

MINUTES**REGULAR MEETING**

Honorable Bernard C. "Jack" Young, President
Honorable Catherine E. Pugh, Mayor
Honorable Joan M. Pratt, Comptroller and Secretary
Rudolph S. Chow, Director of Public Works
David E. Ralph, Interim City Solicitor
S. Dale Thompson, Deputy Director of Public Works
Bernice H. Taylor, Deputy Comptroller and Clerk

President: "Good morning. The January 25, 2017, meeting of the Board of Estimates is now called to order. In the interest of promoting order in the efficiencies of these hearings, persons who are disruptive to the hearings will be asked to leave the hearing room immediately. Meeting of the Board of Estimates are open to the public for the duration of the meeting. The hearing room must be vacated at the conclusion of the meeting. Failure to comply may result in a charge of trespassing."

Clerk's Note: "The Clerk announced the abstentions."

Comptroller: "Excuse me. Jack said can you repeat which ones he is abstaining on?"

MINUTES

Deputy Comptroller: "Yes, pages 41 and pages 66-67."

President: "I just wanted to make sure."

Deputy Comptroller: "Yes, for Mr. President, those are his abstentions."

President: "Thank you."

Deputy Comptroller: "Yes."

President: "I will direct the Board Members attention to the Memorandum from our office dated January 23, 2017, identifying matters to be considered as routine agenda items together with any corrections and additions that have been notified to the Comptroller. I will entertain a motion to approve all of the items contained on the routine agenda."

Interim City Solicitor: "I move the approval of the items on the routine agenda."

Comptroller: "Second."

MINUTES

President: "All of those in favor say Aye. All of those opposed, nay. The routine agenda has been adopted. Um -- I'd like to recognize Councilman Ryan Dorsey who has joined us this morning. Thank you Councilman for being here."

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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 October 30, 1991, the following contractors are recommended:

Apex Companies, LLC	\$ 117,999,000.00
Boulevard Contractors Corporation	\$ 1,500,000.00
Calmi Electrical Company, Inc.	\$ 5,031,000.00
Cynergy Electric Company, Inc.	\$ 8,000,000.00
Interior Specialists, Inc.	\$ 8,000,000.00
Johnston Construction Company	\$ 51,912,000.00
Monumental Paving & Excavating, Inc.	\$ 75,141,000.00
Paul J. Rach, Inc.	\$ 8,000,000.00
Priority Construction Corporation	\$ 45,073,000.00
Starlight Security, Inc.	\$ 711,000.00
The Lane Construction Corporation	\$1,906,992,000.00

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:

Arcadis U.S. Inc.	Engineer
Arora Engineers, Inc.	Engineer
Environ-Civil Engineering, Ltd.	Engineer
Savin Engineers, P.C.	Engineer
Spartan Engineering, LLC	Engineer

MINUTES**BOARDS AND COMMISSIONS** - 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 listed firms.

MINUTES

TRANSFERS OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Transfers of Funds

listed on the following pages:

190 - 191

SUBJECT to receipt of favorable reports

from the Planning Commission,

the Director of Finance having

reported favorably thereon,

as required by the provisions of the

City Charter.

MINUTES**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Department of Transportation</u>		
1. \$60,000.00 FED	9950-903323-9528 Constr. Res. - Key Hwy./Inner Harbor Intersect	9950-902323-9527 Key Hwy. at Light Street Intersection Improvements

This transfer will cover the deficit and the cost of prints and preliminary expenses and other related costs associated with project TR 11318, Key Highway at Light Street Intersection Improvement.

Department of Recreation and Parks

2. \$ 30,000.00 General Fund	9938-916034-9475 Herring Run Trail Enhancements (Reserve)	9938-918034-9474 Herring Run Trail Enhancements (Active)
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This transfer will provide funds to cover costs associated with fencing and grating installation in Herring Run Park.

Baltimore Development Corporation

3. \$ 3,600.00 23 rd EDF	9910-906993-9600 Constr. Reserve Inner Harbor	9910-909460-9601 Inner Harbor
1,050.00 23 rd EDF	9910-913990-9600 Constr. Reserve Commercial Re- vitalization	9910-921101-9601 Commercial Re- vitalization

MINUTES**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Baltimore Development Corporation - cont'd</u>		
5,979.06 24 th EDF	9910-902873-9600 Constr. Reserve Brownfield Incentive Fund	9910-911103-9601 Brownfield In- centive Fund
2,940.00 24 th EDF	9910-908018-9600 Constr. Reserve Seton, Cross Roads, Park Circle	9910-907104-9601 West Baltimore Industrial and Commercial
<u>\$ 13,569.06</u>		

This transfer will provide funds to reimburse BDC for eligible capital expenses for the month ending October 31, 2016.

4. \$ 4,379.10 23 rd EDF	9910-913990-9600 Constr. Reserve Commercial Revita- lization	9910-921101-9601 Commercial Revita- lization
5,049.00 24 th EDF	9910-908018-9600 Constr. Reserve Seton, Cross Roads, Park Circle	9910-907104-9601 West Baltimore Industrial and Commercial
<u>\$ 9,428.10</u>		

This transfer will provide funds to reimburse BDC for eligible capital expenses for the month ending November 30, 2016.

MINUTESDepartment of Audits - Audit Reports and Related Audit Digests

The Board is requested to **NOTE** receipt of the following Audit Reports and Related Audit Digests:

1. City of Baltimore Water Utility Fund Financial Statements June 30, 2015 and 2014.
2. City of Baltimore Wastewater Utility Fund Financial Statements for the Years Ended June 30, 2015 and 2014.

UPON MOTION duly made and seconded, the Board **NOTED** receipt of the foregoing Audit Reports and Related Audit Digests.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Department of Housing and Community Development - Options</u>			
1. Anthony W. Chambers	1081 W. Fayette St.	F/S	\$40,000.00

Funds are available in account 9910-914135-9588-900000-704040, Poppleton Project.

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

DHCD - Condemnations

2. Lucco, LLC	901 E. Chase St.	L/H	\$ 2,100.00
3. Gwendolyn C. Gold	905 E. Chase St.	L/H	\$ 2,500.00
4. Tuk Ki Jun & Yong Ja Jun	926 E. Eager St.	F/S	\$ 1,750.00
5. Wilson Guyton and Tracy Guyton	1017 Valley St.	L/H	\$ 4,800.00

Funds are available in account 9910-910715-9588-900000-704040, Johnston Square Project.

The fair market value was substantiated in appraisals made by independent appraisers contracted by the City. This will permit the City to have title to, and if necessary immediate possession of, the subject property interest in conformity with the applicable law.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Condemnation or Redemption</u>			
6. Unknown	901 E. Chase St.	G/R \$48.00	\$ 320.00

Funds are available in account 9910-910715-9588-900000-704040, Johnston Square Project.

The Board is requested to approve acquisition of the ground rent interest by condemnation, or in the alternative may, SUBJECT to the prior approval of the Board, make application to the Maryland Department of Assessments and Taxation to redeem or extinguish the ground rent interest for this property. The annual ground rent was created by an irredeemable lease dated April 29, 1882.

UPON MOTION duly made and seconded, the Board approved the foregoing Option, Condemnations, and Condemnation or Redemption.

MINUTES

Department of Transportation (DOT) - Developers' Agreements

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

	<u>DEVELOPER</u>	<u>NO.</u>	<u>AMOUNT</u>
1.	OLDHAM CROSSING, LLC	1449	\$ 3,050,349.00

Oldham Crossing, LLC would like to install new water service, storm drain, sanitary sewer, conduit, lighting and road improvements to its proposed new construction located at 120, 160 Oldham Street and 4500-4600 Gough Street, also known as Oldham Crossing. This agreement will allow the organization to do its own installation in accordance with Baltimore City Standards.

A Performance Bond in the amount of \$3,050,349.00 has been issued to Oldham Crossing, LLC which assumes 100% of the financial responsibility.

2.	KENNEDY KRIEGER INSTITUTE, INC.	1467	\$ 277,018.00
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Kennedy Krieger Institute, Inc. would like to install new water service, storm drain, conduit and road improvements to its proposed construction located at 801 North Broadway. This agreement will allow the organization to do its own installation in accordance with Baltimore City Standards.

A Performance Bond in the amount of \$277,018.00 has been issued to Kennedy Krieger Institute, Inc., which assumes 100% of the financial responsibility.

MINUTES

DOT - cont'd

MBE/WBE PARTICIPATION:

City funds will not be utilized for the projects. Therefore, MBE/WBE participation is not applicable.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing Developers' Agreements.

MINUTES

Department of Transportation - Operating Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the Operating Grant Agreement with the Maryland Department of Transportation (MDOT) and the Maryland Transit Administration (MTA). The period of the agreement is July 1, 2016 through June 30, 2017.

AMOUNT OF MONEY AND SOURCE:

\$3,000,000.00 - 5000-580817-2303-248700-405001

BACKGROUND/EXPLANATION:

The Department is a recipient of a Federal Transit Act Grant to fund operating expenses associated with the provisions of transportation services for the Charm City Circulator (Large Urban Operating, Circulator). The purpose of this grant is to provide for the undertaking of a public transportation service with financial assistance under the MTA's public transportation program. The assistance provided by this grant consists of a combination of federal, state, and local funds.

The agreement is late due to obtaining approval from an external agency.

MBE/WBE PARTICIPATION:

This Operating Grant Agreement will establish the framework for roles and responsibilities for the subject project. Future procurement, as a result of the outlined funding above will be considered for minority participation.

MINUTES

Department of Transportation - cont'd

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

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Operating Grant Agreement with the Maryland Department of Transportation and the Maryland Transit Administration.

MINUTES

Department of Transportation - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the Memorandum of Understanding (MOU) with the Ronald McDonald House Charities of Baltimore, Inc. The MOU is effective upon Board approval for 10 years, and has an option to renew for an additional 10 years, unless terminated earlier in accordance with this MOU.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

This MOU will establish the framework for the organization at its sole cost to maintain landscaping and hardscaping on Aisquith Street and Baltimore Street. Subsequently, the organization will perform ongoing maintenance of all aspects of the project during the term of the MOU.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Memorandum of Understanding with the Ronald McDonald House Charities of Baltimore, Inc.

MINUTESDepartment of Transportation - Minor Privilege Permit Applications

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

<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
1. 1403 E. North Avenue	Maryland Transit Administration	Bus shelter foundation 13' x 7', one bus shelter 12'9" x 6'11"

Annual Charge: Gratis

2. 201 N. Eutaw Street	Maryland Transit Administration	Steel pole with mounted real time information sign, surveillance cameras, communication hand boxes, conduit
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Annual Charge: Gratis

3. 1520 W. North Avenue	Maryland Transit Administration	Two bus shelter foundations 38'9" x 7', six bus shelters 12'9" x 6'11", 6'1" pylon
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Annual Charge: Gratis

MINUTES

Department of Transportation - cont'd

<u>LOCATION</u>	<u>APPLICANT</u>	<u>PRIVILEGE/SIZE</u>
4. 3432 S. Hanover Street	3432 Hanover, LLC	Outdoor seating 14' x 4'
Annual Charge: \$ 337.50		
5. 1 Aisquith Street	Mayor & City Council	35 tiebacks
Flat Charge: \$2,450.00		

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

UPON MOTION duly made and seconded, the Board approved the Minor Privilege Permits.

MINUTES

Department of Transportation - Employee Expense Statements

ACTION REQUESTED OF B/E:

The Board is requested to approve an Employee Expense Statement to reimburse Ms. Julia Harrison for mileage expenses incurred during the month of July 2016.

AMOUNT OF MONEY AND SOURCE:

\$45.79 - 1001-000000-6971-605100-603002

BACKGROUND/EXPLANATION:

The Department received this request past the required submission date to the Department of Finance.

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

The Department apologizes for the lateness.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

MINUTES

Department of Transportation - cont'd

UPON MOTION duly made and seconded, the Board approved the Employee Expense Statement to reimburse Ms. Julia Harrison for mileage expenses incurred during the month of July 2016.

MINUTES

Department of Transportation (DOT) - Task Assignment

ACTION REQUESTED OF B/E:

The Board is requested to approve the assignment of Task No. 5 to Parsons Brinckerhoff, Inc., under Project 1208, On-Call Transportation Planning/Policy/Feasibility Studies.

AMOUNT OF MONEY AND SOURCE:

\$273,561.86 - 9950-902846-9514-900020-703032

BACKGROUND/EXPLANATION:

This authorization provides for continued assistance to the Baltimore City DOT with Program Management Services for the City's involvement and coordination with Sagamore Development Corporation (Sagamore).

The scope of this assignment is to support the DOT in managing its economic development efforts with regard to Sagamore, including but not limited to its development of Port Covington. Additional support will be provided in regards to National Environmental Policy Act efforts, development of Memoranda of Understanding, public involvement, and coordination related to Sagamore projects within Baltimore City outside Port Covington.

MBE/WBE PARTICIPATION:

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

MWBOO SET GOALS OF 23% MBE AND 10% WBE.

MWBOO FOUND VENDOR IN COMPLIANCE.

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. 5 to Parsons Brinckerhoff, Inc., under Project 1208, On-Call Transportation Planning/Policy/Feasibility Studies.

MINUTES

Mayor's Office on Criminal - Ratify Second Amendment to
Justice Intergovernmental Agreement

ACTION REQUESTED OF B/E:

The Board is requested to ratify the Second Amendment Intergovernmental Agreement with the Housing Authority of Baltimore City (HABC). The second amendment extends the agreement through June 30, 2017.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The HABC and the City entered into an Intergovernmental Agreement on May 27, 2015, whereby the City was responsible for maintaining 182 HABC security cameras.

On February 10, 2016, the Board approved the first amendment to extend the term of the agreement from July 1, 2015 to June 30, 2016. This second amendment will extend the agreement for an additional year from July 1, 2016 through June 30, 2017. In addition, the number of cameras at Poe Homes will decrease from 12 to 11 and the number of cameras at Gilmor Homes will increase from 32 to 33.

This request was delayed because of the late receipt of the documents and the administrative process.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

MINUTES

Mayor's Office on Criminal Justice - cont'd

UPON MOTION duly made and seconded, the Board ratified the Second Amendment Intergovernmental Agreement with the Housing Authority of Baltimore City.

MINUTES

Mayor's Office on Criminal - Ratify Second Amendment to the
Justice Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to ratify a Second Amendment to the Memorandum of Understanding (MOU) with Banner Neighborhoods Community Corporation (Banner). The second amendment will extend the MOU through February 4, 2017.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

On February 6, 2013, the Board approved acceptance of a grant for the "McElderry Park Revitalization Coalition" in the amount of \$938,773.00, for the period October 1, 2012 through September 30, 2015. On July 29, 2015, the Board approved an extension of the award extending the performance period through August 31, 2016. On July 27, 2016, the Board approved an extension of the award to extend the performance period through February 28, 2017.

On October 19, 2015, the Board approved a Memorandum of Understanding between the City and Banner Neighborhoods Community Corporation, a sub-recipient of the grant. The performance period for this MOU was August 1, 2015 through July 14, 2016, in the amount of \$47,000.00. On August 10, 2016, the Board approved the first amendment to the MOU between the City and Banner Neighborhoods Community Corporation. The first no-cost amendment extended the performance period through November 30, 2016. This second amendment extends the period of the MOU through February 4, 2017.

MINUTES

Mayor's Office on Criminal Justice - cont'd

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE NO-COST TIME EXTENSION.

UPON MOTION duly made and seconded, the Board the ratified the Second Amendment to the Memorandum of Understanding with Banner Neighborhoods Community Corporation.

MINUTES

Police Department - Grant Adjustment Notice

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a Grant Adjustment Notice (GAN) to the Memoranda of Agreement (MOA) with the Maryland Department of Public Safety and Correctional Services, Information Technology and Communications Division (DPSCS/ITCD). This GAN extends the period of the MOA through February 28, 2017.

AMOUNT OF MONEY AND SOURCE:

\$0.00 - 4000-481316-2041-212700-600000

BACKGROUND/EXPLANATION:

On February 24, 2016, the Board approved two MOAs between the DPSCS/ITCD and the Department for the SMART FY 2014 Program; Sex Offender Registration and Notification Act (SORNA) compliance project. This GAN extends the period of the MOA for SORNA through February 28, 2017 to allow the Department's Sex Offender Registry Unit to submit all of its invoices to the DPSCS/ITCD for SORNA-related purchases, not to exceed \$58,525.00.

This is a no-cost extension and all other terms and conditions of the MOAs remain unchanged.

MBE/WBE PARTICIPATION:

N/A

MINUTES

Police Department - cont'd

APPROVED FOR FUNDS BY FINANCE

AUDITS NOTED THE NO-COST TIME EXTENSION.

UPON MOTION duly made and seconded, the Board approved acceptance of the Grant Adjustment Notice to the Memoranda of Agreement with the Maryland Department of Public Safety and Correctional Services, Information Technology and Communications Division.

MINUTES

EXTRA WORK ORDERS AND TRANSFERS OF FUNDS

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UPON MOTION duly made and seconded,

the Board approved the

Extra Work Orders and Transfers of Funds

listed on the following pages:

213 - 215

All of the EWOs had been reviewed and approved

by the

Department of Audits, CORC,

and MWBOO, unless otherwise indicated.

The Transfer of Funds was approved

SUBJECT to receipt of a favorable report

from the Planning Commission,

the Director of Finance having reported favorably

thereon, as required by the provisions

of the City Charter.

MINUTES

EXTRA WORK ORDERS

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

Department of Public Works/
Office of Engineering & Construction

1. EWO #001, \$202,093.50 - W.C. 1346, Elm Avenue Emergency Joint Repair for 48" Water Main

\$1,715,857.25	\$	0.00	R.E. Harrington	-	100%
			Plumbing & Heating		
			Co., Inc.		

The Office of Engineering & Construction is requesting that this change order cover the change in the scope of the project due to the change in field conditions. The Office of Engineering & Construction awarded W.C. 1346 to R.E. Harrington Plumbing & Heating Co., Inc. after an emergency was declared to address the leaks that were detected using the smart ball study that identified 37 active joint leaks on the 48" main. During the construction phase, each joint was further visually inspected and assessed for signs of damage and/or leaks from the interior of the pipe while the 48" main was out of service. The inspection found additional water main joints that showed signs of damage far greater in number than what was originally anticipated.

As a result, the number of joints that needed repair increased substantially. Other leaks on the active portion of the main were also identified that needed external repair using repair clamps. In addition, because of the proximity of the work area to the Vernon Pump Station, approximately 1,700 feet of additional 48" main needed chlorination and disinfection. Due to the emergency nature of the project, the additional change in scope due to the unforeseen field condition was necessitated and required. The requested change order will cover these additional costs.

MINUTES

EXTRA WORK ORDERS

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

Department of Transportation - cont'd

plan and report to address new regulations released in May 2010, design modification to the precast concrete arch façade and abutment foundations to address State Highway Administration and the City's construction section comments, prepare for and attend the Value Engineering Study Seminar and provide responses to bidder's questions during the bidding process through to Contract Award.

3. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$385,471.28	9950-904087-9509	
Federal	Constr. Reserve	
	Harford Road Bridge	
	over Herring Run	
96,367.82	" "	
<u>GF (HUR)</u>		
\$481,839.10	-----	9950-904097-9508-3
		Design Harford Road
		Bridge over Herring
		Run

This transfer will provide funds to cover costs associated with Change Order No. 3, Project 887, Replacement of Harford Road Bridge over Herring Run with Whitman, Requardt & Associates, LLC.

MINUTESHealth Department - Agreements, Amendment, and
Ratify an Amendment

The Board is requested to approve and authorize execution of the various agreements, Amendment to Agreement, and ratify an Amendment to Agreement.

AGREEMENTS

1. **JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE (JHU)** **\$233,804.00**

Account: 4000-422617-3030-271500-603051

The JHU's School of Medicine will provide scientific guidance and oversight in all aspects of the Sexually Transmitted Diseases (STD) Surveillance Network, including coordination and development of the grant application. It coordinates across all agencies and facilities collaborating on the network and serves as principal liaison with project officers at the Centers for Disease Control. The period of the Agreement is September 30, 2016 through September 29, 2017.

2. **JOHN HOPKINS UNIVERSITY, (JHU) BLOOMBERG SCHOOL OF PUBLIC HEALTH** **\$ 80,288.00**

Account: 4000-483317-3160-308000-603051

The BCHD Dating Matter's Program will collaborate with Johns Hopkins Bloomberg School of Public Health to perform an evaluation of this new School-Based Violence Prevention Project. The program will be implemented in 4 schools, starting with the 9th grade class.

The purpose of the Teen Dating Violence/Youth Violence project is to reduce teen dating violence and other forms of youth violence in Baltimore City by implementing a multi-faceted primary prevention approach. To achieve this

MINUTES

Health Department - cont'd

goal the Baltimore City Health Department's Dating Matter's Program will address shared risk and protective factors that exist across multiple forms of youth violence. The period of the agreement is September 1, 2016 through August 31, 2017.

These Agreements are late because budget review and revisions delayed processing.

3. JOHNS HOPKINS UNIVERSITY, (JHU) \$295,650.00
SCHOOL OF MEDICINE

Account: 4000-406316-3030-271500-603051

The JHU's Center for Child and Community Health Research (CCCHR) provides technical guidance to the Department, including community-based participatory research, scientific guidance, geographic information system mapping as part of the community needs assessment, and oversight of the evaluation. The CCCHR also convenes meetings, represents the project at meetings with the Centers for Disease Control, and works in partnership with the Baltimore City Health Department to accomplish the project objectives. The period of the Agreement is September 30, 2016 through September 29, 2017.

MWBOO GRANTED A WAIVER.

The agreement is presented at this time because budget review and approval delayed processing.

4. BALTIMORE CITY COMMUNITY \$ 40,000.00
COLLEGE (BCCC)

Account: 6000-633116-3024-295900-603007

The BCCC will conduct various classes at the Waxter Senior Center. These classes will be offered to members and non-members 55 years of age and older in the area of Community Education. The period of the agreement is September 1, 2016 through August 31, 2018.

MINUTES

Health Department - cont'd

AMENDMENT TO AGREEMENT

5. A. J. BOGGS & COMPANY D/B/A IXN **\$ 39,756.00**

Account: 4000-427716-3023-599613-603051

On June 1, 2016, the Board approved the original agreement with A. J. Boggs & Company d/b/a IXN in the amount of \$72,141.00 for the period of May 16, 2016 through May 15, 2017.

This amendment will allow the company to provide additional database hosting support services for Ryan White Part A programs and will increase the amount by \$39,756.00, making the total agreement amount \$111,897.00.

This amendment is late because of the delays at the administrative level.

RATIFY AN AMENDMENT TO AGREEMENT

6. JOHNS HOPKINS UNIVERSITY (JHU) **\$ 10,000.00**

Account: 5000-520117-3080-702900-603051

On November 18, 2015, the Board approved the original agreement in the amount of \$50,000.00 for the period of July 1, 2015 through June 30, 2016.

The Department received supplemental funds in the amount of \$10,000.00 for additional services for Title X Family Planning Services at Harriet Lane Adolescent Clinic, making the total agreement amount \$60,000.00.

MINUTESHealth Department - cont'd

The Amendment to Agreement is late because supplemental funds were awarded late in the fiscal year and there was an internal delay at the administrative level.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing agreements, Amendment to Agreement, and ratified an Amendment to Agreement.

MINUTES**PROPOSALS AND SPECIFICATIONS**

1. Department of Transportation - TR 11318, Key Highway at Light Street Intersection Improvements
BIDS TO BE RECV'D: 03/01/2017
BIDS TO BE OPENED: 03/01/2017

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

MINUTES

Mayor's Office of Employment - First Amendment to Subgrant
Development (MOED) Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the First Amendment to Subgrant Agreement with Job Opportunities Task Force, Inc. (JOTF).

AMOUNT OF MONEY AND SOURCE:

<u>Original</u> <u>Amount</u>	<u>Additional</u> <u>Amount</u>	<u>Total</u> <u>Amount</u>
\$250,000.00	\$96,802.10	\$346,802.10

Account - 4000-807416-6312-726805-603051

BACKGROUND/EXPLANATION:

On October 28, 2015, the Board approved the original agreement with the JOTF, for the period November 1, 2015 through April 30, 2017, in the amount of \$250,000.00. The agreement authorizes the JOTF to provide construction training with a defined curriculum designed for hard-to-serve, low-skilled, unemployed or underemployed Baltimore City residents.

The JOTF will recruit, screen, and enroll at least 42 Baltimore City residents in training and provide job readiness, comprehensive case management, and employment and retention services.

This amendment will increase the number of enrollees from 42 to 60 and increase the amount of the original agreement by \$96,802.10. The total obligation level of this agreement will not exceed \$346,802.10. The money will be drawn from Federal

MINUTES

MOED - cont'd

funding received through the Maryland Department of Labor Licensing and Regulation.

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 First Amendment to Subgrant Agreement with Job Opportunities Task Force, Inc.

MINUTES

Mayor's Office of Employment - First Amendment to
Development (MOED) Subgrant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the First Amendment to a Subgrant Agreement (First Amendment) with Civic Works, Inc.

AMOUNT OF MONEY AND SOURCE:

<u>Original</u> <u>Amount</u>	<u>Additional</u> <u>Amount</u>	<u>Total</u> <u>Amount</u>
\$250,000.00	\$111,691.86	\$361,691.86

Account - 4000-807416-6312-474805-603051

BACKGROUND/EXPLANATION:

On October 28, 2015, the Board approved the original subgrant agreement, for the period November 1, 2015 through April 30, 2017, in the amount of \$250,000.00. The agreement authorized Civic Works, Inc. to provide construction, energy efficiency, and environmental remediation training with a defined curriculum designed for hard-to-serve, low-skilled, unemployed, or underemployed Baltimore City residents. Civic Works, Inc. will recruit, screen, and enroll at least 85 Baltimore City residents in training and provide job readiness, comprehensive case management, and employment and retention services.

This First Amendment will increase the number of enrollees from 85 to 123 and increase the amount of the original agreement by \$111,691.86. The total obligation level of this agreement will not exceed \$361,691.86. The funds will be drawn from Federal funding received through the Maryland Department of Labor Licensing and Regulation.

MINUTES

MOED - cont'd

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 First Amendment to the Subgrant Agreement with Civic Works, Inc.

MINUTES

Mayor's Office of Human Services - Agreements, Amendments to Agreement, Ratification of Amendment to Agreement

The Board is requested to approve and authorize execution of the Agreements, the Amendment to Agreement and to ratify an Amendment to an Agreement.

AGREEMENTS

1. **PROJECT PLASE, INC.** **\$1,176,848.00**

Account: 4000-407017-3573-789100-603051

The organization will provide permanent housing and supportive services to 60 formerly homeless veterans in a housing first model program. The period of the agreement is October 1, 2016 through September 30, 2017.

The agreement is late because of a delay in budget negotiations.

2. **ANNE ARUNDEL COUNTY** **\$ 484,913.00**

Account: 4000-490817-3573-763203-603051

Anne Arundel County will use funds to provide housing assistance and supportive services to individuals or to families who have a family member with AIDS.

The City is the Grantee for the Baltimore Eligible Metropolitan Statistical Area (EMSA), which includes Anne Arundel County. The City is required to utilize a portion of the grant funds from the U.S. Department of Housing and Urban Development to assist Anne Arundel County in providing intensive case management services and short-term rental assistance to eligible HIV/AIDS clients in the EMSA. The period of the agreement is July 1, 2016 through June 30, 2019.

The agreement is late because of a delay in receiving the budget from Anne Arundel County.

MINUTESMayor's Office of Human Services - cont'd

3. **HELPING UP MISSION, INC.** **\$113,308.63**

Account: 1001-000000-3572-778800-603051

The organization will use funds to operate a women's day shelter for up to 60 homeless women on a daily basis. The funds will be used to cover rent, personnel, and supplies. The period of the agreement is November 1, 2016 through October 31, 2017.

The agreement is late because of a delay at the administrative level.

MWBOO GRANTED A WAIVER.

4. **MERCY MEDICAL CENTER, INC.** **\$ 36,916.00**

Account: 5000-580617-3572-791200-603051

The organization will use funds to provide housing counseling and supportive services to at-risk and homeless individuals to assist people transitioning to permanent housing. The organization will serve over 20 homeless families. The period of the agreement is July 1, 2016 through June 30, 2017.

The agreement is late because of a delay at the administrative level.

AMENDMENT NO. 2 TO CONTRACT

5. **GAUDENZIA FOUNDATION, INC.** **\$ 0.00**

On April 9, 2014, the Board approved an agreement with the organization for the period of August 16, 2012 through November 15, 2014. The organization was provided funding to

MINUTESMayor's Office of Human Services - cont'd

construct an addition to the Gaudenzia Park Heights Women's and Children's Center and to provide permanent housing and supportive services to 18 households.

On March 11, 2015, the Board approved an amendment to extend the agreement through February 28, 2017. This second amendment will extend the agreement through May 31, 2017. This will allow the organization to perform housing and support services to 18 households required under the original agreement.

RATIFICATION OF AMENDMENT**6. DAYSPRING PROGRAMS, INC. \$0.00**

On March 16, 2016, the Board approved an agreement with the organization for the period of January 1, 2016 through December 31, 2016. The organization used the funds to provide housing assistance and supportive services to 18 families or individual adults.

In order to use the full expenditure of funds the U.S. Department of Housing and Urban Development approved a no-cost extension of the grant extending the date through April 30, 2017. This ratification and extension will allow for the payment of expenses incurred by the organization.

MWBOO GRANTED A WAIVER.

AUDITS NOTED THE TIME EXTENSION.

MINUTES

Mayor's Office of Human Services - cont'd

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized execution of the foregoing Agreements, the Amendment to Agreement, and ratified the Amendment to an Agreement.

MINUTES

Department of Public Works - Cost Share Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the Cost Share Agreement with the Maryland Department of the Environment.

AMOUNT OF MONEY AND SOURCE:

\$1,500,000.00 - Grant not to exceed

BACKGROUND/EXPLANATION:

The Maryland Department of the Environment will allocate up to 25% of the City's portion of the total project construction cost in State grant funds for the construction of the Fullerton Water Reservoir located at Perry Hall, Baltimore County.

The City and Baltimore County will share in the construction cost of the project and Baltimore County will construct the project. The Maryland Department of the Environment at its discretion may provide the City with additional grant funds towards the project.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Cost Share Agreement with the Maryland Department of the Environment.

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. 1 to Parsons Brinckerhoff, Inc. under Project 1236P, On-Call Stormwater Study and Engineering Design Services. The period of the task assignment is approximately 18 months.

AMOUNT OF MONEY AND SOURCE:

\$365,138.16 - 9958-909413-9525-900020-703032
369,368.09 - 9958-915412-9525-900020-703032
\$734,506.25

BACKGROUND/EXPLANATION:

On December 27, 2013, the Maryland Department of the Environmental (MDE) reissued a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) permit to the City of Baltimore. The City prepared and submitted the Baltimore City Municipal Separate Storm Sewer System (MS4) and Total Maximum Daily Load (TMDL) Watershed Implementation Plan (WIP) as a requirement of the MS4 Permit.

Parsons Brinckerhoff, Inc. will assess approximately 6,700 linear feet stream for stability and prepare biddable documents for each of the following projects to meet or exceed a total of 100.5 acres of impervious area treatment goal for MS4 Permit:

- ER 4052-Maidens Choice Tributary Restoration Project Upland, and
- ER 4053-Dead Run Stream Restoration Project 2 (Lazer and Franklinton Road).

MINUTES

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

The above projects listed in the WIP have deadlines and there are stipulated penalties associated with these projects.

The scope of the original agreement includes designing civil/environmental, stormwater drainage systems, geotechnical services, conducting and evaluating all surface investigations, responding to Stormwater system and open channel emergencies,

preparing design reports, performing inspections, construction management services, and structural engineering evaluation and design.

MBE/WBE PARTICIPATION:

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

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

TRANSFERS OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$900,000.00 (Constr. Res. Stormwater Utility)	9958-906405-9526 Citywide Stream Restoration	
\$450,000.00	-----	9958-909413-9525-3 (Engineering)
<u>450,000.00</u>	-----	9958-915412-9525-3 (Engineering)
\$900,000.00		

MINUTES

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

This transfer will cover the costs for Project 1236P, Task No. 1 (ER 4052, ER 4053).

UPON MOTION duly made and seconded, the Board approved the assignment of Task No. 1 to Parsons Brinckerhoff, Inc. under Project 1236P, 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 Public/Office of - Amendment No. 2 to Agreement
Engineering and Construction

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the Amendment No. 2 to Agreement for SC 920, Improvements of the Gwynns Falls Sewershed Collection System - Area A with Johnson, Mirmiran & Thompson, Inc. This amendment will extend the agreement through February 15, 2019.

AMOUNT OF MONEY AND SOURCE:

\$126,467.26
221,697.21
\$348,164.47 - 9956-904623-9551-900020-702064

BACKGROUND/EXPLANATION:

This second amendment is necessary because the designer needs to continue to assist the City during construction and to oversee work performed by the contractor. The period of agreement will be extended for an additional two years through February 15, 2019.

MBE/WBE PARTICIPATION:

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

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

MINUTES

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Amendment No. 2 to Agreement for SC 920, Improvements of the Gwynns Falls Sewershed Collection System - Area A with Johnson, Mirmiran & Thompson, Inc.

MINUTES

Department of Public Works/Office - Agreement
of Engineering and Construction

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an Agreement with Pure Technologies U.S. Inc. D/B/A Wachs Water Services under Project 1251, Valve and Fire Hydrant Assessment, Inspection and Repair Program throughout the Baltimore Metropolitan Water System. The period of the agreement is effective upon Board approval for 30 months or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$1,288,110.46	-	2071-000000-5521-393204-603026
1,288,110.46	-	2071-000000-5521-393404-603026
461,860.46	-	2071-000000-5521-393704-603026
461,860.44	-	2071-000000-5521-393804-603026
<u>4,000,000.00</u>	-	<u>9960-905128-9557-900020-706063</u>
\$7,499,941.82		

BACKGROUND/EXPLANATION:

The Consultant will perform routine valves and hydrant assessment and associated minor repairs; assist with water main shutdowns to support water main renewal construction projects, facility improvements and water meter replacements, and assist with reactive response associated with system emergencies and customer complaints. The Consultant will also perform quality assurance of all field data and follow data management procedures set forth by the City. Work will be performed throughout Baltimore City and Baltimore County. This contract will be managed by the Office of Asset Management. The Consultant was approved by the Architectural and Engineering Award Commission.

MINUTES

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

MBE/WBE PARTICIPATION:

MBE: Dhillon Engineering, Inc.	\$1,349,994.82	18%
DM Enterprises of Baltimore, LLC	337,489.05	4.5%
C.C. Johnson & Malhotra, P.C.	337,464.83	4.5%
	<u>\$2,024,948.70</u>	27%
 WBE: Ross Technical Services, Inc.	 \$ 749,993.37	 10%

MWBOO FOUND VENDOR IN COMPLIANCE.

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

TRANSFERS OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$2,400,000.00 (Baltimore County)	9960-909100-9558 (Constr. Res. Water Infra- structure Rehab)	
2,400,000.00 (Water Revenue Bonds)		
<u>\$4,800,000.00</u>		
 \$4,000,000.00	 -----	 9960-905129-9557-900020-3 (Engineering)
 <u>800,000.00</u>	 -----	 9960-905129-9557-900020-9 (Administration)
\$4,800,000.00		

The funds are required to cover the cost for the award of Project 1251, Valve & Fire Hydrant Assessment.

MINUTES

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

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Agreement with Pure Technologies U.S. Inc. D/B/A Wachs Water Services under Project 1251, Valve and Fire Hydrant Assessment, Inspection and Repair Program throughout the Baltimore Metropolitan Water System. 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 Human Resources - Personnel Matter

The Board is requested to approve the Personnel Matter below:

Baltimore City Council

Reclassify the following filled position:

Position No.: 1000-32833

From: Secretary (City Council)
Job Code: 10010
Grade: 086 (\$38,152.00 - \$46,019.00)

To: Council Technician
Job Code: 10209
Grade: 093 (\$50,927.00 - \$62,096.00)

Costs: To be determined - 1001-000000-1000-107100-601001

This position is to be considered a Position of Trust in accordance with the policy outlined in the Administrative Manual, Section 237-1.

THE PERSONNEL MATTER WAS APPROVED BY THE EXPENDITURE CONTROL COMMITTEE.

UPON MOTION duly made and seconded, the Board approved the above listed personnel matter. The President **ABSTAINED.**

MINUTES

Employees' Retirement System (ERS) - Investment Management Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an Investment Management Agreement by the Board of Trustees of the ERS, acting as fiduciaries for the Retiree Benefit Trust of the City of Baltimore (the OPEB Trust) with Cooke & Bieler, L.P.

AMOUNT OF MONEY AND SOURCE:

\$37,000,000.00 - OPEB Trust Assets

No General Fund monies are involved in this transaction.

BACKGROUND/EXPLANATION:

The ERS Board of Trustees conducted a search for a value-oriented, small-cap domestic equities manager and as a result of that search, interviewed three finalists. Following those interviews, the Board unanimously selected Cooke & Bieler, L.P. The search and selection was conducted with the assistance and advice of the OPEB Trust's investment advisor, Marquette Associates.

MWBOO GRANTED A WAIVER.

MINUTESEmployees' Retirement System - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Investment Management Agreement by the Board of Trustees of the ERS, acting as fiduciaries for the Retiree Benefit Trust of the City of Baltimore with Cooke & Bieler, L.P. The Comptroller **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 Purchases

- | | | |
|--------------------------------------------|---------|---------|
| 1. TIM'S AUTO BATTERY
AND ELECTRIC, LLC | \$ 0.00 | Renewal |
|--------------------------------------------|---------|---------|
- Contract No. B50002775 - O.E.M Parts and Service for Honda
Vehicles - Department of General Services - P.O. No. P522607

On February 2, 2013, the Board approved the initial award in the amount of \$45,000.00. The award contained two 1-year renewal options. On December 24, 2015, the Board approved the first renewal in the amount of \$0.00. This final renewal in the amount of \$0.00 is for the period February 6, 2017 through February 5, 2018.

- | | | |
|----------------------------------|--------------|---------|
| 2. FERGUSON ENTERPRISES,
INC. | \$ 50,000.00 | Renewal |
|----------------------------------|--------------|---------|
- Solicitation No. B50004438 - Various Type K - Copper Tubing -
Department of Public Works, Bureau of Water and Wastewater -
P.O. No. P534353

On February 3, 2016, the Board approved the initial award in the amount of \$200,000.00. The award contained four 1-year renewal options. This first renewal in the amount of \$50,000.00 is for the period February 20, 2017 through February 19, 2018, with three 1-year renewal options remaining. The above amount is the City's estimated requirement.

MBE/WBE PARTICIPATION:

On December 7, 2015, MWBOO determined that no goals would be set because of no opportunity to segment the contract. This contract is for the purchase of copper tubing. No services are being provided under this contract.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONSVENDOR AMOUNT OF AWARD AWARD BASISBureau of Purchases - cont'd

3. BELAIR ROAD SUPPLY
 COMPANY, INCORPORATED \$ 60,000.00 Renewal
 Contract No. B50003896 - Inlet Head with Galvanized Facebar -
 Storm Drain - Department of Public Works, Bureau of Water and
 Wastewater - P.O. No. P530105

On February 4, 2015, the Board approved the initial award in the amount of \$40,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$60,000.00 is for the period February 4, 2017 through February 3, 2018. The above amount is the City's estimated requirement.

MBE/WBE PARTICIPATION:

Not applicable. This is an indefinite quantity contract with an initial estimated annual requirement below the threshold of \$50,000.00.

4. CENTRAL POLY-BAG
 CORP. \$150,000.00 Renewal
 Contract No. B50003274 - Polyethylene Liners for all
 Baltimore City Agencies - Department of Recreation and Parks,
 etc. - Req. No. Various

On April 2, 2014, the Board approved the initial award in the amount of \$258,420.00. The award contained two 1-year renewal options. On March 30, 2016, the Board approved an increase in the amount of \$150,000.00. This first renewal in the amount of \$150,000.00 is for the period April 2, 2017 through April 1, 2018, with one 1-year renewal option remaining. The above amount is the City's estimated requirement.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - cont'd

MBE/WBE PARTICIPATION:

On October 7, 2013, it was determined that no goals would be set because of no opportunity to segment the contract. This is a purchase of the following commodities only: trash can liners. No services are provided under this contract.

MWBOO GRANTED A WAIVER.

5. WITMER PUBLIC SAFETY
 GROUP, INC. \$110,000.00 Renewal
 Contract No. B50003897 - Supply of Fire Hose - Baltimore City
 Fire Department - P.O. No. P530180

On February 11, 2015, the Board approved the initial award in the amount of \$114,676.00. The award contained two 2-year renewal options. This first renewal in the amount of \$110,000.00 is for the period February 16, 2017 through February 15, 2019, with one 2-year renewal option remaining. The above amount is the City's estimated requirement.

MBE/WBE PARTICIPATION:

On December 3, 2014, it was determined that no goals would be set because of no opportunity to segment the contract. No services are being provided under this contract, and therefore there is no opportunity for subcontracting.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - cont'd

6. ACME AUTO LEASING, LLC HRAL, LLC d/b/a ALLSTATE LEASING	\$800,000.00	Renewal
Contract No. B50001886 Vehicle Leasing - Baltimore City Police Department, Department of Transportation, etc. - P.O. Nos. P519341 and P519345		

On January 18, 2012, the Board approved the initial award in the amount of \$372,018.00. The award contained two 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$800,000.00 is for the period January 25, 2017 through January 24, 2019. The above amount is the City's estimated requirement.

MBE/WBE PARTICIPATION:

On March 25, 2011, it was determined that no goals would be set because of no opportunity to segment the contract. The contract requires that where feasible, current Fleet maintenance/repair contracts are utilized.

MWBOO GRANTED A WAIVER.

7. D-S PIPE & STEEL SUPPLY, LLC	\$ 50,000.00 <u>160,000.00</u>	Increase and Renewal
	\$210,000.00	

Contract No. B50003281 - Steel Products - Departments of Public Works, General Services, Transportation and Recreation and Parks - P.O. No. P526468

On February 12, 2014, the Board approved the initial award in the amount of \$250,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. The

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - cont'd

Department of Public Works is requesting an increase to purchase steel plates and round stock needed for fabrication repairs at the Back River Wastewater Treatment Plant. This increase will make the award amount \$630,000.00. The contract expires on April 30, 2017. This first renewal is for the period May 1, 2017 through April 30, 2018, with one 1-year renewal option remaining. The above amount is the City's estimated requirement.

MBE/WBE PARTICIPATION:

On October 29, 2013, it was determined that no goals would be set because of no opportunity to segment the contract. This contract is solely for the purchase of the following commodities: steel products. No services are being provided under this contract.

MWBOO GRANTED A WAIVER.

8. ANCHOR BAY "EAST"	\$150,000.00	Increase and
MARINA LLC	<u>150,000.00</u>	Renewal
	<u>\$300,000.00</u>	

Contract No. 06000 - OEM and Aftermarket Parts and Service for Marine Equipment - Department of General Services, Fleet Management - P.O. No. P523055

On March 13, 2013, the Board approved the initial award in the amount of \$150,000.00. The award contained two 1-year renewal options. An increase in the amount of \$150,000.00 is necessary to cover the cost for major repairs and necessary maintenance on Fire Department boats. This increase and the renewal will make the award amount \$815,000.00. The contract expires on March 31, 2017. This final renewal is for the period April 1, 2017 through March 31, 2018. The above amount is the City's estimated requirement.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - cont'd

MBE/WBE PARTICIPATION:

Not applicable. Refer to the above certification which states that this is a purchase of a commodity available only from one vendor. No services are being provided under this contract, and therefore there is no opportunity for subcontracting.

- | | | |
|-------------------------------------------------------------------------------------------------|--------------|-------------|
| 10. BIO-RAD LABORATORIES,
INC. | \$205,000.00 | Sole Source |
| Solicitation No. 08000 - Bio-Rad Elisa HIV Combo Kits -
Health Department - Req. No. R749166 | | |

Bio-Rad Laboratories, LLC is the manufacturer and sole supplier of their equipment and test kits. Bio-Rad test kits are the only kits compatible with Bio-Rad equipment which has been in use by the Baltimore City Health Department for several years. These test kits are used by the laboratory to confirm test results obtained by field outreach and clinic personnel with all of the following point of service test kits; including AlereClearview Test Kits, which are point of service tests that allow non-laboratory personnel the ability to test patient's whole blood for HIV, away from a lab or clinic testing, OraQuickOraSure HIV Test Kits, which are a point of service tests that allow non-laboratory personnel the ability to test patient's oral fluid for HIV, away from a lab or clinic setting, when drawing blood is not possible, and BioLytical Laboratories Rapid HIV Test Kits, which are used to screen for HIV and will provide results in 60 seconds, allowing the Baltimore City Health Department to screen a larger number of patients. The period of the award is January 25, 2017 through January 24, 2020, with two 1-year renewal options. 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 Purchases - 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 practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11 (e)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

MBE/WBE PARTICIPATION:

Not applicable. Refer to the above certification which states that this is a procurement of proprietary commodities available only from the vendor.

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------|
| 11. ENVIRONMENTAL SYSTEMS | | Sole Source |
| <u>RESEARCH INSTITUTE, INC.</u> | <u>\$5,000,000.00</u> | Agreement |
| Contract No. 08000 - ESRI Geographic Information System (GIS) Products Master Purchase Agreement - Baltimore City Fire Department, Departments of General Services, Transportation, Public Works and Mayor's Office of Information Technology, etc. - P.O. No. to be determined. | | |

The Board is requested to approve and authorize execution of a Master Purchase Agreement with the Environmental Systems Research Institute, Inc. The period of the Agreement is January 25, 2017 through January 24, 2019, with one 1-year renewal option.

This Master Purchase Agreement will provide Geographical Information Systems (GIS) software renewals, licenses, maintenance, and technical support for the City's existing ESRI ArcGIS mapping system for the City's utilities and network infrastructure. The vendor is the manufacturer and sole provider of ESRI proprietary software licenses, maintenance, and technical support. The above amount is the City's estimated requirement.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - 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 practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11 (e)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

MBE/WBE PARTICIPATION:

No goals were set on this contract as it was determined to be a sole source contract. This procurement is for licenses and related services for proprietary software that is only available from the vendor.

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|-------------------------------------------------------------------------------------------------|--------------|-------------|
| 12. TELVENT USA, LLC | | Sole Source |
| D/B/A SCHNEIDER ELECTRIC | \$ 23,336.84 | Agreement |
| Contract No. 08000 - Arc FM Solution Software - Department of Transportation - P.O. No. P536729 | | |

The Board is requested to approve and authorize execution of the Software License Agreement with Telvent USA, LLC D/B/A Schneider Electric, vendor.

On August 31, 2016, the Board approved the initial award. The Board is requested to approve the final negotiated contract with the vendor. The original Board letter requested the period of the agreement for August 31, 2016 through August 30, 2019, with two, 1-year renewals. The corrected term of the agreement is March 11, 2016 through March 10, 2019, with two 1-year renewals. The initial award was approved in the amount of \$34,200.00. The increase in the amount of \$23,336.84 is requested to fund the second year for maintenance that is associated with the software.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

<u>VENDOR</u>	<u>AMOUNT OF AWARD</u>	<u>AWARD BASIS</u>
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Bureau of Purchases - 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 practical to obtain competitive bids. Therefore, pursuant to Article VI, Section 11 (e)(i) of the City Charter, the procurement of the equipment and/or service is recommended.

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|------------------------------------------------------------------------------------------------------------------------------------------|--------------|----------------------------------------------------------|
| 13. TELVENT USA, LLC
D/B/A SCHNEIDER ELECTRIC | \$ 65,360.00 | Sole Source Agreement/
Increase/Correction
to term |
| Contract No. 08000 - Extended Support and Maintenance
Services for ArcFM Conduit - Department of Transportation -
P.O. No. P537172 | | |

The Board is requested to approve and authorize execution of the Professional Services Agreement with Telvent USA, LLC D/B/A Schneider Electric, vendor.

On September 29, 2016, the Board approved the initial award. The Board is requested to approve the final negotiated contract with the vendor. The increase is to fund the second and third years of the extended maintenance services. The original Board letter requested a one-year term, with two 1-year renewal options. The corrected term is for three years, April 1, 2016 through March 31, 2019, with two, 1-year renewal options.

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

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases - cont'd

15. ASSOCIATED BUILDING MAINTENANCE CO., INC.	\$734,100.00	Term Purchase Order
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Contract No. 06000 - Provide Janitorial Services for Area A
2017 - Department of General Services - Req. No.: To be
determined

On October 26, 2016, the Board approved the initial award to Dazer-Bal Corporation d/b/a Jani-King of Baltimore. However, the vendor refused to perform the contract. On January 11, 2017, the Board rescinded the award. The requested action is to approve a term purchase order for coverage while the solicitation is reviewed, revised, advertised, evaluated, and awarded. The period of the term purchase order is February 1, 2017 through December 31, 2017.

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

MWBOO SET GOALS OF 20% MBE AND 10% WBE.

MBE: JSD Cleaning Services, Inc.	20%
WBE: My Cleaning Service, Inc.	10%
Associated Building Maintenance Co., Inc.	<u>35%</u>
	45%

MWBOO FOUND VENDOR IN COMPLIANCE.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases - cont'd

16. ASSOCIATED BUILDING MAINTENANCE CO., INC.	\$555,428.00	Term Purchase Order
Contract No. 06000 - Provide Janitorial Services for Area B 2017 - Department of General Services - Req. No.: To be determined		

On October 26, 2016, the Board approved the initial award to Dazer-Bal Corporation d/b/a Jani-King of Baltimore. However, the vendor refused to perform the contract. On January 11, 2017, the Board rescinded the award. The requested action is to approve a term purchase order for coverage while the solicitation is reviewed, revised, advertised, evaluated, and awarded. The period of the term purchase order is February 1, 2017 through December 31, 2017. The above amount is the City's estimated requirement.

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

MBE/WBE PARTICIPATION:**MWBOO SET GOALS OF 20% MBE AND 10% WBE.**

MBE: JSD Cleaning Services, Inc. 20%

WBE: My Cleaning Services, Inc. 10%

MWBOO FOUND VENDOR IN COMPLIANCE.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases - cont'd

17. ASSOCIATED BUILDING MAINTENANCE CO., INC.	\$950,000.00	Term Purchase Order
Contract No. 06000 - Provide Janitorial Services for Area C 2017 - Department of General Services - Req. No.: To be determined		

On November 23, 2016, the Board approved the initial award to B&B Diversified Services, LLC. However, the vendor refused to perform the contract. The vendor had gone through reorganization and was no longer interested in the contract. On January 11, 2017, the Board terminated the contract. The requested action is to approve a term purchase order for coverage while the solicitation is reviewed, revised, advertised, evaluated and awarded. The period of the term purchase order is February 1, 2017 through December 31, 2017. The above amount is the City's estimated requirement.

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

MBE/WBE PARTICIPATION:

MWBOO SET GOALS OF 20% MBE AND 10% WBE.

MBE: JSD Cleaning Service, Inc. 20%

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases - cont'd

WBE: My Cleaning Service, Inc.		10%
Associated Building Maintenance Co., Inc.		<u>35%*</u>
		45%

*Indicates self-performance

MWBOO FOUND VENDOR IN COMPLIANCE.

UPON MOTION duly made and seconded, the Board approved the foregoing informal awards, renewals, increases to contract and extensions. The Board also approved and authorized execution of the Master Purchase Agreement with Environmental Systems Research Institute, Inc. (item no. 11). The Board further approved and authorized execution of the Software License Agreement with Telvent USA, LLC d/b/a Schneider Electric (item no. 12), and the Professional Services Agreement with Televant USA, LLC d/b/a Schneider Electric (item no. 13).

MINUTES

Bureau of the Budget and - Fiscal 2018 Budget Planning Calendar
Management Research

In accordance with Article VI, Section 2, of the Charter of Baltimore City (1996 Edition), the submitted schedule for preparing the Fiscal Year 2018 Budget is recommended for adoption by the Board. These dates are preliminary and subject to change.

<u>ITEM</u>	<u>DATE</u>	<u>DESCRIPTION</u>
Preliminary Budget at BOE	March 29, 2017	Transmittal of Department of Finance Recommendations to Board of Estimates
Taxpayer's Night	To Be Announced	Budget Pop-Up at 6:00 p.m. – Taxpayer's Night at 7:00 p.m. War Memorial Building
Ordinance at BOE	May 3, 2017	Board of Estimates adopts proposed Ordinance of Estimates. This includes transmittal of the Executive Summary Budget Book.
Publish Ordinance	May 4, 2017	Publication of a copy of proposed Ordinance of Estimates in two daily Baltimore newspapers.
Ordinance at City Council	May 8, 2017	Introduction of Proposed Ordinance of Estimates to City Council.
Agency Detail Book	May 8, 2017	Transmittal of the Agency Detail Budget Book to City Council.
Ordinance Passage	no later than June 25, 2017	Passage of Ordinance of Estimates for Fiscal Year ending June 30, 2018.

MINUTES

Bureau of the Budget and - cont'd
Management Research

UPON MOTION duly made and seconded, the Board Adopted the submitted schedule for preparing the Fiscal Year 2018 Budget.

MINUTES

Bureau of the Budget and - Grant Award and Appropriation
Management Research Adjustment Order Transfer No. 41

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a grant award from the Maryland Department of Health and Mental Hygiene. The period of the grant is September 1, 2016 through June 30, 2017.

The Board is further requested to approve an Appropriation Adjustment Order Transfer No. 41 within the Health Department for \$35,000.00 in unallocated State funds from Service 715: Health Administration to Service 718: Chronic Disease Prevention.

AMOUNT OF MONEY AND SOURCE:

\$35,000.00 - From: 5000-500017
(Service 715)

To: 5000-583517
(Service 718)

BACKGROUND/EXPLANATION:

This grant award will require transfer from unallocated State Funds in Service 715: Health Administration (Fund 5000-500017), to Service 718: Chronic Disease Prevention (Fund 5000-583517).

The purpose of this grant is to funds increased colorectal cancer screening.

APPROVED FOR FUNDS BY FINANCE

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

MINUTES

Bureau of the Budget and - cont'd
Management Research

UPON MOTION duly made and seconded, the Board approved acceptance of the grant award from the Maryland Department of Health and Mental Hygiene. The Board further approved the Appropriation Adjustment Order Transfer No. 41 within the Health Department for \$35,000.00 in unallocated State funds from Service 715: Health Administration to Service 718: Chronic Disease Prevention.

MINUTES

Bureau of the Budget and - Grant Award
Management Research

ACTION REQUESTED OF B/E:

The Board is requested to approve acceptance of a Grant Award from the Governor's Office of Crime Control and Prevention (GOCCP) to the State's Attorney's Office (SAO), Service 115: Prosecution of Criminals. The period of the grant award is October 1, 2016 through June 30, 2018.

AMOUNT OF MONEY AND SOURCE:

\$163,337.00 - From: 5000-500017-1150-122700-607004
(Service 115)

To: 5000-501517-1150-118000-600000
(Service 115)

BACKGROUND/EXPLANATION:

The Grant Award will come from the GOCCP and no appropriation adjustment is required.

The SAO will use the grant funds to improve responses to victims of domestic violence and teen victims of sexual assault. The program includes the planning, development and establishment of a comprehensive victim service center to support these two unique victim populations. Grant funds will provide salary support and related expenses.

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

APPROVED FOR FUNDS BY FINANCE

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

MINUTES

Bureau of the Budget and - cont'd
Management Research

UPON MOTION duly made and seconded, the Board approved acceptance of the Grant Award from the Governor's Office of Crime Control and Prevention to the State's Attorney's Office, Service 115: Prosecution of Criminals.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

* * * * *

On the recommendations of the City agencies
hereinafter named, the Board,

UPON MOTION duly made and seconded,

awarded the formally advertised contracts

listed on the following pages:

263 - 297

to the low bidders meeting the specifications,

or rejected bids on those as indicated

for the reasons stated.

The Transfers of Funds were approved

SUBJECT to receipt of favorable reports

from the Planning Commission,

the Director of Finance having reported favorably

thereon, as required by the provisions

of the City Charter.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

1. B50004802, Mobile Century Industries, \$ 118,940.00
Stage Trailer LLC

(Department of General
Services - Fleet Management)

MWBOO GRANTED A WAIVER.Department of Public Works/Off. of Engineering and Construction

2. ER 4020, Lower **REJECTION** - On October 12, 2016, the
Lower Stony Run Board opened two bids for ER 4020. The
Restoration bids exceeded the budget allocated for
the referenced project. The low bidder
and the second bidder were also found
to be over their pre-qualification work
capacity. Therefore, the agency wishes
to reject the bids and intends to re-
advertise at a later date.

3. WC 1353, AMI/R R.E. Harrington Plumbing \$3,469,840.00
Urgent Need & Heating Co., Inc.
Metering Repair
& Replacement -
Various Locations
(up to 2" Water
Service)

MBE:	R.E. Harrington Plumbing	\$1,214,444.00	35%
	& Heating Co., Inc.*		
	Reviera Enterprises, Inc.	138,793.60	4%
	JLN Construction Services,	104,095.20	3%
	Inc.	<u>\$1,457,332.80</u>	<u>42%</u>

WBE:	Franqui Enterprises, LLC	\$ 208,190.40	6%
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*Indicates Self-Performance

MWBOO FOUND VENDOR IN COMPLIANCE.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

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

4. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$2,385,999.50	9960-909100-9558	
Balto. County	Constr. Reserve	
	Water Infrastruc.	
	Rehabilitation	
2,385,999.50	" "	
Water Revenue		
Bonds		
<u>\$4,771,999.00</u>		
<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 346,984.00	-----	9960-907636-9557
		900020-2
		Extra Work
346,984.00	-----	9960-907636-9557-
		900020-3
		Engineering
400,000.00	-----	9960-907636-9557-
		900020-5
		Inspection
3,469,840.00	-----	9960-907636-9557-
		90020-6
		Construction
208,191.00	-----	9960-907636-9557-
<u>\$4,771,999.00</u>		900020-9
		Administration

The transfer will provide funds to cover the cost for award of WC 1353, AMI/R, Urgent Need Metering Infrastructure Repair.

A PROTEST AND SUPPLEMENTAL PROTESTS HAVE BEEN RECEIVED FROM METRA INDUSTRIES. ALSO, A SUPPLEMENTAL PROTEST WAS RECEIVED FROM WATT, TIEDER, HOFFAR & FITZGERALD, LLP, ON BEHALF OF METRA INDUSTRIES.

METRA INDUSTRIES

50 Muller Place
Little Falls, New Jersey 07424
(973) 812-0333
FAX (973) 812-0330

November 30, 2016

Baltimore City
City Hall, Room 204
100 Holliday Street
Baltimore MD 21202

Re. Water Contract WC 1353 Urgent Metering Infrastructure Repair and Replacement, Various Locations (Up To 2-inch Water Service)
Bid Date / Time: November 2, 2016, 11:00 AM

Attention: Honorable Joan M. Pratt, CPA, Comptroller

Dear Ms. Pratt,

Kindly allow this to serve as a second supplement to our November 9, 2016 bid protest (first supplemented on November 11, 2016) against the RE Harrington (Harrington) Bid Submission package for the above referenced project.

As previously stated, Harrington's bid must be rejected because they listed Franqui Enterprises LLC (Franqui) as their sole WBE subcontractor to fulfill the requirements of this bid letting by purportedly performing \$208,190.40 "Construction Management" work. Contract 1353 is not a Construction Management project and there is no Construction Management services required as part of Contract 1353.

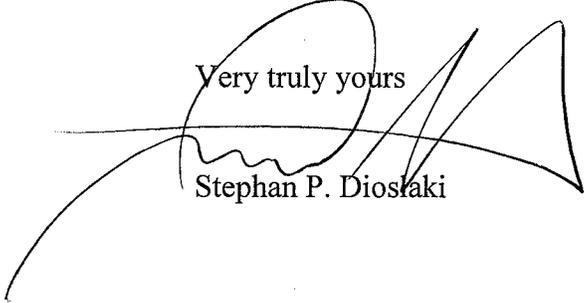
Construction Management projects are jobs and Contracts in and of themselves – this is not segmentable. If Baltimore City awards this job to Harrington this way, then they will have set precedent for all future bids to allow this same sort of response activity to the MBE / WBE requirements. In particular, precedent will allow for this bidder and all bidders going forward to fulfill MBE / WBE bid requirements by just doing a pass-through – by simply using / abusing the "label" of a management services oriented firm to fill / vacate what is otherwise intended to be a good faith effort and goal requirement.

It will allow for MBE / WBE goals to be achieved by purportedly performing duties such as: "Attorney Representation" of a Contractor for disputes during the project or a "Certified Public Accountant (CPA) services" to do the books. This would effectively defeat the purpose entirely and instead condone just making MBE WBE a "pass-through" without being able to show anything for it. It would, in effect change the intent of doing real work to just showing something on paper as a pass-through - unverifiable hours and dollars (unverifiable to the particular job and unverifiable to even any actual work done at all). It would condone bidders to just list companies as a pass through without any real verifiable work towards the construction of the project being accomplished at all.

For the foregoing reasons (and in addition to our prior bid protest letter and our supplement number one), we reiterate that Harrington's bid must be rejected and this Contract must be awarded to the lowest responsive and responsible bidder, Metra Industries.

Kindly confirm at your earliest convenience that award will be made to our firm so we may plan and proceed accordingly.

Very truly yours



Stephan P. Dioslaki

/spd.

Joan Pratt 3 Bid Protest WC 1353 Supplement #2

METRA INDUSTRIES

10 Muller Place
Little Falls, New Jersey 07424
(973) 812-0333
FAX (973) 812-0330

November 11, 2016

Baltimore City
City Hall, Room 204
100 Holliday Street
Baltimore MD 21202

Re. Water Contract WC 1353 Urgent Metering Infrastructure Repair and Replacement, Various Locations (Up To 2-inch Water Service)
Bid Date / Time: November 2, 2016, 11:00 AM

Attention: Honorable Joan M. Pratt, CPA, Comptroller

Dear Ms. Pratt,

Please allow this to serve as a supplement to our November 9, 2016 bid protest against the RE Harrington (Harrington) Bid Submission package for the above referenced project.

As stated in our initial bid protest letter, Harrington's bid must be rejected because they listed Franqui Enterprises LLC (Franqui) as their sole WBE subcontractor to fulfill the requirements of this bid letting by purportedly performing \$208,190.40 "Construction Management" work.

In furtherance of this, we have also learned that Franqui is not prequalified with the City of Baltimore in any capacity. Only in the event that a value of work less than \$25,000 is being performed would this be status of non-prequalification be allowable. However, Franqui (as stated above) is listed by Harrington for \$208,190.40.

As per: <http://publicworks.baltimorecity.gov/Boards-and-Commissions>

*"OBC is the prequalification office for all construction-related contractors and design consultants seeking to perform services of \$25,000 or greater on the City of Baltimore's contracts. **Prequalification is required for all firms performing such work across all City agencies.** Approval of prequalification is granted by the City's Board of Estimates. OBC advertises, receives, and processes for Agency review all design projects for the City of Baltimore. OBC also maintains performance evaluations for contractors and consultants performing work and has the authority to recommend the appropriate actions for poor performance. Currently, there are over 500 prequalified contractors and 250 prequalified consultants. In order to become prequalified, companies need to submit completed applications and additional required documents for review. OBC reviews the experience and financial reports of contractors to ensure firms have the technical capability and financial capacity to perform satisfactory work. OBC uses the financial information to assign a 'Work Capacity Rating' which dictates the amount of total work (public and private) a contractor is not to exceed in order to work on City projects. **Prequalification and the appropriate capacity rating is require[d] of prime contractors in order to purchase bid documents...**"*

In pertinent point, ***Prequalification is required for all firms performing work across all City agencies to ensure firms have the technical capability and financial capacity to perform satisfactory work. This Prequalification and the appropriate capacity rating is required.***

Franqui fails this requirement in every respect.

Taking this another step further, no category even exists for "Construction Management" as can be verified on the Baltimore City website under

Contractor and Consultant

Pre-qualification

<http://publicworks.baltimorecity.gov/contractor-codes-search>

Furthermore, Franqui is not listed in any of the Consultant Pre-qualification categories either as can be verified in

<http://publicworks.baltimorecity.gov/consultant-category-search>

	CODE
▶	ARCHITECTURE
▶	ENGINEERING
▶	LAND SURVEYING
▶	LANDSCAPE ARCHITECTURE
▶	PROPERTY LINE SURVEYING
▶	SURVEYING

In the Notice of Letting, the prequalification category required for bidding is "B02551 Water Mains". Franqui is not prequalified in any code, let alone, "B02551 Water Mains"

Unlike Franqui, Metra Industries submitted our MBE and WBE subcontractors in strict compliance with the pre-qualifications categories and ours are indeed prequalified (as required) with Baltimore City under the applicable "B02551 Water Mains" code (and otherwise).

And finally, the "Principal Items of Work" as listed in the "Notice of Bid Letting" for this project are:

"Remove dirt/trash/debris from existing small meter vaults, replace/install meter settings and meter vaults, renew/replace existing water supply services, remove and replace top slab, replace/install shutoff valve on existing meter settings, install/replace small/large sectional vault, temporary and permanent pavement and sidewalk restoration, as required."

There is nothing here that even remotely resembles the work task that Franqui has been listed for. More specifically, this is not a Construction Management type of Contract and the City is not requiring construction management under this contract.

No specific contract management is work contemplated on this contract. Therefore Harrington cannot use this as a mechanism to fill the WBE Goal as they are attempting to do. It would be no different than using a minority accountant firm to manage the books of a contractor or a minority Attorney's Firm to represent the contractor for legal counsel. The work can't be quantified nor isolated to this contract. This entirely defeats the purpose and the intent of the bidding (and specifically the WBE) requirements.

For all of the foregoing reasons, the listing of Franqui (a non-qualified company) as their sole WBE on this job for over \$208,000 (of non-existing and non-applicable work) would be considered nothing less than a "pass-through" and an Abuse of Process.

Therefore, as stated in our bid protest letter of November 9, 2016 Harrington's bid must be rejected and this Contract must be awarded to the lowest responsive and responsible bidder, Metra Industries.

Kindly confirm at your earliest convenience that award will be made to our firm so we may plan and proceed accordingly.

Very truly yours

Stephan P. Dioslaki

/spd.

METRA INDUSTRIES

9 Muller Place
Little Falls, New Jersey 07424
(973) 812-0333
FAX (973) 812-0330

November 9, 2016

Baltimore City
City Hall, Room 204
100 Holliday Street
Baltimore MD 21202

Re. Water Contract WC 1353 Urgent Metering Infrastructure Repair and
Replacement, Various Locations (Up To 2-inch Water Service)
Bid Date / Time: November 2, 2016, 11:00 AM

Attention: Honorable Joan M. Pratt, CPA, Comptroller

Dear Ms. Pratt,

We are writing in protest of the apparent low bid submission by R.E. Harrington for this job.

We respectfully submit to you that Metra is the lowest responsive and responsible bidder for the above referenced project for the reasons set forth herein.

The apparent bid results earlier this week were:

- | | |
|------------------|----------------|
| 1. RE Harrington | \$3,469,840.00 |
| 2. Metra | \$3,581,995.00 |
| 3. Monumental | \$4,154,959.30 |
| 4. Spiniello | \$4,583,300.00 |

It is noteworthy that there is only a negligible price difference between us and the apparent low bidder (a fraction of 0.0323 to be precise).

Harrington listed the entire WBE percentage requirement (valued at an amount of \$208,190.40) to be allocated towards "Construction Management". This is a sham because construction management is not a pay item / work task included in proposal or Contract for this project. "Construction Management" could only be considered part of the contractor's overhead. To call it anything else is a farce and just an attempt to trick the process. It certainly does NOT fulfill the intent of the contract goals. These pages are particularly sensitive; and rightfully so because MWBE usage is so important for proper community opportunities and general community development on broad-based sense.

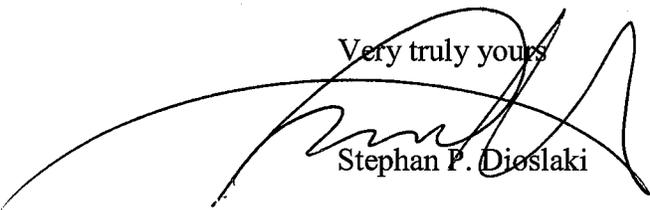
City of Baltimore

11/9/2016

Page 2 of 2

For the foregoing reasons, this bid must be awarded to Metra as the lowest responsive and responsible bidder for the job. Kindly confirm that the award will be made to us so we may plan and proceed accordingly.

Very truly yours


Stephan P. Dioslaki

Encl.

/spd.

Joan Pratt 1 Bid Protest WC 1353

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

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

(Make additional copies of this form as needed)

PART A: INSTRUCTIONS MUST BE REVIEWED BEFORE COMPLETING THIS FORM, WITH PARTICULAR ATTENTION PAID TO SECTIONS 2, 3a and 3f

Name of Prime Contractor: R.E. Harrington Plumbing & Heating Co., Inc

Name of MBE or (WBE) (circle one): FRANQUE ENTERPRISE, LLC

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

Construction Management

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Dollar Amount: \$ 208,190.40 (If this is a requirements contract, the subcontract dollar amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 6 % (This is not considered material information for lump sum contracts.)

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

10-31-16
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

10/21/16
Date

CHANGES TO INFORMATION ON THIS FORM THAT ARE MATERIAL TO THE AGREEMENT BETWEEN THE PRIME CONTRACTOR AND MBE OR WBE MUST BE INITIALED BY BOTH PARTIES.



WATT, TIEDER, HOFFAR & FITZGERALD, L.L.P.

ATTORNEYS AT LAW
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Suite 1000
McLean, Virginia 22102-5104

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Shelly L. Ewald
Christopher J. Brasco
Robert C. Niesley*
Robert G. Barbour
Keith C. Phillips
Timothy E. Heffernan*
David F. McPherson*
David R. Johnson*
Kevin J. McKeon
C. William Groscup

Christopher A. Wright*
John E. Sebastian*
R. Miles Stanislaw*
Rebecca S. Glos*
Christopher M. Harris
Donna H. Tobar*
Robert C. Shaia*
Hanna L. Blake
Scott P. Fitzsimmons
Frank J. Marsico*
Christopher M. Bunge*
Brent N. MacKay*
Jared M. Sechrist*
Albert L. Chollet*
Mark Rosencrantz*
Adam M. Tuckman
Heather L. Stangle
Diane C. Utz*

Mariela Malfeld*
Kaysie D. Garcia*
Eric B. Kjellander*
Amanda L. Marutzky*
Stephanie M. Rochel
Robyn N. Burrows
Ashley S. Kalimada*
Mitchell A. Bashur
Jonathan R. Wright
Christine J. Lee*
Daniel T. Rodriguez
Eric M. Liberman
Lauren E. Rankins*
Carolyn R. Cody Jones
James R. Ogorzalek*
Julia M. Fox
Brenna D. Duncan

*Not Admitted in Virginia

Robert G. Watt *retired*

Julian F. Hoffar 1947-2008

January 10, 2017

VIA FEDERAL EXPRESS

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

**Re: City of Baltimore, Dept. of Public Works, Water Contract No. 1353-AMI/R Urgent Metering Infrastructure Repair & Replacement, Various Locations (Up To 2" Water Services)
Bid Protest of Metra Industries, Inc.**

Dear Sirs/Madams and Honorable Members of the Board of Estimates:

This office represents Metra Industries, Inc. ("Metra"), the apparent second low bidder on the above-referenced contract (the "Contract"). By and through the undersigned counsel, Metra hereby protests the recommendation of the Department of Public Works to award the Contract to the apparent low bidder, R.E. Harrington ("Harrington"), for its failure to demonstrate its intention and ability to comply with the Contract's mandated WBE contract goal with a responsible subcontractor. For the reasons set forth below, we respectfully assert that Metra is the actual low, responsive and responsible bidder and, as such, the Contract should be awarded to Metra – not Harrington.

The invitation for bids ("IFB") mandated that bidders equal or exceed a WBE contract goal for participation in the amount of 6% of the bid amount. In its bid submission, Harrington listed only one WBE subcontractor. As reflected in Harrington's Statement of Intent, of its \$3,469,840.00 bid amount, Harrington purported to satisfy its entire WBE requirement by issuing a \$208,190.40 subcontract to an entity named Franqui Enterprises, LLC ("Franqui") to perform "Construction Management" on the project. See Exhibit A, Harrington Part B: MBE/WBE and Prime Contractor's Statement of Intent.

Harrington's Statement of Intent represented that Franqui was certified as a WBE with the City of Baltimore Minority and Women's Business Opportunity Office. Absent from Harrington's bid submission, however, is any assurance to the City of Baltimore that Franqui is capable of performing such a large subcontract for construction management or any scope of work relevant to the Contract. Indeed, all publicly-available information regarding Franqui suggests that Harrington will be unable to make such assurances and, more importantly, that Franqui lacks the capacity and capability to perform the work set forth in Harrington's bid.

Admittedly, there is a dearth of detailed corporate data available publicly on Franqui. It appears that Franqui does not even maintain a website – as would be expected of any construction management firm capable of performing the scope and amount of work set forth in Harrington's bid. Nonetheless, the information that is available publicly paints Franqui as a fledgling company with annual revenues of, at most, barely more than half the value of the subcontract that Harrington now purports to award to Franqui in order for Harrington to meet its WBE goal on the Contract. Perhaps even more concerning is that, based upon online records, Franqui has no more than two (2) employees. Below is a summary of publicly-available business data on Franqui:

Source	# of Employees	Sales
http://www.buzzfile.com/business/Franqui-Enterprise-L.L.C.-443-883-5455	2	\$122,339
http://www.manta.com/c/mt7r1k0/franqui-enterprise-l-l-c	2	\$92,000
https://www.chamberofcommerce.com/randallstown-md/37887039-franqui-enterprise-llc	2	\$82,000

It is beyond legitimate dispute that it would be virtually impossible for any company to perform \$208,190.40 in construction management services with only two employees and that the scope of services proposed by Harrington is likely well-beyond Franqui's experience and capability.

It is important to note that "Certification" as addressed in Harrington's Statement of Intent is an entirely different process than "Prequalification." Pursuant to Article VI, Section 11(g) of the Charter of the City of Baltimore and the City of Baltimore's Rules for Qualification of Contractors, *all* construction related contractors and design consultants seeking to perform services of \$50,000 or greater on Baltimore City

contracts, must be prequalified by The Office of Boards and Commission (OBC).¹ Moreover, according to the Baltimore City Law Department's webpage:

Pre-qualification is the process by which the [OBC] determines the work capacity of a contractor. Through an analysis of a contractor's basic financial information, the [OBC] assigns a base capacity rating. The pre-qualification and work capacity rating provides the city some assurances that the contractor has the experience and resources to perform the requirements of a contract.

See <http://law.baltimorecity.gov/minority-and-womens-business-opportunity-office/certification-process>.

Unfortunately, while Franqui is a certified WBE, it is not a "prequalified" contractor in Baltimore City for any type of work. As such, the City has absolutely no assurances that Franqui will be able to perform *any* work – let alone the large scope of work set forth in Harrington's bid. Indeed, based upon the publicly-available information set forth above reflecting Franqui's limited financial resources, virtually non-existent staffing capacity, and lack of even a website, it is highly unlikely that at any point prior to commencing work under the Contract Franqui will be able to obtain a prequalified work capacity rating large enough to perform the \$208,190.40 subcontract that Harrington proposed in its bid. Franqui clearly and indisputably lacks the resources and sophistication for work of this level, magnitude and stature. Clearly, Harrington did not verify Franqui's capacity and capability to obtain prequalification and to perform such a large subcontract prior to including Franqui in its bid as its sole WBE subcontractor. For its failure to do so, and because Harrington has proposed to utilize the services of a non-responsible WBE subcontractor, Harrington's bid fails to demonstrate compliance with the IFB's WBE requirements. Harrington, therefore, is not a responsive bidder.

Unlike Harrington, Metra's bid complied in all respects with the IFB. Notably, prior to the time of bid, all of Metra's MBE and WBE subcontractors were prequalified under the applicable "B02551 Water Mains" code set forth in the IFB. As such, Metra and its MBE and WBE subcontractors have provided the City with adequate assurances that all of Metra's MBE and WBE subcontractors are presently equipped and capable of performing the Contract work proposed in Metra's bid. Furthermore, there is only a negligible price difference between Metra's fully compliant bid and Harrington's non-responsive bid – a fraction of only 0.0323.

Penultimately, any effort to excuse Harrington's failure to comply with the City's prequalification requirements or to permit any attempt by Harrington to "cure" or substitute the non-responsible Franqui with another WBE, would not only deprive Metra of its right to the Contract award as the true low, responsible and responsive contractor, but would also significantly undermine the integrity of the City's procurement process

¹ See <http://publicworks.baltimorecity.gov/Boards%20and%20Commissions>.

Board of Estimates
c/o Clerk to the Board
January 10, 2017
Page 4

and the bidding process as a whole. In that regard, all contractors bidding for City of Baltimore contracts are expected to be aware of and to follow the City's rules and regulations, including the prequalification procedures. If Harrington is permitted to substitute another WBE for Franqui, Harrington would be given an unfair advantage – indeed a second bite at the apple that was not afforded any other contractor. Further, there is no guarantee that Harrington's bid price would remain unaltered in the event that it has to find a replacement WBE subcontractor or subcontractors to meet the requisite 6% WBE contract goal. This, of course, would not be in the City's best interest.

Simply put, since Harrington did not fulfill the clear requirement of the IFB to propose responsible WBE subcontractors and did not list WBE subcontractors with adequate capability in an amount totaling at least 6% of the bid amount, Harrington did not demonstrate its capability of performing the Contract work in all material regards. Harrington, therefore, is not a responsible bidder as well. Accordingly, award of the above-referenced Contract should be made to Metra as the low, responsive and responsible bidder.

Metra looks forward to working with the City on the above-referenced Contract.

Sincerely,



Lewis J. Baker

cc: Honorable Joan M. Pratt, CPA, Comptroller, City of Baltimore
Mr. Gregory Palmer, Contract Administrator, Department of Public Works
Mr. Courtney Billups, Minority and Women's Business Opportunity Office
Mr. Stephan Dioslaki, Metra Industries (via email only)
Mr. Robert DePonte, Metra Industries (via email only)

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

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

PART A: INSTRUCTIONS MUST BE REVIEWED BEFORE COMPLETING THIS FORM, WITH PARTICULAR ATTENTION PAID TO SECTIONS 2, 3a and 3f

Name of Prime Contractor: RE. HARRINGTON Plumbing & Heating Co., Inc

Name of MBE or (WBE) (circle one): FRANKIE ENTERPRISE, LLC

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

Construction Management

Materials/Supplies to be furnished by MBE or WBE:

Subcontract Dollar Amount: \$ 208,190.40 (If this is a requirements contract, the subcontract dollar amount may be omitted; however, the subcontract percentage must be included.)

Subcontract percentage of total contract: 0 % (This is not considered material information for lump sum contracts.)

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

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

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

[Signature]
Signature of Prime Contractor (REQUIRED)

10/31/16
Date

[Signature]
Signature of MBE or WBE (REQUIRED)

10/21/16
Date

CHANGES TO INFORMATION ON THIS FORM THAT ARE MATERIAL TO THE AGREEMENT BETWEEN THE PRIME CONTRACTOR AND MBE OR WBE MUST BE INITIALED BY BOTH PARTIES.

EXHIBIT
tabbles
 A

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

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

President: "Alright um -- the first item on the non-routine agenda can be found on pages 62-64, items 3 and 4, Department of Public Works Recommendations Contract, WC 1353, Urgent Need Metering Repair & Replacement - Various Locations. Will the parties please come forward?"

Mr. David Jarrell: "Good morning."

President: "Good morning."

Mr. Jarrell: "My name's David Jarrell, I am the brand new DPW Chief of Engineering and Construction."

Interim City Solicitor: "Morning."

Mr. Jarrell: "Uh - Good morning. DPW recommends that the Board approve WC 1353 as we found R.E. Harrington to be the low responsive, responsible bidder."

President: "Okay."

MINUTES

Ms. Hanna Blake: "Good morning."

President: "Good morning."

Ms. Blake: "Good morning. Hanna Blake on behalf of the protestor, Metra Industries. Thank you for your time. Um -- as stated in our bid protest letter, uh -- our primary challenge to the award is the responsibility of R.E. Harrington. We submit to you that R.E. Harrington is not a responsible bidder because it -- to be responsible it has to comply with the WBE requirement on this contract which is 6%. In its bid it proposed to do this by issuing a \$208,000.00 contract to a single WBE which is Franqui Enterprises. While certified, Franqui has not been prequalified and has not obtained work capacity rating from the Office of a -- Boards and Commissions, which is an important requirement that's also underscored from today's agenda which reflects that on Contract ER 4020, the Lower Stoney Run Restoration Contract, indeed that contract the bids, all bids were thrown out in part because they found that the low and second low bidders had exceeded the pre-

MINUTES

qualification work capacity. There's no question that this is an important requirement and is necessary to provide assurances to the City that a contractor will be able to perform the work uh - - in its contract. As stated, Franqui has not been qualified. It has absolutely no work capacity rating. Um -- all, even though, R.E. Harrington proposes to issue a 200, a significant contract, a \$208,000.00 contract to it. There is no -- in fact, we set out in our letter that the information we were able to obtain from public sources suggests that its annual uh - annual revenues are far eclipsed by this single subcontract alone. So, the indications are that Franqui will not be able to obtain, either be prequalified, or to obtain the necessary work capacity rating. In contrast, Met -- all of Metra's WBE's and MBE's have the proper prequalification in work capacity ratings and they are capable and able and ready to perform on day one. So, as such, we submit to you that R.E. Harrington is not

MINUTES

responsible and the contract should be awarded to Metra. Now, just for purposes of practical considerations, if the Board moved forward to award this contract, we'd asked you to consider what will happen down the road if after award, but before notice to proceed, Franqui is unable to be either prequalified or to obtain the necessary work capacity rating. For instance, if it obtains a work capacity rating of \$50,000.00 or \$100,000.00 but not enough to perform a \$208,000.00 contract. At that point, will the contract be awarded automatically to Metra or likely, R.E. Harrington will be seeking to supplement or substitute, and in that instance, we would submit to you that that would be a second bite of the apple giving R.E. Harrington an unfair competitive advantage over all other contractors that bid on this job. It would be improper and would undermine the integrity of the procurement process. So, in sum, we ask respectfully that this contract be awarded to Metra as the only presently low responsive and responsible bidder. Thank you so much for your time."

President: "Thank you. Thank you -- um."

MINUTES

Mr. Kumasi Vines: "Good morning, Honorable Board. My name is Kumasi Vines, I am the Chief of the Office of Boards of Commissions. The office that does pre-qualification for the City. Um --"

Interim City Solicitor: "Good morning."

Mr. Vines: "Good morning. Franqui Enterprises is, has been slated on this contract to do construction management. Um -- at the time, construction management is not a pre-qualifiable category -- um -- we prequalify physical construction you know, if you are tearing down something and building up something, using a shovel, using a excavator, um -- and we view construction management as of more project management within construction. Um -- so therefore, we can't - there can't be a requirement for Franqui to be prequalified in something that doesn't exist in our office. Um -- so that's what I have for that."

President: "Thank you."

Mr. Robert Dashiell: "Good morning, Madam Mayor, Members of the Board. My name is Robert Dashiell, I represent R.E. Harrington."

MINUTES

I would add briefly to what Mr.-- um -- um -- what Kumasi had said, and that even if pre-qualification were required of a subcontractor, it's not required until they begin -- they commence work. It is not required under any circumstances at bid time, it is not required at the time, time notice of preceed this issue, it is not required at the time of award. So, with all due respect, the -- the rules that's suggested by Counsel just are not the rules of the Baltimore City."

Ms. Blake: "May I be heard just briefly on just those new points. Ah -- to start, there is no exception in the stated procedure that all contractors receive pre-qualification if they intend to perform services on a City contract in excess of \$50,000.00. There has not been an exception stated for that that's primes and subs. Now, they've -- they've identified an issue that apparently the Pre-qualification Board has not identified a specific pre-qualification category for construction management. That actually raises another point that we submitted to the agency which is whether the stated scope of work construction management services is indeed an

MINUTES

appropriate scope of work to meet the WBE requirement and whether they would actually be performing a commercially useful function. As the general contractor, prime contractor on this contract certainly R.E. Harrington will ultimately be responsible for managing its work and will necessarily perform project management services as it suggests. So, that's just another issue. However, I think that you know to suggest that because there is not a category for pre-qualification, ah -- that is wholly inconsistent with not only with what was set out in the invitation for bids, but also in the stated procedure and policy that all contractors obtaining a contract over a certain level be pre-qualified. And note, also that on the Agenda it reflects that there is another contract being awarded to R.E. Harrington and they are intending to issue yet another contract much smaller to Franqui of \$30,000.00. So, we're facing a contractor that's unvetted, unproved and not, without pre-qualification that intends to perform services for this City alone of over \$238,000.00, without any assurance at all to the

MINUTES

City that they're able and capable and have the resources to perform that work."

Interim City Solicitor: "I have one question."

President: "Um -- Ralph."

Interim City Solicitor: "Excuse me Counsel, you said contractor? You're talking about a subcontractor, correct?"

Ms. Blake: "Yes. Yes."

Interim City Solicitor: "Not R.E. Harrington, who is the prime contractor on this contract."

Ms. Blake: "To the extent that R.E. Harrington's subcontractors are not responsible, that can't be divorced from R.E. Harrington's responsibly. But you are absolutely right."

Interim City Solicitor: "Okay."

Ms. Blake: "Ah -- the requirement is for all contractors, rather prime or sub."

Interim City Solicitor: "Okay. Thank you."

President: "Alright, I think, um -- Mr. Chow wants to say something."

Mr. Rudolph Chow: "Mr. Vines."

MINUTES

President: "Are you finished?"

Mr. Vines: "Yeah, I'm finished."

Mr. Chow: I assume the intent of the OBC is to um -- prequalify all categories, correct?"

Mr. Vines: "Correct."

Mr. Chow: "Okay. Thank you. Um -- Mr. Courtney, can you speak a bit about Franqui's certification with MWBOO and/or other agencies and their standings?"

Mr. Courtney Billups: "Sure. Um -- Courtney Billups, Chief of Minority and Women's Business Opportunity Office. Franqui Enterprises is a duly certified MWBE with the City. Um -- they are certified for construction management. My office did the evaluation of R.E. Harrington's bid and determined it compliant because Franqui is certified for the services, um -- stated on the Statement of Intent. Um -- construction management is certainly a reasonably related to the scope of the work of this contract. So that means they are performing commercially useful function. Um -- so we found R. E. Harrington compliant."

MINUTES

Mr. Chow: "Are there other certifications outside of the City that they are --?"

Mr. Billups: "They are also currently certified with the Maryland Department of Transportation. And, let me also add to with respect to the capacity issue. One of the essential purposes of the Minority and Women's Business Enterprise Program is to develop the capacity of Minority Women's Business Enterprises that are certified with us, so to limit them based on past performance or um -- another contractor's consideration of what their abilities may be. That is ultimately the responsibility of the prime contractor, but certainly our program is to encourage the development and the capacity building of firms."

Mr. Chow: "Okay. To the best of your acknowledgement or knowledge of the Franqui, have they done work outside the City and/or and putting the City itself and how was their performance?"

MINUTES

Mr. Billups: "I am not aware of their performance outside of the City. They have um -- performed work for the City before and there have been no issues or complaints with respect to that."

Mr. Chow: "Thank you."

President: "Thank you. Um --"

Ms. Blake: "If I may be just heard on one last point. You raised a very good point about certification. I would just make the point that there is a distinct difference between the certification process for being a WBE and the pre-qualification process and the focus is very different. For the certification, the focus is on ownership management, as it is being run, legitimately being run by a woman or a minority, in the case of minority business enterprises. Whereas prequalifications specifically looks at their financial resources, staffing and ability and capacity to perform the work which essentially is the definition of responsibility. And there is absolutely -- there has not been an analysis of that point with respect to Franqui. And, so there is a risk as to the City that undermines the whole pre-qualification requirement. Thank you."

MINUTES

Mr. Chow: "Mr. Vines."

Mr. Vines: "Good morning. I just want to speak to the point of the uh -- prequalification process. Just for clarification, prequalification is required for construction related contractors doing core construction functions. Um -- there -- Franqui is on other projects with the City. Um -- and, we also have examples of other contracts that have been approved for uh -- companies not performing construction related projects on a construction contract. For example, public outreach um - communications, these are non-prequalifiable, uh -- categories. Um -- in another point to make, Metra itself is actually prequalified in particular categories. When you apply for pre-qualification, we review the application. You have to list the categories that you are skilled in and that's how we verify your skills and your experience. Um -- if the category does not exist, there is nothing to verify. Um -- and, I think any other questions regarding. And, I mean, of course the Board has the opportunity or the authority to grant any waivers that it chooses to in this kind of situation. But, I just wanted to

MINUTES

clarify that uh -- we don't pre-qualify marketing companies, we don't pre-qualify public outreach or communication firms. Um -- but, they also -- they work on our construction contracts especially on the design side."

President: "Okay. Thank you. I'll entertain a Motion."

Interim City Solicitor: "I move that we um -- reject the protest and award the bid as recommended, um -- by the Department."

Comptroller: "Second."

President: "All those in favor say Aye. All opposed, Nay. The Motion carries."

* * * * *

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

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

5. WC 1270, Water R. E. Harrington Plumbing \$5,836,512.00
 Infrastructure & Heating Co., Inc.
 Rehabilitation
 Various Locations

MBE:	R.E. Harrington Plumbing	\$2,042,779.20	35.00%
	& Heating Co., Inc.*		
	Reviera Enterprises, Inc.	116,730.24	2.00%
	JLN Construction Services,	116,730.24	2.00%
	LLC.	<u>\$2,276,239.68</u>	<u>39.00%</u>

WBE:	Letke Security Contractors,	\$ 29,182.56	.50%
	Inc.		
	Franqui Enterprise, LLC	29,182.56	.50%
	KL Phillips Trucking, LLC	58,365.12	1.00%
		<u>\$ 116,730.24</u>	<u>2.00%</u>

*Indicates Self-Performance

MWBOO FOUND VENDOR IN COMPLIANCE.

MINUTES

RECOMMENDATIONS FOR CONTRACT AWARDS/REJECTIONS

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

6. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$7,825,885.00	9960-909100-9558	
Water Revenue	Constr. Reserve	
Bonds	Water Infrastruc.	
	Rehabilitation	
\$ 583,651.00	-----	9960-910144-9557-2
		Extra Work
583,651.00	-----	9960-910144-9557-3
		Engineering
471,880.00	-----	9960-910144-9557-5
		Inspection
5,836,512.00	-----	9960-910144-9557-6
		Construction
350,191.00	-----	9960-910144-9557-9
<u>\$7,825,885.00</u>		Administration

This transfer will provide funds to cover the cost of Award for WC 1270, Water Infrastructure Rehabilitation Various Locations.

A PROTEST WAS RECEIVED FROM SPINIELLO COMPANIES, INC.

WILLIAMS MULLEN

January 13, 2017

Via Hand Delivery

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

BID PROTEST

Protestor: Spiniello Companies, Inc.
3500 East Biddle St.
Baltimore, MD 21213

Solicitation: City of Baltimore Department of Public Works'
Water Contract No. 1270 for Water Infrastructure
Rehabilitation, Various Locations

Proposed Awardee: R.E. Harrington Plumbing & Heating Co. Inc.

Dear Honorable President and Members of Board of Estimates:

Spiniello Companies, Inc., by and through its undersigned counsel, protests any awarding of City of Baltimore Department of Public Works' Water Contract 1270 Water Infrastructure Rehabilitation, Various Locations, to R.E. Harrington Plumbing & Heating Co. Inc. ("R.E. Harrington") or any bidder other than Spiniello Companies, Inc. ("Spiniello"). In that regard, Spiniello is the lowest price, responsive and responsible bidder and should be awarded Water Contract No. 1270.

Spiniello's grounds of protest seek enforcement of the terms of the Invitation For Bids consistent with the past rulings of the Board of Estimates which enforce strict compliance in order to best protect the public confidence in the integrity of the contracting process and the expenditure of public funds.

Aggrieved Party

Spiniello submitted a timely, responsive bid and is a responsible bidder for Water Contract No. 1270 and thus has standing to protest as an aggrieved party any award of Water Contract 1270 to R.E. Harrington or any other bidder other than Spiniello.

Timely Protest

This protest is timely filed with the Board of Estimates prior to contract award.

Grounds of Protest

1. R.E. Harrington Did Not Duly Execute the BATP Affidavit

The Invitation For Bids for Water Contract No. 1270 includes at pages 198-208 terms and an Affidavit relating to the Baltimore Apprenticeship Training Program (“BATP”).

The terms and obligations of the Baltimore Apprenticeship Training Program included in the Invitation for Bids are material terms. For example, at p. 200, Paragraph 1, the Invitation For Bids provides:

1. *The Bidder shall use its best efforts to comply with the BAT Program requirements set forth in these contract documents. Failure to implement and carry out the BAT Program requirements set forth in these documents shall be a material breach of this contract and grounds for termination of the contract. (emphasis added)*

The materiality of the BAT Program terms and obligations is further evidenced by the requirement that a contract bidder must include in its bid submission a duly executed Affidavit attesting to the bidder’s commitment on behalf of the bidder and the bidder’s subcontractors to comply with the BAT Program.

At paragraph 4 of Part II, Affidavit on page 201, the Invitation For Bids provides with regard to the Affidavit:

4. *Bidder acknowledges that any and all bids which fail to include this form [Affidavit] duly executed and notarized with the M/WBE portion of the bid documents may be declared as non-responsive by the Baltimore City Board of Estimates. (emphasis added)*

The instruction to provide a “duly executed” Affidavit means to make a document, such as the Affidavit, valid by signing. See e.g., Black’s Law Dictionary 9th edition. Instead of submitting a “duly executed” Part II Affidavit pertaining to the material obligations of the BAT Program, the bidder and potential awardee, R.E. Harrington Plumbing & Heating Co. Inc., provided a Part II Affidavit with the typed name Robert Harrington. There is no evidence of any submission prior to bid opening from R.E. Harrington authorizing the use of typed signatures.

In Hugo Key & Son, Inc., Comp. Gen. Decision, No. B-245227 (August 22, 1991), the Comptroller General dismissed the bid protest of the low bidder for a U.S. Navy contract when the bidder submitted a bid bond containing only a rubber-stamp signature of the bid bond surety. The Comptroller General ruled that the bidder’s failure to submit evidence, prior to bid opening, of authorization to use typewritten or rubber-stamp signatures made the signature subject to

uncertainty and not acceptable. See, SWR, Inc. Comptroller Decision, No. B-278415 (December 17, 1997) (Typewritten signature with title of company officer on contract offer, not minor informality, and proposal was properly rejected when no evidence from bidder prior to bid opening of authorization permitting execution of documents by typewritten signature.)

There is no evidence here that prior to bid opening, R.E. Harrington submitted documentation or a corporate resolution authorizing use of typewritten signatures. There being no original signature to the Part II Affidavit, nor documentation submitted prior to bid opening authorizing typewritten signatures, R.E. Harrington's Part II Affidavit is uncertain and suspect. In accordance with paragraph 4 of Part II on page 201 of the Invitation For Bids, the bid of R.E. Harrington should be deemed non-responsive and not eligible for award of WC No. 1270. See, also, Cameron, John G., A Practitioner's Guide To Construction Law at p.15-12 (Failure to meet requirements of participation in apprentice training program sufficient grounds to reject bid as non-responsive.)

2. The Lack Of Response Or Notation To The Addendum 2 Affirmation Paragraphs Creates Uncertainty As To The Accuracy and Completeness Of The Affirmations

Addendum 2 to the Invitation For Bids included a Bid/Proposal Affidavit with ten (10) sequentially numbered Affirmation Paragraphs and an Acknowledgment. R.E. Harrington Plumbing & Heating Co. Inc. made no written notation or entry for Affirmation Paragraphs 2-7; the Paragraphs are blank. The lack of written notation or entry may be indicative of no exception(s) to the Affirmation Paragraphs. The lack of written notation or entry, such as "none" or "not applicable", could also be indicative of the bidder's failure to read and respond to the affirmation paragraphs. There is uncertainty in R.E. Harrington's bid proposal resulting from the the bidder's lack of responses to the Addendum 2 Affirmation Paragraphs.

3. The Responsiveness Of A Bid Is Determined By The Face Of The Bid Documents

A key element of a sealed bidding procurement is that nonresponsive bids may not be considered for award. Nash & Cibinic, Formation of Govt. Contracts, Third Ed., at 537 ("the purpose of [the responsiveness] requirement is to promote fairness and objectivity, and to encourage wide competition by requiring all bidders to bid on exactly the same work and to the same terms and conditions".) Responsiveness concerns a bidder's legal obligation to perform the required services in exact conformity with the IFB specifications. ¹Nat'l Elevator Co., No. 1291, Oct. 1, 1986, 1 MSBCA ¶ 135. Significantly, to ensure fairness to other bidders and the government procurement system, responsiveness must be determined from the face of the bidding documents and not from information or documents subsequently provided by the bidder. Inner Harbor Paper Supply Co., No. 1034, Sept. 9, 1982, 1 MSBCA ¶ 24. Moreover, "[t]o be responsive a bid cannot be ambiguous." Nat'l Elevator Co., No. 1291, Oct. 1, 1986, 1 MSBCA ¶ 135 ("if the bid is subject to two or more reasonable interpretations, under one of which it is

¹ By contrast, responsibility concerns a bidder's capability to perform a contract. Nat'l Elevator Co., No. 1291, 1 MSBCA ¶ 135. As such, "information bearing on a bidder's responsibility may be submitted and considered after bid opening." *Id.*

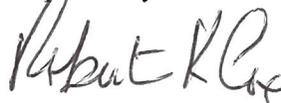
nonresponsive, it is ambiguous and, therefore, should be rejected as nonresponsive.”); see also Nash & Cibinic, Formation of Govt. Contracts, Third Ed., at 538 (“The mandatory rejection rule also prevents bidders with ambiguous bids from having ‘two bites of the apple’ by contending, after seeing competing bids, that their bids conformed to the solicitation (or did not conform), depending on the interpretation that is most beneficial to them.”)

In this solicitation, R. E. Harrington Plumbing & Heating Co. Inc. has submitted a bid with multiple uncertainties and omissions as to material terms and obligations which go to the responsiveness of the bid. It would put all other bidders at a disadvantage if R.E. Harrington were permitted to make post-bid opening corrections to remedy its failures and omissions as to material terms of the solicitation. R.E. Harrington’s bid uncertainties and omissions are not minor informalities that can be corrected post-bid opening without bringing into question the integrity of the bidding/contracting process for all bidders and the City of Baltimore. R.E. Harrington’s bid is non-responsive as to material terms and obligations, and, as such, not eligible for contract award.

Ruling And Relief Requested

Spiniello requests that the apparent lowest price bid of R.E. Harrington be found non-responsive and not eligible for award of Water Contract No. 1270. Spiniello further requests that the Board of Estimates award Water Contract No. 1270 to Spiniello as the lowest price, responsive and responsible bidder.

Respectfully submitted



Robert K. Cox

cc: Brian Cashmere, Esq. – Williams Mullen
Spiniello Companies

MINUTES

President: "The second item on the non-routine agenda can be found on pages 64-65, items nos. 5 and 6, Department of Public Works Recommendations for Contract Awards, WC 1270, Water Infrastructure Rehabilitation, Various Locations. Will the parties please come forward?"

Mr. Jarrell: "Again, David Jarrell, uh -- Chief of Engineering and Construction. Uh -- again, DPW recommends that the Board approve WC 1270, in this case 1270 as we found R.E. Harrington as being the low responsive, responsible bidder. Thank you."

President: "Okay. Um -- can we hear from the protestors?"

Mr. Brian Cashmere: "Mr. President, Honorable Board, Good morning. Brian Cashmere on behalf of the protesting party, uh -- Spinello Companies. Spinello submits that the protests be sustained for the reason set forth in our January 13 um -- protest letter. In sum, it is Spinello's position that they are the lowest, responsible and responsive bidder. This protest, coincidentally, also goes to the uh -- potential awardee, R.E. Harrington. But, it deviates here in that this is not an issue

MINUTES

of responsibility as to R.E. Harrington, but rather whether their um -- response to the IFB, the response to solicitation was compliant with and responsive to the City's request. Um -- responsiveness is critical to the integrity of the public procurement process. It requires a level playing field that all um -- potential contractors, potential awardees follow the same rules. And, instrumental in that a responsive uh -- bid submission complies. It objectively black and white on its face tells the City we are going to comply with your requirements so that you don't have to guess, you don't have to speculate. It is certain there's not the uncertainty and ambiguous nature. Here's the problem that we have, in this particular case, is that R.E. Harrington's submission is non-responsive, non-compliant, but importantly non-responsive in two material respects and one of those material respects goes to the uh -- the Baltimore Apprentice Training Program. And, um -- again, responsiveness is they have objectively told you, the City, DPW, we will comply with all your requirements. Importantly with respect to this, the signature page, the execution page of an

MINUTES

affidavit in which R.E. Harrington was to sign and execute and tell the City, 'I will comply with this important social and economic uh -- program was not signed, it was not executed. There it -- it um -- that failure is material. Why do we know it is material? Because on this solicitation itself, it tells the bidders this is important. You have to affirm and acknowledge that you will comply with this important requirement by executing this page. It, it is not only important. It's very straight forward. They failed to do that. Also, with relation to that, the -- the notary is somewhat suspect here. You can't fall back to the notary page, because the notary says I affirm that this individual appeared before me and they executed it. There's no execution, there's no signature. We've laid out some law here. I will tell you that yesterday, I -- I was reviewing this and -- and I would submit to the Board that the current pending new procurement regulations that the Board is considering is very um -- instructive on this. At Section 7.7.1 of those very robust procurement regulations, it lays out the considerations for the City and Board to consider whether

MINUTES

someone's responsive. Importantly, two of the eight considerations are in play here. Two of those considerations are where we tell you to sign, sign don't typewrite. That's at 7.7.1, I believe .2. Okay. That it -- it tells the bidders that in these pending very robust procurement regulations. Um -- as well, it says that the notary is to be completed. Neither of those are -- are to be correct. Neither of those are in place. So, I would suggest that the procurement regulations that the Board of Estimates is considering right now are very telling as to these issues. That failure, it is material, it is non-responsive. And, there's another one, there is an addendum in which there's some modifications to the proposal affidavit that is to be submitted. It is to be filled out and completed by all potential contractors in which the City asks to fill out, um -- exceptions to an affidavit that goes to your debarment, your briberies, your convictions. Again, very material. The instructions to that addendum tell you with the material, tell you -- you need to fully complete it. Again, I would suggest that if you go to the pending procurement regulations, very

MINUTES

telling. In those same considerations, it suggests that all information requested by the City is to be completed fully. The failure to complete that affidavit fully and completely and the failure of this signature, make this bid non-responsive because it's uncertain. What is he going to do? Is he going to -- is R.E. Harrington going to comply. Are there exceptions to these very important affidavit components? And, for those reasons on its face for the integrity of the system, we submit that that bid be held non-responsive. And, again, unlike responsibility this is a black and white issue. There's no question these are material terms, no question they haven't been complied with, no question they're important factors under 7.7.1 of the -- the hopefully soon to be new, new procurement regulations which are again very robust and helpful to the contracting community. For those reasons, it is Spinello's, uh -- strong position that this bid is non-responsive and should be, um -- rejected and this protest sustained and the award of WC 1270 be given to Spinello as the lowest responsible and responsive bidder. Um -- with that uh -- Mr. President, Board, I would ask if there are any questions?"

MINUTES

President: "Uh -- um, Mr. Ralph.

Interim City Solicitor: "Yes."

President: "Attorney Ralph."

Interim City Solicitor: "I have a couple questions Counsel. I, of course agree with you that responsiveness is important. Uh, with respect to the, um -- Baltimore Apprentice Training Program Affidavit, um -- which was attested to by a notary, correct? Um -- there was also a typed name on there -- Mr. Harrington had a typed name on there. Is that correct?"

Mr. Cashmere: "That's correct."

Interim City Solicitor: "Um -- first of all, let me just say this. You understand that the regulations and I believe you called them the proposed procurement regs. those have not been considered and taken up by this Board."

Mr. Cashmere: "Yes. I, I understand that. I am saying they are indicative of a -- a understanding of responsiveness in the industry."

Interim City Solicitor: "Uh -- well maybe, maybe not. I mean it's not been considered and taken up by this Board, correct?"

MINUTES

Mr. Cashmere: "Yeah. They are not binding on this Board as of now. I -- I have reviewed -- it was suggested they come up this month, but I have not seen through the Board records that -- that has been done yet."

Interim City Solicitor: "Um -- are you familiar with, uh -- Counsel, the law in Maryland with regard to, um -- marks or identifying features, such as typed name of corporations uh -- as being representative of a uh -- a signature?"

Mr. Cashmere: "Uh -- yes. Sir, what I would say is and I would submit that even in the world of procurement a typed signature is appropriate where there are other indications in the bid submission that the typed written is in lieu of a signature. Um -- it is, that is correct. But, what we have here is we don't have those other indications. In contrast, and every other component of the bid where a signature execution, physical handwritten was done. So, it -- this is, this is a clear omission."

Interim City Solicitor: "But, in all of those areas were they also notarized? This was a situation where you had a typed name of a corporation which was also notarized."

MINUTES

Mr. Cashmere: "Uh -- yes. Sir, what I would suggest is if you would read the notary."

Interim City Solicitor: "And -- and Maryland Law, Commercial Law which I'm familiar with, allows that to be an assent by a corporation of their intent to be bound."

Mr. Cashmere: "Yes. And, and but with respect to the notary, I would suggest that if you would read what the notary has told the City. The notary has said --."

Interim City Solicitor: "Affirm and acknowledge."

Mr. Cashmere: "It -- it -- it I'll read it sir. Um -- it says that R.E. Harrington was present before the notary and was duly authorized and executed the foregoing affidavit. Executed. And, as we've submitted in our protest letter, and I believe it's common understanding an execution is a physical signature. This -- this notary suggests that this happened, but the page prior to that shows that it did not."

Interim City Solicitor: "So, let me ask you about that. So, we agree then that under normal commercial law, a typed signature, or other mark by the corporation is sufficient in general commercial procurement law, correct?"

MINUTES

Mr. Cashmere: "Well, in, in not public procurement, your Honor, or, or Sir."

Interim City Solicitor: "Okay. Fine."

Mr. Cashmere: "Too much courtroom time."

Interim City Solicitor: "And, and it's been, and it also was notarized, correct?"

Mr. Cashmere: "But, but with the notary being correct. Yes."

Interim City Solicitor: "Okay, so, if you are correct that it should have been executed, meaning signed do you consider that to be material or immaterial given all the other things that we just talked about?"

Mr. Cashmere: "I believe it is material for this, in this regard. One, the -- the solicitation itself at the introduction to this tells the bidder that this is a material component. The signature is the representation, the objective black and white representation to the City that he will comply with this -- that R.E. Harrington will comply with this requirement. That's not present here with respect to that. The absence of this signature is not just a minor informality. A minor informality

MINUTES

would be one that through looking at the entire solicitation you can see that he has confirmed that he will comply with this. And, again, all other bidders did this."

Interim City Solicitor: "Okay."

Mr. Cashmere: All other bidders did this. He did not. And, to make this a level playing field where everyone represents the same thing, it's not merely the absence of the signature. It's the absence of the signature as to a material component that is not, otherwise, in the -- in the proposal shown to be something that he is going to be complied with. That would be a minor informality and with the -- the distinction here, is this public procurement. This isn't a deal between Mr. Dashiell and me to paint my house. A -- a deal like that. This is public procurement in which the integrity of the system requires that all bidders turn square corners with the City. That's the level playing field. To ignore this and -- and brush it aside is to say to others that well, although we say this is a factor, although, we'll -- we'll look the other way. And, we would suggest that -- that's not the system. We are not here to protest or create problems for DPW. We're here to protest to

MINUTES

try to ensure the integrity of the system. That's why Spinello is here."

Interim City Solicitor: "Okay."

President: "Anymore comments? I entertain a Motion."

Interim City Solicitor: "No. Wait."

President: "Oh. Go ahead."

Mr. Mike Mullen: "Honorable Board, Mike Mullen with the Law Department. Just a couple of points I'd like to make with regard to the Baltimore Apprenticeship Training Program Affidavit. The first is, that Maryland Law does in fact recognize the validity of a stamped or printed signature. The Federal law that was cited by my learned colleague also does recognize that it says essentially that if there is other indicia in the bid documents that shows that the bidder intends to be bound by every part of the bid document, then a stamped signature is perfectly acceptable. That is exactly what we have here. We have a bid bond. We have the only document on -- on my review that was not signed with an actual signature by Mr. Harrington is this Baltimore Apprenticeship Training Affidavit.

MINUTES

That's the only document. All the other ones were signed and notarized as appropriate and as required. This shows the full indication that Mr. Harrington's company is going to be bound by this bid. Also, I would submit to the Board that this is an immaterial mistake -- that something that can be overlooked, if indeed it is a mistake, because this is some -- the Baltimore Apprenticeship Training Program is required compliance if you're awarded this contract. It's a Board of Estimates Resolution that created this program. Harrington will not be able to escape compliance with that program if he is awarded the contract. And, if they don't comply with the Apprenticeship Training Program then they face very strict penalties. It's a possibility that they would be barred from bidding on City contracts for two years and they would be in breach of this contract. So, for those reasons, I submit to the Board that the failure to actually put a handwritten signature on the Apprentice Training Program affidavit which is the only one that was not signed that way is an immaterial error, if indeed it even is an error. Now, if the Board wants me to address the other portion, the actual bid affidavit, I'd be prepared to do so."

MINUTES

Comptroller: "For the record."

Interim City Solicitor: "Yeah, yeah go ahead. Yes, yes go ahead then talk about it."

Mr. Mullen: "First of all, I am handing out copies of the actual affidavit itself for the Board's consideration."

Interim City Solicitor: "And, and, for the record, this is the second argument by Counsel."

Mr. Mullen: "Correct. Second argument."

Interim City Solicitor: "I'm good. Thanks."

Mr. Mullen: "If you look at the actual language of this affidavit, the printed portions before the highlighted section asks the bidder to affirm that they have and I'll read the first one here. That they have not been convicted of or had probation before judgement imposed as to the Criminal Procedure Article, etc. etc. And, then it says except as follows. So, what the bidder is required to do here is if they cannot affirm the printed portion and they get to the word except on the blank lines below they're supposed to fill in their convictions, their pleas or nolo, whatever exceptions are there. By not filling

MINUTES

it in, they are affirming that they agree with what's above that. Now, some bidders will write in N/A, some write none, many leave these lines blank uh -- the Department of Public Works does not reject contracts for having these lines blank because the instructions are quite clear. And, again this affidavit, if you turn to the last page of it this was actually signed by Mr. Harrington and it's notarized. So, I would submit that there is - there has been full compliance with the bid requirements and that Harrington's bid is in fact responsive."

Mayor: "Signature. Thank you."

Interim City Solicitor: "I don't know if Counsel wants to respond?"

Mr. Robert Dashiell: I'm -- I'm going to make this real quick cause I know you're getting ready to enter a motion -- but I gotta earn my --"

Comptroller: "State your name again, Bob."

Mr. Dashiell: "I'm Robert Dashiell and I have to earn my money so I have to say this real quick. Number one, on your point Ms.-- Ms.-- Mr. Ralph just so the record is plain, there is a

MINUTES

Maryland case that actually holds what you said it's in -- in validity Maryland App [SIC] uh -- uh 156, 164, 1988 a 1988 case and secondly, with respect to the bid affidavit issue, -- uh on July 17, 2013, I -- I actually raised that same issue before the Board and it was rejected in Contract No. WC 1255. Thanks."

Mr. Cashmere: "Just in -- in brief response to a couple points. First, with respect to the affidavit at the addendum and -- and the failure to fill in that information. Um -- I would -- I would point out that the instructions to the bidders um -- tell them to read and carefully and enter all information required therein prior to executing. Um -- I would submit as a matter of form that all information requires some response to the question of is there exceptions or not. That was left blank. Um -- I understand now that Mr. Dashiell has presented that before and not each case turns on its own uh - position we would submit that it still remains that this bid is non responsive based on the content and form of the proposal. More importantly, with respect to the lack of signature, I'll -- I will submit this one again that this is a public procurement issue, not a private

MINUTES

procurement issue. I've not had the opportunity to read the case cited by Mr. Dashiell, but it didn't sound to me as if it was a public procurement case, and with public procurement a signature where it says it is to be executed is required. Again, the notary does not provide you that assurance. The notary to the in contrast makes it more questionable. What did this notary do? Who came before them and executed anything? I think the notary goes against this, doesn't support it. And, to the last point and the final point is, it that again the -- it is -- I would submit -- again, I understand that these new procurement regulations again which are, are very robust don't go to that. But, the requirement within there to be responsive, is if signatures were required are to be wet signatures, not typed written and with respect with what the Department of Law has presented to you, I would submit that there's no minor irregularity here because looking at the total, there's no single spot in this proposal in which R.E. Harrington tells the City we will comply with this requirement. What the City uh -- Department of Law is suggesting is he needs one signature and

MINUTES

that's it. If that's the case, then why does the procurement, why does the bid require dozen signatures? That's all."

President: "Thank you. Final comment um - Ralph?"

Interim City Solicitor: "Yeah. Just -- just one question Counsel. Um -- on the bid affidavit uh -- it asks for exceptions to whether or not you've had a crime. What did your client put on that line?"

Mr. Cashmere: They, they put on there I believe none or, or N/A, and --"

Interim City Solicitor: "Go, ahead."

Mr. Cashmere: "--Yeah and, and the submission there would be there is an uncertainty. The blank creates an uncertainty. That's the problem with responsiveness. Is there an uncertainty, is there an ambiguity as to whether or not there's been a debarment, been a conviction? It -- it's uncertain."

Interim City Solicitor: "But, but the instruction asks you to affirmatively add things if you have an exception meaning that you have a crime. Does it ask for affirmative information? So, you're saying that none or N/A or blank is some -- there's some

MINUTES

difference between those three when you're asked to affirmatively provide information. You're saying that's material?"

Mr. Cashmere: "Absolutely Mr. Ralph. Because -- because it is -- it is a physical action. You're putting none, you're answering the question. A non-response it is -- is uncertainty. That's what the City's left with -- with this is uncertainty."

President: "I'll um -- move for a Motion? I'll entertain a Motion."

Interim City Solicitor: "Yes. I move that we uh -- deny the protest and accept the bid as presented by the agency on page 64 of the agenda."

Comptroller: "Second."

President: "All those in favor say Aye. All opposed, Nay. The Motion carries."

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MINUTES

Office of the City Council - Government/Charitable Solicitation
Application

ACTION REQUESTED OF B/E:

The Board is requested to endorse a Governmental/Charitable Solicitation Application for submission to the Board of Ethics of Baltimore City for Mr. Zeke Cohen, Councilman to solicit donations for area leaders and the general population to fund the S-Pass funding gap to ensure that Baltimore City school children have access to public transportation until 8pm. The period of the campaign is effective upon board approval through June 19, 2017.

AMOUNT OF MONEY AND SOURCE:

No general funds are involved in this transaction.

BACKGROUND/EXPLANATION:

Donations will be solicited from businesses, civic leaders, foundation communities, and general populations. A potential donor list will be comprised of individuals and corporate entities that contribute to the economic, social, and cultural vitality of Baltimore City. Most of the individual and corporate entities fitting that description are not controlled donors. However, those potential donors who are controlled donors with respect to the City Council or the Board of Estimates will not be targeted or singled out in any way and will be solicited, if at all, in the same manner as all other potential donors.

Due to a change in contractual obligation between the Maryland Transit Authority (MTA) and Baltimore City Public Schools, students once permitted free public transit use from 5am - 8pm are now limited to the hours of 5am - 6pm. Unfortunately, the reduction in available free public transportation reduces youth access to afterschool programs. During the public Youth and

MINUTESOffice of the City Council - cont'd

Education Hearing conducted January 5, 2017 at Frederick Douglass High School, after-school program providers, the school system, parents, students, and community members stated that the loss of transportation hours is a substantial detriment to Baltimore's youth. In an effort to promote well educated, well rounded students it is imperative that all students have access to enrichment programs, jobs, and other post school obligations. This mobility and access is crucial to the wellbeing of the students and the city at large.

The Baltimore City Public School System is severely budget constrained and the MTA has refused to cover the funding gap for S-Pass ridership through 8pm. Therefore, requiring fund raising efforts to cover the S-Pass funding gap is necessary.

Baltimore City Code Article 8, Section 6-26, prohibits solicitation or facilitating the solicitation of a gift. An exception was enacted in 2005 to permit certain solicitations that are for the benefit of an official governmental program or activity, or a City endorsed charitable function or activity. Ethics Regulation 96.26B sets out the standards for approval, which includes the requirement that the program, function or activity to be benefited and the proposed solicitation campaign must be endorsed by the Board of Estimates or its designee. After receiving Board of Estimates approval, the application must be reviewed and endorsed by the Baltimore City Ethics Board.

MBE/WBE PARTICIPATION:

MBE/WBE is not applicable to the acceptance of grant awards.

MINUTES

Office of the City Council - cont'd

UPON MOTION duly made and seconded, the Board endorsed a Governmental/Charitable Solicitation Application for submission to the Board of Ethics of Baltimore City for Mr. Zeke Cohen, Councilman to solicit donations for area leaders and the general population to fund the S-Pass funding gap to ensure that Baltimore City schoolchildren have access to public transportation until 8:00 pm. The President **ABSTAINED**.

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>Police Department</u>			
1. Osbourne Robinson Jason Johnson	Major Cities Chiefs Association 2017 Joint Winter Meeting Washington, DC February 7 - 9, 2017 (Reg. Fee \$375.00 each)	Asset Forfeiture Fund	\$2,171.79

The subsistence rate for this location is \$251.00 per night.

The hotel cost for Mr. Robinson is \$282.00 per night plus hotel tax of \$40.89 per night. The Department is requesting additional subsistence of \$31.00 per night for the hotel balance and \$40.00 per day for meals and incidentals. The registration fee of \$375.00 was prepaid with a City-issued credit card assigned to Mr. Tribhuvan Thacker. Therefore, Mr. Robinson will be disbursed the amount of \$725.78.

The hotel cost for Mr. Johnson is \$269.00 per night plus hotel tax of \$39.01 per night. The Department is requesting additional subsistence of \$18.00 per night for the hotel balance and \$40.00 per day for meals and incidentals. The registration fee of \$375.00 was prepaid with a City-issued credit card assigned to Mr. Tribhuvan Thacker. Therefore, Mr. Johnson will be disbursed the amount of \$696.01.

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>Department of Public Works (DPW)</u>			
2. Rudolph S. Chow	American Water Works Association (AWWA) and Water Environment Federation Utility Management Conference (NACWA) Tampa, FL Feb. 4 - 10, 2017 (Reg. Fee \$620.00)	General Fund	\$2,698.55

The subsistence rate for this location is \$201.00 per night. The hotel cost is \$229.00 per night plus hotel taxes of \$27.48 per night. The Department is requesting additional subsistence of \$28.00 per night for the hotel balance and \$40.00 a day for meals and incidentals. The registration fee of \$620.00 was prepaid with a City-issued procurement card assigned to Ms. Tianna Haines. The NACWA registration fee was waived. Therefore, Mr. Chow will be disbursed the amount of \$2,069.55.

DPW/Office of Compliance and Laboratories

3. Rosanna LaPlante	2017 Environmental and Water Resources Institute (EWRI) Leadership and Council Weekend Seattle, WA Feb. 16 - 19, 2017		\$0.00
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Ms. LaPlante will attend the 2017 EWRI Leadership & Council Weekend. These face to face meetings are for Officers and Leadership of EWRI. Ms. LaPlanta works with Watershed Council and the Municipal Water Infrastructure Council. All expenses were paid by the EWRI.

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>DPW/Office of Compliance Laboratories</u>			
4. Nathaniel Krause	American Society of Civil Engineers (ASCE) Environ- mental and Water Resources Congress 2017 Sacramento, CA May 20 - 27, 2017	ASCE	\$0.00

Mr. Krause will represent the local chair for the EWRI group and the ASCE will pay all of his expenses.

The Board, UPON MOTION duly made and seconded, approved the travel request. The Director of Public Works **ABSTAINED** on item no. 2.

MINUTES

Department of Transportation - Amendment No. 2 to Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of Amendment No. 2 to Agreement with Sabra Wang & Associates, Inc., under Project 1183, Traffic Signals & ITS and Traffic Engineering, On-Call Consultant Services (Amendment No. 2). This Amendment No. 2 will extend the period of the Agreement through December 10, 2017.

AMOUNT OF MONEY AND SOURCE:

\$100,000.00 - Upset limit

No funds are required at this time.

BACKGROUND/EXPLANATION:

On June 11, 2014, the Board approved the original Agreement in the amount of \$1,000,000.00, with Sabra Wang & Associates, Inc. to assist the Traffic Division with various activities such as ITS, traffic engineering services, field surveys, design for traffic signals, detector engineering services, field surveys, design for traffic signals, detectors, closed circuit television traffic monitoring, variable message signs, and field condition inspection.

On May 18, 2016, the Board approved Amendment No. 1, which increased the upset limit by \$300,000.00 to complete ongoing tasks. The Department is now requesting that the Board approve Amendment No. 2 to allow for an increase in the upset limit by \$100,000.00 and a time extension of six months through December 10, 2017 to fully complete assigned tasks. The Amendment No. 2 will increase the total compensation to the Consultant.

MINUTES

Department of Transportation - cont'd

DBE PARTICIPATION:

The Consultant will comply with Title 49 Code of Federal Regulations, Part 26 and the DBE goal established in the original Agreement.

DBE: 25.00%

AUDITS NOTED THE INCREASE IN THE UPSET LIMIT, THE TIME EXTENSION, AND WILL REVIEW TASK ASSIGNMENTS.

UPON MOTION duly made and seconded, the Board approved and authorized execution of the Amendment No. 2 to Agreement with Sabra Wang & Associates, Inc., under Project 1183, Traffic Signals & ITS and Traffic Engineering, On-Call Consultant Services.

MINUTES

A PROTEST WAS RECEIVED FROM MS. KIM TRUEHEART FOR ALL PAGES ON THE AGENDA.

The Board of Estimates received and reviewed Ms. Trueheart's protest. As Ms. Trueheart does not have a specific interest that is different from that of the general public, the Board will not hear her protest.

Kim A. Trueheart

January 24, 2017

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

Dear Ms. Taylor:

Herein is my written protest on behalf of the underserved and disparately treated citizens of the Baltimore City who appear to be victims of questionable management and administration within the various boards, commissions, agencies and departments of the Baltimore City municipal government.

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

1. Whom you represent: Self
2. What the issues are:

Pages 1 - 73, City Council President and members of the Board of Estimates, BOE Agenda dated January 25, 2017, if acted upon:

- a. The proceedings of this board often renew business agreements without benefit of clear measures of effectiveness to validate the board's decision to continue funding the provider of the city service being procured;
- b. The Baltimore City School Board of Commissioners routinely requires submissions for board consideration to include details of the provider's success in meeting the objectives and/or desired outcomes delineated in the previously awarded agreement;
- c. The members of this board continue to fail to provide good stewardship of taxpayers' funds as noted by the lack of concrete justification to substantiate approval of actions presented in each weekly agenda;
- d. This board should immediately adjust the board's policy to ensure submissions to the board include measures of effectiveness in each instance where taxpayer funds have already been expended for city services;
- e. In the interest of promoting greater transparency with the public this board should willing begin to include in the weekly agenda more details which it discusses in closed sessions without benefit of public participation.

Email: kimtrueheart@gmail.com

5519 Belleville Ave
Baltimore, MD 21207

- f. Lastly this board should explain to the public how, without violating the open meeting act, a consent agenda is published outlining the protocols for each week's meeting prior to the board opening its public meeting.

3. How the protestant will be harmed by the proposed Board of Estimates' action: As a citizen I have witnessed what appears to be a significant dearth in responsible and accountable leadership, management and cogent decision making within the various agencies and departments of the Baltimore City municipal government which potentially cost myself and my fellow citizens excessive amounts of money in cost over-runs and wasteful spending.

4. Remedy I desire: The Board of Estimates should immediately direct each agency to include measures of effectiveness in any future submissions for the board's consideration.

I look forward to the opportunity to address this matter in person at your upcoming meeting of the Board of Estimates on January 25, 2017.

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

Sincerely,
Kim Trueheart,
Voter, Citizen & Resident

*5519 Belleville Ave
Baltimore, MD 21207*

MINUTES

President: "There will be no more business before this Board is recessed until bid opening at 12 noon. Thank you."

* * * * *

MINUTES

Clerk: "The Board is now in session for the receiving and opening of bids."

BIDS, PROPOSALS, AND CONTRACT AWARDS

Prior to the reading of bids received today and the opening of bids scheduled for today, the Clerk announced that the following agencies had issued addendum extending the dates for receipt and opening of bids.

Department of Transportation - TR 12311, Replacement of Three Bridges Over MD 295: Waterview Ave. Bridge, Annapolis Rd. Bridge and Maisel St. Pedestrian Bridge Corridor Wide Guide Sign Replacement Bush St. to City County Line
BIDS TO BE RECV'D: 2/15/2017
BIDS TO BE OPENED: 2/15/2017

MINUTES

Thereafter, UPON MOTION duly made and seconded, the Board received, opened, and referred the following bids to the respective departments for tabulation and report:

Department of Transportation - TR 11013R, Loch Raven Watershed
Culvert Repair Replacement and
Resurfacing

P. Flanigan & Sons, Inc.
M. Luis Construction Co., Inc.
Civil Construction, LLC
Gray & Son, Inc.

* * * * *

There being no objections, the Board, UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, February 1, 2017.


JOAN M. PRATT
Secretary