

## MINUTES

REGULAR MEETING

Honorable Brandon M. Scott, President  
Honorable Bernard C. "Jack" Young, Mayor  
Honorable Joan M. Pratt, Comptroller and Secretary  
Matthew W. Garbark, Acting Director of Public Works  
Dana P. Moore, Acting City Solicitor

President: "Good morning ah -- the April 8, 2020 meeting of the Board of Estimates is now called to order. In the interest of promoting and maintaining health and safety as our nation continues to deal with the COVID-19 pandemic, the Board of Estimates continues to be streamed virtually. I would direct the Board members attention to the memorandum from my office dated April 6, 2020, identifying matters to be considered as routine agenda items together with any corrections and additions that have been noted by the Comptroller. I will entertain a motion to approve all the items contained on the routine agenda."

City Solicitor: "Mr. President, I move approval of all the items on the routine agenda."

Comptroller: "I second."

MINUTES

President: "All those in favor say aye. **AYE**. All opposed say nay.

The motion carries. The routine agenda items have been adopted.

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

In accordance with the Rules for Prequalification of Contractors, as amended by the Board on November 21, 2016, the following contractors are recommended:

A&W Maintenance & Coating, LLC	\$22,800,000.00
Land Art Associates, LLC	\$ 1,500,000.00
Marine Technologies, Inc.	\$ 8,000,000.00
Mid-Atlantic General Contractors, Inc.	\$ 8,000,000.00
Patuxent Roofing and Contracting, Inc.	\$ 8,000,000.00
The Witmer Group LLC	\$ 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:

E2CR, Inc.	Engineer
Gilbert Architects Inc.	Architect
Phoenix Engineering, Inc.	Engineer
Precision Measurements, Inc.	Land Survey
Rossi Transportation Group, Inc.	Engineering Landscape Architect

**MINUTES**Boards and Commission - cont'd

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

**MINUTES**

Mayor's Office of Children - Community Services Block  
and Family Success Grant Award Agreement

**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of Community Services Block Grant Award Agreement with the Maryland Department of Housing and Community Development. The period of this agreement is effective upon Board approval through September 30, 2020.

**AMOUNT OF MONEY AND SOURCE:**

\$2,519,079.00- 5000-586220-1191-594700-405001

**BACKGROUND/EXPLANATION:**

The State of Maryland, Department of Housing and Community Development has received a grant from the federal Department of Health and Human Services pursuant to the Community Services Block Grant Act to operate the Community Services Block Grant Program which provides financial assistance to Community Action Agencies and other eligible entities.

**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 Community Services Block Grant Award Agreement with the Maryland Department of Housing and Community Development.

**MINUTES**

Health Department - Notice of Award

**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize acceptance of a Notice of Award for the project titled "Ending the HIV Epidemic: A Plan for America-Ryan White HIV/Aids Program Parts A and B." The period of the grant award is March 1, 2020 through February 28, 2021.

**AMOUNT OF MONEY AND SOURCE:**

\$1,126,346.00- 4000-438020-3023-606100-404001

**BACKGROUND/EXPLANATION:**

Ending the HIV Epidemic: A Plan for America is a ten-year initiative beginning in FY 2020 to achieve the important goal of reducing new HIV infections to less than 3,000 per year by 2030.

This grant will provide funds to increase service delivery, and link people with HIV who are newly diagnosed but currently not in care, to essential HIV care and treatment and support. Funding is provided by the Department of Health and Human Services, Centers for Disease Control and Prevention.

The Notice of Award is late because of the delay in the administrative review process.

**APPROVED FOR FUNDS BY FINANCE**

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

## MINUTES

Health Department - cont'd

UPON MOTION duly made and seconded, the Board approved acceptance of a Notice of Award for the project titled "Ending the HIV Epidemic: A Plan for America-Ryan White HIV/Aids Program Parts A and B."

**MINUTES**

Department of Transportation/DOT - Task Assignment  
Engineering and Construction

**ACTION REQUESTED OF B/E:**

The Board is requested to approve the Assignment of Task No. 46 to Johnson, Mirmiran & Thompson, Inc., under Project 1217, On-Call Construction Project Management Services. The period of the Task Assignment is approximately two months.

**AMOUNT OF MONEY AND SOURCE**

\$288,132.74 - 9950-901882-9508-900010-705032

**BACKGROUND/EXPLANATION:**

The Consultant will provide continued services for TR12311R Construction Management, Project Management and Project Controls Services for MD 295 Bridges.

**MBE/WBE PARTICIPATION**

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

**WBE:** 27%

**WBE:** 10%

The Consultant has achieved 14.9% of the MBE goals and achieved 5.4% of the WBE goal at this time. However they have capacity to meet the remaining MBE and WBE goal.

**THE EAR WAS APPROVED BY MWBOO ON FEBRUARY 24, 2020.**



**MINUTES**

DOT - cont'd

**APPROVED FOR FUNDS BY FINANCE**

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

UPON MOTION duly made and seconded, the Board approved the Assignment of Task No. 46 to Johnson, Mirmiran & Thompson, Inc., under Project 1217, On-Call Construction Project Management Services.

**MINUTES**

Department of Transportation - Developer's Agreement No. 1643

**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of Developer's Agreement No. 1643 with Roberta's House, Inc., Developer.

**AMOUNT OF MONEY AND SOURCE:**

\$275,840.00 - Performance Bond

**BACKGROUND/EXPLANATION:**

Roberta's House, Inc., would like to install new water services, sewer, storm drain, street lighting, and sidewalk improvements to its proposed new building located at 928 East North Avenue. This agreement will allow the organization to do its own installation in accordance with Baltimore City Standards.

A Performance Bond in the amount of \$275,840.00 has been issued to Roberta's House, Inc., which assumes 100% of the financial responsibility.

**MBE/WBE PARTICIPATION:**

With respect to Article 5, Section 28-4 of the City Code, this item is not the result of City procurement and the above named entity is responsible for all cost, MWDBE goals do not apply.

## MINUTES

Department of Transportation - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of Developer's Agreement No. 1643 with Roberta's House, Inc., Developer. The Comptroller **ABSTAINED**. The Acting City Solicitor **ABSTAINED**.

**MINUTES**

Department of Public Works - Membership Renewal in The  
Water Research Foundation

**ACTION REQUESTED OF B/E:**

The Board is requested to approve the annual membership for the Water Research Foundation (WRF). The period of the annual membership is January 1, 2020 through December 21, 2020.

**AMOUNT OF MONEY AND SOURCE:**

\$21,347.00 - 2071-000000-5541-398600-603022

**BACKGROUND/EXPLANATION:**

The WRF is a non-profit organization that provides published research on the technology and management of drinking water, wastewater, reuse, and storm water systems. The WRF provides research, innovation resources, and gained input to research planning, while making the case for a new approach, ensuring water quality, and improving water services to the public.

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

UPON MOTION duly made and seconded, the Board approved the annual membership for the Water Research Foundation.

**MINUTES**

Department of Public Works/Office - Task Assignment  
of Engineering and Construction

**ACTION REQUESTED OF B/E:**

The Board is requested to approve the assignment of Task No. 2 to Moffatt & Nichol under Project 1236M (SDC 7788) On-Call Stormwater Study and Engineering Design Services. The Task Assignment is approximately 18 months.

**AMOUNT OF MONEY AND SOURCE:**

\$95,687.95 - 9958-905098-9520-900020-703032

**BACKGROUND/EXPLANATION:**

The Office of Engineering and Construction is in need of services for the ongoing work on SDC 7788, Seamon Avenue Storm Drain and Step Pool Storm Conveyance-Construction Support Services. The work requested is within the original scope of the agreement.

**MBE/WBE PARTICIPATION:**

The Consultant will comply with Article 5, Subtitle 28 of the Baltimore City Code and the MBE and WBE goals assigned to the original agreement MBE: 27% and WBE: 10%.

Currently goals are MBE: 30% and 7%

**THE EAR WAS APPROVED BY MWBOO ON NOVEMBER 12, 2019**

**APPROVED FOR FUNDS BY FINANCE**

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

**MINUTES**

Department of Public Works/Office - cont'd  
of Engineering and Construction

**TRANSFER OF FUNDS**

<b><u>AMOUNT</u></b>	<b><u>FROM ACCOUNT</u></b>	<b><u>TO ACCOUNT</u></b>
\$153,342.99	9958-902715-9522	9958-905098-9520-3
Revenue Bonds	Northeast Baltimore Drainage I	Design

This transfer will cover costs of Project 1236M (SDC 7788) On-Call Stormwater Study and Engineering Design Services, Task No.002

UPON MOTION duly made and seconded, the Board approved the assignment of Task No. 2 to Moffatt & Nichol under Project 1236M (SDC 7788) On-Call Stormwater Study and Engineering Design Services. The Transfer of Funds was approved, SUBJECT to the receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, in accordance with the provisions of the City Charter.

**MINUTES**

Department of Law, Minority and - MBE/WBE Program Size Standard  
Women's Business Opportunity  
Office (MWBOO)

**ACTION REQUESTED OF B/E:**

The Board is requested to approve the maximum size standards for minority and women-owned firms that are authorized to do business with the City as part of its MBE/WBE Program. A size standard sets the capacity of a for-profit firm in excess of which, after a period of time, the firm cannot retain its eligibility to participate in the MBE/WBE Program.

**AMOUNT OF MONEY AND SOURCE:**

N/A

**BACKGROUND/EXPLANATION:**

In accordance with Article 5 §28-80 of the Baltimore City Code, with the advice of the Minority and Women's Business Opportunity Office, the Board of Estimates may establish maximum size standards for minority and women's business enterprises. The Board of Estimates must annually review any size standards established.

The recommendation is for the Board to adopt the U.S. Small Business Administration (SBA) Size Standards. Like its federal and state counterpart, the City's MBE Program seeks to incorporate the SBA size standards defined in 13 Code of Federal Regulations (CFR) Part 121. The SBA Size Standards are established by North American Industry Classification System (NAICS) Codes based on dollar amounts or number of employees. Size determinations are based on a three-year average of a firm's annual gross receipts or the number of a firm's employees in the preceding 12 months.

## MINUTES

Department of Law, Minority and - cont'd  
Women's Business Opportunity  
Office (MWBOO)

If a certified MBE meets or exceeds the small business size standards specified in 13 CFR Part 121, as amended, which is incorporated by reference, the MBE is no longer eligible to participate in a procurement as a certified MBE. The MBE is still eligible for credit towards an MBE goal under a contract entered into when the MBE was eligible and certified. Ineligibility of an MBE to participate in the MBE program may not be the sole cause of the termination of the MBE contractual relationship for the remainder of the term of the contract. If, during the next 3 years, the MBE again becomes qualified under the small business size standards specified in 13 CFR Part 121, as amended, which is incorporated by reference, the MBE may resume participation as a certified MBE through the recertification process. If, after 3 years of nonparticipation, the MBE continues to meet or exceed the small business size standards under 13 CFR Part 121, as amended, which is incorporated by reference, the MBE is considered to have graduated and will no longer be certified.

Annual gross receipts or sales will be as defined by the United States Internal Revenue Service and will be determined by reviewing federal tax returns.

Effective immediately, if an applicant exceeds the size standards for a particular industry, it is not eligible for certification in that industry even though the firm may be owned and controlled by minorities or women.

If approved, the established size standards and general policy will continue in effect and be re-evaluated annually as established in Article 5 §28-80 (a) (3) of the Baltimore City Code.



**MINUTES**

Department of Law, Minority and - cont'd  
Women's Business Opportunity  
Office (MWBOO)

The size standards have not changed since the last submission to the Board.

UPON MOTION duly made and seconded, the Board approved the maximum size standards for minority and women-owned firms that are authorized to do business with the City as part of its MBE/WBE Program.

**MINUTES**

Department of Law, Minority and Women's Business Opportunity Office (MWBOO)	- Minority and Women's Business Enterprise (MWBE) Program Participation Goals
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**ACTION REQUESTED OF B/E:**

The Board is requested to approve the Annual Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) Participation Goals.

**AMOUNT OF MONEY AND SOURCE:**

N/A

**BACKGROUND/EXPLANATION:**

Pursuant to Article 5, Subtitle 28, Sections 28-16 and 17 of the Baltimore City Code, the Minority and Women's Business Opportunity Office requests the Board to approve its recommendations for annual MBE/WBE participation goals.

Article 5, Subtitle 28 requires on an annual basis that the Board, with the advice of the Minority and Women's Business Opportunity Office, establish annual participation goals for MBE and WBE. The purpose of the annual goals is to aid the City in its annual evaluation of the Minority Business Enterprise Program's effectiveness. The annual overall goals are not and may not be quotas. They are aspirational. This means that the City is setting these goals as a target with the intent that, at the end of one year it can demonstrate that minority and women-owned businesses have been utilized to the level of the target goal.

The MBE and WBE participation goals will be set for each contract in accordance with a formula that takes into account the availability of businesses that are willing and able to participate

## MINUTES

Department of Law, Minority and - cont'd  
Women's Business Opportunity  
Office (MWBOO)

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on City contracts in various industry classifications and professions, the level of utilization of these firms on past City contracts, the contract specifications, and the adverse impact on non-MBE and non-WBE businesses (see Article 5, §28-22 of the Baltimore City Code).

The Minority and Women's Business Opportunity Office recommends the following annual goals and sub-goals for the MBE and WBE Program:

**MBE Annual Goal 27%:**

MBE Sub-goals:

African American 14%  
Asian American 6%  
Hispanic American 6%  
Native American 1%

**WBE Annual Goal 10%**

The goals have not changed since the last submission to the Board.

UPON MOTION duly made and seconded, the Board approved the Annual Minority Business Enterprise and Women's Business Enterprise Participation Goals.

**MINUTES**

Department of Housing and - Community Development  
Community Development      Block Grant Agreement

**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of the Community Development Block Grant (CDBG) Agreement with Coldstream-Homestead-Montebello Community Corporation. The period of the CDBG is July 1, 2019 through June 30, 2020.

**AMOUNT OF MONEY AND SOURCE:**

\$ 18,675.00	-	2089-208920-5930-432726-603051
25,938.00	-	2089-208920-5930-432730-603051
13,488.00	-	2089-208920-5930-432735-603051
36,313.00	-	2089-208920-5930-432781-603051
<u>9,336.00</u>	-	<u>2089-208920-5930-432783-603051</u>
<b>\$103,750.00</b>		

**BACKGROUND/EXPLANATION:**

Coldstream-Homestead-Montebello Community Corporation will administer activities and coordinate citizen participation in the planning and implementation of community development activities to improve public safety and education, expand youth and health-related services, improve sanitation, enhance employment opportunities and access to social services within the Coldstream-Homestead-Montebello Urban Renewal Area.

On July 17, 2019, the Board approved the Resolution authorizing the Commissioner of the Department of Housing and Community Development (DHCD), on behalf of the Mayor and City Council, to file a Federal FY 2019 Annual Action Plan for the following formula programs:

**MINUTES**

DHCD - cont'd

1. Community Development Block Grant (CDBG)
2. HOME Investment Partnership Act (HOME)
3. Housing Opportunities for Persons with AIDS (HOPWA)
4. Emergency Solution Grant Program (ESG)

The DHCD began negotiating and processing the CDBG agreements effective July 1, 2019 and beyond, as outlined in the Plan, and upon approval of the Resolution. Consequently, the agreements were delayed due to final negotiations and processing.

**FOR FY 2020 MBE AND WBE PARTICIPATION GOALS FOR THE ORGANIZATION WERE SET ON THE AMOUNT OF \$0.00.**

**MWBOO GRANTED A WAIVER ON OCTOBER 9, 2019.**

**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 Community Development Block Grant Agreement with Coldstream-Homestead Montebello Community Corporation.

**MINUTES**

Department of Housing and                    - Grant Agreement  
Community Development (DHCD)

**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of a Grant Agreement with Strong City Baltimore, Inc. (Grantee) The period of the agreement is effective upon Board approval for 12 months.

**AMOUNT OF MONEY AND SOURCE:**

\$250,000.00 - 9910-9588-903241

**BACKGROUND/EXPLANATION:**

The DHCD's community development strategies focus resources in disinvested and overlooked communities where City funds will spur growth and transformation and additional investment. DHCD created the Community Catalyst Grants (CCG) Program, a \$5,000,000.00 initiative to leverage assets and support community-led efforts that are essential to a neighborhood's viability.

In January 2019, DHCD released the CCG Capital Grant Guidelines and Application. On August 28, 2019 the Mayor awarded 25 organizations a total of \$3,093,668.00.

Through the CCG Capital program, Strong City Baltimore Inc. was awarded \$250,000.00 for tenant improvements to the Hoen Building, located at 2100 East Biddle Street, which is serving as the organization's new headquarters. The CCG funds are being used to offset costs associated with electrical work.

**MINUTES**

DHCD - cont'd

**MBE/WBE PARTICIPATION:**

The Grantee signed a Commitment to Comply with the Minority and Women's Business Enterprise Program of the City of Baltimore on March 25, 2020.

**APPROVED FOR FUNDS BY FINANCE**

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of a Grant Agreement with Strong City Baltimore, Inc. The Acting City Solicitor **ABSTAINED**.

## 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 Procurement

- |   |                |   |
|---|----------------|---|
| 1. FULL CIRCLE SOLUTIONS, INC.  | \$2,742,259.00 | Non-Competitive/<br>Procurement/<br>Renewal |
| Contract No. 06000 - Technical Support and System Administration for the Consolidated Collection System - Department of Finance - P.O. No.: P533669 |                |   |

This request meets the condition that there is no advantage in seeking competitive responses.

**STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:**

On December 19, 2012, the Board approved the initial award in the amount of \$1,949,040.00. The award contained five 1-year renewal options. Subsequent actions have been approved. This fifth renewal in the amount of \$2,742,259.00 is for the period March 19, 2020 through March 18, 2021, with two 1-year renewal options remaining. The above amount is the City's estimated requirement.

**MBE/WBE PARTICIPATION:**

On November 30, 2012, it was determined that no goals would be set because of no opportunity to segment the contract. Full Circle Solutions, Inc. is a City certified MBE vendor.

**MWBOO GRANTED A WAIVER ON NOVEMBER 30, 2012.**

- |   |               |   |
|---|---------------|---|
| 2. GEIGER PUMP AND EQUIPMENT COMPANY  | \$ 300,000.00 | Non-Competitive/<br>Procurement/<br>Renewal |
| Contract No. 08000 - Moyno Pump Parts - Department of Public Works - Waste Water Facilities - P.O. No.: P539765 |               |   |



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 Procurement - cont'd

This request meets the condition that there is no advantage in seeking competitive responses.

**STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:**

On June 7, 2017, the Board approved the initial award in the amount of \$750,000.00. The award contained two 1-year renewal options. On September 11, 2019, the Board approved an increase in the amount of \$750,000.00. This first renewal in the amount of \$300,000.00 is necessary to allow continuous supply of proprietary Moyno Pumps and Parts for the Department of Public Works Waste Water Facilities. Moyno Pumps are not available from other suppliers. The period of the renewal is June 8, 2020 through June 7, 2021. The above amount is the City's estimated requirement.

**MBE/WBE PARTICIPATION:**

Not applicable. This meets the requirement for certification as a sole source procurement.

3. DEMOUSA,	\$ 100,000.00	Increase and
INC.	<u>200,000.00</u>	Renewal
	<b>\$ 300,000.00</b>	

Contract No. B50004582 - Services for Debris Cleanup in Middle Branch, Canton and Fells Point - Department of Public Works - Bureau of Solid Waste - P.O. No.: P535768

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 Procurement - cont'd

On June 8, 2016, the Board approved the initial award in the amount of \$164,103.00. The award contained four renewal options. Two renewal options were previously exercised. On March 27, 2019, the Board approved the third renewal and an increase in the amount of \$350,000.00. This increase in the amount of \$100,000.00 and renewal will make the award amount \$1,114,103.00. This final renewal is for the period June 8, 2020 through June 7, 2021. The above amount is the City's estimated requirement.

**MBE/WBE PARTICIPATION:**

On March 29, 2016, it was determined that no goals could be set because there is no opportunity to segment the contract.

**MWBOO GRANTED A WAVIER ON MARCH 29, 2016.**

4. DRAGER, INC.	\$ 156,950.00	Non-Competitive/ Procurement/ Sole Source
Contract No. 08000 - Flashover Training Simulator - Fire Department - Req. No. R841573		

This request meets the condition that there is no advantage in seeking competitive responses.

**STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:**

The Vendor is the Sole Source of a flashover simulator with a basement function which is essential in the City. This is a one-time purchase. The above amount is the City's estimated requirement.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Procurement - cont'd

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

**MBE/WBE PARTICIPATION:**

Not applicable. This meets the requirement for certification as a sole source procurement as these commodities are only available from the manufacturer.

- |  |                                |              |  |
|--|--------------------------------|--------------|--|
| 5.   | IDEXX<br>DISTRIBUTION,<br>INC. | \$ 88,178.00 | Non-Competitive/<br>Procurement/Sole<br>Source |
| Contract No. 08000 - X-Ray Machine - Health Department - Req. No.: R847397 |                                |              |  |

This request meets the condition that there is no advantage in seeking competitive responses.

**STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:**

The space and the wiring system requirements have been configured specifically to this machine, which was pre-selected during the Animal Shelter design process. This is one-time purchase. The above amount is the City's estimated requirement.

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

## 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 Procurement - cont'd

MBE/WBE PARTICIPATION:

Not applicable. This meets the requirement for certification as a sole source procurement as these commodities are only available from the distributor, and are not available from subcontractors.

6. M-B COMPANIES, INC.	\$ 200,000.00	Non-Competitive/ Procurement/Sole Source
Contract No. 08000 - OEM Parts and Repair Service for Pavement Marking Equipment on M-B Companies Pavement Marking Truck Body - Department of General Services, Fleet Management - Req. No.: R845185		

This request meets the condition that there is no advantage in seeking competitive responses.

STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:

The Vendor is the manufacturer's sole authorized source of these products and services in the Maryland area that is qualified to provide OEM Parts and Repair Service on M-B Companies Pavement Marking Truck Body. The period of the award is April 8, 2020 through April 7, 2022, with three 1-year renewal options. The above amount is the City's estimated requirement.

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

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

VENDOR	AMOUNT OF AWARD	AWARD BASIS
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Bureau of Procurement - cont'd

it be practicable to obtain competitive bids. Therefore, pursuant to Article VI, §11 (e) (i) of the City Charter, the procurement of the equipment and/or service is recommended.

MBE/WBE PARTICIPATION:

Not applicable. This meets the requirement for certification as a sole source procurement as these commodities are only available from the distributor and are not available from subcontractors.

- |  |                |                         |
|--|----------------|-------------------------|
| 7.   | QUARLES        | Non-Competitive/        |
|  | PETROLEUM,     | Procurement/Cooperative |
|  | INC.           | Agreement               |
|  | \$2,000,000.00 |                         |
| Hanover County, Virginia Contract No. 10-032306-2078KM - Fuel Management Service - Department of General Services - Fleet Management - Req. No.: R849887 |                |                         |

This request meets the condition that there is no advantage in seeking competitive responses.

STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:

The Board is requested to approve and authorize execution of a Cooperative Agreement with Quarles Petroleum, Inc. The period of the agreement is April 8, 2020 through April 7, 2022, with three 1-year renewal options.

The Department of Transportation has entered into a contract with a Vendor to operate the Charm City Circulator buses. This

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 Procurement - cont'd

It is hereby certified that the above procurement is of such a nature that no advantage will result in seeking, nor would it be practicable to obtain competitive bids. Therefore, contract will allow Fleet Management to meet their fueling requirements. Quarles Petroleum, Inc. offers an unmanned fueling station available 24/7 that provides diesel fuel when needed. The fueling station is in proximity to bus garage and will reduce down time and cost to refuel. Pursuant to Article VI, §11 (e) (i) of the City Charter, the procurement of the equipment and/or service is recommended.

**MBE/WBE PARTICIPATION:**

Not applicable. This is a Fuel Management Service purchase from an authorized vendor who is required to provide diesel fuel under the Hanover County, Virginia Contract Number 10-032306-2078KM.

8. HONEYWELL INTERNATIONAL INC.	\$ 500,000.00	Non-Competitive/ Procurement/Sole Source Service Agreement
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Contract No. 08000 - Provide Annual Service and Repairs for the Fire, Life Safety and Facilities Management System at the Baltimore Convention Center - Baltimore Convention Center - Req. No.: R813637

This request meets the condition that there is no advantage in seeking competitive responses.

## 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 Procurement - cont'd

**STATEMENT OF PURPOSE AND RATIONALE FOR NON-COMPETITIVE PROCUREMENT:**

The Board is requested to approve and authorize execution of a Service Agreement with Honeywell International Inc. The period of the agreement is April 1, 2020 through March 31, 2023 with two 2-year renewal options.

Honeywell International, Inc. is the current provider at the Convention Center and utilizes proprietary software in period of the agreement is April 1, 2020 through March 31, 2023 with two 2-year renewal options.

Honeywell International, Inc. is the current provider at the Convention Center and utilizes proprietary software in conjunction with proprietary devices to operate the Honeywell fire, life safety, and facilities management system. The above amount is the City's estimated requirement.

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

**MBE/WBE PARTICIPATION:**

Not applicable. This meets the requirement for certification as a sole source procurement as these commodities are only available from the distributor and are not available from subcontractors.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Procurement - cont'd

9. AXON ENTERPRISE, INC.	\$38,680.00	Agreement
Solicitation No. B50005832, Portable Interview Kits - State's Attorney Office - Req. No.: R823263		

The Board is requested to approve and authorize execution of the Master Services and Purchasing Agreement with Axon Enterprises, Inc. The period of the agreement is April 1, 2020 through March 31, 2025.

Vendors were solicited by posting on CitiBuy. The sole bid received was opened on September 4, 2019 and was found to fair and reasonable. Award is recommended to be made to the responsive and responsible bidder. The above amount is the City's estimated requirement.

**MBE/WBE PARTICIPATION:**

Not applicable. Award is below MBE/WBE subcontracting threshold of \$50,000.00.

10. FOOD CONTRACTING		
LLC	\$60,000.00	Extension
Contract No. 06000, Concession Shake and Bake - Department of Recreation and Parks - P.O. No.: P543012		

On March 20, 2018, the City Purchasing Agent approved the initial award in the amount of \$24,999.00. An extension is necessary to continue concession services for the Shake and



MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Procurement - cont'd

Bake Family Fun Center while a draft solicitation and award is conducted. The period of the extension is March 20, 2020 through March 19, 2021. The above amount is the City's estimated requirement.

**MBE/WBE PARTICIPATION:**

Not applicable. The initial award was below MBE/WBE subcontracting threshold of \$50,000.00.

11. TYLER		Non-Competitive/
TECHNOLOGIES		Procurement/
INC.	\$ 0.00	Ratification
	\$ 78,000.00	and Extension

Contract No. 06000, Open Data Portal Hosting Agreement - Baltimore City Office of Information and Technology - P.O. No.: P523867

On June 5, 2013, the Board approved an initial award in the amount of \$175,000.00. Subsequent actions have been approved. An extension is necessary for the continuation of cloud software subscription services known as Socrata GovStat (<http://data.baltimorecity.gov>) to support the OpenBaltimore website while the City determines new solution requirements for open data. The above amount is the City's estimated requirement. The ratification is for the period is January 1, 2020 through April 7, 2020. The period of the extension period is April 8, 2020 through December 31, 2020.

## MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Procurement - cont'd

MBE/WBE PARTICIPATION:

On May 23, 2013, MWBOO determined that no goals would be set because of no opportunity to segment the contract

**MWBOO GRANTED A WAIVER ON MAY 23, 2013.**

UPON MOTION duly made and seconded, the Board approved the foregoing Informal Awards, Renewals, and Increases to Contracts and Extensions. The Board further approved and authorized execution of the Non-Competitive Procurement Cooperative Agreement with Quarles Petroleum Inc. (item no. 7), Non-Competitive Procurement Sole Source with Drager, Inc. (item no. 4), Non-Competitive Procurement Sole Source with IDEXX Distribution, Inc. (item no. 5), Non-Competitive Procurement Cooperative Agreement with M-B Companies, Inc. (item no. 6), Non-Competitive Procurement Cooperative Agreement with HONEYWELL INTERNATIONAL INC. (item no.8), Agreement with AXON ENTERPRISE INC. with (item no. 9). The Acting City Solicitor **ABSTAINED** on item no. 1.

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 contract

Listed on the following page:

1521 - 1538

to the low bidder meeting specifications,

or reject bids on those as indicated

for the reasons stated.

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

**RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:**

Department of Transportation

- |    |  |                         |                |
|----|--|-------------------------|----------------|
| 1. | TR 19017 Conduit System Reconstruction at Various Locations Citywide JOC | Allied Contractors Inc. | \$6,382,300.00 |
|----|--|-------------------------|----------------|

**MBE/WBE PARTICIPATION:**

**MWBOO SET GOALS OF 9% FOR MBE AND GOALS OF 4% FOR WBE.**

<b>MBE:</b>	J.M. Murphy Enterprises, Inc.	\$575,000.00	9.00%
<b>WBE:</b>	S & L Trucking, LLC.	\$220,752.00	3.45%
	Sunrise Safety Services, Inc.	35,000.00	0.55%
		<u>\$255,752.00</u>	<u>4.00%</u>

**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
2. \$5,139,645.00 Others	9962-937004-9563 Construction- Reserve Conduit New Construction	
2,200,000.00 <u>Others</u> <b>\$7,339,645.00</b>	9962-937006-9563 Reconstruct Manholes - Various	
\$6,382,300.00	-----	9962-903080-9562-6 Structure & Improvements
638,230.00	-----	9962-903080-9562-5 Inspection
319,115.00	-----	9962-903080-9562-2

## MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS:TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
		Contingencies
		Conduit Reconst.
		CW TR 19017
<u>\$7,339,645.00</u>		

This transfer will fund the costs associated with award of Project TR 19017, Conduit System Reconstruction at Various Locations Citywide JOC, with Allied Contractors, Inc.

**A PROTEST WAS RECEIVED FROM ROBERT FULTON DASHIELL, ESQ. P.A. ON BEHALF OF HIGHLANDER CONTRACTING COMPANY, INC.**

**A RESPONSE TO THE PROTEST WAS RECEIVED FROM BISHOP L. ROBINSON JR., LLC ON BEHALF OF ALLIED CONTRACTORS, INC.**

# Robert Fulton Dashiell, ESQ. P.A.

**Robert Fulton Dashiell**  
*Principal*  
[robertdashiell@dashiell-lawoffice.com](mailto:robertdashiell@dashiell-lawoffice.com)

**Senchal Dashiell Barrolle**  
*Associate Principal*  
[sbarrolle@dashiell-lawoffice.com](mailto:sbarrolle@dashiell-lawoffice.com)

1726 Whitehead Road  
Woodlawn, Maryland 21207  
Telephone: (410) 547-8820  
Facsimile: (443) 637-3718

*Baltimore City Office*  
2423 Maryland Avenue, Suite 100  
Baltimore, Maryland 21218

March 9, 2020

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

(Hand-delivery)

Re: Protest of Highlander Contracting Company/  
Tr-19017 Conduit System Reconstruction

Dear Mr. President and Honorable Board Members:

I represent the protestor, Highlander Contracting Company, Inc. (“Highlander”), the lowest responsible bidder for the above referenced contract. Highlander opposes the recommendation to award the contract to Allied Contractors, Inc. (“Allied”) on the grounds that Allied is not a responsible bidder. Article 11, Section H of the Baltimore City Charter requires the Board of Estimates (the “Board”) to award competitively bid contracts to the lowest responsive and responsible bidder. A responsible bidder is “one that has the capability in all respects to perform fully the Contract requirements, and the **integrity and reliability which shall assure good faith performance**”. (See Baltimore City Standard Book of Specifications-Green Book, Section 00 23 00.01). We show below that Allied has repeatedly violated the terms of the Green Book and, therefore, should not be regarded as a responsible bidder.

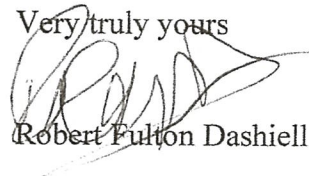
In its bid Allied has proposed to satisfy the MBE participation goals by use of a minority firm known as J.M. Murphy Enterprises (“Murphy”). As shown on Exhibit 1, Allied has utilized Murphy to satisfy some or all of the minority participation requirements on contracts awarded to it by the City since August 2014 (the “Prior Contracts”). The provisions of the Green Book

require that all subcontractors must submit a work capacity statement and be prequalified before they commence work. (See Green Book, sections 00 21 13.20 B, and 00 73 81 A, H and J.).

Before permitting Murphy to commence work on either of the Prior Contracts Allied was required to have made a request to do so and each request should have been accompanied by Murphy's work capacity statement and a consent from Allied's surety. (See Green Book, Section 00 51 00.08 B). Only subcontractors whose prequalification have been reviewed and approved in that manner are authorized to enter upon the work site to perform work. (See Green Book, *id.*). On information and belief, Allied permitted Murphy to enter upon the worksites of each of the Prior Contracts without first obtaining approval from the City, in violation of the express terms of the Green Book.

The fact that Allied has, again, proposed to utilize Murphy exclusively to satisfy the MBE participation goals when Murphy was not prequalified and without insuring that Murphy will have sufficient work capacity suggests that Allied intends to continue its improper actions. For the foregoing reasons, Allied should be declared a non-responsible bidder and the contract should be awarded to Highlander.

Very truly yours

A handwritten signature in black ink, appearing to read "R. Dashiell", written over the typed name.

Robert Fulton Dashiell

Type	BOE Date	Contract	Description	Total Contract Value/ Change Order Value	JM Murphy Subcontract Value	JM Murphy Prequal Value	JM Murphy Date	Surplus/ Shortfall
Award	8/27/2014	SWC 7764	Race Street Culvert Replacement	\$ 2,437,080.00	\$ 61,000.00			
Award	11/19/2014	TR 10325	Druid Hill Park Neighborhood Access	\$ 1,897,740.00	\$ 317,000.00			
Award	2/11/2015	RP 14827	Northwest Park Playground	\$ 258,000.00	\$ 5,200.00			
Award	3/25/2015	TR 15005	Structural Repairs on Bridges Citywide	\$ 897,600.00	\$ 162,500.00			
Award	4/22/2015	B5001768	Sidewalk repairs	\$ 300,000.00	\$ 22,760.71			
			<b>Total for 5/28/2014 thru 6/10/2015</b>		<b>\$ 568,460.71</b>	<b>\$ 72,000.00</b>	<b>5/28/2014-6/10/2015</b>	Shortfall
Award	10/14/2015	TR 15019	Conduit System Repairs at Various Locations	\$ 1,659,750.00	\$ 100,400.00			
Award	10/21/2015	RP 15816	Cylburn Arboretum Formal Garden Improvements	\$ 222,200.00	\$ 44,500.00			
Award	12/16/2015	RP 15824	Fiscal Year 2015 Playground & Court Improvements	\$ 611,000.00	\$ 25,000.00			
Change Order Award	6/8/2016	TR 15005	Structural Repairs on Bridges Citywide	\$ 741,920.00	\$ 133,545.60			
Award	7/27/2016	TR 15021 R	Citywide Signing for Parking Restrictions	\$ 1,805,080.00	\$ 91,000.00			
			<b>Total for 6/10/2015 thru 8/10/2016</b>		<b>\$ 394,445.60</b>	<b>\$ 288,000.00</b>	<b>6/10/2015-8/10/2016</b>	Shortfall
Award	8/10/2016	TR 16010	Structural Repairs on Bridges Citywide	\$ 824,530.00	\$ 215,000.00			
Award	11/30/2016	ER 4097	Watershed 263 Phase 3 & 4 Repair Western Run	\$ 406,477.00	\$ 57,000.00			
Award	3/1/2017	TR 11319	Jones Falls Trail Phase V	\$ 9,442,752.00	\$ 560,017.60			
Award	4/26/2017	RP 17801	FY-16 Playground Improvements	\$ 719,200.00	\$ 57,600.00			
Change Order Award	9/20/2017	TR 16010	Structural Repairs on Bridges Citywide	\$ 41,440.00				
Award	9/27/2017	TR 17007	Structural Repairs on Bridges Citywide	\$ 767,410.00	\$ 176,000.00			
Change Order Award	10/25/2017	TR 15021 R	Citywide Signing for Parking Restrictions	\$ -				
Award	4/25/2018	RP 17817	Skatepark of Baltimore Phase III	\$ 1,748,200.00	\$ 101,000.00			
Change Order Award	6/6/2018	TR 15021 R	Citywide Signing for Parking Restrictions	\$ 1,327,458.00	\$ 66,372.90			
			<b>Total 8/10/2016 thru 8/10/2018 (2 yr review)</b>		<b>\$ 1,232,990.50</b>	<b>\$ 1,044,000.00</b>	<b>8/10/2016-8/10/2018</b>	Shortfall
Change Order Award	8/15/2018	TR 17007	Structural Repairs on Bridges Citywide	\$ 573,672.00	\$ 131,370.89			
Award	7/24/2019	TR19009	Structural Repair Citywide JOC	\$ 1,494,700.00	\$ 300,025.00			
			<b>Total for Fiscal 2018-2020 (2 Year prequal)</b>		<b>\$ 431,395.89</b>		<b>Not Prequalified</b>	Shortfall
Pending Award		TR 19017	Potential Award	\$ 6,383,300.00	\$ 574,407.00			
			<b>Total for Fiscal 2020-2022 (2 Year prequal)</b>			<b>\$ 360,000.00</b>	<b>1/15/2020</b>	Shortfall

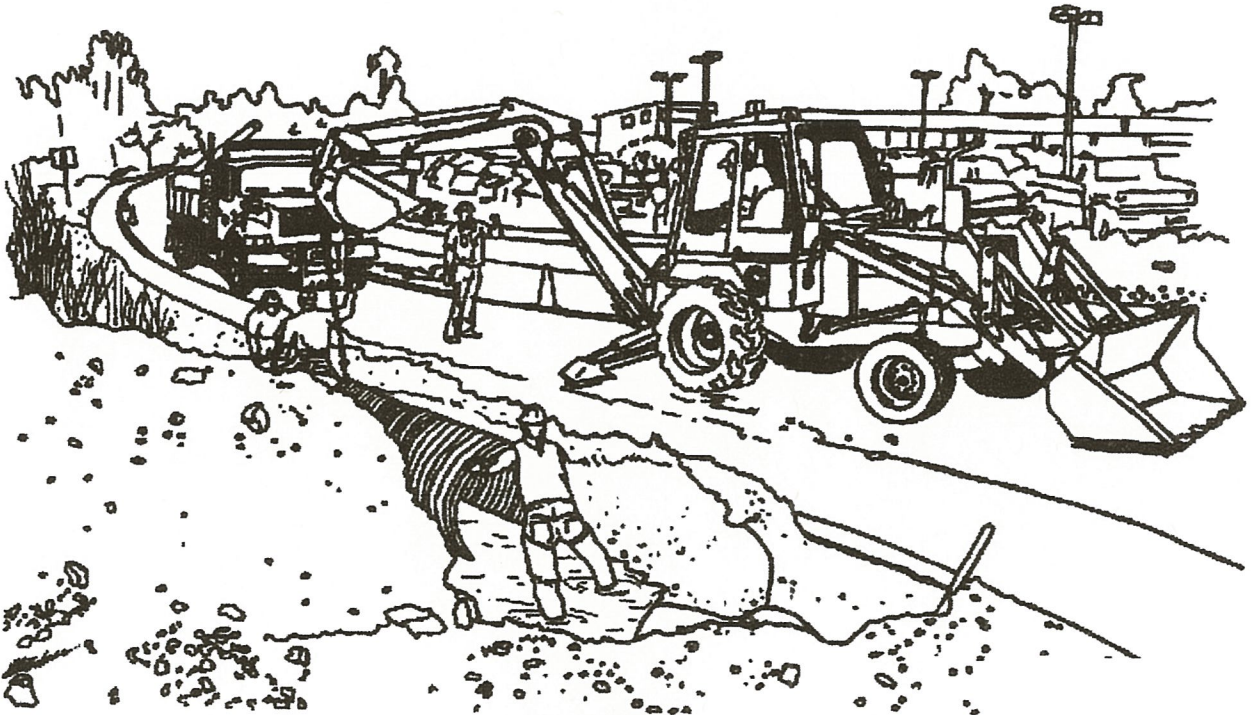
EXH-1



**CITY OF BALTIMORE  
DEPARTMENT OF PUBLIC WORKS**

# **Specifications**

**Materials, Highways, Bridges,  
Utilities, and Incidental  
Structures  
2006**



**Stephanie Rawlings-Blake, Mayor**  
*City of Baltimore*

waived. The City shall ascertain the facts and make the adjustment for extending the completion date as in its judgment the findings justify.

#### **00 21 13.17 BID AND PAYMENT FOR WORK**

- A. Unit prices: The Contractor shall Bid and accept a "unit price" for each of the unit price items in the Bid. The price per unit shall be multiplied by the estimated quantity for each item to tabulate the total estimated price for these items. This total price shall be added to the "lump sum" price items in the Bid to arrive at a Bid total for comparison of Bids and award of Contract.
- B. Lump Sum Prices: The Contractor shall Bid and accept a "lump sum" price for each of the "lump sum" items in the Bid. "Lump sum" prices constitute full payment for all Work called for under these items. Any alterations in the Plans and/or Specifications included in such "lump sum" prices which cause increased cost, or results in decreased cost to the Contractor, shall be paid for by the City, or credited to the City, in accordance with 01 26 10.

#### **00 21 13.18 TAXES – RESPONSIBILITY FOR PAYMENT AND EXEMPTIONS**

- A. The Contractor is responsible for and, by submitting a Bid, agrees to pay all retail sales tax, income tax, real estate tax, use tax, transportation tax, special taxes and any other taxes applicable to and assessable against any labor, materials, equipment, processes, and/or operations incident to or involved in the Work. The Contractor is responsible for ascertaining and acquainting itself with such taxes and making all necessary arrangements to pay same.
- B. Contractors and Subcontractors should include the Maryland Sales and Use Taxes on all purchases. The Contractor will be required to pay the taxes on all purchases and can recover it only as part of its Bid.

#### **00 21 13.19 COLLUSION AMONG BIDDERS**

- A. An affidavit certifying anti-collusion activities of the Contractor is included with the Bid form and made a part thereof.
- B. The Contractor agrees that any violation of any of the representations contained in the foregoing affidavit shall constitute a breach of said Contract, and the City's remedies for any such breach as provided in the Contract Documents shall be in addition to and not in lieu of any other remedies or penalties provided or allowed by law or equity.

#### **00 21 13.20 PRE-QUALIFICATION OF CONTRACTORS AND SUBCONTRACTORS**

- A. All Contractors and Subcontractors desiring to Bid on, or subcontract for, work for this Standard (Bid) under the jurisdiction of the City of Baltimore and whose Bid or Contract amount will be twenty-five thousand dollars (\$25,000.00) or more, will be required to be pre-qualified for work categories involved. All Contractors bidding on this standard must first be pre-qualified by the City of Baltimore Contractors Qualification Committee.

RAILROAD GRADE SEPARATION	The term "railroad grade separation" shall mean any overpass or underpass which shall eliminate any railroad grade crossing, and shall embrace the overpass and underpass structure and the approaches thereto, and such entrance plazas, interchanges, connecting highways and other structures which the City may deem necessary in connection therewith, together with all property, rights, easements, franchises and interests acquired by the City for the construction and operation of such railroad grade separation.
RELEASE OF RETAINAGE	Full Retainage is released, at the City's sole discretion, upon Final Acceptance of the project. Partial release of retainage may occur prior to release of the final payment at the City's discretion.
REQUEST FOR INTERPRETATION (RFI)	Request for additional information and/or clarification of the Contract Documents by the Contractor, Design Consultant, or City.
RESPONSIBLE BIDDER OR OFFEROR	A person who has the capability in all respects to perform fully the Contract requirements, and the integrity and reliability which shall assure good faith performance.
RESPONSIVE BIDDER	A person who has submitted a Bid under procurement by competitive sealed bidding which conforms in all material respects to the requirements contained in the Invitation for Bids.
RETAINAGE	The sum withheld from progress payment. The Contract value of Work satisfactorily performed during the preceding calendar month will be paid to the Contractor, less 10%, subject to other provisions of the Contract Documents. When such ten percent (10%) retainage amounts to five percent (5%) of total Contract value, plus authorized extras and additions, no further retainage will be deducted from the monthly payments due the Contractor if the City, in its sole discretion, deems the Contractor's performance up to that point satisfactory. The five percent (5%) retainage will not be released until final payment (unless partially released in a semi-final payment). When the amount earned during any one (1) month period, less the appropriate retained percentage, shall be less than five hundred dollars (\$500.00), no payment will be made except on the last current estimate, until the last preceding payment is at least five hundred dollars (\$500.00).
RIGHT-OF-WAY	The area, which has been acquired and reserved by the City for use in constructing the proposed improvement and appurtenances thereto.

of money, nor any payment for nonacceptance of the whole or any part of the Work by the City or the Engineer, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any portion of the Contract Documents or of any power herein reserved by the City, or any right to damage herein provided, nor shall any waiver of any breach of the Contract Documents be held to be a waiver of any other or subsequent breach.

**00 73 81 SUB-LETTING OR ASSIGNING OF CONTRACT**

- A. The Contractor shall give its personal attention constantly to the faithful performance of the Work, shall keep the same under its own control, and shall not assign the Contract by power of attorney or otherwise, nor sublet the Work or any part thereof, without the previous written consent of the Engineer. The Contractor shall state to the Engineer, in writing, the name of each Subcontractor it intends employing, the portion of the Work which each Subcontractor is to do, their place of business and such other information as the Engineer may require, in order to know whether such Subcontractors are reputable and reliable, and able to perform the Work or to furnish the materials as called for in the Specifications. Only Subcontractors pre-qualified in accordance with 00 21 13.20 shall be allowed at the Work area or allowed to furnish labor. A Subcontractor may not sublet Work assigned to it.
- B. The Contractor shall perform with its own organization, Work amounting to not less than fifty-one percent (51%) of the remainder obtained by subtracting from the total original Contract value the sum of any items designated in the Contract as "specialty items" and/or MWBOO requirements.
- C. The Contractor shall not, either legally or equitably, assign any of the monies payable under the Contract, or its claims thereto, unless by and with the like consent of the Engineer.
- D. The Contractor shall not be released from any of its liabilities or obligations under its Contract should any Subcontractors fail to perform in a satisfactory manner the Work undertaken by them.
- E. The Contractor agrees that it is as fully responsible to the City for the acts and omissions of its Subcontractors, suppliers, consultants, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of those directly employed by it.
- F. Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the City.
- G. No Subcontractor will be considered for approval, unless the Contractor submits the Maryland State License Number of the Subcontractor. The Contractor's attention is hereby directed to 01 41 26 "Permits, Licenses, Charges and Notices", in the general conditions.
- H. All Subcontractors on this project must be pre-qualified by the City of Baltimore in accordance with the procedures adopted by the Board of Estimates.
- I. If a payment and performance Bond is required by the Contractor, the cost of such bond will be paid for by the Contractor.

- J. All proposed Subcontractors must submit a Work Capacity Statement prior to beginning Work on the project.

**00 73 82 CONTRACT TIME FOR COMPLETION OF THE WORK**

- A. The Contractor accepts this Contract with the understanding and intention to perform fully, entirely and in an acceptable manner the Work contracted for within the time stipulated in the Bid, accounting from the date provided for in 00 55 00.01, "Notice to Proceed and Prosecution of Work". The Contract time is on a Calendar Day basis and it shall consist of the number of consecutive Calendar Days stated in the Contract, including all Sundays, holidays, and non-work days. Time is of the essence of this Contract.
- B. The Contractor shall complete the Work in the number of Calendar Days indicated in the Bid Book and Contract Documents, if subsequently amended by Change Order, or shall be considered in default under the terms of the Contract. If the Contractor is so considered in default, then Contractor and its Surety shall then be required to pay the City an amount/sum equal to the daily amount of liquidated damages as specified in the Contract multiplied by the number of days the Work remained incomplete past the approved Contract completion date. The parties mutually acknowledge and agree that the amount/sum stipulated in the Contract as liquidated damages is based on a reasonable forecast of the damages the City would incur on a daily basis as a result of the Work not being completed by the approved Contract completion date, and is not intended to be nor shall it be construed by either party to be a penalty for late completion of the Work. This amount/sum will be deducted from the monthly and/or final payments on the Contract, unless such time extension and/or waiver of liquidated damages is approved by the City and the Board of Estimates. The decision of the Board of Estimates shall be final, conclusive and binding upon the Contractor.
- C. Any Contractor wishing to extend the number of Calendar Days of its Contract shall make written application thereof, in writing, addressed to the Engineer within ten (10) days after the occurrence of the event for which such allowance is claimed, or be deemed to have forever and unconditionally waived and released any such time extension request, claim and/or costs and expenses arising out of or relating to any such actual or alleged delay.
- D. If the beginning or prosecution of the Work shall be delayed or suspended in consequence of any act or omission of the City, and not by any fault of the Contractor, then subject to other provisions of the Contract Documents, the time for completion of the Work shall be increased by a period of time equal to the aggregate actual time, expressed in Calendar Days and parts of days during which the beginning or prosecution of critical path Work has been so delayed or suspended.
- E. No allowance shall be made for delay or suspension of the prosecution of the Work due to the fault of the Contractor.
- F. Notwithstanding any other provisions of the Contract Documents, Contractor agrees that in no event shall it make a claim or other demand against the City for any delay, disruption or hindrance to the prosecution of the Work unless Contractor is subjected to a complete and full work stoppage resulting in a continuous delay, disruption or hindrance in the prosecution of critical path Work of forty-five (45) days or longer due to causes beyond its fault or control, in whole or in part. In the event a Contractor actually experiences a delay,

THE LAW OFFICES  
OF

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BISHOP L. ROBINSON JR., LLC

---

8550 TIMBERLAND CIRCLE  
ELLCOTT CITY, MARYLAND 21043

Offices 410-750-7787

Mobile 410-916-2282

Fax 410-750-9237

Practicing in MD and D.C.

April 6, 2020

Honorable President and  
Members of the Board of Estimates  
204 City Hall  
100 N. Holiday Street  
Baltimore, MD 21202

Honorable Board Members:

Re: Protest filed by Highlander Contracting Company LLC, against Allied Contractors, Inc., Regarding the Award of TR.-19017 — Conduit System Reconstruction

Contents

Attorney Appearance  
Allied Contractors, Inc. Background  
I. Reply to Highlander Assertions  
II. Allied's Request for a Preliminary Determination  
III. Allied's Response to Highlanders Protest  
Summary  
Request for Relief  
Exhibits, Attachments and Affidavits

Appearance

I represent Allied Contractors, Inc. (herein Allied). In the event that Highlander Contracting, LLC (herein, Highlander) intends to proceed with its protest we intend to defend the recommended award of TR-19017 to Allied. I wish to note my appearance on behalf of Allied Contractors, Inc., my client. See Notice of Entry, Attachment A.

It is the position of Allied that there is no reason for this award to be delayed any further. Allied's bid was responsive and responsible. Further, Allied was the lowest bidder when the bids were opened on October 30, 2019. Yet, Allied awaits its award from the City.

It is our contention that the award has been delayed by numerous unfounded allegations and presently a protest of the award from Highlander through its attorney, Mr. Robert Fulton Dashiell, Esquire.

## Allied Contractors, Inc.' Background

Allied is a company with an impeccable reputation during the time it has been in operation-since (1944) and incorporated in 1947. The City has awarded numerous contracts to Allied over this span of years. All have been completed satisfactorily for the City. Allied's Baltimore City work evaluations over the past two quarters reveal a near perfect rating in all areas, including performance and safety. See exhibit I a.b.c.d.

Allied takes extreme pride in its projects. One example is observed by City employees and other citizens each day that they come to City Hall, War Memorial Plaza. See attachment B. Also see Allied's website at [www.alliedcontractor.com](http://www.alliedcontractor.com).

### 1. ALLIED'S REPLY

#### Pre-Award and Notice of Protest Complaints by Highlander

Mr. Dashiell has filed several complaints with several City agencies involving prior work that were awarded and completed by Allied. Mr. Dashiell's complaint alleges that:

A. Allied's MBE subcontractor, J.M. Murphy Enterprises (JMM) has performed jobs for amounts in excess of their pre-qualified amounts. The aggregate amount of work that Mr. Dashiell complains of occurred between 2014 and 2019. See Mr. Dashiell's exhibit 1 , attached to his Notice of Protest, dated March 9, 2020.

Reply: Highlander's exhibit 1, a spreadsheet that is not titled, not dated and does not provide the source of the document on the spreadsheet or in the text of the written protest. Nor is the contact information for the custodian of this document disclosed. From Allied' s analysis, this document is not accurate or reliable.

In addition, the spreadsheet contains inaccurate entries, including listing JMM as the MBE subcontractor when another MBE was the subcontractor, overstating the amount received, and listed jobs that JJM was not on the contract at all. See entries for RP-15816, TR-15005 (change order), TR-17007 and TR-17007 (change order). There are other contracts which were actually someone else's, contract. Allied requests verification of the spreadsheet.

To Allied's knowledge, no job was performed above JMM' s pre-qualification limit. Highlander's spreadsheet does not evidence that Allied and JMM violated MBE participation regulations and it does not prove that JMM exceeded prequalified limits for the work performed. In fact, the opposite was confirmed by the City.

In a letter dated March 4, 2020, Ms. Brenda Simmons, Baltimore City Contract Administrator stated that the Department of Transportation investigated JMM' s prequalification status at the time JMM began work on the Allied jobs and found JMM was qualified each time he began work See exhibits 2 a, b, c. and exhibit 3.

Conclusion: Highlander's allegation is false.

B. Mr. Dashiell alleges in a February 8, 2020 letter that JMM's employees were actually more regularly employed by Allied and were violations of the Green Book, MBE regulations. Secondly, Highlander alleges that certified payroll reports, submitted by JMM were actually employees of Allied.

Reply: The Baltimore City Contract Administrator addressed the issue B above in a letter dated February 28, 2020 to Mr. Dashiell. Paraphrasing Ms. Simmons, her findings after investigation were that Dashiell' s suspicions were not founded and that these allegations never existed and are not present today.

This letter also dated February 28, 2020 from the Chief of Contract Administration, Ms. Simmons disposed this matter too. JMM's work capacity limit was being addressed and that Allied would also address this matter before JMM commenced work on TR-19017. See exhibits 2 c.

In the same letter of the same date, it was stated that no evidence was found of shared employees between Allied and JMM. See exhibit 2 c.

Conclusion: Though the City performed several investigations of Allied and JMM, no evidence was found that could supported Highlanders false accusation(s) of any violations or wrongdoing.

The Board of Estimates is not the forum where past contract behavior should be considered for determining an award of the subject contract recommended for award to Allied. Highlander's protest does not prove that Allied's bid is unresponsive or non-responsible.

Examples of such non-responsibility would be, if: 1. Allied does not meet minimum requirements, 2. that Allied is unable to perform the work at the price it submitted, 3. that the City evaluation failed to give Highlander fair consideration, or 4. that the IFB/RFB contained unfair changes during the solicitation period. Highlander makes no complaint concerning the bid



that Allied submitted to the City for the award of this contract, for instance, non-responsive, like any failure on the part of Allied to submit a bid that does not conform to all the requirements of the solicitation.

Instead, Highlander complains of misconduct during periods before TR19017 was let and pertaining to prior contracts. The issue that Highlander raises concerning other prior contracts are unrelated to TR-19017. It is the present contract that is before the BOE.

Therefore, these allegations are ultra vires to the City BOE award process, for which use of prior contract incidents (alleged to have happened, but not proven ) are beyond the scope of the BOE for Highlander's protest opposing the recommended award to Allied. See exhibits 2a, indicating that the award should be made to Allied.

## **II.. ALLIED REQUESTS A PRELIMINARY DETERMINATION BY THE BOARD OF ESTIMATES PRIOR TO THE AWARD AND PROTEST HEARING BEING CONSIDERED**

The purpose for requesting this is for the Board to determine whether Highlander's protest is "proper?" See Protest Regulations II, Baltimore City Board of Estimates Regulations on Procurement, Protests, Minority and Women-Owned Business Enterprise, Debarment/Suspension (effective July 1, 2019). See the relevant sections below:

- C — 3. Whether the issues brought before the Board are germane,
- D 1. Notification of Speakers who wish to address the Board: D - 2, a c. Whether the protest is proper?

Allied objects to Highlander's transparent attempt to hijack this award hearing into a de facto debarment proceeding against Allied and JM Murphy which is prohibited under Maryland Law. Instead, adequate notice and a formal hearing before a neutral administrative tribunal is required before the question can be considered. See Associated Building Maintenance Co, Inc. v. DGS, MCA, No 3130,MD.BCA, August 28, 2019. see also Warwick. v. DOT, 61 Md. App 239 (1985).

Allied requests time for the following persons to speak before the Board

- Douglas K. Franz. Vice President of Allied. (testimony)
- Daljit Makar, Vice President of Allied. See Affidavit 1
- Jesse Murphy, President of J.M Murphy Enterprises See Affidavit 2
- Saiquan Branch

### III. ALLIED RESPONSE TO HIGHLANDER'S PROTEST OF THE CONTRACT

#### AWARD TR-19017

Allied submits the following defenses/denials to the alleged misconduct stated in Mr. Dashiell's Notice of Protest, dated March 9, 2020. Highlander alleges:

- A. Highlander alleges: That Highlander Contracting Company, Inc. was the lowest responsible bidder.

Denied: See exhibit 4.

- B. Highlander alleges: Allied is not a responsible bidder. Highlander agrees a responsible bidder as "one who has the capability in all respects to perform the contract which includes: integrity and reliability to assure good faith performance. ". (00 23 00. 01).

Denied: See exhibit 2 a,b,c.

- C. Highlander alleges: That Allied repeatedly violated the terms of the Green Book and is not a responsible bidder.

Denied: There is no finding that supports this in Allied records or those of the City. Allied has never been fined, suspended or debarred during the 50 years of performing work under contract with the City.

- D. Highlander alleges : JM Murphy Enterprises a minority subcontractor utilized on Allied contracts since 2014.

Admitted in Part: JMM is not the only MBE subcontractor. Allied uses other MBE and WBE subcontractors. Allied uses; Priority Construction, Guard Rails Etc. and M & F Contractors, to name a few.

- E. Highlander alleges: Before BOE can award the contract to Allied, JMM must be fully prequalified for the subcontractor amount in Allied bid.

Denied: Mr. Dashiell's spreadsheet on its face evidences that JMM was prequalified for all periods of time referred to in his document. Must submit a work capacity statement and be prequalified before JMM commences of the work. (013.20 B 21 and 00 73 81 A, H and J).

- . As of March 12, 2020, JMM was pre-qualified for \$1,500,000.00 which exceeds the \$575,000.00 of subcontract work on TR-19017 when awarded to Allied. The City approved all of JMM's work and he was in compliance for all work that was accurately stated in Highlander's spreadsheet.

Work capacity is derived from a contractor's submission of financial documents submitted to the Office of Boards and Commissions (OBC). The OBC calculates and determines the Work Capacity Rating for contractors and subcontractors.

The OBC then assigns the minimum and maximum work capacity to the contractor. At 6.8. see RULES FOR QUALIFICATION OF CONTRACTORS, PERFORMANCE EVALUATIONS OF CONSTRUCTION CONTRACTORS AND CONSULTANTS AND PROCEDURES See 6.0. u seq.

In some situations, the contracting agency may waive the capacity rating as a requirement on a particular project provide the firm is able to obtain the appropriate performance bond. see Id @ 6.8.

In cases where the capacity rating is insufficient under Rules 6.1 and 6.2, a prime contractor and/or subcontractor may be permitted to commence work if a specific guarantee of the contractor's specific work is furnished by the contractor's guarantor as long as the guarantor is approved by the OBC and the Law Department of Baltimore City. See Id at 7.0 et seq.

Therefore, the decision to waive capacity rating and allow work to proceed is under the authority of the contracting agency. The contractor is not required to submit a work capacity statement.

2. Highlander alleges: Allied must make a request to do so.

Denied: The work that Highlander complains of was awarded and completed by Allied, JMM and many other MBE and WBE's. If these issues were true, the time to file a claim or dispute would have been within 10 calendar days after the violation, in writing, be inserted in the Project Log and copied to the Engineer. See Green Book@ 00 73 84, et seq.

There are no such claims filed by on previous contracts, awarded to Allied nor with ongoing contracts presently being performed by Allied and its subcontractor JMM, nor its many other subcontractors. The above issue(s) are moot as well as irrelevant to the present contract at issue.

3. Highland alleges: JMM must have consent from Allied's surety per the Green Book @ 00 51 00.08B.

Denied: A Subcontractor is not required to be qualified until he commences work. See Green Book@ 00 21 13.20 B1. The TR-19017 contract has not been awarded, pending Highlander's protest. Work has not begun. Therefore, no consent is required at this time.

4. Protestor's Exhibit 1 spreadsheet is relied on by Highlander to prove the above.

Denied: The past (prior contracts) are not relevant to the present one being protested by Highlander.

F. Highlander alleges: That based on information and belief JMM was permitted to enter upon worksites without approved prequalification on each of and all the prior Allied contracts.

Denied: Highland brings forth no admissible evidence (affidavit, photograph, etc.) that is factual pertaining to any prior contract. The standard for proof of this allegation is higher than information and belief (Highlander has produced no admissible evidence to support its information and belief). Lack of evidence makes this assertion a mere assertion.

Highlander implies that Allied and JMM will apply the same behavior if awarded a future contract. This is speculation and cannot be proven by Highlander at this time, given that the subject contract of Highlander's protest has not been awarded to Allied and that work has not commenced.

G. Highlander alleges: Due to Allied and JMM's previous contract violations of prequalification and Allied's supposed, but unproven collusion with JMM employee that the Board of Estimates should not approve the award off TR-19017 to Allied. Allied should be declared a "nonresponsible bidder and that JMM is not prequalified. Therefore, the contract should be awarded to Highlander.

Denied: The protest above by Highlander is a completely inappropriate predicate for the BOE to entertain in deciding whether to award TR- 19017 to Allied, because it relies on unproven assertions that Allied and JMM violated the Green Book and speculation that Allied and JMM will repeat the asserted behavior if awarded TR-19017.

Allied is and has been both a responsive and responsible bidder. See exhibits 2 a, b c and 3 and 4.

H. Asserted by Allied: Finally, Highlander through its notice of protests repeatedly names JMM as a party to all of the misconduct that is alleged. If Highlander protest JMM then Highlander has failed to join JMM an indispensable party in its protest per MD Rule 2-211. This is because complete relief cannot be achieved by singularly protesting Allied since JMM is pre-qualified for the TR-19017 contract if it is awarded to Allied. Therefore, JMM has a property right to work that it is qualified to perform under the responsive and responsible bid recommended for approval and award to Allied.

## SUMMARY

Allied vehemently opposes the use or discussion of unproven conclusions stated above or testimony by any witness testifying to the same. Allied objects as well to the introduction of unverified documents supporting Highlander's argument(s) protesting the recommended award to Allied. Allied asks the BOE to consider this declaration a "continuing objection or exception" to the use of any false or unproven evidence herein.

If any additional information or evidence is required including:(1) Documents, letters, e-mails from City or Allied, etc., (2) Witness testimony from Allied and J.M. Murphy or others who were involved in any matter, or .anything else, please do not hesitate to contact me using the information on the letterhead above.

## RELIEF REQUESTED

Allied requests a preliminary determination (before the award hearing) to discuss whether Highlander's protest is "proper." All of Highlanders allegations have been investigated and addressed by Baltimore City and found to be unsubstantiated. Allied would also request that the BOE determine what evidence or nonevidence can be used by Highlander to support its protest.


Allied asserts that Highlander's protest is not proper and without merit. Therefore. the protest should be dismissed by the BOE.

In order to prevent further delay of city work. Allied Contractors, Inc. requests and prays that the award for TR-19017 be approved and awarded to Allied.

Respectfully submitted,

  
Bishop L. Robinson, Jr.

I HEREBY CERTIFY this bth day of April 2020, a copy of the above ALLIED REPLY TO HIGHLANDER'S PROTEST TO BALTIMORE CITY'S AWARD OF TR-19017 TO ALLIED was served by; US Regular mail/return  receipt requested , hand delivered , or e-mailed , facsimile , on Protestor's Attorney, Mr. Robert Fulton Dashiell Esq. at 1726 Whitehead Road, Woodlawn, MD 21207.

  
Bishop L. Robinson, Jr.,  
Attorney for Respondent  
8550 Timberland Circle  
Ellicott City, MD 21043  
410-750-7787 office  
410-9162282 mobile  
410-750-9237 fax  
lawblrllc@comcast.net e-mail

# **Attachments Exhibits and Affidavits**

Attachment A

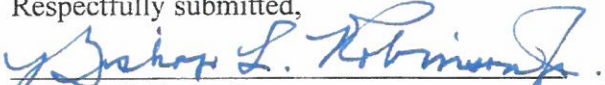
<b>Highlander Contracting Company, LLC</b>	*	Before the Board of Estimates
2401 Stringtown Road	*	For
Sparks, Maryland 21152	*	
Protestor	*	<u>Baltimore</u> City
v.	*	
<b>Allied Contractors, Inc.</b>	*	Protest Contract # <b><u>Tr-19017</u></b>
204 East Preston Street	*	
Baltimore, Maryland 21202	*	
Respondent	*	

\*\*\*\*\*

Dear Clerk,  
Ms. Harriett Taylor  
Rm. 204 City Hall  
100 N. Holiday Street  
Baltimore, MD 212202


**ENTRY OF APPEARANCE**

Please enter the appearance of the Law Offices of Bishop L. Robinson, Jr., LLC as counsel for Protestor, Allied Contractors, Inc. in the above matter.

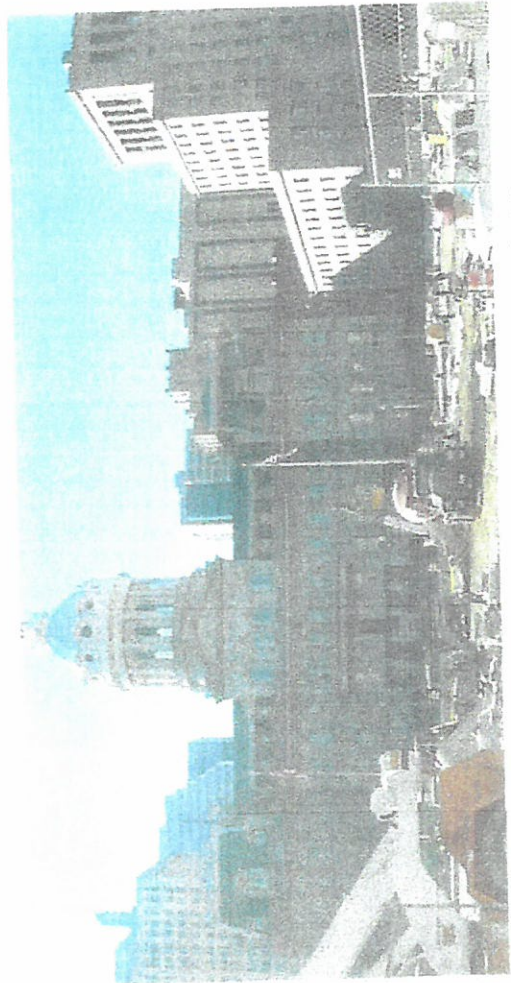
Respectfully submitted,  
  
Bishop L. Robinson, Jr.,  
Attorney for Respondent  
8550 Timberland Circle  
Ellicott City, MD 21043  
410-750-7787 office  
410-916-2282 mobile  
410-750-9237 fax  
[lawblrllc@comcast.net](mailto:lawblrllc@comcast.net) e-mail

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of April, 2020, a copy of the above ENTRY OF APPEARANCE was served by; US Regular mail/return receipt requested, , hand-delivered , or e-mailed , facsimile , on Protestor's Attorney, Mr. Robert Fulton Dashiell, Esq. at 1726 Whitehead Road, Woodlawn, MD 21207.

  
Bishop L. Robinson, Jr.,  
Attorney for Respondent  
8550 Timberland Circle  
Ellicott City, MD 21043  
410-750-7787 office  
410-916-2282 mobile  
410-750-9237 fax  
[lawblrllc@comcast.net](mailto:lawblrllc@comcast.net) e-mail

Attachment B

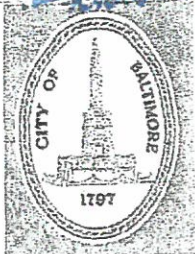


Allied Contractors, Inc. installing War Memorial Plaza at Baltimore's City Hall.



Exhibit 1 a

CITY OF BALTIMORE  
BERNARD C. "JACK" YOUNG, Mayor



DEPARTMENT OF TRANSPORTATION

Steve Sharkey, Director  
417 E. Fayette Street, 5<sup>th</sup> Floor  
Baltimore, Maryland 21202

Via U.S. Certified Mail

Date: January 31, 2020

Richard F Pecora, Esq  
President  
Allied Contractors, Inc.  
Prestway Building  
204 E Preston Street  
Baltimore, MD 21202

RE: Contracts for City of Baltimore – Structural Repairs on Bridges Citywide JOC 2 TR-19009

Dear: Mr. Pecora,

Enclosed for your review please find a Quarterly evaluation for the 2<sup>nd</sup> Quarter FY 2020 of your Firm's performance in Contract No Structural Repairs on Bridges Citywide JOC 2 TR-19009

As indicated by the evaluation, your firm's work on the referenced project has been rated:

- Excellent (90 – 100)
- Good (77 – 89)
- Marginal (70 – 76)
- Unsatisfactory (69 or less)
- N/A

If you disagree with this rating, within ten days (10) of the date on this letter, you may appeal in writing to:

Kevin Carter  
Construction Project Supervisor I  
DOT, TEC Division  
417 East Fayette Street, 7<sup>th</sup> Floor  
Baltimore, MD 21202

Consultants and/or Contractors who object to any Interim or Final Project Rating may appeal to the Bureau Head/Division Chief/Office Chief, or such person's designee ("Appeal Evaluator") in writing within ten (10) days of receipt of the rating whether an Interim or Final Project rating. If no written appeal is received within the time required by these rules, the contractor/consultant will be deemed to have waived its right to review of the rating. The Appeal Evaluator shall render a written decision within thirty (30) days from the receipt of an appeal. The decision regarding an appeal of a rating is final. The final rating will be entered into your Firm's record maintained by the Office of Boards and Commissions. Ratings may be used to determine your Firm's qualification to do business with the City of Baltimore.

1. 2020

Exhibit 1 to conf'd

Should you have any questions, please do not hesitate to contact us. This correspondence is made with an express reservation of all of the City's rights, remedies, and defenses, whether at law or in equity.

Very truly yours,



Kevin Carter  
Construction Project Supervisor I

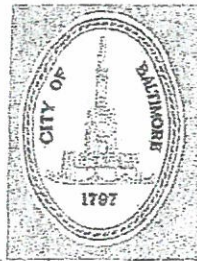
cc Bimal Devkota (DOT, TEC Division)  
Brenda Simmons (DOT, Contract Administration)  
Sections Chiefs (DOT, TEC Division)  
Deena Joyce (DPW, OBC)  
Latoya Gross (DPW, OBC)

2 - 2020

Exp/Art 115

CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG, Mayor



DEPARTMENT OF TRANSPORTATION

Steve Sharkey, Director  
417 E. Fayette Street, 5<sup>th</sup> Floor  
Baltimore, Maryland 21202

Via U.S. Certified Mail

Date: August 06, 2019

Richard F. Pecora, Esq  
President  
Allied Contractors  
Prestway Building  
204 E Preston Street  
Baltimore, MD 21202

Request for  
RIR

RE: Contracts for City of Baltimore – TR-17007 Structural Repairs on Bridges Citywide JCO2

Dear: Mr. Pecora,

Enclosed for your review please find a Quarterly evaluation for the 4<sup>th</sup> Quarter FY 2019 of your Firm's performance in Contract No TR-17007 Structural Repairs on Bridges Citywide JCO2

As indicated by the evaluation, your firm's work on the referenced project has been rated:

- |                                     |                             |
|-------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> | Excellent (90 – 100)        |
| <input type="checkbox"/>            | Good (77 – 89)              |
| <input type="checkbox"/>            | Marginal (70 – 76)          |
| <input type="checkbox"/>            | Unsatisfactory (69 or less) |
| <input type="checkbox"/>            | N/A                         |

If you disagree with this rating, within ten days (10) of the date on this letter, you may appeal in writing to:

Kevin Carter  
Construction Project Supervisor I  
DOT, TEC Division  
417 East Fayette Street, 7<sup>th</sup> Floor  
Baltimore, MD 21202

Consultants and/or Contractors who object to any Interim or Final Project Rating may appeal to the Bureau Head/Division Chief/Office Chief, or such person's designee ("Appeal Evaluator") in writing within ten (10) days of receipt of the rating whether an Interim or Final Project rating. If no written appeal is received within the time required by these rules, the contractor/consultant will be deemed to have waived its right to review of the rating. The Appeal Evaluator shall render a written decision within thirty (30) days from the receipt of an appeal. The decision regarding an appeal of a rating is final. The final rating will be entered into your Firm's record maintained by the Office of Boards and Commissions. Ratings may be used to determine your Firm's qualification to do business with the City of Baltimore.

1 2019

Exhibit 10 ~~conf'd~~

Should you have any questions, please do not hesitate to contact us. This correspondence is made with an express reservation of all of the City's rights, remedies, and defenses, whether at law or in equity.

Very truly yours,



Kevin Carter  
CPS I

cc Bimal Devkota (DOT, TEC Division)  
Brenda Simmons (DOT, Contract Administration)  
Sections Chiefs (DOT, TEC Division)  
Deena Joyce (DPW, OBC)  
Latoya Gross (DPW, OBC)

2 2019

Exhibit 2a

City of Baltimore  
Bernard C. "JACK" YOUNG, Mayor



DEPARTMENT OF TRANSPORTATION  
Steve Sharkey, Director  
417 E. Fayette Street, 5<sup>th</sup> Floor  
Baltimore, Maryland 21202

March 4, 2020

Robert Dashiell, ESQ. P.A.  
1726 Whitehead Road  
Baltimore, Maryland 21207

**Re: TR19017 Conduit System Reconstruction at Various Locations**

Dear Mr. Dashiell,

This letter is written in response to your e-mail dated March 2, 2020. As outlined in our letter dated February 28, 2020, the Department of Transportation's position is to move forward in awarding Contract TR19017 Conduit System Reconstruction at Various Locations, to the lowest, responsive and responsible bidder, Allied Contractors, Inc. The Department investigated the prequalification status of the Murphy firm at the time it began work on the Allied jobs referenced in your earlier letter. The Department did not see any evidence that Murphy started work at a time that it was not prequalified. We appreciate you bringing your concern to the attention of the Department. The Department will remind primes that all their subs must be prequalified at the time they start work and must remain prequalified for the duration of their time on the job. Prior to award, the Department has procedures in place to validate the contractor's submission i.e. confirming prequalification with the Office of Boards and Commission, SDAT, SAMS, MWBOO, etc. to validate if a contractor is the lowest, responsive and responsible bidder and we will continue that practice.

Thank you again for the opportunity to review these concerns.

If you have any questions or concerns, please contact me immediately at 410-396-6815 or email me at [Brenda.Simmons@baltimorecity.gov](mailto:Brenda.Simmons@baltimorecity.gov).

Sincerely,

A handwritten signature in cursive script that reads "Brenda Simmons".

Brenda Simmons, Chief  
Contract Administration

Exhibit 2-6

DOUGLAS K. FRANZ  
VICE PRESIDENT, C.F.O.

J. Jay Pecora, P.E.  
(1917-2007)

Anne K. Pecora, Esq.  
(1946-2008)

Alfred J. Simpson  
(1948-2007)

PUBLIC WORKS  
COMMERCIAL  
INDUSTRIAL

RICHARD F. PECORA, ESQ.  
PRESIDENT

ANDREW J. PECORA  
VICE PRESIDENT, ASLA

# ALLIED CONTRACTORS, INC.

GENERAL CONTRACTORS

OFFICES: PRESTWAY BLDG., 204 E. PRESTON ST.  
BALTIMORE, MD 21202-3997

YARD: 1700 CHESAPEAKE AVENUE  
Phone 410-539-6727  
Fax 410-332-4594

E-MAIL: allied.contractors@alliedcontractor.com

February 13, 2020

DALJIT S. MAKAR  
VICE PRESIDENT

EDWARD F. JOHN, P.E.  
CHIEF ENGINEER

OF COUNSEL  
ROBIN JOHN PECORA, ESQ

STREETSCAPES - UTILITIES

DREDGING - GUNTING

HISTORIC RESTORATION - BRIDGES

Ms. Brenda Simmons, Chief  
Department of Transportation  
Contract Administration /  
Civil Rights Division  
417 E. Fayette Street  
Baltimore, Maryland 21202

Re: Our Contract No. 8886  
Baltimore City Contract No. TR-19017  
Conduit System @ Various Locations -  
JOC


Dear Ms. Simmons:

We wish to acknowledge your letter dated February 12, 2020 and submit as follows:

1. We have informed the office of J. M. Murphy Enterprises regarding this subject matter. His office has informed us that J. M. Murphy Enterprises shall meet with Boards and Commissions office and do the needful to increase his participation prequalification amount beyond \$575,000.00.
2. However to alleviate any concerns by the City for a timely award to avoid any future delays we are enclosing a duly signed Minority Participation form by Priority Construction Corporation in the amount of \$231,000.00 to substantiate any shortfall which may occur in event Boards and Commissions hesitates to increase the prequalification package of J. M. Murphy to at least \$575,000.00.

We trust that the aforementioned shall suffice to process your award of the referenced project at an early date. In event you have any further questions in this regard please do not hesitate to contact this office.

Very truly yours,  
ALLIED CONTRACTORS, INC.

  
Daljit Makar  
Vice President

Enclosure  
DKF:dmp

FOUNDED 1944

Office Wpdoc1858618860 Subcontract BUILDING & ENGINEERING CONSTRUCTION

Exhibit 2c

City of Baltimore  
Bernard C. "JACK" YOUNG, Mayor



DEPARTMENT OF TRANSPORTATION  
Steve Sharkey, Director  
417 E. Fayette Street, 5<sup>th</sup> Floor  
Baltimore, Maryland 21202

February 28, 2020

Robert Dashiell, ESQ. P.A.  
1726 Whitehead Road  
Baltimore, Maryland 21207

**Re: TR19017 Conduit System Reconstruction at Various Locations**

Dear Mr. Dashiell,

This letter is written in response to your letter dated February 8, 2020, addressed to Tamara Brown. The Department of Transportation (Department) has examined the concerns raised in your letter and offers the following:

1. **Prequalification of J.M. Murphy** – In accordance with the *City of Baltimore Department of Public Works Specifications for Material, Highways, Bridges, Utilities and Incidental Structures (Green Book)* section 00 21 13.20 Prequalification of contractors and subcontractors, subcontractors do not have to be pre-qualified at the date bids are submitted but must be pre-qualified before the subcontractor can begin work. The Department will assist the Subcontractors whenever possible in the pre-qualification procedure. The Department has been in contact with the Office of Boards and Commissions and has been informed that J M Murphy is addressing their work capacity money limit. Additionally, Allied Contractors has assured the Department this matter will be addressed before the subcontracted work is to commence.
2. **Suspicion of Shared Employees Among Allied and J M Murphy** - The Department has been assured by Allied Contractors that at no time has an employee of Allied and/or J M Murphy been working for each company at the same exact time. Additionally, the Department has reviewed all certified payroll reports for the contracts identified on the list that was attached to your letter that included J M Murphy and found no evidence of the concern you raised.

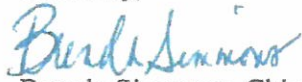
Exhibit 2 C Contd.

TR19017 Robert Dashiell, Esq. P. A.  
February 28, 2020  
Page 2

Thank you for the opportunity to review these concerns.

If you have any questions or concerns, please contact me immediately at 410-396-6815 or email me at [Brenda.Simmons@baltimorecity.gov](mailto:Brenda.Simmons@baltimorecity.gov).

Sincerely,

  
Brenda Simmons, Chief  
Contract Administration

Cc: Tamara Brown



Exhibit 3

CITY OF BALTIMORE  
Department of Transportation



DEPARTMENT OF TRANSPORTATION  
100 North E. Pratt Street  
Baltimore, Maryland 21202  
Tel: 410-396-3000

February 12, 2020

Allied Contractors, Inc.  
204 E. Preston Street  
Baltimore, MD 21202

SUBJECT: TR19017 Conduit Systems Reconstruction @ Various Locations Citywide - JOC

Dear Mr. Franz,

On October 31, 2019, bids for the subject contract were opened and later verified and a determination was made that the bid of Allied Contractors was the lowest bid amount. Further review of Allied's MWBE submission led to the examination of each subcontractor prequalification standing. JM Murphy's prequalification (see attached) is currently valued at \$360,000.00 while the Statement of Intent included in Allied's MWBE package states the value of services to be performed at \$575,000.00, an amount that exceeds JM Murphy's prequalification value.

The City's prequalification Rules require that no subcontractor may commence work if the amount of work to be performed exceeds the subcontractor's assigned work capacity rating. Although each subcontractor does not have to be prequalified until the start of work, the Department needs to be assured that this issue will be cured before JM Murphy commences work. If Allied or JM Murphy need assistance to correct the issue, please contact the Office of Boards and Commissions which is responsible for all matters related to prequalification. If JM Murphy's prequalification issue cannot be cured, then Allied will need to request an appropriately prequalified replacement subcontractor before the work assigned to JM Murphy may commence.

Please provide DOT with a cure plan seven (7) calendar days from the date of this notice. Please forward the plan via email to [Brenda.Simmons@baltimorecity.gov](mailto:Brenda.Simmons@baltimorecity.gov).

Sincerely,

A handwritten signature in blue ink that reads "Brenda Simmons".

Brenda Simmons, Chief  
Contract Administration

Attachments





# AFFIDAVIT 1

**Highlander Contracting Company, LLC** \* Before the Board of Estimates  
2401 Stringtown Road \* For  
Sparks, Maryland 21152 \*  
Protestor \* Baltimore City  
v. \*  
**Allied Contractors, Inc.** \* Protest Contract # Tr-19017  
204 East Preston Street \*  
Baltimore, Maryland 21202 \*  
Respondent \*

\*\*\*\*\*

## RESPONDENT'S AFFIDAVIT IN SUPPORT OF OPPOSITION TO HIGHLANDER'S PROTEST OF CONTRACT TR19017 AWARD

Testimony of: Mr. Daljit Makar Relationship to Respondent: Vice President

Address: 204 E. Preston Street, Baltimore, Md 21202

Telephone Number: 410-539-6727

I am Daljit Makar and that I have personal knowledge of the matters set forth herein and I am competent to testify in a Court of Law.

1. William Crites, II was never employed by Allied Contractors, Inc. and was solely employed by J. M. Murphy Enterprises. However, William P. Crites, Sr. was employed by Allied Contractors from April 2014 until July 2018.
2. Saiquan Branch was employed by J. M. Murphy Enterprises from March 2016 until October 2018 and decided to terminate his employment with J. M. Murphy Enterprises. Allied Contractors then hired Saiquan Branch effective November 5, 2018 and he has since been continuously working with Allied on several projects.
3. It should be noted that contractors sometimes hire employees who were previously employed by other contractors/sub-contractors who they think could be beneficial for other projects, and sometimes employees change their employment for their betterment. There is nothing unusual about this practice.
4. J. M. Murphy Enterprises has never hired any employee belonging to Allied Contractors.

5. Allied's certified payrolls were compliant. Murphy Enterprises followed the instructions for completing payroll as per form WH-347 (copy attached) which does not require the address, city, state, and zip code, only requires the last four digits of social security number and were submitted directly to Wage Commission. However, we shall advise J. M. Murphy Enterprises to follow your instructions for future submittals.
6. The exhibit 1, spreadsheet is not; titled, dated and the source is not provided on the spreadsheet or in the text of the written protest, nor the contact information for the custodian of this document. From Allied's analysis this document is not reliable.
7. In addition, the spreadsheet contains several inaccurate entries, including; the listing JMM as the MBE subcontractor when another MBE was the subcontractor, overstating the amount received, and when he was not on the contract at all. See entries for RP15816 and TR-1707 and RP-17817. Allied demands verification of the spreadsheet.
8. To Allied's knowledge, no job was performed above JMM's pre-qualification limit. This evidence that Allied and JMM did not violate ME participation regulations.
9. Allied has never been fined, suspended or disbarred during 50 years of perform work under contract with the City
10. JM Murphy Enterprises is a minority subcontractor who has satisfied minority participation on many Allied contracts since 2014.

10. Admitted

However, before JMM can commence work, Highlander falsely claims:

Allegation: 1. Must submit a work capacity statement and be prequalified.

work.013.20 B 21 and 00 73 81 A, H and J).

12. Denied: Mr. Dasheill's spreadsheet on its face evidences that JMM was pre-qualified for all periods of time referred to in this document.

As of March 12, 2020, JMM was pe-qualified for \$1,5000.000. or 9 % of Allied contract value for subcontract work on TR-19017 when awarded to Allied.

Allegation: 2. Allied must make a request to do so.

13.

Denied: The work that Highlander complains of was awarded and completed by Allied and JMM. If these issues were true, the time to file a claim or dispute would have been within 10 calendar days after the violation, in writing, be inserted in the *The Project Log* and copied to the Engineer. See Green book @ 00 73 84. Also See 00 73 84, et seq. Only if Highlander was employed by the prime or sub-contractor for the work.

There are no such claims filed by any previous contractors, whether awarded or denied an award for contract work, nor with ongoing contracts presently being performed by Allied and its sub-contractor JMM. The above issue(s) are moot as well as irrelevant to the present contract at issue.

Allegation: 3. JMM must have consent from Allied's surety per the Green Book @ 00 51 00.08B.  
14, Denied: A Subcontractor is not required to be qualified until he commences work. See Green book @ 00 21 13.20 B1. The TR19017 contract has not be awarded, pending Highlander's protest. Therefore, no consent is required at this time.

Allegation: 4. Protestor's Exhibit 1 spreadsheet is relied on by Highlander to prove the above.  
15. Denied: The past contracts are not relevant to the present one being protested by Highlander.

Allegation: 5. on information and belief, JMM was permitted enter upon worksites without approved prequalification on each of and all the prior Allied contracts.

16. Denied: Highland brings forth no admissible evidence (affidavit, photograph, etc.) that is factual pertaining to any prior contract. This is a mere assertion which is false.

17. The att'd. "Allied" letter from me to Ms. Simmons dated Feb. 26, 2020, is true and correct, authentic, and genuine.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct.

3/22/20  
Date

Dave  
/s/  
Affiant

AFFIDAVIT 2

Highlander Contracting Company, LLC \*  
2401Stringtown Road \*  
Sparks, Maryland 21152 \*  
Protestor \*

Before the Board of Estimates  
For

\* Baltimore City

v.

Allied Contractors, Inc. \*  
204 East Preston Street \*  
Baltimore, Maryland 21202 \*  
Respondent \*

\* Protest Contract # Tr-19017

\*\*\*\*\*

RESPONDENT'S AFFIDAVIT IN SUPPORT OF OPPOSITION TO  
HIGHLANDER'S PROTEST OF CONTRACT TR19017 AWARD

Testimony of: Mr. Jesse Murphy Relationship to Respondent: Subcontractor

Address: 2539 Saint Paul Street, 2nd Floor Baltimore, Maryland 21218

Telephone Number: 410-366-1145

I am Jesse Murphy, Pres. of "JMM" and that I have personal knowledge of the matters set forth herein and I am competent to testify in a Court of Law.

1. William Crites, II was never employed by Allied Contractors, Inc. and was solely employed by J. M. Murphy Enterprises. However, William P. Crites, Sr. was employed by Allied Contractors from April 2014 until July 2018.
2. Saiquan Branch was employed by J. M. Murphy Enterprises from March 2016 until October 2018 and decided to terminate his employment with J. M. Murphy Enterprises. Allied Contractors then hired Saiquan Branch effective November 5, 2018 and he has since been continuously working with Allied on several projects.
3. It should be noted that contractors sometimes hire employees who were previously employed by other contractors/sub-contractors who they think could be beneficial for other projects, and sometimes employees change their employment for their betterment. There is nothing unusual about this practice.
4. J. M. Murphy Enterprises has never hired any employee belonging to Allied Contractors.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct.

*Jesse Murphy*

/s/

3/22/20

Date

Affiant

Additional pages: ( ) yes or ( ) check one.. If "yes," continue on next page.

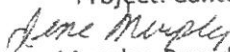
J. M. Murphy Enterprises, Inc.

2539 St. Paul Street

Phone: (410) 366-1145 Fax (410) 366-119

PARTIAL LIST OF CONTRACTORS WORKED FOR SINCE 2014

1. Libey, LLC 210 Lexington St Baltimore Maryland 21202. (571) 436-1569 Project: Housing rehab. Henneman Avenue. 2019
2. St. Bernadine Roman Catholic Church 3812 Edmondson Avenue. Concrete work 2018-2019
3. The Bull Pen. Owner Ms. Christina Abdulghani (410) 967-0685. New water service installation for sprinkler system. 2018.
4. Horizon Retail Construction, Inc. (262) 638-6000. Repairs to concrete trenches at Columbia Mall "Bed and Body Works" # 897. 2018
5. Conboy & Manion Contracting, Inc. 36 Phila Street Saratoga Springs, N. Y. 12866. Owings Mills's concrete ramps demolish and install. (518) 583-4038. 2016
6. Rupert Landscaping (301) 482-0300 Install concrete pavers at REC PIER HOTEL 2016
7. Clark Construction (301) 272-6884. Project 1812 Ashland Avenue. Install concrete curb and gutter, sidewalks and concrete pre-cast pavers. 2016.
8. Urban Built, LLC. (410) 685-1252. Demolition, concrete basement slabs, masonry walls and drainage tiles. 2015.
9. J. A. Argetakis Contracting Company, Inc. 3723 Eastern Avenue Baltimore, MD. 21224 Project: Canton Library 2016. Concrete footings, slabs, ramps. (410) 633-8016.

  
Jesse Murphy, President

JM Murphy Enterprises, Inc.

There are no such claims filed by any previous contractors, whether awarded or denied an award for contract work, nor with ongoing contracts presently being performed by Allied and its sub-contractor JMM. The above issue(s) are moot as well as irrelevant to the present contract at issue.

Allegation: 3. JMM must have consent from Allied's surety per the Green Book @ 00 51 00.08B.  
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I do solemnly declare and affirm under the penalties of perjury that the contents of

the foregoing document are true and correct.

3/22/20

Date

Dale

/s/

Affiant



## MINUTES

President: The first item on the non-routine agenda can be found on pages 27 through 28 items 1 & 2 recommendation for contract award ah -- Conduit System Reconstruction. We have received protests on this item. We will hear first from ah -- Mr. Dashiell on behalf of Allied Contracting Company ah -- first and followed by Mr. Robinson on behalf of Allied Contractor and response from the agency after that. Ah -- Mr. Dashiell the floor is yours?"

Mr. Robert Fulton Dashiell, ESQ.P.A.: "Good morning yeah."

President: "Yes sir."

Mr. Dashiell: "Good morning Mr. President and Mr. Mayor and other members of the Board and I appreciate the extent to which you've gone to -- to ah -- proceed with this matter under obviously what are very trying circumstances and I apologize for my lack of technological expertise to be able to participate fully in the way that I'd anticipated. In any event the issues - the issues ah -- here are relatively simple. We -- we contend that Allied ah -- is not a responsible bidder ah -- because it has knowingly violated ah -- the provisions of the book of specifications, the Green Book

## MINUTES

as it relates to the use of subcontractors and I -- I know that -  
- that's a serious matter with the Board because just last week ah  
-- the utilization of subcontractors without prior city approval  
was one of the bases ah -- ah that upon which the Board recommended  
initiation of a debarment proceeding against a different firm. The  
-- in this instance, we contend we -- we raised I -- I -- I  
submitted a letter of protest on March 9th in which I -- I stated  
that on information and belief Allied -- Allied Contractors  
permitted a firm known as JM - J.M. Murphy Enterprises to work on  
a number of City contracts without Murphy having been approved to  
enter upon the job site in accordance with the provisions of the  
Green Book. Just ah -- ah -- ah before I go further I think it's  
-- it's important to spend a second just explaining ah -- what  
being pre-qualified means. Ah -- it's -- it's -- it really means  
having the available work capacity at the appropriate time. Now at  
the appropriate time for a prime contractor means at the time  
because under the City rules if you're not, if you don't have  
available work capacity and -- and available work capacity is a

## MINUTES

dollar figure -- a dollar figure that's assigned by the Office of Boards and Commissions and it tells the City that a contractor can be trusted to do certain kind of work up to a certain dollar amount. For a bidder, for a prime contractor that determination of pre-qualification is to put -- is in two parts. One, you can't buy the bid book you can't buy the bidding documents unless you have a certificate saying that you have the appropriate work capacity and dollar value and two, you can't be awarded the contract unless the available work capacity on the date of award ah -- is no less than the amount of the contract to be awarded. Available work capacity means the dollar value that was assigned initially at the time you got pre-qualified minus backlog. Backlog means the dollar value of all work that you have underway, including the work that may not have been started but has been awarded through prior ah - - in prior contracts. For a subcontractor the time at which the pre-qualification or work capacity is determined is not at bid time or time of award. Rather it's at the time that the subcontractor would come on to the job site and initiate work.

## MINUTES

Under the Green Book when a prime contractor is ready or -- or anticipating the use of a subcontractor and this has nothing to do with were you an MBE or non MBE the -- the prime contractor is supposed to submit the subcontractor's name to the project engineer or whoever the representative is for the City on the project and along with that submission you're supposed to provide evidence that the subcontractor has available work capacity in no - an amount no less than the dollar value of the subcontractor's contract. Well we of course don't know we listed a number of contracts where Allied has utilized ah -- ah -- Murphy in the past even at times when Murphy didn't even have the certificate between 19, um -- 2018 and 2020 up until a few months ago ah -- but we said -- we said on information and belief we think that Allied was guilty of violating the terms of the Green Book by allowing Murphy to come onto the job site to do work without having ah -- submitted the -- the company and proof and the proof of work capacity ah -- as required in the Green Book. Now, and I said that initially in

## MINUTES

a -- in a letter ah -- to -- to the city I think dated March 2<sup>nd</sup>. On March 4<sup>th</sup> DOT, I think Ms. Simmons sent a letter back said that um -- based on their investigation they didn't find any evidence that that was true. Well it's impossible for such an investigation to have occurred within two days because the reality of it is the only way you know who's on a job site whether it's a subcontractor or material supplier or anybody else is to look at the daily logs from the contract. And I say it's impossible because there's ah - - no way within 48 hours DOT could have examined the daily logs from -- from all the contracts that we mentioned um -- in which Murphy was identified as a subcontract. It's just literally impossible for anybody to have done that rather I think what -- what really happened is ah -- that Ms. Simmons really didn't understand what pre-qualification meant. I think and -- and --and I think that her understanding probably was that pre-qualification simply meant that you had a certificate of assigned work capacity by Office of Boards and Commissions and that's part of it, but it's not the part that determines whether or not you're entitled

## MINUTES

to come onto the job site. That part requires a calculation of work capacity of the available work capacity and that -- that -- that I don't think was done and I'd and for certain I don't believe that it could that DOT could possibly have done an investigation of that within a 48-hour period, but then the ultimate question for the Board is assuming for sake of discussion that it happened that it being, let's say that Allied did in fact utilize a subcontractor, perhaps other subcontractors as well, but first let's say that Allied did use ah - ah -- ah -- Murphy on the job site without having the prior approval from the city as required in the Green Book. The question for the Board would be does that mean, does that establish that Allied lacks the adequate integrity for award of the pending contract. That's -- that's a matter -- that's a matter of the Board's discretion quite frankly. There's no -- there's no -- there's no bright light for determining what integrity means. There's no bright light for determining ah -- ah -- whether the presence or absence of integrity ultimately means the contractor or the bidder is responsible or not responsible.

## MINUTES

That's within your that's within your discretion ah -- our point simply is if a contractor who is legally obligated to know what the rules are, and if the City which is legally obligated and to and in order to maintain a level playing field they are legally obligated to follow its own rules are they are there any circumstances here where ah -- if it's true that Allied didn't -- did allow subcontractors to work without approval are there any circumstances here where that failure should be waived, excused or are the facts here is sufficient to allow the Board in exercise of its sound and good discretion to say we don't care? It's okay that we still find that they're responsible for the purpose of the pending of the pending bid. Now I think, the only way to make that determination without -- without doing the real investigation is to say that it doesn't matter. I urge you not to take that position because what you'd really be saying is it doesn't matter whether contractors follow the rules or not. That does not bode well for the integrity of the competitive bidding process under the Charter at all. We can't have a process where there's a level playing field

## MINUTES

for all bidders if from time to time we decide that certain rules apply and certain and certain rules don't apply without even having first an investigation to find out whether or not the rules were violated. So and so what I urge you to do and -- and -- and what I urge you to do in reality is to -- is to undertake the initial investigation that I don't think DOT did which is to determine as a matter of fact whether ah -- Allied in fact whether did utilize Murphy on job sites without first having obtained the requisite approval from ah -- from the City from the City, from DOT inspectors or the project engineers or whatever. I haven't seen either -- either in Allied's response filed a couple of days ago or in DOT's ah -- ah -- response from Ms. Simmons ah -- even in-- in any indication that DOT even asked Allied the question. I mean they said that they'd done an investigation. I'm sorry they said they didn't see any evidence of it, well there are a lot of reasons why you don't see evidence. One of the reasons of course is that you didn't look. Ah -- the other reason as you didn't know what you're looking for, but at a very minimum it seems to me that DOT



## MINUTES

should have issued an inquiry to Allied asking them to bring forward the documentation to show that in fact they did - they did follow the rules in terms of having Allied ah -- ah Murphy work on the job site. I don't see any evidence that was done."

President: "Mr. Dashiell -- Mr. Dashiell."

Mr. Dashiell "I'm -- Im sorry."

President: "Wrap it up in a minute please."

Mr. Dashiell: "Okay well -- well I'm I just I don't see any evidence that -- that was done and that's clearly evidence that Murphy was identified as a subcontractor as recently as July of 2019 at time when it didn't have even -- even a certificate from the Office of Boards and Commissions that's sufficient to -- to trigger it seems to me an obligation to conduct a real investigation which I don't think as I said I don't think was conducted here and -- and that's it for me. Thanks."

President: "Thank you. Thank you. We will now hear ah -- from Allied Contractor and Mr. Robinson."

## MINUTES

Mr. Doug Franz Vice President, Allied Contractor: "Mr. Robinson is not available at this time. He has not arrived. He has had a problem with the virus, I'm not sure."

President: "Sir you're gonna have to come you're gonna have to come closer to the mic."

Mr. Franz: "Okay this is Doug Franz with Allied Contractors."

President: "Thank you. Go ahead we can hear you now."

Mr. Franz: "Did you hear that they said that Mr. Bishop is not here. I mean Mr. Robinson has not arrived yet."

President: "Yeah please identify yourself for the record."

Mr. Franz: "Yeah this is Douglas Franz, Vice President with um -- Allied Contractors."

President: "Go ahead sir. The floor is yours."

Mr. Franz: "--- Yes I of course point you to Mr. Robinson's ah -- letter I think it speaks for itself in regard to the City not approving ah -- Mr. Murphy to work on the various projects. That has never been raised by the City. When you first bid a project you turn in a minority participation program proposed one that is

## MINUTES

and it has to go to the -- the it's the minority women's business opportunity office for their review and whenever we have included Mr. Murphy, J.M. Murphy or any of our other subcontractors, they've been approved by that office and the project moves to award. After award we turn in all of our subcontract agreements with the various minorities and WBE's ah -- that we're going to be utilizing that have been approved by the by the prior office I mentioned and ah -- at no time has the City said that Mr. Murphy or J.M. Murphy Enterprises is -- is not pre-qualified efficiently."

President: "Alright."

Mr. Franz: "But it has been approved by the City by both that Mayor's I mean that minority women's business opportunity office and also be it the using agency be it Transportation, Public Works Rec and Parks the various different agencies that we've worked for with many -- many -- many years."

President: "All right thank you. Is that all for you sir?"

Mr. Franz: "Excuse me."

President: "Is that all you have?"

## MINUTES

Mr. Franz: "That -- that's all for now."

President: "We will now hear from the agency ah -- DOT."

Ms. Latisha Griffin Depute of Administration, Department of Transportation: "Department of Transportation and we support."

President: "Ah - restate your name for the record please."

Ms. Griffin: "Okay Latisha Griffin, Deputy of Administration for the Department of Transportation ah -- regarding."

President: "Ms. Griffin can you hold on for a second it there's some feedback in your -- in your ah -- ah --area there's more than one device that is coming through ah -- can you please try -- try again now please. Alright try again now."

Ms. Griffin: "Is that better?"

President: "Ah -- a little bit. Yeah."

Ms. Griffin: "Um -- prior to awarding the contract the agency verifies the pre-qualification of all of the subs and the prime contractor. And in all of the prior contracts Mr. Dashiell mention-  
-."

## MINUTES

President: "Ms. Griffin hold on for one second. Can everyone mute themselves please?"

Comptroller: "Mr. President, can you have her start again because it's gonna be hard for us to transcribe?"

President: "Yeah I will one second madam Comptroller once everyone muted and we're going to mute everybody and then ask Ms. Griffin to unmute herself so everyone please go on mute now. Okay Ms. Griffin start over again from the top please."

Ms. Griffin: "Good morning my name is Letitia Griffin. I'm the Deputy of Administration for the Department of Transportation. Um -- as a practice in evaluating all bids submitted we evaluate whether all of the primes and all of their subcontractors are pre-qualified. So prior to award of the contracts that were mentioned the DOT contracts that were mentioned by Mr. Dashiell we did validate that J.M. Murphy was pre-qualified before we even awarded the contract. Um-- and I mean that -- that was our investigation to determine did we do that validation before making the recommendation for award to the Board of Estimates. That's all I have."

## MINUTES

President: "Thank you. Ah -- does Law want to comment about this one?"

Mr. Michael Mullen Law Department: "Good morning Mr. President. My name's Michael Mullen with the Law Department. Um -- I would point out to the Board that the determination that a contractor is not a responsible bidder is a very -- very serious matter and I have looked at what both Mr. Dashiell has submitted and what Allied's attorneys have submitted and have looked at what DOT has been able to reveal in its investigation which was not a cursory investigation. It was a thorough investigation to the extent that we can do so with the records that are available for these old contracts and I do not think that there is sufficient evidence before this body to find that Allied is not a responsible company. You need evidence to substantiate that kind of ruling and it simply is not present here. Mr. Dashiell as the protester has the burden of proof and as he said several times in his presentation he's working on information and belief. There is no proof that I have seen that DOT has seen that there was anything missed that was

## MINUTES

anything that was done that was incorrect here. The subcontractors do not have to be pre-qualified until they start their work and to the best of DOT's ability they make sure that that's happened they are pre-qualified and that they stay pre-qualified, so I would submit that in the absence of compelling evidence the Board simply does not have a basis to determine that Allied is not a responsible bidder. I'm happy to answer any questions but that's my presentation."

President: "Thank you. Any questions from any Board members?"

City Solicitor: "None for me."

President: "Mr. Mayor?"

Mayor: "No."

President: "Madam Comptroller?"

Comptroller: "No. Just have Mr. Mullen state his name. He did not state his name at the beginning of his presentation."

Mr. Mullen: "I apologize Madam Comptroller. Michael Mullen from the Law Department."

## MINUTES

President: "Thank you Mr. Mullen ah -- and thank you -- thank you all Members of the Board and Mr. Dashiell I just wanna let you know that I'm gonna work with making my duty to work with MWBOO and OBC to and figure out ways to make changes to the future sub-vendor pre-qualification factors. As you know I'm pretty big on accountability, I can work on fixing any small issues that we have ah - with that and there's no one else opposing I will entertain a motion."

Acting City Solicitor: "Um -- this is Dana Moore, Acting City Solicitor. I make a motion that the um -- protest ah -- although very well presented and very well argued be denied. Um -- the basis for the denial is that there is a lack of evidence to support the allegation complaint that Allied is not a responsible bidder. So therefore, I move that the protest be denied."

Comptroller: "I second."

President: "All those in favor say aye. Aye. All opposed say nay. The motion carries. The item is approved. Ah -- as there is no more business before the Board, we will recess until bid opening at 12:00 noon. Thank you for tuning in. Please stay in and safe everyone."

\* \* \* \* \*



## MINUTES

Secretary: "Okay, good afternoon. The Board of Estimates is now in session for the receiving and opening of bids. In accordance with the directives of the Mayor and Governor prohibiting gatherings of more than 10 people as part of the overall effort to limit transmission of COVID-19 virus, the Board of Estimates is conducting bid openings remotely. Members of the public can call in to listen to bid openings live by calling 443-984-1696 and entering access code 0817325. That's 443-984-1696 and entering access code 0817325. The Board of Estimates meetings are also broadcast live on Charm TV channel 25 on Comcast cable in Baltimore City. Meetings are also streamed on the internet at [www.charmcitytvbaltimore.com/watch live](http://www.charmcitytvbaltimore.com/watch-live). The Board of Estimates will continue to conduct bid openings remotely while the state of emergency declared by the Mayor of Baltimore and the Governor of [www.charmtv.baltimore.com/watch-live](http://www.charmtv.baltimore.com/watch-live). Maryland remains in effect."

\* \* \* \* \*

## MINUTES

BIDS, PROPOSALS AND CONTRACT AWARDS

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

Department of General Services - GS 16810-R Capital & Energy  
Projects Division Mitchell  
Courthouse Roof Replacement  
**BIDS TO BE RECV'D: TBD**  
**BIDS TO BE OPENED: TBD**

\*In light of the ongoing COVID-19 pandemic, the bid due date is postponed until further notice. A follow up addendum will be issued to establish a new bid due date.

\* \* \* \* \*

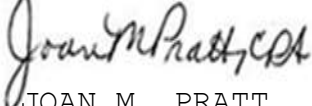
## MINUTES

Thereafter, the Comptroller announced that **NO BIDS WERE SCHEDULED TO BE RECEIVED**, and opened today.

MINUTES

\* \* \* \* \*

There being no objections, the Board, UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, April 15, 2020.



JOAN M. PRATT  
Secretary