

MINUTES

REGULAR MEETING

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

In the absence of Mr. George A. Nilson, City Solicitor, Mr. David E. Ralph, Deputy City Solicitor, sat and acted on his behalf.

The meeting was called to order by the President.

President: "I will direct the Board members attention to the memorandum from my office dated July 1, 2013, identifying matters to be considered as routine agenda items, together with any corrections and additions that have been noted by the Deputy Comptroller. I will entertain a motion to approve all of the items contained on the routine agenda."

President: "I said I would entertain a motion to approve all of the items contained on the routine agenda."

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

Comptroller: "Second."

MINUTES

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

Deputy Comptroller: Excuse me Mr. President, I'm sorry, I forgot to announce that in the absence of Mr. George Nilson, Mr. David Ralph will sit and act on his behalf. I apologize.

President: Thank You. The routine agenda has been adopted.

Okay."

MINUTES

Department of Public Works/ - Proposed Water and Sewer Rate
Department of Finance Increases and Miscellaneous Fee
Schedules

ACTION REQUESTED OF B/E:

The Board is requested to approve the proposed water and sewer rate increases and proposed miscellaneous fee increases.

BACKGROUND/EXPLANATION:

Pursuant to Ordinance 941 which implements the City Charter Amendment, approved by the voters in 1978, the water and wastewater utilities must be maintained as self-sustaining operations. Under this Ordinance, it is the duty of the Director of Finance and the Director of Public Works to recommend to the Board of Estimates rates and charges to make each utility financially self-sustaining. It is recommended that water and sewer rates for consumers in Baltimore City be increased over a three year period at approximately 15% in FY14, 11% in FY15, and 11% in FY16. Eligible senior citizen consumers age 65 and older in Baltimore City who apply and whose annual household income does not exceed \$25,000.00 will receive a 30% discount on water and sewer rates. Also, a water rate increase for consumers in Howard, Anne Arundel, and Carroll Counties of 15% in FY14, 11% in FY15, and 11% in FY16 is recommended. Increased cost of water and sewer service will be passed on to Baltimore County through the City-County Agreements. Baltimore County establishes its own rates with City concurrence.

MINUTES

DPW/Finance - cont'd

Current rates and proposed rate schedules follow:

<u>Baltimore City Water</u>				
<u>Quarterly Use Block</u>	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
First 50 Units	\$ 3.197 per Unit	\$ 3.677 per Unit	\$ 4.082 per Unit	\$ 4.532 per Unit
Next 450 Units	1.967 per Unit	2.263 per Unit	2.512 per Unit	2.789 per Unit
Over 500 Units	1.351 per Unit	1.554 per Unit	1.725 per Unit	1.915 per Unit

<u>Baltimore City Sewer</u>				
	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
All Units	\$ 4.299 per Unit	\$ 4.944 per Unit	\$ 5.488 per Unit	\$ 6.092 per Unit

<u>Howard County Water</u>				
<u>Wholesale Service</u>	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
	\$ 1.378 per Unit	\$ 1.585 per Unit	\$ 1.76 per Unit	\$ 1.954 per Unit

<u>Anne Arundel County Water</u>				
<u>Quarterly Use Block</u>	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
First 50 Units	\$ 3.368 per Unit	\$ 3.874 per Unit	\$ 4.301 per Unit	\$ 4.775 per Unit
Next 450 Units	1.967 per Unit	2.263 per Unit	2.512 per Unit	2.789 per Unit
Over 500 Units	1.351 per Unit	1.554 per Unit	1.725 per Unit	1.915 per Unit

<u>Carroll County Water</u>				
<u>Raw Water</u>	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
	\$ 0.487 per Unit	\$ 0.561 per Unit	\$ 0.623 per Unit	\$ 0.692 per Unit

If adopted, the proposed rates will be effective on the date of July 1, 2013, July 1, 2014, and July 1, 2015.

Any consumption up to and including June 30 of the respective year prior to the proposed increase will be billed at the rates outlined above. For the typical Baltimore City consumer (21 ccf per quarter) the current and proposed quarterly bill would be as follows:

MINUTES

DPW/Finance - cont'd

	<u>Current Rate</u> <u>Quarterly Bill</u>	<u>Proposed Rate</u> <u>Quarterly Bill</u> 7/1/2013	<u>Proposed Rate</u> <u>Quarterly Bill</u> 7/1/2014	<u>Proposed Rate</u> <u>Quarterly Bill</u> 7/1/2015
Water	\$ 67.14	\$ 77.22	\$ 85.72	\$ 95.17
Sewer	<u>90.28</u>	<u>103.82</u>	<u>115.25</u>	<u>127.93</u>
Total	\$ 157.42	\$ 181.04	\$ 200.97	\$ 223.10

The last rate increase was effective June 28, 2012.

A new chart of minimum quarterly charges will be prepared.

It is also recommended that miscellaneous water fees be increased as follows:

	<u>Current Rate</u>	<u>Proposed Rate</u> 7/1/2013	<u>Proposed Rate</u> 7/1/2014	<u>Proposed Rate</u> 7/1/2015
Abandonment of Water Supply Service				
¾" Water Service	\$330	\$350	\$365	\$380
1" Water Service	\$330	\$350	\$365	\$380
1 ½" Water Service	\$565	\$595	\$625	\$655
2" Water Service	\$565	\$595	\$625	\$655
Reduce ¾" meter to 5/8" meter	\$150	\$160	\$165	\$175
Reduce 1" meter to ¾" meter	\$205	\$215	\$225	\$240
Reduce 1" meter to 5/8" meter	\$205	\$215	\$225	\$240
Reduce 2" meter to 1 ½" meter	\$985	\$1,035	\$1,085	\$1,140
Testing of City-owned meter (at Owner's request) 5/8", ¾", 1"	\$85	\$90	\$95	\$100
Private Fire Protection Fee	\$130/Yr.	\$140/Yr.	\$145/Yr.	\$150/Yr.
Turn-off/Turn-on Charges				
5/8" - 1" meters	\$80	\$85	\$90	\$95
1 ½" - Up	\$130	\$140	\$145	\$150
Official Vacancy Fee	\$245	\$260	\$270	\$285
Fire Flow				
Test	\$650	\$680	\$720	\$750
Fire Hydrant Permit	\$150	\$160	\$165	\$175

If adopted, the proposed rates will be effective on the date of July 1, 2013, July 1, 2014 and July 1, 2015.

MINUTES

President: "The first item on the non-routine agenda can be found on page no. 4, Department of Audits, Review of the Proposed Water and Wastewater Rate Increase. Mr. McCarty will now read the Audit Report to the Board."

Robert McCarty: "Good Morning Mr. President, members of the Board. I am Bob McCarty, City Auditor. We have reviewed the methodology and procedures used to determine the proposed Water and Wastewater rate increases submitted for the Board of Estimates' approval by the Department of Public Works and the Director of Finance for fiscal years 2014, 2015, and 2016. The proposed rate increases for both Water and Wastewater are 15% for fiscal year 2014, and 11% for fiscal years 2015 and 2016. The effective dates of the proposed rate increases are anticipated to be July 1, 2013, July 1, 2014, and July 1, 2015. In order to determine the need for proposed rate increases, Utilities' personnel prepared a comprehensive financial model that projects revenues; expenditures cash balances and reserves for fiscal years 2014 through 2019. The projected revenues requirements and proposed rate increases are based upon expected operating expenses, Capital Improvement projects, sources of

MINUTES

funds, and legal covenant requirements. Based on our review of the methodology and procedures used to calculate the proposed rate increases and our review of DPW's projections of revenues, expenditures, and cash and reserve balances, we believe that the proposed Water and Wastewater rate increases of 5% [sic] for fiscal year 2014, and 11% for fiscal years 2015 and 2016 are higher than necessary for the Utilities to be self-sustaining and to meet its operating reserves and debt service requirements.

Finding #1

The targeted amount established by Water & Wastewater exceed the minimum Operating Reserve Requirements and Revenue Bond Covenants. As part of our analysis of the Utilities' comprehensive financial models, we calculated the rate increases needed for fiscal years 2014, 15, and 16 using the minimum Operating Reserve Requirements and minimum Revenue Bond Covenants. We did not adjust any other revenue or expense amounts included in the Utilities' comprehensive financial model. Based on our analysis, we determined that Water rate increases of 13%, 11%, and 11% would meet these minimum requirements and covenants for fiscal years 2014, 15, and

MINUTES

16, respectively, compared to the Utilities' proposed rates of 15%, 11%, and 11%. We also determined that Wastewater rate increases of 12%, 9%, and 10% would meet the minimum requirements and covenants for fiscal years 2014, 2015, and 2016, respectively, compared to the Utilities' proposed rates of 15%, 11%, and 11%.

Finding #2

For the projected Wastewater operation and maintenance expenses, the Utilities used the fiscal year 2014 budgeted amounts, with an additional \$3.3 million for Asset Management Division projects, which were not included in the budget. We were told that Water & Wastewater may request a supplemental appropriation to its fiscal year 2014 budget for these anticipated projects by December 2013, if it is needed. Therefore, we are not sure whether those additional appropriations will be requested and approved; however, those additional anticipated costs are included as part of the Utilities' proposed rate increases. The amount for anticipated extra costs of the Asset Management Division proc -- projects for fiscal years 2014 to 2019 totaled \$31 million dollars.

MINUTES

Finding #3

Increased efforts to collect outstanding delinquent water and wastewater bills could reduce the need to increase water and wastewater rates. There were 15,063 delinquent accounts and delinquent is defined as more than 260 days overdue, with outstanding balances as of June 17, 2013, totaling \$24.5 million dollars. After excluding four commercial accounts with outstanding balances, totaling \$7.3 million dollars, the outstanding balances would be reduced to \$17.2 million because it is our understanding those four accounts are part of ongoing bankruptcy proceedings. The majority of the delinquent accounts, 11,073 represent City customers with aggregate outstanding delinquent balances totaling \$13.6 million. 10,883 are residential accounts, totaling \$9.5 million and 190 are commercial accounts, totaling \$4.1 million. The delinquent accounts for Baltimore City customers include both water and wastewater charges. The report also included 3,986 Baltimore County customers with outstanding delinquent balances totaling \$3.6 million, and this includes the uh -- four accounts -- the four commercial accounts in bankruptcy proceedings. 3,922 are

MINUTES

residential accounts, totaling \$3.1 million and 64 are commercial accounts, totaling \$524,000 dollars. The accounts for -- the accounts for Baltimore County include -- I'm sorry -- include water charges only. It is our understanding that water services for both Baltimore City and Baltimore County customers are subject to being shut-off for not paying their bills. However, we are not aware of any procedures -- any procedures to sell Baltimore County properties at tax sale, when County customers fail to pay their water bills to the City.

RECOMMENDATIONS

- 1) Based on our analysis, we recommend that the Department of Public Works and the Department of Finance consider reducing the proposed rate increases.
- 2) Because uncertainties can affect various estimates of revenue and expense amounts projected two or more years in advance, we recommend that the Board of Estimates consider limiting the -- its decision on the rate increases that are proposed to just fiscal year 2014.
- 3) If the rate increases are approved for three years as proposed, we recommend that the Utilities compare actual results of operations with the projected amounts for subsequent years to determine whether the rates approved for those subsequent years

MINUTES

can be reduced. These subsequent comparisons should be subject to the review of the Department of Audits and the results presented to the Board of Estimates.

4) We recommend that the City develop procedures to improve the collections of unpaid water bills. We also recommend that the City explore the possibility of placing liens on Baltimore County customers' properties when delinquent water bills are greater than an established amount, or if those bills are not paid within a designated time-period. Additionally, we recommend that the City consider modifying the water settlement agreement with Baltimore County to adjust for the delinquent water bills of Baltimore County residents -- Baltimore County accounts residents. Um -- Adjusting the water settlement to reflect actual collections rather than amounts billed would make Baltimore County responsible for the unpaid water bills of Baltimore uh -- County accounts.

5) Lastly, the Utilities should continue to seek cost-savings measures to reduce future rate increases, since the comprehensive financial model indicates that annual rate increases for fiscal years 2017, 2018, and 2019 are expected to

MINUTES

Be 16%, 12%, and 12% for Water, respectively; and, for wastewater, 8% for both fiscal years 2017 and 2018, and 7% for fiscal year 2019."

President: "Thank you. The Audit has been **NOTED**. You have some comments."

Comptroller: "Yes. I have some comments"

President: "Madam Comptroller"

Comptroller: "Yes. First of all I would like to thank the Department of Audits for working overtime to complete the review and for uh -- making the recommendations."

Robert McCarty: "Thank You."

Comptroller: "My concerns are that based on the Audit's findings that the Water Rate could be um -- reduced. Now I think that we need to consider that um -- the way the calculations were ah -- presented to the Department of Audits based on projected as opposed to actual ah -- would allow for a decrease in the water rates. Also, I would like to request that the Department of Public Works review their calculations annually if this proposed rate ah -- is approved for a three year period, I am proposing that we would look at it annually because based on the proposed

MINUTES

rates that are being set today citizens would recognize from today through 2019 for water a 106% increase in their water bill and for wastewater a 77% increase for their water -- wastewater bill today. So, I am requesting that the Department of Public Works review their calculations annually - - prepare their calculations annually and have the Department of Audits review it in case there is reason to reduce the water rates.

President: "Anybody else have any comment? Okay."

Mayor: "I think the - - ah Director has comments."

President: "Mr. Foxx."

Mr. Alfred Foxx: As far as the uh -- Audit is concerned we are constantly reviewing our rates and that is an ongoing effort with the Department of Public Works. But, as to the audits themselves, I would like for my uh -- Bureau of Water and Wastewater -- Chief of Water and Wastewater to address some of the issues because some of the - - some of your recommendations have a significant impact on the City as a whole as far as the - - the ah -- financial ah -- stability dealing with the Bond Markets and the Bond ratings, so I would like for Mr. Rudy Chow and Mr. Blake Bornkessel to come forward so that they can, we

MINUTES

can address those issues. One thing that we try to do is make this organization a uh-- very stable and, and - - ah very stable organization with good rates in order to accomplish something that has not been done in quite a long time and that is get ahead of all of these water main breaks that we are having on a day-to-day basis and be able to pro-, continue to produce top quality water for the Citizens of Baltimore. So, with that I would like to turn it over to Mr. Chow.

Mr. Rudy Chow: "Thank you. Good morning Council President, Madam Mayor, Madam Comptroller, Mr. Ralph, Mr. Foxx, uh -- just a brief statement here. And I am ah -- accompanied here by my Chief Fiscal Officer, Mr. Bornkessel, he is accompanied by Mr. Crea and Mr. Brandt from Raftelis Financial, our financial advisor. The Bureau of Water and Wastewater has received the Department of Audits review of our Water and Wastewater rate proposal. Uh -- the review included three findings as stated and five recommendations. I have prepared a brief response to each of the findings and recommendations, and I can address additional questions certainly, as needed - - ah first of all on Finding No. 1: The Bureau's financial policies were developed with the 2002 Water and Wastewater Resolutions at the onset of the wastewater consent decree agreement to strengthen the City's

MINUTES

credit ratings and help ensure access to the debt market. Moving away from these policies would place the utility, and therefore the City, at undue financial risk. The Association of Metropolitan Water Agencies (AMWA), which is an industry association for large water utilities. They had to conduct a 2012 survey of the 99 member utilities which reported 3 utilities with less than 30 days cash on hand, 11 utilities had between 30 to 90 days cash on hand, and the remaining at greater than 90 days, including 35 utilities were greater than 365 days. Published ratings criteria from Fitch said that cash on hand of less than 90 days is considered weak. The mid-range and strong metrics for cash on hand are 180 days and greater than 365 days, respectively. An increase in interest costs on long-term debt of 0.25 basis points would result in approximately \$140 million of additional interest expenses on the 10-year capital spending projection of \$2.5 billion. Therefore holding a less than minimum cash on hand will be fiscally irresponsible.

Finding No. 2: Funding for the asset management division included in the wastewater rate proposal will provide additional efficiencies to the utility through condition assessment and strategic investment in utility infrastructure which will reduce operational costs. The costs of these programs were evolved

MINUTES

during the budget process and finalized after the full budget submittal but remained part of the rate increase proposal. These costs need to be included to ensure financial stability while implementing the Asset Management Division. Through implementing efforts uh -- involving considerable consultant expertise, the program will create some 2000 - 200 City jobs once it is fully implemented.

Finding No. 3: The Bureau of Water and Wastewater has worked with the Finance Department to revise standard operating procedures to collect delinquent bills. Collection of these bills will provide a one-time cash increase, however would not address the long-term financial needs of the utility to meet future capital and operational requirements. In addition to the three findings, the five recommendations, our responses to these recommendations are as follows:

1. Reducing the recommendation -- recommended rate increase will create undue financial risks for the utility and the City, as discussed in response to finding no. 1. Consistent with this, the Bureau of Water and Wastewater recommend the original rate increases of 15%, 11 % and 11 % for water and wastewater in FY 14, 15, and 16.

MINUTES

2. The Bureau recognizes that there are uncertainties in projecting revenues and expenses as part of our rate proposal. We believe a three year rate proposal provides the best balance between this uncertainty and the need to provide the stable working environment to most efficiently and effectively manage the utilities operations and long-term capital planning.
3. The City charter establishes that at the close of each fiscal year an annual financial report is submitted to the Board of Estimates, the Board of Finance and the members of the City Council.
4. Recommendation number 4. Collections in FY2013 have improved over all historical performance and our budget proposal includes additional expenses for customer service that help to continue this trend. The Bureau of Water and Wastewater will continue to work with the Department of Finance to improve collections going forward.
4. The proposed three-year rate plan is intended to fund the operation and capital improvements to allow for long-term, sustained cost reductions. The Bureau consistently looking for ways to costs reduction wherever possible.

MINUTES

For example in the FY 2013 rate proposal included a cumulative 3-year increase of 44.3% for FY 14, 15, and 16. The current proposal includes a 41.7% cumulative increase and this savings demonstrates the Bureau's commitment to minimize future costs and pass the savings onto its customers.

I want to express our appreciation for the work the Audit team from the Comptroller's Office has done. We agree in principal that we need to continue to work and to look for cost saving ideas and operational efficiency improvements going forward to help reduce future rate increases. At this time, I urge the Board to approve our plan in order to help Baltimore to meet its most important municipal responsibility."

Robert McCarty: "I have some follow up questions please. On our first finding you mentioned the Consent Decree of 2002 and we did not change any expenditure in this plan."

Rudy Chow: "However it is the 30 Day covenants."

Robert McCarty: "The 30 day Covenants."

Rudy Chow: "The cash on hand, to have less than we recommended cash on hand, basically put the City at risk. In terms of the Bond ratings and so on."

MINUTES

Robert McCarty: "Okay, can I continue?"

Comptroller: "Yes."

Mayor: "David has one question to that Point."

President: "David?"

Deputy City Solicitor: "Sorry just one question on the point of the cash at hand -- ah. What is the - What do other jurisdictions do, ah -- what is -- What are the majority of other jurisdictions of similar size doing with their cash at hand?"

Rudy Chow: "As stated earlier, majority of the utilities holds cash on hand anywhere between less -- around 90 days in essence. Many holds greater than 90 days, some about greater than 365 days."

Deputy City Solicitor: "And how many of the member jurisdictions do 30 days cash at hand?"

Rudy Chow: "Ah -- let's see -- yeah, only three utilities were holding less than 30 days."

Deputy City Solicitor: "out of 99."

Comptroller: "Do you know what Cities they are?"

Rudy Chow: "No, we don't but we can certainly get that information."

MINUTES

Deputy City Solicitor: "Okay, That's all I have."

President: "Mr. McCarty."

Rudy Chow: "No. No we don't, but we can certainly get that information because this was a survey done by a -- ah -- AMWAL, which is -- ah a Utility Agency - - Industry."

Deputy City Solicitor: "Okay, then."

Robert McCarty: "This is a general question on Finding No. 1; we used the minimum requirements included in the official statements. Why wouldn't those numbers be the numbers that your -- ah be informed that the bond markets want?"

Blake Bornkessel: "In 2002 --"

Comptroller: "State your name."

Director of Public Works: "Introduce yourself."

Blake Bornkessel: "Good morning, my name is Blake Bornkessel, I'm the Chief of Utility Finances for the Bureau of Water & Wastewater. In the 2002 Water & Wastewater Resolution the City identified internal financial policies to ensure access to the debt market that were over and above the legal requirements that the City had proclaimed. This ensures we have access to low cost financing and viewed as financial strength for our investors. The reason that we have used ah -- a policy in

MINUTES

excess of the 30 days is that very few utilities at this time use 30 days. The rating agency Fitch as noted by Mr. Chow, has identified anything with less than 90 days as a low -- excuse me -- as a high risk."

Robert McCarty: "Okay, my question was though "Why isn't that in the -- in the official statements? Those requirements? The requirements in the official statements are the minimum that we used."

Blake Bornkessel: "The requirements in the official statements are the legal covenants. What we have discussed and disclosed with our Financial Advisor and Financial Consultant our internal Financial Policies are based on the 2002 Water and Wastewater Resolutions."

President: "Okay - Madam Comptroller -- You have a question."

Comptroller: "Yes. Mr. Chow -- ah -- Mr. Chow -- there was a meeting set with the Department of Audits, they waited all day until 6:00 p.m. to meet with you. You are laughing, you think it's funny. You did not get back to the Department of Audits, you put them off, they waited around until 6 o'clock, you never responded to their calls or their e-mails. We are one City and

MINUTES

we need to collaborate and we need to work together and you think it's funny that you had the Department waiting to either discuss what your findings and your considerations were. That just speaks to the lack of cooperate-- collaboration and cooperation with the Department of Public Works --

Audience Member: "And arrogance."

Comptroller: "And arrogance and lack of respect."

Director of Public Works: "Madam Comptroller --"

Comptroller: "I am not finished, I am not finished -- ah you know I am -- ah"

Audience Member: "Everybody in Baltimore City stop paying your water bill."

Comptroller: "So, I am requesting that in the future, you know if you set a meeting that you either have enough respect to either let the Department of Audits know that you do not need to meet with them, as opposed to having the Department of Audits, the City Auditor and his staff waiting around for you until 6 o'clock. That was just not respectful. In addition to that -- ah I am -- ah. You have a comment Blake?"

Mr. Rudy Chow: "That's fine, duly noted."

MINUTES

Comptroller: "Okay, also I heard that you said you are going to make a greater attempt to collect uh -- because if the \$25 million or even a portion of the \$25 million outstanding balances that is owed the City there would have been a rate increase and for every \$870,000.00 in revenue collected or savings for water there would be a 1% decrease in the water rate, and for wastewater for every - - you are shaking your head Blake, you want to comment?"

Rudy Chow: You would like."

Comptroller: "I would really like -- You see it just shows a lack of respect, you are not even listening, you are either--"

Audience Member: "He should be fired."

Comptroller: "and in addition for Wastewater for every \$1.2 million dollars of collections or savings, it would reduce the was -- the Wastewater rate by 1%. So, you know I encourage the City to collect the money that's due them and to take a look at reducing this cost for the citizens and I totally dosage -- Well, let me ask you another question. Mr. Foxx said that you are going to look at the ah -- expenses and revenue and the calcula-

MINUTES

tions annually, looking at them annually if the proposed rate is set today for a three year period and the Department of Audits will review these calculations the proposed rates that are set today. If after reviewing the calculations, we recognize that the rates should have been lower will the Department make a recommendation that the water rates be decreased?"

Mr. Chow: "Well, first of all, I think, I think the -- we certainly as the Director has stated, we are going to continue to look for operation efficiencies, looking at reducing our expense and so and all that. If there are excess cash available at the end of the fiscal year it would be utilized for to offset future rate increases, which we know. This infrastructure that we have in existence requires a lot of investments going forward and we are talking about three years right now and we believe our projection is realistic, we have done our homework , however if there are savings to be yield we certainly can use that for future rate increase reductions."

President: "Madam Mayor --"

Mayor: "I have a question for Audits. So, you started the report

MINUTES

by saying that the Audit findings support uh -- water rate increases of 13%, 11%, and 11%."

Robert McCarty: "For water, yes."

Mayor: "And we are recommending 15%, 11%, and 11%."

Robert McCarty: "Yes."

Mayor: "You are recommending 13%, 11%, and 11%."

Robert McCarty: "That's for water, yes."

Comptroller: "That's for water, not for wastewater."

Mayor: "So, we recommend 15%, you recommend 13%. On all other points you are the same."

Robert McCarty: "For water"

Comptroller: "Just for water"

Mayor: "and for wastewater?"

Comptroller: "Its 12%, 9%, and 10%."

Mayor: "I'm sorry."

Robert McCarty: "Yes. Wastewater is 12%, 9%, and 10% for 2014, 15 and 16."

Mayor: "Thank you."

President: "Mr. Foxx --"

Robert McCarty: "One more, I'm sorry --"

MINUTES

President: "I thought you was finished."

Robert McCarty: "I just have one point to clarify. On the recommendation I believe Mr. Chow said that uh -- the annual financial report will cover this. Is that what you stated?"

Rudy Chow: "Yes."

Robert McCarty: "The Annual Financial Report does not look into the rate increase, that is a financial --"

Rudy Chow: "I know we will look at the cash available balance at the end of the year."

Robert McCarty: "Yes. Yes it would do that but it would not determine --"

Rudy Chow: "So, that would make that determination whether we have expended the budget as we requested or not."

Robert McCarty: "Our recommendation was to ah -- review each year the changes, the financial report is out after the year is already done."

Rudy Chow: "We are going to be reviewing at the end of the fiscal year regardless and as I stated however if there are cash remaining at the end of the fiscal year we will put that in cash reserve which will help to offset future rate increases."

Robert McCarty: "But, to be clear our recommendation was that we

MINUTES

would review them each year and it would be presented to the Board of Estimates upon completion."

Comptroller: "And you are talking about beyond 2016?"

Director of Public Works: "Yes, he is saying future rate increases."

Comptroller: "Beyond 2016?"

Robert McCarty: "Correct."

Comptroller: "Right. Not reducing it for 2015 or 2016, because you are gonna -- because the Board is gonna approve a three year rate increase, so you are talking about future meaning after 16."

Director of Public Works: "Madam Comptroller --."

Comptroller: "The problem that I have with that is that um -- because the rates are being set higher than they should be today when we come back in 2017, whoever is at this Board the percentage increase will be on top of the 13 -- 15, 11 and 11 which between today and that -- time period is really a 42% increase. So, that is the problem I have with setting a three year rate and in the past we have looked at it annually and we have set the rates annually, I just think that it is unfair to

MINUTES

the citizens to approve a three-year rate which will cumulatively be 42% and then come back in 2017 and have an increase on-top of an already 2% and based on your projections through 2019, as I stated it will be a 100% increase, 106% increase for water and a 77% increase for wastewater."

Mayor: "Please hear the question before you answer it, on the Audits the Comptroller mentions a 42% increase based on the rates, what's the cumulative increase base on your Audit report. Your recommendation, you're cumulative."

Robert McCarty: "I don't have, give me one second, please 39% and 34% would be cumulative of those three years under ours."

Mayor: "So, your recommendation was a 39% increase and a 34% increase?"

Robert McCarty: "Yes, over three years."

Comptroller: "Here you go, right there."

Robert McCarty: "Yes, the cumulative being recommended by DPW and the Department of Finance is 42% over three years and ours was 39% and 34%. 39% Water and 34% Wastewater. Thank You. Madam Comptroller."

MINUTES

Comptroller: Un-huh -- You are welcome."

President: "Mr. Foxx --"

Director of Public Works: "Just to address a couple of things that were said. First of all the whole concept, I think Mr. Chow covered it is that we did a lot of work and research on the development of the -- of the water rates and now in the process we wanted to make sure understanding that that the impact on our citizens would be ah -- would have an impact on our citizens. Therefore, we were very diligently -- diligent in understanding the rates and how in the development of the rates. But the one thing we wanted to do is something that we have always looked at is how do you protect the seniors how do you protect those with low income. So in addition to doing that we revised our program of senior discounts and -- and the low income discounts. So that they would not be injured in this whole process. So, we -- but when you look over all across the board the City still have low rates. We have low rates compared with Cities on the East Coast and compared with other jurisdictions within the City ah -- within the State of Maryland. So, we still have very low rates. And we have high quality water, it takes money to produce the

MINUTES

high quality water. The one thing that we talked about the other week was the loss, the loss of water that we experience because of our aged infrastructure and the only way we are going to fix that is to repair the pipes and we been repairing it below rate for a long time, below the standard for a long time. We need to -- we need to take that and fix the water lines so that we can, in the future, start looking down and reducing the rates. As far as collection, we have been working hand in hand with Finance trying to collect those overdue bills, and they are not only in the Counties but they are in the City. And we have been working trying to collect all those things. Of course, you know being in the Comptroller's Office, there is a process, and so we have to follow that process in collections. We just can't go out there and say--. Okay we are going to condemn the house. We don't even do that in the City. So -- so, the other thing is -- I have heard a lot people talk about well we pay more -- more in the county - more in the City than we do in the County. Well, when you take a look at the water bills from the County comes from here, that's what they get, water only. We have water and sewer on our water bills and when you look at the

MINUTES

distribution in the county, -- the county actually pays more than Baltimore City's. They actually pay more because all of their sewer is in their property tax that they pay on an annual basis. Ours is up front, we bill once a quarter, they also charge a frontage fee, we don't charge that. So, the whole - and I heard many, many times that we pay more in the City than they do in the County and we don't. We pay less. The and-- to make the recommendations that we reduce it what you do is impact our ability to fix the water system and then you put us at risk when you tell us to reduce our reserve. You are asking us to do what industry standards -- not to do what industry standards are doing. And I think you put the City at risk when you make that type of recommendation."

Comptroller: "Mr. Foxx, you said -- you know you used the word diligently, would you diligently encourage your staff to work with the Department of Audits earlier on because as you said you were working on this you know 6 months, 9 months ahead a time. You gave the information -- your Department gave the information to the Department of Audits and required them to do these calculations, work overtime to see if these calculations were justifiable in a very short period of time."

MINUTES

Director of Public Works: "Well --"

Comptroller: "Because we are one City and we need to collaborate. There is no reason for your department to work on it for 6 to 9 months and then you gave it to the Department of Audits very late this year, later than usual and we had to defer from last week because they did not have sufficient time to do an accurate review. All I am requesting is that we work together."

Director of Public Works: "Madame Comptroller, I have never refused to work with Audits."

Comptroller: "Well could you, could you encourage your staff to provide the information as soon as possible."

Director of Public Works: "We will do that."

Comptroller: "Okay."

President: "Madam Mayor."

Mayor: "Thank You. Thank you very much uh -- Mr. President ah -- for the opportunity to speak. I want to thank Audits because at the end of the day we both -- while there seems to be acrimony ah -- your Audits Department, Madam Comptroller and I agree that in order to meet the Federal mandates and the minimum requirements under -- in order to maintain the City's Bond rating and to maintain a self-sufficient fund ah -- both of us

MINUTES

agree that, that requires double digit increases in both water and sewer rates over the next three years. So, I appreciate -- ah -- ah -- I appreciate your attention to it and ah -- your attention to -- and your detail to that."

Comptroller: "Thank you."

Mayor: "So, before we call for a vote I just want to say --"

President: "Have a seat (to audience member)."

Mayor: "-- that um -- I don't have the -- the luxury to vote against this increase. If -- if there is a catastrophic water infrastructure failure, if our system breaks down and DPW doesn't have the financial resources that it needs to prevent it or repair it, uh -- it's my responsibility to fix it as Mayor. If the water system doesn't work because it doesn't have the funding that it needs that's my responsibility and this um -- is really one of the most difficult votes I have had to make because of those things. Even with the economic recovery underway, many cities like Baltimore are still trying to catch up to pre-recession numbers. Unemployment is still too high, our families are struggling, I understand that and I don't take it lightly. It's frustrating to me and I get angry because despite

MINUTES

my best efforts a serious bipartisan discussion about investing in American infrastructure on a national scale has not happened in congress. However, it's also true that crumbling infrastructure has reached a crisis point in cities across America including Baltimore. With unfunded federal mandates, limited resources and a system that is literally crumbling, we have no choice but to pay more to keep our system working. Last week we heard comments that the City takes hundreds of people's homes for unpaid water bills. But, the truth is due to the reforms that we have put in place in cooperation and collaboration with the City Council, not a single home not a single home has been taken solely because of an unpaid water bill under my administration according to the Finance Department. Not one. In addition, we try to help people well before they fall behind. The Department of Public Works offers two programs for people who need help with their water bills. We encourage our Senior Citizens and anyone else with limited means to call 311 and ask about our Low-income Senior Citizen water discount or our Low-income Water Assistance Program. Despite these safeguards and the fact that our rates will still

MINUTES

be lower than many cities on the east coast including Washington DC, Boston, and Atlanta, the increase is a burden on our residents and it is never, never a good thing but our system is broken, its failing and it is in need of major repair and I don't have the luxury just to vote NO on that."

President: "I will entertain a motion."

Deputy City Solicitor: "I MOVE approval of the proposed Water and Sewer Rate Increases as proposed by the Department."

Audience Member: "Is there going to be a public hearing on this?"

President: "Miss, you can have a seat."

Deputy City Solicitor: "Yes, there has."

Director of Public Works: "I second."

President: "All those in favor say AYE. All those opposed NAY. Please note that Council President Young votes **NO** in the increase."

Comptroller: "And I oppose. I vote **NO** because I think it should be looked at annually and I believe the rate increase --"

MINUTES

President: "Can you talk into the mic?"

Comptroller: "And I believe that the rate increase should be lower based on the recommendations of the Audit Department."

President: "The Motion carries."

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the proposed water and sewer rate increases and proposed miscellaneous fee increases. The President voted **NO**. The Comptroller voted **NO**.

MINUTESDepartment of Audits - Review of the Proposed Water and
Wastewater Rate Increase

The Department of Audits is in the process of reviewing the methodology and procedures used to calculate the proposed water and wastewater rate increases, and the documentation and schedules prepared by the Department of Public Works (DPW) to support its projections of revenues, expenditures, and cash balances. The Department of Audits was not provided enough time to verify that the proposed rate increases are needed to keep the Utility Funds self-sustaining and to provide adequate cash reserves for bond covenants and future capital projects.

On Tuesday, June 18, 2013, the Department of Audits met with the DPW - Bureau of Water and Waste Water and the Department of Audits anticipates it will receive the additional necessary information and that the Department of Audits' report will be submitted for the July 3, 2013 Board of Estimates' agenda.

The Board **NOTED** the Review of the Proposed Water and Wastewater Rate Increase.

MINUTES

Baltimore Development Corporation - 2012 Audited Financial
Statements

ACTION REQUESTED OF B/E:

The Board is requested to **NOTE** the December 31, 2012 Audited Financial Statements of the Baltimore Hotel Corporation pursuant to Ordinance 05-128.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

On January 11, 2006, the Board approved and authorized the appropriation of \$305,000,000.00 in tax-exempt revenue bonds for the development and construction of a 757 room Convention Center Hotel (Hotel), known as The Hilton Baltimore, which is owned by the Baltimore Hotel Corporation (BHC) a non-profit corporation, and operated by the Hilton Hotels Corporation (Hilton).

The BHC was formed to assist the City of Baltimore in accomplishing an essential governmental function of enhancing economic development within the City by promoting and expanding the use of the Baltimore Convention Center. The Hotel promotes the health, safety and general welfare of the residents of the City, increases commerce and industry, enhances economic development within the City and advances the efficiency of citizens.

The audit was performed by the accounting firm of Clifton Larson Allen and was prepared in accordance with auditing standards generally accepted in the United States of America.

On May 17, 2013, at its Board meeting the BHC Board of Directors voted unanimously to accept the December 31, 2012 Audited Financial Statements, as presented.

UPON MOTION duly made and seconded, the Board **NOTED** the December 31, 2012 Audited Financial Statements of the Baltimore Hotel Corporation pursuant to Ordinance 05-128.

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

In accordance with the Rules for Prequalification of Contractors, as amended by the Board on October 31, 1991, the following contractors are recommended:

Asplundh Tree Expert Co.	\$4,430,781,000.00
Bristol Environmental, Inc.	\$ 8,000,000.00
Work capacity rating underwritten by blanket guarantee of \$50,000,000.00 from the parent company CG Enterprises, Inc.	
Corman Marine Construction, Inc.	\$ 50,000,000.00
Cuddy & Associates, LLC	\$ 2,493,000.00
P & J Contracting Company, Inc.	\$ 16,740,000.00
Trenton Contracting Co., Inc.	\$ 1,500,000.00

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:

Hydromax USA, LLC	Engineer
J.A. Rice, Inc.	Land Survey
J.K. Datta Consultants, Inc.	Engineer
K. Lechleiter Architect, LLC	Architect

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.

MINUTESDepartment of Planning - Agreements

The Board is requested to approve and authorize execution of the following agreements with Blue Water Baltimore (BWB) for the following projects:

1. HARBOR BACTERIA MONITORING/30 SITES \$24,750.00

Account: 9905-926005-9188-900000-703032

Under this contract, the BWB will monitor bacteria levels in the Harbor at 30 sites by taking samples and having them analyzed at a state lab. The resultant information will be shared property with the Department of Public Works. Additionally, the BWB will maintain a website to communicate information about water quality with the public and work with the DPW as necessary to post Water Contact Advisory signs. The BWB is uniquely positioned to do this work because of its long history in the field of water quality in Baltimore City, and its trusted status as public educators and ambassadors between residents and government. The period of the agreement is July 1, 2013 through June 30, 2014.

2. GREEN JOBS PROGRAM/BALTIMORE CITY YOUTH WORKS \$42,990.00

Account: 9905-9188-922004-900000-709099

Under this contract, using Critical Area Offset fee migration funds, the BWB will collaborate with the Baltimore City Youth Works to administer a green jobs program for high school aged youth. Teams will work in City parks, schools, and neighborhoods to plant 400 native trees, then water and maintain those trees through the first year. Additionally, the BWB will provide follow-up maintenance on 2,000 trees planted in 2011 and 2012. The period of the agreement is effective upon Board approval through December 31, 2013.

BWB is a non-profit comprised of our four former watershed associations plus the Harbor Waterkeeper.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

MINUTES

Department of Planning - cont'd

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

MINUTESLaw Department - Settlement Agreement and Release

The Board is requested to approve the settlement agreement and release for the following claim. The settlement agreement and release has been reviewed and approved by the Settlement Committee of the Law Department.

1. Virginia Dean Slaughter, et al. v. \$200,000.00
Mayor and City Council of Baltimore, et al.

Account: 2036-000000-1752-175200-603070

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the settlement Agreement and Release.

MINUTESLaw Department - Opinion - Request for Refund of Real
Property Taxes

The Board is requested to approve a refund of real property taxes for Mr. Leon Finney Lewis, Jr.

It is the opinion of the Law Department that Mr. Lewis has met the qualifications for a real property tax exemption as a disabled veteran, and that Mr. Lewis is eligible to receive a refund of taxes paid because he was honorably discharged from the armed services, declared by the Veteran's Administration to have a permanent 100% service connected disability, and resided in a single family dwelling during the period in question. The dwelling house is owned by the claimant and the claimant continues to reside in the dwelling place. It has been determined that Mr. Lewis is entitled to a refund of real property taxes, which were paid as follows:

<u>Claimant</u>	<u>Property</u>	<u>Taxable Year</u>	<u>Amount</u>
LEON FINNEY	1919 Northbound	2011/2012	\$2,237.33
LEWIS, JR.	Road	2010/2011	<u>2,137.27</u>
		Total Refund	\$4,374.60

Mr. Lewis filed his application on May 22, 2013.

Pursuant to the Tax Property Article, Section 208(h)(2) it is required that interest shall be paid at the rate the county or municipal corporation charges on overdue taxes and that the interest shall accrue from the date the application is filed with the county or municipal corporation. In order to avoid interest being paid, each claimant's application for a refund must be made within 60 days of the application .

UPON MOTION duly made and seconded, the Board approved the refund of real property taxes for Mr. Leon Finney Lewis, Jr.

MINUTES

TRANSFER OF FUNDS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Transfer of Funds

listed on the following page:

2633

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**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
<u>Department of Housing and Community Development</u>		
1. \$ 24,000.00	9910-906970-9587	9910-902971-9588
30 th CDB FY12	Urban Agriculture Matching Reserve	Garden Irrigation Fund

This transfer will provide funding for the Garden Irrigation Fund Program that will support community-managed open spaces in need of water access.

MINUTES

Department of Transportation - Task Assignments

The Board is requested to approve the task assignments under the various projects:

<u>Consultant/s</u>	<u>Task Description</u>	<u>Amount</u>
1. McCORMICK TAYLOR, INC.	No. 14, under Project 1123, On-Call Planning/Policy/Feasibility Studies	\$249,825.67

Account: 9950-920030-9508-900020-703032

The task assignment will authorize engineering design services in connection with the Cherry Hill Light Rail Station area enhancements. The scope of work includes, but is not be limited to CPM scheduling, conducting QA/AC, attending meetings, perform a site inventory and assessment.

2. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$155,000.00	9950-902317-9507	
MVR	Constr. Reserve	
	Liberty Heights	
94,825.67	9950-902185-9507	
MVR	Constr. Reserve	
	Central Avenue	
	Reconstruction	
\$249,825.67	-----	9950-920030-9508
		Cherry Hill Light
		Rail Station

This transfer will fund the costs associated with Task No. 14, under Project 1123 assigned to McCormick Taylor, Inc.

MINUTES

Department of Transportation - cont'd

<u>Consultant/s</u>	<u>Task Description</u>	<u>Amount</u>
3. WALLACE, MONTGOMERY & ASSOCIATES	No. 14, under Project 1132, On-Call Consultant Engineering Design, Review and Evaluation Services	\$325,478.18

Account: 2024-000000-5480-395600-603026

The task assignment will authorize engineering design for conduit manhole condition inspections City-wide Phase 2. The scope of service will include, but not be limited to research records to identify the location of the manhole to be inspected, permit acquisition to prepare and submit the right-of-way permits for each manhole to be inspected, mobilization, design report, proposed inspection schedule, and compensation.

APPROVED FOR FUNDS BY FINANCE

MBE/WBE PARTICIPATION:

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

MBE: 38.00%

WBE: 9.00%

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

UPON MOTION duly made and seconded, the Board approved the task assignments under the various projects. The Transfer of Funds was approved, SUBJECT to the receipt of a favorable report from the Planning Commission, the Director of Finance having reported favorably thereon, in accordance with the provisions of the City Charter.

MINUTES

Department of Transportation and - Proposed Valet Parking Fees
Parking Authority of Baltimore City

ACTION REQUESTED OF B/E:

The Board is requested to approve the proposed fees for valet parking applications, licenses, and permits.

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

Ordinance 13-098 was adopted and signed into law on February 19, 2013, creating Article 31, Subtitle 14, (Valet Parking) of the Baltimore City Code (the Valet Law). The Valet Law states that "The Director of Transportation must obtain prior approval of the Board of Estimates for any rule or regulation that sets an application, license, permit, or other fee to be imposed under this subtitle." (Article 31, § 14-3(a)(2)). The Department of Transportation requests approval of the following proposed fees to support the Valet Law:

	<u>Proposed Fee</u>
Valet Operator License Application (Art. 31, §14-9b)	\$ 50.00
Valet Operator Annual License (Art. 31, §14-122)	\$ 250.00
Valet Operator License Renewal Application	\$ 50.00
Valet Zone Permit Application (Art. 31, §14-18b)	\$ 500.00
Valet Zone Permit - for every 20 linear feet of curb space annually (Art. 31, §14-26)	\$1,200.00
Special Event Valet Application	\$ 10.00

MBE/WBE PARTICIPATION:

N/A

UPON MOTION duly made and seconded, the Board approved the proposed fees for valet parking applications, licenses, and permits.

MINUTESDepartment of Transportation (DOT) - Grant Agreements

The Board is requested to approve and authorize execution of the following grant agreements:

1. **BALTIMORE METROPOLITAN COUNCIL, INC. (BMC)** **\$ 48,800.00**

Account: 9950-911852-9514-000000-490360

This grant will allow the DOT to hire a consultant to develop a Market & Economic Feasibility analysis of the area near the West Baltimore MARC station in furtherance of the 2008 West Baltimore MARC Station Area Master Plan. The period of the agreement is effective upon Board approval for one year.

MBE/WBE PARTICIPATION:

The procured vendor may be required to comply with Article 5, Subtitle 28 of the Baltimore City Code and MBE and WBE goals established in the original agreement.

2. **BALTIMORE METROPOLITAN COUNCIL, INC. (BMC)** **\$ 405,276.00**

Account: 6000-617214-2303-596000-406001

This grant will allow the City to complete population and development projections and transportation planning work to ensure that the region's transportation plans will meet federal air quality standards.

The funding was provided by the Maryland Department of Transportation to the BMC. The DOT will complete work under this grant and will serve as the lead agency for the City. The Department will provide in-kind services to match this grant. The agreement is effective upon Board approval. If the City fails to fulfill its obligations under this agreement, the BMC will have the right to terminate this agreement by giving 30 days written notice to the City of the termination and the effective thereof.

MINUTES

DOT - cont'd

APPROVED FOR FUNDS BY FINANCE

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

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

MINUTES

Mayor's Office of Employment - Amendment to Inter-governmental
Development (MOED) Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an amendment to inter-governmental agreement with the State of Maryland Department of Human Resources/Baltimore City Department of Social Services (DHR/BCDSS). The period of the agreement is October 1, 2012 through September 30, 2013 with the option to renew for one-year.

AMOUNT OF MONEY AND SOURCE:

\$324,576.00 - 5000-508813-6392-456000-405001

BACKGROUND/EXPLANATION:

On May 1, 2013, the Board approved an inter-governmental agreement with the DHR/BCDSS and the Mayor's Office of Employment Development (MOED) for professional services. The purpose of the agreement is to compensate the MOED for providing an array of employment and training related services to the DHR/BCDSS Food Stamp Customers.

This amendment is to revise the payment terms of the services to be provided by the Contractor, MOED.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the amendment to inter-governmental agreement with the State of Maryland Department of Human Resources/Baltimore City Department of Social Services.

MINUTES

Department of Recreation and Parks - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with Under Armour, Inc., donor. The period of the agreement is July 5, 2013 through August 5, 2013.

AMOUNT OF MONEY AND SOURCE:

\$46,061.00 - 9938-904777-9474-900000-706063

BACKGROUND/EXPLANATION:

Under Armour, Inc. wishes to provide a grant to the City as its donation for the cost of refurbishing the existing basketball court in Eastwood Park. The donor has approved the cost proposal from American Tennis Courts, Inc., to perform work on the project.

TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$ 46,061.00	9938-913001-9475	9938-904777-9474
Other	Reserve	Active
	Unallotted	Park Rehabilitation Program FY12

This transfer will provide funds to cover the costs associated with the renovation of the basketball court at Eastwood Park.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the grant agreement with Under Armour, Inc., donor. 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

EXTRA WORK ORDERS

* * * * *

UPON MOTION duly made and seconded,

the Board approved the

Extra Work Orders

listed on the following page:

2642

All of the EWOs had been reviewed and approved

by the

Department of Audits, CORC,

and MWBOO, unless otherwise indicated.

MINUTES**EXTRA WORK ORDERS**

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

Department of Transportation

1. EWO 008, (\$4,162.67) - TR 04318, Jones Falls Trail Phase II			
\$ 3,541,711.60	\$ 104,577.76	Civil Construction, LLC	

Bureau of Water & Wastewater

2. EWO #030, \$38,317.68 - WC 1160R, Montebello Plant 2 Finished Water Reservoir Cover			
\$36,922,950.00	\$5,798,423.23	Alan A. Myers, LP	0 97

MINUTESDepartment of General Services - Minor Privilege Permit Application

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. 2933 O'Donnell Street	Canton Enterprises, LLC	Outdoor seating 8' x 4'
Annual charge: \$337.50		
2. 5434 Harford Road	Bethel World Outreach Ministries-Baltimore, Inc.	One single face electric sign 10' x 28"
Annual charge: \$70.30		
3. 3721 S. Hanover St.	3721 South Hanover Street, LLC	Retain awning w/ signage 28' x 3½', six fluorescent tubes
Annual charge: \$487.30		

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

MINUTES

Department of General Services - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with the State of Maryland Energy Administration (MEA). The period of the agreement is effective upon execution by the MEA through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

\$491,851.00 - 5000-584214-1981-194600-603050

BACKGROUND/EXPLANATION:

This grant agreement funds general energy efficiency projects, renewable energy projects, or transportation petroleum reduction projects. Up to \$60,000.00 of funds may be used towards energy efficiency projects benefiting low-to-moderate income Maryland residents.

The MEA administers the Maryland Smart Energy Communities program to encourage local governments to adopt certain policies related to energy efficiency, renewable energy, and/or transportation petroleum reduction, and puts plans in place to achieve the goals established in those policies. The MEA is providing funding in the amount of \$491,851.00 in order to enable projects that increase energy efficiency or the use of renewable energy, or reduce petroleum consumption, to benefit the City and promote affordable, reliable, and clean energy.

APPROVED FOR FUNDS BY FINANCE

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

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the grant agreement with the State of Maryland Energy Administration.

MINUTES

Department of General Services - Developer's Agreement No. 1297

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of developer's agreement no. 1297 with BCP Investors, LLC, developer.

AMOUNT OF MONEY AND SOURCE:

\$486,248.00 - Letter of Credit

BACKGROUND/EXPLANATION:

The developer would like to install new storm drain, road and signal improvements to its proposed construction located at 3501 and 3901 - 4001 Boston Street. This developer's agreement will allow the organization to do its own installation, in accordance with Baltimore City standards.

A Letter of Credit in the amount of \$486,248.0 has been issued to BCP Investors, LLC, which assumes 100% of the financial responsibility.

MBE/WBE PARTICIPATION:

N/A

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the developer's agreement no. 1297 with BCP Investors, LLC, developer.

MINUTES

Department of General Services - Perpetual Easement Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a perpetual easement agreement with Reisterstown Road 5516, LLC.

AMOUNT OF MONEY AND SOURCE:

\$1,694.00 - 9950-902454-9508-900020-704001

BACKGROUND/EXPLANATION:

The City, acting through the Department of Transportation is proposing to install signal equipment on a portion of the property owned by Reisterstown Road 5516, LLC and located at 5516 Reisterstown Road. The perpetual easement agreement will allow the City's contractor to install and maintain signal equipment in conjunction with the Department of Transportation Project No. TR-05309, Reisterstown Road Streetscape.

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the perpetual easement agreement with Reisterstown Road 5516, LLC.

MINUTES

Department of Housing and - Amendment No. 1 to Agreement
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of amendment no. 1 to the agreement with the Baltimore Office of Promotion & the Arts (BOPA).

AMOUNT OF MONEY AND SOURCE:

\$8,640.12 - 9910-910333-9588-900000-706047

BACKGROUND/EXPLANATION:

On October 24, 2012, the Board approved the agreement with BOPA for the Mural Conservation Program for the period of September 1, 2012 through August 31, 2013.

This amendment no. 1 will provide additional funding for the cost of a mural that is not supported with Community Development Block Grant funds. All other terms and conditions of the original agreement remain unchanged.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the amendment no. 1 to the agreement with the Baltimore Office of Promotion & the Arts.

MINUTES

Department of Housing and - Grant Agreement
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with Healthy Neighborhoods Inc. (HNI). The period of the grant agreement is effective upon Board approval for three years.

AMOUNT OF MONEY AND SOURCE:

\$750,000.00 - 9910-910160-9588 900000-706040

BACKGROUND/EXPLANATION:

In July 2012, the City and Wells Fargo Bank, NA agreed to settle a lawsuit alleging it engaged in predatory lending practices targeting minority homebuyers. The ensuing Collaboration Agreement provided the City with a total of \$7,500,000.00 in exchange for which the City dismissed its case.

The City offered \$1,000,000.00 of the settlement funds through a Request for Proposals to four non-profits that are experienced in providing foreclosure prevention services, and in redeveloping foreclosed upon properties.

Healthy Neighborhoods Inc. (HNI) was one of the four non-profits invited to submit a proposal, and was subsequently awarded \$750,000.00 to continue efforts underway through the Neighborhood Stabilization Program 2 (NSP2) Funds. The NSP2 was established by the Department of Housing and Urban Development to help stabilize neighborhoods affected by high rates of foreclosure.

The Wells Fargo funds will be used for the acquisition and/or redevelopment of up to 34 vacant and foreclosed upon homes; \$75,000.00 will be used for associated administrative costs. The HNI can request up to \$172,500.00 following approval by the

MINUTES

DHCD - cont'd

Board. The balance of funds will be provided on a reimbursement basis. All funds will be subject to the terms and conditions of the NSP2 program.

The properties identified for acquisition and or redevelopment will be located in one of 12 Census Tracts that were submitted as part of HNI's application for NSP2 Funds. Acquisitions and redevelopment will be undertaken by one of eight development partners that were also selected and approved according to HUD's NSP2 regulations.

The agreement will be jointly administered by the Departments of Law and the Department of Housing and Community Development. The HNI can request one six-month extension to the term of the agreement in writing which can be jointly approved by the City Solicitor and Housing Commissioner. Additional requests to extend the term will require approval by the Board. Invoices and requests for payment will be submitted to and approved by the DHCD. The HNI will be required to submit annual reports detailing redevelopment activities, demographics of purchasers and other leveraged investment.

MBE/WBE PARTICIPATION:

The HNI has signed a commitment to comply with Article 5, Subtitle 28 of the Baltimore City Code, Minority and Women's Business Enterprise Program.

APPROVED FOR FUNDS BY FINANCE

MINUTESDHCD - cont'd**TRANSFER OF FUNDS**

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$750,000.00	9910-907994-9587	9910-910160-9588
Other Fund	Special Capital	Healthy
Revenue	Projects - Other	Neighborhood WF
	Fund Revenue	Settle - Other
	(Reserve)	Fund Revenue

This transfer will provide appropriations for Healthy Neighborhoods, Inc. to carry out the stabilization program which will involve acquisition and redevelopment of foreclosed properties.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the grant agreement with Healthy Neighborhoods Inc. 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 Housing and - Land Disposition Agreement
Community Development

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a land disposition agreement with Kafra Investments, LLC, for the sale of the City-owned property located at 3911 Edmondson Avenue (Block 2293, Lot 005).

AMOUNT OF MONEY AND SOURCE:

\$9,500.00 - Purchase price, payable at time of settlement

BACKGROUND/EXPLANATION:

The City will convey all of its rights, title, and interest in the property located at 3911 Edmonson Avenue. The purchase price and improvements to the site will be financed through private funding.

The project will be totally rehabilitated and maintained as a rental property. The buyer proposed to completely rehabilitate the property as a single-family dwelling which will be rented at market rate. The property is located within the Allendale neighborhood.

The property has been journalized and was approved for sale on December 6, 2012.

STATEMENT OF PURPOSE AND RATIONALE FOR SALE BELOW THE WAIVER VALUATION PRICE:

The statement of purpose and rationale does not apply because the property will be sold above the Waiver Valuation price of \$9,250.00.

MBE/WBE PARTICIPATION:

The developer will purchase the property for a price that is less than \$50,000.00 and will receive no City funds or incentives for the purchase or rehabilitation; therefore, MBE/WBE is not applicable.

MINUTES

DHCD - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the land disposition agreement with Kafra Investments, LLC, for the sale of the City-owned property located at 3911 Edmondson Avenue (Block 2293, Lot 005).

MINUTESMayor's Office of Human Services (MOHS) - Grant Agreements

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

<u>Grantee</u>	<u>No. of Clients</u>	<u>Amount</u>
1. AIDS INTERFAITH RESIDENTIAL SERVICES, INC.	11 individuals/ families	\$334,545.00

Account: 4000-490914-3573-333643-603051

The organization will provide housing assistance and supportive services to individuals or to families who have a family member with AIDS. The period of the agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

2. FAMILY AND CHILDREN'S SERVICES OF CENTRAL MARYLAND, INC.	20 individuals/ families	\$ 71,390.00
--	-----------------------------	---------------------

Account: 4000-490914-3573-333668-603051

The organization will provide housing assistance and supportive services to individuals or to families who have a family member with AIDS. The period of the agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

3. WOMEN ACCEPTING RESPONSIBILITY, INC.	27 individuals/ families	\$119,040.00
--	-----------------------------	---------------------

Account: 4000-496313-3573-591231-603051

The organization will provide rental assistance in scattered apartments in Baltimore City and case management services and other supportive services to families who have a history of homelessness and chronic mental illness, substance abuse, HIV/AIDS, or domestic violence. The period of the agreement is June 27, 2013 through June 26, 2014.

MWBOO GRANTED A WAIVER.

MINUTES

MOHS - cont'd

<u>Grantee</u>	<u>No. of Clients</u>	<u>Amount</u>
4. MARIAN HOUSE, INC.	30 families and 4 individuals	\$ 32,512.00

Account: 4000-496212-3573-267819-603051

The organization will provide permanent housing assistance and supportive services to former inmates who have serious mental illness, a co-occurring substance use disorder and histories of trauma. The period of the agreement is June 1, 2013 through May 31, 2014.

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

5. MARIAN HOUSE, INC.	85 individuals	\$194,705.00
------------------------------	----------------	---------------------

Account: 5000-529114-3572-333719-603051

The organization will provide shelter and supportive services to homeless individuals of Baltimore City. The period of the agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

6. MOVEABLE FEAST		\$115,643.00
--------------------------	--	---------------------

Account: 4000-490914-3573-333670-603051

The organization will provide housing assistance and supportive services and serve 33,060 meals to individuals and families who have a family member with AIDS. The period of the agreement is July 1, 2013 through June 30, 2014.

MWBOO GRANTED A WAIVER.

MINUTES

MOHS - cont'd

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION .

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

MINUTES

Mayor's Office of Human Services (MOHS) - Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of an agreement with YMCA of Central Maryland, Inc. (YMCA). The period of the agreement is effective upon Board approval through September 30, 2013.

AMOUNT OF MONEY AND SOURCE:

\$75,878.00 - 5000-586813-5051-516100-603051

BACKGROUND/EXPLANATION:

The MOHS has received funding under the Head Start State Supplemental Grant for FY 12-13.

Under the terms of this agreement, the YMCA will use the funds for the operation of the Emily Price Jones Head Start Program to serve 80 children and their families during the summer months of June to August 2013. The program will enhance school readiness, reduce summer learning loss, and utilize the Core Knowledge Curriculum to infuse language, numeracy, and social skill activities that will support the Maryland Model for School Readiness Initiative. In addition, the funds will be used to develop individualized learning plans for each child based on the Work Sampling Assessment, hire teaching and administrative staff, and plan two field trips.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

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

MINUTES

Police Department - Memorandum of Understanding

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a memorandum of understanding (MOU) between the Mayor's Office on Criminal Justice and the University of Baltimore/Baltimore Neighborhood Indicators Alliance-Jacob France Institute (UB). The period of the MOU is effective upon Board approval through January 30, 2014.

AMOUNT OF MONEY AND SOURCE:

\$50,127.00 - 4000-472813-2252-690700-600000

BACKGROUND/EXPLANATION:

On February 6, 2013, the Board approved and authorized acceptance of a grant award for the "McElderry Park Revitalization Coalition Project" which aims to improve community safety by designing and implementing effective, comprehensive approaches to addressing crime within a targeted neighborhood.

The UB's Baltimore Neighborhood Indicators Alliance-Jacob France Institute will conduct a planning period for data analysis. The goal of this project is to reduce the incidences of juvenile crime, violent crime, and to find alternatives to criminal activity for residents of the McElderry Park neighborhood.

MWBOO GRANTED A WAIVER.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the memorandum of understanding between the Mayor's Office on Criminal Justice and the University of Baltimore/Baltimore Neighborhood Indicators Alliance-Jacob France Institute.

MINUTESPolice Department - Grant Awards**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize acceptance of the various grant awards from the Governor's Office of Crime Control and Prevention (GOCCP) for various programs. The period of the grant award is July 1, 2013 through June 30, 2014.

PROGRAM

1. **BALTIMORE DOMESTIC VIOLENCE EX-PARTE/PROTECTIVE ORDER ENTRY AND SERVICE INITIATIVE** **\$38,326.00**

Account: 5000-598514-2013-212900-600000

This program is designed to increase the efficiency and effectiveness of Ex-Parte/Protective Order data entry service and to reduce the high occurrence of domestic violence in Baltimore City. This is achieved through the service of contractual administrative assistants who provide data entry and coordination of the overall operation of the program, while police officers work on an overtime basis to increase the number of orders served. This program services all victims of domestic violence in Baltimore City who have sought an Ex-Parte/Protective Order.

2. **BALTIMORE'S FAMILY CRIMES VICTIM ADVOCATE** **\$45,000.00**

Account: 5000-598614-2013-688000-601009

This program is designed to provide crisis counseling, safety planning, and resource identification to adult victims of domestic violence. Furthermore, the advocate will accompany victims to court offering support throughout the court proceeding. On June 11, 2013, the GOCCP released a Letter of Intent to fund a Victim Advocate under the Baltimore's Family Crime Victim Advocate Grant.

APPROVED FOR FUNDS BY FINANCE

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

MINUTES

Police Dept. - cont'd

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the various grant awards from the Governor's Office of Crime Control and Prevention for the various programs.

MINUTES

Bureau of Water and Wastewater (BW&WW) - Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a agreement with EBA Engineering for S.C. 889, PAS Dundalk Wastewater Pumping Station Force Main Replacement. The period of the agreement is effective upon Board approval for three years, or until the upset limit is reached, whichever occurs first.

AMOUNT OF MONEY AND SOURCE:

\$236,765.89 - Baltimore City
159,097.50 - Baltimore County
\$395,863.39 - 9956-911755-9551-900020-703032

BACKGROUND/EXPLANATION:

This agreement is for post award engineering services during the construction of S.C. 889, PAS Dundalk Wastewater Pumping Station Force Main Replacement. The engineering services will include review of shop drawings, respond to requests for information, prepare operational and maintenance manuals, provide assistance to train wastewater operation personnel in the operation and maintenance of equipment, as well as systems furnished under the contract. The consultant will participate in system start up and develop record drawings. In addition, the consultant will provide personnel for on-site observation, and will conduct conditional and final acceptance inspection and prepare punch list items.

The consultant was approved by the Office of Boards and Commission and the Architectural and Engineering Awards Commission.

MBE/WBE PARTICIPATION:

MBE: Peer Consultant, P.C.	\$107,366.80	27.12%
WBE: Phoenix Engineering, Inc.	\$ 11,760.70	2.97%
Russell Corrosion	27,955.48	7.06%
Consultants, Inc.	<u>\$ 39,716.18</u>	<u>10.03%</u>

MINUTES

BW&WW - cont'd

MWBOO FOUND VENDOR IN COMPLIANCE.

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 and authorized the execution of the agreement with EBA Engineering for S.C. 889, PAS Dundalk Wastewater Pumping Station Force Main Replacement.

MINUTES

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

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a parking facility operations and management agreement with ImPark/Danas Parking, LLC for the management of the Arena, Marriott, Penn Station, and Redwood garages. The period of the agreement is August 01, 2013 through July 31, 2014.

AMOUNT OF MONEY AND SOURCE:ARENA GARAGE

\$ 3,600.00	- 2075-000000-2321-407200-603026	Mgmt. Fees
397,299.00	- 2075-000000-2321-407200-603016	Operating Expenses
96,000.00	- 2075-000000-2321-407200-603038	Security Expenses
\$496,899.00		

MARRIOTT GARAGE

\$ 3,600.00	- 2075-000000-2321-407000-603026	Mgmt. Fees
367,050.00	- 2075-000000-2321-407000-603016	Operating Expenses
60,000.00	- 2075-000000-2321-407000-603038	Security Expenses
\$430,650.00		

PENN STATION

\$ 3,600.00	- 2075-000000-2321-407600-603026	Mgmt. Fees
450,425.00	- 2075-000000-2321-407600-603016	Operating Expenses
84,000.00	- 2075-000000-2321-407600-603038	Security Expenses
\$538,025.00		

REDWOOD GARAGE

\$ 3,600.00	- 2076-000000-2321-253900-603026	Mgmt. Fees
362,550.00	- 2076-000000-2321-253900-603016	Operating Expenses
60,000.00	- 2076-000000-2321-253900-603038	Security Expenses
\$426,150.00		

MINUTES

PABC - cont'd

BACKGROUND/EXPLANATION:

The PABC issued a Request for Qualifications and Bids (RFQ&B) for this management agreement on April 10, 2013. Five responses were received in response to the RFQ&B. All five responses were determined to be qualified. Of those respondents, Republic Parking submitted the lowest management fee bid. However, the Minority and Women's Business Opportunity Office (MWBOO) found that Republic Parking's response was non-compliant. ImPark/Danas submitted the next lowest fee bid, and MWBOO found that ImPark/Danas' response was compliant. The recommendation of award of this contract to ImPark/Danas was unanimously approved by the Board of Directors of the Parking Authority.

MBE/WBE PARTICIPATION:

ImPark/Danas has committed to comply with all terms and conditions of the Minority and Women's Business Program in accordance with Article 5, Subtitle 28 of the Baltimore City Code (Edition 2000) and has presented a plan to the MWBOO per the Office's specifications.

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

MBE: Xecutive Security Investigation	\$300,000.00	41.6%
WBE: AJ Stationers	\$ 7,500.00*	1.04%
Tote-It, Inc.	63,000.00	8.74%
Sign Solutions	10,800.00	1.49%
	<u>\$81,300.00</u>	<u>11.27%</u>

*Not more than 25% of each MBE/WBE goal may be attained by expenditures to suppliers who are not manufacturers. Therefore, the maximum value allowed (\$7,500) has been applied.

MWBOO FOUND VENDOR IN COMPLIANCE.

APPROVED FOR FUNDS BY FINANCE

AUDITS REVIEWED AND HAD NO OBJECTION.

A LETTER OF PROTEST WAS RECEIVED FROM PMS PARKING AND LAS PARKING.

June 24, 2013

Honorable Members of Baltimore City Board of
Estimates

100 Holliday Street, Suite 204
Baltimore, Maryland 21202

Honorable Stephanie Rawlings Blake, Mayor
Honorable Joan Pratt, Comptroller
Honorable Bernard C "Jack" Young, City Council President
Mr. George Nilson, City Solicitor
Mr. Alfred H. Foxx, Jr. Director of Public Works

clo Harriett Taylor, Secretary/Deputy Comptroller

Re: Parking Authority of Baltimore City Recommendation for Management
Contract Award for Marriott, Penn Station, Arena and Redwood Garages

Dear Board Members:

I represent the joint venture of PMS Parking and LAZ Parking (PMS/LAZ), an offeror who submitted a proposal to manage the above referenced Baltimore City owned and managed parking facilities. It has come to our attention that the Parking Authority of Baltimore City is recommending an award of a management contract to an offeror other than PMS/LAZ. PMS/LAZ is asking the members of the Board of Estimates to vote against the recommendation of the Parking Authority Board of Baltimore City and for this board to recommend the PABC rebid the proposed management contracts for the following reasons:

1. The PABC violated the Maryland Open Meetings Act
2. The PABC did not follow standard Baltimore City Government bid processes and procedures
3. The recommendation is not in the City's best interest

Item 1: Maryland Open Meetings Statute

1. The PABC recommendation was voted on during a meeting on May 21, 2013 or June 10, 2013 it is unclear based upon the published agendas which meeting the vote was taken, neither agenda included an item suggesting the selection of a parking management firm. During the May 21 meeting a representative of LAZ/PMS was in attendance. A closed session of the Board was called. It is unclear what actions were taken during the closed session. A vote regarding the selection of the parking management firm during a closed

session would violate the Maryland Open Meetings Act.

2. The meeting held on June 10 was originally scheduled for June 18. The meeting was rescheduled without appropriate notice required to meet the Maryland Open Meetings Act. PABC meetings are generally held on the third Tuesday of each month. A representative of the PMS/LAZ joint venture was present on June 18th and informed the meeting had already taken place. It is unclear whether a quorum of the board was physically present for the June 10 meeting. Based on the lack of notice and the assumed lack of a quorum any actions taken during the June 10 meeting are void or voidable pursuant to the Act.
3. The published agenda for the June 10 meeting was misleading and did not include an intention to select a parking management operator for the facilities in question.

Item 2: Bid Process and Procedures

1. The Parking Authority has latitude to conduct its own bid process and procedures, however, the authority should be held by this body to a reasonable standard. The Board of Estimates has in the past required the PABC to conduct fair and open bid processes. This includes:
 - a. Public bid opening
 - b. Review by an impartial panel of individuals
 - c. Clearly defined evaluation criteria

These basic procedures were not followed. The process used was inconsistent with past RFP practices by the PABC.

2. During the bid process, PMS/LAZ raised an issue regarding the selection process. The Parking Authority has traditionally issued Best Value Requests for Proposals. This approach takes into consideration the value associated with past performance, increases in revenue generated, responsiveness, customer satisfaction surveys etc. These factors are considered in addition to price. The original language in the proposal stated: "1.E. PABC staff will provide a recommendation to the PABC Board of Directors which shall consider the recommendation of Parking Authority staff, for the Qualified Firm whose bid is determined to represent the "Best Value" to the City and the PABC." This language was removed from the bid during the bidding process. We contend this change was not in the best interest of the city.

Item 3: Best Interest of the City

1. Selecting the lowest technically accepted bidder is not in the best interest of the city. The financial model for managing millions of dollars of Baltimore City assets should not be vested in the hands of the lowest bidder. There is little

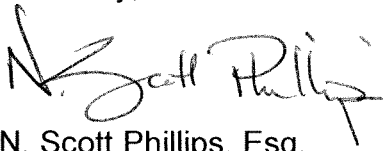
incentive for the operator to be concerned with quality management.

We request that you reject the PABC recommendation. In the alternative we request a deferral period sufficient to review the transcript and or minutes of the May 21 and June 10, 2013 meeting of the PABC Board. PMS/LAZ submitted a FOIA request on Monday, July 1, 2013 (see attached).

Note: PMS Parking is a Baltimore City based minority owned firm that has provided parking management services to the City of Baltimore for over 20 years. The PMS/LAZ joint venture has provided parking management services to the city for over 10 years. Our team has brought significant value to the PABC and the City of Baltimore increasing revenue, reducing operating expenses and improving customer satisfaction.

Thank you for your consideration

Sincerely,

A handwritten signature in black ink that reads "N. Scott Phillips". The signature is written in a cursive style with a large initial "N" and "P".

N. Scott Phillips, Esq.

cc: Amsale Geletu, PMS Parking
Joe Leightner, LAZ Parking

N. Scott Phillips Attorney at Law

322 North Howard Street, Baltimore, MD 21201

410.984-5050

nscottphillips@nscottphillips.com

July 1, 2013

Peter Little
Executive Director
Parking Authority of Baltimore City
200 W. Lombard Street, Suite B
Baltimore, Maryland 21201

Dear Mr. Little,

Pursuant to the state open records law, Md. Code Ann., State Government Secs. 10-611 to 10-628, I write to request access to and a copy of The minutes of the May 21, 2013 and June 17, 2013 Parking Authority of Baltimore City (PABC) Board Meetings, to include discussions held in Executive Session. In addition a copy of the RFP response received by the PABC from the Impark/Danas Joint Venture for the management of the Penn Station and related garages. . If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

I agree to pay any reasonable copying and postage fees of not more than \$100. If the cost would be greater than this amount, please notify me. Please provide a receipt indicating the charges for each document.

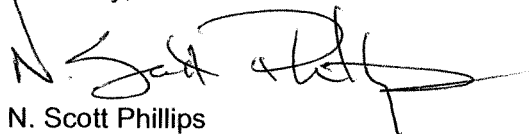
As provided by the open records law, if you deny this request, I will expect a written response within ten (10) working days. See Md. Code Ann., State Government Sec. 10-614(b)(3). If my request is approved, the law requires that you respond as soon as reasonably possible. In no case, however, can this period exceed thirty (30) days. See Sec. 10-614(b)(1).

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

Please be advised that I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records. I would note that willful violation of the open records law can result in a fine of up to \$1,000 and the award of actual damages, reasonable counsel fees and other litigation costs. See Md. Code Ann., State Government Secs. 10-623(d) and (f), and 10-627(b).

Thank you for your assistance.

Sincerely,



N. Scott Phillips

cc: David G. Rhodes, Esq.

MINUTES

President: "The third item on the non-routine agenda can be found on page 37 to 38, Parking Authority of Baltimore City, Parking Facility Operation and Management Agreement for the management of the Arena, Marriott, Penn Station, and Redwood garages. Will the parties please come forward, please -- page 37 to 38. Mr. Little."

Peter Little: "Good morning, Madam Mayor, Council President, Madam Comptroller, members of the Board. My name is Peter Little, I am Executive --"

President: "Can you speak directly in the mic please."

Peter Little: "Sorry, My name is Pete Little; I am Executive Director with the Parking Authority of Baltimore City. With me is David Rhodes, General Counsel of the Parking Authority of Baltimore City."

Scott Phillips: "Good Morning Mr. President and members of the Board of Estimates, my name is Scott Phillips and I represent PMS/LAZ Joint Venture a parking management firm that has been providing Services to the City of Baltimore for over 20 years. With me is Ms. Amsale Geletu, the CEO and President of PMS, Mr. Samson Saifu -- Saifu, the General Manager and Mr. Ray Shriener -- ah who is the General Manager for LAZ Parking. Would you like me to proceed?"

MINUTES

President: "Yes."

Scott Phillips: "Okay. We filed a protest ah -- I represent this joint venture and we are asking the members of the Board of Estimates to vote against the recommendation to the Parking Authority Board of Baltimore City and for this Board to recommend that PABC rebid the proposed Management contracts and asks that the Board of Estimates to instruct the PABC to use the Purchasing Agent for Baltimore City to perform the procurement of Parking Management operators. We believe that PABC has a serious issue with four items -- these four items: First, the procurement process, second, inherent conflicts of interest, third, open meetings violations, fourth, decision making in the overall best interest of the City. Bid process and procedures -- the Parking Authority has the latitude, as we know, as the Authority to conduct its own bid process in the procedures. However, the Authority should be held by this body to a be - to a higher standard, same standards of Baltimore City. The Board of Estimates has in the past required the Parking Authority to conduct fair and open bid processes, this includes public bid opening reviewed by an impartial panel of individuals, clearly defined evaluation criteria. These basic procedures were not

MINUTES

followed in our opinion. The process used was inconsistent with past practices by the Parking Authority. Ah -- during the bid process, PMS/LAZ raised an issue regarding the selection process. The Parking Authority has traditionally issued best value proposal requests. This approach takes into consideration the value associated with best performance, increases in revenue generated, responsiveness, customer satisfaction and other factors. These factors are considered in addition to the price. The original language in the proposal stated "PABC staff will provide a recommendation to the Parking Authority uh -- Board of Directors which shall consider the recommendation of the Parking Authority staff and the qualified firms whose bid is determined to represent the best value to the City and the PABC" this language was removed from the bid during the bidding process. We contend that this change was not in the best interest of the City. Open Meeting Act violation, it is our understanding ah -- and we did submit a formal request to review the transcript of the Minutes for the May 21 and the June 10 meetings of the Parking Authority. Each month PMS/LAZ has a representative that attends the Parking Authority Board Meetings, based upon the information that we have available to us, the PABC recommenda-

MINUTES

tion was voted on either May 21 or June 10. It is unclear based upon the published agendas -- which we were able to see, neither agenda included an item suggesting the selection of the Parking Management firm. On the May 21st meeting, the representative of LAZ/PMS was in attendance, Mr Saifu. A closed session of the Board was called, it is unclear what actions were taken during the closed session. A vote regarding the selection of the Parking management firm being in closed session will violate Maryland Open Meetings Act. It is my understanding that and Mr. Saifu, can speak on this himself, during that May 21st meeting no vote was taken while he was present. The meeting held on June 10th was originally scheduled for June 18th, the meeting was rescheduled without appropriate notice based upon our review required to meet the Maryland Open Meetings Act. The Parking Authority meetings are generally held on the third Tuesday of each month, a representative from PMS/LAZ -- the joint venture was present on June 18th which would be the normal meeting and informed that the meeting had already taken place a week before. I also question whether or not there was actually a quorum at the meeting and that members of the Parking Authority Board were in attendance. Based on the lack of notice

MINUTES

and the assumed lack of a quorum, potentially, any actions taken during the June 10th meeting are void or voidable pursuant to the Act, no different than this body. The public's agenda for the June 10th meeting, we do have a copy of and it clearly did not have the ah-- the Parking Management Selection ah -- on the agenda. During the Bid process, ah -- excuse me, let me switch back. Best interest of City -- the City ah -- one of the things that has come up in this particular bid which is different than past is the Parking Authority has indicated basically took an approach that it said it would take the lowest bidder and that being specifically based on management fee. Selecting the lowest -- technically accepted bidder is not in the best interest of the City specifically, with respect to strictly on the management fee. The financial model for managing millions of dollars of Baltimore City assets should not be vested in the hands necessarily of the lowest bidder. There is little incentive for the operator to be concerned with quality management. As I review this, the question of net operating income seems to be more significant and appropriate for the City to be concerned with than strictly -- low bid on the management

MINUTES

fee. That's another issue. We request as a result that you reject the PABC recommendation. Oh, I missed one item and that is the inherent conflict of interest. Ah -- as we reviewed this one of the things that has raised a concern is that the once again the bids came in, they were not publicly opened. The individual who is responsible for the bid and received the bid, actually less than 14 months ago worked for a competitor, a Parking management firm, no problem, hired by the Parking Authority of Baltimore City, ah -- but unfortunately to have that individual directly involved in the procurement process in my mind creates somewhat of an inherent conflict of interest and that individual both received as I understand it, and opened and was part of the review process. So, as I mentioned there are four things that stick out to me. One is process from the procurement perspective, I would suggest that we go back and redo this and focus on process. Number two, I am really concerned about the openness of the meetings of the Parking Authority and making sure that they are transparent in what they are doing and when they are doing it. Number three, I think this body clearly has the responsibility of looking out for the best interest of the City. Although you have the Parking

MINUTES

Authority which is appointed by the members of this board, you still have oversight responsibility and then --. Finally, I think the most important thing is we have asked for a review. We have asked to have time to take a look at both the transcript and how the process took place um -- if you should decide not to completely reject we ask you to **DEFER**, and we ask you to defer for at least two weeks so I can work with the Parking Authority, review the materials and, you know -- in your opinion there is no need to come back and have this agree -- this discussion again -- we will be fine. But, we sincerely believe that based on the process we need to take this and have them review it and potentially have the uh -- City's' Purchasing Agent take over the responsibility for soliciting these bids."

Peter Little: "Ah -- I will address those points one by one, first of all the Parking Authority did not violate the uh -- Maryland Open Meetings Act. All of our meetings are advertised on our website, this item was discussed at our May 21st meeting - - ah -- which had been scheduled and was posted months ahead of time. It was on the "Closed" agenda of that meeting as appropriate as well too and that was advertised on the agenda.

MINUTES

Um -- Regarding the Parking Authority not following the City's procurement policy. It is true the Parking Authority is exempt from the City's ah -- Procurement Policies. However, we have established a very fair, very impartial, and very objective method for procurement of these Parking Management contracts on behalf of the City and ultimately it is the Board of Estimates uh -- vote and approval that affirms that. Ah -- the claim that the recommendation is not in the City's best interest, we say that this recommendation is definitely in the City's best interest, the city will realize a savings of at least \$66,000.00 annually and up to \$146,400.00 annually in management fees as a result of the approval of this contract. And the other objection that we had not heard before was regarding one of our employees having formerly worked for a Parking operator that is true. He did work for a Parking operator ah -- he did not work for the Parking Operator that we are suggesting be awarded this contract. He is very objective, we have a full review process as many of you know I formerly worked for a Parking Operator as well too, that Parking Operator has yet to win any contracts with the City by the way. And uh -- so, we believe that he was

MINUTES

impartial, he did do his job correctly and was in no way impartial in this regard."

President: "Comptroller then Attorney Ralph."

Comptroller: "What's the main difference between your procurement process and the City's, and why would you not follow the City's procurement process?"

Peter Little: "We do to a large degree follow the City's process including getting all of our major contracts such as this one approved by the Board of Estimates."

Comptroller: "What's the main difference?"

Peter Little: "Ah -- that we don't go through the City's Purchasing Agent, we do utilize our own staff and then have those recommendations approved by our Board of Directors versus ah -- working through the City's Purchasing Agent and that has been our practice since the Parking Authority was formed 12 years ago."

Comptroller: "But the bids are not opened publicly?"

Peter Little: "They are not, in this regard -- ah it was -- they weren't opened publicly they were witnessed by a number of staff members that were there, we could provide that evidence that they were, we can provide the proposals to the Board as well to."

MINUTES

It is all very clear what the bids were for management fees."

Comptroller: "But, they were all opened in front of staff no outside persons?"

Peter Little: "That's correct."

President: "Ah -- Ralph --"

Deputy Solicitor: "Yes. Ah -- Mr. Little, why was the -- why has the Parking Authority moved away from ah -- "Best Value" selection processes to "Low Bid"?"

Peter Little: "Couple of reasons, ah -- first of all, that process was not working. We were not realizing the value out of that process. Ah -- secondly, it was a much more subjective process and as a result, ah -- you know, was open to arguments against ah -- the awards and it made the selection process much more difficult and thirdly, we thought that this would benefit the City as well too in realizing lower management fees and in fact it has."

Deputy City Solicitor: "This contract is being awarded to a joint venture, is that correct?"

Peter Little: "Yes, ImPark/Danas."

Deputy City Solicitor: "Okay. Ah -- Danas, has the City

MINUTES

terminated an agreement with Danas in the past?"

Peter Little: "Not that I know of."

Comptroller: "I have a question. Have there -- has there been any issues with Danas in the past regarding performance, collections of money anything like that? Do you know?"

Peter Little: "Well, I can tell you they operate the garage right across the street from City Hall, the Baltimore Street Garage and they have done a good job in terms of our requirement --"

Comptroller: "No. But the question is "Has there been any complaints about performance and collections of money and turning in money or anything? To your knowledge? To your knowledge?"

Peter Little: "To my knowledge -- no."

Comptroller: "Okay."

Scott Phillips: "To respond to a number of items. Um -- Number one, the Open Meetings Act, there are 14 exceptions taking a vote on a contract is not one of them. That's now Mr. Solicitor, I believe you are familiar with that. Number two, -- ah -- there is a question about termination several years ago prob -- maybe before Mr. Little, I don't know why, I represent PMS and I have represented them for 15 years. One of the parking establishments

MINUTES

that was being run by the firm that was just mentioned, in the middle of the contract and in a matter of days this firm was asked to take over the contract. Why I don't know, -- fact. Number two, Number three, savings as a result of going to "Parking Management Fee" is the primary issue, in the Parking Authority Board's annual report in the Mayor's letter to the Parking Authority Board's Annual Report, one of the things that the Mayor has been very clear about in terms of Parking is customer service and maintaining high Customer Service. You don't get that if what you are charging is \$300.00 per month for a management fee at each garage, it is illogical, it's just illogical. Um -- As it relates to that at the end of the day what is in the best interest of the City is how much money are we making from those garages. Right. What is the net income that you get from those garages and you get that from a manager who is managing all aspects, expenses, looking for revenue, increases in revenue and using good practices to get the best possible result for the City. That's not low bid. Finally, Procurement qualifications and experience at the end of the day somebody has got to judge that and -- and -- and have some review of that. In the past, we have used stakeholders from

MINUTES

outside. The City has, whether that has been hotel operators, ah -- Downtown Partnership, citizens from the City to come in and to do a review of these proposals. They must take a broader view of who should be involved in the Parking Management of Baltimore City. We are looking for that because we believe that provides some integrity and some consistency. I believe I answered, responded to the comments that were made, clearly one of the big items is either the action is void or voidable as a result because you cannot take that type of a vote in a closed meeting. That would be you voting on a procurement like this, today, and asking all of us to leave. Thank you."

President: "Ralph --"

Deputy City Solicitor: "Thank you. My question is for you to respond to -- ah -- the statement which I believe is correct regarding the vote and the open meeting law."

David Rhodes: "So --"

Comptroller: "State your name"

David Rhodes: "-- I'm sorry, David Rhodes, General Counsel for the Parking Authority. Award of this agreement does not occur until it gets to this Honorable Board and is approved by this Honorable Board, anything up until that is purely deliberation

MINUTES

and negotiation. What the Parking Authority Board discussed--"

President: "Let him finish."

David Rhodes: "-- they reviewed the bids, -- ah -- they deliberated and they recommended negotiation with the contract to come to this Board to be awarded. It was not a vote as to award."

Scott Phillips: "Mr. Rhodes, you are an Authority, you make a recommendation, that recommendation, unless you change rules processes, procedures and I would like to see that -- that recommendation comes for award of the Board, when you vote that is an action of the Authority, and that Authority then makes a recommendation to this Board. That is a vote. Each one of those members is accounted for. Did you ask them and was it reported in the minutes. I would like to see the minutes Sir."

David Rhodes: "Sure. Sir this procurement is not final until it is approved by this Board, that vote is a recommendation to this Board."

President: "David -- Ralph"

Deputy City Solicitor: "Either one is fine. I actually would like to make a motion to **DEFER** the matter for review by the Law Department for at least one week."

MINUTES

President: "Okay."

Mayor: "You said one week."

Comptroller: "Second"

President: "One week."

Deputy Comptroller: "Two weeks."

Comptroller: "Two weeks."

Deputy City Solicitor: "It will be two weeks. That right?"

President: "Okay. It has been properly moved, and seconded, I will entertain a Vote. -- Everybody Vote. -- All those in favor say AYE. All opposed NAY. The motion carries."

Scott Phillips: "Thank you to the members of the Board of Estimates. Thank you."

UPON MOTION duly made and seconded, the Board **DEFERRED** this item for 2 weeks.

MINUTESSpace Utilization Committee - Interdepartmental Lease**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize execution of an interdepartmental lease between the Department of General Services, (landlord) and the Baltimore City Health Department, (tenant), for the property located at 1515 W. North Avenue, consisting of approximately 41,678 square feet. The period of the lease is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

<u>Annual Rent</u>	<u>Monthly Rent</u>
\$221,099.00	\$18,424.91

Account: 1001-000000-3080-288500-603096

BACKGROUND/EXPLANATION:

The property will be used by the Health Department for clinical facilities. The landlord will be responsible for payment of utilities, janitorial services, trash removal, maintenance and repairs (including plumbing and electrical), maintaining the interior and exterior (to include lighting and air filter replacement), pest control, and snow removal. The landlord will also provide a security guard between the hours of 6:00 am to 6:00 pm. The tenant will be responsible for any minor improvements and providing telephone and computer services to the property.

The Space Utilization Committee approved this interdepartmental lease on June 25, 2013.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the interdepartmental lease between the Department of General Services, (landlord) and the Baltimore City Health Department, (tenant), for the property located at 1515 W. North Avenue, consisting of approximately 41,678 square feet.

MINUTESSpace Utilization Committee - Interdepartmental Lease Renewal**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize the renewal of an interdepartmental lease between the Department of General Services, landlord, and the Department of Housing and Community Development (DHCD), tenant, for the rental of a portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 83,218 square feet on the 2nd, 10th, 11th, and 12th Floors. The period of the renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:Annual Rent

\$547,574.44

BACKGROUND/EXPLANATION:

On December 19, 2012, the Board approved the interdepartmental lease agreement for a one year term commencing July 1, 2012 and terminating June 30, 2013, with five one-year renewal options. The DHCD would like to exercise the renewal option for one-year. All other rental terms and provisions of the lease agreement dated December 19, 2012 will remain in full force and effect.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of an interdepartmental lease between the Department of General Services, landlord, and the Department of Housing and Community Development (DHCD), tenant, for the rental of a portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 83,218 square feet on the 2nd, 10th, 11th, and 12th Floors.

MINUTES

Space Utilization Committee - Interdepartmental Lease Renewal

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the renewal of an interdepartmental lease between the Department of General Services, landlord, and the Department of Transportation (DOT), tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 42,788 square feet on the 5th floor. The period of the renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

Annual Rent

\$281,545.04

BACKGROUND/EXPLANATION:

On March 20, 2013, the Board approved the interdepartmental lease agreement for a one year term commencing July 1, 2012 and terminating June 30, 2013, with five one-year renewal options. The DOT would like to exercise the renewal option for one-year. All other rental terms and provisions of the lease agreement dated March 20, 2013 will remain in full force and effect.

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the interdepartmental lease between the Department of General Services, landlord, and the Department of Transportation, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 42,788 square feet on the 5th floor.

MINUTES

Space Utilization Committee - Interdepartmental Lease Renewal

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the renewal of an interdepartmental lease agreement between the Department of General Services, landlord, and the Office of the Labor Commissioner, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 3,089 square feet on the 14th floor. The period of the renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

Annual Rent

\$20,325.62

BACKGROUND/EXPLANATION:

On December 12, 2012, the Board approved the interdepartmental lease agreement for a one year term commencing July 1, 2012 and terminating June 30, 2013, with five one-year renewal options. The Office of the Labor Commissioner would like to exercise the renewal option for one-year. All other rental terms and provisions of the lease agreement dated December 12, 2012 will remain in full force and effect.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 57337)

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of an interdepartmental lease agreement between the Department of General Services, landlord, and the Office of the Labor Commissioner, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 3,089 square feet on the 14th floor.

MINUTES

Space Utilization Committee - Interdepartmental Lease Renewal

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the renewal of an interdepartmental lease between the Department of General Services, landlord, and the Department of Planning, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 20,372 square feet on the 8th floor. The period of the lease renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

Annual Rent

\$134,047.76

BACKGROUND/EXPLANATION:

On January 9, 2013, the Board approved the interdepartmental lease agreement for a one year term commencing July 1, 2012 and terminating June 30, 2013, with five one-year renewal options. The Department of Planning would like to exercise the renewal option for one-year. All other rental terms and provisions of the lease agreement dated January 9, 2013 will remain in full force and effect.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 57337)

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of an interdepartmental lease between the Department of General Services, landlord, and the Department of Planning, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 20,372 square feet on the 8th floor.

MINUTESSpace Utilization Committee - Interdepartmental Lease Renewal**ACTION REQUESTED OF B/E:**

The Board is requested to approve and authorize the renewal of an interdepartmental lease agreement by and between the Department of General Services, landlord, and the Board of Municipal Zoning Appeals, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 2,817 square feet on the 14th floor. The period of the renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

Annual Rent

\$18,535.86

BACKGROUND/EXPLANATION:

On December 19, 2012, the Board approved the interdepartmental lease agreement for a one year term commencing July 1, 2012 and terminating June 30, 2013, with five one-year renewal options. The Board of Municipal Zoning and Appeals would like to exercise the renewal option for one-year. All other rental terms and provisions of the lease agreement dated December 19, 2012 will remain in full force and effect.

APPROVED FOR FUNDS BY FINANCE

(FILE NO. 57355)

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of an interdepartmental lease agreement by and between the Department of General Services, landlord, and the Board of Municipal Zoning Appeals, tenant, for the rental portion of the property known as the Benton Building located at 417 E. Fayette Street, consisting of approximately 2,817 square feet on the 14th floor.

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

The Board is requested to approve and authorize execution of an amendment to lease agreement with Michelle Feeney Dickson, lessee, for the relocation from Studio #105 to Studio #107 located at School 33 Art Center, 1427 Light Street.

AMOUNT OF MONEY AND SOURCE:

<u>Annual Rent</u>	<u>Monthly Rent</u>
\$3,900.00	\$325.00

BACKGROUND/EXPLANATION:

The lessee relocated from Studio #105 to Studio #107 effective January 1, 2013. The original term of the lessee agreement is for one year commencing January 1, 2012 through December 31, 2012, with the option to renew automatically for one-year. All other rental terms and provisions of the lease agreement dated January 18, 2012 will remain in full force and effect.

The Space Utilization Committee approved this amendment to lease agreement on June 25, 2013.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the amendment to lease agreement with Michelle Feeney Dickson, lessee, for the relocation from Studio #105 to Studio #107 located at School 33 Art Center, 1427 Light Street.

MINUTES

Space Utilization Committee - Transfer of Building Jurisdiction
and Reporting Agency

ACTION REQUESTED OF B/E:

The Board is requested to approve the transfer of the jurisdiction and reporting agency of the parcel known as SS Woodbourne Avenue 94-1 ft. W. of Herring Run Drive East (Block 5387, Lot 10B) from the inventory of the Department of Transportation, Bureau of Highways (DOT) to the inventory of the Department of Housing and Community Development (DHCD).

AMOUNT OF MONEY AND SOURCE:

N/A

BACKGROUND/EXPLANATION:

The transfer of jurisdiction and reporting agency from the DOT Bureau of Highways to the DHCD will enable the parcel to be sold in accordance with the City's Side Yard Policy. The Contract of Sale and the deed will contain a restriction that the purchaser adjoining owner will maintain the existing drainage easement and right-of-way easements.

The Space Utilization Committee approved this transfer of jurisdiction lease agreement on June 25, 2013.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the transfer of the jurisdiction and reporting agency of the parcel known as SS Woodbourne Avenue 94-1 ft. W. of Herring Run Drive East (Block 5387, Lot 10B) from the inventory of the Department of Transportation, Bureau of Highways to the inventory of the Department of Housing and Community Development.

MINUTES

Department of Real Estate - Right-of-Entry Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a right-of-entry agreement with Ms. LaRhonda Parker, grantee.

AMOUNT OF MONEY AND SOURCE:

\$1.00

BACKGROUND/EXPLANATION:

The grantee has requested access to the vacant lot immediately south of the 4000 block of Edmondson Avenue, and bounded by Loudon Avenue, W. Franklin Street and Wildwood Parkway (Block 2295, Lots 051 and 054). The grantee intends to use the subject properties on July 20, 2013 for a cookout/birthday celebration.

The grantee will be responsible for obtaining all necessary permits and approvals and will submit evidence of these approvals to the Department of Real Estate at least three days prior to the event.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the right-of-entry agreement with Ms. LaRhonda Parker, grantee.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|---|-------------|---------|
| 1. ASTI TRANSPORTATION
SYSTEMS, INC. | \$25,580.00 | Low Bid |
| Solicitation No. B50002999 - Mobile Video Trailer with
Portable Equipment and Camera - Department of General Services
- R631947 | | |
| 2. REDHAWK IT SOLUTIONS, LLC | \$25,284.80 | Low Bid |
| Solicitation No. B50002984 - Drobo BI200i Storage Area (SAN)
Bays - Office of the State's Attorney - Req. No. R632945 | | |

The period of the award is July 3, 2013 through July 2, 2014.

- | | | |
|---|-------------|-----------|
| 3. UNDERWATER EDUCATORS,
INC. | \$32,340.00 | Agreement |
| Solicitation No. B50002803 - Maintenance Contract for Diving
Team Equipment - Police Department - Req. No. R622107 | | |

The Board is requested to approve and authorize execution of an agreement with Underwater Educators, Inc. The period of the agreement is July 3, 2013 through July 31, 2014, with one 1-year renewal option.

The company will be required to perform periodic routine maintenance on diving equipment which will be used by the Police Department's dive team. The Company will also be responsible to perform repairs and provide replacement parts for the diving equipment on an as needed basis. The repairs may be needed during regular business hours or emergencies, (evenings, weekends and holidays).

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|------------------------------------|--------------|---------|
| 4. SOUTHERN IONICS
INCORPORATED | \$200,000.00 | Renewal |
|------------------------------------|--------------|---------|
- Solicitation No. B50002491 - Liquid Sodium Bisulfide -
Department of Public Works, Bureau of Water and Wastewater -
P.O. No. P521128

On August 15, 2012, the Board approved the initial award in the amount of \$144,000.00. The award contained four 1-year renewal options. This renewal in the amount of \$200,000.00 is for the period September 3, 2013 through September 2, 2014, with three 1-year renewal options.

MWBOO GRANTED A WAIVER.

- | | | |
|-------------------------------------|--------------|---------|
| 5. CRITICAL CARE
MEDFLIGHT, INC. | \$100,000.00 | Renewal |
|-------------------------------------|--------------|---------|
- Solicitation No. 06000 - Non-Emergent Air Transportation
Services - Health Department - Req. No. to be determined.

On August 8, 2012, the Board approved the initial award in the amount of \$100,000.00. The award contained four 1-year renewal options. This renewal in the amount of \$100,000.00 is for the period July 1, 2013 through June 30, 2014, with three 1-year renewal options remaining.

WOO GRANTED A WAIVER.

- | | | |
|---|--------------|---------|
| 6. LAWRENCE SCRIBER JR.
d/b/a I GIVE QUALITY NOT
QUANTITY FLOOR CLEANING
SERVICE | \$ 10,800.00 | Renewal |
|---|--------------|---------|
- Solicitation No. B50001475 - Janitorial Services - Health
Department - P.O. No. P513547

On June 9, 2010, the Board approved the initial award in the amount of \$10,800.00. The award contained three 1-year renewal options. Subsequent actions have been approved. This final renewal in the amount of \$10,800.00 is for the period July 1, 2013 through June 30, 2014.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

7. MODERN DOOR & EQUIPMENT

SALES, INC.	\$ 0.00	Renewal
-------------	---------	---------

Solicitation No. B50001468 - Preventive Maintenance and
Emergency Repairs for Operable Walls - Baltimore Convention
Center - P.O. No. P514635

On August 11, 2010, the Board approved the initial award in the amount of \$447,360.00. This renewal in the amount of \$0.00 is for the period August 1, 2013 through July 31, 2014, with one 1-year renewal option remaining.

MWBOO GRANTED A WAIVER.8. CORPORATE MAINTENANCE GROUP,
LLC

P & J CONTRACTING CO. INC.	\$ 0.00	Renewal
----------------------------	---------	---------

Solicitation No. B50001658 - Snow Removal Contract - Department of Transportation - P.O. Nos. P515695 and P515694

On December 22, 2010, the Board approved the initial award in the amount of \$500,000.00. The award contained two 1-year renewal options. This renewal in the amount of \$0.00 is for the period July 1, 2013 through June 30, 2014, with one 1-year renewal option remaining.

MWBOO SET GOALS OF 20% MBE AND 7% WBE.

Corporate Maintenance Group, LLC

MBE: TNE Global 20.00%

WBE: Comm-Lease, Inc. 7.00%

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

P & J Contracting Co., Inc.

MBE: Phipps Construction
Contractors, Inc. 20.00%

WBE: D & O Contracting
Services, Inc. 7.00%

MWBOO FOUND VENDOR IN COMPLIANCE.

9. DEPENDABLE SERVICES GROUP, LLC
PERSONAL TOUCH HOME AIDES OF
BALTIMORE, INC.
TRUSTWORTHY STAFFING
SOLUTIONS, LLC \$353,029.00 Increase
-
- Solicitation No. B50002394 - Personal Care & Homemaker
Services - Health Department - P.O. Nos. Various

On October 17, 2012, the Board approved the initial award in the amount of \$432,525.00. The award contained two 2-year renewal options. On May 1, 2013, the City Purchasing Agent approved an increase in the amount of \$26,000.00. Due to increased usage an increase in the amount of \$353,029.00 is necessary. This increase in the amount of \$353,029.00 will make the award amount \$811,554.00. The contract expires October 16, 2014, with two 2-year renewal options.

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>
---------------	------------------------	--------------------

Bureau of Purchases

10. PRIORITY HEALTHCARE DISTRIBUTION,
INC. d/b/a CURASCRIPPT SPECIALTY
DISTRIBUTION \$ 96,200.00 Increase
Solicitation No. 06000 - Nexplanon Contraceptives - Health
Department - P.O. No. P519743

On March 28, 2012, the Board approved the initial award in the amount of \$16,250.00. The award contained two 1-year renewal options. Subsequent actions have been approved. This increase is required due to increased availability of federal funds.

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 NOT APPLICABLE. REFER TO THE ABOVE CERTIFICATION.

11. Item 1
L/B WATER SERVICE, INC. \$300,000.00
Item 2
HD SUPPLY WATERWORKS L.P. 50,000.00
\$350,000.00 Increase
Solicitation No. B50002577 - Brass Fittings - Department of
Public Works, Bureau of Water and Wastewater - P.O. Nos.
P521765 and P521766

On October 10, 2012, the Board approved the initial award in the amount of \$200,000.00. The award contained two 1-year renewal options. Due to increased usage, an increase in the amount of \$350,000.00 is necessary. This increase in the amount of \$350,000.00 will make the award amount \$550,000.00.

MWBOO GRANTED A WAIVER.

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

- | | | |
|--|--------------|----------------------|
| 12. FIELDTURF USA, INC. | \$209,000.00 | Cooperative Purchase |
| Keystone Purchasing Network - Solicitation No. KPN-201202-02-
Outdoor Athletic Surface - Recreation and Parks - Req. No.
R634697 | | |

The Outdoor Athletic Surface solicitation was competitively bid and advertised in four newspapers, including the Baltimore Sun. The period of the award is July 15, 2013 through October 14, 2013.

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 NOT APPLICABLE. REFER TO ABOVE CERTIFICATION.

- | | | |
|---|----------------|---------------------------------|
| 13. MOTOROLA SOLUTIONS,
INC. | \$1,516,800.00 | Amendment No. 2
to Agreement |
| Solicitation NO. 06000 - 311 Call Center System Hosting -
Mayor's Office of Information Technology - Req. Nos. Various | | |

The Board is requested to approve and authorize execution of amendment no. 2 to agreement with Motorola Solutions, Inc. The period of the amendment no. 2 to agreement is September 29, 2013 through September 28, 2014.

On September 28, 2005, the Board approved the initial award in the amount of \$5,364,000.00. The award contained two 1-year renewal options. Subsequent actions have been approved. On August 29, 2012, the Board approved amendment no. 1 to agree-

MINUTES

INFORMAL AWARDS, RENEWALS, INCREASES TO CONTRACTS AND EXTENSIONS

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

Bureau of Purchases

ment in the amount of \$1,516,800.00. This amendment no. 2, in the amount of \$1,516,800.00 extends the continuity of the 311 Hosting System including the Premiere One CSR (customer service requests) and Cityworks storeroom application through September 28, 2014.

It is hereby certified, that the above procurement is of no such 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 GRANTED A WAIVER.

UPON MOTION duly made and seconded, the Board approved the Informal Awards, Renewals, Increases to Contracts and Extensions. The Board further approved and authorized execution of the Agreement with Underwater Educators, Inc. (item no. 3) and Amendment No. 2 to Agreement with Motorola Solutions, Inc. (item no. 13). The Mayor **ABSTAINED** on item no. 7.

MINUTES

Department of Finance - FY 2014 Renewal for - Aircraft Hull
and Liability Insurance

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the renewal of the Baltimore City Aircraft Hull and Liability Insurance Policy with the incumbent carrier, Global Aerospace. The policy will renew on July 1, 2013.

AMOUNT OF MONEY AND SOURCE:

\$244,635.00 - 1001-000000-2010-197800-603014

BACKGROUND/EXPLANATION:

The policy provides both liability and hull coverage for the Police Department's fleet of helicopters. Coverage is being renewed at no change in rate.

The renewal request is late because the Office of Risk Management was still negotiating renewal terms and did not receive a final quote until June 19, 2013.

APPROVED FOR FUNDS BY FINANCE.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of the Baltimore City Aircraft Hull and Liability Insurance Policy with the incumbent carrier, Global Aerospace. The Mayor **ABSTAINED**.

MINUTES

Department of Finance - FY 2014 Renewal for Employee Crime
Insurance Coverage

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the renewal of the City and Baltimore City Public Schools System Employee Crime Insurance Policy with Chartis Insurance Company. The policy will renew on July 1, 2013.

AMOUNT OF MONEY AND SOURCE:

\$17,356.00 - 2043-000000-1450-162900-603014

BACKGROUND/EXPLANATION:

The insurance policy will provide coverage for loss of money, securities, or other financial instruments for which the City and the Baltimore City Public School System are legally liable. The marketplace is limited. Chartis Insurance Company will continue to provide this coverage for the coming year at no increase in rate. The policy has a \$1,000,000.00 per occurrence limit, with a per occurrence deductible of \$10,000.00.

The renewal request is late because the Office of Risk Management was still negotiating renewal terms and did not receive a final quote until June 19, 2013.

APPROVED FOR FUNDS BY FINANCE.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of the City and Baltimore City Public Schools System Employee Crime Insurance Policy with Chartis Insurance Company.

MINUTES

Department of Finance - FY 2014 Renewal for - Insurance Coverage
for the Convention Center Complex and 1st
Mariner Arena

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the renewal of the Convention Center Complex and 1st Mariner Arena Insurance Policy through Philadelphia Insurance Company. The policy will renew on July 1, 2013.

AMOUNT OF MONEY AND SOURCE:

\$117,177.00 - 2043-000000-1450-162900-603014

BACKGROUND/EXPLANATION:

The policy provides liability coverage for the Convention Center Complex and 1st Mariner Arena. The renewal is provided by the incumbent carrier, Philadelphia Insurance Company.

The renewal request is late because the Office of Risk Management was still negotiating renewal terms and did not receive a final quote until June 19, 2013.

APPROVED FOR FUNDS BY FINANCE .

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of the Convention Center Complex and 1st Mariner Arena Insurance Policy through Philadelphia Insurance Company.

MINUTES

Department of Finance - FY 2014 Renewal for - Marine Hull
Insurance

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of the renewal of the Baltimore City Marine Hull and Insurance Policy with AIG. The policy will renew on July 1, 2013.

AMOUNT OF MONEY AND SOURCE:

\$101,395.00 - 2043-000000-1450-162900-603014

BACKGROUND/EXPLANATION:

The policy covers various watercraft owned and/or operated by City agencies, including the Constellation. Markets for this exposure are limited. The policy will be renewed with the incumbent carrier, AIG, at the same terms and conditions as the expiring policy including terrorism coverage on the entire fleet.

The renewal request is late because the Office of Risk Management was still negotiating renewal terms and did not receive a final quote until June 19, 2013.

APPROVED FOR FUNDS BY FINANCE.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the renewal of the Baltimore City Marine Hull and Insurance Policy with AIG.

MINUTES

Department of Finance - FY 2014 Renewal for Master Insurance Policy

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize the Master Property Insurance Policy through the incumbent carrier, Lexington Insurance Company. This policy covers the real and personal property of the Mayor and City Council and the Baltimore City Public School System. The period of the renewal is July 1, 2013 through June 30, 2014.

AMOUNT OF MONEY AND SOURCE:

\$2,385,319.00 - 2043-000000-1450-162900-603014

BACKGROUND/EXPLANATION:

Three years ago, the Office of Risk Management (ORM) approached 13 markets and declined based on target pricing and limited capacity for this class of business. Two years ago, due to the state of the property market and increased claims activity, the ORM's brokers reached out to another leader in the property market place, Travelers Insurance, who expressed no interest except at much higher premiums. Because of the double snow storms during the winter of 2010, in addition to the past and market loss activity (floods/tornadoes/hurricane Sandy/earthquake activity across multiple states etc.) and market tightening, the ORM once again anticipated a challenging renewal process for this very important insurance placement.

As a result of the snow storms, the City incurred \$4,007,350.00 in losses to real property. With these obstacles to face, the ORM feels it is best to work with the incumbent carrier only, to obtain the most competitive pricing and comprehensive plan. The renewal price reflects a 2% increase which is attributed to frequency and severity of the City's claims, as well as market loss activity and expectations for increased Atlantic Coast loss estimates for hurricane and wind. However, the rate of .039 still remains very competitive at less than .04 cents per \$100.00 of coverage.

MINUTES

Dept. of Finance - cont'd

The renewal request is late because the Office of Risk Management was still negotiating renewal terms and did not receive a final quote until June 19, 2013.

APPROVED FOR FUNDS BY FINANCE.

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the Master Property Insurance Policy through the incumbent carrier, Lexington Insurance Company. This policy covers the real and personal property of the Mayor and City Council and the Baltimore City Public School System.

MINUTES

Department of Finance - Grant Agreement

ACTION REQUESTED OF B/E:

The Board is requested to approve and authorize execution of a grant agreement with City Year, Inc. (City Year), a non-profit entity. The period of the grant award agreement is effective upon Board approval for one year.

AMOUNT OF MONEY AND SOURCE:

\$100,000.00 - 1001-000000-1220-146500-607004

BACKGROUND/EXPLANATION:

On November 14, 2012, the Board approved the use of the current year's appropriation to fund this grant agreement to City Year.

At City Year's 24 locations across the United States, teams of diverse young people called corps members serve full-time in schools for ten months working to improve student attendance, behavior, and course performance in English and math. As tutors, mentors, and role models, corps members are uniquely able to help students and schools succeed through academic support, attendance and positive behavior encouragement, and organizing community and school improvements.

This planning grant from the City will support exploratory efforts to determine the feasibility of opening a new City Year operating site in Baltimore, in partnership with Baltimore City Public Schools. This planning grant will also support key strategic activities and provide financial support to conduct local outreach necessary to achieve community demonstration of commitment and site sustainability. City Year will lead key exploratory activities such as engagement trips to Baltimore to meet with potential partners, sponsors, and champions to secure local support. City Year will also organize delegation visits of local critical partners and champions to a City Year site to build awareness and educate local leaders about City Year's work in schools and the Whole School Whole Child model.

MINUTES

Department of Finance - cont'd

MBE/WBE PARTICIPATION:

N/A

APPROVED FOR FUNDS BY FINANCE

UPON MOTION duly made and seconded, the Board approved and authorized the execution of the grant agreement with City Year, Inc., a non-profit entity.

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>Dept. of Housing and Community Development - Options</u>			
1. Charles Muskin, Trustee	1208 N. Gay St.	G/R \$50.00	\$ 458.00
2. William Braverman, Dolores Fishbein and Roslyn Stavisky, Trustees under the Residuary Trust under the Last Will and Testament of Samuel Braverman	925 N. Duncan St.	G/R \$36.00	\$ 330.00
3. Priority Trust, LLC	927 N. Duncan St.	G/R \$36.00	\$ 330.00
Funds are available in account 9910-906416-9588-900000-704040, EBDI Phase II Project.			
4. Jeffrey I. Silberman	1010 Briscoe St.	G/R \$36.00	\$ 340.00
Funds are available in account 9910-908044-9588-900000- 704040, Undesignated Project.			
5. Lucille S. Alter, ¼ interest; Anita D. Resnick, ¼ interest; Sonia L. Gann, Personal Repre- sentative of the Estate of Calman A. Levin and Sonia Gann, ½ interest	926 N. Chester St.	G/R \$36.00	\$ 300.00

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

MINUTES

OPTIONS/CONDEMNATION/QUICK-TAKES:

<u>Owner(s)</u>	<u>Property</u>	<u>Interest</u>	<u>Amount</u>
<u>DHCD - Rescission of Condemnation and Approval of Option</u>			
6. Sandel Invest-ments, LLC	809 N. Chester St.	G/R \$72.00	\$ 600.00

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

On May 1, 2013, the Board approved the acquisition by condemnation of the ground rent interest in the property located at 809 N. Chester Street in the amount of \$480.00. However, since that time, Sandel Investments, LLC has agreed to the City's offer price and would like to proceed with a voluntary settlement. Therefore, the Board is requested to rescind its prior approval and approve acquisition of the \$72.00 ground rent interest in 809 N. Chester Street by option.

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

DHCD - Condemnation

7. Shepherd Properties, Inc.	914 N. Port St.	G/R \$72.00	\$ 600.00
------------------------------	-----------------	----------------	-----------

Funds are available in account no. 9910-908044-9588-900000-704040, Milton-Montford Project.

UPON MOTION duly made and seconded, the Board approved and authorized the foregoing options, condemnations, and quick-takes.

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:

2706 - 2708

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

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

Item nos. 1 and 2 were **DEFERRED** for 2 weeks.

MINUTES

RECOMMENDATION FOR CONTRACT AWARDS/REJECTIONS

Bureau of Water and Wastewater

1. WC 1255, Meter Spiniello Companies \$3,113,300.00
 Setting Installation
 and Water Main at
 Various Locations,
 East Baltimore and
 Locust Point

DEFERRED

MBE:	M. Luis Construction Co., Inc.	\$300,000.00	9.64%
	Fallsway Construction Co., LLC.	50,000.00	1.61%
	JJ Adams Fuel Oil Co., LLC	45,000.00	1.44%
	WCS Hughes, Inc.	166,000.00	5.33% ¹
		\$561,000.00	18.02%

WBE: R & R Contracting Utilities, \$218,000.00 **7.00%**
 Inc.

¹WCS Hughes, Inc. is not in good standing with the Maryland State Department of Assessments and Taxation. If awarded, the bidder will be allowed to substitute an approved MBE if WCS Hughes, Inc. is not in good standing at the time of award.

MWBO FOUND VENDOR IN COMPLIANCE.

2. TRANSFER OF FUNDS

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
\$4,109,556.00	9960-9558-906133	
Water Revenue	Constr. Reserve	
Bonds	Meter Replacement	
\$ 311,330.00	-----	9960-905658-9557-2
		Extra Work

DEFERRED

MINUTES

RECOMMENDATION FOR CONTRACT AWARDS/REJECTIONS

Bureau of Water and Wastewater - cont'd

<u>AMOUNT</u>	<u>FROM ACCOUNT/S</u>	<u>TO ACCOUNT/S</u>
311,330.00	-----	9960-905658-9557-3 Engineering
186,798.00	-----	9960-905658-9557-5 Inspection
3,113,300.00	-----	9960-905658-9557-6 Construction
<u>186,798.00</u>	-----	9960-905658-9557-9
<u>\$4,109,556.00</u>		Administration

DEFERRED

The funds are required to cover the cost of award WC 1255, Meter Setting Installation and Renew Water Mail Replacements.

A LETTER OF PROTEST WAS RECEIVED FROM R.E. HARRINGTON PLUMBING AND HEATING, AND THE MARYLAND MINORITY CONTRACTORS ASSOCIATION.

- 3. S.C. 886, Improvements to Sludge Bending Tanks at the Patapsco Wastewater Treatment Plant

REJECTION - On May 2, 2013, the Board opened two bids for this project. The bids ranged from a low of \$4,799,000.00 to a high of \$5,535,876.00. Subsequent review of the bid documents revealed inconsistencies in the bids submitted and the low bidder was found to be approximately 200% above the engineer's estimate. Therefore, the Department of Public Works, Bureau of Water and Wastewater respectively requests that all be rejected because the bids are not in the best interest of the City.



WAGONHEIM LAW

July 2, 2013

VIA HAND-DELIVERY

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

Alfred H. Foxx, Director
City of Baltimore
Department of Public Works
Abel Wolman Municipal Building, 6th Floor
200 N. Holliday Street
Baltimore, Maryland 21202

Minority & Women's Business Opportunity Office
Room 101, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: Our Client: R.E. Harrington Plumbing & Heating, Inc.
300 W. 23rd Street
Baltimore, Maryland 21211
Solicitation No.: Water Contract No. 1255
Project: Meter Setting Installations and Water Main
Replacements at Various Locations,
East Baltimore & Locust Point

BID PROTEST

Dear Sir/Madam:

The undersigned serves as general counsel to R.E. Harrington Plumbing & Heating, Inc. ("Harrington"). In such capacity, I have been provided with the letter from the City of Baltimore Department of Public Works (the DPW) dated May 16, 2013, declaring that Harrington's bid in the above-referenced project (the "Project") is non-compliant with the MBE goals; thus, the DPW could not recommend contract award to Harrington. In addition, Harrington received notification today that the contract will be awarded to Spiniello Companies, the second lowest

bidder despite its defective bid. My letter constitutes Harrington's Bid Protest, submitted in accordance with the Baltimore City Code and procedures provided by the Board of Estimates (the "Board").

On or about May 1, 2013, the submitted bids for the Project were unsealed and Harrington was the apparent low bidder. In the DPW's letter to Harrington, the DPW informed Harrington that the Minority & Women's Business Opportunity Office (the "MWBOO") found Harrington's bid non-compliant because its subcontractor "Consolidated Services, Inc. was not certified as a MBE with Baltimore City at the time of bid opening" and CCTV Master, LLC is not certified with Baltimore City to perform work or service on "Water Mains."

Article 5, § 28-87 of the Baltimore City Code (the "Code") provides that if the MWBOO finds cause to believe that a contractor has failed to comply with any requirement of the MBE/WBE provisions, the MWBOO must (1) "notify the contracting agency and the contractor; and (2) attempt to resolve the noncompliance through conciliation." Furthermore, Article 5, § 28-62, permits a contractor, after award of a contract, to seek substitution or if unable to find a substitute, may request a waiver.

Although Harrington has not been awarded the contract, in an effort to resolve the non-compliance, Harrington respectfully requests approval of a substitution for the subcontractors that MWBOO finds non-compliant, or in the alternative, a waiver of meeting the MBE goals for this Project. Harrington in good faith submitted its bid believing that the subcontractors were in compliance with respect to certification and the type of service capable of being performed on the Project. In fact, Harrington diligently attempted to confirm that their inclusion was permissible.

Harrington's Due Diligence

Harrington, prior to submitting its bid, discovered that Consolidated Services, Inc. ("CSI") was listed on the MWBOO database as a qualified MBE but its certification had expired. Harrington promptly contacted CSI to advise it of the apparent expiration. In response, CSI reported that it submitted its application for certification renewal on or about January 14, 2013 and that the MWBOO database simply had not been updated to reflect the renewal. CSI contacted the MWBOO repeatedly to correct the situation to no avail. Relying in good faith on CSI's representation and its good standing MBE certification with the State of Maryland, Harrington included CSI in its submitted bid.

After the unsealing of the bids, Harrington continued to follow up with CSI regarding its MBE certification renewal. After numerous attempts by CSI to obtain a status on its renewal application, a MWBOO representative finally offered to schedule a meeting with CSI after CSI presented a copy of the application to the MWBOO representative. On or about May 8, 2013, CSI met with the MWBOO representative and was told that CSI's application submitted in January could not be located. Upon learning of this information, Harrington immediately

contacted the MWBOO to confirm the information and inquired whether MWBOO would hold Harrington's bid in non-compliance. The MWBOO could not at that time provide a response.

With respect to CCTV Master, LLC ("CCTV"), Harrington verified that CCTV was listed as a qualified MBE on the MWBOO database and that the service type is described as "CCTV inspection and cleaning." Upon meeting with CCTV to discuss the scope of work involved in the Project, Harrington was confident that CCTV could perform the required utilities work on the Project. In further diligence, Harrington contacted the MWBOO on two occasions to inquire whether CCTV was authorized to perform utility work. In both instances, the MWBOO verbally confirmed that CCTV was so authorized. Relying in good faith on the MWBOO responses, Harrington included CCTV on its submitted bid.

Harrington's Bid

Harrington's bid amount totaled \$2,696,100.00. Harrington's MBE schedule included the following subcontractors:

WC 1255 -- MBE Goal 18%		
P&J Contracting Co, Inc.	4.22%	\$113,775.42
Manuel Luis Construction Co, Inc.	4.82%	\$129,952.02
Consolidated Services, Inc.	1.45%	\$39,093.45
J M Murphy Enterprises, Inc.	2.77%	\$74,681.97
J J Adams Fuel Oil Company, Inc.	0.65%	\$17,524.65
CCTV Masters, LLC.	4.09%	\$110,270.49
TOTAL	18.00%	\$485,298.00

Harrington's Request for Substitution

Harrington respectfully requests to substitute P&J Contracting Co., Inc. ("P&J") for both CSI and CCTV on Harrington's bid on the Project. P&J is already listed as a subcontractor on Harrington's bid and would absorb the work to be performed by CSI and CCTV.

P&J is a certified MBE with the MWBOO. P&J would perform the subcontract work for the same price as CSI and CCTV combined. Thus, Harrington would still meet the MBE goal of 18% with P&J as a substitute.

CSI's scheduled work on the Project included a labor force for flagging and post construction clean up. CCTV's scheduled work on the Project included services and equipment for inspection, recording and other services related to the pipelines. P&J's services, as described on the MWBOO directory, include sitework, utilities and water mains. Thus, P&J has the requisite skills to absorb the work that CSI and CCTV were to perform on the Project.

Waiver

Although Harrington believes that it has offered a viable solution to resolve the non-compliance matter in its bid for this Project in its request for substitution, if the MWBOO finds the substitutions unacceptable, Harrington requests a waiver from either the MWBOO or the Board.

As previously referenced, Article 5, § 28-62, if the contractor is unable to find a substitute, the contractor may request a waiver. Harrington requests that the MWBOO waive the percentage that CSI and CCTV would have covered on the Project (5.54%).

Article 5, § 28-14(b) of the Code provides that the Board, at its discretion, "may waive minor defects and errors in a bidder's MBE or WBE submission." Harrington's MBE submission for the Project was made in good faith. Harrington worked with the subcontractors and with the MWBOO to attempt to submit a proper bid. Harrington requests that the Board waive the alleged defect and permit Harrington to either substitute or waive the defect in Harrington's bid.

Spiniello Companies' Defective Bid

Spiniello Companies' bid of \$3,113,300.00 was the second lowest bid, but it included a MBE that was not in good standing with the Maryland State Department of Assessments and Taxation at the time of bid submittal. Spiniello will be permitted to substitute the subcontractor that was not in good standing. The bid of Spiniello Companies ("Spiniello") is also defective and Spiniello should not be awarded the contract.

Harrington's bid is \$417,200 less than Spiniello's bid and both bidders would require substitution of subcontractors to properly meet their MBE goals. Harrington is the lowest responsible and responsive bidder and it would be in the best interest of the City of Baltimore to award the Project to Harrington.

Harm Caused by the proposed Board of Estimates' Action

The Board of Estimates is charged with the responsibility for formulating and executing the fiscal policy for the City of Baltimore. As such, it must evaluate immediate financial concerns as well as the longer-term ramifications of its actions. Allowing Harrington to substitute contractors and accept the contractual award accomplishes both of these goals.

First, by awarding the contract to Harrington, the City of Baltimore stands to save \$417,200 – a not inconsiderable sum. Moreover, there is no downside to the City or to its longer term goals by taking the path that realizes these savings.

Baltimore City's second consideration is closely tied to the advancement and inclusion of its minority business partners. Harrington exemplifies the City's goals in this respect. As a firm with a history of excellence and growth, Harrington has looked to this contract as another step in its continuing journey of development. Through this award, the City furthers its commitment to help, rather than hinder, those companies seeking to work within the system.

Harrington submits that, in light of its commitment to work within the best fiscal interests of the City of Baltimore, as well as its explanations for non-compliance, this Board should look only to a compelling reason to deny the Project to the low bidder. If the Board awards this Project to Spiniello, Harrington would suffer lost revenue and profits for a mistake in its bid that can be easily resolved.

Clearly, substitution of a subcontractor cannot be considered such a compelling reason inasmuch as Spiniello has been allowed to substitute. Accordingly, there is no reason Harrington, as the lowest bidder, should not be given the same opportunity.

Conclusion

Harrington would like to resolve this issue with an eye toward working with the DPW on this Project. We believe that both Harrington and the DPW would be well-served by a prompt and fair resolution of this matter. Harrington has worked on several DPW projects in the past and would like to continue the relationship.

I ask that you reconsider your position on this award so that Harrington and the DPW may move forward with the commencement of a successful and legitimately cost-effective project.

If you have any questions or require further information concerning this Bid Protest, please contact me.

Thank you for your attention to this matter.

Very truly yours,



Eliot M. Wagonheim

EMW/ltv

Cc: R.E. Harrington Plumbing & Heating, Inc.

MMCA- Maryland Minority Contractors Association, Inc.

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

Baltimore, Maryland 21210

443-413-3011 Phone

410-323-0932 Fax

July 2, 2013

Via Facsimile 410-685-4416

Honorable Bernard "Jack" Young

President, Baltimore City Board of Estimates

City Hall-Room 204

Baltimore, MD 21202

ATTN: Ms. Bernice Taylor, Esquire, Clerk to the Board

Dear Mr. President:

I represent the Maryland Minority Contractors Association ("MMCA"), its members, clients and constituents.

I wish to protest item No. 1, on page 65 of Your Honorable Board's 07/03/2013 public meeting Agenda, which is a proposed contract award of W.C. 1255-"Meter Settings Installation and Water Main at Various Locations, East Baltimore and Locust Point," to the second lowest bidder, The Spiniello Companies, at its bid price of \$3,113,300.00.

Bids were opened on May 2, 2013 from six (6) bidders, with bidder, R. E. Harrington Plumbing and Heating, Inc. (" R.E. Harrington") submitting the "lowest responsive and responsible" dollar bid at its lowest dollar bid price of \$2,686,100.00. Spinello Companies submitted the second lowest dollar bid at its price of \$3,113,300.00. Metra industries, Inc. submitted the third lowest dollar bid price of \$3,363,947.50.

Notwithstanding its lowest dollar bid price, the City's Minority and Women's Business Opportunity Office ("MWBOO") determined that Harrington's bid proposal was not responsive to the contract's MBE participation goals inasmuch as Harrington's bid proposal listed an MBE sub-contractor that was not MBE certified with the City at bid time. For such reason, the City's Bureau of Water and Wastewater has recommended that the subject contract be awarded to the Spinello Companies, at its high bid price of \$3,113,300.00, which is \$427, 200.00 higher than Harrington's total bid price.

The contracting agency, Bureau of Water and Wastewater, as well as the City's MWBOO has failed to inform Harrington of the City's decision to reject Harrington's lowest bid price and to award the

contract to the Spinello Companies. More disturbing, neither the contracting agency nor the City's MWBOO has informed Your Honorable Board and the public of its decision to reject Harrington's lowest bid proposal.

Notwithstanding Harrington's bid proposal's apparent failure to fully meet the contract's established MBE goals at bid time, under well settled Maryland contract law, Harrington's bid proposal is still the "lowest responsive and responsible bidder." within the ambit of Article VI, § 11 (h) (1) (ii), of the City Charter. Indeed, Harrington's apparent failure to fully meet and satisfy the contract's established MBE goals at bid time did not, in any substantive way, render Harrington's bid proposal "non-responsive."

Moreover, Your Honorable Board is keenly aware of the fact that applicable and controlling Maryland contract law, as established by the Maryland Board of Contract Appeals, as well as various Maryland Circuit Courts, does not make a bidder's failure to fully meet and comply with applicable contract established M-WBE Utilization goals, a matter of such bidder's "responsiveness." Rather, it is well settled in Maryland that as long as the bidder signs and commits to meeting the contract established M-WBE goals as required by the applicable bid document, even if it does not in fact meet such goals, its bid is thus fully "responsive" on that issue.

A "responsive" bid is defined in MD Code Ann. State Fin. & Proc. § 11-101 (8) and COMAR 21.01.02.01B (78), as one which conforms in all material respects to the invitation for bids or request for proposals. Contrary to the City's MWBOO's determinations herein, Maryland law is well-established that satisfaction and compliance with federal, state and municipal governments' sponsored M-WBE utilization contracting programs is a matter solely of a bidder's "responsibility," and not, in any way, a bidder's "responsiveness," as the City's MWBOO has so unauthorizedly and erroneously determined herein.

It is well settled and there are myriad of state and federal administrative decisions in support of the rule that a bidder's satisfaction of MBE participation goals is a matter of a bidder "responsibility," and not "responsiveness." The Maryland State Board of Contract Appeals has consistently ruled that the failure to submit a completed MBE utilization affidavit and participation schedule as required by COMAR 21.11.03.09C (3) is a matter of a bidder's "responsiveness", but that the sufficiency of the requisite MBE Schedule documentation, as is

the case herein, is a matter of “responsibility.” See *Roofers, Inc.* MSBCA 1284, 2 MSBCA ¶ 133 (1984); *Central Data Processing*, MSBCA 2084, 5 MSBCA ¶ 450 (1998).

The distinction between “responsiveness” and “responsibility” is important because information pertaining to the determination of the bidder’s responsibility may be received and evaluated after bids are opened but prior to contract award. See *Cam Construction Company of Maryland, Inc.*, MSBCA 1393, 2 MSBCA ¶ 195 (1988) (quoting *Aquatel Industries, Inc.*, MSBCA 1192, 1 MSBCA ¶ 82 (1984)). Thus, as opposed to “responsiveness,” a procurement officer has broad discretion in determining whether a bidder is “responsible,” i.e., one who has the capability in all respects to perform fully the contract requirements and possesses the integrity and reliability that will assure good faith performance. It is a long-standing rule that a procurement office may accept, at any time prior to award, information necessary to establish the bidder’s “responsibility”. See *Covington Machine and Welding Company*, MSBCA 2051, 5 MSBCA ¶ 436 (1998); *peninsula General Hospital Medical Center*, MSBCA 1248, 1 MSBCA ¶ 109 (1985); *Construction Management Associates*, MSBCA 1238, 1 MSBCA ¶ 108 (1985).

Applicable and controlling federal procurement law is to the same effect. see *Paul N. Howard Company*, B-199145, 1980 U.S. Comp. Gen., LEXIS 2158, 80-2 CPD ¶ 399 (1980), *aff’d on reconsideration*, B-199145.2, 60 Comp. Gen. 606, 1981 U.S. Comp. Gen. LEXIS 95, 81-2 CPD ¶ 42 (1981), a case with substantially similar facts as those in this case. In Howard, after the contracting agency deemed a bid to be “non-responsive” because one of the listed subcontractors did not qualify as an MBE, the Comptroller General ruled that satisfaction and compliance with MBE contract goals involve the issue of “responsibility,” and that the bidder should have been allowed to cure its bid error and to substitute a new minority subcontractor. In making this decision, the Comptroller general explained that once the bidder has certified, as here, that it will comply with the solicitation’s minority subcontractor utilization requirements, the bid is fully “responsive” on that point. The issue of actually achieving the MBE goal by using the MBE subcontractors named in the bid or by using an acceptable substitute MBE subcontractor relates to the bidder’s performance, and thus its “responsibility.”

Accordingly, based on the controlling MBE contract legal precedents cited and relied upon above, it is extremely clear and undisputed that in the field of government contracting, the compliance and satisfaction of M-WBE utilization goals is a matter of a bidder’s “responsibility,” and not “responsiveness,” especially in view of the facts in this particular case.

The bidder’s failure to meet its MBE goals at bid time was not, in any legal way, fatal to the “responsiveness” of its bid proposal, since its bid proposal was still “the lowest responsive and responsible bid,” within the ambit of Article VI, Section 11(h)(1)(ii) of the City Charter, notwithstanding its failure to fully meet and comply with the contract’s set MBE utilization goal

at bid time.

Plain and simple, bidder Harrington's bid proposal was completely "responsive," in every respect, notwithstanding the fact that it may not have fully met and satisfied the contract set MBE participation goal, at the time of bid. Harrington could have very easily met and satisfied the contract set MBE goal at anytime after the bids were opened and before or even after the contract award date. Since Article VI, Section 11(h)(1)(ii), of the City Charter clearly and undisputably requires Your Honorable Board to award the subject contract to "the lowest responsive and responsible [dollar] bidder," the only factor that matters and is controlling is the important fact that Harrington's bid proposal contained the "lowest responsive and responsible [dollar] bid price.

Article VI, Section 11 (h)(1)(ii), of the City Charter, requires the City's Board of Estimates to publicly advertise all city contracts involving an expenditure greater than \$50,000.00 and to award such contract, to "the lowest responsive and responsible bidder," as therein delineated.

This quoted phrase – "lowest responsive and responsible bidder" – is not specifically defined in the City's competitive bidding charter provision, Article VI, Section 11 (h)(1)(ii), but it and very similar phrases are frequently employed in municipal competitive bidding charter provisions.

In Hilton Construction Co. v. Rockdale County Board of Education, 245 Ga. 533, 266, S.E. 2d 157 (1980), there was a State School Board Regulation which required state funded projects be awarded to "the responsible bidder submitting the lowest acceptable bid." In spite of this requirement the county school board awarded a construction contract to the second lowest bidder on the basis the second lowest bidder was known to the board while the lowest bidder was unknown to the board. The court held that reason was not an adequate reason, under the

new regulations, to reject the low bid.

The phrase “lowest responsible bidder” was the requirement for awarding a construction contract in City of Inglewood-L.A. City County Civic Center Authority v. Superior Court, 7 Cal. 3d 861, 103 Cal. Rpt. 601, 500 P. 2d 601 (1972). The contract was awarded to a contractor other than the lowest bidder because the higher bidder was determined to be superior in ability to perform the contract. But, no determination was made that the lowest bidder was not qualified, hence “responsible” to do the work. The California Supreme Court rejected this approach and in essence held that “lowest responsible bidder” means the lowest bidder must be awarded the contract unless found not qualified. Beyond that, there was to be no award based upon degree of qualification. The court accepted the argument of counsel which stated the purpose of the lowest bid requirement to be to insure the interest of the public in having contracts awarded without favoritism so that projects will be done, “...without excessive cost, and constructed at, the lowest price consistent with the reasonable quality and expectation of completion.” One can reasonably perceive the Baltimore City Charter requirement of “lowest responsible bidder” to have a similar purpose.

In the specific context of an M/WBE affirmative action ordinance akin to the City’s M/WBE ordinance which we have before us, the Alabama Court considered the impact of a state statute requiring contracts be awarded to, “the lowest responsible bidder” in Arrington v. Associated

General Contractors, S.C., Ala., 403 So. 2d 893 (1981). The affirmative action ordinance required ten percent of each contract be expended with minority business enterprises. Since the affirmative action ordinance would directly conflict with the state bid requirement where the lowest responsible bid did not undertake to expend at least ten percent of the contract amount with minority business enterprises, the Alabama court held the ordinance must yield to the state statute. Again, in a MBE affirmative action versus bid requirements case, the Ninth Circuit Court of Appeals, applying California law, reached the same result in Associated Gen. etc. v. San Francisco Unified Sch. 616 F.2d 1381 (1980). To arrive at the state law rule, the federal appeals court determined the California Supreme Court would construe the bid requirement language, “lowest responsible bidder” to preclude considering any factor other than (1) bid amount, (2) minimum financial and skills qualifications of bidder, and (3) quality of bidder’s past work. No consideration or penalty can be given to contractors’ lack of compliance with the contract’s MBE utilization provisions.

In Georgia Branch, AGC of America, Inc. v. City of Atlanta, 253 Ga. 397, 321 S.E. 2d 325 (1984), the Georgia Supreme Court considered the validity of a City of Atlanta race-gender-based Ordinance which required the City to award 20% to 35% MBE participation on most construction contracts in relationship with the Atlanta City Charter requirement that such contracts be awarded to the lowest and/or best bidder.” The court held that, “the legislative purpose in the Atlanta City Charter requirement of ‘lowest and/or best bidder’ was to further the cause that contracts be awarded without favoritism to obtain reasonable quality at the lowest cost. The MFBE Ordinance requiring certain percentages of contracts measured in dollar value

is awarded on the basis of race and sex conflicts with the legislative intent and purpose embodied in the bid requirement. Therefore, the [MFBE] Ordinance is void.” See 253 Ga. At 399, 321 S.E. 2d at 328.

In *AGC of California, Inc. v. City and County of San Francisco*, 813 F.2d 922 (9th Cir. 1987), the Court of Appeals for the Ninth Circuit considered the validity of a City of San Francisco race-gender based M/WBE Ordinance requiring the City to award 30% of its contracting dollars to MBEs and 10% to WBEs in relationship to the City charter provision which required all City contracts over \$50,000.00 be awarded “to the lowest reliable and responsible bidder.” The Court invalidated the subject M/WBE Ordinance for the reason “that the Ordinance violates the City charter insofar as it authorizes the award of [City] contracts that are worth more than \$50,000.00 and are not covered by charter section 7.204 to other than the lowest responsible bidder. Insofar as the Ordinance’s bid preferences, subcontracting goals and set asides would result in awards that violate the charter, they are void. See 813. F.2d at 927.

Accordingly, the plain, clear and unambiguous language and purpose contained in Article VI, Section 11 (h)(1)(ii), requiring the City’s Board of Estimates to award all City public contracts with an expenditure greater than \$50,000.00 to “the lowest responsive and responsible bidder,” as therein delineated, completely neutralizes the City’s M-WBE Ordinance. Insofar as the provisions of the City’s MBE Ordinance encourages and is enforced and administered by the City so as to frustrate and prevent the City from awarding its public contracts with an

expenditure greater than \$50,000.00, to “the lowest responsive and responsible bidder,” as specifically mandated by Article VI, Section 11 (h)(1)(ii), of the City Charter, it is completely void. The city’s “mandatory” competitive bidding charter provisions, Article VI, Section 11 (1)(ii), “trumps” its M-WBE Ordinance. See Salisbury University v. Joseph M. Zimmer, Inc., 199 Md. App. 163; 20 A.3d 838; 2011 Md. App. LEXIS 66 (citing University of Md. v. MFE, 345 Md. 86, 104, 691 A.2d 676 (1997) (holding in an analogous case that the Maryland Board of Public Works may not, “adopt [procurement] regulations that would be inconsistent with the [Maryland] procurement statute or the legislative intent behind it”)). Thus, the City M-WBE Ordinance , is completely subordinate to the City’s Charter requirement to award City public contracts to the lowest responsive and responsible bidder as therein delineated.

Respectfully Submitted,

Arnold M. Jolivet

Arnold M. Jolivet
Managing Director

MINUTES

RECOMMENDATION FOR CONTRACT AWARDS/REJECTIONSBureau of Purchases

- | | | | |
|----|--|----------------------|--------------|
| 4. | B50002963, Hersey
Water Meter Repair
Parts | Mueller Systems, LLC | \$500,000.00 |
|----|--|----------------------|--------------|

(Dept. of Public Works,
Bureau of Water & Wastewater)

MWBOO GRANTED A WAIVER.

MINUTES**TRAVEL REQUESTS**

<u>Name</u>	<u>To Attend</u>	<u>Fund Source</u>	<u>Amount</u>
<u>Employees' Retirement Systems</u>			
1. Roselyn Spencer	ILPA Institute Level II Chicago, IL July 23 - 26, 2013	Special Funds- ERS	\$1,999.00

No General Funds are required. The Special Funds from the ERS will be used to cover all expenses.

Circuit Court for Baltimore City

2. Amy Larson Kendra Ausby	National Assoc. of Drug Court Professionals Annual Training Conference Washington, DC July 14 - 17, 2013	Office of Problem - Solving Courts FY 13 Discretionary Grant	\$ 949.14
3. Shana Sephes Chioma Abangwu Amy Wilson Mark Buchanan Debra Tucker	National Assoc. of Drug Court Professionals Annual Training Conference Washington, DC July 14 - 17, 2013 (Reg. Fee \$650.00 ea.)	Office of Problem - Solving Courts FY 13 Discretionary Grant	\$3,250.00

UPON MOTION duly made and seconded, the Board approved the Travel Requests. The Comptroller **ABSTAINED** on item nos. 1 and 2.

MINUTES

PERSONNEL MATTERS

* * * * *

UPON MOTION duly made and seconded,

the Board approved

the Personnel matters

listed on the following pages:

2711 - 2713

All of the Personnel matters have been approved

by the EXPENDITURE CONTROL COMMITTEE.

All of the contracts have been approved

by the Law Department

as to form and legal sufficiency.

MINUTES**PERSONNEL**Baltimore City Police Department

	<u>Rate of Pay</u>	<u>Amount</u>
1. ARIEL S. ERVIN	\$21.63	\$45,000.00

Account: 5000-598614-2013-688000-601009

Ms. Ervin will continue to work as a Victim Advocate for the Family Crime Unit. She will be responsible for providing crisis counseling, safety planning, and resource identification to victims. This is a 29% increase in the hourly rate from the previous contract period. The additional duties and responsibilities fall within a higher level classification of Victim/Witness Coordinator at salary grade 090 which supports the higher hourly rate. The period of the agreement is July 1, 2013 through June 30, 2014.

2. Abolish the following five vacant positions:

- a. 53513 - Utilities Installer Repairer III
 Grade 428 (\$29,667.00 - \$32,267.00)
 Job No. 5521-32491

- 54341 - Pumping Stations Operations Supervisor
 Grade 111 (\$41,700.00 - \$60,500.00)
 Job No. 5501-22877

- 33252 - Typist II
 Grade 075 (\$26,316.00 - \$29,913.00)
 Job No. 5501-34249

MINUTES**PERSONNEL**

DHR - cont'd

53512 - Utilities Installer Repairer II
Grade 485 (\$28,600.00 - \$29,682.00)
Job No. 5501-32480

52221 - Mason I
Grade 429 (\$30,262.00 - \$33,337.00)
Job No. 5501-45864

Create the following three positions:

b. 00142 - Executive Level I
Grade 948 (\$55,200.00 - \$99,200.00)
Job No. to be assigned by BBMR

33672 - Training Officer I
Grade 111 (\$41,700.00 - \$60,500.00)
Job No. to be assigned by BBMR

33628 - HR Specialist I
Grade 090 (\$42,267.00 - \$51,371.00)
Job No. to be assigned by BBMR

The Department of Human Resources has created a division of "Shared Services." This Division will consolidate and centralize HR Services for small to medium City agencies that require assistance in processing the day-to-day HR functions such as Family Medical Leave Act, Equal Employment Opportunity, and employee relations. The position of Executive Level I will be responsible for overseeing the day-to-day operations of the division ensuring that agency needs have been met, compiling data and identifying human resources trends and making recommendations for changes in policies and procedures. The position of Training Officer I will be responsible for developing and providing training modules for City employees,

MINUTES**PERSONNEL**

DHR - cont'd

preparing program announcements, conducting specialized training modules, writing and developing training courses and updating training manuals. The position of HR Specialist I will be responsible for processing classification and recruiting HR requests, to include postings of jobs, requests for eligibility lists, reclassification and creation of positions. These positions are to be considered Positions of Trust in accordance with the policy outlined in the Administrative Manual, Section 237-1.

Costs: \$4,118.70 - 1001-000000-1601-172500-601001

MINUTES**PROPOSAL AND SPECIFICATIONS**

1. Department of Public Works, - WC 1251R, Repaving Utility
Bureau of Water & Wastewater Cuts at Various Locations
BIDS TO BE RECV'D: 07/24/2013
BIDS TO BE OPENED: 07/24/2013

There being no objections, the Board, UPON MOTION duly made and seconded, approved the foregoing Proposal and Specifications to be advertised for receipt and opening of bids on the date indicated.

MINUTES

ANNOUNCEMENT

President: "Before we -- ah -- close I want to recognize Councilwoman Helen Holton who is with us today and also I would like to ah -- wish Jeremy Bass from my staff -- this is his last Board of Estimates meeting. I want to congratulate him on his new job -- I forgot the name of the firm that stole him from us, Booze Allen, and I want to thank him for his services to the Citizens of Baltimore particularly to my office and I would like to give him a hand. Good Luck.

** APPLAUSE **

President: "There being no more business before the Board -- Oh, Madam Mayor."

Mayor: "I also think it is worth noting that the -- the first Woman Chief Justice for the Court of Appeals-- "

President: "Yes."

Mayor: "-- was named this morning and I am very excited as well as, -- two women, so it's a good, it's a continuation of the Year of the Woman. So it was good to see that."

President: "Thank you. There being no more business before this Board, this meeting will recess until 12 noon, bid opening. Thank you. Enjoy your Holiday."

* * * * *

MINUTES

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

BIDS, PROPOSALS AND CONTRACT AWARDS

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

1. Bureau of Purchases - B50002905, Dental Health Maintenance Organization (DHMO) & Dental Preferred Provider Organization (DPPO) Plans
BIDS TO BE RECV'D: 07/17/2013
BIDS TO BE OPENED: 07/17/2013

2. Department of General Services GS12808, Waverly Library Branch #9 Renovations
BIDS TO BE RECV'D: 07/24/2013
BIDS TO BE OPENED: 07/24/2013

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

1. Department of Transportation - TR13007, Citywide Curb Repair
M. Luis Construction
Machado Construction
Anchor Construction Corporation

MINUTES

2. Department of Transportation - TR13008, Citywide Slab Repair
 Santos Construction
 M. Luis Construction
 Machado Construction
 Anchor Construction Corporation
3. Bureau of Water & Wastewater - WC1265, Sidewalk Restoration
 M. Luis Construction
 C & N Associates, LLC
4. Bureau of Water & Wastewater - SWC7762, Rehabilitation and Replacement of Highlandtown Stormwater Pump Station
 W.M. Schlosser Co., Inc.
5. Bureau of Purchases - B50002978, Comprehensive Residential Energy Conservation Program
 Civic Works, Inc.
 Northeast Energy Services, LLC
 Accurate Insulation, LLC
 Hawkeye Construction
 Comprehensive Housing Assistance
 Coalition to End Childhood Lead Poisoning
 *Elysian Energy
 C & O Conservation, Inc.
 Maryland Energy Conservation, Inc.

*UPON FURTHER MOTION, the Board found the bid of Elysian Energy **IRREGULAR** because of the company's failure to proffer the bid guarantee in the form mandated by the solicitation instructions.

MINUTES

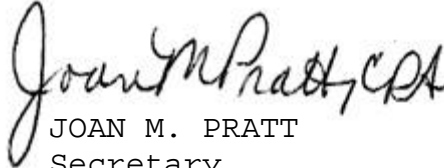
6. Bureau of Purchases

- B50003020, Pavement
Restoration for Patterson
Park

Allied Contractors, Inc.

* * * * *

There being no objections, the Board, UPON MOTION duly made and seconded, adjourned until its next regularly scheduled meeting on Wednesday, July 17, 2013.


JOAN M. PRATT
Secretary