDER	AMOUNT	% OF ESTIMATE
*	Kinsley Construction, Inc.	\$39,181,250.00	88.96
	The Whiting-Turner Contracting Co.	\$39,497,000.00	89.67
	Allan A. Myers, LP	\$40,317,600.00	91.54
	Pizzagalli Construction Co.	\$40,339,000.00	91.59
	Archer Western Contractors, Ltd.	\$42,022,945.00	95.41
	Clark Construction Group, LLC	\$47,873,000.00	108.69
	Fru-Con Construction Corp.	\$48,327,000.00	109.72
	Cianbro Corporation	\$51,299,000.00	116.47
*	Ulliman Schutte Construction, LLC	\$53,162,000.00	120.70
	Facchina Construction Co., Inc.	\$58,178,000.00	132.09

*** REVISED**

ADMINISTRATOR: Doreen Diamond

396-4041

CONTACT PERSON: Sema Essien

396-7300

**MINORITY AND WOMEN'S BUSINESS OPPORTUNITY OFFICE
MBE AND WBE PARTICIPATION COMPLIANCE REVIEW**

To (Agency): Department of Public Works

Contract Number: WC 1160 Montebello Plant 2 Finished Water Reservoir Cover

MBE Goal: 11 %

WBE Goal: 11 %

Contractor: Kinsley Construction, Inc.

Total Contract Amount: \$ 39,188,750.00

MBE/WBE Firms	Dollar Amount	Percentage
MBE: K & K Adams, Inc.	\$ 720,900.00	1.84 %
W Concrete, Inc.	3,750,000.00	9.57 %
Metro Flooring, Inc.	7,550.00	0.02 %
FSR Business Flooring, LLC	1,715.00	0.004 %
Chesapeake Contracting Svcs, Inc.	<u>3,616,000.00</u>	<u>9.23 % *</u>
Total MBE:	\$8,096,165.00	20.66 %
 WBE: Barbie's Recycling & Hauling, Inc.	\$ 628,000.00	1.60 %
Moisture Proof & Masonry, Inc.	225,000.00	0.57 %
Winshire Interior Construction, Inc.	56,000.00	0.14 %
Superior Painting & Contracting Co, Inc.	130,000.00	0.33 %
Abby Enterprises, LLC	<u>4,358.00</u>	<u>0.01 %</u>
Total WBE:	\$1,043,358.00	2.65 %

☐ Compliant

☒ Non-Compliant

Comments:

* Bidder incorrectly listed Chesapeake Contracting Services as a WBE. Chesapeake Contracting Services is certified with Baltimore City as a MBE.

Supriya K. 1/27/19
Analyst Date

[Signature]
Chief, MWBOO Date

MBE/WBE CONTRACT GOAL INFORMATION SHEET

Contracting Agency: Bureau of Water and Wastewater Contract No.: WC 1160

Contract Description: Montebello Plant 2 Finished Water Reservoir Cover

Agency Contact Person: Sema Essien Phone #: 410-396-7300

Total Estimated Contract Amount: \$44,000,000

Trades, Industries, Services or Supplies Required Under This Contract	Prequalification Code	If Prequal Code Not Applicable, Indicate Total # of Available and Qualified Bidders	Estimated Cost	Estimated % of Total Contract
DEMOLITION	F02110		\$1,500,000	3.4
Concrete CONSTRUCTION (Materials)	G90124		\$9,300,000	21.1
Concrete CONSTRUCTION (Labor)	G90124		\$7,700,000	17.5
Pre- Cast Concrete Construction	C03420		\$9,000,000	20.5
Mechanical	F15600		\$1,500,000	3.4
Roofing (not including reservoir green roof)	F07500		\$700,000	1.6
PIPING & UTILITY CONSTRUCTION PCCP(pre-stressed cylindrical concrete piping)	G90104		\$1,500,000	3.4
electrical	F16000		\$800,000	1.8
SITework AND GRADING	A02210		\$7,700,000	17.5
General Requirements	N/A		\$3,500,000	8.0
Other (Masonry, Metals, Carpentry, Wood & Plastics, Finishes, Specialties, Equipment, Furnishings,	N/A		800,000	1.8

		TOTAL	\$44,000,000	100 %
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Page 2 of 3

Contract Title and Number: WC 1160 Montebello Plant 2 Finished Water Reservoir Cover

This Contract X will be awarded through competitive bidding.

 will be awarded to a selected source.

 is for professional services.

List services or supplies that the Prime Contractor will not be able to subcontract to another company and will be required to perform with its own workforce:

List services or supplies required under this contract that are available only from a sole source:

List services or supplies required under this contract that should be exempt from MBE and WBE subcontracting goals and give reasons:

Concrete construction labor for this project is approximately \$7,700,00 of the Contract.

Specialty work , G90124- Environmental Engineering Concrete Structures in this category will need to demonstrate the ability to manage the Concrete Construction portion of the job.

Sema Essien

December 30, 2008

Signature and Title of person completing form

Date

Signature and Title of person completing form

Date

Action by Minority and Women's Business Opportunity Office

The following goals are applied to this contract:

MBE Goal: 11 %

WBE Goal: 11 %

MBE Sub-goals:

African American %

Hispanic American %

Native American %

Asian American %

Shirley A. Williams

Signature

1/5/09
Date

Shirley A. Williams, Chief

Name and Title

Page 3 of 3

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Bureau of Water and Wastewater

3. ER 4025, Urgent Baltimore Pile \$478,740.00
Needs Environmental Driving, Inc.
Restoration

MBE: Kayden Premier Enterprises Inc.	\$40,000.00	8.36%
L&J Construction Services, Inc.	41,500.00	8.67%

WBE: Native Terrain Restoration Services	30,000.00	6.27%
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MWBOO FOUND VENDOR IN COMPLIANCE.4. **TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 600,000.00	9958-526-707	
MVR	Constr. Res.	
	Urgent Needs	
	Engineering	
	Support	
150,000.00	9958-526-638	
<u>MVR</u>	Constr. Res.	
	Herring Run @	
	Harford Rd.	
\$ 750,000.00		

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Bureau of Water and Wastewater - cont'dTRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 47,874.00	-----	9958-907707-9525-2 Extra Work
165,936.00	-----	9958-907707-9525-3 Engineering
28,725.00	-----	9958-907707-9525-5 Inspection
478,740.00	-----	9958-907707-9525-6 Construction
<u>28,725.00</u>	-----	9958-907707-9525-9 Administration
\$ 750,000.00		

This transfer will provide funds to cover the current account deficit and provide funds for the award of ER 4025.

Bureau of Purchases

5. B50001077, Automatic Mid-Atlantic \$ 122,561.00
Vehicle Wash System Car Wash
Technologies
t/a WashTech

MWBOO GRANTED A WAIVER.

A LETTER OF PROTEST WAS RECEIVED FROM MARYLAND PUMP AND TANK.

6. B50001175, Provide AmeriNational \$ 780,340.00
Loan Servicing Community
Services, Inc.

MWBOO GRANTED A WAIVER.

September 28, 2009

Office of Comptroller
Room 204 City Hall
100 North Holliday Street
Baltimore, Maryland 21202

**Re: Protest of Recommended Contract Award
B50001077 – Automatic Vehicle Wash System**

To Whom It May Concern:

On behalf of Maryland Pump & Tank, Inc. I am protesting the award of bid solicitation B50001077; Automatic Vehicle Wash System, to Mid-Atlantic Car Wash Technologies, t/a WashTech. Due to the detailed specifications in the scope of work provided by the City of Baltimore, we believe that the automatic car wash included in WashTech's bid does not meet the requirement for a three brush gantry wash system as specified in the City's bid documents. The system recommended by WashTech is a Friction Hybrid car wash with two brushes and uses high pressure water impingement to wash vehicles and does not fit the detailed specifications provided in bid solicitation B50001077. We also would like to question the low price given to the City of Baltimore by WashTech due to the extensive electrical requirements in the scope of work. The electrical scope of work specified in the automatic vehicle wash system is very detailed and costly and we do not think this work is being priced according to the specification provided by the City of Baltimore.

The relief we are seeking is to have the bid awarded to our company on the grounds that the lowest bid from Mid-Atlantic Car Wash Technologies, t/a WashTech does not fit the detailed specifications provided by the City of Baltimore in bid solicitation B50001077. Which we believe that Maryland Pump & Tank, Inc. is the lowest responsive bidder and has met all the criteria specified in the scope of work by the City of Baltimore, please see attached highlighted areas for your perusal. Thank you for your consideration.

Sincerely,



Joshua Karrasch
Sales & Business Development

Cc: Mr. Joseph Mazza

Detailed Specifications

(NOTE: Where this section differs from the General Conditions, this section shall prevail.)

DS1.BASIC PRODUCT DESCRIPTION

A. The product/service to be provided under the terms of this solicitation shall consist of furnishing all labor, materials, vehicles, equipment, employee payroll and benefits, and all other supplies and services necessary for and reasonably incidental to the furnishing, and servicing one (1) Automatic Vehicle Wash System, or City approved equal.

B. Type of Solicitation / Contract

(1) This is basically a one-time drop-ship purchase.

(a) However, the City of Baltimore reserves the right to order additional products as bid at the bid price within a year of the date of the award, or the end of production of current year models, or when current year model prices have been exhausted, whichever comes first.

C. DETAILED SPECIFICATIONS / DESCRIPTION

(1) This contract will involve three (3) components:

(a) Install new automatic vehicle washing system, as per the attached specifications.

(b) Provide warranty and repair support services as required.

(c) Electrical system demolition, removal, and installation, as per the requirements below.

(2) Cascade 2000 Vehicle Washing System including 40 GPM Water Reclaim System and Free-Standing Dryer System, or City of Baltimore approved equivalent.

(a) Heavy-duty aluminum construction with aluminum splash shield around the side brushes.

(b) Programmable logic controller.

(c) Stainless steel electrical panel on driver's side.

(d) Direct-drive worm gear reducers.

(e) Three (3) brush gantry with closed cell soft foam wash material.

(f) Top Brush Movement: 26 ft. /min.

(g) Limit switches.

(h) Galvanized running track.

(i) Auto start on/off selector switch.

(j) Double rear wash feature.

(3) Wash System Installation:

(a) Remove and dispose of existing equipment.

(b) Install 3-brush gantry wash system.

B50001077 – Automatic Vehicle Wash System – Due: 6/17/09

- (c) Install 40 GPM water reclaim system.
 - (d) Complete all required electrical and plumbing connections.
 - (e) Start-up and test all system components to insure propping all components and systems are in proper working order.
 - (f) Provide all necessary training for City employees as to proper use, operation and maintenance procedures.
- (4) Demolition, installation, & removal of current electrical system shall include the following:
- (a) Demolish all existing 3-phase, 240v circuits & equipment currently in car wash bay.
 - (b) Demolish all abandoned single phase circuits & all single phase circuits for equipments o be removed.
 - (c) Relocate & re-use existing 3-phase, 240V, 400A Westinghouse main circuit breaker & use as a feeder to a new 240V 3-phase panel.
 - (d) Install new 240V, 3-phase, 3-wire, 30-position, 100A MCB, copper bus, 22KAIC, MLO panel in electrical closet. Install branch circuit wiring & conduit as specified.
 - (e) Identify branch circuits supplied by existing single-phase panel. Existing panel supplies branch circuits in adjacent office & in car wash bay.
 - (f) Install new 120/240V single-phase, 3-wire, 30-position 100A MCB, copper bus, 22KAIC panel in electrical closet. Re-wire in-use & required branch circuits & label panel accordingly. Contractor shall coordinate all require outages w/DOT.
 - (g) All new feeder & branch circuits shall be run in PVC-coated rigid, galvanized steel conduit w/a minimum size of ¾".
 - (h) Repair heater switch & wiring to meet NEC standards.
 - (i) Repair 8-foot florescent fixtures.
 - (j) All new wire shall have copper conductor & be UL listed w/type THHN/THWN insulation.
 - (k) All work must comply w/2005 NEC standards.

DS2.CONFLICT OF INTEREST AVOIDANCE

A. No official, employee, representative or member of the City of Baltimore who is representing the Mayor and City Council of Baltimore shall have any personal and/or financial interest in this solicitation / contract, either direct or indirect, including but not limited to developing the solicitation, bidding/proposing, evaluation, awarding, contract monitoring and performance, with the exception of members of the City personnel resources required to process and administer this solicitation/contract.

B. Any person having any personal and/or financial interest in this solicitation / contract and/or in any firm bidding on or receiving an award under this solicitation shall not participate in any decision made pertaining to this solicitation / contract, including but not limited to developing the solicitation, bidding/proposing, evaluation, awarding, contract monitoring and performance, except as may be required by the terms, conditions and specifications of this solicitation.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:Bureau of Purchases

7.	B50001181, Trees for Fall 2009 and Spring 2010	Lorenz, Inc.	\$ 16,941.00
		Shemin Nurseries, Inc.	22,442.00
		Westminster Whole- sale Nurseries	23,880.00
			<u>\$ 63,263.00</u>

Item Nos.:

<u>Lorenz, Inc.</u>	4, 6, 7, 10, 13, 17, & 20
<u>Shemin Nurseries, Inc.</u>	1, 2, 3, 11, 12, & 15
<u>Westminster Wholesale Nurseries</u>	5, 8, 9, 14, 16, 18, 19, 21, 22, & 23

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

1. JOHN FUNK JR., INC.	\$ 7,843.28	Low Bid
Solicitation No. B50001214 - Flow Meter Parts - Department of Public Works - Req. No. R528217		

2. XEROX CORPORATION	\$ 7,815.46	Sole Source
Solicitation No. 08000 - Xerox Printer Warranties - Department of Finance - Req. No. R533046		

The vendor is the manufacturer of the equipment and provider of the on-site services under this extended warranty and is the only company that can provide the on-site services and maintain the warranties.

3. NORITSU AMERICA CORP.	\$22,201.00	Sole Source
Solicitation No. 08000 - Photographic Equipment Maintenance - Police Department - Req. No. R529867		

The vendor is the only company that can provide the on-site services and maintain the warranty.

4. HAVIS	\$ 7,050.00	Low Bid
Solicitation No. 07000 - K-9 Insert for Police Vehicles - Police Department - Req. No. R532496		

5. QIAGEN	\$10,757.80	Sole Source
Solicitation No. 08000 - Crime Lab Equipment Maintenance - Police Department - Req. No. R529920		

The vendor is the manufacturer and provides service, updates, and warranty maintenance.

6. HAGEMEYER NORTH AMERICA	\$11,914.35	Low Bid
Solicitation No. B5000128 - Quantum Replacement Parts - Department of Public Works - Req. No. R531781		

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

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| 7. XEROX | \$21,450.00 | Sole Source |
| Solicitation No. 08000 - MIS Print Maintenance - Mayor's Office of Information Technology - Req. No. R523789 | | |

This is for the procurement of licensing transfer, reintegration, and maintenance for Management Information Systems software by Xerox. All Xerox network printers are dependent on software applications developed by RSA.

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|----------------------------------------------------------------------------------------------------|-------------|-------------|
| 8. GOOD STEWART SOFTWARE | \$ 5,500.00 | Sole Source |
| Solicitation No. 08000 - Good Stewart Software - Department of General Services - Req. No. R529158 | | |

The vendor is the sole source provider of this proprietary software.

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| 9. NEW LIFE GRAPHIC
DESIGNS, INC. | \$16,000.00 | Low Bid |
| Solicitation No. 06000 - Decals - Fire Department - Req. No. P505772 | | |

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|-------------------------------------------------------------------------------------------------------------------------|---------------------|-----------|
| 10. PRAXAIR INC. | Previously Approved | Agreement |
| Solicitation No. 06000 - Liquid Oxygen - Department of Public Works, Bureau of Water and Wastewater - Req. Nos. Various | | |

The Board is requested to approve and authorize execution of an agreement with Praxair Inc. The period of the agreement is July 1, 2009 through June 30, 2010.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

On March 4, 2009, the Board approved the award to Praxir Inc. to provide emergency backup oxygen supply to cover periods during which the City's oxygen plant may not be able to meet the demand associated with wastewater treatment.

MWBOO GRANTED A WAIVER.

11. BALTIMORE

FREIGHTLINER	\$450,000.00	Selected Source
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Solicitation No. 06000 - OEM Parts, Service and Warranty Repairs for Freightliner Heavy Trucks - Department of General Services - Req. No. R532090

The vendor is the authorized retailer of Freightliner Heavy Truck Parts and the only retailer located within a 25 mile radius of the City's Central Garage, thereby reducing the cost to the City by decreasing travel and downtime of the City's heavy equipment. The period is October 1, 2009 through September 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. FERNO-WASHINGTON	\$ 31,497/00	Sole Source
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Solicitation No. 08000 - Stretchers - Fire Department - Req. No. R533201

This stretcher is currently being used in the Baltimore City Fire Department vehicles and the same brand is needed for continuity of operation and training. The vendor is the sole distributor. The period is September 30, 2009 through September 29, 2010.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

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.

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| 13. SMITH'S DETECTION | \$321,878.75 | Sole Source |
| Solicitation No. 08000 - HAZMAT Gas Identifier Systems - Fire Department - Req. No. R531676 | | |

These HAZMAT Gas Identifier Systems are being purchased for local surrounding jurisdictions, which are members of the Urban Area Security Initiative. Through previous grants, the Baltimore City and Harford County Fire Departments have obtained this meter to maintain uniformity in the service. It is requested that the meters be purchased from the same manufacturer.

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.

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| 14. MEDTRONICS-PHYSIO
CONTROL | \$ 84,110.75 | Sole Source |
| Solicitation No. 08000 - LP12 Defibrillator and Monitors - Fire Department - Req. No. R533259 | | |

The Fire Department is trained to use these particular defibrillators. They are the standardized system used throughout the Department and the vendor is the sole source provider.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

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.

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| 15. POTTER AND PARSONS
INC. | \$ 30,000.00 | Sole Source |
| Solicitation No. 08000 - Replacement of Rotating Assembly for Guilford Pumping Station - Department of Public Works, Bureau of Water and Wastewater - Req. Nos. R532723 | | |

The requirement for the replacement of the rotating assembly is specific and unique because they must be compatible and interchangeable with existing equipment. The vendor is the sole source provider of 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.

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| 16. WARD DIESEL FILTER
SYSTEMS | \$ 62,200.00 | Increase |
| Solicitation No. 08000 - Ward No-Smoke Diesel Exhaust Removal Systems - Fire Department - Req. Nos. R510813 and R513013 | | |

On November 19, 2008, the Board approved the initial award in the amount of \$296,750.00. On September 2, 2009, the Board approved an increase in the amount of \$272,125.00. This increase is necessary because the Fire Department omitted

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

eight vehicles from the initial request. The additional eight vehicles are being purchased at the original contract price. This increase in the amount of \$62,200.00 will make the contract amount \$631,075.00.

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.

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|----------------------------------------------|--------------|-------------------------|
| 17. AEROSAL MONITORING
AND ANALYSIS, INC. | \$ 80,000.00 | Renewal
and Increase |
|----------------------------------------------|--------------|-------------------------|
- Solicitation No. B50000896 - Environmental Lead Training, Outreach and Police Initiative - Health Department - Req. No. R533496

On January 21, 2009, the Board approved the initial award in the amount of \$59,750.00. This project is subject to funding from the Environmental Protection Agency Lead-Safe Work Practice Training Outreach and Policy Initiative annual grant. The grant will expire on September 30th of each year. The initial award was for nine months and the renewal is for 1-year requiring an increase in the estimated annual amount. This increase in the amount of \$80,000.00 will make the award amount \$139,750.00.

MWBOO GRANTED A WAIVER.

BOARD OF ESTIMATES

9/30/09

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

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|----------------------------------------------------------------------------------------------------|--------------|-----------|
| 18. XEROX CORPORATION | \$140,000.00 | Extension |
| Solicitation No. 06000 - Copier Equipment and Services -
Agencies - Various - Req. Nos. Various | | |

On December 17, 2007, the Board approved the initial award.

This vendor holds the current City contract to supply copier service, which expires September 30, 2009. After review of the current terms and the marketplace, and after a Request for Information was issued, it has been determined to be in the City's best interest to negotiate an amendment to the current contract with this vendor for improved terms and a significant decrease in costs. In order to provide additional time to negotiate the amendment, the Board is requested to approve an extension under the same terms and conditions of the current contract, at prices and rates consistent with the Federal GSA contract prices and rates.

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.

THE VENDOR VOLUNTEERED TO MEET A GOAL OF 5% MBE.

MBE: Neo Technology, Inc. \$53,088.00 - 16.1%

MWBOO FOUND VENDOR IN COMPLIANCE.

BOARD OF ESTIMATES

9/30/09

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Purchases

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|----------------------------------------------------------------------------------------------------------|--------------|---------|
| 19. MARYLAND CHEMICAL
COMPANY, INC. | \$150,000.00 | Renewal |
| Solicitation No. B50000066 - 25% Sodium Hydroxide Solution -
Agencies - Various - Req. Nos. - Various | | |

On October 10, 2007, the Board approved the initial award for one year with three 1-year renewal terms. This is the second one-year renewal for the period November, 2009 through October 31, 2010.

MWBOO GRANTED A WAIVER.

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|------------------------------------------------------------|-------------|---------|
| 20. PHIPPS CONSTRUCTION
CONTRACTORS, INC. | \$ 6,500.00 | Low Bid |
| IC 517 - Concrete Wall Repair Project at the Wahl Building | | |

UPON MOTION duly made and seconded, the Board approved the informal awards, extensions and increases to contracts. UPON MOTION duly made and seconded, the Board approved and authorized execution of the agreement with Praxair, Inc. The Comptroller **ABSTAINED** on item no. 11.

MINUTES

Department of Real Estate - Amendment to Lease Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment to a lease agreement with FutureCare Homewood Properties, Inc. for a portion of the property known as 2700 Charles Street, the second floor, containing approximately 3,280 square feet. The period of the amendment is September 16, 2009 through June 30, 2012.

AMOUNT OF MONEY AND SOURCE:Annual RentMonthly Rent

	\$ 2,186.67 - September 16 - 30, 2009
	\$ 4,373.33 - October 1, 2009 - June 30, 2010
\$326,511.96	\$27,209.33 - July 1, 2010 - June 30, 2010
\$326,511.96	\$27,209.33 - July 1, 2011 - June 30, 2012

Accounts: 5000-594110-5970-439400-603013
5000-585110-5750-648700-603013

BACKGROUND/EXPLANATION:

On July 18, 2007 the Board approved a lease agreement with FutureCare Homewood Properties, LLC. The property is being used for administrative offices by the Department of Housing and Community Development's Community Service Centers, Head Start, Day Care and Energy Assistance Programs.

This amendment to lease agreement will increase the square footage by 3,280, making the total square footage 20,407. It will also provide 20 parking spaces at 2614-2628 N. Charles Street. The additional square footage will be used by the

MINUTES

Department of Real Estate - cont'd

Department of Housing and Community Development's Weatherization Program.

APPROVED FOR FUNDS BY FINANCE

FILE NO. 55527

UPON MOTION duly made and seconded, the Board approved and authorized execution of the amendment to the lease agreement with FutureCare Homewood Properties, Inc. for a portion of the property known as 2700 Charles Street, the second floor, containing approximately 3,280 square feet.

MINUTES

Department of Transportation - Amendment No. 1 to Towing
Rates Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of amendment no. 1 to the towing rates agreement with Baltimore Towers' Association.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

This amendment no. 1 to the towing rates agreement with Baltimore Towers' Association will reduce the reimbursement rate for certain vehicles towed at the direction of the Department of Transportation or the Police Department.

In light of the lower than anticipated revenues to the City's General and Motor Vehicle funds, the Department is in the process of renegotiating certain contracts with private service providers to lower the City's expenses.

Recognizing the City's difficult fiscal outlook, the Baltimore Towers' Association has agreed that the City will withhold \$10.00 for each vehicle towed in violation of peak hour restrictions for the balance of FY 2010. In FY 2011 and for future years while the agreement remains in effect, the City may withhold \$7.50 for each vehicle towed in violation of peak hour restrictions. The funds retained in FY 2011, and thereafter, may only be used to make customer service, safety or facilities improvements for the Towing Division of the Department. In FY 2010, the Department anticipates that this amendment no. 1 will

MINUTES

Department of Transportation - cont'd

yield approximately \$350,000.00 towards the Department's budget reduction plan. All other terms and conditions of the agreement remain unchanged.

MWBE PARTICIPATION:

N/A

FILE NO. 57020

UPON MOTION duly made and seconded, the Board approved and authorized execution of amendment no. 1 to the towing rates agreement with Baltimore Towers' Association.

MINUTES

Department of Transportation - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of memorandum of understanding (MOU) with the Maryland Department of Transportation acting for and on behalf of the State of Maryland by and through the State Highway Administration.

AMOUNT OF MONEY AND SOURCE:

\$475,000.00 - 9950-904313-9528

BACKGROUND/EXPLANATION:

This MOU is for the Midtown Cultural District's streetscape project.

The project will consist of the reconstruction of three traffic signals at the intersections of Mount Royal Avenue and McMechan Street, Mount Royal Avenue and Lafayette Avenue, and Mount Royal Avenue and Dolphin Lane in Baltimore, Maryland. The project activities include the installation/conversion of span wire signals to mast-arm signals, installation of an underground conduit system from the signals to the controller boxes, installation of new pole foundations, and upgrades to pedestrian ramps and installations of Accessible Pedestrian Signals to meet Americans with Disabilities requirements at each intersection.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

MINUTES

Department of Transportation - cont'd

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of memorandum of understanding with the Maryland Department of Transportation acting for and on behalf of the State of Maryland by and through the State Highway Administration.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Transportation - Consultant Agreement**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of a consultant agreement with Leslie McCuaig in connection with the Red Line Transit Project.

AMOUNT OF MONEY AND SOURCE:

\$53,200.00 - 9950-901838-9514-900020-703032

BACKGROUND/EXPLANATION:

On September 12, 2008, the Mayor signed the Red Line Community Compact (Compact), along with other State officials and community leaders, pledging to work cooperatively to achieve the maximum benefit of the proposed Red Line Transit Project. This consultant agreement is to conduct a feasibility study of transforming the Edmondson High School-Westside Skill Center Complex into an academy of architecture, construction, and engineering in order to create a "green jobs" career path for young people.

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the consultant agreement with Leslie McCuaig in connection with the Red Line Transit Project.

BOARD OF ESTIMATES

9/30/09

MINUTES

Department of Transportation - Right-of-Entry Agreement -
Permit No. 00918C

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize a right-of-entry agreement with the Maryland Transportation Authority (MdTA). The period of the agreement is effective for two years upon the issuance of the notice to proceed by the City Department of Transportation.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The City's Department of Transportation is proposing a project to widen and perform upgrades along Washington Boulevard from North Monroe Street to the I-95 Ramp. This project is also known as TR-03313 and in the design of this project, it has been determined that the City's contractor will need to install a sidewalk on property under the control of the MdTA.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the right-of-entry agreement with the Maryland Transportation Authority.

MINUTES

PROPOSALS AND SPECIFICATIONS

Department of Transportation - TR 09301, Installation of
Variable Message Signs and
Supports Citywide
BIDS TO BE RECV'D: 12/09/2009
BIDS TO BE OPENED: 12/09/2009

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

* * * * *

PRESIDENT: "The Board is in recess until twelve o'clock noon for the opening and receiving of bids."

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.

THERE WERE NO ADDENDA RECEIVED.

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 08050, Brighton Manor
Development

R&F Construction, LTD
Monumental Paving & Excavating, Inc.
Allied Contractors, Inc.
Potts & Callahan, Inc.
Civil Construction, LLC
P&J Contracting Co.
Facchina Construction Co., Inc.
P. Flanigan & Sons, Inc.

Bureau of Purchases - B50001182, Bill Payment Kiosks

Advanced ATM Services
US Payments, L.L.C.

MINUTES

There being no objections, the Board UPON MOTION duly made and seconded, the Board adjourned until its next regularly scheduled meeting on October 7, 2009.

JOAN M. PRATT
Secretary